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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, November 21, 1991*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NATCHER) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 21, 1991.

I hereby designate the Honorable WILLIAM H. NATCHER to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us to pray, O God, not only in times of distress or despair when life is barely lived, but encourage us to offer daily words of thanksgiving and praise. You have blessed us, gracious God, with all the gifts of life and love, of foregiveness and reconciliation, of faith and hope. For all these gifts, for our very lives and all the opportunities we have for helping people, we offer this prayer of praise and thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland [Mr. MCMILLEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. MCMILLEN of Maryland led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; and

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate proedures for the appointment of the Chairman of the U.S. International Trade Commission.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2280. An act to amend title 38, United States Code, to extend and improve veterans' health care programs; and

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) "An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes".

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 775. An act to improve the compensation of certain veterans for exposure to ionizing radiation, to improve the administration of veterans benefits programs, and for other purposes.

The message also announced that, the Chair, on behalf of the Republican leader, announces the appointment of Mr. MCCAIN, Vice Chairman; Mr. HATFIELD; Mr. GRAMM, Mr. GORTON, and Mr. GARN, as members of the official Senate delegation to attend the 50th Anniversary Commemoration of the Attack on Pearl Harbor.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, at the start of the 102d Congress, Ways and Means Chairman ROSTENKOWSKI announced that the committee would undertake a major oversight initiative. The initiative would involve a commitment by the committee to improve the efficiency and effectiveness of health, trade, tax, income security, and other laws within the committee's jurisdiction. As chairman of the Committee's Oversight Subcommittee, I was pleased to join Chairman ROSTENKOWSKI in this initiative.

During the first session of this Congress, the Subcommittee on Oversight conducted numerous investigations, hearings, and site visits as part of, and in furtherance of, this major oversight initiative. Today, to advance the objectives of the major oversight initiative, Chairman ROSTENKOWSKI and I are joined by ranking minority committee member BILL ARCHER, ranking minority subcommittee member DICK SCHULZE, and the Oversight Subcommittee members in introducing legislation to improve the administration of programs within the jurisdiction of the Committee on Ways and Means. This legislation reflects the bi-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

partisan reform recommendations unanimously agreed to by the Subcommittee on Oversight. As the legislation is considered by the full committee, I would expect that it could be further expanded based on the suggestions of the committee.

This legislation affects the manner in which the Federal Government manages resources, issues benefit payments, and serves the public. In the end, I believe that enactment of this bill will protect the integrity of many programs within the committee's jurisdiction and the pocketbook of the American taxpayer. I look forward to working with Chairman ROSTENKOWSKI, members of the Oversight Subcommittee, and the other subcommittee chairmen in the second session of this Congress to develop additional savings and good government administrative and legislative changes.

In particular, the legislation we are introducing today would improve Federal programs relating to: First, erroneous payments under the Medicare Secondary Payer Program; second, abusive marketing practices by durable medical equipment suppliers seeking reimbursement under the Medicare Program; third, abuse and mismanagement of inspector overtime pay by the U.S. Customs Service; fourth, incorrect payment of Federal benefits to deceased individuals; and, fifth, the Pension Benefit Guaranty Corporation's Program to identify, collect, and account for premium payments.

In summary, the Federal Program Improvement Act of 1991 provides changes with regard to the following:

First, to prevent erroneous Medicare payments and to enhance recovery efforts relating to the Medicare Secondary Payer Program:

Medicare beneficiaries would be screened regarding employer group health insurance coverage at the time of enrollment in the Medicare Program; and sanctions would be allowed against providers who routinely and willfully fail to screen beneficiaries for other insurance coverage.

Medicare contractors would be required to submit quarterly reports to the Health Care Financing Administration [HCFA] on their efforts to recover erroneous payments and would be evaluated on their recovery efforts; the payment recovery process would be streamlined; and, HCFA would be required to develop and submit to the Committee on Ways and Means proposals for an incentive program to encourage contractors to make additional recoveries of erroneous payments.

Second, to eliminate abuses regarding durable medical equipment [DME] under the Medicare Program, as well as to improve administration of the Medicare Program:

Medicare carriers would be required to deny Medicare provider numbers to DME suppliers who engage in telemarketing; that is, suppliers who initiate unsolicited telephone calls to beneficiaries to induce them to buy equipment.

HCFA would develop a questionnaire designed to alert Medicare carriers to potentially abusive DME sales practices.

Medicare carriers would deny the use of more than one provider number by DME suppliers.

HCFA would be required to submit a report on the Medicare Pre-Approval Program authorized in the Omnibus Budget Reconciliation Act of 1990, and decubitus care mattresses would be added to the list of items subject to the preapproval process.

Medicare carriers would be required to reimburse DME suppliers based on the fee schedule in effect for the residence or address of the beneficiary, rather than the fee schedule at the point of sale, in order to eliminate carrier shopping.

HCFA would be required to develop a standardized "Physician's Prescription for Durable Medical Equipment" to be used nationwide, containing information both from the supplier and the prescribing physician; and, Medicare carriers would be required to amend the explanation of medical benefits form so that beneficiaries can clearly understand exactly what equipment has been paid for by Medicare.

HCFA would be required to prepare a list of items of DME for which improved definitions or standards might be appropriate, together with recommendations regarding quality standards and definitional terms.

Medicare carriers would be authorized to use current price information, including current wholesale prices, in making determinations regarding the inherent reasonableness of DME fee-schedule allowances.

The GAO would be required to compare, for 150 items of DME, supplier costs with the range of Medicare fee-schedule allowances for these items, to analyze the appropriateness of a national fee schedule for DME, and to propose a timetable for implementation of a nationwide fee schedule.

HCFA would be required to review the items classified as "prosthetics and orthotics" to identify those iterms not requiring individualized, custom fitting and adjustment, and submit recommendations regarding the appropriate method for reimbursement of these items similar to other classes of DME.

Third, to improve Customs administration of inspectional overtime and to ensure that resources are better managed:

The Customs Service overtime pay laws—the 1911 act—would be modified to mirror the Federal Employees Pay Act [FEPA] rules which generally apply to Federal Government workers in order to: ensure that hours paid bear a more direct relationship to hours worked; provide for more reasonable overtime rates; provide pay rate differentials for Sunday and holiday work performed as part of an inspector's regular workweek schedule; and, provide for the payment of overtime benefits only after 40 hours of work is completed. These changes would be phased in over a 3-year period.

The definition of "inspectional services" would be clarified to limit 1911 act overtime benefits to employees performing actual inspectional activities.

The current COBRA user fee would be modified to reinstate congressional oversight of Customs' use of overtime funds.

The Office of Management and Budget would be given oversight authority for 1911 act overtime funds.

The General Accounting Office [GAO] would be required to report on costs of covering night and weekend workload with additional inspectors, rather than by covering such workload by use of inspector overtime.

Fourth, to minimize the payment of Federal benefits to deceased beneficiaries:

The Social Security Administration would be authorized to share with all Federal agencies death certificate information purchased from State agencies.

The Social Security Administration would conduct a study of ways in which death information can be gathered and reported more quickly.

Fifth, to improve accountability in the Pension Benefit Guaranty Corporation's [PBGC] program to identify, collect, and account for premium payments;

The PBGC would be required to provide two annual reports to the Congress, the first listing plans with underfunding in excess of $25 million and the amount of such underfunding, and the second listing plans with underfunding in excess of $5 million that have been granted a minimum-funding waiver according to publicly disclosable information.

THE TAXPAYER BILL OF RIGHTS ACT OF 1991, H.R. 3838

Mr. Speaker, one of the most important responsibilities of the Ways and Means Subcommittee on Oversight is the charge to continually review the operations of the Internal Revenue Service. We must be vigilant to make certain that the rights and interests of taxpayers are being protected. In a very real sense, we are the only congressional voice average taxpayers have to speak out for the common interests of every hard working, taxpaying American.

Over the years the members of the Subcommittee on Oversight have taken this charge very seriously, and have recommended many taxpayer safeguards which have been accepted by this House and enacted into law. For the past year, as an integral part of the overall oversight initiative of the Committee on Ways and Means, we conducted an extensive investigation into the problems taxpayers have under the current Federal tax system. We held a series of hearings and site visits to review the operations, practices, and procedures of the IRS. We considered recommendations for improving the tax system made by individual taxpayers, tax professionals, IRS employees, and the administration. We held public hearings to receive testimony from the IRS Taxpayer Ombudsman, the IRS Commissioner, the Assistant Secretary of the Treasury for Tax Policy, and a variety of public witnesses.

Based on this extensive review we found that while the IRS is generally meeting its responsibilities, and in many respects should be commended, there are, nevertheless, some areas in which changes must be made in order to protect the legitimate interests of taxpayers. Specifically, the subcommittee has identified 33 areas in which taxpayers encounter significant difficulty in dealing with the IRS. As a result, the subcommittee has agreed, on a unanimous basis, to nearly 80 recommendations for reform. These recommendations are provided in the bill I am introducing today.

I would stress to my colleagues that this is a well balanced and responsible package of reforms. I understand that these reforms will impose some additional burdens on the IRS, and that in some cases they will make the already difficult task of collecting revenues a little more difficult. I intend to continue my discussions with the IRS and Treasury about how the bill can be fine tuned and improved, both from the taxpayers' perspective and that of the tax law administrator. I also accept that this package will not solve every difficulty that taxpayers encounter. The process of addressing the problems relating to the Internal Revenue Code must be continuous, and is, in all likelihood, unending. But, I believe this is a good package, and I urge you to join with me and my colleagues on the committee in supporting the taxpayer bill of rights of 1991.

In summary, the taxpayer bill of rights of 1991 would provide for the following major changes:

First, create an independent taxpayer advocate: The bill would establish a new taxpayer advocate with broader authorities to intervene and take action on behalf of taxpayers. Under the bill, the position of taxpayer advocate would be elevated to the same level as that of the IRS chief counsel and made subject to the Senate confirmation process. Further, the advocate would be required to make reports directly to Congress on problems encountered by taxpayers and to provide recommendations for improvement of the tax system.

Second, grant authority to withdraw IRS liens and levies: The bill would permit the IRS to withdraw liens and levies when it is in the best interests of the taxpayer and the Government. These provisions will allow the Government to correct its mistakes. For example, the IRS will be allowed to return moneys that were levied upon in a manner inconsistent with an existing installment agreement. Under current law, such action is legally impermissible.

Third, improve IRS handling of erroneous information returns: The bill would require the IRS to take reasonable steps to corroborate the accuracy of information returns, such as forms 1099 and W-2, when the returns are disputed by the taxpayer. This provision is designed to address situations where a taxpayer is forced to prove a negative, an unfair burden of proof. In addition, taxpayers would be allowed to bring suit against any person who willfully files a false or fraudulent information return. Finally, payors would be required to provide a telephone number on information returns to assist taxpayers in resolving disputes concerning these returns.

Fourth, expand the abatement of interest provision: The bill would expand the abatement of interest provision to make clear that the IRS has the authority to grant relief in cases where the IRS loss of tax records or personnel decisions result in delays of more than 6 months.

Fifth, problems regarding responsible officers: The bill would allow the IRS to excuse from the 100-percent penalty for certain responsible officers who notify the IRS of a failure of a business to pay over taxes. The bill would also make improvements in the area of notifying individuals, tax-exempt organizations, and businesses of their obligations and responsibilities for collecting and paying withheld taxes.

Sixth, equalize interest rates: The bill would require that the IRS and taxpayers pay the same interest rates on deficiencies and refunds.

Seventh, divorced or separated spouses: The bill would provide both spouses with notices of deficiences and allow the IRS to disclose the status of its collection activities with regard to the other joint filer.

Eighth, various pilot projects, reports, and studies: The bill would provide for a number of pilot projects, reports, and studies, by the IRS and General Accounting Office [GAO]. The IRS is required to conduct a pilot project to give taxpayers an administrative appeal in certain collection cases. The IRS is also required to conduct studies involving taxpayers with special needs, like the elderly; IRS employee misconduct; and, the taxpayer rights education program for revenue officers. The GAO will be required to study the effectiveness of IRS' efforts to notify taxpayers of tax deficiencies; the IRS' efforts to notify taxpayers of tax deficiencies; the accuracy and clarity of various IRS forms, notices, and publications; and, the various IRS employee suggestion programs.

TAXPAYER BILL OF RIGHTS ACT OF 1991

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am pleased to join with Chairman JAKE PICKLE in introducing the Taxpayer Bill of Rights Act of 1991.

The original taxpayer bill of rights was enacted in 1988. The 1988 legislation was a significant step in the direction of protecting taxpayer rights.

It codified many taxpayer protections which up until then were only administrative guidelines within the Internal Revenue Service. It also expanded taxpayer rights to recover damages from the IRS for improper liens and for improper collection efforts.

Despite the excellent progress we made in 1988, there is more we should do to protect the taxpayers in their dealings with the IRS.

The untold story from 1988 is not what we put into the taxpayer bill of rights, but what we left out of it.

The new bill has many features which follow up on the good start we made in 1988. First, the bill codifies the decision of the U.S. Court of Appeals in *Portillo* v. *Commissioner*, 932 F. ad 1129 (5th Cir. 1991). The appeals court ruled that the IRS could not impose a valid determination of a tax deficiency based on an uncorroborated form 1099, when the accuracy of the form 1099 was disputed by the taxpayer.

Up until the Portillo case the taxpayer was guilty until proven innocent. The taxpayer—Portillo—had to convince the IRS that he did not receive the money. It is virtually impossible to prove a negative proposition, but that is what the tax law required. Accordingly, the U.S. Tax Court upheld the IRS' deficiency against Mr. Portillo because the IRS had the presumption of correctness and the taxpayer could not prove that he was innocent.

The U.S. Tax Court of Appeals overturned the decision of the U.S. Tax Court.

Under the bill, the IRS would have to take reasonable steps to corroborate the accuracy of a disputed information return. If it failed to take reasonable steps, then the consequence would be that its determination of a tax deficiency would be invalid. At last the taxpayer will be innocent until proven guilty when he disputes the accuracy of an information return filed by a third party.

Second, the bill would end the discrepancy in the interest rates which now apply to deficiencies and refunds. The interest rate paid by the IRS on refunds to taxpayers is 1 percent less than the rate paid by taxpayers on deficiences to the IRS. The bill would apply the higher interest rate on refunds paid to taxpayers by the IRS.

Third, the bill would modify the rules which apply to the award of attorney's fees to taxpayers who prevail over the IRS.

The bill would remove the current hurdle which requires that taxpayers who beat the IRS also have to prove that the Government was not substantially justified in pressing its case against the taxpayer.

The bill also allows the courts to award reasonable litigation costs to taxpayers who act on their own counsel and represent themselves before the IRS and the courts.

The current interpretation of the law disallows payments to such taxpayers when they prevail over the IRS.

Mr. Speaker, while I have focused my remarks on the three preceding provisions, there are numerous other provisions which improve the rights of taxpayers. The bill strengthens the rights of married couples to receive separate notice of IRS actions; it expands the authority of the IRS to abate interest charges; it increases the ability of taxpayers to pursue installment payment schedules and offers in compromise with the IRS; and it gives some protection to working level payroll personnel from being held as a responsible person for the nonpayment of payroll withholding to the IRS.

The taxpayer bill of rights of 1991 is not the final chapter in what needs to be done to fully protect taxpayer rights.

But it certainly will get us past the half-way point in our goal to achieve a level playing field between taxpayers and the IRS.

BANKING REFORM

(Mr. MCMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCMILLEN of Maryland. Mr. Speaker, today is round 3 of the banking legislation. I hope that with reference to that my colleagues saw a Wall Street Journal article on last Friday, an editorial by Lowell Bryan that made the point that Congress essentially, the main point of the banking reform is that we are not reforming the deposit insurance system. Instead we are adjusting the situation.

I could not agree more with Mr. Bryan's premise, as I have said time and time again. Reform is desperately needed in our deposit insurance system. Unfortunately, the bills we have been considering do not address the real problem, the pricing of deposit insurance.

Until banks pay for the real costs of their insurance, our Government policy will be heads the banks win, tails the taxpayers lose.

If we can infuse some market pressure into the system, then the whole question of firewalls, towers, and safeguards becomes much less important. We have a gun to our head and must pass this refinancing bill. But let us come back next year and truly reform our banking system.

I include for the RECORD a copy of the editorial to which I referred.

[From the Wall Street Journal, Nov. 15, 1991]

SAVING INTERSTATE BANKING

(By Lowell Bryan)

It appears that once again the U.S. is going to fail to reform and modernize its bankrupt approach to financial regulation. Last week, the House of Representatives failed to pass a—very flawed—package of financial regulation reforms. The Senate is now struggling with its own package of reforms, while the House is getting ready for a second vote on a revised version of its earlier proposal. The administration's original proposal in February and the bill that emerged from the House Banking Committee in June were imperfect, but were essentially right. Since that time, the effort to reform the financial system has faltered.

At the end of the day, the combination of special interests and the difficulty of getting U.S. government to work has led to the near collapse of the effort to reform fundamentally the regulation of banks. At this moment, the only real reform that still has a possibility of enactment is the proposal to permit national interstate branching. Even this reform is threatened by special interests trying to hold interstate branching reform hostage to a roll-back of existing securities and insurance powers of banks.

Indeed, it appears quite possible that the only banking law we will see this year will be a "narrow" law that is limited to increasing the supervision and regulation of banks and to recapitalizing the Federal Deposit Insurance Corp.

DISTORTING MARKET FORCES

The great loser from this political morass is the nation. The continuing weakness in the economy is clearly linked to weakness in the banking system. In turn, the weakness in the banking system is directly linked to a regulatory structure that has distorted market and economic forces.

Discussions of whether the country should rely on "regulation" or on "markets" miss the point. Hundreds of years of history demonstrate that unregulated financial markets self-destruct. On the other hand, in today's world, market, economic and competitive forces are too powerful to control. The current system is bankrupt precisely because it tries to use regulation to control market forces that are beyond its control and, in the process, has created destructive flaws in the marketplace.

Attempts to impose overly rigid, rulebased, "firewalls" between banks and their holding company activities take the regulatory system down the wrong path. The U.S. needs instead to adopt a fundamentally different approach: Rather than trying to control market, economic, and competitive forces, they must be made to work better. This means eliminating the flaws in today's system; in particular, it means real reform of the deposit insurance system.

Instead, Congress is heading in exactly the opposite direction. Rather than reforming the deposit insurance system, it is increasing the power of regulators and examiners to determine who will get credit and who will not. Indeed, by the time the full magnitude of the loan losses from commercial real estate have been realized, it is quite possible that 40% or more of the nation's deposits will be in the hands of banks and thrifts that will be undercapitalized under the capital zones defined by the new "narrow" law. And, once this law is passed, how these deposits will be lent will be as much or more under the control of regulators than under the control of management and shareholders.

Worse, instead of all market participants playing by the same rules, each participant will continue to work to find ways to exploit the particular rules that apply to them. For example, strong banks will continue to search for "loopholes" in the Glass-Steagall Act and to find friendly states willing to let them do things not permitted by national law. Simultaneously, non-bank financial firms will continue to sell bank-like products (i.e., money market mutual funds, credit cards, home equity loans, etc.) with a different set of rules. In other words, far from serving to make market, economic and competitive forces work better, a purely "narrow" reform will take the American financial system farther down the path of distorting those forces. Instead of gaining competitive advantage from the quality of their service, companies will gain advantage by exploiting the special set of rules that apply to them.

It is for this reason that it is futile for lawmakers to hope that the issue of financial reform will go away. Until the regulation of banks is improved, the law will continue to destroy their ability to perform their role in society. Without fundamental reform of the deposit insurance system and modernization of the regulatory system, the long-term health and profitability of the banking system will not be restored. And only by restoring health and profitability will the nation regain confidence in its banks and bankers regain confidence in themselves. Bankers need confidence in their own institutions and in the banking system as a whole, if they are to have the courage to finance economic recovery and long-term growth.

For this reason, it is important that interstate banking and branch reform be part of this year's law. The potential cost savings from consolidation of U.S. banks could amount to $10 billion or more in pre-tax savings—in an industry that earned only $24.5 billion before taxes in 1990, with a return on equity of less than 8%.

This economic consolidation is now already underway. To a large extent consolidation has been triggered by anticipation that meaningful interstate reform was coming. Banks have already announced projected cost savings, based on anticipated savings from consolidation and interstate branching, of more than $3.2 billion from just 10 large mergers.

Assuming that interstate branching reform is adopted to help achieve these savings, it will increase the ability of banks to raise the capital they need. The capital created from these savings over a 5-year period could conservatively support more than $600 billion in new lending. Indeed, without such improvements in earnings, it will be difficult to get the kind of bank lending needed to get the economy moving again.

From the taxpayer's perspective, it would be helpful to get genuine interstate banking and branching reform as soon as possible. Any amendments that delay the effective date or make the process more cumbersome and irrational will only delay the realization of savings that will help to recapitalize the industry and restore its profitability. And restored profitability is the best defense against a taxpayer bailout of the deposit insurance fund.

TRUE REFORM

The administration and Congress should be seeking to eliminate overcapacity and weak banks from the system as rapidly as possible. True interstate banking and branching reform will help to jump-start this important process. Failure to encourage rapid cost rationalization in the banking industry will likely result in a higher cost, not only to the deposit insurance fund, but potentially to the American taxpayer as well. Simply passing a bill that increases supervision and that recapitalizes the FDIC, without meaningful reform of interstate banking laws, would be a disservice to well run banks, the economy and the public at large.

THANKSGIVING AND A REPUBLICAN CONGRESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, Thanksgiving is a time to celebrate with family and friends, to feast in the face of hardship, to count blessings, and to reflect on how things could be better.

Many Americans will face some hardship this Thanksgiving. Of course, the Democrats will blame the President, but nothing could be further from the truth.

Indeed, George Bush should be counted as one of this country's blessings. His successes on the international front are well known.

But, the President has battled an intractable Congress that refuses to implement his domestic programs.

The Democrats have their own special interest agenda that they want to foist on the Nation.

This special interest agenda is handicapping America's competitive standing, and slowly strangling our Nation's economy.

As Americans gather together this Thanksgiving, I hope they will think of how our country could do better. One way is to elect a Republican majority in the House.

A Republican Congress would work with the President, instead of undermining his program for political reasons. A Republican Congress would get this Nation moving again.

On this Thanksgiving, that is exactly what this country needs.

SLAUGHTER AT VUKOVAR

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the front page of the New York Times brings us a picture of 50 corpses in the hospital yard of Vukovar—a picturesque Croatian town just a few months ago.

The Times reports that after 86 days of shelling, aerial bombardment, and house-to-house combat, Vukovar is a wasteland of gutted homes and churches, burning storefronts, and bloated, bullet-riddled bodies.

The leadership of Western Europe and our own administration have flunked dismally the first test of the new world order. European impotence and administration inaction have replaced the decisive leadership demonstrated during the Persian Gulf war.

Mr. Speaker, the neoisolationists have so intimidated this administration that it cannot now make an honest claim to the leadership of the civilized world or to the cause of human rights. Surely we can walk and chew gum at the same time. Surely we can address the long neglected domestic agenda without abdicating our international responsibilities.

□ 1210

TURKEY DAY AND THE ECONOMY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BALLENGER. Mr. Speaker, turkey day is a week away, but my friends across the aisle are talking bull.

They say the economy is the President's fault, when they are responsible for this recession.

They rejected the President's growth policies, including, yes, a capital gains tax cut. They put countless regulations on our small and large businesses. And now our private sector companies have lost their competitive edge.

Mr. Speaker, if Republicans were in control of this Congress, Government would work with business, not work to destroy it.

If Republicans were in the majority, progrowth policies would already be implemented, not hidden away.

And if this were a Republican Congress, people would be collecting paychecks, not unemployment checks.

Thanksgiving is a week away, and America has much to be thankful for. Our President has led this country well. International communism is dead. And the world looks to the United States for leadership.

But if Republicans were really in control of this economy, this holiday would be better for more people. Well, maybe next Thanksgiving.

SOVIET $64 MILLION MONUMENT TO CAPITALISM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Soviets are getting another $1.5 billion from Uncle Sam, which brings the total now to $4 billion. This is the former evil empire. I am wondering if the needy in the Soviet Union are going to get the money. I say this because news reports say that old glasnost Gorbachev has just built a summer home worth $64 million, that is right, with 30 rooms, an indoor pool, and outdoor pool, tennis courts, and a movie theater.

Now, Mr. Gorbachev says he needs all this to do his perestroika. I say, Mr. Speaker, who in the world will accept rubles? I say the American taxpayers are now paying for a $64 million monument to capitalism in the Soviet Union. Beam me up. This is glasnost, all right, right between the eyes of the American taxpayers.

NOW IS THE TIME TO REVISE OUR EXPORT ADMINISTRATION ACT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, in a few days we will be celebrating the 50th anniversary of the attack on Pearl Harbor. We were totally unprepared for the military conflict at that time, but today the conflict before us is economic conflict, and we are as equally unprepared for the economic conflict that is coming as we were at that time for the military conflict.

Let me give an example. Fiberoptics in the 1990's and the 21st century is what the railroads and highways were to the last century, and we do not allow the sale of fiberoptics to Eastern Europe. The Germans are now telling us that they are starting a huge sale of fiberoptics to Eastern Europe. If the Germans go through with this sale not only will the United States companies lose major contracts now and future contracts and Americans lose many jobs, but it puts America at the back of the pack in the race to dominate future trade in telecommunications, and this is an impending economic disaster for the United States of America.

Now is the time for us to revise our Export Administration Act. Now is the time for us to help open American eyes to the future if we are to remain an economic power.

THE PRESIDENT'S STATEMENT ON CIVIL RIGHTS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, as one of the authors of the Civil Rights Act of 1991 I was invited to go to the White House today for the bill signing. I want to say, Mr.

Speaker, that I have canceled my acceptance after reading of the announcement made by the President last night that states that preferences are no longer to be used in fair employment laws. This is a frontal assault on the fair employment laws of this country that have served us so well for decades. There are no preferences in civil rights employment laws. The President ought to read them and get that straight. Yes, there is affirmative action. Affirmative action is not a quota and is not a preference. It only means that employers, where the employment statistics are low in minority and female jobs, should seek qualified applicants for jobs. That is all, qualified applicants.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I want to announce to the body that the President has just changed his mind. CBS has just reported that the President will not rescind the Executive order. We have entered in on the Pavlovian Presidency.

IT'S TIME TO STOP VIOLENT CRIME

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, the front page of today's Washington Post reports that the suspected killer of Patricia Lexie was arrested yesterday.

The suspect was out on bail after being arraigned 4 days earlier on a prior charge of assault with intent to kill. According to a police source, the suspect was riding with friends on I-295 when he said, "I feel like killing someone."

The suspect then shot through the passenger window of the Lexie's car, striking Mrs. Lexie in the head. Her husband Freddie, who was driving the car, drove off the highway and flagged down the police. The Lexies were married for only 11 months.

Mr. Speaker, as Congress bickers over the crime bill, and how many conferees should be on the conference committee, senseless murders like this happen every day. We owe it to Freddie and Patricia Lexie and all Americans to pass a crime bill this year with stiffer penalties for violent crimes that ensure the most dangerous criminals never see the light of day.

Today, I am introducing the Three Time Loser Violence Reduction Act, which I offered as an amendment to the crime bill. This bill would reduce violent crimes by repeat offenders by imposing a mandatory life sentence without parole for a third conviction of a felony crime of violence. I urge my colleagues to sign on to this bill and to push for passage of a tough crime bill this year.

MY CIVIL RIGHTS NIGHTMARE

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, last night I had a dream that President Bush finally recognized his moral responsibility as the leader of our Nation. That by compromising on the civil rights bill after months of fighting it, the President was signaling a new willingness to unite, rather than divide, Americans. In my dream, the President repudiated the Reagan tradition of trying to turn back the clock on decades of progress in the area of civil rights.

But Mr. Speaker, as with many dreams, the cold light of the morning revealed a different reality. What I woke up to find was that the Bush administration was apparently planning to direct Federal agencies to repeal all affirmative action regulations—reversing policies that have been in force for more than 25 years. And I discovered that the President was planning to elevate cynicism to a new level by announcing this decision when he signed the civil rights bill.

Make no mistake, Mr. Speaker, about what transformed my dream into a nightmare: The President thought he had found a solution to the myriad of problems he faces. He reached back to his own experience in the 1988 election and decided to once again play the race card. Challenged by the right wing of his own party, the President was ready to offer his own version of the "Duke dividend" and the "Buchanan bonus." With the economy failing and white voters deserting him, the President was prepared to appeal to people's fears. With increasing criticism over the absence of a Bush domestic agenda, the President's new strategy was to divide and conquer.

Now we learn, Mr. Speaker, that the Bush administration has reversed itself. Could it be that the President and those around him recognized that no matter how clever the smokescreen or diversion, they could not hide from their responsibility to deal with America's problems? I hope so and I remain hopeful that my dream may come true some day.

THE PRESIDENT AND THANKSGIVING

(Mr. SHAW asked and was given permission to address the House for 1 minute.)

Mr. SHAW. Mr. Speaker, a week from today, this country will celebrate Thanksgiving, a holiday when Americans reflect on their many blessings.

Thanksgiving is a distinctly American tradition, stretching back to when the Pilgrims endured that first, difficult winter in the new world.

Like those first Pilgrims, we have much to be thankful for. The leadership of President Bush is one example.

George Bush has done an excellent job on both the international and domestic fronts as President.

His bold leadership in the Persian Gulf led the United States to victory over Saddam Hussein.

He fought for a civil rights bill that attained true justice, not more quotas.

And he worked to provide extended compensation to the unemployed without busting the budget agreement.

Mr. Speaker, the President has faced challenges from many opponents. The Democrats in the Congress haven't made his job any easier.

So while we reflect on our Nation's many blessings this Thanksgiving, let us think of the leadership of George Bush. He's doing a fine job as President of the United States, and he deserves our support.

WHERE IS OUR KINDER AND GENTLER AMERICA?

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I was, to say the least, a little shocked to read in the paper this morning that the administration is pondering the elimination of Federal affirmative action regulations when the President signs the Civil Rights Act today. I guess now that David Duke is out of his immediate focus, President Bush seemingly felt comfortable enough to take over the lead as the rightwing's leading purveyor of racially divisive politics.

The double speak coming out of the White House these last few days is enough to make your head spin. Just last week, we heard the President state his desire for lower credit card interest rates, yet when the Congress tries to accommodate his wishes, he blasts the idea. He claimed he is a defender of free speech, yet gags counselors in family planning clinics who provide services to poor women.

And now, on the same day when he is to the sign the Civil Rights Act, which he himself lauds as a great achievement for minorities and women, President Bush wants to eliminate 25 years of Federal affirmative action policy with the stroke of a pen. Important Federal hiring standards, standards which have become the accepted norm throughout private industry as well, might simply be thrown out the door.

Not only might millions of minorities and women once again have to fight an uphill battle for a chance to serve the public in the Federal Government, but important set-aside programs for disadvantaged businesses—programs written into law by this body—could be in jeopardy.

I guess the old adage still applies that he who giveth, can just as easily taketh away. If this is our new kinder and gentler America, Mr. Speaker, I don't recognize it.

□ 1220

TRIBUTE TO MAYORS

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, recently while in my district, I had the privilege of attending a gathering where homage was paid to three men who had served their community with distinction as mayors of the city of Ansonia.

Mr. Speaker, James W. Martin, Sturgis Andrew Sobin, and William J. Menna will be remembered as true leaders. They were leaders who used their tenure in office to modernize local government, to fight for the rights of their taxpayers, and to provide economic opportunity for the people of Ansonia.

These men personify public service. At a time when confidence in our elected leaders is waning, the accomplishments of these three men were based on the premise that the interests of the taxpayers should always come first.

The city of Ansonia is a better place today partially due to their leadership.

And Mr. Speaker, I wish Mayor Martin, Mayor Sobin, and Mayor Menna continued good health and happiness.

TIME TO LOOK AMERICA'S TROUBLES STRAIGHT IN THE EYE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it has been a curious thing to watch over the years as the economy grew in the 1980's to see Republicans come to the floor of the House and to say, "It's our economy. We're in charge. Credit us. We want the credit for economic growth."

Then the economy goes in the tank from a decade of dangerous fiscal policies, and the Republicans come to the floor of the House and say, "Well, it's not ours. We have not been here. It's you Democrats. You are at fault for all of this."

Well, Mr. Speaker, this is not a time any longer for the fainthearted to be finger pointing. It seems to me what the American people want is a little leadership.

Let me give you yesterday's page from the Washington Post—it tells the whole story:

Bank and S&L bills bailing out in a declining market investors bet stocks slide. Economic worries spur new slide in stock prices. Giant Food's earnings fall 43 percent. U.S. trade deficit increases $6.79 billion. NBC says network in dire straits.

All of that on one page of the same newspaper. Is there anybody who still does not believe this country is in desperate trouble; and is there anybody who still does not believe leadership is required from the White House and from Congress to look this country's troubles straight in the eye and begin solving them?

CLOSE THE HOUSE BANK

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I rise today because yet again, I am frustrated and confused by this body's inability to control its excesses. According to Roll Call Monday, the 14 employees who work in the House bank make a total of $726,000 a year or $51,000 each.

Mr. Speaker, $51,000 a year? Tellers in my hometown bank do not make half that, but then they do not work for the U.S. House of Representatives, do they?

There are 14 tellers for 435 people? That is 1 bank employee for every 31 Members of this House. But maybe some Members of this body need that kind of special attention.

Even with that kind of special attention, Mr. Speaker, 135 Congressmen still bounced 8,000 checks.

Mr. Speaker, this is just another example of the flagrant disregard Congress has for the American taxpayers' money.

This may be a small example, the tip of the iceberg, but it is an example of the big problem, the problem of waste and inefficiency, Mr. Speaker, that we need to uncover and eliminate throughout Government.

Let us shut down the House bank as swiftly as possible, Mr. Speaker, and put that $726,000 where it belongs, toward reducing our budget deficit.

THE PLIGHT OF HAITIAN REFUGEES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is an acute human tragedy unfolding in the waters off Florida, a tragedy that Congress, with the help of the White House or on its own, must deal with. That is the plight of the Haitian refugees rescued from the perilous sea by the U.S. Coast Guard and currently being held aboard cutters.

These are people, Mr. Speaker, who evaluated their situation in Haiti and found their economic condition so bad, the persecution so real, that a perilous voyage across the sea in rickety ships was preferable.

Mr. Speaker, efforts were made by the U.S. Government through the OAS to resettle these people in regional countries. When those efforts failed, the United States began returning these people to Haiti. This has been stayed by a Federal court order. These people, however, are in a watery limbo aboard these cutters.

A compassionate nation, Mr. Speaker, must do something to alleviate this human tragedy. Let us do so, and let us do so this weekend.

RTC BILL REQUIRES ECONOMIC GROWTH PACKAGE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the Speaker of the House has told us that we must pass the RTC bill before leaving for the year. Without a doubt, this is important legislation, but unless we pass an economic growth package we'll be digging American taxpayers deeper into a hole. Unless we can stimulate the economy, acquiring more assets from failed S&L's will only make the situation worse. The supply of excess real estate, commercial property, and countless other assets will continue to increase, but Congress will have done nothing to increase demand for these assets.

Wall Street has sent Congress a clear message in the last few days. We cannot ignore the marketplace. And why should we want to? If we can pass an economic growth package, the miracle of the American economy can return to work. And so will millions of Americans.

We need a capital gains cut, investment tax credits, passive loss income, and IRA's for first-time home buyers to spur the economy. We need to encourage entrepreneurship and for once get serious about cutting Federal spending. We must do something substantial to stimulate this economy and make Americans feel secure in their jobs.

ANNOUNCEMENT BY THE SPEAKER.

The SPEAKER. The Chair will interrupt 1-minute requests to recognize the gentleman from Kentucky [Mr. NATCHER].

MAKING IN ORDER ON FRIDAY, NOVEMBER 22, 1991, OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 3839, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it shall be in order on Friday, November 22, 1991, or any day thereafter to consider in the House the bill (H.R. 3839) making appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies, for the fiscal year ending September 30, 1992, and for other purposes; that the bill be debatable for not to exceed 2 hours, to be equally divided and controlled by myself and the gentleman from Michigan [Mr. PURSELL]; that all points of order against the bill and against its consideration be waived; and that the previous question shall be considered as ordered on the bill to final passage without intervening motion, except one motion to commit.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Reserving the right to object, Mr. Speaker, this is an interesting unanimous consent request.

I am wondering, are Members, since we are taking up the bill again, are Members going to be permitted to offer amendments to the bill?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, there will be no amendments permitted under this procedure.

Mr. WALKER. So by unanimous consent we are requesting a closed rule, and as I understand it, we are also asking for 2 hours of debate, is that correct?

Mr. NATCHER. The gentleman is correct, 1 hour to the gentleman from Michigan and 1 hour to this side.

Mr. WALKER. Is it not normal practice on these bills to have 1 hour of debate? As I recall, when the gentleman brought the bill to the floor for the first time, there was 1 hour of debate on the bill.

Mr. NATCHER. The gentleman is correct. At one time, as the gentleman will remember, we put this bill through in 1 hour and 53 minutes.

Mr. WALKER. I do remember that.

Further reserving the right to object, Mr. Speaker, I do remember that, and I am a little confused with this pressing toward trying to get adjourned, why all of a sudden we are expanding this to 2 hours of debate.

Mr. NATCHER. I would like to say to the gentleman, the reason for that is the numbers that will be presented in the new bill are all of the numbers which had been approved, as the gentleman knows, in the conference report on H.R. 2707. Many Members wish to speak on these appropriations or will on the various nonmoney provisions.

□ 1230

The bill will not be changed at all, with one exception, section 514, the so-called gag rule, the Porter amendment, will be stricken. That comes out of the bill.

The entire bill, with all of the numbers intact for the three departments and the related agencies, will be the same as we adopted the conference report.

Mr. WALKER. I thank the gentleman for that, but that still does not answer my question. In fact, it seems the reverse of my question because if there is only one issue to be discussed and we discussed that issue fully the other day on the floor as we brought the veto message before the House, it seems rather strange to me that we will now increase the amount of time to be debated on the bill for a bill that the gentleman says is precisely the same as previous bills except we are now going to extend the debate.

I do not understand why we cannot limit the debate to the single hour, which is typical of the debates of this kind, especially since there is only one topic to be discussed.

Mr. NATCHER. If the gentleman would yield further.

Mr. WALKER. Glad to yield to the gentleman.

Mr. NATCHER. This, as the gentleman knows, is the second largest appropriation bill that is presented each year before the House. We have 13 appropriation bills. The largest, as the gentleman, my friend from Pennsylvania, knows is the defense appropriations bill. This is the second largest appropriation bill.

A number of Members on both sides of the aisle have said to us they would like to talk about the bill; they would like to discuss it. That is the reason we are making the request for 2 hours.

I hope that the gentleman from Pennsylvania would not object and that he would give us a chance to have the bill discussed and, after that, pass the bill and send it down to the President. As the gentleman knows, the President has indicated that he will sign this bill.

Mr. WALKER. I thank the gentleman.

Further reserving the right to object, I would simply say that my suspicion is that the 2 hours is being granted for a highly partisan, politicized debate, and that what we are going to have is another Bush-bashing session on the House floor by the Democrats for an hour. But I guess I will wait and see whether or not that is the nature of the debate, and therefore I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is their objection to the request of the gentleman from Kentucky?

Mrs. JOHNSON of Connecticut. Mr. Speaker, reserving the right to object, I do reserve the right to object, and I too will not press my reservation, but I think as an advocate for the gag rule, I mean an advocate of repeal, I personally am disappointed that the committee is bringing forward the bill that it is bringing forward.

But I do not feel that it is appropriate under the circumstances of this House to pursue what has become a very partisan debate over the course of 2 hours. I want it known that while I will not object in terms of delaying the process, I personally object strongly to this kind of procedure and believe that there needs to be a far better way of making these decisions in the future.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. MAZZOLI. Mr. Speaker, reserving the right to object, and I will not object, I want to take this moment to tell the gentleman from Kentucky how privileged I am to serve with him in our delegation and what great respect and honor he brings to our home State of Kentucky. And realizing the difficult nature of moving a bill like this through the legislative process, particularly, as the gentleman just said, the second largest bill in the whole panoply of appropriations bills, I just want to tell him that he constantly does great work and brings great respect to this Chamber and to our Commonwealth and to our delegation.

The SPEAKER. The gentleman from Kentucky [Mr. MAZZOLI] obviously will not object.

Is there objection to the request of the gentleman from Kentucky?

Mr. PURSELL. Mr. Speaker, reserving the right to object, I am not going to object on this side, but as the manager of the bill I would hope that the debate would be on substance only and not be politicized in terms of one party versus the other, the White House versus—I think, in finishing up our session this weekend, if we can minimize that, this is a very important issue.

There are a lot of people who did not have a chance to speak on the bill. So, 2 hours may or may not be appropriate. We will have to see the contents of those 2 hours in respect to the quality of the debate. But I hope it is at a very high level of character and that we do not politicize the debate, talk about the subject in a meaningful and substantive way.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The Chair hears no objection.

The Chair would hope that characteristic would mark all debates of the House and on both sides of the aisle.

APPOINTMENT OF CONFEREES ON H.R. 355, RECLAMATION STATES DROUGHT ASSISTANCE ACT

The SPEAKER. Without objection, the Chair appoints the following conferees: From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, MARKEY, RAHALL, VENTO, DE LUGO, GEJDENSON, KOSTMAYER, LEHMAN of California, YOUNG of Alaska, and HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

WAR CONTINUES IN EL SALVADOR

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the killing goes on in El Salvador. Despite progress at the negotiating table, soldiers and citizens are still dying.

This dirty little civil war has taken a shocking toll. In a nation of only 5 million people, 70,000 have been killed, 8,000 disappeared, and 1½ million have been turned into refugees. The people of El Salvador want the war to stop. Yet the killing goes on.

We've propped up a brutal and corrupt regime in El Salvador to the tune of more than $4 billion. A huge share of our money goes to the Salvadoran military, whose corruption and brutality is as bad as it gets in the Western Hemisphere. Just this week, evidence came to light that implicates the current Minister of Defense in the ruthless execution of six unarmed Jesuit Priests. After the miscarriage of justice that marked the so-called trial in the Jesuits' case, only a fool could expect to see the architects of this brutal murder brought to justice.

This Congress has tried to staunch the flow of blood money to the Salvadoran military, and we've made some progress. Yet approximately $80 million in military aid from previous fiscal years is still in the pipeline.

That money was appropriated by this Congress in a world that had not seen the worldwide collapse of communism or the progress in Salvadoran peace negotiations. It is time to wipe the slate clean, and look at our real needs in El Salvador—and our needs here at home.

I am introducing legislation to close the spigot on the pipeline, to take back this unspent money from previous years. The $80 million just might do some good here at home; in the hands of Salvadoran generals, it will just keep the killing going.

BUSH ADMINISTRATION HEALTH POLICY

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the prevailing wisdom, fickle like the prevailing wind, suggests that our President and his administration are in hot water with the American people.

The supposed lack of attention to growing problems like the runaway cost of health care is repeatedly cited.

But let us look at the record.

Sure, why hasn't the executive branch joined the debate with a small group market reform proposal? House Republicans have been out front in this area all year long and Democrats have gradually come on board.

But, in truth, this administration has been far from silent on health care.

The President's medical malpractice reform bill would save billions in health care resources, but Congress hasn't even held hearings on it.

Secretary Sullivan's emphasis on prevention—smoking cessation, injury prevention, physical fitness, and other prevention programs—is right on target.

Yet Congress has held no hearings to determine how we might more effectively require people to take responsibility for their own health-affecting decisions.

In addition, Doctor Sullivan's efforts to reduce paperwork and promote better health among minorities are good, concrete steps. The President and his men are taking action. Congress talks.

Democrats are not going to coast on the health care issue.

The truth is that our President and Republicans have been working, with serious Democrats, on health measures Congress could pass this year if the Democratic leadership wanted to.

□ 1240

SIGNED IN INVISIBLE INK

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, President Bush might as well use invisible ink when he signs the Civil Rights Act today.

At the same time that he is set to put his name on this landmark law, his administration has issued a mean-spirited directive that runs counter to its high promise.

This sweeping directive would terminate hiring guidelines established over many years to ensure that our Nation's great diversity is represented in the workplace.

It's a tragedy that on a day when all Americans should be celebrating their right to fairness and equal opportunity, behind the scenes those rights are being callously undermined.

The American people deserve better. They deserve the uniform fairness that is promised by the Civil Rights Act of 1991. And they deserve leadership that will live up to that promise.

OPPOSE ADJOURNMENT UNTIL WE EXTEND OUR NATION'S HOUSING PROGRAMS

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, as we approach adjournment, among other extenders the Mortgage Revenue Bond Program and the low-income housing tax credit will expire unless this Congress chooses to help our Nation's housing programs by extending them.

I have heard from both sides of the aisle eloquent speeches about homelessness in this country. I have seen it portrayed in magazines and in person, and there has been criticism of the administration for not taking a more aggressive approach in domestic issues. But we in this Congress, both Democrats and Republicans, have the chance, before we leave this distinguished body, to do something about housing by extending the Mortgage Revenue Bond Program and the low-income housing tax credit.

Mr. Speaker, I urge my colleagues to join me in opposing adjournment until these two programs, among other extenders, are at least extended.

H.R. 3768—THE ROBIN HOOD IN REVERSE PROPOSAL

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, today we will be asked to appropriate $70 billion for a potential bailout of the commercial banks. Within a few days we will be asked to appropriate another $80 billion for the S&L bailout—on top of the $80 billion which has already been appropriated for that purpose.

Mr. Speaker, the American people are angry and disgusted with politics as usual—with both the President of the United States and the Congress, with both the Republicans and the Democrats. The rich get richer, the poor get poorer—and the working people and the middle class are asked to bailout banks which were destroyed by the greed, irresponsibility, and the outright dishonesty of many banking officials. Once again, it is the Robin Hood proposal in reverse. We take from the poor and give to the rich.

Mr. Speaker, we must protect our banking system and the bank depositors, but we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let's show a little bit of courage in this body, and not increase the cynicism which the working people of this country already feel. Let's ask the people who caused this crisis, and who have the money to fund this bailout to do so, not the ordinary American.

SPRINTING TOWARD AN IMAGINARY FINISH LINE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as the Congress sprints toward some imaginary finish line, we hurry through an obstacle course of massive pieces of complicated legislation. I understand we're trying to get home for Thanksgiving, but what we're in danger of doing is leaving the American people with a bunch of well-stuffed turkeys—but not the kind you eat over the holidays. It is in the air around here—adjournment fever—and it tends to make casualties of meaningful and responsible legislation. It was this time last year when a closed-door, middle of the night meeting left us with the so-called budget deal and such infamous foul ups as the recreational boat user fee. When we hurry through such important and complex issues—we're bound to make mistakes, mistakes the American people will get stuck paying for, mistakes like the catastrophic health bill.

Mr. Speaker, instead of rushing to shut down by Thanksgiving, why don't we just stay here until we have done some work we can be proud of? We should be able to make a real start in that direction before Christmas—and that would be the best present of all.

NOTHING HAS CHANGED—50 PERCENT OF OUR OIL STILL COMES FROM OVERSEAS

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, we just heard from one of my colleagues on the Republican side talking about how we should be thankful this Thanksgiving for the leadership the President gave in the Persian Gulf. Well, let us examine that leadership.

Mr. Speaker, a year ago we had 500,000 troops in Saudi Arabia, there to protect the oil reserves in Saudi Arabia. We were there for two reasons: First, to liberate Kuwait, and second, to protect those oil reserves because over 50 percent of our oil in this country comes from overseas.

A year has now passed. I had hoped that, after that war, the President would have come back and showed his leadership and pushed for a national energy policy that would have created jobs and moved away from that dependency, and, Mr. Speaker, today we are no better off in this country than what we were a year ago. Still today over 50 percent of the oil that we use comes from overseas.

ABORTION—THE KILLING OF INNOCENT HUMAN LIFE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, yesterday's Washington Post had a lead editorial ticking off all the vetoes that President Bush has exercised on the sanctity of human life, the issue of abortion, and they say this is not going to do well for him in the election next year.

Mr. Speaker, I disagree. With each advance of medical science, as President Reagan pointed out and as President Bush has reemphasized, the pro-life side wins.

Has America seen the headline of one of our papers where an abortion, a failed abortion 4 weeks ago, tore the arm off a little girl who was born the next day and is now healthy, 4 weeks old? Of course, her arm is gone from the shoulder. Guess what? In her life existence in the womb that was the same arm 4 months ago, 3 months ago, 2 months ago.

Abortion is simply the killing of innocent human life. That is not what this country should be all about, and all of these vetoes the President has exercised, he will not only be rewarded in heaven, my colleagues. He is going to be rewarded with a big election victory.

Stop killing innocent human life in this country.

THIS IS A BAD WEEK FOR WOMEN

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this has been a very bad week for women.

I say to my colleagues, if you are poor, very poor and young, you probably have to use a community health care service center, and after this week you'll not get, probably, or might not get all the health care information you need. And if you're an old woman, it was a bad week because you always thought you could support family planning, whether as a volunteer or as a donator, and be a good community person and not be political. This is no longer true. It was also a very bad week for thoughtful women because all of a sudden you realized that your freedoms and your rights are under such attack that some are willing to use the first amendment against you, and now we find out that it could be a very bad week if you work for the Federal Government, want to work for the Federal Government or want to advance in the Federal Government because all of a sudden you find out, because some have insisted on a civil rights bill, you are going to be under very deep scrutiny.

So, I can only say, Mr. Speaker, that this administration is sadly mistaken if they think the American public or Members of this body will tolerate for the American people the cavalier abandonment of basic principles of justice and fairness.

Mr. Speaker, this has been a bad week. Some of us will have to make it a better week.

U.N. SECURITY COUNCIL SHOULD DEPLOY PEACEKEEPERS IN CROATIA BEFORE ALL OUT HOSTILITIES RESUME

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, after months of relentless bombing and mortar fire, the Croat city of Vukovar has fallen to the Serbs. Reports of the dead and wounded grow by the hour. It's horrifying. TV footage of civilians, especially kids with intravenous tubes attached to their arms and blank stares on their faces, reflect some of the horror of the ordeal that they are living, and these, Mr. Speaker, are the lucky ones who have survived.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] and I were in Vukovar 2 months ago and saw the consequences of hate and war first-hand. It was heartbreaking. For months the city of Vukovar has been bombed by the Serb-dominated Yugoslav army. During our visit Mig fighters flew overhead as we walked the streets. We warned them, on the streets of Yukovar at an improptu press conference and numerous times since that things would get progressively worse and more people would die if effective international diplomacy was not forthcoming. A full court press for peace is desperately needed now in Crotia.

To date, Mr. Speaker, all that could and should have been done has not been done. The current lull in fighting, it seems to me, and the shock over the devastation of Vukovar, offers a short window of opportunity for aggressive diplomacy backed by U.N. peacekeepers to work.

Mr. Speaker, in a meeting with Secretary of State Jim Baker this morning, I asked the Secretary to press the

U.N. Security Council to take up the Serbian war against Crotia and to immediately call for deployment of U.N. peacekeepers before hostilities resume at a fevered pace.

□ 1250

THE MESSAGE OF DAVID DUKE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, David Duke has lost the election in Louisiana but his message has won the hearts and minds of the White House. By shoving aside women and minorities, as evidenced by a new White House directive on the Federal work place, President Bush starts his reelection campaign by welcoming back Willie Horton and using the race card once again.

David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act is that the President today signs the civil rights amendment—

Mr. WALKER. Mr. Speaker, I demand that the words be taken down.

Mr. RICHARDSON. While telling women and minorities to go to the back of the bus in the Federal workplace.

Mr. WALKER. Mr. Speaker—

Mr. RICHARDSON. Mr. Speaker, again the President wants it both ways.

Mr. WALKER. Mr. Speaker, I demand that the words be taken down. He should have been interrupted immediately.

The SPEAKER pro tempore. (Mr. MAZZOLI). The gentleman will be seated, and the Clerk will report the words.

Mr. WALKER. Mr. Speaker, when are the words going to be reported?

I demand that the words be reported, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the words.

The Clerk read as follows:

> David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act of hypocrisy is that the President today signs the civil rights amendment * * *.

The SPEAKER pro tempore. For what purpose does the gentleman from New Mexico [Mr. RICHARDSON] seek recognition?

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the word "hypocrisy" be stricken from the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. So ordered. The gentleman from Pennsylvania's demand is withdrawn.

CONFLICTING PROPOSALS ON CAMPAIGN REFORM LEGISLATION

(Mr. NICHOLS asked and was given permission to address the House for 1 minute.)

Mr. NICHOLS. Mr. Speaker, since coming to Congress, I have worked hard to reduce spending and lighten the burden on taxpayers. Now, there is talk about taking taxpayers money for campaign contributions.

That is right, a plan proposed by the Democrats allows a candidate to raise a third of the money from PAC's, a third from large donors, and a third from taxpayer money.

This plan leaves one, very important unanswered question. Who pays for the Government subsidy to political candidates? The authors of the plan make some suggestions, but those suggestions are inadequate.

The Republican bill is simple, clear, clean reform. Make candidates raise a majority of funds from local voters. Reduce the amount of money PAC's can contribute to any one campaign. Require total disclosure and reporting of indirect campaign contributions that now go unreported.

Reform the campaign laws, but do not pass the buck to the taxpayer. Make the simple, clear, clean reforms needed to make elections more competitive and politicians more accountable.

A REPORT ON THE PAVLOVIAN PRESIDENCY

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, as I mentioned a moment ago, CBO reports that the President has changed his mind and will not rescind John F. Kennedy's Executive order for fair practices for our country. This is not the first time the administration has ended up on both sides of a given issue. In fact, it almost typifies the administration.

Some of us may recall the old Broadway tune that goes:

If you make a bold prediction,
Brand it merely fiction,
Scream to get the credit,
And then deny you said it,
You're a natural in politics.

Anyone who does not like George Bush does not know George Bush. He is a very likeable person. Nevertheless, with apologies to the gentlewoman from Colorado, I do believe that the Teflon Presidency has given way to the Pavlovian Presidency. The heat the White House received on the putative rescinding of this noble Executive order of John F. Kennedy, I would guess, mainly came from Republican Senators and Representatives, who themselves are essentially decent people.

REPUBLICANS PUSH ENACTMENT OF AN ECONOMIC GROWTH PACKAGE

(Mr. RIGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, if the Republicans ran the House, we would not even be thinking about going home next week for adjournment until we had enacted an economic growth package. If you have any doubt about that, I say to my colleagues, just look at the letter authored by the gentleman from Texas [Mr. DELAY] that 110 out of 165 Republicans have signed and sent to the Speaker asking the Speaker to keep us in session until we have enacted an economic growth package, because we realize on this side of the aisle that it is pure hypocrisy and very, very mean-spirited politics to extend unemployment insurance benefits without enacting an economic growth package that would create jobs for those folks when their extended unemployment insurance benefits expire. I wonder if my colleagues on the Democratic side of the aisle intend for those folks to remain permanently on welfare.

We further realize, in terms of the debate we will be having between now and next week, that it is pure foolishness and it is folly and reckless irresponsibility for the taxpayers' dollars to consider pumping billions—and I mean billions—into the Resolution Trust Corporation to resolve failing thrifts without enacting some kind of package that would stabilize and reverse the downward decline in real estate values. That is like pumping blood into a patient who is still hemorrhaging from an open wound.

THOSE DARNED T-SHIRT MAKERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last night in a fundraiser where the President raised way over $1 millon, he said that one of the problems he was having in Washington was with those darned T-shirt makers.

□ 1300

I only wish it had been the Democrats who came up with it. The entrepreneurial people out on the streets selling T-shirts have totally sold out on the new rage in Washington. It is a T-shirt that I wish I could show my colleagues because I love visual aids, but I cannot even buy one because they are all gone.

The T-shirt says, "Friends don't let friends vote Republican."

I think there is a real message in that. I see why the President is upset.

AMERICA'S FORGOTTEN PATRIOTS

(Mr. BLAZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, marines, and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked, and invaded, and captured, and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family, and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly one-half that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the United States in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not halfheartedly, but totally and wholeheartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder, and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun, and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folksong at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father's teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere outpost. Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons, and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

WINGING IT

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the country's economy is in real trouble. What are they doing in the White House about it? They are winging it. The headline of the Washington Post today is "Winging It in Economic Turbulence," and in there is a detailed story about how the President called for lower interest rates on credit cards. It seems he and his advisers were on an airplane, and they decided they would just throw it into the speech. They did not check out its economic consequences. They did not decide how it would affect the country. They just decided to wing it.

With millions of Americans unemployed, tens of millions afraid of losing their jobs, the economy declining, with the Christmas season looking like it is going to be the worst in decades, what are they doing in the White House? They are winging it.

We cannot afford a President on these serious issues who wings it on the most serious issue facing America today, economic policy.

THE GATT TALKS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the rush of this week's schedule may have caused many Members to miss something very important now happening across the Atlantic, which will mean jobs lost or won for their constituents. I refer to the GATT talks now entering their final phase on a wide assortment of issues from agriculture to manufacturing.

Be alerted, around Thanksgiving, the final technical text is expected to be completed. Do you know whether your steel mill, semiconductor plant, or software firm will be secure under that document.

In just 2 years, the Midwest lost over 36,000 jobs, in the auto industry alone, to imports. Looking into the faces of these workers and their families quickly teaches us the importance of these faraway discussions.

Final acceptance of an overall treaty could come in December or early January. I would urge my colleagues to call either the Republican GATT task force at 53876 or its Democratic counterpart at 54961 to get more information on the negotiation's status.

At this moment, behind closed doors in Geneva, decisions are being made deciding the future of companies, and industries, throughout America.

THE GAG RULE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, yesterday this House, by the narrowest of margins, failed to override the President's veto of the HHS legislation and left in place the gag rule.

Mr. Speaker, in my years in the Congress, despite strong views in support of pro-choice, a woman's right to make her own decision about abortion, I have never spoken of this issue, because I believe it is best left to people's consciences and make their own judgments. Speeches will not change minds.

But this vote yesterday was not about abortion. It is about the ability of a woman in a desperate moment in her own life to make an informed decision, to speak with her doctor, to make a real choice.

This House made a mistake, compounding a mistake of the President. The gag rule cannot stand.

It is an insult. It is an injury to every American woman. Before our business is concluded, that freedom of speech with a doctor must be restored to American women.

WHAT ABOUT DAVID DUKE?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, in the course of the 1-minutes today we have heard the name of Willie Horton mentioned a couple of times. We need to remember one thing about the Willie Horton commercials run by President Bush.

They were not about race. They were about a criminal who killed a human being, an innocent human being, while out on parole. Recently a woman here in Washington was killed by a similar kind of criminal. The issue being addressed is still very much in place and not being addressed by this House.

There is also another interesting thing about Willie Horton. Willie Horton was never brought into the campaign by the Republican first. He was brought in by the Democrats. And I do not remember any of those Democrats who used the Willie Horton issue in the primaries in 1988, ever being criticized by any Member in this House.

David Duke has also been mentioned here. President Bush on several occasions condemned David Duke and told people to vote against him. When has any Democrat ever come to the floor of this House and condemned the racism within their own party?

In fact, the Democratic leadership has campaigned for some of the racists in their own party.

What about Mr. KERREY? The other day, the Presidential candidate who made inappropriate remarks? I have not heard any Democrat come to the House floor and condemn him for his inappropriate remarks.

The Democrat-Socialist coalition that controls this House will never clean up its own act. Coverup, rather than cleanup, is the order of the day in this House.

TAKE IT TO THE WHITE HOUSE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I was interested to hear that our Republican colleagues have gotten together, 110 of them, and written a letter to the Speaker telling him it is time to do something about the economy. They addressed that letter to the wrong person.

We have a President in their party who refuses to admit there is even a recession. So why do they not rewrite that letter and send it to President Bush? We have a bill in conference that will provide jobs, that will build transit systems, that will repair highways. Let us get that bill and act on it. Let the word go out to local and State government. They can begin spending money, rebuilding America, and I have to tell my colleagues that I am really tired of the Republicans in this House looking at our Speaker for an economic growth package.

Let them go to the White House, get an appointment. Tell the President to stay home and let us get going on an economic package.

APPOINTMENT OF CONFEREES ON H.R. 1724, TERMINATION OF JACKSON-VANIK PROVISIONS OF TRADE ACT OF 1974, AND PERMANENT EXTENSION OF MOST-FAVORED-NATION TREATMENT TO HUNGARY AND CZECHOSLOVAKIA

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, with a House amendment to the Senate amendment thereto, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CRANE moves that the Managers on the part of the House, at the conference on the disagreeing vote of the two Houses on the bill H.R. 1724, be instructed to insist upon the position of the House in regard to that portion of the House Amendment designed to combat illegal drug imports by providing trade incentives to stimulate alternatives to drug exports for certain countries under the Andean Initiative contained in H.R. 661.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CRANE] is recognized for 1 hour.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support my motion to instruct conferees on the trade provisions related to the Andean nations.

The Andean initiative is one of the most important and most visible efforts the United States can make at this time to demonstrate that we stand firmly united with those countries trying to eradicate drug trafficking. The scourge of drugs touches the lives of all of us today. Our society is reeling from the cost, both in economic and human terms, of the widespread availability of illegal drugs.

The dimension of the problem is magnified for those small countries where the cultivation of drugs has become an escape from poverty. It is a tragedy that families have to grow or sell drugs in order to put food on the table.

With passage of the Andean initiative, we have the opportunity to help encourage alternative means, other than the drug trade, to earn a decent living in these small nations.

These provisions would give modest trade benefits to Bolivia, Colombia, Ecuador, and Peru—the nations of the Andean region where drug production is so prevalent—in order to encourage alternatives to drug exports. Goods that are sensitive in our own market would not be affected. The Andean initiative is important for our own country as well as for the Andean region where we can have such a great impact.

Patterned after the successful Caribbean Basin Initiative, the bill authorizes the President to grant duty-free treatment to imports of eligible articles from these four countries. Articles are eligible for duty-free treatment if they are imported directly from a beneficiary country and consist of at least 35-percent value-added in a beneficiary country. Articles which are import sensitive are exempt from duty-free treatment.

H.R. 661 is a very important part of the President's war on illicit drug production. It fulfills his commitment made to Bolivia, Colombia, Ecuador, and Peru to expand economic alternatives for countries that have been fighting to eliminate drug trafficking.

I urge my colleagues to support the motion to recommit on H.R. 1724.

Mr. LAGOMARSINO. Mr. Speaker, I rise to associate myself with the remarks of Congressman PHIL CRANE, the ranking minority member of the Ways and Means Subcommitee on Trade and in support of the motion.

The President's Andean trade initiative is a very important weapon to help fight the war on illegal drug trafficking. Because of the very poor economic situation in the Andean countries, many peasants are turning to producing illegal coca and opium crops for a living. Helping Andean countries economically help themselves coupled with strict enforcement of antidrug laws will help persuade many of these peasant farmers to return to growing legal, responsible crops.

Along with our colleagues BOB TORRICELLI, STEVE SOLARZ, and CHARLIE RANGEL, as the vice chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, I recently traveled to Peru and Colombia, the primary producers of cocaine and its addictive derivatives, to review the implementation of United States antidrug programs there. I wanted to share my observations with my colleagues because I believe they will reinforce the need for enacting the President's Andean trade initiative.

The answers to the serious drug problems remain: First, reducing demand both here at home and in Europe and Japan where drug use is on the rise, and second, striking at supply through eradication and crop substitution programs. While these general answers may seem simple, there are many challenges to implementing them.

In Peru, the following problems must be addressed: First, eradication of coca growing has been tried, but it is not very effective. There are over 200,000 growers cultivating a similar number of hectares in Peru. The lure of quick profits attracts more growers clearing more land every day. Coca leaf is still legally used in Peru for traditional purposes; medicinal, tea. The Government is reluctant to use sanctions and forced eradication because of the social upheavals and human rights questions such actions raise. Second, while the Fujimori government is pursuing a voluntary eradication/crop substitution program, in order for it to work Peru needs new roads, communications, and markets for other crops. Peru's severe economic crisis—one of the worst in South America—makes providing these services and enticing campesinos to abandon coca growing very hard. Third, drug lords continue to subvert Government efforts through violence, corruption, and smuggling. Fourth, the ultra-Marxist Shining Path guerrillas continue to terrorize the country, often working in conjunction with drug traffickers. Their terror tactics are some of the worst I've ever seen, including use of the most gruesome torture.

There continue to be problems with interdiction operations. Corruption in the police and military forces continues, though not in the leadership which is taking actions to curb it. With the poor economic situation dictating low salaries to the rank and file in the security forces, it is difficult to offset the attractive bribes of narcotraffickers. Institutional friction and poor coordination between the police and military hampers effective interdiction. The lack of modern equipment needs to be addressed. The Peruvians need more helicopters, radar, and communications equipment. It is ironic that the Democratic majority in Congress, which has complained the loudest about this situation, is responsible for delaying aid to Peru. American aid is now under way.

On the brighter side in Peru, President Fujimori, with whom we personally met, is committed to fighting drugs. New civil government organizations are tackling the issues of growing and transporting coca. However, in an effort to protect Peruvian growers, these groups claim coca leaf growing isn't the problem, rather transporting and processing the leaf into a narcotic is. They want to grandfather current coca farmers, allowing them to continue growing. There are serious problems with this policy. The U.S. Drug Enforcement Agency has evidence that the growers themselves are processing the leaf into paste. We know that tons of leaves are not transported to drug labs, but kilos of paste. Because new coca farms appear every day, it is clear to me that as long as growing coca remains legal and profitable, it will attract an increasing number of farmers, making crop substitution even harder. Hopefully, the Peruvians will take action to address this contradiction.

The Peruvian Government is making strides in improving human rights, despite the pressures and absolute disregard for human rights by the Shining Path terrorists. For example, a public, national registry of any individual detained, including guerrillas and drug traffickers, has been established. The Red Cross has access to every detainee. While more needs to be done, the Peruvian Government still must contend with outrageous atrocities by the Shining Path.

In Colombia, the primary processing and transshipment area of cocaine, attention is focused is on eradicating the drug labs and curbing drug-related violence. For example, the entire judicial system is being reformed and strengthened. There are still problems, such as the easy treatment some convicted kingpins are receiving in jail and the repeal of the extradition law, which sent drug traffickers to the United States for trial and punishment. Recognizing that popular support for the Government and its antidrug policies is a key ingredient for success, steps are being taken to address the public's human rights concerns and incorporate the public as part of the war on drugs.

As in Peru, violent guerrilla movements are working with the drug lords terrorizing local populations into cooperation and making Government strikes against labs deep in the guerrilla territory dangerous. Like the Peruvians, the Colombians need more helicopters, firepower, secure airbases in guerrilla areas, radar, and communications equipment.

While not widely reported, eradication progress is being made. Colombia was formerly a top supplier of marijuana. Today, less than 4 percent of marijuana originates from Colombia due to the use of aerial spraying. Unfortunately, unjustified opposition to spraying coca and opium plants has led to an increase in cocaine and heroin. Yet, spraying opponents have remained silent on the drug traffickers' more extensive use of extremely harmful herbicides, like paraquat, and reckless slash-and-burn destruction of rain forests for coca and opium plantations.

During my discussions in Panama with the United States Southern Command Chief, General Joulwan, I emphasized my support for using American military assets like AWACS radar aircraft and Navy patrol vessels, when available, to assist in drug-busting in Colombia and off its coast. I was assured this important and effective help will continue.

While bilateral programs can help combat drug production, real success will come through international cooperation and improved regional strategies. As we crack down on drugs in Peru, Colombia, and Bolivia, traffickers are moving their operations to Venezuela and Ecuador. European countries need to share the burden with us in providing aid to South America, especially since an increasing amount of illegal drugs is destined for Europe. They can also do more to reduce demand at home and improve their own antitrafficking efforts. Other South American countries like Brazil and Argentina need to regulate the sale of precursor chemicals required to process paste into the drugs found on our streets.

My conclusion is that 2 years after President Bush's announcement of the Andean strategy—economic and security assistance to help fight the war on drugs in South America—much is being done. Our job isn't over. The poor economic and security situation in the Andean region needs to be improved. For example, we should restore the $10 million in security assistance cut by the majority in the U.S. Senate and help make licit crops profitable so that Andean campesinos will abandon coca cultivation. While my recent mission focused on the issue of supply, we continue to give even more attention to reducing demand. Action on both supply and demand remains necessary if we are to effectively fight the war on drugs. The President's Andean trade initiative is an important means to confront the problem of supply.

I urge my colleagues to support the motion.

Mr. GUARINI. Mr. Speaker, I rise in support of the motion offered by Mr. CRANE to instruct the conferees to insist that the Senate accept the Andean Trade Preference Act as part of any final conference agreement. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Bolivia, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conductive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing, and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this motion.

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the motion to instruct the conferees to support the Andean Trade Preferences Act. I also want to thank Congressman PHIL CRANE for his tenacious leadership on this critical issue.

As the ranking Republican on the House Select Narcotics Committee I am a strong supporter of the Andean Trade Preferences Act of 1991. The ATPA, as part of the administration's comprehensive enterprise for the Americans initiative, is important legislation and is worthy of swift passage.

Virtually all of the cocaine that enters the United States is grown, processed, and transshipped from the Andean region. This legislation is intended to address the narcotics issue by helping to strengthen the economies of the democracies in the region and to complement critical enforcement and interdiction efforts.

My service on the Narcotics Committee has afforded me the opportunity to visit producing and trafficking nations. I am convinced of the importance of a multifaceted approach to the drug problem abroad. The foreign leaders we have met always ask for help in the area of trade, for both practical economic reasons, and as a sign of international moral support for their politically difficult counternarcotics efforts. Trade incentives and other economic support is an important component of our Andean antidrug strategy.

Counternarcotics assistance to our allies in the Andes is a two-way street. If we help them develop their economies and provide some desperately needed resources and training, they in turn can make a serious effort to attack the trafficking organizations that are targeting the United States for cocaine transshipment.

Trade assistance to the Andean nations was promised by President Bush during the drug summit in Cartegena, Colombia. On October 5, 1990, the ATPA legislation was transmitted to Congress and subsequently introduced by Congressman CRANE. Let us not send President Bush to the second drug summit, scheduled for early next year, without this legislation to present to our Andean allies in the drug war.

I urge my colleagues to join me, and the sponsor of this motion, Congressman CRANE, in supporting this important legislation.

□ 1310

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 18, as follows:

[Roll No. 412]

YEAS—416

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Boehner
Brooks
Early
Fish
Franks (CT)
Goodling
Gunderson
Hatcher
Hunter
Leach
Lewis (CA)
Molinari

Mrazek
Oberstar
Sisisky
Skelton
Washington
Waxman

□ 1335

Mr. SIKORSKI changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I missed the vote on the motion to instruct conferees on H.R. 1724, rollcall vote 412. I was attending the signing ceremony at the White House, on civil rights legislation that passed in the House last month. Had I been present, I would have voted "yea" on rollcall 412.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3371. An act to control and prevent crime.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3371) "an act to control and prevent crime," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. DECONCINI, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. EDWARDS of California. Mr. Speaker, pursuant to clause 1, rule XX and by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 3371) to control of and prevent crimes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 3371, be instructed to accept the Senate position on certain firearms provisions in the Senate-passed crime bill, S. 1241, namely sections 207 and 1213 of that bill.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct before the House is to have the conferees on the part of the House instructed to agree to the Senate provisions of the crime bill that were offered by the Senator from New York, Mr. D'AMATO, and accepted by the other body. Similar amendments were offered on the House side by the two Congress people from New York, Mr. MANTON and Ms. MOLINARI, but were not made in order by the Committee on Rules before the House considered the crime bill.

□ 1340

Mr. Speaker, a yes vote on the motion to instruct would direct the House conferees to accept the following mandatory prison terms for using or possessing a firearm during a State crime of violence or a State drug trafficking crime:

First, for knowingly possessing a firearm, an additional mandatory 10 years in jail; second, for discharging a firearm with intent to injure another person, an additional mandatory 20 years in jail; and, third, for knowingly possessing a firearm that is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, an additional mandatory 30 years in jail.

In the case of a second conviction, the person would be sentenced to not less than 20 years for possession, 30 years for discharge of a firearm, and life without release if the firearm is a machinegun, or a destructive device, or is equipped with the firearm silencer or firearm muffler.

In the case of a third or subsequent conviction, the person shall be sentenced to life imprisonment without release.

The real problem with guns and crime is that gun crime sentences are absurdly low. We need longer sentences and mandatory minimums to reduce the number of crimes committed by repeat offenders.

In a study of 108,850 State prisoners released in 1983 in 11 States, the Justice Department reports that within 3 years, 60 percent of violent offenders were rearrested for a felony or serious misdemeanor, and 42 percent were reconvicted.

Of the violent offenders, 30 percent were rearrested for a new violent crime.

These 108,850 prisoners accounted for over 1.6 million arrest charges for the period before they entered prison and for the 3 years after their release.

The 1.6 million arrests included 215,000 arrests for violent crimes before prison and another 50,000 violent crimes within 3 years after release, including: 14,467 homicides, 7,073 kidnapings, 23,174 rapes or sexual assaults, 101,226 robberies, and 107,130 assaults.

For those concerned about the rights of State and local prosecutors, let me stress: Federal prosecutions will never replace State prosecution.

This amendment, or this motion to instruct, allows for the availability or the alternative sanctions of the death penalty for certain homicides caused by the use of a firearm, homicides now appearing in the news daily and nightly and affecting our neighbors and our neighbors' children. These crimes specifically require the coordination of State and Federal efforts. Additionally, the Department of Justice has acknowledged that they absolutely will not supplant State prosecutorial efforts. The motion to instruct and the amendment, if it should be adopted by the conference, are merely meant as measures to be kept available, as measures to be used often enough and carefully enough to establish certainty of punishment and an additional level of deterrence for those who are considering committing a crime while armed with a firearm.

In 1988, there were only 2,200 convictions in Federal court for violent crimes, but there were 100,000 convictions for violent crimes in State courts.

Mr. Speaker, I think that it is very important that we have these mandatory additional penalties that are available, and the threat of Federal prosecution in Federal court available as a deterrent because, if a State jurisdiction has got a reputation for one reason or another of letting people out with relatively minor sentences, or even probation after the commission of a violent crime, the criminal will not know when the arm of the Feds will come down on them, and they will be facing a mandatory 20, or 30, or 35 years, or the rest of their life, in jail.

It is time to put some certainty into the sentencing process as a way of stopping violent crime. The real problem with crimes and guns is that gun crime sentences are absurdly low. Repeat offenders get let out, they run free, and they victimize again and again.

A 35-State sample reveals the following average sentences: 1.9 years for drug trafficking, less than 5 years for homicides, and less than 4 years for rape. This is according to Acting Attorney General William Barr in his statement of November 18, 1991.

In 1990 violent crimes soared by 10 percent, according to the preliminary data of the FBI uniform crime report. There were over 23,000 murders last year. Every 24 minutes someone is murdered in the United States. Every 6 minutes some woman is raped. And every 55 seconds someone is robbed. Every 33 seconds someone is assaulted.

According to the Bureau of Alcohol, Tobacco and Firearms, the most violent criminals commit about three crimes per week, per inmate, or 160 criminal acts per year, per inmate. Approximately 6 percent of the criminals arrested commit up to 70 percent of the serious crimes.

Mr. Speaker, these are the kinds of people that ought to be put in jail and ought to stay in jail so that our society becomes safer and people are able to walk the streets again.

The provisions in the Senate crime bill, addressed in the motion to instruct, provide for tough, mandatory, minimum sentences and the availability of the death penalty for these most violent elements of our society who choose to possess or use a firearm while committing a crime and while victimizing innocent people. The provisions specifically provide for the coordination for Federal and State efforts. Additionally, the Department of Justice has said, and I have to repeat this, that they will not supplant State prosecutorial efforts. This is an additional deterrent. This is an additional arrow in the quiver of law enforcement and for prosecutors.

Mr. Speaker, I would hope that the motion to instruct would be agreed to, and I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Wisconsin [Mr. SENSENBRENNER] is enthusiastic about his motion. He did not bring it up when the Committee on the Judiciary of the House considered the crime bill, and it is a tough crime bill. It is a crime bill that I would have a great deal of difficulty in supporting because of some of the provisions in it. But he did not bring it up, and now he brings it up at this late date.

All of our colleagues, Mr. Speaker, all 435, have received an urgent letter from the Chief Justice of the United States, Justice Rehnquist, and he refers to this amendment, this instruction offered by the gentleman from Wisconsin [Mr. SENSENBRENNER], because this is exactly the provision authored by the Senator from New York, Senator D'AMATO, that in a moment of whatever the Senate agreed to, to its dismay, and has regretted it ever since, I believe.

Now, if my colleagues want to make it impossible to handle anything in the Federal court system, any civil actions in the Federal court system, go ahead and agree because what the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing is to federalize all crimes committed with a gun, all crimes.

□ 1350

In theory, you can do away with your local sheriff, with your local district attorney, and with your local police departments, and just increase the size of the FBI and the Drug Enforcement Administration to handle all crimes. Do you really want to have the enforcement of all street crimes taken away from your local communities, taken away from your States, and turned over to Uncle Sam?

We have, I believe, up to 50,000 prisoners in Federal penitentiaries now. Do you want to have to build 10 or 20 or 30 more Federal penitentiaries to handle the increased crime load or the increased felony load that the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing?

We should listen to Chief Justice Rehnquist. I ask my colleagues to go back and read his letter again where he said, "Please, Mr. Congressman," or "Congresswoman, don't burden the Federal courts with these additional responsibilities."

We will not be able to handle in the Federal courts the terribly important civil cases which we are having a great deal of difficulty in handling now, because they have to wait for 2 or 3 or 4 years to get into Federal court on a civil action because of speedy trial provisions, and so forth, in criminal actions and drug cases that have priority.

So, Mr. Speaker, I think it is interesting that the gentleman from Wisconsin [Mr. SENSENBRENNER] has offered this proposal, and I have confidence that we will turn it down. It is really a very bad idea.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish that the gentleman from California had listened to my argument in support of my motion to instruct. This motion, if the language is adopted by the conferees, will not take away the job that everybody's sheriff and local police department and local district attorney will have to do. It will help them because it does put the resources of the Federal Government available on a discretionary basis. If someone is picked up for a crime while armed with a firearm, the U.S. attorney and the local district attorney can decide who will prosecute and under what law the defendant will be prosecuted. Those kinds of arrangements happen all the time. The fact of the matter is that with tough mandatory sentences, we would be able to get after the repeat offenders who seem to get out of jail on a State and local basis and lock them up in the penitentiary and get them off the streets so they will then quit murdering, mugging, and raping our constituents.

I did bring my amendment up in subcommittee. It was voted down. I brought my amendment up in the Rules Committee. The Rules Committee did not allow me to offer it on the floor. Nonetheless, it was adopted by the other body.

It is a matter for the conference to decide, and it seems to me that this House ought to go on record as saying that if you shoot someone while armed with a firearm and kill them, you are going to be in jail for a long period of time, and if the State prosecutorial authorities and the State courts will not do it, then the Federal Government ought to take over that portion and make sure that the person is locked up.

The gentleman from California [Mr. EDWARDS] also says, "Well, the Chief Justice is opposed." The letter the Chief Justice sent called these cases routine cases. I disagree strongly, respectfully, with the Chief Justice of the United States. A murder is not a routine case, an aggravated battery is not a routine case, and a rape is not a routine case. The first obligation of any government is to provide for the safety and security of its citizens, and with crime going up day by day and night by night, with our streets not being safe to walk alone any more, not only in major cities but also in rural areas, penalties for those who are convicted by a jury of their peers is something that is long overdue. I wish the Judiciary Committee would recognize that the time has come to start throwing some of these people in jail, and this motion to instruct will put us along the way to pass a bill that will do that.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I just want to make this clear: that the intent of the gentleman's motion is to give local law enforcement the flexibility of being able to bring a case in Federal court with the cooperation of the local U.S. attorney's office?

Mr. SENSENBRENNER. That is absolutely correct, and it is not very much different than the Operation Trigger Lock proposal that has been on the books for the last year or year and a half, where there is cooperation and concurrent jurisdiction between State prosecutors and Federal prosecutors to make sure that people who are involved in gun-related crimes do serve a significant amount of jail time.

Mr. RIGGS. So, Mr. Speaker, if the gentleman will yield further, the ultimate decision would be the process of consultation between local law enforcement, that is to say, the local district attorney, and the regional U.S. attorney's office as to whether or not the crime is of sufficient gravity to warrant prosecution in Federal court?

Mr. SENSENBRENNER. Reclaiming my time, Mr. Speaker, furthermore, whether the defendant has a sufficient background to warrant that prosecution in Federal court based upon a previous criminal record and conviction of previous crimes of violence.

Mr. RIGGS. Mr. Speaker, will the gentleman yield further?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. If after this process of consultation the matter is tried in Federal district court, if it does result in a successful prosecution and a conviction, then the mandatory minimum sentence the gentleman is recommending here would apply?

Mr. SENSENBRENNER. That is correct. There would be a mandatory minimum sentence after the conviction.

Mr. RIGGS. Mr. Speaker, I thank the gentleman.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under leave to include extraneous matter, I insert in the RECORD the letter from the Chief Justice of the United States appointed by President Nixon which says: "Please don't enact the Sensenbrenner provision."

I would suggest to all my colleagues that they go back to their offices and get the letter because it is very adamant. It just brings out the point that this would be a disastrous load and an unnecessary load on the Federal court system of the United States.

Mr. Speaker, the text of the letter is as follows:

SUPREME COURT OF THE
UNITED STATES,
Washington, DC, September 19, 1991.

Hon. MICHAEL J. KOPETSKI,
Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KOPETSKI: I am writing in my capacity as Presiding Officer of the Judicial Conference of the United States to convey the opposition of the Judicial Conference to proposed legislation that would provide for federal jurisdiction over offenses traditionally reserved for state prosecution. I enclose a statement expressing the objection and the reasons therefor in more detail. I appreciate your serious consideration of these views.

Sincerely,
WILLIAM H. REHNQUIST.

Mr. Speaker, I yield three minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I think the Members ought to be clear about the implications of this for the whole notion of States' rights. That has been a common theme that has emerged in many of the deliberations of the Judiciary Committee.

Voting for this basically says that we believe the States are not competent to handle this type of crime. We talk about States' rights sometimes here only when it is convenient, but Members ought to understand that a vote for this really does destroy the philosophical underpinnings for any future States' rights arguments.

Members might want to argue consistently that they prefer some things to be done at the Federal level and some things to be done at the State level, depending on how they best like the outcome. That is a perfectly valid position. However, to vote for something like this would be essentially a vote that the States may not be trusted to do these sorts of crimes and, therefore, we must take the Federal Government.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I understand the philosophical arguments the gentleman is making, but I wonder if he will acknowledge that at present there are many, many situations in certain types of crimes where we do see joint cooperation between local law enforcement and the U.S. attorney.

Mr. FRANK of Massachusetts. I would be glad to acknowledge that. I would acknowledge that today is Thursday, and that this month is November. I am prepared to acknowledge a number of things. I would not like to do that under the premise that it would somehow add weight to that argument.

The gentleman is right, people can now cooperate. This goes beyond that, and the philosophical premise is that we cannot trust the States, that the Federal Government is going to have to step in from time to time.

If Members want to vote that there has to be a general right of supervision by the Federal Government, that when we think the States are failing to live up to what we think is adequate policy in areas that have been theirs for 200 years and we have the right to do that, that is probably going to break my way more often than not. But Members ought to understand that that is the precedent they are setting, and the next time Members are asked, "Would you vote for this?" and you say, "Oh, no, I am sorry, that might be a good result, but it would violate States' rights," the argument will not be there, because what we are saying here is that when we think we are getting a better outcome by a greater degree of Federal intervention or preemption, we will do it.

□ 1400

Mr. SENSENBRENNER. Mr. Speaker, am I correct that I have the right to close?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Wisconsin does have the right to close.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my friend, the gentleman from Massachusetts [Mr. FRANK], has a very selective memory. The Congress has federalized both gun laws and drug laws because it has determined that gun laws and drug laws are something that have overwhelming national significance.

My proposal does not even go as far as that. My proposal establishes concurrent jurisdiction.

As the gentleman from California [Mr. RIGGS] has so eloquently stated, it would be up to the prosecutors and other law enforcement officials to get together to determine what is the proper forum to try a defendant who is accused of a crime.

All during the markups and the hearings on the crime bill in the Subcommittee on Crime and Criminal Justice we Republicans heard again and again the complaint that the Federal Government cannot legislate on street crime because only 3 percent of the criminal prosecutions in this country are done at the Federal level.

That argument does not hold water, because if we want to have a stronger Federal role in the prosecution of street crime, we can adopt a motion to instruct and ultimately accept the D'Amato amendment. I would hope that we would do that.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I just hope that my colleagues take the time to understand fully what our colleague from Wisconsin [Mr. SENSENBRENNER] would want to do. In the first place, our colleague from Wisconsin opted not to offer this amendment in subcommittee or the full committee. There have been no hearings on the impact of this particular amendment in either body, the Senate or the House.

Let me tell Members what I think the impact will be. Mr. Speaker, as you know, I am privileged to chair the Subcommittee on Judicial Administration that handles prisons around the country. This legislation, as I understand the text of it, would federalize all gun offenses as long as they travel on interstate commerce.

I do not think it would be easy to determine how many gun offenses that would be. Gun offenses, like all street crime, are prosecuted at the State level. In fact, 95 percent of all street crime, as my colleagues know, is prosecuted at the State and local level.

This would federalize all gun offenses where they have traveled in interstate commerce. That, in essence, means all gun offenses, because most guns travel in interstate commerce.

We in the Federal Prison System today are at roughly 173 percent of capacity. That means that we have 73 percent overcrowding today. We cannot build Federal prisons fast enough.

I do not have to tell Members what a single Federal prison costs to construct today. Would you think $300 million to $400 million is a fair assessment?

You would have to begin building Federal prisons today and you would have to build Federal prisons every other month or so to house the prisoners that the gentleman from Wisconsin [Mr. SENSENBRENNER] would want to put in jail for State offenses.

Now, aside from the question that the gentleman from Massachusetts [Mr. FRANK] raised, which is the question do we think States are doing that bad a job that we should federalize offenses that are basically rightfully relegated to the States, that is another issue. I find it interesting that a conservative Republican would suggest that we spend tens of billions of dollars in Federal prison construction to cure the problem when they are stingily providing resources to the States to help themselves solve their problem.

Now, if we really want to do something about the overcrowding problem and send a clear signal to those that violate State laws, let us be better partners with the States to help them build the prison systems they need. But we do not do that.

The same folks that would advance this as a quick fix to deal with overcrowding would not only overwhelm the Federal system, but they basically would at the same time deny the States the ability to actually improve their own criminal justice system and build the systems they need.

As the gentleman from Wisconsin [Mr. SENSENBRENNER] knows very well, because he watches the dollars as closely as any Member of this Congress, we do not have the tens of billions of dollars, and he knows it, that would be required to implement the so-called D'Amato amendment. It is the most cockamamie idea that has come down the pike in a long time.

Mr. Speaker, it sounds great. We all want to be tough on crime. But, you know, we have got to develop reasonable and sensible initiatives to deal with the crime problem, and this falls short by any criteria one uses.

Mr. Speaker, the Chief Justice of the United States and others in the system are adamantly opposed to any federalizing of essentially State offenses. To suggest that the Feds are the only ones that have the expertise to prosecute street crime is absolutely ridiculous.

Where have Members on this side of the aisle strayed when they forget about the whole concept of federalism? Are we not interested in deciding basically what is rightfully in the province of the States and what really is in the province of the Federal Government?

So, not only would they bankrupt the budget by such a suggestion, but they also would decimate the whole concept of federalism.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER] briefly.

Mr. SENSENBRENNER. Mr. Speaker, is the gentleman aware of the study released May 1, 1991, by the Bureau of Alcohol, Tobacco and Firearms, that indicates or concludes that it is cost effective to incarcerate someone when you subtract the cost of incarceration from the cost to society?

Mr. HUGHES. Mr. Speaker, I reclaim my time.

Mr. Speaker, I am aware of that. I say to my colleague that that makes a great speech, but it has nothing to do with the motion before us. We are talking about the destruction of the concept of federalism and bankrupting the Federal system in the process, instead of basically sharing with the States the resources they need to build their systems.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the argument that the gentleman from New Jersey [Mr. HUGHES] is we should not prosecute and lock people in society because we do not have the jail space. That is a bunch of bunk.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to support the motion by the gentleman from Wisconsin [Mr. SENSENBRENNER]. I support it because I believe there should be an increased presence and involvement in the prosecution of violent crime by the Federal Government.

In the first place, our constituents and constituents of State legislators are all one and the same. The public knows they are the victims of violent crime and they are threatened by still more violent crime. They expect action.

I think that the fact that the responsibility is also on State legislatures does not mean there is not a responsibility on the Congress to also act.

Second of all, I find the defense of federalism to ring hollow when it comes from individuals whom I have heard in this Congress advocate nationalizing almost everything else that we talk about, from health care to day care, including such subjects involving the crime bill as what kind of weapons people in individual States can own. So it seems to me the argument of States rights is raised only as a defense against an issue with which they do not agree.

Mr. Speaker, however, I must say as a former career prosecutor that although I believe there should be more Federal involvement in the fight against violent crime, and there usually is good cooperation between Federal and State agencies, that significantly greater action, whether it is in the prosecution of violent crime as proposed here or whether it is in crime prevention measures as are already authorized in the House version of the crime bill, must be matched by appropriations.

Crimes do not prosecute themselves. It requires police investigators, Federal investigators, prosecutors, courts, and, if need be, prisons. All of that costs money. Even the review of a case to decide whether to prosecute it or not prosecute it can involve many hours of investigative and prosecutorial time.

□ 1410

Therefore, I would say that if this Congress is going to become more involved in the fight against crime on both levels, and I hope it does, the prosecution of violent crime and the prevention of crime, it must back that with an appropriation or all of this will be a cruel hoax.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the subcommittee that I chair has jurisdiction over the FBI. The budget this year for next year is over $2 billion. I would estimate that we would have to be spending about twice that just to get the program that, this very generous, extravagant program that the gentleman from Wisconsin [Mr. SENSENBRENNER] has in mind, just in additional FBI agents and supporting personnel.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in opposition to the motion to instruct.

This motion to instruct would do great violence to our system of federalism, which over hundreds of years of constitutional history has been worked out, delicate balances have been struck. And this would go right to the core of that in creating thousands and thousands of State crimes and changing them into Federal crimes.

Also it would impose severe restrictions on the resources that the Federal courts presently have in dealing with serious matters of Federal criminal activity.

I think the best evidence against this proposal has been submitted by the Judicial Conference of the United States. This is the conference of senior members of the court, the Supreme Court, the appellate courts, the district courts. It is chaired by the Supreme Court Chief Justice Rehnquist.

These are men and women who are dedicated, as we are, to suppressing crime in America, who are intimately knowledgeable of the details of criminal procedure, and who share our concern that violence in America is becoming a difficult burden for all us. Yet they categorically reject this proposal.

Let me quote:

> The Judicial Conference of the United States opposes legislation adopted by the Senate which would expand Federal criminal law jurisdiction to encompass homicides and other violent State felonies if firearms are involved. Such expansion of Federal jurisdiction would be inconsistent with long-accepted concepts of federalism and would ignore the boundaries between appropriate State and Federal action.

These are the experts. Their testimony is clear and compelling. It would upset federalism.

As I have suggested before, it would disrupt the resources they presently have available to deal with violent crime at the Federal level.

Let me quote from another report, which was offered by the Committee on Criminal Law and Probation Administration of the Judicial Conference and signed by Judge Broderick, the chairman.

I quote from his report: "The Federal courts are designed to handle complex criminal cases with nationwide impact that States lacked resources or juridiction to investigate and prosecute. The overall effect of this legislation," federalization of these crimes with firearms, "will in our judgment" and this is truly paradoxical, "result in less rather than more effective law enforcement. The pending legislation, if adopted, will dilute Federal court resources needed to try major crimes and to provide forums for the prosecution of national and international conspiracies."

> The admission to Federal jurisdiction of virtually any crime committed with a firearm that has crossed a State line will swamp the Federal courts with routine cases that States are better equipped to handle and will weaken the ability of these courts effectively to deal with the difficult criminal cases that present unique Federal issues.

Mr. Speaker, if we pay attention to the facts, to the expert opinion of these distinguished men and women, many of whom have been appointed by Republican Presidents, we will reject this motion.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding to me.

We have heard a lot of legalistic arguments here this afternoon, but I, like many this morning, when I came to work and opened the newspaper was moved like many were when we saw on the front page, and this happens just about every day, "Man Arrested in Slaying," the suspect had been free on $1,000 bond in a previous shooting case.

Now, if we sit here and say we cannot do anything because of what some judge said, are we not accomplices in crimes like this, too?

Yes, we here have it within our power to change the law and to stop some of these killings and murders that are really epidemic here and around the country. So I would ask the Members of this body to review their consciences and to ask themselves whether we are going to follow legalistic thinking or we are going to be concerned about people.

We have heard arguments here on the floor that our Federal prisons are filled to capacity of 173 percent. What do we do when we go back and see people? This woman's husband, her children, and there are thousands of people like this. What are we going to do? Tell them we will not imprison this person that killed their mother or killed their wife because we already have 173 percent capacity?

That is no answer. That is no solution.

Like my colleagues, I was moved when I read where—

> Bigby, pounding his heart with his fist, told a sobbing group of friends that he was not going to let his sister die.
>
> "I will never accept what has happened to her. I will never forgive the person who took her away. I will always remember her."

These people have to live with that. We are voting here for, yes, to protect the criminal. But I am asking my colleagues, does not the victim in our society have rights, too? Let us stand up and so something for the victim for a change.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this amendment was offered, I am not supposed to mention the name of the Senator on the floor. He is the junior Senator from New York, and his name rhymes with tomato.

It is my judgment that what he tried, what he is trying to do in this amendment, which was not subject to any hearings in the Senate, any hearings in the House, is pulling the wool over the eyes of the American people in terms of law enforcement.

Let me tell my colleagues what he does. He federalizes essentially all gun offenses.

What does that mean? That means that local police and State police will no longer automatically be in charge of enforcing the law on gun offenses, gun crimes.

Is that good for law enforcement or bad for law enforcement?

It seems to me it is bad for law enforcement because what we will create, and there are hundreds of thousands of gun crimes committed a year, we will create a scenario where no one will know who is in charge or running the shop when it comes to gun crimes.

It is the local captain of narcotics or vice in the police department of the hometown? Is it the superintendent of State police or is it Mr. Sessions, head of the FBI? No one will know who is in charge of running these operations.

What does that mean? Well, as we have seen from a lot of operations of this country from the Government down to the private sector, when no one knows who is in charge, the operation does not go very well. So what I fear what this will do is this will hinder law enforcement. It will confuse law enforcement. It will make it so that criminals are not brought to justice as quickly as possible.

I understand it sounds good, the junior Senator from New York has this idea. Boy, if we make every gun crime a Federal crime, it will make people shudder in their seats. In fact, what it will do is confuse the local police so they will not go out and quickly and effectively, as they do right now, to make sure that the crooks are caught or tried and are put in the penitentiary.

We do not need more Federal crimes. What we need is more cops on the beat. We need more law enforcement people on the streets.

The base crime bill makes a good step in that direction, but if we vote for this motion to instruct, as well-intentioned as I think it is, I think what we will be doing is voting for less effective law enforcement and a less effective local police department.

If I am not mistaken, I do not believe that any of the local police organizations have formally endorsed this amendment. They do not want it. It takes power away from them.

Do not buy into this argument that making every crime a Federal crime is a way to better law enforcement. Vote against the motion to instruct.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

□ 1420

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think the argument we just heard from the gentleman from Kansas is about as much nonsense as we have heard on this floor for quite a while.

I am a former street cop and criminal investigator, and I can guarantee if the motion would become law, local law enforcement would have, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said earlier, yet another tool in their arsenal, in their crime-fighting arsenal.

It would be discretionary whether local law enforcement wanted to work with Federal prosecutors to bring the case in the U.S. district court. It just might be, gentlemen, that there are certain offenses that would warrant expedited prosecution in Federal court and would warrant the kind of minimum mandatory sentences contemplated here.

Also, again now we have this philosophical cross current blowing across the floor here. Suddenly everyone on this side of the aisle is a born-again Federalist. That is a rich irony. Suddenly we are hearing wonderful arguments about decentralized government, and States' rights, that are frankly missing from so many of the other debates that we have in this House.

There are even some people who have had the audacity to talk about the fiscal impacts of this, as if the gentlemen making those arguments could truly claim to be fiscal conservatives. This argument is about priorities and where we are going to establish priorities on the part of the Federal Government.

I am here today to say that what is proposed here is absolutely consistent, and I would like to direct this to the chairman of the subcommittee, because I know he has a law enforcement background, it is absolutely consistent with the proven effective law enforcement technique of selective law enforcement, where we target limited law enforcement resources to certain types of very serious crimes, toward certain types of offenses, normally repeat offenders who commit violent crimes and are still free in our society.

Law enforcement wants prosecutorial tools such as enhancements, minimum mandatory sentencing standards. I would point out now that we are watching an experiment here locally where local law enforcement, the metropolitan police in the District of Columbia, are working jointly with the FBI in the name of selective law enforcement, again trying to target certain types of offenses and certain types of offenders. This motion is absolutely consistent with that principle as well.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I would like to ask the gentleman, since he feels so strongly about this, how many new Federal courts are we going to have to create and how many new prosecutors are we going to need to hire if the Federal Government takes over enforcement authority from the States?

Mr. RIGGS. Again I say to the gentleman it may be over time we may have to add courts and prisons. I am not sure that that would be a bad idea.

Mr. BRYANT. Does the gentleman know the answer to my question?

Mr. RIGGS. I do not know.

I will reclaim my time and simply point out that again what we are talking about here is a discretionary tool for local law enforcement. The FBI is not going to come in and usurp the authority of local law enforcement. That is pure nonsense. That is the red herring argument, designed again to protect those who are philosophically inclined to side with the criminal and not the victims of crime.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. KOPETSKI], a valued member of the subcommittee.

Mr. KOPETSKI. Mr. Speaker, I rise in opposition to this motion. I serve on the Committee on the Judiciary and I understand the difference between our State court system and their roles and responsibilities in our criminal justice system and our Federal court system. In our State court system, I served on our appropriations committee back home in the State of Oregon, and I know these cost money, the courtroom cost money and the judges cost money and the bailiffs cost money, and I understand the jurisdiction of the Federal judges and the Federal court system as well.

I can tell the Members that this is a Federal budget buster. Where is the money? Where is the money to fund the cells to hold these criminals or alleged criminals while they await trial? Where are the Federal dollars for the courtrooms? Where are the Federal dollars for the bailiffs? Where are the Federal dollars for the additional court reporters? Where are the Federal dollars in this proposal for more prosecutors and more Federal judges, because we are going to immediately see the shift from the State court system to the Federal court system.

I urge my Members just, if for no other reason than that there is no money here, to oppose this motion.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think it is important to focus on the true nature of this proposal. I think it is grandstanding in its worst form at the late hours of this session of Congress, this year's session of Congress. If the Members would simply ask themselves this one question: If this half-baked idea had any merit, would not the Attorney General of the United States, would not the Director of the FBI, would not the heads of law enforcement in America have come to us a long time ago and said, "Make all of these offenses Federal offenses and take over the responsibility from us and let the Federal Government begin to enforce this law?" Would not they have done that at least once? Of course they would.

They have never done it one time, never once. The chairman of the subcommittee is in possession of a letter which says that the Chief Justice of the United States has specifically asked us not to do this because they do not have the capacity to accomplish it.

This proposal did come up in the subcommittee and the subcommittee rejected it. In fact, it was pulled down before it ever even had a vote on it because it was so patently and impossibly applicable to the situation before us. I strongly urge the Members to reject this amendment. If it has any merit, let us have hearings on it next year, but do not come up with it at the last minute and suggest it is an idea that has any strength or merit to this House of Representatives.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, like so many Members of this body, I too am a former prosecutor, a Federal prosecutor in criminal cases. I think the worst thing this body can do is to promise more than it can deliver, and when we are legislating in an area like this that is so easy to vote for because it sounds good, we ought to make doubly certain that we know exactly what we are doing.

Back when the crime bill was being debated the Federal judge from my area, a Republican, called me specifically concerned about this provision from the Senate side. He said to me, "If you people are going to make Federal crimes out of every gun crime, State crime, then you had better be willing and able to really increase our budget because we will have to set aside all of the drug cases that are not involved with guns and spend all of our time taking care of manslaughter cases, taking care of assault cases where a gun happens to be involved."

So while I know this is a well-intentioned instruction, we are absolutely doing a disaster to law enforcement in this country. The Federal courts have more than they can handle now.

If Members are ready to implement this, if they are ready to fund it, that is one thing. But if we are simply going to pass a motion to instruct the conferees so that we look good, because we are tough on crime, that is something else.

I urge this body in the late hours of this session not to federalize every State crime in the Nation.

Furthermore, we are going to have a State crime in Georgia, because it may be defined as a crime of violence apply whereas it may not apply in Nebraska or some other State. We are saying that whatever is a crime of violence in one State, then suddenly this Federal statute comes into being, and an offender can get 10 years or 20 years or more, but if they commit it in another State it is all right, they are okay because it is not a crime of violence. I think this is not a well-thought-out motion. I would urge my colleagues to reject it for what it is, something that is simply playing to the people out there as a well-sounding instrument against crime. It will not work.

☐ 1430

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. I am happy to yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, as a former prosecutor, would the gentleman stipulate that in fact today we have a crazy-quilt pattern of criminal sentences that vary from State to State in respect to these violent crimes?

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is interesting to note that every argument that has been lodged against this motion to instruct and the underlying Senate amendment that this motion supports is a real red herring.

Of course, the Federal judiciary is going to be opposed to increasing their caseload. They always have been opposed to increasing their caseload, and they have come to the Congress to ask for certain reductions in Federal jurisdiction, specifically reductions in adversity of citizenship jurisdiction in civil cases.

The fact is that the Constitution of the United States gives the Congress the power to determine the jurisdiction of the inferior courts, including the Federal district courts.

The gentleman from California [Mr. RIGGS] has it absolutely correct. This question is a question of priorities. Where do we want to send our law enforcement resources, where do we want to send our prosecutorial resources, and where do we wish to allocate our court-time resources?

The crisis in this country is a crisis of violent crime. I do not think the Federal district courts or any other courts, for that matter, should be sitting on their hands saying, "Oh, no, violent crime cases should be for some other judge to try."

We ought to be using the court time to try these cases and we ought to have a sentencing pattern that makes sure that those who are convicted of the most gruesome of crimes—murder, battery, rape, robbery, manslaughter—spent time in jail. Most of the real gruesome crimes in this country involve a firearm.

This amendment merely gives the Federal authorities the discretion, in conjunction with the State authorities, to prosecute people who should be facing a mandatory sentence, and that gets to the final point.

The final point is: Do we not have enough faith in our U.S. attorneys and in our local district attorneys to figure out who can prosecute which cases? Do we not have enough faith in the fact that they can sit down and say, "I will take this one and you take the other one"?

I have faith in these individuals. The U.S. attorneys were all appointed by the President and confirmed by the U.S. Senate. Most local district attorneys are elected by the people of their countries or by their judicial districts. It is their job to decide how to manage the flow of their offices.

I think this amendment, because it does provide for the cooperation rather than the preemption, as some people seem to think, increases federalism, increases cooperation, and makes the government in total, Federal, State, and local, better able to deal with street crime and crimes of violence.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], a valued member of the subcommittee.

Mr. CONYERS. Mr. Speaker, I am quite concerned about the growing trend to federalize what are essentially local crimes—crimes which have no inherent Federal interest. The Senate in its crime bill passed two provisions, which are the subject of the gentleman from Wisconsin, that make a Federal crime out of any State drug trafficking or violent crime in which a gun was used and provide steep mandatory minimum sentences or the death penalty. I should note that even Supreme Court Justice Rehnquist has urged this committee to reject similar amendments to this bill.

Let me explain why, as chairman of the Government Operations Committee, I am particularly concerned about these provisions:

The Government Operations Committee has been trying to address and resolve high risk Government programs, programs where the Government's vulnerability to further serious problems is especially severe. The Office of Management and Budget has identified the Federal Bureau of Prisons as a high risk Government program. The Bureau of Prisons was singled out by OMB because of both overcrowding and of the lack of adequate staff to supervise the prison facilities, creating potentially unsafe conditions for staff, inmates, and the community.

According to the most recent figures, BOP is currently 50 percent over its rated capacity. Numerous facilities are more than 100 percent overcrowded, and one facility in North Carolina is actually at 222 percent of rated capacity. To put this in perspective, BOP's target goal is to be down to 30 percent over capacity by 1995 throughout the system.

This is the existing situation. Under the Senate provisions, it would change dramatically. According to 1989 FBI figures, nearly 350,000 robberies and assaults and perhaps more than 1 million drug crimes could be covered by those provisions. If only a fraction are actually prosecuted at the Federal level, it would literally swamp the criminal justice system.

To meet the demands of the Senate provisions, the Bureau of Prisons estimates it would need 500,000 new beds over the next 10 years—at a cost of more than $30 billion for construction alone. Include another $18,000 a year to house, feed, and watch each of those additional inmates.

If the Bureau of Prisons is already at the high-risk stage, imagine what these numbers would do to the system.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, this would do such a terrible injustice to the people of Florida where the courts are so backed up that no civil cases are being heard in the Federal courts, only drug and criminal cases, it would be an enormous problem.

Second of all, if you want to know how good this will be, find out how the Bureau of Alcohol, Tobacco and Firearms, in this current situation, has not enough people to look for firearms, to track firearms, or to go out and inspect firearms dealers. They cannot even track what is out there, let alone have time to now investigate crimes of that nature.

Third of all, right now if the gentleman from Wisconsin is so sincere about preventing crime, let us do something about it, and I will tell you how.

Firearm crime? Right now on the books, convicted felons and convicted felons who are convicted in the use of a firearm can get their civil rights and a gun-carrying permit restored to them by the BATF and the Federal courts, and they are doing it.

Do you want to do something to stop crime and help victims? Get the guns off the streets and out of the hands of people. File an amendment to give people no rights to get a gun after they have been convicted of a felony.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to rise in strong opposition to this motion to instruct.

Having been a judge for several years and a prosecutor before that and in close association with our people back in Alabama, and I have just checked with them, the best I can find out from the folks that are going to have to deal with this, this is going to be something that is entirely unworkable.

There are not enough personnel in their offices now with the Federal folks to handle what they have. They are going to end up handling every shooting that comes along and just federalizing any offense, as I can tell, that involves a firearm. This is not good policy. This is not good judgment, and this should be thoroughly rejected.

Mr. EDWARDS of California. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, first I would like to thank the chairman for yielding me this time. I was going to engage in a colloquy with the gentleman from California, but I would just simply say that language such as the gentleman used on the floor, in my judgment, is uncalled for. People have differences of views. That does not make them procriminal.

I do not think the Attorney General is procriminal. He has refused to support this legislation. I do not think the Chief Justice of the United States is procriminal. They have refused to support this, and that kind of language is uncalled for in this body, in my opinion.

Let me say, Mr. Speaker, that Chief Justice Rehnquist, when he heard about this legislation—hardly known as one being soft on crime, one of the toughest members in the judiciary—wrote a letter, which will be available to all of you, and he said: "I express my opposition to the proposed legislation which would provide for Federal jurisdiction over offenses."

The Judicial Conference opposes the legislation. Why?

> It will weaken—weaken, not strengthen—weaken the ability of the Federal courts to effectively deal with criminal cases that present uniquely Federal issues.

The bottom line, Mr. Speaker, is yes, we need more Federal help. It takes dollars.

The one thing my dear friend, the gentleman from Wisconsin, failed to provide—and all those who want this legislation—is to provide money for a single prison cell, a single extra FBI agent, a single additional prosecutor, or a single additional judge.

□ 1440

We all know the Federal courts are overloaded. We all know that people get off and get reduced sentences because they do not have the resources. And what do we do here? We say, "Here is some more jurisdiction." It is about time we stopped fooling the American people; it is about time we said to them, "When we give you jurisdiction, we will give you dollars."

I have heard many of my friends on that side of the aisle say, "Do not impose things on the States and on localities unless you are going to give them the money to do it." The same thing applies to this legislation.

If we do not provide the dollars, which this legislation does not, we will not put a single extra criminal in jail, we will not solve it. I would add parenthetically: When are we going to start preventing crime as opposed to simply punishing them after the crime is committed?

Most of my colleagues, my good friend from Wisconsin says he does not want to ban the most dangerous of the weapons on the streets, the assault weapons; that would prevent crime. But, no, we go through these elaborate procedures to beat our breasts, show how tough we are, and then not do a thing to prevent our citizens from being hit over the head and shot and mauled and maimed.

I ask this motion be defeated.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New York mentioned the name of the gentleman from California.

I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the gentleman from Wisconsin for yielding to me.

Mr. Speaker, I would simply respond to the gentleman from New York that I appreciate his lecture, as a new Member, on decorum. I am going to pattern myself after his decorum in the Banking Committee and on the floor from here on out.

But I wonder if—you know, he referred to the Chief Justice's letter. Reading between the lines there, the Chief Justice has a rightful concern about the availability of time in Federal court. I wonder if that could have anything to do with the endless appeals that are brought and heard in Federal court.

I would love to know how the gentleman from New York voted on the proposal for strict habeas corpus reform when the crime bill came up before, given his leadership on the Judiciary Committee.

Mr. SCHUMER. Mr. Speaker, will the gentleman——

Mr. RIGGS. I will not yield to the gentleman at this time.

I would also like to note——

Mr. SCHUMER. The gentleman asked a question.

Mr. RIGGS. I would also like to know if the gentleman would be willing, since he represents a high-crime State and we have heard from Representatives from Florida, Michigan, and other States with high-crime problems, if he would be willing to get back in touch with the local law enforcement back home and ask them whether or not they want as a tool of selective law enforcement the ability to bring the prosecution in Federal court for crimes committed with a firearm.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I believe——

Mr. SCHUMER. The gentleman——

Mr. SENSENBRENNER. Mr. Speaker, regular order, please.

Mr. Speaker, I yield myself the balance of my time.

I am glad the gentleman from New York [Mr. SCHUMER] brought the issue of funding law enforcement in this country because this Congress and the majority party that he represents reduced the request of the President of the United States for funds for law enforcement by $462 million between the time the President submitted his budget and the time the appropriation bills were passed by the Congress and sent to the President. That is $462 million that you people took out of law enforcement and put into various kinds of social spending programs.

Do not come up here and argue against the amendment in this motion to instruct by saying we do not have enough money. We would have had a good start on having that money, had you not taken it away in your budget.

No, I will not yield.

Mr. SCHUMER. I was just wondering if the gentleman put any money into the——

Mr. SENSENBRENNER. Regular order, Mr. Speaker. I believe I have the time.

The SPEAKER pro tempore. The regular order is that the gentleman from Wisconsin has the time.

Mr. SENSENBRENNER. Mr. Speaker, what the motion to instruct does is to ask the House conferees to agree to language adopted by the other body that will impose a mandatory jail term for people who are convicted of certain crimes while armed with a firearm. Under the FBI statistics, the 6 percent of the criminals that commit 70 percent of the crimes are those that are making our streets run in blood. And those people ought to be put in jail. If it requires Federal district court time and time for Federal prosecutors to present these cases, so be it.

The top priority in this country ought to be making our streets safe. And, frankly, people who are convicted of crimes of violence do not spend enough time in jail and get out too soon and continue their life of crime.

In 1988, more than 6 of 10 of New York City's murder victims were murdered with a gun. In 1989, of 1,905 homicides, 1,262 were committed with a gun. In 1990, gunfire was involved in three-quarters of the city's 2,250 homicides.

Yet, the New York City criminal justice system completely fails to stop gun violence.

Of 2,308 convicted of any criminal gun possession charge in New York City last year, only 4 in 10 went to jail and another 4 in 10 got probation.

This motion to instruct, this amendment, is going to put these people in jail.

Mr. Speaker, I urge a "aye" vote and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 155, nays 271, not voting 8, as follows:

[Roll No. 413]

YEAS—155

Allard
Allen
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Chapman
Clinger
Coble
Combest
Costello
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Edwards (TX)
Emerson
English
Espy
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Inhofe
Ireland
Johnson (TX)
Kasich
Klug
Kolbe
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Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Machtley
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Martin
McCandless
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Petri
Pickle
Ramstad
Ravenel
Regula
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Riggs
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Roberts
Rogers
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stenholm
Stump
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—271

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Broomfield
Browder
Brown
Bruce
Bryant
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Camp
Campbell (CO)
Cardin
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Clay
Clement
Coleman (MO)
Coleman (TX)
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de la Garza
DeFazio
DeLauro
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Derrick
Dickinson
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gillmor
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Hutto
Hyde
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
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Kildee
Kleczka
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Kopetski
Kostmayer
LaFalce
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Lehman (CA)
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Livingston
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
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Moakley
Mollohan
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Owens (NY)
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Panetta
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Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Ritter
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
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Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—8

Brooks
Dicks
Fawell
Mrazek
Nagle
Roe
Skelton
Waxman

□ 1508

Mr. MOODY changed his vote from "yea" to "nay."

Mrs. LLOYD and Messrs. BEREUTER, HANCOCK, EDWARDS of Texas, and TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

Messrs. BROOKS, EDWARDS of California, CONYERS, SCHUMER, HUGHES, STAGGERS, HYDE, SENSENBRENNER, MCCOLLUM, and GEKAS. Provided that Mr. KOPETSKI and Mr. SCHIFF are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. FEIGHAN and Mr. SCHIFF are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, GIBBONS, RANGEL, ARCHER, and VANDER JAGT. Mr. ROSTENKOWSKI and Mr. ARCHER are appointed as additional conferees for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, WYLIE, and LEACH.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 812(f)) and sections 1511, 1512, 3601 through 3606 and 4301 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, KILDEE, MARTINEZ, GOODLING and PETRI.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, WAXMAN, ROWLAND, LENT and BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, SWIFT, ECKART, LENT and RITTER.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802, 1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference:

Messrs. CONYERS, WISE, TOWNS, HORTON, and MCCANDLESS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405 and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

Messrs. JONES of North Carolina, STUDDS, TAUZIN, DAVIS, and LENT. Provided that Mr. TAYLOR of Mississippi is appointed in place of Mr. TAUZIN for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320 and 2328 of the House bill, and sections 502, 2901 and 4401 through 4403 of the Senate amendment, and modifications committed to conference:

Messrs. BROWN, VALENTINE, GLICKMAN, WALKER, and LEWIS, of Florida.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

□ 1510

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 289 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 289

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may contain instructions only if offered by Representative Michel of Illinois, or his designee, or without instructions.

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. All time yielded during debate on House Resolution 289 is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 289 is a closed rule providing for the consideration of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. The Committee on Rules recommends this rule to the House because of the urgent nature of the legislation: It is absolutely necessary that the Congress pass legislation recapitalizing the bank insurance fund prior to our adjournment. As Members know, the House has on two previous occasions rejected legislation which contained the BIF recapitalization as well as other banking reform matters. The Committee on Banking on Tuesday reported H.R. 3768 which provides for the recapitalization of the bank insurance fund as well as several other provisions which reform the regulation of the FDIC. The major banking reform matters, specifically, securities and interstate banking and branching are not in this bill, nor are they made in order as amendments by this rule. The House is presented with a simple choice, whether or not ro recapitalize the bank insurance fund and whether or not to tighten federal banking regulatory requirements.

Mr. Speaker, House Resolution 289 waives all points of order against the consideration of H.R. 3768 and provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking. The rule further provides when the bill is considered for amendment under the 5-minute rule that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking now printed in the bill as an original bill for the purpose of amendment. The rule waives all points of order against the substitute, and provides that it shall be considered as having been read. No amendments will be in order to the substitute.

House Resolution 289 provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the committee to the bill or the committee amendment in the nature of a substitute. Finally, Mr. Speaker, the rule provides that the previous question shall be considered as ordered on the bill without intervening motion except one motion to recommit, which may contain instructions only if such a motion is offered by Mr. MICHEL of Illinois or his designee.

Mr. Speaker, the House is well aware of the urgent need to recapitalize the bank insurance fund. I urge adoption of the resolution and of the bill.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of H. Res. 289, which provides for consideration of H.R. 3768. That legislation will improve the regulation of insured depository institutions, and it will utilize the future profits of the banking industry—not taxpayer dollars—to recapitalize the bank insurance fund.

Obviously, Mr. Speaker, this is not an open rule. I always strive for open rules and I did so last night in the Rules Committee. But the reality is that we must pass H.R. 3768, and this body has made it clear on two previous occasions that it is not willing to accept amendments to reform the banking system, regardless of their merits.

I am as disappointed as anyone that we will not be able to address comprehensive structural reform as part of this legislation. We are doing nothing to strengthen the bank insurance fund by not permitting banks to engage in profitable banking-related activities in a safe and sound manner.

But opening up this rule will not make that happen. Instead, it will probably lead to the third straight defeat of a banking bill in as many weeks, and it will leave 110 million bank depositors unprotected and unsure of whether the Federal Government stands behind its promise to protect their hard-earned savings.

Let's not forget that H.R. 3768 contains all of the noncontroversial amendments that were adopted as part of the Gonzalez substitute to the previous banking bill, H.R. 2094.

Those provisions include the continued pass-through of insurance coverage to California's public employees who participate in section 457 deferred compensation plans.

They include increased powers to allow Federal regulators to detect and prevent future BCCI scandals from occurring.

They include the FDIC affordable housing program, limitations on brokered deposits, and incentives for other financial institutions to purchase failed or failing thrifts, thus saving taxpayers millions of dollars.

Mr. Speaker, let me underscore: H.R. 3768 is not a bailout of the banks. No stockholders will be protected from loss, no management will be unjustly enriched, and no institution will be insulated from competition. Only the deposits of widows, pensioners and working Americans who have their life savings in an insured bank will be protected.

Mr. Speaker, H.R. 3768 is a very small step in the direction for what we are going to have to do next year to ensure that the banking industry can repay this borrowed money. I underscore again: no taxpayer dollars are being used.

Some of my colleagues argue that, ultimately, taxpayer dollars will be used. That may be true if we don't address the issue of structural reform in the near future. But we need to keep this process moving in that direction, Mr. Speaker. For this reason, I support the rule and urge adoption of the bill, and I reserve the balance of my time.

□ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the rule of H.R. 3768. I want to take this opportunity to commend the Rules Committee for the way it has handled this very difficult legislation before us today. I particularly want to express my deep thanks to Chairman JOE MOAKLEY, the ranking Democrat, BUTLER DERRICK, the ranking Republican, JERRY SOLOMON, and the gentleman from Texas [Mr. FROST], who is handling the rule today.

The Rules Committee had a very difficult job, and given the restrictions under which it was placed, that committee has done an outstanding job. The fairness with which the Rules Committee treats every witness, and the courtesy extended to every Member who appears before the Rules Committee, I feel is one of the shining spots in this body.

I also want to take a moment to commend the chairman of the Banking Committee, HENRY GONZALEZ, and the ranking Republican, CHALMERS WYLIE from Ohio. I have served on the Banking Committee for some 27 years, and one thing I have learned is that there are no easy issues that come before the Banking Committee. That means that trying to craft legislation within the committee is a very difficult job.

I think Chairman GONZALEZ has done a remarkable job in trying to sort out all the divergent views on the committee and in crafting a bill that, while it may not please everyone, may well be the best product that can be produced.

And finally, I want to commend the Speaker and the other Members of the leadership team for their patience and understanding in dealing with a very emotional issue. They understand that banking issues are never going to be easy. And they have worked hard to set aside the appropriate amount of time to deal with these issues.

So today, let us talk. Let us debate, and sometimes probably we will shout. But let's pass this rule and let's recapitalize the bank insurance fund so that the American people will know that their funds, and in many cases, their life savings are safe.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Columbus, OH, Mr. WYLIE, the senior ranking member of the Committee on Banking, Finance and Urban Affairs, one who has been working for years to try to get us to this point.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California for yielding time to me. I would acknowledge his good service on the Committee on Rules. He came from the Committee on Banking, Finance and Urban Affairs and is quite well acquainted with some of the issues which come before us. So his accolade is well-received by this Member.

We are here today, Mr. Speaker, for the third time on a banking bill, because we must provide some new capital for the bank insurance fund. This is the fund administered by the Federal Deposit Insurance Corporation, which insures the accounts of depositors in our commercial banks.

The fund has approximately $2 billion in it. By year's end, that fund will be zero. I think there could be very serious, very serious economic and political consequences if we ended this session without assuring the depositors in our banks, strong or weak, that their deposits would be available to them immediately upon request.

The bill before us provides for an increase in the Treasury line of credit from $5 billion to $30 billion. The bill sets up a repayment schedule, and this is very important, a repayment schedule, the money for which comes from the premiums on deposits in banks.

That premium is now 23 basis points or 23 cents on every $100 on deposit. That premium can be increased in case of an emergency to cover any costs of the $25 billion borrowing authority. There can be no taxpayer exposure.

I repeat, there is no taxpayer money involved here. The amount of the new capital which is sought by this bill is $25 billion.

The figure of $70 billion has been thrown around, and some in the news media have picked up on that as the amount being asked for to recapitalize the fund.

The line of credit for loss money will be increased, I repeat, from $5 billion to $30 billion. That means an additional $25 billion which will be made available for the bank insurance fund.

Authorization for providing up to $40 billion for working capital is provided, but this borrowing, if any, would be secured by assets acquired by the FDIC and does not involve a premium increase or any taxpayer money.

It would be available only to the extent the value of assets acquired by the FDIC are available from failed banks.

The administration now supports passage of H.R. 3768 and supports the provisions of the bill, which would recapitalize the bank insurance fund and provide for early intervention or action by regulators to resolve troubled bank cases.

There are improved examination and accounting reforms. There is a new regulation of foreign banks to prevent any more BCCI's. There is some deposit insurance reform in that there is a limitation on brokered deposits and pass through accounts.

The fact that we do not limit multiple accounts made it a little more difficult for me to vote for this bill today, but that is another battle for another day. We need to get back to the issue of bank powers, interstate branching, but these issues will have to wait for another day.

Recapitalizing the bank insurance fund cannot wait. The bottom line is that recapitalizing the bank insurance fund must be our No. 1 priority today to avoid the possibility of another savings and loan-like debacle.

I urge an "aye" vote on the rule and on the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Vermont [Mr. SANDERS.]

Mr. SANDERS. Mr. Speaker, I thank the gentleman very much for yielding time to me. I especially thank him because I have a feeling today that we are not going to see too much opposition to this piece of legislation, which I have some very deep concerns about.

Mr. Speaker, today we will be asked to put at risk some $70 billion of taxpayers' money for a potential bailout of commercial banks. Within a few days we will be asked to appropriate another $80 billion or real money, no ifs and buts about that one, in order to bail out the savings and loan industry on top of the $80 billion which was appropriated in the past.

□ 1530

Mr. Speaker, the American people are angry and frustrated with politics as usual, and Mr. Speaker, what we are seeing today is politics as usual. The rich get richer, the poor get poorer, and the working people and the middle class are asked to bail out banks which were destroyed by the greed, irresponsibility, and the outright dishonesty of many banking officials, both within the S&L industry and the commercial bank area.

Once again, it is the Robin Hood proposal in reverse. We take from the poor and we give to the rich. Mr. Speaker, we must protect our banking system and the bank depositors. There is no argument about that. But we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let us show a little bit of courage in this body and not increase the cynicism which working people of this country already feel. Let us ask the people who caused the crisis and who have the money to fund this bailout to do so and not the ordinary American.

Mr. Speaker, what all of this amounts to is, in fact, that some of what my friends and colleagues have said is not necessarily the case. Let me refer to my friends who have said, "Hey, do not worry, taxpayers, there is no bailout." Let me refer to the Washington Post, Sunday, October 27. This is an article by Jerry Knight:

> The banking industry is supposed to pay back the money—with interest—so that ordinary taxpayers never feel the bite. But congressional Democrats and many banking economists fear that U.S. banking is simply too weak to repay the money.
>
> The unprecedented loan from the U.S. Treasury is only one part of what Cleveland State University economist Edwin Hill believes will be a $200 billion investment needed to restore the health of the banking industry.

Let me continue. Robert Dugger, chief economist of the American Bankers Association, said, "Bankers are confident that with enough time they can replenish the deposit insurance fund and pay back the loan to the FDIC," quotes the Washington Post.

"But Democratic banking committee leaders in Congress are skeptical. House Banking Committee HENRY B. GONZALEZ flatly predicts the banks will not be able to repay the FDIC loan and the taxpayers will get stuck with that bill."

Mr. GONZALEZ and many economists all over this country are not the only people who feel that the taxpayers will eventually get stuck with the bill. Now, what is going on here? In fact, what this whole discussion amounts to is there is real concern that taxpayers will have to bail out the FDIC. We hope they will not. We all hope they will not, but they may.

I am deeply concerned that the rule before us today does not allow us to vote for amendments which would provide us with sufficient protection for the taxpayers so in the eventuality, in the eventuality that taxpayers may have to bail out the commercial banks, the taxpayers have good protection.

Mr. Speaker, let me make a few suggestions in my hope that this legislation is defeated. Let me offer a few ideas as to how we might proceed. No. 1, in terms of both bailouts, the S&L and the commercial banks, we should be honest and address them together. Ultimately, if the worst scenario comes true it is going to be the taxpayers who will have to bail it out, so let us look at it together. Let us understand that we are talking about, this week, $150 billion of possible taxpayer bailout.

As we contemplate the nature of this bailout we must pledge not to simply dump the money into the deficit as the President and the Congress have done so often in the past. We have to have the courage to do it on a pay-as-you-go basis, not dump the money into the deficit.

Third, as we discuss where the money is going to be coming from we have got to have the courage to say that the payback, neither for the S&L's nor the commercial banks, should lie on the backs of working people, middle-income people and the poor.

As everybody in this room knows, in the last 10 years the richest people in our country have become much richer and the middle class has seen a decline in their standard of living. The rich who have gotten richer are paying less in taxes and working people who have gotten poorer are paying more in taxes. We cannot dump this payback onto the backs of the working people.

Mr. Speaker, a number of proposals have arisen both in this body and in the other body that we address the bailout in a fair and progressive way, rather than on the backs of working people.

Senator JOHN KERRY of Massachusetts, for example, has proposed a Federal wire tax which is a clearance transaction fee on the exchange of money on the two systems which transfer funds between banks internally and abroad, the Federal wire system and the clearinghouse interbank system. The suggestion is that if we put a 2-cent tax fee on every $100 check, that would raise $80 billion a year, more than enough to cover all of the bailouts, and that would fall on those people who can afford to pay it, who are involved in the business.

The gentleman from Illinois [Mr. COX], and member of the Committee on Banking, Finance and Urban Affairs, has suggested an approach by which healthier banks could lend money to the FDIC which would create a situation in which the banks themselves would provide all of the needed money for the FDIC recapitalization. While the faith and credit of the U.S. Government is still involved, this clearly is a much safer approach than what we are proceeding with right now.

Mr. Speaker, let me conclude this. Do not let anybody kid you. What we are talking about here at a time when our people, 2 million people are sleeping out on the street, where our kids are hungry, where our people cannot afford health care, we are talking about, this week, a potential liability for the taxpayers of $150 billion before interest stretched out over a 30-year period. Let us have the guts to do the right thing, stand up for working people and middle-income people and make this into a progressive payback approach.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to my friend from Vermont by saying that he is absolutely right, this potentially could become a taxpayer bailout measure. We had an opportunity to ensure that it would not at all if we had passed H.R. 6, and we will have an opportunity next year to strengthen the industry to make sure that it will not happen.

Mr. Speaker, I am happy to yield 2 minutes to my friend, the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, I appreciate the Committee on Rules coming out with this rule, the gentleman from Texas [Mr. FROST] and the gentleman from California [Mr. DRIER]. I think the gentlemen all did an excellent job in coming out with it, because obviously, regardless of what my colleague, the gentleman from Vermont [Mr. SANDERS], is saying we cannot raise taxes to cover this and do not need to. It is a loan, pure and simple, and will be paid back.

The gentleman from Texas [Mr. GONZALEZ] and the committee have worked very hard to bring out a bill that can be passed in this House. It has failed a couple of times already, and that is why we are trying to get this rule passed. It failed because we had too many special interests. We had big banks, little banks, insurance interests, real estate interests, and securities interests all pulling in different directions. It pulled this House apart. We have everybody at each other's throats, so we need a closed rule and we need to pass a bill that will resolve the issue before the fund runs out of money.

We did do some good in this thing in that foreign deposits have been protected so that we do not have to pay for any losses in foreign investments or banks. We do not have to worry about transfers, and we have asked them to do the least cost resolution in resolving any bank failures, so I believe that we have a good rule, gentleman.

I think the gentleman from Texas [Mr. GONZALEZ], the chairman, did a super job in getting this bill out in the order it is, and I recommend the Members vote for the rule and for the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I hope the rule and the bill are both adopted. There has been one semantic confusion here over what we mean by bank reforms. By bank reform some people mean letting financial institutions engage in new activities. I tend to favor that. I think it is procompetitive. But let us be clear that that is not what is in the bill. But because we do not expand any powers in this bill or contract any powers does not mean there are not reforms. The gentleman from Texas just referred to one regarding foreign deposits. We have here a mandate of early intervention, to shut down banks before they bleed too much money. We have severe limits on brokered deposits. We end pass-through insurance on bank investment contracts.

We also have some socially valuable things in here. I worked very hard on an affordable housing piece, the low-end inventory of the FDIC, and in an amendment cosponsored by myself and the gentleman from Ohio, it will be made available for low- and moderate-income people.

□1540

There will be seller financing with the secondary market being used: so it is an effort to do the best we can.

It does have an irreducible unpleasant core. We have depositors to whom we owe money and we have to pay it.

My friend, the gentleman from Vermont and others have come here and complained about it.

My friend, the gentleman from Vermont, has objected. In some ways he said it is an unfortunate transfer, but this House itself as been inconsistent on this subject. We had a vote during one version of this bill on an amendment sponsored by the gentleman from Texas and the gentleman from Ohio to limit deposit insurance. Right now it is $100,000, but I think in fact it is $100,000 to the letter of your name, unless you do not have a middle name, in which case you can use a telephone number, because the $100,000 per limit comes up to well over a million, and the gentleman from Ohio and the gentleman from Texas offered an amendment to limit the amount of deposit insurance that would be covered through any one individual, and a majority of the House voted them down, according to my friend, the gentleman from Vermont.

It seems to me inconsistent to refuse to put restrictions on deposit insurance and then denounce this as being an excessive transfer to the wealthy, because if you want to reduce the extent to which this becomes a transfer to wealthy people, you ought to limit deposit insurance.

To vote for no limits whatsoever on the amount of deposit insurance that is available to individuals and then complain that this is a transfer to the rich, it is a reverse of the old switch of killing your parents and claiming you are an orphan. This is murdering the kid's parents and then making fun of them for not having any, because you cannot consistently refuse to limit deposit insurance and then claim that this somehow is an excessive transfer to the wealthy. We tried to give the wealthy less protection, and we lost. That is a fact of life.

Then there is the question of taxation. I would like the tax system to be more progressive. I do not think I have the votes to do that right now.

I do not think it is fair, moral, economically sound, liberal, progressive or decent to say that depositors whose deposits were forfeited through no fault of their own, we will not pay them back, and that is all this does.

It is also not in our interest to hold up the funds, because the sooner they get the money, the quicker they can move on it.

Let me finally address the issue of, is this a loan, or is it taxpayers? The answer is yes, because it is not a case of either/or. Is it all going to be paid back or none of it is going to be paid back? That is not as sensible way to frame the issue. Most of it will be paid back.

Will it all be paid back? Nobody knows. We are clearly not talking about every dollar of this being at risk. The banks will pay back some of it. I do not know if they will be able to pay back all of it. I hope they will be.

People say, well, this should not go on the backs of the working people. Oh, but the Defense budget should, or Amtrak should? I do not understand the argument that says we have an argument for a progressive tax system for this money, and not for everything else.

I think we ought to be looking at the tax system as a whole, but not holding hostage the depositors until we do it.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise against the rule and against the bill.

It is not just the economists and a number of other people across the country who have been warning against this kind of bill, it is the Secretary of the Treasury. The Secretary of the Treasury earlier this week said, and I quote:

> Congress must pass banking reform this year that will more than just replenish the Bank Insurance Fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that just simply pours money into the fund without fixing the industry so that it can pay for itself would leave the taxpayer exposed and contribute to the credit crunch.

There are the two problems. What we are about to do here in this bill is take issue to the point that the taxpayer ends up being exposed. I do not know whether the taxpayer will end up being exposed to the entire $25 billion, but we are going to end up with the taxpayer exposed to at least a portion of it, and that is more expense than we can afford at the present time, because we refuse to do banking reform.

The other problem is that we are going to contribute to the credit crunch. The very thing that is impacting communities across the country right now, the very thing which is causing problems for small business, is going to be impacted on by this bill.

So what we have here is a situation where Congress will not face up to its responsibility for total banking reform, and in fact is being asked to do something, a small and possibly doable thing.

Well, this is exactly where we were in the early 1980's on savings and loans. This is exactly what we were asked to do on savings and loans in the early 1980's and we messed it up royally.

The fact is that in the early 1990's, we are going to cast some of the same kinds of votes here that will come back to haunt Members not very far down the pike.

So if you did not like what happened in the early 1980's when Congress messed up on savings and loans, you better vote against this particular piece of legislation, because this particular legislation is taking us down exactly the same route on the banks. Vote no.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the rule and also in support of the bill. I do so realizing that a lot of us did not get what we wanted in this legislation. I, for one, would like to have seen us adopt a core bank concept, but the votes were not here to do that.

I would like to have seen us also adopt some tougher firewalls between the banking industry and the securities industry, but the votes were not here to do that either.

I think it is now time for us to do what we must do in this democracy to keep it working, and that is to compromise on this legislation that we all know has to be passed, and that is legislation to recapitalize the bank insurance fund.

It has already been said, but I think it needs to be reiterated, and that is the point that we are not bailing out the banks. We are honoring an historic commitment that was made to the depositors of this country 50 years ago. We must make sure that we do not alarm depositors of this country at a time when our economy is as fragile as it is. We have to pass this legislation.

There is a lot of discussion about the risk to taxpayers in the future. As we sit here today, no one knows with certainty what kind of risk the taxpayers are going to face as a result of this legislation. Some will argue the risk is greater because we failed to empower the banks to get into the securities industry. Other will argue that we have reduced the taxpayers' exposure because we did not allow them to get into the securities industry.

I, for one, am glad we did not repeal the Glass-Steagall Act because as I have said before, a number of very conservative bankers in this country, not people in the securities industry, but conservative Republican bankers, say it is wrong for us to empower the banks to get into businesses that they do not understand.

My friend, the gentleman from California spoke earlier, and I would just share with him the comments of a mutual friend of ours in Kansas City, an outstanding banker in this country, Crosby Kemper. Bank Watch magazine has indicated that the runs one of the five best banks in the country. Do you know what he says? He says:

> For us to have passed the Bush bank reform proposal would have made the savings and loan mess look like tiddlywinks.

He is against it. He is a banker, a conservative Republican banker, saying we should not do it. We are not doing it with this legislation, and I am glad we are not doing it.

Now, beyond that, there are also some very important regulatory reforms that are good, and supported by a large majority of this body that should be enacted. Certainly the new provisions that will authorize the Federal Reserve to supervise and examine operations of all foreign banks in the United States, and require annual onsite examinations of all foreign banks and require the Fed to approve new foreign banks before they can start business in this country is all good. It is the kind of regulatory reform we need to address the BCCI's of the future.

In addition to that, this legislation will restrict the use of brokered deposits and it will prohibit the use of deposit insurance to cover foreign deposits, and that is something we should do more of in the days and years ahead.

It will also provide for risk-based deposit insurance premiums.

The SPEAKER pro tempore (Mr. McDERMOTT). The time of the gentleman from Kansas has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional 30 seconds for the gentleman to conclude this very excellent statement.

Mr. SLATTERY. Mr. Speaker, I am grateful for the 30 seconds from my friend from Kansas City who wandered off to California, and I thank the gentleman very much.

Mr. Speaker, let me just conclude by observing that I think this legislation is needed. It honors an historic commitment made to depositors. It provides some very fundamental regulatory reform that we can all agree upon. It does not do some of the things that I am glad we did not do and others wish we had done, but we will live to debate that again in the days and months and years ahead. I hope by that time we will be able to have a more thoughtful and complete discussion of exactly what we want our financial institutions to look like in the 1990's.

So again I thank the gentleman for yielding time to me and I urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I intend to vote "no" on this and I do so somewhat reluctantly because I think this issue is vital to the welfare of the country and the economy, but one of the fundamental representations being made about this bill is that it eliminates the too-big-to-fail doctrine.

□ 1550

I have looked into the bill and I would just like to read a paragraph or two because it seems to be that the too-big-to-fail provision remains: if you are really big you are going to be bailed out regardless. On page 108 starting at line 14:

> Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

In the next paragraph it goes on to point out that any of the costs "in excess of the cost of liquidating such institution * * * shall be an obligation of the United States" and not the deposit insurance fund.

Mr. Speaker, I would submit that if any of the large banks in this country were to fail—and frankly we have heard some rumors about some of the banks that are big and that may fail—I think the liability of the taxpayers of the United States could be virtually open-ended under this bill. I know we all want to believe that that is not going to happen, but who would have believed what would happen in the savings and loan industry.

For that reason I am going to vote "no" and hope that we might persuade our colleagues to take this section out so that we will have a clean bill that truly does eliminate too big to fail and best serves the taxpayers of the United States.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding this time to me.

Let me say first of all that I support the rule and I support the bill. As the distinguished chairman of the Committee on Banking, Finance and Urban Affairs said, if this particular simple bill was brought to the floor of the House in this form a number of years ago it would have been a very comprehensive reform bill. We definitely have reform in this bill. That reform is to protect the taxpayers of our country; it is to tighten up on loose practices as far as banks are concerned.

Some definite reform is in this bill.

I might just refer to the gentleman who spoke before that the passage he read from, believe it or not my friends, is correcting the problem that we have today. We have a real problem today about too big to fail. It is interesting enough that he brought this to your attention because that is identical reform. We are going to prevent the Federal Reserve from just willy-nilly making advances to weak banks because if they do it now they are going to have to pay for it. And that is not taxpayers' money.

So let me just say what is the main purpose of us being here? We tried to have reform. We tried to have this as a comprehensive bank reform bill. We wanted the bank insurance fund to be replenished and we tried valiantly to let that be the locomotive for comprehensive bank reform.

Well, my friends, that did not work. We had too many competing forces working against one another. And we tried several times. Give us credit for at least trying. Give the Committee on Rules the credit that they tried to put something together. It failed.

So now we are back to doing the thing that we need to do most, and that is to assure the American people that their money that is in the banks is going to be there, it is going to be there when they want it, it is going to be there when they need it. So consequently now is the time for us to replenish the bank insurance fund.

The SPEAKER pro tempore (Mr. McDERMOTT). The time of the gentleman from Georgia has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding.

Most important, most important, yes, we have heard some dynamic statements about this is a potential taxpayers' bailout. Well, my friends, it "ain't" a potential taxpayers' bailout until it is a taxpayers' bailout.

We have got in this particular bill the fact that the banks will be paying for the borrowings from the Treasury.

Let me say this: This is not 1982. The banking industry of this country still has over $200 billion in capital. The banking industry, of itself, is not broke. The banking industry is capable of paying this money back over the next 30 years.

So let us say this is the best attempt we can do; we need to pass this bill, we need to get on with reform at another time, at another date. But right now the most eminent thing to do is pass this bill.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Speaker, I just take this time to reiterate a very good point that the gentleman made. That is this too-big-to-fail question. It is important for Members to understand that under existing law it is really sort of obscure out there as to exactly how it is determined who is going to be able to take advantage of the too-big-to-fail doctrine. We do not know whether it is the Federal Reserve, the Treasury, the FDIC.

Mr. BARNARD. We do now.

Mr. SLATTERY. We do now under this legislation. This is an important reform, my friends, because what we are saying with this legislation is that the Secretary of the Treasury, the administration is going to have to weigh in and make a determination that indeed this bank is too big to fail. In my judgment this is going to make it much more difficult for banks in this country to hide under the too-big-to-fail doctrine.

This is something that is very important to the community banks around this country that have to compete with the big banks for deposits.

I just think it is very important that we make that point crystal clear and not let the earlier statement go unanswered because the earlier statement did not explain the situation accurately.

Mr. BARNARD. It is under control now under this bill and we will know where the responsibility really lies.

Mr. SLATTERY. Absolutely.

Mr. BARNARD. It has to be a very dynamic, a very dynamic economic need for this country before it goes on.

Mr. SLATTERY. It is not as tight as this gentleman would like to see it, but it is all we can do right now.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a hard-working member of the Committee on Banking, Finance and Urban Affairs, the gentleman from California [Mr. RIGGS].

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to my ranking member, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to associate myself with the remarks of the gentleman from Kansas [Mr. SLATTERY], who made a vital point a little while ago. Under the present law, the too-big-to-fail doctrine, lending losses would not be secure as it is under present law. Under this bill those lending losses would not be secure. This is a very limited, very limited approach to a too-big-to-fail doctrine, but it has to be made on a determination by the Secretary, the Chairman of the Board of the Federal Reserve, and the Secretary of the Treasury, that very serious adverse economic impacts could be felt in a certain region. It is a very limited option, but it is spelled out so that the too-big-to-fail doctrine is of itself repealed.

Mr. RIGGS. If I might just ask my ranking member to comment further: Are there any circumstances that the gentleman can concede where we could close completely that too-big-to-fail loophole?

Mr. WYLIE. Well, this is an amendment offered by the distinguished chairman of the Committee on Banking, Finance and Urban Affairs. He said there might be a case way down the road, he did not have any in mind at the time, where you would not want to slam the door if the bank would be in a position maybe to work its way out of the situation, where a failure in that case might cost the taxpayers more money.

But a determination has to be made by two officials first before that could be done.

Mr. RIGGS. So it is only in those certain circumstances where really it might be an exceptional situation where the so-called too-big-to-fail doctrine might kick in. Other than that, the committee has made a good-faith effort to dramatically close the too-big-to-fail window.

Mr. Speaker and colleagues, I rise reluctantly in support of the rule. I say reluctantly because frankly I think the earlier reference would have produced a better banking policy, probably headed off the real likelihood that we will be revisiting this subject on the House floor next year.

But I wanted to rise and simply say with respect to the taxpayer bailout which we continued to hear, we heard it frequently in committee and frequently on the floor, to my colleagues what we are talking about here really is granting the borrowing authority to the FDIC to replenish the bank insurance fund. And that that loan will immediately begin to be repaid by higher premiums assessed on America's banks.

If we do not act on this bill, we do run in my view the very real risk of a taxpayer bailout, particularly if people such as Mr. Seidman are right about the rate of projected bank failures next year.

So I think the only responsible action before we go home and return to our districts and start meeting with our constituents is to pass this bill, replenish the bank insurance fund.

We have the opportunity next year I hope to revisit the whole subject of reforms, expanded powers, and within that context hopefully start talking about core banking, which I think is an intriguing concept.

□ 1600

Hopefully, Mr. Speaker, we will also consider doing something about real estate values in this country because, let us face it, all of our financial institutions, America's banks, our remaining thrifts, our major insurance companies are heavily invested in real estate, and, unless we do something to reverse the decline in real estate values, there is a very real possibility of some sort of taxpayer bailout of the American banking industry.

We on our side of the aisle have a proposal that, I think, deserves merit, or deserves further consideration, would go a long way in our view toward reversing the decline in real estate values. It is known as the Real Estate Recovery Act of 1991, as authored by the gentleman from Wisconsin [Mr. GUNDERSON]. I tried to offer it yesterday as an amendment to the RTC bailout bill, and the distinguished chairman deemed it nongermane and ruled it out of order, and I respect that ruling, but we are going to try again here on the floor in the coming days.

But I really think it is important that we address this subject. The gentleman from Pennsylvania (Mr. KANJORSKI) came over a little while ago and indicated to me that he has a freestanding bill, Emergency Economic Revitalization and Recapitalization Act.

I think there is a dawning awareness that we have got to look at the bigger picture and that we really need to do something to stimulate the economy, reverse the decline in real estate values in order to protect against a long-term taxpayer bailout of America's banks.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, many years ago this Nation instituted a system of insurance to cover the savings of Americans. And the Government of the United States guaranteed these deposits, up to $100,000 per account under current law. This insurance system for bank, thrift, and credit union deposits was developed in response to the economic chaos caused by the Great Depression.

No one in this Chamber or this Nation wants to revisit the economic consequences of any potential default of this deposit insurance system, particularly in today's economic climate.

Working men and women, senior citizens, Americans of every walk of life have insured accounts. It is estimated that 3 out of 4 families have insured accounts, and the average insured account is $6,300.

This bill is no bailout of any bank, bank officer, or director. This bill allows the FDIC to make good on that guarantee to depositors, a guarantee reaffirmed by this House as recently as May 5, 1987, by a vote of 402 to 6.

That deposit insurance guarantee must be honored, and this narrow bill accomplishes this without the use of taxpayer assistance.

This bill must be passed.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of this rule, and I ask unanimous consent that the administration's policy statement which begins by saying, "The administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation," be incorporated into the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER of California. Mr. Speaker, the statement of administration policy referred to is as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation. The Administration will continue to strongly support changes before enactment of this legislation, particularly the addition of provisions authorizing interstate branching, which would provide real banking reform. The Administration believes that Congress must in the end fix the problems of the banking industry by enacting real reforms, not just fund the problems by providing additional resources to the Bank Insurance Fund.

The Administration would oppose any amendment to H.R. 3768 that would add additional provisions regarding the insurance activities of banks since the legislation no longer includes interstate branching provisions.

The Administration particularly supports the provisions of H.R. 3768 that would:

Recapitalize the Bank Insurance Fund and set clear standards for prompt corrective action by regulators to resolve troubled banks.

Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery.

Improve regulation of foreign banks doing business in the U.S.

The Administration opposes and will seek changes in conference to the provisions of H.R. 3768 that would:

Impose onerous reporting requirements on organizations that branch interstate.

Require the Federal Deposit Insurance Corporation (FDIC) to begin a new housing subsidy program funded by banks.

Impair the FDIC's ability to sell failed banks by imposing health insurance obligations on buyers of such banks.

Increase the deficit and require "pay-as-you-go" offsets of over $1 billion over four years (see below).

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

OMB's preliminary estimate of the pay-as-you-go effects of H.R. 3768 is presented in the table below. Final scoring of this legislation may deviate from this estimate. If H.R. 3768 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by the Omnibus Budget Reconciliation Act of 1990. The cumulative effects of all enacted legislation on direct spending and receipts will be issued in monthly reports transmitted to Congress.

Members have tried to address certain pay-as-you-go effects with language making the beginning of particular programs contingent upon the availability or funds. However, the particular language does not specify that funding for these new programs requires an additional congressional action (e.g., an appropriation).

The bill's "too big to fail" provisions would decrease outlays, but it is not possible to estimate the size of the decrease. Similarly, estimates of the pay-as-you-go impact of the bill's provisions on pass-through insurance are not available at this time.

A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 3768, the effects of this legislation would be included in a look-back pay-as-you-go sequester report at the end of the congressional session.

ESTIMATES FOR PAY-AS-YOU-GO

[In millions of dollars]

	1992	1993	1994	1995	1992–95
Outlays:					
Rhode Island loan guarantee	+21				+21
FDIC affordable housing program	+10	+29			+39
Receipts:					
Credit for distressed communities lending and deposit gathering		−266	−319	−358	−943
Lifeline banking		−7	−9	−11	−27
Net deficit increase	+31	+302	+328	+369	+1,030

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I, too, have no other requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 289 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3768.

The Chair designates the gentleman from Michigan [Mr. CARR] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. PEASE] to assume the chair temporarily.

☐ 1604

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The Chairman pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a little more than a month from now, when we are in our home districts, the fund that insures the deposits at 12,300 banks across the nation will be insolvent—dead broke without a penny to pay off depositors.

H.R. 3768 may well be our last best chance to prevent what truly would be a monumental disaster. The House cannot afford to let this opportunity to refinance the bank insurance fund slip away.

Mr. Chairman, the intramural games between the industry groups have gone on long enough. We are not here today to reward banks, insurance companies, insurance agents, securities firms or any other scavengers seeking to hold the insurance funds hostage to their special interests. Today, we must focus on the overwhelming priority of refinancing the insurance fund and critically needed regulatory reforms.

Mr. Chairman, everyone in this Chamber knows that the economy is in terrible shape. The headlines each morning bring new evidence that the recession is cutting deep into all sectors of the Nation and all segments of the population. News of a bankrupt Federal Deposit Insurance Program would be a crushing addition to this litany of economic failures.

I realize that there are many who fear we are starting down the road to another bailout with this legislation. In reality, Mr. Chairman, this legislation is antibailout—it is the antidote to a taxpayer bailout of the banking industry.

The bill provides a $30 billion loan to the bank insurance fund—let me repeat, a loan. Who repays the loan—the banks, themselves, through premiums? And there must be a specific repayment schedule.

So, my colleagues, if we can make this money available in a timely fashion, we can prevent the crisis from slipping into what we fear the most—a taxpayer bailout. We are still in a position to prevent a bailout if we act. If we wait, if we fail to act, a bailout is a certainty. A vote for this bill today is a vote against a bailout. A "no" vote very likely will mean a bailout down the road. Rejection of this package would be a huge roll of the dice with the taxpayers' money.

Even more important than the loan money are the regulatory reforms in this bill which will convert the bank regulators from passive lap dogs into aggressive watchdogs for the taxpayers.

The noisy industry battles going on in the back rooms have obscured the fact that H.R. 3768 contains a major rewrite of regulatory powers—a rewrite aimed squarely at many of the practices that led us into the costly savings and loan mess.

Under the provisions of H.R. 3768, the regulators must move in, take action and demand remedies when the condition of a banking corporation slips below critical levels. This puts an end to the age-old game of wishful thinking by the regulators who all too often delay action until institutions become basket cases with all the losses charged off to the insurance funds. This "hand wringing-no action" style of regulation cost the Nation billions of dollars in the savings and loan disaster. H.R. 3768 makes certain it doesn't happen again.

Mr. Chairman, the bill also:

First, requires annual on-site examinations and annual audits.

Second, requires improved internal controls for banks.

Third, requires that the FDIC use the method least costly to the taxpayers in resolving failed institutions.

Fourth, establishes criteria for the use of the discount window of the Federal Reserve and a curb on the use of the window for secret bailouts of banks.

These and other reforms in H.R. 3768 will save the taxpayers billions of dollars. Let me quote from the letter from the Congressional Budget Office following its review of the legislation:

> Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions.

Mr. Chairman, confidence in the banking system is at its lowest ebb since the Great Depression. We cannot allow it to slip further. And there is no doubt that failure to restore the insurance fund to solvency would shake not only the banks but the entire U.S. economic system.

We must act affirmatively on this legislation.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991, as ordered reported by the House Committee on Banking, Finance and Urban Affairs on November 19, 1991. This bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI also is attached.

In the short time available, we have not been able to prepare a complete analysis of the bill. This letter, therefore, provides an assessment of the overall impact of H.R. 3768 and detailed information on five provisions that affect pay-as-you-go scoring.

OVERALL BUDGETARY IMPACT OF H.R. 3768

Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions. The consequences of the legislation are, however, quite uncertain. They depend on how the regulatory agencies would implement the authorities the bill would give them. They also depend on broad economic conditions and their effects on the banking and thrift industries. Consequently, CBO cannot estimate with any precision the budgetary impact of H.R. 3768.

More specifically: CBO expects that the bill's reforms of the deposit insurance system and regulatory procedures would reduce the long-term risk to the government insurance funds by reducing the likelihood of future bank and thrift failures and by lowering the cost of resolving those institutions that do fail. The impact of these changes would depend greatly on how aggressively they are implemented by the regulatory agencies. It is likely that additional outlays would be necessary in the short term in order to achieve the long-run savings.

The provisions requiring prompt regulatory action could be particularly significant. The results are difficult to predict, however, because the regulators would determine the points at which each set of actions is triggered. We expect that prompt regulatory action could reduce losses by 10-20 percent, and possibly much more, depending on how aggressively the procedures are implemented. A reduction of 10-20 percent over the 1992-1996 period would reduce Bank Insurance Fund (BIF) losses by $2 billion to $5 billion over this period.

H.R. 3768 would increase the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury on behalf of BIF by raising the existing Treasury line of credit from $5 billion to $30 billion. In addition, the FDIC would be authorized to borrow from the Federal Financing Bank (FFB) or from insured banks, but such borrowings could not exceed BIF's cash balance plus 90 percent of the estimated market value of its other assets. The additional borrowing authority for BIF would not result in additional costs to the government because the funding would fulfill an already-existing deposit insurance liability of the government. Furthermore, CBO expects that the borrowed funds would be repaid from bank assessments over the next several years. The interest costs on such borrowings would probably be higher if BIF borrows from banks than if it borrows only from the Treasury and the Federal Financing Bank.

The reforms mandated by H.R. 3768 would increase the likelihood that the funds loaned to BIF would be repaid from bank assessments and that ultimately the U.S. Treasury would not bear the costs of bank failures. Because insurance losses for savings and loan failures are being covered almost entirely by Treasury funds, reduced insurance losses on saving and loans would result in savings to the Treasury.

PAY-AS-YOU-GO SCORING FOR H.R. 3768

The Budget Enforcement Act of 1990 excludes from pay-as-you-go calculations direct spending and receipts resulting from "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section." The conference report on that act indicates that the intent of this provision is that "the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration."

In applying the Budget Enforcement Act to H.R. 3768, CBO has determined that the only provisions involving federal deposit insurance that should be included for pay-as-you-go purposes are those that change the existing deposit insurance guarantee commitment as defined in law. Thus, the exclusion of bank investment contracts from deposit insurance coverage would affect pay-as-you-go scoring. In contrast, all spending effects that would result from the additional BIF borrowing authority and the BIF recapitalization plan, all costs of implementing the new deposit insurance procedures mandated by the bill, and all changes in deposit insurance spending that would result from those procedures would not be counted for pay-as-you-go purposes.

CBO believes that five provisions of H.R. 3768, dealing with activities that either are not part of the government's deposit insurance commitment or would change that commitment, would have pay-as-you-go implications—those dealing with premium credits for lifeline accounts and for increased lending in distressed communities, insurance coverage for bank investment contracts, an FDIC affordable housing program, and a federal loan guarantee for Rhode Island. The budgetary impact of these provisions is summarized in the following table and discussed further below.

ESTIMATED PAY-AS-YOU-GO IMPACT OF H.R. 3768

[Outlays, by fiscal year, in millions of dollars]

	1992	1993	1994	1995
Assessment credits for lifeline accounts	0	5	6	6
Assessment credits for activities in distressed communities	0	7	16	20
FDIC affordable housing program	10	30	0	0
Loan guarantee for Rhode Island	0	0	0	0
Total	10	42	22	26

Lifeline Accounts (Section 232): Banks and savings and loans that offer basic transaction accounts for consumers, commonly known as "lifeline" accounts, would pay one-half the assessment rate normally charged for deposit insurance on those qualifying accounts. The FDIC and the Federal Reserve would establish minimum requirements for these accounts, addressing such issues as minimum balance requirements, income eligibility, fees or service charges, and the number of withdrawals permitted. Assuming enactment of this provision in 1991, and allowing time for implementation, we expect that BIF's receipts would be lower by $4 million in 1993 and $5 million in 1994 and in 1995, and that receipts to the Savings Association Insurance Fund (SAIF) would be lower by $1 million annually beginning in 1993.

Assessment Credits for Qualifying Activities Relating to Distressed Communities (Section 233): Banks and thrifts that make eligible loans in distressed communities would receive a credit against the premiums they pay to the deposit insurance funds equal to five percent of the increase in loan volume. The maximum allowable credit would be 20 percent of the assessment owed in any six-month period. Banks or thrifts providing financial assistance through community development organizations would be eligible for a 15 percent credit against the premiums paid for deposit insurance, up to a maximum of 50 percent of assessments owed.

Section 233 lists the types of loans that might be considered eligible under the program. These would include loans guaranteed by the Veterans Administration, HUD, and the Small Business Administration, conventional mortgage loans to homeowners, and numerous types of assistance targeted for affordable housing or community development.

Allowing time for the Board to develop standards, the banks and thrifts to make loans, and then premium credits to be applied to insurance premiums owed, we expect that premium reductions to BIF and SAIF would occur beginning in the second half of 1993. We estimate that the premium credits, which result in outlay increases, would amount to about $7 million in 1993, $16 million in 1994, and $20 million in 1995.

The Board would have the authority to change the amount of the premium credit, which might be the case if the FDIC determined that BIF would need this premium income to maintain the solvency of the fund, or if SAIF needed the premium income to repay its debt to the Financing Corporation or for other purposes. We cannot predict what adjustment, if any, the Board would make to amount of the premium credit.

Pass-Through Insurance (Section 311): The FDIC extends full insurance coverage to some deposits greater than $100,000, such as those made by pension funds or money brokers on behalf of many individuals. The FDIC views these accounts as fully insured as if each pension participant or client had placed the funds individually. The bill would reduce the scope of "pass-through" insurance by eliminating coverage of certain types of pension fund deposits, known as bank investment contracts (BICs), that allow the depositor to withdraw funds without penalty. BICs defined as uninsured deposits would not be subject to Bank Insurance Fund premium assessments.

Eliminating insurance coverage of some types of BICs would tend to reduce future losses to the BIF to the extent that the overall volume of insured deposits is reduced in banks that are expected to fail. Such savings would be at least partially offset by a reduction in premium income because banks would no longer pay assessments on the affected BIC deposits. Moreover, it is unclear that significant savings would occur because banks would probably attempt to alter BICs to retain their coverage or increase other kinds of insured deposits. CBO cannot estimate the budgetary impact of this provision at this time.

FDIC Affordable Housing Program (Section 341): The bill would require the FDIC to establish a new program to market and sell, over the next three years, single and multifamily residential properties held in receivership. Qualifying single family homes would be sold to individuals or families with low incomes, or to nonprofit or other groups that would make the property available to those individuals. Purchasers of multifamily structures would be required to reserve for the useful life of the building from 35 percent to 40 percent of the units as affordable for low-income families, and at least 20 percent of the units as affordable for very low-income families. The FDIC could provide financing at market or below-market interest rates.

The bill would cap the losses associated with selling the properties under the affordable housing program at $30 million. Losses are defined as the discounts associated with selling the properties, relative to the price at which the properties otherwise would have been sold. In addition to the losses incurred from selling the properties at below-market rates, the program would incur administrative expenses, costs associated with holding the properties, and interest subsidies for loans made to acquirers to purchase the properties at below-market rates. We expect that the FDIC would sell affordable housing properties worth roughly $300 million or more in the next two years, and that the costs not covered by the $30 million specified in the bill would total about $10 million. The total costs, which would be subject to pay-as-you-go provisions, are estimated to be $10 million in 1992 and $30 million in 1993.

Treasury Loan Guarantee for Rhode Island Credit Union Failures (Section 451): The bill would require the Secretary of the Treasury to guarantee the repayment of up to $180 million in borrowing by the Depositors Economic Protection Corporation (DEPCO). The State of Rhode Island established DEPCO to borrow money to repay depositors of failed credit unions that lacked federal deposit insurance coverage.

The provision specifies a number of conditions that must be met before the Treasury may issue its guarantee. The borrowing would be secured by selected assets from failed credit unions, which include about $380 million in nonperforming loans and $523 million in performing loans. The borrowings would also be secured by revenue from a Rhode Island sales tax dedicated to DEPCO and not otherwise pledged to repay other securities.

The Treasury would collect a guarantee fee of one-half of one percent per year on the outstanding principal amount of any borrowing that has been guaranteed. The Treasury would be prohibited from issuing a guarantee unless a nationally recognized rating agency rates the issue with the highest investment grade or one less than the highest investment grade, or unless the Treasury determines that providing the guarantee would result in no cost to the federal government.

Under the Credit Reform Act of 1990, the federal budget records budget authority equal to the subsidy cost of federal loans and guarantees in the fiscal year in which the government commits to provide the assistance, and outlays in the years in which the assistance is provided. CBO estimates that the guarantee of debt issued by DEPCO under the conditions specified in the bill would have no subsidy cost. Thus, for purposes of pay-as-you-go scoring, we estimate the cost of this provision to be zero.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mary Maginniss, Andrew Morton, and Robert Sunshine, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATE[1]

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	10	42	22	26
Change in receipts	[1]	[1]	[1]	[1]

[1] Not applicable.

□ 1610

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3768.

Although this bill is not perfect, it is the best we can do under the circumstances, I submit to my colleagues. I personally would have liked to have had real financial and deposit insurance reforms in this bill, but those will have to wait until next year.

Right now we need to pass this recapitalization plan. First and foremost, the bank insurance fund must be recapitalized. I cannot emphasize that enough. As William Seidman said before he left office, the bank insurance fund desperately needs more funds. The FDIC needs to borrow money to shut down insolvent banks. The longer these banks stay open, the more money they will lose, and this will drain the fund even more.

Thus it is important that we recapitalize the bank insurance fund. Again may I assure the Members of this body that there are no taxpayer dollars involved in this bank insurance fund recapitalization. Additionally, title I of this bill does make a number of improvements to our regulatory system, which have been mentioned earlier, but I think they deserve further emphasis: For example, early intervention procedures for the regulators to shut down banks before they become completely insolvent. That is very, very important. Annual examinations of banks by the regulators; annual outside audits. We have not had that before, but we have it in this bill, and I think it is a very worthwhile addition. Then, market value disclosure of bank assets; and elimination of the too-big-to-fail policy after 1994. I know there has been some debate on this issue, but there is a very limited exception—and I repeat, a very limited exception—which the chairman was able to put in by an amendment to provide liquidity to a bank that might have—and these are words of art—might have serious adverse effects on a regional economy or the national economy. But before any such lending can be made, the Secretary of the Treasury must approve this in writing, and certify that it would have severe consequences.

Title II of the bill includes new reforms for foreign banks that will prevent future rogue banks like BCCI. They will now be subject to oversight by the Federal Reserve.

Title III of this bill will make a number of reforms to deposit insurance that will reduce the losses to banks and possibly to the taxpayer later on. I do not think it goes far enough. However, we do have a limit on brokered deposits to level 1 and level 2 banks, those that meet or exceed their capital levels, and we prevent under-capitalized institutions from soliciting deposits at high rates.

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[1] An estimate of H.R. 3768 as ordered reported by the House Committee on Banking, Finance, and Urban Affairs on November 19, 1991. This estimate was transmitted by the Congressional Budget Office on November 20, 1991.

Mr. Chairman, the Congress needs to pass this bill today. We need to live up to our promise to protect depositors. Twice we have failed to pass a bill. In 1986 the Congress failed to give FSLIC the money that it needed to close the failed savings and loans. The S&L problem mushroomed from a $15 billion to a $180 billion problem. We cannot afford to make that same mistake again.

As Santayana once said, "Those who do not learn from their mistakes of the past are doomed to repeat them."

If we adjourn without passing this bill—and we must not do that—but if we do that, we are telling bank depositors that Congress does not want to live up to the promise that was made in 1933 that our Government will stand squarely behind the Federal Deposit Insurance Corp.

Mr. Chairman, I am quite sure we do not want to send that kind of a message to the American people.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 3½ minutes to our distinguished ranking majority member and chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I rise in strong support of H.R. 3768. Others will talk about the basic ingredients of this legislation, so I don't want to take up this body's time discussing what is in the bill, other than to say there are a number of provisions that I authored in the legislation that will correct many of the problems in the regulatory agency such as a requirement that every federally insured financial institution be examined at least once a year.

What I do want to talk about today is the need for recapitalizing the bank insurance fund. For some 2 years, I have argued that the bank insurance fund was on its way to insolvency and nothing was being done to correct the problem. I think there can be no doubt now that the bank insurance fund is now the bankrupt insurance fund.

Two days ago, I met for nearly an hour with the new Chairman of the Federal Deposit Insurance Corp., William Taylor. He made a strong and well-reasoned case for immediate passage of the recapitalization of the bank insurance fund. He told me that the bank insurance fund is in such critical shape that he cannot worry about anything that may or may not be in the bill with the exception of recapitalizing the bank insurance fund. That must be done immediately, he said.

Mr. Taylor is a frank and tough regulator, and I want to commend the President of the United States for selecting Bill Taylor for this important job. Mr. Taylor's no-nonsense approach, and his willingness to recognize and deal with the problem in a straightforward manner, is in stark contrast to his predecessor, who was more interested in polishing his image in the media and on TV talk shows than he was in protecting the deposits of our American citizens.

The reasons the bank insurance fund is broke are many. But one of the main reasons that we have been unable to correct the problem sooner was that the former chairman of the FDIC refused to recognize that there was a problem. Every time that I tried to point out that the bank insurance fund was heading for disaster, the former chairman criticized my comments, and said they were unfounded. I was so concerned that the former chairman was misleading the American people that I had the Subcommittee contract for a study on the health of the bank insurance fund by three of the Nation's leading economists. When those economists reported that the fund was in serious trouble and would need a massive infusion of money very shortly, the response from the former chairman was typical. He denounced the study.

Today, Mr. Chairman, I take no great sense of accomplishment in the fact that I have been right about the condition of the bank insurance fund and the former chairman of the FDIC has been wrong. I am more concerned about solving the problem and that is what we must do today.

Our Nation's economy is in a shambles. The recent violent fluctuations in the stock market indicate how fragile our economy is and how the American people perceive our economic future. We cannot delay any longer in recapitalizing the bank insurance fund. If one bank fails and we do not have money to pay off the depositors, it will set off an economic fire storm that will result in the biggest financial holocaust in our Nation. We are indeed playing with fire if we do not act, and act today.

□ 1630

Mr. WYLIE. Mr. Chairman, I yield 3½ minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

I want to commend the chairman and ranking member of the Banking Committee for their perseverance and persistence in bringing this bank insurance fund recapitalization and banking reform bill back to the House for this third time.

Mr. Chairman, to my colleagues, I say that time is running out. If we are to avoid the mistakes we made with the savings and loan industry and its problems—as Mr. WYLIE has outlined—we must recapitalize the BIF and pass this banking reform.

If we fail to act, we not only increase the costs by delaying the closure of insolvent banks, but we cannot pay off depositors.

Despite the fact that this bill has been scaled back from the comprehensive reform originally advanced, it is nevertheless, a reform of existing capital standards and regulation.

These reforms are significant.

Now, how does H.R. 3768 meet our goals:

H.R. 3768 authorizes the FDIC to borrow up to $30 billion from the Treasury with this amount to be repaid by increases in deposit insurance premiums paid by the banks themselves. My colleagues must realize this is not a taxpayer bailout or a raid on the Treasury. Banks must repay these loans; establishes higher capital requirements for banks; rolls back the doctrine of too big to fail by prohibiting the payment of uninsured accounts over $100,000; authorizes risk-based premiums, limits brokered deposits and pass through pension accounts to only the highest capitalized banks; and prohibits the FDIC from covering foreign deposits after 1992.

This bill adopts several regulatory measures, including: Requiring annual on-site examinations and reforms auditing standards; mandating prompt corrective actions for problem banks; and requiring early intervention with failing banks.

So, given these reforms, the allegation that we are just handing over money to an unreformed system is plainly untrue.

Now, I regret deeply that such an important measure does not address the two important issues of interstate banking and securities powers. The failure to address the securities issues abdicates our responsibility to define the makeup of the financial services industry of the future and entrusts that authority to unelected regulators.

Interstate banking, more than any other provision, would have helped enhance competitiveness among our banks.

Under that provision, after 3 years, full nationwide banking and branching will go into effect.

Interstate banking and branching would help make banks safer through geographic diversification by allowing banks to diversify their loan portfolios and lessen their exposure to swings in regional economies.

Interstate branching will make banks more efficient through substantially reduced operating costs because it will be less costly to operate branches than to maintain separate banks.

This provision will also increase competition which will benefit consumers by providing more competitors in the marketplace, and thereby making more bank products available, and raising the probability that banking services will become less expensive.

I believe the importance of interstate banking and branching far outweighs the argument against it, as espoused by some interest groups who have put their own self-interest ahead of the national good.

I fought hard for interstate banking and I am disappointed that we will have to wait until next year and use that issue as the proverbial engine that will drive additional reform.

Now I know that the previous two attempts to pass meaningful and comprehensive banking reform left something for everyone to hate.

Nobody gets everything they want. Not the administration, not the bankers, not the securities industry, not insurance, and not this Member. But this is the best we can do at this time.

Now, there is among our Members, too much careless talk about not voting any money for the banks. This is a script for a replay of the savings and loan debacle. Congress refused to act expiditiously then and in the absence of responsible action to recap that FSLIC insurance fund, we accelerated the problem and increased the cost.

We must act on this recap and insure the Nation's depositors that their savings are guaranteed.

If we fail to act, we take the chance that nervous depositors will withdraw their savings and prompt runs on the banks.

I should think that the drop in the stock market last week in reaction to the credit card rate cap would have shocked the Congress into sober and serious evaluation of how we conduct the Nation's business.

This is not the time for petty political posturing.

SUMMARY

Overall, I believe H.R. 3768 represents the necessary recapitalization of the insurance fund and makes a strong effort to effect banking reform.

All of the positive reform initiatives contained in this bill are very much needed.

Mr. Chairman, my colleagues should realize that too much work went into this bill and too much is at stake with the future of the Nation's banking industry, to turn down this legislation again. The longer we delay the inevitable, the more costly the ultimate problem will become.

I urge passage of H.R. 3768.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, it is imperative that we pass this bill today. This is a bill that will recapitalize the BIF through assessments on the banks. It is not the RTC bill that will be paid off by taxpayer dollars. It is two separate bills, two separate concepts.

Mr. Chairman, this bill avoids the mistakes of the past. What were some of those mistakes? In 1986 we were asked to recapitalize FSLIC. This Congress did not act. We must act now when we are being asked to recapitalize the BIF.

In 1987, we were asked to give adequate recapitalization to FSLIC. Congress gave recapitalization, but woefully inadequate. Further, that 1987 legislation had forbearance language which really prevented the regulators from doing the job they were required to do.

This bill not only does not have forbearance language, it has early intervention language.

We almost made a serious mistake in this bill. The early intervention language almost called for early closure. That would have been repeating the mistake of the 1989 bill, FIRREA, which was much too strict, much too draconian.

Thankfully, an amendment I offered was accepted. It is interesting in the statement of administration policy dated yesterday they now say the administration particularly supports the provisions of H.R. 3768 that would, and they list three, the second one being, "Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery."

Mr. Chairman, this is one of the main reasons they are now supporting it. We almost made that mistake in this bill. Let us remember that when we consider the RTC bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the very distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding. I will try to be brief. I have no voice left anyway.

Mr. Chairman, let me say the chief reason I am reluctant to rise in opposition to this bill is because of the great admiration I have for the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, and certainly for the gentleman from Ohio [Mr. WYLIE], the ranking member.

But that is the only reason, because this bill in its present form is a nonreform bill, my colleagues. If there is a problem in the banking industry, this bill does nothing to solve that problem.

As the Washington Post said today, this bill provides tens of billions of dollars, taxpayer dollars, in the form of loans to recapitalize the FDIC.

Mr. Chairman, with no meaningful reform contained in this bill, the taxpayers will never be paid back, and this bill will become one of the biggest ripoffs ever perpetrated on the taxpayers of this Nation.

For instance, one of the major problems today is unlimited insured deposits. Unlimited.

Back in 1980, this Congress, including me, raised the limit on the insured deposits from $40,000 up to $100,000 and allowed an individual to have as many $100,000 insured accounts that they wanted to, up to $1,400,000 per family. If Members want to take a look at the chart, it is outlined right here.

Mr. Chairman, let me explain my own case. When I came to this Congress 14 years ago I was a stockbroker and an insurance broker. I sold all my stock and put my money into CD's because I did not want a conflict of interest, and I kept my money there.

Mr. Chairman, I did what the American people did, all of them. I called my wife and I said, "Those CD's are coming due. Find any insured bank in America and put my money in it so that we will get the highest possible interest rate."

Mr. Chairman, I did that regardless of whether those banks were conservative, longstanding, and well run, or whether those banks were poorly run, because I knew that my money was insured.

That is what is wrong here today with this bill. We are not dealing with the major problem that has caused the disasters we have in the banking industry. Poorly run banks have wasted the money of depositors because those banks have functioned with a cavalier, "I-don't-care" attitude. As long as the deposits are insured, we can waste that money and depositors will still get their money—courtesy of the Government, the taxpayers. That was the attitude of too many banks across the country.

Mr. Chairman, the other major problem is that this bill does nothing to keep bankers in the banking business and out of everybody else's business. There are no firewalls in this bill to prevent banks from dealing in and delving into real estate, insurance, securities, and other businesses. That is exactly what happened to the savings and loans companies and other banks who got into the mess they are in today.

I wanted to offer a motion to recommit to deal with these kinds of problems, but I am not a member of the Committee on Banking, Finance and Urban Affairs, so I am going to be denied that. Therefore, this bill will pass. The Senate will accept it, because they have thrown up their hands. They are not going to even try to amend it in conference.

This bill in its present form is going to the President for his signature, it will be signed, and the taxpayers will never be repaid their $70 billion. And they will not be repaid the $80 billion that we are going to vote on next Monday. That's called the RTC bailout.

□ 1630

What is going on around here? When are we going to be fiscally responsible? Vote no on this bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization Improvement Act. I want my colleagues to know that the importance of this bill, I think, cannot be overstated.

Someone referred to it as a narrow bill. It is 339 pages long. And it is full of policy dealing with deposit insurance, with the too-big-to-fail limitation, with a whole host of different measures that tend to try and limit the exposure of the deposit insurance fund and the National Government's payments. And that means the taxpayer payment and savings if limited, Mr. Chairman.

I would hope that we would recognize that in the past weeks we have failed to pass interstate banking. We tried to pass the issues with regard to powers and firewalls and were not able to do so. Those combinations of ingredients resulted in failures in both instances.

Some of those are pleasant palliatives to the banks. Some are not. I suggest that next year we will be able to come to an acceptable compromise, chocolate coat the broccoli, and finally send it to the President and see such measure enacted. But for right now what we need to do today is to provide the dollars for recapitalization and the deposit insurance reforms. This bill has a lot of reforms and will provide new safeguards for the taxpayers' dollars.

While many have labeled this legislation as a narrow bill that refunds the bank insurance fund, I want to correct any misperceptions that my colleagues have by saying that this legislation is less ambitious than previous versions but is broad reaching, and is an important step in restoring the health of the insurance fund and our Nation's financial institutions. This measure is a 342-page measure with many important policy issues essential to the health of our banks and our economy.

Key to this bill is the recapitalization of the bank insurance fund. Clearly, the FDIC needs funds now to close those institutions that already are or are rapidly becoming insolvent. The failure to provide this essential funding will force the regulators to refrain from acting, thus keeping open brain-dead institutions and driving up the ultimate costs to the insurance fund. In addition, the failure to act will have traumatic effects in our already fragile economy. Recapitalization is and will be repeated often in this debate. There is a risk that banks will not be able to meet the repayment envisioned in this legislation but this is a risk we must accept because of the importance of banking in our economy.

In H.R. 3768, Congress is not just giving the Bush administration the funds necessary, the money, and then shutting up. This bill sets in place reforms, some of the reforms opposed by the administration and special interests, that are crucial to the health of the insurance fund. Those major provisions include steps to lower the exposure to the insurance fund by slowing down too big to fail, restricting the Federal Reserve's ability to use open thrift assistance to prop up failing banks, and requiring least-cost resolutions. These steps are important and, if fully implemented, can prevent significant losses to the insurance fund. The use of the essentiality test, too big to fail, has been misused dating back to the Continental Bank of Illinois.

Too big to fail is a policy built outside the expressed provisions of law that are written in law to limit deposit insurance to $100,000 for each account. The Reagan and Bush administrations developed, nurtured, and fostered this harmful policy and it is absolutely essential that it be brought under control. The legislation before us does so.

This legislation also addresses the problem of least-cost resolution, attempting to define and limit regulator misuse of such recourse when the regulator places a bank in conservatorship. This bill limits the deposit insurance coverage of foreign deposits which pay no insurance premium and the measure before the House provides the option for risk-based premiums and limits on broker deposits. There is a prohibition placed on direct bank underwriting of insurance and other risky, inappropriate activities.

Let us make certain we understand one thing. The real dollars in terms of loss to the bank insurance fund were decisions made in the 1980's. Those decisions have been made by the Reagan administration regulators at that time. Today we have a renewed sense of tough regulation. It comes late, but embedded in the portfolio of the financial institutions of this country, both banks and S&Ls, are the losses, the bad loans, the nonperforming loans and investments.

We do not have a magic wand to wave away these problems. We cannot pass legislation or regulate away such problems. They are with us. They are real. And there is risk in this bill.

We are loaning $70 billion to the bank insurance fund. We hope the banks become more profitable and successful enough and that the economy turns around so that indeed the banks can be assessed to pay back this $70 billion. But the banks may not be able to do so.

But what is the alternative? To put at risk every person's savings in this country? To remove a major pillar in our economy at a time when our Nation is in a serious recession? Surely, that would result in something worse than recession, Mr. Chairman.

Mr. Chairman, these steps and many of the other provisions of H.R. 3768 should be enacted into law. Clearly, this bill is not the end-all of banking reform and a 342-page bill is not such a narrow bill. Significant issues such as interstate branching and improvements of bank profitability must ultimately be resolved but the enactment of this measure would retain good work accomplished, in the first half of this session. While we have yet to reach a consensus on many additional matters, we have tried valiantly. H.R. 3768, is a crucial first step and should be adopted.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I rise with no enthusiasm and more than a little disappointment in support of this bill. First, the reasons for disappointment.

It is impossible not to be concerned with the refusal of the committee to take the only credible opportunity before it and institute responsible capital standards for federally insured institutions. With or without new Federal legislative authorization, a great deal of interstate banking consolidation is going to occur in the next decade and larger banks are going to enter the securities arena.

It is conjectural whether this is good or bad. It is not conjectural that conglomeration and new speculative powers should only be authorized if the conglomerating institutions have adequate capital.

Failure to deal with the capital issue is tragic, particularly because the impetus for concentration comes from institutions intent on over-leveraging capital.

As the larger but capital weak institutions take over the smaller but capital strong, total capital in the American banking system will be reduced and a too-big-to-fail syndrome could all too easily become a much-too-big-to-fail dilemma.

Regulators have simply not come to understand that the new standards they are putting their faith in—the Basle accord and risk-based standards which obviate reliance on prudential leveraging ratios—have the effect of jeopardizing the taxpayer, weakening American banking and slanting bank lending against traditional commercial entrepreneurship and toward bond buying and a single industry, housing.

I am also very concerned with certain mischief contained in this allegedly narrow bill. Hidden away, undiscussed by the committee of jurisdiction, is a provision contained in section 303 which allows the banks of certain States to invest up to 10 percent of their assets in the stock market. To the degree legislative history is set here today, it is the view of this Member that any regulator that allows any bank to use $1 of insured deposits, or 1 cent of capital designed to protect such deposits, to play the stock market or invest in commercial enterprises or real estate should be put in a stock and pillory, a punishment made infamous in the State where this banking witchery is intended to be protected.

In this bill Congress has not only failed to take advantage of the opportunity to set prudential standards for American banking, it is weakening rather than strengthening those standards.

Nonetheless, of overwhelming significance at this late date in this session is the need to shore up the Deposit Insurance Fund. Last week the Senate toyed with capping credit cards, precipitating a 100-point drop in the stock market. This week if we fail to support the deposit insurance system, that drop will be a footnote event. For the sake of depositors as well as stability in the economy, we have no choice but to support this bill at this stage. And hopefully on another day, perhaps this weekend in conference, several of the issues I have commented upon can be readdressed.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE]

Mr. RIDGE. Mr. Chairman, I rise in opposition to this measure. I believe that we are treating symptoms and not causes.

Halloween may have come and gone for the communities across this country, but it seems to have hung over Washington for an extended period of time. While the economy stagnates and deficits run higher and higher, we in Congress hide behind masks and hand out treats that are only tricks.

First, some facts on the economy. Real growth in the last 3 years has run less than one-half of 1 percent, a notorious modern-day record. Meanwhile, deficits are running higher and higher even though the traditional Democratic scapegoat, defense spending, is now declining in real terms. The portion of the Federal budget devoted to interest payments is now over $18 billion annually, 15 percent of the budget, and it is climbing. And as more funds go to cover the deficit, we relinquish any countercyclical role in the short run and virtually guarantee in the long run that there will not be sufficient funds for investment.

And if the underlying deficit were not bad enough, now we have the Resolution Trust Corporation back for a third time for more thrift funds. We're now up to $160 billion, all of which is destined for addition to the deficit, increasing interest costs to our children and yes, our grandchildren. And the bank bill could potentially cost another $30 billion. Yet here we are, hiding behind masks of indifference and complacency, writing the bills to send forward in time to those who have not yet inherited the earth.

The worse part of the whole process is that we have not addressed the fundamentals of real estate and the economy. This is especially true in the sense that we have stripped away the value of real estate, which makes up a huge portion of assets for banks and thrifts. It is true we overstimulated demand for real estate in the early 1980's, but it is more apparent with every passing day that we ruined the real estate market, and perhaps the banking industry as well, by the reforms of 1986, when we told investors in real estate to dump their property.

There are some items we need right away. We need to restore passive loss rules to real estate. We need a capital gains cut for investment; if we can't have it broadly, we need it for real estate. We need more consumer-oriented incentives for savings and investment, such as IRA's. This will mean that in the short run consumers spend less; you cannot have it both ways. But we will be far stronger in the long run. We need the investment tax credit for industry. But wait—we can't have these items, because we hide behind the mask of the budget agreement.

So by hiding behind our masks, we cripple the economy, which causes slow growth and failing financial institutions, which causes higher payments to cover deposits, which adds to the deficit, which crowds out investment and prevents us from mitigating the effects of the recession.

But at least we had a treat to give the consumer. When things got bad in Rome, they added more holidays, but when they get bad in Washington, we add dubious treats. So Congress came up with a credit card cap. A price control from the powers of Washington. A treat for the consumer.

But wait. It was just a trick. A price cap of 14 percent would have hurt consumers. The working families would have paid higher upfront fees, or they would have seen their limit drop, or they would have just plain lost their cards. Some economists say over one-third of consumers would have lost their cards. Let me say it again: over one-third of consumers would have lost their cards. And I assure you the tennis set would not be among the one-third. It would be those people who work hard every day to pay the bills and need a little credit to buy Christmas gifts.

Imagine that right before Christmas. Merry Christmas from Congress, the holiday note would say. Please turn in your credit card.

And so consumer spending would have dropped further while your job at the retail store or at the bank or at the manufacturing outlet would have been cut. That's some trick.

My friends, lower consumer spending and fewer jobs is no treat.

In summary, we must end Halloween in Washington. We must put away the treats that are tricks and take off our masks. We must face the winter ahead by acknowledging we need real solutions for our problems. If we cannot put real value in real estate and provide real incentives for savings, investment, and jobs, then we will be back again and again for money to cover depositors, and we will be wringing our hands even more over deficits and interest payments. If we cannot end Halloween now, then our Thanksgiving tables shall be more sparse with every passing year. We need incentives for value and growth, and we need them now.

The bottom line is simply this: This bill and the RTC recapitalization to follow next the symptoms, not the causes of the economic malady that afflicts us at enormous, unnecessary, and avoidable expense. Most banks and thrifts today are struggling, not because of mismanagement, not because of fraud, but because of an economy that has endured and been forced to consume too many congressional treats. Adverse Tax Code changes particularly in the real estate area bring us to this vote today.

Banks and thrifts are troubled because the economy is stagnant, the real estate market is virtually nonexistent, and Congress refuses to address either. Reject exposing the taxpayer to even greater "bail out" liability. Demand that the Congress and administration address today the problems plaguing the economy. The best politics for 1992 for both the White House and Congress and for both parties is solving today's economic problem now, not next year.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, I feel like I am in triple overtime in the NBA, the National Bank Act. For too long we have dallied, for too long we have fallen under legislative paralysis.

Our financial markets cannot permit us to remain in legislative gridlock, and we try and find the perfect bill.

Our consumers cannot wait until we find the perfect bill. Our Nation is asking us to pass legislation which admittedly is not perfect, which admittedly is narrow, but which is needed for the financial stability and welfare of our country.

In my State of Rhode Island, we had the worst banking failure in the history, I believe, of the country. For 11 months the citizens have waited for their money. They have not asked why. They have only asked when.

I commend the chairman of the Committee on Banking, Finance and Urban Affairs and the Republican leader for their superlative effort in trying to help our State.

Tonight I wish to contact the members of our State to tell them that this Congress has acted responsibly, that we have risen to the challenge and that we have passed a banking bill which, while admittedly not perfect, has gone a long way to help keep the financial stability of this country and my State from collapsing.

I hope that we have learned something from this tragic triple overtime, and that is that we cannot succumb to the various special interest groups who hound this Congress. The legislative body must in fact be deliberate in looking at the issues which are important for this country. We must vote what is right, not what is expedient.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for his generous yielding of time to me. Let me say to my colleagues that the old maxim, if you do not succeed at first, try, try again, is very, very relevant today. Because after three times, we finally have gotten it right. We first tried an overwhelmingly Democratic bill. We got a lot of Democratic votes and no Republican votes, and it failed. Then we tried an overwhelmingly Republican bill. We got a lot of Republican votes, and not many Democratic votes, and it failed.

Now we have a nice down-the-middle bill. And it should, and I hope, will pass. Because first of all, indeed, we must make sure that the fund is replenished, all the problems that occurred in the banking industry have occurred already.

There is lots of blame to go around, but if we do not vote for this money, we are sticking the one blameless e depositors, with the bag. That is not fair, and we should not do it.

Second, the bill has some reforms in it, noncontroversial reforms, but reforms. More capital, early intervention, ending too-big-to-fail are all worthy changes that our system needs.

Do I have a regret? Of course, I do. And that is that we have not truly reformed the sick banking system. We are going to have to come back a year from now or 2 years from now and do that. The system still has its dependence on insured deposits and uses those deposits for new and risky activities, and as long as that continues to happen, the system will be sick and the taxpayers will be at risk.

□ 1640

But since we are not ready for broad reform now, as our gyrations over the last 2 weeks showed, this narrow bill, with reform, with the needed money, is the doctor's prescription for what is temporarily, although not permanently needed.

I urge support of the bill.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of H.R. 3768, a bill to recapitalize the bank insurance fund. In addition to providing borrowing authority for the bank insurance fund—a significant portion of which the banking industry must repay through additional premium assessments—the bill also includes some regulatory reforms. These reforms were adopted by this body last week, as part of the Gonzalez en block amendment.

The measure on the floor today contains only the must-do items that were contained in the larger, more comprehensive, measure originally adopted by the Banking Committee last June. Since June, this body twice debated the bill, each time dropping key structural reforms from the bill.

While this Member intends to support today's pared-down banking bill, this Member laments the debate which occurred last week on the second version of the Banking Committee's bill.

Last week's floor action on the banking bill precluded the opportunity for significant reforms. This body was put in a no-win situation, by being forced to vote on an en-bloc amendment. The amendment contained one of the most important of the Banking Committee's structural reforms; namely, a format for interstate banking and branching—a reform which was perfected by the Vento-Bereuter amendment, and overwhelmingly supported by this body. Unfortunately, the interstate banking provisions were linked with other provisions that would have resulted in a cutback in banking powers for some banks.

While not possible today, this Member hopes that at some point, further consideration can be given to a wide range of necessary structural reforms.

Today, the responsible position for all Members is to vote on a banking bill that would at least recapitalize the bank insurance fund and provide for the following important elements in what might be referred to as the Gonzalez en bloc amendment:

Improved regulation of foreign banks;

Prohibition for any of the regulatory agencies from extending any deposit insurance or assistance for deposits in foreign branches of U.S. banks;

Inventives for banks to operate in distressed communities, Ridge/Flake Bank Enterprise Act;

Limitations on Federal deposit insurance for brokered deposits;

An affordable housing program for the FDIC similar to that of the RTC, Frank amendment; and

Restrictions on the activities of State-chartered banks to those allowed to federally chartered banks.

Mr. Chairman, recently, there has been much discussion over something called the October surprise; let us not become the November disappointment or the November fiasco by failing to adopt this straightforward recapitalization bill.

This Member urges adoption of the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to first of all congratulate Chairman GONZALEZ and I wanted to congratulate the gentleman from Ohio [Mr. WYLIE], and others. They have been very, very patient. They have let the House work its will and they have come up with a bill that I think is a very fine bill.

Mr. Chairman, I rise in strong support of H.R. 3768, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Chairman, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

In addition, Members should support the bill because it contains reform provisions which have not proven controversial during prior consideration of banking legislation. The bill contains title I of H.R. 6 which recapitalizes the bank insurance fund and provides regulatory reform. Further, the bill contains the so-called Gonzalez en bloc amendment which passed on the floor of the House by voice vote.

Mr. Chairman, as I have mentioned, not only should Members vote for today's bill because the bank insurance fund needs to be recapitalized, they should also vote for the bill because it contains many reforms needed to avoid future banking system problems. For example, title I of the bill contains GAO's recommendations regarding the trip-wire approach to banking regulation. This concept requires regulators to take increasingly aggressive actions if a bank's capital falls below specified minimum levels. This means that banks will be forced to curtail risky activities and rebuild their capital to proper levels. This is a commonsense idea that all Members should support.

In addition, title II of the bill contains important new authorities for regulators to use when supervising and regulating foreign banks. Title II represents the lessons the country should learn from the BCCI affair. Specifically, the title will require the Federal Reserve to conduct annual on-site examinations of foreign bank branches and agencies and coordinate regulatory efforts with other Federal regulators and State regulatory agencies. Again, this is thoughtful reform legislation which deserves the full support of the entire House.

Title III of the bill contains important changes to the deposit insurance system. For example, insurance for brokered deposits has been limited to banks which meet or exceed the minimum capital standards set in the bill. This means that banks with declining capital will not be able to offer high interest rates to attract more brokered deposits. In addition, this title contains an amendment I offered in committee which continues the 25-year-old FDIC practice of providing pass through deposit insurance on a pro-rata basis for pension plans, including so-called 457 retirement plans. This provision will protect the pensions of 33 million Americans and will act to prevent pension funds from making destabilizing moves from small banks to larger banks which are deemed too big to fail. This, in turn, means that pension fund deposits can be kept in local banks which makes them available for lending for community purposes.

Title IV of the bill contains several miscellaneous provisions which add up to important reform. Among other provisions, the title contains a directive that all banks are to abide by the internationally accepted Basel accords which were signed in Basel, Switzerland by all of the major industrial nations. This important agreement specifies that all banks of signatory nations shall hold 8 percent total risk-based capital, of which one-half must be tier 1 capital. Tier 1 capital is composed of the bank's cash, common equity capital and other forms of tangible capital. Implementing the Basel accords is critical to the strengthening of our banking system since the accords place more of the bank's money at risk. Clearly, this is a good provision which has been supported by the entire Banking Committee and which should be supported by the whole House.

Finally, title V of H.R. 3768 contains the provisions of an amendment I offered at full committee. Simply stated, this title will permit any bank insurance fund [BIF] institution to combine its operations with any savings association insurance fund [SAIF] institution, and vice versa. I offered this legislation in order to encourage the injection of private sector funds into the banking and thrift systems. Title V of the bill will permit a bank to combine with a thrift—or vice versa—which permits them to combine their strengths and avoid the potential problem of being placed in conservatorship where the taxpayer's money must be used. This title expands upon a similar amendment I offered to the FIRREA legislation 2 years ago which has proven very popular. The Oakar I amendment infused $400 million in capital to the system.

In summary, I urge all Members to support today's bill. This legislation is responsible because it protects the deposits of millions of Americans and our entire economy from needless losses. If we delay the recapitalization of the bank insurance fund much longer, the economic consequences will become worse than we can imagine. For that reason alone the bill should be supported. However, Members should also vote for the bill because of the many fine reforms and improvements I have mentioned.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, the people of America are asking, "What is wrong with our banking system," while many others are just angry taxpayers and want to know, "What are you doing with our money?"

The Congress has finally decided it will take steps to try to answer these important questions and make sure taxpayers do not remain angry, or worse yet, scared to put their hard-earned money into a bank in this country. A lot has been said about the inappropriate practices of the past with all the high-flying wheeler-dealers in the financial marketplace who invested money without regard for the hard work that brought it to their institution.

This legislation, for the first time, gives us an opportunity to close a lot of bad loopholes, to eliminate those practices which cause banks to lose money, and, in fact, gives us an opportunity to make sure that future operators will operate in a safe and sound manner. Perhaps there should be further reform. I strongly supported broader bank powers, allowing banks to free enterprise dollars to flow into our system rather than having to rely on the banks to grow their way out of their current problem.

But let us just stop for a moment and consider what would happen if we did not adopt this legislation at this late hour. It is 30 days until the Christmas season. Retailers across the country are finding it difficult to get their hands on credit to buy the inventory to hope to make a profit in this Christmas season. Many are concerned that their credit card interest rates might be capped, and that little box on the top right-hand corner of your statement you get each month that all of us who have credit cards look at that says "available credit" might go to zero.

And what would happen if we continued to encourage the flight of capital from our banking industry, the M-2? One measure of our Nation's money supply continues to shrink. Why? Because interest rates are low, and people looking for rates of return take their money out of banks and put them into the stock market or in some other venture where they hope to have a greater rate of return.

But what happens to the banks when we say, "Hey, your deposit insurance is not worth anything anymore?" Do we think people will continue to put money, hard-earned, after-tax dollars in banks, with the risk that they might not be able to get it out when they need it? Think about an average family in America today. Husband and wife both work and both the kids are in school. They have to feed the dog, pay the car note. They get up just like everybody else and go to work and at the end of the week they take that hard-earned paycheck and take it to the bank.

Why are Americans angry? Because if they put their money in the bank they expect it to be there on Monday morning so they can pay their bills.

This is our last best chance. Vote for this legislation. It keeps the fund solvent, it keeps America working, and it gives our banks a chance to survive in a tough market. It is a good, safe, responsible vote.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. I plan to vote for this bill, despite strong reservations. Originally, I had planned not to support this legislation. The savings and loan situation taught us many lessons. One of the most important things that banks need is sound regulation. I voted for the first FDIC recapitalization on November 4, because it had reform and regulation. I felt comfortable supporting that bill for that reason. I voted for the second FDIC recapitalization bill on November 14, although it had less reform and said that was as far as I could go. Now I'm being faced with a recapitalization bill that funds that FDIC but has very little reform and I really do not want to vote for it. However, I will because of recent Connecticut banking history and future Connecticut banking needs. We made a promise to the American people in the form of deposit insurance and we must keep that promise.

Mr. Chairman, I am going to support this bill because the FDIC was there when the Bank of New England-CBT failed; because the FDIC was there when Community National and Merchants Bank & Trust failed. The FDIC was there when Whitney Bank & Trust, Housatonic Bank & Trust, CityTrust, Mechanics & Farmers Savings, Enfield National Bank, and Suffield Bank failed. The FDIC was there when Harbor National Bank of Connecticut, Central Bank, Connecticut Valley Bank, and Connecticut Savings Bank failed.

All of these institutions failed in 1991. The fact that the FDIC was there meant that thousands of Connecticut residents did not lose their life savings. This bill will assure that the FDIC will continue to be there should additional banks fail. This is the very essence of our promise to the American people. It was my belief in the sanctity of this promise that led me to support both H.R. 6 and H.R. 2094, the two earlier versions of banking reform that failed to pass.

Although I am going to support this bill, I want to lay out for the record my concerns about the state of the industry and the steps we should take to prevent the BIF from going the way of FSLIC at the ultimate cost of billions of dollars to the American taxpayer.

The primary goal of bank reform should be to restore the health of the banking industry. One necessary reform is interstate banking. We might not have lost all those banks in Connecticut this year if their risk, particularly in real estate, was diversified as opposed to concentrated in New England.

Deposit insurance reform is also necessary. The existence of Federal deposit insurance has been consistently cited as one of the causes of the savings and loan crisis particularly to the extent that troubled institutions paid higher interest rates than sound institutions. These troubled institutions advertised higher rates nationwide to attract depositors. Many brokerage firms divided extremely large deposits into $100,000 blocks to take advantage of the higher interest rates and the protection of the Federal deposit insurance. In this way, the brokerage firms had no incentive to look at the underlying financial health of the financial institution offering the higher rates. We should ensure that banks do not make the same mistake.

I am concerned that Federal deposit insurance has been expanded far beyond its original intent and that all three versions of bank reform have failed to address this issue. The protections of Federal deposit insurance have been extended to each participant in certain types of pension plans. In this way, the pension fund trustees could pass their fiduciary responsibility onto the Federal Government.

While I certainly understand the arguments made by bankers that they have lost their most profitable business to Wall Street and money market funds and need to branch out to remain competitive and find new profit centers, I am not at all confident that we can adequately protect the taxpayers from losses in other lines of business. The key issues are what new powers, if any, we give which banks, under what conditions, and how we build effective firewalls around deposit insurance. Banks should not be given a competitive advantage over insurance companies, real estate, and securities firms in the form of implied or explicit Federal deposit insurance.

Banking reform should include strong consumer protections including lifeline banking services, an affordable housing initiative, and strengthened antiredlining provisions.

We need a commonsense approach to banking reform above all else. This means using generally accepted accounting principles [GAAP]. This means a reasoned approach to recapitalization, including an acknowledgment that there is a point at which ever-increasing deposit insurance premiums become counterproductive. Common sense should also mean addressing the problems that have come to light in the wake of the BCCI scandal and prohibiting insured depository institutions from engaging in highly leveraged transactions.

Unfortunately, this bill does not go far enough in making the necessary reforms. It is a start, but it is not enough. However, after three tries it appears that what constitutes reform is an issue on which reasonable people may disagree. I fear that passage of this bill will not be the end of this issue. I hope that I am wrong, but we have made a promise to the American people. We should live up to it. I would urge my colleagues support for this legislation.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, a week or so ago, I told the Committee on Banking, Finance, and Urban Affairs that I was reminded with this legislation about an old car I used to have. It was a clunker and it used a lot of oil. There are some who are going to suggest that simply by passing this bill we are buying maybe a case or two of oil in order to put in a clunker of a car that keeps running out of oil.

Maybe to an extent that is true. I think with the reforms that are added to this measure we are maybe replacing a few seals in the engine, I think we are tightening things up, but we are also buying some more oil. What we really need to do is to fix the engine in our clunker and maybe to buy a new car or at least a new engine.

There are some disappointments that I have in the context of this legislation. I believe that we have not done enough to narrow the scope of deposit insurance that is out there. We have added to some extent to the regulatory cost and to the insurance cost of our banks. There is always next year. Next year I think we need to come back and finish the job we have begun this year. We need to make sure our banks are able to compete in the 1990's.

□ 1650

We need to go forward with interstate insurance and we again need to permit our banks to compete.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, as with most of our Members, I am sorry that we could not have done more in terms of real reform of the system, but the bill before us is essential to the well-being and health of our economy. There are major reforms in the bill. I commend the chairman and our whole committee for working together to produce this product. I hope we get back to major reform soon. It is essential for the well-being of our Nation.

Mr. Chairman, although H.R. 3768 does little to promote long-term profitability and self-sufficiency in the banking industry, I rise in support of the bill because it's necessary. It recapitalizes the Bank Insurance Fund so our Government can fulfill the promises made to depositors and includes very important regulatory reforms.

Mr. Chairman, H.R. 3768 is not a taxpayer bailout—at least not yet. The bill provides a line of credit from the Treasury that must be paid back by the banking industry. The bill provides that the line of credit may not be used unless the FDIC and the Treasury establish a schedule showing how the money will be repaid.

The bill, Mr. Chairman, also includes numerous provisions to reduce the future risk of losses to the FDIC. The bill will curtail the practice of too-big-to-fail, restrict the use of brokered deposits to only the healthiest banks, and prohibit insurance coverage of foreign deposits. Furthermore, the bill establishes a system of risk-based premiums that would reward highly capitalized institutions. It also requires the FDIC to use the least-cost alternative in resolving failed banks, and it limits open bank assistance, a practice that has in the past prolonged the closure of insolvent institutions.

Mr. Chairman, this bill improves the supervision of banks by requiring Federal regulators to adopt uniform accounting standards for all banks and thrifts. It requires that banks and savings and loans be examined annually through an onsite examination. Moreover, those banks with assets of more than $150 million will be audited annually by an independent public accountant with the reports submitted to the FDIC for review. Mr. Chairman, the bill also gives the Federal Reserve the tools it needs to better regulate foreign banks operating in the United States and avoid a repeat of the BCCI scandal.

Mr. Chairman, H.R. 3768 calls for higher levels of private capital for banks and requires that Federal bank regulators move quickly whenever an institution falls below minimum capital levels. U.S. banks must retain private capital at least equal to the internationally agreed upon capital standards, a ratio that continues to rise.

My major regret, Mr. Chairman, is that H.R. 3768 does not modernize the banking industry to make it more profitable and competitive. The banking industry needs to be able to make a living to ensure that it will pay off the loans we are providing today. Just as importantly, we need a healthy banking system to provide credit for small business and other aspects of our economy, to provide jobs, housing, and a higher standard of living for our people—for savers.

Unfortunately, this bill does not include interstate branching which could save the banking industry up to $10 billion per year simply through efficiencies. That is $10 billion that could be added to the capital base of the banking industry. Interstate branching would also make banks more resistant to regional economic downturns like we have seen in Texas and New England.

I am also disappointed, Mr. Chairman, that H.R. 3768 does not diversify the products and services banks may offer. Diversity is an axiom of safety and solvency, yet this bill does nothing to provide new business opportunities for banks. If the banking industry is not safe, sound, and profitable, taxpayers will almost certainly have to bail it out.

Mr. Chairman, we have tried, and so far this House has rejected many proposals that would modernize the banking industry and improve its safety and soundness. Nevertheless, I hope we can pass this modest bill to fulfill our longstanding commitment to depositors without the use of taxpayer money, and improve the regulation and supervision of banks.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. chairman, there are two themes that have been woven in to the context of this debate. One, disappointment, and two, responsibility. We are all a bit disappointed with the final product of 10 months of work, but the obvious responsibility we have here is to recapitalize that bank insurance fund.

We have heard from everybody during the last 10 months. Today we have an opportunity to act upon the most important substance of this legislation, and that is to stand up for the taxpayer and to stand up for the depositor.

We are going to hear a lot of demagoguery that somehow this legislation is for the bankers. This legislation is not for the bankers. This legislation is for the depositors. We should act in the affirmative and vote yes on this bill.

Mr. WYLIE. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot of Members get up here and suggest that this is not he best legislation or best bill that we could come up with. I agree with that. I do not think there is anyone in this body who would want to play the drum in the parade for this bill today, but many of us, as I have suggested, think we could do better, but our views have not prevailed entirely. There are many, many different views on this legislation. It is very controversial. It is difficult to know exactly what to do, but we do not have the opportunity today to have our own views prevail in their entirety.

Of course, some of us will continue to support meaningful structural reforms, to provide more profitability and stability to the banking system, but these reforms will have to be considered next year.

The time to act to recapitalize the bank insurance fund is now. We must maintain confidence in our banking system. We must deliver on our commitment in this regard and stand behind our deposit insurance system.

Mr. Chairman, I can remember very well the Great Depression. I remember the bank failures in 1933. I remember how a lot of people lost their deposits in the banks at that time.

I am reminded of the fact that in 1933 the Deposit Insurance System was put in place. At that time it only called for insurance of up to $2,500. Now we have insurance up to $100,000, which actually is four times more than the cost of living adjustment, given the insurance that we had in 1933; but I, for one, do not want to see us go through a similar situation as we did in 1933. We must maintain and restore confidence in our banking system. We have to tell our depositors that the money is going to be there for them. As I said a little earlier, whether the bank is in trouble or whether it is a good bank, their money will be there when they go to the bank and want to withdraw it. That is what this bill is all about in its basic concept. We do have some meaningful reforms in it which I alluded to a little earlier, but I think it is very, very important that we pass this bill today.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Chairman, I have heard a lot of reluctance about this bill today, and there are reasons to be reluctant to vote for it, but there is a perception that some want to create that somehow we are giving a whole bunch of money to banks or to fat-cat bankers. There are 110 million depositors in commercial banks in this country. A lot of them are small guys. A lot of them are members of the middle class, and when we act today, we act to protect those depositors, those depositors who put their money into these institutions with certain assurances and with certain promises.

We do not exactly have the best of economic times to be doing this, but if you think the economy is bad now, if we fail to act, we are going to compound the economic problems of this country.

I congratulate the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and urge a positive vote on the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED], a very hard-working and distinguished member.

Mr. REED. Mr. Chairman, I thank Chairman GONZALEZ and the gentleman from Ohio [Mr. WYLIE] for their great help to my State.

Now is the time to act. We must act for hundreds of thousands of depositors across the country, and particularly in my home State of Rhode Island. If you want to see the consequences of not acting, come to Rhode Island where, for 11 months, people have been without their deposits, and it is not the fat cats who are suffering, it is senior citizens who are living the worst nightmares of the depression. It is young people who cannot afford or worry about keeping their homes. It is students who cannot afford to go to college. That is the reality of not acting today.

We have run out of time. We have run out of alternatives. We have run out of excuses. We must act to help people restore faith in the banking system, in our ability to govern, and help them rebuild their lives, particularly for my constituents in Rhode Island.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARNARD], a very hard-working and expert member of the committee.

Mr. BARNARD. Mr. Chairman, I rise in strong support of H.R. 3768, which focuses our efforts on what everyone agrees are the essentials, namely recapitalization of the bank insurance fund, early intervention, foreign bank regulation, and the elimination of the too-big-to-fail doctrine.

Do not worry about H.R. 3768 being too easy on the banks or looking like a bailout. The $30 billion recapitalization of the bank insurance fund will be repaid not by taxpayers but by the healthy portion of the industry through greatly increased assessments on which there is no cap. Additionally, remember that the funds are not going to banks, but to depositors—otherwise known as constituents and taxpayers.

H.R. 3768 provides for annual on-site examinations—paid for by the banks. Institutions with over $150 million in assets would have to have outside audits and pay for them—larger institutions would also face audits of their internal controls.

Undercapitalized depository institutions would face limits on dividends, asset growth, and officer salaries. H.R. 3768 adds significant new trip wires pertaining to asset quality, earnings, and management practices that supplement the toughest capital standards—maybe too tough—in history.

The new capital standards set five levels of capital which determine what a bank can do and would require that institutions at a certain critical capital level be placed in conservatorship or receivership after 6 months—in other words, while they still have positive net worth.

H.R. 3768 also provides for least-cost resolution and seeks to effectively eliminate the too-big-to-fail doctrine after 1994. It also places significant limitations on discount window loans.

These are not insubstantial reforms, nor are they inexpensive ones for banks, especially since we do nothing that improves bank competitiveness.

Additionally, H.R. 3768 establishes a new, much needed regulatory structure for foreign banks doing business in the United States that will prevent a repetition of BCCI type scandals.

The bill also contains modest deposit insurance reforms limiting pass through deposit insurance as well as limitations on brokered deposits.

Many of us would like to do more. I would like to see some form of banking and commerce, some would like to see interstate branching, and others would like to roll back insurance powers. This has not proved possible to achieve on the floor this session and we should return to all of these issues, but it would be irresponsible not to recapitalize the BIF and make much-needed regulatory reforms. This is a responsible, defensible vote and I urge my colleagues to vote yes.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise to support this measure, H.R. 3768, in an effort to get this bill into conference. Now, I make no assurances of support, however, beyond that.

I just have to say for the record that it gets rather frustrating trying to be responsible around here. It almost always happens on the tough issues, the tough votes, and we have had plenty lately on the banking bill.

I voted for the rule the very first time this bill was up because I was told by the majority that the amendment to title IV was going to lose. I went against my own membership because I thought it more important to defeat a key amendment that threatened the overall bill than to delay consideration of the bill. I had hoped that my vote was the right one, but the representations made to me about the outcome, obviously, were not very correct.

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When it was clear that the bill had sufficient baggage to be defeated on final passage, I offered the motion to rise and report the bill back, that the enacting clause be stricken, so that we could send the bill back to the committee and work out an agreement among all sides.

And that vote became a leadership vote for the majority, so my motion was defeated. Two days later, after fulminating all around rather uselessly, as I predicted, the banking bill was defeated, with only 89 votes for it and 324 opposed to it.

Now, the new bill was brought to the floor last week. I worked hard for the Wylie amendment. Even to the extent of getting several of our Members to switch their vote, and we passed it by the narrow margin of 210 to 208. And I worked hard for the bill on final passage.

We delivered our side of the aisle, but with only one-third of the Democrats supporting it, it was defeated 191 to 227.

Yesterday in the Committee on Rules, Democrats joked that the reason the previous two bills were defeated was that they did not have their whip organization ginned up. All joking aside, they were doggone right.

Now here we are with a bill which provides a barebones recap, but none of the reforms. It is, however, a vehicle to get us to conference, and that seems all this House is capable of accomplishing for the time being. But be that as it may, I would urge Members certainly to vote for this barebones bill so that we can at least have some degree of progress. And, yes, fate will ultimately lie, I suspect, in what the other body does and what we can finally agree to in conference. But for the moment at least let us agree to agree to do this much, and then we may very well be on the road to adjournment by next Tuesday.

This is absolutely essential. If it goes down, all bets are off. You have got to be here for everything else.

Of course, we hope beyond this we can get agreement on the highway bill and a few other things around here so that conceivably we could adjourn by next Tuesday night.

I urge the Members finally to support the bill this time around. You will all have an opportunity again on the conference report. And that happens any number of times.

I recall once on a very critical tax bill, a lousy bill as it passed the House and my only pitch in the end was, "Well, let us get something to move, and conceivably with the other body in agreement, we can get something to be adopted by every Member."

So I would urge Members to support the bill this afternoon and thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

Well, they say the third time is a charm. Let us hope it will be so in this case. Today we will see whether any lessons have been learned from the two fruitless trips we have made to the House floor in the last 2 weeks. What we have before us today, H.R. 3768, is the least controversial bill our House Banking Committee could approve. Indeed, conspicuously absent from this bill are extended powers for banks, nationwide interstate banking and branching and any cuts in individual deposit insurance. As we all know, these were the major stumbling blocks which tripped up the two banking reform bills that have so far failed on the House floor.

The most irresponsible action this Congress could take would be to recess without recapitalizing the bank insurance fund. Today we are called upon to keep our promise to American depositors. This is a duty we simply cannot shirk. I urge my colleagues, therefore, in the strongest terms to pass this truly important and vital legislation.

Mr. GONZALEZ. Mr. Chairman, I yield whatever time remains to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], for summation and closing.

Mr. GEPHARDT. Mr. Chairman and members of the committee, first I would like to congratulate the committee on their hard work. This bill is not only barebones, it is a reform bill as well, in many respects, with regard to the way the deposit insurance system will work.

This is the third time we have attempted to climb this mountain, and I hope and pray that today we will reach the summit. I voted for the last two bills, and I intend to vote for this bill because I think passing such legislation is important to our economy, it is important to our people, it is important to our competitiveness.

We may need to further reform the banking system, and we can come back at another time and do that. I hope we will.

But today, in November 1991, we need to pass this bill.

Mr. Chairman, I would like to remind Members that, like Social Security, like Medicare, like national defense, this is a Government program that we should be proud of. Many like to say today that Government does not work, does not do the things we want it to do.

I would simply urge Members today to understand this program has done what we wanted it to do. Before there was such a program, we had economic anarchy in this country, deprivation, and there was zero confidence in our banks and in our institutions of Government.

The book "F.D.R." describes the circumstances facing this country as the President-elect took his train ride from New York to Washington in March 1933.

Let me quote from the book:

> A newspaper headline said 30 banks now on holiday. Those that remained open were on a restricted-withdrawal basis, with soft-voiced tellers handing depositors their passbooks and saying everything is all right when it wasn't. People lost their faith in banks, and there were runs on the banks in Chicago and Detroit, with armored trucks feeding their branches cash.
>
> As deposits shrank, more banks closed. Real estate lost value and the equity in mortgages disappeared. The New Empire State Building could not rent its offices and cut off elevator service between the 42nd and 67th floors. Construction stagnated because builders could not get loans.
>
> Where were Work and Thrift and Sound Principles and the American way of life and Go West, Young Man? They had been replaced by "tighten your belt," bread lines, soup kitchens, grown men working as caddies, panhandling and riding blind baggage.

Some of these things would be happening today if it were not for the programs that Franklin Roosevelt and Congress put into place in the 1930's. This program is not a bailout for banks. This program is not a bailout for stockholders in banks. This program is not a bailout for the executives of banks.

This program stands behind our people and their deposits in banks. And if we fail to vote for it this afternoon, this program and the Government's full faith and credit behind it will be called into rightful question.

I beg the Members of this House, Republican and Democrat, moderate, conservative, liberal, to vote for this bill, to stand behind the full faith and credit and integrity of this Government and say to our economy and to out people, "This program works, your deposits are safe, and this banking and financial system in our country will be secure into the future."

Vote for this legislation.

Mr. COX of Illinois. Mr. Chairman, I rise today in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. Although I regret that Congress was not able to reach a consensus on a more comprehensive bank reform bill, I believe the legislation before us has a great deal of merit.

H.R. 3768 provides the necessary money to replenish the deposit insurance fund and repay depositors of failed financial institutions. In addition, it contains a provision that I introduced when the Banking Committee considered this legislation, allowing banks to purchase bonds from the FDIC, and therefore participate in the recapitalization of their industry. I do not believe that we should discount the willingness of the banking industry to participate in the process before giving banks the opportunity to assist.

It was the banking industry that first presented this basic principle to Chairman Seidman with its proponents committing to participate. I have been given letters from both the Independent Bankers Association of America and the American Bankers Association expressing their support for this provision. In addition, both organizations state their commitment to working with banks throughout the country to encourage their investment in obligations issued to fund the bank insurance fund.

H.R. 3768 also contains provisions that will improve the way in which bank regulators and the FDIC deal with weakening institutions. The bill calls for early intervention by regulators into banks that have fallen below designated capital levels and improvement of examination and auditing requirements. It further moves toward a system of risk-based bank premiums, and the elimination of the too-big-to-fail policy.

Finally, the bill establishes a Bank Enterprise Program, providing incentives for banks to increase their investments in distressed communities with high rates of unemployment and poverty. I was an original cosponsor of the Bank Enterprise Act, and I am pleased to have the opportunity to build a stronger bridge between the banking industry and our Nation's neediest communities.

While I am hopeful that we have not completely put broader bank reform issues to rest, I support this measure to shore up the deposit insurance fund. I believe this measure will provide greatly needed mechanisms to instill safety and soundness to the banking industry.

Mr. TALLON. Mr. Chairman, the main objective of this latest version of the banking reform bill is to infuse $70 billion into the bank insurance fund to cover the costs of the banks that continue to fail.

Congress must pass banking reform legislation this year that will do more than just replenish the bank insurance fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that simply pours money into the fund without fixing the underlying problems of the banking industry will leave the taxpayer exposed and contribute to the credit crunch.

I urge my colleagues to vote no on this legislation.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. In the past 2 weeks, the House has twice defeated bank reform legislation. I supported the first measure brought to the floor, H.R. 6, because, in my estimation, it balanced needed reform and diversification with essential regulatory and enforcement muscle. I opposed the second measure before the House, H.R. 2094, because it included an amendment which weighed down the bill with special interest giveaways. Congressional leaders realized that a majority of the Members in this Chamber were not prepared to approve a major reform bill, so we have before us today a stripped down measure which we expect to pass.

H.R. 3768 addresses the most pressing issue confronting the banking system, the recapitalization of the bank insurance fund [BIF]. It is estimated that BIF will have only $2.9 billion on balance in its coffers by the end of this year. When one considers FDIC predictions that 137 banks will have failed during 1991, and 200 more are expected to fail in 1992, the fund is effectively insolvent. If we abdicate our responsibility to recapitalize BIF, thousands of these institutions' depositors will lose their hard-earned savings and face devastating economic circumstances. Even more frightening is the havoc such action would wreak on the rest of the banking system. We must keep our Government's hallowed promise to back taxpayer deposits.

Although the adoption of a core bank provision would have provided the greatest protection to our taxpayers, H.R. 3768 does incorporate numerous provisions which reduces the risk of future losses to the FDIC fund and reduces taxpayer exposure to another bailout. These changes include the requirement of annual onsite examinations of federally insured institutions by regulators, annual independent audits of banks with assets over $150 million, the adoption of uniform accounting standards to improve oversight of institutions, restrictions on the ability of troubled institutions to get advances from the Federal Reserve's discount window, and creation of an early intervention system for troubled banks in order to minimize costs.

This is not a perfect bill. I, like many other Members, wish we could do much more. I also know that we will have to address the issue of true reform and more stringent controls at some point in the future. But today we must replenish the bank insurance fund and maintain consumer confidence in our banking system. I urge my colleagues to place the public's interest above the special interests by supporting this measure.

Mr. BLACKWELL. Mr. Chairman, I, like most Americans, firmly believe that we need total banking reform. But at this time I have little alternative but to vote against this bill. We cannot simply recapitalize the FDIC without the Members of this Congress coming together and formulating a sensible and comprehensive legislative package that will bring about total reform for the American banking industry. I was not elected to simply place a band-aid on a bleeding wound. Our banking industry is in crisis. Many Americans, many of them women and minorities, lack the same access to credit that other Americans have. They cannot get home mortgages. They cannot start new businesses. We can no longer continue to use a patchwork approach when the hard working taxpayers of the American public demand—and deserve to have total confidence in the American banking system.

Mr. MORAN. Mr. Chairman, in early March, President Bush presented to Congress comprehensive legislation overhauling this Nation's banking industry. The legislation reflected a concern the President expressed in his State of the Union Address last January:

> * * * to bring America's financial system into the 21st century so that our banks remain safe and secure and can continue to make job-creating loans for our factories, our businesses, and home buyers.

The driving force behind this legislation, however, is the immediate need to replenish the bank insurance fund [BIF] with a $30 billion line of credit from the U.S. Treasury. The debt would be repaid through a higher premium banks pay to the insurance fund.

For close to 2 months, the House Banking Committee, of which I am a member, weighed through the administration's proposal and considered more than 160 amendments. As we considered the various issues and proposed amendments, we sought to make sure that the legislation addressed the following three concerns: That the regulators be given the authority to intervene early and close down troubled banks before they become insolvent; that this legislation would promote prudently managed and well capitalized institutions; and to promote amendments that would benefit the average bank customer.

Haunted by the specter of the savings and loan debacle, committee members sought to make sure the Federal regulators have the authority to intervene early and close sick banks. During the 1980's, Federal regulators allowed too many insolvent savings and loans to remain open and accept deposits they were never able to pay back. For example, the Federal Savings and Loan Insurance Corporation [FSLIC] allowed two sick Virginia institutions that should have been closed to remain open more than a year, costing the Federal Government and the U.S. taxpayer more than $120 million. Had the FSLIC moved in early the cost to the insurance fund would have been less than $14 million.

One of the major goals before the committee was ending the too-big-to-fail policy by the Federal regulators. Under this policy, large institutions are too big to fail and small institutions are too small to save. People will be reluctant to keep their savings in smaller community banks. Even though these institutions are prudently managed and well capitalized, the deposit base that is necessary for the economic mainstay of many communities will disappear.

One case in point was the bailout of the Bank of New England for $2.3 billion. At approximately the same time, little Independence National Bank of Harlem was allowed to fail because the administration considered it too small to save. One of my favorite movies is "It's a Wonderful Life," with Jimmy Stewart as a community banker whose presence made such a critical difference in his neighbors' ability to realize their dreams. I don't want the big banks to get so powerful and concentrated that the decision of whether to lend to a person or business in need is made by someone many miles away who neither understands the character of the local community nor cares for its future.

Mr. Chairman, true reform has less to do with an overextension of deposit insurance and more to do with an absence of private market discipline within the banking industry. I therefore supported a number of amendments that would provide incentives for institutions to be well managed and well capitalized. These efforts included the successful full committee approval of amendments that will: Allow brokered deposits—C's sold by brokerage firms—and pass through deposits to only those institutions with level one and two—very high—capital ratings; and reward banks with an insurance premium credit for providing lifelong accounts and investing in distressed communities.

I also supported the idea that would restrict the activities banks could engage in with Government guaranteed deposits to just core banking activities. This proposal would have limited the interest rates banks could offer on guaranteed deposits and created a legal lending limit for institutions with assets of more than $100 million. Guaranteed deposits could only be used for those essential core banking activities such as consumer and small business loans and home mortgages that have made community banks successful enterprises.

The proposal would, however, force such high-risk activities as speculative underwriting, leveraged buyouts and global money market activities, as well as any new activities banks could engage in under the President's proposal, out from under the protection of deposit insurance and into the marketplace.

I firmly believe that this proposal would have instilled the banking industry with greater private market discipline. In the absence of private market discipline, a few imprudently managed banks will penalize the great majority of responsible bankers by forcing them to pay higher premiums and bear the costs of the mistakes of the few. Unfortunately, this proposal was defeated both in committee and again on the House floor.

Without adoption of the core bank provisions, I was reluctant to see banks engage in most of the new activities contained in the President's proposal. A majority of my colleagues were also reluctant to see banks engage in these new activities.

As a result, the House passed a narrow reform bill that: Recapitalizes the bank insurance fund with $30 billion; severely restricts the current too-big-to-fail policy; and requires the Federal regulators to intervene early once a bank fails to meet certain capital and soundness standards.

While I am disappointed that the bill did not include more substantive reforms such as the core bank proposal, I believe it is important to support the narrow bill. Without its passage, the Federal regulators would have been unable to close down failed institutions and pay off the depositors—something the Federal Government has a responsibility to do and the American taxpayer should have a right to expect.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Improvement Act. I do so for several reasons.

One, the bank insurance fund is broke. The U.S. Government has put its full faith and credit on the line to protect depositors—large or small. It would be irresponsible to allow the insurance fund to remain in its current sorry state. This would expose depositors to enormous risk.

Second, the bill calls for improved examinations of deposit institutions. It also requires independent audits of the institution's financial management and assesses the institution's compliance with Federal law.

Third, this bill requires the FDIC to use the least cost method in resolving failed banks. This requires the FDIC to use the least expensive and most effective method when closing a failed institution. The bill also states that the FDIC will only cover insured deposits. This eliminates the too-big-too-fail doctrine which asserts there are some banks that are too big and too special to fail.

While I continue to be concerned that we have put off dealing meaningfully with deposit insurance reform, this bill is our best hope for now. However, we must continue to pursue avenues that will lead some reduction to the taxpayer's and depositor's exposure. With a weak insurance fund that is in constant need of replenishment and over $2.4 trillion in guarantees protected by this fund we would be irresponsible not to pursue such avenues.

I urge my colleagues to support this legislation, not only to preserve some confidence in our financial system but also to enact at least some reforms. It is imperative that, at a minimum, these reforms be implemented.

In closing, Mr. Chairman, I would also like to remind my colleagues that bills such as this provides only a temporary respite. A cure to a weakened financial system is a healthier economy. With the passage of this bill, it becomes more urgent than ever that Congress pass an economic recovery program. I urge the leadership on both sides to bring H.R. 3130, the Economic Growth Act, before the House. Economists estimate passage of this bill will create jobs; 1.1 million new jobs, some basic tax relief, and greater economic incentives for all Americans. This would stimulate our economy and lessen the need for the legislation we are considering today.

Mr. RINALDO. Mr. Chairman, this is the third in our weekly series of debates about banking legislation. I am certain that my colleagues join me in hoping it will be the last time we have to deal with this subject.

I will note for this legislation for one and only one reason. We promised many years ago to protect the savings of our constituents. This bill is the only way to keep that vow.

The GAO says that the bank insurance fund is effectively insolvent. We have no choice but to replenish it.

The savings of millions of people are at stake. Our banking system is based on trust. If that faith erodes, the result will be panic. Voting for this bill is our only responsible course of action.

If we pass this legislation, once again the savings of the people who sent us here will be protected by the full faith and credit of this country.

However, passing this bill will not resolve the fundamental problems with our financial system.

This Congress must modernize the laws regulating banks and other types of financial services. Unless we do, this House will sit here again and again debating banking bills.

Continued inaction will mean more failed banks, and additional billions to pay for them. Foreign banks will continue to out-compete our financial services industry.

Mr. Chairman, the cost of bank failures will be much higher due to the failure of this House to pass my amendment allowing corporations to buy failed and failing banks.

When future legislation on this subject is considered, I will again offer my amendment.

The question is simple: Who pays for bank failures? Is it going to be your constituents and neighbors? Or are we going to let corporations buy some of these banks, and prevent the burden from being passed on to the taxpayer?

The CHAIRMAN. All time has expired. Pursuant to the rule, the amendment in the nature of a substitute printed in the reported bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of H.R. 3768 is as follows:

H.R. 3768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the federal deposit insurance funds.

Sec. 102. Limitation on outstanding borrowing.

Sec. 103. Repayment schedule.

Sec. 104. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.

Sec. 112. Independent annual audits of insured depository institutions.

Sec. 113. Assessments required to cover costs of examinations.

Sec. 114. Application to FDIC required for insurance.

Sec. 115. Regulatory requirements study.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.

Sec. 122. Small business loan data required in reports of condition.

Sec. 123. Reports of financial condition by large institutions engaged in interstate banking.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.

Sec. 132. Appointment of conservator or receiver for insured state depository institutions.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.

Sec. 142. Limitation on use of liquidity lending for deposit insurance fund purposes.

Sec. 143. No assistance to troubled institution without removing management and repudiating shareholders claims.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Short title.

Sec. 152. Federal deposit insurance required for state chartered banks, savings associations, and credit unions.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.

Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in bank holding company act of 1956.
Subtitle B—Customer and Consumer Provisions
Sec. 221. Paperwork reduction and improvements in administration of Community Reinvestment Act of 1977.
Sec. 222. Additional factor in assessing majority-owned institution's record of meeting community credit needs.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Fair housing reporting.
Sec. 225. Regulatory burden study.
Sec. 226. Notice of safeguard exception.
Sec. 227. Prohibition on deceptive practices relating to electronic fund transfers from accounts.
Sec. 228. Deposits at nonproprietary automated teller machines.
Sec. 229. Notice of branch closure.
Subtitle C—Bank Enterprise Act
Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.
TITLE III—FEDERAL DEPOSIT INSURANCE REFORM
Subtitle A—Activities
Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured state bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Capital standards and interest rate risk.
Sec. 306. Transition rule.
Sec. 307. FDIC back-up enforcement authority.
Subtitle B—Coverage
Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.
Subtitle C—Demonstration Project and Studies
Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.
Subtitle D—Credit Unions
Sec. 331. Liquidations of federally insured state credit unions.
Subtitle E—FDIC Property Disposition
Sec. 341. FDIC affordable housing program.
TITLE IV—MISCELLANEOUS PROVISIONS
Subtitle A—Payment System Risk Reduction
Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.
Subtitle B—Right to Financial Privacy Act of 1978
Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.
Subtitle C—Final Settlement Payment Procedure
Sec. 421. Final settlement payment procedure.
Subtitle D—Miscellaneous Committees, Studies, and Reports
Sec. 431. Commission on the Thrift Industry.
Sec. 432. Bank Insurance Fund Advisory Committee.
Sec. 433. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 434. Depository Institutions Reform Advisory Committee.
Sec. 435. Report on government check cashing.
Sec. 436. Permanent authorization of Credit Standards Board.
Subtitle E—Utilization of Private Sector
Sec. 441. Utilization of private sector.
Sec. 442. Reporting.
Sec. 443. Requirement to minimize payments for legal services.
Subtitle F—Emergency Assistance for Rhode Island
Sec. 451. Emergency loan guarantee.
Subtitle G—Qualified Thrift Lender Test Improvements
Sec. 461. Short title.
Sec. 462. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 463. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 464. Additional investments included in definition of qualified thrift assets.
Sec. 465. Prudent diversification of assets.
Sec. 466. Consumer lending by Federal savings associations.
Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders
Sec. 471. Prohibition on entering into secrecy agreements and protective orders.
Subtitle I—Establishment of Capital Standard Requirement
Sec. 481. Capital standards.
Subtitle J—Bank and Thrift Employee Provisions
Sec. 491. Continuation of health plan coverage in cases of failed financial institutions.
Subtitle K—Severability
Sec. 496. Severability.
Subtitle L—Sense of the House of Representatives on the Credit Crisis
Sec. 498. Credit crunch.
TITLE V—DEPOSITORY INSTITUTION CONVERSIONS
Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.
Sec. 503. Acquisition of thrift institutions by certain companies which control banks and are not treated as holding companies.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding at any time may not exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' includes—

"(A) any guarantee issued by the Corporation;

"(B) any amount borrowed pursuant to section 14; and

"(C) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the assessments imposed on insured depository institutions under other provisions of this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(4) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(5) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) ANNUAL EXAMINATIONS.—

(1) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—Each insured depository institution (other than an institution for which a conservator or receiver has been appointed) shall be examined at least once during each 12-month period (beginning on the date on which the most recent examination of such institution ended) by the appropriate Federal banking agency in an on-site examination unless the institution has been examined by the Corporation during such period in an on-site examination.

"(2) ACCEPTANCE OF STATE ON-SITE EXAMINATIONS.—Notwithstanding paragraph (1), the appropriate Federal banking agency or the Corporation may accept an examination report on any insured depository institution which is based on an on-site examination by the appropriate State bank supervisor.".

(2) EFFECTIVE DATE.—Section 10(d) of the Federal Deposit Insurance Act (as added by paragraph (1) of this subsection) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(3) TRANSITION RULE.—During the period beginning after the end of the period described in paragraph (2) and ending on December 31, 1993, section 10(d) of the Federal Deposit Insurance Act shall be applied by substituting "18-month" for "12-month" with respect to any insured depository institution other than—

(A) an institution which received a composite CAMEL rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System (or a comparable rating under an equivalent rating system) during the most recent examination of such institution; or

(B) an institution for which a notice or application has been received by the appropriate Federal banking agency under section 7(j) or 18(c) of the Federal Deposit Insurance Act during the 12-month period beginning on the date on which the most recent examination ended.

(b) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program which meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(c) DEFINITION RELATING TO STATE BANK SUPERVISORS.—

(1) IN GENERAL.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under subsection (d) may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor which received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of

receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution in proportion to the assets or resources of the institution.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of the examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—Section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

SEC. 115. REGULATORY REQUIREMENTS STUDY.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study to determine—

(1) ways to reduce and streamline regulatory requirements imposed by Federal banking agencies, particularly for small community depository institutions; and

(2) which, if any, regulatory requirements may be waived for such institutions without endangering the safety and soundness of the institutions.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to the Congress and the other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) containing the Corporation's findings and conclusions under the study conducted pursuant to subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

(c) IMPLEMENTATION.—The Federal Deposit Insurance Corporation and other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act), acting through the Federal Financial Institutions Examination Council, shall implement any recommendation for administrative action made by the Corporation pursuant to subsection (b).

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt regulatory action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS LOAN DATA REQUIRED IN REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) SMALL BUSINESS AND SMALL FARM LOAN DATA.—

"(A) IN GENERAL.—In the report of condition required under paragraph (3) for the 4th quarter of each calendar year, each insured depository institution shall include information indicating the total number and aggregate dollar amount of the institution's outstanding loans in each of the following categories:

"(i) Commercial loans to small businesses.

"(ii) Commercial mortgage loans to small businesses.

"(B) REPORTING CATEGORIES.—The information required by subparagraph (A) shall be listed separately for each of the following small business categories:

"(i) Businesses which were in existence for less than a year at the time the reported loans were made.

"(ii) Businesses with annual sales of $100,000 or less.

"(iii) Businesses with annual sales of more than $100,000 but not more than $250,000.

"(iv) Businesses with annual sales of more than $250,000 but not more than $1,000,000.

"(v) Businesses with annual sales of more than $1,000,000 but not more than $20,000,000.

"(C) MINORITY-OWNED BUSINESS CATEGORY.—The information required by subparagraphs (A) and (B) shall be further itemized for minority-owned small businesses.

"(D) CHARGE-OFFS AND INTEREST AND FEE INCOME.—Any report of condition referred to in subparagraph (A) shall indicate the insured depository institution's net charge-offs and the interest and fee income for commercial loans to small businesses and for commercial mortgage loans to small businesses, listed separately for each of the following small business categories:

"(i) Businesses with annual sales of $250,000 or less.

"(ii) Businesses with annual sales of more than $250,000.

"(E) AGRICULTURAL LOANS TO SMALL FARMS.—Any report of condition referred to in subparagraph (A) shall indicate the total number and aggregate dollar amount of the insured depository institution's outstanding agricultural loans to small farms.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL BUSINESS.—The term 'small business' means an enterprise with annual sales of $20,000,000 or less.

"(ii) SMALL FARM.—The term 'small farm' means a farm business with annual sales of $500,000 or less.

"(iii) COMMERCIAL LOAN.—The term 'commercial loan' means a loan that is reportable as a commercial and industrial loan in the reports of condition submitted pursuant to this subsection.

"(iv) COMMERCIAL MORTGAGE LOAN.—The term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm nonresidential properties in the reports of condition submitted pursuant to this subsection.

"(v) AGRICULTURAL LOAN.—The term 'agricultural loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers in the reports of condition submitted pursuant to this subsection.

"(G) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—The requirements of this paragraph shall not apply to any insured depository institution which has total assets, as of the most recent full fiscal year of such institution, of $100,000,000 or less.".

SEC. 123. REPORTS OF FINANCIAL CONDITION BY LARGE INSTITUTIONS ENGAGED IN INTERSTATE BANKING.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(10) CONDITION REPORTS BY LARGE INSURED INSTITUTIONS ENGAGED IN INTERSTATE BANKING.—

"(A) COVERED INSTITUTIONS.—For purposes of this paragraph—

"(i) INTERSTATE BRANCHING INSTITUTION.—The term 'covered interstate branching institution' means an insured depository institution that has total assets of $1,000,000,000 or more, as of its most recent fiscal year, and maintains branches in more than one State.

"(ii) INTERSTATE SUBSIDIARY INSTITUTION.—The term 'covered interstate subsidiary institution' means an insured depository institution that has total assets of $500,000,000 or more, as of its most recent full fiscal year, and it is a subsidiary of a holding company that controls insured institution subsidiaries in more than one State and has consolidated assets of $1,000,000,000 or more, as of the holding company's most recent full fiscal year.

"(iii) DUAL COVERAGE.—An insured depository institution that satisfies the criteria of both clauses (i) and (ii) of this subparagraph shall be deemed to be a covered interstate branching institution.

"(B) INTERSTATE BRANCHES: QUARTERLY LOAN DATA.—A covered interstate branching institution shall include in each quarterly report of financial condition required by this subsection the following loan categories, listed separately for each State within which it maintains one or more branches—

"(i) LOAN DATA ITEMS.—(I) The aggregate dollar amount of the institution's outstanding in-State loans in regard to such State, (II) the interest and fee income earned on such loans, (III) the dollar amount of such loans with nonaccrual status, and (IV) the net charge-offs for such loans.

"(ii) LOAN CATEGORIES.—(I) Construction loans, (II) commercial mortgage loans, (III) residential mortgage loans, (IV) farmland mortgage loans, (V) commercial loans to small businesses, (VI) agricultural production loans, and (VII) consumer loans.

"(C) DEFINITION OF IN-STATE LOANS.—For purposes of subparagraph (B) the term 'in-State loan' means a loan that is made to a business entity that is engaged in business in the State, an agricultural loan to an entity in the State, a loan that is secured with property located in the State, and a loan made to an individual who is a resident of the State.

"(D) INTERSTATE BRANCHES: QUARTERLY DEPOSIT DATA.—A covered interstate branching institution shall also include in each quarterly re-

port of financial condition required by this subsection the following deposit data items for each of the following deposit categories, listed separately for each State within which it maintains one or more branches—

"(i) DEPOSIT DATA ITEMS.—(I) The aggregate dollar amount of deposit balances at the institution's branch offices located within each State, and (II) the interest paid on such deposit balances.

"(ii) DEPOSIT CATEGORIES.—(I) Demand deposits (deposit balance data only), (II) interest-bearing transaction accounts, (III) savings deposits, (IV) time deposits under $100,000, (V) time deposits of $100,000 or more, and (VI) State and local government deposits (deposit balance data only).

"(E) INTERSTATE BRANCHES: OTHER QUARTERLY DATA.—A covered interstate branching institution shall include in its report of financial condition required by this subsection the following financial data, listed separately for each State within which it maintains one or more branches—

"(i) the aggregate dollar amount the institution's real estate owned in each State not including property owned by the institution for banking operations; and

"(ii) the institution's income from service charges on deposit accounts at the institution's branch institution.

"(F) INTERSTATE BRANCHES AND INTERSTATE SUBSIDIARIES: ANNUAL LOAN DATA.—A covered interstate subsidiary institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information for its home State and a covered interstate branching institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information listed separately for each State within which it maintains one or more branches—

"(i) SMALL BUSINESS LOANS.—The institution's total number and aggregate dollar amount of commercial loans and commercial mortgage loans outstanding to small businesses whose principal place of business is located within such State; itemized separately for—

"(I) commercial loans; and

"(II) commercial mortgage loans;

and further itemized separately for—

"(I) small businesses with annual sales of $250,000 or less, and

"(II) small businesses with annual sales of more than $250,000.

"(ii) SMALL FARM LOANS.—The institution's total number and aggregate dollar amount of agricultural production loans and farmland mortgage loans outstanding to small farms whose principal place of business is located with such State; itemized separately for—

"(I) agricultural production loans; and

"(II) farmland mortgage loans.

"(G) SMALL BUSINESS LOANS BY METROPOLITAN AREA.—The small business loans required by subparagraph (F)(i) shall be further itemized (according to the principal place of business of the small business borrowers) separately for—

"(i) each metropolitan area of the State,

"(ii) the low and moderate income portion of each such metropolitan area, and

"(iii) the minority portion (if any) of each such metropolitan area.

"(H) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—The Federal banking agencies may require insured depository institutions to report additional information beyond the requirements of this paragraph for the purposes of monitoring the insured condition of the depository institutions engaged in interstate branching and monitoring the volume of credit provided at the State and local community level by institutions engaged in interstate banking through either separate insured institution subsidiaries or interstate branching, and for implementing Federal antitrust laws.

"(I) ADJUSTMENT OF LOAN CATEGORIES.—The Federal banking agencies may adjust the loan category definitions prescribed by this paragraph to reflect changes in loan category definitions or classifications generally employed in the reports of financial condition required by this subsection, except any such adjustments must be consistent with the purposes of this paragraph.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'small business' means an enterprise with annual sales of $20,000,000 or less;

"(ii) the term 'small farm' means a farm business with annual sales of $500,000 or less;

"(iii) the term 'commercial loan' means a loan that is reportable as a commercial and industrial loan;

"(iv) the term 'agricultural production loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers;

"(v) the term 'farmland mortgage loan' means a loan that is reportable as a real estate loan secured by farmland;

"(vi) the term 'metropolitan area' means a primary metropolitan statistical area, or consolidated metropolitan area, or consolidated metropolitan statistical area, as defined by the Secretary of Commerce;

"(vii) the term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm residential properties;

"(viii) the term 'construction loan' means a loan that is reportable as a real estate loan secured by construction and land development;

"(ix) the term 'consumer loan' means a loan that is reportable as a loan to individuals for household, family, and other personal purposes;

"(x) the term 'non-metropolitan portion' means the portion of a State that lies outside the metropolitan areas;

"(xi) the term 'low and moderate income area' means census tracts, as defined by the Secretary of Commerce, whose median family income is less than or equal to 80 percent of the median family income of the metro area in which they are located;

"(xii) the term 'minority area' means all census tracts as defined by the Secretary of Commerce in which minority persons compromise 75 percent or more of the resident population;

"(xiii) the term 'home State' means with respect to an insured depository institution that is a subsidiary of a holding company, the State in which the insured institution's deposit balances are principally located; and

"(xiv) the term 'reportable' refers to the reporting classifications employed in the reports of financial condition submitted pursuant to this subsection.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 37 (as added by section 121 of this title) the following new section:

"SEC. 38. PROMPT REGULATORY ACTION.

"(a) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall establish a prompt regulatory action system which meets the requirements of this section, including the establishment of any standards, minimum capital requirements, deadlines for the submission and review of plans, and other classifications required to implement this section.

"(2) DOCUMENTATION OF DETERMINATION.—In complying with this section, the agency and the Corporation shall document in writing the facts and assumptions and any other conclusion underlying any determination to take any specific action and any determination not to take any other action authorized under this section.

"(3) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency and the Corporation (with respect to regulations required to be prescribed under this section by the Corporation other than as an appropriate Federal banking agency) shall, after notice and opportunity for comment, prescribe final regulations under paragraph (1) not later than 180 days after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 and such regulations shall take effect not later than 270 days after such date of enactment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CAPITAL DISTRIBUTION.—The term 'capital distribution' means any of the following:

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured depository institution, except a dividend consisting only of shares of the institution or any amount paid on the deposits of a mutual savings bank or a mutual savings association that is determined by the appropriate Federal banking agency not to constitute a dividend.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of the institution's shares, including any extension of credit made to finance an affiliate's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency or the Corporation determines by order or regulation to be in substance the distribution of capital.

"(2) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(3) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' means a ratio of tier 1 capital to total assets of 2 percent.

"(4) EXECUTIVE OFFICER.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act.

"(5) LEVEL 1 DEPOSITORY INSTITUTION.—The term 'level 1 depository institution' means any insured depository institution which—

"(A) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio;

"(B) maintains tier 1 capital that is significantly in excess of the minimum requirements for tier 1 capital; and

"(C) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(6) LEVEL 2 DEPOSITORY INSTITUTION.—The term 'level 2 depository institution' means any insured depository which—

"(A) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(B) is not a level 1 depository institution.

"(7) LEVEL 3 DEPOSITORY INSTITUTION.—The term 'level 3 depository institution' means any insured depository institution which—

"(A) is not in compliance with all currently applicable capital standards; and

"(B) is not a level 4 or level 5 depository institution.

"(8) LEVEL 4 DEPOSITORY INSTITUTION.—The term 'level 4 depository institution' means any insured depository institution which maintains capital in an amount which—

"(A) is significantly less than the required minimum ratio for any relevant capital measure; and

"(B) exceeds the critical capital level.

"(9) LEVEL 5 DEPOSITORY INSTITUTION.—The term 'level 5 depository institution' means any insured depository institution which maintains capital in an amount which is less than or equal to the critical capital level.

"(10) LEVERAGE LIMIT.—The term 'leverage limit' means the leverage limit established by the appropriate Federal banking agency.

"(11) OTHER DEFINITIONS RELATING TO CAPITAL MEASURES.—The terms 'total assets', 'tier 1 capital', and 'tier 2 capital' have the meanings given to such terms by the appropriate Federal banking agencies.

"(12) REQUIRED MINIMUM RATIO.—The 'required minimum ratio' means the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline with respect to each relevant capital measure.

"(13) RISK-BASED CAPITAL RATIO.—The term 'risk-based capital ratio' means the risk-based capital standard established by the appropriate Federal banking agency.

"(14) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(15) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any level 3, level 4, or level 5 depository institution.

"(c) CAPITAL MEASURES AND RECLASSIFICATIONS OF LEVELS.—

"(1) CAPITAL AND LEVERAGE LIMIT REQUIREMENTS.—

"(A) IN GENERAL.—Any capital measure prescribed by any appropriate Federal banking agency for purposes of this section shall include at a minimum—

"(i) a tier 1 capital to assets ratio;

"(ii) a risk-based capital ratio; and

"(iii) a leverage limit.

"(B) INTEREST RATE AND OTHER MARKET RISKS.—In establishing any risk-based capital standard for purposes of this section, the appropriate Federal banking agencies shall take into account interest rate risk and other market risks.

"(2) MINIMUM CAPITAL RATIOS FOR INSTITUTIONS IN EACH LEVEL.—Consistent with the purposes of this section, each appropriate Federal banking agency shall establish, by regulation, the applicable minimum capital ratios for each relevant capital measure for the insured depository institutions in each level of depository institutions defined in subsection (a).

"(3) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure consistent with the purposes of this section.

"(4) CONSULTATION.—In prescribing any regulation under paragraph (2), each appropriate Federal banking agency shall consult with the Corporation.

"(5) RECLASSIFICATION OF UNSAFE OR UNSOUND INSTITUTIONS.—If the appropriate Federal banking agency or the Corporation determines that any insured depository institution is in an unsafe and unsound condition or is operating in a manner which poses a risk to any deposit insurance fund, the agency or the Corporation shall reclassify such institution as a depository institution of an appropriate level for purposes of this section.

"(d) STANDARDS FOR SAFETY AND SOUNDNESS.—

"(1) OPERATIONAL AND MANAGERIAL STANDARDS.—The appropriate Federal banking agencies, in consultation with the Credit Standards Advisory Committee, shall establish operational and managerial standards for all insured depository institutions and depository institution holding companies, including standards relating to the following subjects:

"(A) Internal controls, information systems, and internal audit systems in accordance with section 36.

"(B) Loan documentation requirements.

"(C) Underwriting standards.

"(D) Interest rate exposure.

"(E) Asset growth.

"(2) ASSET AND EARNINGS STANDARDS.—The appropriate Federal banking agencies shall establish standards governing the asset quality and earnings of any insured depository institution or depository institution holding company which shall include—

"(A) a maximum classified loans to capital ratio; and

"(B) an earnings standard for such institutions and companies which require such institutions and companies to maintain earnings sufficient to absorb losses of the institution or company without impairing the capital of the institution or holding company.

"(3) REQUIRED ACTION FOR FAILURE TO COMPLY WITH STANDARDS.—

"(A) CORRECTIVE ACTION PLAN.—In addition to any other action which the appropriate Federal banking agency may take, the agency shall require any insured depository institution or depository institution holding company which fails to meet any standard established pursuant to paragraph (1) or (2) to submit a corrective action plan for correcting any deficiency of the institution or company with respect to such standard to the agency not later than 30 days after the institution is notified by the agency of such failure.

"(B) FAILURE TO COMPLY.—If any insured depository institution or depository institution holding company fails to submit a corrective action plan which meets the appropriate Federal banking agency's approval or fails to comply with the corrective action plan, the agency shall issue an order requiring such corrective action and impose such restrictions as the agency determines to be appropriate.

"(C) RESTRICTIONS WHICH MAY BE INCLUDED IN ORDER.—Any order issued under subparagraph (B) to any insured depository institution or depository institution holding company may include the following restrictions:

"(i) RESTRICTING ASSET GROWTH.—Subject to subparagraph (E), prohibiting any increase in total assets of the institution.

"(ii) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(iii) REQUIRING AN INCREASE IN CAPITAL.—Requiring the institution or company to increase the amount of capital of the institution or company.

"(D) ORDER REQUIRED FOR CERTAIN INSTITUTIONS.—The appropriate Federal banking agency shall issue an order under subparagraph (B) imposing at least 1 of the restrictions described in subparagraph (C) on an insured depository institution if—

"(i) the insured depository institution fails to meet any operational or managerial standard established pursuant to paragraph (1) or asset or earnings standard established pursuant to paragraph (2); and

"(ii) the institution—

"(I) has been chartered as a depository institution for less than 2 years;

"(II) has undergone a change in control within the 2 years preceding the date on which the institution first failed to meet a standard described in clause (i); or

"(III) has experienced extraordinary growth (as defined by the agency) during the 18-month period ending on the date on which the institution first failed to meet a standard described in clause (i).

"(E) LIMITED GROWTH EXCEPTION.—Any order issued by any appropriate Federal banking agency under subparagraph (B) which prohibits any increase in the total assets of any insured depository institution in accordance with subparagraph (C)(i) may permit the institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(4) PROCEDURES.—Each appropriate Federal banking agency shall establish requirements and procedures for the preparation and submission of corrective action plans under paragraph (3) to the agency and shall require the agency to review and to approve or disapprove such plan before the end of the 60-day period beginning on the date such plan is received.

"(e) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(1) IN GENERAL.—An insured depository institution shall make no capital distribution if the institution would not meet all currently applicable capital standards after making the distribution.

"(2) EXCEPTION.—Notwithstanding paragraph (1), any appropriate Federal banking agency, after consultation with the Corporation, may approve a capital distribution by any insured depository institution which would, but for this subparagraph, be prohibited under paragraph (1), if the agency makes a prior written determination that the distribution will enhance the ability of the institution to satisfy capital standards and the institution submits a capital restoration plan in accordance with subsection (f)(1) which is approved by the agency.

"(f) PROVISIONS APPLICABLE TO UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(1) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized depository institution shall submit a capital restoration plan to the appropriate Federal banking agency before the end of the period prescribed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy all applicable capital standards, without increasing the risk (including credit risk, interest rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage; and

"(iii) contain such other information as the appropriate Federal banking agency may require.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—Each appropriate Federal banking agency shall establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution is first classified as an undercapitalized depository institution;

"(ii) require the agency to approve or disapprove any capital restoration plan expeditiously and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(2) ASSET GROWTH RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall prohibit any asset growth by any undercapitalized depository institution.

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an undercapitalized depository institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(3) CAPITAL PLAN GUARANTEE.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall not approve a capital restoration plan under this subsection unless each company having control of the insured depository institution guarantees in writing the institution's compliance with the plan until the institution has satisfied all applicable capital standards for each of 12 consecutive months, and provides appropriate written assurances of continued performance.

"(B) AGGREGATE LIABILITY.—The aggregate amount of liability for any company under subparagraph (A) with respect to any insured depository institution shall not exceed the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(C) NO EFFECT ON SECURITIES EXCHANGE ACT REQUIREMENTS.—Nothing in this section shall be interpreted to supersede, or in any way limit or condition compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder.

"(4) EXAMINATION RATINGS TAKEN INTO ACCOUNT.—In reviewing any capital restoration plan submitted under this section with respect to any insured depository institution, the appropriate Federal banking agency may take into account the CAMEL ratings of such institution under the Uniform Financial Institutions Rating System (or any equivalent rating under a comparable system).

"(g) PROVISIONS APPLICABLE TO LEVEL 4 AND LEVEL 5 DEPOSITORY INSTITUTIONS AND INSTITUTIONS THAT FAIL TO SUBMIT OR IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) SCOPE OF APPLICATION.—This subsection shall apply to—

"(A) any level 4 or level 5 depository institution; and

"(B) any undercapitalized depository institution which—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (f)(1)(C); or

"(ii) fails in any material respect to implement a capital restoration plan approved by the agency.

"(2) AGENCY ACTIONS REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall carry out the purpose of this section by issuing an order which imposes 1 or more of the actions described in paragraph (3) with respect to any institution described in paragraph (1).

"(B) SUBSECTION (h) ACTIONS AUTHORIZED.—In addition to actions described in paragraph (3), any appropriate Federal banking agency may issue an order which imposes, with respect to any institution described in paragraph (1), any restriction applicable under subsection (h) to any level 5 depository institution.

"(3) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph with respect to any insured depository institution described in paragraph (1) are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(C) PROHIBITING PAYMENT OF BONUSES TO EXECUTIVE OFFICERS.—Prohibiting the payment of any bonus to any executive officer.

"(D) PROHIBITING PAYMENT OF EXCESSIVE COMPENSATION TO EXECUTIVE OFFICERS.—Prohibiting the payment of compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(E) REQUIRING FDIC APPROVAL FOR NEW BRANCHES.—Requiring the institution to obtain the approval of the Corporation before establishing or acquiring any new branch.

"(F) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(G) RESTRICTING OTHER ACTIVITIES.—Prohibiting any other activity of the institution which the agency finds is detrimental, or is likely to be detrimental, to the institution's financial condition.

"(H) REQUIRING A NEW ELECTION OF DIRECTORS.—Requiring a new election for the institution's board of directors or any member of the board of directors.

"(h) ADDITIONAL PROVISIONS APPLICABLE TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) LIMITATIONS ON PAYMENTS ON SUBORDINATED DEBT.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital in an amount which is equal to or greater than the critical capital level applicable with respect to such institution.

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until January 1, 1996, subparagraph (A) shall not apply with respect to any subordinated debt that is—

"(i) outstanding on January 1, 1991; and

"(ii) not extended or otherwise renegotiated after such date.

"(2) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date the capital of any insured depository institution ceases to equal or exceed the critical capital level specified under subsection (b)(3), the appropriate Federal banking agency shall, notwithstanding any provision of any State law, appoint a conservator or receiver for the institution under this Act or any other applicable Federal law.

"(B) OTHER ACTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any institution described in such subparagraph, the appropriate Federal banking agency shall take any other action described in subsection (g)(3) which the agency determines to be appropriate in lieu of such appointment if the agency—

"(i) determines in writing, with the written concurrence of the Corporation, that such action would better achieve the purposes of this section; and

"(ii) documents that such action would protect the appropriate deposit insurance fund more than the immediate appointment of a conservator or receiver for such institution.

"(C) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by any appropriate Federal banking agency under subparagraph (B) to take any action with respect to an insured depository institution in lieu of the appointment of a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date such determination is made and a conservator or receiver shall be appointed for such institution pursuant to subparagraph (A) unless the agency makes a new determination under subparagraph (B) at the end of the effective period of the prior determination.

"(D) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution referred to in subparagraph (A) for which a receiver has not been appointed and notwithstanding any provision of the law of any State, the appropriate Federal banking agency shall appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 6-month period beginning on the date action is first taken by the agency under subparagraph (A) or (B), a receiver shall be appointed at the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of the 6-month period but fails to exceed such level at the end of any of the 3 months immediately following the end of that period, a receiver shall be appointed.

"(E) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any insured depository institution described in such subparagraph and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the written concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund and the taxpayer.

"(F) TREATMENT OF PROFITABLE INSTITUTIONS.—Notwithstanding the provisions of subparagraph (D), the appropriate Federal banking agency may continue to take such other action which the agency determines to be appropriate in lieu of such appointment if—

"(i) the agency determines, with the concurrence of the Corporation, that—

"(I) the insured depository institution has positive net worth;

"(II) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital position since the date of the approval of such plan;

"(III) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable; and

"(IV) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(ii) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In addition to any other action authorized or required under this section, the Corporation shall, by regulation or order, restrict the activities of any level 5 depository institution.

"(2) MINIMUM RESTRICTIONS.—Regulations and orders prescribed or issued by the Corporation under paragraph (1) with respect to any institution described in such paragraph shall prohibit, at a minimum, the following activities by any such institution without the Corporation's prior written approval:

"(A) Any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action with respect to which the institution is required to provide notice to the appropriate Federal banking agency.

"(B) Any highly leveraged transaction.

"(C) Any amendment to any charter or bylaws other than to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Any material change in accounting methods.

"(E) Any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Payment of excessive compensation or bonuses.

"(G) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(H) Any other limitation on activities which will carry out the purposes of this section.

"(3) TERMINATION OF AFFILIATIONS.—The appropriate Federal banking agency or the Corporation may require any level 5 depository institution or any depository institution holding company which controls such institution to terminate any affiliation with any affiliate of such institution (other than an affiliate which is an insured depository institution) if the agency or the Corporation determines that the affiliate—

"(A) is in danger of default;

"(B) poses a significant risk to the liquidity or solvency of the insured depository institution or any insured depository institution subsidiary of such company; or

"(C) is likely to cause a significant dissipation of such institution's or subsidiary's assets or earnings.

"(4) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (3) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commission and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(j) REVIEW REQUIRED IF INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If any insurance fund or the Resolution Trust Corporation incurs a loss with respect to an insured depository institution on or after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Inspector General of the Corporation shall—

"(A) review the regulatory supervision of the institution (including the implementation of this section) to ascertain why there was a loss to the fund;

"(B) transmit a written report to the appropriate Federal banking agency, the Corporation, and, in the case of a State depository institution, the appropriate State bank supervisor on the results of the review under subparagraph (A), including recommendations for preventing any such loss in the future; and

"(C) provide a copy of the report to—

"(i) the Comptroller General of the United States; and

"(ii) the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) LOSS INCURRED.—For purposes of this subsection, any insurance fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution; or

"(B) if the Corporation is appointed receiver for the institution.

"(3) DEADLINE FOR REPORT.—The Inspector General of the Corporation shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), before the end of the 18-month period beginning when the assistance is provided unless the assistance is fully repaid before the end of that period.

"(B) If the institution is described in paragraph (2)(B), before the end of the 12-month period beginning on the date the receiver is appointed for the institution.

"(4) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose any report under paragraph (1)(B) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion of the report under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The Comptroller General of the United States shall annually—

"(A) review reports made under paragraph (1)(B) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) APPLICABILITY.—This subsection shall not apply with respect to any assistance provided under section 13(c), or the appointment of any receiver, before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(k) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e), (f), (g), (h), and (i) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(1) before the end of the 30-day period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the savings association has submitted a plan meeting the requirements of section 5(t)(6) of the Home Owners' Loan Act;

"(2) the Director of the Office of Thrift Supervision approves or does not disapprove that plan;

"(3) the plan remains in effect; and

"(4) the savings association remains in compliance with the plan.".

(b) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of any undercapitalized depository institution (as defined in section 38(b))—

"(i) failure to submit a capital restoration plan acceptable to the appropriate Federal banking agency within the time prescribed under section 38(f)(1)(C); or

"(ii) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(9) in the case of a bank not in compliance with all currently applicable capital standards, the bank fails—

"(A) to submit a capital restoration plan acceptable to the Comptroller of the Currency within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

"(B) to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may appoint a receiver for any national bank which is not in compliance with all currently applicable capital standards if the bank—

(A) fails to submit a capital restoration plan acceptable to the Comptroller within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

(B) fails to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

(C) by adding at the end the following new clause:

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) failure to submit a capital restoration plan acceptable to the Director within the time prescribed under section 38(f)(1)(C); or

"(II) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

SEC. 132. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(4)) is amended to read as follows:

"(4) APPOINTMENT OF THE CORPORATION BY THE CORPORATION.—

"(A) IN GENERAL.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law or the law or the constitution of any State, the Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State bank supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this paragraph.".

(b) AMENDMENT RELATING TO APPLICABLE GROUND.—Section 11(c)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)(B)) is amended to read as follows:

"(B) A finding by the Corporation that—

"(i) a conservator, receiver, or other legal custodian has been appointed for the institution;

"(ii) the institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 days; and

"(iii) 1 or more of the depositors in the institution is unable to withdraw any amount of any insured deposit.".

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the affected deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assist-

ance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. LIMITATION ON USE OF LIQUIDITY LENDING FOR DEPOSIT INSURANCE FUND PURPOSES.

(a) REDESIGNATION OF SECTION 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATION ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as so redesignated by subsection (a) of this section) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following new subsection:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is a viable depository institution; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is a viable depository institution,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as a level 5 depository institution under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED COSTS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any level 5 depository institution (as defined in section 38 of the Federal Deposit Insurance Act)—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a level 5 depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of such 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs costs in excess of the cost of liquidating such institution as of the end of such period,

the excess cost shall be an obligation of the Board to the affected deposit insurance fund, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS COST.—The liability of the Board under subparagraph (A) for the amount of any excess cost described in such subparagraph shall not exceed the amount of the loss the Board or any Federal Reserve bank would have realized on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) as if such increased advances had not been secured.

"(C) SEMIANNUAL ASSESSMENTS ON FEDERAL RESERVE BANKS TO PAY OBLIGATION.—The amount of any liability of the Board to the Federal Deposit Insurance Corporation shall be paid by the Board from the proceeds of semiannual assessments which the Board may impose on the net earnings of the Federal Reserve banks.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) PERMISSIBLE ADVANCES TO AVOID SYSTEMIC RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

"(B) LIABILITY FOR INCREASED COST.—To the extent that any advance pursuant to a determination of the Secretary of the Treasury under subparagraph (A) to any depository institution causes any deposit insurance fund in the Federal Deposit Insurance Corporation to incur costs in excess of the cost of liquidating such institution as of the first day of such advance, such excess cost shall be an obligation of the United States.

"(C) NOTICE.—The Secretary of the Treasury shall provide a written notice of each determination under subparagraph (A) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and each notice shall contain a description of the basis for the determination.

"(6) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate federal banking agency' has the meaning given such term in section 3(q) of the Federal Deposit Insurance Act.

"(B) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' has the same meaning given to such term in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning given to such term in section 19(b)(1)(A).

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is not in compliance with all currently applicable capital standards; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE DEPOSITORY INSTITUTION.—The term 'viable depository institution' means any depository institution which the appropriate Federal banking agency or the Board determines, giving due regard to the economic conditions and circumstances in the marketplace in which the institution operates, has capital in excess of the critical capital level and is not expected to fall below the critical capital level or be placed in conservatorship or receivership.".

(c) CONFORMING AMENDMENT.—Section 11 of the Federal Reserve Act is amended by adding the following new subsection:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 143. NO ASSISTANCE TO TROUBLED INSTITUTION WITHOUT REMOVING MANAGEMENT AND REPUDIATING SHAREHOLDERS CLAIMS.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by inserting after paragraph (11) (as so redesignated by section 141(e) of this title) the following new paragraph:

"(12) ACTIONS REQUIRED IF ASSISTANCE IS PROVIDED.—

"(A) IN GENERAL.—Upon providing any assistance under this subsection to or on behalf of any insured depository institution and in addition to any other action or condition the Corporation may take or impose, the Corporation shall—

"(i) remove the board of directors of such institution; and

"(ii) treat the claim of any shareholder against the institution with respect to any share or other capital investment of such shareholder in the institution as if such institution had been closed.

"(B) PREEMPTION OF STATE LAW.—The requirements of this paragraph, and the duty of *the Corporation to carry out such requirements, shall preempt any right of any shareholder in any insured depository institution under the law of any State.*

"(C) WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may waive the requirements of subparagraph (A)(i) for any person upon a written finding that—

"(I) such waiver would lessen the risk to the Corporation posed by the insured depository institution provided assistance; or

"(II) such person complied with the applicable laws, rules, supervisory directives, and orders, and did not engage in any insider dealing, speculative practice, or other abusive activity while serving on the board of directors or any other management position in the institution.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—The authority to waive the requirements of subparagraph (A)(i) may not be delegated by the Board of Directors.

"(iii) PUBLICATION OF WAIVER.—The Board of Directors shall publish a notice in the Federal Register of any waiver granted under this subparagraph and any amendment made by the Board to any such waiver.".

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Uniform Depositor Protection Act of 1991".

SEC. 152. FEDERAL DEPOSIT INSURANCE REQUIRED FOR STATE CHARTERED BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) IN GENERAL.—After the end of the 2-year period beginning on the date of the enactment of this Act, no State depository institution or State credit union may accept deposits unless such depository institution or credit union is an insured depository institution or an insured credit union, as the case may be.

(b) DEFINITIONS.—For purposes of this section—

(1) STATE DEPOSITORY INSTITUTION.—The term "State depository institution" has the meaning given to such term by section 3(c)(5) of the Federal Deposit Insurance Act.

(2) STATE CREDIT UNION.—The term "State credit union"—

(A) has the meaning given to such term by section 101(6) of the Federal Credit Union Act; and

(B) includes—

(i) any corporate credit union; and

(ii) any member of the Central Liquidity Facility (as such terms are defined in section 302 of the Federal Credit Union Act).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term by section 3(c)(2) of the Federal Deposit Insurance Act.

(4) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term by section 101(7) of the Federal Credit Union Act.

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(E) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of

any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(3) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a for-

eign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under

this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

Subtitle B—Customer and Consumer Provisions

SEC. 221. PAPERWORK REDUCTION AND IMPROVEMENTS IN ADMINISTRATION OF COMMUNITY REINVESTMENT ACT OF 1977.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall submit to the Banking, Finance and Urban Affairs Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate a report containing the following:

(A) Identification of the documentation deemed by each agency to be necessary to properly carry out examinations under the Community Reinvestment Act of 1977.

(B) Recommendations for steps to reduce paperwork required of insured depository institutions in connection with examinations for compliance with the Community Reinvestment Act of 1977.

(C) Recommendations for improvements in the administration and enforcement of the Community Reinvestment Act of 1977.

(2) CONSIDERATIONS.—

(A) ASSET SIZE.—In preparing the recommendations for the report under paragraph (1), the appropriate Federal banking agency shall take into consideration the asset size of insured depository institutions and the administrative resources available to such institutions in developing recommendations for reduction of paperwork.

(B) CONSISTENCY OF RECOMMENDATION WITH PURPOSES OF THE ACT.—The recommendations for reduced paperwork contained in the report under paragraph (1) shall be consistent with the purposes of the Community Reinvestment Act of 1977 and the responsibility of the appropriate Federal banking agency to properly evaluate each insured depository institution performance under the Act.

(b) GAO STUDY AND RECOMMENDATIONS FOR IMPROVEMENTS AND COST SAVINGS.—

(1) REQUIRED.—The Comptroller General of the United States shall conduct a study of the examination processes used by the appropriate Federal banking agencies to evaluate the compliance with the Community Reinvestment Act of 1977.

(2) FACTORS TO BE CONSIDERED.—The study conducted under paragraph (1) shall include the following analyses:

(A) An analysis of the documentation required of insured depository institutions by each appropriate Federal banking agency in carrying out such examinations referred to in paragraph (1).

(B) An analysis of to what extent, if any, such documentation may vary according to the asset size of insured depository institutions.

(C) An analysis of the cost of such documentation based on a representative sample of various insured depository institutions by asset size.

(D) An analysis of the effect of such documentation on the costs to the agency in carrying out an examination under section 804 of the Community Reinvestment Act of 1977.

(E) An analysis of the number of—

(i) applications which have been filed by insured depository institutions which are subject to evaluation under provisions of the Community Reinvestment Act of 1977;

(ii) such applications which have been subject to formal protests;

(iii) such protests which have been granted public hearings by each of the banking agencies; and

(iv) such applications which have been denied on the grounds of unsatisfactory performance under the Community Reinvestment Act of 1977.

(F) An analysis of the time required to process applications subject to evaluation under the Community Reinvestment Act of 1977.

(G) An analysis of the methods utilized by each banking agency in processing protests filed under the Community Reinvestment Act of 1977.

(H) An analysis of the rating systems used by each appropriate Federal banking agency under the Community Reinvestment Act of 1977, together with a detailed description of any inconsistencies between the rating systems used by each such agency and the weight given the ratings in processing and evaluating protests filed under such Act.

(I) An analysis of the factors considered in evaluating the performance of credit card banks and other nontraditional institutions under the Community Reinvestment Act of 1977.

(3) REPORT.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings and conclusions made by the Comptroller General in connection with the study required under paragraph (1).

(4) RECOMMENDATIONS.—The report submitted under paragraph (3) shall contain any recommendations for legislative or administrative action the Comptroller General may determine to be appropriate, including any legislative recommendations relating to—

(A) proposals to make administration and enforcement of the the Community Reinvestment

Act of 1977 more effective and consistent with the purposes of the Act; and

(B) proposals to reduce costs associated with examinations under, and the enforcement of, such Act.

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 222. ADDITIONAL FACTOR IN ASSESSING MAJORITY-OWNED INSTITUTION'S RECORD OF MEETING COMMUNITY CREDIT NEEDS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 224. FAIR HOUSING REPORTING.

Effective 1 year after the date of the enactment of this Act, no Federal agency shall require any institution for which the agency is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act.

SEC. 225. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules, and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed, or rescinded in order to enhance the capitalization and profitability of insured depository institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, an analysis of the costs and benefits of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of less than $50,000,000; and

(4) an evaluation of the appropriateness of terminating recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 226. NOTICE OF SAFEGUARD EXCEPTION.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B), and (C), no further notice shall be required until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

SEC. 227. PROHIBITION ON DECEPTIVE PRACTICES RELATING TO ELECTRONIC FUND TRANSFERS FROM ACCOUNTS.

(a) IN GENERAL.—Section 907 of the Electronic Fund Transfer Act (15 U.S.C. 1693e) is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTAIN DECEPTIVE PRACTICES INVOLVING PREAUTHORIZED TRANSFERS FROM ACCOUNTS.—

"(1) IN GENERAL.—No preauthorized electronic fund transfer, or any other electronic fund transfer, from any consumer's account may be made on the basis of any endorsement, deposit, transfer, or other form of negotiation of any check by the consumer.

"(2) NO PROVISION OF ANY CHECK MAY CONSTITUTE AUTHORIZATION OF CONSUMER.—No provision contained on any check which is received by a receiving depository institution and is endorsed, deposited, transferred, or otherwise negotiated by any consumer may be treated as constituting the authorization of the consumer to make any preauthorized electronic fund transfer, or any other electronic fund transfer, from the consumer's account.

"(3) REGULATIONS.—The Board shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(4) CHECK DEFINED.—For purposes of this subsection, the term 'check' has the meaning given to such term in section 602(7) of the Expedited Funds Availability Act.

"(5) RECEIVING DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'receiving depository institution' has the meaning given to such term in section 602(20) of the Expedited Funds Availability Act.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply with respect to any electronic fund transfer on or after the date of the enactment of this Act without regard to the date of the endorsement, deposit, transfer, or other form of negotiation of the check which, but for the enactment of such amendment, would constitute the authorization of the consumer to make any such transfer.

SEC. 228. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 229. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—

"(1) IN GENERAL.—Each insured depository institution shall adopt policies for closings of branches of the institution.

"(2) CONTENTS OF POLICIES.—Policies adopted under this subsection by an insured depository institution may include, among other matters, the following:

"(A) IDENTIFICATION OF CANDIDATES FOR CLOSING.—A requirement that in identifying branches as candidates for closing, consideration shall be given to profitability and growth potential as indicated by, at a minimum—

"(i) deposit level and mix;

"(ii) loan level and mix;

"(iii) trends in deposits and loans;

"(iv) operating income;

"(v) operating expense and size of staff; and

"(vi) transaction volume and mix;

except that in the case of a closure of an automated teller machine, only clauses (v) and (vi) need be considered.

"(B) MARKET EVALUATION.—A requirement that in evaluating whether to close a branch, the institution shall assess the market demographics of, and the availability of competitive financial services to, the immediate market area of the branch, including assessment of—

"(i) economic trends and forecasts for the immediate market area;

"(ii) the overall coverage of the general market area of the branch, including by other branches of the institution;

"(iii) other financial institutions that serve that general market area, including locations of branches of such other institutions; and

"(iv) except in the case of a closing of an automatic teller machine, general deposit and loan trends—

"(I) at other branches of the depository institution, and

"(II) if available, at locations of competitor depository institutions that serve the general market area of the branch.

"(C) ASSESSMENT OF IMPACT.—A requirement that the following measures shall be taken to assess the impact of any decision to close a branch:

"(i) Determination of whether alternative actions could be taken to improve the profitability of the branch to make it viable on a long-term basis.

"(ii) Forecast the resulting—

"(I) account runoff, and

"(II) operating costs savings, including those resulting from reductions in staff and occupancy costs.

"(iii) Consider the impacts, if any, on surrounding neighborhoods and the actions that can be taken to minimize those impacts, including, at a minimum, by evaluation and financial consideration of other service alternatives for the market area of the branch, including—

"(I) other nearby branches, and

"(II) any appropriate changes in facilities where customers' accounts would be moved.

"(D) REVIEW AND APPROVAL.—Requiring the following reviews and approvals for all proposed branch closings:

"(i) Initiation of any such proposal by the appropriate executive officer responsible for the affected community.

"(ii) Review and approval of any recommendation of such an action by—

"(I) a regional executive officer,

"(II) the appropriate branch group manager,

"(III) the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(IV) the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(V) appropriate executive management of the institution, and

"(VI) the Board of Directors of the institution.

"(E) NOTIFICATION TO CUSTOMERS.—Compliance with the following notification procedures for all branch closings:

"(i) Making every effort before the closing to assure that those affected by the closing, including neighborhood and political groups, are given ample and appropriate notice of the proposed closing, including by posting notice of the closing in the branch lobby and at each drive-in and automatic teller machine of the branch at least 30 days before the effective date of the action.

"(ii) Except in the case of a closing of an automatic teller machine, provision of a written notice to all account holders and safe deposit box customers at the branch at least 30 days before the effective date of the action, which includes—

"(I) the effective date of the action,

"(II) the branch to which accounts will be transferred,

"(III) the location of other nearby facilities of the institution, and

"(IV) a telephone number which customers may use to obtain further information about the action.

"(F) DOCUMENTATION.—The following documentation requirements:

"(i) Maintenance of all written analyses and decision approvals related to the closing (including all customer complaints about the closing that are submitted in writing) by the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977, for a period of at least 2 years after the effective date of the closing.

"(ii) Indication in all written analyses related to the closing of whether the neighborhood surrounding the branch is a low- to moderate-income area.

"(iii) Maintenance by the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977 of all customer complaints about the closing that are submitted in writing.

"(3) BRANCH DEFINED.—For purposes of this subsection, the term 'branch' includes an automatic teller machine.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122 and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount

taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from reduced assessment rates.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assess-

ment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from the award of community enterprise assessment credits.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in any community development credit union which meets the requirements established by the National Credit Union Administration Board for community development credit unions; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (c), by striking "an insured depository institution" and inserting "any level 1 or level 2 depository institution";

(2) by striking subsection (e) and inserting the following new subsection:

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, impose—

"(1) such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate; and

"(2) such restrictions or limitations as the Corporation may determine to be appropriate on the acceptance, renewal, or rollover of funds obtained, directly or indirectly, through any deposit broker by any insured depository institution which the Corporation determines—

"(A) has suffered a material decline in capital so as to constitute a threat to the institution's solvency;

"(B) has knowingly or willfully violated any cease and desist order issued to the institution by the appropriate Federal banking agency, or any written agreement entered into between the institution and such agency, which relates to the safety or soundness of the institution; or

"(C) has failed to comply with any applicable reporting or notification requirements imposed by the Corporation with respect to the acceptance of brokered deposits by an insured depository institution.";

(3) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) (as amended by paragraph (2) of this section) the following new subsection:

"(f) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution which does not meet the institution's applicable minimum capital requirements, or an employee of any such institution, shall not engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on comparable deposits offered by other insured depository institutions in such institution's normal market areas.";

(4) in paragraph (4)(A) of subsection (g) (as so redesignated by paragraph (3) of this subsection) by striking "exclusively"; and

(5) by striking subsection (h) (as so redesignated by paragraph (3) of this subsection) and inserting the following new subsection:

"(h) TROUBLED INSTITUTION DEFINED.—For purposes of this section, the term 'troubled institution' means any insured depository institution which—

"(1) does not meet the minimum capital requirements applicable with respect to such institution;

"(2) based on the most recent report of condition, report of examination, or inspection of such institution, has been assigned a CAMEL composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable system; or

"(3) has been informed in writing by the appropriate Federal banking agency that, on the basis of the institution's financial condition, the institution has been designated a 'troubled institution' for purposes of this section.".

(b) CLERICAL AMENDMENT.—The heading for section 29 of the Federal Deposit Insurance Corporation is amended to read as follows:

"SEC. 29. BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.".

SEC. 302. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.—

(1) MAXIMUM RATE.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended—

(A) in clause (i), by striking "the greater of 0.15 percent or"; and

(B) by inserting after clause (iii), the following new clause:

"(iv) Until the Corporation establishes a risk-based assessment system pursuant to paragraph (8), the annual assessment rate for Bank Insurance Fund members shall not be less than 0.15 percent.".

(2) USE OF ESTIMATES AND PROJECTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) USE OF ESTIMATES AND PROJECTIONS.—

"(i) AUTHORITY TO COMPUTE RATES.—The Corporation may make and use such estimates and projections as may be appropriate for computing assessment rates to be paid by Bank Insurance Fund members and Savings Association Insurance Fund members.

"(ii) AUTHORITY TO SET RATES.—The Corporation may—

"(I) set any assessment rate for Bank Insurance Fund members; and

"(II) after December 31, 1997, set any assessment rate for Savings Association Insurance Fund members.".

(3) REVISION OF ASSESSMENT BASE.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) AVERAGE ASSESSMENT BASE.—The average assessment base for any insured depository institution for any semiannual period shall be the average of such depository institution's assessment base for each of the following 2 dates:

"(A) the 1st of the 2 dates falling within such semiannual period for which the depository institution is required to submit reports of condition pursuant to subsection (a)(3) (hereafter in this section referred to as 'reports of condition'); and

"(B) the 2nd of the 2 dates falling within the semiannual period immediately preceding such semiannual period for which the depository institution is required to submit reports of condition.".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by this section and sections 103(b) and 232(b)(2) of this Act) is amended by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12) and by inserting after paragraph (7) (as added by section 103(b) of this Act) the following new paragraph:

"(8) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system under which the assessment rate determined for each insured depository institution is based on the risk that the institution poses to the appropriate deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing a risk-based assessment system, the Board of Directors may use the following criteria:

"(i) The ratio of capital to assets of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(ii) The activities conducted by the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iii) The assets and liabilities of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iv) Such other circumstances, conditions, activities or risk factors which the Board of Directors determines to be appropriate.".

(c) REGULATIONS.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe the final regulations required by section 7(b)(8) of the Federal Deposit Insurance Act (as added by subsection (b) of this section).

(2) EFFECTIVE DATE.—Such regulations shall take effect before the end of the 12-month period beginning on the date such regulations are published in final form.

(d) MORTGAGE LENDING SAFEGUARDS.—

(1) ANALYSIS.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall analyze the impact of such system on the following categories of lending:

(A) Single family mortgages.

(B) Single family mortgages located in low- and moderate-income census tracts.

(C) Nonconforming single family mortgages.

(D) Multifamily mortgages.

(E) Construction lending for—

(i) single family homes;

(ii) single family homes located in low- and moderate-income census tracts;

(iii) nonconforming single family homes; and

(iv) multifamily homes.

(F) Small business loans.

(2) REPORT.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall submit to the Congress a report describing the findings of the analysis required under paragraph (1).

(e) PUBLIC HEARING.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall hold at least 1 public hearing regarding that system.

(f) 2-YEAR REVIEW.—Before the end of the 2-year period beginning on the effective date of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall—

(1) using data collected from examinations of insured depository institutions, analyze the impact of the risk-based assessment system on the categories of lending described in subsection (d)(1); and

(2) submit to the Congress a report on the findings of that analysis, including recommendations for any legislation needed to ensure that the risk-based assessment system does not have an inequitable impact on those categories of lending.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting ex-

cept to the extent that activity is permissible for national banks.

“(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

“(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

“(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

“(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

“(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

“(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

“(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

“(i) QUALIFIED HOUSING PROJECT.—The term ‘qualified housing project’ means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

“(ii) LOWER INCOME.—The term ‘lower income’ means income that less than or equal to the median income based on statistics from State or Federal sources.

“(4) TRANSITION RULE.—

“(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

“(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

“(d) SUBSIDIARIES OF INSURED STATE BANKS.—

“(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

“(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

“(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

“(2) SECURITIES AND INSURANCE UNDERWRITING PROHIBITED.—

“(A) PROHIBITION.—Notwithstanding paragraph (1) and any provision of the Federal Deposit Insurance Corporation Improvement Act of 1991, no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

“(B) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

“(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

“(ii) control of the insured State bank has not changed since that date.

“(e) SAVINGS BANK LIFE INSURANCE.—

“(1) IN GENERAL.—No provision of this Act or the Federal Deposit Insurance Corporation Improvement Act of 1991 shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

“(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

“(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

“(2) FDIC FINDING AND ACTION REGARDING RISK.—

“(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

“(B) ACTIONS.—

“(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

“(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

“(f) CURRENTLY PERMITTED EQUITY INVESTMENTS.—

“(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank.

“(2) EXCEPTION.—Notwithstanding paragraph (1) or any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured State bank in a State which permits investments described in paragraph (1) as of September 30, 1991, may invest not more than 10 percent of the bank's total assets in—

“(A) common or preferred stock listed on a national securities exchange (except that not more than 0.5 percent of the bank's total assets may be invested in common or preferred stock of any 1 company); or

“(B) shares of an investment company registered under the Investment Company Act of 1940.

“(3) NOTICE OF PARAGRAPH (2) ACTIVITIES.—An insured State bank may only engage in any investment activity pursuant to paragraph (2) if—

“(A) the insured State bank has filed a 1-time notice with the Corporation of the bank's intent to acquire or retain such investments; and

“(B) pursuant to such notice, the Corporation has not determined, within 60 days of receiving such notice, that acquiring or retaining such investments poses a significant risk to the Bank Insurance Fund.

“(5) DIVESTITURE OF INVESTMENTS.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of such bank.

“(6) FDIC FINDINGS AND ACTION REGARDING RISK.—

“(A) FINDING.—Before the end of the 1-year period beginning on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether such equity investments by insured State banks pose or may pose any significant risk to the insurance fund of which such banks are members.

“(B) ACTIONS.—

“(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1).

“(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of such equity investments conducted by any insured State bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1) or to the insurance fund of which such bank is a member.

“(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

“(h) ACTIVITY DEFINED.—For purposes of this section, the term ‘activity’ includes acquiring or retaining any investment.

“(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking “: Provided, however, That no Federal reserve bank” and inserting “, except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank”.

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) RESTRICTIONS ON REAL ESTATE LENDING ESTABLISHED.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 39 (as added by section 229 of this Act) the following new section:

“SEC. 40. REAL ESTATE LENDING.

“(a) UNIFORM REGULATIONS.—The appropriate Federal banking agencies shall jointly adopt uniform regulations prescribing standards for loans or extensions of credit by insured depository institutions that are—

“(1) secured by liens on, interests in, or liens on interests in unimproved real estate, or

“(2) made for the purpose of financing the construction of a building or buildings or other improvements to real estate.

“(b) STANDARDS.—

“(1) CRITERIA.—In prescribing standards pursuant to subsection (a) for loans or extensions of credit described in such subsection, the agencies shall consider—

“(A) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be, by such loans or extensions of credit;

“(B) the safe and sound operation of insured depository institutions; and

“(C) the availability of credit.

“(2) VARIATIONS PERMITTED.—In prescribing the standards referred to in paragraph (1), the agencies may jointly provide for differentiations

among insured depository institutions and among types of loans to such extent and in such manner as may be—

"(A) required by Federal law;

"(B) warranted on the basis of risk to the deposit insurance funds; or

"(C) warranted on the basis of the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No Federal financial regulatory agency shall adversely evaluate an investment or a loan made by a federally insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property.".

(b) EFFECTIVE DATE.—The regulations prescribed pursuant to the amendment made by subsection (a) shall take effect before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 305. CAPITAL STANDARDS AND INTEREST RATE RISK.

(a) IN GENERAL.—The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk.

(b) IMPLEMENTING REGULATIONS.—In order to implement the system required under subsection (a), the appropriate Federal banking agencies shall prescribe regulations in final form before the end of the 1-year period beginning on the date of the enactment of this Act. Such regulations shall take effect before the end of the 2-year period beginning on such date of enactment.

SEC. 306. TRANSITION RULE.

Section 5(t)(5)(D) of the Home Owners Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking "for a national bank," and inserting "for a national bank or if such impermissible activities were commenced after April 12, 1989, and before August 9, 1989, by a savings association with assets of less than $400,000,000 and were made in residential real estate or land held for development as residential real estate,".

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) AUTHORITY TO RECOMMEND THAT APPROPRIATE FEDERAL BANKING AGENCY TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of an insured depository institution by the Corporation or the appropriate Federal banking agency or on other information, may recommend that the appropriate Federal banking agency take any enforcement action authorized under this section or section 7(j) or 18(j) with respect to any insured depository institution or any institution-affiliated party.

"(2) AUTHORITY OF BOARD TO DIRECT ENFORCEMENT ACTION BE TAKEN IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(A) IN GENERAL.—If the appropriate Federal banking agency fails to take the recommended action, or to provide an acceptable plan for addressing the concerns of the Corporation set forth in the Corporation's recommendation, before the end of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may direct the Corporation to take such action if the Board of Directors determines that—

"(i) the insured depository institution is in an unsafe or unsound condition;

"(ii) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the insured depository institution; or

"(iii) the violation or threatened violation, or threatened practices or omission, or continuation of practices, or omissions may cause, or is likely to cause, a risk of loss to the appropriate insurance fund, or may prejudice the interests of depositors of the institution.

"(B) ENFORCEMENT POWERS.—In the exercise of any authority under this subsection at the direction of the Board of Directors—

"(i) the Corporation shall have the same powers with respect to any insured depository institution and any subsidiary or affiliate of the institution as the appropriate Federal banking agency has with respect to such institution, subsidiary, or affiliate; and

"(ii) the institution and any subsidiary or affiliate of the institution shall have the same duties and obligations with respect to the Corporation as the institution, subsidiary, or affiliate has with respect to the appropriate Federal banking agency.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may direct the Corporation to exercise the Corporation's authority under this subsection before the end of the 60-day period described in paragraph (2)(A) in exigent circumstances after notifying the appropriate Federal banking agency.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Directors shall, by agreement with the other appropriate Federal banking agencies, establish and publish a description of the exigent circumstances under which the Board of Directors may direct the Corporation to act under this subsection without regard to the 60-day period described in paragraph (2)(A).

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—Whenever a regional office or regional bank of an appropriate Federal banking agency submits a request for a formal investigation or enforcement action, such regional office or regional bank shall concurrently submit the request to the head of the appropriate Federal banking agency and the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the appropriate Federal banking agency's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—The authority of the Board of Directors to make any determination or to direct the Corporation to take any action under this subsection may not be delegated.".

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured

depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by section 304 of this title) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or "(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

Subtitle D—Credit Unions

SEC. 331. LIQUIDATIONS OF FEDERALLY INSURED STATE CREDIT UNIONS.

(a) AUTHORITY TO LIQUIDATE.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) APPOINTMENT OF THE BOARD BY THE BOARD.—Notwithstanding any other provision of this Act, any other Federal law, or the law or constitution of any State, the Board may appoint itself as the liquidating agent of any State credit union insured under this title, and close such credit union, if the Board determines that the credit union is insolvent or bankrupt.

"(C) NOTICE AND APPROVAL OF STATE OFFICIAL.—

"(i) IN GENERAL.—The authority conferred by subparagraph (B) with respect to any State credit union shall be exercised only with the written approval of the State official having jurisdiction over such credit union that the grounds specified for such exercise exist.

"(ii) EXCEPTION.—If the approval of the State official having jurisdiction over any State credit union referred to in clause (i) has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C.

1787(a)(1)), as so redesignated by subsection (a) of this section, is amended in the first sentence by striking "(b)" and inserting "(j)".

(2) Section 207(a)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)(A)) is amended by striking "himself" and inserting "itself".

Subtitle E—FDIC Property Disposition

SEC. 341. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) LIMITATIONS ON APPLICABILITY OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning 180 days after the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(2) FISCAL LIMITATIONS.—

"(A) IN GENERAL.—During the period in which the provisions of this section are effective (as provided in paragraph (1)), such provisions shall apply only during the period beginning on the commencement date under subparagraph (B) and ending (if applicable) on the termination date under subparagraph (C).

"(B) COMMENCEMENT DATE.—For purposes of this paragraph, the commencement date shall be the day during the period referred to in paragraph (1) on which sufficient amounts are first determined to be available to compensate the Corporation for any losses resulting from the sale of properties under this section. For purposes of this subparagraph, such losses shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the period in which the program under this section is effective. If the determination under the first sentence of this subparagraph is made before the commencement of the period referred to in paragraph (1), the commencement date shall be considered to be the first day of the period referred to in paragraph (1).

"(C) TERMINATION DATE.—For purposes of this paragraph, the termination date shall be the day during the period referred to in paragraph (1) on which the sum of the affordable housing discounts for eligible residential properties transferred under this section by the Corporation first exceeds $30,000,000, as determined by the Corporation.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'affordable housing discount' means, with respect to any eligible residential property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section; and

"(ii) the term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws, as determined by the Corporation taking into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act and the prices of other properties sold under similar programs.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property that is subject to an agreement entered into by the Corporation before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 providing for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households; or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of such property, or (ii) make the property available for purchase by such families.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families.

"(3) RECAPTURE OF PROFITS FROM RESALE OF SINGLE FAMILY PROPERTIES.—Except as provided in paragraph (5), if any eligible single family property sold to a qualifying household is resold by the qualifying household during the 2-year period beginning upon initial acquisition by the household, the Corporation shall recapture the percentage provided in paragraph (4) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sale price for the acquisition of the property by the qualifying household, (B) the costs of any improvements to the property made after the date of the acquisition, and (C) any closing costs in connection with the acquisition.

"(4) PERCENTAGE OF PROFIT RECAPTURED.—The percentage of excess proceeds recaptured under paragraph (3) shall be as follows:

"(A) FIRST YEAR.—In the case of any resale occurring during the 1-year period beginning upon initial acquisition by the qualifying household, 75 percent of the amount of such excess proceeds.

"(B) SECOND YEAR.—In the case of any resale occurring during the 1-year period beginning 1 year after initial acquisition by the qualifying household, 50 percent of the amount of such excess proceeds.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation may in its discretion waive the applicability to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (o)(12)(B) and (C). The Corporation may grant such a waiver only for good cause shown, including any necessary relocation of the qualifying household.".

"(6) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, and (C) the resident household intends to occupy the property as a principal residence.".

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1), or until the Corporation determines that a property is ready for sale, whichever occurs first. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination *with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.*

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE BUILDING PROPERTIES.—With respect to any property consisting of a single building or structure purchased by a qualifying multifamily purchaser under paragraph (4)—

"(i) not less than 35 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located; and

"(ii) not less than 20 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTISTRUCTURE PURCHASES.—With respect to any purchase under paragraph (4) by a qualifying multifamily purchaser property involving a property consisting of more than one building or structure or involving more than one property as a part of the same negotiation—

"(i) not less than 40 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located;

"(ii) not less than 20 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and

"(iii) not less than 10 percent of the dwelling units in each separate building or structure of each property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements applicable to the property under paragraph (7), if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTISTRUCTURE PURCHASES.—The Corporation shall give preference, among substantially similar offers made under subsection (d)(4) to purchase an eligible multifamily housing property consisting of more than one building or to purchase more than one such property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate building or structure of each such property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of eligible residential properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent and not greater than 115 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The Corporation shall establish a market value for each eligible multifamily housing property and shall sell such property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7).

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c), (f), and (g)(1) shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—During the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that pur-

chases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by such families. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by such families. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(i) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(j) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that during the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—Any eligible single family property sold under this subsection shall be made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families. Eligible multifamily housing properties sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7).

"(l) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c) and (d) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(m) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(n) REPORT.—In the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(3) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).

"(4) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(5) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(6) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(7) INCOME.—The term 'income' shall have the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5));

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5)); and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceeds the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceeds the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract

to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 421. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 431. COMMISSION ON THE THRIFT INDUSTRY.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on the Thrift Industry (hereinafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed not later than 90 days after the date of the enactment of this Act. The members shall be appointed as follows:

(A) 2 citizens of the United States, appointed by the President.

(B) 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(C) 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(D) 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(E) 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(2) ADDITIONAL QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission who are appointed under any subparagraph of paragraph (1) other than subparagraph (A) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(B) LIMITATION.—Of the total number of the members of the Commission who are described in subparagraph (A), not more than 2 such members may be, at the time of any such member's appointment and during any such member's service on the Commission—

(i) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any savings association;

(ii) a director, officer, employee, or agent of any trade association which represents any savings association; and

(iii) a director, officer, employee, or agent of any consumer organizations.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(7) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(8) COMPENSATION AND EXPENSES.—

(A) NO BASIC PAY.—Except as provided in subparagraph (B), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(B) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of substance, as authorized by law for persons serving intermittently in the government service to the extent that funds are available for such expenses.

(9) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(c) FUNCTIONS OF COMMISSION.—

(1) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of and shall report and make recommendations on the future status of the thrift industry.

(2) ISSUES TO BE CONSIDERED.—Pursuant to its responsibilities under this section the Commission shall consider the following issues:

(A) The continued economic viability of savings associations, including the impact of the regulatory limits on safety and soundness.

(B) Obstacles and issues related to the conversion of savings associations to banks.

(C) The appropriateness and viability of a separate system of depository institutions dedicated to financing housing production.

(D) The appropriate role of community based financial institutions.

(E) The effectiveness and impact of the Qualified Thrift Lender Test.

(F) The status and role of the regional Federal home loan banks.

(G) The commercial ownership of savings associations.

(H) The merger of the Bank Insurance Fund and Savings Association Insurance Fund within the context of savings association conversion to bank status.

(I) The merger of regulators and regulations.

(J) The service provided to low- and moderate-income consumers and neighborhoods.

(K) The impact on the construction and sale of affordable housing.

(3) FINAL REPORT.—

(A) REPORT REQUIRED.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit to the President, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate, a final report which contains a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(B) MAJORITY VOTE.—A recommendation may be made by the Commission to the President and to the Congress only if it is adopted by a majority vote of the members of the Commission.

(C) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under subparagraph (A) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

(d) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of operations, organizations, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this section. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(B) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(ii) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section, except that any expenses of the Commission incurred under this clause shall be subject to the limitation on total expenses set forth in subsection (e)(2).

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this section, subject to the limitation on total expenses set forth in subsection (e)(2).

(6) STAFF.—

(A) IN GENERAL.—Subject to such rules and regulations as may be adopted by the Commission and the limitation on total expenses set forth in subsection (e)(2), the Chairperson of the Commission may appoint, terminate, and fix the compensation of an executive director and such additional staff as the Chairperson deems advisable to assist the Commission.

(B) PAY RATES.—Individuals appointed under subparagraph (A) may be paid at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(C) CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE, NOT APPLICABLE.—Appointments may be made under subparagraph (A) without regard to—

(i) provisions of title 5, United States Code, concerning appointments in the competitive service, and

(ii) provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to number, classification, and General Schedule rates.

(7) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee under the Federal Advisory Committee Act.

(e) EXPENSES OF COMMISSION.—

(1) IN GENERAL.—Any expense of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(2) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(3) GAO AUDIT.—Prior to the termination of the Commission pursuant to subsection (f), the Comptroller General of the United States shall conduct an audit of the financial books and record of the Commission to determine that the limitation on expenses under paragraph (2) has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

(f) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 432. BANK INSURANCE FUND ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Bank Insurance Fund Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—The Committee shall consist of 12 members, appointed as follows:

(1) 1 member shall be elected from each administrative district of the Federal Deposit Insurance Corporation (hereinafter in this section referred to as the "Corporation") by banks headquartered in that district from among individuals residing therein who are officers of banks that are Bank Insurance Fund members.

(2) 4 members appointed by the Corporation from among individuals who shall represent the public interest.

(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

(f) AUTHORITY OF THE COMMITTEE.—The Committee may—

(1) select its Chairperson, Vice Chairperson, and Secretary,

(2) adopt methods of procedure,

(3) confer with the Board of Directors on general and specific business conditions and regulatory and other matters affecting banks that are members of the Bank Insurance Fund, and

(4) request information and make recommendations with respect to matters within the jurisdiction of the Corporation and specifically with regard to the sources and uses of funds raised under sections 7 and 14 of the Federal Deposit Insurance Act.

(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

(h) REPORTS.—The Committee shall submit by March 31 of each year a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for the preceding year and contain such recommendations as the Committee considers appropriate.

(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to the Congress, under this section.

(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 433. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such bank by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 434. DEPOSITORY INSTITUTIONS REFORM ADVISORY COMMITTEE.

(a) PURPOSE.—The purpose of this section is to establish a committee—

(1) to study the current system of regulation and supervision of financial institutions; and

(2) to make recommendations to—

(A) improve the system's ability to ensure the safe and sound operation of depository institutions; and

(B) minimize losses to the deposit insurance funds.

(b) ESTABLISHMENT.—There is hereby established the Depository Institutions Reform Advisory Committee (hereafter in this section referred to as the "Committee").

(c) MEMBERSHIP.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Committee shall consist of 16 members as follows:

(A) 4 members of the public appointed by the Speaker of the House of Representatives.

(B) 4 members of the public appointed by the Majority Leader of the Senate.

(C) 8 members of the public appointed by the President, 1 of whom shall be designated by the President to be the Chairperson of the Committee.

(2) QUALIFICATION OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), members of the Committee shall be appointed from among individuals who are citizens of the United States and are specially qualified to serve on the Committee by virtue of their education, training, or experience with the depository institutions industry.

(B) INELIGIBILITY OF INDIVIDUALS HOLDING CERTAIN POSITIONS.—No individual may be appointed to the Committee who—

(i) holds any position to which such individual was appointed by the President; or

(ii) is an institution-affiliated party (as defined in section 3 of the Federal Depository Insurance Act) with respect to any depository institution.

(C) CONSUMERS AND ACADEMICS.—At least 2 of the members appointed under paragraph (1)(A), 2 of the members appointed under paragraph (1)(B), and 2 of the members appointed under paragraph (1)(C) shall be appointed from among individuals who are representatives of consumer organizations or who hold teaching positions at postsecondary educational institutions.

(3) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be members of the same political party.

(4) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee.

(5) MEETINGS.—The Committee shall meet, not less frequently than monthly, at the call of the Chairperson or a majority of the members.

(d) RESOURCES AND STAFF.—The Federal Deposit Insurance Corporation shall provide the Committee with all resources, including staff, offices, or equipment, as the Committee may require to carry out its duties.

(e) INFORMATION.—

(1) IN GENERAL.—The Committee may secure directly from any appropriate Federal banking agency or the Securities and Exchange Commission any information that the Committee deems necessary to enable it to carry out this section.

(2) AVAILABILITY UPON REQUEST OF CHAIRPERSON.—Upon request of the Chairperson of the Committee, the head of an appropriate Federal banking agency or of the Securities and Exchange Commission shall furnish the information to the Committee unless specifically prohibited by law.

(f) CONFLICT-OF-INTEREST AND CONFIDENTIALITY GUIDELINES.—The Committee shall prescribe guidelines to avoid—

(1) conflicts of interest with respect to the disclosure to, and use or release by, members of the Committee of any information relating to any depository or other financial institution or appropriate Federal banking agency; and

(2) the release of nonpublic information relating to depository or other financial institutions to which members may have access.

(g) DEFINITIONS.—For purposes of this section, any term used in this section which is defined in section 3 of the Federal Deposit Insurance Act shall have the meaning given such term in such section, except that the term "depository institution" includes any depository institution holding company (as defined in such section).

(h) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall study and include in the report required under subsection (i) recommendations for changes in the regulation and supervision of depository institutions in order to ensure their safety and soundness and to minimize losses to the deposit insurance funds.

(2) EVALUATION OF SPECIFIC FACTORS.—The study shall include an evaluation of the ability of the appropriate Federal banking agencies to—

(A) identify risks associated with new or existing complex activities or products of depository institutions;

(B) identify and monitor transactions between a depository institution and its affiliates, and to assess and control potential risks arising from these transactions;

(C) attract and retain supervisory, examiner, and legal staff with the qualifications, training, and experience necessary to ensure safe and sound depository institutions;

(D) detect and control conflicts of interest arising in depository institutions;

(E) anticipate and rapidly respond to changes in the depository institutions environment; and

(F) improve operations by using private contractors to assist with examinations or other aspects of supervision.

(i) FINAL REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Committee shall submit to the President, each House of Congress, each appropriate Federal banking agency, and the Securities and Exchange Commission a report containing the findings of the Committee and such recommendations as the Committee may determine to be appropriate, including any specific proposal for legislative or administrative action.

(j) TERMINATION.—The Committee shall cease to exist as of the end of the 60-day period beginning on the date on which the Committee submits the final report under subsection (i).

SEC. 435. REPORT ON GOVERNMENT CHECK CASHING.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the effects, on insured depository institutions that serve client bases that have a disproportionately high number of persons that receive Federal Government checks, of requiring those institutions to cash those checks.

SEC. 436. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

Subtitle E—Utilization of Private Sector

SEC. 441. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable and efficient.".

SEC. 442. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during the reporting period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 443. REQUIREMENT TO MINIMIZE PAYMENTS FOR LEGAL SERVICES.

The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall adopt and follow procedures with respect to contracts for legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

(1) the costs of such services are minimized, and

(2) there is a sufficiently representative distribution—

(A) geographically, and

(B) in terms of size of firms providing such service and contracts awarded for such services.

Subtitle F—Emergency Assistance for Rhode Island

SEC. 451. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount

of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan, is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest, on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year, are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless—

(A) each such proposed loan has received from a nationally recognized statistical rating organization a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of either the highest investment grade rating or not less than 1 less than the highest investment grade rating; or

(B) if no such rating is issued, the Secretary determines that the collateral securing the guarantee is sufficient so as to pose no risk of loss to the Federal government.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 10 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 461. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 462. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 463. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 464. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 465. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 466. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

The 2d sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended by striking "30 percent" and inserting "35 percent".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 471. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Establishment of Capital Standard Requirement

SEC. 481. CAPITAL STANDARDS.

Federal banking regulatory agencies shall establish minimum capital standards at least equal to the minimum capital requirements under all international accords to which the United States has agreed on capital standards for financial institutions.

Subtitle J—Bank and Thrift Employee Provisions

SEC. 491. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle K—Severability

SEC. 496. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

Subtitle L—Sense of the House of Representatives on the Credit Crisis

SEC. 498. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of

the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE HOUSE OF REPRESENTATIVES.—It is the sense of the House of Representatives that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction were a State bank which the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution which is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit *and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.*

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.".

SEC. 503. ACQUISITION OF THRIFT INSTITUTIONS BY CERTAIN COMPANIES WHICH CONTROL BANKS AND ARE NOT TREATED AS HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

"(14) SAVINGS ASSOCIATION ACQUISITIONS.—For purposes of paragraph (2)(A), an insured institution is described in this paragraph if control of the insured institution, or more than 5 percent of the shares of the insured institution, is acquired by a company described in paragraph (1) of this subsection in connection with a transaction—

"(A) which involves the insured institution and a bank controlled by the company;

"(B) which is approved under section 5(d)(3) of the Federal Deposit Insurance Act by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act); and

"(C) in which a bank controlled by such company is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act).".

(b) EXCEPTIONS TO CERTAIN LIMITATIONS ON BANK ACTIVITIES TO FACILITATE ACQUISITIONS.—Section 4(f)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTIONS FOR PARAGRAPH (14) MERGERS.—If any company described in paragraph (1) acquires control of any insured institution, or more than 5 percent of the shares of any insured institution, pursuant to a transaction described in paragraph (14)—

"(i) subparagraph (B)(i) shall not apply so as to prohibit the bank which is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act) in connection with such transaction from engaging in any activity in which the insured institution was engaged before the date of such transaction to the extent that—

"(I) the activity is permissible for bank holding companies under subsection (c)(8); and

"(II) the bank is not both accepting demand deposits that the depositor may withdraw by check or similar means for payment to third parties or others and engaging in the business of making commercial loans as a result of engaging in such activity; and

"(ii) subparagraph (B)(iv) shall not apply to an increase in the assets of the bank controlled by such company as a result of the transaction referred to in paragraph (14) during the 1-year period beginning on the date of such transaction.".

(c) TECHNICAL AMENDMENTS.—Clauses (i) and (ii)(VIII) of section 4(f)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)) are amended by striking "(10) or (12)" and inserting "(10), (12), or (14)".

The CHAIRMAN. No amendment to the substitute is in order.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. CARR, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, pursuant to House Resolution 289, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARMEY. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

☐ 1710

The Clerk read as follows:

Mr. ARMEY of Texas moves to recommit the bill, H.R. 3768, to the Committee on Banking, Finance and Urban Affairs with instructions to report the same to the House forthwith with the following amendment: Page 220, line 5, strike "(C) and (D)" and insert "(C), (D), and (E)".

Page 220, strike line 6, and all that follows through line 16, and insert the following new subparagraphs:

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor, as follows;

"(i) Deposits registered under the same taxpayer identification number or employer identification number of one depositor shall be attributed to that depositor.

"(ii) Deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors.

"(iii) Deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account.

"(iv) Deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal.

"(v) Such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate; provided that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) DEPOSITOR IDENTIFICATION.—

"(i) IDENTIFICATION NUMBER.—All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor.

"(ii) CONSIDERATION OF ADDITIONAL INFORMATION.—For the purpose of aggregating and attributing deposits the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.

Page 220, line 17, strike "(D)" and insert "(E)".

Page 226, after line 22, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(2) AGGREGATION RULES.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on January 1, 1995.

Page 227, line 16, strike "(B)" and insert "(E)".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore [Mr. GEPHARDT]. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempere. The gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. ARMEY. Mr. Speaker, my motion to recommit is an effort to limit taxpayer exposure to any potential repeat of the savings and loan debacle in banking. My amendment would provide depositors with FDIC coverage of $100,000 and an additional coverage for individual retirement accounts up to $100,000 for every individual depositor per institution.

Mr. Speaker, this is one of the primary recommendations that President Bush sent to the Congress in February.

This reasonable level of protection for depositors would introduce sorely needed market discipline into the banking industry. This will increase substantially within our financial industry by spreading the risk and decreasing taxpayers' exposure to any potential FDIC resolution insofar as this will result in more depositors considering more banks with which to place their deposits. It will encourage more prudent banking practices by both depositors and by bankers.

Mr. Speaker, I encourage my colleagues to join me, to recommit this bill with instructions from the full House to enforce market discipline in our banking system and to protect taxpayers.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for yielding.

Mr. Speaker, I am going to vote for the motion to recommit with instructions offered by the gentleman from Texas [Mr. ARMEY]. I would not be honoring my own commitment in this regard if I did not because this is identical to an amendment which I offered and got a vote on; did not get very many votes, not as many as I thought it would; to limit the insurance on deposits to $100,000 per person per institution and $100,000 per person in an individual retirement account.

Mr. ARMEY. The gentleman is correct.

Mr. WYLIE. Mr. Speaker, I think this is an amendment which is designed to protect the small saver, not the rich investor, as I said when I offered the amendment a little earlier. Ninety-seven percent of the American depositors in financial institutions would not be covered by this amendment. It would not be affected by this amendment, and I think that whereas, perhaps, this might not cause failures, the fact that we have these multiple accounts insured, it does help make this hole a little deeper if there are failed institutions.

So, I commend the gentleman from Texas [Mr. ARMEY] for his motion to recommit.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, just a few minutes ago we heard the distinguished majority leader of the House, the gentleman from Missouri [Mr. GEPHARDT], speaking about the effectiveness of the Federal Deposit Insurance Corporation for these past so many years in protecting this Nation from the dilemma we saw in the 1930's so aptly described by John Kenneth Galbraith in his book "The Great Crash," when Galbraith said at this time, "The fallacy of man is most apparent, for nothing was lost but money," and in order to avoid this kind of dilemma being repeated, we did, in the 1930's, create the Federal Deposit Insurance Corporation to insure the deposits and to assure the security and the sense of security of the small, unsophisticated depositor so that we would not have a repeat of the runs on the bank, and so far, over the years that we have maintained this principle that Federal Deposit Insurance Corporation exists for the purpose of increasing the small unsophisticated depositor and assuring them with a sense of security in the system, it has worked.

Mr. Speaker, in recent years, especially in the savings and loan industry, we have seen, if we take the concept too far, if we insure in large denominations and couple that practice with passthrough accounts and brokered deposits, we can attract speculators into the industry and sloppy, imprudent, undisciplined practices in the industry which can cause the industry's performance to be just exactly what we feared we would see again and hope to avoid with this institution of this deposit insurance.

Let me encourage the Members of the Congress to understand that the purpose of this motion is to restore Federal deposit insurance to what it was intended to be in the first place, insurance for the small depositor and the unsophisticated depositor, insurance that would be broad enough in its impact across this Nation's population, secure enough in its reliability, that the Nation's people would never again need to fear that there would be a run on the banks.

The beauty of the Federal Deposit Insurance Corporation was that, if it were effective, we would never have to use it. We have become so lax in the standards of insurance that we have put ourselves in a position today where we are having to ask for $30 billion for the agency to secure against the risks we have created.

Mr. Speaker, I urge the Members to vote for this security for the American working family.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. GONZALEZ. Mr. Speaker, the truth of the matter is that, when the gentleman from Ohio [Mr. WYLIE] said what he said a while ago, I joined Mr. WYLIE in that amendment he referred to. That has to do with this aggregation, aggregation of accounts. The sorry truth is that we lost in subcommittee, we lost in full committee, and we lost twice on the House floor.

So, Mr. Speaker, if we were to do this now, we would go back and unravel that string, and we would be back where we were just last week and the week before. So, I must vigorously oppose this motion to recommit.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I, too, rise in opposition to this motion to recommit, but I have a question that has arisen.

We in some of our States have State-chartered institutions that are allowed by State law under certain municipal sizes to sell insurance. This bill in no way impacts on that; does it?

Mr. GONZALEZ. Absolutely not, no way.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] very much.

Mr. GONZALEZ. Also, Mr. Speaker, since the gentleman and one of the ranking members of the committee has been the gentleman we had to contend with when we had the Wylie-Gonzalez amendment, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I would say to my friends who continue to bring this before us in Congress time, and time, and time again, and continue to be defeated, that they are persistent in their efforts. As the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], mentioned, those who would limit deposit insurance, those who would cause tomorrow's headlines across the Nation to be "House Cuts Deposit Insurance at Banks and Causes a Run on the Banks," they were defeated in the Subcommittee on Financial Institution Supervision, Regulation and Insurance, and they were defeated in the full Committee on Banking, Finance and Urban Affairs, and they have been defeated on the House floor. The last time we had a rollcall vote on this on the House floor was rollcall 372, and the vote was 153, yes; 264, no. Those Members who voted no on the Wylie amendment October 31 would, I assume, want to again vote no on this motion to recommit offered by the gentleman from Texas [Mr. ARMEY], my friend.

Mr. Speaker, what do the New York Times, the Washington Post, the American Association of Retired People, the U.S. Chamber of Commerce, Comptroller General Charles Bowsher, and almost every major banking group in the country all have in common? The answer is: Each opposes this motion to recommit and opposes new restrictions on existing deposit insurance coverage.

Mr. Speaker, I do not always agree with the Washington Post editorials, and I know that some others do not, but I am going to read one more time what I read on October 31, the first paragraph of the editorial of the Washington Post on this subject.

> The average citizen is in no position to know which bank is sound and which is tottering. Notoriously, there have been cases in recent years in which regulators with access to banks' internal accounts have been taken by surprise.

The editorial goes on to say that now, for sure, is not the time to limit deposit insurance, and that has been said by editorials across the Nation in newspapers from California to Maine.

□ 1720

Mr. Speaker, I urge my colleagues to realize that in many communities across this Nation, like in my own district, there is only one bank, and some people do have more than $100,000 in that bank. If they are required to take it elsewhere, they will take it to a canning jar or put it in government bonds or take it to other institutions in other cities. Some may take it to one of these banks in the Northeast that are said to be too big to fail.

I urge my colleagues to think twice about this last-ditch attempt to bring back this issue that has been defeated time and time and time again in recent months. I ask my colleagues to vote no on the motion to recommit. I ask them to vote as they did on October 31, when we soundly defeated the Wylie amendment which has now come back again in the form of the Armey motion to recommit.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I want to thank the gentleman for his kind remarks, and I want to thank the gentleman for reminding the Members of our past misjudgment on this issue. I also want to tell the gentleman how pleased I am to give all those Members who voted wrong in the past a chance to atone for that mistake.

Mr. HUBBARD. Mr. Speaker, I know the Members of Congress will be consistent in the defeat of this effort.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 74, nays 355, answered "present" 1, not voting 4, as follows:

[Roll No. 414]

YEAS—74

Archer
Armey
Ballenger
Beilenson
Bennett
Bentley
Burton
Carper
Cox (CA)
Crane
Dannemeyer
DeFazio
DeLay
Dornan (CA)
Dreier
Durbin
Frank (MA)
Gingrich
Goodling
Green
Hefley
Herger
Houghton
Hughes
Johnson (SD)
Johnson (TX)
Kanjorski
Kasich
Kildee
Kolbe
Leach
Lent
Lewis (CA)
Lipinski
Livingston
McCandless
McCollum
McEwen
McGrath
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Morella
Olin
Penny
Petri
Ridge
Ritter
Rohrabacher
Russo
Santorum
Scheuer
Schumer
Sensenbrenner
Shays
Sikorski
Skaggs
Solomon
Stark
Stearns
Studds
Taylor (NC)
Thomas (CA)
Unsoeld
Walker
Walsh
Weiss
Weldon
Wolf
Wolpe
Wylie
Yates
Zimmer

NAYS—355

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Murphy
Murtha
Myers
Nagle
Natcher

Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes

Richardson
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Serrano
Sharp
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt

Staggers
Stallings
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yatron
Young (AK)
Young (FL)
Zeliff

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—4

Brooks
Fawell

Mrazek
Waxman

□ 1741

Messrs. BUSTAMANTE, CUNNINGHAM, and JEFFERSON changed their vote from "yea" to "nay."

Mrs. UNSOELD, and Messrs. SIKORSKI, KILDEE, DEFAZIO, SCHUMER, PENNY, SCHEUER, JOHNSON of South Dakota, WEISS, YATES, and SKAGGS changed their vote from "nay" to aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(Mr. MICHEL asked and was given permission to proceed out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to speak out of order between the vote on the motion to recommit and the final vote for the purpose of engaging in a colloquy with the distinguished majority leader while we have the full complement of the House here and so that we might get some kind of reading as to how we will be proceeding for the balance of this day, tomorrow, the weekend, et cetera.

I yield to the gentleman from Missouri [Mr. GEPHARDT], my distinguished friend, for some kind of response on how he sees developments unfolding.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

As we said yesterday, if this legislation passes today, and of course we hope that it does, that will be the end of business for today.

Tomorrow we will meet at 11 a.m. and take up the conference report, again, on Labor, HHS appropriations, the veto override, and then we will also take up H.R. 2929, the California Desert Protection Act of 1991.

It is my belief that those two pieces of legislation could be finished at around 7 o'clock tomorrow night. We will inform Members as early as possible, probably by the middle of the afternoon tomorrow, whether or not there would be the need for vetoes and session on Saturday or Sunday. Then we can announce the schedule for Monday and Tuesday.

It is, again, our hope that on Monday and Tuesday we can finish the conference on the transportation bill, the conference on the crime bill, and be able to take up and complete legislation on the RTC and on campaign finance.

There will be some other matters that will be up on those days, but it is still our intent and belief that we can be finished with this session of Congress before the Sun comes up on Wednesday morning.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader for that enlightening announcement.

The SPEAKER pro tempore (Mr. DYMALLY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 84, answered "present" 1, not voting 5, as follows:

[Roll No. 415]

AYES—344

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray

Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Clay
Clement

Clinger
Coble
Coleman (MO)
Collins (IL)
Combest
Conyers
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dornan (CA)
Downey

Dreier
Duncan
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl

LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price

Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Riggs
Rinaldo
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Volkmer
Walsh
Washington
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—84

Andrews (ME)
Andrews (NJ)
Armey

AuCoin
Bacchus
Bentley

Blackwell
Bruce
Burton

Carr
Chapman
Coleman (TX)
Collins (MI)
Condit
Costello
Crane
Cunningham
Dannemeyer
DeFazio
DeLay
Dorgan (ND)
Durbin
Dwyer
English
Evans
Gaydos
Guarini
Gunderson
Hayes (IL)
Hayes (LA)
Henry
Herger
Hertel
Hughes
Hunter
Jontz
Kanjorski
Kaptur
Kolter
Laughlin
Levine (CA)
Lipinski
Marlenee
McNulty
Miller (CA)
Moody
Obey
Owens (NY)
Pallone
Perkins
Petri
Poshard
Rahall
Richardson
Ridge
Ritter
Roemer
Rohrabacher
Roth
Russo
Sanders
Sangmeister
Santorum
Savage
Schulze
Sensenbrenner
Serrano
Sikorski
Solomon
Stump
Tallon
Taylor (MS)
Towns
Traficant
Upton
Visclosky
Vucanovich
Walker
Waters
Weber
Weldon
Williams
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—5

Brooks
Doolittle
Fawell
Mrazek
Waxman

☐ 1804

The Clerk announced the following pairs;

On this vote:

Mr. Waxman for, with Mr. Doolittle against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3768, the bill just passed.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on the list of special orders for tonight, November 21, 1991, my name be transposed with the majority whip, the gentleman from Michigan [Mr. BONIOR].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, THURSDAY, NOVEMBER 21, 1991, TO FILE REPORTS ON H.R. 3604, GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991, AND H.R. 3245, CHATTAHOOCHEE FOREST PROTECTION ACT OF 1991

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until 12:00 midnight, Thrusday, November 21, 1991, to file the reports on H.R. 3604, entitled the Greer Spring Acquisition and Protection Act of 1991, and H.R. 3245, entitled the Chattahoochee Forest Protection Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

WOMEN'S BUSINESS DEVELOPMENT ACT OF 1991

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Development Act of 1991".

SEC. 2. WOMEN'S DEMONSTRATION PROJECTS.

The Small Business Act is amended by adding at the end the following new section:

"SEC. 28. (a) The Administration may provide financial assistance to private organizations to conduct 3-year demonstration projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) If the project first receives its Federal financial assistance prior to fiscal year 1993, an annual amount that is not less than the amount of the Federal financial assistance provided each year.

"(B) If the project first receives Federal financial assistance in fiscal year 1993, or thereafter, annual amounts equal to—

"(i) in the first year, 1 non-Federal dollar for each 2 Federal dollars;

"(ii) in the second year, 1 non-Federal dollar for each Federal dollar; and

"(iii) in the third and final year, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal matching funds are obtained.

"(4) If any recipient of assistance under this section fails to obtain the required non-Federal contribution during any year of any project, it shall not be eligible thereafter for advance disbursements under paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant for assistance under this section initially shall submit a 3-year plan on proposed fundraising and training activities, and may receive financial assistance under this section for a maximum of 3 years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a demonstration project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(d) For purposes of this section, the term 'small business concern' means a small business concern, either start-up or existing, owned and controlled by women, and—

"(1) which is at least 51 percent owned by 1 or more women; and

"(2) the management and daily business operations of which are controlled by 1 or more women.

"(e) There are authorized to be appropriated $4,000,000 for each fiscal year to carry out the demonstration projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit an annual report, beginning February 1, 1992, to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) The Administration shall not provide financial assistance under this section to any new project after October 1, 1995, except that it may fund projects which commenced prior thereto.".

SEC. 3. ADMINISTRATIVE PROVISION.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and redesignating subsections (d) through (j) as subsections (c) through (k). Projects funded pursuant to the provisions of former subsection (c) shall be deemed to be funded under and shall be treated as if funded under section 28 of the Small Business Act, as added by section 2.

SEC. 4. PERMANENT AUTHORIZATION OF SMALL LOAN PROGRAM.

Section 7(a)(19)(B) of the Small Business Act (15 U.S.C. 636(a)(19)(B)) is amended by striking "during fiscal years 1989, 1990, and 1991,".

SEC. 5. NATIONAL WOMEN'S BUSINESS COUNCIL.

Subparagraph (G) of section 403(b) of the Women's Business Ownership Act of 1988 (102 Stat. 2695) is amended to read as follows:

"(G) The Chairperson and Vice Chairperson of the council shall be designated by the President and may be either a representative of the public sector or the private sector, except that the Chairperson and Vice Chairperson shall not be from the same sector concurrently. Each shall serve for a maximum term of 2 years. No person may be designated to the same office for 2 consecutive terms, nor may consecutive designees as Chairperson be from the public sector.".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. IRELAND. Reserving the right to object, Mr. Speaker, I take this time for the purpose of asking the chairman if he would very quickly explain the differences between the Senate amendment and the House bill.

Mr. LAFALCE. Mr. Speaker, if the gentleman will yield, I would be very glad to explain the Senate amendment.

Mr. IRELAND. Mr. Speaker, I am glad to yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, although technically the Senate amendment struck all after the enacting clause of the House bill, by and large they simply reinserted all of the provisions we had with the exception of two substantive areas.

As passed by the House, the bill would extend a 1988 pilot program under which private organizations may apply to conduct demonstration projects to provide training and counseling to women. These organizations can receive Federal grants providing they obtain an equal amount of financing from the private sector. The Senate amendment would expand the sources of the matching grants the organizations may use to qualify so as to include State and local government funding rather than only private money.

In the second area, as passed by the House, the bill would expand the National Women's Business Council which recommends to the President and the Congress specific ways to support women-owned businesses and help women overcome barriers to full participation in the economic mainstream. Under existing law, the size of the Council is nine members; the bill, as passed by the House, would expand the size by two, with both of the new members being selected by the President, one of whom would be an African-American woman and one of whom shall be a Hispanic woman. The Senate amendment would eliminate the increase in size of this Council.

I believe it is very important that we enact this legislation which also extends the provisions of a program which provides incentives to lenders to provide small loans to women and other entrepreneurs. Especially with the current credit crunch, it is essential that we extend this program which, unfortunately, expired October 1. Both the House bill and the Senate amendment include this extension.

I regret that the Senate did not simply agree to the House bill, but they did not. In the interest of enacting the bill without additional delay, I urge acceptance of the Senate amendments.

Mr. IRELAND. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on the Senate amendment to H.R. 2629, which was just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MODIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

The SPEAKER pro tempore. The Chair, on behalf of the Speaker, without objection, appoints the following additional conferees on the bill (H.R. 3371) to control and prevent crime:

Pursuant to the previous order of the House of November 21, 1991, the last paragraph of the appointment of conferees on the bill H.R. 3371 is amended to read as follows:

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Messrs. ROE, ANDERSON, OBERSTAR, HAMMERSCHMIDT, and INHOFE.

There was no objection.

LOWER INTEREST RATES FOR AMERICAN MADE CARS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we have a bit of good news in this Thanksgiving season, and that is that the Bank of Glen Burnie, MD, has instituted a 1-percent rate discount on all of its loans to persons buying new American manufactured cars and trucks, starting Nov. 1, 1991.

According to Rie Almes, executive assistant to senior vice president Stephen G. Boyd, the advertisements announcing the rate discount have generated more calls than the loan department has ever received for new cars.

The ads were placed in the weekly Anne Arundel County Sun edition and the community paper the Maryland Gazette, and have generated calls being handled by 20 people in the bank's 5 locations: Glen Burnie, Severn, Odenton, Crownsville, and Pasadena.

Mr. Speaker, because of the success of this new discount car loan rate, the Bank of Glen Burnie is leaving the duration of the program open-ended, and I suggest to other banks across the country that this is an excellent way to help jump-start a stalled economy.

□ 1810

Support American manufactured products, let us get Americans working again. It does work.

TWENTY-THIRD ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SERRANO) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation.

(For message, see proceedings of the Senate of today, Thursday, November 21, 1991.)

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, am I correct to assume that under the precedents of the House, no further legislative business can be conducted today and no bills could be brought forward by unanimous consent or by other means?

The SPEAKER pro tempore. The Chair knows of no further legislation at this point. When the Chair is aware of any possible further legislation, it announces the start of the special orders without prejudice to resumption of business.

Mr. WALKER. Mr. Speaker, but I am seeking assurance from the Chair. Typically, when we go to special orders, there will be the assurance to the Members that there will be no more legislative business conducted.

I am seeking that assurance since there has been some rumor that the foreign aid bill would be attempted to be sneaked through the Congress at some point.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I would just tell the gentleman it is my understanding from speaking to majority staff that there is no intention by the chairman of the Committee on Foreign Affairs, or any other Member, to bring the foreign aid bill forward at this time.

Mr. WALKER. I thank the Chair.

NATIONAL SURFACE TRANSPORTATION BILL IS ON HOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today to speak about the national surface transportation bill that is holed up in conference. My State of Missouri is losing millions of dollars and hundreds of potential jobs because conferees in the Senate and House have reached a stalemate—apparently the other body is insisting upon adoption of their own basic structure as the future national highway plan.

I am gravely concerned about this, because the Senate bill perpetuates the old formula under which donor States—including Missouri—contributed while other States received. The time has come to move into a new phase of transportation policy. Our needs have changed over the last 20 to 30 years, and I firmly believe that our transportation policy—which is at the core of economic development for communities, particularly in rural America—must reflect these changes.

This opportunity to refocus transportation policy and provide for the equitable distribution of trust fund dollars must not be lost. If Congress can't produce a highway bill that is acceptable to over 250 Members of this body, representing the donor States, then it is clear that the process by which we make laws has broken down. We cannot buckle down to the other body's wishes and accept a bad bill just to have a bill.

We cannot afford to let this legislation lapse, costing our country hundreds of thousands of jobs, and go our merry way to have Thanksgiving dinner. Let's get this bill done, but let's put forth a bill that treats States fairly in terms of trust fund dollars.

Since highway construction funds expired September 30, miles of road have not been built or repaired, desperately needed bridges have not been fixed or constructed, and jobs have been lost. The State Highway Department estimates that Missouri, alone, could lose over 4,000 jobs as a result of halting work on 73 million dollars worth of projects because of these delays.

In my district in northwest Missouri, contract bids for a project on a major artery through St. Joseph—a $3.4 million project—have not been let. In Maryville, the request for bids for the first phase of a long-awaited project—a bypass on Highway 71—were scheduled for October. This phase is an $8 million portion of a $16.7 million project. And on one of the most important north-south links in northwest Missouri, bids were to be let in October to replace a bridge over railroad tracks in Livingston County. This is a $3 million project.

These projects in Northwest Missouri are indicative of what is needed all over the State of Missouri—major work on roads and bridges. I supported H.R. 3566 because I wanted to bring Missouri dollars back to Missouri where they are greatly needed for these kinds of projects. Missouri would receive $452 million a year starting in 1992, compared with $250 million that the State received between the year 1987 and 1991.

Let me go over some of the provisions that I voted for in the House-passed version, that make for a fair distribution of trust fund dollars.

We need an apportionment formula based on usage, so if your State's roads are heavily traveled and you have a lot of roads, your State receives money to keep these necessary arteries safe for travel. This makes sense. The House-passed version contains this kind of formula, and I believe it is one of the most important provisions in the bill. We also need a true minimum allocation of 90 percent, based on all apportionments, allocations, and demonstration funds. That way, States are assured a fair and equitable return on their trust fund contributions. This makes sense.

The bill also established a 155,000 mile National Highway System, identifying major strategic roads nationwide—both rural and urban—that promote economic development by linking towns with major transportation hubs and other major cities.

If these provisions are fair and foster the growth of this country, why are there such problems reaching a solution in conference? Is it that the other body does not support fairness? The House passed its version by a vote of 343 to 83. In the other body, an amendment was offered to S. 1204 which would have implemented the same type of apportionment formula as that contained in the House version. The amendment was defeated, but received 41 votes. From these numbers, it is clear that a compromise including this formula would have considerable support in both bodies. Instead of giving in on something as important as how the money will be distributed nationwide, why not let go of those important pork barrel projects?

The House crafted a bill, after many long hours of work, with provisions that treat States fairly. I urge the conferees not to let this hard work be for nought. I urge the 250 Members representing donor States to make their voices heard, and make known that as a bottom line we will not accept anything less than equitably apportioned and allocated funds. Let's stay here until this goal is accomplished.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing with my colleagues, JAKE PICKLE, chairman of the Oversight Subcommittee, BILL ARCHER, ranking Republican of the Ways and Means Committee, DICK SCHULZE, ranking Republican of the Oversight Subcommitte, and members of the Oversight Subcommittee, important reform legislation, H.R. 3837, The Federal Program Improvement Act of 1991. This legislation is one part of the major oversight initiative project I announced in January of this year to systematically review the efficiency and effectiveness of programs under the jurisdiction of the Committee on Ways and Means.

The Subcommittee on Oversight spent the first session of this Congress investigating administration of the health, trade, tax, and benefit programs for which the committee is responsible. As a result, the subcommittee has developed recommendations that will significantly improve the operations and management of Federal programs under the committee's jurisdiction, as well as address fraud, waste, and abuse that have been identified.

The bill I am introducing today reflects the subcommittee's recommendations for reform. Throughout its review this year, the subcommittee has forwarded the results of its investigations in separate reports to the full Committee on Ways and Means for its consideration. Importantly, these reports have been approved by the subcommittee on a bipartisan basis.

Problems addressed in H.R. 3837 include: mistaken payments of Federal benefits to deceased individuals; erroneous payments of Medicare benefits to individuals having other primary medical insurance; schemes involving the sale of durable medical equipment to Medicare beneficiaries; mismanagement and abuse of Customs' overtime pay laws; and, problems with accounting for and collection of pension premiums by the Pension Benefit Guarantee Corporation.

Mr. Speaker, the American taxpayer must have confidence that the programs and Federal agencies they are supporting with their hard-earned tax dollars are operating efficiently, without waste or abuse. Our citizens deserve no less. The legislation introduced today is one strong step in the direction of assuring the American people that their tax dollars are being well-spent and not squandered.

I think it is important that the subcommittee's recommendations be available in statutory form for the public and the affected agencies to review during the congressional recess. Several of the provisions contained in H.R. 3837 may need to be discussed further, and in greater detail, before final enactment. I am aware of the concerns of various Federal agencies and their employees, and other interested parties, about certain aspects of this package—particularly the subcommittee's recommendations to reform Customs inspector overtime pay and to reform the Medicare laws. I understand that compromises may be developing with respect to the issue of Customs' overtime, and I encourage such efforts. The full Committee will continue to listen to all concerned, with the goal of fine-tuning and improving the package as need be.

Mr. Speaker, I want to publicly commend Subcommittee Chairman PICKLE and all the members of the subcommittee for their cooperative, diligent and responsible oversight effort. I intend to take the subcommittee's bipartisan package of recommendations before the full committee early next year for committee discussion and eventual approval.

☐ 1820

TRIBUTE TO HARRY C. HAMM

The SPEAKER pro tempore (Mr. SERRANO). Under a previous order of the House, the gentleman from West Virginia [Mr. MOLLOHAN] is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, I rise today to pay tribute to Harry C. Hamm, whose 50-year career with the Wheeling News-Register set a high standard for journalists, and citizens, everywhere.

Long before his retirement in September and his death less than 2 months later, Harry had attained legendary status in his home State of West Virginia and beyond. He was principally known in the newspaper field for his keen eye, his crisp writing and his sound professionalism. Harry Hamm possessed these qualities in abundance, and they served him well.

He began his long and distinguished career with the Ogden Newspapers in 1941, when he joined the News-Register staff as a reporter. Duty called soon after, and Sergeant Hamm served with distinction in the U.S. Army during World War II, earning both the Purple Heart and the Oak Leaf Cluster. After 3 years of service—2 of which were spent in the European Theater of Operations—he returned home to Wheeling and to the News-Register. In 1948, Harry was promoted to city editor of the newspaper. He was named managing editor in 1951, and in 1957 was promoted to editor. In addition, from 1968 until 1975 he served as editor in chief and consultant to other Ogden newspapers.

Mr. Speaker, it would be a great understatement—even an injustice—to describe Harry Hamm's career only by using words such as "editor" or "reporter." He was much, much more. As his own newspaper stated in an editorial published soon after his death:

> It is difficult to sum up, in a few words, the life of a man so complex as Harry Hamm. Perhaps it can be accomplished best by saying that he always wanted the best for his family, his community and his profession; that he labored mightily and well to those ends—and that in so many ways, there is proof he succeeded.

Mr. Speaker, I know of no one who loved Wheeling more deeply, or who labored more diligently on its behalf, than Harry Hamm. He appreciated Wheeling's rich history, and took a great deal of pride in how the city had evolved. He also had a grand vision for its future—a vision he shared with us all.

Harry played a key role in developing the State's first urban renewal project. He was a steadfast supporter of urban renewal in his community, and served as chairman of the Wheeling Urban Renewal Authority. This was the groundwork for Wheeling 2000—the plan Harry authored to lead his community into the 21st century.

Mr. Speaker, the city of Wheeling, like virtually all of West Virginia, suffered in the 1980's. The decline of the steel and coal industries caused high unemployment, and forced many West Virginians to leave the State. But Harry Hamm's faith in his city and its people did not waver—he saw Wheeling as a city in transition, and set out to develop a blueprint for its future.

His Wheeling 2000 plan generated a renewed sense of optimism in the community. It provided a realistic, orderly approach to economic development; one based upon the city's most valuable resources. And although Harry never sought personal glory for his many achievements, it is important to note that he was honored as a valley visionary in recognition of his work on Wheeling 2000.

Harry also was a tireless and successful supporter of Oglebay Park, of Wheeling Jesuit College and of Wheeling Hospital; he was the driving force behind countless community projects, both large and small.

I personally placed a high value on his friendship, and I greatly admired his integrity, his enthusiasm and his strong devotion to family. He drew great strength from his family: from his remarkable wife, Marry Haddox Hamm, and their wonderful 12 children and 16 grandchildren. As everyone who knew Harry can attest, his family was a constant source of inspiration and pride. And there is no question that those feelings were deeply shared.

Mr. Speaker, while the city of Wheeling has lost one of its strongest and most eloquent voices, the contributions that Harry Hamm made to our community will remain a source of enrichment for years to come. I extend my deepest sympathies to the Hamm family and to Harry's many close friends.

THE FREEDOM OF INFORMATION ACT, THE CONGRESS, AND THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, in recent weeks, others have raised the issue of the applicability of the Freedom of Information Act to the Congress, and several Members have introduced bills that would make Congress subject to the FOIA. This is a proposal that has been raised from time to time in the past.

It is not my purpose today to take a position on the basic issue. Rather, I would like to broaden the discussion about the scope of the FOIA to include some other relevant points. In general, I believe that there are three fundamental misconceptions about the FOIA and the Congress that have not been fully recognized in the debate.

The first misconception is that the FOIA covers the entire Federal Government except for the Congress. The truth is that the FOIA does not apply to parts of the executive, judicial, and legislative branches of Government. Congress did not exempt only itself from the FOIA.

Perhaps the most significant part of the executive branch that is not covered by the FOIA is the Office of the President and the Vice President. These two elected officials and their immediate staffs are not required to accept or respond to FOIA requests. Similarly, elected Members of Congress and their staffs are not covered by the FOIA. In addition, the FOIA does not cover any part of the judicial branch of the Federal Government.

The scope of the FOIA was carefully defined by the Congress to apply to those parts of the Federal Government where it was needed. Extensive hearings held in the 1960's and 1970's demonstrated that executive branch agencies were unwilling to make routine information about their activities available to the public. The FOIA was passed in response to a documented, long-term problem of excessive secrecy in the executive branch. No one has made a similar case for the Congress.

The President and Members of Congress were not made subject to the FOIA. This decision was made in part because of a recognition that elected officials are directly accountable to the public in a way that bureaucrats are not. The judicial branch was not covered either, partly out of recognition of its separate role and need for independence.

Portions of the Executive Office of the President are covered by the FOIA. The Executive Office of the President includes agencies such as the Office of Management and Budget, the Office of the U.S. Trade Representative, and the drug czar, and these agencies are subject to the FOIA. Other offices in the Executive Office of the President whose sole function is to provide advice to the President—or Vice President—were expressly exempted from the FOIA in the 1974 amendments. At the insistence of the President, Congress in 1974 preserved the exemption for the immediate staff and Office of the President and Vice President.

A second misconception is that applying the FOIA to the Congress would actually make more records publicly available. The truth is that applying the FOIA to the Congress would permit both the Congress and the executive branch to withhold from the public some information that is now routinely disclosed. Let me explain this unexpected result.

Standard FOIA principles permit the withholding of predecisional documents for the purpose of protecting advice, recommendation, and opinions which are part of the deliberative, consultative, decisionmaking processes of Government. The fifth exemption of the FOIA covers these types of documents.

Consider how these rules might apply to legislation. A bill as introduced is just a draft which fuels the deliberative, consultative, decisionmaking process of the Congress. Until a bill is voted upon and approved by a committee, by the House, or perhaps even by both Houses of Congress, the bill remains a draft document subject to change. One could argue that bill and amendments are predecisional documents subject to withholding.

I am not suggesting that the Congress would withhold bills in process, just that the authority to do so might exist if the FOIA applied to the Congress. For anyone who wants to test this theory, I suggest that you make a FOIA request at any executive branch agency for a copy of any legislative recommendations that have not yet been approved by the agency head or by OMB. In general, you are likely to find that such a request will be denied on the grounds that the draft bill is a predecisional document.

Applying the FOIA to the Congress could have the perverse effect of permitting the executive branch greater authority to withhold documents. Under exemption 5 in current law, interagency documents can be withheld from the public under certain circumstances. Documents sent by the executive branch to the Congress generally do not qualify as interagency documents because Congress is not an agency under the law. If Congress were defined to be an agency under the FOIA, then a broader range of executive branch documents could fall within the fifth exemption. The net result could be that information that is available today would no longer have to be released.

The third misconception is that the Congress operates in excessive secrecy. The truth is that the Congress is the most open of the three branches of Government. All debate on the floor of both Houses is open to the public. The proceedings of both Houses are televised, and a complete transcript is published immediately upon the conclusion of each day's business. Copies of the CONGRESSIONAL RECORD are widely distributed throughout the country. Even the most sensitive business of congressional committees—the markup of legislation—is usually conducted in open session.

The vast majority of congressional hearings are open to the public and the press. Many are televised. Transcripts of hearings are routinely published and provided to Federal depository libraries and others at no charge. Copies of all bills, resolutions, committee reports, and other House and Senate documents are routinely available upon request.

It is difficult to identify any category of current congressional records that would be more available under the FOIA. What about the much disputed records of the House bank? Those records would be exempt from disclosure under the FOIA's existing exemption covering invasion of personal privacy. Anyone who doubts this conclusion should ask any executive branch agency for any personal financial information of a comparable nature regarding any Federal employee. The request will properly be denied. As a Federal banking agency for a list of delinquent borrowers or check bouncers from banks operated by the Federal Government. That request will also be denied.

Further, may of the congressional records that are available to the public are now provided in response to requests made by telephone. The House Document Room, for example, provides copies of House bills and reports in response to requests made in person, on the telephone, in writing, and by fax.

If FOIA procedures were applied to the distribution of these documents, all requesters could be obliged to make written requests. The Document Room would be entitled to wait 10 days before providing the requested material. In addition, a charge could be imposed on requesters. Today, House materials are distributed at no charge to the public. I know of no Federal agency—including the Office of the President—that provides so many different documents to so many different people in such a convenient manner.

It is useful to contrast the openness of the Congress with the disclosure practices of the Office of the President and the Office of the Vice President. A recent FOIA decision by a Federal district judge offers some insight into the availability of Presidential and Vice Presidential records. The case is Meyer versus Bush, and it was decided about a month ago.

The requester in the case sought access to records created by the Task Force on Regulatory Relief which was chaired during the Reagan administration by Vice President George Bush. The request was denied on the ground that the Vice President's task force was not an agency under the FOIA. The Government would not even search the Vice President's Office for any records responsive to the request.

What is interesting about this case is the argument made on behalf of Vice President George Bush and not the outcome. For 3 years, the Government has been resisting the FOIA request for these records on the grounds that the FOIA did not apply. Whether that legal position is correct is a separate issue. There is, however, no legal principle that prevented the Vice President from releasing those records regardless of the applicability of the FOIA. The records could have been released if President Bush were willing to do so. He was not.

The judge did not accept the Government's legal arguments. The judge found that Vice President's Bush's task force was an agency subject to the FOIA because it had functions beyond providing assistance and advice to the Vice President. This is not a final judgment, and I am sure that the Government will appeal this ruling to the Supreme Court if necessary.

The Council on Competitiveness, chaired by Vice President Quayle, also contends that it too is not subject to the FOIA, and its records are not available to the public. The Council on Competitiveness, the successor to the Task Force on Regulatory Relief, is heavily involved in overseeing the Federal Government's regulatory activities. The Council has been criticized for conducting these activities in secret.

The question about the applicability of the FOIA to the Congress cannot and should not be considered in a vacuum. If we should make the Congress comply with the FOIA, I believe that we must make the President and Vice President subject as well. If we are to alter the FOIA's exemption for elected officials, let us treat all elected officials equally.

We may also need to reconsider the exemption for the judicial branch. A recent article in the Washington Post discussed the effect of a new law that required Federal judges to report on motions and trials that have remained undecided for more than 6 months. The resulting information provided an interesting new window on the activities and performance of judges. I also suspect that some of the judges were embarrassed. My guess is that the effect of this limited amount of sunshine on the courts will be to spur delinquent judges to do a better job. That has certainly been one of the major benefits from more FOIA disclosures by the executive branch.

Let me turn briefly to another related issue. A few weeks ago, the President offered the observation that the Congress was not subject to the Privacy Act of 1974. This is certainly true, although the President failed to mention that he, the Vice President, their immediate staffs, and the judiciary are not subject to the Privacy Act either. In fact, the FOIA and the Privacy Acts are identical in scope.

The President raised the Privacy Act in the context of using the act to punish leakers. I am not sure, however, that the Privacy Act is an effective deterrent to leaks in the executive branch. First, the criminal penalties under the Privacy Act are misdemeanors with a maximum fine of $5,000. No one who violates the Privacy Act can be sent to jail.

Second, the criminal penalties of the Privacy Act have only been used a few times. I do not know the exact number of people who have been prosecuted in the more than 15 years that the law has been on the books, but it is no more than a handful. How many leaks of personal information came from the executive branch during that time? Of course, any leaks that might have come from the immediate staff of the President would not be subject to criminal sanctions under the Privacy Act because the act does not apply to the office of the President. And apparently, the President has not proposed extending the Privacy Act to his own office.

Third, it is not even clear that a release by the FBI of sensitive personal information from its investigative files would be a violation of the Privacy Act. The FBI has reserved to itself the ability to disclose publicly any information about the subject of an investigation—including appointees to Federal office—without violating the Privacy Act.

Under the Privacy Act, each agency can define permissible disclosures of information—called routine uses—through notices in the Federal Register. If a particular disclosure has been authorized by a routine use, then it is legal under the Privacy Act. The routine uses for any system of records are defined by the agencies. There is no general legal requirement for establishing any particular routine use. It is up to each agency.

The FBI's main investigatory records are maintained in a system called the central records system. This system of records contains information on subjects of investigations, applicants for sensitive positions in the U.S. Government, informants, and others.

Given the sensitivity of the records in this system, I was shocked to learn that a routine use has been established reserving to the FBI the ability to disclose any of the information to the news media and general public where there exists a legitimate public interest. This is as broad and vague a standard for the disclosure of personal information as exists anywhere. It could be used to justify virtually any release of data. If any personal information from the central records system were released by the FBI to the news media, I suspect that the first defense would be that the release did not violate the Privacy Act because FBI had reserved the right to disclose the information.

I am at a loss to explain why the FBI maintains the right to release to the news media all sensitive personal information that it maintains. I wonder if confidential FBI informants would sleep confortably if they were aware that the FBI could disclose their identities without even violating the Privacy Act.

This is certainly a convenient provision just in case anyone at the FBI is ever caught disclosing confidential personal information. If the President is concerned about punishing leakers under the Privacy Act, he should immediately direct the FBI to revise its rules to eliminate the ability of its agents to release to the press sensitive personal information. This change could be implemented through administrative action. No change in the law is needed to accomplish this purpose.

What this illustrates is that the Privacy Act provides little protection against leaks or invasions of privacy. Extending the act to the Congress would not solve the existing problem or provide any additional protection. I have introduced legislation to amend the Privacy Act to make it more effective. I would be happy to work with the President to strengthen privacy laws and to consider extending those laws to the President as well as the Congress.

TRADE AND THE SAD STATE OF THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, when we had our discussion yesterday about the sad state of the economy and the impact it has on many American workers, one of the things that struck me was, if the administration's trade team, and the efforts that have gone on under both this and the Reagan administration, had been a basketball team or a football team on the field or the court, there would have been an investigation to see if they had thrown the game. If it had been a fight, there certainly would have been an investigation because, when we look at the impact on American workers and on American companies of the attitude of this supposed free trade, what it really is, is only free trade when foreigners come to sell here, but it is not free trade when we go to sell over there, and I can give my colleagues one example in my own State, an issue we have been fighting for some time.

The Ferrier Co. in Uncasville, CT, Montville, CT, is a company that makes gauges. It makes some of the best gauges for tachometers for all kinds of engines, pressure gauges, RPM gauges, mile-per-hour gauges, and they were selling to the aftermarket of Japanese engine manufacturers. They have been taken out of that business. They were told, frankly, that the Japanese home company wanted a Japanese product, a Japanese gauge, not that they did not meet the spec, not that they did not meet the price, but they did not want an American-made product, and they found in the assembly plants of the Japanese car makers that the door had been locked, locked to American manufactured products of cars that are supposedly made in the United States.

Mr. Speaker, we end up with a situation where, when we have an opportunity to grow, the administration has not been there for the American worker. When we need to invest into conversion, into diversification, the administration has been an obstacle, and, as we take a look at the economic situation we are in now, with the downturn in the economy, the future problems are not simply whether unemployment continues to grow, or gets a little better. It is that we do not have the number of jobs that we really need, nor do we have the kind of economic growth that will expand the opportunities for our country.

Mr. Speaker, we have a number of other gentleman who have joined with us today to address these economic issues, but it is not just a broad policy discussion that we are all about. What this comes home to is in each of our districts, in each of our hometowns, and across this Nation, workers are losing opportunities because of bad fiscal and monetary policies at times, because of bad budgeting from the White House and because of the fact that, when it came to trade policy, the administration threw the game.

I can remember when I took over the International Economic Policy and Trade Subcommittee and the administration came in to tell us about Europe 92, and they told us it was the best thing since sliced bread, that it is going to be great for American workers, and I asked the question at that time, "If you're in the middle of a sporting event, and it's a tie, and you find that the other side wants to change the rules by which you play with, don't assume they're going to try to make it easier for you to win."

They said, "No, no, this is going to be easier access for our markets."

Mr. Speaker, what has happened is, time and time again, it has closed off American markets. If we now want to sell to the $600 billion public sector in Europe, we have to have a plan to facilitate in Europe. They do not want to buy American products; they want to buy European products.

If we want to have access to their most lucrative markets in power systems and utilities, we have been locked out. A number of American companies have moved their investments out of the United States into Europe.

So when we look at these unemployment numbers, and if we look at some of the charts, maybe, that we have pulled out a while ago on the economy, we see that we have a continuous problem with employment growth. I think that is the real issue here. The unemployment numbers alone are very disheartening for Americans, but when we take a look at this chart, maybe the chairman of the Committee on the Budget would care to join us, and we have the gentleman from California [Mr. FAZIO] here, and maybe we could go through the chart on the numbers again, because I think it is critically important to take a look at where the job growth has been, and where it has been the most anemic.

Mr. PANETTA. Mr. Speaker, would the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, the chart indicates and tries to track employment growth beginning after World War II, during the Truman administration. If we look at every administration, whether it is Truman or Eisenhower or Kennedy, in the Johnson era there was a 3.9-percent growth in jobs; Nixon, 2.2; Ford, 1.1; Carter, 3.1. In President Reagan's administration it was 2.1. In the Bush administration we have 0.5. If you compare it to other administrations it is clearly the slowest employment growth in the postwar era.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to exchange my special order time for this evening with that of the gentleman from Missouri [Mr. GEPHARDT] and with that of the gentleman from Indiana [Mr. JONTZ].

The SPEAKER pro tempore (Mr. SERRANO). The Chair will advise that the majority leader has a 60-minute special order. The next gentleman on the list is the gentleman from Indiana [Mr. JONTZ] for 5 minutes.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, I rise this evening to take part in this very important discussion of the economy of our Nation. I represent a district in northern Indiana, the Fifth Congressional District of Indiana, that is very typical of the Midwest. It consists of farms and factories, and I wish I could come to the floor this evening to report that everything was in good shape with the economy at home. Regrettably, it is not.

We do have the means here in the Federal Government to help or to hurt the situation, and it bothers me and it bothers my constituents, as so many times there are opportunities we could take to improve the economy at home where we have not done so.

I am very concerned, for instance, about the trade policy of our country. We are now engaged in negotiations with Mexico on a possible free-trade agreement. Just this spring a factory in my district closed in Wabash, IN, United Technologies plant, making wire harnesses, not because there was not a need for those harnesses, but rather because this particular company could manufacture them less expensively in Mexico. So we saw 500-and-some individuals lose their jobs.

My hope is that this country will adopt a trade policy which reflects an understanding that to have a strong economy requires a strong middle class here at home, and that investing in the United States, investing in factories in our Nation's heartland, is a more productive policy in the long run than encouraging investments to go to Mexico.

My distinguished colleague, the gentlewoman from Ohio, MARCY KAPTUR, has invited Carla Hills, our Nation's Trade Representative, to come to the Midwest to see some of the factories that have closed. Mr. Speaker, I recently have extended a similar invitation to Ms. Hills because I believe she should come to the portion of our country, to all parts of our country, that have been adversely affected by our Nation's trade policies in the past, and she should talk to the individuals whose jobs and lives literally were on the line.

My belief is that if we had a trade policy which was focused more on the needs here in our own country to invest, that we would build our economy, and in the long run, we would have a much stronger Nation.

I also represent a great many individuals in the farm sector at home who have seen their share of problems, because of low prices and also because of the drought this year. Later this evening the gentleman from Illinois [Mr. EWING], my colleague, will be having a special order, and he will speak about the need to pass drought-assistance legislation to help some of these family farmers.

In 1988 when we had a drought, we had the benefit of high prices. Today we have low prices on the farm, and I have a lot of farmers that are actually suffering, in worse shape now than they were in 1988. The Federal Government could take positive action to help these farmers. This House has passed a drought-assistance bill, an authorizing bill, and also a dire emergency special appropriations bill that would provide funding to make disaster payments to these family farmers who work hard, and deserve to stay in business, but unfortunately, may not be able to without some help.

I wish there were support from the administration for this disaster package. I hope there will be. The President travels all around the world. He helps people with U.S. tax dollars in other corners of our globe, yet we have people here at home who are suffering on the farm in northern Indiana who deserve help as well. I would hope if we have the funds to send overseas that we will also have the funds to help producers here at home.

Our country is a great country. We have workers in farms, and on the farms, and in the factories, and throughout our Nation, who are extraordinarily productive, yet they do not enjoy the standard of living which they should, given the resources of this country, and their willingness to work hard. It is greatly disturbing to me that in the Congress we make efforts to assist our working families, which oftentimes are frustrated by the policies of the White House.

I would hope that the White House and the Congress could work together on some of these matters, and it is disturbing that we see some good initiatives that are put forward in the Congress halted by a lack of support at the White House. My hope is that in these next few weeks and months, that we will see the attention of our Nation in Washington turn to the problems we are facing with our economy at home.

There is no question we have not enjoyed the sort of economic growth that we should. We have it within our means to make a difference, and I would hope that that challenge would be taken up in Washington so that we can have the sort of economic growth that our working families at home should enjoy.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 60 minutes.

Mr. FAZIO. Mr. Speaker, I would like to engage in continuing dialog with my friend, the gentleman from California [Mr. PANETTA], who was indicating to us some of the statistics that portray very starkly the very slow rate of growth in employment that has occurred during the Bush administration. It really does coincide directly with the slow growth in GNP during the same period of time. In fact, I was looking at some data the other day that showed that President Bush is really the first President in many years to have had an average of below 1 percent GNP growth during the first 3 years of his administration.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to my friend, to show what impact that has had on job creation.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. The gentleman is correct, both in terms of productivity as well as in terms of growth, as well as in terms of employment, the administration has had the worst record in the postwar era in terms of achievement. They are all interrelated. Obviously if you do not have the growth, if you do not have the productivity, clearly you are not going to have the employment.

I might add that today's figure with regard to those applying for unemployment benefits rose to near 500,000, slightly less than 500,000. That is the largest we have seen in quite a while in terms of those applying for extended benefits, and it does indicate that with regard to this employment picture that we are looking at unemployment that is going to continue to remain high or relatively high we estimate, according to our economists, for a 2-year period. That could be devastating to those individuals and to their families and to our economy.

Mr. FAZIO. Mr. Speaker, if my friend would yield, I think it is important we put this in the context of the promises that were being made by this administration. Just over 3 years ago, in August 1988, at the Republican Convention, the President stood and said "My mission is 30 and 8, 30 million jobs in the next 8 years." Of course, we have seen a very, very poor performance by this administration, the poorest performance of any modern administration, of either party.

Mr. President has, of course, seen in the last 3 years only 1.2 million jobs created, and that is really only 4 percent of President Bush's 8-year, 30-million-job-creation goal.

□ 1840

Mr. PANETTA. If the gentleman will yield further, this chart also portrays that promise. Basically it says where are the 30 million new jobs?

We had the promise in January 1989 that we would see 30 million new jobs. That would essentially take us up to this point by 1997. Right now we are going down with regard to that promise at a point of only about 1,500,000 jobs that have been achieved. So the President is falling far short of it.

Again, it is an indication of the fact that the economy, productivity, growth, competitiveness, the ability to be able to get our goods abroad, the ability to be able to have the kind of growth within our economy that produces jobs, it is not there.

Mr. FAZIO. Mr. Speaker, reclaiming my time, to compound this tragedy, with only 38 percent of all unemployed Americans eligible for benefits today, until very recently this President has resisted every effort to provide extended benefits to people who were not employable or not able to find work in this economy, which showed this very weak job creation record.

So the tragedy is not just that the President has promised far more than he is producing, he as not even been willing to own up to that and provide in compensation the extended benefits that would have helped the economy and certainly helped the many millions of Americans who are totally without benefits at the same time their bills continue to pile up.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, we have just seen in the period of the last few days the President continuing to blame the situation in the economy on the Congress. I frankly think the American public is probably tired of blame letting on either side at this point because the problem is so serious. But here you have a situation where the Congress basically says we need unemployment compensation for those that are unemployed.

Clearly these numbers reflect the huge numbers of unemployed. Yet, when we passed two versions of the bill, they were vetoed, and we were finally able to get an agreement worked out with the President for a third version that finally was accepted. But it was not as if it was a situation where the President himself had proposed the need to extend unemployment compensation.

Mr. FAZIO. Mr. Speaker, I think it is important we as Democrats get across this fact: we are not simply satisfied to extend unemployment benefits. We need to get the country growing again so that we can create the jobs that will drain our coffers far less, and in fact will help fill them again, help bring additional revenues in to help balance our budget.

We have a policy that I think the gentleman is very much in the forefront of advocating that is going to get the country moving again, a growth policy using both expenditures and tax incentives to move the country in the direction that President Bush says he wants to go in, but which so far he has been absolutely an abysmal failure in moving us in that direction.

Mr. PANETTA. Mr. Speaker, I think that is the key.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order and be recognized for 5 minutes at this time.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the key is that everyone is asking what can we do in terms of restoring confidence in our economy and Government? What are the key factors? What do we turn to?

The keys are essentially you have to restore growth. We have to restore jobs, we have restore basic fairness to the American society, and we are going to have to restore resources by essentially trying to implement better fiscal discipline in the country.

Obviously, economic growth is going to be produced when you begin to invest in things like education. The President talks about education. He talks about the need for reforms in education. But he never talks about the resources needed to make education better in this country.

So education, the ability to have a fully funded Head Start Program, the ability to have fully funded compensatory education programs. Those are essential to future growth.

The ability to have research and development funds expanded so that we can improve our research and development and begin to expand growth within our economy is essential. The need for an energy plan, a comprehensive energy plan, is essential to a growth strategy for this country. Yet we have not seen that kind of comprehensive energy strategy produced by the President that includes conservation, production, and the development of alternatives.

Lastly, we do need tax incentives, but tax incentives that are targeted, that are paid for, and that develop long-term strength.

Jobs is another area. We definitely need to produce jobs. One of the bills we have is the highway bill. According to the chairman of that bill, if we could pass that highway bill 2 million jobs would be created, the kind of jobs that do help try to restore the situation in our economy.

Mr. GEPHARDT. Mr. Speaker, reclaiming my time, if the chart on growth during the postwar period could be established, I would like to ask the gentleman from California [Mr. PANETTA] about that particular chart.

We have heard a lot about growth packages and ideas for growth. All of us are worried about having the kind of economy where President Kennedy once said, "The rising tide lifts all boats."

I think Democrats have always believed that in order to have the land of opportunity available for all of our people, it has to be a growing economy. That is the kind of economy where new jobs, good paying jobs, are being created.

This chart is instructive when you look and see when the growth really happened. Obviously the highest growth in the postwar period came right after the war, when troops were coming back home, homes were being built, cars were being built. We had 5.2 percent average annual GNP growth in the Truman administration. Then it was down to 2 percent during Eisenhower, back up to almost 5 percent in those early sixties and the Kennedy years. We had the investment tax credit, we had tax cuts for the middle class.

Of course during the Johnson period we had high growth again at 4.6 percent. It was back down to 2 percent during the Nixon administration, 2.6 percent during the Ford administration, and back up to 3 percent during Democrat Jimmy Carter's administration. We had 2.9 percent during Reagan, and now, of course, the lowest postwar growth that we have ever seen.

Mr. Speaker, I think if we cannot figure out how to deal with this problem, and do it very soon, America as the land of opportunity is going to be a very, very different place.

Now we are in a recession. I doubt that we have even got 0.5 percent. In fact, probably there are negative figures there for growth and for the creation of jobs.

I think the President should have a growth package. I wish he would have had it by now. I hope that he will have one in January.

I believe, as I know the gentleman does, that we need to pass a growth package, and the Congress will take up that growth package. As soon as he has it, we will consider it, and we will try to have it on this floor as soon as humanly possible, because I think the American people are rightfully asking why aren't we having 3 or 4 or 5 percent growth as we did during the Truman, Kennedy, and Johnson administrations.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, I think the greatest concern about this chart is that because we are at a 0.5 percent growth rate right now, and we are also at a negative productivity rate for the first time in the postwar era, negative productivity, that to begin to get our economy going again is going to take twice or three times the effort. No matter what you do on the growth front, it is going to take a lot to get us here.

Now, the problem you are having in both productivity and growth is not only unemployment, but people who are working are getting fewer wages. Let me just display that in this next chart.

Mr. Speaker, you are looking here at real average hourly earnings for nonfarm payroll workers. We again begin in 1981. You can just track hourly earnings of individuals, and you can see where they are headed right now. They are headed down, again for the first time in the postwar era, where individuals, in terms of their income, are bringing home less.

That is impacting on them and their families, and it is impacting obviously on our economy.

When the President says go out and buy a house or go out and buy a car, he has to ask these workers where are they going to find the money to do that? Where are they going to find the money to do that, when in fact they are earning less than they were in the early 1980's.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, I think it is very important to point out real consumer spending per capita during the Bush administration has not increased at all. In fact, you can see that with the average hourly earnings declining, people are having to spend their savings in some cases in order to be able to keep consumer spending at an even level.

You can see why our retail establishments are struggling, why so many elements of our economy, certainly the housing industry is stagnant or, in some cases, even declining in assessed valuation. It is because the consumer is not able to spend because he is not earning, not seeing the kind of income increases that we saw historically in the post-World War II era.

□ 1850

This administration has the worst rate of any administration since World War II in terms of real consumer spending. And that is why so many of our small businesses in this country are hurting so badly, that they are going into bankruptcy.

Mr. GEPHARDT. Mr. Speaker, I know that our time has expired. I would simply say that the gentlemen from California have been leading the effort to get our country moving in the right direction. We will be taking up the budget early next year, and I hope we can continue this discussion in the nights ahead so that we can begin trying to lay out, formulate plans that we can get a package of legislation done early next year to move these lines in a different direction, getting growth going in the United States again.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I would like to begin with good news. The United States Coast Guard today transferred more than 1,400 Haitian refugees from Coast Guard cutters to the area around the United States Naval Base at Guantánamo Bay, Cuba, to enable the Coast Guard cutters to continue rescue operations.

The State Department announced that 858 Haitians were transferred to the Navy vessel *Tortuga* in Guantánamo Bay, and 572 were being sent out to the base itself.

That leaves 380 Haitians still on cutters. This is good news because it represents a more humane approach to the problem of assisting those Haitians who are so desperate that they are risking their lives to flee the terror of the military government, illegal military government, of Haiti.

I think it is good news that our Government has ceased a policy of returning these refugees, political refugees, to Haiti. More than 500 have been returned already, but as a result of a court order, they have stopped returning the refugees and have started behaving like a more human democratic government.

We have begun to apply the same standards to the Haitians that we have always applied to refugees seeking to escape terror and persecution.

The policy of the United States Government is the primary reason we have the continuing turmoil in Haiti. If only we would support the democratically elected government of President Aristide, we would not have had the problem of having to accommodate thousands of Haitians attempting to flee terror and persecution. If only we had supported the man who was elected by 70 percent of the voters, we would not have a problem.

But we do have a problem. I am happy to report that we have begun to deal with that problem in a more humane way.

Mr. Speaker, at this point I yield to the gentleman from New Jersey [Mr. PAYNE] for his comments on the subject.

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from New York [Mr. OWENS] for taking a special order tonight to dramatize the plight of people who are attempting to speak out against injustice and attempting to leave a place of persecution but who, as they have left harshness, have been treated the same way in their plight.

Mr. Speaker. I speak with a sense of outrage for the action of my Government in the treatment of Haitian refugees. For the United States, who in the past had vigorously opposed the involuntary repatriation of Vietnamese boat people by Hong Kong, to now turn our back on our suffering neighbors in Haiti, is truly an embarrassment.

I also speak to the American people in the hope that a better understanding of Haiti will bring about a wave of reaction against this inhumane and barbaric act.

Haiti is one of the most densely populated countries in the world where 10 percent of the people take home more than 70 percent of the per capita income.

These are the same 10 percent who are standing behind the unlawful expulsion of democratically elected President Aristide by the military.

Haiti is a country where 40 percent of the children are dead by the age of five. Where 20 million trees are lost each year for fuel consumption, and 10 percent of the topsoil washes into the Caribbean each year.

One may ask, "How did Haiti become such a basket case?" Let us look at history.

With World War II, the President of Haiti asked our President Roosevelt how his small country could be of assistance in this war for the salvation of mankind. Roosevelt said that the United States had suffered a loss of rubber sources through the Japanese invasion of Southeast Asia. He then asked Haiti to convert its agricultural economy to the production of trees and plants that produce latex.

Agreeing to this challenge, the mahogany trees and other forest plants indigenous to the island came down to make way for the Firestone plantations. The experimental plants to produce latex were planted, but were not successful. The Haitian Minister of Agriculture told his President that if this policy did not stop he would be sacrificing the future of his country. The President did not take his advice, and the Minister resigned his position and never served in government again.

There were other sacrifices Haiti made for our country. In our Revolutionary War there was a voluntary battalion of 1550 French Haitian volunteers that fought in the battle of Savannah. In that battalion was a black unit called a company of color.

One corporal by the name of Henri Christophe helped repel three charges from the British, was finally wounded, and returned to Haiti where he became one of the famous leaders in Haiti's slave revolt for its own independence.

This slave revolt against Napolean's best regiments also stopped the French strategy for reclaiming their military foothold in the Western Hemisphere and dominating the North American Continent through the Louisiana Territory because they could not reestablish their position in Haiti.

Haiti was then a threat to the institution of slavery in the southern part of the United States.

Haiti trained and armed Simon Bolivar so he could free South America.

This is part of the reason for the compassion of the Organization of American States to help Haiti and offer sanctuary for fleeing refugees in Venezuela, Honduras, Belize, Trinidad, and Tobago.

And yet in the face of these offers Mr. Bush's administration stated that "the absence of a sufficient safe haven option" demands that the United States Coast Guard and Navy return the refugees back to Haiti to head off threats of a mass exodus.

What Mr. Bush is really worried about is another exodus similar to the early 1980's when Haitians were treated in a different manner than Cubans. The Cubans were welcome because they were fleeing a wornout communism, while the Haitians were fleeing for their lives from a murderous dictatorship. Cubans received preferential treatment for permanent residence status, while Haitians received Krome Prison in Florida where families were separated. Husbands from wives and brothers from sisters. Males and females were divided like in the early slave days.

Now the office of the U.N. High Commissioner for Refugees has found the courage to speak out against this current violation of the Geneva Convention, where refugees with a recognized fear of persecution are being forced to return without even normal due process guarantees.

Where is America's sense of fairness and compassion? Let us help them in their time of need like they did for us. Have we forgotten what is inscribed on the Statute of Liberty?

I quote:

> Give me your tired, your poor, your huddled masses yearning to breath free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me. I lift my lamp beside the golden door.

Or, do we remember the Willie Horton's, the David Duke's, and others who are beginning to symbolize our new domestic order.

It is inconceivable to me to think that any career diplomat, or State Department official who has dedicated his or her life in service to others could order such a unhumanitarian action without orders from the White House.

Therefore, I call on President George Bush to personally explain this inhuman, racist action to the American people. So far his explanation falls far short of explaining our humanitarian responsibility, or the difference in treatment of people of color.

I challenge George Herbert Walker Bush to come to my district and explain his reasoning to the many Haitian groups I have to, or to the black, white, Hispanic, and Asian constituents that have been in touch with my office.

□ 1900

Once again, Mr. Speaker, I am happy that the Government has temporarily reconsidered its policy. But I am giving my statement here tonight because I am hoping that they will not rethink it as they did yesterday, sending out an executive order that appeared in the paper today, but then before noon rescinding it.

So in this ball of confusion I am asking that our Government do the right thing, the humane thing.

Once again, I appreciate the gentleman from New York taking the time in this special order and for allowing me time to express myself.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from New Jersey, and appreciate very much some very important background information he gave us about the long-term relationship between the United States and Haiti.

The United States and Haiti have always had a close relationship. Unfortunately, Haiti has usually been the victim in this relationship. No other country is allowed to establish a base of influence in Haiti. We would not allow the French, for example, who speak the same language as most Haitians, to establish a base of influence. Our country has always jealously guarded its prerogative and insisted that Haiti follow certain kinds of lines of development that we set down.

What has happened in Haiti over the years has been very much influenced by the government in power in the United States. Nothing really takes place of a significant nature in Haiti that is not, in some way, influenced by what happens here.

That includes military coups. When the military, which is trained by the U.S. Government, which is paid for by the U.S. Government, when they decide to stage a coup, they either stage it in complicity with the U.S. Government or because they have received certain signals from the U.S. Government. The present dilemma, the present problem with respect to President Aristide is directly related to the kinds of signals that the State Department and the U.S. spokesmen sent with respect to the Aristide government. Criticisms of Aristide, condemnations of his so-called human rights policy, disapproval of his economic policies, foot-dragging by our Government were all signals that were sent to the Haitian military. They felt they had an opportunity. They moved because they thought they would receive the approval of the U.S. Government.

After the military takeover, after the bandits and the thugs with guns had marched through the streets and randomly shot down citizens, after they had forced Aristide out by gunpoint, our Government began to speak with a forked tongue. On the one hand they joined the other countries of the Organization of American States in condemning the military takeover. On the other hand, they criticized Aristide for his human rights record, and they made remarks which indicated that they did not approve of this method of governing. They wanted him to be more conciliatory toward the opposition.

Here we have the irony of a President who is elected with a little more than 50 percent of the vote lecturing to a President who was elected with 70 percent of the vote and telling him that he should be more conciliatory toward the opposition, while the same President of the United States has just completed his 24th veto, has just vetoed a 24th bill passed by the Congress of the United States and exults in that victory. Does this seem to be a man who believes in working with the opposition? Twenty-four vetoes. He has never lost a veto since he was elected, and he lectures to the President of Haiti that he should be more conciliatory toward his opposition, and he uses the fact that the President has not been conciliatory toward his opposition as a rationale for not being more forceful in insisting that Aristide be returned to power.

That is the wrong signal to send to the military bandits. The thugs with guns feel that they can hold out forever as long as the United States is speaking with a forked tongue.

Then we have the phenomenon of Haitians who were so desperate, and only very desperate people would brave the elements and brave the waves of the ocean in order to escape in boats that are rickety, very poorly put together, risking their lives, only very desperate people would dare attempt to get to the mainland of the United States in this manner. So obviously they are desperate, obviously they are fleeing political persecution. Yet our Government insists that they are economic refugees and they are leaving the country only because they want to seek better conditions economically.

How do we explain the fact that during the time shortly after the election of President Aristide, the number of people who were interdicted, picked up in boats by the U.S. Coast Guard, went down almost to zero, that despite the economic conditions, despite the fact that nothing had changed for the average Haitian with the election of Aristide except the fact that they had a democratically elected government, and they had hoped for the first time that there would be a new deal for them, and they stopped seeking to escape? The military government of Haiti has shot people down in the streets at random because they wanted to make a point. They wanted to cower the population.

One person who was killed was a constituent of mine who happened to be in Haiti because he was operating a business that was set up shortly after President Aristide was elected. By accident, misidentification, he was identified wrongly, he was hauled out of his bed, beaten by soldiers and killed on the way supposedly to the hospital. This is just one example. There were 300 cases of such murders admitted by the official news agency in Haiti. We have sources that make it clear that more than 1,000 people have been killed this way. People are forced to leave their houses and sleep in the bushes in order to escape the terror of the soldiers at night. Certain towns have been marked, and soldiers come through in order to cower the population, and just shoot people at random. So there is a reign of terror, and people are seeking to escape that reign of terror, and we have instituted an inhumane policy until recently.

As a result of the objections that have been raised on the floor of this House, as a result of hearings held by the gentleman from Kentucky [Mr. MAZZOLI], and as a result of the press finally beginning to expose what was going on, we have good news to report today: a more humane policy has been instituted, and we are happy to hear that. But is is very important that we take another step to guarantee safe haven of all of the Haitian refugees here in this country.

Mr. Speaker, I yield to the gentleman from Detroit [Mr. CONYERS] for a statement on this matter.

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Mr. CONYERS. Mr. Speaker, first of all, let me say that the gentleman from New York [Mr. OWENS] has been a stellar leader in this matter. I was able to sit in on the hearings of the Subcommittee on Immigration and was very impressed by the gentleman's leadership, and in calling this special order tonight as well.

Let me be very brief. The question is what can the wealthiest Nation in the world do to help the 6 million inhabitants of the poorest nation in to world? I would like to make some suggestions.

The first is that we suspend the only migrant interdiction treaty that exists between the United States and any other country in the world. That is the one that was entered into by our country and the former dictator, Mr. Duvalier, in which they gave us permission to pick up those in their own waters who were attempting to leave. I think that is a very important first step.

There are other considerations that are very important. I would like to suggest them to the gentleman from New York and to the subcommittee chairman, the gentleman from Kentucky [Mr. MAZZOLI] who is also on the floor.

First, staying the deportation of Haitians who are currently under orders to be deported from the United States.

Second, processing refugee applications in Haiti.

Third, granting temporary protected status to Haitians in the United States.

Fourth, processing all Haitians interdicted at sea as asylum claimants.

Now, the reality of the legislative process is that there is a great likelihood that in the next few days, the Congress will have concluded its work and the gentleman's measure that he hopes to bring before this body, and my own measure, which would not have a date, but would limit the entry of granting asylum to claimants, would probably not be able to go into effect.

So I come here with the suggestion that an emergency of this kind requires a response that meets the emergency. The only way that this tragedy can be contained and eliminated, is that that conference at Cartagena, at that conference at which President Aristide will be there with the military meeting in conference with the military junta that has illegally deposed him, is that it be made clear there that this country unequivocally backs the return of President Aristide to his post as the first democratically elected Haitian President in its history, and that this not be words only, that this be a support that would be additionally backed up by the Organization of American States, and that it be made clear that nothing less should come out of that conference than an agreement on the specific return and the conditions of return of President Aristide to his rightful place as the President of his country.

Now, the reason that I threw out these other suggestions is because I am now down to this. The only way that we can get the immigration of Haitians who are now caught not only by the junta whose economy is totally destroyed, but they are also in the grips of a blockade that has been instituted. So we are talking about people choosing between a possible death in leaky boats that will be pushed wherever the wind sends them, and in which a certain number of them are doomed to death on the high seas trying to escape, or merely starving to death or being a victim of the random violence that now occurs there.

So to me we need to fashion a result that meets this emergency, and the only way, I will say to the gentleman from New York and the gentleman from Kentucky, that that can happen is that it be made clear through the OAS, the Caribbean nations, through any constellation, including the United States, that we support our friends.

Now, we send nonmilitary aid and military aid to friendly nations throughout the world. This is no time to be hung up on immigration technicalites where this is a situation unlike any that we have faced in modern history.

So I am urging that we consider supporting the immediate return of President Aristide, and that nothing less should be accepted in the conference at Cartagena that is taking place. We must get this President back into office. We must say that the most democratic event that has occurred will be completely supported, not merely through a diplomatic statement, but that we must support the return of Aristide immediately to his country, and that will halt the flow.

Quite frankly, in my examination of the problem, nothing else will. We are caught between the impossible circumstances of either opening the doors even in a suggested proposal of far more Haitians, and that number will grow if we do not act quickly, attempting to get over here by any means necessary, or that we try through a process of a time date, a fine line in which we say that everybody up to this date can stay and obtain asylum, but everybody after this date cannot.

Between those extremes of MAZZOLI and CONYERS is the return of the President with the full support of the OAS, the Caribbean nations, and the country that has an obligation to help make sure that Haiti turns around from the tragic political and economic history that is theirs, and of which we all here have some measure of responsibility.

Mr. Speaker, I thank the gentleman from yielding to me.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from New York yield?

Mr. OWENS of New York. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend, the gentleman from New York, yielding to me.

I wish to commend the gentleman who had the interest and showed important sympathy in calling this special order, and my friend, the gentleman from Michigan, my next seatmate in the Judiciary Committee, for their outstanding testimony yesterday when we had the hearings and for their really strong support for the people who are the victims of this tug of war.

As I said earlier, in the well in a 1-minute speech, there is a human tragedy unfolding in the waters off Florida, and that human tragedy is the fact that you have something like 1,800 people aboard Navy ships, and you have to salute the work that the Coast Guard is doing taking care of the people, rescuing them from the peril at sea, but they are there in what I later called in the same 1 minute a kind of watery limbo, because thankfully, the Federal judge has said these people will not be repatriated or deported, whatever you said, back to Haiti; but that is where the order ends and the people stay aboard the ships or they are debarked momentarily at Guantanamo Bay Naval Base or someplace. Some few hundred, I think, are being sent to Venezuela for safekeeping for the moment, but those are only palliatives. These are only Band-Aids. Those are only momentary reliefs from the pain. They do not get to the heart of the problem.

As the gentleman said, I had a bill which I dropped in today which reinstates the Federal court order in statutory law which says there will be no more deportations. It also suggests that there be a temporary protective status under the 1990 Immigration Act applied to all these Haitians so that they are given an opportunity to work.

□ 1920

They are given, again, safe haven, they are given food, shelter, and protection.

The other part of my bill says that there will be 2,000 refugee numbers given to the Haitians who do qualify as refugees—and not all will, because some are economic migrants, and, as I said yesterday, some are trying to better themselves for their families, looking at the other side or the hill and seeing what the other side of the hill looks like—but the fact is that those who do qualify as refugees, who have a lively and well-founded fear of persecution for race, religion, social order, or political persuasion for their home country Haiti, would under this bill be granted an opportunity to get a visa number.

So this is a good bill. The gentleman's bill is a great bill.

The fact of the matter, is, time is of the essence. To flesh out the record, I called the White House again today, as I did yesterday, to see if there was some way the gentleman from New York [Mr. RANGEL] and I might sit down with the President, talk with the President, have a conference call with the President or one of his aides and see if there were not some Executive way—because, as the gentleman knows, the quickest way to solve this problem is by that Executive pen, just as the President by Executive pen can veto bills that takes years to work here on the Hill—the Executive pen can cut through all the redtape that has taken years and years to build up.

Mr. CONYERS. May I ask the gentleman if he has considered the recommendation of inviting President Aristide to come before his committee to hear the other side, the complete side of this tragedy? Not only that, I have been thinking about the Democratic caucus inviting the Republican caucus to join with us in having President Aristide come back from Cartagena to bring us up to date on this.

Mr. Speaker, I commend the gentleman for the bill he has introduced. The bill that I have here that I am not going to introduce, because I am afraid it would have a misconstrued effect in Haiti and that there would be a misinterpretation about what we are actually doing, I think again that unless we return Aristide at the earliest possible moment, that this tragedy is not susceptible to a legislative solution. Plus, the humanitarian aid that must come in the wake of the junta's devastating control over it for this period of time that they have ousted the President.

Now, it should start here, and I applaud the gentleman, the chairman of the Subcommittee on Immigration, joining us in this debate because he knows we consider him to be a friend of ours and that his concern is deep and his compassion is wise.

Mr. OWENS of New York. I think the gentleman has made some very important concrete, practical suggestions. I would also like to applaud the fact that the chairman of the subcommittee most responsible for immigration matters has taken the leadership in the past few days. Not only has he introduced legislation but he has concerned meetings with representatives of the administration, he has called hearings. I want to, on behalf of the second largest concentration of Haitian-Americans in the country, offer him my thanks and their thanks for the initiative that he has taken.

I do hope that before we adjourn we will move expeditiously to deal with the legislation that has been introduced today. I applaud the gentleman for his efforts.

Mr. MAZZOLI. I thank the gentleman very much for his compliments. They certainly are very warmly received.

The Haitian people whom I have met, some of whom were with us yesterday, are warm and very generous and decent people, just charming people to be around.

So it is a pleasure to be of some help.

Certainly, the gentleman's intention is to move the bill as quickly as it can be moved. I recognize the problem. I recognize the fact that there is a difference of opinion on whether this bill should pass, whether if it were to pass it would act, as my friend said, as maybe a misstatement of what realistically is available to the people for Haiti.

But I just cannot leave this place without having tried something to help people in that first category.

As the gentleman remembers, we talked yesterday about the two tiers, the first tier here, the tier of people who are in the emergency situation; on the boats, on the cutters, floating around in that watery limbo.

The second tier, of course, is the problem, economic, political, to solve the sending problem, the push factor that pushes the people away from their own home country.

I just do not know that we cannot try to do something for these people even though we recognize that every solution is fallible, every solution has some element that may not fit correctly into the puzzle.

I certainly join the gentleman in suggesting that President Aristide—I believe he was elected by 57 percent of the vote in the election.

Mr. CONYERS. Eighty-seven percent.

Mr. OWENS of New York. No, it was 70 percent.

Mr. MAZZOLI. He was freely elected in a democratic election, the first one in many years.

If I am not mistaken, both of the gentlemen could correct my recollection, but it seems to me during the time that President Aristide was in office, 7 or 8 months, I believe that the out-migration movement from Haiti had virtually dropped to zero.

Mr. OWENS of New York. Almost down to zero, those people who were leaving and trying to get to the mainland of the United States went down to zero.

Mr. MAZZOLI. Let me propound this question to the gentleman: I do not think poverty was cured in Haiti in that 7 months.

Mr. OWENS of New York. Nothing happened in Haiti except the election of a democratic government, which obviously gave the people of Haiti hope and a new sense of a future.

Mr. MAZZOLI. The gentleman said that yesterday. The only change—the topography in Haiti remained the same, they had the same square meters of land, same number of people. The one thing that they did not have earlier in the elections was hope. When that hope was extinguished, the people began their journey, their sojourn began again.

So we have to do something more concrete. The gentleman is right; until the free government is reestablished, this problem will not end. But I think in the meantime we need to do something, and I hope this, or something, will be there.

Mr. CONYERS. Let me point out that there is a way that we can restore hope, in addition to any legislative process. That is to make it clear that we understand that it was the election of this President that brought hope and the way the hope will be restored is the return of the President.

I have no idea what the agenda is in Cartegena, but the fact of the matter is that until the President is returned, hope will continue to disappear and dissipate out of that nation.

More and more people will risk their lives, some losing them, in an attempt to get over here.

So, with all deference to the legislative process, in this emergency I am hoping that more people will pick up the banner and that we get President Aristide over here. If there is something missing in the analysis, that he be restored as quickly as possible, with the support of the OAS, the Caribbean Governments, and this Government making it clear—making it clearer that we want him back in power, then we will see the end of this watery limbo that the gentleman so accurately described that will not not only be ending but will be continuing to get worse as the economic circumstances worsen in Haiti.

Mr. MAZZOLI. The gentleman brought up earlier the question of the embargo. I think both gentlemen yesterday accurately pointed out that the targets of the embargo, which would be perhaps the people who supported the junta, the takeover coup, are not really very much affected by the embargo. Basically speaking, they have theirs and they are not really too seriously discommoded by this embargo.

But who are put at risk? Who are deprived of water, electricity, food, shelter, jobs? It is the very people that we are talking about today, whose brothers and sisters are on those cutters in the Windward Passage. In effect, the embargo ought to be reexamined. That is one thing that the President——

Mr. OWENS of New York. If I may explain to the gentleman, I represent large numbers of Haitian-Americans, and we have communication lines into Haiti. They think it is very important that the embargo continue, and that the embargo was undertaken because it sends a message that there is real concern.

It sends a message that the outside world does disapprove, and the majority of the Haitian people have suffered for a long, long time and do not find the degree of suffering has increased so much as a result of the embargo. They would like to see the kind of solution that is being recommended here, and I think most Members of Congress agree the best solution is to return Aristide to power.

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Mr. Speaker, there is not much disagreement in the Congress. The problem is with the administration, and the fact is that they have double-talked on this situation, and, while they themselves have endorsed the principle of returning Aristide to power and agreed to support the position of the OAS, they made comments on the side, and even the President himself has criticized Aristide in ways which have strengthened the resolve of the junta to hold out. Until we end the duplicity and talk with one voice, speak with one voice from the United States, I think we are going to have trouble with the military government cooperating with the return of Aristide to power. That would solve all the problems on a long-term basis. The immediate problem we still have.

As I said before, I congratulate the gentleman from Kentucky [Mr. MAZZOLI] for his speedy action, and I think that pressure has been brought to bear by the Congress, which has led the media to take an interest in the problem and has also led to the improvised solution that the administration has developed becoming more humane and making more sense.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, I am glad to know that there is more support for our proposal than I have heard in the Congress. I know of members of the Congressional Black Caucus, and I know of several Members on the Subcommittee on Immigration that do more than give lipservice to the return of President Aristide. But there is a difference between hoping that and accomplishing that President Aristide be returned and taking the definitive action that will ensure his return.

Now I am not talking about a theoretical change of heart from the junta. I am talking about the junta getting a message. I do not have any idea how many Members of Congress the junta thinks wants Aristide returned. They certainly have not gotten the message from the President of the United States, and it seems that within that ambit there is a role for the Congress to make itself more clearly heard, and that is the virtue of this special order which the gentleman from New York [Mr. OWENS] has taken and which, to me, not enough Members of Congress had the opportunity to participate in.

Mr. Speaker, I think it is far from clear, in my judgment, if I had to say how many Members of Congress are willing to back my proposal of getting this issued raised at Cartagena. I do not know what the count would be, and I think that, until we address that as forcefully as we can, as the gentlemen here in this special order have, that we will be grappling. We will be doing the best we can, but the legislative solution now takes a back seat to giving the kind of impetus to the executive branch that will lead them to give the signals to the Organization of American States, to the Caribbean Association of Countries, and to that conference going on in Colombia right now. That is where we might be able to work a solution that will make all of our legislation at least temporarily unnecessary.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for allowing me to make this contribution.

Mr. OWENS of New York. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, there are a couple of things the gentleman from Michigan [Mr. CONYERS] has just said that I thought were worthy of note, and that is the idea of trying to bring influence, political, moral, and otherwise, on the participants, whether OAS or Caribbean Basin or whatever, in trying to make sure they support the return of the freely elected President, and two things strike me.

One is, of course, the fact that Secretary Baker is a very able man and very hard-working and very talented, and it is possible that somehow he might be able to, or someone from the State Department at a high level could be able, to be present in those meetings or perhaps be involved somehow with them. That would obviously raise the stakes, would raise the tension point, the boiling point, if my colleagues will, and I think it would be constructive.

Mr. Speaker, I believe everyone in the Chamber salutes the President for the moral leadership which he showed during Desert Storm, the way that he was able to rally nations that had never been in the same tent together, at least in recent time, and he was able to work, somehow, a common cause with all these disparate nations and disparate groups. It strikes me that somehow maybe the President, and I realize how intensely busy and difficult these days are, but maybe somehow he could try to rally the same kind of support within these regions, the hemisphere nations, on behalf of the simple proposition that at least the people in such extreme situations, the people who are in such difficult situations currently, the ones on the boats, the few that are still on the land; it just seems like something very, very quick could be done for those, and then to try to move to a more substantive conclusion.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS]. I appreciate his taking this special order.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from Kentucky [Mr. MAZZOLI] for his leadership on this matter, and I thank the gentleman from Michigan [Mr. CONYERS] for the concrete suggestions that he made, and I hope in the next few days we can, in addition to all the efforts that have been undertaken to date, seek to increase the pressure and the exposure of this problem by undertaking some of the suggestions made by the gentleman from Michigan.

The Haitian National Assembly today reversed its earlier decision not to meet with Aristide at Cartagena to negotiate his return to Haiti. Six to eight members of the Parliament will be going as a delegation to meet with Aristide tomorrow, and the talks will be mediated by OAS Representative Decampo. Aristide says that if he is reinstated, he is also prepared to make concessions, including naming a new Prime Minister and inviting the opposition into his government.

Mr. Speaker, that is a good note to close on, but I do fear that, given the nature of the military junta, given the desperate tactics that they have undertaken to date, given the fact that an element that is never mentioned here is the fact that the military often is involved with drug running and they receive a considerable amount of income from running drugs, they seek to desperately hold on to power for that reason. Given all these factors, these talks may not go well. We may need to continue to apply the maximum amount of pressure from Congress that we possibly can apply to the administration so that our administration will take a stronger and clearer stand.

Mr. Speaker, the key to the resolution of this matter is in the White House and the State Department. If they send a clear message to the military bandits in Haiti that we will not tolerate the depositing of a duly elected President any longer, I think that we will resolve this matter. The policies of the United States Government are the most influential factor in determining what happens in Haiti. We can change this tragic situation by insisting that the rightfully elected government be returned to power.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in calling on the administration in the strongest possible terms to reverse itself and provide sanctuary to Haitians who are fleeing that island nation for safety. The military coup which stole from the people of Haiti the democracy they have sought for decades is illegitimate; it is immoral; it is cruel. The people of Haiti are suffering economically, but also through the loss of liberties.

Immediately after the coup, I came to the well of the House and called on the administration to move aggressively to return President Aristide to office. I commend the fact that the administration has worked with other nations in the hemisphere to isolate the harsh regime which has taken power. The measures which have been taken against Haiti are harsh, there can be no doubt about that. But strong action is necessary if we are to restore to the Haitian people the freedom and democracy they have given so much to secure.

It is clear that those who have stolen control of that nation have no concern for their own people. I have a very good friend from that nation, and she tells me that it has been weeks since she has been able to reach her mother. Furthermore, whenever she has been successful in contacting a friend or relative in Haiti, they have repeatedly said, "I cannot talk. I cannot talk. I may be hurt." From those messages, there can be no question at all about what this regime is up to. Today, repression and violence have once again taken over Haitian society. The Haitian people live in fear.

To have heard the administration say that they could not permit those who are fleeing to have temporary asylum here because they are fleeing economic, not political repression leaves me wondering if our State Department has made any attempt at all to understand what is happening to the Haitian people. I call on them to look, to listen to the Haitian people and to realize that they want democracy and freedom.

Many of the Haitian people are being imprisoned in their own land. Why? Because they want to live in freedom. After decades of totalitarian rule, Americans praised their resolve in successfully holding the elections which led to President Aristide's election. Now, we have a responsibility to stand with the Haitian people. To work to restore their freedoms, and, in the meantime, to adopt policies which provide the Haitian people help and safe haven.

Mr. TOWNS. Mr. Speaker, I want to thank the gentleman from New York for bringing this important issue before us today on the current United States immigration policy toward Haitian refugees.

As you are well aware, Mr. Speaker, for the last 10 years, this Congress has had under review United States immigration policy toward Haitians. During that time period, the Congressional Black Caucus hoped that various policy and legal changes would provide equitable treatment for Haitians who fled to our shores seeking refuge. Tragically, regardless of the administration in the White House or the laws on the books Haitians have continually faced discriminatory treatment.

The 1980 Refugee Act established a uniform standard for refugees and political asylees: "a well-founded fear of persecution * * *" We removed the requirement that you had to be from a Communist country in order to be admitted as a refugee into the United States. Yet, despite this change in our refugee law, Haitians still found themselves denied due process and jailed in Federal prisons around the country while Cuban refugees were welcomed into Miami. Even with the government's designation of "Cuban-Haitian entrant" status, Haitians still found themselves without the same benefits as Cubans with this same status.

It was certainly our hope and expectation that the election of President Jean-Bertrand Aristide would bring democracy and social justice to Haiti and thus end the necessity of Haitians to flee their homeland. During the first months of President Aristide's term of office, we in fact saw fewer Haitian boat people. The recent military coup has again increased the flow of Haitian refugees. In other instances, where there has been civil strife, we have permitted the nationals of those countries to enter the United States and be processed for political asylum or to be given the temporary status of extended voluntary departure. We have done this for Poles, Nicaraguans, Lebanese, and most recently Palestinians from Kuwait. We even permitted Ethiopians to remain here under extended voluntary departure for a short time before an effort was made to revoke their status in 1981.

The case of Ethiopians illustrates the problem currently faced by Haitians. Despite the continuing political conflict in Ethiopia, the previous administration sought to revoke extended-voluntary-departure status for Ethiopians. No one ever gave an explanation for this change in policy. It was only through the bipartisan efforts of Congressional Black Caucus members and our former colleague, current HUD Secretary, Jack Kemp, that Ethiopians were able to retain the protection of extended voluntary departure.

Was it a mere coincidence that Ethiopians, black refugees, were targeted for this change in policy? Is it a coincidence today, that Haitians, another group of black refugees, are being denied even temporary protection until the political situation in Haiti is resolved? Even the so-called regional solution to disperse some 500 Haitians to other countries, in the Caribbean and Latin America, is unprecedented and has been established exclusively for Haitians.

Unfortunately, Mr. Speaker, we do not have a coincidence. Our refugee and asylum policy continues to be driven not by equity but by the skin color of the refugees involved. It is only with black refugees that we seem committed to a policy of return despite the political conditions in their home countries. This policy toward Haitians is particularly disturbing in light of the imminent negotiations which are expected between President Aristide and the Haitian Parliament for his return to Haiti. I would ask the administration: What is the big rush? Given the deteriorating political conditions in Haiti, I am at a loss as to why our Government believed that the Haitian Red Cross was able to offer protection to the Haitians who were returned. Hopefully, yesterday's court order, to halt the repatriation process, will allow time for the administration to develop a more humane response to the current political crisis in Haiti.

Finally, Mr. Speaker, the one bright spot in this whole affair has been the bipartisan opposition to the administration's policy. I would hope that this Congress will move quickly on legislation introduced by Congressmen MAZZOLI and RANGEL to halt this repatriation policy.

Mr. DELLUMS. Mr. Speaker, it is with pleasure that I join my colleague, Mr. OWENS, the distinguished gentleman from New York to condemn the actions of the administration regarding the ongoing forcible return of Haitian refuges into a volatile and dangerous situation. This policy is unthinkable.

If United States policy can be changed to afford refugees of other islands, countries and situations entry into the United States, why not Haitians? The capriciousness of immigration restrictions is matched with a reluctance to assist in achieving peace, justice, and tranquility.

Have we traveled back to 1980? The people of Haiti clearly were saying then, we can't live under Duvalier. Yet the United States did nothing to assist. Since the overthrow of both Papa Doc and Baby Doc Duvalier, two successive administrations have maintained the status quo through the support and recognition of several repressive military regimes.

In 1991 the people elected a President. A coup has taken place and another military government is illegally in power. The United States through sins of commission and omission, has allowed history to not only repeat itself, but also to grow and replicate itself.

When is the United States going to stop treating Haiti like the Invisible Man of the region and recognize the legitimate hopes and aspirations of a people for a democratic existence?

When is the United States going to develop a foreign policy that does more than give minuscule aid to a country in dire economic and developmental need? Haiti must be allowed to expand and diversify its economy.

Now is the time for the United States to assume responsibility and reassess its priorities. The current situation is too serious to deserve anything but a concerted and sustained initiative to forge a long term policy approach that addresses the root cause and not just the symptoms of what ails Haiti. The problems will not be rectified until the United States recognizes the legitimate concerns of the Haitian people and concretely assists in the reinstatement of President Aristide.

I join my colleagues in continuing to address this issue and to press for substantive change in United States policy toward Haiti.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on Haiti, the subject of my special order tonight.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. EWING. Mr. Speaker, I ask unanimous consent to exchange my time on my special order time this evening for that of the gentleman from California [Mr. RIGGS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS LEGISLATION TO HELP MIDWEST DROUGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 60 minutes.

Mr. EWING. Mr. Speaker, I have taken out this special order to bring to the attention of my colleagues an issue which most of us have not heard much about but which is critically important to thousands of families in the Midwest and throughout the country. That issue is the drought which has ravaged crops this year and the supplemental appropriations legislation working its way through Congress which contains $1.75 billion in much-needed relief for those who have been hard hit by drought and other natural disasters. As we enter the final days and hours of the first session of this Congress, I want to call on my colleagues and the administration to ensure that drought relief is delivered to those who desperately need it before we go home for the holidays. We cannot let this important measure fall by the wayside in the rush to get home for Thanksgiving. We owe it to the innocent victims of natural disasters.

The country has seen an unusually high level of natural disasters in the last 2 years—drought, flooding, freezing, and fires. While I would like to particularly emphasize the agricultural drought which has hit the Midwest and my congressional district, the disaster relief contained in the supplemental bill is important throughout the country and in scores of congressional districts. In fact, in the last year the President has declared disasters in 33 States all over the country. The Secretary of Agriculture has declared disasters in nearly every State.

In Illinois the drought of 1991 has devastated wheat, soybean, and corn crops. In most areas farmers saw only a few inches of rain all summer, and some farmers had absolutely no rain during the critical growing season. As a result, many are facing major crop losses this year and some are facing total losses. I know too many farmers who have simply plowed under this year's crop, finding it cheaper to abandon what little marketable crops they have. I've brought to the floor some photos which clearly demonstrate what thousands of farmers have to show for their efforts this year. The corn in these photos is completely useless. This summer I toured several farms throughout my 125-mile long district where producers showed me endless fields filled with corn like this.

Our State of Illinois consists of 102 counties. The Federal Government has declared 86 of those counties disaster areas for corn and soybean crops. Eighty-nine of our counties have been declared disaster areas for winter wheat crops. Every county in my east-central Illinois district has been declared a disaster area. In fact, nearly every county in the northern half of our State will suffer corn crop losses of at least 30 percent.

Now the economic experts will tell my colleagues that nationwide crop production is on the low side of average this year. But what they won't tell you is that this year's Midwest drought has been spotty. Some farmers are producing average yields, but those who have been hit by drought have been hit hard, as the photos I've displayed indicate. During the summer I toured many corn fields full of corn which looked like this. Farmers with regular production will not benefit from drought relief. Only those with major losses such as this will receive any assistance. For those hit by the drought, this legislation will not just be helpful, it will save many from going out of business altogether.

This year's drought is particularly devastating because it comes on the heels of a decade-long series of droughts. We can all remember the major wipeout of crops in 1988 and the media attention generated at that time. But agricultural producers also faced widespread disaster years in 1980 and 1983. Many of the victims of these drought years are still trying to recover from the income losses incurred during those years, and for a lot of them this year will be the last straw unless disaster assistance is passed by Congress. As a matter of fact, a farmer called my office just yesterday and said that he has been advised to file for bankruptcy if this drought relief package is not cleared by Congress. I have heard stories like this time and time again in the last several months.

In addition to income loss due to the destruction of their crops, the prices producers receive are depressed this year. In 1988, farmers with a product to sell could count on higher prices to soften the blow. This year they do not have that good fortune. Prices are at extremely low levels.

As farmers go out of business because of this series of droughts in the last 10 years, the decline in the number of farms in America will be further accelerated. A failure by this Congress to provide some assistance to those hard hit by the drought will mean that a lot more small, family farmers will go out of business in 1992. That is a fact. The economic problems in the Corn Belt has and will affect our agribusinesses and yes every merchant on Main Street U.S.A. Many of these small business may also be forced out of business.

Thousands of farmers going out of business will not only hurt their families, but I believe it will hurt our Nation's economy as a whole. Farmers going out of business will not only swell the ranks of the unemployed, but the move toward fewer farms could drive up the cost of agricultural products in the long run.

Also particularly hard hit are the younger farmers who have been struggling to get started in their careers. I do not exaggerate the facts when I tell my colleagues that, because of consistent droughts throughout the last decade, we may be losing an entire generation of farmers. This, in the long run, will have a strong impact on our national economy, which is quite dependent upon our agriculture sector.

The supplemental appropriations legislation which contains drought relief funds has been languishing in the Congress for over 4 months. In that time, those impacted by agriculture disasters throughout the country have been on an emotional roller coaster as this on-again, off-again legislation has moved through the legislative process at an incredibly slow pace. As we enter the final days and hours of this session of Congress, the time has come for us to act. We would be neglecting our responsibilities if we went home for the holidays without taking some decisive action on this issue. Just as we felt the need to pass an unemployment benefits extension in order to get checks to the unemployed before Thanksgiving, we ought to be able to deliver relief for natural disasters before Christmas.

There has been a great deal of concern both in Congress and the administration about the cost of the drought relief appropriation. The dire emergency supplemental bill passed by the House on October 29 and being considered in the other body this week contains $1.75 billion for agriculture-related disaster assistance, including the drought. I do not stand here to tell my colleagues that this is not a significant amount of money. It is.

I am a fiscal conservative and do not take new spending lightly. In fact, I consider it my top priority while I'm in Congress to help reduce the level of Government spending and erase the Federal deficit. I am a strong supporter of a constitutional amendment to require a balanced Federal budget. I am also a strong supporter of the line-item veto and this week will introduce my own line-item veto legislation which would give the President the same power our Illinois Governor has to reduce spending. In all the years I served in the Illinois legislature I was one of the most ardent fiscal conservatives, and I plan to continue that philosophy in Congress.

Having said that, I tell my colleague that I do strongly support efforts to offset the costs of drought relief with cuts elsewhere in the budget. If it can be done, this legislation should be passed without violating the principles of last year's budget agreement and without increasing the deficit. However it is financed, I hope that the leadership of Congress and the administration will work together to make this critical relief a reality.

The message I hope my colleagues will receive from this special order is that drought relief is critically needed, and it is desperately needed before Congress adjourns for the holidays. I urge the administration, the congressional leadership, and all of my colleagues to support drought relief contained in the dire emergency supplemental appropriations legislation.

FARM BUREAU SURVEY SHOWS CROP DAMAGE

Irreversible drought damage to the Illinois corn crop in both northern and southern Illinois was reported in a county-by-county assessment of crop damage conducted last weekend by the Illinois Farm Bureau.

The largest area of crop damage in the state lies north and east of Interstate 74, which runs from Danville to Rock Island. Thirty-three of thirty-five counties in the region report corn yield losses of 30% or more in all or portions of the county, said Illinois Farm Bureau president John White.

Corn crop damage in northern counties is more severe in the eastern part of the region, with yield reductions exceeding 50% in portions of Livingston, Kankakee, Ford and Iroquois counties and along the Wisconsin borders in McHenry and Lake counties.

An area of southern Illinois roughly south of a line from Vandalia to Robinson also reports yield losses on corn exceeding 30% of a normal crop. As in northern Illinois, corn crop conditions are worse in the eastern part of this region.

White called the IFB damage assessment a "subjective survey" which can be used by county, state and federal officials to provide focal points for drought assistance efforts. He noted that even within these stressed areas, farmers report large variability in expected yields, with isolated pockets of more normal yields in intensely dry areas, and patches of crop damage in areas which have generally received more moisture.

White said the IFB survey showed that a change to a wetter weather pattern is needed to prevent the areas of damage to the soybean crop from becoming even larger than the area of crop damage.

IFB's assessment of the soybean crop showed farmers in more than a dozen central and southern Illinois counties expected final soybean yields to be cut by a larger percentage than corn unless the weather patterns change dramatically.

"The area of drought impact expanded after permanently damaging corn yields," White said. "Soybeans are known for drought resistance. But our members report serious damage to soybean plants has already been inflicted in the driest areas and yield potential has been cut across the state."

White said the impact of this year's drought on the net income of some Illinois farmers will be more severe than the drought year of 1988. "Because of weak demand and good crops elsewhere, Illinois farmers experiencing yield losses face cash prices for corn and soybean 15 to 30 percent below prices in August 1990. Farmer income is price times yield, both of which are suffering this year.

White also noted that reduced crops of corn and soybeans in southern Illinois follow damage to the wheat crop caused by adverse weather in June. Average wheat yields across the state were cut by 50% from excellent yields in 1989. Wheat producers also faced price reductions for poor quality grain.

[From the Chicago Tribune, Aug. 12, 1991]

RAINS TOO LATE TO WATER DOWN CROP DAMAGE

(By George Gunset)

Last week's rain put a damper on surging grain prices but probably came too late to prevent extensive crop damage from the drought that hit dead center in the Corn Belt this summer.

The drought's toll won't be added up until after the fall harvest but will include shrinking farm income, more farm failures, hard times for businesses dependent on farmer spending and a small impact on consumer food prices.

Though the rain will help the soybean crop, which was at its most critical growth stage, corn damage was beyond repair.

How badly the crops have been hurt will be outlined from field surveys for the first time Monday, when the Agriculture Department makes its August projections for corn and soybean harvests. Private forecasters have trimmed 700 million to more than 1 billion bushels off the corn crop and more than 200 million bushels from the expected soybean crop.

Crop damage has brought calls for government help. Agriculture Secretary Edward Madigan told a press conference last week that he is willing to negotiate a disaster relief plan when Congress returns from vacation next month. The Bush administration has opposed a pending bill that would provide $1.75 billion for disaster relief payments to farmers.

Even in one of the worst-hit areas, Madigan's old congressional district in east central Illinois, not every farmer is seeking relief from Washington.

"I've had two lean years out of the last four, but I had 19 pretty good ones before that," said Bob Fitzpatrick, a corn and soybean grower from Custer Park who farms 1,400 acres in Will and Kankakee Counties.

"This is a high-risk business," he said. "I made a management decision last spring not to take out federal crop insurance. I'm not crying now or going hat in hand to ask for a bailout."

Officials of the Federal Crop Insurance Corp. said they don't have 1991 totals but have been told by private insurers that coverage will be down from 1990. In Illinois, farmers took out insurance on 3.5 million acres of corn last year, compared with 4.9 million in 1989 and 1.2 million in the drought year of 1988.

Soybean figures were 1.9 million acres in 1990, 2.9 million in 1989 and 840,000 for 1988.

"It's like wrecking your car, then running to Allstate to take out a policy," said Cliff Lorick, an agency spokesman.

"A local insurance agent told me that farmers who had been carrying crop insurance for the previous two years saw the nice rains in April and decided they could avoid the expense of premiums," said Bob Dyer, manager of the Kankakee Farm Bureau.

Fitzpatrick, who can weather another bad year, acknowledges that younger farmers and those with burdensome debt loads will find it difficult to survive a severe drought so soon after the much more widespread one in 1988.

"Even good managers are going to be forced out of business because of this drought," said Dyer.

In Kankakee County, one of the worst hit in Illinois, a Corn Growers Association field survey by five teams last Monday put the average corn yield about half of normal at 61 bushels and acre and soybeans at a minuscule 13 bushels, less than a third of normal.

"The soybean number was surprising, but rains could help increase the yield," said Fitzpatrick. "In some of my fields, though I'm always hopeful, I know it won't pay to run the combine."

The national picture is sure to be worse than the "trendline" forecast by the USDA. Based on historic trends and planted acreage, the department estimated corn production at 8.27 billion bushels, or 120.2 bushels an acre, before the drought. For soybeans, the department's trendline estimates projected at 1.97 billion bushel harvest, or an average yield of 33.6 bushels.

A survey of 20 grain analysts by Commodity News Service late last week produced an average estimate of 7.44 billion bushels for corn and a range of 7.15 billion to 7.75 billion. For soybeans, the range was 1.69 billion to 1.87 billion with an average estimate of 1.82 billion.

Meanwhile, a survey of 2,500 grain elevator managers, processors and dealers by private grain analyst Conrad Leslie indicated a 1991 corn harvest of 7.39 billion bushels and a national average yield of 109.5 bushels an acre. Leslie's survey forecast a soybean crop of 1.82 billion and yield of 31.3 bushels.

For 1990, U.S. farmers produced 7.93 billion bushels of corn and 1.92 billion bushels of soybeans. The records were 8.87 billion for corn in 1985 and 2.26 billion for soybeans in 1979.

Leslie, head of the Leslie Analytical Organization, said the reduced corn crop plus anticipated higher consumption implies a drop in supplies to 865 million bushels at the end of next August.

That would be the lowest crop inventory since 723 million bushels in 1984, which followed the drought year of 1983. Surpluses of 4.2 billion bushels cushioned the effect of the 1988 drought, but stocks at the end of the current marketing year Aug. 31 are expected to total only 1.47 billion.

The effects of the drought on the agricultural economy can be seen in projections for Indiana, the state suffering the most damage. Leslie estimated that the state's corn production will fall to 472 million bushels from 703 million in 1990, and soybean output will decline to 139 million bushels from 171 million a year ago.

Purdue University agricultural economist Bill Uhrig said at the end of July that Indiana farm incomes will be significantly lower than last year. He estimated the 1991 corn receipts would be down $300 million and soybeans by $80 million from 1990 levels.

"In addition, hog receipts was estimated to be down $70 million before the drought," he said. "With milk prices and other commodity prices down, Indiana hog farm income could be as low as that experienced in 1988."

Uhrig said that "all Hoosier farmers will be affected by the low crop production caused by the drought. The loss in crop income may range from $30 to $50 per acre to a complete loss."

The drought's final impact will be felt in the general economy. Uhrig noted that each dollar generated on the farm creates about $3 of additional purchases as it moves to manufacturers.

Joe Uhl, also a Purdue agricultural economist, pointed out that the impact on consumers will not be as severe as that at the farm level. "To get a 1 percent rise in the consumer price index, food prices must rise 6 percent. And to get a 6 percent increase in food prices, farm prices must rise 20 percent overall."

□ 1950

Mr. BRUCE. Mr. Speaker, will the gentleman yield?

Mr. EWING. I am happy to yield to my fellow colleague from Illinois.

Mr. BRUCE. Mr. Speaker, I am happy to join the gentleman from Illinois [Mr. EWING] in his plea that we handle very quickly and expeditiously the emergency supplemental that will bring relief to farmers throughout the Midwest, particularly in the State of Illinois. I want to thank the gentleman for giving me this opportunity to speak on this important subject, and rise today to ask that there be prompt action on H.R. 3454.

In July of this year I had a chance to return to my district in central Illinois and visit farms that had been really affected by a crippling drought this year. As I walked through very parched fields, I was left with an image of absolute crop failure. So severe were some of those losses in northern Vermilion County and Champaign County, that reductions of crop yields of up to 50 percent were not unusual.

A 400-acre farm in Vermilion County averaged a pitiful 7 bushels per acre of corn. A young farm wife and mother visiting Washington this summer brought me some of the corn that they were producing in that part of the State. A normal year it would be as big around as your wrist and 12 to 14 inches long. Ears like this is what I found when I walked around in fields in Vermilion County.

The 1991 crop is a disaster compared to any earlier crop. It does not stretch the imagination to know the hurt that is going on in central Illinois and in areas of the State and areas of the Nation where farmers are getting these kinds of yields.

The farmers of my district, the farmers of Illinois, the farmers of this Nation provide the best food supply to the world. They are the world's providers. They do it at a very economical cost.

American consumers spend about 11.8 percent of their disposable income on food. We provide, the Congress in joint operation with the President, assistance to the Kurdish rebels, to those who have suffered in the monsoons in Bangladesh. In their times of devastation we have reached out.

Today we have added Russia to that list. It appears without help Russia will, in fact, run out of food this winter. It is commendable that this Congress and the President and our farmers are willing to share their bounty with people around the world in times of distress.

But we can ill afford to let our own source of bounty, America's farm families, stand alone in their times of distress. It is now time to take care of the people who produce the food that we send to those other countries. The people who have helped those who are hurting around the world are now hurting themselves. It is time to take care of some of our own.

As the gentleman from Illinois [Mr. EWING] has indicated, we are trying to conclude this Congress and go home for Thanksgiving. We will celebrate at tables at grandmothers' homes and mothers' and fathers' homes around this Nation a celebration of our bounty that we have produced.

Let us not forget as we celebrate this Thanksgiving the very great farm families in this Nation who have provided the food for our tables who are suffering this year. We ought not adjourn this Congress without acting on the urgent supplemental to give those people belief in our system and belief in our farm economy.

Mr. EWING. Mr. Speaker, reclaiming my time, I am extremely pleased that the gentleman from Illinois [Mr. BRUCE] could join me here tonight. I would just ask the gentleman, I have prepared a chart here at the well with some of the corn samples that came probably from counties that we share on the borders of our districts in Ford and Iroquois, Vermilion, McLean, and Livingston Counties.

I would ask the gentleman if those represent some of the examples that you have seen?

Mr. BRUCE. Mr. Speaker, if the gentleman will yield, these are certainly very typical of what I found. These representations are certainly horrible examples of a good corn crop. They are very small ears. You have compared one to about the size of a can of Pepsi. That is about what I have in my hand. A normal ear would be much larger than that, almost as big around as that Pepsi can, and as long as two Pepsi or Coke cans stacked one on top of the other.

That represents for Illinois farmers, disaster. This disaster relief legislation certainly ought to be passed, because this tells us bad things have happened in Illinois agriculture.

Mr. EWING. Mr. Speaker, I found—and I do not know if the gentleman found the same thing—that this just was not an isolated ear, but we had fields of this, piles of this.

Mr. BRUCE. Mr. Speaker, if the gentleman will yield further, as I mentioned, I had one 400-acre farm in Vermilion county, a large corn-producing county, where the average yield was 7 bushels of corn per acre. Mr. Speaker, this is just a guess, but I would say the average yield in that county would normally run about 145 bushels countywide, 145 bushels per acre. That has been reduced to 7 bushels per acre on a 400-acre farm in that county.

Mr. EWING. Mr. Speaker, reclaiming my time, I understand that some of these crops where they sometimes cut them for silage, because of the chemicals used and the fertilizers they were unable to even harvest them for silage. The reason is because when the crop is suffering under drought situations, it takes the chemicals up into the plant and makes it toxic to the livestock. So they could not even cut it for silage or for feed.

Mr. BRUCE. Mr. Speaker, in many areas farmers trying to salvage a crop, when cornfields are so low, will chop the stalk up to feed livestock and create silage. The stalks were so dry and brittle they had not filled out at all and many farmers, after they started to chop the silage, just gave up. The quality was low, the protein content was very low, and the uptake of chemicals by the plant trying to survive was such that it would not have been, in some instances, a healthy feed for the animals.

So not only did they lose the corn crop, but they lost any possibility of using that stalk as feed for their livestock.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I would just like to say, first of all, I salute both gentlemen for their interest and leadership in bringing this plight of the farmers throughout the Midwest to the attention of the Nation and hopefully to the Secretary of Agriculture and the attention of the President and the Senate. I salute and commend both of you.

I would like to say that this drought is not particular or specific just to Illinois. My farmers in Indiana have been going through a particularly difficult time this summer and fall.

The gentlemen from Illinois talk about the examples in Illinois, about way reduced bushels per acre. Many of my farmers, Dwight Ennis, Jim Whitmore, Tom Bradford, were the other day talking to me about 10 and 20 bushels per acre, when they were getting 120 last year and the year before.

□ 2000

Devastating to our middle class and family farmers throughout the country, just devastating.

As we go on to celebrate Thanksgiving, as we look, as the gentlemen were just talking about, to helping out the Soviets, both with a free market system and democracy. If we want to continue to sell them grain, beans or corn or wheat in the future, we have to have our middle-class farmers vibrant, alive, and healthy to be able to help in this spreading of democracy around the world.

So I would like to salute both of you for your interest, join in your efforts here tonight to try to get help for our farmers, who, when we walk through a cornfield, usually it is towering above you and now these days, as the gentlemen both know, it brushes up against your knees, in addition to seeing the tiny production that we are seeing, usually smaller than a can of Pepsi.

I join in the efforts to bring this to the attention of the Senate and the administration, and I hope we act quickly. I have enjoyed working with both of the distinguished gentlemen from Illinois, Mr. BRUCE and Mr. EWING, in trying to get the Nation's attention and the administration's attention on this.

Mr. Speaker, I would first like to recognize the fine leadership of Congressman EWING and our colleagues in bringing this important issue to the attention of Congress and our Nation today.

Mr. Speaker, a lot of pressure was put on Congress last week to quickly pass an extension of unemployment benefits so that many of our consitutents would have needed unemployment benefits in time for Thanksgiving. I supported that measure.

I stand here tonight to bring your attention to another group whose Thanksgiving will be less than plentiful if we do not pass the dire emergency supplemental appropriations conference report by the time we adjourn this year, America's farmers. This is not the first holiday that will be less than celebratory for farmers in my district.

The drought that hit Indiana last summer made the Fourth of July a time of worry and prayer for rain, Labor Day a time of distress and disappointment over the loss of crops, and the Halloween season a time of anxiety and frustration over how to repay operating loans coming due.

Now, as we quickly approach the most uniquely American holiday, Thanksgiving, we are poised to deny the very people who provide our holiday bounty the same for their families.

Mr. Speaker, in my home in the Third Congressional District of Indiana, several farmers are not faced only with the problems caused by the drought. The drought was an agonizing addition to a host of obstacles. For example, Mr. Dwight Annis of North Liberty, in addition to getting less than 30 percent of last year's yield, is still trying to get money from the owners of a failed elevator that held his grain under a deferred pricing plan. And Jim Whitmer of North Liberty is grappling with low dairy prices and scarce hay to feed his cows while getting only 15 to 20 bushels an acre.

It is my hope that the bill the other body's Appropriations Committee favorably reported last week, which is expected to be passed by that body in the next few days, will be put on a "fast track" in the House so that a conference report can be approved before we leave for the upcoming recess.

While the administration turns out empty pockets at this request for $1.75 billion in critical aid for American farmers, they miraculously claimed to have $2.5 billion in those same packets to extend agricultural credit to the Soviet Union this winter. Though certain technological and humanitarian aid to the Soviets may be in our country's best interest, I believe that a foreign aid program of this magnitude ignores a domestic crisis that will have lasting ramifications.

Mr. Speaker, it is time that the administration stop turning its back on the American family farmer. We must support the people at home whose hard work in the valleys and fields of America's farm belt is the backbone of our quality of life.

SENATE PANEL ADDS ITS STAMP TO 'DIRE EMERGENCY' BILL

More than two weeks after the House approved a "dire emergency" spending bill that lawmakers said was desperately needed by farmers, ranchers and disaster-struck communities around the country, Senate appropriators sprang into action Nov. 15, approving a nearly identical bill that sets up a showdown with the White House.

On a 26-3 vote, the Senate Appropriations Committee approved a $7.6 billion bill for fiscal 1992 that has been languishing in Congress since July. The full Senate was expected to take it up early the week of Nov. 18.

Senate appropriations had publicly exhibited no urgency about the bill until the night before the markup, but their leisurely pace seemed like legislative lightning compared with that of the House, which had held the bill for four months before finally approving it Oct. 29.

The problem all along has been strenuous White House objections to the size of the bill, which triggered a veto threat in July when House appropriators had just begun to consider the measure. Negotiations with the administration went nowhere, and the House finally passed a $7.5 billion measure.

Senate appropriators had been widely expected to pare the bill to meet administration objections, but they threw their House colleagues a legislative curveball. Ignoring the House-passed bill, they picked up a dormant measure sent to the Senate earlier in the year (HJ Res 157), stripped it and built their own version of the emergency spending bill in the shell.

That allowed the Senate committee to drop controversial House-passed language that would have changed the way presidential candidates can get money from the taxpayer checkoff fund, a provision that risked a sure veto. "I didn't want it on our bill," said Appropriations Chairman Robert C. Byrd, D-W.Va., who added that the provision would have opened the way for tax amendments and would have provoked "a sure filibuster" on the Senate floor.

Senators did the unexpected when it came to the bill's size. Instead of scaling it back, they accepted virtually everything the House passed and added a little military spending of their own, turning the $7.5 billion House version into a $7.6 billion Senate measure. Sen. Thad Cochran, R-Miss., a committee member and a chief supporter of the farm aid provision, said the House had "sort of set the Senate up to be the heavy" by raising expectations that senators would cut the bill down to size.

Instead, most participants now expect the bill to be cut down in a House-Senate conference committee, where the White House will be a key negotiator.

WHERE THE FUNDS ARE

As approved by Senate Appropriations, the bill includes about $3.5 billion in mop-up costs for Operation Desert Shield/Desert Storm, $1.75 billion for crop-loss assistance to farmers and ranchers, $943 million to enable the Federal Emergency Management Agency (FEMA) to help communities hit by fires, floods, and other disasters, $1.4 billion for three children's assistance programs, and smaller sums for other priorities.

The Senate panel also included a provision to bar military sales to Saudi Arabia and

Kuwait until the countries pay an estimated $3.29 billion still owed the United States for expenses connected with the gulf war.

The key dispute between Congress and the administration is over how to pay for the measure. The White House wants to designate the Pentagon money and a small fraction of the FEMA money as emergency spending, which would exempt it from caps set in the budget law. All the rest would have to be paid for by cutting spending in other programs.

The House flatly rejected the offset idea, however, insisting that the entire bill be designated emergency spending. Under budget rules, both Congress and the president must jointly designate emergency spending. The administration has indicated that it would veto the House bill.

In the Senate, Byrd added a twist of his own, including language that would block spending of any of the money unless the president declared it an emergency at the time he signed the bill. That would prevent Bush from signing the measure, spending the money and then ordering an across-the-board spending cut in other domestic programs to pay for it—something he could do with the House bill.

But the language would open the way for Bush to selectively designate emergency items in the bill, letting the others expire for lack of funds.

Brock Adams, D-Wash., complained that that approach would effectively give the president a line-item veto. "He can take items and say, 'This one is funded and this one is not,'" Adams said. He added that Byrd's language was precisely what doomed Congress' first attempt to pass an extension of unemployment benefits in August. That bill stipulated that the benefits would be funded only if the president declared an emergency, which allowed Bush to sign the bill but not implement the benefits.

Byrd insisted that he was "the granddaddy of all opponents to the line-item veto." But he also signaled that he did not expect the bill to go to the White House in that form. "I am hopeful that additional amounts for FEMA and crop losses will be declared an emergency by the White House," he said.

It has been expected for months that a compromise would eventually include more emergency money than the administration wanted for FEMA and some, but not all, of the farm aid Congress has demanded. Much or all of the children's aid added in the House is expected to drop out of the bill.

Mr. EWING. Mr. Speaker, I find that the drought has not only affected farmers but agribusiness people, people who run elevators and seed companies and fertilizer. And every business on Main Street, U.S.A., whether it is in Illinois or Indiana, without some money to sustain these farmers, they are not the only ones going out of business.

I would ask the gentleman, has he found that?

Mr. ROEMER. Mr. Speaker, if the gentleman will continue to yield, the spin-off in Indiana for ancillary and directly-connected jobs and employment and revenue are unbelievably connected to the health of our economy in the Hoosier State. We are seeing all kinds of pain and suffering across our sectors because of the drought in northern Indiana and through the State of Indiana.

Also, as the gentleman from Illinois knows, 80 percent of our growth right now in our economy is coming from exports. Much of that, a lot of that is coming from our agriculture industry and agribusiness.

So we are not just talking about our farmers and our middle class families and the health of these farmers to help spread democracy, to help feed our people, to help get food in our grocery stores. We are talking about the direct spinoffs to the State economies in both Illinois and Indiana and around the country, a very, very important point to articulate.

I am glad the gentleman from Illinois brought that up.

Mr. EWING. Mr. Speaker, it is my fear that when we look at a roomful of some of our farmers in our district, we see a lot of gray hair. We do not see a lot of young men and women who are in there in the farming business. But those that are most apt to be hurt by the failure of this Congress to act and the administration to approve a crop disaster bill will be those young people who we will need to depend on in the years to come.

Does the gentleman find that?

Mr. ROEMER. Mr. Speaker, we are talking about passing on the American dream. We are talking about a family that has been successful in farming for generations, now wanting to pass this on to a young son or daughter. And when the young son or daughter sees the type of problems that their parents are experiencing in working with the Government or that the Government is not paying attention to them when they have gone through this severe and devastating drought, I think it makes it very difficult then for a young person to say, I want to go into this kind of business and spend the next 50 years here.

I just had a town meeting in a backyard of a farmhouse, not too long ago, where many of the farmers were saying, "Tim, why should we pass this on to our young people with these kinds of problems?"

I would just like to also say, too, in terms of this drought, as the gentleman from Illinois was talking about so emphatically earlier in his remarks, that this drought has affected all types of farmers. We can go from one side of a corner to another in the same county in the same city and see that while one farmer might be doing fairly well, another farmer is completely wiped out from their production the year before.

It is down 30, 40, 50, 60 percent. So I would just like to say to the gentleman from Illinois that we do have to preserve this dream for our young people, whether they choose to be a farmer, whether they want to go to college, whether a middle-class family wants to pursue a dream of being a scientist or whatever, these options have to be available. And too oftentimes now with these kinds of problems, we are seeing too many of our young people being discouraged from taking over the middle-class family farm.

Mr. EWING. Mr. Speaker, I would like to thank both the gentleman from Indiana [Mr. ROEMER] and the gentleman from Illinois [Mr. BRUCE] for joining me tonight on what I think is certainly a very, very important issue.

I would say in closing that we do have a very serious problem. I address that to the Congress and to the administration. We have low yields. We have terribly low prices for what little was produced. We have a disaster of major proportions in the Corn Belt of the Midwest, in Indiana and Illinois.

We are going to lose a lot of farmers. They are going out of business, and we are going to lose a lot of agribusinesses who supported those farm businesses.

I propose a question to this Congress and to the administration: Who will we look to to produce our food if we allow this disaster to overtake us?

In addition, we will lose a way of life which we have cherished in this Nation, a way of life which we have held out as the traditions and the values which we emulate. It is something we cannot allow to happen.

I thank both gentlemen for helping.

Mr. SANGMEISTER. Mr. Speaker, let me first commend my good friend and neighbor, Congressman TOM EWING, for scheduling this special order. Since being elected in July, Congressman EWING has established himself as a true friend of agriculture and, more importantly, a defender of the American farmer. His efforts on behalf of the agriculture community are sincerely appreciated.

When we discuss the dire need for drought assistance to our Nation's farmers, we are not talking about a bailout or another Government check for the farmers. Although I've heard such callous statements, anyone who has seen the damage this disaster has caused would agree that such cliches are a disservice to the hard-working men and women in the farming community. What we are talking about today, Mr. Speaker, are human lives. We are talking about a way of life that constitutes the backbone of our Nation's economy. Ultimately, we are talking about an obligation our Government has to assist those who, through no fault of their own, stand to lose all they have worked to accumulate.

Back in Illinois, Mr. EWING's district and my own encompass the northern and north-central parts of the State and, as I am sure my colleague would agree, contain some of the best farmland in the Nation. I am also certain he would agree this area has had its share of natural disasters in the last 10 years or so. Our districts have been ravaged with drought over the last decade—in 1980, 1983, 1988, and again this past summer.

This year's drought, which devastated my district, did not receive the same attention as the 1988 drought due in large part to its scattered pattern. Throughout the Midwest—and the Nation for that matter—there was a spattering of severe drought areas. One county may have had normal or near-normal rainfall while a neighboring county went literally months without even a drop. I submit that this is the most devious characteristic of the drought, because it tainted Americans' perception of the problem and trivialized the need for aid.

I recognize that this drought was not on the same scale as the one we experienced in 1988. It was not as serious a problem nationwide. But, just because it did not reach the networks' 6 o'clock news every night does not mean it, or the people it has devastated, should be ignored. There is an emergency here, Mr. Speaker. A dire emergency that a majority of my colleagues in the House have acknowledged. We have approved an authorization and, last month, an appropriation to bring much needed aid to these farmers, farmers who cannot pay their mortgages or put food on the table, let alone save for retirement or their childrens' educations. A dire emergency is almost an understatement when looking at the potential damage to the thousands of families whose livelihoods hang in the balance.

When I was home in July, I visited some farms in my district to see firsthand the damage the drought had brought. The corn had no ears, the beans sagged at my ankles, and the ground was so dry you could lose a yardstick in its cracks. It was a dramatic showing. However, Mr. Speaker, the real tragedy was not found in the field, it was found in the faces and words of the farmers who gathered around me to hear what Washington was going to do to help them. These farmers were nervous and they were disillusioned. Here they were, many worse off than in 1988, and I had to tell them the administration did not consider their situation an emergency. Congress had just passed the authorization for drought aid, and I had to tell them that the chance of getting them a check was clouded by a veto threat. I had to explain that, yes, aid was given to assist the Kurds and the people of Bangladesh, but somehow, their situation did not merit similar attention. With 30 years of public service under my belt, this was not a shining moment.

Since that day in July, this Congress has made great strides toward making drought aid a reality. It may have taken 4 months, but a supplemental appropriation which included drought aid was approved by this body and was to be taken up by the Senate today. This should bring a sigh of relief from farmers and lawmakers alike, but we are still left wringing our hands over a veto threat. I hope this special order will raise awareness of the problem, and inspire the courage needed to stand up for America. I challenge the administration to take a step back and look at what happened to the farmers in my district this summer. Then tell me there is no emergency.

Once again, I thank my colleague, Congressman EWING, for calling this special order. I vow my continued support for this aid and submit that the farmers of this Nation deserve no less.

GENERAL LEAVE

Mr. EWING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE BCCI DEBACLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes.

Mr. RIGGS. Mr. Speaker, I rise tonight on a subject of very real importance to our Government and certainly to all of my colleagues, a subject that is very timely indeed, given the fact that this House today, after several previous futile efforts, passed a bank reform bill to recapitalize the bank insurance fund and at the same time impose on the American banking industry regulatory standards, one of which is standards that came out of the Committee on Banking, Finance and Urban Affairs hearing on the BCCI debacle.

I would tell my colleagues that the standards that we contained in today's bill regulating foreign interests in the United States will hopefully prevent a recurrence of the situation I am going to describe in some detail tonight.

My special order is specifically focused on BCCI, the Bank of Commerce and Credit International, and what our Federal Government has done or has not done with respect to investigating what has come to be known as the largest criminal organization, largest organized criminal fraud in the history of the world.

It is a story replete with examples of lost leads and very, very costly efforts on the part of our Government in terms of both protecting the American taxpayer and also, and probably just as importantly, in terms of restoring American consumer confidence and faith in our financial institutions here in the Nation, so critically important to this body enjoying rather the public support necessary to enact meaningful regulatory legislation with respect to both the banking industry and the thrift industry, but also critically important in terms of jump starting our economy and getting the economic engine going again so that we really can promise our constituents back home a period of sustained prosperity and economic growth that will hopefully lead to job creation and also promote investment and savings in American businesses.

□ 2010

Mr. Speaker, on July 5, 1991, bank regulators seized the offices of Bank of Credit and Commerce International in the United States, Europe, and other parts of the world. The closures have been followed up with enforcement proceedings against the BCCI parent company or holding company, BCCI Holdings of Luxemburg and subsidiary banks for violation of United States banking laws. These closings have also been followed by racketeering charges brought by the U.S. attorney in Tampa, as well as an indictment by a New York grand jury for defrauding BCCI depositors, falsifying bank reports to hide money laundering, and various multimillion-dollar larcenies.

On September 10, of this year, shortly after we returned from our summer recess, the full House Banking, Finance and Urban Affairs Committee began hearings on the BCCI affair, concentrating on the illegal, secret takeovers of First American Bank right here in the District of Columbia, the National Bank of Georgia, CenTrust Savings Bank of Miami, FL, and Independence Bank of Encino, CA, in southern California. We heard evidence, strong evidence that BCCI secretly and systematically infiltrated the U.S. banking system while our banking regulators and law enforcement personnel in the Federal Government ignored or just plain overlooked numerous warnings.

The Banking Committee quickly moved on to other matters because we had, when we came back in September, pending before us the very, very vexing and troublesome issues of bank reform and recapitalizing the bank insurance fund, as we did earlier today on this floor, and pumping millions more into the savings and loan industry, as we will be contemplating doing here within the remaining few days of this session. When we moved on from BCCI we did it, I hope, with the understanding that we will revisit that subject at a future date. It is one that I am terribly interested in, and frankly I am joined by just a handful of my colleagues in actively pursuing this in the U.S. Congress. I can tell my colleagues looking in and our visitors here tonight that others of my colleagues share my concerns such as the gentleman from New York [Mr. SCHUMER], who has been actively pursuing this matter through his Judiciary Committee subcommittee, as well as Senator KERRY in the other body. I certainly hope that we will be diligently and painstakingly pursuing this matter further, because I am personnally not satisfied in the least that we have even scratched the surface of the BCCI affair to date. I have written to the Banking Committee chairman, Mr. GONZALEZ, asking that we look further into the involvement of two principals in the First American takeover here, again in the District of Columbia, Robert Altman and Clark Clifford.

I am disturbed by revelations of the very close financial and personal ties between Bank of America and BCCI. I have requested that the committee probe further, that it review all of the documents that have been obtained on B of A, all of the internal documents obtained pursuant to a subpoena issued by the Banking Committee, and we as a committee look deeper into the links between Bank of America and BCCI at a future hearing.

Recently, we have seen a flurry of legal activity. The Justice Department has filed new indictments in Florida, and a California grand jury has leveled charges. In New York State, the Manhattan district attorney continues to pursue the case, and overseas regulators in France, Great Britain, and the Cayman Islands are investigating widespread fraud, money laundering, and illegal stock manipulations. Clearly, BCCI, as we used to know it, is on the run. But I do not take much satisfaction from that fact.

I want to go back, and I have a chart here that I will be referring to as I move into my special order, but I would like to go back and really talk a little bit about BCCI, again, the largest criminal organization in the history of the world, which left in the wake of its failure earlier this year a decade of criminal activity and outright thievery. BCCI was founded in 1973, and early on it gained a reputation for shading dealings. Yet, despite continued evidence that it was in fact a widespread organized criminal operation, and information that it had infiltrated the American banking community, it had been operating, or had been prior to its takeover or shutdown, it had been operating in the United States for almost 10 years under the cover of its illegally owned American banks. And despite the fact that it was criminally indicted for money laundering in 1988, a number of this country's most prestigious banks, including the Bank of America, Security Pacific, and the Bank of New York continued corresponding relationships which offered unlimited opportunities for BCCI and its criminal customers to hide their illegal and ill-begotten funds.

Too often in the past we have thought of white collar crime as a relatively harmless activity. The bright guys occasionally get caught, and sometimes actually go to jail, but nobody really gets hurt, and the money damage is so spread out that the average citizen does not feel the pain. I am here tonight to say that in the case of BCCI and in the case of the savings and loan scandal that myth is rapidly dissipating. We all know that this Government is going to be financially saddled for generations to come because of the $500 billion-plus cost of the savings and loan bailout. And we are all awakening to the toll in terms of the lost public faith in government officials who turned a blind eye and who in fact in some cases personally benefited, and in financial institutions in general.

The BCCI scandal takes financial chicanery to a whole other and new dimension. The damage BCCI has done to thousands of people is immeasurable, and in fact has continuing international consequences. The most obvious victims of BCCI are the thousands of customers around the world who have lost approximately $12 billion in deposits. Some of those customers are very close here to home. Just in today's Washington Post in their business section they ran an article indicating that First American Bank here of Washington, DC, as I have mentioned earlier, as we have come to know now which was illegally owned by the Arab investors behind BCCI, lost $1 billion during its fall quarter and had a drop in terms of total assets of 12.3 percent. Clearly that institution is on the financial ropes as a result of its infiltration by BCCI.

The most obvious victims, as I have mentioned, are the depositors. But we can count those who are affected by the $1 billion drug deals financed by BCCI as victims of their activities as well, both those who are tragically addicted to the drugs of cocaine and heroin, and the victims of violent crimes perpetrated by desperate drug users and rival criminal gangs.

BCCI, the Bank of Criminals and Corruption International, was in reality a full-service bank for drug traffickers. It financed the drug transactions of Latin American drug cartels, laundered dirty money, and made it possible for drug traffickers to invest in legitimate businesses.

Add to the list of victims innocent, ordinary people living in unstable regions of the world where BCCI financed arms deals for militaristic and radical regimes, and promoted terrorism by extension. BCCI financed the purchase, sale, and delivery of illegal arms to Saddam Hussein. It assisted a Pakistani arms dealer via letters of credit and monetary transfers in smuggling weapons to Iran. It facilitated arms deals to Arab terrorist organizations, and it may have even formed a network, and this is almost mind-boggling, to purchase components for the construction of a nuclear device in Pakistan, a so-called Islamic bomb that would turn the Fundamentalist Islamic government of Pakistan into a regional superpower.

□ 2020

BCCI as it turns out was the favored bank of some of the world's major league thugs, including in addition to Saddam Hussein, Manuel Noriega, and Ferdinand Marcos. The friendly and accommodating bankers of BCCI helped these dictators loot their treasuries by developing numerous complicated transactions involving the use of shell companies that obscured the dictator's selfish intent and allowed them, frankly, to hide money away in secret accouts.

In Third World countries, the basics of survival are enough food, clean water, and sanitation. I wonder what kind of suffering resulted when government moneys were redirected by BCCI into these strong men's secret accounts?

Robert Morganthau, the Manhattan district attorney who is diligently prosecuting a case against BCCI and who has accused the Justice Department of noncooperation, even obstructionism in the matter, says, and I quote:

> The BCCI was operated as a corrupt criminal organization throughout its entire 19-year history. It systemmatically falsified its records. It knowingly allowed itself to be used to launder the illegal income of drug sellers and other criminals and it paid bribes and kickbacks to government officials.

And those are officials perhaps of our Government as well.

> The corporate structure of BCCI was set up to evade the national and international banking laws so that its corrupt practices would be unsupervised and remain undiscovered and the defendant systematically falsified the capital structure of BCCI to make it appear as though it was a solvent profitable bank secured by the backing of wealthy businessmen from the Middle East.

Mr. Morganthau continues:

> In fact, much of the bank's capitalization and assets were fictitious and its backing illusionary. The defendants created the appearance of respectability by persuading world leaders to appear with them and defrauded thousands of depositors, both small and large, who relied on that appearance of respectability.

BCCI worked hard to earn the appearance of respectability. In this country, as is well documented, it courted and contributed to some of the Nation's leading politicians, going so far as to contribute $8 million and office space to former President Carter's favorite charity. Other beneficiaries of BCCI's largess through its subsidiaries and operatives included Bert Lance, former Secretary of the Treasury in the Carter administration; Andrew Young, former Ambassador to the United Nation; and John Connelly, former Secretary of the Treasury, all officially honorable men, all men certainly with influence close to the centers of power.

Respectability. Last September I sat in the Banking Committee hearing room and listened to Robert Altman and Clark Clifford, two very respected members of the Washington establishment who were top First American officers, deny participating in or even knowing about the BCCI takeover of their bank.

I was struck with the deference that many members of the committee displayed to these men, even after being presented with evidence that shredded whatever credibility that they may have with respect to their repeated denials of culpability.

Robert Altman and especially Clark Clifford are both respectable men, the kind of men other respectable men and women are reluctant to question. It is especially disturbing that Mr. Clifford, the former Secretary of Defense and adviser to numerous Presidents, appears to be implicated in the illegal takeover of First American Bank.

It is more disturbing, however, that there is little interest here in official Washington in examining Mr. Clifford and Mr. Altman's role further, even after it was suggested to the Banking Committee that Mr. Clifford may have perjured himself for the committee on the basis of testimony that he had submitted earlier to the Federal grand jury here in Washington investigating the failure of BCCI of Washington.

Mr. Clifford was paid only $50,000 annually for his chairmanship of First American, yet he and Mr. Altman collected millions as attorneys representing BCCI from 1978 to 1990, and by representing First American, and according to published reports took home several other million dollars made—now get this, by selling stock in the First American Bank that they were able to purchase with a 100-percent nonrecourse loan made by a BCCI subsidiary in the Cayman Islands.

Mr. Clifford repeatedly told the Federal Reserve in 1981 that no relationship existed then or would exist in the future between First American Bank and BCCI. The Fed apparently was satisfied with his claim that the bank was owned by Middle East investors, and despite repeated warnings from many sources, never probed deeper.

It was not until this year that overwhelming evidence from Morganthau persuaded the Federal Reserve that First American Bank of Washington, DC, was in reality a BCCI subsidiary.

Mr. Clifford, now at 84 years of age and certainly deserving of a great deal of respect and even gratitude from the Nation for his service to this Nation, says that he was duped. He says, "If the Federal Reserve was duped, then so was I."

That remark brings the blame full circle, for bank regulators say today that they trusted Mr. Clifford's repeated assurances that BCCI was not the invisible hand behind First American Bank.

Mr. Clifford was too respectable, he was too honorable a man to repeatedly over the years mislead Federal banking regulators about the true ownership of First American Bank of Washington.

Last September the Banking Committee also heard that Bank of America, one of the Nation's largest and most respected banking institutions, a bank with its headquarters in San Francisco, CA, not far from my First Congressional District on the north coast of California, had a prominent role in the whole BCCI affair. Bank of America was a founding investor of BCCI, at one time owning I think close to 40 percent of the stock in BCCI, but it sold off its shares in BCCI by the early 1980's because of, according to senior officials of Bank of America because of management misgivings about BCCI's loose lending practices and lack of internal controls.

Bank of America, however, in selling off their interest made a very hefty profit, I think in the neighborhood of 600 percent on its original investment of $5 million, and continued a corresponding bank relationship with BCCI until the day that BCCI was shut down.

During the 1980's, more than a billion dollars a day at times flowed into Bank of America accounts from BCCI. In fact, in at least two instances Bank of America acted as a middleman, a broker, if you will, for financial transactions between B and L, an Italian Government-owned bank that had a branch in Atlanta, GA, that had dealings with Saddam Hussein and the Iraqis, and BCCI.

Did Bank of America ever question whether this money that was flowing into their institution, money that frankly may have helped to prop up Bank of America during the 1980's when it, too, experienced financial troubles. Did they ever question whether or not any of those funds were laundered? If they did, did they care, did they let on to anyone in terms of Federal law enforcement officials or Federal banking regulators regarding their suspicions?

In my mind, the BCCI debacle has conjured up a terrible vision of hundreds of powerful and influential people, immaculate in their dress, impeccable in their manners, who sit at their vast desks under the gilded motto reading, "See no evil, hear no evil, speak no evil."

But such an attitude really offers no explanation why it took so long for Federal authorities to rein in this rogue bank.

I believe that if we look deeper at the clues that are continuing to surface, we will find more than one explanation. At least seven Federal agencies have a long history of involvement in the BCCI affair. They are the Federal Reserve, the Internal Revenue Service, the Treasury Department, U.S. Customs, the Drug Enforcement Administration, the Central Intelligence Agency, and the U.S. Department of Justice.

Let us take a glimpse at the record of lost leads, disregarded data, and conflicting personal policy and political interests that too often characterize the Federal effort to rein in this rogue bank.

The Federal Reserve has general oversight responsibilities for the Nation's banks. The Fed this year finally got tough on BCCI, issuing a cease and desist order and proposing a $200 million fine against BCCI for evading U.S. banking rules in clandestinely taking over First American, but this was after 19 years of lax supervision on the affairs of First American Bank.

One explanation, of course, is the political juice that flowed from the distinguished Mr. Clifford. The Fed Chairman, Alan Greenspan at the time, noted that he had socialized with Mr. Clifford and to his credit abstained from voting on the cease and desist order.

The Wall Street Journal, however, informs us that, "Many more meaningful links between the Fed, BCCI, and First American existed."

Michael Bradford, for example, was a Fed attorney who monitored the role of the Arab investors who bought into First American. Those Arab investors turned out to be frontmen, or as we heard them described in the committee, nominees and surrogates for BCCI.

Mr. Bradford left the Fed in 1989 and joined the law firm of Jones, Day, Reavis & Pogue, where he labored on issues concerning BCCI's interest in the bank holding company.

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Two of the former Fed attorneys in important oversight positions also joined law firms which represented First American.

Robert Mannion was the Fed's general counsel who presided over the 1981 hearings in which BCCI was prohibited from becoming involved with First American.

Then there is Baldwin Tuttle, who worked in the Fed's general counsel's office, left it in 1977, and then as a private attorney helped Mr. Altman and Mr. Clifford obtain approval for the Arab investors, who again turned out to be the BCCI nominees to buy into First American.

When your former associates go to work for a bank that you are regulating, is it easier then to ignore the warning signs?

Would you, like William Rybuck, the Fed's director of bank supervision, ignore an IRS agent's revelation in 1988 that undercover agents had recorded a BCCI official boasting that BCCI secretly controlled First American, as alleged by Agent David Burris?

For all the work of individual agents, the IRS cannot escape blame completely in this matter, for BCCI's illegal activities go on and on and on.

In 1986 the IRS refused to begin a criminal investigation of BCCI despite persistent requests by the criminal investigation division, which had acquired information about BCCI's criminal activities. In 1984 former BCCI employee Aziz Rehman provided IRS agents information about deposits to a nonexistent BCCI branch in Nassau, the Bahamas, and his role as a courier of cash deposits for customers and other banks.

Mr. Speaker, based on this information, the IRS special agent recommended that the IRS launch an undercover operation, but it was denied three times by upper echelon officials.

Also in 1986, the IRS received a referral from the DEA on a large-scale heroin trafficker, Satter Nadjmehchi. Meeting with an undercover DEA agent and a BCCI official, Nadjmehchi bragged about concealing and laundering money "at a foreign bank." The IRS issued a $9.5 million jeopardy assessment against his property, but did not follow up with a criminal investigation.

Again in 1986, the Government of India provided the IRS with documents showing that BCCI accounts in a number of countries were being utilized for a multimillion-dollar money laundering scheme. India's request was handled as "a request for law enforcement assistance" but was not pursued, and there was no further followup.

In Washington in 1987, the IRS received a criminal referral from the Federal Reserve, concerning suspect cash transactions and irregular activities in BCCI Miami and Atlantic accounts.

In St. Louis, in 1988, the IRS established that Jerry Lee Harvey used BCCI accounts in Panama and the Cayman Island as part of a $60 million money laundering scheme.

The next year the IRS participated in an investigation and conviction of a million dollar plus money laundering scheme by a heroin dealer who used BCCI accounts in New York and Hong Kong.

The IRS has identified 15 separate matters in its files involving BCCI, 10 of which have been referred for criminal investigation.

I can only ask why the IRS did not pursue the early leads? Why did no one notice a pattern? The explanation, of course, is as always that the IRS had limited resources. Middle-class taxpayers who have been hounded by the IRS might take exception at that explanation.

BCCI's involvement in international drug trafficking was common knowledge within the Drug Enforcement Administration. In Washington, a DEA review of its own files has revealed 125 cases that have been identified as being related to BCCI. Most cases are undercover money laundering storefront operations which led to warrants to seize BCCI bank accounts containing suspected drug proceeds. In other words, it's common knowledge among DEA agents all over the country that BCCI is the narcotraffickers bank of choice.

The House Banking Committee has in its possession three classified reports prepared by the Central Intelligence Agency concerning illegal activities by BCCI in the 1980's.

The first report accused BCCI of manipulating international markets for certificates of deposits. The report asserted that in May 1985, BCCI bribed a key financial firm to publish false and misleading quotations to buy and sell certificates of deposit.

In September 1986, the CIA detailed BCCI's involvement in providing financial services to drug traffickers. The report was circulated to Treasury, State, and Commerce Department more than 2 years before BCCI was indicted for money laundering in Tampa, FL.

Finally, a 1989 CIA memo was distributed to several law enforcement agencies, stating, "BCCI is still trying to attract Colombians who want to launder narcodollars in Panama."

And recently, acting CIA Director James Kerr testified before a Senate panel that between 1983 and 1985 the CIA had circulated several hundred reports to Government agencies outlining BCCI's illegal activities.

In a 1985 report, according to Kerr, the CIA told the Treasury Department that BCCI secretly owned First American Bank. Treasury did not follow up on the information.

The CIA appears to have been doing its job, gathering international intelligence information and distributing it to Federal agencies. Clearly, the CIA recognized BCCI as a rogue bank. Unfortunately, it appears that the rogue had some uses for the CIA. The agency used BCCI banking facilities to transfer funds to support a number of secret operations, including the support of Afghan resistance through BCCI Pakistan. It was not until 1989 that the CIA closed its accounts. Of more concern is a published report that BCCI investigators believe that the CIA used BCCI accounts to stash away funds to illegally support the Contras in Nicaragua, in contravention of the will of this body.

So it is troubling to read that in October of this year a U.S. Customs officer wrote to Senator JOHN KERRY, chairman of the Senate Subcommittee on Terrorism, Narcotics and International Operations that in a 1988 inquiry "tons of documents were reviewed * * * and the CIA put a halt to certain investigative leads."

The first successes against BCCI's criminal enterprise was conducted by the U.S. Customs Service. From 1986 to 1988 Customs ran an undercover operation in which agents masqueraded as drug sellers eager to launder the proceeds of their endeavors. The undercover agents chose BCCI Miami branches to deposit funds that were then wired to Panama. After some time, the agents were approached by BCCI officials who told them that they knew what they were doing, and would be caught if they did not use more sophisticated methods. BCCI officials devised for the undercover agents of the U.S. Customs Service a complex series of transactions that rendered the deposits untraceable. BCCI was rewarded by larger deposits, and the agents continued to gain confidence with the bankers and, in turn, were rewarded with valuable information—which they secretly taped—about the scope of BCCI's illegal activities.

Operation C-Chase, as the undercover operation was known, came to an end in 1988 in a widely publicized bust. Unfortunately, someone apparently leaked out information that the bust was coming down and a number of drug lords withdrew millions of dollars from their accounts at BCCI just prior to the bust.

In 1989, BCCI worked out a plea bargain with U.S. attorneys and was fined $14 million. Five bank executives, implicated by the undercover operation were subsequently convicted.

There were other problems with C-Chase besides the apparent tipoff to BCCI's customers. Officials in the Customs Service have complained that inadequate resources were available to carry the BCCI prosecutions to the highest levels and furthest extent of the law. Field agents were frustrated that within 1 month of identifying high-level bank officials directly involved in money laundering schemes, top Customs officials decided to prematurely terminate the operation. In a rush to prosecute, important evidence, including hundreds of hours of tapes and boxes of documents were only quickly reviewed.

The Justice Department's involvement with BCCI began as early as 1978. From 1978 to 1981, Kidder Peabody & Co. registered itself with the Justice Department as a foreign agent. The company disclosed on registration forms that they were aiding BCCI, Agha Hassan Abedi—BCCI's founder—and three related corporations in connection with offers to purchase Financial General Bankshares, the predecessor to First American Bank. This was the first explicit warning to the Federal Government that BCCI was behind the takeover of First American, and this has been reported in media publications such as the Wall Street Journal.

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The Justice Department failed to bring an indictment against Jordanian arms merchant and coffee smuggler Munther Bilbeisi, one of BCCI Miami's largest customers until August 1981, despite repeated warnings about Bilbeisi's activities from several sources.

The Customs Service learned in 1983 that Bilbeisi was using fraudulent bills of lading and cargo manifests to illegally smuggle coffee. Later Federal prosecutors were warned by attorneys representing Lloyds of London, which was perusing an insurance fraud case against Bilbeisi, that Bilbeisi had repeatedly violated customs laws from 1983 to 1986.

Bilbesi now faces charges of tax evasion. The statute of limitations has expired on most coffee smuggling matters. This comes after the Federal Reserve notified the IRS of suspicious deposits of money and checks into the accounts of Florida offices of BCCI. After deposit, the funds were wired to Panama.

Again we have a breakdown of communication between Federal agencies.

The Justice Department is the central investigator of the BCCI case. They should serve as a clearinghouse of all information about BCCI's affairs and lead in the prosecution of the case. However, according to several officials from other Government agencies, the Justice Department has repeatedly dropped leads, failed to zealously go after higher-ups and associated officials and have even blocked inquiries by other departments and withheld information.

Time magazine recently reported that Justice investigators and prosecutors have told reporters that higher-ups at the Justice Department stymied the progress of lower-level investigators telling those investigators that "the case is political." Federal attorneys and agents are frustrated by an official line that says on the one hand spare no resources and go forward, and on the other hand, a molasses-like response from Washington to their requests.

During his nomination hearings very recently in the Senate before the Senate Judiciary Committee, William Barr, the new Attorney General, reacting to congressional criticism promised to press forward in the BCCI prosecution, and I certainly hope that would be the case, because at this juncture it is apparent that the Nation's top law enforcement agency has fumbled the ball, or, even worse yet, been sidelined in the investigation of the biggest criminal organization in history. I think similar things can be said about the other agencies involved in the case.

Pick your reason: inter- and intra-Department rivalries, incompetence, lack of resources, misjudgments, fear of upsetting confidential criminal investigations. Or is there, as some suggest large-scale influence buying, complicity in criminal activities or a desire to coverup illegal or covert operations?

Whatever the reason, I believe that the people of this country have the right to know just what happened and why, and the true extent and involvement of officials of the Federal Government in the whole BCCI affair, both the contributing causes to the affair, as well as any subsequent efforts to cover up the true magnitude of this large-scale criminal enterprise.

What kind of trust can we put in the Government of this country to protect our national security which increasingly depends on the stability of both the American and international financial system, if the biggest criminal enterprise in the history of the world has not been properly investigated and prosecuted by our Government?

For this reason I am preparing legislation that would create an outside counsel, totally independent of the executive and legislative branch of the Government with the powers to subpoena witnesses and documents and with access to a Federal grand jury to conduct a thorough investigation into the behavior of past and present Government officials. It's time that Congress takes an aggressive stance on uncovering what so long was hidden in the bowels of the Federal bureaucracy.

Let us trust the American people with the truth. Let us bring forward this information. Let us see with the light of day. Let us assess blame where blame should be assessed. Let us hold those in Government, in both elective and appointed capacities, responsible for their actions where those actions contributed to this incredible financial scandal, which again is costing the American people and those who put their faith and confidence in BCCI around the globe dearly. Let us look at this situation as we should look at all matters of this nature, with unblinking eyes, uncover the truth, and let us learn from this experience. Let us insist on full accountability and full enforcement of the law with respect to both civil and criminal penalties for those involved, and, if we have not gone far enough with respect to the bank bill that we just passed, let us further remedy the situation by passing into law those regulations necessary to prevent a recurrence of this incredible scandal.

NATIONAL TELECOMMUNICATIONS POLICIES

The SPEAKER pro tempore. (Mr. SERRANO). Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, I come before the House tonight with my distinguished colleagues, the gentleman from Colorado [Mr. SCHAEFER], a Republican, and the gentleman from California [Mr. LANTOS], a Democrat, to talk about a really very technical matter, but a matter that affects the lives, the working habits and the entertainment habits, of the vast majority of American people in coming years. This debate has to do with something as simple and as taken for granted as the average home or business telephone, but this debate encompasses a wide array of future-oriented information services, those services which can be transmitted over a telephone line in addition to regular telephone calls, services, information services of the future, electronic publishing, things of that type, which will literally transform the way the average American works and plays.

Mr. Speaker, this is a debate which could well be the most heavily lobbied issue in this Congress. The economic forces on each side of this debate are huge and gigantic because the future market is so large. One estimate puts it at approximately $100 billion of new market potential that this telecommunications market provides.

Mr. Speaker, many Members of this House have been very confused by an issue of this technicality. Many members of the general public are confused by an issue of this technicality. So, I thought that we would take time tonight to try to explain some of the considerations involved.

To be brief, Mr. Speaker, these issues involved primarily how we are going to set national telecommunications policies regarding the telephone, what uses the telephone can be put to in the future, the diversity of our information sources over that phone, the affordability of those services and the enhanced productivity of the American workers as a result. It also has to do with the way we, as Americans, deal with monopoly corporations, corporations which enjoy an exclusive franchise in a particular region of our country, corporations which, with the Government's blessings, are able to send us monthly bills for just about whatever amount they want to send us.

☐ 2050

To be sure, these corporations are regulated, but sometimes the regulations fall short. Sometimes these corporations are able to outfox, outsmart, outgun our regulators, whether those regulators are the Federal Communications Commission at the Federal level or the various State regulatory bodies.

This is a debate which will not, by any means, be concluded in this calendar year, but it should be concluded early in the next calendar year as Members of Congress from all over this great Nation meet with their newspaper publishers back home during the Thanksgiving and Christmas recess, as we hear from the various Bell executives and their lobbying organizations which are very outspoken on this legislation, and as the Nation itself makes up its mind on these important, but technical, issues.

I have the great privilege of serving on the Committee on Energy and Commerce in the House, which has jurisdiction over these issues. I wish all of my colleagues could have the privilege of hearing the testimony of the witnesses and exploring these issues. Unfortunately, most of my colleagues will only bear the brunt of one of the most massive lobbying campaigns in modern times.

One of the first victims of the Bell lobbying effort, I am afraid, is the gentleman from Colorado, Mr. DAN SCHAEFER, my good friend and colleague. He was brave enough to be a primary sponsor of the legislation. We joined hands across the aisle to promote the American public interest, and for doing so Mr. SCHAEFER was criticized and attacked in ways that I think are probably new to American politics.

Mr. SCHAEFER. Mr. Speaker, would the gentleman yield?

Mr. COOPER. I would be happy to yield at this time to my good friend and colleague, Mr. SCHAEFER, so that he can explain some of what went on in his home State of Colorado.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, considering H.R. 3515 was introduced just more than a month ago, it has certainly received a good deal of attention. And while as sponsors of the legislation we would like to take sole responsibility for familiarizing other Members with the issue, we can't honestly do so. Much of the credit rightly goes to the Bell operating companies.

Unfortunately, the RBOCS have chosen not to focus on the substance of the bill, but to use it as an opportunity to break new ground in the area of special-interest lobbying. Many in Washington and in my district are now aware of the harshly worded letters, radio ads, and 1-800 numbers targeted against the sponsors of the legislation. While I believe these heavy-handed tactics set a dangerous precedent and are worthy of congressional attention in their own right, we can't let lobbying become the issue. To do so would only give it wholly undeserved legitimacy.

I would like to use my time tonight to discuss the issue of Bell Co. entry into information services in the appropriate manner—on its merits. To dismiss it simply as a battle between the RBOCS and the newspapers is to grossly understate its importance and reach. The manner in which this matter is resolved will fundamentally change the way Americans receive their information. It is just that critical.

For that reason, it is an issue that should rightfully be decided by the people through their Representatives in Congress. The Bell companies once strongly shared this philosophy, until a recent court decision came down in their favor. Now they want Congress to stay out of their affairs.

But court decisions don't change the fact that it is the role of Congress to set policy. It is our responsibility to make difficult decisions, even if our actions incur the wrath of special interest groups. For regardless of the size and strength of the Bell companies, one segment of our constituencies has them vastly outnumbered—the telephone ratepayers.

It was on behalf of this large, yet unorganized group, that I joined Mr. COOPER and three other Energy and Commerce Committee colleagues in sponsoring H.R. 3515, the Telecommunications Act of 1991. This legislation, contrary to its characterization by the RBOCS, permits the Bells to enter the vast majority—an estimated 95 percent—of the information services market. Only in those areas where a particular company—like US West—has monopoly control of local telephone service would a limited and temporary prohibition on entry apply.

The reason for this stipulation is simple: Allowing those who firmly control information access to the home and control content as well is setting up a system ripe for abuse. Information service providers, many of which are small businesses, are fully dependent on local telephone service to deliver their product to customers. It would be unfair to now require these companies to compete with the very entities—the phone companies—on which their services rely.

The current marketplace reality is this: If a consumer is unhappy with a telephone he or she just purchased, there are countless others from which to choose. Or if long-distance service isn't satisfactory, he or she can opt for another. But if a business or consumer is displeased with local telephone service, there is nowhere else to go.

H.R. 3515 aims to change that. In the everchanging telecommunications marketplace, we just don't accept that a monopoly on local telephone service is an unfortunate fact of life. Our legislation knocks down many of the barriers which currently exist to competition in the local telephone exchange. There is simply no better protection for consumers than competition.

The Bells can't have it both ways. They can't expect to aggressively pursue entry into other lines of business while clinging dearly to their monopoly at the local exchange. American businesses and telephone consumers can only be protected if marketplace forces are allowed to work in each segment of the telecommunications industry. Until that point, restrictions on the RBOCS must be retained.

The effect of Bell Co. entry into information services will impact each of us. We all have a large stake in ensuring that the information we receive comes from a wide variety of sources. This fundamental right can best be guaranteed by structurally separating those who generate the information from those who hold a monopoly on its transmission. H.R. 3515 does just that.

Support for our legislation is by no means limited to the newspaper publishers, as the RBOCS would like to believe. A range of information service providers—like Prodigy, for instance—have added their name to the bill. But perhaps more important, consumer groups including the Consumer Federation of America have also endorsed the measure. Their only incentive is mine as well: to protect the telephone ratepayers from the abuses of a monopoly.

Mr. Speaker, let's set the record straight: H.R. 3515, not unrestricted Bell entry into information services, is the procompetition, proconsumer approach. But members shouldn't take our word for it, or that of the Bell companies. They should take the time to read the legislation.

☐ 2100

Mr. COOPER. Mr. Speaker, I thank the gentleman for his excellent statement and for yielding back.

As the gentleman from Colorado [Mr. SCHAEFER] correctly points out, we are very proud to have the support of the Consumer Federation of America, an unbiased and objective consumer group, that speaks on behalf of the vast majority of Americans who just want affordable quality telephone service.

As the gentleman also points out, by no means are the publishers of newspapers our only supporters. There are countless businesses across this country, large and small, who want to be able to compete with Bell telephone companies on a fair basis, on the proverbial level playing field, and not to have the competition be unfair, the deck stacked against them. They just want a fair chance to compete.

To give the Speaker and the Members of this House and members of the general public a small sampling of the interests involved, most of the broadcasters of this country seem to be sympathetic with the goals of our legislation. Many of the cable television operators seem to be as well. I have certainly been a critic of their local monopolies.

Prodigy and CompuServe are two of the information services that are available today and which I think deserve a chance to grow and prosper and thrive and improve. Companies such as Dow Jones and Dun & Bradstreet are just some of the companies that have a nationwide interest in transferring information on an objective and fair basis to the average consumer.

There are a number of other companies that do not have household names, but are represented in most of the small and medium-sized cities of this country. Burglar-alarm companies, paging and answering-machine companies, even the local florist shops.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, as the gentleman knows, the realtors in this country, which are certainly small businesses that rely so much on the phone and have had so many problems in the past with them, is another good example, as I know the gentleman knows.

Mr. COOPER. Mr. Speaker, reclaiming my time, the gentleman is exactly right. Virtually all businesses today rely on some form of telecommunications to conduct their business in a more efficient and cost-effective manner. They have a stake in the outcome of this legislation.

Mr. Speaker, another of our colleagues has joined us, the gentleman from California [Mr. LANTOS], who is not only a noted expert in defending consumer rights, but human rights in general.

Mr. Speaker, we would like to hear from our colleague concerning his experiences with dealing with this issue in his home State of California.

I yield now to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished friend and colleague for yielding. I am very proud to stand with my two colleagues, the distinguished Republican gentleman from Colorado [Mr. SCHAEFER] and the distinguished Democrat colleague from Tennessee [Mr. COOPER], because this surely is a nonpartisan crusade that we are engaged in.

I would like to deal with two entirely separate issues very briefly. First I would like to say a few words about the substance of this legislation, which I have studied as a professional economist, I believe one of the three professional economists in this body.

Second, I would like to deal briefly with the absolutely gutter-level lobbying tactics of what we used to call Baby Bells, but what should be properly called Bully Bells.

With huge sums of money and little regard for the public interest, the Nation's seven powerful regional phone monopolies are waging an expensive, outrageous campaign to turn 7 years of sound telecommunications policy on its head.

Supposedly cut down to size in the 1984 breakup of American Telephone & Telegraph Co., the local phone monopolies are grown, regrouped and greedy—bent on controlling not only the wire running into your home, but the information it carries.

In this quest, as in others, they will let nothing—even the interests of consumers and the vitality of a free press—stand in their way.

My distinguished colleague from Tennessee [Mr. COOPER] mentioned that the Consumer Federation of America, the organization representing American consumers, is on our side in this battle.

The target of the Bully Bells is clear: the $9 billion-a-year market in electronic information services offering everything from news, information and stock quotes to medical advice, beach reports and home shopping.

To hear them tell it, this is a duel of the titans: the so-called Baby Bells up against newspapers and other current providers of information services. Don't believe a word of it.

This isn't a battle of corporate giants. It's a David versus Goliath struggle over whether the phone company gets a green light to invade our lives to a degree never before imagined. With their heavyhanded tactics, the Bells have shown themselves to be what they've always been: not babies to be coddled, but bullies to be feared.

There are 15,000 information services in this country, offered by hundreds of suppliers. The telephone has become the gateway to a whole new world of electronic services—not because of the Bells, but because of the competition that has flourished while protected from their predatory behavior.

Since 1984, the Bells have been barred from this field—and for good reason.

For one thing, they hold an unfair advantage so long as their competitors must rely on Bell lines to deliver their services.

Let me digress for a minute. Mr. Speaker, just visualize an airport, where all of the airport gates and the control tower are owned by one airline. Just imagine for the sake of my argument that TWA owns all of the gates and TWA owns the entire control tower. All of the air traffic controllers are employees of TWA.

Now, I ask the question: Do you think United and American and all the other carriers will get the same access to the gates? Do you think they will get the same priority when they want to land or take off?

Not at all. If such a preposterous situation were to exist at an American airport, where many airlines compete but the facilities that they commonly used are not owned by any one of them, the American people would rise up in outrage and disgust and would say, "This kind of monopoly must not be allowed."

Mr. Speaker, that is exactly the kind of monopoly that the Bells wish to achieve.

Mr. Speaker, their profits, of course, are guaranteed from their local phone monopolies, and these profits can be used, if we allow this new situation to prevail, to finance new expensive information services, forcing average ratepayers to pick up the tab.

If the Bells have their way, a vital element of our society and economy—the electronic lifeline into virtually every home and office—could be in the hands of what U.S. District Judge Harold Greene decried as "a few dominant, collaborate conglomerates."

What would be the consequences? At the mercy of the Bells, consumers could look forward to higher prices and less freedom of choice. Average telephone customers could wind up bankrolling the development of dazzling new voice, video or computer services that they don't need or—worse yet—can't even afford.

If the Bells are allowed to set the terms for competition in information services, the consumer will suffer. And if anyone doubts their readiness to exploit their Government granted monopolies to the fullest, just look at their record since 1984—billions of dollars in overcharges and abuses—and the strong arming they've unleashed to prevent their greed from being restrained.

Mr. Speaker, my office has been flooded with phone calls, letters and telegrams in an orchestrated drive by the Bells to head off legislation that would have them trade fair competition in local phone service for open competition in information services.

But my office has been flooded even more by my outraged constituents, who see this as a greedy power grab by the Bully Bells.

☐ 2110

The Telecommunications Act of 1991, which I am proud to cosponsor, would hurt no one. And it would help all Americans. Every communications business in the United States would enjoy greater freedom. Bell and non-Bell firms alike would be able to branch out into fields they had sought for years. They would be allowed to grow and to prosper, but in a way that safeguards the public interest.

The sad truth, Mr. Speaker, is that the Bully Bells have no interest in equality. With millions of dollars to spend, they are pressuring Congress in a disgusting manner to let them have their way. Two of them, Pacific Telesis and Southwest Bell, have hit the airways with radio ads attacking those of us standing up for consumers. Another, U.S. West, rigged up special toll-free lines to inundate us with angry calls.

Do not be fooled. The ads and frenzied phone calls are not the signs of a public groundswell, but they are the signs of slick, expensive lobbying that the gentleman and I, as telephone users, are paying for. It is an affront to consumers and a threat to something even more compelling: the future freedom of the press.

If the Bells begin offering news and advertising over their phone lines, our local home town newspapers, deprived of revenues and readership, could be among the first casualties. Another would be consumer choice. The phone could supplant the newspaper and other independent providers as a major source of our daily diet of information, whether it is sports scores, help wanted ads or weather reports.

This is not a debate, Mr. Speaker, over market access. It is a debate over market control. It is a question of having the chance to decide how and where we get the news and information so crucial to our daily lives.

This country was built on the principles of diversity and a free press. As we begin to realize the exciting full potential of the information age, I do not want to see more American towns become media monopoly towns, much less slaves to the Bully Bells.

Let me, in conclusion, Mr. Speaker, just spend a minute or so on the pressure tactics used by the Bell operating companies. With their deep pockets, with their unlimited funds, they are buying tens of thousands of dollars of advertising time to denounce individual Members of Congress to whom even they have to refer to as proconsumer. The ads running in northern California refer to me as TOM LANTOS, the proconsumer Congressman. And they are trying to terrorize our colleagues so that they will not have the guts to cosponsor this legislation.

Mr. Speaker, I ask, where will this lead? If a piece of legislation is introduced in any field, if the giant monopolies then go on the airways to personally attack Members of Congress who have the courage to sponsor this legislation, what kind of a chilling impact will such corporate monopoly arrogance have on the work of this body and the other body?

We had better nip this in the bud.

I was enormously gratified, Mr. Speaker, that since the Bells have begun this campaign of vilification, these Mafia tactics of terrorism, colleagues who disagreed with me on the substance of the legislation have expressed their outrage at these tactics.

The Bells, as they have so often done in the past, have overreached themselves. Their greed knows no end. They have attempted to intimidate Members of Congress from sponsoring a piece of legislation supported by the Consumer Federation of America and providing for a level playing field in the field of information. The American people will not stand for it.

The Bells can have all the money they want. We do not have any money to buy ads against them. We do not have to. The American people are intelligent enough to understand that what is at stake here is their freedom of choice and the free press that has been the cornerstone of this society.

Mr. COOPER. Mr. Speaker, I thank my good friend for his brilliant statement. He has used his customary eloquence to highlight the important features of this debate.

I think all members of the public should find his explanation, as they would the explanation of the gentleman from Colorado, extremely useful in understanding the contours of this debate.

I would like to add to the gentleman's list of Bell operating companies that have run these ads the names of Bell South and Bell Atlantic. Soon all of them will be running these ads attacking Congressmen.

I agree with the gentleman, probably in the hope of intimidating other Members of Congress not to sponsor the legislation.

It is hard to believe that in an America 1991 we would see such tactics of intimidation, and to be sure the publishers are working hard on the other side and the other companies are working hard, and I do not claim that the publishers have entirely clean hands, but I cannot recall in modern or old-fashioned American politics tactics of this type ever being used, such as the ones being used by the Bell operating companies.

Mr. LANTOS. Mr. Speaker, if the gentleman would continue to yield, I have never in the many years that I have been following political and public events seen a spectacle as disgusting as this one. As a matter of fact, when a piece of legislation is introduced, and this is a very complex piece of legislation which is going to work its way slowly through the laborious labyrinth of the legislative process. It will take months, who knows how long to get it through committee, get it through the House, get it through a Senate committee, get it to the Senate floor.

Presumably what will emerge will be two different pieces of legislation. There will be a conference committee. Hopefully it can work out a compromise. It goes back to the Senate. It goes back to the House. Another vote, then to the President. Then the possibility of a veto.

These people, the Bully Bells, have declared nuclear war the day after the legislation was announced. If we listen to them, Mr. Speaker, we get the feeling that this is the all-consuming public issue in America today. The Bully Bells have not bought radio time to discuss the plight of the homeless. They did not buy radio time to talk about affordable housing. They did not buy radio time to deal with unemployment or the tragedy that is unfolding with crack babies and the million other problems of our society.

They bought time to promote their own greed. They are shoving their own selfish interests onto the minds of the American people, and they can do it with their deep pockets.

Mr. COOPER. Mr. Speaker, I thank the gentleman. I appreciate his outstanding eloquence.

I would like to take a moment, with the gentleman's permission, to detail some of the elements of the bill. These are some specifics that perhaps may go beyond the patience of the listening public, specifics which I think should nonetheless be explained because the Bells are making two primary attacks on our legislation: No. 1, they are saying that our bill, H.R. 3515, keeps them out of information services.

One of the Bell executives has gone so far as to say that our bill gives them zero.

The other attack is that somehow we are protecting other businesses from fair Bell competition. If colleagues read our bill, and unfortunately very few Members have, they will discover that our bill allows, as the gentleman from Colorado noted, allows the Bell operating companies into 90 or 95 percent of information services tomorrow afternoon, if they want in. We want them in the business as competitors. We just do not want them to gouge the ratepayers or to cripple or discriminate against their competitors.

□ 2120

To understand this portion of the bill let me turn to these maps, and I have colored them by myself, so they are probably not as professional as perhaps they should be. We allow the Bell operating companies into noncontent information services immediately with only a separate subsidiary, separate accounting requirement. Separate subsidiaries are no big deal. Separate accounting is necessary so we can catch the Bells if they cheat. And as the gentleman from California so ably pointed out, the Bells have been cheating on an unfortunately regular basis ever since the breakup of AT&T in 1984.

It is hard to read the Wall Street Journal for a month or more without seeing yet another article on how they have, for example, taken ratepayer money, hard-earned monthly telephone bill money and use it, for example, for lobbying purposes illegally. Or they have taken for-profit subsidiaries, a furniture subsidiary, for example, and overpriced the furniture in hopes of mixing up their accounting in a way that regulators cannot unravel it, and making excess profits in that fashion. There are a variety of means, generally very technical and complicated by which they have managed to abuse the consumer's interests.

So our bill allows then into noncontent information services nationwide, from California, to Maine, to Florida, to Alaska and Hawaii tomorrow afternoon if they want in. These noncontent services are services in which the Bells would not actually own the information that traveled over the telephone, but they would process it, for example, with all manner of data processing activities, whether it is accounting, or inventory management, or point of sale transactions, or credit card verification, a whole host of business transactions that are extremely lucrative, extremely important for our economy. And we want the Bells into this business.

I would also include services such as voice storage and messaging, protocol conversion, a lot of services like that which may sound technical but are very important for the functioning of our economy, and we let the Bells in, as the green color hopefully symbolizes, nationwide tomorrow afternoon.

The more controversial area of the bill has come in the area of content-based services. These are services in which the Bells would own some or all of the information that is transferred across the telephone wire. These are services more like electronic yellow pages, stock quotes, sports scores, databases of various types, whether it is compilation of newspapers or information. We would allow the Bells really into most of the country outsides of their own service area, to be sure, and inside their own service area if they have a unique advantage in providing the service and that service can be provided without harming their own ratepayers.

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Colorado.

Mr. SCHAEFER. We incorporated, as the gentleman knows, a waiver, and the gentleman, of course, being from a rural area, if indeed no one else could provide this particular type of service, they can apply for a waiver to the FCC and get it.

Mr. COOPER. Exactly. In other words, if the Bells do have the key to the future, as their advertising claims, what we say is let them use it to open the door. We do not deny them an opportunity to offer a service to any American. It is important to realize though that I think even the Bells do not believe their own advertising. They do not think they have the key to the future. They know that they are just trying to expand their monopoly into a new area and make even more money. And we are not against the Bells making money. We want to them to be rich, prosperous, happy companies, but we do want consumer rights to be protected in the meantime, and competitors' rights to be protected.

So let us take the example of say Bell Atlantic here in this area of Washington, DC. Let us take the example of a newspaper such as the Washington Post. How would our bill affect Bell Atlantic and the Washington Post? Let us assume the worst case, that Bell Atlantic cannot prove that it has a unique advantage in offering a needed service, and cannot prove that it will not be harming ratepayers. We would not keep them out of the business. We would not put a red light on, we would put more of a yellow light on the area so that they would be delayed in offering that service until they did not have a 100-percent monopoly, but until that monopoly was, say, only 90 percent.

The Bells are falsely making the claim on our bill that by so doing we would somehow be protecting the newspapers or other businesses in the area. Wrong. Our bill would not only allow it, but would encourage every other Bell in the United States, Bell South, NYNEX, Ameritech, Southwestern Bell, Pac-Tel to compete against any and all businesses in this area with full vigor. So to us it is an approach that encourages competition. No business in America will face less competition as a result of this bill. Every business will face more competition because they will at least be facing six additional Bell operating companies if not all seven.

So I would like to use arrows to illustrate the situation with a U.S. West coming into the area, a Bell South coming into this area, as it should be, in order to promote competition, in order to challenge publications such as the Washington Post with the competition that they should be facing. This is just a small illustration of some of the misunderstandings that are created as a result of folks who do not take the time or the effort to read and understand the legislation.

There is another section of the bill that is even more poorly understood, because the Bells do not want to talk about it at all. That is the part of the bill that affects local competition, competition when we are calling a friend across town. It is that business when you pick up your phone just to make what we would view as a regular telephone call.

Today when you sign up for your phone you have only one choice in this area, and it would be C&P Telephone. They are a fine company, but I think a better system would offer the consumer choice, alternatives so that if they did not like C&P Telephone they could pick another company, another provider of service, and that competition under the great, free enterprise. capitalist system would generate cheaper, more affordable telephone rates and better service. So our bill would open up, and the FCC, to its credit, today initiated a proceeding to try to really emulate some features of our legislation to promote local competition. The Bells do not like to talk about this because they come from a parentage, the old AT&T, which did not even want us to have the right to pick our own phones in our own homes or businesses. It was not until 1968 in America that we even had the right to choose our own type of telephone in our own homes or businesses, primarily because AT&T, the old AT&T fought us every step of the way.

It was not until 1984, as the gentleman from California pointed out, that we had the right to even choose our own long distance company. Now thankfully there is MCI, Sprint and 140 other companies who offer competitive long distance services that have done what? Driven down long distance costs 40 percent, and improved service as a result of competition. All we want today is competition in the local exchange, the last element of telephone service other than information services competition so that we can have cheaper, more affordable service and better service.

So these are elements of our bill that may sound technical to the uninitiated, but are extremely important if we are going to lay the groundwork for a progressive and advanced telecommunications future for our Nation. I hope our colleagues will focus on some of these details and realize how misleading some of the Bell advertising is.

Not only is our position the proconsumer position, our position is the procompetition position. There is no other bill introduced in either the House or the Senate that addresses competition in the local exchange. There is no other bill that I am aware of in either the House or the Senate that encourages at least six if not seven of the Bell operating companies to compete against existing business in America. We have the procompetition approach, and I think that is something that we should be very proud of.

Mr. SCHAEFER. If the gentleman will yield, I would just like to say to my good friend from California, [Mr. LANTOS] what an eloquent statement he just finished making on the tactics that have been used in this particular endeavor of the RBOC's. I guess I was probably the first to incur the wrath of U.S. West on this, and I do not know whether they just were out forward on it or not, but now I do know that other Members, including the two gentlemen here have had that, and as has been mentioned, so have a number of others.

□ 2130

The one thing that it has done that has awakened many Members, as the gentleman so appropriately stated, asking me and probably asking the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] as well, what is in this bill? What is going on?

As the gentleman from Tennessee [Mr. COOPER] stated, it is a difficult one for the man and woman on the street to understand. It is not an easy black and white issue. It is one of these that we feel needs an explanation, and the purpose, of course, of us doing this tonight is to explain to those who are watching tonight what exactly we are trying to do for the consumers of this country.

Mr. Speaker, I would like to ask my colleague, the gentleman from Tennessee, we have had a series of questions that come up from time to time, and knowing that the gentleman represents a rather rural area in Tennessee, one of the question was, "Well, what steps have we taken to protect the customers of basic telephone service in rural America?"

If the gentleman would like to have his people know what the answer to that is, I think it would be advantageous.

Mr. COOPER. Absolutely. Many of our colleagues are concerned, as they should be, about protecting the rights of all Americans rural Americans, included, and preserving at least the quality of phone service they have before they risk losing or in any way harming that service.

As the gentleman well knows, we tried to talk with representatives of every rural telephone group in America that we could find, whether independent, privately owned telephone companies, whether cooperative telephone companies, so that we could find out their real interests and wishes with this bill and we tried to work with them very carefully to craft the different solutions.

For example, we have a universal service element in this bill so that in case there were any jeopardy or any danger to the universal service features of today's telephone system, we could preserve the universal service, because the universal service is an absolutely vital goal of any sensible national telecommunications policy.

We also preserve the ability of State regulators to regulate the type and quality of service in smaller communities.

We also set up planning guidelines so that as the new telecommunications networks of the future are designed, they will not be designed thinking only of urban consumers. They will be designed thinking also of rural customers.

We will have a seat at that table, as we should have.

There are many other features, primarily technical in the bill, in which we have tried to work with rural interests. We intend to keep on with that process, to continue the dialog so that we will also be sensitive to their concerns, so that as I say, no American need fear a deterioration in service quality, that Americans can only look forward to improved service hopefully at cheaper rates.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, I would like to bring up one other point. The gentleman alluded to this.

Two things that they have been hitting on very hard is to try to say this is anticonsumer and anticompetitive. This is what the message is that is coming out.

I know the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] would not be on this bill, nor I, if this were truly the message that we were trying to put into law.

One of the questions again many times that I have got from my constituents when I have been out in Colorado, they ask, one of the purposes of the bill is to encourage competition in the local exchange, but they ask, "Won't that lead to higher basic telephone rates as it becomes harder to maintain the current subsidy in an increasingly competitive environment?"

As the gentleman stated, universal service element was part of this. Would the gentleman care to expound on that just a little bit more, because this is the one thing I want to make sure that we get out. This is not going to raise rates, more likely to lower them.

Mr. COOPER. Absolutely, as the gentleman knows, the experience we have already had with long-distance competition has proven that when you have real competition, you get dramatically lower rates and improved service. We can expect the same at the local level if we just have the willingness to try it.

We do not accept as a group the defeatist attitude that you have to rely on monopolies, State-sanctioned monopolies to provide service. We believe in the American way, the free enterprise system, the capitalist system of competition in as many aspects of our lives as possible, so that consumers can choose, so that companies can compete on a fair basis so that we can drive prices down and we can drive the quality of service up. That is our intention in this legislation, and I have challenged people at hearings and other public events if they have a disagreement with our language or a concern, if they have an improvement, come to us to show us ways that we can improve our bill, because this is not a perfect bill. It can be improved and we are soliciting ways in which we can better achieve our intentions, better accomplish our goals.

I think through this open process we will be able to design an even better bill next year when the real markup process begins, when the real committee voting process begins.

The universal service element that we have already included in our bill is an important step toward assuring that telephone bills do not go up for any American and that quality service is preserved for all Americans.

It is a relatively technical concept that is best understood by telephone company executives, but the bottom line is we want telephone service, quality telephone service available to all Americans every day. That is the goal and we are working very hard to try to achieve that goal.

The telephone is not a luxury, as the gentleman knows. The telephone is an absolute necessity, and not just the old-fashioned telephone that can just relay telephone calls, the modern telephone that can also relay information services, possibly even including television is also an important part of American life and we need to work as hard as we can to try to assure as many advanced information services as possible.

Mr. SCHAEFER. I might just add on to that point, particularly those people who are bedridden, who are disabled, who are blind, numerous types of individuals who rely on that basic telephone service and we are not going to get the support of the Consumer Federation of America on a piece of legislation like this if it is going to raise rates or if it is going to be anticompetitive. We are not going to get that.

Mr. COOPER. The gentleman raises an important point. The Bell's have made very strong claims on their own behalf that they are the ones who are more prohandicapped than we are. That is a false claim. They have made the claim, which is also false, that they somehow represent more of the consumer interests. If you look at their track record, however, if you look at the history, if you look at the specifics, you can prove dramatic Bell shortcomings in these regards. For example, serving the handicapped. I ask the chairman of one of the great Bell operating companies what his company had done to offer more services to the handicapped, how many waivers he had applied for from the Justice Department or Judge Green in order to serve the handicapped. Of course, he had no answer in the hearing, but in a written response that I received weeks later, the first sentence of it was, "We have applied for no waivers to serve the handicapped"—none, zero.

Another great Bell operating company in this Nation, I asked them as long as 2 years ago to come to me with any requests they had for better service for the handicapped and I would be anxious to support their request for a waiver so that they could provide whatever service for the handicapped they wished. I am still waiting for them to come to me.

Apart from service to the handicapped, there is another important consumer area that the Bell's have neglected terribly. The Bell's have been empowered for several years now to offer a service called an Information Gateway. That is a single number that a telephone customer could dial so that they could access the 15,000 information services that are available in America today, a local number so that they could call and have a window on the world.

Well, there are seven Bell operating companies. Two chose never to offer an Information Gateway regardless of the demand, and it is my impression that even the gentleman's own company in California neglected to offer the service even to the host of advanced users that the gentleman has in his State, in Silicone Valley and all the other high-technology industries in the gentleman's State.

Mr. LANTOS. Correct.

Mr. COOPER. Two that had offered the Information Gateway decided they did not want to pursue it, so they took it down even though they were disappointing thousands and thousands of their customers who wanted to use that service. So if the Bell's claim they are really for an information future, we should ask them why they did not do more with the powers they have today to provide us with a better future. But unfortunately, too many of the companies have chosen not to offer us the information future that should have already been available to us today.

Even in those areas where the Bell's still have a gateway, remember the Bell's are multi-State companies, and I know of no Bell that has a gateway in every State in its service area. Oftentimes they will choose one favorite

State that gets the gateway. The other States have to take the leftovers. They have to make the long-distance calls. They do not have a gateway of their own, so they can access the information feature that we should have available to us today.

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Mr. LANTOS. If my colleague will yield, first of all I want to commend the gentleman on his extremely knowledgeable and lucid presentation. I would like to pick up on one point my friend from Tennessee made.

We are not frozen into every last sentence of this piece of legislation. This is an enormously complex piece of legislation which we approach with a degree of openmindedness that we wish the telephone companies had approached it with.

We would be happy to reason together, we would be happy to look at amendments and modifications and improvements. Goodness knows we do not claim that this piece of legislation is perfect. But it is so contrary to the spirit of comity and the spirit of compromise which are the hallmarks of a democratic system, to see the operating Bell companies declare nuclear war the day after a complex piece of legislation is introduced.

So I hope the Bell operating companies have listened to the distinguished principal author of this legislation. We do not claim that this legislation is perfect. There are probably many features of it that can be improved upon, other features that could be modified or eliminated. But that has to take place in a free give-and-take of reasoned men and women arguing about the public good, not monopolistic, deep-pocket giants unleashing simplistic radio ads on the airwaves paid for by the users of telephone services. That is really what the issue has now become because we certainly are ready to debate the merits of this bill and to recognize that there are features that obviously can be improved upon.

Where I do not think we can compromise is tolerating the tactics of the gutter, which has characterized the operating Bells' attack on Members of Congress who had the audacity to propose legislation that the operating Bell companies did not think is in their own commercial interest.

I want to thank my friend for yielding.

Mr. COOPER. Mr. Speaker, I thank the gentleman so much because no one can say it better than the gentleman expresses it.

I yield to the gentleman from Colorado.

Mr. SCHAEFER. In conclusion, I think no one who is on this particular piece of legislation or who helped draft it has or had a big vendetta against the telephone companies.

Mr. COOPER. The gentleman is correct.

Mr. LANTOS. Yes.

Mr. SCHAEFER. They provide a great service, they will provide more in the future, and I know that it certainly was not my intent, nor the intent of the two gentlemen here, and I do not think anyone else—and I want to make that point—that we did not get into this to blindside anybody. We just felt that when that restriction was lifted, we had to have a little bit of competition continue within this country.

I do not look in the future of holding any vendetta, but I agree with my friend from California that the tactics that have been used are only defeating their longrun goal, and that is not the way it should be. I appreciate being here with the gentleman from Tennessee and the gentleman from California.

Mr. COOPER. The gentleman is so right. We have nothing against the Bells. In fact, our bill gives them more dramatic business opportunities than they have ever had before, with the sole exception of a court decision issued on October 6 and confirmed by the circuit court October 30, which, as a result of 20-year-old antitrust litigation only, happened to unleash them without any consumer safeguards, without any safeguards for business competitors, into the whole range of information services that most sensible Members of Congress realize is too great a privilege. We do not seek to deny them that privilege; we only seek to make sure that consumer interests and competitors' interests are preserved while they are expanding their franchises. That is our goal, and as the gentleman so ably said, we seek improvements to our legislation, we seek better ways with which we could implement our intent.

There is a vendetta against no one. We hope, certainly, that in America 1991 we can set a democratic example for the world in terms of the high quality of our debate, not in the low level of the debate or the scurrilousness of the advertisements or the oversimplistic approaches that have been used so far in this debate.

So I would challenge all parties to the debate to hone their arguments, to understand the merits so that they can give America what it deserves, the best possible telecommunications future.

I thank the gentlemen so much for participating with me tonight. I appreciate their bravery in this issue because it is not easy to face a barrage of negative advertising a full year before the election from not only deep pockets but probably unlimited pockets.

So I appreciate the gentlemen, the Davids standing up to the Goliaths. I think, as in the biblical story, we are going to win this fight.

I thank the gentlemen.

REMOVAL OF NAME OF MEMBER AS COSPONSOR, AND ADDITION OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 342

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from North Carolina, Mr. ALEX MCMILLAN, as cosponsor of a bill that I introduced recently as House Joint Resolution 342 and, instead, add the name of the gentleman from Maryland, THOMAS C. MCMILLEN as a cosponsor of my bill.

Mr. Speaker, I apologize to the gentleman from North Carolina for this oversight, an inadvertent mistake made by my office staff.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from America Samoa?

There was no objection.

A CONCURRENT RESOLUTION TO EXPRESS THE SENSE OF CONGRESS TO RECOGNIZE CONCERNS OF PACIFIC NATIONS AND CALL UPON THE GOVERNMENT OF FRANCE TO CEASE ITS NUCLEAR TESTS IN FRENCH POLYNESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I request that it be reflected in the Journal of the House that I have two separate and unrelated issues that I want to take up in my special order this evening, and I will address my colleagues accordingly to each of the subject matters.

Mr. Speaker, I want to take this opportunity to thank the distinguished gentleman from New York [Mr. SOLARZ], who also serves as chairman of the House Foreign Affairs Subcommittee on Asia-Pacific, for his tremendous leadership and concern for the countries and peoples from throughout the Asia-Pacific region of the world. More specifically, Mr. Speaker, I commend the gentleman from New York [Mr. SOLARZ] for his assistance in drafting this concurrent resolution, along with the gentleman from the territory of Guam [Mr. BLAZ], both of whom have graciously offered to cosponsor this resolution.

Mr. Speaker, this resolution may not have the attention of our national leaders and press, but I am gratified by the fact that at least I have an opportunity to share with my House colleagues the concerns expressed in this resolution.

Mr. Speaker, this resolution first recognizes that the Government of France has been conducting nuclear testings since 1966, in the South Pacific, and continues to do so despite public announcements and declarations issued by many South Pacific nations—especially through the South Pacific Forum organization, comprised of some 16 island nations—even to the United Nations General Assembly—to stop the underwater nuclear tests in French Polynesia.

Mr. Speaker, I want to make it crystal clear that this legislation is not offered to embarrass the leaders and the good people of France.

Mr. Speaker, the concern expressed by the several island nations over French nuclear testing is the impact nuclear contamination provides for the region's marine environment. Our own country conducted similar nuclear tests both in the atmosphere as well as underwater in the Pacific. It is obvious that the reason we no longer conduct tests in the Pacific Ocean is because of the harm we've caused the marine environment and the hundreds of innocent Micronesian men, women, and children who were severely subjected to nuclear contamination.

Mr. Speaker, why must these Pacific Islanders be made subjects or specimens for experimentation by our most upright and upstanding Western democracies of the world? Where is the conscience and moral fiber amongst our own leaders and the leaders of France to resolve this serious environmental spectacle? No one in France would ever entertain the thought of conducting nuclear tests underground or even within the exclusive economic zone of France, but the Polynesian inhabitants of these little islands in French Polynesia—and the islands themselves—are made the sacrificial lambs for a practice that can easily be resolved, and that is, why not conduct joint underground tests with our own country?

Mr. Speaker, approximately 130 nuclear detonations have taken place since France first conducted its tests in 1966.

Obviously, France's nuclear testing programs have proven enormously beneficial to France's nuclear capability—and perhaps even to enhance its commercial nuclear industry, which now ranks probably among the top five countries that export and sell nuclear reactors to other industrialized and Third World countries.

Mr. Speaker, I submit, if and when France does decide to stop its nuclear testing program—it will and may well be said to all those who live in the vast Pacific Ocean, and someone who may say that the marine environment in the Pacific Ocean is no longer fit for human consumption and habitation—attributed primarily to these underwater nuclear tests—to be said simply, too long and a little too late.

Mr. Speaker, I want to share with my colleagues certain articles that relate to this proposed legislation.

HOUSE CON. RES. —

Whereas the Government of France has been conducting nuclear tests in the atolls of Moruroa and Fangataufa in French Polynesia since 1966;

Whereas these tests have included more than 130 underground nuclear tests;

Whereas there is considerable concern among the countries of the South Pacific about the possibility of radioactive contamination in the region as a result of these underground tests;

Whereas the members of the South Pacific Forum agreed at the Forum's annual meeting in July 1991 to "give consideration to an expanded programme of opposition to France's nuclear testing in the region";

Whereas despite French claims that its nuclear testing program is absolutely safe, there is some scientific evidence to suggest both that some radioactive leakage has already occurred at the testing site and that additional, more serious leakage might occur in the next 10 to 100 years;

Whereas there is also concern in the region that the Moruroa atoll is in danger of disintegration as a result of the testing program; and

Whereas the Government of France would have the option of using United States nuclear testing facilities if it gave up testing in the South Pacific: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls.

[From Greenpeace, March-April, 1991]

EXPLODING THE GREAT SECRET

(By Judy Christrup)

Arguments in favor of nuclear testing usually revolve around fighting and deterring war. The rationale goes something like this: Design, build, and test weapons with long-term nightmarish destructive capabilities, and everyone will be too scared to use them. Hawks and doves have been debating the logic of this nuclear deterrence theory for decades.

But there is a growing constituency that is largely ignored in the arms debate. Over the four-decade span that makes up the nuclear age, thousands of people have seen their communities destroyed and their health jeopardized by weapons production and testing itself—from the extraction of uranium in underground mines, to the refinement of nuclear fuels in the factory, to the explosion of nuclear bombs underground. One such group inhabits the islands claimed by the French in the Pacific, where France conducts underground nuclear tests.

Testimony: "It was during drilling work that I got contaminated. I was working in a little hole trying to dismantle an old pipe. I wasn't careful enough and got splashed by some water that had been left in the hole. It was mainly my hair that got wet as I wasn't wearing any protective gear on my head. I tried to wash it but it was difficult to get the stuff out. When I went into the decontamination chamber all the alarms went off. I washed my hair three times but it was still radioactive. . . . So a specialist had to use some special product to decontaminate me."—Manutahi. Worked as a welder on Moruroa from 1965 until 1980, when he became sick with pulmonary disease.

It may be argued that the lives lost over the past 45 years are a small price to pay for nuclear deterrence. A full-blown nuclear war would undoubtedly be far more deadly. Unfortunately, those suffering the consequences of radiation poisoning do not do so as willing martyrs for the greater good. They are simply not told.

The pattern of secrecy, arrogance, and neglect of workers and residents has been repeated around the world, from the Navajo miners of Utah to the displaced Nenets of Novaya Zemlya and the irradiated Australian aborigines of Maralinga.

Testimony: "When the military first arrived and explained what was going to happen, lots of very important people came to the atoll to talk to us. The admiral came and told us that there was no danger and that nuclear bombs were good. He came with a man who was said to be a professor and was introduced to us as one of the greatest scientists in the world. This man's knowledge could not be argued with. The admiral compared him to a fabulous pearl. This man also said there were no dangers for us."—Hiro. Lived on Tureia, 78 miles north of Moruroa, from 1928 to 1986.

The casualties of the French nuclear testing program are Polynesians. Their ancestors—inhabitants of 130 islands and atolls called Te Ao Maohi—remained free of European influence until the late 18th century, when traders, whalers, and missionaries settled on the islands, bringing fatal diseases and paving the way for colonization. French Admiral Dupetit-Thousards convinced his country that Tahiti would make a good penal colony, and so the French government made the island a protectorate in 1842. In 1880, Tahiti became a French colony—French Oceana. Those who resisted colonization, like Tahitian Queen Pomare, were subdued by threats of bombardment and deportation to New Caledonia (the Melanesian colony that became the penal colony instead of Tahiti).

When France chose its Polynesian colonies as nuclear test sites in 1962, the islanders again resisted. The 30-member elected Territorial Assembly objected to the plan, but was ignored. The French governor of Polynesia wrote to the head of the assembly, saying, "I should like to repeat my assurances here, in the name of the Republic, that all necessary measures are being taken to guarantee that the population will not suffer in the slightest degree from the scheduled experiments." France finally decided to conduct the bulk of its testing program on the tiny atoll of Moruroa, which means "the great secret" in a local dialect.

France's Prime Minister General Charles de Gaulle was enthusiastic and single-minded about his country's nuclear testing program. When France exploded its first nuclear bomb (in Algeria) his cable message read, "Hurrah for France! Since this morning she is stronger and more proud than ever!" After one successful atmospheric test on Moruroa, de Gaulle was scheduled to witness the next explosion on September 10, 1966, from the cruiser *De Grasse*. The test was postponed because the wind was blowing toward inhabited islands to the west. But after a day of waiting, de Gaulle's patience wore thin, and he ordered the bomb to be detonated. Monitoring stations operated by the New Zealand National Radiation Laboratory detected heavy radioactive fallout in the Cook Islands, Niue, Samoa, Tonga, Fiji, and Tuvala.

Testimony: "Instead of drifting away, the mushroom cloud drifted over the boats. It started to rain and everyone was ordered below deck. However, a group of Polynesians who were playing the guitar on deck and were a little bit drunk from the free drinks offered after every 'successful' test, did not understand what was happening and remained on deck. . . . After the rain stopped, the whole boat had to be washed and scrubbed down."—Edwin Haoa. Worked on Moruroa as leader of team monitoring radioactive contamination after the explosions.

De Gaulle's enthusiasm for nuclear testing reflected both the French elite's embarrassment over their rapid defeat in World War II and their vision of a militarily independent nation that could act as a counterweight to the belligerent superpowers. As Paris-based journalist Diana Johnstone put it, "It could be argued that what all post-1940 French leaders have striven to restore is not so much la grandeur as le pouvoir: the power to master the nation's fate and keep it from falling to pieces." But France's desire for le pouvoir, like that of other colonialist nations, served to obliterate the self-sufficiency and cultures of other peoples.

Testimony: "When I was offered the posting to Mangareva, I was promised a beautiful island, nice people, and no problems. However, the situation had changed with the arrival of the legionnaires. They had become the 'kings' of the island because they had money and alcohol. They got women by getting husbands or fathers drunk, or by buying them off. Some of the local men had gone to work on Moruroa, which made it 'easier' for the legionnaires."—Roland. A gendarme who lived in Mangareva from 1963 to 1968.

Even the most simple aspect of Polynesian life, a diet of fresh fish, has become impossible because of ciguatera fish poisoning. An article appearing in the January 28, 1989, issue of the scientific journal The Lancet reports that increased incidents of ciguatera "are related largely to miliary activities that disturb coral reef ecology." The researcher, Dr. Tilman A. Ruff, found that ciguatera outbreaks in Micronesia, Melanesia, and Polynesia occurred after World War II battles, nuclear testing, shipping activities, dumping, and construction by the United States, Great Britain, and France.

Testimony: "What I saw was no longer recognizable as a human being. Basinas could not talk and his whole body was black and suppurating. He had pains in his joints and he was still scratching and pulling his skin off. Usually, patients who arrived at the hospital sick from eating fish got sent straight to Tahiti and dismissed, but it was probably not possible with Basinas because he was so sick."—Tehiura. Worked as a docker at Moruroa from 1963 to 1968.

France has always maintained that its nuclear tests are perfectly safe. Yet the French government stopped publishing health statistics of French Polynesians in 1963, just after the testing program began. It has relied on anecdotal evidence and public relations stunts to prove that safety concerns are unfounded. In 1970, French Defense Minister Michel Debre tried to blunt criticism by swimming in the lagoon at Moruroa six hours after an atmospheric test. This sort of demonstration continued, even after testing was moved underground in 1974.

Testimony: "While I was working there, politicians and journalists came to check out rumors about the contamination of the atoll and the lagoon. To prove everything was safe, the military brass would go swimming in the lagoon. But afterwards they took showers in special containers. Later I had to go and clean up the containers and I noticed they used special soaps or creams. There were tubes containing a yellow liquid which were never used in the normal showers."—Ruta. Has worked on Moruroa and Tahiti since 1976.

As time went on, it became increasingly difficult to keep unflattering news about the testing program from reaching the public News of two accidents in 1979 and a typhoon in 1981 leaked out. The first accident—the explosion of a plutonium-contaminated bunker—killed two workers and injured three. The second occurred when a bomb got stuck halfway down a test shaft and was detonated anyway. The explosion—measuring 6.3 on the Richter scale—caused a million-cubic-meter piece of the atoll to drop into the ocean, which in turn caused a tidal wave. The French authorities denied any connection between the tidal wave and the explosion.

Testimony: "After the explosion, people with special protective gear had to enter the bunker and pour cement over the whole container. They were only allowed to stay in there for a short time as the whole place was full of plutonium and other radioactive substances. Rene Vilette's remains—or what were thought to be his remains—were found three days later and sent to France in the form of a concrete block."—Tama. Began working at Moruroa in the 1960s as an office worker.

The typhoon hit on the night of March 11–12 1981. Fearing for their safety, civilian technicians leaked the news to the French press. The storm swept radioactive waste, including 10 to 20 kilograms of plutonium, off the north beach of the atoll. According to the technicians, who were members of the CFTD trade union, the plutonium had been spilled on the beach during "security tests" from 1966 to 1974, then covered in asphalt. The powerful winds peeled off the asphalt and flung the plutonium into the lagoon.

GREENPEACE INVESTIGATION FINDS RADIOACTIVE CONTAMINATION

This time, it was not for a protest, but simply to take scientific samples. Nevertheless the *Rainbow Warrior's* December visit to the Pacific atoll of Moruroa, where France explodes nuclear bombs, was met with military force. Evidence of the environmental effects of the nuclear testing program, rumored to be destroying the foundations of the atoll and contaminating the ocean with radioactivity, is hard to get: The French government actively discourages impartial investigations. So when Greenpeace asked last summer if researchers could come and take a few water samples near the atoll, France refused. Greenpeace went anyway.

On December 11, trailing a plankton net, the *Rainbow Warrior* skirted the 12-mile territorial limit around Moruroa. Samples collected were found to contain Cesium-134 and Cobalt-60—both artificial radionuclides produced by nuclear tests. When confronted with the data, French authorities stonewalled, refusing to discuss the results with Greenpeace scientists. "After our alarming initial findings, we felt we had no choice but to go into the lagoon itself to sample for radioactivity," says Stephanie Mills, a campaigner aboard the *Rainbow Warrior*.

Ignoring the warnings from the French warships that shadowed the *Rainbow Warrior*, a team of five volunteers boarded an inflatable and crossed into French territory, towing a plankton net a 3 to 4 knots. After an hour of tense waiting, 40 masked French commandos aboard inflatables arrested the team, holding them for three hours before releasing them. A few hours later, the team entered the exclusionary zone a second time and were once again arrested. "Although our inflatables were returned to the *Warrior*, we were taken to Moruroa and held incommunicado for three days, guarded night and day by French legionnaires," recalls Mills. The seizure unleashed outcry by Greenpeace activists around the world, with demonstrators unfurling protest banners in front of French Consulates in Vancouver, San Francisco, Sydney, Auckland, and across the rose windows of Norte Dame Cathedral in Paris.—Diane Feeney

Testimony: "People came out of their houses when it was over and we saw that boats had been lifted onto the rocks and that all sorts of barrels were floating around. The waves had washed them out of the repository where they had been buried. It was hard work to retrieve them and store them away again, this time in the blockhouse. We were not told they contained radioactive materials."—Ruta.

In 1982, the French Defense Ministry finally gave in to demands by Pacific and French politicians for an independent investigation of the "radiological state" of Moruroa. But the team—handpicked by French Defense Minister Charles Hernu—was not given complete access to the atoll. Because the team was not allowed to take any measurements or visit the test sites, its visit amounted to nothing more than a helicopter tour. The scientists were forced to rely on French military data, so their results, published in The Tazieff Report, were immediately disputed. The 1984 Report of a New Zealand, Australian, and Papua New Guinea Scientific Mission to Moruroa Atoll (otherwise know as The Atkinson Report) was similarly limited. Nonetheless France used a shortened version of the report to defend the nuclear testing program.

One of The Atkinson Report's more dubious findings is that "cancer statistics for the region do not support any suggestions of elevated rates for tumor sites which might be associated with excessive exposure to radioactive fallout." It would have been impossible for the statistics to reflect elevated cancer rates because a death certification system was not resumed until 1983, and then only under pressure form the World Health Organization. And all the health data that allegedly support this conclusion were supplied by the French military. Professor Robert Beaglehole, an epidemiologist at the Auckland University Medical School wrote, "The French Polynesian health statistics have been of such poor quality that it appears the authorities were not seriously monitoring the health of the population."

Testimony: "All the handicapped children on the island were born after the testing started. There are also a lot of cross-eyed people. Soon after the tests begin, the women were sent to Tahiti to give birth. The reason given for this was that supposedly the facilities on Manareva were not set up to handle births. This is nonsense because in 1959 and 1963 there was no infirmary at all and everybody gave birth at home as they had always done. . . . The fact that there were no facilities was just an excuse used so that if anything went wrong they could just hush it up in the hospital in Tahiti."—Robert. Lives on the Gambier Islands, southeast of Moruroa.

The most recent scientific expedition to Moruroa was in 1987, when Captain Jacques-Yves Cousteau visited the island. Cousteau described severe fissuring, underwater slides, sinking, and accelerated aging of the atoll. He also noted radioactive Cesium-134 in the lagoon. Norm Buske, a scientist with SEARCH Technical Services reexamined Cousteau's data, and released a report last year. His calculations suggest that the atoll is far less efficient at holding in radioactive isotopes than the French assert. Buske tried to get permission to visit the atoll himself to collect new samples, but his request was never answered. When he approached the atoll with the *Rainbow Warrior* crew in December 1990, he was arrested by French commandos.

Testimony: "Since the tests went underground there are fissures all over the place. I'm sure these fissures prove that the tests are dangerous, but no one warns the workers of this when they first arrive. In some areas we had to wear badges to measure the degree of radiation we were exposed to and we had annual medical checkups but we never got any feedback."—Philippe. Worked on Moruroa from 1971 to 1985.

The testimonies in this article are taken from the Greenpeace book Testimonies. The interviews were conducted in 1987 by Dr. Andy Biedermann, a Swiss doctor and former crew member of the *Rainbow Warrior*. The names of the people interviewed were changed to protect them from official repercussions.

HEARING ON H.R. 3127, TO ESTABLISH A NATIONAL NATIVE AMERICAN UNIVERSITY

Mr. FALEOMAVAEGA. Mr. Speaker, tomorrow morning I will be privileged to chair a hearing that will consider the provisions of H.R. 3127, which is a bill that will hopefully, establish a "National Native American University."

Mr. Speaker, I introduced this bill purposely to raise our Nation's conscience again—to remind us all of the plight of our native American community when it comes to education. I realize our national media, and even many of our leaders, never seem to pay much attention to problems affecting native Americans. But that is all right, endurance must also be worth something. While I have heard it said that black Americans have learned to overcome, native American Indians have learned to endure.

As early as 1621, the East India School was set up by colonists and included American Indians in the student body. Indian students were expected to embrace Christianity and embark upon the work of conversion. The school closed in 1622, after an Indian uprising.

In the founding documents of Harvard, Dartmouth, and William and Mary Colleges in the 17th and 18th centuries, the goal of educating Indians was clearly stated. However, the intentions were never realized as the founders had expected.

The 1816 Civilization Act provided Federal funds for religious groups to promote Christianization and education among tribes.

In 1879, an Army captain named Richard Henry Pratt was granted the use of an Army barracks in Pennsylvania by Congress. Pratt founded the Carlisle Indian School where 200 Indian children and young adults from the West were trained for academic and vocational learning and socialization. At Carlisle, traditional Indian language and dress were not permissible. In his memoirs, Pratt wrote:

> I believe in immersing the Indians in our civilization and when we get them under, holding them there until they are thoroughly soaked.

By the turn of the century, there were 25 boarding schools. Discipline was harsh, student manual labor was essential because of limited Federal funding, and the quality of education was frequently very poor. Dropout rates were high, and even the students that graduated, found little work on their reservations in vocations for which they were trained.

In 1928, the Meriam Report charged that Government-run boarding schools were not providing skills relevant to Indians, curricula was too uniform, white culture was stressed, and tribal cultural differences were ignored. The report attacked vocational training that often closed rather than opened doors. Within 5 years of the report, 12 boarding schools either closed or changed to daytime schools.

In 1934, the Indian Reorganization Act passed, and the pace of Indian reform quickened under Indian Commissioner John Collier. Collier argued "Indian societies, whether ancient, regenerated or created anew, must be given status, responsibility and power." Commitments were made by the Roosevelt administration for Indian self-governance and to support cultural pluralism. However, the Depression of the 1930's limited the funding for innovative programs and slowed the reform movement.

World War II changed the funding priorities for Indian programs and in the post-war era Congress discussed the need for getting out of the "Indian business." The 1950's were a time when Congress terminated several tribes and ended the Federal trust responsibility.

The era of Indian self-determination began in the late 1960's. A new emphasis was placed on the preservation of tribal sovereignty and culture.

In the field of higher education, the first tribally controlled community college was founded on the Navajo Reservation in 1968. The Navajo initiative was no doubt the impetus for the 1978 Tribally Controlled Community College Assistance Act. Today there are 25 tribal community colleges in the United States.

There are also currently approximately 85 organized Indian studies programs in non-Indian colleges and universities across the country; however, close to 90 percent of the native American students who enter such programs eventually drop out.

In general, the idea of a national Indian university granting undergraduate and graduate degrees to native Americans is not new. For example, in 1911, an Indian named August Breuninger proposed the creation of an Indian university that would focus on culture and be connected to an Indian museum:

> A university for Indians is the greatest step that we educated Indians could make in uniting our people . . . It would eliminate the general conception—that an Indian consists of only feathers and paint. It would single us out—as really progressive Indians. It would give us a better influence with the rising generation, by setting out our character in such a conspicuous manner as to be . . . observed and imitated by them.

Mr. Speaker, over the years I have always been a strong advocate of education and its importance to any society. I have always held the belief that there are three fundamental stages in the educational process, and they are: elementary/intermediate, secondary, and postsecondary levels. Without question I have always believed that the elementary/intermediate level is most important, for the obvious reason that this is where a child begins to learn the alphabet, the three R's, if you will; and if children miss the fundamentals or are not taught properly, the basics, their pursuit of higher education obviously becomes more difficult, if not, almost impossible to achieve.

Mr. Speaker, while I recognize the problems attending the entire spectrum of congressional efforts to provide decent educational opportunities to our native American citizens, I still believe the establishment of a national university for our native American community will enhance their opportunities to obtain a full college-university level of education.

Mr. Speaker, I am greatly encouraged by the fact that there are currently 24 tribally operated community colleges set up primarily to serve our native American communities throughout the country. These colleges will play a tremendously important role—as they will be the major players by establishing linkages, and continuation of a native American youth's dreams and aspirations to obtain a university-level training at this National University for Native Americans.

Mr. Speaker, it is important that our National Government and native American leaders everywhere, be conscious of the fact that we need to address the needs of native Americans in education on all three levels, as I have mentioned earlier.

Mr. Speaker, it is my hope that this bill will draw greater attention to the tribulations and the plight of native Americans when it comes to education. Some critics have said why a university when we cannot even resolve the serious problems native American Indians now face even in the elementary level of education? Mr. Speaker, there is no reason why we cannot attack the problems of Indian education on all three levels. To suggest that we wait until one level is resolved will be like waiting for another 100 years. We can no longer wait. We are talking about generations of native Americans who will be lost if we don't address their problems now. Mr. Speaker, Rome was not built in a day. The native American community certainly does not want handouts, but many are forced into economic dependence on Federal subsidies, because of the many inconsistent and simply bad policies the Federal Government has imposed upon them over the years.

Mr. Speaker, the native Americans do not want to continue to eat the fish we give them. They only want opportunities to learn how to fish so they can also become economically independent like all other Americans. It is my sincere hope that perhaps a national university for native Americans will provide that forum to sustain a unique culture, and at the same time, present them with the necessary tools to become good and honorable fishermen and women, and to contribute substantially to the economic, political, and social needs, of our great Nation.

□ 2200

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today and November 22, 23, 24, 25, 26, and 27.

Mr. COLEMAN of Missouri, for 5 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. KASICH, for 5 minutes, on November 22.

Mr. WALKER, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, on November 22.

(The following Members (at the request of Mr. GEJDENSON) to revise and extend their remarks and include extraneous material:)

Mr. WOLPE, for 5 minutes, today.

Mr. MOLLOHAN, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. FAZIO, for 60 minutes, on November 25.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. JONTZ, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. ATKINS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) and to include extraneous matter:)

Mr. LEWIS of California.

Mr. PETRI.

Mr. BUNNING.

Mr. SCHULZE.

Mr. GOODLING in three instances.

Mrs. ROUKEMA.

Mr. GUNDERSON.

Mr. SANTORUM.

Mr. DAVIS.

Mr. SHAYS.

Mr. HUNTER.

Mr. PORTER in two instances.

Mr. ROHRABACHER.

Mr. RITTER.

Mrs. MORELLA.

Mr. FRANKS of Connecticut in three instances.

Mr. JAMES in two instances.

Mr. LAGOMARSINO.

Mr. RIGGS.

Mr. SPENCE.

Mr. GEKAS.

(The following Members (at the request of Mr. GEJDENSON) and to include extraneous matter:)

Mrs. LLOYD.

Mr. BONIOR.

Mr. STARK in two instances.

Mrs. MINK.

Mr. GORDON.

Mr. ASPIN.

Mr. SERRANO.

Mr. OBERSTAR.

Mr. BOUCHER.

Mr. KOSTMAYER.

Mr. LUKEN.

Mr. STOKES.

Mr. WILLIAMS in two instances.

Mr. SWETT.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992, as the "Year of the Gulf of Mexico."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes; and

S. 1568. An act to amend the act incorporating The American Legion so as to redefine eligibility for membership therein.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 22, 1991, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2586. A bill to amend title 31, United States Code, to allow the General Accounting Office to procure the services of additional experts and consultants; to permit the Comptroller General to enter into agreements with other Federal agencies relating to health care for employees serving abroad and their dependents; to exclude temporarily certain positions from the GS-15 pay limitation which would otherwise apply; and for other purposes. (Rept. 102-343). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3012. A bill to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. 102-344). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3245. A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; with an amendment (Rept. 102-345, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3604. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes; with an amendment (Rept. 102-346, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PICKLE (for himself, Mr. ROSTENKOWSKI, Mr. ARCHER, Mr. SCHULZE, Mr. ANTHONY, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. RUSSO, Mr. SHAW, Mr. SUNDQUIST, Mr. BUNNING, and Mr. THOMAS of California):

H.R. 3837. A bill to make certain changes to improve the administration of the Medicare Program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PICKLE (for himself, Mr. SCHULZE, Mr. ARCHER, Mr. ANTHONY, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. RUSSO, Mr. SHAW, Mr. SUNDQUIST, and Mr. BUNNING):

H.R. 3838. A bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayers' rights; to the Committee on Ways and Means.

By Mr. NATCHER:

H.R. 3839. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

By Mr. HOYER:

H.R. 3840. A bill to authorize a foreign assistance program to protect the rain forests in developing countries, to provide duty-free treatment for products that are certified to be produced through sustainable use of the rain forests, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. WYDEN (for himself, Mr. CHANDLER, Mr. AUCOIN, Mr. THOMAS of Georgia, Mr. CALLAHAN, Mr. BAKER, Mr. KOPETSKI, Mr. SPRATT, Mr. WILSON, Mr. EMERSON, Mr. HUCKABY, Mr. NATCHER, Mr. OBERSTAR, Mr. DEFAZIO, Mr. MORRISON, Mrs. LLOYD, Mr. SWIFT, Mr. SMITH of Oregon, Mrs. UNSOELD, Mr. JONTZ, and Mr. CHAPMAN):

H.R. 3841. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. DAVIS, Mr. STUDDS, Mr. HUGHES, Mr. TAUZIN, Mr. HUBBARD, and Mr. HERTEL):

H.R. 3482. A bill to extend the territorial sea and the contiguous zone of the United States, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, and the Judiciary.

By Mr. CHANDLER (for himself, Mr. GUARINI, Mr. GOODLING, Mrs. SCHROEDER, Mr. SCHIFF, Mr. COLEMAN of Missouri, Mr. PETRI, Mrs. ROUKEMA, Mr. ARMEY, Mr. FAWELL, Mr. BARRETT, Mr. GRANDY, Mr. SANTORUM, Mrs. JOHNSON of Connecticut, and Mr. PARKER):

H.R. 3843. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. MAZZOLI (for himself, Mr. SCHUMER, Mr. BERMAN, Mr. BRYANT, Mr. KOPETSKI, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. LEHMAN of Florida, Mr. RANGEL, Mr. OWENS of New York, and Ms. WATERS):

H.R. 3844. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. MCDERMOTT, Mr. BROWN, Mr. KOPETSKI, and Mr. WYDEN):

H.R. 3845. A bill to terminate the military assistance pipeline for El Salvador; jointly, to the Committees on Foreign Affairs and Appropriations.

By Mr. FOGLIETTA:

H.R. 3846. A bill to authorize the Secretary of Health and Human Services to award a grant for the purpose of constructing a medical research facility at the Children's Hospital of Philadelphia, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUNDERSON:

H.R. 3847. A bill to amend the Securities Exchange Act of 1934 to impose certain restrictions on the conduct of hostile takeovers by foreign-based persons, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HALL of Texas (for himself, Mr. BROWN, Mr. WALKER, Mr. SENSENBRENNER, Mr. BACCHUS, Mr. CRAMER, Mr. ROHRABACHER, Mr. TRAFICANT, Mr. HAYES of Louisiana, Mr. VOLKMER, Mr. PACKARD, Mr. SMITH of Texas, and Mr. LEWIS of Florida):

H.R. 3848. A bill to encourage the growth and development of commercial space activities in the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Armed Services.

By Mr. HASTERT (for himself, Mr. EMERSON, Mr. RAMSTAD, Mr. HORTON, Mr. JEFFERSON, Mr. EWING, Mr. KLUG, Mr. SANDERS, Mr. PERKINS, Mr. BLAZ, Mr. POSHARD, Mr. FALEOMAVAEGA, Mr. KOSTMAYER, Mr. SANGMEISTER, Mr. WILLIAMS, and Mr. UPTON):

H.R. 3849. A bill to grant a Federal charter to VietNow; to the Committee on the Judiciary.

By Mr. HATCHER (for himself, Mr. MARLENEE, Mr. VOLKMER, Mr. KOPETSKI, Mr. BOEHNER, Mr. ENGLISH, Mr. ROBERTS, Mr. HUCKABY, Mr. EMERSON, Mr. STENHOLM, Mr. MORRISON, Mr. TALLON, Mr. GUNDERSON, Mr. PENNY, Mr. LEWIS of Florida, Mr. STALLINGS, Mr. SMITH of Oregon, Mr. NAGLE, Mr. COMBEST, Mr. CAMPBELL of Colorado, Mr. HERGER, Mr. ESPY, Mr. WALSH, Mr. SARPALIUS, Mr. CAMP, Mr. PETERSON of Minnesota, Mr. ALLARD, Mr. BARRETT, Mr. NUSSLE, Mr. EWING, and Mr. RAY):

H.R. 3850. A bill entitled, the Federal-State Pesticide Regulation Partnership Act of 1991; to the Committee on Agriculture.

By Mr. HOAGLAND:

H.R. 3851. A bill to amend title XVIII of the Social Security Act to provide for coverage of annual preventive examinations under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HOAGLAND (for himself, Mr. LEACH, and Mr. ORTON):

H.R. 3852. A bill to establish the Peace and Prosperity Commission to review United States economic policies toward the former Soviet Union; jointly, to the Committees on Foreign Affairs, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. KANJORSKI:

H.R. 3853. A bill to provide a framework for national economic revitalization, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOSTMAYER:

H.R. 3854. A bill to amend the Solid Waste Disposal Act to require the regulation of produced water from oil and gas exploration, development, and production, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3855. A bill to amend the Clean Air Act to require existing incinerators to comply with EPA regulations under section 129 within 6 months after promulgation, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3856. A bill to amend the Mineral Leasing Act with respect to the administration of certain oil and gas rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MCMILLAN of North Carolina:

H.R. 3857. A bill to provide for medical injury compensation reform for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes; jointly, to the Committees on the Judiciary, Ways and Means, and Energy and Commerce.

By Mrs. MINK:

H.R. 3858. A bill to amend part A of title IV of the Social Security Act to require States to continue aid to families with dependent children during the first month of employment of the recipient; to the Committee on Ways and Means.

By Mr. MRAZEK:

H.R. 3859. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains of individuals; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. TORRES):

H.R. 3860. A bill to amend the Truth in Lending Act to require additional disclosures with respect to credit card accounts, to require a study of the competitiveness of the credit card industry, to authorize the President to establish a cap on consumer credit card interest rates, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Rules.

By Mr. TORRICELLI:

H.R. 3861. A bill to provide demonstration grants to secondary schools for the purpose of extending the length of the academic year at such schools; to the Committee on Education and Labor.

By Mr. WILLIAMS:

H.R. 3862. A bill to authorize the Secretary of the Interior, in cooperation with the Secretary of Energy, to allocate Pick-Sloan Missouri River Basin Program project pumping power to non-Federal irrigation projects in the State of Montana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself and Mr. CLAY):

H.R. 3863. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Education and Labor.

By Mr. BOUCHER (for himself, Mr. TAUZIN, Mr. SYNAR, Mr. THOMAS of Wyoming, Mr. BRUCE, Mr. SLATTERY, Mr. SPRATT, Mr. COOPER, Mr. SANDERS, Mr. MONTGOMERY, Mr. KOPETSKI, Mr. SCHEUER, Mr. PAYNE of Virginia, and Mr. STAGGERS):

H.R. 3864. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

By Mr. BONIOR:

H.J. Res. 378. Joint resolution designating the last week of September 1992, and the last week of each September thereafter, as "National Senior Softball Week"; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut:

H.J. Res. 379. Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any act or resolution containing such an item; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. SOLARZ, and Mr. BLAZ):

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls; to the Committee on Foreign Affairs.

By Mr. FOGLIETTA:

H. Con. Res. 244. Concurrent resolution to encourage peace and reunification on the Korean Peninsula; to the Committee on Foreign Affairs.

By Mr. VISCLOSKY:

H. Con. Res. 245. Concurrent resolution urging all parties in Yugoslavia to cease further use of force and engage fully and in good faith in negotiations on the future of Yugoslavia; to the Committee on Foreign Affairs.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. DINGELL, Mr. WYDEN, Mr. SIKORSKI, Mr. CONYERS, Mr. FORD of Michigan, Mr. BROWN, Mr. BERMAN, Mr. DOWNEY, Mr. ESPY, Mrs. KENNELLY, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. MATSUI, Mr. OBEY, Mr. OLVER, Mr. ROSE, Mr. RUSSO, Mr. SANDERS, Mr. SCHUMER, Mr. TORRES, Mr. WEISS, Mr. PANETTA, Mr. OWENS of Utah, and Mr. MORAN):

H. Con. Res. 246. Concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUGHES (for himself, Mr. SAXTON, and Mr. ANDREWS of New Jersey):

H. Res. 291. Resolution relating to elimination of perquisites for Members of the House of Representatives and amending the Rules of the House of Representatives to establish additional conditions for official committee travel expenses; to the Committee on Rules.

MEMORIALS

Under the clause 4 of rule XXII,

318. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the Iraq-Kuwait war; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Mr. KOSTMAYER, Mr. HYDE, Mr. THOMAS of Wyoming, Mr. STALLINGS, Mr. MRAZEK, Mr. BOEHLERT, and Mr. HERGER.

H.R. 134: Mr. RAMSTAD and Mr. FISH.

H.R. 298: Mr. MILLER of Washington.

H.R. 371: Mr. ROWLAND.

H.R. 423: Mr. BROWN.

H.R. 606: Mr. WILSON and Mr. WALSH.

H.R. 769: Mr. SMITH of Florida.

H.R. 791: Mr. ENGEL.

H.R. 830: Mr. COLEMAN of Texas.

H.R. 999: Mr. JOHNSON of South Dakota and Mr. STUMP.

H.R. 1067: Mr. MCDERMOTT, Mr. OLIN, and Mr. FIELDS.

H.R. 1069: Mr. SOLOMON.

H.R. 1245: Ms. NORTON, Mr. HENRY, Mr. PASTOR, Mr. BILBRAY, and Mr. GRANDY.

H.R. 1300: Mr. KOLTER.

H.R. 1430: Mr. BUSTAMANTE and Mr. PASTOR.

H.R. 1466: Mr. MARKEY and Mr. PETERSON of Florida.

H.R. 1515: Mr. NCNULTY, Mr. PETERSON of Florida, Mr. RAMSTAD, Mr. GEREN of Texas, Mrs. LLOYD, Mr OBEY, and Mr. ENGLISH.

H.R. 1527: Mr. SPRATT and Mr. KOLTER.

H.R. 1544: Mr. COLEMAN of Texas.

H.R. 1566: Mr. VENTO, Mr. HAMMERSCHMIDT, and Mr. SWETT.

H.R. 1665: Mr. BONIOR.

H.R. 1681: Ms. PELOSI and Mr. LEWIS of Florida.

H.R. 1771: Mr. BAKER and Mr. BURTON of Indiana.

H.R. 1916: Mrs. MORELLA.

H.R. 2089: Mr. GONZALEZ.

H.R. 2149: Mr. ROSE and Mr. DOOLITTLE.

H.R. 2202: Mr. ROHRABACHER.

H.R. 2232: Mr. ANTHONY.

H.R. 2236: Mr. JONES of North Carolina.

H.R. 2550: Mr. FISH.

H.R. 2600: Mr. HERTEL.

H.R. 2661: Mr. JOHNSON of South Dakota and Mr. MACHTLEY.

H.R. 2766: Mr. UPTON, Mr. JONES of North Carolina, Mr. MCCOLLUM, and Mr. DORNAN of California.

H.R. 2872: Mr. SANTORUM, Mr. DE LUGO, Mr ROHRABACHER, Mr. LEWIS of Georgia, Mr. SAVAGE, Mr. HYDE, and Mr. HAYES of Illinois.

H.R. 2880: Mr. ACKERMAN, Mr. COX of Illinois, Mr. PAYNE of New Jersey, Mr. JACOBS, Mr. HOCHBRUECKNER, and Mr. COYNE.

H.R. 2894: Mr. FROST.

H.R. 2898: Mr. DOWNEY, Mr. PICKETT, and Mr. WHEAT.

H.R. 2943: Mr. HASTERT.

H.R. 3121: Mr. RAMSTAD and Mr. GILCHREST.

H.R. 3130: Mr. YOUNG of Alaska.

H.R. 3138: Mr. ENGEL.

H.R. 3146: Mrs. MEYERS of Kansas.

H.R. 3170: Mr. UPTON.

H.R. 3176: Mr. FROST.

H.R. 3198: Mr. HUTTO, Mr. PICKETT, Mr. CLINGER, Mr. VANDER JAGT, Mr. HUNTER, Mr. ZELIFF, Mr. DELAY, Mr. SMITH of Oregon, Mr. QUILLEN, Mr. TANNER, Mr. MILLER of Ohio, Mr. OXLEY, Mr. SPENCE, Mr. BILIRAKIS, Mr. EDWARDS of Texas, Mr. NICHOLS, and Mr. GILLMOR.

H.R. 3216: Mr. JEFFERSON, Mr. MFUME, Mrs. LLOYD, and Mr. DOOLITTLE.

H.R. 3222: Mr. RANGEL, Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. KOPETSKI, Mr. LEWIS of Florida, Mr. GEJDENSON, Mr. PETERSON of Minnesota, Mr. QUILLEN, Mrs. BYRON, and Mr. LANTOS.

H.R. 3357: Mr. HORTON, Mr. SPRATT, Mr. MCCOLLUM, Mr. BLAZ, Mr. DE LA GARZA, Mr. FRANKS of Connecticut, Mr. LAGOMARSINO, Mr. JEFFERSON, Mr. SOLOMON, Mr. WILSON, Mr. TOWNS, Mr. SANDERS, Mrs. JOHNSON of Connecticut, Mr. ZELIFF, Mr. EVANS, Mr. SCHAEFER, Mr. DOOLITTLE, Mr. SANTORUM, and Mr. DEFAZIO.

H.R. 3376: Mr. SOLOMON.

H.R. 3395: Mr. GILLMOR, Mr. MACHTLEY, Mr. LANCASTER, and Mr. CHAPMAN.

H.R. 3444: Mr. EVANS.

H.R. 3463: Mr. CONDIT.

H.R. 3515: Mrs. LLOYD, Mr. NEAL of Massachusetts, Mr. POSHARD, Mr. SARPALIUS, Mr. ALEXANDER, Mr. PENNY, and Mr. ANTHONY.

H.R. 3518: Mr. RIGGS, Mr. ROHRABACHER, Mr. SMITH of Florida, Mr. COX of California, Mr. SHAYS, and Mr. STEARNS.

H.R. 3553: Mr. STUDDS, Mr. KOSTMAYER, and Mr. DYMALLY.

H.R. 3554: Mr. KOSTMAYER, Mr. TORRES, Mr. DWYER of New Jersey, Mr. RANGEL, and Mr. JONTZ.

H.R. 3627: Mr. SMITH of Iowa, Mr. DICKINSON, Mr. FROST, Mr. JEFFERSON, Mr. COSTELLO, Ms. NORTON, Mr. HANSEN, Mr. STOKES, Mr. GILLMOR, Mr. MCHUGH, Mr. JACOBS, Mr. BILBRAY, Mr. LAUGHLIN, Mrs. BYRON, Mr. TALLON, Mr. SARPALIUS, Mr. GEREN of Texas, Mrs. LLOYD, Mr. TANNER, Mr. KOSTMAYER, Mr. CONDIT, Mr. HOPKINS, Mr. STENHOLM, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. EARLY, Mr. PICKETT, Mr. SCHUMER, Mr. BREWSTER, Mr. ENGLISH, Mr. VOLKMER, Mr. EDWARDS of Oklahoma, Mr. BONIOR, Mr. GEPHARDT, Mr. KANJORSKI, Mr. PICKLE, Mr. THOMAS of California, Mr. DONNELLY, Mr. CALLAHAN, Mr. SHARP, Mr. BARNARD, Mr. DINGELL, Mr. SLATTERY, Mr. BENNETT, Mr. FLAKE, Mr. LEWIS of Georgia, Mr. LAROCCO, Mr. TORRES, Mr. HOLLOWAY, Mrs. PATTERSON, Mr. BROWDER, Mr. JONES of Georgia, Mr. DARDEN, Mr. JENKINS, Mr. MARTINEZ, MR. WOLPE, Mr. QUILLEN, Mr. MORAN, Mr. KLECZKA, Mr. PAXON, Mr. ANNUNZIO, Mr. ALLEN, Mr. WALKER, Mr. JOHNSON of Texas, Mr. MCMILLAN of North Carolina, and Mr. BAKER.

H.R. 3639: Mr. DWYER of New Jersey and Mr. ZIMMER.

H.R. 3645: Mr. DE LUGO.

H.R. 3669: Mr. FOGLIETTA, Mr. WAXMAN, Mr. DWYER of New Jersey, Ms. NORTON, and Mr. MARTINEZ.

H.R. 3678: Mr. BURTON of Indiana and Mr. HERGER.

H.R. 3681: Mr. QUILLEN, Mrs. LOWEY of New York, Mr. FROST, Mr. ALEXANDER, Mr. SPRATT, and Mr. DYMALLY.

H.R. 3702: Mr. BOUCHER and Mr. DEFAZIO.

H.R. 3734: Mr. COX of California.

H.R. 3736: Mr. COSTELLO, Mr. RAHALL, Mr. HENRY, Mr. JONTZ, Mr. HUBBARD, Mr. MCNULTY, and Mr. FISH.

H.R. 3740: Mrs. LOWEY of New York and Mr. DICKINSON.

H.R. 3744: Mr. TAUZIN, Mr. PARKER, Mr. UPTON, Mr. GALLEGLY, Mr. HUNTER, Mr. SMITH of New Jersey, Mr. GUNDERSON, Mr. DANNEMEYER, Mr. LENT, Mr. HASTERT, Mr. MCCRERY, Mr. HOBSON, Mr. SAXTON, Mr. HANSEN, Mr. INHOFE, Mr. MOORHEAD, Mr. HEFLEY, Mr. BURTON of Indiana, Mr. HYDE, Mr. HORTON, Mr. LIGHTFOOT, Mr. YOUNG of Alaska, and Mr. BUNNING.

H.R. 3750: Mr. DOWNEY.

H.R. 3770: Mr. GOODLING, Mr. GOSS, Mr. MOORHEAD, Mr. BEREUTER, Mr. OXLEY, Mr. FAWELL, Mr. KOLBE, and Mr. GALLEGLY.

H.R. 3816: Mrs. LLOYD, Mr. IRELAND, Mr. CALLAHAN, Mr. ZIMMER, Mr. RAVENEL, Mr. WYLIE, Mr. PETRI, Mrs. JOHNSON of Connecticut, Mr. FIELDS, Mr. CARR, Mr. GUARINI, Mr. ANNUNZIO, and Mr. VANDER JAGT.

H.R. 3822: Mr. HERGER and Mr. FIELDS.

H.J. Res. 28: Mr. SANTORUM.

H.J. Res. 293: Mr. LEHMAN of California, Mr. HOYER, Mr. BALLENGER, Mr. BEVILL, Mr. DOOLITTLE, Mr. FLAKE, Mr. BOEHLERT, Mr. MANTON, Mr. PAYNE of Virginia, Mr. REGULA, Mr. VANDER JAGT, Mr. SMITH of New Jersey, Mr. DAVIS, Mr. PAYNE of New Jersey, Mr. DWYER of New Jersey, and Mr. HOUGHTON.

H.J. Res. 300: Mr. CRAMER.

H.J. Res. 316: Mr. HOYER.

H.J. Res. 369: Mr. FRANK of Massachusetts, Mr. ROGERS, Mr. HUGHES, Mr. TAUZIN, Mr. ATKINS, and Mr. JONTZ.

H.J. Res. 372: Mr. MANTON, Mr. MACHTLEY, Mr. BALLENGER, Mr. SUNDQUIST, and Mr. HUGHES.

H.J. Res. 376: Mr. WEISS, Mr. HORTON, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr.

MATSUI, Mr. MFUME, Mr. LEVINE of California, Mrs. MORELLA, Mr. LEVIN of Michigan, Mr. SAWYER, Mr. KENNEDY, Mrs. UNSOELD, Mr. MILLER of California, Mr. PAYNE of New Jersey, Ms. NORTON, Mrs. BOXER, Mr. MARKEY, Ms. PELOSI, Mr. TRAFICANT, Mr. DELLUMS, Mr. DYMALLY, Mr. DE LUGO, Mr. SCHEUER, Mr. STUDDS, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. WOLPE, Mr. YATES, Mr. MRAZEK, Mr. FASCELL, Mr. ACKERMAN, Mr. MCNULTY, Mr. OWENS of Utah, Mr. SWIFT, Mr. BERMAN, Mr. MCMILLEN of Maryland, Mr. DIXON, Mr. SKEEN, Mr. TOWNS, Mr. FEIGHAN, Mr. KOLTER, Mr. ROWLAND, Mr. DARDEN, Mr. OLVER, Mr. DURBIN, Mr. BARNARD, Mr. BOUCHER, Mr. WISE, Mr. TORRES, Mrs. LOWEY of New York, Mr. KOPETSKI, Mr. PANETTA, Mr. LAROCCO, Mr. EDWARDS of California, Mr. SABO, Mr. PRICE, Mr. SCHUMER, Mr. SIKORSKI, Mrs. COLLINS of Michigan, Mr. NATCHER, Mr. WALSH, Mr. AUCOIN, Mr. BONIOR, Mr. BRYANT, Mr. CLEMENT, Mr. COSTELLO, Ms. DELAURO, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. FALEOMAVAEGA, Mr. HOYER, Mr. FAZIO, Mr. HALL of Ohio, Mr. ECKART, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFNER, Mrs. KENNELLY, Mr. KANJORSKI, Mr. JONES of Georgia, Mr. KILDEE, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. PASTOR, Ms. OAKAR, Mr. MILLER of Washington, Mrs. MINK, Mr. MORRISON, Mr. PICKLE, Mr. PORTER, Mr. RICHARDSON, Mr. RHODES, Mr. ROSE, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STOKES, Mr. TRAXLER, Ms. WATERS, Mr. WHEAT, Mr. WYDEN, Mr. SKAGGS, Mr. PERKINS, Mr. SHAYS, Mr. ABERCROMBIE, Mr. RUSSO, Mr. COX of Illinois, Mr. MOODY, Mr. GLICKMAN, Mr. DEFAZIO, Mr. WASHINGTON, Mr. MINETA, Mr. BURTON of Indiana, Mr. GUARINI, Mr. MOAKLEY, Mr. DWYER of New Jersey, Mr. MARTINEZ, Mr. LEHMAN of Florida, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ANDREWS of New Jersey, Mr. ANTHONY, Mr. ATKINS, Mr. BENNETT, Mr. BROWN, Mr. BRUCE, Mr. CARDIN, Mr. CARPER, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COYNE, Mr. DICKS, Mr. DONNELLY, Mr. ENGEL, Mr. ERDREICH, Mr. ESPY, Mr. FLAKE, Mr. FORD of Michigan, Mr. FROST, Mr. GEJDENSON, Mr. GEREN of Texas, Mr. GIBBONS, Mr. GREEN of New York, Mr. HAMILTON, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KLUG, Mr. LEWIS of California, Mr. MCCLOSKEY, Mr. MCGRATH, Mr. MCHUGH, Mr. MAVROULES, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MORAN, Mr. MURPHY, Mr. PETERSON of Florida, Mr. POSHARD, Mr. RANGEL, Mr. SHARP, Mr. SMITH of Iowa, Ms. SNOWE, Mr. SPRATT, Mr. STARK, Mr. TANNER, Mr. VENTO, Mr. WILSON, Mr. SANDERS, Mr. FUSTER, Mr. JONTZ, Mr. BLACKWELL, Mr. WAXMAN, Mr. CLAY, Mr. GRADISON, Mr. BROWDER, Mr. HUBBARD, Mr. MCCANDLESS, Mr. PICKETT, Mr. HOAGLAND, Mr. HOBSON, Mr. HOUGHTON, Mr. BEILENSON, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROOMFIELD, Mr. CARR, Mr. CONDIT, Mr. DELAY, Mr. FORD of Tennessee, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GRANDY, Mr. HARRIS, Mr. HENRY, Mr. HANSEN, Mr. HUGHES, Mr. HYDE, Mr. JEFFERSON, Mr. JENKINS, Mr. KLECZKA, Mr. LAFALCE, Ms. MOLINARI, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. ORTIZ, Mrs. PATTERSON, Mr. REED, Mr. ROHRABACHER, Mr. SARPALIUS, Mr. ROYBAL, Mr. SCHULZE, Mr. SERRANO, Mr. STAGGERS, Mr. TAUZIN, Mr. STENHOLM, Mr. THOMAS of California, Mr. UPTON, and Mr. VISCLOSKY.

H. Con. Res. 145: Mr. DEFAZIO and Mr. CAMPBELL of California.

H. Con. Res. 211: Mr. ANDERSON and Mr. KILDEE.

H. Con. Res. 218: Mr. RITTER.

H. Con. Res. 232: Mr. GUARINI, Mr. TORRES, Mr. FUSTER, Mr. HENRY, Mr. TOWNS, Mrs. MORELLA, and Mr. EVANS.

H. Con. Res. 235: Mr. BONIOR and Mr. CONDIT.

H. Con. Res. 236: Mr. MCNULTY, Mr. LEWIS of Florida, Mr. EDWARDS of Oklahoma, Mrs. MEYERS of Kansas, Mr. MARTINEZ, Mr. POSHARD, Mr. FRANKS of Connecticut, Mr. HANCOCK, and Mrs. LLOYD.

H. Con. Res. 240; Mr. EMERSON, Mr. EVANS, Mr. FAWELL, Mr. FUSTER, Mr. GILMAN, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. STARK, Mr. TOWNS, and Mr. TRAFICANT.

H. Res. 107: Mr. SANTORUM.

H. Res. 129: Mr. COX of California, Mr. MATSUI, Mr. GEJDENSON, Mr. CRANE, and Mr. MRAZEK.

H. Res. 152: Mr. PARKER.

H. Res. 233: Mr. SWETT and Mr. ECKART.

H. Res. 234: Mrs. JOHNSON of Connecticut, Mr. GUARINI, Mrs. MORELLA, Mr. OWENS of Utah, and Mr. BROOMFIELD.

H. Res. 257: Mr. KILDEE, Mr. GILCHREST, and Ms. NORTON.

H. Res. 263: Mr. FAWELL.

H. Res. 284: Mr. TRAXLER, Mr. ATKINS, Mrs. BYRON, Mr. COSTELLO, Mr. DE LA GARZA, Mr. HALL of Texas, Mr. HORTON, Mr. KOPETSKI, Mr. PRICE, and Mr. SYNAR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolution as follows:

[Omitted from the Record of October 23, 1991]

H.R. 1790: Mr. ERDREICH.

[Submitted November 21, 1991]

H.J. Res. 342: Mr. MCMILLAN of North Carolina.

SENATE—*Thursday, November 21, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

The ACTING PRESIDENT pro tempore. We are privileged this morning to have the Reverend Thomas H. Carr, associate pastor, Burke Community Church, Burke, VA, to deliver the prayer.

PRAYER

The Reverend Thomas H. Carr, associate pastor, Burke Community Church, Burke, VA, offered the following prayer:

Let us pray:

Gracious Father, You shatter all the ways we use to hide from Your liberating truth. For example, Your word declares: "Consider it pure joy whenever you face many kinds of trials * * *."—James 1:2.

"Pure joy" under the pile of today's business? While facing the seduction of money, sex, and power in its many guises? Lord, You must have a way that is above our ways? A wisdom that beggers our own. This joyous truth eludes us.

And so, I bring to Your loving embrace the Members of this body with their political trials and their personal temptations, known only to them, and to You. They often agonize over issues that tear at them deeply.

Father, give Your servants more than just the will to survive today's spiritual warfare. In the name of Jesus Christ, enable them to thrive by "counting it all joy" in the midst of the conflict.

For Your gracious word reminds us: "Blessed are they who persevere under trial, for when they have stood the test, they will receive the crown of life that God has promised to those who love Him."—James 1:12.

In the name of the One who chose the agony of the cross for the joy of resurrection. Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Chair now recognizes the senior Senator from Tennessee [Mr. GORE] who is permitted to speak for up to 25 minutes.

Mr. GORE. Thank you, Mr. President.

With apologies to my colleague, I will reclaim the title of the junior Senator from Tennessee in deference to Senator SASSER.

The ACTING PRESIDENT pro tempore. The Chair might say to the distinguished Senator from Tennessee, I probably was thinking about his father.

Mr. GORE. I appreciate that reference also, Mr. President.

COMPLIMENTS TO THE GUEST CHAPLAIN

Mr. GORE. I would also like to say that I especially enjoyed and was moved by the opening prayer this morning, and my compliments to our visiting chaplain.

YUGOSLAVIA

Mr. GORE. Mr. President, on October 25, Senator PELL and I submitted Senate Resolution 213 regarding developments in Yugoslavia, or what some call the former nation of Yugoslavia because, in effect, it exists no longer. Later today, I am given to understand that the Senate may well take up Senate Resolution 213 and, as of now, it has 24 additional cosponsors whose names will be included in a list that I will attach to the end of my statement, and I will ask unanimous consent to do that at the appropriate time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. I think it is also important to thank those Members who have expressed doubt about one aspect or another of this resolution but who were gracious enough not to prevent the Senate from taking it up. I want to say that I deeply respect their concerns and that I also believe that they rightly decided to risk erring on the side of the concern for the great tragedy now unfolding in Yugoslavia.

As amended, Senate Resolution 213 says, essentially, that, assuming the Republic of Croatia adheres in good faith to European Community cease-fire and peace proposals, and in the event that the Republic of Serbia will not do the same, then, there should be a change in United States policy. Namely, the United States should promptly raise, in broad consultation with other governments, in the EC, bilaterally, and through the United Nations, the question of recognizing republics such as Slovenia and Croatia, that have declared their sovereignty and independence, and that have agreed to cooperate with EC efforts.

There are additional points in the resolution, but this one would represent the most salient change in American policy. It would say that Members of the Senate wish to warn the Government of the Republic of Serbia that continued resort to violence risks placing them in the status of a parish state: diplomatically and economically isolated. In the spirit of objectivity and fairness, it also puts on notice all concerned in this conflict, that the path to formal recognition places obligations upon them: to cooperate with the EC, and to go the extra mile toward absolutely assuring the protection of the rights of ethnic minorities within their borders. And this is especially true where the rights of Serbians within the Republic of Croatia are concerned.

I believe it both appropriate and urgent for the Senate to send this message today. What the Republic of Serbia is attempting to do cuts across the interests of the United States in a way deserving our close attention. I am convinced that we are not witnessing some random spasm of violence. Rather, we are in the presence of a strategic concept whose successful realization is dangerous for our National interests.

From the press and television reports, we know—however imperfectly—what is happening in Vukovar and Dubrovnik. This morning's reports showed rows upon rows of corpses in Vukovar and the frightened children with their mothers emerging from shelters and the reports of summary executions of civilians. But Vukovar and Dubrovnik, which has not yet fallen, are not the be-all and end-all of the conflict. They are actually the left and right hand anchors of an extended military campaign planned and conducted by the last unreconstructed Communist dictator on the continent of Europe. Forces responding to the Republic of Serbia are attacking cities in the Republic of Croatia along an arc running from the Hungarian border to the Adriatic. Behind that arc is a region equivalent to at least one-third of Croatia, as its borders have been recognized for centuries.

Let me take a moment to digress on the duration of that border. It has been said that the internal boundaries separating the various republics inside Yugoslavia represent an artificial creation by Tito. In some cases that is true.

Not so with the border between Croatia and Serbia. That border was the border between the empire of Constantinople and the empire of Rome. It was the boundary line between East and West. In fact, history has placed so much ethnic strife right in this concentrated area that has been called Yugoslavia because it was the outer boundary of three empires: the Roman Empire, the Eastern Empire coming out of Constantinople, and the farthest reaches of Islam, and then, from the north, the Russian empires. It represented, in a sense, an area in which the tectonic plates of geopolitics have pressed against one another for millennia. And then, after totalitarianism descended in the 1930's, the conflict was exacerbated, and when the Communist form of totalitarianism froze everything in place, all of these tensions were put on hold, in large part.

And now, with the collapse of communism, the conflicts that have been in part there for millennia have come to the surface. But it represents a challenge to what President Bush has attempted to describe as a new world order. It represents a challenge specifically to the hopes and dreams of Europeans for a continent free of the war which has ravaged that continent for most of its history. And it represents a challenge to the United States of America as the natural leader of the effort by humankind to create a new world in which territorial boundaries cannot be changed by violence. And that is what Serbia is engaged in right now.

Meanwhile, to the rear of this region, across the border into the Republic of Bosnia and Hercegovina, Serbs have reportedly voted to create an autonomous zone to be linked to the Republic of Serbia. This is an extremely ominous development, since it threatens to ignite civil war in Bosnia-Hercegovina between Serbs, Croats, and Muslims, all of whom share the region. This has the clear potential to spread. Already communities and villages in Hungary have been bombed by aircraft under the control of the Republic of Serbia. The surrounding area is threatened by a continuation of this violence.

My own family, as I have said on one prior occasion here on the floor, was touched by the conflict which erupted out of the Balkans in 1914, and called many young men from the hills of Tennessee and Kentucky and States all across our Nation to go. And many lost their lives in World War I, partly because the world stood by and did not attend to the simmering conflict in the Balkans.

Now, as the world is on the verge of a potential for a unified European Community, for a common agreement throughout most of the world that democracy and a free market will be the path taken by humankind in the future, we cannot afford to stand by and allow this violence to spill over these boundaries.

Clearly, under the inspiration of the Republic of Serbia, there is an effort to totally redraw the map of the region: to truncate Croatia, shave off the top of Bosnia, add the two to Serbia, and create a greater Serbia which cuts Yugoslavia in two, and reaches to the Adriatic Sea. Keep in mind, also, that before the Republic of Serbia invaded the Republic of Croatia, it had earlier seized control of the previously autonomous region of Kosovo, with its Albanian population. This greater Serbia will then presumably dominate all the other Republics and provinces of Yugoslavia, including Macedonia, to the south.

This is an effort to establish a small empire of the sort dreamed of since Serbia was a kingdom. And this process is being carried forward at the expense of the single most important principle for the postwar organization and stability of Europe. To create greater Serbia, it is necessary to utterly disregard the principle that borders will not be changed by force. And that principle—so long as it is intact—constrains every state in Eastern Europe from seeking redress from every other state for territories transferred in the aftermath of WWII, and it inhibits those who might seek to stir up violence between every ethnic group in every state of Eastern Europe and the Balkans.

If the world stands by, paralyzed and afraid to act in the face of this naked aggression, mass death, and destruction, it will send a message that whatever dictator can amass the most weapons can, with virtual impunity, expand his borders and conquer the territory of his neighbors.

In this delicate situation in the immediate aftermath of the cold war, do we want to send that message? Mr. President, inaction is a policy in and of itself.

We cannot pretend by doing nothing that we are not expressing ourselves and influencing the course of events in the Balkans. By standing by as the only Nation capable of providing leadership for the world and doing nothing as this tragedy unfolds, we are sanctioning it, in effect. We have an obligation to speak out.

Some say the European Community is the natural intervenor. And, indeed, Lord Carrington, speaking for the European Community, has conducted a dialog in the region. But the European Community has been exceedingly timid. And there is a reason why. It is because many of its members, including most prominently Great Britain, have been reluctant to deal with this situation, which takes what was a nation, in the aftermath of World War I, and travels down a path toward the elevation of a subnational grouping into an entity that will achieve political recognition. Great Britain, of course, has the festering problem of Northern Ireland. It does not want to raise the profile of that issue. It wants to stay hands off.

Germany, which has been sympathetic to the point of view which I am expressing, is so invested in the idea of a unified Europe that it has deferred to Great Britain.

France has not been sympathetic. But for all of these reasons, and others, the European Community has not been willing to lead. The United States of America can offer leadership here, and can make the difference in bringing this conflict to an end.

Instability in this region is contageous, with the possibility for advancing eastward until it encounters the westward spread of ethnically driven instability radiating out from Moscow. The prospect for a Europe whole and at peace is the foundation for American planning and hopes for the future. And that prospect is at risk to the forces of violent ethnic nationalism, which is burning white hot at the moment in Yugoslavia, fanned by the actions of the leaders of the Republic of Serbia.

I do not mean to give short shrift to the human costs of all this. Thousands have died. Hundreds of thousands are displaced. Innocent people on both sides of the conflict are exposed not only to random injury and death from shells and bombs, but to direct, inhuman cruelty at the hands of that small, but awful percentage of humankind that seems to thirst for the opportunity to do unimaginable evil in the name of lofty ideals. The efforts of an entire generation to build for themselves and for their children have been wiped away by artillery paid for by their own taxes. And all of this in the midst of Europe struggling to move forward, rather than to recycle the bloody past.

There may be some among us who continue to feel that the United States should not move out ahead of the European Community, which, for better or for worse, has the lead in this matter. I would argue that the United States ought already to be exerting leadership, because of the long-term significance this issue has for us. Reasonable people can differ on that point. But surely, we ought not to lag far behind the EC, and should at least be keeping pace with it and strengthening its resolve.

The EC now essentially blames Serbia for continuation of the violence, and for conducting violence on a scale out of proportion to military necessity. The EC has not only announced sanctions against Yugoslavia—and appealed to the United Nations to make them universal and binding—but has also announced its intention to slip those sanctions in the case of republics that are cooperating with the EC peace effort: read, Slovenia and Croatia. Finally, the EC, even in its most recent communique, is itself raising the issue of recognition, tied to absolute guarantees for the human and cultural rights of minorities.

And that insistence on absolute guarantee is contained in Senate Resolution 213. Senate Resolution 213 as amended, is squarely in line with what the EC is doing. The EC is attempting to totally isolate Serbia: diplomatically and economically. It is on record as intending to work out special ties to Slovenia and Croatia. And it has used the word "recognition" in a manner which clearly hints that continued Serbian intransigence may well cause this card to be played. Senate Resolution 213 expresses the sense of the Senate that if Serbia will not cooperate, the United States will—as the EC is threatening to do—confront the issue of recognizing the independence of Slovenia and of Croatia, within that Republic's borders as established by history, custom, and law. That we and other nations should also move to protect the rights of all minorities in the Republics and Provinces of Yugoslavia should be a given, and Senate Resolution 213 makes that clear.

But if Serbia will not cooperate in bringing this war to a conclusion, the United States, the European Community, and the world in general should draw the necessary conclusions and act upon them to protect basic principles of international order while that is still possible. I believe that all of us agree that sometime in the future a durable peace in this region requires that some kind of common framework for cooperation needs to replace the shattered and essentially totalitarian dream of a unitary Yugoslav state. But that framework cannot be assembled at gunpoint. It has to come into being based on the consent of the peoples who will have to make it work, and right now those peoples are concentrating on achieving the stature of independence, which alone gives them the means to choose cooperation in the future on the basis of decisions taken in freedom and in dignity.

There are times when we should be concerned to protect the continuity of other states that matter to us. For many years, so long as our primary concern was the Soviet threat, what mattered most to us about Yugoslavia was that it was a barrier to Soviet expansionism and for that purpose it had to be unitary and intact.

There are other times in history when we must recognize that efforts to prolong the continuity of failed governments is itself a source of danger for our interests. The Serbian effort to perpetuate a dominant position over other peoples in this region now threatens America's national interest. Even if human concerns did not force us to realize that the time for change has come, a rational calculation of our national interest ought to. If we do not know how to help history move forward, it will assuredly know how to pull us back.

Mr. President, I ask unanimous consent to have printed the text of Senate Resolution 213, as amended.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 213

Whereas attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community;

Whereas losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Whereas attacks against the Republic of Croatia represent an effort to change postwar borders by force; and

Whereas it is a fundamental principle essential for the future peace of Europe that internationally recognized borders not be changed by force: Now, therefore, be it

Resolved, That it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory UN Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

EXHIBIT 1

COSPONSORS OF SENATE RESOLUTION 213, AS OF NOVEMBER 20

Gore/Pell Lieberman, Wellstone, Kohl, Gorton, Akaka, Adams, J. Kerry, DeConcini, Wirth, Wofford, D'Amato, Pressler, Bryan, Dixon, Johnston, Dole, Breaux, Specter, Exon, Inouye, Rockefeller, Danforth, Craig, Riegle, Lautenberg.

BACKDOOR ACCESS FOR POLLUTERS

Mr. GORE. Mr. President, before my time expires, I would like to turn to another matter. I ask unanimous consent to have printed at the conclusion of these remarks two newspaper articles, one from the Washington Post by Michael Weisskopf and one from the Boston Globe by Michael Kranish.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Mr. President, both of these reports describe what I believe is a reprehensible conflict of interest within the administration. The White House has established a special panel, the Council on Competitiveness, to give polluters backdoor access to review regulations protecting the environment before they are put into effect. Companies that dump pollution into the environment go through the process established by EPA to fight against regulations, and some they win and some they lose. But in every case, especially when they lose, after the public process is over with, they are given another bite at the apple, illegally and unconstitutionally, in my view. I will spell out in just a moment my reasons for believing that.

They come in the back door and, without any procedural safeguards for the public's interests, they whisper in the ear of this White House panel Director and say, "EPA should not have won this one, it is too tough on us, kill it," and in many cases they kill it.

Now we find that the Executive Director of that panel, Alan Hubbard is an owner of a chemical company putting pollution into the atmosphere and that he is affected by the regulations he is reviewing. He got $786,000 in dividends from this company in 1990, the last year for which the figures are available. The regulations affect his company.

Yet, he is in charge of the hot wiring. He is the one who decides whether to take an EPA regulation that EPA will not give in on and shuffle it over to this Council that is made up of the people in the administration most hostile to environmental protection. That is his power.

Vice President QUAYLE, who chairs the Council, has given Hubbard an exemption from the conflict of interest requirements. Hubbard says he avoids dealing with any regulation that directly affects his company.

It is unclear as to whether he has been successful in so doing. His company is World Wide Chemical, Inc., in which he has an interest valued at over $1 million. We do not know how much over $1 million.

One of the issues that has been referred to his Council—and the way it gets referred to his Council is the polluters call up and say, "Hey, look at this,"—one is a matter involving the regulation of small polluters, a category in which, World Wide, his company, falls, this regulation in question would give a blanket 5-year exemption from the permits for companies that emit small amounts of pollution, like Mr. Hubbard's company.

That exemption was approved by EPA. I think that violates the authority granted to EPA by Congress. I think they went too far there. But EPA gagged on what Mr. Hubbard is trying to make them do because EPA said, "We are going to give you this exemption for 5 years, but then you, the polluter, have the burden of proof to extend that exemption." Mr. Hubbard says, "No, no, no, no, we want to hot wire that provision; we want that to stay in effect and give the polluter an indefinite exemption unless EPA bears the burden of proof to come in and affirmatively change it."

Apparently, EPA gagged on it, as I said, and has decided to fight. The evidence is all in the public press now, but, Mr. President, this is an outrage. Here we have a situation that clearly illustrates what the American people are sick and tired of—the arrogance of power. A polluter with more than $1 million in a company that is polluting the environment is put in charge of the regulations governing the pollution, is acting behind closed doors, refusing to answer questions from Congress or anyone else, refusing to abide by the safeguards established in the laws which delegate authority to the Environmental Protection Agency, safeguards which say, in effect, be fair. Mr. Hubbard is thumbing his nose at the law and the principle of due process and hot-wiring regulations to allow the pollution of the environment to continue unimpeded.

You think the American people are tired of the arrogance of power, of people who are in power just caring little or nothing about the people? Well, here is a prime example. And Vice President QUAYLE has specifically given him an exemption from the conflict-of-interest regulations. And President Bush, who originally chaired this panel in the Reagan administration, knows all about it. He is the one who set this deal up.

The Constitution gives some powers directly to the President. It gives others to the Congress, which we delegate to agencies to administer laws, and when we delegate power, we often establish safeguards to ensure that power is exercised fairly. It is that latter route by which the Constitution has given authority to regulate this pollution, and this executive branch officer is violating the safeguards that we established here in the Congress, and the administration is saying, we do not care, we are going to give him an exemption. Even though he owns a polluting company, we are going to give him extra constitutional authority to cut down the regulations.

Vice President QUAYLE made a critical error not only by turning his back on a flagrant conflict of interest but also by condoning that conflict of interest with a waiver. Vice President QUAYLE should not have granted that waiver and Allan Hubbard should not be allowed to continue as Executive Director of the President's Council on Competitiveness. This arrogance of power must stop. It's time to put the public's interest first, not the special interests of polluters or the personal interests of high-placed bureaucrats. That's why today I am calling for Allan Hubbard's immediate resignation as Executive Director of the President's Council on Competitiveness.

EXHIBIT 1

[From the Washington Post, Nov. 20, 1991]

REGULATORY ADVISER HAS STAKE IN CHEMICAL FIRM

(By Michael Weisskopf)

The executive director of the White House council that reviews federal regulations, including new Clean Air Act rules for the chemical industry, is half owner of a chemical processing company in Indianapolis.

As chief administrator of the President's Council on Competitiveness, Allan B. Hubbard coordinates debates among agencies on clean air regulations and has an important say on the antipollution rules the chemical industry will have to observe. The council itself has drawn increasing attention—and some criticism from congressional authors of the law—for altering regulations to make them more palatable to business.

According to Hubbard's financial disclosure report at the Office of Government Ethics, he has an interest of "over $1 million" in World Wide Chemical Inc., which manufactures car polishes, waxes and cleaners. The company paid him $786,233 in dividends in 1990, Hubbard reported.

Hubbard has sought and received from Vice President Quayle, the council chairman, a waiver of conflict-of-interest laws which otherwise might have prevented him from participating in decisions affecting the industry in which he has a financial interest.

In a memo last May to Quayle disclosing his business interests, Hubbard pledged to avoid "even the appearance of a conflict," saying he would rescue himself "from any particular matter that specifically involves" his holdings. Specifically, he promised to abstain from matters involving auto appearance.

There is no evidence that Hubbard has departed from that pledge. He has, however, participated in decisions affecting regulation of the chemical industry generally.

Last week, for example, Hubbard asked the Department of Justice to review a legal opinion by the EPA questioning whether business should be able to increase pollution simply by giving seven days' notice to environmental authorities.

By seeking the review, officials said, Hubbard kept the EPA from complying with the Nov. 15 deadline set by Congress for the issuance of regulations governing a key enforcement tool of the Clean Air Act Amendments of 1990: the process for controlling pollution through the granting and withholding of permits.

According to administration officials, Hubbard also participated in a recent meeting where outstanding issues of the permit regulations were discussed.

Federal law prohibits government officials from participating "personally and substantially" in decisions in which they have a financial interest. A waiver may be granted if the official fully discloses his holdings and receives a written finding from a superior that his judgment would not be compromised.

Hubbard declined several interview requests in recent days. He also has declined invitations to testify in Congress about the council. The council was set up to make sure regulations were not unduly burdensome on industry. In practice, this has usually meant scaling back regulations to hold down costs. In recent months, the council has been criticized for its secrecy. Because of its White House status, it is not subject to the same "sunshine" provisions of federal law that governs regulatory agencies such as the EPA.

Hubbard serves as deputy chief of staff to Quayle and became director of the Council on Competitiveness in June 1990.

"I believe that the range of chemicals processed by World Wide is sufficiently narrow to establish that I do not have an interest in particular matters focused upon the chemical industry generally that is so substantial as to be deemed likely to affect my services in government," Hubbard said in the May 22 memo to Quayle.

Vice presidential spokesman David Beckwith said that Quayle approved the waiver and that Hubbard has circulated a copy of his recusal statement to his staff with instructions that matters posing a potential conflict be referred to his deputy.

Such a referral "has not been necessary to date," according to the spokesman.

Hubbard has said previously that he chairs a biweekly meeting on rule-making for the new clean air law, which is expected to cost industry $26 billion a year and cover virtually every manufacturer from utilities to cars. He uses the meetings for general discussions of issues and to resolve differences among agencies, he said.

Although the EPA is legally responsible for writing and enforcing the law, the Office of Management and Budget has veto power over all regulations under a longstanding executive order.

Since Bush inaugurated the competitiveness council in 1989 to protect industry from onerous regulation, it has opened the rule-making process to aides of its six permanent members, including those least sympathetic to environmental laws—the director of OMB, the secretaries of Commerce and the Treasury, the White House chief of staff and the chairman of the Council of Economic Advisers.

Hubbard can call a formal session of the council in the event of irreconcilable differences between the agencies. That, officials say, is the real source of his power. Knowing it faces even more formidable foes among the council members, the EPA is more inclined to compromise with its conservative rivals.

The proposed rules governing pollution permits have divided the administration for months. Congress was unusually explicit in its directions for permits, intended to give backbone to the law by spelling out pollution limits for each factory, timetables for achieving them and specific duties for companies to plan and monitor the cutbacks.

Among the issues is the regulation of small polluters, such as World Wide, which emitted less than 10 tons of toxic and smog-forming substances last year, according to a company report to the EPA. The agency has proposed granting a blanket, five-year exemption from the permits for companies that emit relatively small amounts of pollution. The proposal, while it appears to exceed the discretion that Congress gave the EPA for such exemptions, is accepted by all sides of the administration.

What is in dispute, however, is the fate of small polluters after the grace period, according to informed sources. The EPA wants the exception to expire automatically, unless the agency extends it. OMB officials want the burden reversed: They want the exemption automatically extended unless the EPA decides formally to stop it.

Asked whether the issue would pose a conflict for Hubbard, his spokesman said, "He hasn't had to face it, so we don't know.

Another issue concerns the procedures that companies with permits must follow if they want to exceed allowed emissions. In these circumstances, the law requires polluters to apply for a new permit, triggering a public review. The EPA carried out that provision in its initial draft of the regulations. But in a package of "suggested changes" sent to the agency April 6 by Hubbard's deputy, David McIntosh, the rule was revised in line with the demands of industry lobbyists. Under the revision, plants would be allowed to increase pollution, essentially without limit, by giving seven days' notice to authorities. No public review would be required.

According to Beckwith, the revisions were prepared by other White House officials. Hubbard was not involved, he said.

When the EPA formally proposed its permit rules in late April, the revised plan was intact. But by August, its general counsel questioned the legality of exceeding permit limits on pollution without public review. Hubbard asked the Justice Department for a second opinion Nov. 12.

Beckwith said that Hubbard asked for the opinion to resolve the legal questions, and that he has not taken a position on the issue. Asked if World Wide had an interest in the outcome if it eventually is required to get a permit, he said such questions were "speculative."

[From the Boston Globe, Nov. 20, 1991]

QUAYLE AIDE'S FIRM IS LINKED TO POLLUTION

(By Michael Kranish)

WASHINGTON.—Vice President Dan Quayle's deputy chief of staff, who is deeply involved in the revision of federal clean air regulations, is co-owner of a company that an Indianapolis official said violates local antipollution laws. The official also said the company could benefit from the revisions that the aide is pursuing.

Quayle granted the aide, Allan Hubbard, a waiver of federal conflict-of-interest laws, allowing him to work on issues that might generally benefit his substantial corporate holdings, according to documents reviewed by the Globe.

Hubbard is Quayle's deputy chief of staff and executive director of the Council on Competitiveness, which the vice president heads.

In that role he oversees the council's review of federal regulations that affect business interests. Critics say the council's proposed changes would weaken dozens of air pollution regulations.

On Nov. 12, Hubbard signed a memorandum asking the Justice Department about the legality of a Quayle proposal to allow a company to increase pollution if local authorities fail to object in one week.

Hubbard owns 50 percent of World Wide Chemical Inc., an Indianapolis firm that deals with products used in automobile finishing. Indiana environmental officials told The Globe that the company emits toxic pollutants without the required local permit. Hubbard's company, they said, stands to benefit from some of the regulation changes proposed by Quayle's council.

As reported by The Globe last week, some Democrats say the Quayle and the Hubbard-run council are acting as a "shadow government," overturning proposed federal regulations at the behest of business lobbyists. The Environmental Protection Agency recently clashed with the panel on several matters, including a decision by Quayle to redefine wetlands in a way that would allow commercial development of vast acreage now off limits.

A Quayle spokesman denied that Hubbard has a conflict of interest in the air pollution case. The spokesman said that while Hubbard did not remove himself from dealing with such matters, he received a special waiver that enables him to deal with issues even though they could affect the financial interest of an industry with which he is associated.

"The vice president gave him the waiver," said the spokesman, David Beckwith.

The waiver allows Hubbard to deal with matters that generally benefit his company, but not a specific matter such as a contract that affects his firm, according to a Quayle aide. Beckwith denied that the waiver had created the appearance of a conflict of interest.

Hubbard has not been charged with any wrongdoing.

Beckwith said Hubbard "doesn't know anything" about claims his company is violating clean air laws.

According to Hubbard's financial disclosure reports, he made $786,000 from his half-ownership of World Wide Chemical in 1990 and nearly $1.6 million the year before. Hubbard also has millions of dollars worth of investments in an array of other interests, making him among the wealthiest members of the Bush administration.

Records on file in Indianapolis show that in 1990 World Wide Chemical emitted into the air about 19,000 pounds of chemicals, some of them classified by the federal government as toxic and ozone-depleting.

The firm was not subject to federal laws until the Clean Air Act passed in 1990, but the regulations for that are not in effect yet.

FIRM LACK PERMIT

David Jordan, director of the Indianapolis Air Pollution Board, said in an interview that World Wide Chemical does not have the permit required to release the emissions. The company is putting out nearly four times the allowable emissions without a permit and could be subject to a $2,500-a-day penalty, Jordan said.

"We believe, based on the information we have, that they should have an operating permit," Jordon told the Globe. They are currently violating a local regulation."

The official said the company should have obtained a permit "at some point in the last six to eight years."

Jordan said his agency notified World Wide Chemical on Nov. 6 about the need for the permit, and he said his agency will have to make some judgment as to whether it was just ignorance on their part. It will probably be a matter of how cooperative they are in submitting the necessary paperwork."

If the board determines that World Wide Chemical violated the law out of ignorance, Jordan said, the board might not invoke the penalty.

TERRIBLE IDEAS

Jordan is also president of the National Association of Local Pollution Control Officials, which has charged that the Council on Competitiveness is trying to weaken air pollution laws by making it difficult or impossible for local officials to control pollution at local companies. Jordan said he did not know Hubbard was an owner of World Wide Chemical and executive director of the council until informed yesterday by The Globe.

Jordan said he was surprised at the connection and said it raised questions about the propriety of Hubbard's involvement in the council's review of air pollution laws.

Jordan charged that Quayle's council has come up with "terrible ideas" that could limit the ability of local boards to police air pollution violators.

He cited a proposal that would allow a company to increase pollution if a state did not object within seven days.

EPA FOUGHT PROPOSAL

The Environmental Protection Agency fought the proposal, saying it would not allow time for the public to object to increased pollution. EPA general counsel Donald Elliott wrote a legal opinion saying the proposal would be thrown out of court. Hubbard then wrote a letter to the Justice Department Nov. 12 asking for a new opinion.

Beckwith said Hubbard did not take a position on the seven-day proposal. Nonetheless, the Council on Competitiveness originally backed the proposal, and Hubbard's letter indicates that the council is trying to get a new legal opinion to uphold it.

Jordan, the Indianapolis official said Hubbard's company could benefit if the seven-day pollution proposal were upheld.

In another example, the EPA, earlier this year, proposed that the federal government be allowed to enforce air pollution laws if a local government does not. Quayle's council is seeking to block the plan.

If Quayle's revision is approved, the federal government and citizens' groups would not be allowed to sue a company if the local government does not enforce air pollution laws, according to government officials. The officials said Hubbard's company also could benefit from that action.

Beckwith said that although the proposal was forwarded to the EPA on vice presidential stationary by Hubbard's top assistant, it was not fair to assume that Hubbard had backed it.

MOTIVES QUESTIONED

Quayle, he added, "has complete confidence" in Hubbard and does not think his aide did anything wrong. Beckwith said "Hubbard only attends quarterly stockholders' meetings" and does not know anything about charges that the company violates air pollution laws.

Beckwith at one point questioned Jordan's motives, asking what party Jordan belonged to. Jordan, a Republican, said he had no political motive for making his statement, and he stressed that he did not know Hubbard had anything to do with World Wide Chemical until yesterday.

Beckwith said "Hubbard had gone to extraordinary lengths to go beyond the requirement of the ethics law to make sure that conflict and even the appearances of conflict do not occur." However, the spokesman acknowledged that Hubbard did not divest himself of his holdings when he entered government nor did he put his holdings into a blind trust. Divestiture is not required, but many officials, including President Bush, have taken such steps to avoid suggestions of impropriety.

Quayle became acquainted with Hubbard after Hubbard's wife helped run Quayle's Senate race in 1980. Hubbard was the campaign manager of Senator's du Pont's unsuccessful race for the presidency in 1988.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Chair recognizes the Senator from Nevada [Mr. REID] for 15 minutes.

DRUG TESTING OF SCHOOLBUS DRIVERS

Mr. REID. Mr. President, this past August, on a Wednesday night, August 28, just after midnight, in New York, beneath Manhattan's Union Square, 5 people were killed and over 200 injured in a bloody accident. The cause of the accident was the result of the actions of one Robert E. Ray, who was the driver of the subway car which, at the time of the incident, was traveling three times faster than the limit posted when the train smashed into a steel column. Robert E. Ray was drunk and in the process of falling asleep at the time of this accident. Ray's blood alcohol level, in fact, was twice the State's legal limit for operating a vehicle, and this test came about 13 hours after the accident. Think of how badly deficient he was at the time of the accident.

Mr. President, experts estimate that his blood alcohol level 13 hours before he was tested was at least .33 percent.

Most people would have passed out long before Robert E. Ray fell asleep at the controls of his subway car. His ability to still be awake with a blood alcohol level of .33 is a sign of chronic use of alcohol.

Because this was a case of chronic use, this accident could have been avoided if the driver, Robert E. Ray, had been subjected to a drug test any time during his employment, not just the day or the night before this accident. Mr. President, lives could been saved. Human beings could still be alive. Five of them were taken from this Earth as a result of his activities. If a drug testing program had been implemented, 200 people would not have been injured, some of them seriously, and 5 people would still be alive. If this were an isolated incident, we could disregard it, but it is not an isolated incident.

Last December, less than a year ago, at 6:45 a.m. in a subway in Boston, 33 people were hurt when a trolley struck another from behind. At least 1 of the 33 injured was critically injured. The driver tested positive for alcohol abuse.

Again, in 1988, an Amtrak train, the so-called Washington-to-Boston Night Owl, went down the wrong track and smashed into a 17-ton ballast regulator and derailed just north of Philadelphia; 19 people were injured, some of those seriously, 2 locomotives overturned, 10 passenger cars derailed. The switchman on duty during the crash failed his drug test. Why? Because he was grossly under the influence of drugs when he sent his train down the wrong tracks.

One of the greatest environmental disasters of all time, the *Exxon Valdez* spill in Alaska, which in effect devastated so much of the beautiful Alaska coastline, was as a result of a drunk captain, Joseph Hazelwood.

These tales of horror and terror continue, as we speak, on our roads, on our rails, on the seas, and even in the skies. In the skies? Yes, even in the skies? In August of last year, three Northwest Airlines crew members were convicted of flying while intoxicated—not driving while intoxicated, flying while intoxicated. One of the pilots testified he drank 20 rum and cokes the night before his 6 a.m. takeoff.

The Transportation Department's inspector general has also reported that 10,300 active pilots certified by the Federal Aviation Administration had their automobile licenses suspended or revoked for drunken driving. These are the same people who carry me and hundreds of thousands of other passengers from National Airport, Dulles Airport, Dallas-Fort Worth, McCarran in Las Vegas, Cannon in Reno. Wherever we go, there is the potential of one of these 10,300 FAA active pilots flying, or trying to fly, us across the country.

This Congress has passed legislation that addresses this issue. We have required alcohol and drug testing of certain transportation workers in various safety-sensitive positions, and rightfully so. We have, however, overlooked one very important group, schoolbus drivers. But I must say in passing, Mr. President, that this is not the first time children have been forgotten. Children, really, in this modern day and age, are the forgotten group. That is one of the reasons why 25 percent of young people who enter high school never graduate; we do not pay a lot of attention to them, and we have failed to pay attention to them in this regard.

Why are our schoolchildren not as important as a truckload or trainload of chemicals? How is it possible transportation workers who are responsible for driving our children to and from school are exempted from the regulations we have passed? It does not make sense.

This past September, a couple months ago, not far from where I stand today, not far from this Senate Chamber—in fact, in Montgomery County—a schoolbus driver with children on board was clocked exceeding the speed limit. This was a 30-mile-an-hour speed limit. The bus turned on to what is called Route 27, one of the busiest roads in the entire area, and started going even faster. After having been witnessed twice recklessly crossing over the dividing line on the highway, he was stopped and arrested and tested to be under the influence of drugs.

In this instance we have a happy ending; the children were not hurt, but we cannot leave such a thing to chance. Some school districts—for example, the Montgomery County school district, about which I just spoke—have drug testing policies for their bus drivers. You see, in most places in this country, if that bus driver had been stopped, his employer could not have tested him. Law enforcement officials under certain circumstances could, but his employer could not. Drivers are required, in Montgomery County, to take a drug test at their annual physical and after any incident involving their bus.

The policy also allows for random testing. For example, in the Manhattan Union Station tragedy, that involved a chronic abuser of alcohol. In this instance, if in fact they had had a procedure like in Montgomery County, that person could have been tested at random and because he was a chronic user, it would have come up positive and he would have been taken from the controls.

Since March 1991, using the example of Montgomery County, when this plan was implemented, 9 of 211 drivers tested positive. That is 5 percent. Seven of those have been fired and the other two cases are pending. This is an average of one case per month in just one school district or, as I said, about 5 percent.

We can extend Montgomery County's rate of 5 percent nationwide. If we do that, it is obvious that this country needs a nationwide policy. Parents and students have a right to know whether their bus drivers are loaded, not loaded with passengers but with drugs or alcohol.

National Public Radio recently ran a segment on a program called All Things Considered, and they were talking on that program about a confession service in New York where you can dial a number and confess to whatever you feel like confessing about on the telephone. They had some outrageous things that people had called confessing about. And they have the actual voices of persons who had called in confessing. One confessed that he was a bus driver, and that he went to work high every day; that he was trying to stop but he could not. He said he was always stoned while he drove the bus.

I think we have enough examples that we can easily show there is a need to do some drug and alcohol testing of school bus drivers.

The Supreme Court has permitted the unannounced drug tests under certain circumstances for workers who hold safety-sensitive jobs. We should not have to have a requirement of a Supreme Court decision to tell us that schoolchildren are being driven around by drivers in situations where the driver is in a safety-sensitive position.

Driving our children to school is one of the most safety-sensitive positions that I can think of. If 5 percent of our children are being put at risk by drunken or stoned bus drivers we need to do something about it. I hope my colleagues will support me in this effort.

I yield the floor, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Chair informs the Senator from Illinois that we are. Under a previous order the Senator from Connecticut [Mr. LIEBERMAN] is permitted to speak for 5 minutes, and the Senator from Arkansas [Mr. PRYOR] controls the remaining time until 10 a.m. this morning.

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I ask unanimous consent to speak for not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I have no objection, Mr. President. The Senator from Arkansas looks forward to hearing the Senator from Illinois speak.

The PRESIDING OFFICER. The record will so note. The Senator from Illinois is recognized.

Mr. SIMON. I thank the Senator from Arkansas.

MOVE TO END HIRING PREFERENCES

Mr. SIMON. Mr. President, I got up this morning, picked up the morning newspapers, and read about the move by the administration away from affirmative action. I could not believe that we in this country are going to turn our backs in saying we want opportunity for everyone.

We have slipped into a kind of poisonous atmosphere in this country that is not helpful. In the last 10 years we have sanctified indifference. The stops are not far from indifference to Willie Hortonism to Dukeism, and now the administration seeing what has happened with the Duke phenomenon is hoping it is not going to be bitten by that monster that they have created.

We have to return to seeing to it we are going to give opportunity for everyone. That means reaching out to some people who have been denied opportunity. That is what affirmative action is all about. It does not mean we are going to hire people who are not qualified. It does mean that we are going to see to it the dream of opportunity is here.

Just this morning I read this statistic, that the number of children in very poor homes—that is homes where there is half the poverty rate—has grown in this past decade from 3.3 to 4.8 million.

We just are ignoring these kind of things. I want to see a country with compassion. I want to see a country with common sense. I want to see a country that creates more and more opportunity for all Americans, and we are moving away from that. I think it is a great disservice to the country.

The administration in the announcement that was made yesterday is trying for political reasons to move away and to escape from the bite of the monster of Dukeism. They helped to create that monster by their own actions. I hope that there will be a reaction in this country that will move us back to a more common sense compassionate course.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

Mr. PRYOR. Mr. President, first, I want to make one or two brief statements relative to prescription drug prices in the United States of America, where we are today, and to say that the prescription drug price increases of the last year and of the last decade are absolutely defying the law of gravity.

In the whole medical care area, in the health care system we have in this country, the cost of prescription drugs for the average American is the single biggest cost increase factor in the whole health care environment.

Mr. President, today, on behalf of myself, along with Senator COHEN, Senator SASSER, Senator BAUCUS, Senator BURDICK, Senator CONRAD, Senator EXON, Senator METZENBAUM, and Senator WELLSTONE, we are introducing the Prescription Drug Cost Containment Act of 1991. It is a step in the right direction, Mr. President. It is not the overall cure, but it is a step that we must take.

This is an area that is so concerning to me, and so concerning to all of us in the U.S. Senate, that almost on a daily basis—in fact, sometimes several times a day—when we open our mail from constituents back home, seldom does a day go by that there is not some elderly person or some individual constituent out there who is writing to protest the cost of drugs.

Mr. President, the drug manufacturers of America have become greedy. They have become rich. They have become insensitive, and they have become immune to the cries of those Americans out there everywhere who say, yes, we may make the finest prescription drugs in the world, but the problem is we can no longer afford to purchase them. It is happening all across America, Mr. President, in all walks of life. Whether we be Democrat or Republican, we are hearing from our constituents that no longer can they afford the cost of prescription drugs.

Mr. President, in fact, if I might demonstrate on this chart, when the prescription drug companies last year were told by an act of Congress that we were going to attempt to lower the prices of those drugs that they sold to the State Medicaid programs, we thought the Congress had then sent a message that said to the pharmaceutical manufacturers of this country that no longer are you going to continue increasing your prices over the cost of inflation without some action by Congress.

So the Congress spoke. In the OBRA 90 of last October, we spoke, I think, in very clear terms. But what happened since October 1990 until 1991? At the present time, we have seen general inflation rise 2.9 percent in that 12-month period.

What have we seen the pharmaceutical manufacturers do, Mr. President? We have seen them increase the price of prescription drugs, not 2.9 percent, as is happening in Canada, for example, or might be happening in Germany or Great Britain, but we are seeing the cost of prescription drugs in that 12-month period rise 10.1 percent.

This is in keeping, Mr. President, with an overall inflation rate of prescription drugs over the past decade, which has consistently tripled the rate of general inflation. We have seen, for example, Mr. President, in prescription drug costs, since 1980 let us say, a bottle of pills that sold for $20, we have seen that same $20 bottle of pills increase to $53.76 in 1991. If this trend continues, Mr. President, that same cost of prescription drugs, that same $20 bottle of 1980 is going to, by 1995, cost $77.06. By the year 2000, 9 years from now, it will cost $120.88.

We have seen over the last decade a general rate of inflation of 58 percent—58 percent in the past 10 years. That is the blue area on the chart, Mr. President, from July 1980 to July 1990.

In looking back over that decade, the price of prescription drugs has spiraled 152 percent—a staggering increase, especially a staggering increase for those citizens out there across our country who are victims of this price gouging, and who no longer can afford the price of being ill. We think that this is a situation, Mr. President, that can no longer continue.

Mr. President, as recently as yesterday, I visited CNN, along with a representative of the drug manufacturers. It was a public visit.

This particular chart demonstrates what the drug companies are doing today in compensating their executives. They say: We care about the poor people in America. We want to make certain that they not only have quality drugs, but that they are at a fair price. We want to make certain that there is a sense of basic fairness in the marketplace, where we are not taking advantage of anyone. Yet, we want to make a reasonable profit, so that we can develop and make more drugs to cure AIDS, cancer, Alzheimer's, and other diseases.

Well, Mr. President, let us look and see how the drug companies are making out. If we might look here at the average elderly household income.

I see my friend from Tennessee, Mr. SASSER, who is going to be speaking momentarily. He is a cosponsor, along with Senator COHEN, my colleague on the Aging Committee, the vice chairman of the Aging Committee from the State of Maine.

When we look at these figures, the median elderly household income in America today is $8,781.

Mr. President, we looked at the salary of the top 15 drug companies' executives in America. What would you imagine their salaries might be, Mr. President, of the CEO's of these companies that want to represent the people, and be fair, and give them a good deal? The median salary of the CEO's of these top 15 manufacturing companies salaries is $1.56 million. This is not stock. It is not stock options. It is not dues to the country clubs. It is not yachts, sailboats, Mercedes, chauffeurs, or limousines, or other perks. This is their base salary—$1.56 million, the median salary for the top CEO's of our 15 major drug companies.

Then the drug companies come back and say to the Members of the Congress and the American public, "We would like to have these profits, because we must find a cure for cancer; we must find a cure for AIDS; we must find a cure for Alzheimer's disease that is affecting the elderly population of our country."

Let us look at this argument. We have taken one company, Ciba-Geigy, because we think what they have done is very, very representative of what is happening with many companies in the drug industry. While many companies are investing in research, there are many cutting back on research and adding to their profits by simply increasing their prices to try to find new ways to sell what we call "me too" drugs. These are not the breakthrough drugs. These are the drugs that duplicate the drugs that are already on the market. They change the color of the capsule. They might change the color of the box. They might hire huge marketing firms to find out how to get doctors to prescribe these particular drugs.

We think that in itself is an abuse that we are going to talk about a great deal later.

So the pharmaceutical manufacturers are not only pulling the wool over the eyes of Congress and the American people, but now they are getting in our pocketbook. They are getting in the pocketbook of the poorest of the poor to enrich the richest of the rich.

We think that the legislation that we are going to introduce today is going to be a step in the right direction.

My colleagues are going to be called upon in just a moment to make a presentation and statements. Let me ask my colleagues if they are aware of a section in the Internal Revenue Service Code called the section 936 program? You can pick up the phone and you can call any tax lawyer or CPA and you can say, "What is the section 936 program?" Well, a moment of history:

In the 1920's, this country adopted legislation which said that we want to help the territories of the United States, such as Puerto Rico, we want to help the Philippines, we want to create jobs in those territories to help bolster them economically. So section 936 became a part of the Tax Code. Any industry basically could use it. You could go to Puerto Rico, you could set up a plant, and if you hire a native worker there, you get a tax credit.

For example, if you are a shoe manufacturer and you want inexpensive labor, you can set up a manufacturing operation in Puerto Rico. The amount of the tax credit, Mr. President, is not based on good will, it is not based on altruism, it is not based on what is going to be good for the economy of Puerto Rico; it is based, rather, on what is going to be good for the economy and the finances of the drug companies. Because of the enormous profits that the drug companies are making, under section 936, a drug company can get a tax credit—unbelieveable but true—of $70,788 per employee that they hire in Puerto Rico for an average salary paid of $24,500.

Mr. President, I know this is incredible, but these are the figures from the Internal Revenue Service, based on the latest available data in 1987.

Today in 1991, because drug profits have gone up even more; we would anticipate that this $70,000 may even be higher now.

Mr. President, we are going to say in our legislation that those drug companies that are taking advantage of this section of the Tax Code, when they increase their drug prices over the price of the general inflation rate, we are going to take away some of these section 936 tax credits.

Further, we are going to say that the savings, the billions of dollars in savings, from this tax credit reduction, first, are going to go for deficit reduction and, second, are going to go to establish demonstration projects across America to help Medicare beneficiaries—the elderly in our country—afford their prescription drugs.

Third, this legislation is going to establish a new board. I know that no one wants to establish a new board, but we are going to establish a new board that represents the people. It is going to become, we hope, the people's advocate against the drug manufacturers in trying to get a better deal. This board will be called the Prescription Drug Policy Review Commission. This Commission would determine the feasibility of establishing a Canadian-like drug price review board, here in our country, which has helped contain the drug prices in Canada. We are going to see if that would be feasible here. We are going to analyze international prescription drug pricing trends. American consumers pays more for their drugs than the citizens of any other industrialized country of Europe or in Canada. And finally, we are going to make policy recommendations aimed at containing drug cost increases for Medicare and Medicaid and other public and private programs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prescription Drug Cost Containment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage for the elderly, prescription drugs represent

the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than $1,400,000,000, and such credit is estimated to have yielded over $2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

SEC. 3. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(a) IN GENERAL.—Section 936 of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

"(i) REDUCTION FOR EXCESSIVE PHARMACEUTICAL INFLATION.—

"(1) IN GENERAL.—In the case of any manufacturer of single source drugs or innovator multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

"(A) the amount of such excess, multiplied by

"(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

"(2) MANUFACTURER'S WAGE BASE.—For purposes of this subsection—

"(A) IN GENERAL.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

"(B) ELIGIBLE EMPLOYEES.—The term 'eligible employee' means any employee of the manufacturer (as defined in section 3121(d)) who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

"(C) WAGES.—The term 'wages' has the meaning given such term by section 3121(a).

"(3) REDUCTION PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) the sales percentage for such drug for such taxable year, by

"(ii) the price increase percentage for such drug for such taxable year.

"(B) SALES PERCENTAGE.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

"(i) the total sales of such drug by the manufacturer for such taxable year, by

"(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

"(C) PRICE INCREASE PERCENTAGE.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) 20, times

"(ii) the excess (if any) of—

"(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

"(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

"(D) TOTAL SALES.—

"(i) DOMESTIC SALES ONLY.—Total sales shall only include sales for use or consumption in the United States.

"(ii) SALES TO RELATED PARTIES NOT INCLUDED.—Total sales shall not include sales to any related party (as defined in section 267(b)).

"(E) AVERAGE MANUFACTURER'S PRICE.—The term 'average manufacturer's price' for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

"(F) BASE TAXABLE YEAR.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

"(i) the last taxable year ending in 1991, or

"(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—

"(i) IN GENERAL.—The term 'manufacturer' means any person which is engaged in—

"(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(ii) CONTROLLED GROUPS.—For purposes of clause (i)—

"(I) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(II) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

"(B) SINGLE SOURCE DRUG.—The term 'single source drug' means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(C) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DOSAGE TREATMENT.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

"(B) ROUNDING OF PERCENTAGES.—Any percentage shall be rounded to the nearest hundredth of a percent.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) PURPOSE.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) PROJECT REQUIREMENTS.—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicaid DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicaid program under section 1927 of the Social Security Act.

(d) DURATION OF PROJECTS.—The demonstration projects established under this section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) EVALUATION AND REPORT OF SECRETARY.—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

SEC. 5. ESTABLISHMENT OF MEDICARE OUTPATIENT PRESCRIPTION DRUG TRUST FUND.

Part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1841 the following new section:

"MEDICARE OUTPATIENT PRESCRIPTION DRUG TRUST FUND

"SEC. 1841A. (a) There is established in the Treasury of the United States a trust fund to be known as the 'Medicare Outpatient Prescription Drug Trust Fund' (hereafter in this section referred to as the 'Trust Fund'), consisting of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts transferred to such Trust Fund under subsection (b).

"(b) There are hereby appropriated to the Trust Fund amounts equivalent to the additional revenues raised as a result of the amendments made by section 3(a) of the Prescription Drug Cost Containment Act of 1991. The amounts required to be transferred to the Trust Fund under the preceding sentence shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) The provisions of subsections (b) through (i) of section 1841, as in effect on the day before the date of the enactment of the Prescription Drug Cost Containment Act of 1991, shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund.

"(d)(1) Of the amounts in the Trust Fund—

"(A) an amount determined under paragraph (2) shall be available for each of the fiscal years 1993 through 1997 for making expenditures to carry out the demonstration projects established under section 4 of the Prescription Drug Cost Containment Act of 1991;

"(B) $1,000,000 shall be available for each fiscal year beginning with fiscal year 1993 for—

"(i) the administrative expenses of the Prescription Drug Policy Review Commission, and

"(ii) the report required under section 7 of the Prescription Drug Cost Containment Act of 1991; and

"(C) such funds, as provided in appropriation Acts, beginning with fiscal year 1998 shall be available to the Secretary of Health and Human Services to improve the accessibility of prescription drugs to the elderly.

"(2)(A) For purposes of paragraph (1)(A), the amount determined under this paragraph is—

"(i) for fiscal year 1993, $200,000,000, and

"(ii) for fiscal years 1994, 1995, 1996 and 1997, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

"(B) For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

"(i) the CPI for the previous fiscal year, exceeds

"(ii) the CPI for fiscal year 1992.

"(C) For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

SEC. 6. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.

(a) ESTABLISHMENT.—The Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) COMPOSITION.—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement,

(B) other health care professionals, and

(C) at least one individual who is an advocate of medicare and medicaid recipients.

(c) ANNUAL REPORTS.—The Commission shall submit to the Congress an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community;

(3) the scope of coverage, reimbursement, and financing under titles XVIII and XIX of the Social Security Act (including the structure and operation of the demonstration projects provided under section 4 of this Act), and other programs that directly provide or receive Federal funds to provide coverage for or reimbursement of prescription drugs, such as the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) SPECIAL REPORT.—(1) The Commission shall submit to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Special Committee on Aging of the United States Senate, by not later than October 1, 1993, a study of the feasibility of establishing in the United States a pharmaceutical products price review board.

(2) In conducting the study, the Commission shall—

(A) assess the impact of such a board in other industrialized nations, such as Canada, in containing the costs of prescription drugs and the introductory price of new drugs;

(B) suggest how such a board might operate in the United States, including the membership of the Board;

(C) suggest guidelines that might be used by the board in determining whether prices or price increases for prescription drugs are excessive and whether the introductory prices on new drugs are excessive; and

(D) suggest incentives for drug manufacturers to price their products fairly in the United States, including a system of compulsory licensing of pharmaceutical products or a reduction in the period of market exclusivity as a penalty for excessive inflation.

(e) ADMINISTRATIVE PROVISIONS.—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w-1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

SEC. 7. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.

(a) REPORT.—By not later than July 1, 1992, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

SEC. 8. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community.".

Mr. PRYOR. Mr. President, at this time I wish to yield to either of my colleagues.

Mr. President, I recognize now and I yield the floor to Senator COHEN of Maine.

Mr. COHEN. Mr. President, I thank the Senator for yielding.

Mr. President, I am pleased to join my colleague, Senator PRYOR, the distinguished chairman of the Special Committee on Aging, in introducing legislation to address the problem of skyrocketing costs of prescription drugs.

Americans are becoming more and more alarmed about the high cost of health care, both in terms of out-of-pocket health care expenses, and runaway costs of insurance premiums. I have joined with my colleagues from both sides of the aisle in devising major proposals aimed at containing health care costs, and the merits of these proposals will be debated in the coming months.

While a comprehensive overhaul of our Nation's health care system may be many months in coming, passage of the bill we are introducing today would be a major leap toward lower health care costs by lowering the out-of-pocket costs of prescription drugs for millions of Americans. I am pleased to note that this bill has the support of over 40 major senior citizen, consumer, and small business groups.

Mr. President, as the Senator from Arkansas has made clear, a trip to a pharmacy for a prescription drug has become a journey into a Chamber of financial horrors for many Americans. Families with no insurance, or with no prescription drug coverage under their insurance policies dread a trip to the doctor for fear of what their prescription drugs will cost.

High drug prices are especially devastating for senior citizens. So many of us have seen our mothers and fathers spread across the table an array of medications that they must take daily for a variety of conditions. It is little wonder, then, why unrelenting drug prices hit senior citizens especially hard. In addition to being major consumers of prescription drugs, most elderly do not have prescription drug coverage themselves, and Medicare does not provide coverage of outpatient prescription drugs. In fact, prescription drug prices are the highest out-of-pocket medical expense for 3-out-of-4 elderly Americans.

Senior citizens in my State of Maine are greatly worried by high drug prices. For example, in 1989 one of Maine's Area Agencies on Aging surveyed seniors and volunteers working with seniors to identify their 10 greatest needs. From a list of 30 items, those taking the survey listed the rising cost of prescription drugs as the No. 1 concern of the elderly.

Recently, the Congressional Budget Office concluded that a full 60 percent of Medicare enrollees face potentially catastrophic out-of-pocket expenses, either because they have no supplemental Medicare coverage, or because their supplemental coverage does not include prescription drugs. When we stop to consider that, over the past decade, prescription drugs have increased three times as fast as the general inflation rate, it is no surprise that drug prices are taking a greater and greater bite out of the fixed incomes of our senior citizens.

While Americans are scrimping to pay for their medications, the profits of drug companies are soaring far above those of other industries. Recently, the Senate Special Committee on Aging, on which I serve as the ranking Republican member, released a staff report that included many shocking statistics on how drug companies have enjoyed profits soaring into the stratosphere at the direct expense of the consumer.

It has been argued by some that the drug companies are the only ones making a profit, and that we should thank God we have the drug companies to help pick up the slack in our economy. The fact is that we are learning that most every other industrialized country has some cost containment mechanism to control the cost of prescription drugs. What we are seeing is a cost shifting to the American taxpayer because there is, in fact, an interlocking network of drug companies and their research and development programs. So while the prices are being controlled in other countries, the prices are allowed to go without any restraint in our country.

Free market system? Are we impinging on it? The question I would have is what choice do our elderly citizens have when a doctor prescribes a drug for their precondition? Take it or leave it? Live or die?

Mr. President, we find ourselves in one of those good-news bad-news jokes. The good news is that, as a result of the inventiveness and the research and technology that has been applied by our drug companies, we can develop a drug that will save your life. The bad news is you cannot afford it. And that is what more and more people are finding in our society.

During the 1980's, the prescription drug price inflation rate tripled the general inflation rate and rose, on average, almost 20 percent more each year than even medical inflation in general. Once more, the annual average profit margin of the drug industry is now more than three times the profit margin of the average Fortune 500 company. These exorbitant profits are far above those necessary to finance the legitimate research and development costs of drug companies. In fact, the Aging Committee investigation found that the drug industry is spending a billion dollars more per year on public relations than it is spending on research expenses.

In fact, some drug manufacturers offer cash payments to doctors for prescribing their drugs, or tempt doctors with lavish gifts or vacations. Taxpayers should not be footing the bill for these questionable marketing practices.

To illustrate how high drug prices have become, the average American now must pay $54 for a bottle of pills that cost him or her $20 in 1980. If drug prices continue on their current course, this same prescription will cost the consumer about $77 in 1995, and $120 in the year 2000, representing an increase of over 600 percent.

These tremendous price increases and unparalleled profits of drug companies are unacceptable in light of the fact that the Federal Government now provides $2 billion annually to the prescription drug companies in the form of nonresearch and development tax credits. This so-called section 936 tax credit, which provides tax exemptions for business income earned in Puerto Rico, in effect lowers the effective tax rate of the drug industry by 9 percent. This tax subsidy is in addition to the hundreds of millions of dollars in tax credits that the drug companies receive for researching and developing new pharmaceutical products.

To illustrate how bad this situation has become, I have a family from the town of Skowhegan, ME, that has a monthly income of roughly $1,300 per month in Social Security, other pensions, and disability payments. They spend $690 a month for prescription drugs for Parkinson's disease and heart disease, which is over half of their monthly income. In addition, they have to pay another $60 a month out of pocket for the wife's medication for heart disease. They do not even qualify for Medicaid. Mr. President, their total out-of-pocket expenses of $750 for prescription drugs represent 58 percent of their combined monthly income. And that does not take into account the long, cold winter months that are coming.

The bill we are introducing today provides an important incentive for the drug companies to lower their windfall profits that are taking such a toll on individuals and families nationwide. Namely, drug manufacturers would lose portions of their section 936 tax credits if the increase their prices beyond the general inflation rate. This proposal is designed to pull the plug on the tax subsidies that the Federal Government provides the drug companies if they do not take steps to curb their excessive profits. While the companies may attack this approach as unfair price controls it is only fair that the Federal Government reassess the subsidies it provides an industry through the Tax Code when that industry is making windfall profits at the expense of the American consumer.

We must stop allowing the Federal Tax Code from supporting a prescription drug pricing system that has millions of Americans in a financial chokehold. Too many drug companies are stuffing money from the Treasury in one pocket and money from hard-hit consumers in the other.

The savings from the reduced tax credits would be funneled into a new prescription drug trust fund which would finance 15 demonstration projects providing outpatient prescription drugs to Medicare beneficiaries. Additional savings would be used to reduce the deficit.

Further, the bill would establish a Prescription Drug Policy Review Commission, to analyze trends in national and international drug prices and make recommendations on improving the coverage and financing of prescription drugs under Federal programs, such as Medicare and Medicaid. The Commission would also be charged with studying whether a drug price review board should be established in the United States.

Finally, the bill requires the Secretary of the Department of Health and Human Services to study and report to Congress on the value of all the grants, subsidies, and writeoffs that are now given to the prescription drug companies by the Federal Government.

Mr. President, consumers are fed up with the outrageous costs of prescription drugs and it is time for us to address this spiraling health care cost. While we cannot underestimate the tremendous, and indeed, often life-saving, importance of prescription drugs to millions of Americans, we must take steps to make these drugs affordable and accessible. The legislation we are introducing today will go far toward achieving this goal.

Finally, Mr. President, I want to thank and congratulate my colleague, Senator PRYOR, for his leadership on this important issue. He has been dogged and unceasing in his pursuit of affordable prescription drug prices, first for the Medicaid Program, and now for all Americans, especially senior citizens. We owe him greatly for his dedication in this area and I look forward to working with him on the Aging Committee on this and many other ways to bring quality health care within the financial reach of senior citizens.

Mr. PRYOR. Mr. President, I want to thank the Senator from Maine for his comments. And I would like to just note, Mr. President, for the record, that this is not a partisan affair. This is not something the Democratic Party has cooked up over here on this side of the aisle. This is an issue that transcends political parties and transcends politics.

Senator COHEN, who is the ranking member of the Senate Special Committee on Aging, is one of the major moves in this whole area of trying to bring fairness into the prescription drug pricing for our citizens. I want to thank the very distinguished Senator from Maine and my very good friend, the vice chairman on the Special Committee on Aging.

Mr. President, at this time, my friend from the State of Tennessee, Senator SASSER, is on the floor, and I yield to Senator SASSER at this time for as much time as he may consume.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Tennessee.

Mr. SASSER. Mr. President, I thank my friend from Arkansas for yielding. I am pleased to join with my good friend from Arkansas today in introducing the Prescription Drug Cost Containment Act of 1991. This is legislation which I think is of critical importance to the health of all of our citizens here in this country.

I want to commend at the outset Senator PRYOR's tireless efforts to address the runaway costs of prescription drugs. I think his efforts deserve the praise of every Member of this body.

Mr. President, we simply must find a way to ensure access to affordable quality health care for all of our citizens here in this country. We all have ideas about how to achieve the goal of quality accessible health care for our citizens. As a matter of fact, literally dozens of proposals have been made in this area.

But skyrocketing medical costs are blocking the road toward fundamental health care reform in this country. We have all seen the latest figures. Last year, we as a Nation spent over $600 billion on health care—over $660 billion last year was spent on health care. That represents almost 13 percent of everything we produce in this country—13 percent of our gross national product. If this trend continues—and we surely cannot allow it to continue—we will be spending 16.4 percent of our total national output on health care by the end of this decade.

Unless we get a handle on these costs, Mr. President, any attempt to extend medical care coverage to 35 million Americans who presently lack health insurance is doomed to failure. And I might say, Mr. President, that today the United States of America is spending over twice as much of its GNP, its gross national product, on health care than the Japanese are, and yet they extend health care coverage to all of their citizens, and we have 35 million who have no health care whatsoever.

Last year, I chaired a Senate Budget Committee hearing which looked into the dimension and causes of our country's health care inflation problem. It was clear to me at that time that there are a number of areas in which medical costs are simply totally out of line.

Eight months ago, I began an investigation into the waste and inefficiency in Medicare's Durable Medical Equipment Program. As many of my colleagues know, we found a $2 billion program—a $2 billion Medicare Program dealing with durable medical equipment—that was losing more than 10 percent of its annual budget to waste, inefficiency, and mismanagement.

Just this last month, after months of investigation and hearings before the Senate Budget Committee, I introduced legislation to correct many of these loopholes—to close them—loopholes that were being exploited by unscrupulous medical equipment dealers.

I am pleased to advise my colleagues that the Secretary of Health and Human Services, Secretary Louis Sullivan, announced just last month that the Department of Health and Human Services will, by regulation, adopt much of the language of the legislation which I have introduced in order to stem the flow of wasted tax dollars from the Medicare system.

I am gratified that the Department of Health and Human Services has taken notice of our efforts to expose this waste and abuse and is moving unilaterally to try to close some of the loopholes themselves.

I should mention that my able and distinguished colleague from Arkansas has been very much involved in this issue, and the Special Committee on Aging, which Senator PRYOR chairs, has also held hearings on this very serious problem. I am pleased to have him as a cosponsor of our legislation, and I look forward to working with him to pass the additional reform measures which are so badly needed.

All of us realize that this country delivers the best medical care in the world to those who can afford it, but ever spiraling costs are driving medical care beyond the reach of millions of our fellow Americans.

I see my involvement in the legislation that we are introducing today to limit the price increases on drugs as a logical and important step in the battle to lower health-care costs.

I think the figures that have been provided are simply staggering.

If we look at a chart that has been prepared by the Senate Committee on Aging, we see that the general inflation rate over the past decade has been 58 percent. But when we look at the general inflation rate of prescription drugs, they have gone up over three times higher than the general inflation rate; a 152-percent increase in prescription drug prices just over the past 10 years.

The Aging Committee has uncovered dozens of examples of medicines that have risen in costs astromically during the last several years. Let me cite just a few.

In 1980, the commonly prescribed heart medicine, Lanoxin, cost $1.25 per 100-tablet package. Today, that same prescription costs $9.40, an increase of 652 percent over a 10-year period.

Mr. President, this is just one example of an industry that is out of control.

I would like to also take another look at a couple of charts that were discussed just a moment ago. The second chart, if we may look at it again, shows drug inflation between October 1990 and October of just this year. We are talking about 1 year, Mr. President. As we can see, the chart illustrates very graphically that, between October 1990 and October 1991, we had a general price inflation of 2.9 percent, almost 3 percent.

But, look at what happened to prescription drugs in the same period of time. Prescription drugs went up 10 percent, almost 300 percent higher than the ordinary rate of inflation during the period from October 1990 to October 1991.

Let us look at a third chart, if we may. What we will see is that a prescription that costs $20 in 1980 costs almost $54 today. By the year 2000, that prescription will cost $120. If the same drug that cost $20 in 1980 increased at the general rate of inflation, rather than costing almost $54 in 1991, it would be $20 cheaper, $33 in 1995. If it continues to increase at the present rate, it will be up to $77, whereas, if the drug increased at the general rate of inflation, it would be some $33 cheaper, at $39.

We see it goes on out to the year 2000. The general inflation rate between 1980 and the year 2000 would have doubled the price of the drug. But at the rate of increase for drug prices, it would have gone up to $120 from the price of $20 in 1980.

Mr. President, my fellow Tennesseans simply cannot afford to pay these prices. These price increases are making prescription drugs less accessible to those who are elderly, who are living off fixed incomes, to those who work for a living, to those without health insurance. They simply cannot afford to buy the medications that their doctors tell them are necessary for life.

I do not believe there is any reasonable justification for this type of huge increases we have seen across the industry in the prices of prescription drugs. This becomes very clear if we look at the profit margins realized by drugmakers in recent years. In 1990, the average Fortune 500 company posted a profit of 4.6 percent, but the 10 largest pharmaceutical companies, those who make the prescription drugs, posted a profit margin 300 percent higher than that posted by the Fortune 500 companies.

Last year, the pharmaceutical industry, the industry that makes these prescription drugs that those who are ill have to have, led all the industries in the United States in each of the three most commonly used profitability measures. In fact, I am advised that the prescription drugmakers' profits in 1990 were almost twice that of the second most profitable industry in this country.

I have no objection to American companies making a profit. In fact, we all applaud the fact that American companies can make a profit. But I think these profit margins are out of line when they come at the expense of the health and well-being of the most vulnerable of our citizens. Average middle-class Americans are finding it impossible to make ends meet while trying to pay the ever increasing costs of prescription drugs.

The huge increases we have seen in prescription drug prices, in my view, amount to nothing less than piracy at the expense of those who are ill. My colleague, Senator PRYOR, has already demonstrated to us the very high salaries paid to drug company officials. These executives can sit behind their desks. Perhaps they are not aware of what I see when I go into the drugstores of my native State of Tennessee, when I see elderly people standing before the drug counter having to make a decision about whether they have the money to buy this prescription drug that their doctor tells them they have to have, whether they will have enough money left over to buy food, to pay their rent, to pay their electrical bill. I have seen their faces myself. Thousands of Tennesseans and literally millions of Americans have found they can simply no longer afford to pay the price of prescription drugs. They are forced to walk away from the prescription counter without the medication that they desperately need.

I say enough is enough. In my view, action by the Congress to remedy this problem is not only prudent, but absolutely necessary. Legislation has been drafted, under the leadership of Senator PRYOR, and I am pleased to join with him, to slow the unreasonable and skyrocketing cost of prescription medicines. I am proud to add my efforts as a cosponsor. This bill will go a long way, I think, toward dealing with the problem of prescription drugs and pharmaceutical companies. It establishes a drug policy review commission with wide-ranging authority, including the investigation of the feasibility of a national drug price review board.

Second, the legislation will curtail the use of a little-known tax credit that has been taken advantage of by the pharmaceutical companies called the possessions tax credit. This benefit allowed drugmakers with operations in Puerto Rico, for example, to reap a $2 billion tax windfall in 1990.

Third, the bill will use the money saved by the preceding provision to fund a 3-year, 15-site Medicare outpatient prescription drug demonstration project. This project will provide outpatient drug coverage not currently provided by Medicare. This legislation will be the first step in reining in drug company excesses which are unjustified and which we as a nation can no longer afford.

I do think we ought to take cognizance of at least the efforts of one or two pharmaceutical firms here, who have tried to be reasonable on their own. Merck, Sharp, Dohme, considered to be one of the world's most research intensive pharmaceutical firms, restricts its price increases to the general inflation rate. They are to be commended for that. I am also advised that the Schering-Plough Co., which has some nonprescription operations in my own State of Tennessee, has shown some restraint in their pricing practices also.

But, Mr. President, I think we all owe a debt of gratitude here today to our friend from Arkansas, Senator PRYOR, for his unstinting efforts to bring some reasonableness to the pricing of these very vital pharmaceuticals which the elderly of our Nation and those who are ill rely on a day-to-day basis.

I yield, now, to the distinguished Senator from Arkansas for any further comments he might wish to make.

Mr. PRYOR. Mr. President, I thank my very good friend from Tennessee. He has long been interested in this issue. And in discussing this matter with him over the last several weeks, I will say that he has been most instrumental in not only encouraging us to introduce this legislation, but also to be involved in its development and deciding the characteristics of this legislation. I thank my friend from Tennessee, the distinguished chairman of the Senate Budget Committee.

Mr. President, I have only a few moments left, but in summary let me say I would like to thank the 42 organizations across America who are endorsing this legislation that we are introducing today.

For example—let me read just a few of them: The Small Business Legislative Council, United Auto Workers, the Older Womens League, the National Rural Electric Cooperative Association, the National Council of Senior Citizens, the AARP, AFL–CIO, Consumers Union, Families USA, Green Thumb, Independent Insurance Agents of America, Apha, the Leadership Council of Aging Organizations. There are 42 organizations, Mr. President.

I ask unanimous consent to have the names of those organizations that support us in the RECORD at this time. Mr. President, I also ask unanimous consent to have the bill printed in the RECORD and the bill's specifications, with an explanation and a section-by-section analysis.

Mr. President, we also have an R&D factsheet. I ask unanimous consent to have the research and development factsheet printed in the RECORD, which challenges the drug industry's claim that they need all this money for research and development of new drugs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS ENDORSING THE PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

AFL–CIO.
AIDS Action Council.
American Association for International Aging.
American Association of Homes for the Aging.
American Association of Retired Person [AARP].
American Nephrology Nurses Association.
American Pharmaceutical Association.
AFSCME Retiree Programs.
American Public Welfare Association [APWA].
Asociacion Nacional Pro Personas Mayores.
Association for Gerontology in Higher Education.
Association for Gerontology and Human Development in Historically Black Colleges and Universities.
Catholic Golden Age.
Childrens Defense Fund [CDF].
Consumers Union.
Families USA.
Gray Panthers.
Green Thumb.
Independent Insurance Agents of America.
International Ladies Garment Workers Union [ILGWU].
Leadership Council of Aging Organizations [LCAO].
National Association of Area Agencies on Aging.
National Association of Foster Grandparents Program Directors.
National Association of Life Underwriters.
National Association of Meal Programs.
National Association of Older American Volunteers Programs Directors.
National Association of Retired Federal Employees.
National Association of RSVP Directors.
National Association of Senior Companion Project Directors.
National Association of State Units on Aging.
National Caucus and Center on Black Aged [NCBA].
National Committee to Preserve Social Security and Medicare.
National Consumers League [NCL].
National Council of Senior Citizens.
National Hispanic Council on Aging.
National Indian Council on Aging.
National Rural Electric Cooperative Association.
National Small Business United.
North American Transplant Coordinators Organization.
Older Womens League.
Small Business Legislative Council.
United Auto Workers Retired Members Department.

THE PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

SUMMARY OF THE LEGISLATION AND LEGISLATIVE SPECIFICATIONS

General Background

For years, consumers and their advocates, businesses, insurers, health care providers, and the Congress have raised serious concerns about skyrocketing health care costs. From 1980 to 1990, prescription drug prices [CPI–Rx] incflated by a staggering 152 percent, while the general inflation rate [CPI–U] was 58 percent. This disturbing trend continues and is worsening in the 1990's. In fact, for the 12-month period between October 1990 and October 1991, the CPI–Rx was running at more than three times the rate of the CPI–U. These facts are particularly troubling to older Americans because prescription drug costs represent the highest out-of-pocket health care expenditure for three out of four elderly and 60 percent of this population have inadequate prescription drug coverage. Other vulnerable populations, plarticularly children and their parents, are also significantly burdened by these costs.

The September, 1991 Senate Special Committee on Aging staff report, "The Drug Manufacturing Industry: Prescription for Profits," outlines many distressing facts about prescription drug inflation, industry profits, marketing expenditures, internationall prices, and the degree to which Americans subsidize the drug manufacturing industry through the lavish nonresearch and development oriented tax credit provide under section 936 of the Internal Revenue Code. The report makes it clear that the drug manufacturing industry has exploited the section 936 tax credit well beyond the bounds of its intended purpose. This taxpayer-supported subsidy, in combination with the price increases and profits Americans are being forced to underwrite, well illustrate how this Nation is not receiving and adequate return on its multibillion-dollar investment on prescription drugs.

Legislative Summary

The Prescription Drug Cost Containment Act of 1991 addresses the prescription drug inflation problems by utilizing a carrot and stick tax incentive approach. Specifically, individual drug manufacturers would have reduced access to the section 936 tax credit if, and only if, the manufacturer increases prices beyond the general inflation rate. The drug manufacturing industry receives approximately $2 billion in section 936 tax credits each year. Under the proposal, revenue saved would be funneled into a new prescription drug trust fund to finance Medicare outpatient prescription drug demonstration projects and to reduce the deficit.

Section 1—Reduction in Section 936 (Possession) Tax Credit for Excessive Drug Inflation

Legislative Specifications: Amending section 936 of the Tax Code, section 1 establishes a formula that provides a strong tax incentive for drug manufacturers to keep price increases at or below the general inflation rate. The formula first compares the drug manufacturer's section 936 tax credit to the amount of wages it paid in Puerto Rico. If the manufacturer's section 936 tax credit exceeds the wages paid in Puerto Rico, the excess will be subject to a reduction of 20 percent of the 936 tax credit for each percentage point its drug prices increase over the general inflation rate [CPI-U]. The reduction formula will be applied on a drug by drug basis and be weighted according to the percent of sales that each drug accounts for the manufacturer's total drug sales. If the manufacturer's section 936 tax credit does not exceed wages paid, the reduction formula does not apply.

Background: While most Americans are aware that the drug industry receives hundreds of millions of dollars each year in tax credits for research and development of new drugs, few are aware the extent to which the drug industry avails itself to the multibillion dollar nonresearch and development section 936 tax credit.

The purpose of the credit is to stimulate the development of jobs in Puerto Rico. However, the tax credit is calculated based on the profits of a company, not on any basis related to jobs or wages. The result is a subsidy to the already enormous profit margins of the drug manufacturers, rather than to the Puerto Rican economy and its people. For example, the latest IRS data for 1987 indicate that the average drug company receives a tax credit of $70,788 per employee hired in Puerto Rico, which is 267 percent more than the average salary of $26,471 paid per employee.

The average drug company has a profitability of 15.4 percent, compared to the average Fortune 500 company which has an annual average profit of 4.6 percent. Because the Section 936 tax credit is based on profits, the drug companies get more tax credit per employee than any other manufacturing industry in Puerto Rico. In fact, the structure of the credit gives them the incentive to raise prices, because the more profits they make, the more section 936 tax credits they receive. As a result, almost 50 percent of all section 936 tax credits—almost $2 billion each year—go to drug manufacturing companies.

It is important to note that it is more than possible for drug companies to maintain inflation at the CPI-U, while still making significant investments in meaningful research. For example, Merck Sharp and Dohme, the world's most research intensive drug company, restricts it annual price increases to the CPI-U.

Section 2.—Establishment of Medicare Prescription Drug Benefit Demonstration Project and Trust Fund

Legislative Specifications: Section 2 provides that up to $200 million saved from the recapture of the 936 tax credit (and directly attributable to excessive and inflationary pricing practices of drug manufacturers) would be directed each year to a new Federal Prescription Drug Trust Fund. The Fund would finance the establishment of a 5-year, 15-site Medicare Outpatient Prescription Drug Demonstration program as well as the establishment of the Prescription Drug Policy Review Commission [RxPRC]. Revenue above the amount necessary to fund the Demonstration program would be directed for deficit reduction.

The demonstration requires that Medicare beneficiaries have access to all FDA-approved prescription drugs and that a physician-pharmacist Drug Use Review [DUR] program be utilized in each demonstration. The DUR program can be separate or linked into the Medicaid DUR programs required under OBRA 90. Discounts or rebates should be sought from drug manufacturers as a condition of participation in the project, and appropriate pharmaceutical inflation containment mechanisms should be developed.

Background: The Medicare program does not provide insurance protection against the costs of out-patient prescription drugs. Moreover, because of the high costs of these medications, few private Medicare supplemental insurance policies offer affordable prescription drug coverage. As a result, according to an August, 1991 report by the Congressional Budget Office, 60 percent of older Americans do not have adequate prescription drug insurance protection. It is therefore not surprising that, for three out of four elderly, prescription drug costs represent their highest out-of-pocket expenditure. To begin to address this situation, it is advisable that we study the feasibility of amending the Medicare program to provide at least some protection for some of the most vulnerable populations of our society.

Section 3—Establishment of U.S. Prescription Drug Policy Review Commission and Study on Price Review Board

Legislative Specifications: Section 3 provides for the establishment of a Prescription Drug Policy Review Commission [RxPRC]. The Commission would be responsible for analyzing trends in national and international prescription drug prices and making recommendations on providing or improving coverage, reimbursement, and financing for prescription drugs under federal health care programs, such as Medicaid and Medicare. In addition, it would monitor the use and effectiveness of the various financial incentives given to the drug industry, including the revised section 936 tax credit. Finally, the Commission would be charged with studying the feasibility of establishing a pharmaceutical products price review board in the United States. Membership on the Commission would include health care and pharmaceutical economists, physicians, pharmacists, other health care professionals, and consumer representatives.

The study of the price review board would:

(a) Assess the impact that such a board has had in other nations in containing the costs of old and new prescription drugs;

(b) Develop guidelines that might be used by the board in determining whether prices or price increases for drugs are excessive; and

(c) Evaluate possible incentives for drug manufacturers to price their products fairly, including a system of compulsory licensing of drug products and/or a reduction in the period of market exclusively (patent life) as a penalty for excessive inflation.

Background: The Medicare Catastrophic Coverage Act (MCCA) of 1998 provided for a RxPRC, which would advise Congress on policy matters relating to the operation of the Medicare outpatient prescription drug program established under the legislation. Although RxPRC was abolished along with the repeal of MCCA, there are many other public prescription drug programs, such as the $5 billion Medicaid prescription drug program, and private insurance prescription drug programs, that could significantly benefit from the establishment of a RxPRC. Congress benefits tremendously from information provided by the Prospective Payment Assessment Commmission [ProPAC] and the Physician Payment Review Commission [PhysPRC]. Unlike many industrialized nations, the United States does not have a commision that could provide accurate data and policy guidance on the U.S. prescription drug marketplace to Medicaid and other third party insurance plans. This could be accomplished through a RxPRC.

Section 4—Study on Federal Subsidies and Tax Write Offs Given to Drug Industry

Legislative Specifications: Section 4 instructs the Secretary of the Department of Health and Human Services, in consultation with the Secretary of the Treasury, to conduct a study of the value of all the federal tax grants, subsidies, and write offs given to the pharmaceutical industry.

Included in the study should be an assessment of:

(a) The value and designed purpose of federal subsidies of the drug industry;

(b) The federal role in researching and developing patented pharmaceutical products;

(c) Comparable financial incentives and tax credits provided to the drug industry by other industrialized nations; and

(d) How Federal tax subsidies can be modified to provide incentives for an individual drug manufacturer's pricing behavior and research priorities.

Background: While the industry receives hundreds of millions of dollars in tax write offs to research and develop new drugs, there is little evidence to suggest that the industry is bringing a significant number of innovative, breakthrough products to the market. Many of the drugs brought to market already duplicate what is available to physicians to prescribe, which are commonly called "me-too" drugs. There is also evidence that the manufacturers are using the drug research tax credit to write off expensive marketing research activities, some of which may be illegal.

In addition, there are many new drug research projects that are funded in whole or in part by federal grants or conducted in federal institutions, such as the National Institutes of Health [NIH]. For example, two drugs used to treat symptoms of AIDS—AZT [Retrovir] and Foscavir—were researched and developed primarily in Federal Government labs, yet private drug companies hold the patents. This monopoly allows the companies to charge exorbitant prices for these drugs. With thee facts in mind, it may make sense to restructure the R&D tax credits so that manufacturers have move incentive to bring more breakthrough drugs to market.

Section 5—Manufacturing Reporting of International Drug Prices

Legislative Specifications: Section 5 requires drug manufacturers to report to the the Health Care Financing Administration at the end of each calendar year, the average price that the manufacturer sold each of its drugs in Canada, Australia, and the countries of the European Economic Community.

Background: Under the OBRA 90 legislation, manufacturers are required to report to HCFA on certain prices for which they sell drug products in the United States. However, there is overwhelming evidence to suggest that American citizens pay some of the highest prices for drugs in the world when compared to Canadians and Europeans. It is important for HCFA and the Congresss to know how prices in the United States compare to prices in other industrialized nations, especially since the United States provides billions of dollars in tax subsidies and incentives for the worldwide pharmaceutical industry, with little evidence to suggest that the result is lower drug prices for the American consumer.

For additional information about the legislation, or a copy of the Aging Committee staff report on which the legislation is based, contact either Chris Jennings or John Coster at the U.S. Senate Special Committee on Aging (202-224-5364).

FACTS COUNTERING DRUG INDUSTRY FICTION REGARDING RESEARCH AND DEVELOPMENT

Background: Anytime Congress is critical of the enormous profit margins of the pharmaceutical industry, or questions the need for the industry to raise prices in excess of three times the rate of inflation, the industry argues that they need these exorbitant profits and high prices to finance research and development. However, it is clear that their well-worn and re-recycled research and development argument is not going to sell anymore. Consider these facts:

Fact 1: Americans are already providing hundreds of millions of dollars in tax breaks annually for the industry's R&D investment.

Fact 2: According to a 1991 Forbes Magazine article, the drug industry is spending a billion dollars more a year on marketing than it is on research; that is, the industry will spend $10 billion on marketing and advertising this year, but only $9 billion on research and development.

Fact 3: After accounting for the investment in research and development, the pharmaceutical industry still earns an annual Fortune 500 industry-leading profit of 15.4 percent. This industry profit average is TRIPLE that of the average Fortune 500 club member, which is 4.6 percent.

Fact 4: The drug industry says it needs such profits to attract capital, yet they certainly do not need a return on shareholder investments (return on equity) that industry analysts say is consistently 50 percent higher than the average Fortune 500 company to attract capital. Other Fortune 500 companies, whose profit margins are one-third that of the drug industry, do not appear to have trouble attracting sufficient capital.

Fact 5: In addition to the hundreds of millions of dollars in direct research and development tax breaks given to the drug industry each year, a significant amount of research on new drug products occurs in Federal facilities or with grants provided by federal agencies. For example, most of the research on the drug AZT, used to treat symptoms of AIDS, was conducted at the National Institutes of Health [NIH], yet a private drug company holds the patent on the product and has used the patent to charge exorbitant prices for the drug.

Fact 6: The drug companies whose R&D investment has brought no new breakthrough drugs to market are the very same companies that are increasing prices at some of the highest rates. Therefore, while there are some drug companies who are research intensive, the majority are using the "research" argument as the excuse to raise prices, yet their research pipeline is dry. For example:

Dilantin, an antiepileptic drug, manufactured by Parke-Davis has been on the market since 1953. Since 1985 it has gone up in price 69 percent, an annual average increase of over 11 percent. Parke-Davis has not brought one new molecular entity to market in the last 5 years.

Fact 7: For a pharmaceutical company that spends 15 percent of its revenue on research to increase their research expenditures by 10 percent, it would only require a 1.5 percent increase in their drug prices each year. However, drug manufacturers have been increasing prices, on average, at three times the rate of inflation for the last 11 years.

Fact 8: One of the largest investors in R&D in the industry—Merck—is holding their price increases to inflation. Merck Sharp and Dohme has been one of the most research productive companies over the last decade, yet they have adopted a public policy position that restricts their price increases to changes in the CPI-U. If the world's most research-intensive drug company can adopt this responsible public policy, the others should be able to do the same.

Fact 9: In Canada, the drug industry has voluntarily agreed to limit its price increased to the inflation rate, while substantially increasing its investment in research.

While the industry's arguments about the relationship between high profits and research are clearly questionable, the "Prescription Drug Inflation Containment Act", introduced by Senator David Pryor, will not reduce the research tax credits of drug manufacturers. The legislation uses the industry's $2 billion annual nonresearch and development tax credit, which is bestowed on the industry each year by American taxpayers, as an incentive to contain prescription drug price inflation at or below the rate of general inflation.

Mr. PRYOR. Mr. President, the recent and decisive victory of Senator HARRIS WOFFORD has ignited a long overdue movement to overhaul the health care system in the United States. There is little doubt that the problem of out-of-control costs is, and will continue to be, the No. 1 issue driving the health care reform debate.

Today, I am pleased and honored to be joined by Senators COHEN, SASSER, BAUCUS, BURDICK, CONRAD, EXON, METZENBAUM, and WELLSTONE in taking an important step toward containing costs by introducing legislation that addresses the single highest inflating component of the entire medical inflation index—prescription drugs. With the introduction of the Prescription Drug Cost Containment Act of 1991 (S. 2000), we are sending a message to the drug manufacturers that their price grouping status quo is unacceptable and will no longer be tolerated.

Nothing we do in the Congress convinces the drug industry that we mean business about skyrocketing drug prices. During the debate surrounding last year's Medicaid drug rebate law and the years of hearings leading up to it, drug manufacturers frequently stated that the 1980's was an anomaly. They said that drug price inflation that tripled the general inflation rate would not continue and gave many in Congress the impression that they had received the message that drug cost increases of the past were unacceptable.

Incredibly, if current trends continue, it appears that the 1990's will not only be a price inflation encore, but may well surpass the intolerable performance of the 1980's. Recent drug price increases continue to defy the laws of gravity. Over the 1-year period between October 1990 and October 1991, drug prices increased 10.1 percent, more than triple the rate of increase in general inflation, which was 2.9 percent.

Mr. President, the drug industry recently criticized my use of the CPI as a measure of drug price increases. They said that the Producer Price Index, the PPI, rather than the CPI, was a more accurate measure of drug price inflation. Out of curiosity, I checked the October PPI. Guess what product topped the list of all products in price increases? That's right, prescription drugs. Their prices rose more than two and half times the PPI for all goods. Even the industry cannot find an index that shows them in a favorable light.

While the news about drug prices is bad with one index and even worse with another, for the average older American, it really doesn't matter what index you use. They only know that they cannot afford their medications. Day after day, my office receives letters from citizens around the Nation who tell me about the devastation that drug price increases are having in their life. One elderly woman from Fort Smith, AR, wrote that her drug bill increased in 1 year from $8,000 to $11,000 for the very same medications. She says that she may have to stop taking some of her drugs.

Mr. President, it is getting to the point where the only Americans who can afford to buy medications are drug company executives. The annual median income of an elderly household in this country is just $8,781. At the absolute opposite end of the spectrum, drug company CEO's made a median salary of $1.56 million in 1990—175 times the income of the median elderly household. In fact, 5 of the 20 highest paid CEO's in the entire country are drug company executives. Maybe these figures explain why the drug industry is so price insensitive.

This year the drug company CEO's are using the new Medicaid rebate law as the excuse to raise prices. Never mind that the Medicaid Program makes up only 10 to 15 percent of the industry's market and could not possibly explain their increases in prices. Never mind the industry invests $10 billion in marketing and makes multibillion-dollar profits. Never mind the industry chose to cost shift to this Nation's soldiers, veterans, hospitals, HMO's and poor people served by Public Health Service clinics.

By raising drug prices to the Department of Veterans Affairs and Defense during the Persian Gulf war, a number of drug companies showed that their so-called patriotism does not run as deep as their pockets. Although the bill I am introducing today does not specifically address the cost shifting concerns of the DVA, Public Health Service clinics, hospitals and HMO's, I remain resolute in my commitment to developing legislation to alleviate their problems.

Mr. President, the day has come for us to enact legislation that contains prescription drug price inflation for all Americans. If we do not act now, we are condemning ourselves to witness a $20 drug in 1980 costing $120 in 9 short years—a 504-percent increase. The answer to this problem begins with revising our Tax Code.

It was, and still is, difficult for even me to believe, but American taxpayers now bestow upon the drug industry a $2 billion a year, nonresearch and development tax break for manufacturing drugs in Puerto Rico. This section 936 tax credit is designed to increase employment in U.S. possessions—like Puerto Rico. This credit returns to the drug industry $70,788 for every employee they hire. This is quite a return when you consider the average annual salary of these employees is $26,471. Amazingly, beyond underwriting excessive price increases, unmatched profits, multibillion-dollar marketing campaigns, and hundreds of millions of dollars in research and development tax credits, our taxpayers are reducing—through the 936 tax credit—the effective tax rate of the drug industry by 9 percent.

Mr. President, enough is enough. Attempting to shame the drug manufacturing industry into being responsive to the needs of the American public is obviously not working. American citizens and businesses are demanding that we take actions against the high cost of health care, and many want us to begin with prescription drugs.

To address the escalating costs of prescription drugs, the legislation we are introducing today uses a simple, business-like, carrot and stick approach. In short, it achieves its goal by:

First, reducing the multibillion-dollar section 936 tax credit for each point that a drug manufacturer raises its prices over general inflation.

Second, directing any money saved from the section 936 tax credit reduction to:

Reduce the Federal deficit; and

Establish a Medicare prescription drug demonstration to determine feasibility of providing a new drug benefit.

Third, establishing a board called the Prescription Drug Policy Review Commission, which would, among other things:

Determine the feasibility of establishing a Canadian-like drug price review board in the United States;

Analyze international prescription drug pricing trends; and

Make policy recommendations aimed at containing drug cost increases for Medicare, Medicaid, and other public and private purchasers.

Fourth, directing the Secretary of HHS to determine the amount of subsidies the Federal Government provides to the drug industry, such as tax credits and research grants, and to recommend how these taxpayer underwritten benefits can be restructured to provide better incentives for the industry to contain costs and produce more breakthrough—not "me too"—medications.

Mr. President, 42 national organizations have endorsed the Prescription Drug Cost Containment Act. These organizations represent a broad spectrum of groups concerned about the escalating cost of prescription drugs, and include representatives of small business, older Americans, children, pharmacists, consumers, unions, rural communities, and insurance agents.

Mr. President, lobbyists for the Pharmaceutical Manufacturers Association and their member companies have already geared up their multimillion-dollar lobbying machine to claim that my policies toward the drug industry are bad and my solutions are even worse. I am not surprised that they are trying to use their old and recycled argument that they need their high prices and exorbitant profits to finance research and development of new drugs.

Many drug companies are hiding behind this research fiction to gouge the American public. The drug companies that are doing the least research are the ones that are increasing prices the fastest. Let me give you just one of many startling examples. Ciba-Geigy, which makes the antiarthritis drug Voltaren, increased the price of the drug over 14 percent from 1989 to 1990. During this same period, the company actually decreased its expenditures on R&D by 1.2 percent. Yes, Mr. President, the companies are raising prices, but it is to put dollars in their profit coffers not their research labs.

Mr. President, drug companies are also double-dipping by charging outrageous prices for drugs that were primarily researched by the Federal Government. Recently, Astra Pharmaceuticals, a Swedish-based company, marketed the drug Foscavir for eye infections in AIDS patients. In spite of the fact that the overwhelming majority of the research on the drug was done with Federal tax dollars, the company holds the patent on the drug. It is charging $21,000 a year, enabling it to make hundreds of millions of dollars in profits. A similar situation occurred with AZT. Burroughs-Wellcome continues to make hundreds of millions of dollars in profits from Federal research efforts on this drug.

Examples like these make me wonder if this legislation goes far enough. The drug industry has made the American public the laughingstock of the world for so long, that I believe more draconian action may be needed. However, I am a realist, and understand that this business-like approach may be more acceptable to many of my colleagues. Let me say for the record, however, that I am not willing to wait forever. If evidence continues to mount into 1992 that drug prices are not coming down, I will be back on this floor next year with much stronger legislation.

Mr. President, we have given the drug industry a blank check to run rough-shod over this Congress and the American public. We must have the resolve to stand up to an industry who places profits before patients and greed before the common good. The American public is looking to this Congress to take bold steps and meet the challenge of containing health care costs. If we do not meet the challenge, the American public—as they recently reminded us—may not be shy about turning to others to get the job done.

Mr. President, in conclusion, let me say, because I know that many of my colleagues are going to be here, that the drug industry will be swarming the Capitol Hill area in the next several days and weeks as this legislation moves through. They are going to be talking about all of the research they provide in finding new drugs.

Let me say, Mr. President, that last year the research spent for new drugs was $9 billion by the pharmaceutical manufacturers, but marketing and advertising expenditures exceeded—exceeded—research by $1 billion. In fact, $10 billion was spent on areas and ways to market the drugs coming on the market.

Mr. President, also, many of the drug companies are going to be telling our colleagues: We do not make any more money than the other companies. Mr. President, the Business Week magazine 1991, in one of their recent issues, said the average Fortune 500 company in 1990 made a profit of 4.6 percent for the top 10 drug manufacturing companies, 15.5 percent.

Let me conclude, Mr. President, by saying that 3 out of 4 elderly people in the United States of America today find that prescription drugs that their doctors are prescribing to stay alive is the highest out-of-pocket expense that they have. The second fact is that according to CBO, 60 percent of all the elderly people in America today are approaching a financially catastrophic situation because they can no longer afford the cost of drugs, and 60 percent of the elderly have no coverage whatsoever for the drugs that they must have to stay alive.

Mr. President, we need to take some very dramatic action. As I said earlier in the beginning of my statement, this is a step in the right direction. But, Mr. President, I can say without reservation that if the pharmaceutical manufacturers of America continue to abuse the American citizens and continue to abuse the Tax Code and continue to take advantage of those who should not be taken advantage of, then we are going to be back on this floor with even tougher legislation.

The White House some years ago appointed a drug czar. I am saying, Mr. President, this morning, that we need a drug czar, not for illegal drugs, but a drug czar for legal drugs, for prescription drugs, someone who will become the advocate for the average American citizens out there who are finding themselves in the precarious situation of no longer being able to buy a prescription drug.

Mr. President, I thank the Chair for recognizing me. I thank, once again, Senator SASSER, Senator COHEN, and others. I thank the sponsors of this legislation and, of course, those many associations, 42 in number, which have now endorsed this particular legislation.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I am pleased to rise today as a cosponsor of this important bill. Senator PRYOR, the distinguish chairman of the Aging Committee, has worked on this issue for months, if not years. I am glad to join him and Senator COHEN and others in offering this legislation to rein in prescription drug inflation.

It is a commonsense approach. It tells the drug manufacturing industry that unless they keep their drug prices within the general inflation rate, they will lose at least a portion of the special tax break—known as section 936—that benefits them.

Section 936 of the Internal Revenue Code provides an income tax exemption for business income earned in Puerto Rico and other U.S. territorial possessions. The stated purpose of section 936 is to promote employment and investment in these possessions. But it appears that drug manufacturers have benefited beyond the intent of the provision.

The drug manufacturing industry receives about $2 billion a year in section 936 tax credits. They also receive other tax breaks, including the research and development tax credit, which I strongly support. Their tax burden is proportionately lower than that of the average U.S. industry.

And yet their profits have been the highest, according to several indicators, of any U.S. industry. Their annual 15.5-percent profit margin is more than three times as high as the 4.6-percent margin of the average Fortune 500 company.

While the drug industry is making these huge profits, the people who buy their products are paying the price. Hardworking Americans, as well as senior citizens, are having a harder and harder time buying their prescriptions. The prescription drug inflation rate rose 152 percent in the 1980's, compared to the general inflation rate of 58 percent. As the price goes up on the order of 10 percent a year, and CPI increases less than three, consumers have less buying power. But they need those medicines, so they pay the price. And they just have to make sacrifices elsewhere.

In addition, American consumers are subsidizing the drug industry for consumers in other countries. The average American pays 62-percent more for prescription drugs than the average Canadian citizen and 54-percent more than the average European citizen.

Mr. President, I fully recognize the value of the drug manufacturing industry. There is no question about the usefulness, and indeed the necessity, for new kinds of drugs as well as those that have become commonplace on the market. If a health problem can be treated with drugs rather than surgery, it is beneficial to the patient and to the health care system as a whole because it saves money.

But the drug manufacturing industry should not continue to make extraordinary profits at the expense of the consumer—and still reap huge benefits from taxpayer-supported subsidies.

Mr. President, this legislation is fair. A taxpayer-supported subsidy is not, and should not be, a blank check. If drug manufacturers want to continue to receive preferential tax treatment, they will have to show, at the minimum, that they are being fair to the American public.

I am pleased to be a cosponsor of this important bill, and I urge our colleagues to support it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to speak for 3 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. First, let me commend Senator PRYOR for his leadership in calling attention to what is a great worry and concern about the high price of drugs. He has done a lot of work, put a lot of thoughtful effort in this. I think his active leadership, his involvement in this issue has made it one of which we are all very aware.

DIRECTIVE ON HIRING PRACTICES

Mrs. KASSEBAUM. Mr. President, what I would like to speak to is my concern regarding the administration's directive on hiring practices which was reported in the news this morning. I have not read the full directive. I have no problem with taking steps that would be in compliance with our new civil rights legislation, but I am deeply concerned if, indeed, we are going to use a broad sweeping hand to overturn what I think has worked very well for many years. As an equal employment opportunity employer, we have put into place affirmative action policies which have opened many doors, and have given us opportunities to bring women and minorities into the work force in a very constructive way.

So I hope, Mr. President, that we will be very cautious with any directives that would undo very positive, constructive policies that now exist and think carefully about what initiatives we put into place. Certainly, changes must be made to conform Government policies to the new law, but this process must be done thoughtfully and with due regard for the importance of continuing beneficial and appropriate affirmative action policies. The Uniform Guidelines, for example, have been in place for 13 years and should not be discarded in whole without careful consideration.

Particularly now, when divisions have become so great, we can ill-afford to send the wrong signal. The employment practices of the Federal Government serve as a model to all employers, and thus we should be especially careful when we change or eliminate current worthwhile practices.

Certainly none of us desire to eliminate legitimate affirmative action policies, and I fear the broad thrust of this directive may do just that.

I yield the floor, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair informs Senators that the time for morning business has expired.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CREDIT CARD INTEREST RATES

Mr. D'AMATO. Mr. President, today, I have sent letters to both the Attorney General, William Barr, and to the Chairman of the Federal Trade Commission, Janet D. Steiger.

In these letters, I have requested an investigation into the credit card interest rates being charged to the American public. In particular, Mr. President, I am concerned that 7 out of 10 of the largest cardholders have the same interest rates, 19.80, identical right down to the demical point.

I have been subject to extensive criticism for the legislation I introduced attempting to get those credit card interest rates down, and to see to it that we truly have free competition in the credit card industry. Some have said that I am trying to control credit and to allocate it. Indeed, that is not my intent. Nor is that the intention of the legislation. The legislation is intended to serve as the juggernaut to attack what I believe is collusive activity by the largest of the credit card issuers to dam up the rates artificially so that the people have little choice but to pay these exorbitant interest rates.

This lack of competition among the top credit card issuers is detrimental to the economy. It is detrimental to an economic recession, and it certainly does not act to spur consumer confidence. Indeed, the absence of competition ends up costing consumers billions of dollars in excess interest. Many of these consumers are already trapped, considering that average outstanding balance carried on a credit card is approximately $2,300. At an almost 20-percent interest rate, that person with a $2,300 balance of his credit card finds himself paying hundreds of dollars annually in interest costs, and in many cases, doing little to get the balance down.

Most consumers do not really have the opportunity to actively shop for the lowest interest rates in many geographic areas.

The public does not have adequate opportunity to find out that there is a bank in Arkansas, for example, that may have an interest rate of 11½ percent, or that there is another bank outside of their region that could and would be happy to serve them that offers a rate of 13½ percent.

It is this conspiracy to which I believe that the regulators have, at a minimum, been indifferent. The Federal policy has been to lower the discount rate, and Federal funds rate to encourage the reduction in interest rates so that the banks could pass this on in the cost of lower consumer credit as well as lower mortgage rates.

The lack of true competition in the credit card industry is not an overnight occurrence. I introduced legislation to bring down the rates in order to try and achieve free market competition 6 years ago. Congress turned the other way from the face of this issue after we were promised that the credit card issuers would undertake actions to promote real competition and to bring interest rates down. Indeed as the cost of money to the institutions has come down, however, the credit card interest rates, if anything, have continued to climb.

This is, as the November's Business Week editorial stated, a subsidy of the banks by the consumers. Let me read a part of this Business Week editorial:

> For their part, regulators and politicians should stop subsidizing banks by allowing outrageous rates on consumer loans. It is time to end this charade.

This is not a very cleverly bank subsidy. I think there are some, who are just as happy by having the public unknowingly bailout banks rather than having to come forward and affirmatively ask for a taxpayer bailout—such as the $70 billion "loan" to the bank insurance fund which the taxpayers may be stuck paying back.

Those who talk about free competition should be looking closely at whether we have a free market system with respect to the credit card industry. To do otherwise would be to encourage, and actually allow an illegal practice and restraint of trade and commerce; at the expense of middle-class taxpayers, families, and workers. These individuals have been paying exhorbitant rates of interest to subsidize credit card issuers with billions of dollars, while these same issuers have the nerve to literally blackmail the public by saying, if you dare threaten what we are doing, we will pull at least one-half of these credit cards back from you.

Mr. President, I am not giving up on this battle. We are going to get those interest rates down because we are not going to turn the spotlight away from this horrible anticompetitive practice. We already have begun to see some signs of recognition of this situation by the large credit card companies, some of which are beginning to advertise for the first time and mention interest rates. I think maybe this is a crack in the facade of competition. I want to see to it that that crack becomes more than just a crack but that the wall damming up those interest rates so artificially high is knocked down.

This is why today I have written to both Attorney General Barr and to the Chairman of the Federal Trade Commission to ask them to launch an inquiry to see to it that we have free market competition among credit card issuers, particularly, those seven who interestingly charge the same interest rates, 19.80, as I have said identical right down to the last decimal.

If we are going to talk about free market competition, and that is the best way to go, and I believe it is, then we have an obligation to ensure we actually have unencumbered competition.

I wonder what Teddy Roosevelt would have done if he had seen this kind of situation and whether or not these institutions would have been permitted to conspire for so long against the American people to artificially keep credit card interest rates up in order to make an inordinate profit to pay off their bad loans and compensate for other poor practices. Credit card issuers must be stopped from soaking the middle-class, and those who are using and are forced to use credit cards.

Mr. President, I ask unanimous consent that both these letters be printed in the RECORD.

Later on, when we get to the banking bill, I will have more to say on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 21, 1991.

JANET D. STEIGER,
Chairman, Federal Trade Commission, Washington, DC.

DEAR MS. STEIGER: As you are probably aware, on Wednesday, November 13, I introduced an amendment to the Senate banking bill, S. 543, to set a floating ceiling on the interest rates that credit card issuers could charge their customers. This amendment passed by a vote of 74-19.

This legislation was intended to reduce the cost of credit to consumers. The amendment was also intended to help ease the credit crunch in the hope that savings in credit card interest could be funneled back into the economy through an increase in consumer spending.

I first introduced this legislation back in December 1985, (S. 1992) when I became concerned that credit card issuers were charging their customers rates of interest that bore no rational relation to the cost of money. Although this legislation did not prevail in 1985, I have continued to monitor the high rates of interest being charged by credit card issuers.

Since 1985, the average interest rate on credit cards has actually increased from 18.7 percent to 18.9 percent In 1985, the average prime rate of interest was 10 percent and the average discount rate was 7.75 percent Today, the prime rate of interest is 7.5 percent, and the discount rate is 5.5 percent, yet the average interest rate charged to credit card customers is 18.9 percent. Further, seven of the top ten credit card issuers charge the identical rate of interest—19.8 percent.

There is no free market competition among credit card issuers. The top ten credit card issuers have set an unreasonably high rate of interest to be charged to their credit card customers. Statistics show that the average interest rate being charged on credit card debt continues to increase, despite a definite decline in the cost of money.

Since S. 1992 was introduced in 1985, my office has received approximately 43,000 letters from constituents requesting information on where to obtain credit cards with a lower rate of interest. This response demonstrates that consumers are concerned about the high rates of credit card interest.

I am deeply concerned that credit card issuers are not being adequately supervised. I am also concerned that the identical rate of interest being charged by seven of the top ten credit card issuers—19.8 percent (identical to the decimal), more than suggests collusion and price fixing activities among these companies.

As a result, I ask that the Federal Trade Commission consider the facts I outlined above and conduct an investigation into whether there is free and unrestrained competition in the credit card industry and whether there are any antitrust violations. In particular, the investigation should consider the practices engaged in by top credit card issuers in setting their rates of interest. Enclosed is a chart printed in Newsday that identifies the largest ten credit card issuers and their rates.

Please keep me advised as to your progress on this matter. It is crucial that we continue to protect the public's interests. I look forward to a quick response.

Very truly yours,

ALFONSE M. D'AMATO,
U.S. Senator.

IN THE CARDS—CREDIT CARD TERMS AT 10 BIGGEST, ISSUERS NATIONWIDE, BASED ON OUTSTANDING BALANCES

	Annual rate (percent)	Annual fee
Citibank	19.8	$20
Discover	19.8	(2)
Chase Manhattan	19.8	20
MBNA America	19.8	20
Bank of America	19.8	18
Credit card terms at issuers charging lowest interest:		
Simmons First National Pine Buff, AR	[1]9.5	25
Arkansas Federal Savings, Little Rock, AR	[1]9.5	35
Wachovia Bank Wilmington, DE	[1]10.4	19
Prime Bank Elkhart, IN	12.9	20
AFBA Industrial Bank Alexandria, VA	[1]13.0	(2)
Bank of New York (Del.) Newark, DE	[1]13.4	(2)
First Chicago	19.8	20
Optima	16.25	15
Bank of New York	16.98	18
Manufacturers Hanover	19.8	20
Household Bank	21.0	(2)
Fidelity National Bank, Atlanta, GA	[1]13.7	20
USAA Federal Savings, Tulsa, OK	[1]13.75	(2)
Bank of Montana, Great Falls, MT	[1]13.75	19
Bank One Wisconsin, Milwaukee, WI	13.9	25
People's Bank, Bridgeport, CT	13.9	25

[1] Variable rate.

[2] None.

U.S. SENATE,
Washington, DC, November 21, 1991.

WILLIAM P. BARR,
Attorney General, Main Justice Building, Washington, DC.

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As a result, I ask that the Justice Department consider the facts I outlined above and conduct an investigation into whether there is free and unrestrained competition in the credit card industry and whether there are any antitrust violations. In particular, the investigation should consider the practices engaged in by top credit card issuers in setting their rates of interest. Enclosed is a chart printed in Newsday that identifies the largest ten credit card issuers and their rates.

Please keep me advised as to your progress on this matter. It is crucial that we continue to protect the public's interests. I look forward to a quick response.

Very truly yours,

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Discover	19.8	(1)
Chase Manhattan	19.8	20
MBNA America	19.8	20
Bank of America	19.8	18
Credit card terms at issuers charging lowest interest:		
Simmons First National, Pine Bluff, AR	[2]9.5	25
Arkansas Federal Savings, Little Rock, AR	[2]9.5	35
Wachovia Bank, Wilmington, DE	[2]10.4	39
Prime Bank, Elkhart, IN	12.9	20
AFBA Industrial Bank, Alexandria, VA	[2]13.0	(1)
Bank of New York (Del.), Newark, DE	[2]13.4	(1)
First Chicago	19.8	20
Optima	16.25	15
Bank of New York	16.98	18
Manufacturers Hanover	19.8	20
Household Bank	21.0	(1)
Fidelity National Bank, Atlanta	[2]13.7	20
USAA Federal Savings, Tulsa, OK	[2]13.75	(1)
Bank of Montana, Great Falls, MT	[2]13.75	19
Bank One Wisconsin, Milwaukee, WI	13.9	25
People's Bank, Bridgeport, CT	13.9	25

[1] None.

[2] Variable rate.

WORLD CUP SOCCER

Mr. GRAHAM. Mr. President, for the first time in history, the United States has been selected to host the World Cup Soccer Championship. It is a great honor to be chosen host to the games. The World Cup is the largest single-sport spectacle in the world. In the 1990 games, 112 nations played 313 games for the chance to compete in the tournament.

Hosting World Cup represents a historic opportunity for Americans to participate in this international event. Twenty-six cities, including three in my home State of Florida, are competing to host a portion of the games.

The World Cup legislation will create gold, silver, and clad coins to be minted by the U.S. Mint and sold to the public in commemoration of this event. The revenues generated by the coin sales will help the World Cup USA organizing committee stage the tournament. After ticket sales, surcharges will provide the second largest revenue source for the United States to host the games. These funds will help make the event a first-class success and ensure that state-of-the-art facilities are in place in approximately a dozen U.S. host cities.

The 1994 games will match world class soccer with world class American hospitality. The U.S. Department of Commerce anticipates that 1.5 million foreign visitors will attend tournament games. The games will increase aggregate tourism spending by $1.5 billion or 8 percent in 1994. These funds will be spent in our communities, bolstering our economy, in addition, 10 percent of those funds will be set aside for scholarships to qualified students.

By authorizing this commemorative coin, Congress has the opportunity to support World Cup, at no cost to the taxpayers. Let us send a message of support to the potential host communities, to the athletes, and to the expected 20 to 30 billion worldwide viewers, that our Government is behind the 1994 World Cup Soccer Championship.

For the benefit the record and my colleagues, I would like to include a description of the scholarship program.

The description follows:

Subsection 8(b): Ten percent of the funds made available by subsection 8(a) will be available to the United States Soccer Federation Foundation, Inc. for distribution to institutions for scholastic scholarships to qualified students. The scholastic scholarships shall go to any groups for distribution to qualified students that meet the following criteria:

Definition of "Institutions"—In selecting institutions to provide scholastic scholarships to qualified students, we expect that the United States Soccer Federation Foundation shall select no more than five recipients, provided that the institution:

Is a 501(c) (3) nonprofit which includes as its mission increasing the representation of qualified students, as defined in the following section, in higher education by providing scholarship assistance to students pursuing college degrees;

Serves all of the geographic and ethnic subgroups of a target population consisting principally of qualified students; and

Provides educational services, scholastic scholarships and related services to qualified students.

We do not intend that institutions of higher learning, trade associations, for-profit institutions, units of state or local government, or other organizations or entities providing scholastic scholarships that are generally available to persons other than qualified students be considered by the United States Soccer Federation Foundation for participation in the programs authorized by this section.

Definition of "qualified student"—We intend that the term "qualified students" be interpreted narrowly by institutions providing scholastic scholarships. The Committee intends to limit scholarships under this section to the most undereducated persons and groups in American society. The Committee expects that "qualified Students" shall be identified based on the following criteria:

Individuals who are "first-generation" college students. i.e., whose parents did not complete a course of study at an accredited institution of higher learning; and

Individuals who are "economically disadvantaged", i.e., who come from families with incomes at or below the median family income of the U.S. population, or who are members of communities with median incomes at or below 70% of the median family income of the U.S. population; and

Individuals who are "educationally disadvantaged," because of developmental disability, national origin, nativity or limited-English proficiency, or attended school districts with dropout rates at least twice as high as the national average; and

The scholastic scholarship fund will be targeted to minority student groups that have a high school completion rate of less than 60 percent.

Provided further,

That at least one such institution serves as an umbrella organization for at least 125 affiliated local community-based organizations. Such institution provides capacity-building assistance, public policy analysis and advocacy, public information efforts, and special catalytic efforts on behalf of economically and educationally disadvantaged persons. Such institution is governed by organizational by-laws that required a Board of Directors reflective of the geographic, gender and ethnic composition of a target population consisting principally of qualified students and their families, as defined in this section. Such institution includes a corporate board of advisors composed of at least twenty senior executives of major corporations.

That at least one such institution is a 501(c)(3) nonprofit organization whose sole mission is to provide scholarship assistance to qualified students in all fifty states and Puerto Rico. Scholarship recipients are selected on the basis of academic achievement and personal strengths, and represent hundreds of both public and private colleges and universities across the nation. Recipients are also reflective of the composition of five national regions. Such institution annually selects scholarship recipients using a process of regional review committees. In addition, such institution is government by organizational bylaws which require a board of directors comprised of corporate and educational leaders.

That at least one such institution is a 501(c)(3) nonprofit organization with a national scope and a primary goal to provide post high school scholarship assistance to qualified students in all fifty states and the territories of the United States of America. Scholarship recipients are selected on the basis of academic achievement, community leadership and financial need. Such institution is governed by organizational by-laws that require officers, board of directors, and trustees who are business and community leaders throughout the nation and are dedicated to the educational advancement of a target population of qualified students as defined in this section.

Student eligibility: A qualified student who is in attendance or who has been accepted for admission, as a full-time undergraduate or graduate student at an accredited institution of higher education may apply.

We recognize that institutions must have some flexibility in the selection of scholarship recipients; however, we expect that, except in unusual or exceptional circumstances, each scholarship recipient shall meet the three of the four broad criteria in addition to other criteria set forth by the institution.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

EXTENSION OF MORNING BUSINESS

Mr. ROBB. Mr. President, I ask unanimous consent, after checking with the managers of the upcoming bill, that the period for morning business be extended for up to 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. ROBB. I thank the Chair.

(The remarks of Mr. ROBB pertaining to the submission of Senate Concurrent Resolution 78 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The PRESIDING OFFICER. The Senate will now resume consideration of the banking reform bill. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 543), to reform Federal deposit insurance, protect the deposit insurance funds and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

The Senate resumed consideration of the bill.

Pending:

(1) Dixon modified amendment No. 1352, to improve the governance of the Resolution Trust Corporation.

AMENDMENT NO. 1352

The PRESIDING OFFICER. The pending business is the Dixon amendment.

Mr. RIEGLE. Mr. President, with respect to the Dixon amendment, let me comment. Senator DIXON has been doing some very important and excellent work in discussions centering around his amendment, which has to do with the restructuring of the RTC. He has been holding those discussions with others of us on the committee and with the Treasury Department officials, and I think he has made very considerable progress in finding a formulation that would be generally agreeable on that issue. That is not to say there will not be some who will not find it precisely to their liking. But progress has been made in that area, greatly to his credit.

Therefore, I ask that the Dixon amendment be temporarily laid aside, fully preserving his rights on that amendment, so that we can take up discussion of a managers' amendment that deals with other issues.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair. With the Dixon amendment temporarily laid aside, we return to consideration of the banking reform bill. At the end of the day on Monday, there were several Senators who expressed doubt that the Senate could complete its work on the bill before the Thanksgiving holiday. They pointed out that a number of amendments might be offered to the bill, and suggested that the Senate just could not possibly consider those in a timely fashion.

The majority leader and the minority leader asked Senator GARN and I, and the other members of the committee, to work in every way possible to see if we could resolve as many and, hopefully, all of those issues in this very compressed timeframe in which we are dealing.

I am here now to report, and am pleased to report, that we have made very considerable progress in reaching agreement on contentious issues. We are still working at this minute on those few that remain.

I want to just say at this time, and pay a great personal professional compliment to the Senator from Utah [Mr. GARN] who has worked as hard as I have ever seen anybody work to try to resolve issues, particularly ones that are troubling to Members on his side of the aisle, in a good-faith effort to try to find fair and balanced answers that will keep this bill balanced and intact.

I must say that in working with Senator GARN, which I have now done for many years, there are certain unpleasant experiences that go with this job. One of the pleasant experiences has been the opportunity to work together with the Senator from Utah. I want to thank him for his diligent work and for what I think we have been able to—together and with the help of many others—accomplish to this point.

Yesterday afternoon, Senator GARN and I met with Secretary Brady, and in the course of that discussion, we reached a general outline of an agreement, if you will, tentative agreement, as to how we would try to resolve concerns of all Senators and to undertake to narrow the scope of the bill in a fashion that would be generally agreeable, so that we could bring this issue to a conclusion today.

It is very much my hope and intention that we act on this bill and finish it today. We are compelled to do that, I think, not only by the Senate calendar and schedule and other items waiting to come to the floor, but also the fact that the deposit insurance fund is virtually empty. It will be bankrupt by the end of the year and cannot be left in that condition, because otherwise, failed banks in the coming year—and there are anticipated to be some large number of those—would not be able to pay off the insured deposits of depositors, and that is obviously a condition that would be intolerable and cannot be allowed to be the situation that we would face.

In terms of the work since late afternoon yesterday, and in the meetings with Secretary Brady that I have just referenced, we have agreed to drop out title IV which would restructure the board of directors of the FDIC, and it has certain other items in it.

We have in previous sessions taken and adjusted and removed part or all of other sections.

We have also worked to achieve a compromise acceptable to most, but not all. I see the Senator from Delaware on the floor, so I am not going to get into, now, any lengthy discussion on the issue of issues.

But we have been working to balance that issue out as best we can, and we are continuing that effort, and I hope and feel that we may be very close to doing that. Where we have 100 Senators agreeing with it, sometimes we can get there; sometimes we cannot. And certainly that is the nature of settling issues here in the Senate.

I want to say just with respect to two or three other items, we had a controversy in the area with respect to the Lampf decision. I want to say in that area, Senator BRYAN and Senator DOMENICI have worked steadily to resolve those issues. I thank them both for that effort. It would allow the Lampf decision to be set aside so there would, in fact, be a legal reachback to cover cases that have been filed in the way of alleged fraud, fraudulent activities. That is a very important provision of the bill, and we have reached a compromise on that, that settles that issue.

We have also worked with a number of other Senators to work out items that will be contained in a managers' amendment to be offered by Senator GARN and me shortly on the front end of this discussion. And then, finally, a residual managers' amendment, which we will offer on the back end, that will contain other items that have been agreed to, and where the technical language is being worked out literally as we speak.

So at that point, we will be offering first one and then the other.

We are down here now to a very limited number of specific amendments that Members want to offer on the floor, and to have time to debate those amendments and to perhaps have a vote on those amendments and have the Senate settle it. I have two such amendments from Senator GRAHAM that have been identified. I have one from Senator KERRY.

And, in addition to that, let me just check one thing here. I am told there is one issue that I hope is on its way to resolution. It may not be. In addition, two by Senator GRAHAM, and the one by Senator KERRY that will require discussion and disposition by the Senate.

There may be an amendment by Senator DODD dealing with the Small Business Administration's investments in banks. I know discussions have been going on back and forth, with appeals on both sides of that issue. I hope that will be settled out.

And then there are four Senators on the other side of the aisle who have indicated they may need to offer amendments. I will let Senator GARN address those, for his part, and any other amendments that may come in from other Senators. The hotline has gone out.

I know Members have questions about certain items that we have worked out late last evening and in the middle of the night, and even early this morning. We will be in a position to discuss those with individual Senators as they come to the floor.

The bottom line is this: We have a solid package here, I think. Each provision that we have worked out, I think, will stand on its own as a solid provision. I think they have to all, in effect, be taken in combination. I think the combination of provisions is sound. We have to enact this bill today, in my view, in terms of the time schedule, so that we are in a position to meet our responsibilities, go to conference, and get this legislation in place.

The President has asked us to do this on an urgent basis. This is one of a very short number of top operational priorities that he set forward. I think that what we have here meets the request for action in that area, and does it in a responsible way.

I thank everyone that has been participating in the effort to resolve these issues. It is not easy to do because they are complicated, they are contentious, and it is necessarily time consuming, even in the best of circumstances, to resolve issues that are very difficult to resolve.

Let me yield to my ranking member.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the chairman for his overly generous remarks. Certainly, he has been working extremely hard over the last couple days to resolve these issues.

I compliment him for his work to do that. There is no necessity to repeat all of that he said, other than to emphasize that there has been a lot of progress made on this bill.

Some of the most contentious issues have been agreed to, and I would like to compliment the Senators who, at our request, sat down together and worked out their differences. So this is a considerably different bill and situation than when we left the floor a couple days ago.

Having said all that, though, that does not indicate there are still not some problems to be resolved. There are. And there are still some Senators, as outlined by the chairman, who wish to offer amendments. We would hope they would come to the floor and do that.

I was remarking a few minutes ago, when I first got here, I can remember how much I admired Mike Mansfield, who was then the majority leader, and the Senator from Pennsylvania, who was the minority leader. They were as nice Senators, and kind and gentle, as I have ever seen. But they were not very kind when it came to delay.

And we, I think, have become too accommodative of individual Senators, not just on this bill, but we often sit for hours because some Senator is in a meeting; he is on a conference call; he is downtown giving a lunch, and we wait.

In the old days, it used to be, they would say: Fine; if the Senator is not here in a half hour to offer his amendment, we are going to move on. If nobody is here, we are going to go to third reading.

When you have 100 prima donnas all thinking—each one of us—we are the most important Senator on Earth, you cannot accommodate each one and not have the delays that we do over and over again.

So if I could run this place, I would not be as nice and as compliant as our leaders have been. I may not be leader very long, either, if that were the case.

But on the other hand, I would suggest to those who are listening, what we need to do—if people have amendments, we are ready to consider those amendments; we are willing to debate them; and we are willing to accept the judgment of the Senate, whatever that is. But this Senator is not very tolerant of people stalling by not coming over and debating in the old-fashioned way.

It used to be, too, if a Senator really did want to delay, not by using the good graces of the majority and the minority leaders in accommodating his lunch schedule, or whatever it is, I have been on this floor when I have seen Senators debate for 10 or 12 hours. And if they sat down and quit talking, it was over. The two-speech rule was enforced in lots of things. So I hope that Senators will come over and do their business.

The chairman is right. Whatever the end result of this bill, it must be finished today. And I hope we will stay all night, if we have to, because what is ultimately at stake is the safety and soundness of the banking system of this country. And if you hear an edge in my voice, I am going to repeat this ad nauseum, and people are sick of it.

In October 1986, I stood out here, and I gave up my entire bill. I withdrew it, except for one title: Recapitalization, $15 million for FSLIC, the insurance fund of the S&L's, to be paid for entirely by the S&L's, not the taxpayers, every dime of it. No taxpayer involvement.

We passed it in the Senate; the House refused.

I begged, I begged for that to be passed. And what do we have? A $160 billion taxpayer bailout because Congress failed to act on that.

So I would suggest on November 20, 1991 that if we leave this session—I will put it the other way. We cannot leave this session without passing the recapitalization of the bank insurance fund which, once again, is not taxpayers' money. The banks will pay it back with increased premiums on their deposits.

I hope no one loses sight of this, of what fire we are playing with; that in 5 years down the road, if we do not do this before we leave this session, we are going to see a couple other Senators up here talking about another $160 or $200 billion of taxpayer bailout because Congress refused to act.

So I would suggest that everybody that has an amendment out there, bring it over. We will debate it. But let us finish this tonight, and do our responsibility to the taxpayers of this country to put some money in that bank insurance fund, or the FDIC, as we always used to call it. Let us take care of that responsibility with whatever meaningful reforms we can put in.

This is a good package. We ought to be able to put it for a vote right now. The chairman has worked hard. It is a good package.

We recognize there are difference of opinion. Again, I repeat: Fine, come away from your lunches or meetings. There is nothing more important in this body right now than making sure that that bank insurance fund is safe and sound, and has the money to do its business. That is the overriding responsibility. Let us get to it, and get it done before the day is over.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I wonder if I could ask the managers of the bill a question, and then I would like to comment for maybe 5 minutes on the substance of a couple of amendments that I had. May I ask the chairman and ranking member—I say to the chairman, he alluded to the fact that we have reached an agreement with reference to the Lampf decision which, in essence, takes away all the retroactive aspects of that decision but does not extend the statute of limitations. That agrument lives for another day. I think that is a reasonable resolution because, if we are going to extend the statutes of limitations, there are many who wanted to change some of the rules, the rule under which lawyers operate in that kind of suit. So I am willing to do that. I have done that. I told you I have done that. I just wonder, from my own standpoint, will that be offered by the managers as part of some package sometime today?

Mr. RIEGLE. Yes. As a matter of fact, shortly I will be sending a managers' amendment to the desk, which will contain that compromise the Senator from New Mexico has worked out with the Senator from Nevada. I might say that one very important part of that compromise is that it will protect and allow cases, major cases of investment fraud alleged, to be able to proceed and not be cut off by the statute of limitations in terms of cases already set in motion. And so it is very important that those cases be allowed to go forward, and the Senator's agreement on that would allow that and that would be part of it.

Mr. DOMENICI. As I have said two or three times on the floor, I never objected to that. What I wanted to debate in the Senate was should we extend the statute of limitations for the entire body of law? And there are some that think we should. There are some who think we should only if, and the ifs happen to be the amendments that I would have offered.

What I will do now is send to the desk, so everyone will know because this apparently generated a significant amount of activity in America—I do not know from whence it comes but apparently there are all kinds of interest in what this might do, I am going to submit four amendments to the desk. They will never be offered, but they are what I would have offered, and they will give everyone a chance in the next 3 or 4 months to take a look at them because, sooner or later, this issue will be revisited. I do not think there is any doubt about that. So let me send them to the desk with again no intention than they will ever be offered.

They will be the following: I have a combination amendment that puts together the joint and several liability reform with fee-splitting; and then I have a straight joint and several liability amendment; and then one on fee-splitting alone; and then one on what I call miscellaneous provisions. I send those to the desk and ask that they be made a part of the RECORD.

The PRESIDING OFFICER. The amendments will be received.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES UPON FINAL JUDGMENT.—In any implied private action arising under this title, brought on behalf of a class, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses under subsection (b) incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses under subsection (b) shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded under subsection (b) shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny the award if—

"(A) the prevailing party, during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from members of the class on whose behalf the action was brought prior to or at any time during such litigation. All such agreements between the counsel for the class and the class members shall be approved by the district court.

"(f) DISCOVERY MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstances make an award unjust.

"(g) AWARD OF FEES UPON DISMISSAL PRIOR TO TRIAL.—In any action brought on behalf of a class that alleges a violation of section 10(b) or 14 or the rules issued thereunder, where such action is dismissed prior to trial, the court shall order the nonprevailing party or that party's counsel to pay reasonable attorneys' fees and expenses incurred by any prevailing party if, upon motion to the court, the court finds that the plaintiff has failed to establish that, after reasonable investigation made prior to the commencement of the action, the plaintiff had reasonable grounds to believe and did believe that the action—

"(1) was well grounded in fact; and

"(2) was warranted based upon existing law or upon good faith arguments for the reasonable extension, modification, or reversal of existing law.

"(h) Fee Amounts.—The amounts of fees awarded under this section and the reasonable allocation of expenses among multiple parties shall be in the discretion of the court, based upon prevailing legal fees in the district, the prevailing party's legal and other bills, and the pleadings and proceedings in the case, provided that such fees and costs relating to representation at trial or deposition shall not be awarded for simultaneous representation of any 1 defendant by more than 1 attorney. The amount recovered shall not include any amounts separately awarded under Rule 11 of the Federal Rules of Civil Procedure.

"(i) Definitions.—

"(1) Fees and other expenses.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses.

"(2) Prevailing party.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

SEC. . PROPORTIONATE LIABILITY REFORM.

"( ) Liability.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection ( ). A separate judgment shall be rendered against each defendant for that amount.

"( ) Proportion of Responsibility.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"( ) Exception.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 13, strike "Except" and insert "(a) Limitations.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) Liability.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection (c). A separate judgment shall be rendered against each defendant for that amount.

"(c) Proportion of Responsibility.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"(d) Exception.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778, line 23, insert after the period the following: "Section 36(b) of the Securities Exchange Act of 1934, as added by subsection (a), shall become effective on the date of enactment of this Act and shall apply to all proceedings commenced on or after that date of enactment.".

On page 778, line 13, strike "Except" and insert "(a) In General.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) Award of Fees.—In any implied private action arising under this title, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party.

"(c) Application to Court.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) Court's Determination.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award if—

"(A) the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) Motions.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstance make an award unjust.

"(f) Liability of Counsel.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from clients prior to or at any time during such litigation. In the case of a class action, all such agreements between the counsel for the class and the class members shall be approved by the district court.

"(g) Definitions.—

"(1) Fees and other expenses.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnishes.

"(2) Prevailing party.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778 line 19 strike the quotation marks and the final period and insert between lines 19 and 20 the following:

SEC. .

( ) Recovery by Named Plaintiffs in Class Actions.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class.

( ) Prohibition on Conflicts of Interest.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the class may not be represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) Payment of Referral Fees.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, an attorney may not represent the class if the attorney has paid or is obligated to pay a fee to a third party who assisted him in obtaining the representation of any member of the class. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) Prohibition on Attorneys' Fees Paid From Commission Disgorgment Funds.—Funds disgorged as a result of any action brought by the Commission in federal court or of any Commission administrative action shall not be distributed as payment for attorney fees or expenses incurred by private parties seeking a share of the disgorged funds except as much court may order upon a motion of the Commission."

Mr. DOMENICI. Now, let me indicate my appreciation to the chairman and ranking member on another matter. I had an amendment that was essentially an economic amendment because, if you sit down with any Senators and start talking about the banking system in America, the first thing they say is the banks are not lending money, and then you meet with the bankers and the bankers say, well, we are having a lot of difficulty lending money because the regulators are on our backs. And then you come back here and ask the regulators, "Are you really doing that?" And they tell you, "Oh, not at all."

Well, I am sure either they are really doing it or it is perceived that they are doing it. But everyone agrees that it is much, much more difficult today to lend money on a home or for the purpose of a home because it takes very long to get the appraisals done. In some of our States, it is taking, instead of 10, 15 days, $200 or $300, it is taking 2 or 3 months and it is costing well over $1,000. And, if you get to commercial property, in many States it is taking weeks upon weeks to get the appraisal finished, and the fees are enormous.

Now, I do not deny professional appraisers their due. This amendment had nothing to do with trying to deny them their right to collect as professionals. What it has to do with is the economic fact that that is the big delay and the statistical truism that the threshold for causing certified appraisals is too low; $50,000 for a home is too low. And $50,000 for commercial property is too low. This changes that to $100,000 for homes, $250,000 for commercial, which means they will be appraised under that threshold, but the necessarily by certified appraisers.

This is a new kind of appraisal. And we are short of them in all our States. Every State is short of these because we are bringing ourselves up to speed. And we think the losses are very, very insignificant for sales under those thresholds. History reveals that, and current history reveals that. So we do not think using a different kind of appraiser is going to cause any harm to the banking system. On the other hand, it will move things out much more rapidly.

Likewise, on a home loan, when you want to add an improvement loan to it, currently, you have to go through an entire appraisal for a $20,000 improvement loan. Ridiculous. This makes some changes in that and indicates that some flexibility can be used there. So that if the equity is gigantic, you do not have to spend the money for a full appraisal. It will cause that kind of money to move out of banks more quickly.

There are a few other things in the amendment that will be adopted. And on that one I understand the managers will put that in their collective bill, and I thank them for it. I believe it will do some good. In fact, there are a number of Senators who know more than I about banking who indicate this will be a significant improvement if we can just put it into the law.

So I want to thank everyone for helping on that, and I yield the floor.

Mr. RIEGLE. I would like to say again, I thank the Senator from New Mexico for his diligent efforts over the last several days to work this issue out satisfactorily, and very particularly Senator BRYAN, from Nevada, who happens not to be on the floor. And Senator MCCONNELL was also involved in that.

Mr. DOMENICI. Will the chairman yield?

Mr. RIEGLE. Yes.

Mr. DOMENICI. I forgot to mention, and I do apologize, that Senator MITCH MCCONNELL has been very active in the area with reference to attorneys' fees and court costs, and he was a cosponsor of all of those amendments that I sent to the desk and clearly would have been my ally had we offered them. I am sure he is pleased that we resolved the issue by not extending the statute of limitations on 10(b) type of litigation.

Mr. RIEGLE. Very good.

I now have the amendment, the first managers amendment that I will send to the desk. I want to do that now, but I see the Senator from Missouri on his feet. Did he want to make a comment before I do that?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the chairman.

I just want to commend our colleague from New Mexico because, as we talk about all the things that we do to put additional burdens on the system, Senator DOMENICI has been a real leader in pointing out some of the things that we can do to lighten the burdens and help us encourage economic activity. There is a lot of work to be done in this area.

I thank the chairman and the ranking member for making the accommodations. There is much more that we have to do here, but I congratulate the Senator from New Mexico and assure him that I am willing to work with him in these areas in the future.

I express my appreciation again to the chairman for the time.

AMENDMENT NO. 1368

(Purpose: To strike certain portions of the committee amendment)

Mr. RIEGLE. Mr. President, let me now indicate what I am sending to the desk in the manner of the first agreed-to amendment by Senator GARN and myself. It is an amendment that will contain two of the three items that I previously discussed. The third involves some technical changes that are still being put in printed form. We will offer that just a little bit later.

The issue has been resolved. It is a matter of getting it prepared in a proper form so it can go to the desk, and that relates to the Lampf issue. So we will be sending that a little later to the desk but the issue is settled.

The two that I will now send up to the desk and offer in behalf of Senator GARN and myself will narrow the bill down in this respect.

We have agreed to drop title IV of the bill, which would restructure the Board of Directors of the FDIC, which contained the Federal Financial Institutions Coordination Council Act and which addressed the registration of bank securities. So that section will be now taken out of the bill and that is part of what is accomplished in the amendment I now send to the desk.

We also incorporated here the changes that had been worked out in the area of insurance, of interest to the Senator from Delaware and others. But the amendment we have developed and have sent to the desk modifies the provisions of the bill regarding insurance activities of banks. It modifies a provision adopted by the committee during markup that would prohibit a bank from selling insurance outside its chartering State unless specifically authorized by the statute laws of the target State.

As amended, this provision will not apply to bank subsidiaries. Senator DODD and Senator GRAMM of Texas contributed significantly to this compromise and I want to commend them for their efforts. A number of other Senators also, of course, have an interest in that.

I say again I know the Senator from Delaware does. I am sure he will speak to that at an appropriate point. The Riegle-Garn amendment that has been worked out on the Lampf issue, just the subject of the discussion with Senator DOMENICI, has been settled. It is being typed now in its final form. When it is ready to come to the desk it will likewise be sent forward as we have just done with the two I have just described. So those amendments are there.

Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1368.

Mr. RIEGLE. Mr. President, I ask further reading of the amendment be dispensed with.

Mr. ROTH. Mr. President, I object.

Mr. RIEGLE. I did not seek a unanimous-consent request. I just sent the amendment to the desk.

The PRESIDING OFFICER. The Chair's understanding was the unanimous consent was requested to call off reading. If consent was not obtained, the regular order is to read the amendment.

Mr. RIEGLE. Does the Senator need it all read or just the part on insurance?

Mr. ROTH. I would like it all read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

Beginning with page 396, line 1, strike all through the end of title IV of the committee amendment.

Beginning with page 669, line 7, strike all through page 676, line 17, and insert the following:

(b) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) SUBSIDIARIES OF NATIONAL BANKS.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) APPLICATION.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) DEFINITIONS.—

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) NO EFFECT ON BANK HOLDING COMPANY INSURANCE ACTIVITIES.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. _____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) NO SOLICITATION OF CERTAIN INSURANCE BEFORE PROVIDING LOAN COMMITMENTS.—

"(1) IN GENERAL.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) EXCEPTION FOR INSURANCE REQUIRED FOR CREDIT AGREEMENT.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) RESTRICTIONS ON USE OF NONPUBLIC CUSTOMER INFORMATION.—

"(1) IN GENERAL.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) EXCEPTION FOR CREDIT-RELATED INSURANCE.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) RECORDS OF CUSTOMER CONSENT.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) DEFINITIONS.—

"(A) CUSTOMER DEFINED.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) NONPUBLIC CUSTOMER INFORMATION DEFINED.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) IN GENERAL.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) TRANSITION RULE.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, as soon as Senator SPECTER arrives, we will interrupt just momentarily to take care of another matter. Senator FORD is here to object to a unanimous-consent request. Senator SPECTER will be here momentarily. I just wanted to first thank the—Senator SPECTER is here.

I will just take a minute to thank the managers for the progress they have made and indicate to anybody on this side who may have amendments, Senator GARN needs to know very quickly, and hopefully all those who have amendments will understand that if we are going to conclude this session before Thanksgiving, today we need to not only do this bill but the supplemental appropriations bill, which has about 30 amendments to it.

I know the managers are still trying to work out some of the amendments, even those amendments which are listed. That would be helpful, too.

So after the distinguished Senator from Pennsylvania makes his request, anything the leaders can do to help the managers, we are willing to do it.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

UNANIMOUS-CONSENT REQUEST

Mr. SPECTER. Mr. President, I thank the managers of the bill for permitting this very brief interruption. I thank my distinguished Republican leader, Senator DOLE, for working this out procedurally.

I am about to make a unanimous-consent request, Mr. President, which I anticipate an objection to. But I think it important to comment about it, albeit briefly.

This request is made on behalf of myself and Senator DOMENICI relating to legislation which we have introduced which would permit the withdrawal of IRA's up to $10,000 for middle-income Americans, the condition on those IRA's being used to purchase consumer goods.

We have at the present time some $450 billion in IRA's, and a considerable sum in 401(k) plans, where there is a total of about $800 billion involved. Those funds cannot be withdrawn until the taxpayers are 59½ without a considerable penalty.

The legislation which Senator DOMENICI and I have introduced, we think, would be realistically directed immediately to have a substantial stimulus in consumer purchasing power which could be significant in helping to take us out of the current economic recession, because if you put billions of dollars into the economy to purchase consumer goods, that could be a very, very significant step forward, with our proposal providing that $10,000 becomes available immediately, with the taxes paid over the next 4 years.

There had been an intention to put this on the unemployment compensation bill. That was not noted before the unemployment compensation bill was handled in a summary fashion in a wrapup yesterday which poses a procedural situation that unanimous consent is required in order to put this amendment on that bill.

The absence of putting the amendment on that bill is not necessarily fatal because there is another vehicle, the supplemental appropriations bill, where this amendment would be doable, but it is more in line on the unemployment compensation bill.

I would anticipate that the distinguished chairman of the Appropriations Committee would not like to have additional amendments on the supplemental appropriations bill. So I feel it is incumbent to make a maximum effort to put it on the unemployment compensation bill.

But this is not just a run-of-the-mill amendment, Mr. President. This is an amendment which would really be very material and a substantial stimulus to the economy, an issue which Senator DOMENICI and I have discussed with the Secretary of the Treasury, Nicholas Brady, the Chairman of the Federal Reserve, Alan Greenspan, the Chairman of the President's Economic Advisers, Michael Boskin, and also the President's Chief of Staff, Governor Sununu, with a great deal of interest being shown in it, although no commitments as of this point.

With that preliminary statement for 3 minutes, I know what the result is going to be, but I do formally, Mr. President, ask unanimous consent that the Senate action disagreeing to the House amendment to H.R. 1724 requesting a conference on the disagreeing votes of the two Houses and appointing conferees on the part of the Senate be vitiated in order to allow Senator DOMENICI and myself to make a motion to concur in the House amendment with an amendment dealing with the issue of withdrawal of IRA's as I have heretofore described.

Before I pause to hear the objection, I just want to say that I will take this up on the floor with the distinguished chairman of the Finance Committee, Senator BENTSEN, later today. He cannot be here until 4 o'clock. But he wanted to proceed at this time. When the objection is made, the bill can proceed through the process to be signed at the earliest possible date.

With that, I thank my colleagues, and do formally make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, reserving the right to object, I will object, the Senator has a good amendment. But we are talking about $5.6 billion going to those who will have no money at all, and it will go immediately. What we would do is delay this piece of legislation for some time. How long, I do not know, nor do I know whether it would be acceptable by the House, or whether the conference will accept it. It really does not belong on this bill. It belongs on the finance bill, supplemental appropriations bill, whatever.

Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I thank my colleague from Kentucky for his comments. It is a worthwhile amendment. Whatever specific language he used, is it not in the affirmative. And I do want to say for the Record that I do not intend to hold up the unemployment compensation bill.

We passed two bills last Friday. One bill has been signed and is in effect so that the payments are being made. Pennsylvania does not get the benefit from the second bill and I know that Kentucky and other States do. I respect and agree with the intent of the second bill in expanding those benefits. But this amendment, I submit, will not hold up in any way any checks going to anybody who is unemployed because Kentucky, for example, gets 6 weeks under the legislation which has been signed. This would be handled in much shorter than 6 weeks so that the additional weeks up to 13 could be effectuated.

But I understand what my distinguished colleague from Kentucky has to say and I respect his right to make the objection. We will purse it on the supplemental appropriation.

Mr. FORD. Mr. President, there is no guarantee that this amendment will be accepted. There is no reason to believe that it could not hold this unemployment extension bill. So without some kind of guarantee that this would fly on through, then we will be here after Thanksgiving, because I am not going to leave here until that bill is passed and my people are taken care of.

So I think there is more than just a good amendment here. There is the possibility of delaying the implementation of this legislation and delaying the ability of Congress to sine die. So there is more here than meets the eye.

I yield the floor.

The PRESIDING OFFICER. The Chair reminds Senators that the pending business is amendment 1368 proposed by the Senator from Michigan and the Senator from Utah.

Mr. SPECTER. Mr. President, I do not disagree with what the distinguished Senator from Kentucky has said. It may be that we would have to be here beyond Thanksgiving. I have made the call for the session to go beyond Thanksgiving and into December to deal with the problems under this session.

I thank the Chair. I thank my colleagues for permitting me to interrupt.

The PRESIDING OFFICER. Who seeks recognition? Is there additional debate on the pending amendment? If not, the question occurs on amendment 1368.

Mr. ROTH. Parliamentary inquiry. What amendment?

The PRESIDING OFFICER. The Chair would remind the Senator that the pending amendment is amendment 1368 which was read in its entirety offered by the Senator from Michigan and the Senator from Utah. Is there additional debate?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. ROTH].

Mr. ROTH. Mr. President, I am deeply concerned about what this amendment does in the area of insurance. Frankly, the provisions discriminate against the State of Delaware. I might point out that I was just standing here a week ago at which time I was forced to object to a unanimous consent request because of an agreement that had been reached in private on the extension of unemployment benefits.

And as I said at that time, those provisions were unfair; they were unfair to my State of Delaware, and they were unfair in their discrimination against 17 other States, as well.

My concern here today with the so-called management proposal is that, once again, this provision discriminates against my State, and in fact does not accomplish what the original purpose of this reform legislation was.

Mr. President, when the administration submitted its proposal on bank reform, those reforms were to include a number of provisions that would strengthen our banking system. It would strengthen our banking system by enabling them to be involved and engaged in a number of activities which are not currently available to them.

It was thought that, by giving these additional powers, it would not only promote discrimination in a number of activities, including securities and insurance, but it would also enable the banks to attract further capital for their business, which would enable those financial institutions to be strengthened. It is no secret that many of these institutions have difficulty at the current time.

Unfortunately, as the legislation developed, the so-called reform became deform. Rather than strengthening and broadening the authority of our banking institutions to enter new areas of activity, it would, under the present proposal, in effect, moved backward. There were a number of dissents about this legislation as it emerged from our committee just because of that situation.

I point out that the distinguished ranking member of the committee, in a statement of his own, pointed that out. He noted that "the insurance provisions are diametrically opposite from the security provisions." At that time, the legislation included securities as an area of power for the banking institutions. But it pointed out that "whereas the securities provisions are pro-competitive," as I point out, in the bill reported out by the committee, "the insurance provisions seek to restrain competition by restricting banks' ability to compete. As reported, the bill will overturn actions taken by bank regulators and State legislatures to enable banks to enter the insurance business. Attempts to overturn actions by State legislatures are particularly troublesome, given the fact that the State legislatures were presumably acting to reflect the wishes of their constituents. If consumers of insurance products express through State legislatures a desire for more competition in the insurance industry, and/or a desire for the convenience of one-stop shopping for financial services, why should the Federal Government say no?"

At that time, as I said, the insurance provisions were deeply disturbing to me, as well as to the junior Senator from Texas, who wrote, in a separate opinion on page 249, that:

> An even more egregious example of the balkanization of our national economy is contained in the insurance provisions of the bill. Here we find barriers to interstate commerce based not only on where a business may have its headquarters, but also on who owns the business.
>
> Currently, all insurance companies conduct their business in each State under the same set of rules. Under this bill, that would all change if an insurance company were acquired by a bank. While the competitors could operate freely across State lines, an insurance company owned by a bank could do so only with the explicit approval of the legislature of each State where it wished to market its product.
>
> This has nothing to do with the sale of insurance by banks, which I do not support. This is a limitation that would apply to the sale of insurance through traditional channels, an unfair limitation based upon nothing more than the ownership of the company.

Mr. President, I noted in my separate opinion in the committee report that:

> The economy is failing, in no small part, because of the credit crunch. Banks are not extending credit because of capital shortages. Capital is short because banking is not currently profitable. Banking is not profitable because of the effect of antiquated banking laws, under which the former bank customers were free to go to other providers of banking services, while potential customers of new banking products in securities and insurance have been effectively shut out.
>
> The administration forwarded to Congress a true reform package to increase the profitability of banks by opening doors to securities and insurance customers.
>
> However, in various committee actions in both the House and Senate, the financial competitors of the banks have used the opportunity for reform to further close the doors on competition. That is why what was once heralded as reform is now denounced as retreat.
>
> The most glaring example of this reversal is in the area of insurance. Whereas the Administration bill would have federally authorized banks to have insurance powers, S. 543 not only strikes such federal authorization but turns tail and federally restricts any State authorization. Since the Committee action violates our two-hundred-year commitment to a national economic union, since the very purposes of the Committee action is to stop competition in insurance for reasons totally unrelated to banking policy, and since the Committee action, regressive as it is for all America, specifically discriminates against my State of Delaware, I respectfully dissent from reporting this legislation.
>
> Try as it may to provide a rational policy explanation for the Committee's action, the majority report fails. This is understandable because the insurance lobby took the Committee by storm and dictated the terms of surrender. This is why the majority report embarrassingly justifies the insurance lobby's position by asserting that there is already enough competition in insurance, as if it were common practice for Congress to monitor levels of competition, lest they rise too high, and whenever they do, statutorily cut them off.

As I stated before in my statement:

> * * * there are three major problems. First, the committee's action violates one of the paramount principles governing our country——

Mr. GARN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. Yes; I am happy to yield to my distinguished colleague.

Mr. GARN. I thank the Senator from Delaware.

I ask unanimous consent that this not be counted in the two-speech rule, so that I can enter a quorum call and the Senator's rights to continue to debate this issue would be protected.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 335, H.R. 3371, a bill to control and prevent crime; that all after the enacting clause be stricken and the text of S. 1241 as passed by the Senate on July 11, 1991, be inserted in lieu thereof; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate insist upon its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 3371) was passed.

The Presiding Officer appointed Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. DECONCINI, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues. This culminates approximately 3½ weeks of disagreement on proceeding to the conference. I regret that it took that long and that there remain only a few days prior to the time when we hope to adjourn for this session of Congress. But I hope that the chairman and ranking member and the other conferees will now do everything possible to attempt to reach agreement in conference on a bill so that we can act on a conference report prior to the time that we adjourn for this year.

This is a very important measure. I know that there are no two people in the Senate who have worked longer and harder in trying to make this bill into law than Senators BIDEN and THURMOND. And I know they are committed to that objective.

I thank my colleagues for permitting us to proceed at this point, later than we hoped. But nonetheless we wish better late than never and hopefully still in time that there be action on the bill.

Senator DOLE and I have presented to Senators BIDEN and THURMOND repeatedly over the past couple of years very difficult challenges, and they have risen to meet every challenge. This poses, perhaps, the most difficult of all. But we ask their best effort, and I know we will receive that.

I would like now to yield to the distinguished Republican leader.

Mr. DOLE. Let me indicate this is a very important bill, and there are very important differences, and I want to indicate that before the conference starts. There are very important measures that passed by one or two votes in the Senate. We hope the Senate provisions would be sustained when it comes to habeas corpus and some of the other provisions.

I commend my colleagues from South Carolina, Senator THURMOND, because some will say, "Well, does it make any difference on the conference numbers?" It certainly does make a difference, because these are very, very controversial provisions, and one vote in the conference could make a difference.

But I think we have done the best we could. We are not the majority party. We are working on that, but we are not there now.

I thank the distinguished Senator from South Carolina and the Senator from Delaware for their cooperation last evening. We had a good session. I also want to thank the distinguished Senator from Idaho [Mr. SYMMS], who also has some very strong reservations on a number of the gun provisions in this bill. This morning he authorized me to, in effect, lift his hold on this proceeding and I want to thank him for that; and also the other Senator from Idaho [Mr. CRAIG].

So we are going to start the process now. I thank everyone, the majority leader and others. I think it is something we should do as quickly as we can, knowing that there are very, very sticky issues to be resolved in the conference and it could take awhile.

I am still very optimistic about leaving here tomorrow evening. So I wish Senator THURMOND and Senator BIDEN luck.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Delaware.

Mr. BIDEN. Mr. President, Senator THURMOND and I—I am sure I can speak for him on this one point—are overwhelmed by the vote of confidence our colleagues have placed in us. I think we both would have preferred that vote of confidence next year, maybe passed us.

But let me just say this: No. 1, I respect Senator SYMMS' tenacity. I respect the fact that he said from the outset that he had no intention of wanting to see this bill passed.

The minority leader pointed out that there were some very close votes on the Senate floor, and it is the hope that we will protect all those close votes. Well, the assault weapon bill passed by a couple votes in this bill. Half of the conferees on both sides are against it.

The habeas corpus provision in the Senate passed by a couple of votes here. Half the conferees on both sides are against it. The exclusionary rule provision, which I happen to like, passed only by a couple votes over here if my recollection serves me correctly.

All of them are at odds with one another. The very people who do not support guns support the habeas provision in the Senate, and so on. So it is a very complicated matrix out there. I promise the Senate that I will do, along with the ranking member, all we can to produce a conference report.

Without criticizing anyone, just let me say this: Here we are on Thursday before we go out, with the weekend facing us, attempting to bring back what I think everyone in this body understands is one of the most controversial, complicated pieces of legislation we are going to deliver.

We will do our best. No one has a greater interest in seeing a tough crime bill than the Senator from South Carolina and myself. It is the Biden-Thurmond crime bill. We have a great interest in producing it. I just want to make it clear that the fact we are starting on Thursday afternoon instead of 3 weeks ago increases the degree of difficulty.

If I could say to the majority leader, who is standing here, I know what an athlete he was. I do not know whether he ever dove competitively. But in diving, what you do is, when you dive, you get one score for the degree of perfection with which you complete the dive. You get another score for the degree of difficulty of the dive. If you do a jackknife and you get a perfect 10, it is multiplied by 1. If you do a triple gainer with a full twist, and you do it with a perfect score, you multiply it by three.

I respectfully suggest starting Thursday by doing a triple gainer with a full twist. I cannot promise perfection. All I can promise is all the effort that I can possibly bring, I will bring to this. And I am optimistic. As a friend of mine who is in the medical profession once said, I am a congenital optimist. I think we can get it done, but I do not want anyone to be under any illusion.

Mr. MITCHELL. Mr. President, I thank my colleague from Delaware for his comments. I am satisfied that the best effort of the Senator from Delaware represents the best effort of which the Senate is capable. I believe we are going to get, and hope we will get, a bill.

I must state that these conferees are in the numbers and in the ratio that Senator BIDEN requested 3½ weeks ago. We could have been in conference 3½ weeks ago. But we are starting late. Better late than never. We hope we get the job done. I regret the delay, but we will now proceed to do the best we can.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we did not get the ratio that we should have. We did the best we could. We are in favor of a strong crime bill, and I worked to that end. Unless we get a strong crime bill there is no sense to have any bill. We are going to be handicapped with the ratio from the Senate. We will do the best we can.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, the pending business is the banking bill?

The PRESIDING OFFICER. The pending business before the Senate now is the Riegle-Garn amendment to the banking bill.

Mr. DECONCINI. Mr. President, I wonder if I can have 5 minutes to make remarks on another subject matter?

Mr. KASTEN. If the Senator would yield just for a moment, I was instructed—both the managers are here now—my understanding is we are in the process of trying to work out an agreement on a question the Senator from Delaware had. The sense of the managers was they wanted to deal with that. I was instructed to try to keep us in a quorum call, but I will yield now to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Arizona has been recognized.

Mr. GARN. Will the Senator from Arizona yield?

Mr. DECONCINI. Without losing the floor I will be glad to yield, Mr. President.

Mr. GARN. How long does the Senator request?

Mr. DECONCINI. Five minutes, six minutes at most.

Mr. GARN. I have no objection as long as we maintain the status quo to protect the rights of the Senator from Delaware, as previously requested in the unanimous-consent agreement.

Mr. DECONCINI. I ask unanimous consent with the approval of the ranking member and approval of the manager of the bill that I can proceed on another subject matter for not to exceed 6 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2004 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I know we have pending the managers' amendment. Senator ROTH had been speaking. He is agreeable to my moving forward now to send to the desk the amendment that we have worked out on the Lampf issue with Senator DOMENICI and Senator BRYAN which is acceptable to us. Senator ROTH has kindly consented to set his position without losing his right to the floor when we finish this item which is going to be presented now.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

AMENDMENT NO. 1369

(Purpose: To replace certain portions of the committee amendment)

Mr. RIEGLE. Mr. President, with the pending amendment set aside, I send the Lampf compromise to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 1369.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 778, line 9, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (included any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

Mr. RIEGLE. Mr. President, let me briefly explain what this will do.

This provides protection of investors from securities fraud which is critical to maintaining confidence in and the liquidity of the securities markets. The most important antifraud protection available to investors is the implied right of action under section 10(b) of the Securities Exchange Act. Testifying before the Banking Committee on October 2 of this year, SEC Chairman Breeden noted that "private actions perform a critical role in preserving the integrity of our securities markets and in protecting a system of respect for the law."

On June 20 of this year, the United States Supreme Court in Lampf versus Gilbertson, shortened this statute of limitations significantly. In its 5-to-4 decision, the Court applied this statute of limitations to cases currently pending, even though those cases were timely when they were filed and even on the day prior to the Court's decision.

Lampf's shorter period does not allow individual investors adequate time to discover and pursue violations of securities laws. The SEC has stated that the Court's decision in Lampf "imposes an overly stringent time limit on investors who often are the victims of fraudulent activity that has been deliberately concealed from them." Testifying before the Banking Committee on July 25, 1991, SEC Chairman Breeden stated "the time frame set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigation."

To ensure that securities markets are fair and attract individual investors, the Banking Committee unanimously adopted at markup a provision originally introduced by Senator BRYAN that extends the time period for victims of securities fraud to bring suit. The legislation also restores certain lawsuits that have been dismissed as a result of the Supreme Court's decision. In a letter to Senator BRYAN, SEC Chairman Richard Breeden stated that he strongly supports adoption of this bill in part because "[a]doption of these measures would give private litigants a more realistic time frame in which to discover that they have been defrauded, while also accommodating legitimate interests in providing finality to business transactions and avoiding stale claims."

I strongly supported the Bryan amendment during the Banking Committee markup, and I strongly support it today.

As part of a compromise that Senator DOMENICI and I spoke about earlier today however, I have sent to the desk an amendment to the provisions in the bill dealing with Lampf.

Since the Lampf case will result in dismissal of cases that were timely prior to that decision, we simply cannot drop the Bryan amendment and return to it next session. We must take steps to protect those investors who had cases pending prior to that decision. This amendment allows these cases to go forward by applying that limitations period that existed on the day before Lampf.

While I support this compromise, I expect the Banking Committee will again consider extending the limitations period in the next session of Congress.

This Bryan bill will protect investors by providing them with sufficient time to discover and fight violations of the securities laws.

Let me just say now, with that item having been sent to the desk, we now have the three items that were in the managers' amendment this morning sent to the desk. I think we may be very close to resolving an outstanding difference on the insurance issue, and we will know that. There are discussions occurring now here on the floor on that matter. A great effort has been made to resolve that. We should know that within just a matter of a few minutes, hopefully even moments.

If we can get that issue settled, I want to move immediately then to the issue of the Senator from Florida, who is on the floor. I appreciate his coming over at this time because we are under tremendous pressure to finish this bill as early as possible today because other legislation is waiting the disposition of this bill.

May I inquire of the Senator from Florida, pending the resolution of this matter, if we can, in a moment which of the two amendments he intends to offer first?

Mr. GRAHAM. Mr. President, it is my intention to offer first the amendment to limit the funding of the FDIC.

Mr. RIEGLE. As we discussed last night, we had agreed, as my notes reflect, that we would take 45 minutes on that, 30 minutes for the Senator from Florida and 15 for the Senator from Michigan. Is that acceptable?

Mr. GRAHAM. We talked about several different timeframes, but those numbers are acceptable.

Mr. RIEGLE. Very good. I appreciate that. I am wondering, without his amendment up right now, if the Senator would be in a position to maybe make some initial comments on what he intends to do with that amendment. I am told that we are within maybe 2, 3, 4 minutes of being able to resolve this other issue and so, if it would not be inconvenient to the Senator from Florida, he might want to start his discussion and then be prepared to suspend in a moment if we can handle this other item of business.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Florida.

Mr. RIEGLE. I ask unanimous consent that we temporarily set aside the pending matter so that the Senator from Florida might be recognized to begin his comments.

The PRESIDING OFFICER. Is there objection to setting aside the other pending matters before the Senate? If not, the Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

In this truncated initial statement as to my amendment, let me use this as an opportunity to set the context for the policy which my amendment will place before the Senate.

We are about to start a practice with the Federal Deposit Insurance Corporation which is going to be eerily reminiscent of the policy that we have followed over the last several years as it relates to the savings and loan bailout. That deja vu has several forms. One, it has the form we are going to hear that this is not a taxpayers' bailout, that in fact the full cost of the FDIC replenishment will be paid by the industry itself.

Mr. President, those of you who have been here longer than I will recall that those were exactly the statements made, in fact made as recently as 1988, about the savings and loan bailout: It was not going to be at the charge of the taxpayer; that it would be fully paid by the industry.

The second context is the similarity of the structure of the payments. Essentially, as with the savings and loan bailout, the proposed payments will be in two components. The first component is what could be referred to as the loss funds. Those are the funds that are going to be committed to pay off the difference essentially between the amount of the insured deposits and the assets of the failed institutions. It is estimated that those will amount to $25 billion.

The way in which the $25 billion will be raised will be by borrowing from the Treasury and then a repayment of those borrowings over time through a special assessment of the FDIC premium of the participating institutions.

The second component is $45 billion. That is the so-called working capital fund. The working capital fund is intended to be available to finance the assets that will be held by FDIC pending their sale. The working capital fund is not expected under this plan to impose any permanent obligation on the U.S. Government in that those working capital dollars will eventually be recovered through the sale of assets.

We have had, Mr. President, a recent experience with the savings and loan circumstances and with the Resolution Trust Corporation of how this process will work. That has not been a happy experience. It has been characterized by consistently underestimating the real cost of the bailout, as witnessed by the fact that in a few hours or days we are going to be requested to make another substantial commitment to paying the cost of the bailout of the RTC.

The RTC has also been characterized by great public distress as to how it has managed its assets. Assets have continued to accumulate. While there has been some improvement in the last few months, for a long period of time the RTC was ballooning in terms of the assets which it held. Those large asset holdings constituted a major shift of private assets to the public sector and an overhang of what was left of the private real estate market to its detriment.

There was very little incentive within the RTC to want to move its assets expeditiously. In fact, there were a number of counterincentives. One of those was just typically bureaucratic. Every time you sold assets, you put your job in jeopardy, because when the RTC completes the disposition of all of its assets the some 5,000, more or less, people who are employed will have nothing to work about and their positions could conceivably be rendered as unnecessary, redundant, and terminated. That is something which causes a great disincentive to moving the assets.

But there is even a more subtle disincentive, Mr. President. That is the fact that as long as those assets are not sold, they are carried on the books of the RTC at their original book value, that is, the value which they moved from the institution that was held in conservatorship to the RTC in its receivership capacity. There is great suspicion, and in fact the actual results of the sale of those assets which have been made confirm that suspicion, that the values placed on those assets in receivership are substantially overstated, which is to say that if the RTC is carrying on its books, let us say, $70 billion of assets, and in fact those assets have a market value of $50 billion, at some point there is going to have to be another $20 billion recognition of the cost of this whole enterprise.

That is another disincentive to sell the assets, to have to recognize the fact that you have been carrying them at an unrealistic value and then come back to Congress yet again for another increment of the cost of the bailout.

That is, Mr. President, in summary, most of the context in which my amendment is going to be offered. There is one other context that disturbs me, and that is the fact we do not have very good financial data from the FDIC which surprises me. The FDIC as an institution has been around a long time. It has only been recently it has had anywhere near its current level of activity. But I think we would have the right to expect some better, more periodic financial statements than we have. Therefore, Mr. President, I am going to be properly subject to some questions as to the specifics of my proposal to which I will state now I am inadequate to fully respond.

My defense is that nobody else could fully respond to them either, because we are using financial information which is, in some cases, as much as a year out of date. We are using it because that happens to be the best and the latest financial information which is available.

With that context, Mr. President, in light of the fact that negotiations seem to still be proceeding on, I will move to a more specific description of the amendment which I intend to offer.

As I indicated, the basic proposal is to grant to FDIC $25 billion to pay what I would call the loss fund, the difference between what depositors' insured accounts equal, and what the value of the assets in the institution are.

The second $45 billion is the working capital fund. Those are the funds that will be used to pay off the depositors and to hold the assets that have been created, or that have been taken over from the failed institution, which will eventually be sold. Theoretically, since the assets are supposed to represent fair market value, the full amount will be recovered, and therefore the full amount of the $45 billion of working capital will be repaid from the sale of those assets.

The amendment which I offer will do this: It would say that of that $25 billion—that is, the loss fund—that $10 billion would be immediately available to the FDIC. That would give the FDIC the funds that are necessary to meet its pressing, immediate requirement to replenish the fund, and be able to respond to cases that would come in the immediate future.

But for the second $15 billion, the FDIC would be required to first commence the sale of some of those up to $45 billion in assets that it has. And it would be only on a dollar-for-dollar basis of sales of assets, the draw down dollars from that remaining $15 billion of loss funds.

The principle here is one that would apply to any debtor in distress; that is, the first thing that you are expected to do is to liquidate assets that have a value before you go to your creditors and ask for more money.

If I could use an example that we might relate to of a debtor, of a child in college. Suppose you had a child who was in college, had a car, had a stereo set, and had other things. What he did not have was very good grades. At the end of the semester, when the parents got a copy of the grades, they concluded that maybe their son or daughter needed some greater sense of discipline and inspiration to study hard. One of the ways of doing that is henceforth, the monthly check that was going to the child in college would be reduced or terminated until the child demonstrated a greater intensity of application to his or her studies.

One of the things the parent might suggest to that child is: You can cover your expenses by selling that car and selling that stereo set, and using those proceeds to live on. That might not only help you eat, but will help you do better academically.

That rough analogy is what we are suggesting with this amendment. That is that the FDIC, before it comes back here for additional dollars—in fact, before it can draw down the full amount of the $25 billion that we are being asked to make available to it today—that first it has to turn its attention to disposing of this massive and growing amount of assets that it currently holds.

What do I think will be the benefits of this amendment? I think it would attack two of the disincentives which the RTC has so dramatically indicated are in place to frustrate the sale of assets. It would require that there be a regular assessment of what the real value of these assets were, as opposed to the book value carried, based on some earlier appraisal; and second, it would contribute to a removal of any bureaucratic institutionalization of this FDIC asset management function because it would be forcing the agency to constantly be selling these assets as a precondition to be able to draw down general Treasury resources.

I think that would make a substantial contribution to avoiding a repetition of the negative impact which the large volume of formally private, now public, assets held at the RTC have had on our general economy.

Mr. President, in summary, that is the amendment that I intend to offer. I think it is a very important amendment.

We are about to be asked in the context of this overall banking reform bill to do something that no Congress in the history of this Nation has done in such a short period of time; that is, to provide $70 billion of public funds, albeit with the representation that it is going to be paid off without there ultimately being a charge against the taxpayers, a claim that we all hope will prove to be correct, but which recent history with the savings and loan industry gives us at least some pause for skepticism.

We are also going to be asked in the next few days or hours to provide up to $80 billion for the Resolution Trust Corporation so that it can continue its bailout of the savings and loan industry. That is a total of $150 billion.

Mr. President, think of all the things in the State of Alabama that you could do with $150 billion to enhance the quality of life of the citizens of your State, or of any State in the Union. You are about to be asked to make $150 billion available to bail out and pay off the depositors of failed commercial banks, and savings and loans.

I think that the amendment that I have offered is an appropriate requirement and incentive to proper management of this process, and an incentive to returning the assets back into the private sector.

MODIFICATION TO AMENDMENT 1368

Mr. RIEGLE. Mr. President, will the Senator yield at that point for a moment? I would like to send a correction to the bill, an adjustment to the bill, that reflects the compromise discussions on insurance that will amend the managers' amendment in the insurance section on page 18.

So I am going to send a substitute page 18 to the desk. It contains only one change, and that is the effective date, which has been penciled in. I ask the clerk to take note of that.

I ask now that that amendment to our amendment be made.

The PRESIDING OFFICER. If there is no objection, amendment 1368 is so modified.

The modification to amendment No. 1368 is as follows:

On page 18, line 7, strike "July 15," and insert in lieu there of "November 21,".

Mr. ROTH. Mr. President, will the distinguished manager yield for a question?

Mr. RIEGLE. Yes.

Mr. ROTH. Can he tell me what date is being substituted?

Mr. RIEGLE. Let me have the clerk read the new date per the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 18, line 7, strike "July 15," and insert in lieu thereof "November 21,".

Mr. ROTH. I thank the Senator.

Mr. RIEGLE. I thank the Senator for this help on this.

Mr. President, I now ask that we move to approve the managers' amendment.

Mr. GRAHAM. Mr. President, will the chairman yield?

Mr. President, for the benefit of us who have not been involved in the negotiations, can we get a summary of what the impact of the modified managers' amendment, as it relates to the insurance issue, is?

Mr. GARN. Mr. President, the current modification is nothing more than a change of date: July 15, until today. That is the only change we made in what was submitted before.

Mr. GRAHAM. Could the Senator give us a summary, with that changing date, as to what is the position in the managers' amendment relative to insurance, and how does that differ from the insurance provision as it was reported by the committee?

Mr. GARN. Well, if I can quickly explain, basically, it was a disagreement over the ability of certain institutions to underwrite insurance, and the final disposition of this would be that, in the State of Delaware, the institutions that are currently doing this could continue underwriting, but only in the State of Delaware.

Mr. GRAHAM. What would the original bill, as reported by the Senate committee, have done to the capacity of an institution in Delaware to underwrite in Delaware?

Mr. GARN. It would have prohibited them from underwriting, even in Delaware.

Mr. GRAHAM. The amendment does not affect the sale of insurance or any other aspect; it is restricted to changes in the underwriting capability of an institution within its own State; is that correct?

Mr. GARN. It is my understanding that there is no change in the sale provisions that were in the original managers' amendment that we introduced last week.

Mr. GRAHAM. Are there any differences in the sale of insurance in the managers' amendment as distinct from the bill as reported by the committee?

Mr. GARN. Yes. Those modifications were made last week when Senator DODD and Senator GRAMM and others came to an agreement, and we presented those last Thursday. Those are different than the original bill. There is no difference in the managers' amendment today, other than what I outlined from what was contained on sales last week.

Mr. RIEGLE. Mr. President, I urge adoption of each of the amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 1368, as modified.

The amendment (No. 1368), as modified, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, having settled those issues, I now want to return to the amendment of the Senator from Florida. I am wondering, how much time does the Senator feel he will need to have, beyond the time that he has had an opportunity to take so far, in order to complete his presentation on this amendment?

Mr. GRAHAM. Mr. President, I have almost completed my presentation. I do not know if anyone else will wish to speak as a proponent of this amendment. So I think 20 minutes on this side would be adequate at this point.

Mr. RIEGLE. Twenty minutes for the Senator from Florida?

Mr. GRAHAM. Yes.

Mr. RIEGLE. I think 5 minutes for myself would be adequate here. If the Senator is in agreement, and that is acceptable to the Senator from Utah, I am going to ask unanimous consent that we enter into a time agreement for 25 minutes on the Graham amendment, which is now under discussion, to be divided 20 minutes for the Senator from Florida and 5 minutes to the Senator from Michigan, with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The pending amendment is amendment No. 1369.

Mr. RIEGLE. Mr. President, I am told that the Senator's amendment has not gone to the desk yet, and it probably ought to at some point. The unanimous-consent request is in order, nevertheless, and I take it that it has been agreed to.

The PRESIDING OFFICER. There was no objection, and it was so ordered.

Is it the intention of the managers to lay aside amendment 1369?

Mr. RIEGLE. Yes. I ask unanimous consent that that amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am told that the time will not start running until the Senator sends his amendment to the desk.

AMENDMENT NO. 1371

(Purpose: To limit the funding for the FDIC)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1371.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following:

SEC. . TERMS OF ADDITIONAL FUNDING.

(a) DIRECT FUNDING.—

(1) IN GENERAL.—Of the $25,000,000,000 authorized for losses by other provisions of this Act, the Secretary of the Treasury shall make available to the Federal Deposit Insurance Corporation $10,000,000,000 from funds not otherwise appropriated.

(2) LIMITATION.—No sums described in paragraph (1) may be obligated after November 30, 1992.

(b) ADDITIONAL MATCHING FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall make the remaining funds authorized for losses by the other provisions of this Act available to the Federal Deposit Insurance Corporation, from funds not otherwise appropriated, in an amount equal to the amount of cash dividends the Federal Deposit Insurance Corporation receives after September 30, 1991, from receivership estates under its control, that were established on or before September 30, 1991.

(2) LIMITATION.—The matching funds appropriated by paragraph (1) may not exceed $15,000,000,000.

Mr. GRAHAM. Mr. President, just briefly, based on the description of the amendment that I made prior to offering it, this amendment deals with the $25 billion of lost funds that are contained in this bill. It splits that into two components: A $10 billion component, which will be immediately available to FDIC, and a $15 billion component, which will be available as the FDIC begins to sell down its current volume and anticipated increase in volume of assets. As of the latest report from the FDIC, it was holding approximately $40 billion of assets already acquired from failed banks and is estimating a substantial increase in that inventory of assets as additional banks come under FDIC jurisdiction.

The proposal is to provide a strong incentive to avoid with FDIC what we have just experienced with the Resolution Trust Corporation, a tendency toward making the corporation permanent, a forcing of a truer valuation on assets that are being held, a strong inducement to return these assets to the private sector, and a movement from the current public ownership, and to, hopefully, reduce the ultimate costs or to facilitate accomplishment of the objective of this plan, which is to have no cost to the American taxpayer.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, the Lampf amendment I mentioned earlier and sent to the desk needs to be acted upon as part of the managers' amendment. So I ask that, for a moment, the Graham amendment be set aside long enough to have the Lampf amendment presented to the Senate. I urge that we now agree to that.

The PRESIDING OFFICER. The question is on agreeing to amendment 1369.

The amendment (No. 1369) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Let me comment briefly on the Senator's amendment. I do so with great respect to the Senator from Florida, who has worked very hard on all aspects of this legislation and has expressed concern in this area, going back now for many years. So I have great respect for the strength of his feeling on this issue.

The Graham amendment would initially limit borrowing by the BIF to cover losses of $10 billion instead of $25 billion provided by the committee's bill and requested by the administration. The other $15 billion would be available on a dollar-for-dollar basis to the extent the BIF is able to sell receivership assets it held on September 30. On the 30th of September, the BIF held receivership assets with an original book value of $30 billion. These assets represent the dregs of past resolutions of failed banks. The FDIC expects that the BIF will only recover half of the original book value of those assets, or $15 billion. So to get access to the full $25 billion of lost funds provided by the bill, FDIC will have to sell every receivership asset currently on its books.

The BIF may need that money within the next 2 years. I think that is faster than they can be expected to reasonably sell all of these assets. If they can, fine, but there is no assurance of that. If not, the FDIC is left with two bad choices, either delay shutting down failed banks or to dump assets at a price that really, I think, would be unwise and might make some problems in those markets worse.

The potential delays in providing lost funds to the FDIC under the Graham amendment may have the effect of helping to keep insolvent institutions open longer and potentially delay the cleanup and, in turn, might increase the bank insurance funds' losses.

I fully understand that his concern is about forcing a rapid and efficient effort to dispose of RTC assets or, in this case, BIF fund assets, repossessed assets. I agree with him 100 percent on that issue. My concern is that I am not sure we can do it effectively by means of a set formula that is locked into a timeframe that we have no way of knowing will be workable.

S. 543 takes dramatic and important steps to ensure that failing institutions are not kept open by bank regulators because our painful experience is that that raises costs. That is certainly not the Senator from Florida's intent. But if his amendment is adopted and the FDIC is not able to sell assets rapidly enough to meet their need for loss funds, the bank regulators must either leave failing banks open or close them—and delay payment on the Government's obligation to depositors until the funds are provided. I express these concerns about the amendment with all due respect to the goal the Senator seeks which is precisely the goal I seek.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Florida is a very valuable member of the Senate Banking Committee, and what he is attempting to do is commendable. There are a lot of assets out there and it would certainly reduce the cost to the taxpayer if those assets could be sold.

He is also trying to protect and make sure that these borrowings of $5 billion are paid back. Certainly, I or the chairman cannot disagree with that.

What I am worried about is, this would require the FDIC to dump assets and would increase bank insurance fund losses, which is just the opposite of what the Senator intends. The potential delays in providing lost funds to the FDIC under the Graham amendment would only serve to keep insolvent institutions open longer, delay the cleanup, and increase the bank insurance fund's losses. It may reverse this policy and force the regulator to forbear. All of us who went through forbearance, keep those institutions open in 1980's, know that that only increased the cost to the taxpayers.

I believe the required dumping of assets under the Graham amendment may inappropriately impact market prices as well. We already have a depressed real estate market in this country. We have a severe economic slump going on. We need recovery, and one of the basic places we have to have it is in real estate if we are going to produce jobs. And so I really think this would delay economic recovery and in very many critical areas of the country in real estate.

So while I applaud the objectives of the Senator from Florida, I cannot support his amendment because I think of the unintended consequences it would have not only to the RTC but to the real estate markets as well.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

The Senator from Florida has 18 minutes remaining.

Mr. GRAHAM. Mr. President, the walls here are beginning to reverberate with the sounds of past debates. We are about to start down a path that we have been before. The question that we have to ask is are we prepared to accept those same representations and move down that same path, as if we were walking it for the first time? Or are we going to be more cautious? Are we going to be maybe somewhat more skeptical? Are we going to take protections that we did not take before?

As I indicated, I have serious question as to whether the premise of this financing, which is that it will not require taxpayer funds, will in fact prove to be reality.

As recently as late 1988, we were getting the exact same representations relative to the S&L fund. On August 2, 1988, Under Secretary of the Treasury Gould testified before the Senate Banking Committee and he said this:

> In closing, I urge this committee in the strongest terms to resist mounting pleas for an unnecessary budget-busting bailout of the Federal Savings and Loan Insurance Corporation. In my view there is enough money to continue down the path the Federal savings and loan insurance fund is presently on.

On October 5, 1988, the chairman of the Federal savings and loan insurance fund made this statement before the Senate Budget Committee:

> We believe we have the resources if we are permitted to continue as we are.

Those were representations made on the precipice of the greatest collapse in the American financial system's history by two of the most informed, most advantaged to have full access to the facts individuals in America, the Under Secretary of the Treasury and the chairman of the Federal savings and loan insurance fund, that they had enough money within the fund in order to be able to meet its obligations.

Clearly, they were wrong and the American public is about to pay an additional $80 billion to underscore their error. Yet, today we are being asked to accept that there will be enough money in the fund with the industry making the payments to fully pay back the $70 million that we are about to authorize.

I am very skeptical. My skepticism is enhanced by the statement that the chairman just made which is, first, that the FDIC fund has $30 billion in assets. That is not what their latest financial report indicated. Their latest financial report indicated that it had $29.2 billion in the Department of Liquidation and an additional $10.8 billion managed by assisted institutions, or a total of approximately $40 billion in assets.

But, second, the further representation that whether it is $40 billion or $30 billion it is substantially less than that because the real values are not what the paper values are.

Mr. President, that is exactly the path that we have gone down with RTC. We have put on the books values that were under water. And one of the reasons that we kept them on the books, one of the reasons that there has been such reticence to sell those assets, is that when you sell them there is no way to continue to fudge the book. You have a property that you say is worth $1 million, but nobody will pay you more than $600,000. It is worth $600,000. At that point you have to recognize that you carried $400,000 on paper of phantom assets.

The chairman has just indicated that we may be carrying half of the assets in FDIC as phantom assets. Do we really want to go down that path again? How many times, Mr. President, do we have to trod that path of illusion, of deception and of egregious cost to the American taxpayer?

My amendment is a modest one. It says we are going to give to the FDIC $10 billion immediately. So if the chairman is correct, they will now have assets of $30 billion on their books, plus an additional $10 billion, or $40 billion. According to the FDIC's numbers that have been given to us it is actually $50 billion.

(Mr. DODD assumed the chair.)

Mr. GRAHAM. If there is $15 billion of water in that $50 billion, then they have either the $35 billion which their own books would indicate that they have in real value, or $25 billion if their books are as the chairman states them to be. I do not know what the real books are because they are so late and inadequate. Another reason, in my opinion, Mr. President, to approach this whole issue with a great deal of caution and concern.

So my modest amendment would say, we will give them $10 billion immediately but the next $15 billion of loss funds will only come on a dollar-for-dollar basis as they begin to dispose of those assets.

The Senator from Utah has made the argument that was made 3 or 4 years ago, that we do not want to force this agency to have to sell these assets. That is an argument that sounds as if it would be more appropriate to a legislative body in Moscow than one in Washington. They are reluctant to move assets from the public sector back into private hands.

I would not think that this bastion of capitalism would be a place in which we would be reticent to adopt a principle that the management of these assets is going to be better over time in private hands than in public hands, and our own recent experience of the deterioration in value and the high costs that have been imposed and the enormous bureaucracy that has developed as long as we keep these assets in public hands.

Mr. President, I believe that this amendment, in my opinion, is the necessary prerequisite for us to consider appropriating $70 billion of taxpayer funds for the refinancing of the FDIC. I do not know how we can face the American taxpayers, with the bill that we already imposed on them for the savings and loans—a bill that is about to get $80 billion higher—and say, and we are coming again now to the FDIC for commercial banks using the same worn out discredited script that we used for the savings and loans.

I urge the adoption of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I will move to table the amendment. I am wondering if we could agree to have the vote at 1:45? There is a bill signing down at the White House that a number of Senators are attending. I am going to ask unanimous consent, if that is agreeable with the Senator from Florida, that we set the vote for the amendment at 1:45. Would that be agreeable to him?

Mr. GRAHAM. Yes.

Mr. RIEGLE. That will be on the motion to table at that time.

Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. I ask further then by unanimous consent that that vote occur at 1:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. I might inquire of the Senator from Florida, who is still on the floor, would the Senator from Florida be prepared to take his second amendment up immediately upon the disposition of the vote on the amendment at 1:45?

Mr. GRAHAM. I believe we will be able to do so. There will be other Senators participating in the debate on this issue and I am checking their schedules to see if they will be available at that time. I believe we will be ready to go at 1:45.

Mr. RIEGLE. I might also say, if the Senator wanted to begin any part of that, the time between now and 1:45 would also be available for that purpose if that would be workable for him. I do not suggest that he disadvantage himself in terms of how he wants to proceed. But let me let him think about that.

I know the Senator from Ohio was here a moment ago, too, and I think he has some questions that he wants to pose to us. This would be a good time to do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, prior to the Senator from Michigan, the manager of the bill, going forward with his unanimous-consent request, I wonder if he would be good enough to yield for some questions from the Senate from Ohio?

Mr. RIEGLE. Yes, I am pleased to yield to the Senator from Ohio.

Mr. METZENBAUM. As the Senator from Michigan knows, I have been concerned about whether the banks will be required to pay back the $70 billion loan. I offered language to ensure that part of the money would be paid back through the sale of assets of failed institutions. And then, if that is not enough, the rest of the money would come from assessments on the banks. Is that language in the bill?

Mr. RIEGLE. Let me assure the Senator from Ohio that language is in the bill, and it is contained in the managers' amendment. It is a useful addition.

Mr. METZENBAUM. I appreciate that, and I appreciate the action of the comanagers in seeing to it, because I think it is important that the people of the country know that $70 billion is to be repaid by the banks.

I am a strong proponent and coauthor of legislation to give law enforcement officials the tools they need to combat money laundering in our financial institutions. Is that language also included?

Mr. RIEGLE. Yes, it is.

Mr. METZENBAUM. I thank the Senator from Michigan.

I understand that there will be language in the bill that I had previously offered prohibiting a bank from opening a branch solely for the purpose of draining deposits out of a community. Is that correct?

Mr. RIEGLE. Yes, it is.

Mr. METZENBAUM. Is it also true that there is language in the bill protecting retirement benefits of State and local government employees in the event that a bank in which they have their retirement savings fails? I have sponsored legislation to that effect last year.

Mr. RIEGLE. Yes, that is in the bill.

Mr. METZENBAUM. I am very pleased to hear that.

While I am very disappointed that the Government check-cashing and basic banking language did not prevail at this point, I understand that the final bill does include other provisions that we, the manager and I had fought for this week. For instance I am referring to the provision requiring banks to disclose yields and fees on deposit accounts and those provisions which strengthen the tools to combat mortgage discrimination. Am I correct that these measures remain in the unanimous-consent agreement and will be in the bill?

Mr. RIEGLE. The Senator is correct.

Mr. METZENBAUM. Mr. President, I want to say to the manager that I am pleased that these provisions are in the bill. I had hoped that there would be stronger language with respect to certain consumer provisions. The Senate has acted on that subject. I thing they erred, but I certainly recognize the will of the Senate. I do appreciate the consideration and cooperation of the Senator from Michigan in seeing to it that some of these other provisions are in the bill. It is a pleasure to work with him.

Mr. RIEGLE. I thank the Senator from Ohio. It is always a pleasure to work with him, as well.

If I might direct a question to the Senator from Florida [Mr. GRAHAM]. I do not know if we have yet structured a time agreement officially on the second amendment that he intends to offer. When we talked last evening, my notes indicate we were talking in terms of perhaps an hour's time, divided 45 minutes for the Senator from Florida, 15 minutes for the Senator from Michigan. I am wondering if that would be a time acceptable or would he prefer a different amount of time?

I might just say to the Senator, we are under terrific pressure from the majority leader to try to conclude the bill. So I want to try to balance that pressure on the one hand with the need for the Senator to have the time he needs.

Mr. GRAHAM. Senator, if we had 45 minutes to present our amendment, I believe that would be adequate.

Mr. RIEGLE. Very good.

I then ask unanimous consent that a time agreement be entered into with respect to the Graham amendment on broker deposits, to be divided, 45 minutes for the Senator from Florida under his control and 15 minutes under my control, and with no amendments in the second degree to be eligible.

The PRESIDING OFFICER. Is there objection? without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am wondering, does the Senator prefer to wait and start after the vote?

Mr. GRAHAM. Yes; I prefer to wait until the other Senators who are going to be participating are here.

Mr. RIEGLE. Very good. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to speak as in morning business for a period of time not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS

Mr. METZENBAUM. Mr. President, I rise to express my dismay at the latest in a long series of attempts by President Bush to cater to the radical right wing of his party on civil rights issues. I refer, of course, to reports published this morning that the President planned to sign the historic civil rights bill today while at the same time seeking to eliminate the use of all affirmative action programs that have been in existence for decades in the public and private sectors. The President's announced intentions are an outrageously cynical effort to undermine the clear mandate of the 1991 Civil Rights Act.

Earlier this month, Congress passed a bill reinstating the disparate impact standard set forth two decades ago by the Supreme Court in the Griggs case. The bill provides that employment practices which disproportionately exclude women or minorities are unlawful, unless employers prove both that these practices are "job related for the position in question" and that they are "consistent with business necessity." The bill explicitly states as its purpose to restore the concepts of "job-related" and "business necessity" that were enunciated by the Supreme Court in Griggs and other decisions prior to Wards Cove. The bill also states expressly that it is preserving the lawfulness of voluntary affirmative action programs.

President Bush has spent 2 years fighting the spirit and letter of this legislation. By repeatedly failing to recognize the distinction between unlawful use of quotas and lawful use of affirmative action, he has polarized the electorate on the race issue. By repeatedly insisting that employers should be allowed to require that all workers have high school diplomas, even where there is no basis for concluding that such diplomas are job-related, he has displayed his hostility to Griggs itself; Griggs was a case involving education requirements irrelevant to the jobs in question. Having finally agreed to sign the civil rights measure, he and his White House advisers are still scurrying about trying to undermine its clear purpose. And now, by suggesting that he can abolish affirmative action with the stroke of a pen, he is seeking to accomplish through his Executive powers what Congress clearly rejected in the legislative process.

I understand the White House issued a press release this morning announcing it was changing the statement circulated yesterday, after some administration officials raised objections. The American people should not be fooled. The President may have backed off today, because it might ruin today's photo opportunity. But keep watching. And watch carefully. You will see the White House attempt to undermine the civil rights consensus reached by Congress some time soon, if not this week, perhaps next week, or next month, or early next year. The President may denounce David Duke the man, but he also must renounce the policies David Duke promotes in the civil rights area. This trial balloon did not fly. But there will be others. And I hope the American people will be watching.

Mr. DODD. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ECONOMY

Mr. DODD. Mr. President, as late as yesterday, according to news accounts—the administration continued to suggest that the recession is over.

I wish it were so, Mr. President. For too long the administration has grabbed on to every statistic they could possibly get their hands on, trying to give some false hope to families across this country. When the GNP rose by 2.4 percent in the last quarter, they said the recession was over. But if you ask most families in this country whether the economy has improved at all in the last several months, they would give you a resounding no.

The latest housing start figures are, no doubt, a positive sign. This good news, however, is no excuse for the absence of an economic program on the part of the administration. The Bush administration has done little to stimulate the economy for middle-income families. In my view they have merely allowed this recession to run its course and when the statistics are good, through no effort on their part, they proclaim an end to the hard times.

Unfortunately, the news is not good for most persons. Housing starts may be up, but affordability is down.

The President says that it is a good time to buy a home. I am sure it is if you happen to be among the wealthiest people in the United States. God help you if you are a middle-income family with one income having been lost in the last several months, as is the case for millions of people in this country. For them, the idea of purchasing a new home is just totally out of the question.

Why is this so? Frankly, because millions of Americans are out of work, as we all know, and businesses continue to close their doors.

I do not believe we have done enough to end this recession. Our legislative efforts have been derailed at almost every turn with vetoes and an absence of Presidential leadership on pressing domestic matters. Except for the unemployment bill, we have little else to show for this session in the way of economic reform.

(Mr. REID assumed the chair.)

Mr. DODD. Mr. President, the extension of unemployment benefits is only one important but small part of the solution. In fact, the unemployment bill is evidence of the fact that we have not done anything. The unemployment benefits are merely an effort to provide relief for people who are out of work.

What we need to be doing is talking about an economic program to make it possible to put people back to work, not talking about what sort of extension of benefits we will be able to provide them when they are trying to make ends meet.

What families in my State, and I think in most parts of the country, want most are jobs and a strong economy. They are only going to get that if we start putting our shoulder to the wheel and come up with some creative, innovative ideas that will get this economy moving forward.

It is to understate the case to say that people are still hurting. Thousands of workers continue to lose their jobs each and every month. Unemployed and underemployed families are without health insurance, and over 60,000 long-term unemployed in my State have had a painful wait for extended benefits.

Mr. President, I believe we owe it to the American people to roll up our sleeves and adopt an economic policy that will work regardless of how long that may take. That is what we are elected to do. That is our job. That is what we should be doing as Members of the U.S. Senate.

Mr. President, I am not saying that my colleagues should miss their Thanksgiving dinner or the holiday recess that is approaching, but I certainly, for one, would like to suggest that we stay and try to come up with a economic program that may work. Instead of just talking about unemployment benefits and their extension, we might talk about a program that will actually provide some jobs for people in this country to get the economy moving.

It seems to me we need to pass a highway bill, and if we fail to act on this measure, my own State of Connecticut could lose as many as 3,000 jobs in the coming weeks. I am told over 100,000 jobs could be lost nationwide.

I believe that we ought to finish this banking legislation which is before us, and I believe and hope we will do it in the next day or so. We need to extend the 12 tax credits that are due to expire next month. And we must, in my view, restore fairness to our tax system and adopt tax policies that will encourage economic growth.

Why is tax reform necessary, Mr. President? The economic decisions made during the last decade created a great deal of wealth for some, and obviously a huge pricetag for the many. Today, middle-income families have to foot the bill and, frankly, they just cannot afford it.

Ten years ago, middle-income families were told that they would benefit from lower taxes of the most affluent of our land and increased Federal spending, the so-called trickle-down theory, as it was proposed. They were also led to believe that Reaganomics would provide long-term economic growth and stability for our country.

Mr. President, what really happened during that period of time is, of course, now obvious. Part of the prophecy was correct. Presidents Reagan and Bush kept their campaign promises to the top 1 percent of the most affluent in our country; the very wealthy enjoyed tax cuts of up to 15 percent and watched their incomes increase by as much as 110 percent during the past 10 years. But, Mr. President, somebody had to pay for that 15-percent tax break for the wealthy. And I might suggest that anyone in this Chamber and across this country could tell you what the answer to that question is. If you suspect that it was the average working man and woman in this country, then you are absolutely correct. Most saw their income stagnate as taxes went up.

Middle-income Americans ended up paying more taxes and watched their real after-tax wages drop while prices on basic necessities in life went through the ceiling.

What else happened? Reaganomics promised that the tax breaks would encourage investment and economic growth in this Nation. Did it create jobs? Certainly some were created. But where are those jobs today? The policies of the 1980's encouraged investment and paper profits, not real profits. They encouraged shortsighted planning, not sound investments in our future.

Mr. President, the economic decisions of the 1980's took shape in the Tax Reform Acts of 1981 and 1986. I am proud to say that I voted against both of those measures and was in a small minority in this Chamber in doing so.

Those measures mortgaged the future of the middle class in this country to give the most affluent in this Nation the tax breaks that they so desperately wanted. I believed then that the passage of those bills would result in reckless deficits, and it did.

The 1980 Tax Act, which was not paid for 10 years ago, is being paid for today. On its own, it was responsible for a drop in Federal revenues of $264 billion in 1988, $291 billion in 1989, and more than $320 billion in 1990.

Because of the deficit spending that resulted from lost revenues, middle-income families are paying more in taxes today and getting far less in return. Fortunately, there appears to be a growing consensus that we need to reverse the trends of the 1980's and once again place this Nation on sound economic ground.

Mr. President, the hour is getting late for economic reform. But as late as the hour is, it is not too late. The American people are experiencing one of the worst and most complicated recessions since World War II. They are tired of hearing politicians say that the recession will be short or, as the administration said, it will be short and shallow, or that the recession is over, or that we cannot afford to make the kind of investments that are needed to jump start the economy.

In my own State of Connecticut, Mr. President, more jobs have been lost in the last 2 years than in any previous recession since the end of World War II, and the unemployment rate continues to rise; 96,000 people in a State of 3.5 million have lost their jobs in the last 12 to 18 months.

Connecticut also ranks among the top 10 States with the highest number of long-term unemployed who have exhausted their unemployment benefits. We have the highest combined rate of personal and business bankruptcies of any State in the country. Business failures for the first half of 1991 are up 220 percent for the same period in 1990.

Mr. President, there is little doubt in the minds of working people in my State and other regions across this country that the recession continues to ravage the economy, and they hold little hope that the end is in sight. For this reason, we desperately need, in my view, basic, fundamental economic reform, and we cannot wait until sometime next year or sometime after the next Presidential election.

In my view, we need to restore fairness to our tax system and provide much needed relief to middle-income families. We can do this by bringing back Senator MOYNIHAN'S proposal to lower payroll taxes for employees and small businesses alike, or we could lower taxes for people who fall in that middle-income range.

When I first introduced my own tax reform bill this spring, I proposed that we could restore equity and fairness to our tax system by shifting some of the tax burden away from the middle income by asking the financially most secure in our country to pay a small bit more. The measure provides for higher personal exemptions for taxpayers in the 15-percent and 28-percent tax brackets.

Unlike other proposals under consideration, Mr. President, this measure would target tax relief to all working Americans in these two lower tax brackets. For low- and middle-income families with children under the age of 5, I also would provide a tax credit of $800.

Unlike the 1981 Tax Act, this legislation would pay for the changes to offset lost revenues. My proposal would raise taxes on the most affluent in our society, the very people who have enjoyed Federal tax cuts of up to 15 percent during the last decade.

Mr. President, the emergency of Senator BENTSEN's tax reform proposal, which I have cosponsored, is one more sign, I believe, that Congress intends to give economic reform serious consideration. I strongly support Senator BENTSEN's efforts to give these families a break. I do, however, believe that all middle-income workers deserve a break, even those with grown children or no children at all. I look forward to working with him and other members of the Finance Committee to achieve this.

Senator BENTSEN would pay for his tax reform bill, as most of my colleagues know, with further cuts in the defense budget. In our changing world, some downsizing of our defense structure is appropriate and necessary. Those cuts, however, must be prudent, with an eye toward the remaining instabilities that exist in our world.

We must also keep in mind the direct impact of cuts on those who work in the defense industry, people I have called the veterans of the cold war. They have served this Nation well and deserve to be treated with dignity.

In addition to providing tax relief to families, of course, we must also restore policies that help to bolster economic growth. Economic reform would not be complete without incentives for long-term investment and planning and job creation. I believe that we can do this by adopting the venture capital bill of Senator BUMPERS of Arkansas, that would encourage long-term equity investments in smaller businesses. Or, as I discussed earlier, we could extend the housing, education, and R&D tax credits, which are due to expire on December 31 of this year.

Part of any economic growth plan should provide assistance to States and cities that today are bearing a larger responsibility for the cost of domestic programs. For this reason, I joined Senator BAUCUS earlier this year as a principal cosponsor of a measure to lower the cost of issuing bonds for our cities and States. Lower bond costs would enable cities and States to better respond to infrastructure needs, roads and bridge repairs, the renovation and construction of schools, highways, and prisons. It is my hope my colleagues will agree that this measure should be a part of our economic recovery package.

These are only a few examples of the proposals I think we should consider this fall; not wait, and put off until next year, or 1993. Economic reform should be our single top priority in this country, and we should not let the President's lack of leadership get in our way of moving forward. The American people need to see that we are not going to give up this fight; and tax relief, relieving some of the burdens of some businesses is absolutely essential if we are going to jump start this economy.

For that reason, Mr. President, I urge, rather than taking the break we would all like to have this coming fall, that we stay here and do some of this work, and send a message to the American people that unlike the President, who seems to believe there is no recession, at least those in Congress understand it.

We may not come up with all the answers, but it is vitally important we not pack our bags and go home at the very hour this country is in one of its most desperate economic conditions in the last 40 years.

And so, Mr. President, I urge we stay here and do some of this work, try at least to advance some of these ideas, and see if we cannot make a difference in getting this country moving again.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hear my colleague from Connecticut, and I echo those concerns. I would love to see us stay and do something to help the economy. I do not think we are going to help it if we are going to be pointing fingers. There is enough of it to go around.

Some of us wanted to pass an energy bill this year, and we did not even have the courtesy to proceed to the bill that could have provided something like 750,000 jobs in the United States. We did not pass it.

The Senate passed a highway bill months ago, 7 or 8 months ago. We passed a highway bill. We are still waiting on it. The House would not even take it up. We are talking about thousands of jobs in my State, jobs that we need, contracts that will not be let unless we pass the bill.

The PRESIDING OFFICER. Under a previous order, the question now occurs on——

Mr. NICKLES. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I think it is vitally important that we not just be pointing partisan guns but we really do work to make some positive strides toward helping the economy, maybe through tax changes but also through passing a highway bill, through making some significant changes that need to be done and not just pointing partisan fingers at the President of the United States.

The PRESIDING OFFICER (Mr. DODD). Does the Senator yield back the remainder of his time?

Mr. NICKLES. I yield back the remainder of my time.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the amendment of the bill.

AMENDMENT NO. 1371

The PRESIDING OFFICER. The hour of 1:45 having arrived, the question is on agreeing to the motion to table the amendment of the Senator from Florida.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The result was announced—yeas 77, nays 19, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—77

Akaka
Baucus
Biden
Bond
Boren
Breaux
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—19

Adams
Bingaman
Bradley
Brown
Bryan
Bumpers
Conrad
DeConcini
Fowler
Graham
Hollings
Nunn
Pryor
Reid
Robb
Sasser
Shelby
Simon
Wellstone

NOT VOTING—4

Bentsen
Harkin
Kassebaum
Kerrey

So the motion to table the amendment (No. 1371) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Michigan.

Mr. RIEGLE. Mr. President, by previous agreement the Senator from Florida has offered and agreed to go next with his brokered deposits amendment. I would hope he could be recognized for that purpose.

The PRESIDING OFFICER. Without objection the pending amendment is laid aside and the Senator from Florida is recognized.

AMENDMENT NO. 1372

(Purpose: To prohibit the insurance of brokered deposits under the Federal Deposit Insurance Act)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1372.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 212, line 6, strike all through page 217, line 4, and insert the following:

SEC. 211. PROHIBITION ON INSURANCE OF BROKERED DEPOSITS.

Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) by striking subsections (a) through (e) and insert the following:

"(a) PROHIBITION ON INSURANCE.—Notwithstanding any other provision of law, deposits obtained, directly or indirectly, by or through a deposit broker are not insured deposits under this Act.";

(2) by redesignating subsection (f) as subsection (b); and

(3) by striking subsection (g).

Mr. GRAHAM. Mr. President, this amendment goes to why we are largely here today. While this bill is a bill that contains bank reform measures, the engine that has brought us to our current destination has been the collapse of the bank insurance fund. The reason for most of the concern about bank reform is in order to create an economic environment, climate, financial regulation, financial opportunities which will make the banking system more secure, but the engine has been the collapse of the bank insurance fund.

The reasons for that collapse are multiple. The one that I believe we have inadequately focused upon is the fact that what we are purporting to do semantically and historically is not, in fact, what the reality of our current deposit insurance system is.

Semantically we refer to this as a deposit insurance system. The word "insurance" carries with it certain inferences and certain accepted characteristics. One of those is that there is a transfer of risk, that persons have the risk that they may die, that their house may burn down, or that the bank in which they may deposit their money could go bankrupt. So you pay a premium which is calculated to be the economic value of that risk and you transfer that risk to a third party.

In this instance the risk of our deposit being not there when you go to the bank is transferred to the Federal Government, to the FDIC, by a premium being paid. In this instance the premium is being paid by the bank itself.

Another concept of insurance is risk. Some people are 25 years old, some people are 85 years old. Obviously the price of an equal dollar amount of life insurance is going to be different from those two people because they impose different risks of when they will actually be eligible or their heirs to draw upon that life insurance policy.

In neither of those two fundamental characteristics of insurance is the FDIC fund appropriate.

First, the amounts of premiums paid are not commensurate with the risks that are being assumed in aggregate and there is no differentiation between the riskiest and the most conservatively operated institution.

The Securities and Exchange Commission, Mr. President, has this year released a study on March 28 estimating the value of the Federal deposit insurance fund. To read from the summary of the report:

> The current premium for deposit insurance, which at that time was 19.5 bases points, is much lower than the estimate of what the real cost of providing that insurance coverage would be under the methodologies which were utilized by the economists at the Securities and Exchange Commission.

The study provides evidence that deposit insurance is on average significantly underpriced, thus representing a large contingent liability for the Federal Government.

Mr. President, we are about to find some of that contingent liability because it has moved from contingent to real. That is why we are about to be asked to appropriate $70 billion to replenish the bank insurance fund and will soon thereafter be asked to appropriate $80 billion as the latest installment for the failed savings and loan fund.

The study goes on to estimate that during the 1980's this underpricing averaged, averaged $20 billion annually. That means every year the FDIC collected $20 billion less than it should have collected if it were operating an actuarially sound insurance program.

Second, there is no risk. Every institution pays exactly the same premium, a tremendous incentive as we particularly saw in the savings and loan industry for high-flier operators. It was the greatest of worlds. If a transaction that was risky turned out to be profitable, the profits were privatized by the owners of the institution. If that same transaction proved out to be a dud, it was socialized. The taxpayer paid the cost of failure. So we have had a Federal deposit insurance system which fails to meet two of the basic standards of an insurance program.

Historically, deposit insurance was one of the many innovations of the New Deal, and its purpose was to provide a safe haven for small investors, a place where American families could put their money and be secure that it would be available to them in the future, that they would not have to undertake the individual responsibility to assess the worthiness of a depository institution which was insured by the Federal Government.

That was a very important part of creating the economic recovery from the Great Depression of the 1930's.

Mr. President, we have gone a long way from that historical beginning. We now are insuring deposits of up to $100,000. With any degree of creativity, an individual can have almost an unlimited number of those $100,000 deposits. At one institution, a family—husband, wife, two children—can have a dozen or more accounts each insured up to $100,000. And then, of course, if you have more than that $1.2 million that you want to have insured, you can go to the next institution and repeat the process.

So, virtually, there is no limit as to how much a person can place within a depository institution and have fully insured by the Federal Government. That, Mr. President, I submit was not the rationale that led to the establishment of federally insured deposits.

But beyond that, Mr. President, the focus of the amendment that we are going to offer goes to another and increasingly significant part of the expansion of the Federal Government's vulnerability, and that is brokered deposits. Brokered deposits are where an individual goes to, generally, a securities institution, and says, "I have $50,000 to invest. I want to invest it at the best return I can get, but I want to invest it also with a high degree of security."

And so the securities firm finds that there is an institution, federally insured, which is paying the highest interest rates available—generally rates that are above those in the local community in which the individual happens to live.

He says, "I will place your $50,000 in a federally insured deposit and you will see this rate of interest higher than you can get at a federally insured institution in your community."

We saw this system run completely amok in the 1980's where the institutions that nationally were paying the highest interest rates were those that were in the greatest trouble. They would be like the 85- or 95-year-old man who was able to buy life insurance at the same rate as the 25-year-old man, contributing very substantially to the failure of many of those institutions and the enormous costs that are now imposed upon the American taxpayer.

This bill makes some important reforms. It would limit brokered deposits to those commercial banks which fall into the top two categories of capital adequacy. And I will state that that is a substantial improvement and reduces significantly the prospect of the taxpayers having to pick up that enormous cost for failures from these institutions as a result of brokered deposits.

But, Mr. President, I believe we should go further. I believe that we should not prohibit brokered deposits but provide that those deposits will not be federally insured. If a person wants to go into their local securities office and find where in the Nation they can place their funds at the highest rate of return, they should have the responsibility to also assess the quality of that institution, this financial worthiness. They should not rely upon the Federal insurance system to eliminate from them that necessity at self-protection. And the U.S. taxpayers should not be putting their subsidized deposit insurance behind those accounts.

I think this is an appropriate amendment. At the very minimum, we ought to require that brokered deposits pay the actuarial cost of that insurance. I would ask anyone to defend the proposition of why the American taxpayers, at what may be a subsidy rate of equal to the amount of premiums paid, why we should be subsidizing the insurance behind brokered deposits. What is the public policy that justifies that position?

So, Mr. President, the amendment which I offered would say that brokered deposits can continue, but brokered deposits will no longer be insured by the Federal Government.

Brokered deposits have been one of the most expanding areas of deposits within our system. The Federal Reserve has provided these figures as a percentage of total assets represented by brokered deposits in commercial banks. In 1984, the first year for which statistics were kept, brokered deposits represented 0.147 percent of the total assets. By the first quarter of 1991, it increased approximately sevenfold to 1.036 percent.

So we have had a tremendous growth in brokered deposits, both absolutely and as a proportion of the asset base of insured institutions.

Mr. President, I do not believe that there is a legitimate public policy to continue to provide subsidized Federal deposit insurance behind brokered deposits. The adoption of this amendment would terminate that process.

I thank the Chair.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield to the Senator from Maryland such time as he requires.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, how much time remains?

The PRESIDING OFFICER. Sixteen minutes.

Mr. SARBANES. Would the Chair indicate when 5 minutes has been used?

The PRESIDING OFFICER. Yes.

Mr. SARBANES. Mr. President, I rise in strong support of the amendment offered by Senator GRAHAM of Florida, and I want to commend Senator GRAHAM for a very perceptive and analytical statement about this issue of providing deposit insurance for brokered deposits.

In fact, when this legislation, when the chairman's committee print was first put forward in the Banking Committee, it contained a simple prohibition on extending taxpayer-backed deposit insurance to brokered deposits. It had a provision that was substantially identical to a major deposit insurance reform proposal put forward by the Treasury which had made the judgment that this was a desirable thing to do in terms of strengthening the deposit insurance system.

Unfortunately, it was modified in the committee in significant ways to now permit brokered deposits under certain conditions. But it is my own view that the limitations are, in a sense, vague and expandable and that the problem, the basic problem, connected with brokered deposits would continue to exist, at least to a significant degree.

Now we are about to put $70 billion into the bank insurance fund, some direct and some to be drawn upon. And if there is anything that ought to be done as part and parcel of that, it is to strengthen the deposit insurance system. That, in the end, ought to be the principal purpose of this legislation.

Now, I know that the banks are not directly analogous to the S&L's, but we have to learn some history and draw at least what lessons are appropriate. One of the leading causes of the savings and loan collapse was the practice of failing S&L's of paying higher interest rates in order to attract brokered deposits from around the country. These brokered deposits can flow into an institution very quickly. We have had testimony where institutions have unraveled in a very short period of time. So you may set up, as the provision in the bill does, capital standards that you think assure you that you are getting institutions that have a lot of strength and all of a sudden it can just erode very quickly. And, of course, it is under the pressure of that erosion that the institution seeks to maximize its use of brokered deposits in order to bring in new money, in order to try to carry them over, over the difficult period.

We had testimony in the committee on the Bank of New England, that even if you applied that standard in this bill, they would have qualified to draw brokered deposits. Yet within a few months they were in very deep trouble indeed.

Since these deposits are insured by the Federal Government, all of the risk associated with the deposit is assumed by the taxpayer. That has to be clearly understood. When people go into Merrill Lynch for a brokered deposit, there is no financial judgment being exercised here. They run a computer to see who is paying the highest rate and they run a computer to make sure the client has not exhausted or partly used up his $100,000 coverage on an account in that institution. Then they locate the high rate and they just shift the money out there.

They never even have to stop to look as to whether the institution to whom the money is being sent is a safe, sound, prudent institution, because the deposit insurance is going to take care of that problem.

We had the President of the Independent Bankers Association who testified before the committee in April of 1990:

> One of the lessons from the thrift crisis is their ability to gather deposits through brokered deposits and increase the size of the institution and the funds they had available very rapidly without additional capital and, quite frankly, without additional management. Then, to take these funds out and invest them in what turned out to be very risky matters, is certainly a lesson America has to learn and look at.

In the hearings before the committee on this legislation, which reviewed the problems of commercial banks and the deposit insurance system, we had some highly respected witnesses testify in opposition to deposit insurance coverage for brokered deposits in commercial banks, the very thing the able Senator from Florida is addressing in his amendment.

Under Secretary of the Treasury Glauber testified before the committee on the Treasury's proposals for deposit insurance reform.

In his testimony Mr. Glauber stated:

> We think insurance coverage behind brokered deposits goes beyond the original intent of deposit insurance.

That is a point which the able Senator from Florida just made in his exceedingly fine statement when he made reference to the purpose of deposit insurance.

Mr. Glauber went on:

> We would eliminate it in our bill. We would just simply say that brokered deposits should not be covered by deposit insurance.

In May of this year Paul Volcker testified before the committee, supporting the Treasury proposal. He said:

> Brokered deposits seem to me to be a way of, in a sense, distorting the purpose of the $100,000 limit, which is to protect a rather sizable deposit for unsophisticated people.

Let me repeat that:

> which is to protect a rather sizable deposit—

And it is sizable—

> for unsophisticated people.
>
> You are now making a machine for collecting funds wholesale, so to speak, and distributing it in a way to take advantage of the insurance system.

That is exactly what this brokered deposit system does.

The advocates for permitting deposit insurance coverage for brokered deposits argue that the risk of abuse is worth the benefit of permitting deposits to flow more easily to institutions with greater lending opportunities. But the problem with this is discussed in a study submitted to the Congress by the Treasury in February of 1991, "Modernizing the Financial System." As that study pointed out, "These deposits are insured rather than uninsured, which means there is no market discipline involved in sending these funds to distant parts of the country to unknown banks and thrifts."

No one has to make any judgment about the institution. You just find out they are paying a higher rate, you make sure that you can get deposit insurance coverage on the amount you are going to put in, and you send it on out there. You do not have to take two breaths to look at the condition of the institution.

This means that financial firms are using the Government's credit rather than their own financial condition to raise funds, which is an obvious invitation for increased risk and increased risk of misallocation of resources. This was never, never a purpose of Federal deposit insurance.

Finally, that Treasury report to which I referred points out that the brokerage of insured deposits has expanded the scope of deposit insurance coverage primarily for wealthier depositors. According to the preliminary result of the 1989 survey of consumer finances, households with more than $100,000 in depository institutions hold almost three-quarters of the insured brokered deposits held by all households.

There is no clear public reason, I submit, no reason whatever—no public policy reason—why the taxpayer, the ordinary taxpayer should routinely protect these large, wealthier depositors from losses. The system was not designed for that purpose.

The system was designed to protect the small depositor. We took it from $40,000 to $100,000, which some people thought was taking it too high. But in any event, it was to provide the sort of ordinary depositors, not highly sophisticated, unable to check out all the alternatives as to where to place their money, a safe place in which to put their money and to assure them that there would be Government insurance upon it.

These large depositors do not need deposit insurance to find a safe way to invest their funds. They ought to engage in a process of making the best judgment they can.

I believe that this amendment offers an opportunity for a fundamental improvement and protection for the Federal Deposit Insurance system and I commend my colleague, Senator GRAHAM of Florida, for offering it and for his very strong statement in support of it.

I strongly urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Utah.

Mr. GARN. Mr. President, section 211 of S. 543, the provision which addresses brokered deposits, is a result of a very carefully crafted compromise. The brokered deposits provision in S. 543 strikes an appropriate balance between those who wanted to eliminate deposit insurance coverage for brokered funds and those who believe that abuses are not the result of accepting brokered deposits, but rather of not investing them prudently.

Where the money comes from really has not been the problem. It is the bad investing that has taken place. S. 543 would tighten the restrictions put in place by FIRREA. I want to emphasize we reached a compromise in FIRREA to control brokered deposits. Now we are tightening, in S. 543, those requirements. But it would not turn off the spigot. Only well-capitalized and well-managed banks would still be able to accept brokered funds.

In addition, the FDIC would have the authority to allow banks which are adequately capitalized and which have a CAMEL rating of 1 or 2 to accept brokered deposits upon application.

In addition, to address the problem of undercapitalized institutions bidding up deposit rates, S. 543 limits any inadequately capitalized institution or institution which is in conservatorship from offering rates of interest on brokered funds which are significantly above the prevailing rate in their normal market areas or in the market area in which the deposits would otherwise be accepted.

Further restrictions on brokered deposits would unnecessarily restrain well-managed and well-capitalized institutions from prudently using brokered deposits to manage their short-term liquidity needs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield 5 minutes to the Senator from Alaska.

Mr. MURKOWSKI. I thank the managers for the time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I think we have a clear case here of an effort to address a problem that really no longer exists. It did exist at one time and it existed in a manner where there was clearly flagrant abuse of the process. The abuse occurred as a consequence of brokered deposits by unhealthy financial institutions being marketed by the securities industry. It greatly increased the cost of the S&L bailout. And I would have certainly welcomed the presence of my colleagues on this matter prior to 1989 when I debated the issue of brokered deposits on the floor.

I spoke out against the inappropriate use of brokered deposits in that time-frame in 1989. But in 1989, we took the first major step to address the flagrant abuse. I authored a provision of the 1989 S&L cleanup legislation under FIRREA restricting the use of brokered deposits by unhealthy institutions. The provision was controversial at that time, and I ask unanimous consent to print in the RECORD a number of articles specifically addressing that.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 16, 1991]

FLOOR FIGHT LOOMS ON KEY S&L BILL REFORM

(By Jerry Knight)

The savings and loan bailout bill is barely two-thirds of the way down the legislative assembly line, but efforts already are under way to strip off a key reform that restricts the long-criticized use of brokers to raise deposits for troubled S&Ls, according to congressional sources.

As far back as 1985, the heads of the bank and S&L deposit insurance funds called for restricting brokered funds, which they warned were contributing to S&L failures and driving up interest rates.

Both the S&L bailout bill adopted by the Senate last month and the version cleared by the House Banking Committee two weeks ago would prohibit troubled associations from bringing in any new brokered deposits without advance permission from the Federal Deposit Insurance Corp.

As the name implies, brokered deposits are obtained for S&Ls by brokers—usually because the association needs more deposits than it can attract by advertising in its local market. Some funds are raised by professional "money brokers" who do nothing else; most come from securities brokers, who sell high-interest certificates of deposit just as they sell stocks or bonds.

Brokered CDs are now one of the most popular investments for sophisticated savers and are the single biggest source of new business for most securities firms, which are among the leading opponents to the limits. Because they are sold in amounts of less than $100,000, brokered CDs are fully protected by deposit insurance; they can pay rates as high as those on uninsured money market funds.

Sen. Frank H. Murkowski (R-Alaska), author of the Senate's brokered deposit restrictions, said yesterday a move is afoot to remove the limits when the S&L bill reaches the floor of the House later this month.

"I thought we had a clear shot at this," said Murkowski, "but now it looks like the boys who sell them are trying to turn it around."

Securities industry sources argue that restricting brokered deposits would hurt small investors and would compound the problems of struggling S&Ls that need the funds to stay in business.

The effort to remove the restrictions has the backing of FDIC Chief L. William Seidman, who is scheduled to testify Wednesday at a hearing on brokered deposits called by Rep. Carroll Hubbard (D-Ky.), chairman of the House Banking Committee's general oversight subcommittee.

Seidman is expected to testify that brokered deposits themselves are not the problem, FDIC aides said. According to Seidman, the problems with brokered deposits have come when they were used to finance explosive growth by S&Ls investing in risky real estate deals. Now, however, brokered funds are being used primarily to keep afloat troubled S&Ls that otherwise would have to be bailed out directly by the government.

Seidman's view conflicts with that of his predecessor, William Isaac, who along with former Federal Savings and Loan Insurance Corp. Chief Edwin J. Gray tried unsuccessfully to get Congress to do something about brokered funds.

At a Senate hearing four years ago, Isaac warned, "I cannot overstate the case. Fully insured brokered deposits represent a clear and present threat to the Federal Deposit Insurance System." Troubled institutions make much greater use of brokered funds than healthy ones, he said, and "when these institutions fail, the cost to the deposit insurance fund is greatly increased."

Gray told the same hearing that brokered deposits were "the single most important factor in a rising number of thrift institution failures."

Murkowski said yesterday he considers brokered deposits "a risky game that has been played with the taxpayers' money." When troubled S&Ls turn to brokers to sell their high interest CDs, it drains money out of local financial institutions, which then are under pressure to raise their own rates to compete, he added.

Murkowski's measure—and a virtually identical amendment to the Senate bill authorized by Rep. Stephen Neal (D-N.C.)—would authorize the FDIC to permit institutions to use brokered funds, but FDIC officials said that would be too restrictive.

Congressional banking committee staffers said the most persuasive argument in favor of lifting the broker deposit rules is that the government has no choice: If troubled S&Ls can't raise deposits through brokers, they will go broke and then the deposit insurance fund will have to pick up their losses.

[From the Wall Street Journal, Apr. 20, 1989]

SENATE OVERWHELMINGLY PASSES S&L BILL CONTAINING $50 BILLION IN RESCUE MONEY

(By Paulette Thomas)

WASHINGTON.—The Senate overwhelmingly approved the Bush administration's landmark savings-and-loan bill, after toughening accounting standards for banks and thrifts and limiting their authority to engage in risky growth practices.

The bill, approved 91-8, would provide $50 billion to close or merge insolvent savings and loans, tighten the industry's permissive accounting standards, and put some distance in the traditionally cozy relationship between the industry and its regulators.

The House Banking Committee will take up the issue next week. Its chairman, Rep. Henry Gonzalez (D., Texas) has promised to seek a similarly tough bill.

In the final minutes of debate yesterday, senators approved an amendment pushed by Sen. Howard Metzenbaum (D., Ohio) to require thrifts to maintain real capital equal to 1.5% of assets. Earlier, the bill called for a minimum capital requirement of 3% of assets, but it provided that "good will," the intangible value of the thrift, could be counted as capital up to the entire amount required.

"Good will isn't worth doodly-doo," Sen. Metzenbaum said. In exchange for the speedy approval of the capital provision, he agreed to drop amendments designed to help low-income consumers.

One part of the last-minute, 76-page compromise amendment—which was sponsored by Sens. Donald Riegle (D., Mich.) and Jake Garn (R., Utah), the chairman and ranking Republican, respectively, on the Senate Banking Committee—would prevent the Bush administration from reversing certain regulatory exemptions the Federal Home Loan Bank Board previously granted to several large thrifts. White House officials have said some of the exemptions, spelled out in Bank Board letters, needn't bind future regulators and could be rescinded.

The amendment specifically would exclude the Bass Brothers' American Savings & Loan Association of Stockton, Calif., Western Federal Savings & Loan Association of Phoenix, Ariz., and Gibraltar Savings, of Beverly Hills, Calif., from a change in regulations to the extent that "they relied in good faith" on letters the Bank Board provided them in connection with acquisitions or enforcement cases. In the Bass Brothers case, the letters related to the treatment of securities transactions.

The Senator also approved an amendment proposed by Sen. Frank Murkowski (R., Alaska) that would prohibit sick thrifts or banks from expanding their deposit bases by using so-called brokered deposits. Many sick thrifts deepened their insolvencies—and the Federal Savings and Loan Insurance Corp.'s liabilities—by offering through deposit brokers to pay higher-than-market interest rates and investing the funds thus raised in risky ventures.

The bill would require undercapitalized institutions to obtain a waiver from federal regulators before trying to attract highrate deposits through brokers.

The Senate's speedy approval of such a far-reaching and costly bill was a huge victory for President Bush, who made the legislation an early priority for his administration. "The Senate deserves a great deal of credit for acting swiftly to pass President Bush's savings and loan reform plan," said Treasury Secretary Nicholas Brady. "We particularly appreciate the bipartisanship and cooperation shown in this effort."

More than 60 amendments were proposed over three days of Senate debate, but most were withdrawn in deference to Sen. Riegle, who warned that he would fight extraneous amendments to the "emergency legislation."

An amendment that would have required reconfirmation of Danny Wall as chairman of a restructured Federal Home Loan Bank Board failed in the face of opposition by Sen. Garn. Mr. Wall formerly was the committee's staff director when Sen. Garn was its chairman. The House bill, however, would require reconfirmation of Mr. Wall, the controversial Bank Board chairman who presided over the thrift industry during its period of record insolvencies and fraud.

Assuming the House passes its version of the bill, the House and Senate will have to work out differences over capital standards, the cash cushion that institutions must maintain to absorb possible losses. Tougher capital standards are considered one of the ending legislation's most important regulatory changes to prevent widespread insolvencies in the future.

The House version would require a minimum of 1.5% real cash capital, and another 1.5% that may include such items as good will and deferred loan losses. It also would allow thrifts to continue to use insured deposits in risky ventures, such as commercial loans made through subsidiaries. The Senate bill wouldn't allow use of deferred loan losses and would curtail riskier investments.

Under both the Senate and House bills, a new agency, the Resolution Trust Corp., would raise $50 billion by selling bonds to pay off depositors at insolvent institutions. Thrifts would pay higher insurance premiums and a portion of the earnings of regional home loan banks, which they own, to pay the bonds' principal. But taxpayers would pay the greatest share of the roughly $157 billion total cost over 10 years.

[From the Washington Post, Mar. 20, 1991]

High-Rate Deposits Pose Risk to Ailing Area Banks

(By Joel Glenn Brenner)

Troubled banks in Washington and New England, forced to offer unusually high interest rates to get customers, have attracted billions of dollars of volatile deposits from around the country, increasing the financial risks they face, according to industry analysts and regulators.

These deposits, raised by Wall Street brokers, have poured into these institutions in the past year, financial documents show. Federal banking regulators are concerned that these high-cost deposits may increase losses at the banks and could boost the government's cost of rescuing the banks if they fail.

The banks are obliged to pay high interest rates for deposits because many local customers, concerned about the health of these banks, are withdrawing their money. But such high rates typically attract so-called "hot money" from customers who move their funds in and out of various institutions, looking around the country for the best rates.

The increase in deposits raised by brokers nationwide has been most dramatic at banks in economically depressed New England and at local institutions, including the largest bank company in the Washington area, MNC Financial Inc.

At American Security Bank, one of MNC's subsidiaries, for example, brokered deposits increased sixfold in the first nine months of 1990, to $1.4 billion from $195 million. Maryland National Bank, another subsidiary, experienced a similar increase to $2.4 billion from $630 million.

"Those increases are staggering," said George M. Salem, an analyst with Prudential Securities Inc. in New York. "For the banks using brokered deposits, they have no choice—you can either starve to death or eat expensive food. But it does cause significant problems for the institution and tends to weaken the banking system overall."

An MNC official said loss of customer funds and increasing reliance on brokered deposits is the "most pressing issue" facing the bank company, which has suffered heavy losses due to the real estate downturn.

Recently, federal regulators placed special restraints on MNC that limit growth of brokered deposits.

Most of the brokered funds are certificates of deposit sold in amounts less than $100,000 and insured by the federal government.

The relatively high rates on these CDs increase the ultimate loss if an institution fails, a cost that is picked up by the federal deposit insurance fund. The heavy use of brokered deposits by savings and loan associations substantially increased the cost of the S&L debacle.

"Brokered deposits contributed enormously to the savings and loan mess and could contribute enormously to a bank crisis in the future," said Ken Guenther, executive vice president of the Independent Bankers Association of America, the trade group that represents community banks.

"We're concerned about the use of brokered deposits, especially by troubled banks," said Ellen Stockdale, spokeswoman for the federal Office of the Comptroller of the Currency, which oversees national banks.

A recent survey by the Securities Industry Association showed that banks surpassed thrifts for the first time last year in the sales of certificates of deposit through brokerage firms. However, the banking industry is much larger than the S&L industry, and on a percentage basis the use of brokered deposits by troubled banks is far less prevalent than it was among troubled savings and loans.

According to data supplied by banks nationwide, brokered deposits increased $5 billion in the first nine months of 1990 to an all-time high of $77.3 billion. Final figures for last year are not yet available from the banks.

Although some of these funds are raised by professional "money brokers" who sell only CDs, most of the money is raised by securities brokers, who sell high-interest certificates of deposit for Merrill Lynch & Co. and other brokerage houses just as they sell stocks or bonds. Brokered CDs have become one of the most popular investments for sophisticated savers and are the single biggest source of new business for many securities firms, which search out the highest available rates for investors. Brokers receive commissions from the investors for the service.

The high interest rates on brokered deposits typically prompt a bidding war for funds among all banks and S&Ls, thus weakening the entire financial system, regulators and analysts agree.

In the Washington area, for example, local banks and savings and loans are paying the highest interest rates in the country on certificates of deposit, according to Bank Rate Monitor, a Florida newsletter that tracks rates nationwide.

For six-month certificates of deposit, Washington area institutions are paying interest rates with a yield of 6.86 percent, compared with the national average of 6.37 percent.

For one-year CDs, the Washington market is currently the only market in the nation paying interest rates yielding in the 7 percent range. Local institutions are paying an average yield of 7.14 percent, compared with the national average of 6.57 percent.

William Isaac, former chairman of the Federal Deposit Insurance Corp. (FDIC) and a longtime critic of brokered deposits, pointed out that when hundreds of savings and loans in Texas began paying high rates in the mid-1980s, large Texas banks tried to offer competitive rates. That factor, Isaac said, ultimately contributed to the failure of nine out of 10 of the largest Texas banks.

"While brokered deposit might make sense from the standpoint of an individual institution that can't survive without this money, it spells big trouble for the banking systems," Isaac said, "You end up with too many marginal institutions bidding for funds and the whole system gets weaker."

Because of this threat to the industry, the Treasury Department has recommended as part of its massive legislative package on banking reform that brokered deposits not be covered by federal deposit insurance. A final draft of the reform package is expected to be sent to Congress this week.

However the FCIC, which must give permission for troubled institutions to use brokered deposits, has advised the Treasury that it has concerns about taking such action because revoking insurance on brokered deposits could dry up such funding for banks that need cash.

Sen. Frank H. Murkowski (R-Alaska), who authored legislation that required the FDIC to give permission for the use of brokered deposits, criticized the agency yesterday for allowing the level of brokered deposits at banks to increase.

Alan J. Whitney, an FDIC spokesman, said yesterday that his agency carefully reviews all applications for permission to use the expensive deposits.

The problem is not the brokered deposits per se," Whitney said, "The problem is why the institution is using brokered deposits in the first place. In some situations, they simply have no other option."

However, Isaac said banks could borrow their funds from the Federal Reserve's Discount Window, which was created to help fund banks at low rates of interest. Banks always have been reluctant to borrow from the Fed because of the stigma attached to it.

Mr. MURKOWSKI. Mr. President, the provision prohibited banks and thrifts that did not meet minimum capital requirements from using brokered deposits unless the institutions received a waiver from the Federal Deposit Insurance Corporation.

In other words, rather than micromanaged by the Senate or the Congress, we put it with the oversight agencies and the insurance agencies, the Comptroller of the Currency, and FDIC. They had to have a waiver to basically accept a brokered deposit under my legislation, which became law in 1989. The waiver would be available if the Federal Deposit Insurance Corporation made a determination that the use of the brokered deposit by that institution did not constitute an unsound banking practice.

The enactment of this provision has worked. It stopped the bleeding of the insurance fund. What the committee does, and I commend the committe for its action, it fine-tunes the process that I started in 1989, and I did it basically alone. The committee was not there on this issue. We were a little bit ahead of ourselves. Because of my particular knowledge and expertise, I knew what was happening out there. It was clear.

The securities groups were making hundreds of millions of dollars by simply finding banks that were unsound, soliciting from their customers amounts under $100,000, and then placing them under the FDIC insurance and simply escalating the price that these organizations had to pay for money. The higher risk the organization, the higher the interest rate.

While I sympathize with the objective of the Senator from Florida, unfortunately there are legitimate short-term liquidity needs that the banking system should have available to it. And with the provisions under what the committee bill does, by limiting that to only well-capitalized, well-managed institutions, and provision of the law that I invoked in 1989, we have that oversight, we have a responsible agency that can direct. They basically put their reputation on the line if they allow an organization to accept a brokered deposit. They do it on the basis of their analysis of the soundness of the institution, the fact that there may be a temporary liquidity shortage and, as a consequence of that, the justification for approval.

The action of my friend from Florida—and his amendment solves a problem that really does not exist anymore, but he throws the baby out with the bathwater, so to speak, by simply meat-axing this allowance, legitimately available for liquidity, now that it is no longer flagrantly abused by the security industry and limited to a responsible oversight by the committee.

So I suggest to my colleagues that we reflect a little bit on the reality that we are really shutting the door after the house has left. The big problem existed during the time when we had the S&L's who were sick, sick, sick. And, as a consequence, the security industry was ready, at the expense of the taxpayers, to make unhealthy institutions available brokered deposits. We have secured that action.

It is the opinion of the Senator from Alaska that this legislation proposed by the Senator from Florida simply is not necessary under the current disposition of the marketplace.

I thank the Chair.

I thank my friend from Florida, and please understand that my criticism is based on my analysis that the problem really does not exist anymore.

Mr. RIEGLE. Mr. President, can I inquire as to the amount of time left on both sides?

The PRESIDING OFFICER. Five minutes and 50 seconds; on the side of the Senator from Florida, 7 minutes 14 seconds.

Mr. RIEGLE. Mr. President, I yield myself 3 minutes on this issue, if I may.

I must say that I have great sympathy for the amendment offered by the Senator from Florida. In fact, as he will recall, in the original committee print of the bill, it contained the language that is contained in his amendment now. We ended up striking a compromise on this issue in the committee. I think we have struck a reasonable compromise. There are lots of parts of this bill that if I could do myself in a single, unilateral fashion I would do differently than we find. But that is not the nature of how we work these issues through and balance them out one by one.

So I will not be able to support the Senator's amendment, despite the fact that I can appreciate the points that he makes, and I feel it is very important that we maintain the provision that is in the bill as a part of the fabric of the bill.

But let me just indicate what the protections are in here, because no one feels more strongly than I about preventing abuses with brokered deposits. We had that in the past. We should not under any circumstances tolerate that in the future. That is why the use of brokered deposits are very sharply restricted within this legislation.

First of all, only well-capitalized institutions with a CAMEL or 1 or 2, two top ratings, would be eligible to accept funds through a deposit broker. You have to bear in mind, in other parts of the bill, we are much tougher in terms of how we monitor the banks, how we insist on them meeting capital standards, so we are much less likely to have the CAMEL rating be misleading in terms of what it actually tells us.

There are other parts of the bill unrelated to this that reinforce the strengths in the prohibitions and protections we have in here. The bill, as it is written now, also restricts the number of institutions that can accept brokered deposits by waiver of the FDIC. The FDIC may allow only adequately capitalized institutions and institutions in conservatorship to accept brokered deposits for successive periods for up to 90 days.

The bill restricts the interest rate on such brokered deposits to the prevailing rate in the bank's area of operation, or the national rate paid on comparable rates of maturities. This deals with the problem of creating artificially high rates and creating a way to vacuum funds into an institution that ought not to have them and is operating in a way that is clearly uncompetitive with others in the area.

It also restricts the interest rates that weak institutions can offer. Undercapitalized institutions may not offer rates of interest on insured deposits that significantly exceed the prevailing rate in their normal market areas.

I think restricting brokered deposits to only the healthiest institutions and restricting the interest rates of weak institutions works again in tandem to encourage banks to operate safety and soundly. It means that in some situations, brokered deposits will still be available as a source of liquidity. But I think we have, in a sense, screened out the prospect for the kind of abuse that we have seen in the past and which has clearly been a problem.

Having said that, I understand the sentiment of the Senator from Florida. I certainly understand the argument on his side. I think we have struck a reasonable approach to, in effect, put the safeguards in place which otherwise I would not be able to support.

So I think they are there, and I hope that the Senate will stay with the committee provision and not take the amendment offered by the Senator from Florida.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield myself such time as required.

What we have not heard in the comments thus far, and in the time remaining maybe it will be offered, is what is the public policy that justifies the taxpayers of America providing heavily subsidized deposit insurance to funds which flow through a security wholesale operation out to the area of the country which in paying the highest interest rates. What is the public policy? How does that relate to the rationale upon which deposit insurance was established almost 50 years ago to provide that small, unsophisticated depositor a safe haven, where a family could go to sleep another night not having to worry that their $1,0000 or $2,000 life savings were going to be placed in jeopardy because of the failure of their local bank, that the Federal Government would provide them that degree of assurance? What is the public policy that justifies the Federal taxpayers now providing this heavily subsidized deposit insurance to brokered deposits?

It has been said, well, even if there in no pubic rationale for it, at least there is not much of a problem; there will not be many abuses. As the Senator from Maryland pointed out, the Bank of New England would have qualified for brokered deposits just a few months before it went under. This very bill indicates that capital standards are not in and of themselves sufficient real time indicators of the health of an institution.

Mr. President, as you well know as a member of the Banking Committee, the committee rejected the concept of relying totally on capital standards and inserted what were referred to as noncapital trip wires, that is, standards that did not relate to capital but which the committee, on expert testimony, found to be better indicators of the real financial health of that institution.

We are not applying any of those trip wires to institutions which are now going to be eligible to receive brokered deposits. And so we are going to have more Bank of New Englands waiting out there in the weeds to be vacuuming up money, taking it into their deposits, putting the stamp of "fully federally insured" on top of it, and then facing the prospect of going into bankruptcy with the taxpayers picking up the costs.

I might also point out that the language, as this provision came from the committee, provides that that interest rate limitation is not the limitation in the community in which the money is gathered; it is the interest rate in the community of the institution in which it is deposited. So we are still going to have that vacuum sweeper effect without any legitimate public policy.

As indicated, this proposal was the the proposal of the President of the United States and the Secretary of the Treasury and their representatives before the committee and has consistently been the position of the Treasury. Those who are most responsible for protecting the insurance fund have urged exactly the amendment that is now before us.

Mr. President, let us do something for the American taxpayer as we ask that taxpayer to write a check for $70 billion. At least we should remove from the backs of the taxpayer the burden of providing subsidized deposit insurance to brokered deposits, which have no legitimate public policy purpose.

I thank the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. How much time does the Senator from Michigan have at this point?

The PRESIDING OFFICER. Three minutes.

Mr. RIEGLE. How much time does the Senator want; 2, 3 minutes?

Mr. MURKOWSKI. One and a half minutes.

Mr. RIEGLE. I yield 1½ minutes.

Mr. MURKOWSKI. Mr. President, I would like to try to answer the questions raised by the Senator from Florida. First of all, as to the Bank of New England, under the policy existing as a consequence of the action taken by Congress on the legislation of the Senator from Alaska, which strictly limited brokered deposits, it would not allow the institution to have brokered deposits without the oversight of the Federal Deposit Insurance Corporation. So I am not debating the issue whether it was done or not, but it was simply not allowed unless there was the oversight of the insuring agency. And they have the responsibility for the soundness of the banking system.

From the standpoint of public policy, clearly public policy is that it is not in the public interest to have unscrupulous dealers dealing in brokered deposits. But that is no longer the case. My point is that there is a legitimate justification for the approval, with the regulatory authorities' concurrence, to allow a very limited amount. But the illegitimate business that was out there and was functioning is no longer there. The securities industry is not flagrantly taking and soliciting individuals with under $100,000 to invest their money and get a 12- or 13-percent return. That is gone by the legislation. That is the point I think my friend from Florida fails to recognize. The abuse has been addressed, and it is no longer in existence. It is in the realm of the authorities now to regulate and limit when they think it is in the interest of the institution's liquidity.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield for a question.

Mr. GRAHAM. Will the Senator give me what he thinks is the strongest affirmative public policy rationale of why the American taxpayer should provide subsidized deposit insurance to brokered deposits?

Mr. MURKOWSKI. The limitation, I would respond to my friend from Florida, Mr. President, is so narrow now, it is no different than an individual receiving insurance on $99,000 in a commercial bank, which the Senator from Florida might suggest is subsidized, but in reality the banks pay for that insurance and that insurance premium is going up as a consequence of the Banking Committee action.

I would also advise my friend from Florida, when you use a general assertion that this is a $70 billion giveaway to the banking institutions, the banks are going to pay that back over an extended period of time. So we are not writing a check for the benefit of the banks; we are authorizing a recapitalization of a fund that will be paid back over an extended period of time.

Mr. GRAHAM. If I could pursue the question, we know what the rationale was initially for Federal deposit insurance being made available. Could the Senator from Alaska tell us what he thinks is the strongest public policy rationale for providing subsidized insurance deposits for brokered deposits?

Mr. MURKOWSKI. I think I have explained it adequately but one more time, the rationale the Comptroller or the FDIC would see in an individual bank coming to them asking for permission to accept some brokered deposits would be to get over some short-term liquidity. Let us assume that there was an economic decline that had a seasonal variation. Let us say it was a fishing industry where there was a need for increased borrowings in the summertime period. Obviously, the loans would increase. They would be repaid in the fall. If the bank could get permission to get some brokered deposits during that time, that is in the interest of serving the public in the fishing industry, which is significant in both Florida and Alaska. So there are specific cases on seasonal variations where it is quite appropriate and the public is not subsidizing anything any more than the public is subsidizing the individual with a passbook savings account that has $50,000 in it and he or she is receiving FDIC insurance.

I thank the Chair. I thank my colleague, and I appreciate the extra time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Is there any time remaining, Mr. President?

The PRESIDING OFFICER. One minute, twenty eight seconds.

Mr. RIEGLE. On my side?

The PRESIDING OFFICER. Yes.

Mr. RIEGLE. Is there any time remaining for the Senator from Florida?

The PRESIDING OFFICER. No.

Mr. RIEGLE. Mr. President, I understand the direction the Senator is moving on the amendment. I have sympathy with it. I think we have addressed the issue. We have addressed it in more ways than one. I think we have resolved the problem that previously existed in this area. I think the committee provision is a sound, solid provision, and I strongly recommend it to the Senate.

I yield back the remainder of my time.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second?

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I move to table the amendment and I ask also for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Florida. the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—64

Baucus
Bingaman
Bond
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—32

Adams
Akaka
Bentsen
Biden
Bradley
Breaux
Bryan
Burdick
Byrd
Conrad
DeConcini
Fowler
Gore
Graham
Jeffords
Kassebaum
Kohl
Levin
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Reid
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the motion to table the amendment (No. 1372) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senator from Wisconsin now be recognized for a 20-minute time limit, equally divided, for his amendment with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 1373

(Purpose: To express the sense of the Senate that the Congress should immediately adopt legislation to repeal the luxury excise tax on boats)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. MACK, Mr. COATS, Mr. HELMS, Mr. BURNS, Mr. NICKLES, Mr. SMITH, Mr. SEYMOUR, Mr. LOTT, Mr. DURENBERGER, Mr. SANFORD, Mr. GRAHAM, Mr. CHAFEE, Mr. PELL, and Mr. LAUTENBERG, proposes an amendment numbered 1373.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

Mr. KASTEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KASTEN. Mr. President, I rise today on behalf of myself, Senators MACK, COATS, HELMS, BURNS, NICKLES, SMITH, SEYMOUR, and LOTT to propose an amendment in the form of a sense-of-the-Senate resolution calling for the repeal of the so-called luxury tax on boats.

Some have argued that we need to pass a banking bill in order to strengthen the economy and in order to create jobs. The amendment is related to economic growth and jobs in the boat-building industry.

The luxury tax on boats is anything but a luxury for the 19,000 middle-class workers who have lost their jobs this year because of it.

I voted against this tax a year ago when it was approved, and I have been pushing for its repeal for months, and now time is running out.

I propose that under the 1990 Budget Act, the Congress declare an emergency and immediately repeal the luxury tax on boats.

In addition to putting thousands of middle-class workers in the unemployment lines, the boat tax is forcing plant closures, and it is aiding foreign competitors by destroying one of America's finest manufacturing industries.

It is costing the Government far more in lost tax revenue and collection costs than it will raise.

This tax must go now. Every month the Congress delays, more workers lose their jobs.

During this past summer and fall, there has been no shortage of evidence concerning the tremendous destruction that this tax has brought to the marine industry. Congress heard testimony from unemployed boat workers and from boat builders. Businesses have closed. The unemployment lines have grown and grown longer, and still Congress has done nothing.

This inaction is no longer acceptable and I believe we have to push forward for some kind of action now before we leave.

Another ironic aspect of this tax is that the Federal Government is losing millions of dollars from this tax. A report put out in July by the minority staff of the Joint Economic Committee shows a minimum net loss to the Federal Government of $15.2 million in 1991.

While the Joint Tax Committee has projected only $3 million in revenue from this tax, this figure includes no offset for the job loss that has resulted from the tax. Using an extremely conservative job loss number, the Government will lose $8 million in income tax receipts, $8.1 million in lost payroll tax receipts, and $2.1 million in Federal unemployment payments.

Mr. President, I ask unanimous consent that a report on the luxury tax costs and actual revenues be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD as follows:

UPDATE ON LUXURY TAX COSTS AND ACTUAL REVENUES BASED ON IRS COLLECTIONS TO DATE

(Joint Economic Committee Republican Staff Estimate, November 20, 1991)

Actual revenue from the luxury taxes on boats, planes and jewels contained in the Omnibus Budget Reconciliation Act of 1990, are unlikely to meet the Joint Committee on Taxation's projections, and the cost of job loss that results from their imposition negates by a large margin what revenue gain there may be.

Because of these luxury taxes, 9,400 Americans will find themselves unemployed this year, at a cost to the government of more than $9 million (see Table 1). The effect of this tax when only the cost to the federal government of increased unemployment is taken into account is to spend nearly $1.60 to raise one.

TABLE 1—EFFECT OF LUXURY TAXES ON BOATS, PLANES AND JEWELRY IN FISCAL 1991

[Tax-related unemployment costs, dollar amounts in millions]

Taxed item	Job loss[1]	Receipts	Outlays	Total	Estimate[2]	Revenue[3]
Boats ...	7,600	−$16.1	−$2.1	−$18.2	$5.9	−$12.3
Planes ..	1,470	−4.5	−.6	−5.1	.1	−5.0
Jewelry .	330	−.8	−.1	−.9	9.2	8.3
Total	9,400	−21.4	−2.8	−24.2	15.2	−9.0

[1] 1991 tax-related job loss.

[2] Estimated IRS revenue, fiscal year 1991.

[3] Net revenue effect.

Source: Joint Economic Committee Republican staff estimate of October 20, 1991. Estimated IRS revenue based on actual collections through September 30, 1991 and adjusted upward for full fiscal year 1991 estimate.

Repealing these counterproductive taxes could alleviate some of the economic stress suffered in these three industries, all of which were already feeling the sting of recession prior to the enactment of the new excise taxes. Allowing workers in the boating, aircraft and jewelry industries to return to their jobs would benefit government coffers to a far greater extent than the revenue occurring from the taxes. Just as consumers reacted adversely to the tax, purchases will increase if the tax is removed.

Unfortunately, revenue estimators ignore the business employment consequences of new taxes when projecting tax revenue. Even demonstrable evidence of job loss will not make a difference given current revenue estimating procedures. If boat dealers sold only one luxury boat in 1991 to reap a single tax payment of $30,000 and all blue-collar workers in the boat manufacturing industry lost their jobs as a result, revenue estimators would stubbornly insist that this tax is a $30,000 revenue gainer. What excuse will the revenue estimators make when the tax on boats brings in less than one-third of the $18.2 million that it costs the federal treasury? For airplanes, the tax will bring in less than $100,000 and yet its' opportunity cost to just the federal government is over $5 million. States are losing additional direct revenues from boat and aircraft activity, but the real victims are the small businessman being put out of business, and the blue-collar workers whose jobs and wages have been taken by this misguided social experiment.

The Office of Tax Analysis (OTA) has responded, partially, to a request of October 4, 1991 that resulted from a July 23 letter requesting that OTA re-estimate the impact of the luxury tax. Below is a copy of this most recent OTA estimate, which breaks down OTA's luxury tax revenue by product. Congress's Joint Committee on Taxation (JCT) has only recently replied to the original letter of July 23 in its letter dated October 25, 1991. As indicated in an earlier letter to you, the breakdown shows clearly that offsetting mis-estimates of different industries lower the error in the total estimate for both OTA and JCT, who claim to use similar revenue estimating techniques. Shear luck bails-out faulty methodololgy. The aggregate estimates of both organizations, compared with the likely fiscal year (FY) 1991 total, are off by less than 20 percent each, almost close enough for government work. Looking at the estimates for each of the affected industries, however, show very disturbing errors for both estimators. OTA's airplane revenue estimate is likely to be over-estimated in FY 1991 by a whopping 7,400 percent! JCT, which did not break down their most recent FY 1991 estimate, was extremely low in the total in their original estimate, but still had revenue on airplanes over-estimated by 1,150 percent. The JCT has since re-estimated total revenue for FY 1991 at $121 million, up almost five-fold over the original, without giving us the breakdown of these numbers.

[Dollar Amounts in Thousands]

Luxury tax receipts on	OTA[1]	JCT[2]	IRS[3]	Estimate[4]	Error[5]
Airplanes	$6,000	$1,000	$53	$80	$7,400
Boats	7,000	3,000	3,910	5,865	19
Vehicles	82,000	20,000	88,000	132,000	(38)
Furs	4,000	1,000	279	419	854
Jewelry	20,000	1,000	6,126	9,189	118
Total	119,000	25,000	98,368	147,352	(19)

[1] OTA estimate, fiscal year 1991.

[2] JCT estimate of fiscal year 1991 on Jan. 30, 1991.

[3] Actual IRS collections through Sept. 30, 1991.

[4] Full fiscal year 1991 estimate.

[5] Estimated OTA percentage error, fiscal year (under).

[6] Now $121,000.

Source: Office of Tax Analysis letter of Oct. 30, 1991 and JCT letter of Oct. 25, 1991 to Rep. Dick Armey; IRS, Returns Processing and Accounting Division, memo of Nov. 13, 1991; and JEC Republican staff calculations. The latest Office of Tax Analysis, U.S. Treasury estimate ($ Mil.) appears below.

	1991	1992	1993	1994	1995	1996
Receipts:						
Airplanes	6	10	12	13	15	17
Boats	7	15	18	21	23	26
Vehicles	82	158	209	262	322	368
Furs	4	8	11	13	15	17
Jewelry	20	38	48	57	68	77
Total	119	229	298	366	443	505

Mr. KASTEN. Mr. President, I understand that the Finance Committee may bring legislative vehicles to the floor before we recess—MFN for the Baltics or possibly a tax-credit extenders bill.

This Sense of the Senate underscores the need to repeal this tax now. Unless we repeal it now, several boat builders in Wisconsin—and throughout the country—will go out of business in the next few months.

My constituents—Wisconsin's workers—along with the workers in Maine, Louisiana, Rhode Island, Connecticut, Florida, Michigan, and other States—are losing their jobs. They cannot wait another year, another month, another day, they need our help and they need it now.

That is why the bill to repeal the boat tax enjoys the broad bipartisan support of 29 Senators, including the majority leader. If everyone agrees that this tax must go, then I see no reason why we cannot knock it out now before the recess.

In effect, what we are saying in this sense-of-the-Senate resolution is that we want to move forward. This, in itself, will not repeal the tax. But what this says is it is the sense of the Senate that we must move forward to repeal this tax before we continue to have people all across the country lose their jobs.

Mr. KASTEN. Mr. President, I would like to also add the Senator from Maine [Mr. COHEN] as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I yield 2 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, I certainly understand the concerns of the Senator from Wisconsin. I share the concerns of my friend from Louisiana, and my friend from Kansas, whether we are talking about boats, about airplanes, or about the other items subject to the luxury tax—luxury cars, jewelry, and furs. When we get into this, we need to repeal the entire luxury tax, not just the tax on boats.

My problem is, does the resolution say how you are going to pay for repeal? We have the budget agreement and I would like to have an understanding as to how repeal will be paid for, because that is the problem obviously we will face in the Finance Committee. When this comes up, there will need to be revenue to pay for repealing the entire tax. Paying for boat tax repeal is not enough.

Mr. KASTEN. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. KASTEN. I understand that there has been discussion in the Finance Committee about different kinds of ways of paying for this, including a fee on diesel fuel and all sorts of other kinds of things that have been worked out. We are not specific in this sense-of-the-Senate resolution. What I am saying is we have to move forward and do this. I know the Senator from Texas understands this. This was supposed to pick up a certain amount of revenue and it is not picking up much revenue.

Mr. BENTSEN. Let me state in my 2 minutes, my problem is we have to finally get specific as to how that is to be done. It behooves me, and it behooves you, to get specific. It is the pain that comes in paying for these things that is the real problem.

I recognize the legitimacy of the argument that this tax has added to problems created by the recession for the boating industry, the aircraft industry, and the other affected industries—the serious loss of jobs and the problems that result therefrom. We will be giving this consideration in the Finance Committee. The question is whether we can do it this quickly at this late date with the controversy that will arise over raising the funds to pay for it. That is my problem. That is my concern.

I share with the Senator the concerns of the unemployed that have resulted from this. The problems in the economy have grown far beyond what was anticipated when the luxury tax was enacted. We had no idea we would be dealing with these kinds of economic conditions, with a recession that would be so deep or last so long. And, of course, conventional economic wisdom is that sales of luxury goods are not price-sensitive. There is a CRS study showing that is true in the boat industry.

So, the major factor here, whether you are talking about boats, airplanes or other luxury goods in this recession. People do not by new boats when they are in a recession. They do not look on that as a necessity. They don't buy used boats either, and sales of used boats are also down. That's one factor that tells you this recession has been the major cause of job losses in these industries.

As I said, this terrible recession was never anticipated when the luxury tax was passed. But coupling that increased tax with a recession has led to concern about hitting these industries when they are down. That's why the tax issue must be address. When we do that, again let me emphasize that, we need to look at the repealing the entire tax, not just the boat tax.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the majority leader.

Mr. MITCHELL. Will the Senator from Wisconsin yield me 3 minutes in support of his resolution?

Mr. KASTEN. I am happy to yield to the majority leader.

Mr. MITCHELL. Mr. President, as all Members of the Senate are aware, the Constitution prohibits the Senate from initiating tax legislation. Therefore, we cannot originate in the Senate legislation to change the tax laws, including legislation to repeal the luxury boat tax. This resolution will not have that effect. However, if it is adopted, it will have the effect of conveying a clear sense of the Senate that action should be taken in a constitutional way to repeal this unfortunate and unfair provision of law.

I support the resolution for that reason. It is a combination of a very long and deep recession and the luxury boat tax which has resulted in very substantial increases in unemployment in the boat building industry. It has affected the State of Maine, which Senator COHEN and I represent, and many other States, and thousands of people all across this country.

Whatever may have been the theoretical reason for advancing this—and there were sound theoretical reasons at the time—it has proven in its implementation not to have worked as intended. Therefore, all of us ought to acknowledge and say that when a step is taken, for whatever reasons, that demonstrably does not accomplish its objective, and in fact has a negative effect, then it ought to be changed, and in this case repealed.

So in behalf of the many thousands of people in my own State and in other States who have been adversely affected, I ask unanimous consent that I be added as a cosponsor of the resolution and I urge Senators to support it, even as we recognize its limitations.

We are not here repealing the law. We cannot constitutionally do that. That can only occur if we act on a tax bill that originates in the House. But a clear, strong signal by a large majority of the Senate may be helpful in encouraging us to reach that point when we can and to repeal this tax.

The PRESIDING OFFICER. Without objection the Senate majority leader is added as an original cosponsor.

Mr. KASTEN. Mr. President, parliamentary inquiry. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Wisconsin has 2 minutes and 40 seconds; the Senator from Michigan 6 minutes and 40 seconds.

Mr. KASTEN. I yield 1½ minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, let me associate myself with my colleague from Maine, the majority leader, and further say that I am pleased to join my colleague from Wisconsin, Senator KASTEN, in offering this sense-of-the-Senate resolution to repeal the luxury tax on recreational boats.

Because the Constitution prohibits the Senate from initiating a tax bill, we are unable to offer an amendment today that would, in fact, repeal this tax. This sense-of-the-Senate amendment, however, is designed to send a clear message to our colleagues in the House that the Senate strongly supports a repeal of the luxury tax on boats.

I am deeply concerned about the condition of the boat building and related industries in my State of Maine. Since enactment of the new luxury tax, I have heard from many representatives of and workers in the boating industry, both in my State and across the country, on the serious toll that this new tax is taking on their industry. The pleasure boat industry has experienced declining sales over the past 2 years due to the economic recession, and this new tax is sharply exacerbating the industry's decline.

A recent report prepared by the staff of the Joint Economic Committee confirms that the luxury boat tax will result in massive job losses nationwide in boat manufacturing and related industries. This report estimates that, even using conservative estimates, over 7,600 jobs will be lost this year directly because of the 10-percent excise tax on boats. Boat builders and employers in boat related industries in my State of Maine are already feeling the devastating effects of lost boat sales, in large part due to the new excise tax. The Hinckley Co. in Southwest Harbor, ME, for example, has been forced to lay off at least 10 percent of its work force. As the second largest employer in Hancock County, reductions at Hinckley have taken a great toll on this part of my State.

This case is certainly not unique: Every Maine boat builder has reported worker layoffs and significant slowdowns in production due to this tax. Customers are backing out of contracts once they realize that a tax is being applied to their boat purchases, thus affecting even those sales that were generated before the tax went into effect.

These job losses in my State are particularly difficult to bear since the workers who lose their jobs due to the slowdown often have no transferable skills, and are unable to find other jobs in the State. The demise of the boating industry will quickly have a wide ripple effect on other parts of the Maine economy, from the State government which depends upon revenues from new and used boat sales, to the hotels, restaurants, marinas, and other Maine industries that rely on a thriving recreational boat industry for their survival.

The recent staff report of the Joint Economic Committee also provides important evidence to support a concern that boat builders, their workers, and I have shared for some time, namely, that the luxury tax will not yield the $3 million in revenues that were estimated to be gained by the tax when it was included in the Budget Reconciliation Act of 1990. In fact, this report estimates that the luxury tax on boats will actually cost the Government $18.2 million in lost income taxes, employer and employee FICA contributions, and unemployment outlays in fiscal year 1991. In other words, this tax will cost the Government over six times the amount of money that it was supposed to raise.

To me, this is convincing evidence that the luxury tax on boats is costing far more than it is worth, and should be repealed.

I would further point out that this tax is not meeting the other goal for which it was intended, that is, to impose a greater portion of the tax burden on high-income taxpayers. It is abundantly clear that this tax will not be borne solely by wealthy taxpayers. These people often have the financial means to pay the 10-percent tax, but choose to spend their money on some other item that is not taxed. Instead, the real burden of this tax falls on the hardworking men and women of the boating industry who are losing their jobs.

Mr. President, I recognize that some may misconstrue efforts to repeal this tax as simply an attempt to help rich taxpayers. Nothing could be further from the truth. I, for one, fully support proposals to make wealthy taxpayers pay more in Federal taxes. During the Senate debate on the budget reconciliation bill that contained this excise tax, for example, I supported amendments to increase the tax burden on upper-income taxpayers, and ultimately, I did not support the final bill because I believed that the deficit reduction package, as a whole, disproportionately hurt low- and middle-income taxpayers, and did not place enough of the burden on the wealthy. A luxury tax on recreational boats, however, is not simply a tax on the wealthy, but rather threatens severe, harsh consequences on an already troubled industry.

The many comments of concern that I have received from my constituents in these industries, the recent staff report of the Joint Economic Committee, and the compelling testimony of industry representatives at hearings before the Senate Finance Committee have more than convinced me that the luxury tax on boats must be repealed. I hope that the Senate will pass this amendment and send a clear message to the Congress.

Mr. BREAUX. Mr. President, will the Senator from Michigan yield to me?

Mr. RIEGLE. Mr. President, how much time does the Senator require?

Mr. BREAUX. Two minutes.

Mr. RIEGLE. I yield the Senator 2 minutes.

Mr. BREAUX. I thank the Senator for yielding. I want to commend Senator KASTEN for bringing this to the attention of the Senate.

Senator KASTEN and others have joined with me on legislation to repeal the luxury tax on yachts. I think when the Congress enacted this legislation, we really missed the boat—pardon the pun—in the sense we were thinking we were going to require millionaires in this country to pay extra revenues to help reduce the deficit when, in effect, we are just putting workers who work on vessels out of work.

The very wealthy are not buying the boats. As a result, the workers who do the electrical work and the pipefitting and the plumbing and the cabinet work on yachts simply have lost their jobs.

Instead of increasing the revenues, we have caused approximately 18,000 to 20,000 people to lose their jobs. I have introduced a bill to repeal it.

We have an offset, I would say, Mr. President, to the distinguished chairman of the Finance Committee. If we have a vehicle, I think we can offer it. Then I think we can solve the problem. Since we do not have a vehicle to do it, I think a strong vote for the resolution would at least indicate the support in the Senate to correct what obviously was a mistake when it was enacted.

Hopefully, we will find, in the future, a way of getting this brought to the attention of the Senate in a real repeal form, which is something I support and hope we will have a chance to vote on.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not know who has control of the time. I will take just 30 seconds.

I do not have any quarrel with the sense-of-the-Senate resolution. But if we are going to do this, we ought to include everything that is covered by luxury taxes. In my view the luxury tax is not a very good idea, and has not raised a great deal of money. There are people in the jewelry business, there are furriers, people in the automobile business, and people in the airplane business that feel just as strongly as those in the boating industry.

I certainly agree with the Senator from Wisconsin, the majority leader, my colleague from Maine, and others who are being hit pretty hard because of the luxury tax on boats. But my view is that we ought to abolish the whole luxury tax.

In the short time that the tax has been in effect, it has directly affected middle-class workers. It's the middle-class working men and women, Kansas consumers and manufacturers who are paying the price for this mistake.

The luxury tax was put in the bill to go after the rich. It backfired and is going after the working people.

The PRESIDING OFFICER. The Senator from Michigan has 4 minutes and 26 seconds.

Mr. RIEGLE. Let me yield myself 2 minutes.

Mr. President, I think it is important to note this issue is obviously not germane to this bill. This is a banking bill. The issue that has been raised is within the jurisdiction of the Finance Committee, which is a different committee. So, while I understand the purpose of the Senator in offering it here, in cold point of fact it ought not be on this bill.

Second, while there is always a question as to the fairness or the unfairness of special taxes and how they affect the economy and others, the amendment is not paid for in the sense there is a revenue offset put in the amendment to keep it budget neutral.

Some way or another, some source of revenue would have to be found to replace that which is scored by the Budget Office as coming from this item. Obviously, that issue is not addressed or settled in this particular amendment.

I, for one, think the tax laws do need to be reviewed. We have some expiring tax law provisions that I think ought to be extended. I think we need a middle-class tax cut to try to get more equity into the tax laws and some more strength out into the economy.

So I think, in the broader context of a revision of some of our tax laws, that this is the kind of issue that can be looked at and should be looked at in terms of how it is actually affecting the economy; is it gaining jobs, losing jobs, and so forth.

This is not the right bill for it, as I know the Senator from Wisconsin would acknowledge, in terms of the jurisdictional arrangements. In any event, I think it is important we try to keep the focus in this bill on the items that relate to the banking reform issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute and 32 seconds.

Mr. KASTEN. Mr. President, very quickly, the Senator from Louisiana has indicated that he and the Senator from Rhode Island [Mr. CHAFEE] are trying to work this issue in the Finance Committee. It is just that a number of us have been waiting for months to find a vehicle. I know they have been waiting in the Finance Committee. It is not clear what is happening.

This is the only way right now—and it is not a perfect vehicle—it is the only way for us in the Senate to indicate that it is our sense, it is the sense of the Senate, that this is a bad law, that this is a bad tax.

With regard to the revenue questions, they say they are going to get $3 million from this, but it has not raised $3 million because people are not buying the boats. The Government, in fact, has lost $8 million in income tax receipts; $8.1 million lost in payroll tax receipts, and $2.1 million in unemployment payments which are going out now. So this is costing the Government money.

Finally, I associate myself with the view of the Senator from Kansas, the Republican leader: airplanes, automobiles, furs, jewelry—this entire tax ought to be repealed. This is just a beginning.

On September 18, I submitted Senate Resolution 183 which calls for the repeal of the luxury tax on automobiles, aircraft, jewelry, and furs. The people that are hurt are the working men and women who build and produce these products.

I am confident we will prevail. I believe that repeal of the boat tax is the first step toward repealing all the luxury taxes which have hurt many small businesses in the automobile, fur, aircraft manufacturing, and jewelry industries. I look forward to working with all of you in the fight ahead to save American jobs.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. D'AMATO. Mr. President, I am wondering if I might have 30 seconds.

Mr. RIEGLE. I yield 30 seconds to the Senator from New York.

Mr. D'AMATO. Mr. President, I voted against this initially, as it related to so-called soak the rich. This is hurting people. This is costing little people jobs. Who builds these boats? Who operates these boats?

We should, absolutely, if we want to help this economy, see to it that we repeal this so-called soak the rich tax. It is wrong; it does not make sense. It is counterproductive.

I would like to be a cosponsor, and I share the sentiments of my colleague from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York [Mr. D'AMATO] is entered as cosponsor. Who yields time?

Mr. KASTEN. I also ask unanimous consent the Senator from Rhode Island [Mr. PELL], be added as an original cosponsor of this sense-of-the-Senate amendment.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I see no one seeking time at this point, so I yield back the remainder of my time and suggest we go to a vote.

Will the Senator accept a voice vote on this issue?

Mr. KASTEN. We have the rollcall vote ordered. I asked for the yeas and nays. I think it is important that the Senate make a statement here.

Mr. FORD. It will save a half-hour.

Mr. KASTEN. I also ask unanimous consent that Senator CHAFEE be added as a cosponsor.

Ms. MIKULSKI. Mr. President, I rise in strong support of the resolution to express the Senate's desire that the boat luxury tax be repealed. I want to be clear on why I support the Senator from Wisconsin's resolution.

When the luxury tax on boats was put into the 1990 budget reconciliation bill, I was on the Senate floor telling this Congress that "we have to go get it from those who got it." I meant that. America needs a tax system that makes people pay their fair share. Those who are benefiting most from this country's success have a responsibility to give something back.

But America doesn't need a tax system that puts people out of work. That's just what the luxury tax on boats is doing. We thought we were going after the Donald Trumps and the Leona Helmsleys when we put this tax into the budget package. It turns out that we're just hurting the mom-and-pop small businesses in Maryland and across the country. These are the people who build the boats, insure the boats, sell the boats—and they are hurting. That's why I am a cosponsor of the Boating Jobs Preservation Act of 1991.

When I was first asked to support this bill, I was pretty skeptical. Removing a tax on boats costing over $100,000 didn't seem like a good idea. I decided to meet with members of Maryland's boating industry to get their point of view on the tax. They let me know how this tax is hurting the people of Maryland and costing us jobs and revenue.

In just the last year, Maryland has lost over 50 boating businesses and hundreds of boating jobs. These are small companies, employing hard-working Marylanders, and they deserve fair treatment from the Government. I don't want to see any other Marylanders put out of work.

The boat luxury tax isn't just putting people out of work, it isn't even raising the revenue it was supposed to. Studies show that the lost tax revenues from decreased boat sales may be larger than that collected from the luxury tax. If this tax isn't raising any money to help balance our budget, why do we have it?

I hear that Bermuda has eliminated all taxes on new boats sold there to lure business out of this country. That means more American jobs moving overseas. I've seen enough of that and it must stop. We need to create good jobs in this country, not keep shipping them overseas.

This resolution tells the House of Representatives, which under the Constitution has to originate all tax legislation, to get moving on passing a repeal of the boat luxury tax. It also lets the President know that the Senate strongly wants this part of our Tax Code repealed. I hope all my colleagues will join me in supporting this resolution.

We must stand up and admit that the boat luxury tax is hurting Maryland and hurting America. Let's repeal this tax before any more boating jobs are lost. Let's put people back to work.

Mr. LAUTENBERG. Mr. President, I rise in support of the Kasten amendment, calling for repeal of the luxury tax on boats. The evidence is clear—verified by independent economic analyses—that this is a tax that loses revenue and hurts an industry and its workers.

Mr. President, the boat industry in my State of New Jersey is hurting, and hurting badly. Thousands of New Jersey workers in the boat industry will be laid off this year. In fact, the impact on the State's economy will be much greater as related businesses are affected by the boating industry's problems. A New Jersey Department of Commerce and Economic Development study concluded that, based on the estimate of 3,250 job losses in the industry, the State stands to lose a total of 6,250 jobs and about $140 million in income in 1991.

Of course, Mr. President, these numbers fail to convey the real personal pain experienced by the men and women in the industry, and their families. I have met personally with these workers, and I must tell you the experience was deeply moving. These are proud, hard-working, decent people. Most are far from rich. And, as jobs continue to slip away, they feel an increasing sense of desperation.

Compounding matters, Mr. President, many of those thrown out of work have few places to turn. At least in my State, much of the boatbuilding industry is located in fairly small towns. There are no jobs to replace the boatbuilding jobs. So not only are workers losing their jobs and their incomes, some tragically may be forced to leave their homes and their hometowns.

Mr. President, the luxury tax on boats was intended to make our Tax Code more fair. That is a goal I believe in. As I see it, the middle class is already being burdened with an unfair portion of the tax burden. That needs to change.

Yet, ironically, as independent analysis has established, the tax is actually striking hardest at ordinary working Americans.

The people losing their jobs because of this tax are not fat cats. They are small-business owners, electricians, carpenters, painters, and other manual and clerical workers. Most live modestly and work hard for their money.

Meanwhile, most real fat cats are escaping the tax altogether. Many are buying their boats overseas. Others are buying used boats, on which no luxury taxes are imposed. Either way, the Government gains nothing, while the American boatbuilding industry, and the people who work in that industry, lose out.

Mr. President, my opposition to this tax is not based on speculation, nor on unsubstantiated claims or questionable reports sponsored by an affected industry. It is based on hard, objective analysis by reputable independent experts.

Most importantly, I would point to a study I noted earlier that was performed by the New Jersey Department of Commerce and Economic Development. The report produced by this State government agency provides independent documentation of the severity of the problem in New Jersey. Its findings are striking and very disturbing.

I also would note an interesting, though somewhat less authoritative, report that was prepared for members of the Joint Economic Committee. According to that report, the luxury tax on boats will result in the elimination of at least 7,600 boat manufacturing and retail jobs in 1991. The report also concluded that the combined cost of the revenue lost and the increased outlays from this job loss is $18.2 million, substantially higher than the $3 million revenue increase projected by the Joint Committee on Taxation.

In sum, Mr. President, I have become firmly convinced that Congress must act to repeal this tax, and quickly. It is hurting workers in my State. It is costing ordinary, middle-class taxpayers money because of increased Government outlays for the unemployed. And it is increasing the deficit by reducing payroll and income tax revenues.

Mr. President, it is a tax that does not make sense.

Mr. SANFORD. Mr. President, I rise today to speak in support of the sense-of-the-Senate amendment regarding the repeal of the luxury excise tax on boats introduced by Senator KASTEN. I appreicate the intent of this amendment—to bring this matter to the attention of the Senate. Indeed, my only regret is that a sense-of-the-Senate amendment carries no weight in this body other than to bring attention to an issue.

This so-called luxury tax was introduced to the public as a part of the Omnibus Budget Reconciliation Act of 1990. As my colleagues will remember, I voted against the budget agreement at that time. Since then, the boating industry in my State of North Carolina has witnessed an 80-percent decline in both unit and dollar sales, which has thus far caused a drop in the boating industry employment of over 50 percent in my State. These figures are staggering. While some of this industry decline can arguably be attributed to a recessionary economic climate, this tax is undoubtedly causing severe damage to the boating industry in North Carolina and the rest of the country.

This tax was designed to reach those in the upper-income levels. It has not. It was designed to reach those who could most afford it. Instead, it has reached those who could afford it least. It has taken jobs away from the manufacturing, maintenance, and retail sectors of the industry. And, ironically, estimates by the Joint Committee on Taxation show that the revenue loss from lost payroll taxes could be as much as 5 to 10 times higher than the luxury tax actually being collected. Mr. President, not only can the people of the boating industry not afford this tax, our country cannot afford this tax.

Mr. President, there comes a time when this body must admit that, while our intentions are noble, the fruit of our labor is not always successful. Such is the case with the luxury excise tax on boats. As my colleagues might know, I wholeheartedly support and am a cosponsor of the Boating Jobs Preservation Act of 1991 as introduced by the Senator from Louisiana [Mr. BREAUX]. I urge that, instead of paying lipservice to the very real problem of a tax that is costing jobs in my State and so many others, as we do here today, we act on the problem by eliminating the luxury tax on boats.

The Boating Jobs Preservation Act will help correct a great injustice done to those employed in the marine manufacturing, maintenance, and sales industries across the Nation by the so-called luxury taxes which were instated as a part of the budget reconciliation package of 1990. I urge my colleagues to support the effort to repeal this ill-advised tax and begin to repair the damage that this body has incumbered upon the boating industry.

In the meantime, however, I support Senator KASTEN'S efforts to bring this issue to the attention of this body. While a sense-of-the-Senate amendment that only addresses this problem with rhetoric is no answer, and is not going to help those people in my State who have lost their jobs, I do support the message it carries. I now urge my colleagues to go the step further that is necessary to repeal this tax as quickly as possible, and put so many of the people of North Carolina and the rest of our country back to work.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "aye."

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 82, nays 14, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—82

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Roth
Rudman
Sanford
Sarbanes
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—14

Bingaman
Byrd
Conrad
Daschle
Exon
Gore
Jeffords
Leahy
Metzenbaum
Rockefeller
Sasser
Simon
Wellstone
Wofford

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the amendment (No. 1373) was agreed to.

Mr. KASTEN. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I ask now that the Senator from Connecticut [Mr. DODD] be recognized to offer an amendment; there be 20 minutes equally divided; that there be no amendments in order thereto; and with a vote at the end of the 20-minute period.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1347

(Purpose: To authorize the Small Business Administration to participate in the purchase of eligible securities issued by qualified commercial banks or qualified mutual savings banks)

Mr. DODD. Mr. President, I would like to call up amendment No. 1347.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself, Mr. CHAFEE, Mr. LIEBERMAN, Mr. RUDMAN, Mr. SMITH, and Mr. KENNEDY, proposes an amendment numbered 1347.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 796, immediately after line 17, insert the following:

Subtitle C—Small Business Recovery

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Small Business Recovery Act of 1991".

SEC. 1152. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) IN GENERAL.—Economic recession, coupled with asset devaluation of the banking industry, has led to a severe tightening of available credit for small business concerns. Community banks cannot meet Federal capital and asset standards without calling in existing good loans or ceasing to extend credit to qualified borrowers, particularly small business concerns, thereby further constricting the available credit and constraining economic activity and recovery.

(2) CAPITAL SHORTAGES.—In the wake of recent concerns over the safety and soundness of banks and thrifts and the economic recession, community banks are finding it increasingly difficult to attract new capital needed to meet Federal and State requirements and promote economic growth and expansion.

(3) EFFECT ON SMALL BUSINESSES.—Small business concerns now employ nearly 60 percent of the United States work force, and are expected to generate 50 percent of all new jobs through the year 2000. Since small business concerns are also the primary providers of employee training, restricting small business startup and growth could have profound implications for overall growth in national productivity and for research and development.

(4) SMALL BUSINESS FINANCING SOURCES.—Community banks have historically been,

and remain, the primary source of small business debt capital. Other sources of small business financing, such as venture capital markets, public markets, or institutional investors, such as pension funds or insurance companies, are not viable alternatives for many small business concerns.

(5) CREDIT DEMAND.—As the Nation begins to recover from the recession, demand for credit will become even greater, thus exacerbating the credit crunch during the initial stages of economic recovery.

(6) INFUSION OF PRIVATE CAPITAL.—Banks must have a significant infusion of private capital in order to effectuate a long-term economic recovery.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to infuse private capital into banks under a pilot program that would also reinvigorate lending to credit-worthy small business concerns, thereby easing the credit crunch, stimulating job growth, and promoting economic recovery;

(2) to provide loans to small businesses by facilitating the creation of a self-insured pool of private capital, protected by a Small Business Administration guarantee, to be used by community banks for loans to small business concerns; and

(3) to strengthen smaller community banks by increasing their available capital levels, which have been dramatically reduced over the past 3 years.

SEC. 1153. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Administration" means the Small Business Administration;

(2) the term "approved securities" means any eligible security that has been approved for sale by the Administration under this subtitle;

(3) the term "eligible securities" means any new issue of preferred or common stock issued by a qualified commercial bank or any new debenture issued by a qualified mutual savings bank;

(4) the term "eligible State" means a State in which, during the period between January 1, 1989 and December 31, 1989 the total number of banking institutions located in the State experienced an overall decrease in tier 1 bank capital;

(5) the term "Panel" means the Regional Small Business Recovery Panel established under section 1157;

(6) the term "qualified financial institution" means any commercial bank or mutual savings bank that—

(A) has total assets of less than $1,000,000,000;

(B) has an equity capital to asset ratio of not less than 3 percent, nor more than 8 percent;

(C) has held a charter issued by the Comptroller of the Currency or a State banking authority for not less than 3 years; and

(7) the term "small business concern" has the same meaning as in section 2 of the Small Business Act.

SEC. 1154. AUTHORIZATION.

(a) IN GENERAL.—The Administration is authorized to enter into agreements to participate, on a guaranteed basis, in the purchase of eligible securities issued under this subtitle by a qualified financial institution that is located in an eligible State.

(b) LIMITATIONS.—

(1) PRIOR APPROVAL OF SALE.—A sale of eligible securities must be registered and approved, prior to the sale or offering, by the Administration in accordance with section 1155.

(2) COMPLIANCE WITH APPLICATION AND APPROVAL REQUIREMENTS.—A qualified financial institution must fully comply, prior to the sale or offering, with the requirements of section 1155.

(3) PARTICIPATION AMOUNT.—Participation by the Administration in the purchase of eligible securities by a qualified financial institution in the form of a guarantee under subsection (a) shall not exceed the lesser of—

(A) 75 percent of the initial offering price of the approved securities; or

(B) $3,750,000.

(4) PARTICIPATION LIMIT.—The Administration's total participation in the purchase of eligible securities in the form of a guarantee under this subtitle may not exceed $375,000,000.

(5) DURATION OF PARTICIPATION.—The term of a guarantee by the Administration, authorized under subsection (a), shall not exceed 6 years from the date of the initial offering of approved securities.

(c) TYPES OF SECURITIES.—Eligible securities issued in accordance with this subtitle may be either of the preferred or common stock type in the case of a commercial bank, or a debenture in the case of a mutual savings bank. Prior to being offered for sale, all eligible securities issued in accordance with this subtitle shall—

(1) be classified as tier 1 capital by the primary Federal or State regulator of the qualified financial institution; and

(2) be approved by the Administration.

SEC. 1155. APPLICATION PROCESS AND PARTICIPATION CRITERIA.

(a) LOAN POOL AND OUTREACH PROGRAM.—Prior to receiving a guarantee under this subtitle, a qualified financial institution shall—

(1) establish a small business loan pool, equal to the dollar amount of the approved securities guaranteed by the Administration, which shall be utilized for extending loans to small business concerns; and

(2) establish a small business outreach program designed to increase the institution's overall lending to small business concerns.

(b) APPLICATION.—A qualified financial institution that proposes to issue approved securities that are guaranteed in accordance with this subtitle shall submit an application and business plan to the Panel for review, including—

(1) a detailed description of planned uses of additional capital resulting from the sale of approved securities;

(2) a detailed description of the type and terms of the proposed securities offering, the planned price of the issue, and any other information relating to the securities sale;

(3) a detailed description of past and present levels of the applicant's capital, including the applicant's capital to asset ratio and any applicable risk-based ratio;

(4) documentation of the applicant's past and present lending patterns to small business concerns;

(5) the applicant's balance sheets for each of the 5 years preceding the date of application; and

(6) certification that the sale of eligible securities will not violate any past or pending State or Federal regulatory rulings or orders.

(c) PARTICIPATION FEES AND ANNUAL PREMIUMS.—

(1) INSTITUTION'S PARTICIPATION FEE.—Upon approval by the Administration of an application and business plan under subsection (a), based on the recommendation of the Panel, each qualified institution shall—

(A) pay a participation fee equal to 0.6 percent of the total dollar amount of any issue of approved securities that are guaranteed under this subtitle; and

(B) pay an annual premium equal to 2 percent of the total dollar amount of any issue of approved securities during each year for which a guarantee is provided for such issue under this subtitle.

(2) PURCHASER'S PARTICIPATION FEE.—Upon the sale of any approved securities guaranteed under this subtitle the purchaser of the securities shall pay a participation fee equal to 2 percent of the total purchase price of the approved securities.

(3) FEES AND PREMIUMS TO BE PAID INTO TREASURY.—The participation fee and annual premiums required under paragraph (1) shall—

(A) be paid into the Treasury of the United States in accordance with section 1159; and

(B) be used to defer the costs of any repurchase by the Administration of approved securities under section 1156.

(4) FEE SCHEDULE.—Fees established under this subsection shall be payable immediately upon the sale of approved securities and at 12-month intervals thereafter (as applicable).

(d) DISCLOSURES.—Each qualified institution that offers approved securities for sale that are guaranteed in accordance with this subtitle shall fully disclose to the Administration the identity of all holders of such securities and the quantity of such holdings.

(e) COMPLIANCE WITH APPLICABLE LAW.—Any application or business plan submitted in accordance with this section, must conform to the requirements of all applicable State and Federal banking laws and regulations for approval.

(f) PARTICIPATION BY INSTITUTIONS LOCATED IN ELIGIBLE STATES.—The Administration shall establish procedures to ensure that guarantees provided under this subtitle are reasonably distributed among applicants located in all eligible States.

(g) DISPOSITION.—Upon satisfaction of all requirements of this section and after evaluating the recommendations of the Panel, the Administration shall approve or disapprove of all applications submitted in accordance with this section.

SEC. 1156. REPURCHASE BY ADMINISTRATION.

No claim may be made for the repurchase by the Administration of approved securities issued in accordance with this subtitle unless—

(1) the qualified financial institution has issued a declaration of insolvency;

(2) the primary regulator of the qualified financial institution has declared the institution to be insolvent;

(3) the Panel has determined that by the end of the 12-month period beginning on the date on which an institution becomes insolvent, there is little likelihood—

(A) that the holders of approved securities will recover not less than 75 percent of the initial investment cost of the approved securities through the complete liquidation or sale of the institution's assets; and

(B)(i) that the holders of approved securities will recover not less than 75 percent of their initial investment through a merger or sale agreement with another federally or State-chartered financial institution; or

(ii) that the approved securities will retain not less than 75 percent of their initial investment cost through a merger or sale agreement with another federally or State-chartered financial institution; and

(4) such claim is made not more than 6 years after the date of the initial sale or offering of the securities.

SEC. 1157. ESTABLISHMENT OF REGIONAL SMALL BUSINESS RECOVERY PANEL.

(a) ESTABLISHMENT.—There is established a Regional Small Business Recovery Panel which shall be composed of—

(1) the Administrator of the Small Business Administration;

(2) the chairperson of the Federal Deposit Insurance Corporation;

(3) the chairman of the Board of Governors of the Federal Reserve System;

(4) the Comptroller of the Currency; and

(5) the Secretary of the Treasury.

(b) APPOINTMENT OF DESIGNEE.—Any member of the Panel may appoint a designee to serve on the Panel to the same extent and with the same authority as the original member.

(c) DUTIES.—The Panel shall—

(1) evaluate all applications submitted in accordance with this subtitle, and recommend to the Administration the approval or disapproval of such applications;

(2) evaluate the type of proposed debt or equity security and, in consultation with the primary regulator of the qualified financial institution, determine whether or not eligible securities should be classified as tier 1 capital; and

(3) evaluate claims for the repurchase of approved securities by the Administration and recommend the repurchase of approved securities under section 1156 in appropriate cases.

(d) FACTORS FOR CONSIDERATION.—In carrying out its duties under subsection (c), the Panel shall consider, among other appropriate factors—

(1) the relative strength of the qualified financial institution at the time of application (as compared to other similarly sized financial institutions in the same geographic area);

(2) the present capital position, equity to asset ratio, and any applicable risk-based ratio of the institution, particularly as compared to other similarly sized institutions in the same geographic area;

(3) whether or not participation by the Administration under section 1154(a) would substantially improve the capital position and strength of the qualified financial institution;

(4) whether or not the qualified financial institution would be able to secure equity capital (in the case of a qualified commercial bank) or debt capital (in the case of a qualified mutual savings bank) without participation by the Administration;

(5) the degree to which the qualified financial institution has demonstrated an historical commitment to small business lending;

(6) the degree to which external national, regional, and State economic conditions have had a negative impact on the institution and the valuation of the institution's assets;

(7) the management of the qualified financial institution; and

(8) the qualified financial institution's compliance with all applicable State and Federal laws and regulations.

(e) EXAMINATION AUTHORITY.—To carry out its duties under this section, the Panel is authorized to review all bank examiners' reports and related regulatory materials of a qualified financial institution.

SEC. 1158. CONSULTATION AND REPORT.

(a) REPORT.—Not later than 2 years after the date of enactment of this subtitle, the Administration shall submit a report to the Congress evaluating the progress of the Administration in achieving the purposes of this subtitle, particularly with regard to—

(1) the small business loan pools established in accordance with section 1155(a);

(2) the types, terms, and amounts of loans made by qualified financial institutions in accordance with this subtitle;

(3) the functioning of the Panel; and

(4) the impact of guarantees provided under this subtitle on community lending to small business concerns.

(b) CONSULTATION.—Prior to submitting the report required by subsection (a), the Administration shall consult with individuals from the private sector representing each eligible State, small business concerns, and the financial services industry, for the purpose of making the evaluations referred to in subsection (a).

SEC. 1159. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States the Regional Small Business Recovery Fund. All fees and premiums referred to in section 1155(c) shall be paid into the fund, to be used to defer the costs of program defaults in connection with any repurchase by the Administration under section 1156, to the extent approved in an appropriations Act.

SEC. 1160. REGULATIONS.

The Administration, in consultation with the chairperson of the Federal Deposit Insurance Corporation, the chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of the Treasury, shall promulgate appropriate regulations to implement this subtitle.

AUTHORIZATION.—This bill is subject to appropriations as required under section 504(b) of the Budget Enforcement Act of 1990.

Mr. DODD. Mr. President, I would also send a modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification is as follows:

On page 4, strike lines 20 thru 24, and insert in lieu thereof the following:

"(4) the term 'eligible State' means a State in which, during the period between December 31, 1989 and December 31, 1990, the total number of insured commercial banks located in the State experienced an overall decrease in tier 1 bank capital;"

Between lines 17 and 18 on page 5, insert the following new paragraph:

"(8) the term "State" means any State of the United States, and the District of Columbia."

On Page six, line 20, strike "$375,000,000" and insert in lieu thereof "$75,000,000."

After line 24 on page 6, add the following new paragraphs:

"(6) EXHAUSTION OF REGIONAL SMALL BUSINESS RECOVERY FUND.—If the costs of program defaults in connection with repurchase by the Administration under section 1156 have exhausted the Regional Small Business Recovery Fund established under section 1159, then the Administration shall not enter into further participations pursuant to this section until the Regional Small Business Recovery Fund has attained a positive balance.

"(7) PROGRAM SUNSET.—The Administration shall not enter into new participation pursuant to this section after June 30, 1994."

On page 16, line 5, strike "The," the first time it appears and insert in lieu thereof the following:

"No later than 180 days after enactment of this subtitle, the"

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, and Senator CHAFEE, from Rhode Island; Senator LIEBERMAN, from Connecticut; Senator RUDMAN, from New Hampshire; Senator SMITH, from New Hampshire; and Senator KENNEDY, from Massachusetts.

Mr. President, we represent States in which businesses are suffering bankruptcies at rates far above the national average. Our States are absolutely ravaged by this recession. In fact, we have lost some 96,000 jobs in the State of Connecticut in the last 12 to 18 months.

Our business failures are up 220 percent the first half of this year, as opposed to the first half of last year. Connecticut is now among the top 10 States in the Nation in terms of the number of unemployed who have exhausted their unemployment benefits.

Suffice it to say, Mr. President, our part of the country is in the worst economic condition in decades—the same is now happening in other parts of the Nation.

Add that to the fact that our banks have been absolutely ravaged as well. We now have lost almost $13 billion in assets; 10 percent of all the bank failures in the Nation have occurred in Connecticut. We lost another one last week.

One of the major problems is getting capital into those institutions. This amendment is designed to make an effort to attract some capital to banks. It would strengthen those lending institutions that are not brain dead, and are in fairly good condition, but could end up in that column of brain-dead institutions if they don't see some capital coming in.

This amendment is designed to strengthen some of these institutions before they fail and ultimately cost the American taxpayer millions more in dollars, such as we are having to provide here today with this legislation.

The amendment, Mr. President, is not a panacea. It is not going to solve all our economic difficulties. But it would offer a ray of hope to the small business community that cannot find any credit available, any credit at all, and as a result are in dire conditions, and are failing in many instances. As I mentioned at the outset Connecticut is suffering bankruptcies at rates far above the national average.

I would point out that what we are facing in Connecticut and New England is going to happen in other parts of the country as well if we do not begin to take some positive steps in a progressive way to put this country back in economic shape. We have to take some action to create jobs and spur economic growth—in addition to extending unemployment benefits to help people who have lost jobs.

Let me limit myself to 5 minutes. I ask unanimous consent that my remarks be limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, we will hear several arguments against this amendment by my good friend from Arkansas, and others, who are concerned about this legislation. I understand that.

First, it may be alleged that this amendment would put Federal money at risk by helping banks that are about to fail. In fact, Mr. President, under this amendment, banks with capital of less than 3 percent would not be eligible for the assistance.

Second, those banks who do apply for this assistance will have to submit a detailed business plan spelling out their plans for using the capital they would get under the provision.

Third, the application for the guarantee in no way relieves a bank of its responsibility to comply with any and all restrictions imposed upon it by the banking regulators.

Basically what we are doing here is providing a guarantee of capital into banks with assets of less than a billion. No more than $5 million would be guaranteed per bank. The entire amount of money would have to be raised by the private institutions themselves.

According to the Budget Office, there is no budget impact with this amendment whatsoever. It is totally budget neutral.

In fact, we provide an additional safeguard—in the form of a provision that would terminate the program in the extremely unlikely event that losses exceed the amount generated by the fees levied to offset them.

In short, we are limiting this to smaller banks, and limiting it to institutions that are relatively healthy.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I know the chairman of the Banking Committee wished to move this process along. I know that my colleague from Arkansas wants to raise some questions about this. I will reserve the remainder of my time on this amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

I want to say I feel like I used to when your mother used to whack you, and say that "This hurts me more than it does you." I have such an immense respect for my distinguished colleagues from Connecticut.

I find myself in a very difficult position in not just resisting this, but strongly resisting it, at least at this time.

No. 1, there have been no hearings on it.

No. 2, it totally changes the mandate of the Small Business Administration.

No. 3, it puts the Small Business Administration in the bank bailout business.

No. 4, it is double dipping at its worst.

No. 5, it applies to the banks of New England, Maryland, the District of Columbia, and New Mexico. All you other folks do not get any of this. That is not unusual or unheard of around here.

But let me just say very briefly what it does. It says that any bank with $1 billion in assets or less whose capital requirements do not meet the present requirements may issue up to $5 million worth of stock, and the SBA, the Small Business Administration, will guarantee any purchaser of that stock up to 75 percent of any loss he may sustain as a result of having invested in this bank.

The $5 million will then be placed into a fund in that particular bank to make loans to small businesses. Laudatory.

But the double dipping comes because the loans they make will almost certainly be guaranteed by the Small Business Administration to the tune of 90 percent. So you put the SBA in the bank bailout business. You make the taxpayers of this country guarantee 75 percent of a stock issue, a stock issue in a bank—we are going to guarantee 75 percent of up to $5 million, put it in a fund, and let the banks loan it out, and then guarantee them 90 percent of any loss that they may sustain on the loan.

Mr. President, I have told my dear friends and colleagues I will be delighted to hold hearings on this when we come back here after the first of the year. I will be delighted to have a study done on it. I might even support it.

But on the face of it, I can tell you, Mrs. Saiki, who is the head of the Small Business Administration, is about to go ballistic about the whole concept.

As difficult, as painful as this is to me, I cannot as chairman of the Small Business Committee accede to this, even though I know Connecticut, Rhode Island, Massachusetts, New Hampshire, I know that those States have a lot of banks failing.

But to put us—I say "us," and I use that term advisedly, as I am talking about the Small Business Administration. To add the Small Business Administration to the Resolution Trust Corporation and OTC and everybody else, and these banks, and it certainly makes no since whatever, without at least having a hearing, and you are starting down a whole new path. I must reluctantly, for the reason just stated, strongly resist this amendment.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Will the Senator yield?

Mr. DODD. I will be glad to yield time to my colleague from Connecticut.

Mr. LIEBERMAN. Mr. President, we are in the midst of a very serious recession that is drastically hurting American businesses and American people. At the heart of it, I think everyone agrees, is the credit crunch.

Chairman Alan Greenspan recently stated that "The economy is moving, but it is moving against a 50-mile-per-hour headwind, which is the credit crunch." And, Michael Boskin, Chairman of the President's Council on Economic Advisers, stated that "the serious problem of the availability of credit in the United States is probably the single biggest threat to a sustained recovery."

The Chairman of the Federal Reserve Bank of Boston testified before the Small Business Committee and said that the credit crunch is a capital crunch. Banks are not lending to small- and medium-sized businesses. They do not have the capital to do it. Some of the reasons go to the Basel accords and the new capital asset requirements imposed on banks. But the fact is, behind all the rhetoric and all of the theorizing and all of the laws is that American businesses wanting to come out of this recovery cannot borrow. As a result, they are closing down, cutting back, and they are laying off people. The only way to break this cycle is to get capital into the banks.

My colleague from Connecticut and I have tried a dozen different ways of appealing to the administration to have net worth certificates and open bank assistance. None of it has happened.

Finally, this idea emerged, not from us, but from the New England Council, a group of business leaders in our region, that felt this was the most appropriate way to get capital back into the banks. Our friend and colleague from Arkansas has raised questions about this proposal.

Let me try to briefly answer them. In the first place, this is the banking bill. I cannot think of anything the American people need or want more from this bill than some help with the credit crunch to get us out of this recession.

Second, this amendment relates directly to the purpose of the SBA, which is to help small business, because as has been indicated, the money put into these banks under these guaranteed investments will be loaned out to small businesses.

The SBA is not new to this field; it is its mission, and it has used the guarantee authority it has in many programs—the SBIC Program, for instance—to back up and leverage private sector investments. That is what this amendment intends to do. Tier 1 capital is used as a standard. Right now only the New England States, Maryland, and New Mexico happen to qualify. But if this is put in place, any State that suffers an overall loss in the preceding year in tier 1 bank capital would qualify. I am afraid that, as time goes on, more and more States will qualify.

My friend from Arkansas says this would amount to double dipping. Let me say that it is my understanding that very little of the money that would be loaned out by the banks, once they receive this capital infusion, would be loaned out under existing SBA programs.

It is a remarkably fashioned amendment. I am troubled by the opposition to it. It is completely self-financing. It is not a bailout of failing banks or failed banks. It is, in fact, assistance to banks that are determined by all of the Federal regulators to have the capacity to go up. There are loads of banks out there that are still strong but, because of the existing capital asset requirement, simply cannot make loans.

This amendment is aimed at helping them. It will create a guarantee fund of its own by charging fees to the banks and the borrowers that will be there if any defaults occur. It has been certified by the Congressional Budget Office, working with OMB, as completely budget neutral. And its leverage potential is enormous. We figured out that every $5 million that is invested in a bank will be multiplied many times over, according to bank procedures $60 million per bank, up to $233 million in new economic activity per institution.

Mr. President, we are in a crisis. This is an amendment that responds responsibly to that crisis. I urge my colleagues to vote for it.

The PRESIDING OFFICER. All time allotted to the senior Senator from Connecticut has expired.

Mr. BUMPERS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Five minutes, 3 seconds remain.

Mr. BUMPERS. First, Mr. President, I want to put into the RECORD a letter from Pat Saiki, who is Administrator of the SBA. She strongly objects to this.

Also, I have a letter from G. Thomas Cator, Washington representative of National Small Business United, strongly opposing this.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS ADMINISTRATION,
Washington, DC, November 14, 1991.
Hon. DALE BUMPERS,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am compelled to write to you in strong opposition to Senator Lieberman's amendment to the banking reform bill (S. 543) that would authorize the Small Business Administration [SBA] to guaranty the stock and debentures of financial institutions.

The agency is adamantly opposed to any SBA involvement as a guarantor of individual investors equity. This fundamental premise is in conflict with the free enterprise system. While this legislation is described as a small business recovery act, it will benefit only the investors in financial institutions identified as the recipients of this assistance rather than any small business.

Further, the estimate of losses projected by the Congressional Budget Office [CBO] relevant to this legislation are based on unknown factors and the SBA believes them to be unrealistically low.

The action contemplated by Senator Lieberman's amendment will further mask the true problems experienced by financial institutions. While this administration wholeheartedly embraces measures to relieve the credit crunch, this amendment does not represent a reasonable solution to the problem. I appreciate this opportunity to provide you with my comments on this legislation.

Sincerely,

PATRICIA SAIKI,
Administrator.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, November 14, 1991.
Hon. DALE BUMPERS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: We are writing to express our grave concern and strong opposition to the Dodd-Lieberman amendment to the banking bill which would utilize an SBA guarantee to recapitalize failing banks. Although we are keenly aware of the severe credit crisis facing small businesses and understand that this amendment is being offered under the guise of increasing small business lending, the amendment really amounts to a bank bail out which is not the role or responsibility of SBA. This amendment is another example of Congress requiring SBA to fulfill a function it should not and cannot do. If congress wants to increase small business lending, then it should increase funding for SBA's 7(a) and 504 loan programs. It should aid potential small business borrowers directly utilizing programs SBA knows and manages well.

We appreciate your listening to our concerns.

Sincerely,

G. THOMAS CATOR,
Washington Representative.

Mr. BUMPERS. Mr. President, there are a couple of more points to be made.

First, I do not know what the budget impact of this is, but OMB will be the final arbiter and determiner of the budget impact. And if the budget impact is greater than provided in this amendment, there is going to be a sequester.

Second, in 1988, I guess it was when we passed what we commonly referred to as the FIRREA bill, we put a provision in there that the OTS, the Office of Thrift Supervision, and now the FDIC, could provide what we call open thrift assistance to any bank or S&L that has a chance of making it, in the FDIC Director's opinion.

Unhappily, he has not used that authority. I think it is a tragedy. I wrote him telling them they ought to use it, and he made a speech saying they were going to start using it, but they have not done it.

Here is a case where if $5 million would save a $1 billion bank, surely the head of the FDIC would be charitable enough—he has $100 billion assets in his inventory—to transfer $5 million over to these people to help their capital requirement.

Mr. DODD. If the Senator will yield, he is right. We have tried for 2 years to get the administration to consider all sorts of ways of helping our economy in New England, but they sit on their hands. If they actually took action, we would not have offered this amendment.

Mr. BUMPERS. I say to my colleague that I am sympathetic on that point, because we put open thrift assistance in that bill for precisely this kind of situation. They have $100 billion in assets, and they refuse to use it. I am hoping this debate will come to the attention of the FDIC, so they will know that Congress is concerned about it.

Mr. President, just to finish the debate up, because I do not want to belabor this, never in the history of man—or as we lawyers like to say, since the memory of man runneth not—has the U.S. Government ever guaranteed a stock issue. I do not know what the market would do with it. I am not sure anybody would buy stock in some of those banks up there, even with the Government guaranteeing 75 percent of it. But if we were ever going to get into this kind of a mess, we should have done it back during the S&L debacle. We should have been guaranteeing stock issues by them and trying to save them.

Finally, Mr. President, this is a very limited bill. It takes care of Connecticut, Rhode Island, Maryland, District of Columbia, New Mexico, and other New England States, but it does not do anything for Arkansas, Georgia, Louisiana, and North Dakota. It is just a narrowly construed bill to help banks in New England. These others just happen to get caught in the formula, but it is really for New England, and I do not oppose that. I am saying that the Small Business Administration is in business to help small businesses and loan money to them.

Make no mistake about it. This amendment has one purpose and one purpose only, and that is to bail the banks out in New England by guaranteeing stock issues on those banks. We have never done it before. It changes the whole SBA mandate.

Mr. DODD. Mr. President, will my colleague yield?

Mr. BUMPERS. Do I have any time remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. BUMPERS. I yield.

Mr. DODD. Mr. President, I ask unanimous consent to print in the RECORD a letter from Bob Reischauer of the Congressional Budget Office.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 14, 1991.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office has estimated the cost of a program similar to the one authorized by S. 1753, which would allow the Small Business Administration to guarantee a portion of the cost of stock for debentures issued by qualified banks. As you specified, we used the following parameters provided in your letter: $500 million in total stock issues; 75 percent federal coverage; 0.6 percent origination fee; 2 percent annual premiums paid by banks; 2 percent purchaser payment, due upon purchase; 6-year guarantee; and all fees based on the total amount of the issue, not only on the insured amount.

CBO estimates that receipts from fees would cover the costs of the program, which would result from the failure of participating banks. This estimate is based on an estimated loss rate of about 15 percent. On this basis, we estimate that such a program would result in no net additional cost to the federal government, when valued using the procedures specified in the Federal Credit Reform Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Webb, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER.

Mr. DODD. Mr. President, this amendment is budget neutral. All funds are put up by lending institutions. There is no Federal money here.

I appreciate my colleague's concern. If the amendment does not carry, I would hope that we might have hearings next year.

Mr. KASTEN. Mr. President, I rise today to associate myself with the remarks of the chairman of the Small Business Committee in his efforts to table the Dodd-Lieberman amendment.

This amendment is bad policy for the Small Business Administration. The SBA should not be in the business of guaranteeing stock purchases—the SBA is set up to guarantee loans made by banks, not stocks in banks.

The Dodd-Lieberman amendment is strongly opposed by the SBA, the administration, and several small business groups including National Small Business United.

If my colleagues want to revive New England's economy, I would suggest the Senate pass an economic growth package to turn the Nation's economy around. A growth package would sustain long-term economic prosperity and create jobs.

A progrowth package should contain a capital gains tax cut. This one provision—reducing the tax on capital gains—will do more to promote long-term economic growth than anything else we can act on this Congress.

Again, Mr. President, as the ranking member of the Small Business Committee, I join the distinguished chairman in his motion to table this amendment.

Mr. BUMPERS. Mr. President, I move to table.

Mr. DODD. I ask for the yeas and nays.

Mr. BUMPERS. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Did the Chair hear my motion to table.

The PRESIDING OFFICER. The Chair did here the Senator's motion to table.

Mr. BUMPERS. Were the yeas and nays ordered on that?

The PRESIDING OFFICER. No.

Mr. BUMPERS. I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might speak for 1 minute.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CHAFEE. Mr. President, I join with enthusiasm in support of this amendment. The suggestion is made that it is solely limited to New England. That is not accurate. It applies to many States across the Nation that lost so-called tier 1 capital.

It is true that many of the States in New England particularly are affected by it. But it seems to me what we are tying to do is to encourage these ones to get some capital into these banks and this does that by saying to the individuals who invest this capital that 75 percent will be guaranteed. They still take the risk for 25 percent of it. Second, when that capital is invested, then these small banks make the commitment to make small business loans.

We are trying to get this recession defeated. We are trying to get things going. Is there a better way? There might well be. I would hope at least we could embrace this way.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Connecticut. On this motion the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—73

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Conrad
Craig
Cranston
Danforth
Daschle
DeConcini
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Helms
Hollings
Johnston
Kassebaum
Kasten
Kohl
Levin
Lott
Lugar
Mack
McConnell
Metzenbaum
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—23

Bingaman
Chafee
Cohen
D'Amato
Dodd
Domenici
Heflin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
McCain
Mikulski
Mitchell
Moynihan
Murkowski
Pell
Rudman
Smith
Symms

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the motion to lay on the table the amendment (No. 1347), as modified, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleagues for at least considering this amendment. I realize it came up at a late hour, when the banking bill was moving. It was a complicated amendment. I also want to thank my colleague from Arkansas, who graciously offered to have hearings on this proposal. I think he understands the seriousness of the credit crunch in our States, and recognizes how it is spreading across this country.

Regretfully, the administration over the last 2 years has been unwilling to consider a variety of available options. They had the tools at their disposal, but they refused to use them.

I just inquire of the Senator from Arkansas whether or not we could hold some hearings—possibly jointly in the Banking Committee and Small Business Committee—to look at this proposal and others that could help provide needed lift to the small banks that are the lifelines to small business in our States. Again, he mentioned that in our earlier debate, but I raise it again with him now, Mr. President.

Mr. BUMPERS. Mr. President, I am happy to assure the Senator from Connecticut that, so far as the Small Business Committee is concerned, we would be delighted to have a joint hearing with the Banking Committee to try to develop something creative.

I regret, as I said in my remarks during the debate, that the OTC—or RTC has refused to provide open thrift assistance, despite the fact that Congress was very specific about the reasons for it. And this would be an ideal situation in New England where banks still have a chance to make it.

But, barring that, if we have to continue assuming that the FDIC is not going to provide open assistance, then we have to come up with something creative, and I applaud the Senator for what is, obviously, a very creative idea. As he knows, my objection to it is simply I did not want to get the Small Business Administration into the business of bank bailouts. But the Senator is showing a great deal of creativity and certainly great concern for the banks in New England and especially in Connecticut, and he is to be applauded for that. And I applaud him for that. And I certainly will hold the hearings at the very earliest possible time that the Senator from Michigan [Mr. RIEGLE] and I can agree upon a date and time. We will be delighted to do that. We will get back to the Senator at the earliest possible time.

Mr. DODD. I thank my colleague from Arkansas, and I thank my colleague from Michigan as well. I look forward at the earliest possible time, in January possibly, to hearings on this subject matter to see if we cannot come up with some creative ideas that provide needed assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I am going to now attempt to construct a unanimous-consent request that would limit and outline the number of amendments that are left. I want to indicate the ones that are on our side of the aisle of which I am aware. I will name those now. I am not going to try to set times with those at the moment but simply to list the amendments so we have them fully identified. Then Senator GARN will identify those that exist on his side of the aisle.

At this point, on our side, I have remaining only four amendments. Some of these may not, in fact, be offered. We have two from Senator KERRY, of Massachusetts; we have the potential of one from Senator BUMPERS, of Arkansas; and we have the potential of one from Senator CONRAD, of North Dakota. So I ask that those four items be listed on the list for those three Senators.

Let me just leave the discussion open for a moment here and let the Senator from Utah go through his list.

Mr. GARN. Mr. President, I emphasize at this point we are not asking for any time agreements on the bill or on anybody's amendment. We just need to know where we are, and we have tried as hard as we can with all of our colleagues during this vote. So we are simply trying to limit the amendments, so everything else is still unlimited. So I hope no one will object because that is all we are attempting to do.

First of all, on our side of the aisle, one amendment, Senator MACK; one amendment, Senator D'AMATO; one amendment, Senator GORTON; one amendment, Senator DOLE; one amendment, Senator GRASSLEY; three amendments, Senator HELMS; one amendment, Senator DANFORTH.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am wondering if I might ask my friend and colleague from Utah if he might not put down another amendment for me, which the managers may or may not take up.

Mr. GARN. Two amendments from Senator D'AMATO.

Mr. RIEGLE. Let me indicate that Senator GORE also has an amendment he would like to have listed. I would like that added to my list. That may be one that is cleared, so it may not necessitate a debate and vote, but in any event he wants to be protected, so he should be on the list.

Mr. GORE. Will the manager of the bill yield?

Mr. RIEGLE. Yes.

Mr. GORE. It will probably not be offered at all. There is a separate resolution that is in the process of being cleared. I expect it will be cleared, but in order to protect my prerogatives, I wish to remain on the list.

Mr. GARN. Very good, and it is a sense-of-the-Senate resolution, as I understand it.

That is the list, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that with respect to the pending legislation, S. 543, the banking bill, the only amendments remaining in order to the bill, in addition to the committee substitute amendment, be the following listed amendments and that the pending Dixon amendment, No. 1352, be withdrawn: A managers' amendment; an amendment by Senator GORE, a sense of the Senate regarding Yugoslavia; an amendment by Senator KERRY of Massachusetts regarding pay-as-you-go; an amendment by Senator KERRY of Massachusetts deleting the prohibition on State bank investments; an amendment by Senator BUMPERS that will be relevant to the bill; an amendment by Senator STEVENS regarding red lining.

Mr. GARN. No; Senator STEVENS has now been taken off the list.

Mr. MITCHELL. Mr. President, I withdraw the reference to Senator STEVENS' amendment.

An amendment by Senator CONRAD, a sense of the Senate regarding FDIC legal expenses; an amendment by Senator MACK that will be relevant to the bill; two amendments by Senator D'AMATO, one regarding freedom national and one regarding capital standards; an amendment by Senator GORTON regarding insurance; an amendment by Senator DOLE that will be relevant to the bill; three amendments by Senator HELMS, one regarding slave labor, one regarding chemical weapons, one regarding foreign banks; an amendment by Senator DANFORTH regarding TWA [PBGC]; an amendment by Senator GRASSLEY regarding credit cards.

I further ask unanimous consent that there be 30 minutes of debate remaining on the manager's amendment, the committee reported substitute and the bill inclusive; that no other amendments or motions to commit be in order except the second-degree amendments that are relevant to amendments on this list that are not relevant to this bill; and that at the conclusion or yielding back of time, the Senate proceed to vote without any intervening action or debate on final passage of the bill.

Mr. President, I withhold the request for one moment.

Mr. President, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I want to make clear just so there is no misunderstanding, this agreement provides that there are 30 minutes of debate remaining on the managers' amendment, the committee-reported substitute and the bill itself inclusive. That is the only time limitation in this agreement. There is no time limitation on any of the amendments contained on the list.

With respect to those amendments on the list which are relevant to the bill, second-degree amendments will not be in order. With respect to those amendments which are not relevant to this bill, second-degree amendments will be in order, so long as they are relevant to the first-degree amendment being offered. There is no time limitation on either the first-degree amendments or on any second-degree amendments permitted under this agreement.

And so, Mr. President, this is progress of a sort, but the list of amendments is still very long, and I hope that now, although we do not have time agreements here, the managers, who have been pursuing this with such diligence and perseverance, for which I commend them, will now proceed to try to complete action on this bill as soon as possible.

Mr. GARN. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. GARN. I thank the leader for his help. I expect many of these, even though they have been locked in, will not be offered. But I do have a request for the majority leader simply to have one more relevant amendment for Senator DOLE, if the Senator could ask consent for that.

Mr. MITCHELL. Mr. President, I will add one for Senator DOLE to make that two, and one for myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I thank the managers particularly for their perseverance and encourage any Senators who have amendments to offer them and if they can do so with time agreements.

We are going to be very late, with a lot of votes, because we have other measures to take up after this, if Senators want to have any hope whatsoever of being able to adjourn sine die before Thanksgiving. And so we have devoted a lot of time to this bill. It is very important. But we now have to proceed and complete action on these amendments and on the bill as soon as possible.

Mr. RIEGLE. I thank the majority leader, and I thank my colleagues.

The PRESIDING OFFICER. If the Senator from Michigan will withhold, in part of the agreement, it was understood that the Dixon amendment was withdrawn. It was felt that that should be made clear here.

Mr. MITCHELL. Mr. President, that was included in the text of the agreement as drafted.

The PRESIDING OFFICER. Correct. The Parliamentarian requested that that be acknowledged.

Mr. MITCHELL. Yes. The pending Dixon amendment No. 1352 be withdrawn.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I can put some times on some of these. On capital standards, D'Amato amendment, I understand he is prepared to agree to 20 minutes equally divided. I ask unanimous consent that that time be agreed to on that amendment, capital standards amendment by Senator D'AMATO.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am hopeful that we are going to be able to accept Senator CONRAD's amendment. How much time did Senator CONRAD feel he needed?

Mr. CONRAD. Ten minutes on my side.

Mr. RIEGLE. Why not say 20 minutes equally divided. I am not sure we are going to need any time. I hope we could in the course of discussion decide we could accept that. Maybe we could shorten that down because, as the majority leader said, we really have to move here. Is that acceptable to the Senator?

Mr. CONRAD. Absolutely.

Mr. RIEGLE. I ask unanimous consent then that the Conrad amendment be 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am also told that Senator HELMS is willing to agree to 10 minutes on each of his three amendments equally divided. I ask unanimous consent then that that be approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Let me indicate that Senator KERRY on his pay-as-you-go amendment has indicated that he would agree to 40 minutes, divided 30 minutes for him, 10 minutes for me. I think he will not offer that amendment, but in any event let us enter that agreement for unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am told that Senator D'AMATO is prepared to agree to a 20-minute time limit equally divided on his Freedom National Bank amendment, which is his second amendment. I would ask unanimous consent that it be so ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I urge other Senators to come and chat with us and see if we can set both time periods and perhaps work out amendments so they can go into the package of amendments agreed to by the committee. I thank the Chair and yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. We have all heard a lot of talk about capital standards, capital adequacy, and the fact that lately there is a credit crunch, and this credit crunch is exacerbating any hoped-for recovery. As a matter of fact, this credit crunch is, indeed, devastating to the economy.

Here is what I am concerned about. In this bill, I believe that inadvertently what we do is set out standards to the regulators which will, indeed, create a manifest question and require them to seek more capital from banks than what would be necessary, and what will eventually require even the callback of that credit that is existing today to credit-worthy applicants.

Let me tell you why. Banks have been calling in loans and lines of credit. Individuals and small businesses have been having a difficult time obtaining their credit.

This bill seeks to potentially increase capital tenfold, and I say potentially tenfold. This bill requires regulators to set capital standards to a level that, "Will prevent or minimize loss to the deposit insurance funds."

The FDIC has said that the assets of failed small banks decrease in value as much as 30 percent. This means that when small banks fail, the assets of the institutions could be worth negative 30 percent.

I should like to ask the chairman, does this mean the regulators must require small banks to maintain a capital level of 30 percent in order to prevent or minimize loss to the deposit insurance fund? And if the Senator wants, I would give the question to the Senator again.

The FDIC says that the assets of small banks decrease as much as 30 percent. Does the section of the bill which says that we have to set standards at a level that will prevent or minimize loss to the deposit insurance funds then mean we will have to maintain a capital level of 30 percent in order to prevent or minimize loss to the deposit insurance fund?

And let me continue. The FDIC has said that assets of medium banks decrease as much as 18 percent. This means that when medium banks fail the assets of the institution can be worth a negative 18.

Mr. President, the same question. Does this mean that the regulators must require medium-sized banks to maintain a capital level of 18 percent in order to prevent or minimize loss to the deposit insurance fund?

What am I concerned about?

I am concerned, Mr. President, about the implications of the FDIC statistics. What do the numbers actually mean in terms of what the final capital levels will be? Will not the regulators be faced with fulfilling inconsistent goals? Regulators will want to set capital levels high enough to give a comfortable margin of protection to the deposit insurance fund. Indeed, the language suggests that. If the regulators set capital too high, the results may actually be to cause more banks to fail. They are going to have to call in more money.

What guidance will be given regulators to help them balance these two competing interests?

Mr. President, banks already are having such a hard time meeting their current capital requirements and as a result available credit is already restricted. I am concerned that the capital standards provided for in this bill will further exacerbate the credit crunch.

I would like to know what is our estimate of how high the regulators will have to go to set capital levels to prevent or minimize loss to the fund. What impact will the new capital levels have on the availability of credit?

That is why I will send an amendment, Mr. President, to the desk that says "to ensure the safety and soundness of the institutions."

I would suggest to you that if we could accept this language, we would be sending a clear signal about the safety and soundness of the institution. But if you have the language that is presently in the bill that they will say we have to look to the safety and soundness of the FDIC and given the various ratios—by the way, the regulators have indicated this is of concern to them. I would hope that we will send a very clear signal. I just see their credit situation being exacerbated as a result of this legislation.

AMENDMENT NO. 1374

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1374.

On page 131, delete lines 1 through 3, and insert in lieu thereof "to ensure the safety and soundness of the institution."

Mr. D'AMATO. Mr. President, that is the essence of the legislation. If we are going to ensure the safety and soundness of the institution, we will be indeed protecting the FDIC, the taxpayers, and I would suggest that while this is maybe a legislative change it is one that will inure to the benefit of the taxpayers, the FDIC, and the institution, and provide adequate capital without endangering taxpayers and without creating further risks to the small business community.

Mr. President, today I would like to offer as an amendment to S. 543 this small piece of legislation that will rectify a large injustice created by the Federal Deposit Insurance Corporation when it refused to reimburse in full certain not-for-profit corporations' accounts located at Freedom National Bank.

My amendment seeks to protect the intended beneficiaries of the charitable not-for-profit organizations who believe they had fully insured and fully protected accounts at Freedom National Bank.

Freedom National was one of the Nation's largest minority-owned banks with deposits of approximately $90.8 million and branches in the Harlem and Bedford Stuyvesant communities of New York City.

In an effort to support economic independence in the black community, many local charitable groups had maintained their operating accounts at Freedom National. I have been informed that at least nine charitable groups had multiple accounts, exceeding $100,000 in the aggregate.

On November 9, 1990, the Office of the Comptroller of the Currency declared Freedom National Bank insolvent and appointed the FDIC as its receiver. In the process of liquidating the bank, the FDIC determined that the multiple accounts belonged to a single depositor—the charitable organization behind the accounts.

As a result, the FDIC only paid each not-for-profit organization a total of $100,000, notwithstanding the fact that the organization may have had multiple accounts, each designated for a separate purpose, and each with a balance under $100,000.

On November 29, 1990, I wrote to Bill Seidman, Chairman of the FDIC, to urge the FDIC to look behind the charitable organization to see the intended beneficiaries of the separately designated accounts. On November 30, 1990, the FDIC Board agreed to an advance payment of 50 percent of the proven claims of uninsured depositors and other creditors of the bank, allegedly as an attempt to minimize the effects of the bank's closing on the community.

On January 15, 1991, the FDIC announced that it "lacked the authority and the flexibility under existing law to fully reimburse all depositors at Freedom National."

Mr. President, my amendment carves out the not-for-profit organizations as an exception to the FDIC's policy not to fully reimburse all of the depositors at Freedom National Bank.

Depriving these not-for-profit organizations full reimbursement is effectively denying many of my constituents valuable and important community services that the account funds were earmarked for.

I have a list of these accounts that were sent to me by the Fort Greene Senior Citizens Council of Brooklyn, NY. Among the accounts listed are day care facilities for more than 200 children from low-income families, and services providing for serving daily meals to over 8,000 elderly people. The United Negro College Fund also had set up separate accounts for 50 different colleges which the FDIC treated as a single account.

Although S. 543 seeks to eliminate the practice of paying uninsured depositors in cases where institutions are deemed too big to fail, the inequity of not making whole the charitable organizations with accounts at Freedom National must first be put to rest.

My amendment would protect the people who had entrusted the funds of charitable, not-for-profit organizations at a small community bank that was not too big to fail.

The FDIC estimates the cost of making whole these charitable organizations at between $5 to 7 million. This is a negligible amount in a bill that seeks $70 billion to recapitalize the bank insurance fund.

I agree that S. 543 should drastically reduce the practice of paying uninsured depositors but let us not make the mistake of making a lesson of Freedom National. Congress should move toward implementing this policy prospectively, and in an even-handed manner.

Just about this time last year, the FDIC made sure that the charitable organizations with accounts at Freedom National had nothing to be thankful for. My amendment would truly give these organizations something to be thankful for this Thanksgiving.

Thank you, Mr. President.

Mr. President, I yield the floor.

I know the chairman is reviewing this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I appreciate the cooperation of my colleagues. The distinguished Senator from Washington [Mr. GORTON] would agree to 20 minutes equally divided on his amendment, and Senator GRASSLEY would agree to 20 minutes equally divided on his amendment.

I ask unanimous consent that those two be approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Senator BUMPERS would agree to 40 minutes equally divided on his amendment.

I ask unanimous consent that be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I am wondering if my friends would yield me 2 minutes of time. How much time do I have?

The PRESIDING OFFICER. There are 9 minutes on each side remaining.

Mr. D'AMATO. Mr. President, if I might suggest to the chairman that we lay this over because there is no pride of authorship as it relates to the language which we suggest.

There is a very real concern though that, if we adopt this bill with this language, we are going to have the regulators breathing down the necks of the banks saying Congress told us that we have to set these capital levels. These levels are going to be in some cases tenfold higher than what may be necessary to ensure the soundness of a bank. We are, inadvertently, going to be creating some very real trouble and exacerbating the credit crunch.

I know the chairman and the ranking member have worked very diligently to avoid this. I would be willing to lay this over, we could pick it up, and maybe the staffs could work it out.

Mr. RIEGLE. If the Senator will yield, I think that is a constructive suggestion. I think there is a possibility in that area. I would like to suggest on that basis that the Senator's amendment be temporarily laid aside while we have a chance to discuss this and find a satisfaction answer.

I will ask that we go to work with staff and see if we can resolve that, and if so, bring it back at the earliest moment and settle that.

Mr. D'AMATO. I thank the chairman.

Mr. President, I ask unanimous consent that the amendment be laid aside so that other business can be undertaken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I wonder if we might go to the Senator from North Dakota.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are here debating providing $70 billion of coverage to the bank insurance fund and will be asked soon to give an additional $80 billion to the RTC, a total of $150 billion of taxpayers' money. At the very time we are being asked to extend $150 billion of taxpayers' money, we are finding that these two agencies are not using the money we have already extended to them prudently or wisely and, in fact, are wasting millions and millions on legal fees.

Mr. President, I am referring to a series of articles which appeared in the press in recent days reporting that FDIC and the RTC are spending $1 billion a year on outside lawyers. It is not $1 million, Mr. President. That is $1 billion.

Unfortunately, much of that time is being wasted.

Mr. President, I have an amendment to address this question of wasting hundreds of millions of dollars potentially in taxpayers' money on legal fees. I send an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO. 1375

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1375.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is in effective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(3) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

Mr. CONRAD. Mr. President, in pointing out that we are spending $1 billion a year of taxpayer's money on outside lawyers, there has been an accounting report done by the firm of Price Waterhouse that accuses FDIC of passing out hundreds of millions of dollars in legal work to law firms chosen without competitive bidding, and suggests that legal expenses could be slashed if the agency made lawyers compete for its business. That is a pretty novel idea—have lawyers compete for the business instead of just handing it out.

Mr. President, an article that appeared in the New York Times on November 16, last Saturday, is headlined "U.S. Said to Squander Millions for Legal Work on the Bailout."

The studies found among other things that the "FDIC and its affiliated agency, the Resolution Trust Corporation, failed to use competitive bidding or to negotiate steep enough discounts or fixed fees when hiring lawyers even though many lawyers are eager for the work."

Mr. President, I direct my colleagues to the Wall Street Journal article that appeared on Monday: "FDIC's Legal Unit is Criticized in Study in Handing Jobs to Outside Law Firms."

Mr. President, if this evidence were not enough, in the last few hours, we have new evidence, evidence that has not yet been publicly released that is contained in a series of audit reports, done by the Office of Inspector General.

Mr. President, the Office of Inspector General today has released eight new reports, eight individual audits on the work of individual law firms on behalf of the FDIC.

Mr. President, I have agreed not to release the names of these law firms. But the details contained in these reports are stunning. Again, I say to my colleagues that these reports have not yet been made public. But they record a system of abuse and neglect that should outrage every one of my colleagues and, I believe, outrage the American people, as well.

Let me just share a few of the examples. One law firm included billings for professional time for which there were no time sheets. Overcharged to the American taxpayer: $285,000. That is one law firm.

Mr. President, this is the audit report on a second law firm, a series of overcharges from this law firm found in these audit reports just released. In this case, the law firm gave a discount in order to reflect what they would have paid if they were paying the standard professional rate. But they did not apply the discount to get to the standard rate on all of their billings. The overcharge to the taxpayers on this one case, Mr. President, is $257,000. One law firm. But it did not end there with that law firm.

Next we find duplicate payments. They submitted duplicate bills. Overcharge to the American taxpayer: $252,000. It did not end there, Mr. President.

Next, we have hourly rate discrepancies, because they were charging higher than the prevailing contract fees. Overcharge on this item to the taxpayers: $161,000. It does not end there, Mr. President.

Excessive conferences. Well, this overcharge is not as great; it is only $39,000 in overcharges.

Use of personnel without approved rate. Overcharges: $153,000.

Marked up photocopy expenses—Mr. President, you have to hand it to them. These folks have been ingenious. Not only did they file duplicate payments, not only did they overcharge on hourly rates, not only did they charge for excessive conferences, not only did they charge for use of personnel without approved rates, they marked up the photocopy expenses. The overcharge for this one firm to the American taxpayers: $81,000.

Mr. President, here is another audit just released today, not made public yet. These people were ingenious on photocopying, too; there were $34,000 in bills over and above their actual cost. Stuck to the American taxpayer: $34,000.

Here is another law firm. Legal assistant time reports indicate the firm was billed for assistant services at rates ranging between $17 and $20 per hour. What did they charge the taxpayer? They charged the taxpayers $40 an hour. I do not know what the loss is on this company.

Mr. President, it does not stop there. Not only do we have these very large amounts, but we have personal telephone calls being charged to the American taxpayer, hotel movies being charged to the American taxpayer; all of these things were found in audits.

What is the solution, Mr. President? The solution is to tell our friends that they have to bid on a competitive basis. That is what this sense-of-the-Senate resolution does. It says that the FDIC and Resolution Trust Corporation should protect the insured depositors of banks and savings and loans at the least possible cost to the American taxpayer. That ought to be the goal.

Mr. President, to accomplish that goal, we suggest, No. 1, the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively, on the basis of their ability to perform, and require tasks at the lowest possible cost to taxpayers; No. 2, that the FDIC and RTC should not contract the person or firms whose activities contributed to the decline of the banking and thrift industry.

Mr. President, that second point is necessary because, lo and behold, we find out that not only have we got hundreds of thousands of dollars, and millions of dollars, and perhaps hundreds of millions of dollars being wasted by the law firms that have been hired to help clean up this mess; but, in addition to that, we find that many of the firms that are profiting were involved in creating the problem in the first place.

Mr. President, one accounting firm that has been hired was involved in covering up the problems at Silverado S&L. This failure will cost the Government $1 billion to clean up. Yet, the accounting firm that was involved is now right at the trough getting fees to help clean up the mess that they helped create.

Mr. President, there is something wrong about that. I think if the American taxpayers would go through these audit reports, report after report after report after report, which demonstrate the kind of abuse that is occurring, and the law fees that are being charged the American taxpayers to clean up the mess, they would be outraged. These are the people we have hired to clean up the mess. Now we find out they are part of the mess.

Mr. President, I hope that my colleagues will join with me and send a very clear signal: This is unacceptable to the American taxpayer. It is outrageous. The people of this country know this mess has to be cleaned up. But it ought to be cleaned up on a basis that is as least costly as possible to the American taxpayer.

Mr. President, again, I hope this amendment will be accepted, and that we will send a message to the FDIC and the RTC that this is unacceptable operations. Overcharge after overcharge, no management, no oversight, nobody minding the store. It is no wonder the American people are outraged.

We have an opportunity right now to pass an amendment that will do something about it. I hope my colleagues will agree.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired. There are 10 minutes remaining for a response.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I have conferred with the ranking member, and he tells me that he feels this amendment can be worked out and accepted, and that if his staff will undertake now to meet with the minority staff, in very short order, we should be able to resolve this and accept this amendment.

So, if the Senator finds that acceptable, I suggest that I reserve the remainder of the time here, ask that this amendment be temporarily set aside for the purpose of seeing if we can reach an agreement and accept this amendment.

Mr. CONRAD. I would be glad to work with the chairman and ranking member to seek to do that.

Mr. RIEGLE. Fine. May I suggest we start immediately beyond that, because I would like to get this done in the next 10 minutes, if possible.

Mr. GARN. Mr. President, if the Senator will yield, I will tell the Senator that I do not think there is any problem. There is just some language we need to clarify. That can probably be done in 5 or 10 minutes.

Mr. CONRAD. We will be happy to participate in the effort.

Mr. RIEGLE. Mr. President, then I ask unanimous consent that the Conrad amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

AMENDMENT NO. 1376

(Purpose: To amend the Employment Retirement Income Security Act of 1974)

Mr. GARN. Mr. President, I send an amendment on behalf of Senator DANFORTH to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. DANFORTH, for himself, Mr. BOND, and Mr. KENNEDY, proposes an amendment numbered 1376.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

Mr. GARN. Mr. President, I am offering this amendment for Senator DANFORTH on behalf of himself, Senator BOND, and Senator KENNEDY. The amendment has been cleared by myself and the chairman of the Banking Committee.

The amendment is narrow and straightforward, and provides that Carl Icahn, through control of TWA, should not be permitted to insulate himself by means of a slick legal maneuver and leave the Federal taxpayer responsible for picking up the tab.

The amendment has been cleared on each side. I ask that we approve it.

Mr. DANFORTH. Mr. President, Carl Icahn, the owner of Trans World Airlines, is presently negotiating with the creditors of the carrier in an attempt to put together a prepackaged plan before filing for reorganization under chapter 11 of the Federal bankruptcy laws.

A very troubling prospect has arisen during the course of these negotiations. It is troubling for the employees of TWA; it is troubling for the Federal taxpayer. According to the Pension Benefit Guarantee Corporation, TWA has substantial unfunded pension liabilities. Estimates range from $150 to $900 million. Because Carl Icahn today holds more than 80 percent of the common stock of TWA, the law deems him to be in control of TWA, and holds the other businesses he controls in common with TWA liable for the pension obligations. As part of this prepackaged plan, Mr. Icahn is proposing to decrease his ownership of TWA below 80 percent, but to retain control of the TWA board and TWA management. The effect of this proposal, if successful, will be to insulate Mr. Icahn's financial empire from liability for the unfunded pension obligations. Ultimately, the Federal taxpayer could end up holding the bag.

This amendment is narrow, simple, and straightforward. Narrow in that it applies only to this one unconscionable proposal. Simple in that it says if Mr. Icahn controls TWA, either through ownership of the airline or by directing its management, he is liable for the pension obligations. Straightforward in that it provides the PBGC with the type of protection any private guarantor would require in a similar situation.

In this bill, the Federal taxpayer is providing over $70 billion in guarantees for recapitalization of the bank insurance fund. Should Carl Icahn be allowed to stick the Federal taxpayer for perhaps close to another $1 billion in liability? The answer is "no." The Federal taxpayer should not have to assume liability for TWA's unfunded pension obligations so long as Mr. Icahn has assets available and either owns the carrier or controls its destiny.

In summary, Mr. President, the issue presented by this amendment is simply this:

Do you believe that Carl Icahn should be able to take a business he now owns, continue to run it, but through a slick legal maneuver, insulate his financial empire from lability for perhaps close to $1 billion in unfunded pension obligations, and turn over this liability, ultimately, to the Federal taxpayer?

If not, then support this amendment.

Mr. KENNEDY. Mr. President, I commend Senator DANFORTH for his leadership on this issue and his tireless efforts to protect TWA's employees and retirees against the attempt by Carl Icahn to dismantle TWA.

Most recently, we have seen reports of Mr. Icahn's negotiations with creditors to put together a prepackaged bankruptcy reorganization plan as a preliminary to filing for reorganization under chapter 11 of the bankruptcy laws.

Under this plan, Mr. Icahn would reduce his actual stock ownership in TWA to below 80 percent, but would retain control of 6 of the 11 seats on the board of directors and the management of the company.

By reducing his stock ownership below 80 percent, Icahn and the other businesses he controls would effectively shed their current liabilities under TWA's pension plans.

Estimates of the current unfunded liabilities of the TWA pension funds range from $150 to $900 million. If Mr. Icahn is allowed to rid himself of these pension obligations in this way, there is a good chance that these pension liabilities will end up being dumped on the PBGC, and perhaps ultimately on the taxpayer.

Mr. Icahn should not be allowed to insulate his financial empire from these unfunded liabilities through clever manipulation of the bankruptcy laws.

We have seen this kind of thing happen all too often in recent years in the airline industry, both with Mr. Icahn and with Frank Lorenzo and Continental and Eastern Airlines.

This is a simple amendment to ERISA that will make clear that if Mr. Icahn retains control over the direction and management of TWA, then he and his other businesses will also retain responsibility for TWA's pension obligations.

The amendment is narrowly drafted in that it applies only to TWA, and is aimed only at preventing Mr. Icahn from getting away with this unfair legal maneuver.

Again, I commend Senator DANFORTH for his work on this amendment and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I reviewed the amendment and checked it with other Members concerned with this issue on other committees, and I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment

The amendment (No. 1376) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1377

(Purpose: To make certain technical and conforming changes in the bill, and for other purposes).

Mr. RIEGLE. Mr. President, we have worked at some length to develop a managers' amendment that has resolved a number of issues that were in contention by various Senators.

I now send that manager's amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1377.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 1377) is printed in today's RECORD under "Amendments Submitted.")

EXPLANATION OF MANAGERS' AMENDMENTS, S. 543

Mr. RIEGLE. Mr. President, I rise to offer for myself and the distinguished Senator from Utah a set of amendments to S. 543. For the convenience of my colleagues, I will briefly summarize the key points of these amendments.

The amendments require that Bank Insurance Fund borrowing from the Federal Financing Bank be repaid by the sale of assets of failed institutions.

The limit on the FDIC's outstanding obligations is amended to distinguish between contingent and noncontingent liabilities. The FDIC must include the expected cost of any contingent liability.

The provision governing the deadline for FDIC to notify an institution of the amount of its semiannual assessment are modified to eliminate any rigid deadline.

Risk-based capital standards are required to reflect the actual performance and expected risk of loss of multifamily mortgages in addition to the factors already required to be reflected.

The bill's use of the defined terms "Federal banking agency" and "appropriate Federal banking agency" is made consistent.

There is a clarification that the Federal banking agencies' authority over accounting principles for FDIC insured depository institutions does not affect the Securities and Exchange Commission's authority over accounting and financial disclosure under the Federal securities laws.

Regulators are provided additional flexibility for dealing with critically undercapitalized institutions. Savings associations with capital plans approved under FIRREA are exempted from the bill's provison requiring appointment of a conservator or receiver for critically undercapitalized institutions.

The Federal banking agencies are given expanded authority to require significantly undercapitalized institutions to merge with healthy institutions. This will facilitate efforts to resolve troubled institutions before they fail.

The amendments clarify the application of passthrough deposit insurance to retirement plans for employees of State and local governments and nonprofit organizations.

Provisions are added to codify the existing community development authority of national banks and to broaden the bill's language permitting safe-and-sound community development investments by State banks.

The amendments provide an exception to equity-investment restrictions for bankers' banks.

A provision is added to preserve the Federal Reserve's existing authority to permit investment in high-quality debt securities by U.S. depository institutions operating abroad.

The amendments require that executive officers and directors of depository institutions report annually to the board of directors on extensions of credit to officers and directors secured by the institution's shares.

In determining how to satisfy the FDIC's obligation to depositors at the least cost to the insurance funds, the FDIC is required to consider lost Federal tax revenues.

To prevent regulators from being bogged down in litigation over the FDIC's determination under the least-cost resolution requirement, these determinations will not be subject to stays or injunctions.

The amendments provide a presumptive safe harbor from cross-guarantee liability for a subsidiary of an insured depository institution in which the institution and its affiliates do not, in the aggregate, possess a plurality of the ownership interest or voting shares.

Section 224 on granting FDIC insurance to banks is rewritten for clarity.

Provisions requiring disclosure by institutions lacking Federal deposit insurance are revised to phase in more gradually, and responsibily for enforcement of the disclosure requirement is shifted from the FDIC to the Federal Trade Commission. Private deposit insurers are required to submit an annual independent audit beginning 120 days after enactment of the act and to submit business plans detailing their viability within 240 days after enactment.

Interstate branching solely to engage in deposit production is prohibited.

The Justice Department is required to report on bank holding company applications for interstate branching that raise significant competitive issues.

The Savings and Loan Holding Company Act is amended to incorporate BCCI-related changes parallel to those in the Bank Holding Company Act.

The amendment requires that a thrift institution be adequately capitalized in order to use the bills' streamlined thrift-to-bank conversion procedures. Those procedures may be used to convert to a savings bank charter under certain circumstances.

State officials are allowed to serve on the proposed Presidential Insurance Commission.

The provisions of the bill requiring disclosure of coverage by the Securities Investor Protection Act have been modified slightly.

The amendment adds protections for whistleblowers who expose wrong-doing by depository institutions.

Changes are made to ensure that the bill will not affect the application of the Internal Revenue Code to bank holding companies.

The Federal Reserve Board is given authority to grant immunity from prosecution, with approval of the relevant U.S. attorney.

Regulators are required to develop regulations regarding excess compensation of bank and thrift officials.

Federal agencies are required to report information they develop that would significantly affect the safety and soundness of an insured depository institution.

The amendment also revises the provision extending the securities-fraud statute of limitations. Under the amendment, the statute of limitations that existed before the Supreme Court's Lampf decision will continue to apply in cases that were pending at that time. Cases that have been dismissed as a result of Lampf but were timely filed prior to the Courts' decision may be refiled. Cases that have not yet been dismissed may be retained.

There is a sense-of-the-Senate resolution expressing concern about the availability of credit.

Technical corrections are made to the Federal Deposit Insurance Act.

Finally, various minor drafting changes are made to delete redundant language and promote clarity and consistency.

The amendment lengthens the phase in period for certain appraisal requirements enacted in 1989, broadens regulators' authority to make exceptions to those appraisal requirements, and establishes de minimis levels for those requirements.

Amendments were also made to title X, lender liability.

The manager's amendment also contains three coin provisions that have the required number of cosponsors.

Let me yield to the ranking minority member.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the vast majority of this particular amendment is technical and a measure that we have been trying to work out over several days and hours. I would want people to be aware of that.

However, the amendment as to underwriters liability is involved in this. The current occupant of the chair and I spent several months coming to agreement. I think it is a good compromise.

I thank the occupant of the chair, the Senator from New Jersey, in that particular matter.

STOP EXCESSIVE COMPENSATION AT FEDERALLY-INSURED BANKS AND S&L'S

Mr. Levin. Mr. President, I would like to thank the managers, Senator RIEGLE and Senator GARN, for including in their package my amendment to require Federal regulators to stamp out compensation abuses by bank and S&L insiders.

My amendment is the result of a year-long investigation by the Subcommittee on Oversight of Government Management, which I chair. This investigation found host of compensation abuses in which federally insured bank and S&L funds were used for sailboats, vacation homes, butlers, multimillion-dollar golden parachutes, and other types of excessive compensation, which drained healthy institutions of needed assets and helped drive ailing institutions into Federal takeovers. The worst cases by far occurred at S&L's in the 1980's—I will describe some examples in a minute—but the investigation also uncovered evidence that banks are not immune to this practice and that it has not disappeared in the financial institutions of the 1990's.

My amendment, which is not part of the managers' package, would create the first Federal statute that specifically require Federal bank and S&L regulators to address the problem of compensation abuse by insiders. In essence, it would require them to prohibit as an unsafe and unsound practice any compensatory arrangement which is excessive or could lead to material financial loss to a federally insured bank or S&L. Regulators who battle inappropriate compensation at federally insured institutions now must do so on the basis of inconsistent regulations and without the benefit of an explicit Federal statute.

That ought to change. Here is what the Office of Thrift Supervision says about my amendment:

> The experience of the Federal banking agencies is that [compensation] abuses of

> this nature exist and, in many instances, such agencies have not always had the proper tools in which to address these abuses—this provisions would provide specific statutory authority to address such abuses. The proposed language sets forth clear and concise guidelines for the Federal banking agencies to follow, but does not handcuff the agencies with respect to the manner in which the statutory requirements may be implemented * * *.

My amendment would strengthen the regulations in this area and give regulators the tools they need to enforce them. As one regulator told my staff, a statute on insider abuse would raise this oversight issue to a whole different plane in his agency and, by providing clear statutory support, would strengthen the hand of regulators confronting these abuses. It would also send an unequivocal message to the financial community that inappropriate compensation threatening the safety and soundness of federally insured institutions must stop.

Finally, my amendment would also complement S. 543's provisions on insider loans by addressing this second type of insider abuse which can present equally significant threats to the safety and soundness of federally insured financial institutions.

To demonstrate the need for my amendment, we can look at the lessens of the recent past. Since there has already been extensive coverage of the S&L scandal, I will describe just two examples of compensation abuse by S&L insiders.

The first involves Centrust Bank, a federally insured S&L in Florida. In 1988, the chief executive officer received $550,000 in salary, a bonus of $300,000, and $2.76 million in Centrust stock dividends, despite the fact that the S&L was losing money. In 1989, he received $700,000 in salary and a $445,000 bonus, despite continuing losses. In 1990, he received $950,000 in salary and a $310,000 bonus despite another year of losses. That is a total of $6 million in 3 years in which the S&L never showed a profit. Just the opposite. Centrust lost money so fact that, in 1990, the Federal Government had to seize it and assume its debts.

After the takeover, Federal regulators found not only the exhorbitant cash compensation I have described, but a host of other insider abuses. They include a $6 million term life insurance policy payable to the CEO's spouse, for which the S&L paid a $258,000 annual premium; $400,000 spent by the S&L on a security system and guards for the CEO's home; a monthly allowance of $550 for the CEO's car; $75,000 spent on personal items in the CEO's home such as a refrigerator and 6 video cameras; $45,000 spent on hotel bills for the CEO during a trip to New York City; $233,000 to purchase a sailboat; and $1 million to maintain a jet and hangar. The list goes on, and it is incredible.

The second example involves Columbia Savings and Loan in Beverly Hills, CA. That S&L was primarily owned by the members of one family. In 1989, a year in which Columbia lost money, it paid its CEO, a family member, a bonus of $3 million. A few years earlier, in 1985, it had paid the same CEO $9 million, including a lump-sum retirement benefit of $5 million. Also in 1985, it paid the chairman of the board, the CEO's father, $560,000. Back then, director fees averaged in the mid-$20,000's.

Columbia also provided its CEO with a wild array of lavish perks, including use of condominiums in popular resorts, yachts and corporate jets. It employed an English butler and martial arts instructor. It provided the CEO with $463,000 in personal expenses, including a $2,000 wine-tasting course, $7,000 in Michael Jackson concert tickets, and the purchase of 55 guns including Uzi submachine guns. All at a federally insured financial institution which, by the way, collapsed this year and may cost Federal taxpayers as much as $1 billion.

Compensation abuses at other S&L's are also well known, detailed in indictments and civil suits involving such well known institutions as the Lincoln, Lamar, Vernon and Sunbelt S&Ls. In each of these cases, Federal regulators have sued for the return of excess compensation or assisted in criminal prosecutions of the individuals who ran these S&L's into the ground and looted the assets. Unfortunately, these actions are taking place after the S&L insiders enriched themselves and left the American taxpayer holding the bag.

One might suppose, after the widespread media coverage of the S&L scandal, the multibillion-dollar bailout, and taxpayer outcry, that compensation abuses by insiders would have ended. Unfortunately, you would be wrong. For example, in 1990, the press reported that the president of an S&L in Virginia received $825,000 after resigning, despite the fact that the S&L was losing money. In 1991, the Federal Government took control of this S&L.

While bank regulators have not uncovered problems of the same magnitude as in the S&L industry, the signs are there too. Here are a few recent examples.

According to press reports, in February 1990, the chairman of Washington Bancorporation resigned from that bank and received nearly $2 million in pay for 1990, though he worked less than 2 months in that year. Six months later, the bank collapsed.

Also in 1990, Riggs National Bank paid its CEO $1.4 million in salary, despite the fact that, in 1990, the bank lost $56 million, twice reduced its stockholder dividends and experienced a 59-percent drop in its stock price. Due to his poor performance, this CEO was rated by Barron's as the most overpaid bank CEO last year.

Just a few weeks ago, the press reported that the chairman of C&S-Sovran Corp. will get up to $6 million in severance pay if his job is terminated in the next 2 years. That arrangement is part of an executive pay package for eight individuals at the bank, who have been promised severance pay totalling $24 million. Press reports also indicate that the bank may have reached this agreement knowing that it would soon be taken over by another bank, NCNB, which is planning to eliminate 9,000 of the 60,000 jobs between them. That means that this multimillion-dollar payoff is highly likely.

That is not all. Each year, financial publications publish a list of the most highly paid bank executives in the United States, keeping statistics on what they call the millionaires club—those bank executives earning $1 million or more in a single year. In the last decade, the growth in this club's membership has been huge. From 1981, where there were 0 members, to 1982, with just 1 member; to 31 members in 1990.

It is striking to me that large numbers of bank millionaires are occurring in years with record numbers of bank failures. It is also worth noting that the first $2 million-dollar salary was recorded in 1989. In 1990, the highest paid bank executive obtained $2.5 million. And these figures do not include stock options, which can add millions more.

Despite this record, there is currently no Federal statute which directs Federal regulators to stop compensation abuse by insiders at banks and S&Ls. Existing regulations and examination requirements in this area are incomplete and inconsistent. Actions by regulators are often after-the-fact and ineffectual. That is why this legislation is needed.

My amendment would require each appropriate Federal banking agency to prescribe standards prohibiting as an unsafe and unsound practice compensatory arrangements which are excessive or could lead to a material financial loss to a federally insured institution. By using the phrase, "unsafe or unsound practice," section (c)(1) of the amendment would provide Federal regulators with clear authority to use all existing enforcement tools to stop compensation abuse. If, for example, regulators determined that a bank is providing executives with excessive pay, they would be able to use all regulatory means, including cease and desist orders, to require the bank to recover the excess pay, nullify unreasonable employment agreements, or take other appropriate action to end the abuse.

Section (c)(1) would apply to all types of compensation, including any employment contract, compensation or benefit agreement, fee arrangement, prerequisite, stock option plan, postemployment benefit, or other compensatory arrangement. This language would cover, for example, all types of cash payments, including executive pay and bonuses, director fees, consulting fees, automobile allowances, reimbursement of travel expenses, membership dues, severance payments and retirement pay. It would also cover all types of noncash compensation, including arrangements which provide an individual with, for example, stock options, stock, property, artwork, security services, use of automobiles, use of real estate, use of aircraft, life insurance, medical insurance, health care, financial counseling or other perks. In short, the amendment is intended to apply broadly to all types of compensatory schemes.

The amendment would also apply to any executive officer, employee, director, or principal shareholder of a federally insured institution. This broad language is necessitated by the history of compensation abuse in the 1980's. There have been situations, for example, in which an S&L placed a key stockholder on its board and paid him huge director fees, and others in which a bank paid a principal stockholder enormous fees as a consultant. In another case, an S&L CEO put relatives and friends on the S&L payroll as employees, paying them huge salaries for little work.

The amendment would require Federal regulators to prohibit compensation which is excessive or could lead to material financial loss to a federally insured institution. This language is drawn in part from existing regulations and examination manuals, including 12 C.F.R. 563.39, 47 and 161(b), and the 1978 Office of Comptroller of the Currency Banking Circular No. 115. It provides two different tests for regulators evaluating compensation schemes. The first focuses on the nature of the compensation being provided, while the second focuses on the potential cost to the institution.

Section (c)(2) of the amendment addresses the issue of "when compensation, fees or benefits are excessive." Regulators currently use various regulations and examination requirements to make that determination. This section of the amendment requires them to issue standards to guide their efforts. It is my hope, by the way, that in issuing these standards, all of the agencies would work together to produce a single set of rules that all of their examiners, supervisors and regulators could follow.

Section (c)(2) is intended, not only to encourage consistency among Federal regulators, but also to require a tougher test which includes consideration of a range of factors. This expanded test is needed because, currently, some examination manuals indicate that regulators evaluating compensation should concentrate on comparing compensation at similar institutions. This comparison can be misleading, however, since comparable institutions may also be paying excessive compensation, and a rachet effect could be used to justify increases in everyone's salary. That is partly what happened in the S&L scandal.

Section (c)(2) requires regulators to determine whether the compensation being provided is unreasonable or disproportionate to the services actually performed by the individual. This language tells the regulators that they should put the focus first on what the individual is doing for the institution, rather than on what compensation levels his or her peers may be receiving. The provision also requires the regulators to consider a range of factors in evaluating whether the individual's compensation, fees and benefits are excessive.

For example, section (c)(2)(A) requires consideration of the total cash and noncash benefits being provided to the individual, so that regulators will consider the total situation, including the value of noncash benefits such as arrangements providing stock options, use of a residence or plane, personal property or other perks.

Section (c)(2)(B) requires regulators to consider the compensation history of the individual and other, similarly situated individuals at the institution. In one S&L, for example, the CEO doubled his pay each year for 5 years, a rate of increase which is clearly excessive. Another example would be a CEO who received a salary significantly greater than his or her predecessor, with no apparent reason for the pay discrepancy.

Section (c)(2)(C) requires consideration of the institution's financial condition. Salaries which might be reasonable at a profitable bank may be excessive at a bank losing money. Huge salary increases or severance payments at unprofitable institutions also raise red flags. On the other hand, the mere fact that an institution is profitable is not in and of itself justification for any compensation level, no matter how high. The S&L scandal is replete with cases where insiders wasted or looted a profitable S&L's assets and, in so doing, undermined its safety and soundness.

Section (c)(2)(D) requires regulators to consider comparable practices at comparable institutions, since peer institutions can provide a useful benchmark. At the same time, the point of section (c)(2) is to emphasize that this is only one element of many to consider.

Section (c)(2)(E) requires regulators to consider, for postemployment benefits, their total cost and benefit to the institution. Postemployment benefits include both cash and noncash benefits available upon termination of employment. They include severance pay, retirement income, medical and life insurance, and unusual arrangements such as charitable contributions and use of residences, aircraft and office space. Some of these benefits are provided as an inducement to employment, others are unexpected windfalls with no apparent benefit to the institution. For example, an unexpected million-dollar payment to a departing CEO would impose a significant cost with no apparent benefit to an institution, since the CEO is leaving and never expected that payment. If you think this example is far-fetched, the $24 million severance package for 8 C&S-Sovran executives and the $27 million payoff to Fannie Mae's departing CEO ought to demonstrate that it is all too possible. Even benefits offered to attract or retain a valuable employee may have to be curbed if they entail huge costs.

Section (c)(2)(F) requires regulators to consider any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with which the individual receiving the compensation may be involved. This language, drawn from golden parachute provisions in 12 U.S.C. 1828(k), requires regulators to consider whether the individual in question was involved in any wrongdoing affecting the institution, including any insider abuse.

Section (c)(2)(G) enables regulators to consider any other relevant factor as well. One example that comes to mind is whether the individual was involved in wrongdoing elsewhere. Because compensation and circumstances can vary significantly from institution to institution, regulators must be free to consider a wide range of factors. The point of section (c)(2)'s expanded test is to enable regulators to determine that compensation is excessive, even when peers are paying similar amounts, if such factors as disproportionate increases, unprofitability, wrongdoing, or other relevant factors are present.

In addition to prohibiting excessive compensation, section (c)(1) would prohibit compensation which could lead to material financial loss to a federally insured institution. The point here is to stop compensatory arrangements with the potential for requiring a bank or S&L to make substantial payouts or to dissipate its profits or capital. The word, "material," is used, not to require a showing of significant injury to the institution, but to exclude consideration of arrangements with a trivial impact. Examples of compensatory arrangements which could meet this test include agreements to provide unlimited lifetime medical care of executive officers and their families; multimillion-dollar golden parachutes; and unlimited indemnification agreements.

Finally, section (c)(3) of the amendment would authorize Federal regulators to address any other aspect of compensation abuse at federally-insured institutions.

Congress needs to send a strong, clear message to its regulators that the American people are fed up with insider abuse at federally insured banks and S&L's. While S. 543's provisions on insider loans address one aspect of this problem, they do not go far enough. Compensation abuses are part and parcel of the S&L scandal, and are beginning to show up in banks as well. Congress ought to act now to direct Federal regulators to redouble their efforts to stop this unsafe and unsound practice. My amendment does just that. Again, I thank my colleagues, Senator RIEGLE and Senator GARN, for supporting it.

BCCI-RELATED AMENDMENTS TO S. 543

Mr. BROWN. Mr. President, I rise today to bring to your attention three important amendments to S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, which will assist the proper Federal Government agencies to conduct more comprehensive and timely investigations into questionable banking activities. I am proud to have as a cosponsor Senator JOHN KERRY of Massachusetts, whose hard work during our investigation of the Bank of Credit and Commerce International, or BCCI, helped bring the deficiencies in current banking law these amendments correct to light.

These three amendments are the first changes in Federal law resulting from the BCCI investigation. They will strengthen the ability of Federal regulatory agencies to enforce our Nation's banking laws, bolstering existing law to prevent loopholes exploited by BCCI.

I am pleased to note both sides have cleared the three amendments and they are included in the managers' amendment.

The first amendment will help prevent sweetheart deals and the secret takeover of banks by undisclosed third parties. It requires that directors and officers of federally insured institutions, bank holding companies, and savings and loan holding companies annually report to their board of directors the outstanding amount of any loan made to them which is secured by their stock in the institution or holding company. It is important to note that this amendment applies only to institutions and holding companies whose stock is not publicly traded. It does not apply to companies whose stock is publicly traded.

The purpose of this amendment is to ensure that boards of directors are aware that directors or officers have pledged shares of that institution or holding company to secure credit. The amendment does not prohibit any director or officer from pledging shares that the director or officer may own; rather, it simply ensures such an action is reported.

The information provided formally to the board of directors must then be maintained in the bank or holding company's official records. The Federal Reserve and other bank regulators would then have access to the information during annual audits, and, thus, be better able to track who actually controls U.S. banking institutions. We have attempted here to increase the accountability of our banking system without requiring a significant new load of paperwork on bank officers, directors or regulatory agencies. This amendment does just that.

During hearings concerning BCCI's illegal ownership of First American National Bank, BCCI achieved effective ownership of First American National Bank by financing front men. Mr. Clifford and Mr. Altman received 100-percent offshore, nonrecourse loans from BCCI. The stock was pledged as collateral and helped ensure BCCI de facto control of the parent holding company. Adequate disclosure of this transparent financial arrangement would have alerted the Federal Reserve to BCCI's control of First American.

This amendment helps ensure the loophole exploited by Clifford and Altman is closed.

The second amendment would require U.S. agencies to promptly pass any information affecting the safety and soundness of the U.S. banking system to the proper Federal banking agencies. During the investigation of BCCI, critical information held by the CIA was not passed on to the Federal Reserve, which was the agency with regulatory authority over the banks involved. This delayed the Federal Reserve's in-depth investigation of BCCI's hidden ownership of U.S. banks by as much as 5 years.

The amendment will ensure that information concerning the safety and soundness of the U.S. banking system is not caught within a Balkanized bureaucracy, where important information is not shared properly. At the same time, the amendment has been drafted to address specific concerns of the Department of Justice that the disclosure of information not jeopardize criminal prosecutions or the safety of investigators, or create problems with respect to grand jury investigations. We also have ensured that sensitive intelligence information is handled in a fashion that ensures its protection.

The third amendment provides the Federal Reserve the authority to grant the power of immunity to witnesses who assist in developing information critical to its investigations. In providing the Federal Reserve the power to grant immunity to witnesses we are simply granting the Federal Reserve the same power that the Securities and Exchange Commission [SEC], the Federal Deposit Insurance Corporation [FDIC] and other agencies currently exercise. This power gives the Federal Reserve an increased ability to conduct investigations of greater magnitude and scope.

If the Federal Reserve had had the power to grant immunity during the 1980's, many experts believe its investigation of BCCI might have uncovered evidence of the bank's illegal ownership of First American when allegations first began to surface in the early eighties. Instead, the Federal Reserve was forced to wait for years—into the late eighties—until other Federal agencies were able to collect the necessary information and then decide to share it with the Fed's investigators.

These three amendments provide the Federal Government the ability to access information necessary to uncover questionable banking activities that might affect the safety and soundness of U.S. financial institutions earlier—long before depositors become victims or taxpayers must bail out the institution.

Mr. President, I thank the Chair and ask unanimous consent that the amendments be printed in full in the RECORD following my statement.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 272, between lines 5 and 6, insert the following:

"(11) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.".

At the appropriate place in title XI, insert the following:

SEC. 11 . REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consulting with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS; SAFETY OF GOVERNMENT INVESTIGATORS.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITION.—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—As used in this section, the term "appropriate Federal banking agency" has the meaning given to the term in section 3 of the Federal Deposit Insurance Act.

(2) DEPOSITORY INSTITUTION.—As used in this section, the term "depository institution" has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

At the appropriate place in title XI, insert the following:

SEC. 11 . POWERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

Section 6001 of title 18, United States Code, is amended in paragraph (1) by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

REAL ESTATE APPRAISAL REFORM

Mr. DOMENICI. Mr. President, I am offering an amendment here today to change the real estate appraisal process to help reduce regulator burdens on real estate lending and stimulate real estate markets.

I am proud to announce that this amendment has bipartisan support and cosponsors by Senators BINGAMAN, BOREN, MURKOWSKI, MCCAIN, SEYMOUR, and CHAFEE.

This amendment also has the support of the Bankers Association, the National Association of Realtors, the Homebuilders, the U.S. Savings League, the National Association of Community Bankers.

This amendment is also supported by the Treasury, Federal Reserve, and other Federal agencies such as the Bureau of Land Management.

RELIEF TO THE CREDIT CRUNCH

During the last year there has been considerable discussion about the credit crunch and its impact on the economy. By credit crunch, I mean loans that could be reasonably and responsibly made, are not available.

The credit crunch is not simply a matter of weak demand for loans; but has a supply side component being driven by banks not making loans they could safely make. While the cause of the credit crunch cannot be pinpointed to one problem, part of the problem is a new phenomena created in FIRREA called the appraiser crunch.

While no one questions the need to have qualified and well-trained real estate appraisers, the requirements in FIRREA have resulted in an appraiser shortage that distorts real estate markets, prevents bank lending, delays the completion of real estate transactions, slows economic recovery, and accelerates the credit crunch.

While components of this amendment can be changed by bank regulators, the need for this amendment today is evident. This amendment will provide immediate economic relief to help stimulate the economy and real estate markets. While no one wants to return to the dangerous regulatory laxity that marked the savings and loan crisis, the economy cannot wait.

APPRAISER SHORTAGE: WAIVER PROCEDURE

In many States the new licensing and certifying requirements have caused a shortage in appraisers. This has resulted in higher fees to borrowers and created delays in completing transactions.

This amendment will require that the Real Estate Appraisal Subcommittee create an operational waiver system. A waiver will give an entity an option to use an appraiser that is not licensed or certified by the State.

I do not question the need to have well-trained and qualified appraisers and eventually we will have qualified appraisers nationwide. However, these requirements are not ready to be implemented nationwide and they need to be relaxed to relieve the real estate credit crisis.

I want to emphasize that I do not want to permanently weaken these standards, because I think they are addressing an important concern. However, a realistic transition period needs to be phased-in more slowly than anticipated in FIRREA.

The immediate shortage of appraisers is having two devastating effects on the real estate industry.

First, it has already resulted in an appraiser crunch, which in turn, has escalated appraisal fees between 50 and 300 percent, which will obviously increase closing costs and could prevent or delay many home buyers—in particular, first-time home buyers—from purchasing a home.

Second, delays in obtaining an appraisal could stall the recovery of real estate values across the country.

The appraiser shortage is adding unnecessary delays in completing real estate transactions. At the beginning of 1991, turnaround times for obtaining appraisals was in the range of 3 to 6 months. Today turnaround times are in the range of 6 to 9 months.

The shortage results in higher borrowing costs to consumers from higher appraiser fees. In New Mexico, appraisal fees can add up to $400 for home mortgages and $10,000 for commercial real estate transactions. In New Mexico, the shortage has resulted in appraisal fees increasing by about 25 percent.

TWO-TIER THRESHOLD: $100,000 RESIDENTIAL/ $200,000 COMMERCIAL

Currently the Real Estate Appraisal Subcommittee and the banking regulatory agencies establish a de minimis level of loan amounts that would need to be appraised. These regulations make no distinction between residential and commercial real estate, and require all real estate loans made by federally insured banks above $50,000 be evaluated by a State licensed or certified appraiser.

This amendment increases the $50,000 de minimis floor to $100,000 for residential and $250,000 for commercial real estate.

The present $50,000 level has created an administrative and costly burden disproportionate to the problem it was intended to address. Small loans were not part of the problem FIRREA was trying to capture in these appraisal requirements.

There are few commercial real estate loans made below $200,000. It has been demonstrated by the OCC and other regulators that establishing these higher thresholds would in no way jeopardize the safety and soundness of financial institutions. The two-tier approach allows scarce appraisal resources to be used more efficiently, while maintaining high appraiser standards.

Difficult appraisals are on large complicated real estate transactions, not small residential and commercial loans. Changing the de minimis standard will not effect the intent of FIRREA; however, it will help move real estate and ease the credit crunch.

The need to have well-qualified and well-trained appraisers is sound; however, substantial dollars and manpower resources are now being channeled unnecessarily into a category of loans where the fewest losses in the past have occurred.

EXTENDING THE EFFECTIVE DATE

FIRREA requires all States to establish real estate appraiser licensing and certification systems as of January 1, 1992, for all federally related transactions.

Many States need some breathing room in order to license and certify adequate numbers of appraisers. This amendment extends the effective date for 1 year, until January 1, 1993, when States must comply with the real estate appraisal standards.

While many States technically have a program in place, only a small percentage of appraisers are considered qualified to examine loans at federally insured institutions. According to November data of the Appraisal Institute, 17 States have not issued final rules and regulations, and 23 States have not even begun issuing licenses.

Even with extending the date to give States a chance to comply, banks still need to get appraisals, it just won't be required that the appraiser be State licensed.

In general, a person is considered a State licensed or certified appraiser if they have taken at least 75 hours of educational appraisal classes and obtained at least 2,000 hours of experience. In some States the classes and licensing procedures can cost up to $1,000.

While I do not question the need to have well-trained appraisers, it seems unrealistic to think that all appraisers would have paid the cost and taken the tests. No wonder there is a shortage.

Before FIRREA, New Mexico had about 500 people doing appraisals, now there are only 275 State licensed and certified appraisers.

HOME EQUITY LOAN EXEMPTION

This amendment requires the regulators to implement a de minimis level for home equity loans.

Currently borrowers have to pay and wait for another appraisal to get some home equity loans. If a borrower wants a home equity loan on a house that is worth $300,000 and the outstanding mortgage is more than $100,000, the borrower will have to pay and wait for another appraisal before a $20,000 home equity loan is approved.

A banker in New Mexico responded to the OCC comment period in which he states that:

> Loans to individuals for the purpose of purchasing a home, remodeling expenses, or other personal reason have not resulted in losses to our bank, of any size. These loans require less analysis and documentation. Lending officers are aware of market conditions in their lending area. They know the market value of residential real estate. Loans below $100,000 should not require the depth of documentation of loans above $100,000.

This is absurd. This keeps valuable resources out of the economy and slows economic recovery.

CONCLUSION

In conclusion, changes in the real estate appraisal requirements are essential because strong banks and financial services are a key to the economic health of our country. Strong banks will keep credit availability in good times and bad, fueling economic growth and new jobs.

Competitive, well capitalized banks are a sure way to avoid future credit crunches. If you want stronger banks, banks that will return to the business of lending money to sound customers for sound projects, I am pleased with the passage of this amendment.

THE APPRAISAL AMENDMENT TO S. 543

Mr. MURKOWSKI. Mr. President, I rise in support of the amendment from my friend from New Mexico providing some much needed relief to the stringent appraisal standards enacted into law in 1989. I am pleased to join my friend as an original cosponsor of this amendment.

Mr. President, I supported efforts in 1989 to adopt tougher appraisal standards as part of FIRREA. Appraisal requirements are an important component of safety and soundness regulation. Unfortunately, however, the 1989 requirements need fine tuning and that is what we are attempting to do today. Our objective in offering this amendment is to make the existing regulations workable without limiting available credit.

WHAT AMENDMENT DOES

Mr. President, the amendment before us contains three needed reforms. First, it would extend for one year the implementation date of the 1989 requirements. Many States, like my State of Alaska, have yet to establish adequate State certification and licensing programs necessary to allow appraisers to qualify to review loans under the new standards. This delay will allow States to meet this requirement in a responsible manner.

Second, the amendment would codify the $100,000 de minimis level for residential real estate loans and establish a $250,000 de minimis level for commercial real estate loans. Codification of these levels will provide guidance to Federal banking regulators and stability to the marketplace with regard to enforcement of the statutory de minimis levels.

Finally, the amendment would provide for a rural exemption from appraisal requirements in certain circumstances. This rural exemption is particularly important in my State of Alaska where vast distances and infrequent transportation can contribute to appraisal costs that far outweigh any potential benefit.

WHY AMENDMENT NECESSARY

Mr. President, the primary objective of the sponsors of this amendment is to remove a layer of regulation that contributes little or nothing to safety and soundness and places needless costs on our economy. The present shortage of qualified appraisers and high costs associated with the appraisal requirement are choking-off economic growth. Our amendment is designed to stimulate the economy and facilitate prudent real estate transactions.

IMPACT IN ALASKA

Mr. President, no State suffers more from high transaction costs than Alaska—great distances and sparse population make inflexible apparaisal requirements simply unrealistic. I have heard from many in Alaska on this subject. There is almost uniform agreement that inflexible appraisal requirements are preventing prudent lending. I ask unanimous consent to insert several of the letters and articles I have received from Arkansas on this subject into the RECORD.

Alaska is currently suffering the ill-effects of a credit crunch. Banks don't want to lend in Alaska because of the high costs involved. This amendment will help to remove some of the unnecessary obstacles to lending and economic growth that presently exist.

I ask my colleagues to support this amendment.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

FRANK: I am reminded of my annual $60,000 loan to Mike Hiemburch in * * *. Mike borrows secured by his $250,000 home. The new appraisal requirement adds $500 for an appraisal to the cost of borrowing money. America is no longer competitive with this excessive overhead. Our bank with 18% net worth to assets is unlikely to go broke just because it wants to spare the consumer and the businessman the additional cost and delay of unneeded, unwanted appraisals. This is a consumer issue. Lets help the consumer by allowing solid, stable banks to continue to provide free appraisal to their customers.

David Cuddy.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

SENATOR MURKOWSKI: I am the Branch Manager of the Valdez Branch of First National Bank of Anchorage, I am writing you to express my concern regarding current legislation requiring banks to have an independent fee appraisal completed for any loan over $50,000.00 that is secured by real estate. The effect of this legislation is to raise the cost of credit to the borrower. In Valdez the cost of a loan in excess of $50,000.00 secured by residential real estate has been increased by $750.00 as a result of this legislation ($500.00 for appraisal and $250.00 for travel expenses.) A loan over $50,000.00 secured by commercial property has been increased from a low of $2,000.00 to $5,000.00 or more. As you can see these are significant increases to the cost of credit. The result of the increases has been a reduction in the extension of credit and therefore a decline in economic activity.

Valdez borrowers, when faced with the increased cost resulting from an appraisal, have on several occassions elected to reduce their request to avoid the requirement. On one occassion a commercial borrower seeking funds to expand his retail space postponed the project rather than pay $3,000.00

for a commercial appraisal. From a lenders perspective this is very frustrating. I know the value of real estate in Valdez. I am just as able to review comparable sales and analyse cashflow to arrive at value as an out of town fee appraiser. This, when combined with First National's conservative credit culture and strong capital position makes appraisal requirement a limiting and unnecessary expense to prospective borrowers. I urge you as a former banker to re-examine the existing legislation and support the elimination of the appraisal requirements.

Sincerely,

M.J. Shirrell,
Branch Manager, Valdez Branch.

First National Bank
of Anchorage,
November 7, 1991.

Re Fee appraisals.

Doug Longacre,
Vice President, Branch Loan Administrator, Branch Lending Department.

Dear Doug: At this time we are required to have an appraisal done by a certified appraiser if the loan exceeds $50,000. Since this change came about we have been unable to service our customers in an expeditious manner. We have to contact an appraiser either the only one here in Bethel if he is in town or call Anchorage to find out when the appraiser is coming out.

It wouldn't be so bad if there were an abundance of appraisers that are available when you needed them. Even when they are available it takes a week or so to get the final appraisal. It happens with all applications that are over $50,000, there is no exception.

If there is anything that you can do to bring the process back to where it used to be I know that our customers will be much happier.

Sincerely,

Arvin D. Dull,
Vice President.

First National Bank
of Anchorage,
November 6, 1991.

To: Doug Longacre, Vice-President, Branch Lending Administrator.
From: David Smith, Manager, Elmendorf Branch.
Re: Mandatory fee appraisals over $50,000.

Dear Doug: Although the Elmendorf Branch has not required a fee appraisal from loan customers, it is apparent through candid conversation and customer opinion that this would directly effect the applicants desire to finance property over $50,000 because of the additional appraisal charge. During a time of economic uncertainty, most potential customers I speak with do not feel comfortable spending any additional money on charges or fees that are not necessary.

I have several customers that inquired about large loans with substantial collateral, and could not understand why an appraisal was necessary. For example, —— owns a home which assesses for $198,000 on the lower hillside. He currently has a 1st deed of trust on the property of $40,000. He was inquiring about a $60,000 second deed of trust loan for home improvements and some debt consolidation. Our position would conservatively be at a 50% LTV and yet he was still required to have a fee appraisal. He could not understand why this was the bank's policy. I informed him that the guidelines were set by the Federal Government. He voiced his concern on Government intervention and the long-term negative effects this will bring.

I concur with ——. I feel that the collateral position for the bank would have been very strong, yet I was still required to ask for the appraisal. I am afraid that now our Government has become deeply embedded in the banking industry and it will take many years to remove them.

If you wish to dicuss this or other concerns about fee appraisals please call me at #2112.

Sincerely,

David Smith,
Branch Manager.

First National Bank
of Anchorage,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Lending.
From: Clyde Johnson, Manager, Seward Branch.

Doug: Here are three situations whereby our customers loan requests and/or plans were modified due to the requirement of a fee appraisal on real estate loans of $50,000 or more.

1. —— requested a loan of $110,000 to payoff existing 1st deed of trust and conduct improvements to his fishing vessel. Due to an appraisal being required he was forced to hold up on his improvements during this wait. Previous business with this customer had established a value of $150,000 on the house.

2. —— requested a loan of $63,000 to pay existing 1st deed of trust, suppliers, and a tax liability. Property had an assessed value of $129,900 at the time. Advised customer of required commercial fee appraisal would cost between $3,000–$5,000. Customer withdrew request and a subsequent loan of $27,000 was booked unsecured.

3. —— Customers requested a loan of $55,000 to pay existing 1st deed of trust, repay his father and purchase a new vehicle. Advised customer that a fee appraisal would be required for loan of $50,000 or more. Customers reduced request and settled for less expensive vehicle for their family.

First National Bank
of Anchorage.
November 8, 1991.

To: Doug Longacre, Branch Lending.
From: Fred Braun, Juneau Branch.
Date: November 7, 1991.

Over the past year, the following loan applications were withdrawn by the applicants due to appraisal requirements:

1. —— Request to borrow $100,000, first deed of trust on a 19-unit apartment building valued at $750,000.00.

2. —— Request for $55,000 on a first deed of trust on a home valued at $110,000.00.

3. —— $128,000 request on a first deed of trust on a commercial building valued at $450,000.00.

4. —— $100,000 loan to be secured by a first deed of trust on a $400,000 building.

There are several other instances in loan requests received from towns outside of Juneau where no appraiser resides, which then became cost prohibitive when an appraiser charged not only for his appraisal but also for airfare and expenses. The loan requests did not exceed 65% of estimated valued.

November 7, 1991.

Hon. Frank Murkowski,
U.S. Senator for Alaska.

Dear Senator Murkowski. This letter is pursuant the current banking bill requiring banks to obtain a fee appraisal on all real estate transactions $50,000 and above. Two points come to mind when arguing against this. One, First National Bank has always been able to prepare in-house appraisals that routinely show more conservative values than does a fee appraisal. Was it not these fee appraisers who were successful in inflating real estate prices in Alaska during the early and mid 80's? I realize that the Savings and Loan debacle produced officers that also inflated real estate prices for personal gain, and I can understand Congress's concern over this issue. I do not, however, understand why banks with a lengthy history of conservatism and profitability should share this burden. The second point is that the costs for both residential and commercial appraisals are often prohibitive to the borrower. In some remote areas of the state appraisers need to be flown in, thus incurring more expenses to an already pricey appraisal. Telling a customer that a $3,000–$5,000 commercial appraisal will be needed on his $50,000 loan more often than not kills the application.

Some examples of disgruntled customers are as follows:

—— owners of —— complained about this regulation, and held the cost of the fee appraisal is unnecessary and she didn't want to pay it.

—— wanted to purchase some land in Homer and found the cost of the appraisal was the difference between buying the property and not buying it.

—— complained about the high cost of a commercial appraisal when financing their mini-storage complex. They felt badly because the bank ends up using their own value instead of the appraised value, that is unless the appraisal comes in lower than the banks, in which case the bank will, of course, use the lower amount.

—— owner of —— scratched her new building plans once she found out that the bank would require an appraisal that would cost her $?,000–$5,000.

In summation I would like to stress the points that I have made, and to let you know that this regulation is causing friction between this bank and its customers. A few bad examples should not debilitate the entire industry.

It is apparent that since the government is trying to stimulate the economy through interest rate reduction it should also make sure that regulations like this do not constrict this growth.

Thank you for your consideration,

Sincerely,

Todd K. Greimann,
Branch Manager,
First National Bank, Homer.

First National Bank of Anchorage,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Administration, First National Bank of Anchorage.
Re: Required Fee Appraisal.

Dear Doug: I am writing to you in regards to the required fee appraisal on all loans over $50,000.00, listed below please find a few examples of cases where customerss changed their loan requests due to the extra money, time and aggravation of obtaining a fee appraisal as required by federal legislation.

1. —— owns a commercial warehouse in the Peters Creek area. He recently requested funds from First National Bank of Anchorage for additional working capital in his business. Due to the expense and time involved in obtaining an appraisal he lowered his loan request to under the $50,000.

2. —— requested $100,000 to complete tenant improvements to their $1,000,000. ** building. Even though this is a 10% loan to value we would be required to order an ap-

praisal at an approximate cost of $5–8,000. To avoid this ridiculous requirement and costs we booked this loan unsecured. If this legislation was designed to protect banks this is a perfect example of how this legislation will have an opposite effect.

3. ——— lowered their loan request due to the time and aggravation involved in the appraisal process. They were completing their home and opted to settle for an unfinished down stairs to save the expense of the appraisal.

4. ——— also lowered their request due to the expense of an appraisal. They have a home that would be conservatively valued at $130,000, and felt that paying for an appraisal to borrow 45% loan to value was insane.

Loan Amount $80,000.00.

We granted ——— a $80,000 loan to construct and term finance a duplex located in King Cove, Alaska.

We made the construction loan prior to the appraisal requirement. Since we had made him a committment to provide him term financing we closed the loan without an outside independent appraisal. The estimated cost of getting an appraisal would be approximately $2,500 to $3,000. The appraiser would have had to be flown to King Cove from Anchorage because they have no resident appraiser.

Loan Amount $60,000.00.

$60,000 loan made in February, 1990 to construct a warehouse in King Salmon, Alaska.

We made ——— the loan by using his equipment as the primary collateral rather then using his real estate which would have been the norm. We did so because the cost and time of having an appraisal completed in King Salmon was cost preventive. Our customer had to accept a shorter term loan using the equipment as collateral then we would of allowed on a loan secured by real estate.

David in the next few years I can see where we might have a problem dealing with real estate loans to fishermen in the smaller communities where the cost of acquiring the appraisal will be cost preventive.

FIRST NATIONAL BANK OF ANCHORAGE,
November 7, 1991.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SIR: I am writing to express my displeasure with the current legislation requiring bank fee appraisals on real estate loans above $50,000.00.

I have recently been promoted to the Branch Manager of one of our Anchorage based lending branches. On two occasions I have had to inform my customers that even though their property had sufficient coverage, beyond any reasonable doubt, I would have to require a bank fee appraisal on their property in order to adhere to federal regulations. One specific client obtained a mortgage at one of the local credit unions and recently has asked us to re-write at a lower interest rate. His balance is approximately $56,000.00. His tax assessment on the property is $162,000.00. I informed him that we would require a bank fee appraisal. He stated that he would not pay the $500.00 to $600.00 because he felt the costs were so unjustified. The law in this case was detrimental to both the bank and the customer. He could not get his loan rate lowered from approximately 15% and we could not pick-up another good client. Because this particular customer is also a business owner of a printing shop, he wants to talk to us once again about the refinance and expansion plans, using his personal residence as collateral and once again I informed him of the appraisal requirements, and once again he has declined to make application with our institution. Because he feels the fee appraisal is unjustified he does not plan to expand his business and thus there goes three jobs that would help make our economy recover.

I realize that this may seem trivial to some, however it is very important to our business. We are not able to help some that will be able to generate tax dollars which will help not only our state, but also our nation. I feel the best answer is to raise the appraisal requirement to $100,000.00, especially in our compensating housing market.

We are very proud of the stability of our bank and what that stability means to our community. If we do not see some relief in this particular legislation, it could harm our ability to make some loans, which in turn will not allow us to reinvest adequately back into our local economy, thus harming the stability of our community.

I wish to thank you for allowing me to express my thoughts.

Sincerely,

DUANE S. KLEIN,
Branch Manager.

FIRST NATIONAL BANK OF ANCHORAGE,
November 7, 1991.

MEMORANDUM

To: Doug Longacre, Vice President, Branch Lending.

From: Jeff R. Belluomini, Vice President, Kenai Branch.

Re: Fee Appraisals.

Since the rules with regard to requiring fee appraisals when making advances in excess of 50,000.00 against real property have not changed, I thought I'd take a minute to provide you with some feedback as to how customers in general feel about this requirement. In addition, I'll cite a few specific instances in which low LTV loans were granted which really proved to be burdensome to the customer.

Generally speaking, in light of what has transpired in the banking industry nation wide the last few years, customers can appreciate the rationale for requiring a fee appraisal when there is some question as to whether there is sufficient value for the bank to maintain a 75 percent LTV ratio. However, when it is painfully obvious to the banker, as well as the customer, that the LTV ratio is lower than 75 percent, defending the fee appraisal requirement becomes difficult to do. What follows are five instances in which this proved to be the case.

1. Name: ———
Loan Amount: 61,000.00.
Value of Prop: 130,000.00.
LTV: 47 percent.

2. Name: ———
Loan Amount: 66,500.00.
Value of Prop: 104,000.00.
LTV: 64 percent.

3. Name: ———
Loan Amount: 154,000.00.
Value of Prop: 275,000.00.
LTV: 56 percent.

4. Name: ———
Loan Amount: 60,000.00.
Value of Prop: 90,000.00.
LTV: 67 percent.

5. Name: ———
Loan Amount: 107,200.00.
Value of Prop: 245,000.00.
LTV: 44 percent.

The foregoing examples represent instances in which the customer wanted the loan badly enough to pay for the appraisal; however, the bank, on occasion, looses business because a customer considers the requirement to be unreasonable.

I thought you should be aware of how the regulation is ultimately affecting the bank and our customers. I would welcome a modification to the existing legislation which would relax this requirement.

FIRST NATIONAL BANK OF ANCHORAGE,
November 7, 1991.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: I understand that you may soon be voting on important legislation governing the procedures banks must follow when lending on real estate. Apparently, consideration is being given to relaxing the requirement that banks obtain a fee appraisal on real estate for loans in excess of $50,000.00

I hope that you will be able to support an increase in this limitation from $50,000.00 to $100,000.00.

The current limitation that we are forced to honor causes our bank to have to pass on unfair and expensive appraisal costs to our borrowers. The typical fee appraisal in Anchorage cost between $450.00 to $550.00 per unit. Appraisals used to be priced much more reasonable but the appraisal community raised prices in response to the additional work they must perform to comply with appraisal guidelines established in Firrera.

In the last eight months there have been many occasions when I have been prohibited from lending on real estate without a fee appraisal because my loan has been slightly over $50,000.00. In these cases I have had a difficult time explaining to my customers why they have to pay for an appraisal on their homes even though they have twice the loan amount in equity. The most difficult part of this situation is the fact that in most cases I as the lending officer or loan committee will be more conservative than any appraiser that might complete a report.

To illustrate my point; is a loan for $100,000.00 on a $300,000.00 property appraised by a bank officer less of an investment than a $70,000.00 loan on a property appraised by a fee appraiser, for $100,000.00.

I believe there must be a more equitable method of protecting the banks interest and still minimizing the cost to the consumer. If the limit was raised to $100,000.00 for those financial institutions that maintained adequate reserves or capital I am confident the regulators concerns would be met. The other solution is to make the $100,000.00 limit be subject to a adequate loan to value ratio acceptable to everyone.

Either of these two solutions makes much better sense than to pass the responsibility to a third party who is not necessarily any better at identifying the value of real property. In the past this has lead to many institutions relying on the appraiser instead of their own intimate knowledge of the market.

Thank you for giving me the opportunity to provide another perspective on the issue at hand.

Sincerely,

RICHARD BRITTAIN,
Assistant Vice President.

FIRST NATIONAL BANK OF ANCHORAGE,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Lending Department.

From: Charles l. Weimer, Vice President, Soldotna Branch.

Re: Fee Appraisals.

Has your office received any follow up information on the recent passage of the rules requiring that we as banks continue to require fee appraisals on all loans in excess of $50,000.00 that are secured by real estate? I continue to find this requirement a source of frustration and in some cases a hardship for a fairly significant number of our customers.

I would like to site a few examples of this frustration that has taken place in our Soldotna Service Area within the last 60 days.

No. 1 Loan /August 30, 1991.

Loan Amount: $250,000.00.

Collateral and Value: (1) 1st D.O.T. Lot 9, Block 3, Chinulna Point Subdivision valued at $260,000. (2) 1st D.O.T. Tract A-1 Tower Hill Subdivision valued at $131,000. (3) 1st D.O.T. Lot 7, Block 8, Alyeska Subdivision valued at $121,000.00.

The —— Family is a long time customer of ours. At one point in time, our bank has had an interest in each and every one of the properties that we currently hold as collateral on this current note. I am familiar with each of the properties we hold as collateral, and personally did an inspection of each prior to approving this recent loan request. As mentioned, the new loan amount is $250,000.00. The value of the one piece of collateral alone (Lot 9, Block 3, Chinulna Point Subdivision) is $260,000.00 which is in excess of our gross loan amount. We have two other improved parcels as additional collateral, the combined total of which equals $252,000.00, making our collateral value $512,000.00 giving us an original loan to value ratio of 49%.

We are well collateralized on this note, we made personal inspections of each piece of our collateral, we made the loan to a customer that has borrowed from our bank on numerous occasions over the years, but we still needed fee appraisals on *each* piece of collateral. That is my estimation was a disservice and a great expense to our customer. The cost for the three fee appraisals to my customer totaled $1,675.00.

No. 2. Loan —— / September 23, 1991.

——.

Loan Amount: $50,000.00.

Collateral and Value: 2nd D.O.T. (behind our own Soldotna Branch 1st D.O.T.) on NW¼ of NE¼ Section 32. Balance of 1st D.O.T. totals $74,000.00. Collateral value of this commercial real estate and improvements par Kenai Peninsula Borough assessed value totals $512,600.00 giving us a combined loan to value ratio of 244 on this property.

—— borrowed these funds to help him take care of some expanses associated with his small business as well as to pay some expenses relating to his family. —— requested $60,000.00 to help him meet his obligations but when I informed him that we would need to have a fee appraisal completed on his property (at a cost to him of $3,525.000) he decided to only borrow $50,000.00.

What this ultimately did was make —— take the additional $10,000.00 he needed out of his working capital to meet his obligations. Hopefully this decrease in his working capital will not present a hardship for him this winter.

No. 3. Loan —— / September 23, 1991.

Loan Amount: $80,000.00.

Collateral and Value: 1st D.O.T. Lots 3A, 4 & 5, Thompson Park Subdivision valued by the Kenai Peninsula Borough at $194,600.00 giving us a loan to value ratio on this advance of 25% per that assessment.

The —— approached our bank to help it refinance the indebtedness the —— owed to the F.D.I.C. A balloon payment on the note to the F.D.I.C. had come due. Outstanding payoff balance totaled $57,000.00. I was happy to be able to help the —— and informed the Trustees of the Club that a fee appraisal would be required. This particular fee appraisal was going to cost the Club $2,750.00—$3,500.00 plus tax. If the —— had to buy an appraisal it would have had to use monies it had set aside for its scholarship program. Having to provide an appraisal was unacceptable to the Club and it made different arrangements to pay the balance of the payoff to F.D.I.C.

As mentioned our loan of $50,000.00 gave us a loan to value of 25%. If we had made the loan of $57,000.00 our LTV would not have been significantly changed at 29%.

No. 4. I would like to also make reference to a transaction that I expect to be completing within the next 10-14 days —— own a beautiful home on the Kenai River here in Soldotna. The —— are retired and operate the home as a Bed & Breakfast during the summer months of each year.

Currently —— owe $84,000.00 on this property (which is the remaining balance of an investor $110,000 1st D.O.T.) which they built in 1984 at a cost of $185,000.00. The current year Kenai Peninsula Borough assessed value of the property totals $183,400.00. Both Cheryle James and myself had toured the entire property.

The —— wish to re-finance this property to enable them to take advantage of current lower interest rates, but also wanted to take $20,000.00 out of their pocket to pay the balance down from $84,000.00 to $64,000.00. I told —— and —— that the bank would be happy to help them in this request and since our new loan amount would be $64,000 that I would need to require a fee appraisal of the property.

The —— did not wish to spend the $700.00 for the fee appraisal and where in a quandary as to what to do. They could not understand why the bank would require an appraisal on a property that had as much equity as theirs. The —— wanted to discuss things and agreed to get back with me.

As it turned out —— decided to take additional money from their retirement savings to pay the $84,000.00 note down to $50,000.00 instead of paying it down to $64,000.00 thus eliminating the need for the fee appraisal.

In this instance I was frustrated that I needed to require a fee appraisal.

Doug, as a matter of course, the Soldotna Branch orders fee appraisals on those properties that we may be unfamiliar with or that we have any doubts about. We also order a fee appraisal of we feel our in-house bank appraisal and/or assessed value comparisons are insufficient. I have however been frustrated recently with regard to the $50,000.00 requirement.

Please let me know if and when you find out any additional or updated information regarding this matter.

[From the American Banker, Sept. 25, 1990]

The Tough Frontier: Appraisal Law Terrorizes Alaska's Wilderness

(By Stuart Sperry)

Nome, AK.—Trip itinerary of Alaska-certified real-estate appraiser Grizzly Iceberger:

4 a.m.—Load sled.

4:30 a.m.—Hitch dogs to sled.

4:45 a.m.—Depart from Fairbanks.

12:30 p.m.—Bore hole in ice, hook fish, cook and eat.

1 p.m.—Resume travel after dogs eat.

8 p.m.—Stop for night; bore hole in ice, hook fish, cook and eat; dig shelter in snow; crawl in, sleep.

Repeat for next few months, appraising every transaction required between the two cities.

Unlikely scenario—perhaps. But, the extent of this exaggeration is surpassed by the amount of concern Alaska bankers have shown about new appraisal standards in their state.

As the 1989 Financial Institutions Reform, Recovery and Enforcement Act swings into motion, Title XI, with its more rigid appraisal standards, may hit the nation's largest and most sparsely populated state the hardest.

By dogsled, Yukon Quest, host of the Ididarod dogsled race, said a 1,000-mile journey could cost as little as $3,000—and that is the deluxe package (complete with markers, food and air support). The imaginary appraiser, Grizzly Iceberger, could do it much cheaper on his own.

The state's rugged tundra menacingly awaits the certified appraiser—eager to gobble banks' dollars.

Alaska bankers are concerned that cost and appraiser availability will present tremendous problems.

State lawmakers, in an attempt to ease these concerns, have adopted legislation that would lessen the financial burden that banks would incur because of certified-appraiser shortages and astronomical time and travel expense. Thus, such cost-cutting extremes as dogsleds and igloo hotels may be avoided.

Because many Alaska cities are only accessible by air, "certified appraisals would be extremely expensive and time-consuming," said James C. Lund, senior vice president, National Bank of Alaska, Fairbanks.

Alaska appraisal legislation contains this subsection:

"The [appraisal] board may provide for the limited certification of persons not meeting the qualifications prescribed in this section and may prescribe qualifications for limited certification. Persons receiving limited certification under this subsection may perform an appraisal that would otherwise require an appraiser meeting [standard certification requirements] only if:

(1) "The property being appraised is located in a sparsely settled area of the state.

(2) "The cost of an appraisal by an appraiser certified under [the standard certification requirements] would be unreasonably high with regard to the value of the property being appraised.

(3) "The appraisal by the person is consistent with federal law."

Lund said the bill "gives the licensing and certification committee the ability to make exceptions to the hard rules."

However, such clauses may not be in accordance with federal guidelines as established by the Appraisal Subcommittee.

The subcommittee has designated two types of appraisers—state certified and state licensed. Subcommittee Chairman Kevin Blakely told ABA Bankers Weekly that the subcommittee will have to "look very carefully at" state legislation that designates appraiser types other than those stated—such as the "limited certification" in Alaska.

Blakely, who represents the Office of the Comptroller of the Currency on the interagency subcommittee, also explained the subcommittee's staunch position on the requirements for the certification and licensing of appraisers.

The Appraisal Subcommittee "has tried to alleviate the concerns of scar-city of appraisers and cost [of appraisals] by adopting regulations with a broad enough scope," he said.

Blakely said the de minimis cut-off level and additional powers granted to licensed appraisers were adopted to address the concerns of states such as Alaska.

The chairman said the subcommittee has no problem with states that adopt appraisal standards that call for specified types of appraisers so long as the certified and licensed appraiser regulations are in place and comply with federal guidelines.

Many states are using a three-tiered system of classification. Legislation designates licensed, certified general and certified residential in this system.

[From the Anchorage Daily News, Sept. 29, 1991]

FEW WILL TOUCH ALASKA LOANS

(By Bruce Melzer)

Jan Sieberts of National Bank of Alaska can't get anyone to return his calls, Vic Mollozzi at Northrim Bank said he's gotten nothing but "No."

Savings and loan associations, pension funds and insurance companies outside Alaska that once loaned mortgage money for commercial real estate purchasers or developments are handing up on Alaska's bankers. Some are even demanding early repayment of the loans they've already made.

"We're right back to where we were 15 or 20 years ago. Nobody wants to put money here," said Randy Boyd, the vice president who handles real estate lending at Key Bank of Alaska.

Alaska's credit crunch lingers today, five years after Anchorage's real estate market started collapsing in the late 1980s recession. For years it hardly mattered. Most of the commercial real estate sales were repossessed properties, often bought by investors with lots of cash and financed by the institutions that held the property.

But as Anchorage shakes off the dark days of the late 1980s, businesses and commercial real estate investors are scrambling to find loans to buy buildings, build new ones or expand existing ones. Some bankers fear Alaska's economy could be dragged down if business can't find the money to grow.

Alaska banks, stung by millions of dollars in soured loans during the 1980s, are picky about who gets their money today: only those who plunk down a lot of their own cash and don't want to borrow the banks' funds for very long.

Already bankers are putting pressure on the state to fill the void left by Outside lenders.

Blame it on the national recession, poor investments by the insurance companies and the collapse of many real estate based savings and loans around the country, said Boyd and Sieberts. Add to that the pressure by bank regulators to reduce real estate ending up in the nation's banks, the bankers said.

Aggressive real estate lending pulled down most of the nine banks that failed in the recession and that helped taint lenders' view of Alaska, said Glenn Olds, state commissioner of commerce.

"The Outside banks and pension funds had so much fun in Alaska, they don't want to come back," said Wayne Williams, deputy director at the Alaska Industrial Development and Export Authority.

NO TAKERS

Bob Hickel puts out 140 calls in his efforts to refinance the loan on his company's University Center shopping mall. Equitable Life Assurance Society held an 11-year loan on the mall. But, this year, the giant insurance company was in the middle of a well-publicized cash squeeze, he said.

When Equitable asked to be paid off early, which it had to right to do under the loan arrangement, Hickel spent nearly four frustrating months trying to find another lender.

Potential financiers didn't have problem with the real estate itself. "There was simply no interest in Alaska," said the president of Hickel Investment Co.

The mall owner is renegotiating the loan with Equitable. The insurer's willingness to keep the mall loan was due in part to its improved financial shape after cash infusion by a French insurance firm, Hickel said.

Banks typically loaned money for construction of projects like Hickel's mall, but often didn't carry the mortgage. Instead the banks sell the loan to companies that make their money with long-term investments; savings and loans, insurance companies and pension funds, said NBA's Sieberts.

Commercial real estate sales work the same way. Local banks often make the loan, then sell it.

This year, Sieberts tried to spur interest in some Alaska real estate deals to the few Outside investors still buying commercial mortgages.

"They will go through 49 states before they come here. They won't return my calls anymore," he said.

Alaska's banks will lend for real estate, but only for buildings that are sure-fire moneymakers over relative short periods. All of the major banks usually require buyers to put up at least 25 percent of the building price, sometimes more.

NBA will make real estate loans to investors for a maximum of 10 years, Sieberts said. Those loans stay in the bank's own portfolio. Interest rates adjust every three years for typical NBA real estate loans.

First National Bank of Anchorage, the state's second largest bank, gives 15-year loans with a minimum 25 percent down payment, typically with variable interest rates, said Richard Enberg, head of the corporate lending division.

Key Bank has the longest terms available. It offers loans between 15 and 20 years. But those loans often include an option to "call" the loan—a demand for full repayment after five to seven years. Boyd said.

Security Pacific Bank, Alaska's fourth largest, gives commercial real estate loans mainly for businesses occupying the building they are buying, said Ralph Holliday, president.

No borrower is immune from the credit crunch. Northrim Bank, Alaska's newest bank, is looking to buy the building it leases on C Street, said Marc Langland, bank president. Even though the sale is still being worked out, Seattle's Seafirst Corp. has already turned down Northrim, said Williams with AIDEA.

Northrim has taken the first steps to get a loan from AIDEA, Williams said.

NATIONAL CRISIS

The credit crunch extends beyond Alaska. "Over the past 18 months a credit crisis of national proportions has developed and grown increasingly severe, particularly for real estate market," wrote the National Reality Committee, an industry lobbying group.

"Today's credit crisis is marked by unchecked declines in real estate values, illiquid real estate markets, mounting stress on the banking system, increasing unemployment and an eroding state and local property tax base," the committee wrote.

That real estate group says the banks are being squeezed out of commercial real estate lending by a slumping market throughout the nation, and regulators fearful of excessive real estate lending. As part of a national trend, Alaska's bankers are being pressured by bank regulators to reduce real estate lending, said Sieberts of NBA.

The United States' banking system isn't set up to allow banks to loan long term, bankers said.

Banks rely on depositors for their funds, depositors that can demand their money at any time, said Northrim's Langland. This need for liquidity—the ability to get cash on hand in a hurry—makes it difficult for banks to tie up their money for the 20 or 25 years often needed for real estate deals, he said.

The credit crunch may be real, but bankers and commercial real estate brokers had a hard time pointing to a good, solid deal that died for lack of a loan.

Jeff Thon, broker at Pacific Tower Properties, said the problem may be that buyers are unsatisfied with the loan terms because they have to make too large a down payment or pay off the loan too quickly.

Alaska banks can handle the community's needs, said D.H. Cuddy, president of First National. Despite his confidence in the local banks, Cuddy said he is concerned by the pullout of the life insurance companies.

"With the chaos in the real estate market, Outside banks have taken losses in this market, and it will take time to woo them back," he said.

But some bankers worry that if the credit crunch continues, Alaska business will be badly hurt. If the lending system can't allow business to grow, "the economy can slide pretty fast. Coming out of the recession, we need all the tools we can get," Langland said.

TURNING TO THE STATE

Alaska's bankers are looking to the state-owned Alaska Industrial Development and Export Authority to plug the gap left by the exodus of Outside lenders.

"We can't rely on the rest of the United States to take care of us," said Sieberts.

So far the agency's new board has been reluctant to jump headlong into major real estate lending, but that policy is likely to change according to Olds, commerce commissioner and AIDEA board member. The agency's board is in the middle of examining its mandate, he said.

Last month AIDEA's board turned down a real estate loan for Aleut Corp. to buy a $2 million strip mall on Tudor Road. The board said the project wasn't worthy of funding because it didn't create jobs, said William Scott, agency executive director.

The decision shocked the bankers, who have been selling just such loans to AIDEA for 11 years. Under the program, the bank holds about 20 percent of a loan and AIDEA holds the rest, Williams said.

"We kind of thought with the new administration, they would open up (to commercial lending). That hasn't been the case," said Sieberts, whose bank brought the Aleut loan to AIDEA.

The deal didn't die, though, NBA financed the loan after Aleut agreed to a down payment of nearly 50 percent, said Alice Petrivelli, the Native corporation's president.

Bankers have been leaning on AIDEA to fund real estate, regardless of whether the deal creates jobs.

"My personal feeling is that AIDEA should be making good, solid, well-evaluated loans. I'm not that uptight that only procuring new jobs or products demonstrates, economic development," Scott said.

Edgar Blatchford, a board member and the state's commissioner of community and regional affairs, said he supports some real estate investment, but, "I would like to see the generation of local jobs for local people" as the priority for AIDEA funding.

Despite the cries of "credit crunch," AIDEA hasn't seen much demand for loans, Scott said.

Last year only one bank approached AIDEA with a loan, agency records show. This year banks have proposed eight deals, according to the records.

All the tools are in place to make it even easier for AIDEA to get into long-term real estate loans. A new program encourages banks to sell participation in long-term loans to AIDEA, by enabling the banks to get repaid twice as fast as the agency does. That technique already has been used to fund development of the new Carrs Quality Center in Kenai.

But AIDEA's funds are limited. Only about 15 percent of the agency's $900 million assets could be available for lending, Scott said. Real estate loans also would have to compete with other development projects, large and small, funded by the authority, he said.

So far the credit crunch appears to be manageable. Real estate buyers aren't breaking down the doors to get loans, bankers said. But Hickel, the mall owner, wonders what will happen if the insurance companies and other Outside lenders want their money sooner, rather than later, or refuse to refinance the loans they already have. "If everyone is going to call their loans, who is going to come up with the money."

Mr. DOMENICI. Mr. President, America will spend $300 billion directly and indirectly on litigation this year. If this money were dedicated to the deficit we would have no deficit this year. This would be great for the economy! It would reduce the cost of capital. It would free business managers from worrying about lawsuits and give them time to think about creating and marketing new products in new markets. It would create jobs. It sounds too good to be true.

I realize that litigation, like deficits are going to be around for years to come, but I think we should be careful not to encourage more litigation. We should focus carefully on one provision of the banking bill because it will have that effect.

The provision would overrule the Supreme Court in Lampf, Pleva, Lipkind, Prupis & Petigrow versus Gilbertson. This case established, for the first time, a uniform statute of limitations for 10(b)(5) securities private rights of actions.

Statutes of limitation are deadlines that people have for filing lawsuits. Changing a deadline does not sound like a very important issue for the Congress, but unless we act carefully we could be skewing our legal system too far in the wrong direction by inviting more meritless lawsuits. It could hurt us from a competitiveness standpoint and put us in the situation where the best thing the U.S. manufacturers in law suits.

For legal scholars, for securities lawyers and judges, 10(5) is a fascinating area of the law. Congress did not create a private right of action under section 10b. The Court did. They developed the elements of the action and the defenses and burdens of proof. When the Federal Rules of Civil Procedure were updated in 1966 the class action of rule 23 was married up with rule 10(b)(5) to become corporate America's Eleventh Commandment, that is, "Thou shalt not commit 10(b)(5)."

Rule 10b makes it illegal for an issuer of securities to employ any device, scheme, or artifice to defraud * * * and to make any untrue statement of a material fact or to omit to state a material fact. These words have been interpreted to allow private plaintiffs to sue for any fraud that touches upon the purchase or sale of securities. They can sue practically anyone, no matter how peripherally involved.

The Congress has taken a hands off approach to 10(b) and has allowed the courts to run the show. The Lampf case held that the appropriate statute of limitations for implied causes of action should be 1 year from the discovery of the fraud or 3 years from the date the fraud was committed. The Court provided this outside limit, and rejected the doctrine of tolling the statute (holding it in abeyance) when people don't have any way of knowing they have been defrauded.

The Court also made its "1 and 3" rule retroactive. Cases that were filed on time under the old rules must be dismissed if they were not filed on time according to the new rules of Lampf.

Allowing cases to be dismissed unless they met the new rule has caused a lot of trouble. FDIC is concerned that some of its S&L cases might be dismissed. Cases against Michael Milken, Charles Keating, and other famous rogues have been, or might be dismissed unless Congress acts.

In my own State, I know of a woman, Thomasita Garcia, who filed a 10(b)(5) case that was dismissed because it did not meet the Lampf timetable. She is hoping Congress will eliminate the retroactive impact of the Supreme Court's decision so that her case can be refiled.

Congress has to reverse the retroactivity. Perhaps the Congress should provide a longer statute of limitations.

The Chairman of the SEC, Richard Breeden believes that the 1- and 3-year limitation is too short and that the uniform rule should be 2 and 5, that is, 2 years from when the fraud was discovered or 5 years from the time the fraud was committed.

If Congress is going to overrule the Supreme Court and examine 10(b)(5), I think it has to also address the growing number of meritless 10(5) cases that are making it harder and harder for U.S. companies to focus on developing better products and competing internationally.

Lawsuits are a distraction. Frivolous lawsuits are not only, as one CEO has put it, counterproductive but nonproductive.

If the Congress is going to overrule the Supreme Court and lengthen the statute of limitations it must also enact some reforms to curb the abuse of the 10(b)(5) lawsuit and our courts.

The number of securities fraud lawsuits has tripled since 1988.

At least 1 out of every 14 companies on the New York Stock Exchange has been confronted by a securities fraud suit.

The Chairman of the SEC has publicly stated three times in as many weeks that "frivolous securities claims should * * * warrant our attention and our efforts to control."

He recognizes that litigation in all too many cases may be seen as the route for trying to recover what may have been market losses. In effect, some investors may seek a system of heads I win, tails I sue. * * *

Chairman Breeden agrees with an academic study of securities class actions that concluded, "because of the risks and costs of litigation, companies settle weak or even meritless claims on essentially the same terms as they settle meritorious claims."

He stated that:

> [a] litigation system that fails to separate strong claims from meritless claims serves no one. It does not serve investors who have clear, solid claims and yet receive only a modest settlement, even more modest after payment of substantial attorneys' fees. It does not serve companies who have valid, strong defenses, and yet pay millions to settle claims to avoid the costs and risks of litigation.

The Supreme Court recognized the problem as long ago as 1975, stating that securities claims "which by objective standards may have very little chance of success at trial [have] a settlement value to the plaintiff out of any proportion to its prospect of success at trial so long as he may prevent the suit from being resolved against him by dismissal or summary judgment. The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit."

Also, "[t]he prospect of extensive deposition of the defendant's officers and associates and the concomitant opportunity for extensive discovery of business documents is a common occurrence in this and similar types of litigation."

> [T]o the extent that [this process] permits a plaintiff with a largely groundless claim to simply take up the time of a number of other people, with the right to do so representing an in terrorem increment of settlement value, rather than a reasonably founded hope that the process will reveal relevant evidence, it is a social cost rather than a benefit.

Vincent O'Brien, a principal of the Law and Economics Consulting Group in Berkeley, CA, examined 330 securities fraud cases.

In the 330 suits brought since 1988, 96 percent settled out of court. The norm for most other civil litigation is 60 to 70 percent.

The average attorney's award in the 330 cases was $1 million in legal fees and $250,000 in costs. This amounted to 21 percent of the average settlement award.

The percentage of settlement amounts that compensated stockholders' actual losses were very low. Cash settlements averaged 6 percent of the total trading loses suffered by purchasers of common stock.

The 83 settlements in 1990 earned lawyers more than $100 million in expenses and fees.

I ask unanimous consent that a September 10, 1991, Wall Street Journal article entitled "The Class-Action Shakedown Racket" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 10, 1991]

THE CLASS-ACTION SHAKEDOWN RACKET

(By Vincent E. O'Brien)

The class-action securities-fraud suit has become a feature of doing business for just about every size and type of company in the U.S. Since 1968, the number of these suits filed in federal courts has almost tripled. In the past three years, at least one out of 14 companies on the Big Board has experienced a securities-fraud suit, most of them alleging concealment of failure to disclose information, and claiming significant monetary damages.

Proponents of securities class actions say that the suits prevent fraud and help maintain the integrity of financial markets. The large number of cases and the settlements are, to them, evidence of the need for securities class actions.

Are the proponents right? To shed some light on the issue, I collected data on more than 330 federal class-action securities-fraud cases involving common stock, all of them within the past three years. In every case, the plaintiffs alleged material misrepresentations and omissions by management regarding the true health and potential of the defendant company.

I found, as have most of other studies of the subject, that virtually all securities-fraud class-action cases are resolved through settlement. In my 330-case sample, only three cases were decided by a jury; an additional five were dismissed or withdrawn. All in all, 96 percent of securities class-action cases in my sample were settled out of court. The norm for most other civil cases is 60 to 70 percent.

It is not the small investor who benefits from this litigation. Individual stock buyers get little direct benefit from the class-action suits brought on their behalf. Most of the shareholder losses are suffered by large institutional investors, and it is they who receive the bulk of the settlements. In the most extreme case, five claimants out of 302—the T. Rowe Price Horizons Fund, the Fidelity Magellan Fund, the IDS Managed Retirement Fund, the Kemper Total Return Fund and Chase Manhattan Bank—received 36 percent of the settlements. In another case, with 4,952 approved claimants, 52 percent of the settlement went to 1 percent of the claimants; not one of that 1 percent was an individual. In a third, just one out of 1,531 claimants got more than 10 percent of the claim.

After, of course, deducting for attorneys' fees: the average attorney's award in the 330 cases was about $1 million in fees and $250,000 in expenses, or a little more than 21 percent of the average settlement amount. In 1990, settlements were announced for 83 cases, earning the plaintiffs' attorneys more than $100 million in fees and expenses. A big part of these fees goes to a small handful of plaintiffs' firms: While more than 120 firms were identified as plaintiffs' counsel, one or more of just seven of these firms were involved in 40 percent of the cases.

None of these facts would be especially objectionable if the lawsuits were in fact punishing and deterring wrongdoers. But despite the high settlement rate, the data don't support such a sunny conclusion. Instead, regardless of size, profitability, industry type or location, any company whose stock price declines is open to a class-action suit.

Conventional wisdom says companies likely to be the target of shareholders' wrath are small, new and probably high-tech. But in fact, securities-fraud class-action suits are not confined to say one type of company. While one-quarter of the defendants in the sample of 330 cases were banking and investment companies and one-fifth were computer or software companies, more than half of the cases represented a wide range of industries: heavy equipment, entertainment, retail, pharmaceuticals and health care.

Nor did size make any difference. Companies with less than $10 million in revenues were sued as frequently as their $30 billion brethren. While more than half of the companies sued had less than $500 million in sales, fully 13% had annual revenues exceeding $2.5 billion.

Being long established did not protect a company from litigation either. Nine percent of the companies sued had been incorporated for five years or less, but 75% had existed as corporations for more than 10 years. Fewer than a quarter of the suits related to new securities offerings, and fewer yet involved initial public offerings of stock.

One thing that virtually all the defendants did have in common was a steep drop in the price of their common stock—49%, on average. In a handful of cases, the defendant company was sued because the stock price went up. In these cases the plaintiff class consisted of investors who sold stock before disclosures, typically of mergers or takeovers, boosted the share price.

Curiously, there is little variation in settlement amounts, both in real terms and as a percentage of investor losses. This suggests that settlement payments are not determined on the merits of the cases but by other factors, perhaps insurance coverage. While the types of companies sued and the circumstances vary widely, settlement outcomes do not. One hundred and seventy-nine cases have reportedly settled since April 1988. Two-thirds of the cases studied settled for less than $5 million; almost 85% for less than $10 million.

The settlement amount as a percentage of stockholder losses was consistently low. In a random sample of 20 cases, I estimated actual trading patterns and calculated the total trading losses to stock buyers in the alleged damage period. I found that cash settlement amounts averaged about 6% of total trading losses for purchasers of common stock during the relevant period. Once again, the outcomes were highly concentrated in the lower end of the range; 12 of the 20 cases settled for less than 5% of the trading losses.

Cash settlements in our sample provided less than a nickel in actual compensation for every dollar lost by investors, since attorneys' fees and administrative fees consumed, on average, 21% or more of the settlement fund.

In sum, virtually every company in every industry faces a significant probability of being sued, most likely by one of seven law firms. If past experience holds true, the litigation will undoubtedly be settled and the amount of the settlement will probably be less than $5 million. Investors will receive only a tiny fraction of their losses, with most of this being paid to sophisticated, professional investors. Plaintiffs' attorneys will divvy up more than $1 million in fees. It is not likely that undergoing such a suit will improve a company's way of doing business, nor is it likely to deter fraud. Most important, the securities class-action suit will seldom offer any benefit to the party it is supposed to champion; the stockholder.

Mr. DOMENICI. Another study by Dr. Alexander came to similar conclusions: Settlement amounts do not vary on the basis of the strength of the plaintiff's claim. They depend entirely on the amount of damages claimed or the amount of the defendants' insurance coverage. Third, the settlements provide very little for the plaintiffs—between 5 and 15 cents for each $1 sought in the complaint, but the lawyers average $1 million in fees for each case, typically 30 percent of the entire settlement. Interestingly enough, the study found that lawsuits are much less frequently filed or not filed at all, where the amount of damages that could be claimed is less than $20 million.

The system isn't really working. Innocent defendants are settling meritless cases rather than fighting them. One CEO has called it extortion.

Victims of serious fraud are getting no more than those asserting meritless claims.

I would like to see a system where real victims recover 70 percent or more of their losses, where the attorneys get less and where speculators filing frivolous lawsuits get nothing. If amendments that Senator McCONNELL, Senator GRAMM and others offer later today are enacted we will have vastly improved the system. Speculators and their lawyers who file meritless suits would have to pay the prevailing party's attorneys' fees and costs.

LAMPF DECISIONS AND THE BANKING BILL

Mr. McCONNELL. Mr. President, the banking bill which had been before us this past week contained a provision in the miscellaneous section that was far from miscellaneous to emerging innovative businesses in our Nation. It was far from miscellaneous for trial lawyers who specialize in securities cases.

The provision I speak of was the so-called Bryan amendment that reversed a recent Supreme Court decision, Lampf versus Gilbertson. In Lampf, the Court interpreted securities laws to require a uniform statute of limitations for cases brought under section 10(b) of the Securities Exchange Act of the 1934 and Securities and Exchange Commission Rule 10b-5 alleging securities fraud brought by disgruntled shareholders against management

Determining that Congress had carefully balanced the relevant considerations in selecting statutes of limitations for the express causes of action contained in the 1934 act, the Court held that these same periods should apply to implied causes of action under section 10(b). It held that 10(b) claims must be brought within 1 year of the time the plaintiff knew or should have known of the facts constituting the alleged fraud, but in any event no later than 3 years from the time of those events.

The Bryan amendment changed the law set in Lampf in several aspects: First, it extended the 3-year absolute limit to 5 years; second, it doubled the time that plaintiffs have to file suit from the time they are on notice of the alleged fraud from 1 to 2 years; and third, it eliminated the requirement that plaintiffs exercise reasonable diligence in discovering the alleged fraud. Under the Bryan amendment, plaintiffs could have brought suit 2 years from the time they actually discovered the alleged fraud, whether or not they could have discovered it earlier through the exercise of reasonable diligence.

To fully appreciate the ramifications these changes portend for emerging, innovative businesses in this country, one needs to know the nature of securities litigation.

Mr. President, any company whose stock price is volatile is a sitting duck for these 10(b) lawsuits regardless of whether there is any fraud involved.

Companies, their outside directors, and accountants, are sued for allegedly overstating prospects, understating, and even saying nothing at all. Law firms who specialize in these cases use professional plaintiffs and other stock speculators to file a class action suit. Then, they use the discovery process to pressure companies, as well as peripheral deep-pocket defendants into settling the cases even when they have done nothing wrong.

Mr. President, such tactics have been termed "layermail." One favored target, who has been sued by 13 different plaintiffs, calls it "legalized extortion." He states, "They know how expensive it is for us to take our case to court. We're supposed to give them a few million dollars so they'll go away."

More than 98 percent of these suits are settled without trial. Lawyers typically get 30 percent of the settlements, plaintiffs about 10 percent of their trading losses. The big winners are plaintiff lawyers.

The big losers are targeted companies and the American people. Consumers pick up the tab for these suits and settlements that as Forbes magazine noted on August 19 are "a kind of tax on American businesses trying to survive in a tough industry and a tough world."

Mr. President, this is another example of the lawyer's tax that is dealing serious blows to our already feeble economy. To cut the tax for all Americans, last week I introduced S. 1979, the Lawsuit Reform Act.

It is no wonder that America has 70 percent of the world's lawyers. Congress is adept at keeping them busy. We have passed a litany of lawyer-relief bills and many more wait in the wings. This particular provision, the Bryan amendment, would have benefited a select group of plaintiff lawyers who prey on companies experiencing stock volatility—regardless of the presence of fraud.

Mr. President, we should be creating jobs for America's unemployed—not overpaid lawyers.

To that end, 2 years ago I introduced the Lawsuit Reform Act, comprehensive tort reform legislation that was supported by an extraordinary coalition of diverse organizations. The coalition consisted of volunteer organizations, health care providers, education associations, local governments, law enforcement organizations, professional groups, and small businesses. These groups share a common affliction—a civil justice system run amok. They supported my comprehensive bill because it addressed the concerns of all Americans, not just those of a narrow interest group.

Mr. President, comprehensive tort reform such as I introduced 2 years ago, and again last week, protects both the victims of wrongful injuries—who have a right to fair compesnation—and the victims of wrongful lawsuits. My bill, the Lawsuit Reform Act, does the following:

First, abolishes the doctrine of joint and several liability, so that a defendant's share of the damages is proportional with his share of responsibility for causing the harm;

Second, requires the loser of any civil action covered by the bill to pay the legal costs of the winner, up to a reasonable limit, unless the loser is legally indigent;

Third, prohibits a person from suing others if the person was under the influence of illegal drugs or alcohol and this condition was over 50 percent responsible for their injury;

Fourth, provides that awards for damages in product liability suits will be offset by payments from workers' compensation programs, and allows for a right of subrogation; and

Fifth, limits the statutory liability of local governments under 42 U.S.C. 1983 except in bona fide constitutional rights cases; and

Sixth, promotes alternative means of dispute resolution.

Mr. President, these six provisions would go a long way toward restoring balance and reason to our Nation's civil justice system. A civil justice system that currently is crushing America's volunteer spirit, driving up health care costs, reducing educational opportunities, cutting essential services of local governments, and making America less competitive in the world marketplace.

There has been a lot of talk around here lately on the terrible injustice of unemployment. We are awash in bills to stimulate the economy. One of the areas we should be looking at is tort reform to alleviate this terrible drag on the economy—the litigation crisis.

The civil justice system—the lawyer's tax—is costing America jobs. It is costing consumers billions of dollars. And it is robbing consumers of products that, although better than existing products, do not have an established legal history and therefore are too risky to put on the marketplace.

The lawyer's tax accounts for 95 percent of the cost of child vaccines; a third of the cost of a stepladder; and it adds a surcharge of $300 onto the bill that parents pay to have their baby delivered—if they can find a doctor willing to take the liability risk.

There is no sense in maintaining the status quo, or rejecting tort reform, unless one is more concerned with the economic well-being of trial lawyers than of the American people.

Mr. President, while I believe our Nation needs comprehensive tort reform, for the sake of the debate at hand over the banking bill, the amendment I was prepared to offer is very modest in scope. Further, my amendment is focused on consumer protection. It makes sure that plaintiffs get their money's worth and their fair share when they seek legal counsel. This amendment applies to implied actions brought under the Securities Exchange Act of 1934, and would do the following:

First, limit attorney fees to 20 percent of the total award, tracking the Federal Tort Claims Act.

Second, require an up-front estimate of how much the lawyer is going to charge the plaintiff to bring the suit, including any amounts that will be charged even if the plaintiff loses the case;

Third require up-front disclosure of the lawyer's hourly rates—and gives plaintiffs the right to choose an hourly rate over a contingency fee arrangement; and

Fourth, provide plaintiffs a private right of action against their lawyers if they do not comply with these provisions.

Mr. President, these are not draconian measures. They are modest provisions to ensure that the Bryan provision primarily benefits citizens who have been the victims of fraud—rather than lawyers looking to cash in. This is a consumer protection amendment.

There is a case to be made for abolishing contingency fees, period. As Walter Olson, a senior fellow at the Manhattan Institute has written:

> The case against the contingency fee has always rested on the danger it poses not to the one who pays it, but to the opponents and more widely to justice itself. As other nations recognize, it can yoke lawyer and client in a perfectly harmonious and efficient assault on the general public. The designated opponents are far from the only ones victimized by wrongful or overzealous litigation. Every lawsuit sweeps in third parties who are forced to expand time, energy, and money without compensation, and surrender their privacy by answering under oath the probing questions of a hostile lawyer. The cost to taxpayers of running the system are far from trivial; more broadly, lawsuits tend to paralyze productive initiative by keeping rights in a state of suspense. We all pay for needless litigation.

The Bryan amendment and the Supreme Court's Lampf decision notwithstanding, there is a liability crisis afflicting the securities industry and, in turn, thousands of American businesses.

Mr. President, this is the time, and the place, for tort reform. But in the interest of getting an agreement on the banking bill, I along with Senator DOMENICI, Senator GARN, Senator GRAMM, Senator RIEGLE, and Senator BRYAN, have agreed to postpone this debate until after the Senate reconvenes in January.

We have agreed that the Bryan amendment to overturn the Supreme Court's Lampf decision will be removed from the banking bill, and that it will not be added in conference with the House. Further, we have agreed that the Banking Committee will hold hearings on the Bryan amendment as well as litigation problems in the securities industry.

Mr. President, the Bryan amendment and the tort reform amendments that I and Senator DOMENICI have proposed complement one another. It is not a question of one or the other. These matters must go hand-in-hand if we are to protect the victims of fraud and other wrongful actions as well as the victims of wrongful lawsuits.

Proportional liability, the English Rule, a 20-percent fee cap, and other reforms that have been put forth by this Senator and the Senator from New Mexico embody simple fairness and are long overdue. I am pleased that we will have the opportunity to examine these issues further before the Banking Committee and the full Senate.

[From the Investors Business Daily, Nov. 1, 1991]

BEING A PLAINTIFF SOMETIMES AMOUNTS TO A PROFESSION

(By Andrew Leigh)

When an attorney's computer alerts him to a company whose stock price is falling sharply because of an earnings surprise, he needs to quickly find a shareholder who can serve as a plaintiff in a lawsuit.

Only then can he file a class action complaint on behalf of all shareholders.

The lawyer, however, can't dally. Chances are, dozens of other attorneys are also aware of the stock-price change and are racing their complaints to the courthouse.

The incentive to the lawyers for being first is simple: Usually the judge who ultimately presides over the case will name the lawyers who got their cases filed first to be lead counsel. That means they control the case and get a larger cut of the fees.

To gain an edge, firms that specialize in such lawsuits maintain lists of "professional plaintiffs." Their portfolios are structured to be as diverse as possible. After all, you never know who you're going to have to sue.

Now, however, a growing number of judges are holding out another carrot for people who file such suits. They're awarding lead plaintiffs extra cash for sticking their necks out. Defense lawyers worry that these added incentives will encourage more professional plaintiffs and more litigation.

Some repeal plaintiffs are legendary. Harry Lewis, a retired attorney, has been the lead plaintiff in hundreds of lawsuits, mostly in Delaware and New York. Estimates run from 300 to 400. Lewis couldn't be reached for comment. Many repeal plaintiffs are corporate activists—people who consider themselves watchdogs over the American corporate world.

CYNICISM CHARGED

But defense lawyers grouse that the use of repeat plaintiffs reveals a cynicism underlying these cases.

"It's hard for them (repeat plaintiffs) to say that they've been 'had' 300 times," said Evan Tager, a Washington-based defense attorney.

Defense lawyers sometimes try to make an issue of a plaintiff's professional status. While the answers sometimes can be embarrassing to the plaintiff, the tactic rarely succeeds in altering the outcome of a suit.

Plaintiffs' attorneys in class action suits are sometimes referred to by judges as "private attorneys general." Their supporters view them as filling gaps in federal enforcement of securities laws. The victims aren't as important as they are in other civil cases.

"The plaintiff is a pretty nominal figure" in this type of suit, said Professor John Coffee of Columbia University Law School.

"The real driving force, the engine behind these cases, is the lawyers," said Jerold Solovy, a Chicago-based defense attorney.

Richard Greenfield, a prominent plaintiff's attorney based in Haverford, Pa., says that the "unseemly race to the courthouse" has been misinterpreted.

Greenfield blames the courts for giving deference to the first counsel in the door, and says that his main objective is to ensure that the lead counsel is the most experienced and competent lawyer, one who won't "sell out" the others or fumble the case.

"There's a lot of marginal lawyers out there," Greenfield said.

Greenfield is considered one of the best in the business. His firm has about 200 clients on file and a computer database loaded with financial reports.

"I can take apart a major transaction or prospectus and analyze it and find out what's wrong in an hour," Greenfield boasted.

PRO RATA SHARE

No one suggests plaintiffs' attorneys pay their clients. That is clearly illegal. But plaintiffs do get a pro rata share of whatever money is ultimately recovered in the lawsuit.

"As a practical matter, the lawyer has hired the client rather than the client hiring the lawyer, "said Coffee.

A growing number of judges are awarding extra cash payments of $10,000, $15,000 even $100,000, to lead plaintiffs for stepping forward. These payments come on top of the plaintiffs' regular share of the settlement pie.

The awards are sometimes described as compensation to the plaintiff for extra time and trouble. Sometimes the named plaintiff would have to serve as a witness or sit through lengthy pretrial questioning.

But those payments are often referred to as incentive awards, and judges say they hand them out in order to induce more injured parties to step forward.

In 1979, the Justice Department under former President Carter proposed a federal policy that would mandate incentive payments of $10,000, according to Greenfield, but the proposal was tabled.

Sometimes, in addition to being asked whether they approve of the final settlement, members of the class have been asked to vote on whether to grant the incentive award. Lead plaintiffs have won some and lost some of those votes.

Judges are granting incentive awards to name plaintiffs in other types of class actions as well. So far, these include lawsuits in cases of employment discrimination and antitrust violations.

Coffee warns that the incentive system could be subject to abuse. He described "conducive recoveries" where the plaintiffs' attorneys and the corporate defendant "quietly agree to pay a smaller settlement" in exchange for a higher attorneys' fee.

But the members of the plaintiff class must sign off on the deal. A bonus payment to the lead plaintiffs could smooth the way to a less-than-satisfactory settlement for the rest of the class, Coffee fears.

"These incentive fees, if they get too high, have a potential to become a bribe," said Coffee.

A more common practice than using outside professional plaintiffs, says Coffee, is for law firms to set up pension or profit-sharing plans with highly diversified portfolios.

CONFLICT OF INTEREST

In the past, Coffee says, law firms would use these portfolios to bring suits on their own behalf in shareholder suits. But the courts have ruled that this is a conflict of interest.

Since the ruling, law firms have simply agreed with one another to use one another's portfolios—Law Firm A represents Law Firm B's pension plan in one lawsuit, and vice versa.

The law firms also often keep track of the investments of employees and employees relatives.

"It's really very little different from ambulance-chasing—only in this case they're creating the accident," said Tager.

ELIMINATING SAVINGS PROVISION

Mr. GARN. Mr. President, the Federal Reserve bill that has been incorporated into the committee bill as title 6A has, as one of its purposes, to increase our bank regulators' ability to gather information from foreign supervisors regarding the activities of international banks. The goal is to prevent another BCCI situation, in which the bank's full activities were known to no one, from arising again.

This is important because, as my colleagues know, the only reason that enforcement actions against BCCI were finally successful was because many nations cooperated and shared information regarding the far-flung dealings of BCCI's financial empire.

In furtherance of expanded cooperation, section 606 of the bill provides U.S. regulators with authority to provide and to receive information, subject to the requirement that sensitive information must be kept confidential in order to avoid jeopardizing ongoing investigations. Thus, the committee bill would exempt sensitive information obtained from foreign supervisors from disclosure under the Freedom of Information Act.

The committee bill also includes language in section 606(d) requiring Federal regulators to comply with disclosure requests from the U.S. Congress or the U.S. courts. Some foreign governments have indicated that this language would discourage them from providing confidential information for fear that it would become public, defeating the purpose of the underlying provision.

This language was not part of the original Fed bill and the Federal Reserve staff agrees that it undermines the purpose of the legislation. Therefore, I have requested deletion of that subsection because I want to encourage the kind of cooperation with other governments that has successfully brought BCCI and a number of drug money launderers to justice.

Even as amended, the bill's language would keep sensitive information from parties outside the law enforcement process but it would not limit access to information in furtherance of enforcement or congresssional oversight of our banking laws. It also has to be recognized that regardless of what the bill says the Congress and the courts have broad subpoena powers with which the agencies must comply.

FOREIGN BANKS

Mr. GRAHAM. Mr. President, there are several provisions relating to foreign banks in title VI that I would like to comment on. I am pleased that the amendments adopted in the Banking Committee's markup and offered in the manager's amendment by the committee here today address these concerns. I appreciate the help and support of Senators RIEGLE, GARN, and SARBANES and their staffs on these efforts. Title VI of the bill goes a long way toward increasing the Federal Reserve's ability to supervise foreign banks doing business in the United States.

In my home State, there are approximately 45 State-chartered foreign bank agencies. The primary business of many of these agencies is to use dollar deposits from their own citizens to finance the trade of their countries. A great deal of this trade is with the United States. This is particularly true of banks from Latin American and Caribbean Basin Initiative [CBI] countries which provide a high percentage of the trade financing of these countries. For example, the Banco International de Costa Rica provides approximately 70 percent of the trade finance available to Costa Rica. Moreover, almost two-thirds of Florida's $14.7 billion in exports went to Latin America and the Caribbean region in 1990. During that year, Latin American and Caribbean banks provided over $2.4 billion in trade financing through their Florida agencies. This accounted for over one-fourth of Florida's total exports of goods to the region. This trade has a direct impact on the economic development in Latin America and the Caribbean Basin region as well as on Florida's economy.

Florida's international future lies with the countries within the developing Latin American and Caribbean Basin region. Most of the banks from this region of the world are relatively small by United States, European, and Japanese standards. The Senate Banking Committee bill included language which expressly prohibits the Federal Reserve from making the size of the foreign bank the determinative factor in the Board's decisions to allow a foreign bank to establish or continue operations of a branch, agency, or representative office in the United States. These foreign bank agencies from smaller countries provide financing for trade with U.S. firms that might not be available from other sources. These agencies directly promote trade and commerce between the United States and their home countries.

Further, this amendment language included the following relevant standards for approval: the needs of the U.S. community to be served; the length of operation of the foreign bank in its home country; and the relative size of the foreign bank in its home country. The same restrictions and standards apply with respect to the Federal Reserve Board's decision to terminate the activities of a foreign bank branch, agency, or representative office in the United States.

The committee included these provisions because it is concerned that foreign banks from smaller countries and developing regions of the world might be at a disadvantage in the Board's application approval process, particularly if financial resources were a controlling factor. For example, banks in Latin America and the CBI region may be relatively small in terms of capital assets by world standards, but may have operated for a number of years and are among the largest banks in their home countries. They provide critical trade financing which may not be available from other sources. Trade is essential to these countries' economic and political stability. Small institutions can operate in a safe and sound manner and can possess the necessary managerial resources, experience, and capacity to engage in international banking.

Also an amendment offered today by Senator MACK and myself included in the manager's amendment addresses another important aspect of the bill regarding foreign banks from countries currently which do not regulate banks on a consolidated supervisory basis. While this may be an important consideration in the approval and termination decisions, we must provide a reasonable process for imposing this new requirement. Also, these foreign banks should have a general understanding of the parameters the Board will be using when reviewing them. Again, my concerns are primarily with foreign banks or agencies from Latin America and the CBI region. Today, few of these developing countries have a bank regulatory scheme that would comply with this standard. It is important to give these countries notice and an opportunity to reform their regulations. It is expected that the Fed will work with those countries that want to reform their regulatory scheme and provide these countries with guidance on what is meant by "comprehensive supervision or regulation on a consolidated basis."

Principally, this amendment requires the Fed, in consultation with the Treasury Department, to establish reasonable criteria for evaluating bank agencies from countries without a consolidated regulatory scheme to allow them to continue their U.S. operations. These criteria will allow the Fed to examine specific features of the bank's performance as an alternative to reliance on a foreign regulator.

The Treasury Department role is significant, particularly with respect to the Caribbean and Latin American region. It is important to ensure that the CBI and Enterprise for the Americas policies concerning trade and development and our banking policies are consistent.

It is also essential that the Fed promulgate criteria prior to taking any action based on the home country's regulatory scheme. This amendment requires the Fed to promulgate criteria within 1 year of enactment. During the time, the Fed will not take any action against foreign banks operating in this country solely because they are not subject to comprehensive supervision and regulation by their home country as long as they do not violate any U.S. laws and are operated safely and soundly, such foreign banks will be permitted to continue operating. Again, the Fed is expected to provide guidance to foreign countries on what is meant by "comprehensive supervision of regulation on a consolidated basis."

EXCESSIVE COMPENSATION

Mr. RIEGLE. Mr. President, the managers' amendment includes an amendment authored by Senator Levin to stamp out compensation abuses by bank and S&L insiders. These abuses have included using federally insured bank and S&L funds for sailboats, vacation homes, butlers, multmillion-dollar golden parachutes, and other types of excessive compensation. In some cases, these abuses have drained healthy institutions of needed assets, in others they help drive ailing institutions into Federal takeovers.

In essence, the Levin amendment requires bank and S&L regulators to prohibit as an unsafe and unsound practice any compensatory arrangement which is excessive or could lead to material financial loss to a federally insured bank or S&L. Federal regulators opposing excessive compensation must now act on the basis of incomplete and inconsistent regulations and without an explicit Federal statute on this subject.

S. 543 already contains provisions to stop improper insider loans; the Levin amendment addresses this second source of insider abuse which has caused so much damage. By providing the first Federal statutory language specifically requiring Federal regulators to stop insider compensation abuse, the amendment makes a strong addition to the bill.

DODD INSURANCE STUDY COMMISSION

Mr. METZENBAUM. Mr. President, I want to speak to an amendment Senator DODD and I have worked on which will be part of the manager's amendment to the banking bill.

The banking bill came out of committee with a provision to create a Presidential Commission To Study the Insurance Industry. As originally proposed the mandate of the Commission was too narrow in my view. If we have such a commission, it is essential that it study the critical issues facing the insurance industry and the existing regulatory framework under which the insurance industry does business today in this country.

The Senate Judiciary Subcommittee on Antitrust, Monopolies and Business Rights, which I chair, has been studying the insurance industry for a long time now. We have held numerous hearings concerning the solvency of the industry and the quality of State regulation.

The House Energy and Commerce Committee chaired by Congressman DINGELL has been conducting oversight of the insurance industry for over 3 years.

Both my subcommittee and the House committee have concluded that there are serious problems with the way insurance is regulated today and as a result the ability of the insurance industry to keep its promises to its policyholders is in jeopardy.

As a result of these hearings, I recently introduced legislation, "The Insurance Protection Act of 1991"—S. 1644—which I believe provides the basis for dealing with the real problems we face today. I ask that a summary of the bill and my introductory statement be reprinted at the end of these remarks.

In evaluating the Study Commission proposed by Senator DODD, my first reaction is the Congress has a pretty good idea that there are serious problems and that we can no longer sit by and trust that the States will be able to take care of these problems.

My second reaction is that if a Study Commission is necessary, the one originally proposed was not going to study many problems that require immediate attention. I have worked hard with Senator DODD to see that the Commission evaluates the problems that my committee and others have found in the insurance industry.

Let me explain what has been added to the charter of this Presidential Commission and what I believe the Commission must study if it is to provide any insight into what needs to be done.

Given the rash of huge insolvencies in the last couple of years, it is critical that the Commission also study whether the system by which we regulate insurance in this country is working. Today, one of the largest industries in this country—to the tune of $3 trillion—is regulated by 50 different State authorities. The quality of that regulation varies widely, the resources brought to bear are almost uniformly insufficient, and the laws being enforced by the States are frequently inadequate and weak.

For these reasons, the Commission will look at how the health of the insurance industry affects the rest of the national economy. Much of life insurance today is really a financial business and the health of that business is subject to the same forces that have shaped the S&L debacle and are now facing a weakening banking industry. As these three sectors are buffeted, so may the entire health and well-being of the country's economy.

In that regard, the Commission will look at the impact of the decline in real estate values and the effect of huge noninvestment grade bond portfolios on the health of the industry. Although these two aspects of the asset side of the balance sheet are the subject of much focus today, the Commission will also be looking at other factors that can impact the strength of a company's assets, such as its investment practices and the effect of guaranty fund assessments—both actual and projected under a variety of industry insolvency scenarios. The Commission also will learn, as part of this analysis, something about the general adequacy of the industry's capitalization, which has weakened in recent years.

Additionally, the provision calls for the Commission to look back and analyze the causes of insolvencies over the last 5 years. Whether the causes are fraud, mismanagement or a changing economic environment, the conclusions of this analysis will say much about the ability of the States to oversee this industry and anticipate problems before they result in disaster.

The Commission should also look into the effect fraud and criminal behavior can and do have on the solvency of companies as these are also factors which can be influenced by appropriate Government action. In that regard, the Commission should also look at the broadest influences on a company's balance sheet, namely the effect of company management practices and State regulatory oversight.

The Commission is specifically tasked to look at the overall effect of State regulation of insurance companies in a wide variety of areas. I have already mentioned some of the ways State regulation is critical to the solvency of the industry, but the Commission is also specifically required to look at this issue from the standpoint of whether high quality and consistent regulation is being met by the current system of regulation.

Given that the industry is by and large a national and even an international business today—and that the biggest most influential companies do business in virtually every State—the Commission should evaluate whether it still makes sense for the industry to be regulated by 50 different and varied State regulatory regimes. The Commission should determine whether the benefits of uniform regulatory requirements outweigh whatever benefits continue to accrue from the current system which is almost 200 hundred years old. As part of this analysis, the Commission should make some assessment of whether the current system in fact provides consistent and high-quality regulation in every State.

The Commission is also required to evaluate the adequacy of resources at the State level. This evaluation should include a review of the number of examiners and the number of qualified actuaries necessary to adequately regulate, the adequacy of funding in each State in relation to the number of insurers domiciled in that State and the annual premiums collected by that State.

The Commission should also look at critical issues relating to State solvency regulation, including the ability of each State authority to determine whether a company is financially troubled and to act quickly enough in taking the company over, whether each State adequately regulates the use of certain financial practices, such as surplus relief reinsurance and surplus notes, whether each State requires adequate capital and surplus for companies domiciled in such State, and the adequacy of each State's regulation of a company's investment practices.

The Commission is also required under this amendment to study the effect of State regulation on consumer issues including consumer protection and competition. The Commission as part of this review should look at pricing, product development, advertising, marketing, and the general adequacy of information provided to consumers. Consumers too often have far too little information to make informed decisions about whether they are buying the best policy for the money, with the best company available. The Commission should review whether consumers are given adequate information relating to the financial health of the companies, the relationship of premiums to the accumulation of interest, the claims paying experience of insurers, and whether the insurer or seller of the policy has been subject to any regulatory action.

Even when the consumer does everything possible to choose the best deal and the best company, that policy can be sold to another company, perhaps a weaker company, without the knowledge or consent of the insured. The Commission should review whether State regulation provides enough information to consumers and adequately protects their investments from involuntary transfer. Additionally, the Commission should analyze whether the current system whereby the States approve rates encourages efficiency of operation among insurers. If the rates are approved with little incentive for insurers to contain costs, then the system is not working well.

The Commission is further required to analyze the effectiveness of State regulation of reinsurance. With a very large percent of all reinsurance business in the United States being conducted by companies outside of the country, can States adequately regulate this business when they are unable to know anything about these companies? Even for those reinsurers that are U.S. based, the Commission must ask whether State laws are strong enough and whether regulators are adequately reviewing reinsurance agreements and reinsurers.

In sum, the Commission must determine the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance. Particularly in light of the national nature of the companies in the market and the importance of this industry to the well-being of the national economy and all Americans who hold insurance policies, the Commission must determine whether the Federal Government should continue to have no role in the regulation of insurance. As part of this review the Commission should look also to the views and practices of other nations and foreign insurers. This review would be a useful comparative analysis. The Commission should also take into account the views of other nations with respect to the fairness of the present system to international trade in services.

The amendment also requires the Commission to look at the efficiency of the present system for liquidation of insolvent insurance companies. In this regard, the Commission should evaluate the desirability of having a single authority to marshall assets of failed companies operating in multiple States in order to ameliorate internecine battles between competing State authorities.

The Commission is also required to review the adequacy of State and Federal civil and criminal enforcement authority and activity. The insurance industry is a prime target for insurance fraud and other misbehavior by individuals and by the companies. The Commission should determine whether State laws are adequate to deal with these problems and whether a greater Federal role is warranted. The Commission should also review whether State antigroup laws and antirebate laws inhibit competition or efficiency in the market for insurance. Additionally, the Commission should review the adequacy of State conflicts of interest laws as they apply to regulators and their relations with the insurance industry.

The amendment also provides that the Commission should undertake a broad review of the condition of the current guaranty fund system. The amendment lists a variety of considerations that the Commission must take into account, including the effect of State tax offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios.

The Commission has a very large mission. The industry it will examine is one of the most important to the country's economic health and to the well-being of its citizens. For hundreds of years the regulation of this critical industry has been left to the 50 States. Based on years of work by the Congress, I believe that we can no longer be satisfied with the status quo. Recent events and common sense dictate that the Federal Government be involved in assessing and regulating the health of the insurance industry. I don't think we need a Commission to tell us this. I believe the amendment agreed to by this body will result in a confirmation of what we already know to be the case.

The Commission will obviously take time to reach its conclusions. I only hope we have the luxury of waiting for those conclusions. If big insurers continue to experience problems and the pace of major insolvencies does not abate, I believe this Congress may have to act quickly to restore consumer confidence. In such circumstances no one should be under the mistaken impression that we should or could wait for the results of a Study Commission. We will have to act. Let's hope that is not the case, but let's not ignore reality either.

DISCLOSURE AMENDMENT

Mr. WIRTH. Mr. President, I rise to discuss a provision in the manager's amendment that would require increased public disclosure of information related to failed financial institutions if tax dollars are used to resolve the institution's failure.

Taxpayers are being forced to provide billions of dollars to resolve problems in the savings and loan industry. The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988, to $216 billion today. We may see it increase further before we are through. Even if the current estimates hold, we'll still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. The provisions included in the manager's amendment would correct that and shed some light on how the S&L crisis developed. The public should have access to that kind of information.

Senator GARN and I have debated this issue on the floor twice this year. We have also discussed it in the Banking Committee and in several private meetings. We both wanted to make more information about financial institution failures available to taxpayers. We both wanted to protect the privacy of individuals who did not contribute to a failure. We disagreed on the best way to balance those concerns.

Senator GARN and I have now succeeded in reaching an agreement on the public disclosure issue. Neither of us think it is perfect. But it is a compromise and I think it does advance the goals we both have sought.

The amendment would require disclosure of examination reports and settlements of Government lawsuits related to financial institution failures. It is similar to an amendment that drew the support of a majority of the Senate on a cloture vote during consideration of the HUD, VA, and Independent Agencies appropriations bill.

Information about individual customers such as their account balances, deposits, home loan, et cetera, is not routinely included in examination reports. The reports that I have seen do not include this kind of material. Reports are far more likely to discuss overall problems in an institutions lending practices and controls than they are to single out individual loans.

The General Accounting Office currently has access to examination reports. I have a letter from the GAO that outlines the contents of examination reports. I would be happy to provide any Senator interested in an overview of what is included in a report with a copy of that letter and I ask unanimous consent that it be printed in the RECORD.

Nevertheless, I think it is important that we go the extra mile and would like to go over the privacy and other safeguards that we have included in the amendment.

First, the amendment directs regulators to remove the names and other identifying information from the report for any customers who are not affiliated with the bank.

So if you are a noninsider, in the unlikely event you happen to be named in an examination report, you are assured that your name will be deleted.

Second, any information about insiders that is included in an examination report will be removed from the report before it is made public if that information is not relevant to the relationship between the institution and the insider.

The amendment also includes provisions to prevent release of information that could affect open insured depository institutions.

I have also extended the period for which regulators can delay release of a portion of an examination report to avoid hindering an ongoing criminal investigation. Regulators will now be able to delay release for up to 5 years.

In addition, I have also opted to allow regulators to delay release of portions of examination reports for up to 2 years to avoid interference with a civil or administrative action.

I believe these safeguards improve the amendment and address the privacy concerns that Senator GARN has raised.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and a financial institution's examination reports can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. My amendment would correct that and shed some light on how the S&L crisis developed. The public should have access to that kind of information.

Under the agreement Senator GARN and I have reached, the public will be able to learn more about the S&L crisis and other financial institution failures that taxpayers are forced to resolve.

I think this kind of disclosure requirement is important and am pleased that we have been able to resolve the matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 18, 1991.

Hon. TIMOTHY WIRTH,
U.S. Senate.

DEAR SENATOR WIRTH: Since my testimony during the September 19, 1991, banking committee hearing on the Bank of New England, our staffs have been working together to better understand the implications of your proposal to publicly disclosed examination reports on banks that have failed. We appreciate your objectives to apprise the public of (1) the regulator's assessment of the safety and soundness of a bank's operations prior to its failure; and (2) the names of those borrowers—particularly insiders—whose loans have caused losses to the bank, Bank Insurance Fund, and ultimately the taxpaying public.

We believe your first objective would be served through disclosure of the examination reports on failed banks. However, we do not believe publicly releasing examination reports would serve your second objective because they are exception reports—not a complete accounting of bad loans or bank losses.

Examination reports differ slightly among federal bank regulators, but basically reflect concerns regulators have identified during an examination about the safety and soundness of a bank's operations. The regulators' concerns may be based, for example, on their review of a sample of loans out of a bank's portfolio. The examination report would then include a narrative discussion of the deficient bank practices or conditions found from reviewing the sampled loans. The only loan information that would be included in the report would relate to those sampled loans with the deficient condition to illustrate the adverse effects of the deficiency on bank operations.

Federal bank regulators' examination reports typically contain the following:

(1) Letter to the Board of Directors: This two to three page letter briefly summarizes the examination results. The summary generally describes the examiners' overall conclusions relative to the safety and soundness of the bank's operations. The letter also usually includes the composite CAMEL rating assigned to the bank as a result of the examination.

(2) Summary of Findings: This detailed summary generally describes the extent of examination coverage and the examiners' conclusions related to each of the CAMEL components. The conclusions may include both positive and negative comments about the safety and soundness of bank operations. They may also include a discussion of improvements needed in bank operations. Narrative comments for each CAMEL component are usually complemented with various ratios relative to bank operations and the examiners' numerical rating.

(3) Appendixes: The appendixes generally include listings and descriptions of specific deficiencies found in bank operations. For example, the appendix relative to asset quality typically includes a description of sampled loans reviewed and found to be improperly valued or classified by the bank. The appendixes also include specific violations of law or regulation found by examiners including violations of Regulation O relating to insider activities.

As you can tell from what we described as typically being in an examination report, it includes specific concerns examiners have about the safety and soundness of bank operations, but does not provide a complete accounting of all bank problems. Further, the specific loans listed in the appendixes do not account for all problem loans and those listed may not necessarily result in losses to the bank. Likewise, law or regulation violations, like preferential loan terms to bank insiders, cited in the appendixes involve only those loans with violations that were identified by the examiners.

In view of the shortcomings of examination reports in identifying insiders whose loans have caused losses to failed banks, you might wish to consider requiring the FDIC to disclose the names of all directors, executive officers, major stockholders and their related interests, including family members and controlled organizations whose loans are 30 days or more past due. The FDIC strikes us as the most appropriate agency for this type of disclosure, since as part of its efforts to liquidate or sell failed institutions it identifies loans in non-performing status.

We hope this information about federal bank regulators' examination reports and the additional disclosure we suggest will be helpful to you in deciding how best to satisfy your objectives. If we can be of any further assistance, please call me.

Sincerely yours,

RICHARD L. FOGEL,
Assistant Comptroller General.

HAIRCUT STUDY

Mr. WIRTH. Mr. President, the bank reform legislation includes a number of provisions to address the too-big-to-fail problem. I support these measures and was considering offering an amendment that would complement these provisions.

My proposal would have required uninsured depositors and creditors to take a haircut from their funds when an institution fails. Under this proposal, the FDIC could not make uninsured whole if a determination is made to protect uninsured deposits. The depositor would lose a portion of the uninsured funds.

S. 543's provisions to address the too-big-to-fail problem are important steps. We will see less coverage of uninsured funds and depositors will no longer be confident that their uninsured funds will be protected in the event of a failure.

These changes will introduce greater market discipline into the system by providing large depositors with an incentive to look at a bank's financial condition, not just its interest rate.

However, as depositors become familiar with the new system, we may see an increasing concentration of large deposits in a few big banks that the market believes regulators are certain to consider too-big-to-fail.

BENEFITS OF A HAIRCUT

A haircut would provide a stronger incentive and do a better job of bringing market forces into play, particularly for the very largest institutions.

For this reason, I think a haircut that takes effect a few years down the line is a strong complement to the provisions already included in the legislation.

Right now, investors can make deposits of well over $100,000 in our largest banks and be reasonably confident, based on past history, that the FDIC will protect them in the event of a failure.

However, if these depositors know that, no matter what, they would not be able to recover all their funds after a failure, they will be inclined to look at a bank's health, not just its interest rate. Banks themselves will have an incentive to better monitor their condition or risk being unable to attract deposits.

A haircut provides certainty that an uninsured depositor will lose money if an institution fails. I think that's a pretty strong incentive for a depositor to take a look at the financial condition of an institution before making a large deposit.

Some depositors, no doubt, will decide the risk is worth taking—that's the way markets work. But that's a big improvement over the current system where there is relatively little market discipline. It's also an improvement over the reforms currently included in S. 543.

There is some concern that a haircut will lead depositors to pull their funds from troubled banks because they are concerned about losing some of their uninsured funds when too-big-to-fail is invoked. That is the point of a haircut. It would bring more market discipline to the operations of large banks and the decisions of uninsured depositors.

Investors with large uninsured deposits are relatively sophisticated. In addition, industry analysts, newsletters, and other press will keep uninsured depositors informed in response to demand for information about large banks' financial condition. Depositors will learn about, and react to, relatively early signals about bank problems.

Any outflow of funds will happen early enough that an institution will be able to move to correct its problems. There may be a short-term outflow of funds but in the long term a haircut will contribute to more stable institutions and a more stable banking system.

If a haircut took effect immediately, I might agree there was reason to be concerned about an immediate large outflow of uninsured funds from large troubled banks. But my haircut proposal included a transition period to allow banks and depositors to examine risks and work to correct problems in order to protect their uninsured deposits.

During the Banking Committee markup Senator DOMENICI and I worked on a haircut proposal. The amendment that was ultimately adopted would require that the FDIC not provide uninsured depositors with early access to more than 90 percent of the value of their claims that could be supported by the institution's assets. This language is relatively modest and can be improved.

There is some resistance to a haircut proposal and I will not offer my amendment to establish a haircut in 1995. Instead, the managers' amendment includes provisions directing the the Congressional Budget Office to study the effect of a haircut and report back to the House and Senate Banking Committees within 18 months.

CBO will examine the possible savings a haircut requirement could yield for the insurance funds, as well as the benefits that increased market discipline will bring financial institutions and the insurance funds.

The amendment I had planned to offer would not have required a haircut until 1995. The additional information from CBO and the opportunity to examine the effectiveness of S. 543's provisions to address too-big-to-fail will help the Senate determine if a haircut is desirable and, if we do decide that a haircut is appropriate, we will still be able to put one in place for 1995.

Mr. SEYMOUR. Mr. President. I rise today to speak on a matter of utmost importance to California—the credit crunch. Everytime I return to California, my constituents cry out for help. The credit crunch is preventing the upturn in our economy, and they're right. While we are in a recession, present regulatory practices are causing the chilling of capital and ensuring a slower recovery. The credit crunch is not caused by a lack of qualified borrowers, many of my constituents have solid credit ratings, never missed a loan payment, and can't get a new loan, or for that matter a recommit of an existing loan, for a home or small business.

Since I took office last January, I have made the issue of the credit crunch one of my top priorities. At every turn, I have reminded the administration that the credit crunch is stifling the American economy, and in particular, the California economy. An economy that for decades has been the economic engine of the Nation. Over the last 2 months, President Bush has required his economic advisers to give a new look to the credit crunch problem. Finally, spurred by the reality of a sluggish national economy, the administration has begun to understand what we in California have been experiencing for months—banks unwilling to lend because of tightened regulatory practices and a devaluation of real estate prices.

The amendments that I am introducing will further send the message that: First, the Senate recognizes the need to find measures to end the credit crunch; and second, not all real estate loans, particularly performing loans, should automatically be considered a bad loan just because they are in real estate.

The first amendment is a sense of the Senate that the credit crisis must be resolved in order to provide a healthy and efficient marketplace that works for owners, lenders, and investors. This measure stresses efforts that should be undertaken, such as modernizing and simplifying the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate. In addition, restoring balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily, and single-family real estate; ending market-to-market, liquidation-based appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field. And last, encouraging a positive tax system for real estate owners and operators.

The second amendment requires Federal regulators not to adversely evaluate an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property. The message here is that not all real estate loans, particularly performing loans, should automatically be considered a bad loan just because they are in real estate. This amendment does not inhibit Federal regulatory agencies if the loans or investments may affect the safety and soundness of the institution.

I urge my colleagues to support these amendments.

Mr. RIEGLE. Mr. President, a number of my colleagues have inquired about the insurance provisions of S. 543. I have prepared a summary and analysis of those provisions. I ask unanimous consent to have that document reprinted in the RECORD following this statement.

I should note that the summary and analysis does not reflect a minor amendment to these provisions adopted during today's consideration of S. 543. This amendment expanded the grandfathering in the small towns provision. Pursuant to the amendment, national banks that have been selling insurance under the small towns authority will be allowed to continue to seek insurance to existing customers, regardless of where the customer resides.

There being no objection, the material was ordered to printed in the RECORD, as follows:

SECTION 771. INSURANCE ACTIVITIES OF NATIONAL BANKS

Section 771 settles the debate over the insurance activities authorized for national banks by adding a new section to the National Bank Act, Section 5136B.

The general rule, set forth in subsection 5136B(a), states that national banks will not be permitted to provide insurance as a principal, agent or broker. That general rule is subject to four exceptions. Both the prohibition and the exceptions are equally applicable to national banks and to their subsidiaries.

Parity. Subsection 5136B(b) permits national banks to engage in insurance activities to the same extent as similarly-situated state-chartered banks. A national bank or its branch is permitted to provide insurance as a principal, agent or broker in the same manner and to the same extent that a bank chartered in the state in which the national bank or branch is located is permitted to provide insurance as a principal, agent or broker. Where a state allows state-chartered banks to sell insurance, national banks or branches located in that state would have the same power, to the same extent. Where a state bars state-chartered banks from selling insurance (or limits such activity), this subsection does not give any additional authority to national banks. This subsection does not permit a national bank to use its insurance powers in a "parity" state to market insurance in a "non-parity" state except to the extent that a state bank is permitted to do so under the new interstate insurance provision added by Section 772 of this Act.

Section 5136B also applies the same parity principles to the subsidiaries of national banks, thus creating an exception to the rule that a subsidiary of a national bank can only engage in activities permitted for the parent national bank. Under this provision, a subsidiary of a national bank is permitted to provide insurance as a principal, agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in the state in which the national bank is located is permitted to provide insurance as a principal, agent or broker.

The definition of "bank chartered in the state" is intended to make clear that the parity provision only grants national banks the insurance authority granted to similarly-situated state-chartered commercial banks, but does not "borrow" any authority that may be granted by a state to savings banks, thrift institutions or other institutions excluded from the definition of "bank" in the Bank Holding Company Act.

Some states have laws that grant state-chartered banks the same power to sell insurance as that granted under federal law to national banks. A national bank located in a state with such a "wildcard" statute will not obtain any insurance powers by virtue of such a provision, nor will this subsection grant any insurance authority to banks chartered by such a state.

Insurance Activities in Small Towns. Subsection 5136B(c) establishes geographic boundaries for the sale of insurance by national banks in small towns. Subsection (c) thus replaces the former 12 U.S.C. 92, which is repealed by subsection (a), and would limit the effect of recent administrative and judicial interpretations of the "small town" authority of national banks. Nothing in this recodification, or in any other part of this subtitle, would have any effect on existing insurance policies.

Subsection (c) reenacts and amends the grant of authority in Section 92. A national bank may sell insurance in any small town in which the bank or any of its branches is located.

The term "small town" is specifically defined. A small town includes any "place" with a population not exceeding 5,000 (as shown by the preceding decennial census). The word "place" is taken from the small-town provision of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8)(C)(i). Construing that term, the Federal Reserve Board has explained that a "place" "must be a cognizable political subdivision such as a village, town, municipality, or township for which population figures are available." *United Community Financial Corporation*, 73 Fed. Res. Bull. 508 (1987). That same interpretation is applicable here.

In addition to such a place, the definition of a "small town" also includes any contiguous rural area, including rural communities, within 7.5 miles of the borders of the place, except to the extent that such a contiguous rural area includes any city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

Within a small town, a national bank or branch may sell only to certain customers, who are specified in subsection 5136B(c)(2). Subsection (c)(2)(A) permits the sale of insurance to an individual who is a resident of or employed in the small town. As used in this subsection, the term "individual" is intended to include individuals who purchase insurance on behalf of family members. For example, a parent who otherwise qualifies under subsection (c)(2) would be permitted to purchase an automobile policy that covers a son or daughter who takes an automobile to college beyond the borders of the small town. Subsection (c)(2)(B) permits the continued sale of insurance to an individual who has ceased to satisfy the conditions of subsection (c)(2)(A), so long as the national bank or branch has provided insurance to that individual since he or she changed residence and/or place of employment.

The term "person" as used in subsection (c)(2) includes a corporation or other business entity. Subsection (c)(2)(C) is intended to permit truly local businesses to purchase a full range of insurance products and services for their small town operations. Thus, for example, a business that manufactures a product in the small town would be able to buy product liability insurance to cover those products. But a business that has an office in the small town would not be permitted to purchase product liability insurance to cover products manufactured in a plant located beyond the borders of the small town. In addition, a subcontractor of a business would not be a permissible customer unless it independently satisfied the requirements of subsection (c)(2).

Subsection (c)(4) provides that national banks and their branches that provide insurance are subject to state laws governing the provision of insurance unless the state law is preempted by federal law. There is currently pending litigation in which national banks assert that federal law preempts the ability of certain states to enforce against them provisions of state law restricting the sale of insurance by banks. The reenactment of Section 92 in subsection (c) is not intended to reflect any view whatever on the merits of such litigation. The same language is employed in subsection (d)(4) and in Section 771(c) to indicate that, in those sections as well, this legislation takes no view on the ability of states to apply state laws to national banks.

"Grandfathered" Insurance Activities From Small Towns. In 1986, the OCC ruled that Section 92 of the National Bank Act permits a national bank with a branch in a place of less than 5,000 inhabitants to sell insurance nationwide through that branch. OCC Interpretative Letter No. 366 (August 18, 1986). This interpretation has been upheld by a decision that is now on appeal. *National Association of Life Underwriters v. Clarke*, 736 F. Supp. 1162 (D.C.D.C. 1990). As noted above, the reenactment of Section 92 would limit the effect of these interpretations.

Subsection (d) addresses those national banks that may have begun to engage in geographically-expanded insurance activities as a result of those prior interpretations. Subsection (d) applies only to national banks or branches that were actually providing insurance from a place of under 5,000 as of May 1, 1991 and permits only the sale of insurance that insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991.

The limitation to insurance "of the same type" as that being provided on the grandfather date should be construed narrowly. For example, the provision should not be construed to permit the provision of ordinary life insurance by an institution that, on the grandfather date, was providing only credit-related life insurance. Similarly, a bank whose insurance agency activities on the grandfather date extended only to ordinary life insurance would not be within the scope of the grandfather if it later wished to sell property/casualty insurance.

National banks or branches that meet these qualifications are permitted only to provide insurance in the "contiguous region" to the place in which the national bank or branch is located, except that insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991. This last exception is not intended to include a county in which only a de minimis number of insurance policies were sold as of May 1, 1991. The term "contiguous region" is defined specifically in subsection (d)(4).

Incidental Insurance Powers of National Banks. Section 771(c) amends Section 24 (Seventh) of the National Bank Act, which permits banks to exercise "all such incidental powers as shall be necessary to carry on the business of banking." At least one Court has held that this language does not authorize national banks to engage in general insurance agency activities, see, e.g., *Saxon v. Georgia Association of Independent Insurance Agents*, 399 F.2d 1010 (5th Cir. 1968). The OCC and the courts have, however, construed the incidental powers clause to permit banks to conduct limited insurance agency activities, including the sale of credit-related life, health, and accident insurance, *Independent Bankers Association v. Heimann*, 613 F.2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823 (1980), title insurance, municipal bond insurance, and annuity contractors. Litigation challenging the OCC's rulings as to title insurance and annuities are now pending.

Section 771(c) permits a national bank to engage in activities pursuant to Section 24 (Seventh) that constitute providing insurance as principal, agent or broker, but only if such activities were lawfully engaged in any one or more national banks before May 1, 1991. Otherwise, national banks may not provide insurance as a principal, agent or broker pursuant to Section 24 (Seventh).

The requirement that an insurance activity have been "lawfully engaged" in by one or more national banks before May 1, 1991 is intended to preserve federal-court litigation challenging the OCC's ruling concerning title insurance and annuities, although this provision does not indicate any view whatever on the merits of such litigation. Thus, activities were not lawfully engaged in before May 1, 1991 to the extent that they are finally adjudged by a federal court as unlawful under laws in effect on May 1, 1991.

Section 771(c) does not contain a definition of the term "insurance." It is intended that, in construing the meaning of this term, an administrative agency or court look to the manner in which a product is commonly regulated by state insurance departments. Although no single decision by a state insurance commissioner can control the meaning, for purposes of federal law, of the term "insurance," common state regulation of insurance products is, as a general matter, probative evidence that should be carefully considered by any decision-maker. On the other hand, decisions by a state insurance regulator finding that traditional bank products, such as letters of credit, are insurance, shall not in any way restrict the ability of national banks to offer such products. In addition, the fact that an insurance product may be characterized by another term for purposes of other laws does not detract from its status as "insurance" for purposes of this provision. Thus, for example a product that can be labeled as both "insurance" and a "security" can be "insurance" as that term is used herein.

SECTION 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES

Section 772 adds a new Section 13 to the Bank Holding Company Act that generally prohibits any bank holding company from allowing a subsidiary bank to provide insurance as an agent or broker beyond the borders of the state in which the subsidiary bank is principally located. For purposes of this section, the place in which insurance is "provided" includes the place in which an individual who purchases such insurance is domiciled. Thus, a bank may be providing insurance beyond the borders of the state in which it is principally located even if no insurance agent ever physically leaves that state and even if the contract of insurance is, for contractual purposes, made under the laws of the home state.

This provision does not apply to an insurance subsidiary of a state bank that markets insurance separately from its parent bank. Such a subsidiary remains subject to all state laws, including state laws that bar the affiliation of a licensed insurance entity with a banking institution, but the additional prohibition of this provision does not apply to the activities of such an insurance subsidiary. If, however, the insurance subsidiary markets its products in, through or from its parent bank, then the bank itself would be engaging in insurance activities subject to the prohibition and exceptions of this provision.

Section 13 contains six exceptions.

The first exception, Section 13(a)(1), provides that a bank principally located in one state may sell insurance in a host state if the statutes of the host state expressly authorize a bank principally located in another state to provide insurance in such host state, by language to that effect and to merely by implication.

The second exception, Section 13(a)(2), concerns interstate branches of banks. Where a bank is permitted to sell insurance in a host state by virtue of this exception, that insurance may be sold through the interstate branch by the out-of-state bank directly, or by a subsidiary of the out-of-state bank. Furthermore, this authority extends to interstate branches of national banks through the "parity" provision of subsection (b); where a state permits its state banks to sell insurance, a branch of an out-of-state national bank may also sell insurance.

The third exception, Section 13(a)(3), details the circumstances in which a national bank or branch selling insurance pursuant to the grandfather clause of Section 5136B(d), will be able to sell insurance across a state line. These limitations are in addition to the limitations of Section 5136B(d) itself. National banks selling insurance pursuant to the new small-town provision, Section 5136B(c), are not included in the exceptions to Section 13 and thus are not permitted to sell insurance across a state line.

The fourth exception is a grandfather provision. It extends only to the continuing interstate sale of insurance that insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the bank was actually providing beyond the borders of the state in which the subsidiary bank is principally located as of May 1, 1991. As in Section 771, the limitation to insurance "of the same type" as that being provided on the grandfather date should be construed narrowly and, to give but one example, the provision should not be construed to permit the provision of ordinary life insurance by an institution that, on the grandfather date, was providing only credit-related life insurance. In addition, the grandfather clause can only be used by a subsidiary bank that was providing insurance on May 1, 1991, so long as insurance is not provided pursuant to a statute enacted by a state after May 1, 1990. A statute that fails to meet this requirement was enacted by the state of Delaware on May 29, 1990. Accordingly, any bank holding company providing insurance pursuant to this Delaware legislation will not be able to satisfy this requirement of Section 13(a)(4).

The fifth and sixth exceptions permit the interstate sale of insurance by subsidiary banks of credit insurance and insurance placed on property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

Section 13(c) confirms that nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under Section 4(c)(8) of the Bank Holding Company Act.

SECTION 773. SAFEGUARDS FOR SALE OF INSURANCE

Section 773 contains four consumer safeguards applicable to the sale of insurance that are added to the Federal Deposit Insurance Act. These consumer safeguards are equally applicable to any insured depository institution and to any subsidiary of an insured depository institution.

Section 773(a) establishes disclosure provisions alerting customers of FDIC-insured banks that insurance products are not deposits and are not insured by the FDIC and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

Section 773(b) establishes three prohibitions on the manner in which FDIC-insured banks might otherwise favor their captive agents. No FDIC-insured institution may (i) require as a condition of providing any product or service to any customers, or any renewal, that the customer acquire, finance, or negotiate any insurance policy through a particular agent, or broker, (ii) in connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution, or (iii) impose any discriminatory requirement in any insurance agent that is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such intention.

Section 773(c) prohibits FDIC-insured institutions from soliciting the sale of insurance required under the terms of a proposed loan or extension of credit before the loan customer has received a written commitment with respect to the loan or extension of credit. This provision applies to renewals of loans and extensions of credit as well as originations.

Section 773(d) forbids FDIC-insured institutions from using nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer. The term "insurance" does not include certain specified forms of credit-related insurance.

SECTION 774. INSURANCE UNDERWRITING IN BANK RESTRICTED

Section 774 would amend the Federal Deposit Insurance Act to establish a general rule restricting state banks to insurance underwriting activities permissible for national banks as of May 1, 1991. Section 774 also contains a grandfather clause setting forth a limiting exception to the general restriction. Specifically, a state bank, or subsidiary of such a bank, that was lawfully providing insurance as a principal in that state on November 21, 1991, may continue to provide insurance of the same type to residents of that state, individuals employed in the state, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such state. In this context, the phrase "lawfully providing insurance was principal" requires that the state bank have been actively engage in the business of underwriting new insurance coverage on the grandfather date. The mere fact that, on the grandfather date, insurance previously underwritten by the state bank remained in force would not be sufficient to bring a state bank within the scope of the exception to the general rule.

Mr. RIEGLE. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1377) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I believe the Senator from North Carolina [Mr. HELMS] may be ready now to offer his amendment. I would certainly invite him to do so, if this is a convenient time for him.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1378

(Purpose: To prohibit foreign banks which have financed trade in slave labor produced goods from conducting operations in the United States).

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1378.

At the end, add the following:

"SEC. . SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) SANCTION.—A foreign person which is a bank, financial institution, or insurer, and any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) TERMINATION OF SANCTION.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) WAIVER.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-months period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the natural security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) DEFINITION.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

Mr. HELMS. Mr. President, I asked the clerk to read the amendment because it is self-explanatory, and I think that every Senator in this body will favor this amendment. I am not going to ask for a rollcall vote. I will simply say this:

Mr. President, with this amendment, Americans will see just how serious is the Senate about stopping the flow into the United States of Communist Chinese slave-labor produced goods.

Specifically, this amendment would prohibit from doing business in the United States, any foreign bank which knowingly and materially assists trade in Chinese slave-labor produced goods. The amendment is based on a provision just signed into law imposing sanctions on foreign companies which trade in chemical and biological weapons.

Mr. President, it is currently against the law to import or transport slave-labor produced goods to the United States. However, it is clear that this law is simply not working and that we need to do more.

How does this Senator know that current law is not working? Just 1 week ago, NBC TV visited a trade show in San Francisco. There they found representatives of Communist China distributing pamphlets hawking some machinery. Included in this pamphlet was a picture of the factory in which the machinery is produced. If one were to look closely—as did this Senator—he or she would see that surrounding this factory are guard towers and barbed wire.

That is correct, Mr. President. This factory is no factory at all—it is a slave-labor camp. And the Communist Chinese are openly selling its products here in the United States.

Mr. President, enough is enough. When it comes to Chinese slave-labor camps, America has played the patsy for too long. Last year, this Senator came to the floor with a bottle of Dynasty brand wine—wine which was produced in a Chinese slave-labor camp and sold here in the United States. That was over 1 year ago. Six months ago, Asia Watch reported that the New Life Cotton Cloth Mill—a slave-labor camp—has been exporting to the West since 1983.

But the State Department still claims they have no proof that Communist chinese slave labor goods are reaching our shores. The State Department is simply more interested in smoothing over relationships with the Chinese Communists that they are in protecting the rights of American workers who are forced to compete with—and are losing their jobs to—China's slave labor system.

The fact of the matter, Mr. President, is that these slave-labor produced goods—such as the ones being hawked in San Francisco—could never reach these shores if not for letters of credits issued by banks. In fact, according to Asia Watch, that slave labor New Life Cotton Cloth Mill has boasted of the low-interest loans it received fom a Japanese bank back in 1988.

As we speak, Mr. President, I have no doubt that there are foreign banks making profits off of sales of Chinese slave-labor produced goods here in the United States. If such banks are so greedy as to assist trade in slave labor—just to make profits, then they should not be permitted to do business here in the United States. It is as simple as that.

Mr. President, when goods produced by slave labor camps in China are sold in the United States, Americans lose jobs, and an insidious practice in China is being supported. We, as Senators, must do all we can to stop this trade. That is why I offer this amendment, and why I hope all Senators lend it their support.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I will indicate that on this side of the aisle, we are prepared to accept the Senator's amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, on behalf of the Republican side, I am willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate? There is still time remaining.

Mr. RIEGLE. Will the Chair withhold for just a moment?

Let me say I am prepared to accept it. I am told we have to just check a jurisdictional question. We will take some time to do so.

If the Senator will forbear, I will ask we wait a moment on that. And could we perhaps lay that aside temporarily and move to the Senator's next amendment?

Mr. HELMS. We certainly can.

Mr. RIEGLE. I ask unanimous consent that we set aside temporarily the amendment offered by the Senator from North Carolina so he might now offer his next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not lose the remainder of the time?

The PRESIDING OFFICER. The Senator is correct. There is 3 minutes under the Senator's control.

AMENDMENT NO. 1379

(Purpose: To impose sanctions on foreign banks or their affiliates that engage in financing the use or acquisition of chemical or biological weapons)

Mr. HELMS. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1379.

At the end of title XI of the bill, insert the following:

SEC. 1138. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTION.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

Mr. HELMS. Mr. President, I thank the clerk for reading the entire amendment. Again, I think the amendment speaks for itself, because, with this amendment, the Senate can take a quantum leap toward slowing down the proliferation of chemical and biological weapons. Specifically, as the language of the amendment states, it would prohibit from doing business in the United States any foreign financial institution which finances or insures the trade in chemical or biological weapons.

It was just a couple of weeks ago that President Bush signed into law the State Department Authorization Act for fiscal years 1992 and 1993. Included in this bill is a provision—which passed the Senate 92 to 0—imposing sanctions on foreign companies which participate in the chemical and biological weapons trade.

The amendment I offer today simply closes the loop by amending this newly enacted provision to impose sanctions on those who would finance or insure this insidious trade.

For the past couple of years, I have tracked the numerous, mostly foreign, companies which have ruthlessly provided Iraq, Iran, Libya, and Syria with the wherewithal to develop and build chemical and biological weapons. Among my findings were that the Deutsche Bank helped finance Libya's chemical weapons complex at Rabta, and that BCCI affiliates helped finance Saddam Hussein's war machine.

Mr. President, the fact of the matter is that we must take action to put a halt to the action of these and other companies. Otherwise, we will have only ourselves to blame when some of the most brutal regimes in the Middle East—Iraq, Syria, Iran, and Libya—obtain the capability to independently produce chemical weapons, biological weapons, and nuclear weapons. That is what is at stake.

Beyond this imperative, it is simply unfair that while the American taxpayer had to spend literally millions of dollars to provide our troops with protections against Iraq chemical weapons, the foreign companies which helped Iraq build these weapons, and the banks which provided the financing, got away scot-free with their profits intact.

This amendment includes provisions which will hit the foreign banks which finance this trade where it hurts—in their pockets.

Like the legislation dealing with companies which the President just signed into law, sanctions would be imposed by the President once he makes a determination that a foreign financial institution has "knowingly and materially contributed" to efforts by a foreign country to "use, develop, produce, stockpile or otherwise acquire chemical or biological weapons."

The sanctions would be imposed on the offending financial institution for at least 1 year. After that time, the sanctions remain if the financial institution continues its involvement with the chemical or biological weapons programs of these countries. However, also after a year, the President is provided the authority to waive the sanctions.

The chief difference between this amendment, and the provision which is now law lies in the particular sanction. This amendment prohibits offending institutions from doing business in the United States. The law on companies prohibits sanctioned companies from selling their products to the U.S. Government.

Admittedly, the sanction on companies is somewhat less stringent. However, the Senate in its 92 to 0 vote on the chemical weapons bill, approved language prohibiting imports from offending companies—a sanction similar to what is now being proposed. In addition, the import sanctions are included in the unemployment compensation package just received from the House yesterday. I have been assured by the conferees on this bill that the import sanctions will be included, and enacted into law.

Mr. President, Congress—in its wisdom—has already passed legislation to impose sanctions on foreign companies which trade in chemical weapons. In fact, the Senate passed that legislation on a number of occasions. Now is the time to expand the scope of that legislation to close down the foreign banks, insurance companies, and other financial institutions which finance and insure the trade in chemical weapons. That is what this amendment will do, and I urge Senators to lend it their support.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, I am prepared to accept this amendment. I yield to my colleague from Utah.

Mr. GARN. Mr. President, I am also prepared to accept the amendment.

Mr. RIEGLE. Mr. President, let us settle that amendment then. I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from North Carolina has 3 minutes and 45 seconds remaining.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire [Mr. SMITH] be added as an original cosponsor of both this amendment and the previous one, which was laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1379) was agreed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

Mr. RIEGLE. Mr. President, I now move that the Senate return to the first Helms amendment, and I indicate that we have checked the jurisdictional issue on that matter, and we are prepared to accept that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield back the remainder of my time.

Mr. RIEGLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1378) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the chairman.

Mr. RIEGLE. Am I correct now that the Senator from North Carolina has offered the two amendments that he intended to offer?

Mr. HELMS. I am going to have mercy on the managers of the bill. I will not offer the third one.

Mr. RIEGLE. I thank the Senator from North Carolina.

MODIFICATIONS TO AMENDMENT NO. 1342

Mr. RIEGLE. I send to the desk two technical changes to the previously adopted amendment No. 1342 offered by Senator FORD. I ask unanimous consent that they be agreed to.

The PRESIDING OFFICER. Is there any objection? Without objection, the modifications are agreed to.

The modifications are as follows:

Page 4, line 17, 18 insert before the semicolon "*Provided*, That a law in existence on the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991 which prescribes a period of more than five years shall be deemed to provide a period of five years.".

Modify page 27 to read as follows:

2906(b)(1)) is amended by adding at the end the following sentence:

"A written evaluation shall contain the information required by subparagraphs (A) and

(B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 306. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by such State or political subdivision thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law which has its main office or any branch located in that State, to determine any State or local tax liability and to ensure compliance with the tax laws of the State or political subdivision thereof.".

SEC. 307. USE OF NAMES IN HOST STATE.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 fol.)

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum and that the time not be charged to the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1380

(Purpose: To require the Federal Deposit Insurance Corporation to treat certain deposits of the Freedom National Bank of New York as insured deposits)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. D'AMATO, proposes an amendment numbered 1380.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

Mr. GARN. Mr. President, this is the amendment we discussed before, concerning Freedom National and charitable organizations. It has been cleared on both sides.

The PRESIDING OFFICER. There is 9 minutes and 30 seconds remaining.

Mr. GARN. I yield back Senator D'AMATO's time.

Mr. RIEGLE. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1380) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum without the time being taken from either side.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1381

Mr. RIEGLE. Mr. President, I send an amendment to the desk, offered in behalf of Senators BRYAN and SMITH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. BRYAN, for himself, and Mr. SMITH, proposes an amendment numbered 1381.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Senate believes that the responsibility to establish national banking policy should rest with the Congress and not Federal financial regulatory agencies; and

The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage; and

The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto;" and

The Senate believes that real estate activities other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act; and

Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

Now, therefore, it is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" per section 4(c)(8) of the Bank Holding Company Act of 1956.

Mr. RIEGLE. Mr. President, this amendment has been cleared on both sides and I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1381) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, we have now worked out the Conrad amendment. Let me suggest that the Senator from North Dakota be recognized now to send his modified amendment to the desk which is acceptable to both sides, and we are prepared to accept it.

AMENDMENT NO. 1375, AS MODIFIED

Mr. CONRAD. Mr. President, I ask that I be allowed to modify my amendment. I send the modification to the desk.

The PRESIDING OFFICER. The Senator is entitled to modify his amendment unless there has been a time agreement or the yeas and nays ordered. That has not been ordered.

Mr. CONRAD. I ask unanimous consent to be able to modify the amendment.

The PRESIDING OFFICER. The Senator does need consent. Without objection, it is so ordered. The amendment is modified accordingly.

The amendment (No. 1375), as modified, is as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayers;

(2) As the number of failed institutions and assets in liquidation managed by the FDIC and RTC has grown, the Legal Division's caseload of legal matters has expanded to about 100,000.

(3) The FDIC and RTC are the largest purchasers of legal services in the United States today.

(4) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(5) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

Mr. CONRAD. Mr. President, we have been able to work out this amendment in a way that I believe is effective for the American taxpayer. It will help us to start to move on this massive abuse of using the legal fees, law firms, in a way that is costing the taxpayers tens of millions, if not hundreds of millions, of dollars a year in additional costs that they should not be asked to bear. I want to thank the chairman and ranking member for working to achieve this result.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 1375) as modified, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I thank the Senator from North Dakota. Mr. President, in looking at my list, we are now down to a relatively few amendments. We have an amendment in order for Senator GORE. We have one in order for Senator BUMPERS. I am advised that Senator BUMPERS does not intend to offer his amendment. I want to confirm that but, in any event, the Bumpers amendment will not be offered.

I show remaining on the list a Gorton amendment, a possible Mack amendment, a possible D'Amato amendment, a possible Dole amendment, a possible Grassley amendment, and I think that is it.

So we are very near conclusion of this bill. I ask any of those Senators who intend to proceed to come to the floor as quickly as they can, because there is great pressure by the leaders on both sides to complete this bill and to move to other matters that have to be brought up tonight that are quite urgent. May I ask those Senators and alert their offices now that it is essential they come to the floor and be prepared to offer these amendments.

The PRESIDING OFFICER. The Chair repeats the amendments to be certain the Senators hear and know about it. You had a potential amendment by Senator GORE, by Senator BUMPERS, which you are not certain will be offered, by Senator GORTON, Senator MACK, Senator D'AMATO, Senator DOLE, and Senator GRASSLEY; is that correct?

Mr. RIEGLE. Yes, and I believe an amendment has been reserved for the majority leader as well. That should be listed.

Senator KERRY also has two on this list. They should be acknowledged, although I am hopeful it may not be necessary for him to come and offer those. In any event, they were on the earlier unanimous-consent list and should be noted.

The PRESIDING OFFICER. That is Senator JOHN KERRY. The amendments by Senator JOHN KERRY are potential ones.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the quorum not be counted against the time of the managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is the Senator from New Mexico correct in assuming that the banking bill is the pending matter and that an amendment would be appropriate?

The PRESIDING OFFICER. If the Senator is authorized to offer an amendment, that is correct. The banking bill is pending. We have a list of amendments. I do not see the managers here now, and, therefore, the Chair will have to check with the Parliamentarian.

Mr. DOMENICI. Mr. President, I do not need to offer an amendment. I am going to make a statement that has already been accepted because it was offered by the managers.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, I have heretofore offered an amendment to change the real estate appraisal process to help reduce regulatory burdens on real estate lending and to stimulate real estate markets.

Almost all of us have been hearing from our constituents that somehow or another the banks seem to be clogged because of regulation, real or perceived, and that even when loans are going to be made, they take an inordinate amount of time from the time of application until conclusion.

None of us know the extent of that, and none of us know exactly how to fix that.

But we did come upon some situations that we think could be fixed and would not in any way jeopardize the health and the soundness of the institutions in the United States, banks and others making loans.

So I am very pleased that an amendment which I offered was cosponsored by my junior Senator, Senator BINGAMAN, by Senator BOREN, Senator MURKOWSKI, Senator MCCAIN, Senator SEYMOUR, and Senator CHAFEE. I thank them for helping with the amendment. It is now part of the bill as it works its way through the Senate because the managers have seen fit to accept it.

Essentially, what we are trying to do is to make the appraisal of homes and commercial property a little bit more expeditious, and to move the thresholds, the mandatory thresholds which require certified appraisers, up some. They were $50,000 both for commercial and residential. Almost everyone says that is far too low, and that we ought to move that up. Thus we have moved the residential up to $100,000, and commercial up to $200,000.

It means that they will be appraised even lower than that, but not necessarily by certified appraisers which we have found to be in short supply in almost every State, and extremely expensive as compared with appraisals of other types that were used before the certification process gained such a prominence.

So what we have done in this amendment is say that rural America, where it is very, very hard to get appraisers of a certified quality, is exempt from having to have certified appraisals. Thus you can have homes and commercial property in a very small community way far from the large cities, and you will not have to have a certified appraisal. You will have to have an appraisal.

A number of other exceptions have now been weaved into this amendment, and I have gone into them in some detail in this statement.

I thank the managers for accepting it. I believe it is the kind of amendment that should be accepted by the House because if we want to do some things to move money out of our banks into the hands of people, either for home improvements or for homes or commercial property, we ought to take away delays and costs wherever we can, especially if we have concluded that it is not necessary that they remain as they are today either for protection of the bank or for protection of those who are buying or mortgaging property.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum and ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

AMENDMENT NO. 1382

Mr. RIEGLE. Mr. President, I send to the desk an amendment in behalf of Senator KERRY.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for Mr. KERRY, proposes an amendment numbered 1382.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 262, between lines 13 and 14, insert the following new subparagraph:

"(E) CORPORATE EQUITY SECURITIES.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

Mr. RIEGLE. Mr. President, the amendment has been cleared on both sides. I ask for its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1382) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The Senator from Iowa.

AMENDMENT NO. 1383

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 1383.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

(14) CREDIT CARD SALES.—

(A) NOTIFICATION.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

(i) not in compliance with the minimum applicable core capital requirements; or

(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(B) WAIVER BY THE CORPORATION.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

(D) NO BREACH OF DUTY.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

(E) EFFECT OF WAIVER ON SUCCESSORS.—Where the Corporation has waived its rights to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution; provided however, that nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

(F) CREDIT CARD CUSTOMER LIST.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customer list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

(G) FRAUDULENT TRANSACTIONS EXCLUDED.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.

SUMMARY

This language amends subsection (e) of section 11 of the Federal Deposit Insurance Act to provide a mechanism for parties to credit card sale transactions to obtain a waiver of the ability of the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. Subparagraph (C) clarifies that this amendment is not intended to prohibit the Corporation from granting waivers for other types of contracts.

Subparagraph (D) is intended to protect the Corporation from allegations that as conservator or receiver it has violated its fiduciary duty to all creditors by granting such a waiver prior to the failure of the insured depository institution. Without the protection afforded by subparagraph (D), the ability of the Corporation to grant such preclosing waivers would be unduly hampered by risk of potential litigation claims.

Subparagraph (E) provides certain protections to purchasers of credit card receivables when the FDIC waives its rights to repudiate such agreement by effectively passing through to the successor of any failed institution any previously agreed to restrictions on the seller relating to its customers.

Subparagraph (F) would require the FDIC to prohibit the use of any credit card customer list of a failed institution if that list had previously been sold or transferred in an arms length transaction to another entity.

Subparagrpah (G) protects the Corporation from any agreements that are designed to hinder, delay or defraud the depository institution, its creditors, or the Corporation.

Mr. RIEGLE. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1383) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, we have one more amendment I am going to be sending to the desk that we are prepared to accept, and that is the sense-of-the-Senate resolution of Senator GORE.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. RIEGLE. It is not quite ready. We are going to suspend for a moment.

AMENDMENT NO. 1384

Mr. RIEGLE. Mr. President, let me send the Gore amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. GORE, proposes an amendment numbered 1384.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Expressing the sense of the Senate regarding United States policy toward Yugoslavia.

Since attacks against people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community;

Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Since attacks against the Republic of Croatia represent an effort to change postwar borders by force; and

Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force: therefore, it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory UN Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

RECOGNITION OF THE YUGOSLAV REPUBLICS

Mr. DECONCINI. Mr. President, I rise to support the amendment offered by my distinguished colleague, Senator GORE. However, while I believe that it is important that we consult with the Europeans in the hope of having a common, multilateral approach to the issue, we must do more than consult. We should encourage recognition, and the United States should itself take a stand and recognize the Republics now. The United States stands in this world as a symbol of freedom and independence for all peoples, and it is critical that we do not abandon our principles in our response to the crisis in Yugoslavia.

The conflict in Yugoslavia has a complex network of intertwining historical roots, and the mutual accusations and one-sided reporting coming from the disputing parties makes it difficult for us to find easy answers. I would nevertheless like to make the following comments, which I believe justify recognition of the sovereignty and independence of the individual republics.

First, it is a simple fact that the Yugoslavia we once knew has now disintegrated. The blame for this rests not on the so-called "separatist" governments of Slovenia and Croatia, but on the Government of Serbia and its ally, the Yugoslav military, which claim to be preserving the Yugoslav State. In other words, the best arguments for recognition have come not from Ljubljana and Zagreb, but from Belgrade itself.

It is true that the people of Slovenia and Croatia elected governments which indeed have sought to break up the existing federation, an exercise of their right to self-determination. It is also true that this right is, for these two peoples and for all others, tempered by the principle of the equal rights of peoples. This means that, instead of taking unilateral actions, they must take into account the aspirations of others, in this case their countrymen in the other Yogoslav Republics and provinces. In fact, for the first 6 months of this year, Slovenian and Croatian officials engaged in negotiations that attempted to do just that. Even after the conflict started, the Croatian officials remained in the federal system in the hope of working things out.

During that same time, Serbian officials sought to undermine the Federal system they were claiming to defend. They stole Federal funds. They ensured that the representatives of Kosovo and Vojvodina were not the independent voices they constitutionally should be at the Federal level. They resigned from the Federal presidency, only to return and then block the normal rotation of the head of that body. Most recently, they claimed to take control of the presidency and assumed the powers of the Federal assembly. These arbitrary actions created the political chaos that denied Yugoslavia the legitimacy it otherwise had. With these acts, they have provided the other republics with the most genuine reason for wanting to leave the federation. And while they all nevertheless agreed to create a new Yugoslavia on the basis of a plan proposed by the European Community for an association of sovereign and independent states, Serbia turned the plan down. As a result, I believe that the future of those who have attempted to negotiate a mutually agreeable solution should not forever be determined by those who have not.

Second, the boundaries between the Yugoslav Republics were not internationally recognized frontiers, but that does not mean that changing these boundaries by the threat or use of force is in any way an acceptable practice. By seeking to change these boundaries by force, the efforts of the Yugoslav Army and the Serbian Government have made them the equivalent of international frontiers. Indeed, it is likely that we would not feel compelled here today to recognize the republics and their existing borders were it not for the Yugoslav Army attacks on them.

Finally, with all the violence that has occurred, whether we like it or not Yugoslavia has been shattered to the extent that it cannot be put back together except by the free will of its peoples. Given what has happened, reconciliation among the neighboring peoples of Yugoslavia is more likely to occur if they each first have their own sovereignty and independence.

I am under no illusion, however, about what recognition means. Like sanctions, it is unlikely to bring a sudden and complete halt to the fighting, since the fighting is really over territory and not maintenance of a federation. Recognition will not mean foreign intervention or military assistance to the independent republics, and it would be foolhardy, if not dangerous, to interpret it as such.

Recognition also does not mean approval of the policies of the republican governments, most of which have espoused nationalism, sometimes at the expense of democratic development, economic reform and respect for the rights of all peoples on their territories. None of the republics, including Croatia, can claim to be fully democratic. Of course, building democratic institutions might be difficult during the course of civil war, but such an effort cannot be abandoned. While independence may now be a precondition for further democratic development, I wish to make clear that, to the United States, democracy is far more important than either the unity of Yugoslavia or the independence of its republics, and opting to recognize the republics does not, in and of itself, mean full acceptance in the community of democratic nations.

While it is no cureall, recognition does take a stand on what we and hopefully the rest of the world will now accept as the best response to the Yugoslav crisis. Until recently, the Europeans and the United States have kept the door open to both sides of the dispute; we could have, were asked to, but chose not to recognize the republics earlier in the crisis. That open door has now been slammed shut by the Serbian Government and the Yugoslav military, first and foremost by its wholly unwarranted assault on Dubrovnik.

Recognition will also provide needed symbolic support to those republics which have never been independent before and may have a difficult time achieving it now. As hard as it may be to realize, these republics may in fact be the scene of even more bloodshed that has been seen thus far in Croatia, and they desperately need our support.

In return for recognition, we should ask that those republics willing to develop relations on the basis of the EC plan should in fact do so. The plan is a good one, and the EC should proceed with it. It contains important elements on respecting human rights and fundamental freedoms for all people, without discrimination on the basis of their enthnicity or religious belief, that should not be quickly abandoned by governments genuinely committed to the development of democracy. And just as they were neighbors within the Yugoslavia of past, so too shall they be neighbors as separate, sovereign entities, making cooperation among them as envisaged in the EC plan inevitable.

If the Serbian Government continues to choose to reject the plan, so be it—they choose their own isolation from the remaining Yugoslav Republics and also from the rest of Europe. In the end, I hope the people of Serbia will decide to join the community of free European nations rather than accept the isolation their government has brought them. When that time comes, Serbia's neighbors must be prepared to extend their welcome.

Mr. REID. Mr. President, neither the Croatians nor the Serbs are without fault in the current Yugoslavian conflict. In fact, both sides have been brutal.

Just this morning in the Washington Post, on the front page, we read an article, dateline Vukovar, a city in Croatia, beginning with this sentence: "Lying in Liberation Square today were a puppy, an old woman under a plaid blanket and a chubby man staring wide-eyed at the sky. All were dead." The article goes on to describe a Serb guerrilla "wearing a newly liberated white hockey helmet and a crimson scarf and shouldering a machinegun" pedalling by a burning apartment building on a child's bicycle. "He smiled broadly, flashed a V-for-victory sign and steered carefully so as not to run over the corpses."

It is the kind of sensationalist writing that gives a skewed picture of the Serbo-Croatian conflict. If we read only the front page and do not turn to the rest of the article, we think "Oh, aren't the Serbs awful. See how brutal they are."

It is only on page 30 that the author admits that "ethnic hatred here is not one-sided." The author goes on to describe a Serbian woman living in Vukovar whose family has been threatened with death by Serbian militiamen. She states "Sometimes, when there was the most shooting, the militiamen made us leave the apartment building and stand outside in the street. They said that if we didn't leave the building, they would slaughter us."

Both Serbs and Croatians have beaten prisoners. Ante Gudelj, a 72-year-old Croatian man, was captured by Serbian rebels in Tenja on July 1. When interviewed, this elderly man still had many black and blue bruises covering large areas of his back, chest, and arms. "The worst are the bruises on my back and kidneys. I was hit with police batons. They also hit me in the groin with their legs." According to the doctor, the patient's left lung was punctured and filling with water.

On the other side, according to Helsinki Watch, a Serbian prisoner was beaten by Croatian National Guardsmen, near Djakovo, July 7, 1991, in a similar manner. These incidents abound on both sides.

There is no need to describe all of the atrocities that have occurred on both sides, but there have been many. The majority of abuses committed by the Croats, according to Helsinki Watch, involve discrimination against the Serbs: the Croats' beating of prisoners in police custody and their failure to rigorously prosecute a killing are also serious violations. The abuses committed by the Serbs involve physical maltreatment—including the beating and use of electric shocks against prisoners—and egregious abuses against civilians and medical personnel, including the use of human shields and the taking of hostages. The Yugoslav Army has also committed serious human rights violations by attacking civilian targets.

These two peoples bare scars that date back hundreds of years. Serbs make up 37 percent of Yugoslavia, Croats are 20 percent, and Slovenians are 8 percent. Even this century, during World War II, while Yugoslavia was occupied by the Nazis and Italian fascists, a bloody civil war was waged among Croats, Serbs, and communists. The Independent State of Croatia was a fascist state which massacred thousands of Serbs, Jews, Gypsies, and others. Similarly, Serbian Cetniks, a group loyal to the Serbian King in exile, massacred thousands of Croats, Muslims, and others.

Today that conflict continues. Not under the same political labels, but out of revenge and hatred on both sides. Fears on both sides appear justified. Croatia has seceded with 600,000 Serbs living within its border. These Serbs are fearful. On the other hand, the Serbian leader, Slobodan Milosevic, is a hard-line Marxist and a public relations disaster.

Serbs living in Croatia feel threatened by the resurrection of Croatian nationalism, according to Helsinki Watch. The Serbs claim that such fervent nationalism is a prelude to the resurrection of the World War II Nazi puppet state under which thousands of Serbs were killed. They believe that an independent Croatia would be a fascist state. The Serbs are 11.5 percent of Croatia's population, and they do not want to be labeled as an ethnic minority in Croatia. They fear being treated as second-class citizens, or worse.

The Croats believe that the current Serbian insurrection is the creation of the Federal Government in Belgrade, whose aim is to bring about the fall of the Croatian Government and to reinstate Serbian and Communist control over its territory. It is interesting to note, however, that the Yugoslav defense minister is a Croat, and the chiefs of the navy and air force are a Croat and a Slovenian.

Both sides should be sitting down at the bargaining table, not killing one another in yet another brutal Serbo-Croatian bloodbath.

I think the Senate needs to make it clear that we do not approve of the actions of either the Serbs or the Croatians.

Mr. RIEGLE. Mr. President, I urge adoption of the amendment of Senator GORE.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 1384) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the D'Amato amendment be withdrawn because that has been settled in another manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be given 5 minutes to discuss my vote on this bill immediately after its passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITAL MAINTENANCE AGREEMENTS

Mr. RIEGLE. Mr. President, I rise to engage in a colloquy with the distinguished Senator from Tennessee [Mr. SASSER] dealing with the capital maintenance agreements provision of the bill. This provision is in title II of the legislation.

It is my understanding that this provision is not meant to be applied retroactively. In other words, that we are not taking any position on current law as it relates to capital maintenance agreements.

Mr. SASSER. Mr. President, in response to the Senator from Michigan [Mr. RIEGLE] I would simply like to say that I am in agreement with the Senator's interpretation of the provision.

Mr. RIEGLE. I thank my colleague from Tennessee for his affirmation of the intent of the capital maintenance agreements provision.

STATUTORY LIMITATIONS ON CREDIT CARD INTEREST RATES

Mr. MOYNIHAN. Mr. President, last week the Senate adopted an amendment to the banking bill proposed by Senator D'AMATO that would establish by law a limit on the interest rate that may be charged on credit card balances.

I voted in support of the amendment. I believe the amendment raised some fair questions about why many credit card interest rates have remained static, at persistently high levels, when other interest rates have gone down. Fair questions about whether there is a genuine and vigorous competition in the market. Fair questions about whether credit cards are being issued indiscriminately, with the losses made up by those who use their cards judiciously and pay their debts.

A floor vote in the Senate is a time-honored way of raising concerns in a forceful way, and I believe that objective has been accomplished. We have opened a dialog and are now getting some answers. I would venture that the American consumer is better informed this week than last, as is the Congress.

I don't believe this ends the matter. I think we should take a careful look at whether there is genuine competition among credit card providers, particularly large ones, and whether some cardholders are unfairly subsidizing bad credit decisions. These are fair questions, and I do not prejudge the answers. I would support proposals to provide for a study by disinterested experts. I believe that is as far as we need go at this point. Our main concern in the banking bill should be to modernize the banking laws so that banks have a fair chance to prosper, and to put the bank insurance fund on a sound footing. We must also be cautious in the current recession not to do anything that would jeopardize consumer spending.

While fair questions have been raised, statutorily imposed limits on credit card interest rates are not appropriate at this time. For this reason, I will vote against any final version of the pending banking bill that contains such limits.

CREDIT CARD INTEREST RATE CAPS

Mrs. KASSEBAUM. Mr. President, much has been said about the credit card vote in the Senate last week. I have read several articles that state the vote occurred on Thursday night and caused the stock market to drop 120 points the next day. The only problem with these analyses is that the vote actually occurred on Wednesday night not Thursday. The market on Thursday, the day after the vote, was down less than two points.

I have also read that the vote was a complete surprise to the credit card industry which had no time to respond to congressional concerns regarding their rate structure. Some type of vote should not have been unexpected by the credit card industry. The issue has been festering for some time. In the days prior to the vote, several respected Senators went to the floor questioning why credit card rates were not responsive to the other interest rate cuts. The industry did not respond to these speeches or offer any justification for their rates.

It was only after the vote that any type of justification or explanation was offered. President Bush stated that he was simply jawboning the issue to bring rates down. In a sense, this is exactly what the Senate did as well. Where President Bush can jawbone an issue by giving a speech that will be widely reported in the media, sometimes the Senate must resort to jawboning an issue by a symbolic vote. It is unlikely that the credit card ceiling will be enacted into law, and on its merits, it shouldn't be. Nevertheless, the vote did serve as a shot over the bow of the industry. In fact, with almost every complex bill, particularly a bill perceived as benefiting a particular industry and involving the perception of taxpayer assistance, there is generally at least one populist-driven, lopsided vote designed to serve as a shot over the bow. The votes generally force the industry to respond to a criticism they are ignoring. For all its criticism, the vote has put the burden of proof on the credit card industry to justify the public why credit card rates have not reacted to the other reduced rates, and it has made consumers better informed. The credit card industry clearly needs to do a better job of justifying their rate structure.

To the extent the industry is now focusing on this issue, the vote has served its purpose. In this regard, the Washington Post carried an excellent article by Rudolph A. Pyatt, Jr., which I ask be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 21, 1991]

CONGRESS CAN SHED LIGHT ON DARK CORNERS OF CREDIT CARD INDUSTRY

(By Rudolph A. Pyatt, Jr.)

When lawmakers in Maryland attempted to hold down bank card interest rates in the early 1980s, major banks in the state threatened to pick up their marbles and move the game elsewhere unless the rules were changed. And when the threat seemed to be having less than the desired effect, lobbyists for the state's banking industry raised the stakes by warning of possible jobs lost to neighboring Delaware.

Sure enough, when legislators refused to budge, Maryland's larger banks loaded up their credit card divisions and moved them, one by one up Interstate 95 to Delaware, which has no interest rate ceiling. Thus those Maryland banks. Operating from a safe haven, were free to charge 18 percent and 19 percent interest on their cards, just as many of their competitors were doing nationwide.

A much bigger dispute over credit card interest rates was flaring at the time, however, as national consumer groups and members of Congress joined the fray. As we have seen in recent days, it is a recurring argument in which issuers of credit cards nationwide find themselves increasingly on the defensive.

Congress was all set last week to pass legislation mandating a cap on interest rates, but apparently woke up with cold feet when it was widely suggested that congressional support for the measure caused a one-day plunge of 120 points in the Dow Jones industrial average.

Raising a wet finger to determine wind direction is probably a more accurate forecaster for the Dow's performance on most days than the reasons given. Congress nevertheless deferred action on an interest rate cap for the time being. The issue is bound to come up again.

In the meantime, it's unlikely that credit card issuers will relent and slash interest rates simply because the President says they should. In much the same way that Maryland banks responded several years ago, the nation's banks and other credit card issuers are warning that bad things will happen if you touch their cash cows.

A congressional cap on credit card interest rates "could deliver a knockout blow to America's economy," bankers, retailers and other industry groups warn in a high-powered campaign. "Potentially, up to half of those citizens currently holding credit cards would no longer qualify," if a national cap were imposed, the groups contend.

Scare tactics? Call it a massive exercise in hyperbole for the time being.

Other factors pose a much greater threat of a knockout blow to the economy than a cap on credit card rates: growing unemployment, the competitive mismatch between U.S. companies and formidable protected foreign cartels, and the continuing upheaval and uncertainty in banking, to name a few.

Meanwhile, it's somewhat ironic that the banking industry warns of dire consequences for the economy while keeping a tight lid on loans for housing construction and business expansion. Something the banks are or aren't doing is fueling complaints about a credit crunch.

Credit card issuers maintain that an interest rate cap would force them to limit cards to their most creditworthy customers. That's the way it should be. As it is, the purveyors of plastic appear to be issuing cards to almost anyone who has a Social Security number. Small wonder, then, that the industry says high rates are necessary to cover credit losses and fraud.

If credit losses and fraud are as serious as banks and others say they are, why not reduce risk by restricting the availability of cards to truly creditworthy customers in the first place? The average middle-income consumer can qualify for a $5,000 line of credit and a bank card quicker than you can say charge it. College students in many instances can obtain a credit card quicker than they can get a job.

Much of the growing credit card business has developed, not as a result of applications initiated by consumers, but through aggressive marketing initiatives by competing banks and other marketers of plastic.

Rep. Frank Annunzio (D-Ill.), who authored a short-lived proposal that would have capped credit card rates at 14 percent, was quoted recently by the Associated Press as saying that U.S. consumers pay 20 percent interest on credit cards because banks lost money to "fast-talking, quick-buck artists."

Consumers were, in fact, paying close to 20 percent interest on credit cards long before banks were taken in by fast-talking, quick-buck artists in the go-go 1980s. Ten years ago, card holders were paying 18 percent. The prime rate, however, was above 17 percent. Five years ago, when the prime was less than 10 percent and the economy was booming, some card holders were still paying more than 19 percent.

It's possible to find rates as low as 14 percent, but the average consumer probably would need a national shopping list to find rates that low. Although some regional institutions, such as Richmond-based Crestar Bank, charge less than 16 percent, most major card issuers seem to be stuck on 19.8 percent.

If that's really representative of the high cost of operating a credit card business, then something's terribly wrong with the system. Banks generally pay no more than 7 percent today on certificates of deposit. They pay less than 5 percent on overnight borrowings from other commercial banks. The discount rate, or the charge on loans to banks from the Federal Reserve banks, is now only 4.5 percent.

With banks enjoying such wide margins in the cost of borrowing and lending, loan sharks may be in the wrong business.

But if the costs of issuing cards and processing credit transactions are really as high as bankers and others say they are, it may be time for Congress to look into the matter—not necessarily to put a cap on rates, but to shed more light on a business that has created a love-hate relationship for consumers.

RISK POOLS WORK

Mr. HATCH. Mr. President, increasing access to health care for all Americans has been one of my primary concerns, especially in light of rising costs, escalating insurance premiums, and the budget strain on public programs. Many Americans are finding out that when disastrous medical emergencies occur, they are squeezed out of vital coverage. For this reason, I have been interested in the development of risk pools that can be used by Americans who suddenly find themselves designated as high risk and unable to get the insurance coverage they need.

Mr. President, I want to bring my colleagues' attention to what can happen when a medical emergency makes a family uninsurable and the need for medical attention remains. I also want to highlight a successful, innovative solution to one aspect of the access to care problem.

In Utah, the risk pool has been made a reality because of a family, the Becks, who desperately needed medical coverage due to the birth of a child with Down's syndrome. The State of Utah has funded a risk pool for the uninsurable which will make a very real difference in the lives of not only the Becks, but also others in the State who have been denied insurance simply because of a need to use it. I commend the Becks and others who brought this issue to the attention of the State as well as my colleagues in the Utah Legislature who voted to establish the new program.

Mr. President, I ask that the entire article from the Salt Lake Tribune, dated July 29, 1991, be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOTHER, SON WIN BATTLE FOR MEDICAL INSURANCE

(By Dan Harrie)

Trisha Beck's introduction to the harsh policy of "risk avoidance" by health insurance companies came eight years ago when she gave birth to a son, Richard, with Down's syndrome and respiratory problems.

The medical bills for the first year were $100,000.

In the meantime, the Beck's insurance company raised their monthly premiums from $80 to $450 a month. Worse, the financially troubled firm took out bankruptcy and was forbidden from practicing in Utah.

Policyholders were told to find insurance elsewhere.

That was when Ms. Beck discovered an even more startling fact about the health insurance industry—the "blackballing" of people with major medical problems as uninsurable.

The Becks, who were self-employed, were turned away by company after company. Desperate, they finally turned to Medicaid, but were told their income was too high; they would have to divorce or abandon their child to the state to qualify.

"I remember slamming my hand down at the Medicaid office and saying this is not right. This is not fair. I said some day I'm gong to change this," Ms. Beck recalls.

She has.

Beginning Monday, a state-backed program to provide medical insurance to the "uninsurable" will begin taking applications. Ms. Beck, who lobbied the Legislature six years to create the Comprehensive Health Insurance Pool, will serve as vice chairwoman.

"It was a really tough sale," says the mother of five, who at times dogged unconvinced lawmakers to the door of the men's room with babe in arms.

The $2 million in state money will start a program officials say can be self-funding after it gets up and going.

It is not for poor people. Premiums are 50 percent higher than equivalent policies in the private sector.

Fred Havas knows the harsh, statistics-driven ways of the insurance industry inside and out.

An insurance agent, Mr. Havas discovered March 7 he had a disabling heart condition that required bypass surgery. The next day he was summarily fired from his job.

"I was shocked. That was probably the most absolutely filthiest thing that I'd ever had done to me."

Mr. Havas was saved by federal law requiring companies to continue existing coverage to employees, at their own expense, after they're terminated. But that safety net disappears after 18 months.

REPEAL OF GLASS-STEAGALL AND IMPOSITION OF FIREWALLS

Mr. GARN. Mr. President, I know that many of my colleagues shared my disappointment when we found it necessary to eliminate the Glass-Steagall provisions in title VII from S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, before consideration of that legislation by the Senate. Repeal of the Glass-Steagall Act is long overdue. I have every expectation that the Senate will revisit the Glass-Steagall issue at some time in the near future, however, so I am hopeful that the elimination of those provisions will not unduly delay the achievement of true financial services reform.

Recently I received a letter addressed to Senator RIEGLE and me that I believe indicates the direction that our future efforts should take with respect to Glass-Steagall. This letter is particularly noteworthy in that it comes not from a securities firm or commercial bank or other type of financial services firm, but from more than 70 companies and other entities that are users of financial services. It should not be surprising that they applauded the Banking Committee's repeal of Glass-Steagall, because they would directly benefit from enhanced competition in financial services. And it is important to note that they warned against our imposing excessive firewalls that could unnecessarily impair the competitive benefits of Glass-Steagall repeal.

I believe that this letter is an important message to the Congress from a group of interested parties we have not heard from before. I ask that it be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 1991.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate,
Washington, DC
Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SIRS: Your Committee has taken the historic step of voting to bring to our country the full benefits of competition and innovation in financial services by repealing the Glass-Steagall Act, as part of S. 543 the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. As entities that raise capital in the public and private markets in this country and abroad, we applaud this action.

Equally important, we urge you not to allow this critical reform to be sabotaged—under the distingenous guise of preventing abuses—by new anti-competitive restraints on financial firms' ability to provide users of financial services like us with the full range of financial products and services. Excessive "firewalls" hurt not only the firms they are directed against but also the consumers of their services.

Among the most anti-competitive proposed firewalls are those that would prohibit a bank from lending to an underwriting customer of the bank's securities affiliate for a period of time following the underwriting. Some allege that such a prohibition is necessary to prevent banks from coercing their customers to give securities business to the banks' affiliates in order to maintain access to bank-provided credit.

As clients of banks that have securities affiliates, we think those allegations are spurious. Even if they tried—and they have not—our banks could not force us to use their affiliates by threatening to withhold credit. Borrowers creditworthy enough to issue securities generally have a wide choice of potential lenders. It is absurd to contend that we would accept any but the best-performing underwriters merely because their affiliates also provided credit. Firewalls designed to prevent this imagined potential for coercion would impose needless anti-competitive restraints.

Our fundamental concern is that restrictions such as this will sap the inherent competitive vitality of firms that offer a wide range of financial services. We and other major users of those services can only benefit if a greater number of able competitors vie for our business. We urge Congress to resist pressures to preserve the protected securities business of a few firms.

Ultimately, opening our financial markets to vigorous competition will aid the efficient flow of capital to productive uses in American industry and allow U.S. financial institutions to compete effectively in international markets. As you consider the legislation before you, we urge you to press for the comprehensive reform that will being us closer to this goal.

Sincerely,

AES Corporation, Arlington, Virginia.
AMSCO International, Inc., Pittsburgh, Pennsylvania.
Ashland Coal Inc., Huntington, West Virginia.
Ball Corporation, Muncie, Indiana.
Beverly Enterprises, Inc., Ft. Smith, Arkansas.
BP America Inc., Cleveland, Ohio.
Cincinnati Milacron, Inc., Cincinnati, Ohio.
Cone Mills Corporation, Greensboro, North Carolina.
The Dow Chemical Company, Midland, Michigan.
Faber-Castell Corporation, Parsippany, New Jersey.
Fluor Corporation, Irvine, California.
Geisinger Health Care System, Danville, Pennsylvania.
The Gillette Company, Boston, Massachusetts.
Hewlett-Packard Company, Palo Alto, California.
Ingersoll-Rand Company, Woodcliff Lake, New Jersey.
American Stores Company, Salt Lake City, Utah.
Apple Computer, Inc., Cupertino, California.
Ashland Oil, Inc., Ashland, Kentucky.
Barnes Hospital, St. Louis, Missouri.
Blount, Inc., Montgomery, Alabama.
C-TEC Corporation, Wilkes-Barre, Pennsylvania.
The Clorox Company, Oakland, California.
Cummins Engine Company, Inc., Columbus, Indiana.
Engelhard Corporation, Iselin, New Jersey.
Federal Paper Board Co., Inc., Montvale, New Jersey.
Ford Motor Company, Dearborn, Michigan.
Geo. A. Hormel & Co., Austin, Minnesota.
The Henry Ford Health System, Detroit, Michigan.
Household International Inc., Prospect Heights, Illinois.
InterMedia Partners, San Francisco, California.
Intermountain Power Agency, Murray, Utah.
Lifespan Inc./Abbott Northwestern Hospital, Minneapolis, Minnesota.
Lin Broadcasting Corporation, Kirkland, Washington.
Lukens, Inc., Coatesville, Pennsylvania.
McDermott International, Inc., New Orleans, Louisiana
The Methodist Hospital, Houston, Texas.
Mobil Corporation, Fairfax, Virginia.
Municipal Electric Authority of Georgia, Atlanta, Georgia.
National Rural Utilities Cooperative Finance Corporation, Herndon, Virginia.
The New York Hospital, New York, New York.
Newmont Mining Corporation, Denver, Colorado
PepsiCo Inc., Purchase, New York.
PHH Corporation, Hunt Valley, Maryland.
The Pittston Company, Stamford, Connecticut.
Ralston Purina Company, St. Louis, Missouri.
Service Corporation International, Houston, Texas.
Sonoco Products Company, Hartsville, South Carolina.
State of Delaware, Dover, Delaware.
State of South Carolina, Columbia, South Carolina.
J.C. Penny Company Inc., Dallas, Texas.
The Louisiana Land & Exploration Company, New Orleans, Louisiana.
McCaw Cellular Communications, Inc. Kirkland, Washington
McDonnell Douglas Corporation, St. Louis, Missouri.
Metropolitan Transportation Authority, New York, New York.
Modesto Irrigation District, Modesto, California.
Newmont Gold Company, Denver, Colorado.
PacifiCorp, Portland, Oregon.
Phelps Dodge Corporation, Phoenix, Arizona.
Phillips Petroleum Company, Bartlesville, Oklahoma.
The Procter & Gamble Company, Cincinnati, Ohio.
St. Luke's Episcopal Hospital, Houston, Texas.
Shell Oil Company, Houston, Texas.
Stanton Communications, Inc. Bellevue, Washington.
State of North Carolina, Raleigh, North Carolina.
Tenneco Inc., Houston, Texas.
The Texas A&M University System; College Station, Texas.
Textron Inc., Providence, Rhode Island.
Union Carbide Corporation, Danbury, Connecticut.
USAir Group, Inc., Arlington, Virginia.
Texas Instruments Incorporated, Dallas, Texas.
Tyson Foods, Inc., Springdale, Arkansas.
The University of Texas System, Austin, Texas.

Mr. McCAIN. Mr. President, on June 20, 1991, I expressed my concerns with the present state of our banking industry to Chairman RIEGLE and ranking minority member GARN. I thank them for their efforts on this much-needed legislation. Without this legislation, I fear that the taxpayer would be asked to bailout the commercial banking industry.

Congress simply cannot permit another taxpayer bailout because of inaction. Reform of our banking laws are crucial not only to stabilize our financial services industry, but to spurring economic growth. No economy can be expected to grow without a healthy financial services sector. We only need to examine the credit crunch to realize how important a vibrant banking sector is to economic growth.

The legislation before us is not as comprehensive as I had hoped. But, contained in this legislation is substantial and meaningful deposit insurance reform, fiancial services reform, and regulatory reform. I feel this legislation will make our financial system safer, sounder, and internationally competitive.

I had hoped that taxpayer exposure to deposit insurance could be limited, but my amendment on this issue failed. Nonetheless, I feel that the elimination of the too-big-to-fail policy will go a long way toward protecting the average American from another enormous taxpayer bailout.

Notwithstanding my desire to further protect the taxpayer, I feel passage of a broad-banking-reform package is virtually an economic necessity. Without modern and efficient credit markets, our economy and people will never reach their full potential.

In July, I espressed my desire that the Senate move expeditiously in its consideration of comprehensive banking reform. Now that the Senate has successfully passed a comprehensive reform bill, I call on my colleagues in the House to pass a broad-reform package.

A narrow banking bill which only recapitalizes the Bank Insurance Fund will only sow the seeds of another taxpayer bailout. Comprehensive reform of deposit insurance, financial services, and examination procedures is necessary to modernize our financial system and to protect the taxpayer from endless bailouts.

Let me take this opportunity to reiterate from my July statement a quote from Robert Frost's "The Road Not Taken" for my colleagues in the House. It goes like this:

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by
and that has made all the difference.

Mr. President, the Senate did not get lost in the woods and take the road more traveled. The road more traveled is the road to a taxpayer bailout. The Senate has taken the road less traveled, and I am confident that it will make all the difference.

I earnestly implore the House to follow the lead of the Senate and make a difference by reforming our banking laws. The House can join the Senate and effect reform that will modernize our banking industry, protect the taxpayer, and provide impetus for economic growth.

By acting judiciously, somewhere ages and ages hence, future Americans will laud the Congress for its foresight and reap the benefits of our diligence.

We must reform our banking system. We must reform it now.

DOLLAR COIN PROVISION OF S. 543

Mr. BRYAN. Mr. President, I would like to clarify a provision of the bill that would create a new dollar coin.

Nevada, and at least nine other States, has some form of lawful coin-operated gaming devices. Over 60 percent of Nevada's gaming revenue is derived from these machines. Of the approximately 136,000 machines in gaming establishments in Nevada, 27,500 are of dollar denomination. Many more machines are operated outside of gaming establishments. Because of the scarcity of Eisenhower dollars, almost all play is from dollar tokens. Dollar tokens are considerably larger than the Susan B. Anthony or the proposed dollar coin.

To accept the smaller coins, the gaming devices would have to be retrofitted with expensive electronic coin comparitors. The cost depending on the machine can vary from $300 to $1,200. In any case the end result would be tens of millions of dollars of additional costs to Nevada operators, not to mention other States. I am also advised that the multiple width of the proposed coin could require much greater machine maintenance and could be mistakenly inserted into the quarter machines.

I want to make sure, therefore, that no provision of S. 543, or the corresponding House bill, will in any way preclude the use of metal tokens for coin-operated gaming machines, or require or encourage a change in the Treasury Department's position allowing the use of metal tokens—contained in the "Final Statement of Treasury Policy Regarding the Use of Metal Tokens," Federal Register, page 28679, July 15, 1985—and that no provision will require operators of coin-operated gaming devices to bear the expense and potential problems resulting from retrofitting the devices to accept a new coin.

Mr. RIEGLE. I agree that it is not the intention of any provision of the bill to limit or eliminate the use of metal tokens, and that no provision of the bill is intended to require operators of coin-operated gaming devices to retrofit the devices to accept a new coin.

Mr. GARN. Mr. President, effective February 13 of this year the FDIC instituted a policy and procedures to minimize payments for outside legal services and reporting mechanisms to track such payments made during any previous consecutive 12-month period. I would like to commend the legal division for its timely action and its simple yet effective regulations.

At this time I would note the concern of my House colleagues regarding fees for legal, accounting, and investment banking services. We are all concerned that said services are minimized and when necessary that performed contracts be entered with sensitivity to geographical and regional distribution based on the location of assets or services rendered. We do not need to spawn another Washington, DC, monopoly.

At the same time we recognize that there will be cases where it is in the best interests of the taxpayers for the FDIC and the RTC to take advantage of the expertise and experience of some firms in this complex litigation area.

Mr. RIEGLE. To my good friend, I say we have mutually worked to minimize outside costs wherever possible. Perhaps it would assist our committee if the FDIC and the RTC each could advise us of particularly large fees or retainers, for example those in excess of $1 million per month. In most cases we anticipate that individual law firms' fees would not exceed more than such an amount of an annualized basis. Would Senator GARN agree?

Mr. GARN. I do, and I think the Senator has made some excellent points. I would like to join in requesting such information from the FDIC and the RTC.

INTERBANK LIABILITIES

Mr. BOND. Mr. President, I wonder if I might ask my colleague Senator RIEGLE, the chairman of the Banking Committee, a question about section 218 of this bill, which is entitled "Interbank Liabilities"?

Mr. RIEGLE. Certainly.

Mr. BOND. Do I understand correctly that the limit on interbank liabilities contemplated here would apply to a bank making a deposit at another bank, not to the bank receiving the deposit?

Mr. RIEGLE. That is correct.

Mr. BOND. I thank the Senator very much.

Mr. PRYOR. I also have a concern in this area. Might I also pose a question to my colleague, Senator RIEGLE?

Mr. RIEGLE. I would welcome the Senator's question.

Mr. PRYOR. I thank the Senator. My question relates to the Federal Reserve Board's role in implementing this section. The Federal Reserve is a bank regulator as well as our Nation's central bank, but in some respects it also competes with correspondent banks. I am concerned that it might use its authority under this section to put correspondent banks at a competitive disadvantage. What is the Senator's view on this?

Mr. RIEGLE. This section seeks to reduce the systemic risks posed by the failure or near-failure of a large depository institution. It is part of our attack on the notion that some banks are too big to fail. For the Federal Reserve to use its authority under this section to gain a leg up in competing for correspondent banking services would be inconsistent with the intent of this section and, in my view, a serious abuse of discretion.

Mr. PRYOR. I thank the Senator.

Mr. GRAHAM. Might I also ask a question about this section of the bill?

Mr. RIEGLE. By all means.

Mr. GRAHAM. My question relates to the possible effects of this section. One of my constituents, a bankers' bank in Florida, has expressed concern that a limit on interbank liabilities would prompt banks to redirect their correspondent balances from small banks to money center banks, figuring that a money center bank is too big to fail and deposits at that bank will therefore be immune from supervisory criticism.

Mr. RIEGLE. For the regulators to take such an approach would totally frustrate this section's purpose. That purpose is expressly stated in the statute: "to limit the risks that the failure of a large depository institution * * * would pose to insured depository institutions." In the scenario you describe, the regulators' policies would be exacerbating, not limiting, that risk. So I do not view that as a permissible result under section 218.

Mr. GRAHAM. I thank the chairman.

Mr. RIEGLE. The Senator is quite welcome.

Mr. WIRTH. Mr. President, the bank reform legislation (S. 543) has a number of important and valuable elements. It addresses priorities such as providing the Bank Insurance Fund with the resources it needs to address the problems of our Nation's banks and making important improvements to the deposit insurance system.

Many of the legislation's deposit insurance reform proposals make good sense. I have strongly advocated the provisions designed to limit use of the too-big-to-fail doctrine, early intervention requirements, and risk-based insurance premiums. While the provisions included in the legislation fall short of comprehensive restructuring of the deposit insurance system, they do make a number of important improvements and will help reduce the risk to the taxpayer.

The Banking Committee adopted two amendments that I offered which I believe make important improvements to the legislation. The first would make a number of important reforms to bank accounting and auditing rules and procedures. These reforms are designed to improve the financial management and recordkeeping systems of large banks and help regulators better understand the financial condition of these institutions. The reforms will help large banks monitor and improve their own financial condition as well as protect the Deposit Insurance Fund.

The second amendment is an effort by Senator GRAN and I to push the regulators to adopt uniform standards with respect to real estate lending. Because there are no Federal limits on the amount a bank or thrift can lend for real estate, in some States, banks and thrifts can gamble and loan up to 100 percent of the appraised value of a real estate property. The volatility of the real estate market makes lending in this area without appropriate standards dangerous to the financial system.

Although FIRREA directed the regulators to adopt uniform real estate lending standards, they have not done so in the 2 years since that legislation was enacted. The amendment adopted by the committee would again direct regulators to adopt such standards. If the regulators do not act within 9 months of the legislation's enactment, specific loan-to-value ratios included in the amendment would go into effect 6 months later. I hope this amendment will spur regulators to act in this area.

The managers' amendment includes provisions that I had sought to require the public disclosure of examination reports of failed financial institutions if taxpayer dollars are used to resolve the failure or assist the institution, as well as the disclosure of settlement of government lawsuits related to such institutions. I did not offer the amendment during markup because I was concerned that debate on the matter would have prevented the committee from promptly completing work on the legislation. Senator GARN and I were able to resolve our differences on the proposal and incorporate a number of safeguards to protect customer privacy. I am pleased that our compromise became part of the legislation.

I believe there are other areas in which S. 543 needs significant improvement. BIF funding and recapitalization and real deposit insurance reform should be our priorities in crafting this legislation. I'm not convinced the legislation as it now stands does enough in either area.

The legislation provides funds to allow BIF to address the current problems in the banking industry and includes provisions to promote rebuilding the fund. However, I am concerned that the plan does not rely enough on industry resources and raises the very real prospect of a taxpayer bailout of the industry if the economy doesn't recover and banks are unable to repay the Treasury. I am also concerned that the recapitalization approach could leave BIF in dangerously weak condition which in turn could enable weak and failing banks to remain open, ultimately increasing the costs to taxpayers.

The economy has remained weak since we began developing the bank reform package last winter. The longer the recession lasts, the deeper my concerns about the possibility of an eventual taxpayer bailout and the effectiveness of the recapitalization plan.

The deposit insurance reform title makes a number of important improvements to current law. However, I am concerned that it does not go far enough to bring more market discipline into the process. Risk-based deposit insurance reform premiums and the reinsurance provisions offered by Senator DIXON are a step in this direction as are the provisions designed to attack the too-big-to-fail problem.

While I support these provisions, I am concerned that the reforms will reduce the frequency with which uninsured deposits are protected in bank and thrift failure but not eliminate the practice. Once the new procedures are in place, there still may be a handful of institutions that depositors believe are too-big-to-fail. The result could be an increasing concentration of large deposits in a handful of money center banks. The result could be greater taxpayer exposure in the event one of those institutions fail.

That's why I sought to require that uninsured depositors and creditors lose a portion of their funds if regulators invoke systemic risk and cover all of a large bank's deposits. Such a haircut would bring greater market discipline to uninsured deposits. I worked with Senator DOMENICI on a haircut amendment during the committee's markup. Unfortunately, the language that was ultimately adopted was relatively modest and can be improved. I wanted to amend the legislation to impose a haircut and complement the other provisions that seek to curb use of the too-big-to-fail doctrine. I did succeed in obtaining an amendment directing the Congressional Budget Office to study the haircut concept. However, I think we should do more than study the question.

S. 543 lacks substantial regulatory restructuring. In markup, the committee deleted my proposal to establish a new, independent regulator for both banks and thrifts. The legislation did include other provisions I had proposed to repeal the exemption bank and thrift securities have from Securities and Exchange Commission registration and reporting requirements.

At a time when the bank and thrift industries are in turmoil, I think regulatory authority over their securities should lie with the agency that has the most expertise in that area. Investors deserve that protection. And when billions of tax dollars are being spent to cover bank and thrift losses, with the ultimate scope of the problem still unclear, taxpayers deserve the protection of an improved regulatory structure. I'm not so sure that a bank reform package that doesn't include the regulatory restructuring we need is worthy of the name.

While the above three issues are my primary concerns with S. 543, I have reservations about a number of other aspects of the legislation. For example, I supported an amendment to the interstate branching provisions. I do think it is time to revamp the Federal laws restricting branching but I think we have to take the concerns of State governments into careful consideration. I also supported the basic banking/Government check-cashing provisions that were deleted from the package. They are not as onerous as some earlier proposals in this area and I think it was reasonable to include them in legislation that provides so much financial support to the industry.

I also have concerns about what we have done in title seven of the bill. I would have preferred that we enact good comprehensive legislation that addresses powers. Instead, we are again putting off the central financial restructuring questions for another day. I don't have a quarrel with that in this context; the votes are not there in the House for a bill that addresses expanded powers.

The legislation includes several provisions I support. However, I have serious concerns about other provisions—the BIF funding and recapitalization plan, too-big-to-fail, the lack of meaningful regulatory restructuring, as well as others.

In considering the overall package, I conclude that my concerns and reservations about S. 543 outweigh the positive elements of the package. For this reason, I have decided to oppose the legislation.

In some ways, I regret this decision. I have put a great deal of effort into the package. I am well aware that others have done more than I. The chairman and ranking member have been leading our efforts all year. It is not easy to oppose the product of these efforts. But in many ways, the legislation foundered on matters beyond their control. Regardless of whether this legislation is ultimately enacted into law, we will need to pass more comprehensive legislation in the future. That effort will benefit from the work that the committee has done this year.

Mr. ADAMS. Mr. President, I ask the chairman of the Senate Banking Committee if he would yield for a few minutes to discuss a couple of points I would like to make about this bill.

Mr. RIEGLE. I would be pleased to yield.

Mr. ADAMS. I thank my friend from Michigan.

Mr. President, I am concerned that the interstate branching structure envisioned in this bill will result in a loss of key safety and soundness reporting by banks.

Current law requires banking companies to report key safety and soundness information in quarterly financial reports. Since interstate banking companies are required to establish separate subsidiary banks in different States and each subsidiary must file a separate report, regulators today have access to this important information on a State-by-State basis.

Under S. 543, an interstate banking organizing operating under the new branching structure would only be required to file one quarterly financial report for its multistate operations. Gone would be State level information on outstanding loans. Gone would be information on nonperforming loans. Gone would be data on interest income, interest expenses, and loan loss rates.

Loan quality and profitability problems within a multistate branching company will not just show up overnight. Rather, they tend to begin in one State or region. Then, they spread throughout that company's sprawling interstate structure.

Without State level information, regulators will not be able to perform the job we ask of them in this bill, act fast and act decisively.

The reduction in vital safety and soundness information as a result of the interstate banking provisions is contrary to the mandate of this bill.

Title II of this legislation spells out that mandate. Risk-based capital ratios, risk-based assessments, and most importantly early intervention. Early detection of a bank's problems is essential if supervisory action is to be taken before problems spread. However, without State level reporting of key safety and soundness data by large interstate banks, regulators cannot possibly be expected to intervene before an institution is on the brink of failure.

In addition, without State-by-State reporting by large interstate branching companies, I believe we will also lose economic performance information. How will regional or State economic/development planners combat downturns in their economies without key information on vital economic indicators? Hidden in a multistate branching bank's quarterly financial reports will be specific data on the level of construction, commercial mortgage, residential mortgage, and agricultural production loans.

Growth in these areas are essential for pulling a region or State out of a recession. If large out-of-State branching companies are only required to file one report for their multistate operations, State planners will not have access to the data required to combat economic problems.

I am not willing to allow out-of-State banks to dictate the economic performance of Washington State. I doubt if there is a member of the Senate who would.

I ask the chairman of the Banking Committee if he is concerned about the loss of safety and soundness and key economic performance information as a result of banks organizing under the interstate branching structure?

Mr. RIEGLE. I am indeed concerned. During the markup of this legislation, the loss of information was considered. If the Senator will note, in section 557 of the committee print, the Banking Committee, recognizing the potential impact of this loss of information, required a GAO study.

Specifically, the Comptroller General is required to submit, within 9 months after enactment, a report that examines statutory and regulatory requirements for insured banks to report to regulators and to determine what new reporting requirements may be necessary to insure the interstate branching provisions do not result in a loss of safety and soundness reporting by banks.

Mr. ADAMS. If I may, I would like to continue in this same vein.

Mr. RIEGLE. I yield to my friend from Washington.

Mr. ADAMS. During the course of debate on this bill, I have listened to one Senator after another come to the floor to bemoan the credit crunch squeezing our economy, particularly in the small business area.

In fact, there have been a couple of amendments discussed on the floor that were drafted with small businesses in mind.

The devastating credit crunch sweeping through our economy has highlighted the importance of access to credit. A steady, consistent stream of lending is necessary for small businesses, the backbone of our economy.

A recent survey for the National Small Business United clearly showed that small business owners are feeling the pinch. Eighty percent of approximately 2,000 business owners who responded said small concerns are having a hard time getting credit for expanding firms. Seventy percent of these owners cited personal resources as the source of capital.

Our country depends on small business for its economic growth and expansion, particularly on the regional and local levels. Without access to credit, small businesses that are ready for expansion, ready to create new jobs, will not have the capital available.

I have discussed this credit access issue with some small business owners in Washington State, as well as trade groups representing thousands of small businesses across the country. I asked them what they thought about this bill and how we could improve it to ensure adequate credit is available.

They had some constructive comments that I would like to share here.

First, they believe that State-by-State data is needed by the Federal Reserve Board and small business organizations to analyze small business's credit crunch.

I agree with these groups that if we really want to help alleviate the small business crunch, we must have State-by-State information to make informed decisions.

Second, small businesses need to have a clear picture of small business lending for a State's various metropolitan areas, as well as rural areas. If a State or region is struggling through a recession or economic downturn, it would be essential that the specific metropolitan or rural areas be specified.

Mr. President, the announcement of a proposed merger between Bank of America and Security Pacific on the west coast has caused me deep concern. If this merger were to be completed today, the resulting money-center bank, operating out of San Francisco, would control over 50 percent of the total bank assets in my State and over 40 percent of the insured deposits. This is a tremendous concentration of banking power in one out-of-State institution.

I have asked myself what this will mean for my constituents. How will the proposed merger affect the cost and quality of services to consumers in Washington State? How will it affect the availability of credit to small businesses and farmers in my State. These are serious questions that must be answered before the merger is approved.

Regardless of the ultimate outcome of the proposed merger, it is clear to this Senator that megamergers are the wave of the future. But, if interstate branching is to become the norm, I want to have at my fingertips information on how any out-of-State banking conglomerate is operating in Washington State. It is vital for the economy of Washington that this information be available.

I ask my colleague from Michigan if he has heard the suggestions made by small business groups?

Mr. RIEGLE. Yes; I have.

Mr. ADAMS. During the course of the debate and ultimate dispensation of this bill, would the chairman accept proposals that address both the safety and soundness and economic performance reporting concerns raised here?

Mr. RIEGLE. I say to my colleague from Washington that I share his concerns and will do everything I can to address his concerns.

Mr. ADAMS. I thank the chairman for his consideration of my concerns and for the yielding me his time.

TITLE INSURANCE

Mr. BRYAN. Mr. President, when the Senate Banking Committee was considering this legislation, I filed an amendment that would have prohibited national banks from engaging in title insurance activities. I planned to offer this amendment because I was particularly concerned about how the combination of national banks underwriting title insurance and making mortgage loans might affect the safety and soundness of both banks and title insurers and whether consumers would be adequately protected. The various versions of the bill which were voted down in the House of Representatives, H.R. 6 and H.R. 2094, contained a provision similar to my amendment.

I would like to inquire about the treatment of national bank sale and underwriting of title insurance in the bill which is before us.

Mr. RIEGLE. The Senate has adopted a managers' amendment that addresses insurance issues and substitutes new sections 771 through 774 for those in the committee-reported bill. The amendment does not mention title insurance specifically. In general, section 771(c) of that manager's amendment provides that, with respect to ongoing litigation concerning OCC opinions allowing a national bank to engage in an activity under 12 U.S.C. 24, the incidental powers provision, the litigation will be governed by the statutes presently in effect, rather than the law as it will be altered by enactment of this bill.

Opponents of these OCC approvals under the incidental powers provision are arguing that 12 U.S.C. 92, the small towns provision, provides exclusive authority for banks to engage in title insurance activities. The manager's amendment modifies the small towns provision but contains no reference to title insurance. Consequently, arguments and rulings in pending litigation must also be based on 12 U.S.C. 92 as it existed prior to enactment of this legislation.

Mr. BRYAN. I remain concerned that the amendment does not specifically address title insurance, but I am reassured that the Senator believes that this legislation will not prejudice the outcome of any presently ongoing litigation or future litigation brought on OCC opinions. I also seek clarification from the Senator with respect to some language in section 771(c) which provides that activities are "lawfully engaged in to the extent that they are finally adjudged as lawful under laws in effect on May 1, 1991."

Mr. RIEGLE. It is my understanding that litigation concerning the ability of national banks to engage in title insurance activities under 12 U.S.C. 24 is presently pending in the second circuit. If that decision is not reviewed by the Supreme Court, it is the committee's intention that the final decision of the court of appeals regarding the lawfulness of the Comptroller's approval constitutes "final adjudication."

I agree with Senator BRYAN that the sale and the underwriting of title insurance are risky activities. I am also concerned that title insurance underwriting and sales by a national bank in connection with its own mortgage loans is a conflict of interest. If the decision in the second circuit creates problems, I anticipate that it may be necessary to revisit this issue.

Mr. PELL. Mr. President, it has been a long, hard fight to get this banking bill approved by the Senate and Senator RIEGLE has done a fine job of managing it on the floor. The primary goal of this bill is to provide continued funding for the Federal Deposit Insurance Corporation, which is the safety net for all federally insured banks. However in my view, a vital part of this bill is the $180 million Federal loan guarantee for Rhode Island.

This $180 million Federal loan guarantee will enable the State of Rhode Island to borrow the money needed to make depositors of closed Rhode Island banks and credit unions whole again.

Mr. President, I am truly pleased that the Senate has approved a banking bill that will help Rhode Island. I am also very grateful to the chairman of the Banking Committee, Senator RIEGLE, for his crucial support of efforts to help Rhode Island within the banking bill.

The Rhode Island banking crisis has had a severe emotional public impact in Rhode Island. The $180 million loan guarantee approved by the Senate will not solve Rhode Island's problems overnight, but if this loan guarantee is approved by the President, it will be of great assistance to our Governor, Bruce Sundlun, in his efforts to solve this terrible crisis.

Senator CHAFEE and I have been working for many months to lay the groundwork for Senate passage of this loan guarantee provision. I would also like to point out that it was Senator CHAFEE who introduced this measure in the Senate Banking Committee and that he did an excellent job of convincing his colleagues on the committee to approve it.

Now that this Rhode Island provision has been approved by the full Senate and the House of Representatives, we will continue to work with Congressman REED and Congressman MACHTLEY to secure the approval of the President.

Reaching the end of the Rhode Island banking crisis will not happen overnight. I know that depositors want their money now. I have seen the anger, misery, and pain of depositors firsthand. I also know that this loan guarantee, if it is approved by the President, will offer some light at the end of the tunnel. Lord knows we need that light.

I might state that, in the past, twice we have seen a situation where a rock can be thrown through the window of our Governor's house. Seven thousand Rhode Islanders were lined up in the rain to get free government food because they were hungry. This is an area where you have 9.6 percent unemployment. We have real misery in our State at this time, as we continue to be in a depression.

The Rhode Island banking crisis took years to develop, but nothing was done until Governor Sundlun closed these institutions on his first day in office. When this happened—and it was a necessary action, and he showed great courage in taking it—people were surprised. I know I was.

There should be no more surprises in Rhode Island. In the future, when we see a problem developing in our State, we should ask questions. And when somebody tries to wave us off and say, "It is no problem; do not worry about it," an alarm should go off in our heads, and we should ask even more questions.

If not for the activity of our Governor, on very short notice, we would be in even worse shape. This is a development of a good many years of misrule and misgoverning by previous Governors. We should not wait until problems become overwhelming, until we need Congress to step in to help pick up the pieces.

Henry Adams once said that "all experience is an arch to build upon." I hope that we Rhode Islanders can take the experience of this banking crisis, learn from our mistakes, and build a better future for our State.

I yield the floor.

Mr. ROTH. Mr. President, I wish to express my strong concern with removing the Securities and Exchange Commission from the compensation laws governing the vast majority of the executive branch. I hope and trust that the SEC and the Office of Personnel Management will use the next 6 months to address the Commission's recruitment and retention difficulties through the use of the pay reform law enacted last year.

As the ranking Republican member of the Committee on Governmental Affairs, which has jurisdiction over the civil service and compensation laws of the Federal Government, I can assure this body that the committee and the administration worked very hard last year to pass a comprehensive Federal pay reform law. I am confident that the authorities under current law will help solve the difficulties being experienced by the SEC. I know the Director of the Office of Personnel Management, Connie Newman, believes so, and I trust that she is correct.

The pay reform law was designed specifically to meet the needs of all Federal agencies and employees, and to prevent the fragmentation of the Federal compensation system. The provision in the bill prior to the adoption of this amendment represents the very thing we were trying to avoid—the breakdown of the Federal pay system. This is not simply a jurisdictional issue, Mr. President, but an issue of fairness to the vast majority of other Federal employees who are under the current pay laws.

Why should a lawyer at the SEC be exempt from the pay caps and a lawyer at the Department of Justice be under the pay system? Why should a budget analyst at the SEC be exempt from the pay laws, and a budget analyst at the Department of Health and Human Services be covered by them?

It would probably be easy, Mr. President, for each individual agency to make a compelling argument that they should exempt from the pay law. But as the ranking Republican member of the committee of jurisdiction, I have to look at the Federal Government in total. And that is what I did in the Pay Reform Act. There may be special circumstances where an agency is experiencing severe recruitment problems—but there are provisions in the comprehensive reform law to address those difficulties.

Last year the Congress passed a comprehensive pay reform law to address recruitment and retention difficulties facing all Federal agencies including the SEC. In addition to new recruitment and relocation bonuses and retention allowances, the new law provides a process to close the Federal pay gap in those localities where a gap exists.

In addition, the 1989 Ethics in Government Act increased executive schedule salaries by 25 percent and senior executive service salaries by between 18 and 25 percent. Given the economic climate at the moment, the Federal Government is a very attractive place to work. The new pay laws are intended to make the Federal Government the employer of first resort in all economic times, not just periods of slowdown. It is my understanding that applications are flowing into certain Federal agencies at a very high rate.

If such difficulties exist at the SEC, to what extent does the agency plan to use the recruitment and retention authority already provided in law by the Pay Reform Act? This amendment mandates that the agencies work closely together to use the authorities under current law.

For instance, there is a special rate program which permits approval of higher minimum rates for particular occupational groups. Under the expanded authority provided by pay reform, special rates of up to 60 percent above the normal maximum rate may be approved. In addition, the pay law provides for critical pay for exceptionally well qualified individuals up to executive level I, which is currently close to $140,000.

Mr. President, the Pay Reform Act makes a fundamental change in the method for establishing Federal employee salaries. The Pay Reform Act is designed to help close the pay gap between the Federal and non-Federal sectors. The impetus for the law was the need to improve the ability of the Government to recruit and retain across the board, in all occupations, by channeling resources in those localities where problems are most pervasive.

During consideration of pay reform, there was a lot of talk about a quiet crisis facing the Government—failing to attract topnotch recruits and retain top employees. There was a very strong belief that pay was so low relative to the private sector that the Government would be unable to accomplish its many missions.

The Pay Reform Law provides new tools to attract personnel and meet these challenges, particularly with a more credible annual pay adjustment process and locality differentials.

Beginning in January 1994, the pay system moves to a locality based system. All employees will receive a pay raise equal to the change in the employment cost index minus 0.5 percent. The goal of the locality based system is to close any existing pay gap with non-Federal employees. The Bureau of Labor Statistics will conduct annual surveys in major geographic localities to determine if an adjustment is warranted.

By establishing a locality system, the law moves us away from a comparability gap nationwide and looks at the gap within each locality. This will focus the Federal Government's limited resources to those areas with the greatest recruitment and retention problems.

The most immediate benefit of the Pay Reform Act fell to those employees in New York, Los Angeles, and San Francisco, which were provided with 8 percent geographic differentials in January. This was provided to almost 13 percent of the SEC staff who work in these three major cities.

Other provisions will help improve recruitment and retention efforts including special bonuses with service agreements. Agencies have been given the flexibility to establish bonuses, up to 25 percent of basic pay, which would be available to employees who must relocate to fill a position in which the agency is having difficulty filling. An employee receiving such a bonus would have to agree to work for the Government for a certain period of time. In addition, agencies have the authority to provide 25 percent retention allowances to those employees the agency believes it must retain.

Mr. President, I am confident that the pay reform law, given time to work, will solve the recruitment and retention difficulties being experienced by the SEC. I read this amendment to require that full and complete consultation will occur between the SEC Commissioner and the OPM Director prior to any certification permitted under this amendment.

PRESIDENTIAL INSURANCE COMMISSION

Mr. DODD. Mr. President, title XI of the bill provides for the creation of a Presidential Insurance Commission to assess the condition of the property and casualty insurance, life insurance, and reinsurance industries and to make "any recommendations for legislation or administrative action that the commission considers appropriate. * * *"

First, I would like to thank Senator METZENBAUM for his contributions to the managers' amendment. I think his changes will make for a more focused and effective commission.

In short, Mr. President, this title represents an effort to try to get ahead of problem in the hope of avoiding one entirely, or at least mitigating its severity. The failure to appreciate the impact of the huge upward spike in interest rates in the late 1970's on the S&L business, and the failure to learn the lessons of the S&L debacle for bank reform have cost the taxpayers more than $200 billion and may well add billions more if we do not pass bank reform legislation that strengthens the bank charter.

The last few months have shown that the insurance industry is suffering from some of the same problems plaguing the banking industry. Thus, Executive Life, the insurer with by far the largest portfolio of junk bonds, failed in April. Then, in rapid succession, Monarch Capital failed in June because of real estate problems and then Mutual Benefit Life, a solvent insurer with a liquidity problem, was taken over by the State of New Jersey after experiencing runs in July, due to a loss of confidence in its real estate portfolio.

Further, the last 3 months have seen the private rating agencies downgrade the claims paying ability of many larger insurers. While they are still rated investment grade, clearly this action will lock some insurers out of some investment markets.

In many respects, these problems are part of the more general problem of the serious recession. However, the industry and the public—businesses and consumers alike—have a number of other problems of a far different origin. Unfortunately, congressional consideration of these issues is scattered among many committees, so that the problems too often are being considered in isolation.

Just as you cannot separate deposit insurance reform from the strength of the banking industry itself, so you cannot separate the ability of insurers to remain solvent and strong—and thus have the ability to carry out their insurance commitments—from the nature of the insurance product and how it is regulated.

Over the last decade and a half, the industry has come under increasing pressure from a wide range of sources. In major part, the industry is the victim of its own success. When 156 million Americans are covered by life insurance; when more and more States mandate automobile insurance in order to drive a car; and when more and more businesses—from manufacturers to day care centers—realize they must carry insurance in order to do business, then as surely as the night follows the day, governments will try to make sure that insurance is available to all who need it and at a price they can afford.

The concept makes eminent good sense. However, the problem comes when we ask the insurance industry to pay more and more benefits, but not require the insurance consuming public to pay their full cost. The result may be good for consumers in the short run, but in the long run it can mean insolvent insurers who cannot meet their insurance commitments and who no longer will be available to write insurance in the future.

The same problem arises when the industry writes policies based on one assumption and then is forced to pay off under a different reality. Such, for example, has frequently been the case with respect to environmental liability insurance, particularly with respect to State and Federal superfund liability. Insurers write policies based on an assumption of limited liability, or of a lower risk associated with a particular hazard, then 20 years later the risk turns out to be far greater than anyone thought and the courts have expanded the ambit of liability to meet modern views of equity. The result may be good for the victims of environmental hazards, but bad for the solvency of insurers.

Similarly, last year the Congress in the budget deficit reduction agreement increased insurer taxes by $8 billion over 5 years. That may be good tax policy but, again, how does that help improve the solvency of an industry in need of more capital?

Clearly society needs a wide variety of insurance products at competitive prices to conduct our daily business. We cannot have such things if we do not have a strong, competitive and solvent insurance industry. Particularly given the limited involvement of the Federal Government with insurance issues—because they have historically been regulated at the State level—I believe that it is essential that we have a comprehensive look at all relevant issues so that if we decide to legislate in one or more areas, we do so in a way that will assure a financially healthy industry so that we can assure consumers the availability of adequate insurance coverage at competitive prices. We cannot have the latter without the former.

Title XI of the S. 543, as revised by the managers' amendment, addresses the problem by establishing a 25-member Presidential Commission—composed of the Secretary of the Treasury, the Attorney General, the Secretary of Transportation, the Secretary of Commerce, the Secretary of Labor, and the Chairman of the Federal Trade Commission—as well as 10 Members of the Congress and 9 individuals with expertise in insurance, State regulation of insurance, financial services, antitrust, liability law, and consumer affairs.

Mr. President, the mandate of the commission is very broad, both because there are a number of issues facing the industry and the public and because a good public policy resolution of those issues can be achieved only if we understand the interconnections among them. The only way we can be assured of the availability of a wide array of insurance products at competitive prices—and assure that insurers will have the funds needed to pay off when an insured event occurs—is by making sure that we have a strong and competitive insurance industry.

Mr. President, the commission has a truly challenging mandate, but I believe its successful completion will help us and the States to establish policies that will assure a strong, competitive insurance industry in the 21st century, will assure consumers a broad range of useful products at competitive premiums—and guarantee consumers that the industry will make good on its promises of insurance dollars when an event that should trigger coverage occurs.

THE LAMPF DECISION

Mr. SASSER. Mr. President, I have an inquiry about the interpretation of the provisions of the bill relating to the Supreme Court's decision in Lampf. It is my understanding that the purpose of this compromise is to return both plaintiffs and defendants to their positions that they had on June 19, 1991. This language is not intended to encourage, validate, or permit forum shopping.

Mr. RIEGLE. The Senator is absolutely correct. The language in the bill is designed to return plaintiffs and defendants to exactly the position that they had on June 19, 1991, and not in any way permit forum shopping.

Mr. GARN. Mr. President, I would like to address a question to the distinguished Senator from Michigan, the chairman of the Senate Committee on Banking, Housing, and Urban Affairs.

Mr. Chairman, earlier today the Senate adopted as part of the manager's amendment to S. 543 a provision relating to the retroactivity of the recent U.S. Supreme Court decision in Lampf, Pleva, Lipkind, Prupis & Petigrow versus Gilbertson. This amendment was intended to permit the courts, in cases arising under section 10(b) of the Securities Exchange Act of 1934, and pending at the time of the Lampf decision, to apply the statutes of limitation and principles of retroactivity applicable immediately prior to the Lampf decision in the jurisdictions in which such cases were commenced.

It is my understanding that this provision, designated as section 1126 of the bill, is not intended to apply to or in any way affect the parties or the claims in the Lampf decision itself. The Supreme Court's final judgment if the Lampf case will remain intact for the parties in that case. Is this your understanding?

Mr. RIEGLE. Yes, that is correct.

AILING BANKING SYSTEM NEEDS REFORM

Mr. SEYMOUR. Mr. President, last Wednesday I spoke on the Senate floor and expressed my disappointment with the inability of this body to do the Nation's business. Now, here we are today, wrapping up legislation that was supposed to overhaul and make more competitive the banking system; Instead, we are passing a watered down, narrow version. This measure should have been debated, amended, passed, and implemented months ago. I am not surprised that our constituents back home have become so cynical of Congress.

Our ailing banking system needs reform. It is essential that we take cooperative, bipartisan action to ensure the health of our banking institutions, calm the fear of their depositors, and put our banking system on a strong and stable footing. Bank failures have occurred at an unprecedented rate, the bank insurance fund has all but dried up, and our economy is being strangled by a lack of investment capital. A comprehensive and effective banking reform measure would have been one step forward in bringing this country's economic crisis to an end.

But, as we all know, the House has killed two banking reform measures. And, now our counterparts are back at the table for a third round. Well, I didn't come here to play legislative tennis with the administration and the House of Representatives, or engage in heated partisan politics. We have a duty and an obligation to the American people to do what is necessary to put this country on solid ground. I challenge my colleagues to do what is right and get down to business. As I have said before, I am ready to stay here until Christmas to do it.

I agree this bill contains some very essential and necessary provisions. Replenishing the bank insurance fund will ensure that bank depositors are adequately protected. And, just as important, are the reforms in the bill that will help to safeguard against bank failures in the future. By strengthening the regulatory supervision of these institutions, intervening early when an institution finds itself in serious trouble, and eliminated abusive banking practices, we can succeed in restoring faith in our banking system.

I do not need to tell my distinguished colleagues about the very controversial provisions that exist in this bill and in the amendments presented. The powerful competing interests of those groups who will be financially affected by this legislation are great. I have heard from many independent bankers from cities and towns across my home State who are concerned that if larger, more powerful banks are allowed to enter into interstate banking, they will be virtually choked out of business. At the same time, larger institutions have expressed the illogic of the present system of haphazard State by State laws on interstate banking. Those in the insurance and securities industries have also voiced their concerns about certain provisions of this legislation.

Our Nation is facing a financial emergency and we must treat it as such. Mr. President, my constituents back home are afraid for their economic livelihoods and the economic future of this county. They feel that we here in Washington don't care. By enacting an effective banking reform package, we could have sent a clear message back home to our constituents that we can work together and get the job done.

I am disappointed that we could not have taken a dedicated, nonpolitical path to putting our banking system back on the straight and narrow. Not only have we abdicated our responsibility, but we have failed to ease the fears of our constituents and restore the public's faith in this institution.

Mr. SASSER. Mr. President, I rise in support of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act. I voted against this bill in committee because I believed that the bill went further than is necessary and prudent considering the times.

I am therefore pleased that the distinguished chairman and ranking member have agreed, in particular, to strike the Glass-Steagall repeal provisions from the bill.

Mr. President, I believe that the expansive securities provision that was reported by the Banking Committee could have put the banking system and the taxpayers at increased risk.

As the full extent of the savings and loan debacle continues to unfold before us, increasing risk to the banking system—no matter how slight—is ill-advised and inappropriate. At this time the sole objective of any banking legislation should be safety and soundness—period.

Mr. President, the administration is currently asking Congress to make available $70 billion of Treasury funding to bolster the Federal Deposit Insurance Corporation. These funds are needed to cover losses and provide working capital in an estimated 588 bank failures that will occur in the next 4 years.

Mr. President, considering this enormous taxpayer loan, this is not a time for experimentation. Rather, it is a time to return to tried and true principles of safe and sound banking and conservative regulation.

Mr. President, unleashing federally insured banks on Wall Street—as this bill would have done—is not what the American people are seeking as a solution to the banking crisis. What the American people want is tough bank regulation, and an assurance that there is no threat to their hard-earned savings.

And importantly, they want banks to be banks again—to return to traditional lending so that banks can do their part in helping the economy climb out of this terrible recession.

The American people do not want any more federally insured loans to Donald Trump. They do not want banks to be making loans to corporate raiders or to Third World dictators. What the American people are demanding is that banks make loans to businesses to produce jobs and to consumers for purchases of homes and for education.

Mr. President, the record is out there: The banks that prospered in the 1980's have not been those that pursued speculative investments—like hostile takeover lending. The banks that have prospered, and will continue to prosper, are those that have concentrated on the traditional banking business.

Mr. President, as we all know, our financial system is in extremely sensitive condition. During the 1980's, we witnessed a financial calamity of unprecedented magnitude. The collapse of the savings and loan industry and its federally sponsored insurance fund is projected to cost the taxpayers several hundred billion dollars when the bills are paid.

There are a myriad of reasons for the savings and loan debacle—some political, some economic, and some technological. But I think lack of regulatory controls and oversight, and an expansion of powers to areas outside their expertise, weighs heavily as a contributor to the disaster.

There was a pervasive sentiment on the part of Reagan administration regulators that savings and loans would be better off if so-called entrepreneurs were brought in to run them, and if they could enter new fields, often beyond their expertise.

Unfortunately, the entrepreneurs often turned out to be high flyers and worse—downright crooks. By the time the regulators realized what was going on, it was too late. New fields all too often ended up meaning new risks and losses for federally insured institutions.

As an eerie followup to the savings and loan crisis, in the late 1980's, we began to see an emerging problem in the banking sector. Most importantly, there has been a dramatic decline in the financial resources of the FDIC. In 1987, the FDIC had $18 billion in reserves, today, according to the General Accounting Office, it is insolvent.

The rapid decline in the fortunes of the bank insurance fund is particularly shocking. The man in the street rightly asks "Where did the money go?" Unfortunately, the causes of the problems in banking are similar to those that caused the problems in savings and loans.

To a large degree, laissez-faire financial regulation, and overly zealous investments, contributed to the banking crisis.

Moreover, the so-called too-big-to-fail policy has been a major culprit. This policy, created by our banking regulators, has protected large banks in this country from failure. At the same time, however, banking regulators have shut the doors of our Nation's smaller community banks with dispatch.

For instance, when Freedom National Bank in Harlem ran into trouble last year, the FDIC promptly closed the bank. And it decided to only partially cover deposits over $100,000. Charities, such as the United Negro College Fund, that had invested in Freedom National because of the bank's important role in a poor minority community, took a big hit.

In contrast, at almost the same time, the FDIC arranged a so-called purchase and assumption of the National Bank of Washington. Rather than closing the bank, as the FDIC did in Harlem, it gave all the depositors a free ride over to a new bank. In particular, the foreign depositors, who had mega-holdings at the Bahamas branch of NBW, were made whole.

The inequitable treatment of these two banks is especially shocking when it's considered that no FDIC deposit insurance premiums are paid on foreign deposits. Under this policy, depositors and other creditors receive full and free insurance coverage in a large bank resolution courtesy of Uncle Sam, while depositors at small banks—who pay premiums on 100 percent of their deposits—often have the door slammed in their faces.

The fact that insurance premiums are not being paid on liabilities that are being insured creates a fundamental unfairness and distortion in the banking system. Look at the deposits of major U.S. banks—Citicorp pays insurance premiums on only 35 percent of its liabilities, and Morgan Guaranty pays premiums on only 11 percent of its liabilities.

Under too big to fail, all these liabilities are almost certainly insured by the FDIC, but no premiums are assessed against them. This stands in contrast to banks in my home State of Tennessee. For instance, SunTrust pay premiums on 89 percent of it liabilities and C&S/Sovran pays premiums on 85 percent of its liabilities.

Mr. President, the coverage of all liabilities—even uninsured liabilities—in bank failures has made it very easy for large banks to raise and lend money. During the 1980's, money gravitated to the big institutions, away from community banks.

Obviously, large sophisticated investors would choose to give their money to a failsafe large institution than to a small bank—hundreds of which were closed in the 1980's.

Easy money meant easy lending, and problems for the FDIC. Too big to fail contributed to the explosion in commercial real estate lending by large banks. Banks more than doubled the percentage of their assets in commercial real estate. As a result, there is more word among our leading banks then was that these loans were as safe as Fort Knox—sovereign nations didn't default on their debts. Well, now we know how false that premise was.

Mr. President, lack of regulation, policies like too-big-to-fail, and bad investments by banks during the last decade have nurtured the crisis we face today. They are a large part of the reason why the FDIC needs a $70 billion Treasury line of credit.

Mr. President, in several respects this bill moves in the right direction of encouraging safe and sound banking and correcting the mistakes of the past. Requiring that regulators intervene early before banks accrue massive losses is a critical reform that will not only reduce exposure to the insurance fund but also lay a major blow to too-big-to-fail.

Requiring that FDIC use the least costly method of resolution, restricting interbank deposits, and limiting the Fed's authority to lend to failing banks through the discount window should also curtail too-big-to-fail.

Charging premiums for deposit insurance based on risk is critical. Under the present system, banks pay a flat rate for deposit insurance no matter how they invest their funds. If a bank makes a loan to Donald Trump, it pays the same premiums as does a bank that makes a loan to a young family to buy a home.

Deposit insurance under the current structure does not provide an incentive to make a safe loan. There's a moral hazard—there's no reward for pursuing avenues that place the FDIC at the least risk.

Making banks pay more on funds that they may use on speculative investments will decrease the likelihood that they'll make such investments and that's important. Risk based premiums will help banks get back to basics.

Moreover, the bill contains a compromise on the foreign deposits issue, that I worked on in committee, that I believe will go a long way to addressing this great inequity. Under the provision contained in the bill, foreign deposits can only be covered in a bank failure if it is the least costly means to resolve the institution. And if they are covered, there must be an assessment levied only on banks that hold foreign deposits to pay for the cost of covering foreign deposits.

Under this provision, a community bank will never again have to bear the cost of insuring a foreign deposit of a large bank. Only banks that have foreign deposits will insure foreign deposits.

Mr. President, as I mentioned earlier, I support the decision of the managers to strike the Glass-Steagall provisions of the bill. I do not agree with some of my colleagues that permitting bank holding companies to fully enter the securities business is the answer to the banks' problems.

I quote the Chairman of the Securities and Exchange Commission, Richard Breeden, who said this year:

> Those who think that there's this fountain of profits in the securities industry that will cure the income problems of banks, have not looked at recent numbers. There are no profits at present in the securities industry.

According to the Comptroller General, the GAO "couldn't find the evidence * * * that by automatically granting these powers * * * that [banks] would [use them] on a profitable basis. Some companies obviously will * * * but others won't."

Indeed, I fear that if we permit an expansion of powers for large banks there will be a great temptation on the part of the regulators to attempt to let the new powers solve the old problems. That, I submit, Mr. President, would be a prescription for disaster. We should not repeat the mistakes of the past.

Mr. President, I think our first order of business is to start with the basics. Our first priority should be restoring the solvency of the insurance fund and assuring depositor confidence in banks and the economy. And next, we should make sure that we have a sound regulatory scheme in place.

I think the bill has been improved from the version that was reported by the Banking Committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Do the managers yield back their time?

Mr. RIEGLE. I yield back the time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass?

So the bill (S. 543), as amended, was passed.

(Note: The text of S. 543, as passed on this date, November 21, 1991, will appear in a future edition of the RECORD.)

The title was amended so as to read: "A bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulations of insured depository institutions, and for other purposes.".

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNOUNCEMENT OF A POSITION ON A VOTE

Mr. GARN. Mr. President, I ask unanimous consent Senators BURNS and GORTON be recorded as "no" on the bill. If we had had a rollcall vote, they would have each voted "no."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, there has been no vote on this bill, I wish the RECORD to show my opposition and grave concerns with this legislation.

In the last decade, the Congress has passed laws that have resulted in losses of hundreds of billions of dollars that taxpayers have had to make up for, the administration has imposed regulations that have made it harder for banks to make good loans, and the bankers themselves have pursued short-sighted and sometimes self-destructive strategies. In 1989, I voted against the Financial Institutions, Reform, Recovery, and Enforcement Act. Earlier this year I voted against the $30 billion recapitalization of the RTC.

On all those occasions, I said that what we should be passing was legislation that presents a clear vision of the role that financial institutions can and should play in our Nation's economy and lays out a strategy for achieving that vision. That was my position throughout the 1980's, and it is my position today. The bill does not do that. Again we have backed away.

The financial sector is one of the keys to growth in the American economy, and the American people deserve more than the least common denominator.

Mr. WELLSTONE. Mr. President, I learn every day, and I guess I would not have believed that we would have voted on a bill, tens of billions of dollars, on a voice vote. If I had known that no one in the Senate was going to ask for the yeas and nays, I certainly would have. I deeply regret that a Senator did not ask for the yeas and nays. I deeply regret that we did this by voice vote.

In my honest view, as much as I love being here, I think it reflects poorly on the Senate. I think it is a tough vote. I think our vote should be recorded. I think that is what people want from us, and I want it recorded that if we had had a recorded vote, my vote would have been "no."

Mr. GORTON. Mr. President, I will briefly discuss why I opposed the final version of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. I remain open to a comprehensive reform bill which provides significant taxpayer protection from a future savings and loan type bailout. This bill is not comprehensive and does not protect taxpayers from a future bailout of the banking industry. The only winners in this debate are the money center banks and the big insurance companies.

The banking bill which was debated and passed here tonight was the worst of all worlds for Washington's banks. The original concept behind this bill was everyone would get something and give up other things. Tighter regulation for the banks coupled with a willingness for the industry to pay for recapitalizing the bank insurance fund was to be traded off against greater bank powers for the industry. My State's banks, however, were asked to give up everything and received nothing.

Under the interstate branching provisions, large money center banks can open branches throughout Washington State draining deposits from Washington's banks and financial resources from the State's economy. Luckily, Washington banks are among the best run and well capitalized banks in the country. In the long run, I believe Washington's banks will withstand the assault of the money center banks if the legislation isn't changed in conference with the House. But solely because of this bill's passage, Washington's banks will be engaged in a struggle for their existence.

The bill's insurance provisions requires Washington's State banks which sell insurance to divest themselves of those profitable activities. Because of a compromise in the insurance area, however, Delaware State banks are now allowed to sell insurance throughout Washington State. I argued against this amendment because of its affect on Washington's banks because it was simply not fair. Those banks allowed to engage in insurance by their State regulators should be able to sell insurance if it posed no threat to the bank.

Mr. President, there are two notable accomplishments in the bill. First, Congress recapitalized the bank insurance fund. Without adequate recapitalization, the fund soon will be insolvent, and taxpayer funds rightly will be used to prevent depositors from losing their savings. Second, the bill tightens up the regulatory structures governing banks in several important ways, creating a more sound banking system.

Mr. President, Congress didn't need to kowtow to the big banks and insurance companies to get this bill passed. When it became clear that Congress could not achieve true reform, it should have done a narrow bill accomplishing only what had to be done to protect insured depositor's money. These big bank and insurance company interests should not have their wish list filled at the expense of the rest of the country's banking industry. Without significant modification, I remain skeptical of being able to support the conference report on the bill.

Mr. DOLE. Mr. President, I rise to make a few brief remarks on the legislation which this body has just passed, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

First and foremost, the legislation is critically important to restoring the deposit insurance system that has fallen into serious jeopardy in recent years. The point of this legislation is not to point fingers but to reform the system before we find ourselves facing another debacle like the savings and loan crisis for which American taxpayers are now footing the staggering bill.

I do not pretend to maintain that this legislation is perfect with respect to all my concerns or that all the interest groups are going to go home happy. In fact, I suspect that every group following this legislation will likely find something to complain about.

In this connection, I want to commend the valiant efforts of the distinguished chairman, Senator RIEGLE, and the ranking member, Senator GARN, who have not had an easy job in seeking to strike a fair balance among the many competing interests inherent to this far-reaching and highly complicated legislation. I also wish to commend them for their leadership in moving this legislation through to passage.

The work on this legislation is, of course, not over yet, and there are certain important issues that will need to be carefully addressed during the conference between the House and Senate bills.

One provision that has certainly raised a lot of eyebrows is the amendment passed by the Senate which imposed a cap on credit card rates. I am not going to stand here and say that this provision should become law as it is. Indeed, as I have previously said on this issue, there are sometimes matters that Congress meddles with that recognize a problem but which perhaps could be handled a little differently.

While I am well aware that banks need to make a profit—particularly in these rough times for the industry—it also seems that the system has a shortcircuit in it when the average bankcard interest rate—presently 18.9 percent—is almost four times the discount rate, which is at its lowest level since January 1973.

The issue for the conferees will be how to address this shortcircuit without otherwise harming the financial services industry and the many valuable services it provides to American consumers. In so doing, they will be making it a little bit easier for the consumer to find a fair deal, while increasing confidence and assisting this Nation's economic recovery.

Mr. President, I hope that when all is said and done on banking reform legislation that this legislation will be recognized as having provided the urgently needed financial resources to the deposit insurance system with certain much-needed reforms to revitalize the banking industry and ensure its survival, and prosperity into the next century.

Mr. GRAHAM. Mr. President, I share the concern of the Senator from Minnesota relative to the manner in which the banking bill was passed. The bill which represents one of the most significant financial commitments of the United States, second only to the savings and loan industry, in terms of a financial commitment for a potential failure in our financial services industry. That was an issue that deserved the thoughtful attention of the Senate on a recorded vote.

Mr. President, beyond the fact that it was passed in this manner, I have a series of substantive concerns about the bill. I am concerned about the fact that it was essentially disrespectful to a major source of innovation in financial services: the States; provisions relative to insurance sales; to override State environmental laws; and to the State's limited involvement in interstate banking; and I believe were disrespectful to the dual system that has served our financial services industry well.

I am also deeply concerned that we have not adequately protected the bank insurance fund, that we have continued to allow, through devices such as the concept of too big to fail, and the allowance of brokered deposits, for a continued growth in the exposure of the American taxpayer to an ultimate bailout.

I am concerned that the economic data upon which the $70 billion, which was voted by voice vote earlier this evening, was calculated is unrealistic and that in fact the total cost of this program will be significantly greater, and I fear it will be beyond the ability of the commercial banks themselves to carry the responsibility.

But my greatest concern, Mr. President, is that this bill is not responsive to the economic needs of America at a time when there is no concern more on the minds of Americans than their economic well-being.

That failure to respond is not by accident. This bill was never structured from the orientation of what is in the interest of the users of the system, the people who depend upon our financial services system, in order to support their individual business, corporate, or commercial activities. We have heard from users in this bill; we heard a position expressed by home builders, by farmers, by individual consumers, and in too many instances what we did is reject those calls for assistance through this legislation.

I am also concerned, economically, that we are setting up the FDIC exactly on the same course of behavior which has led to the RTC and all of its problems, with which we are so familiar.

So, Mr. President, I am distressed at what has occurred, and the manner in which this legislation is adopted. Had we had a recorded vote, I would have voted "no." I hope that this matter goes further through the process and that the concerns which I have expressed will be ameliorated.

The PRESIDING OFFICER. The Senator from Arkansas is recognized under the previous unanimous-consent request.

Mr. BUMPERS. Mr. President, I think the Senate has just made a very serious mistake.

Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Those in the back of the Chamber wishing to converse will please retire. The Senate will be in order.

The Senator from Arkansas.

Mr. RIEGLE. Will the Senator yield for one moment?

Mr. BUMPERS. I am happy to yield.

Mr. RIEGLE. Senator DECONCINI sent a message that he wants it known he also would have voted against the bill. I yield.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there are some provisions in this bill that make a lot of sense, but overall and on balance this bill will cause irreparable damage to banks. The whole rationale for this banking bill was to assist banks in becoming more profitable, and to give troubled banks a better chance to avoid being closed.

Titles II and II of this bill are the provisions to recapitalize the bank insurance fund so that troubled banks can be closed, and depositors can be protected. I am not really criticizing that part of the bill.

But, Mr. President, when you look through the rest of the bill, you find that States are forced into interstate banking and almost forced into interstate branching. I made my case the other day and I lost. I got 39 votes for my amendment and I still do not understand why anyone would oppose it.

But this bill strongly encourages States, indeed, almost forces States into interstate branch banking. I do not like the idea. I do not want it in my State unless the legislature wants it. Right now the legislature does not want it, and the banks in my State do not want it. So why are we forcing this on them?

Senator NUNN and I have a very comprehensive bill pending in the Senate to reduce paperwork. We have been talking about reducing paperwork around here ever since I came to the Senate. But we keep passing bill after bill after bill that requires more paperwork of the business community.

This bill is a killer from the standpoint of paperwork. It costs the banks. If we really want to help banks, why are we imposing this unbelieveable burden on them?

Now I have no doubt that the provision setting credit card rates at 14 percent will never become law. I am not worried about that. That will be the first thing dropped in conference.

But go back and look at title V of this bill, the so-called consumer title. It contains just one thing after another that banks have to keep tabs on, that banks have to furnish, that banks have to disclose, or that banks have to report.

Mr. President, I believe in consumer protection. I believe as long as the cost is acceptable, it is fine. But the need for the information must be balanced against the cost. The Government paperwork burden is killing business in America.

So, Mr. President, for all of those reasons and others—it is a very comprehensive bill—I felt constrained to vote no. Frankly, I hope the House will not accept our bill. I would like to see everything after the enacting clause stricken and the House bill inserted. What the House has done is simply recapitalized the bank insurance fund so that if it can function, and that is all we should do.

So, Mr. President, even though there was not a rollcall vote I voted a loud "no." I wanted this short time to explain that vote.

Mr. GARN addressed the chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Utah.

Mr. GARN. Mr. President, I would like to explain that there is one amendment in this bill that made it difficult for me to be in favor of and I think everyone knows what that is. It is the cap on credit card interest.

I am not going to take all the time to explain the bad public policy and the difficult implications for the economy and for a lot of banks and savings and loans and credit unions in this country, and the violations of the free market with that amendment, and how disappointed I am that the Senate passed that. Nevertheless, we have the responsibility to recap the bank insurance fund before we leave. It would be irresponsible not to.

But I want to assure every colleague, being the only one who spoke against that amendment last week, that it will not become law. The House will not accept that because we are simply not going to let it come out of conference.

I have said to some of my colleagues who wished to vote against the bill because that was in the bill and they wished they had not voted for it to begin with, I have assured everybody today who says, "Well, I will not vote for the bill if that stays in it," it will not stay in the law, because this Senator will make sure, if, by some accident, it came back from the House in the conference report, that I would oppose the conference report.

I have one further assurance for those who are concerned about the implications of that; that, if by some way the chairman and I fail to dump that miserable amendment in conference, the President will veto the bill if that stays in it.

So let the word go out to everybody that wants to listen, I wish there was some way to remove that. I wish we had not put it in the bill to begin with. But it will not become law. Let all of the lobbyists outside of the Chamber who were so concerned about that hear this statement, too. It will not become law. There are no circumstances where it will.

I am sure we can kill it in conference. But as I say if, by some wild parliamentary maneuver, it stays in and we cannot kill the conference report, the President will veto it. So everybody quit squirming out there. We are not going to interfere in the free market. We are not going to mandate interest rate ceilings on anything. We are not going to determine the price of cars or airline fares or anything else by 535 Members of Congress arbitrarily making those decisions, no matter how seductive the politics of some of those issues are.

I do not know how to make it any clearer. The D'Amato amendment will not become law.

Now let me just say how much I appreciate the chairman's work on this. This is not just a few day's work. This has been more than a year's work. I do not know when I have been in a situation where both the majority and minority staff members have worked as closely together or when so many of my colleagues have been so cooperative.

The Senator from Colorado, Senator WIRTH, is standing there. We resolved an issue we have been working on for months; Senator BRYAN and Senator DOMENICI and others; Senator DODD; and Senator GRAMM of Texas. So there has been a lot of good will by both staff and Members and I would like to thank and congratulate all of them.

Mr. President, I would like to thank the staffs on both sides for their long hours of work on this bill.

My colleague from Michigan and I have had many disagreements over the details of this bill. However, this bill, and in particular, refunding the bank insurance fund, is crucial to our financial system. We have worked over the past few months to reach this result and I am most appreciative to all my colleagues and their staffs on the Banking Committee.

Again, I would like to thank all the banking committee staff, especially Lamar Smith, Ray Natter, Ira Paull, John Walsh, Brad Belt, Kris Siglin, Wayne Abernathy, Ruth Amberg, Joel Miller, Barbara Matthews, Margarette Musket, Shelly Berlin, Paul Jarmen, and Mattius Jenke.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, let me just say I, too, want to thank my colleague from Utah for the great effort that he has made and for the way we have been able to work as a team on this issue now for some time. This is an extraordinarily complex and difficult issue. We have done our best to try to reconcile competing views here within the Senate and do it in a fashion that gives us a chance to build a much stronger banking system in the future.

Huge problems have accumulated in the banking system. We have seen a record level of bank failures. We see more bank failures coming ahead of us. We have taken steps here in this legislation to recapitalize the bank insurance fund, to put a much stronger set of regulatory reform measures in place so that the system will be stronger in the future. We have added certain other major elements of this including an improvement, I think, in the prospect of the bank business charter in the sense of allowing a measured way to let interstate banking take place. That allows banks to undergo some orderly consolidation and to be able to put geographic diversification in as a way to cushion against some of the large regional economic shocks that occur from time to time across our country.

So I think that interstate banking provision will help banks accumulate more capital and put more strength in place to protect the deposit insurance fund in the future.

There are some very important consumer safeguards in this legislation. There is the truth-in-lending requirement. There is a fair lending requirement to deal with the problems of discrimination based on one's status in the society. We move against those problems. We deal with the problems of money laundering in banks. We set in motion reforms that will stop future BCCI cases from occurring here in the United States. We move in the area of changes in SEC laws to allow some of the most important securities fraud cases that have been brought by people in court actions to be preserved through an extension of the time period that will allow those suits to be brought forward. We have done that both at the request of the SEC, and because it is good public policy.

This bill has a number of important elements in it. I would say each part is important in and of itself, and has been designed to meet that standard of being solid, section-by-section, title-by-title within the bill.

But perhaps the most important part of the legislation is something that is very difficult to see in just going through the bill. That is how each section cross-relates and cross-connects to each section. Because, while each section has its own purpose they work in combination, and we have designed this bill so that each section will reinforce each other section.

So the reforms, in terms of early intervention, by requiring regulators to move more quickly when banks get into trouble, to require that they restrict and end practices that are risky and that lead in the wrong direction, to require certain other steps, corrective steps to be taken to stop dividends from being paid by banks that are in that type of situation, to actually, finally be able to move in and close that bank before it finally reaches the point of causing a major loss of money from the deposit insurance system.

All of these issues, as I say, are designed to work in combination with each other. I think as this legislation is analyzed, it will be obvious that this legislation will have that effect.

It also needs to be said with respect to the $70 billion loan that is being made by all of us, as taxpayers, to the bank insurance fund, that this legislation requires that every dime of that be repaid by the banking system itself over the next 15 years, in terms of the insurance premiums that they must pay into the fund. If the projections that we have been given by the experts in Government who are responsible for making this kind of a future assessment, the people at the FDIC, the people at the Treasury Department, the people in the Federal Reserve—if they are accurate with the projections they have made, then that amount of money that is being provided in this bill would be sufficient to cover the level of losses that they are forecasting in even the worst case, as they see it.

There are several thousand professional employees in those agencies that have helped construct those official estimates that we have been given, and upon which we must rely in terms of asking for money here. Having said that, I have said before and I want to say again, I have great concern and I have great apprehension that their estimates may not be accurate; that the amount of moneys needed may in fact prove to be larger. I hope that is not the case. But I think it is entirely possible that may turn out to be the case. It will depend, importantly, on how the economy itself performs.

If the economy goes into a double-dip recession and we see more economic damage accumulate, it is entirely possible that the situation will be such that the losses will increase, and we certainly hope that is not the case. One hopes we will do things to strengthen the economy to avoid that turn of events.

Mr. President, I will not take much longer but I think it is important to summarize what is happening here because the bill has been on the floor for several days, it had to be taken down when we took up the unemployment issue, and as we debated the technical issues it was easy to lose sight of what the bill is intended to do.

I want everyone to be on notice that whatever the losses are that we are to see in the future in the banking system, many of those losses are already in place. They represent investments made, decisions made, and the full wisdom or lack of wisdom in those investments will only be clear as the months go by, and, as I say, in the context of what the economy itself looks like the rest of this year and on into the next several years.

If we find that we have a worse set of economic circumstances on our hands—and, God, I hope we do not—but if it turns out we do, the amount of money we provide in this bill will not be enough and we will have to revisit that issue.

As I say, I hope that is not the case. I have great apprehension about it. As we said at the outset of this debate, there are no guarantees on this issue because there is no one who can be found in this country today who can say with certainty exactly what the size of this problem may turn out to be.

I can say this, I think within the scope of what is available for us to do at this time and is within our capacity to do, recognizing how our system works with the executive branch and the legislative branch, this legislation attempts to deal with these problems in the most direct and forceful way we know how to do it. So I think we have moved in every way that we can with the tools that we have available to us now, to try to deal with this situation.

I want to say just two other things. The Senator from Utah spoke about the amendment that was offered on the credit card situation. There was a colloquy as well in that area.

There is concern about the size of interest rates being charged on credit cards and also the point that has been raised about the fact that a number of the major credit card companies and lenders have a uniform rate. It raises the question as to whether there really is active competition.

When that amendment was offered the other day many of us voted for it because it was an expression of a feeling that we have that, if a reasonable way, a sensible way can be found to bring rates down, certainly we ought to try to do it. Certainly generally interest rates have been falling. We have not seen any real movement on credit card interest rates.

It is not practical to try to write a law per se that mandates a given rate that is somehow going to affect all situations for all time. I mean, there is a great temptation to do it. I find it a very attractive idea. But in terms of a practical solution, a one-shot adjustment, I think poses major difficulties not just from people who have a vested interest in that issue who have responded quickly, but also I think we have seen it from arm's-length professionals who have looked at the situation. We have seen reactions in the financial markets as well.

For better or worse, we are a country that is profoundly based on consumer-driven consumption. Probably too much so. But you cannot change that overnight.

So the momentum and the strength of our economy depends very importantly on the degree to which the consumer side of our economy can remain as strong as possible. Any action we might take to change those patterns, if it were to have an unintended consequence of withdrawing any significant amount of credit to people who now have credit, I do not think that would be a consequence that any of us would want.

If we are going to find a way to address that issue through some manner of policy or some manner of market adjustment, I think it has to be done over a period of time in an orderly fashion and, hopefully, if there are advantages to be gained that way it can be done in a fashion that would not in any material way destabilize the economy.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. RIEGLE. In just a moment I will, because I am speaking just extemporaneously, here, as the Senator can see.

What I am saying is that I think our economy today, as well, is in a very dangerous circumstance. If you look at all of the data, the manufacturing data, the retail sales data, consumer confidence data, trade data, debt level information—I see flashing red lights everywhere I look.

We need a comprehensive plan for America to work through this. And the issue of credit, credit availability, credit cost is a very important part of that equation. It needs to be looked at. It needs to be dealt with. That involves not just Federal Reserve policy but all the way through the issue in terms of whether small businesses and other borrowers of funds are getting the credit they need. Are they getting it at rates they can afford? Is there the strength in the economy to pull through the level of economic creativity and job creation that we need? So the point that is raised is an important point.

I know, seeing the Senator from New York on this floor, I have as great a concern about those issues as does he. Not just in my State, which is in trouble, or his State, which is having difficulties, and his region, but the whole country. But let me yield to his comment.

I yield for a question.

Mr. D'AMATO. Would it be a fair characterization to say that one of the reasons that my good friend, the senior Senator from Michigan, voted for the credit card interest limitation, the floating cap, was to send a message that these are inordinately high interest rates, the national average being close to 19 percent?

Mr. RIEGLE. I would say to the Senator, if I may——

Mr. D'AMATO. This is not a trick question.

Mr. RIEGLE. I understand. It is a very important question and it is a very relevant question and one I thought about and thought about that day because I think one can argue on the one side that large scale credit card offering companies develop a customer base and a risk profile with that customer base. Out of that comes a level of interest that they end up establishing that they think earns a profit, covers the risk of loss, and so forth.

Fine, that is an established part of the business. When you see a very sharp and long-term decline in interest rates——

Mr. D'AMATO. The cost of money.

Mr. RIEGLE. The cost of money, the cost of funds going down, the Federal Reserve lowering interest rates, you see interest rates generally dropping.

Mr. D'AMATO. Would it be fair to say the Fed is lowering those interest rates, that is, the cost of money to the banks, to bring consumer interest rates down also?

Mr. RIEGLE. Yes, that would be my view, and the Senator and I have the same feeling on that. I have argued other times and other places the same thing. I am distressed that in many cases that the banks or other lenders have not passed along the lower cost of funds, the advantage they gain from a different monetary policy, and after a while, you start to ask yourself the question, when the cost of funds is dropping so much, why is the price for borrowing the money staying up high?

Now you assume the same risk profile is out there and so, if you started out with a certain charge for a credit card to fit that risk profile, as your cost of funds drop, it would seem that at some point there ought to be a downward adjustment in the credit card costs.

And, so, yes, that thought was very much in my mind, and I suspect that when the President made his suggestion at a speech in New York that the Senator from New York was attending, I think maybe the President may have had that same thought in mind, that with the cost of funds having dropped so much, was there not a way in which costs being charged for credit could also start to show, start to work their way down to show the fact that there was a lower cost of funds to these companies?

Mr. D'AMATO. And if the cost of money had come down by almost half, where the rate at one time was close to 8 percent and it is now 4.5, and the cost of money basically coming down in half, where at one time they were paying for money 8 percent, now the average is 4.5 percent, and, indeed, in the period of 1985 to today, instead of seeing any reduction nationally taking all of the credit card companies together that, indeed, instead of there being any reduction, that the total average went up 1 to two-tenths of a point, does that not send an alarm that somehow the free market system is not operating as it should and that rates are being kept artificially high?

Mr. RIEGLE. I think it does cause one to raise that question and to wonder about it, although I think what also has to be said is that there are different kinds of people in the credit card business.

If you take a bank that is in the credit card business, their cost of funds is going to have a different look to it because they have access to Federal Reserve——

Mr. D'AMATO. Correct, discount.

Mr. RIEGLE. Discount help. They also have access to federally insured deposits, which is a tremendous advantage to them and, in fact, I think if you look at the cost of funds to banks or to any financial institution with Federal deposit insurance, you will find it has dropped faster to a lower point than any other institution. But there are other kinds of companies in the credit card business that have to go out and get their funds in the commercial market and have to pay a different rate, if you will, for their funds that would be the rate available to banks generally.

So there is that difference, but that gets into the subtleties of the different kinds of players that are in that market. The bottom line is I, too, think we should be seeing some lowering of these rates on credit cards because the cost of funds has dropped as much as it has, and I cannot believe, myself, that the risk profiles are going to change that dramatically in such a short space of time to sop up all the difference.

Mr. D'AMATO. I only ask one other thing, at least this Senator found it very disturbing—and I know Senator SEYMOUR is patiently waiting here and I am going to conclude this——

Mr. RIEGLE. I have one other comment to make, but let me yield just another minute.

Mr. D'AMATO. It seems to me that something cries out, and that is why I wrote to the Attorney General today for an investigation. When 7 out of the top 10 issuers of credit cards are charging the precise rate, 19.80, to the decimal, and if we look at 10 of the largest credit card companies and it accounts for over 50 percent of the business, one has to say that real competition, in the sense that we think of it, in the commercial sense of advertising, of demonstrating better rates when we see that there are much lower rates available is not being undertaken.

I have to suggest to my colleagues that maybe we want to make excuses, maybe we are afraid to face the truth, and it seems to be it is kind of like the king who had no suit and everyone told him what a wonderful suit of clothes he had.

If we really think there is real competition going on with the major issuers, and I am talking for the most part, then I think either we do not know or we are deceiving ourselves. If we want to say that the subsidy of billions of dollars as a result of these inordinately high interest rates is something that is necessary to keep some of the large money center banks afloat, and it is basically a hidden subsidy because we do not go to the taxpayer directly and levy a tax; that would be more honest.

I believe that is why many of my colleagues support this amendment because they know that inherently the free market competition that would bring those rates down, if it was actively promoted, would result in much lower interest rates.

Mr. RIEGLE. Let me just say to the Senator on that point, I think many Senators, including this one, have a concern about a uniform level of rate that does not seem to move or show any kind of competitive variance by major companies. That, I think, is pattern which on its face raises questions. I am sure they would argue that they are not competing on price, they are competing maybe on service or the nature of the way in which they manage their accounts, and so forth, what they offer their customers, and what have you.

But I think it is appropriate that there be price competition as well, and there are some credit card companies and different outfits that offer credit card services that have interest rates that are much lower than the prevailing rates on very large——

Mr. D'AMATO. Simmons First National Bank in Pine Bluff, AR, 9.5; Wachovia Bank in Delaware, 10.4; Bank of New York, 13.4.

So when people say, oh, no, we could not do it, there are many institutions who are offering rates who are making money—all of these are making money.

So for us to blindly sign on to the fact that we are interfering in the free economic competitive system when we attempt to say at some point there should be some rate you do not go above and if you are charging above this the free market is not working, I would suggest that the free market has been impeded.

Mr. RIEGLE. Let me just conclude on that point. I think when you have had a dramatic fall in interest rates, meaning the cost of money, the cost of funds—you normally expect that there is going to be some adjustment on the price side where those savings are used or in effect made available in other forms, and we have seen it in a lot of areas. Mortgage interest rates are now down. They have come down.

Mr. D'AMATO. That is right.

Mr. RIEGLE. In many cases the rates to finance cars are dropping as well, with various incentives being offered in that area. So I think on the issue of the uniformity of rates, the Senator has a point to make. I think we need to assure ourselves there is competition and competition is providing access to credit and fair pricing of that credit throughout the system.

Let me say one other thing and then I really must yield the floor. That is this. I want to thank the staff of the Senate Banking Committee for an extraordinary job in this difficult situation. I think if anyone takes the time to really look at the scope of this legislation, in terms of the number of titles and the kind of complex law that is involved in each of the titles, it just takes a tremendous amount of time and technical expertise to work through these questions.

A vast number of people have been very helpful to us, a number of witnesses. We had several days, weeks of hearings from expert witnesses of all kinds. But I want to say to the staff, for the long hours, 7 days a week, day and night, to produce a bill of this complexity and this quality, it has been an outstanding work effort. I thank each and every one of them for service above and beyond the call of duty.

This is not joyous legislation because this is not a happy subject generally, to have to work through problems as difficult as these. They are a great challenge. We carry a great responsibility here, all of us in working on it. I think we have discharged that responsibility. This is a good piece of legislation, and I think we can take some pride in it.

I yield the floor.

Mr. GORE. Mr. President, I thank my distinguished colleague, the Senator from California, for his courtesy in allowing me to make these very brief remarks even though he was on his feet waiting for recognition.

I congratulate the chairman and ranking Republican member of the Banking Committee for a job well done. It has been a very arduous task and I know that they and their staffs are glad to have this phase of it behind them.

Mr. President, very briefly, I would like to thank my colleagues for allowing the Senate to go formally on record this evening with a sense-of-the-Senate resolution attached to this bill which states our sense that United States policy toward Yugoslavia must now change. We have gone on record as saying that if the Serbian Republic does not stop this offensive and does not comply with the European Community cease-fire terms, then it should be our policy to promptly consult with the EC and other nations bilaterally and with the United Nations about the possibility of recognizing the independence of those republics that will comply with the cease-fire terms, and that includes, of course, Croatia and Slovenia.

Many think this is an arcane subject. It is not to me. A member of my family was called into a great war because of violence spilling out of the Balkans, and now with the peace of Europe once again threatened with the first war to rage on European soil in quite a long time, I think the world community needs to speak out. Since the European Community has been so timid, I think the United States should provide leadership, and by the terms of this sense-of-the-Senate resolution it will be prepared to do so.

Mr. President, again I thank my colleague from California for his courtesy. I yield the floor.

Mr. SEYMOUR. Mr. President, I request permission to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S. 2016 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the distinguished chairman, Senator RIEGLE, of the Banking Committee, did announce that I would vote against him in opposition to the banking bill, S. 543. I wanted to say that I first want to compliment the Senator from Michigan, as he knows my personal respect and friendship for him and his family, and also that of the ranking member, Senator GARN.

However, this bill, though they have labored on it for so long, had some fundamental problems that I think are very detrimental to my State. It has branch banking. That will be another disaster, as we have found out that interstate banking has been. It has the ability of brokering funds, and we saw what happened in the S&L problem with brokering funds. We did not adopt the amendment of the Senator from Arkansas, Mr. BUMPERS, about letting States not participate in this effort.

It has, I think, overmandated the ability of the Federal banking authorities to take over banks at almost their own discretion. I think it is a ticking time bomb that is going to come back and haunt us. I am very upset that we passed this bill and wanted to be recorded in opposition.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. DECONCINI assumed the chair.)

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1992 AND 1993—CONFERENCE REPORT

Mr. NUNN. Mr. President, I submit a report of the committee of conference on H.R. 2100 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 14, 1991.)

Mr. NUNN. Mr. President, I am pleased to lay before the Senate the conference report on H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993. This conference report authorizes programs for the Department of Defense, the national security programs of the Department of Energy, and Civil Defense for fiscal years 1992 and 1993.

The conferees have worked very hard for the past 10 weeks to resolve more than 1,400 funding and policy differences between the House and Senate versions of this bill. I want to thank Chairman ASPIN, Congressman DICKINSON, and the other conferees from the House for their cooperation in this conference. I also want to thank my friend and colleague, Senator WARNER, the ranking minority member of the Armed Services Committee, and all of the members of the committee on both sides of the aisle, Democratic and Republican, for their cooperation and support during the conference.

I think the Senator from Virginia will likely be here before this debate is over on this conference report tonight, but he is being ably represented by the Senator from Arizona [Mr. MCCAIN], who is a very valuable member of our committee. I thank Senator MCCAIN for his diligence and his efforts on behalf of this bill and conference report.

Mr. President, the Armed Services Committee has been working on this defense authorization bill for the past 10 months. During that time, there have been some dramatic events and momentous changes that will affect our national security posture for many years to come.

U.S. military forces led a multinational coalition to an overwhelming victory in the Persian Gulf against the forces of Saddam Hussein.

Hardliners in the Soviet Union tried and failed to stem the forces of reform in that country. The unsuccessful coup last August has hastened the disintegration of the Soviet Union's rigid centralized government.

In response to events in the Soviet Union, President Bush has announced a series of changes in our Nation's nuclear forces, and President Gorbachev has responded to those changes with changes in the Soviet nuclear forces, particularly the tactical nuclear components of those forces, and these steps have immediate impacts on our defense and our budgetary consideration.

All of these events require changes in our national security policies and our military strategy. Some of these changes are still being debated, and this bill could not and does not make all the changes that will be necessary in the months and years ahead, because the conference had already started, and both the House and Senate bills had passed well before the President made his sweeping proposals on September 27, 1991.

However, this bill continues the process of reducing and restructuring our military establishment in an orderly manner, while strengthening the basic security foundation to protect our Nation against the threats of the future.

BUDGET IMPACT OF THE CONFERENCE REPORT

For the third time, the Defense authorization conference report authorizes national defense programs for 2 fiscal years. For fiscal year 1992, the conference report authorizes funding of $290.8 billion in budget authority, the same level contained in the Budget Resolution and the budget summit agreement.

For fiscal year 1993, the conference report authorizes approximately $165 billion, which is about 60 percent of the total amount requested. As we have done in the past, authorization of fiscal year 1993 funding for several controversial programs was deferred without prejudice until next year.

The world is changing and the threats to our national security are changing. However, I want to remind everyone that this year's defense budget and the current 5 year defense plan actually are based on the assumption that many of the positive changes taking place in the world will continue. Fiscal year 1992 will be the seventh year of real decline in Defense budget authority. Under current plans, fiscal year 1996 Defense budget authority will be 34 percent below fiscal year 1985. The fiscal year 1996 Defense budget will be 3.6 percent of GNP, the lowest level since 1940.

I want to take a few minutes to outline for our colleagues some of the major provisions in this conference report.

FORGING A CONSENSUS ON SDI

Mr. President, I am very pleased that the conferees reached agreement on a historic first step toward providing a highly effective defense of the United States against limited attacks of ballistic missiles. The ABM provision adopted by the conferees incorporates a two-track approach to attaining this goal: a deployment track and an arms control track.

First, the conference report directs the Secretary of Defense to develop for deployment by the earliest date allowed by the availability of appropriate technology or by fiscal year 1996 a cost-effective, operationally effective, and ABM Treaty compliant antiballistic missile system at Grand Forks, ND. There will be several years of defense authorization and appropriations bills before 1996, and this act does not constitute a final congressional authorization for a Grand Forks deployment. Furthermore, the conferees agreed that there is no commitment to procure ABM systems or components for deployment before the technology for these systems or components is ready. However, the conferees underscored that to meet the 1996 deployment goal it will be necessary to accelerate normal acquisition processes and procedures.

The treaty-compliant missile defense system that we have in mind would include:

One hundred ground-based interceptors, with the design to be determined by competition and down-selection for the most capable interceptor or interceptors;

Fixed, ground-based antiballistic missile battle management radars; and

Optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that also are not prohibited by the ABM Treaty, such as a ground-based suborbital surveillance and tracking system.

This is a general outline of the architecture, but we are looking to the Defense Department and the Strategic Defense Initiative Organization to develop a detailed proposal for the Grand Forks deployment. The conference report requires a report laying out the proposed architecture to be submitted within 180 days.

To fund the ABM research and development activities specified in the act, the conferees agreed to authorize $4.15 billion for SDI in fiscal year 1992, including $1.52 billion for ground-based ABM systems associated with the Grand Forks deployment plan. The conference report specifically excludes any deployment of the Brilliant Pebbles space-based interceptor program as part of the limited ABM defense architecture. However, the conferees agreed that robust research and development funding for promising follow-on antiballistic missile technologies, including Brilliant Pebbles, is required, and $390 million is authorized for this program in fiscal year 1992.

The conferees also recommended the implementation of a parallel arms control track. The conference report includes a provision urging the President to pursue immediate discussions with the Soviet Union to determine the feasibility and mutual interest of the two nations with regard to amendments to the ABM Treaty to permit the following:

First, additional antiballistic missile sites and additional ground-based antiballistic missile interceptors;

Second, increased utilization of space-based sensors for direct battle management;

Third, clarification of what constitutes permissible development and testing of space-based missile defenses;

Fourth, increased flexibility for technology development of advanced ballistic missile defenses; and

Fifth, clarification of the distinctions between theater missile defenses and antiballistic missiles, including interceptors and radars.

I want to stress, Mr. President, that this conference report in no way constitutes an authorization to violate the ABM Treaty. What we are calling for are negotiations. There is no commitment, explicit or implicit, to withdraw from or abrogate the ABM Treaty if the Soviet Union does not agree to these amendments.

MAINTAINING NUCLEAR DETERRENCE AT LOWER LEVELS AND WITH GREATER STABILITY

For other strategic programs, the conferees agreed on the importance of maintaining nuclear deterrence at lower and more stable force levels, particularly in light of the continuing changes in the Soviet Union.

Funding for the B–2 bomber was one of the most difficult issues facing the conference. After a lengthy debate, the conferees authorized one new production B–2 bomber and a total of $4.4 billion in fiscal year 1992 funds for the B–2, including $1.6 billion for continued R&D and $2.8 billion for procurement. The full $1.6 billion in R&D and $1.8 billion in procurement are immediately available for the B–2 program. The remaining $1.0 billion in procurement and final assembly of the one new production B–2 bomber authorized in fiscal year 1992 are fenced pending various performance certifications and a second congressional vote to authorize obligation of these funds.

The conferees disagreed with President Bush's decision to terminate further research and development of mobile basing for the small ICBM. The conference agreement authorizes $548 million for continued R&D on the small ICBM, but prohibits the Defense Department from spending any of these funds unless the Secretary of Defense certifies that a sufficient amount of these funds will be obligated to conduct a viable R&D program on mobile basing options.

The conferees agreed with the President's decision to terminate the SRAM–II missile and Rail Garrison MX programs. No funds are authorized for these programs in fiscal year 1992.

APPLYING THE "LESSONS LEARNED" FROM OPERATION DESERT SHIELD/DESERT STORM

This year our committee made a major effort to incorporate some of the major "lessons learned" from the recent conflict in the Persian Gulf. I am pleased that all of our committee's major initiatives were endorsed by the conferees and included in this conference report.

The Persian Gulf conflict clearly demonstrated that stealth technology has revolutionized air warfare. The conferees agreed with the Senate position that the F–117 stealth fighter was one of the superstars of Operation Desert Storm, and that the current inventory of F–117 aircraft is insufficient to meet future requirements. This conference agreement authorizes $560 million in fiscal year 1992 to purchase the first of 4 F–117 Stealth fighters of a total limited buy of 12 aircraft.

Another lesson of the Persian Gulf conflict is that our Navy is woefully short of mine countermeasures. This conference report follows the Senate bill in including a major initiative to improve mine countermeasures capability. A total of $553 million is authorized for Navy mine countermeasures program, $165 million above the budget request. These programs include $361 million for 3 coastal minehunter ships, one above the budget request; $129 million for mine countermeasures helicopters—the amount requested—$14 million to continue the promising Magic Lantern mine countermeasures program; and $21 million to accelerate other mine countermeasures research and development efforts.

Our committee also concluded from Operation Desert Storm that modernization in the Marine Corps has lagged far behind the other services. The conferees adopted a major package of initiatives to improve the capability of the Marine Corps, many of which were first recommended in our committee by Senator WARNER. These programs include $100 million above the budget request to improve the flow of tactical intelligence to Marine Corps combat commanders; $95 million to buy multiple launch rocket systems for the Marine Corps—none were requested; $39 million for the purchase of night vision equipment; $2.5 million to develop a lighter weight 155 mm howitzer; and $2.3 million to provide a new night sight for the light armored vehicle [LAV].

The Persian Gulf conflict also revealed shortcomings in intelligence support to unified commanders and their combat forces. I am pleased that the conferees agreed to several important Senate proposals to address this problem. The conference agreement strengthens the authority of the Director of the Defense Intelligence Agency to manage defense intelligence, and directs the Defense Department to exercise the use of national intelligence systems on a regular basis to improve readiness and capabilities to support the combatant commanders in wartime.

DEVELOPING SENSIBLE WEAPONS ACQUISITION PROGRAMS

The conferees recognized that far-reaching changes have taken place in the threats to our national security. We are also realistic about the fiscal constraints on the defense budget in the coming years. Changes have to be made in some of the weapons acquisition programs of the military services, and this conference report includes some of these changes. At the same time, however, we are concerned about the need to preserve the defense industrial base in this country during this period of substantial restructuring.

The conferees authorized $1.1 billion to procure 48 F–16 aircraft and $78 million for advance procurement of 24 aircraft in fiscal year 1992, the same amount requested in the budget. The Senate had terminated the F–16 program 2 years ahead of Defense Department plans. At the insistence of the House conferees, keeps this program in production because of concern for the industrial base and the need to preserve an ongoing fighter manufacturing capability until the Air Force decides the future of the multirole fighter.

In action on other major acquisition programs, the conferees:

Authorized $625 million in new funding for building and testing 3 additional production-representative V–22 aircraft;

Authorized $1.6 billion for 4 C–17 aircraft in fiscal year 1992, and required continued adherence to performance milestones to ensure that further procurement is tied to the program's production and testing progress;

Authorized $32 million above the budget request to upgrade existing AH–64 helicopters to reflect lessons learned in Operation Desert Storm and to preserve a key element of the defense industrial base;

Terminated any further modification of F–14's, and authorized the Navy's request of $2.1 billion to procure 48 F–18 aircraft and $484.1 million to upgrade the F–18; and

Authorized $90 million above the budget request to buy 60 additional M1 tanks and $225 million above the budget request to continue the modification of early model M1 tanks into the M1A2 configuration.

STRENGTHENING DEFENSE TECHNOLOGY, EDUCATION AND MANUFACTURING

The conference report includes a number of provisions intended to strengthen America's defense technological superiority.

One of the difficult issues facing the conference in this area was the proposal in the House bill to provide full reimbursement for so-called IR&D—Independent Research and Development—costs of defense contractors beginning in fiscal year 1993. After lengthy debate and discussion with appropriate Defense Department officials, the conferees agree to require the Defense Department to fully reimburse the defense industry for independent research and development expenditures on matters of potential interest to the Department of Defense. Ceilings on reimbursement would be gradually increased over a 3-year period, with full reimbursement commencing in fiscal year 1996.

In other defense technology programs, the conferees:

Strengthened the dual-use critical technology partnership program and authorized additional funding of $100 million in fiscal year 1992 for this program. No funding was requested by the Defense Department for the program.

Authorized $75 million in additional funding for DARPA to develop high definition display technology and $70 million for DARPA support of advanced lithography technologies. No funding was requested by the Defense Department for these programs.

Authorized $183 million above the budget request of $97 million for defense manufacturing technology programs;

Authorized $50 million for regional Critical Technology Application Centers that will, in partnership with industry and State governments, help small high-technology firms that support the defense industrial base;

Authorized $50 million for a new DOD manufacturing extension program, and $30 million for a new DOD manufacturing engineering education grant program; and

Authorized $30 million for the Pilot Mentor Protege Program to encourage defense contractors to subcontract with small disadvantaged businesses, and $15 million for defense research at historically black colleges and universities and other military institutions.

MINIMIZING THE EFFECTS OF DEFENSE TRANSITION ON PEOPLE

Mr. President, one of our committee's highest priorities over the past 2 years has been to sustain and, where possible, enhance the well-being and combat effectiveness of military personnel as the military force structure shrinks over the next 5 years. With this concern in mind, the conferees authorized active duty military personnel endstrengths for fiscal years 1992 and 1993 that are 106,400 and 91,000, respectively, below the previous fiscal year's level. These strengths will keep the military services on a gradual glide path to achieve fiscal year 1995 targets established by the Congress last year.

The conferees are increasingly concerned over the prospect of involuntary separations of career military personnel. As a result, the conferees authorized a program to encourage voluntary separations to avoid involuntary separations as the military services build down. Under this program, certain military members who face the possibilty of involuntary separation would be offered the choice of two incentive packages to leave the military service voluntarily.

Under the first option, a military member could receive a lump sum payment of 15 percent of basic pay multiplied by the number of years of service of the volunteer. For example, in the case of an E–6 with 10 years of service, the lump-sum payment would be $27,000. This member would also be eligible for certain transition assistance, such as temporary military medical coverage, employment assistance, commissary and exchange shopping, temporary military housing, relocation assistance, and leave and travel benefits.

Under the second option, a military member could receive an annuity of 2.5 percent of basic pay, multiplied by the number of years of service of the volunteer, to be paid out over twice the number of years of service. For example, in the case of an E–6 with 10 years of service, the annuity would be $4,500 per year for the next 20 years.

In addition to these incentives, the act provides authority to the Secretary of Defense to waive the active duty strengths prescribed for fiscal year 1992, and to transfer funds to the manpower account to fund higher strength levels to avoid involuntary separations.

Mr. President, I believe that the Department of Defense should be able to avoid involuntary separations of career military members by prudently exercising these authorities.

To improve the quality of life for military members and their families, the conference report includes a January 1, 1992, military pay raise of 4.2 percent; authorizes the reimbursement of adoption expenses for military families; and enhances several military medical benefits, including an improved dental insurance plan for dependents and hospice care under CHAMPUS.

MAKING GREATER USE OF RESERVE FORCES

Last year the Armed Services Committee included greater use of Reserve Forces as a cornerstone of our new strategy. Operation Desert Shield/Desert Storm demonstrated the strength and vitality of the total force concept. This conference report continues to emphasize greater utilization of Reserve Forces as the overall size of the military services is reduced.

The conferees approved personnel endstrengths for the National Guard and Reserves that are approximately 67,500 and 118,700 higher than those requested for fiscal years 1992 and 1993, respectively. This still represents a reduction from current levels of about 37,600 in fiscal year 1992 and an additional reduction of 28,600 in fiscal year 1993.

In an effort to strengthen the Reserve components' combat capability, the conferees authorized $1 billion above the budget request of $1.5 billion for procurement of new equipment for National Guard and Reserve units, including $110 million for multiple launch rocket systems for the Army National Guard; $45 million for the LANTIRN night navigational system for the Air National Guard; and $129 million for four MH–53 mine warfare helicopters for the Navy Reserve.

Finally, the conferees also adopted a provision to prohibit the Navy from deactivating its Navy Reserve helicopter minesweeping squadrons. The Navy Reserve has been very successful in supporting minesweeping operations. Minesweeping was a key deficiency in the Persian Gulf conflict, and the conferees found no basis to support the Navy's recommendation to deactivate these squadrons.

CONCLUSION

Mr. President, in closing I want to again thank all of the members of the Armed Services Committee for their diligent work throughout the year on this bill. I owe a special debt of thanks to the chairmen and ranking minority members of the subcommittees who performed the lion's share of the work of the conference.

I want to thank the staffs of both the House and Senate Armed Services Committees for their untiring and professional efforts on this bill. The staffs of the Armed Services Committees provide superb support all year round.

I also want to add a special note of thanks to Greg Scott and Charlie Armstrong of the Senate Legislative Counsel, and Bob Cover, Sherry Chriss, and Greg Kostka of the House Legislative Counsel for their work on this bill.

Mr. President, this conference report represents the culmination of a great deal of hard work by many Senators. It is a good bill which continues the process of reducing and restructuring our Defense Establishment in an orderly process to meet the challenges of the next decade. I urge my colleagues to support it.

Mr. President, I will be offering further comments after Senator MCCAIN, the Senator from Arizona, has had a chance to make his opening comments, and I will also, of course, yield the floor to Senators who would like to be heard on this as they come in.

Mr. WARNER. Mr. President, the recommendations contained in the conference report to accompany the fiscal year 1992-93 National Defense Authorization Act, H.R. 2100, represent the culmination of a difficult year's work on the part of both the Senate and House Armed Services Committees. Under the strong and able leadership of our chairman, Senator NUNN, together with the assistance and cooperation of our colleagues in the House of Representatives and our respective staff, we have put together one of the most balanced and, frankly, best defense bills since I have been a Member of the Senate. I urge its adoption.

While the conferees considered and reached agreement on thousands of national security programs, in my view, the Missile Defense Act of 1991, which is included as part C of title II of the conference report, represents an historic event. The conferees agreed to a plan to provide the United States with a defense system against limited ballistic missile strikes. The plan also approves an aggressive effort to build a highly effective defense system to protect our forward deployed and expeditionary forces overseas and our friends and allies from ballistic missile threats. The plan marks the first time in over 20 years that Congress has approved an anti-ballistic-missile system for the United States.

The conferees' approval of this bipartisan plan to provide the American people with defenses against the threat of ballistic missiles represents the culmination of many months of effort. In March of this year, I proposed an amendment to begin the debate on the need for an effective missile defense system for our Nation and to address the limitations of the ABM Treaty on our ability to have such a system. Subsequently, with the support and assistance of Senator COHEN, Senator NUNN, Senator WALLOP, Senator LUGAR, as well as the cooperation of the other Senate cosponsors of the Missile Defense Act, we have finally forged the necessary bipartisan consensus to aggressively deploy defenses for all Americans against limited ballistic missile attacks.

In the Missile Defense Act, the conferees have approved the deployment by fiscal year 1996 of an initial ABM system in the United States. While this initial defense site is limited, as is proper, by the terms of the ABM Treaty, the conferees also endorsed immediate discussions with the Soviet Union to amend the Treaty to permit the deployment of greater numbers of interceptors at additional sites in order to provide a highly effective defense against limited strikes.

By providing $4.15 billion for the Warner-Nunn missile defense plan, the conferees agreed on the highest level of funding for SDI in the history of the program. Included in this amount is $465 million for space-based interceptor programs, of which $390 million is approved for Brilliant Pebbles. This decision of the conferees protects U.S. options for future defensive systems.

Mr. President, the conferees' agreement on the Missile Defense Act provides for the future security of our country and the well-being of our Armed Forces overseas, as well as our friends and allies. The investment in SDI research since 1983 has provided us with the ability to make this critical decision to begin deployment of missile defenses. In short, the committee's program establishes a simple but vital goal that has significant implications for future generations of Americans, as well as friends and allies. I commend my colleagues on both sides of the aisle in both Houses for their far-sighted and well-considered decision to approve the Missile Defense Act of 1991.

Mr. President, I would like also to highlight briefly another important decision of the conferees—to approve several measures intended to enhance modernization of Marine Corps ground combat capabilities. The war in the Persian Gulf revealed a great deal about the capabilities and effectiveness of our Armed Forces, and the victory of the U.S.-led multinational coalition incorporated into weapons systems and equipment through modernization programs over many years. However, during three trips to the Persian Gulf region during the crisis and based on testimony by marines to our committee after the war, I developed concerns regarding several areas in the Marine Corps where modernization had not kept pace with that of other services.

Because of these concerns, I sponsored a modernization package which includes funding for both research and development as well as procurement actions focused on armor, artillery, night-fighting capabilities, intelligence, mine detection and clearing, and air defense. The conferees agreed to authorize through this initiative for the Marine Corps M-1 Abrams tanks, multiple launch rocket systems, the latest generation of night vision equipment, and improved intelligence capabilities.

Mr. President, I am privileged to have once served in the Marine Corps, and there is no intent here to be critical of the corps. The marines have always taken pride in getting along with less and sometimes we have to help them a bit with more resources. As part of this conference report, the conferees agreed to provide additional funding for Marine Corps modernization initiatives totaling over $300 million for fiscal year 1992, which will help alleviate the imbalance in equipment modernization identified during the Persian Gulf war.

And finally, Mr. President, while this may be wishful thinking on my part, it is my sincere hope that the budget summit agreement of October 1990 will remain in place throughout its entire term until fiscal year 1996. As a result of the long and difficult negotiations between Congress and the administration which led to the agreement, defense spending over 5 years will be reduced by more than $180 billion; domestic spending was permitted to remain relatively constant during that time. But just a year later, we have been hearing repeated calls for greater cuts in the defense budget, sometimes to pay for tax relief and sometimes to allow more domestic spending. If we depart from the summit agreement, military personnel will have to bear the brunt of the ensuing hardships.

Mr. President, defense spending took more than a fair share of the deficit reduction in the budget agreement; it took all the cuts. The Department of Defense has lived up to its commitments under the agreement and has proposed a long-term budget which reduces the U.S. military force structure by 25 percent. In the future, greater defense cuts may be possible if the changing world situation stabilizes into one that is less potentially threatening to our national security. But we cannot predict the future, and we should not make further reductions in the defense budget until we are able to assess their impact on the safety and well-being of the American people, and also on the U.S. economy. This bill will be enacted against the greatest degree of uncertainty respecting the Soviet Union since the close of World War II.

Mr. President, the 1990 budget summit agreement, which governs not only defense spending but all areas of the Federal budget including revenues, also has allowed the Congress to focus its attention on the priorities within the defense budget rather than requiring a prolonged debate over the total budget, as had been the norm in past years.

Stability in the defense topline has been crucial to the administration's planning for defense and to congressional decisions on funding for defense programs, both of which have been extraordinarily complicated in the past few years by the ongoing, remarkable changes in Eastern Europe and the Soviet Union and the continuing instability in the Middle East. Most important, a predictable defense budget level has allowed both the administration and Congress to concentrate our efforts on ensuring that the United States maintains its military capabilities, which served us so well during the Persian Gulf war, and is prepared when necessary to defend our interests and the interests of our friends and allies around the world.

Mr. President, this conference report represents a balanced approach to the difficult choices involved in funding our national defense priorities within the constraints of a declining budget. The conferees attempted to minimize the negative impact of downsizing the Department of Defense on military personnel, the U.S. industrial base, and the economy in general, while providing the foundation to maintain our national security into the future.

I urge my colleagues to vote in favor of the conference report.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, first of all, I express my deep and sincere appreciation for the thousands of hours of effort on the part of the distinguished chairman, Senator NUNN, who in my view has presided over an Armed Services Committee and a conference that has had no precedent since the end of World War II in trying to reshape this Nation's Defense Establishment. He and the ranking minority member, Senator WARNER, have had to react to the dramatic events of the last 2 to 3 years, events that none of us ever anticipated, in shaping our present force posture.

There are those who may argue that we have not sufficiently adjusted our defense spending, and adapted our forces to suit the end of the cold war and the new threats to this Nation and peace throughout the world.

I believe we all recognize that further changes are necessary. But I suggest to you, Mr. President, that the product of the 10 months of effort on the part of the chairman, the ranking minority member, my other colleagues on the Senate Armed Services Committee, and the House Armed Services Committee represents a viable and reasonable blueprint for the incredibly difficult decisions which we have to make.

We are dealing with the most dramatic reduction in defense spending since 1947, and this poses special difficulties. In many ways it is easier to build up a defense establishment than it is to reduce it. I believe that Senator NUNN, Senator WARNER, my close friend Senator GLENN, who I work with on the Manpower and Personnel Subcommittee, and many others have contributed enormously in making sure we fulfill that obligation. We have addressed the issue of the strategic defense initiative. We have addressed, I think in a reasonable and compromising fashion, the issue of the B-2 bomber. We have shaped other major weapons systems programs to fit the dramatically changed threat that we face in the world today.

As I say, Mr. President, this is probably the most contentious era for defense that those of us now serving in this body have ever faced, and I congratulate the chairman for his leadership and his calm demeanor during very stormy times. All of us feel passionately about the issues that we have debated. Yet, as our chairman mentioned, over 1,400 items of disagreement between the Senate and the House were resolved in this conference.

Most importantly, I believe that we have largely satisfied the obligation we have to the men and women in the military and to the people of the United States. We have done our best with an ever-decreasing budget and to face future years of ever-decreasing defense spending. We have done our best to provide them with the peace and security that they deserve.

Mr. President, I will reserve my further remarks until after the chairman makes his statement.

I thank the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Arizona and also again repeat my praise of his efforts and the efforts of Senator GLENN in the Manpower Subcommittee. I chaired that subcommittee myself for several years. I cannot think of any subcommittee more important to our military and to our security because it deals with the people of the military.

The men and women in uniform are the key to our military, no matter what weapons systems we have, no matter how sophisticated. Without the dedication, the willingness to sacrifice and the constant sacrifice of these men and women in the military we would not and cannot have a strong national defense posture.

So I thank the Senator from Arizona for his overall work on the committee and particularly for his dedicated efforts with Senator GLENN, who is chairman of the Manpower Subcommittee, in this important subcommittee.

Mr. President, there is a missing part of this bill that I wish I could report on tonight. I wish it were in this bill, because I worked hard to get it in this bill. But I felt that the bill itself was jeopardized because of opposition to this particular provision, which is a provision that Congressman ASPIN and I worked on with other members of the committee. But it is not in this bill and not in this conference report.

It is my hope, however, that we are not forever forsaking the opportunity here to address this issue, to address what I think is the largest threat we have had of proliferation of weapons of mass destruction and the knowledge of how to build those systems that we had in this century, perhaps in the history of mankind. Certainly in terms of the nuclear systems and other weapons of mass destruction, it is indeed without any doubt the greatest proliferation danger we have faced in the history of mankind.

Mr. President, an important report by a Harvard group was released today. This report underscores the urgency of the problems and dangers we face in the era of nuclear proliferation. The report is called "Soviet Nuclear Fission: Control of the Nuclear Arsenal in a Disintegrating Soviet Union." It is by Mr. Ashton Carter, Mr. Kirk Campbell, Mr. Steven Miller, Mr. Charles A. Sorett.

The study has been put together by these experts who are all affiliated with Harvard University's Center for Science and International Affairs. Mr. President, I just want to read one passage from the introduction of the report which explains most vividly the challenge, the opportunity, and the grave danger we face in the circumstances of the disintegration of the world's largest military arsenal.

I am quoting from introductory material of that report:

> The Soviet nuclear command and control is at root a social and political creation. However successful its designers have been insulating it from all the problems they could foresee, it cannot be assumed capable of standing apart from the turmoil throughout the society within which it is imbedded. And even if 1/100 of 1 percent of the nuclear weapons in the Soviet stockpile fall into the wrong hands, destruction greater than the world has seen since Hiroshima and Nagasaki could result.

Continuing the quotation.

> The destiny of the 27,000 nuclear weapons on the territory of what is increasingly referred to as the former Soviet Union is, therefore, a paramount concern of our times. It is now without precedent and, therefore, without settled guidance. It calls for specific actions to be taken in the near term. There is no option to wait, deliberate or negotiate at length.
>
> Yet each and every one of the near term options is pregnant with long-term consequence. Thus an unusual amount of wisdom, foresight and thorough analysis of the possibilities are required from all citizens concerned, or all parties concerned, the citizens of the former Soviet Union, the United States, and nations around the world.

Mr. President, I commend this report to my colleagues. I hope they will read it or at least get an introductory summary of it from their staffs if they do not have time to read it in the next 2 or 3 days. Working with the Senator from Indiana, Senator LUGAR, and others, Senator BOREN, chairman of the Intelligence Committee, Senator PELL, chairman of the Foreign Relations Committee, Senator BIDEN and a number of Republicans, including Senator DOMENICI, the ranking Republican on the Budget Committee, and many others Senators who indicated interest in this, it is my intention to give the Senate an opportunity to address this issue. I hope we can do it before this session is concluded because I, too, agree with the team from Harvard that we do not have time to waste.

By the time we come back here in Janaury, by the time we really get cranked up in February, it may be that we have already missed a great opportunity, and it may be that we have already failed to mitigate a great danger. We do not have time in this respect.

Mr. President, I see the Senator from Virginia on the floor. I have already commended him for his great leadership and his partnership with the chairman of the committee in producing this bill. I have some other remarks I am planning to make, but I thank my colleague from Virginia. I know he is in a conference on the highway bill, which is another enormously important piece of legislation, and he is being ably represented here by the Senator from Arizona.

But I yield the floor at this time to my friend from Virginia and I will complete my remarks later on both the opportunity for destruction of nuclear weapons in the Soviet Union and the great danger of proliferation of those weapons and the technology and the expertise and experts who may very well be in demand around the world, people who have been experienced and have the know-how in making weapons of mass destruction and other sophisticated military equipment.

So I yield the floor at this time so that the Senator from Virginia may make his remarks.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, as my distinguished colleague and good friend said, I am now in the highway conference. There are other colleagues here from our committee who will make their presentations shortly, the Senator from Arizona and the Senator from Wyoming, and then I will follow on later this evening. And then I wish to say that the Senator from Pennsylvania [Mr. SPECTER] at some point wishes to address the conference report.

But, Mr. President, it is always a pleasure to acknowledge a working relationship of some 13 years duration now that the Senator from Georgia and I have had working on the Armed Forces bill through these years. And I think this year in many respects is a high-water mark, particularly as it relates to the Strategic Defense Initiative and other strategic programs in which the Senator from Georgia took a great leadership role together with Members on this side and forged what I feel is a good compromise in the interests between the Senate and the House as it relates to programs which are of great importance to our Nation, and so stated by our President and the Secretary of Defense.

I have also been working again this morning with the Senator from Georgia as it relates to a proposal which hopefully we will submit to the White House—I presume the Senator has mentioned that—within the next day or so, at which time I am optimistic that there will be a consensus, a broad bipartisan consensus, in the Congress and the executive branch that at this time it is in the security interest of this country and indeed that of our allies that some authority be given to the President of the United States—I say "authority," discretionary authority—to perhaps deal with some events which are unforeseeable at the moment.

The key to it though, Mr. President, as we discussed this morning, the Senator from Georgia, and I, and others, is that we must be very careful to send a balanced message in this legislation, balanced in the sense that whatever we do as the United States cannot resolve all the problems that might occur, and it must be joined in a coordinated way with other allied and Western Nations. And, secondly, we must send a message in a way not to in any way instill fear in the minds of those in the Soviet Union or elsewhere in the world, particularly as it relates to any particular contingency with respect to nuclear weapons.

We all address the fact that these weapons have to be handled with great care and hopefully dismantled under the various arms control agreements and that agreement reached by President Bush and President Gorbachev, but we have to provide that technical assistance in such a way as not to instill any sense of fear.

At this time, Mr. President, I yield the floor such that other Members might address the bill, and I will follow on later this evening.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Parliamentary inquiry. Was there a specific amount of time reserved for the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has been allocated 30 minutes under the previous agreement.

Mr. LEAHY. Mr. President, I yield myself such time as I may need, and I know the distinguished senior Senator from Tennessee is also going to require some of my time. So I will try to make sure I leave some time for him.

I might say, before I begin the subject I want to talk about, I say to the distinguished Senator from Virginia, Senator WARNER, my good friend, if I might have his attention, I have heard what he and others have said about the concern for the Soviet Union weapons that are there. Nobody disagrees with that. Everybody would like to see a plan I think, one that unites Democrats and Republicans in the body, a plan that might see the eventual dismantling of the nuclear weapons that are scattered throughout the Soviet Union. Even an accounting, an accurate accounting, a specific and accurate accounting would be very helpful to all of us.

Mr. WARNER. Could I interrupt my distinguished colleague? Senator NUNN initiated the discussion about the conference report. I have opted to speak later. I wonder if one of my two colleagues here on the other side, between themselves, if they could set the framework from this side. Will the Senator yield with respect to the conference report and then to be followed by other Members?

Mr. LEAHY. I understand. If this was an inappropriate time for me to speak on the issues—is that what the Senator is suggesting?

Mr. WARNER. I am suggesting that I would prefer the framework of the bill be addressed in its entirety, presumably by the Senator from Arizona, and then we shall alternate as the evening goes on, if that is agreeable.

Mr. LEAHY. Mr. President, I might say to the chairman, the manager of the bill, if he had others that he had intended to speak first, I will withhold and use my time at a different time.

Mr. NUNN. I would say, I have no order in mind at all. It is a matter of who gets recognized, and everyone is entitled to the same rules of recognition. I would say that I did have a request from the Senator from Wyoming to speak, I believe, for 5 minutes.

Mr. LEAHY. Might I make this unanimous-consent request, Mr. President—the Senator from Georgia has at least two members of the committee apparently who wish to speak—that I be recognized once the Senator from Wyoming has finished speaking, and at that time my half-hour would begin.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me begin by thanking the Senator from Vermont. That is most gracious of him. I shall not be so long as he had intended to be.

Mr. President, let me say a couple of things about the Armed Services authorization. First is that the Senator from Wyoming has been, since 1979, trying to focus the attention of the Senate and finally of the Congress and the President of the United States on the need for a defense of our people against ballistic missiles.

With the events of the late eighties having been perhaps the most exciting events, watershed events, in world history, we now see that the principal thing that threatens Americans in their homes, in their States, within the boundaries of their country, are missiles, not just the old Soviet missile threat, but the possibility of missiles from Third World countries. Our Secretary of State was not enormously successful with the Chinese. He may in time be. But the fact of it is that which threatens Americans is missiles.

I do not know of anybody who now believes that the Soviet land or air invasion of the United States is a plausible threat any longer. I do not know of anybody who believes that a threat by any other country presently an ally, or at some future date an enemy, or anything else, is a plausible threat to Americans.

But I know of no one who has thought about those things which can threaten Americans and in fact guarantee, if you will, our diplomacy and our national will through the use of missilery who can possibly say that we have not come a long way. Thanks indeed to the Senator from Virginia and the Senator from Georgia, the chairman and ranking member of our committee, to bring us to the decision, not only to deploy SDI, a ground-based one, a very limited one, but to commit ourselves to examining the future of defense for America.

If the occupant of the chair were not from a centrally located State in America but a coastal State, or Alaska or Hawaii, he might think it less than satisfactory that defense of mainland America was provided but that the coasts and the extraterritorial States were simply not a part of the equation.

I know of no American who was not pleased to see a very inadequate defense against missiles which was, in fact, designed as a defense against aircraft, used in the Middle East, the Patriot. The Patriot saved lives, sustained the courage and integrity of a courageous ally—of Israel. Israel was able to stay out of the gulf war because they were, and we were, able to provide a defense. I know of no one, as inadequate as that defense was, who does not believe that any citizen in Riyadh was much better served by having the Patriot there and shooting down missiles than they would have been had they not had such a defense.

What those events did was take the "gee whiz" out of missile defense and demonstrated to the world, and especially to our people that these things are now possible.

Knowing that they are now possible, the American public must demand some means by which they can be defended against the arbitrary, the whimsical, the accidental or the purposeful use of such weapons against our people.

So, that which is provided in this authorization for future study of space-based missile defense and other kinds of defenses is extremely important. But, as the Senator from Wyoming—who has from time to time been able to persuade the Senate to go on record as favoring a defense but has never been able to persuade either administrations or both Houses of Congress that it was important—I have to say I personally am grateful to the chairman and the ranking member for the effort that they put in to bring us to the point at which we now find ourselves.

Fourteen years of trying is a long time. I know that my two colleagues have tried other things for longer than that. But, nonetheless, I have to say that 14 years is a long time in trying and I genuinely appreciate the effort that they put in and I am certain the American public does, too.

Let me also say that, as we look at this bill and the enormous changes that are in it, and must by their nature follow in future authorizations that are coming down, that I have to say to the Senate and I have to say to the Congress and the Department of Defense and the American people that as we reduce our acquisition of those things necessary to project the interests of the United States, to defend the interests of the United States, we will no longer be able to focus solely on the unit cost of those weapons. To buy 5 instead of 50 is going to make the 5, by the piece, necessarily more expensive.

So we must find a way to choose those things which are really necessary for the survival of the United States, for the ability of the United States to project and to defend its interests at home and abroad. We must focus less on what one item costs us than what we would do without that one item or those several items.

Mr. President, this is a warning: in the future we are going to have to get used to a tank that costs more money because we are buying 50 or 500 instead of 1,000 or 5,000; to an airplane for which we no longer need hundreds, but 10's or 20's. We may have to live with buying a submarine for which we once thought our needs—and thank heaven they no longer exist—would have cost in the hundreds of millions of dollars, and may now cost billions of dollars. But the need of the United States to be a strong presence in the world will not disappear in the shadow of unit costs.

So I am suggesting that Congress begin to look at the reality of appropriations and of authorizations in the light of need and not so much the cost of one unit over several. Because our need for several may no longer exist.

Last, Mr. President, I would say I am still skeptical of a package that is devoted or directed toward dismantling of Soviet nuclear weaponry, not because I disagree with its goal but because I fundamentally feel that there is a small level of naivete which attaches to this, and that is the economic fundamental that money is fungible. And so long as there is any strategic weapons modernization program in existence in the Soviet Union, we should not be funding their dismantlement of nuclear weapons for this most simple reason: We will, in effect, be subsidizing that modernization whose only use can be against the peoples of the United States and their allies.

It is not that the goal is wrong but perhaps that the time is wrong, or the criteria are wrong. We will discuss this because I have the greatest admiration for those who support this proposal. I understand their purpose and do not quarrel with it. I just have a quarrel with the potential mechanism and the timing of it and the criteria under which it might be approved.

I do not think that Americans would like to be subsidizing those things which ultimately could be used against them.

So, Mr. President, once again, I genuinely thank the Chairman and the ranking member, Senator COHEN, and others who have worked on this bill. This is a milestone piece of legislation, and it was recognized as such by the Appropriations Committee which, for all the faults of that document, still understood what it was that we tried to do. I think what we tried to do will be gratefully received by the American people once they understand what a long step toward their own safety we have achieved.

Mr. President, I thank the Chair and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. WARNER. If the Senator will yield for a moment, Mr. President, as we developed through these months this whole concept of the SDI as developed in this bill, indeed there were many who shared equally, and, indeed, the Senator from Wyoming was one of the principals in the negotiations and, if I had to put a mark on the bill, it would be in that section that relates to Brilliant Pebbles.

He also was steadfast on the floor, in terms of funding, overall funding.

As we went back and forth, Senator COHEN, Senator LUGAR, Senator MCCAIN, the Senator from South Carolina, and myself, and Senator NUNN, there was always that. There stood the Senator from Wyoming, MALCOLM WALLOP, with certain irreducible minimums, and backed up with a corporate knowledge second to none, through the years, as it relates to missile defense.

So I thank the Senator for his marvelous contribution.

Mr. NUNN. Mr. President, second to none, n-o-n-e; correct?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I understand I am recognized for 30 minutes.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I understand the Senator from Arizona wished to speak for 5 minutes.

I ask unanimous consent the Senator from Arizona be recognized for 5 minutes, and then we go back to me under the original order.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, will the Senator kindly also allow one of the managers to ask that the Senator from South Carolina could be recognized for 2 minutes?

Mr. THURMOND. One minute.

Mr. WARNER. Just for the purpose of introducing a statement.

Mr. LEAHY. I am perfectly willing to do that; 6 minutes, on the understanding that 6 minutes from now I will be recognized under the previous order.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as the Senator from South Carolina may desire.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to commend the able chairman, Senator NUNN, and the able ranking member, Senator WARNER, for the splendid leadership they have provided on this bill and the great job they have done in connection with it. I also would like to praise every member of the committee especially those on the minority side—Senator COHEN, Senator LOTT, Senator COATS, Senator SMITH, Senator MACK, for their interest and good work on this particular bill.

The distinguished Senator from Arizona, Mr. MCCAIN, has done an outstanding job as the ranking member of the Subcommittee on Manpower and Personnel. Senator WALLOP from Wyoming has done an outstanding job as the ranking member on the Subcommittee on Conventional Forces and Regional Defense. As the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence it has been a pleasure to work with the distinguished chairman, Senator EXON. I want to thank him for his leadership and cooperation. Mr. President, we are very proud to bring this bill to the floor.

Mr. President, I rise to speak in support of the conference report on the National Defense Authorization Act for fiscal year 1992. Today's floor action brings to a close almost 9 weeks of intense negotiations and compromise. I want to emphasize the word compromise, because the bill before us is a compromise between various philosophies on the future of our Nation's defense. Despite the compromises, I endorse the legislation because it does not compromise the defense of our country and the welfare of our men and women in uniform.

Mr. President, this conference report reflects the significant changes that transpired after the Senate and House passed their respective authorization bills. I am referring to the August coup attempt in the Soviet Union and the President's September 21 announcement to eliminate almost one-third of the Nation's nuclear weapons. The report also reflects the realization that we are in a fiscal crisis, which, if not corrected, will cause more harm to our Nation than any aggressor's attack.

Mr. President, the conference report worked out under the able leadership of Chairman NUNN and the ranking member, Senator WARNER, reflects the resolution of over 1,400 funding and language differences between the Senate and House bills. It provides $291 billion to fund the Nation's defense programs for the next year. It also continues the rational process of reducing and restructuring our military establishment that this body endorsed last year. Although I am dismayed that the conference report essentially terminates the B-2 bomber program and funds several programs, such as the F-117, that are not requested by the Department of Defense; it is a good bill that deserves our support.

I am especially pleased with the bill's strong support of the strategic defense initiative. For the first time, we recognize the need to build an antimissile defense system to defend against limited ballistic missile attacks. To support this program and other SDI projects, the conferees agreed to authorize $4.15 billion in fiscal year 1992. This represents a milestone in this Nation's history and assures the country will not be held hostage to a missile threat such as the one made against Israel during Operation Desert Storm.

Mr. President, the most agonizing aspect of this bill is that it will eliminate approximately 106,000 spaces in our military force structure. These spaces are held by the men and women who served with such distinction during Operation Desert Shield and Operation Desert Storm. They are not the draftees of the past generations, but men and women of the highest caliber who volunteered to serve this great Nation. To ease the reductions, the bill provides temporary incentive programs to encourage individuals to volunteer for separation and, hopefully help avoid the specter of involuntary separations. The bill also provides increased benefits of those who remain on active duty. We should all keep in mind that our Nation's most precious assets are the men and women who wear its uniform.

As we confront the Nation's fiscal crisis, it is essential that we get more bang for the buck. To this end, the conferees agreed on the need to put greater emphasis on the use of our Reserve components. Our citizen soldiers served with great distinction and personal sacrifice during the Persian Gulf conflict. They demonstrated that they could provide this Nation with a capable and highly effective partner to the Active Forces at a lesser cost. I, therefore, applaud the conferees decision to significantly reduce the Department of Defense's proposed cuts in our Reserve components. Concurrent with these significantly lower cut in reserve end strengths, I support the language in the report which requires an independent study of our Reserve Force structure. We must have a better understanding of our defense needs prior to making recommendations on further cuts in this vital defense asset.

Finally, Mr. President, I want to comment on the important initiative in this legislation which are targeted at maintaining and strengthening our critical defense industrial base in these times of reduced resources. The conference report requires the Department of Defense to review the production base for its dependence on foreign suppliers and the barriers that prevent the integration of the defense and commercial production base. To encourage further development of our technology base, the bill provides over $6.0 billion for defense science and technology activities and almost $300 million for defense manufacturing technology programs. These programs are essential if we are to maintain this Nation's technological advantage that was so critical in our victory over Saddam Hussein and his forces.

Mr. President, as I indicated earlier, this is a compromise bill, but a sound bill. I urge adoption of the conference report and congratulate both Senator NUNN and Senator WARNER for their superb leadership of the Senate Armed Services Committee.

Thank you, Mr. President.

Mr. LOTT. Mr. President, it has been a long year and a difficult fight to get this bill to this point. But now we are approaching the end of a long and difficult process. The conferees have done a good job and produced a bill that will preserve our critical national defense capability during a time of severe cuts. I want to commend the committee chairman and ranking members for their diligence and hard work to produce this result. They have a tough job—but they have met the challenge.

There are many outstanding provisions in this bill which chart new waters in the defense of this country. I am particularly pleased with the dramatic accomplishments achieved in the area of the strategic defense initiative SDI. Finally—after spending some $24 billion—the Congress has now given some direction and focus to the program.

Passage of this bill and adoption of this report sends a clear and striking message—the Congress fully acknowledges that the strategic defense of the people of America makes more sense than pursuing the insane objective of mutually assured destruction.

No longer will strategic defense be a theoretical model which suffers from misunderstanding and hostile opposition. The world changed when Saddam Hussein fired the first Scud missile last year. The American people were instantly educated about the importance of missile defenses—it was a lesson captured live as millions watched in terror all over the world—courtesy of CNN. This bill significantly improves our ability to protect America—and it is an achievement which has been long in coming.

We are also keeping the B-2 program alive by passing this bill. Some people say we no longer need this plane—they say it is a composite albatross hanging round the neck of a classic cold-war warrior. I have had some questions about the B-2—I voted for it, but I have had some questions. But the course identified in this bill makes sense—it does not hastily kill the program, it slows production and gives us time to consider it further next year. It is an approach that makes sense and one that I support.

I am especially pleased that this report reflects the big lessons of the past year. We cannot get away from the lessons of Desert Shield and Desert Storm. We were all gratified by the performance of American men and women—and American technology and training in the sands of Saudi Arabia and Iraq. We have reason to be proud—but this bill presses forward and does not allow us to rest on our accomplishments. We can always improve on a successful formula—and this bill moves us in that direction. With improvements in mine counterwarfare, the Marine Corps will improve their ability to project power over the beaches and littorals of the world—and that is important.

This bill improves our battlefield management and intelligence capability by providing for the advance procurement of one of the brightest stars from Desert Storm—JSTARS. We also firmly support the need for an enhanced marine capability with the acquisition of heavier tanks and an improved night fighting capability.

Mr. President, it is no secret that I oppose the big cuts in the defense budget forced by the 1990 budget agreement. I did not like them then and 2 years later, I still do not like them. We should not cut so much, so fast. The cuts we are making are hurting our Nation's defense and our Nation's economy. We sit around here and pontificate and wonder cluelessly why the economy is listless—why unemployment continues to increase and why the deficit continues to rise. When you put 210,000 people out of work—people who used to work for the Department of Defense—you do not help the economy. So when somebody stands up and starts complaining we are not cutting enough—think about what you doing to the economy, the communities and the defense industry of this country.

I am also concerned that the shipbuilding aspects of this bill are too weak. It does not do all that we need. Without a robust naval shipbuilding program—in 30 years we will not have a navy with over 250 ships and that is insufficient. This shipbuilding program does not ensure America will have the naval power necessary to meet the challenges we may face in 10 years. Mr. President, it takes 5 years to build a Navy ship and with a ship life of 30 years—if we don't build as we go, we will not have the ships in the fleet to do the job and that is a concern.

Recognizing that there are things which I do not like in this bill, I am also a realist. We must work within the budget constraints we face. The conferees have done a good job working within those restraints. We, in the Congress, are doing what we agreed to do in the budget agreement of 1990. This conference report meets the budget summit totals and should be approved.

I urge my colleagues to approve this conference report. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I am proud of much of what we have accomplished in the fiscal year 1992 Defense authorization bill. I am proud that we have taken impressive new steps to help our men and women in uniform. I am proud of the new program we have developed for SDI. I am proud of the many force improvements we have funded to take advantage of the lessons of Desert Storm. I again want to thank our distinguished chairman, our ranking member, Senator WARNER, and also my dear friend, Senator JOHN GLENN, for the partnership we have enjoyed on manpower issues, for his important contributions and for his bipartisan willingness to accept ideas and suggestions.

PROGRESS IN MANPOWER ISSUES AND VOLUNTARY SEPARATION

Mr. President, there are three aspects of our action on personnel that I believe deserve special note:

Mr. President, there are three aspects of our action on personnel that I believe deserve special note:

VOLUNTARY SEPARATION PAY

The first area is voluntary separation pay. Mr. President, it is no secret that our Armed Forces are faced with cuts of a magnitude not seen since the end of the Vietnam war and that many men and women who had desired to make the military a career, will not be able to do so. So, for the first time in history, the Congress has authorized voluntary incentives for men and women to leave the service and return to the private sector.

In taking this action, we chose to offer two plans to the individual service member and let the service member choose which plan best fits his or her financial situation. The first plan was submitted by the Department of Defense and is called the voluntary separation incentive.

Under this plan an individual who has 6 or more years of service and serves in an overstrength military occupation specialty will receive an annuity for a period of time equal to twice the number of years the individual served.

The amount of the yearly annuity is equal to 2.5 percent of the member's basic pay multiplied by the number of years of service.

For example, someone with 10 years of service would receive 25 percent of their annual basic pay for a period of 20 years.

Mr. President, many of us were skeptical of this plan because by the Department's best estimates, slightly more than half of those eligible would select this option. For this reason, the conferees agreed to offer an alternative plan, and allow the individual to choose.

Our plan is quite simple. It is based upon the package of benefits offered to involuntarily separated personnel with an increased lump-sum payment.

Under this plan, an individual would be given a lump-sum payment equal to 15 percent of basic pay multiplied by years of service. Someone with 10 years of service would receive a year and one-half's pay upon separation.

But, that is not all. They would get the following additional benefits: preseparation counseling and employment assistance; job training assistance; transitional health care for 120 days; commissary and PX usage for 2 years; use of military family housing for up to 180 days following separation; relocation assistance for personnel currently serving overseas who elect to separate; and permissive leave for the purposes of job search and relocation.

Mr. President, between these two options, it is our hope that the number of involuntary separations can be greatly reduced. While we cannot assure the Senate that the two plans will eliminate the need for involuntary separations, we are confident that a choice between two entirely separate programs will encourage many young men and women who are candidates for involuntary separation to apply for voluntary separation.

COMMISSION ON WOMEN IN THE MILITARY

Mr. President, the second area is the role of women in the military. The Senate Armed Services Committee conducted an extended hearing concerning the repeal of all combat exclusion laws that limit the roles of women in the military services. Because the hearing raised many more questions than it answered, such as the desirability of registering women for the draft and whether or not it should be mandated in law, Senate voted to create a Presidential Commission to review the role of women in the military and to make recommendations to the President concerning the repeal of all combat exclusion laws.

The Commission will be composed of 15 members from various walks of life, who have expertise in law, sociology, women's issues, and most importantly, combat. It was our intent to ensure that the membership be diverse, and we believe we have achieved that end.

During the Commission's review, the Secretary of Defense will have authority to waive all combat exclusion laws for the purpose of testing women's abilities in various military occupational specialties from which they are now prohibited from serving in.

The Commission has to forward its report to the President not later than November 15, 1992 and the President must submit to the Congress not later than December 15, 1992.

PAY RAISE

Mr. President, the third area is military pay. Military personnel will receive an across-the-board pay raise of 4.2 percent on January 1, 1992. While military compensation has not kept pace with private sector wages in recent years, we feel confident that the current pay and allowances provide a good standard of living for our men and women in uniform.

PROGRESS IN MILITARY MEDICAL ISSUES

I am also pleased, Mr. President, that the Conference retained a number of important health provisions that I authored.

CHAMPUS COVERAGE OF THE DISABLED

The first is the provision to restore CHAMPUS coverage for those who lose it due to becoming disabled while on active duty, or if retired and prior to the age of 65. Mr. President, I do not believe it is fair to pull the rug out from underneath one who has become disabled. We have an obligation to these individuals, and I can think of no earthly reason why our obligation ought to be any less due to the fact that they have a disability.

Of course, these individuals are eligible for Social Security disability after 2 full years of disability. But, that coverage is less than that enjoyed by those individuals who will continue to enjoy CHAMPUS coverage as a result of their not being disabled. If anything, we should provide an extra hand to the disabled—certainly, not pull our hand back. This provision will ensure that those individuals who become disabled will receive the same benefit they would have realized had they not become disabled, not be penalized as a result.

HOSPICE COVERAGE FOR ACTIVE DUTY MILITARY

The second is a provision to provide hospice coverage to our Nation's active duty military, their dependents and retiree's who become terminally ill. Mr. President, the Medicare Program has enjoyed the ability to provide terminally ill Medicare beneficiaries with the option of selecting hospice as an alternative to traditional long-term care.

This critical option is cost-effective and often the preferred choice of terminally ill Medicare beneficiaries and their families. I am pleased that the Conference retained my provision, and that military families will now have this critical option, that is available to so many others in society, available to them.

COMPREHENSIVE STUDY OF DEPARTMENT OF DEFENSE HEALTH CARE

And, third, Mr. President, is a comprehensive study of the Department of Defense's health care delivery system. I believe we need to begin to focus on the health reform that must come along with our changing national defense structure, in order to ensure that we can effectively serve the health care needs of our Nation's active duty, dependents and retirees. As such, I am pleased that the Conference retained my proposal requiring that a study be conducted of the Department of Defense's health care delivery system. Not only will this study help us know where we are, with regard to capabilities and costs, it will be instrumental in helping us chart the future course.

The study will examine:

Current and projected costs of military health care over the coming 5 years. The Department's policy regarding various types of user fees and deductibles, and future plans for increasing or reducing such fees by category of service and user;

The availability of military health care to the uniformed personnel of each service—highlighting any shortfalls in the type of care or coverage by service, State, and overseas deployment;

The availability of care alternatives for military families—specifically, the average length of time it takes to gain access to military facilities and access to civilian alternatives by service, State, and area of overseas deployment and report on comparative costs per member and per family with regional indemnity and HMO insurance plans;

Existing alternatives to the traditional military medical system for military retirees and their families by service, State and area of overseas deployment, including Medicare risk contractors. Also, the level of access to military facilities for retirees;

Existing regulations to ensure proper treatment of disabled active and reserve personnel, and the preservation of their full level of benefits; and

The effect of base-closures on access to care, and what can be done to address the needs left unmet with base-closures.

THE FIGHT AGAINST PROLIFERATION

Mr. President, there are many useful portions and amendments in this bill concerning proliferation. One expands the current reporting on missile proliferation to cover all forms of proliferation: nuclear, biological, chemical, aircraft, and other delivery systems. It calls on the President to identify the merchants and buyers of weapons of mass destruction by name.

Exposure is one of the two most potent checks to proliferation, and I hope at some time we will move on to adopting sanctions for those who provide the weapons of mass destruction and the means to deliver them which pose the greatest threat to peace and security for the rest of this century and into the next century.

THE PROBLEM OF ENTITLEMENTS

At the same time, Mr. President, there are aspects of this bill that concern me. I believe that we have made a serious mistake in introducing more activities in the defense budget which have only a tenuous relationship to national security.

We now have costly programs that really belong in other parts of the Federal budget and that threaten to become entitlements programs, Federal subsidies that will drain our defense resources for years to come.

INDUSTRIAL DEVELOPMENT

One such area involves industrial development and the technology base. We have redirected a total of $918 million to programs in these areas, and many involve activities that threaten to make such funding another entitlements program.

Yet, far too many of these programs are largely undefined and inadequately structured. In several cases, the most detailed plans for how millions of defense dollars will be spent is found only in the language of this bill and the accompanying report.

It is worth noting that approximately $150 million was cut from Defense-wide support facilities—which primarily support our test and evaluation activities—to fund these other programs. These are the facilities we depend upon to support the extensive testing of our missiles, aircraft, and other weapons systems.

The Armed Services Committee has put increased emphasis on the test and evaluation phase of weapon system development through the concept of "fly before buy." But, it has effectively robbed these accounts in ways that will inevitably reduce and delay the test and evaluation of our new weapons systems.

I believe that we need to invest in programs to protect the industrial base and to strengthen the technology base. I believe we need national programs to improve our competitiveness and strengthen the private sector.

However, we should not fund general programs to deal with national industrial policy out of the defense budget. We should not spend money on educating K-12 students or establishing fellowship programs with only tenuous ties to defense. We should not drift into trying to reshape all of American industry out of a defense budget whose R&D and procurement levels are likely to drop by 33 to 50 percent by the end of 1997.

We should not embark on annual programs that only make sense if they are funded for years to come and at a steadily increasing level to reach the scale necessary to have a national impact. We are being asked to either waste money on half formed programs that are far too small to have meaning or back into a national industrial policy where most of the real issues affect the civil sector and a truly vast investment would be required to have any real effect.

ENVIRONMENTAL RESEARCH

Second, we will spend $50 million on defense environmental research. Once again, no one can deny the need to protect our environment. However, we are already spending $6.4 billion from the Defense—$2.2 billion plus $400 million for base closings—and defense portion of the Department of Energy budget, $3.8 billion, to clean up military facilities.

Over the next 5 years we will spend $11.5 billion on such clean up programs, and the Department of Defense has estimated that the total cost of environmental clean up for the current round of base closings will cost $424.5 million.

THE ENTITLEMENTS PROBLEM

We should never repeat this kind of mistake. We should either spend Defense dollars on Defense programs, or return them to the taxpayer in the form of tax and deficit reductions. We should never use these dollars to duplicate civil programs.

In saying this, there are some figures to support this point that are dramatic:

First, the growth of entitlements has long outstripped the growth in Defense spending and our economy. In the years since the height of the cold war in 1962, our GNP has increased by 150 percent in constant fiscal year 1992 dollars. In contrast, our real defense spending has risen by 33 percent, our discretionary Federal programs have risen by 194 percent, and our nondiscretionary Federal spending—or entitlements programs—have risen by 474 percent;

Second, defense spending has already been cut enough to sharply reduce the burden it places on our economy and the Federal budget. If we go back to the height of the Reagan Defense buildup, defense spending has dropped from 27 percent of the Federal budget in fiscal year 1985 to 21 percent in fiscal year 1992—a drop of 6 percent. Discretionary Federal spending has stayed nearly constant at 16 to 17 percent, and nondiscretionary Federal spending has leaped from 46 to 52 percent—a rise of 6 percent;

Third, these cuts in defense spending have already produced a major peace dividend. Defense spending has dropped in real terms during each of the last 6 years. Measured in fiscal year 1992 dollars, it has dropped from $366 billion in fiscal year 1985 to $278 billion this year. If one uses the fiscal year 1985 level as a standard of reference, this peace dividend has already reached $347 billion; and

Fourth, the contrast between the drop in real spending and the growth of entitlements has accelerated in recent years. If we measure the drop in real Defense spending in percentage terms, it has dropped by 24 percent in real terms, and 12 percent of this drop has occurred since 1990. In contrast, non-Defense discretionary spending has risen from $187 billion in fiscal year 1992 dollars in fiscal year 1985 to $212 billion in fiscal year 1992. This is a rise in real terms of 13 percent since fiscal year 1985, and 7 percent since fiscal year 1990.

The point, Mr. President, is obvious. Defense dollars are not large enough to feed the ravenous maw of our entitlement programs. They can be used to buy national security, or to provide a peace dividend and to cut our deficit and taxes.

But, they simply must not be used to disguise the fact that we are adding to Federal spending which is draining our economy of growth, costing us jobs, and reducing our standard of living.

I believe that wasting the peace dividend is the last thing the American people want or need. The majority of the American people want a sound economy, jobs, and lower taxes—not more exercises in congressional efforts to manage their lives and personal budgets.

They know that the best solution to our domestic problems is to allow the American people to solve them by reducing the budget deficit and/or Federal taxes. This is the path to a full and robust economic recovery, to more jobs and high wages, to the growth that funds better schools and services, and to a stronger America.

Before any Member of this body, or the other House, rises to recommend that we shift defense funds to any other federal activity, he or she owes the American people an explanation. That explanation must be detailed and comprehensive, and it must decisively show that such shifts are more important than cutting our deficit or reducing taxes. I suggest, Mr. President, that no such explanation will ever be forthcoming.

THE PROBLEM OF STRATEGY

Important as the issue of entitlements is, Mr. President, there is another problem shaping this year's Defense authorization bill that is equally important. This is the problem of strategy.

This is the last year we will be able to deal with our present force structure and strategy and treat them as another annual exercise in Defense budgeting. We face changes that require fundamental shifts in U.S. policy and strategy, and in our Defense priorities.

If we make these shifts in the right way, we can aid the American people and our economy, develop a force posture that meets the new strategic needs of the 1990's, and fund the forces we need by canceling projects whose time and value has passed.

If we make these shifts in the wrong way, we risk adding to domestic waste and our budget deficit. We will lose the capabilities we need to help maintain world peace and meet the new challenges to peace in the developing world. And, we will waste billions on dinosaurs like the B-2 and SSN-21, while failing to protect our men and women in uniform.

GIVING THE AMERICAN PEOPLE A REAL PEACE DIVIDEND

Let me begin by discussing the issue of Defense spending. I believe that there is little doubt that if the current trends in the Soviet Union continue, we will be able to make additional cuts in Defense spending. At the same time, I believe we must be cautious in overestimating the size of that cut, and cautious in the way we use the resulting savings.

Our current force plans already call for a 25-percent cut in our military forces by fiscal year 1996. They call for cuts of 33 percent in our number of active divisions, 40 percent in our Reserve divisions, 18 percent in our naval battle force, 38 percent in active tactical air wings, and 33 percent in our strategic bombers.

We must not rush to take a further peace dividend before we are certain we can still fund the forces we need. There is no question that we live in a time of strategic change, and that our present strategy and forces do not reflect that change.

We will have to change our forces far more drastically during the next few years than we have yet admitted in shaping this year's Defense authorization and appropriations acts. We must be careful to make these changes at the right pace.

We cannot lose sight of the fact that the future nature and leadership of the Soviet Union are still highly unpredictable, that the future of the Soviet Union's military forces remains uncertain. Above all, we cannot ignore the fact that we still need military forces to defend our interests and those of our allies in other parts of the world.

I would not argue for a moment that we need everything funded in our current defense budget. As I have already argued in this body, programs like the B-2 have become a strategic albatross, and programs like the SSN-21 have become the equivalent of a lead balloon, and we can certainly make further cuts in our forces for Europe and the so-called reconstitution forces whose only purpose is to fight world war III.

We need to firmly recognize, however, that we have been spending our peace divided for more than half a decade. We need to recognize that the ongoing reductions in Defense spending will bring us close to the bare minimum we will need to make orderly cuts and changes in our forces, and to convert from cold war strategy and force posture to one oriented toward the power projection missions of the future.

This power projection strategy, and the force posture necessary to implement it, are the inevitable result of our position in the world. We cannot stand aside from history and try to shape it at the same time. We cannot seek a peaceful world, and global economic interdependence, and pretend there will not be new Saddam Hussein's in the future.

We need this strategy, and the proper forces, for the same reasons we needed a maritime strategy from the time we attacked the Barbary Pirates to the beginning of World War II. We need it for the same reasons we have used military force more than 220 times since the end of World War II to defend the interests of our citizens, our friends and allies, and our Nation in contingencies that had nothing to do with the Soviet Union and the Warsaw Pact.

We also should not have any illusions about the size of the forces we are cutting. We did not size or structure our forces to challenge the Soviet Union alone. We shaped them to take account of alliances like NATO, our alliance with Japan and South Korea, and our alliances with a host of friendly states like Israel, Egypt, and Saudi Arabia.

We also have made countless compromises in the past, in order to reduce the burden defense places on our economy. In fact, we have long accepted the military risk of having only about half the total mix of forces for NATO and power projection missions that many joint staff studies have shown we really need.

The resulting shortfalls were exemplified during Operation Desert Storm. We must remember that this crisis came at a time when many members of this body were stating there were no major threats in the developing world—and when some were saying that the Iran-Iraq war has brought a new stability to the region. We must remember that our victory was only made possible because Saddam Hussein sat and waited for 5 months, and failed to bring his forces to the readiness they had shown against Iran only 2 years before.

We must remember that we encountered major shortfalls in airlift and sealift during the build-up for Operation Desert Storm. We must remember that we were critically short of heavy armor and firepower for our Army and Marine forces up to the final weeks before the war began. We must remember that we used many of our ground forces for NATO, virtually all of our combat deployable carrier strength, at least two-thirds of our Marines, and a large portion of our tactical aviation and bombers for this one contingency.

We must remember that even this build up was only possible because of the cooperation of friends like Bahrain, Saudi Arabia, and the UAE. We must remember, for all our successes, that the political and strategic outcome might have been dramatically different if it had not been for Israel's courage and restraint, and if we had to escalate to a very different level of conflict. We must remember that we were part of a coalition and that our forces were successful because they fought along side the forces of Britain, France, Egypt, and many other nations.

We cannot afford the illusion that we have a vast surplus of forces we can easily eliminate. We must not cut defense spending without a clear picture of the force posture we wish to preserve and the strategic capabilities we wish to preserve or create.

We do not have a surplus of power projection capabilities, and it is important to note that our current defense spending and force plans will leave them badly short of sea and airlift, modern amphibious forces, long range tactical strike aircraft, mobile armored forces, and a host of other capabilities. As we cancel programs suited to the cold war, we may well need to shift these resources to the other military capabilities that will ensure we can rapidly and decisively project power without suffering serious casualties.

Above all, we must not confuse a new period in history with the end of the history. Like it or not, we have become the one power in the world that can project enough military force anywhere in the world to halt aggression, deter conflict, and protect our interests and those of our allies.

SETTING NEW PRIORITIES FOR DEFENSE SPENDING

This leads me to my final point, the need to set new priorities for Defense spending. I believe that we need to urgently concentrate our resources on power projection missions, and that we need to ensure that we fully fund the core forces we have in being, and the necessary air and sea lift, rather than indulge in high cost and high technology experiments that we may never be able to afford.

To be specific, we should not cut our carrier task groups or our Marine Corps combat forces. We should not cut the combat ready Army and tactical Air Force units, and their reserve counterparts, whose primary mission is power projection. We should keep elements of our forces forward deployed for missions in Asia, the gulf, and Europe—not rush forces home that we will need to redeploy in the emergencies and crises that are certain to come.

Where we can make cuts is in the nucear forces that will be cut as part of START, and which are certain to be the subject of ongoing force cuts as our relations with the Soviet Union or its successors improve. We can legitimately demand that it is our European allies that bear the overwhelming burden of their own defense, as we shift to a power projection role.

We can ruthlessly pare our Active and Reserve Force structure to eliminate those forces whose primary mission was to fight a prolonged conventional war in Europe. We do not need these forces, or the expensive shell of a reconstitution mission, and this should permit major further cuts in our force structure, support structure, and headquarters in the United States.

We need to recognize that as the Soviet threat continues to diminish, we need to emphasize maintaining our high quality of men and women in uniform, and the overall readiness of our forces, not technology per se. This is why we can and must kill expensive dinosaurs like the B-2 and SSN-21, and show extreme caution in depriving our defense industrial base of proven weapons and munitions in the hope that we actually produce sweeping advances in technology after the year 2000.

We cannot afford to throw away two birds in our hands for one in the bush. We cannot afford to leave tactical aviation unfunded to buy the B-2. We cannot afford to consume 25 percent of our ship building budget by buying an SSN-21 whose only justification is that the Navy failed to budget for the smaller submarine we actually need.

We cannot afford to halt production of all our current fighters in the hope some aircraft whose technical details remain uncertain may become a reality. We cannot halt the production of proven and easily upgradable armored weapons, and helicopters like the AH-64, for promises of unknown price and performance.

THE NEW CHALLENGE OF DEFENSE PLANNING AND BUDGETING

In conclusion, let me note that this year's authorization bill is only a prelude to the real Defense debate that will come next year.

I believe that that debate must focus on how to obtain a peace dividend in a way that will preserve our key capabilities. I believe that it must focus on using that peace dividend to cut our budget deficit and taxes.

I do not believe that it will serve the national interest in any way to confuse these real issues with yet additional spending on entitlements.

We cannot foresee all of those changes today. However, unless we make the right beginnings we will deprive the American people of the true peace dividend they deserve, we will pursue the wrong strategy and threaten the peace, and we will waste billions we cannot afford on forces and equipment we do not need. The central issue is how to cut our spending and our forces in a way that will preserve and expand the power projection forces we need for the future. This is the only meaningful standard for judging our success.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WARNER. Mr. President, could I be allowed just tc thank 1 year's worth of participation and hard work for 1 minute?

Mr. LEAHY. I do not want to be discouraged. I have had the floor five times and yielded the floor five times to others. Certainly, if the distinguished Senator from Virginia needs his 2 minutes, I will yield the 2 minutes without it coming out of my 30 minutes.

Mr. WARNER. I thank the Senator from Vermont. I simply wanted to acknowledge 1 year's hard work by the Senator from Arizona, working in partnership with Senator GLENN. Our committee is fortunate to have these two individuals because they draw on an extensive background of personal experience at all levels of the military, and those experiences are brought to bear on tough decisions, like the most recent in terms of how we deal with this, as the Senator from Maine used to say, the build-down, the personnel structure of the Armed Forces as we take 5 percent per year. I want to personally thank both Senator McCAIN and, at this time, Senator GLENN for their work in the personnel area.

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield 2 minutes, not out of my 30 minutes, to the Senator from Georgia, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from Vermont for his great patience. I know he has important remarks to make, and I do thank him for his willingness to yield.

I can announce on behalf of the majority leader that there will be no further rollcall votes this evening.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I was glad to yield to the Senator from Georgia. I think the American public is probably thrilled, excited, and enchanted by the unanimous-consent request. They are probably right on the edge of their seats if they were watching or listening. Probably nowhere near as excited and enchanted as our colleagues when, at the very end, he said no more rollcall votes.

Mr. NUNN. Mr. President, it was one of my better speeches.

Mr. LEAHY. Mr. President, the press heralded a compromise between the House and Senate negotiators. The said the compromise was the death knell of the B-2 stealth bomber program. As the Senator who offered the first amendment to terminate the B-2 in 1989, I do not think anybody would be happier than I would be to see this monument of waste and inefficiency ended.

Mr. President, I was stunned, as I believe many others were, once we read the details of the final agreement that was made available on November 14. To paraphrase a famous statement of another Vermont Senator, we have declared defeat and pressed on.

Reports of the B-2's demise are based on the agreement of negotiators that only one additional plane would be authorized. You may recall the administration requested four. The fate of this last B-2 is still subject to approval next year by both the House and the Senate, and the House has killed the program for 2 years running. The Senate came within two votes of ending this boondoggle this year.

But this decision to conditionally authorize just one more plane, Mr. President, is a Trojan horse. There is some small print attached to the deal that has been missed by the press. It has been missed by the headline writers. I would hope that even at this late hour, there are those in the press who are following what is going on, because they missed the point.

The conferees also included a deal that virtually assures that the B-2 is going to be back for a rerun as a far more attractive program, to that dwindling percentage of people in this country who still support this flying boondoggle. The House and the Senate conferees approved $1.8 billion in unrestricted funds. The Air Force will use the funds to purchase parts and sections known as kits for future B-2's that have not yet been authorized by Congress.

This program is drowning in money. The B-2 is about the only thing in this country that has more money than it can even use.

The Air Force is sitting on a $3 billion pool of unobligated B-2 funds that were previously approved by Congress that has not even been tapped yet. It is almost like their own Swiss bank account. Northrop, the B-2 contractor, has been unable to show it can produce the aircraft orders planned by the Air Force.

Ironically, the problems that plague the B-2 program may actually save it from extinction. Can you imagine? The same failures, the same faults, the same design failures—all these things that should have killed the plane—we now find that the worse it got, the more it got screwed up, the longer it took, the more time it took, that may have actually saved it.

It has taken Northrop millions of man-hours to build each bomber. It will be years before Northrop and the Air Force need the actual authorization to assembly these kits into future planes.

This conference report is the wedge to pressure billions more taxpayer dollars in the future for a plane that became obsolete while it was still on the drawing board.

I hope that no Senator is deceived by this agreement that allows the Pentagon to spend billions on planes that have never been approved.

I can hear the Air Force testimony now that will be on the record in another year or so. They will bring in new pictures describing a new mission for the B-2. After all, nobody is going to hold onto the old mission, because we know it is anachronistic. The cold war is over.

The Air Force will tell Congress: well, it will be cheaper to build more planes with the kits that we have already purchased than it is to terminate the program.

How many times have we heard that? We pour so much money we do not need into a program, and the Pentagon says: But we have to spend a few billion more because, gee, we would waste all this money we spent. We would waste the money we wasted if we do not waste money.

Anywhere else in the world, this would be fantasyland. Here it is the defense budget.

How many kits do we have now? Who knows? But after this agreement, we are going to have even more. The Pentagon will argue that we have the parts, so why not put them together? And Congress will end up buying more B-2's, unless somebody is willing to stop this nonsense.

The narrow vote in the Senate on September 25 indicates the rapidly eroding support for the B-2 program. This plane, designed to elude Soviet radar and deliver nuclear weapons to downtown Moscow, lacks a mission. And, only weeks before the Senate vote, the Air Force announced that the B-2 had failed a flight test designed to test its stealthy features.

Does it sound a little bit like what went on with the B-1? During the Persian Gulf war, we used everything in our arsenal except the B-1. We found out to get it over there, we would have to have the Navy ship it over, and they did not really want it.

After spending $30 billion on the B-1, the Air Force now wishes that the Congress had killed it. Now, they have to pay for the crews, the pilots, and the upkeep. And now they are going to do the same thing to us on the B-2.

While the effort to kill the program failed when the Senate voted on it, we did restrict release of any further B-2 funds until a vote next year, and only after the plane met its original stealth requirements. The Senate restriction is a sensible fallback position.

If the House voted to kill the program, and the Senate restricted the funding, it would usually be a safe assumption that the House and Senate conferees would reach an agreement on such a troubled program that was somewhere between the two positions.

Well, this is the most novel compromise I think I have ever seen in my years in the Senate. The conferees rescued this program against all odds, and Senators should realize that it was not the posse but the cavalry that determined the B-2's fate. It got killed for all effective purposes in the Senate; it got killed for all effective purposes in the House.

And all of a sudden, in the dark of night, from the closed doors, out of the conference comes the B-2, alive and well—not able to fly very well, not able to elude radar very well, but sure as heck able to tap into the Treasury like a big vacuum cleaner.

No, Virginia, there is no peace dividend for the American taxpayer in the near future, because the Pentagon and some Members of Congress still believe in the Stealth bomber.

With all the problems of the B-2 bomber, we find that it has one mission, and only one, that it can successfully carry out. That is to milk the American taxpayers over and over and over again.

I yield to the distinguished Senator from Tennessee.

I yield the Senator control of the remainder of my time.

Mr. SASSER. I thank my friend from Vermont.

Mr. President, I have closely followed the progress of the armed services authorization bill and of defense spending in general over the course of this year, and I intend to follow it even more closely next year. I have watched this bill evolve into its present form, and I have expressed my views at various intersections along the way as the bill has evolved.

Mr. President, the Armed Services Committee has worked diligently, very hard, and the chairman and the distinguished ranking member both have struggled very ably with a varity of complex problems. This conference report is a product of diligent and conscientious effort for all concerned.

But, Mr. President, I shall vote against it. In broad terms, the legislation before us this evening simply authorizes too much spending for military purposes. I would observe that the record of the bill's history and development unequivocally proves beyond a shadow of a doubt that it spends too much in its current form.

Early this year, my colleagues will recall that I offered an amendment to the defense appropriations bill that cut military spending modestly, with the savings aimed at deficit reductions, simply taking some money off military spending and using it to reduce the deficit in this new era in international relations in which we find ourselves.

I offered that amendment to bring our pattern of military spending in conformity with the rigorous demands proposed by the budget agreement in coming years.

I proposed a prudent cut. I put a heavy premium on getting deficit savings, on reducing the deficit, without impairing the readiness of our military force structure in the near term or after.

I would call my colleagues' attention to a chart which indicates the problem we have now with the budget agreement scheduled to expire in fiscal year 1995.

It indicates that if we continue to spend at the present level of discretionary spending, by 1995 we will have exceeded the caps by a substantial margin; by fiscal year 1993, we will have exceeded the budget agreement by $9.4 billion; by 1994, by $19.8 billion; by 1995, by $24.8 billion.

I pointed out to my colleagues earlier this year the problem we have. The yellow represents the limit on discretionary spending that is imposed upon this Government by the budget agreement, slated to expire in fiscal year 1995. The red area represents where we are going if we continue to spend at the present level. You can see that clearly we are going to exceed our statutory spending authority under the budget agreement by a substantial margin beginning in fiscal year 1993 and continuing on out to 1995.

I tried to present the evidence documented by the Congressional Budget Office that big ticket programs are on a collision course with the discretionary spending limits. Ultimately, mine was an argument for preserving the budget agreement, saying simply that, if we continue to spend in the military area at the rate we are going, we are going to exceed the caps. I also indicated that would occur in domestic spending as well. I argued for presering the budget agreement. Curiously enough, I was opposed on the grounds of violating the agreement.

In the intervening period, we have had an effort by the armed services conference itself to cut even more out of defense in fiscal year 1992 than I purposed in my amendment. There was a proposal in the armed services conference to cut $1 billion in outlays for fiscal year 1992, roughly $250 million more than I proposed to cut myself in fiscal year 1992. That money was not going to deficit reduction, which it would have to under the terms of the budget agreement. It was going to be spent. Moreover, it was to be spent in a manner that, unlike my amendment, would actually have violated the budget agreement.

Even more surprising, the transfer would have come from sensitive operations and maintenance accounts, which was have been told in years past are sacrosanct and would have affected force structure immediately. The amendment that I offer was carefully tailored to avoid that.

Mr. President, the lesson in all of this could hardly be more clear. Every time some of us come to this floor to try to bring military spending down to conformity with the world we live in today and the threats that we face today, the reduced threats I might say that we are faced with today, we are confronted with the charges, oh, that cannot be done; that will weaken our security. Oh, this is an ad hoc cut. We have not looked into this. We have not had hearings on it, and that violates the budget agreement.

Yet, when the committee of jurisdiction itself wants to make cuts in a conference for reasons of its own choosing—and I do not contest the validity and the wisdom of those reasons—suddenly there is $1 billion that can be carved from the Pentagon budget without any perceptible consequences to our security. Typically, the defenders of military spending do not admit that we can simply take $1 billion in outlay out of our military budget, but this year we have a tacit confession that, yes, it can be done.

The committee's actions confirm that $1 billion under the defense cap does not really need to be spent for military purposes this year. Clearly, if defense cuts can be made for a transfer to the Soviet Union, them they can be made without impairing our defense.

Now that the Soviet aid will come from other budgetary resources, is that $1 billion that was originally allocated to go to the Soviet Union available for deficit reduction? Is it available for education, for health care, for roads, for crime prevention? Why, of course not. It is right back in the military budget, and we are told once again that every dollar of that bill is sacrosanct.

Mr. President, I want to emphasize that I am not opposed to aid to the Soviet Union. I want to commend the distinguished chairman of the Armed Services Committee for having the wisdom and the foresight to anticipate the problems that we are going to encounter in the breakup of the Soviet Union.

I wish that the President of the United States, and I wish that this administration would evidence the wisdom and the foresight that the distinguished chairman manifested when he isolated what I perceive to be one of the greatest dangers to the United States, and indeed to our lives, coming from the breakup of the Soviet Union itself. I do not contest that for one moment.

But the larger point that I am making this evening to my colleagues is that the Pentagon does not need all the money that is requested for military spending this year. If the Armed Services Committees can offer up $1 billion with relative ease and do it with the administration's initial approval, then I submit that the cap for defense spending in 1992 was simply too high to begin with. And it follows just as certainly as night follows day that the caps for 1993, 1994, and 1995 also are unrealistically high and should be reduced.

Having made that observation, Mr. President, I want to touch briefly on a specific request in this bill that I find most troubling—the proposal to dramatically increase spending on the strategic defense initiative. This bill would have the American people lay out $4.12 billion this year for the strategic defense initiative, the so-called star wars system that was conceived in the darkest days of the cold war, now to be deployed at the expense of far more pressing national needs.

It is a proposition, I submit, that has been totally unexamined by the vast majority in this body. It has not been debated in any public forum that I am aware of. It is a continuation of big ticket military spending that promises to misuse our fiscal resources for decades to come.

Mr. President, the vast majority of the House of Representatives and 50 Members of this body are on record opposing expansion of the strategic defense initiative and deployment of it. A majority of Congress believes that the strategic defense initiative is both strategically unwarranted and fiscally unsustainable.

Yet, an influential minority has pushed it forward with hardly a whisper about strategic considerations or expense. At a time when most committee chairmen are forced to tell their members there are no new initiatives to be funded in the health area, in the area of crime prevention in the area of education, and the infrastructure area, the Armed Services Committee plans not only to fund a new initiative, but to fund it at over $4 billion next year, and $10 to $20 billion in the coming years.

I have argued in the past that we need to put this whole issue in a national context. What exactly is this kind of protection worth to the American people? Does the threat of a rogue Soviet missile striking us really match the threat that we face internally? I do not need to go through the whole litany of decaying inner cities, a culture that is on the edge of disaster, a collapsing infrastructure, sagging test scores, a population desperately in need of some kind of sustainable health care system.

Does the possibility of a missile attack from Libya, from Pakistan, or even North Korea really weigh equally in the balance with the dangers posed by what we see right here, such as crime on the streets of our neighborhoods, where one is afraid to walk three or four blocks away from the Capitol after 8 or 9 o'clock at night? That is where the threats to this country and this culture and this system come from.

Well, the same questions, I think, have to be asked about our military budget that we ask about all other Federal expenditures. Why in the world are we spending so much money for the military in a world that has changed so dramatically? What are the real threats that face this Government and face the American people? That debate, in my judgment, has not occurred yet to an adequate degree. Until it does, I will continue to oppose military spending at the levels offered in this conference report today.

I would be remiss, Mr. President, if I did not also at this time pay tribute to the distinguished chairman of the Armed Services Committee for trying to point the way to this administration, and I think point the way to many others, of the new approach that needs to be taken in dealing with our former enemy, the Soviet Union. I think he is on the right track.

I disagree with the manner in which this effort was first put forward by the Armed Services Committee. But, indeed, I do think that there is a significant threat to our national security, and a significant national threat to all of the democratic countries that can emanate from the breakup of the Soviet Union, from the spread of nuclear weapons technology, and the very weapons themselves, coming out of the Soviet Union.

But that does not subtract from my main point that we are spending too much for the military at this time in our history, that this military spending can be reduced, and that we have seen by the actions of the Armed Services Committee itself, that it could be reduced by at least $1 billion, without jeopardizing the security of this country.

Mr. President, I yield the floor.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, pursuant to a previous order, I send a cloture motion to the desk and ask that it be read.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Senate Resolution 198, to amend Senate Resolution 62 (102d Congress) to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran:

Paul Sarbanes, Don Riegle, Claiborne Pell, Dennis DeConcini, Jim Sasser, Paul Wellstone, Bob Graham, Wendell Ford, Pat Leahy, Carl Levin, John Glenn, Paul Simon, Howard M. Metzenbaum, J.J. Exon, George Mitchell, Harris Wofford.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. NUNN. Will the Senator from Ohio let me make one brief comment and ask the Senator from Tennessee a question before he leaves the floor?

Mr. GLENN. Yes. I yield to Senator NUNN.

Mr. NUNN. Mr. President, I would like the Senator from Tennessee to correct me if any of my information is incorrect. And, if not tonight, I would certainly like to have this information tomorrow, because while we may disagree on some of the policies, we should not have any disagreement on the facts as to the budget applications, or actual number of outlays in authorization authority here.

Mr. President, it is my understanding, and I believe this is absolutely factual, that the defense spending in this bill does not violate the budget agreement in 1992 and is not on a course to violate the agreement in 1993, 1994, and 1995, based on all of the analyses I have.

I think what the Senator has demonstrated here is, if you combine all discretionary, including defense, we are perhaps on a course to be over the budget in the outyears. But it is my view, and we have had this debate once, that that was a discretionary problem rather than a defense problem.

Let me just ask the Senator this: We understand—and we have the scoring from the Congressional Budget Office—that this bill is $1 billion under the budget resolution level in outlays, that we are not spending up to the cap. I do not believe you are going to find any other committee on Capitol Hill that is under the cap. We, in effect, are spending $1 billion under the cap in outlays in this bill.

Does the Senator have any information that he can confirm, or anything contrary to this information?

Mr. SASSER. Well, I have no information that would either confirm or indicate that the Senator from Georgia is incorrect. I just have no way of knowing.

Mr. NUNN. Would the Senator mind checking on that tomorrow and making a little statement for the RECORD, because of the respect that he has as chairman of the Budget Committee, and people listen very carefully to what he says, and perhaps if he agrees with this, we could indeed set an example here. But we are not spending up to the authority. We are $1 billion below the authority and, in essence, what the

Senator proposed on the floor was to cut, I believe—what was his proposal?

Mr. SASSER. I am proposing to cut approximately $750 million in outlays.

Mr. NUNN. We can save more than that in this conference report.

Mr. SASSER. Is that in outlays?

Mr. NUNN. Yes, in outlays.

Mr. SASSER. Well, if the Senator is coming in below the caps, then I want to commend him for that, and I would encourage him to do even more in the years ahead. I look forward to working with him in that respect and would give him all possible encouragement.

Mr. NUNN. I ask the Senator to make his congratulations contingent on further checking with the CBO. But this is the information that we have, the best information I have, and if it is not correct, I would like to know, and I would like to know where we differ in numbers.

If it is correct, I think it would certainly be helpful, and maybe it would stimulate other committees, if we are saving this much—and I believe we are—to have that known by the chairman of the Budget Committee.

Mr. SASSER. We will certainly check that in the Congressional Budget Office and get an affirmative response to the chairman of the Armed Services Committee, and if indeed the committee is coming in $1 billion below its cap that is commendable and the fact that that amounts to perhaps less than one-half of 1 percent of defense outlays should be taken into consideration. It is the motive.

Mr. NUNN. It is actually 25 percent above what the Senator from Tennessee asks us to save, so we have taken his comments to heart and we have done our best. I hope we are accurate.

Mr. SASSER. I respect the distinguished chairman.

The PRESIDING OFFICER. The time under the control of the Senator from Tennessee has now expired.

Mr. SMITH addressed the Chair.

Mr. GLENN. Mr. President, I had already been recognized I believe. I yielded to Senator NUNN.

The PRESIDING OFFICER. Who seeks recognition at this time?

Mr. GLENN. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GLENN. I believe I had already been recognized.

Mr. NUNN. The Senator from Ohio yielded to me.

Mr. GLENN. I had already been recognized and not made my statement yet. The Senator yielded me time to make a statement, I believe.

Mr. SMITH. I make a parliamentary inquiry.

The PRESIDING OFFICER. The Chair does not believe that the Senator from Ohio had been recognized. The Senator from Tennessee was the last recognized. The Senator from New Hampshire is ranking minority member of the committee and present on the floor at this time.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Was I advised all my time was expired?

The PRESIDING OFFICER. Yes.

Mr. SASSER. A further parliamentary inquiry: Was I controlling the time in opposition?

Mr. NUNN. Mr. President, I thought I was controlling the time on this side.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Under the previous agreement the Senator from Vermont was given 30 minutes and yielded the remainder of his time to the Senator from Tennessee.

Mr. SASSER. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GLENN. Mr. President, I object. I was recognized and Senator NUNN asked to make a couple comments after I had been recognized.

Mr. SMITH. Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMITH. The time has been controlled by 5 or 6 speakers on the other side for the past 45 to 50 minutes with nobody on this side, few of whom are even members of the committee. We accepted the unanimous consent. Surely, the Senator from Ohio can afford us the courtesy to allowing someone to speak on this side.

I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I appreciate the Chair's courtesy.

Mr. President, I rise today to support this defense authorization conference report and offer some personal comments concerning this bill before us.

First of all, I commend the distinguished chairman, Senator NUNN, and the ranking member, Senator WARNER, for their leadership and fairness throughout the Armed Services Committee's deliberations this year. I am a junior member of this committee, and this was my first opportunity to work with these two Senators, and their courtesy throughout the whole process is very much appreciated.

Mr. President, the bill before us reflects 10 months of hard tedious work by this committee and some 7 weeks of negotiations with the House of Representatives to try to fashion a defense bill which advances our national security interests in a rapidly changing world environment. Let me be clear from the outset. The task was very formidable. The House and the Senate-passed authorization bills embodied extremely divergent philosophies. They were different on national defense, national security, and other matters. The process of reconciling the disparities was tumultuous and difficult. In the end, we reached a compromise, but as always with compromises, neither side was completely satisfied, some winners, some losers.

The conference bill is something of a mixed bag of goods. On the one hand, there are many provisions which I strongly support. In particular, I am extremely pleased that the Senate and the House finally recognized, finally, the immense value of ballistic missile defense, and endorsed the goal of deploying a multiple site ABM system. Contrary to the remarks of the Senator from Tennessee, I believe we need very much that multiple site ABM system.

This long overdue initiative sets the groundwork for the United States to transition from the dangerous policy of mutual destruction to a deterrent posture which integrates both offensive and defensive forces. Furthermore, the legislation calls upon the administration to negotiate modifications in the ABM Treaty to permit multiple interceptor sites, increased utilization of space-based sensors for battle management, and clarification on deployment and testing of space-based defenses.

Mr. President, these are historic initiatives, controversial, but historic.

Mr. President, while I strongly support these initiatives, I would have preferred that Congress adopt the President's SDI program, known as Global Protection Against Limited Strikes. As we saw in Desert Storm, the proliferation of ballistic missiles and weapons of mass destruction pose a clear and present danger to our national security, even in Tennessee, Mr. President.

In my opinion, the President's program, which combines both ground- and space-based interceptor systems, is far more effective and responsive to these threats.

But we had to fight for every word and every penny of funding in the Missile Defense Act. And against my fervent opposition, SDI opponents succeeded in exempting Brilliant Pebbles from the initial architecture and reducing funding to $390 million. Nonetheless, the program survived, it survived. And the U.S. Congress has taken what I hope to be an irreversible step, and a long overdue one, to endorse a multiple site missile defense system.

On the other hand, Mr. President, I am disturbed by the scope and the pace of reductions in our military forces. As my colleagues know, I have often cautioned that we are embarking on unilateral reductions which go too far, too fast. Yet, in the days since August and abortive Soviet coup, I have heard countless demands to further constrain defense spending. So that no one should forget, last year's budget summit agreement set the framework for a 24-percent reduction in defense spending by 1995—24 percent, Mr. President. The cumulative result of these and previous budget cuts will entail an approximate one-third reduction in overall defense spending between 1985 and 1995. Defense spending as a percentage of the Federal budget will fall to approximately 18 percent; 25 to 30 years ago it was 47 percent of our budget. In the very near future, perhaps by the end of this century, we will be spending more on interest on the national debt than on the defense of the United States of America. That is simply wrong.

Before my colleagues hastily jump on the so-called peace dividend bandwagon, I would urge them to consider the full range of military and economic effects of these actions. For instance, the bill before us keeps the United States on a track to eliminate some 500,000 military personnel in the next 5 years. Yet, as usual, unfortunately, politics and parochialism prevailed, and Congress approved only a fraction of the Reserve Force reduction requested by the administration. This action wreaks havoc on the budget and on the budget process and undermines the total force balance.

Furthermore, the myriad of budget driven program terminations and consolidations contained in this bill will eliminate tens of thousands of industrial-based jobs throughout the United States of America. This is hardly the kind of medicine needed to cure the nagging recession, especially in the high-technology corridors of California and New England.

At the same time, the United States is pulling ground forces out of Europe and Asia, we are eliminating a substantial number of naval vessels which form the very backbone of our forward deployed military posture. Thus, not only is John Lehman's vision of a 600-ship Navy dead, but our Nation's power projection capabilities are dying, as well.

Mr. President, without question, the world is a different place than it was just a few short years ago.

But it is in flux, and no one knows for sure how the various international transformations will play out. The Persian Gulf war vindicated Ronald Reagan's courageous and visionary defense buildup and it validated the equipment and war fighting doctrine of our Armed Forces as we saw in the Persian Gulf. Let us not sacrifice this hard fought superiority and replay the mistakes of the post-Vietnam era. Let us not make those mistakes again. We owe more than that to our national security and to the men and women who put the uniform on.

In conclusion, Mr. President, I caution my colleagues against falling into a trap of complacency. Because just as we benefited, we did benefit from the lessons learned in the Persian Gulf. But I might add, so did our adversaries. So did our adversaries learn a very, very difficult lesson, especially Iraq.

The United States must be prepared to fight the wars of the future—of the future; not the past, the future. And while the bill before us is not what I believe to be best for national interests, it is the best we could get out of this Congress. Believe me, it is the best we could get out of this Congress. In my opinion, it represents the minimum necessary to balance our military requirements with current fiscal realities. Hopefully, future Congresses will oppose further pillaging of the defense budget.

Mr. President, I yield the floor, and again thank the Chair for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, there are parts of this conference report that I believe the Senate can take great pride in. While there are some provisions with which I disagree, this conference report is balanced overall. Therefore, I intend to support passage.

One of the most important provisions contained in this conference report is the Missile Defense Act of 1991. This legal, conceptual, and arms control framework for proceeding with the development and deployment of theater and strategic defenses represents an historical consensus within Congress. While all Members have not endorsed it, the Missile Defense Act has brought together an overwhelming majority in Congress on this issue. I am hopeful that it represents an end to the wasteful and divisive debate over SDI that we have engaged in since 1983.

I was also pleased that full funding for the B-2 bomber was retained, although I realize that the program must pass some very stringent testing requirements before Congress will authorize additional aircraft. I believe that the B-2 must pass these performance standards, but I do not agree with some who have argued that the program is dead, that this year's actions merely signaled a last gasp for the program. If the B-2 successfully meets the technical standards set for it, I hope Congress will settle the procurement issue next year, once and for all. Each year, we defer a final decision on the B-2, the program becomes more expensive. Next year we should either terminate this program or proceed to buy the remaining aircraft at an economically efficient rate.

Mr. President, despite my general satisfaction with the conference report, I am deeply disappointed that the conferees dropped the provision, passed twice this year on the floor of the Senate, to allow localities first right to assume control of property associated with bases that are being closed. While I understand the opposition to this amendment, in both the administration and Congress, I believe this is a matter of fundamental fairness. I realize that the administration regards this provision as a source of revenue loss and an alteration to established means for disposing Federal property. In the case of base closure, however, there is an overriding concern: The needs of the communities that have served this country for years and who hold great pride in the bases that are located in their midst.

Given the sacrifices we are asking these communities to make, and given the Federal Government's already significant responsibility to help mitigate the impact of these planned closings, it may well be in the taxpayer's interest to turn these properties over to local governments where coherent planning is likely to get them back in the productive private sector sooner rather than later. In my view, we must do everything within our power to ensure that those individuals who must bear the negative impact of base closures at least have the opportunity to determine their reuse options.

I also realize that the Department of Defense has expressed a willingness to examine, on a case-by-case basis, the merits of local reuse proposals. While I appreciate this effort at flexibility, I believe we owe these communities stronger guarantees.

I am disappointed that we were unable to find an acceptable compromise this year. Therefore, Mr. President, I fully intend to revisit this issue next year.

If members of the Senate who have offered this amendment previously do not plan to do so in the future, I will do so. I intend to make it a matter of priority within the Senate Armed Services Committee. I think the U.S. Senate and the U.S. Congress needs to review this issue very, very carefully. And if we have to pass it a dozen times to make the point, then we should do so.

It is unfair to local communities who are devastated by the impact of closing a defense establishment or a military post to have to be last in line to receive the right to utilize the property to revitalize their area and to bring back the private sector growth to replace the loss incurred by the closing of the base. They should be first in line, not last in line. And the Johnston-Breaux amendment, which this Senate passed, and the Roth amendment, which clarified that amendment, clearly put the Senate on record as supporting that reversal of procedure which gives these communities first right.

I am disappointed that this was dropped in the conference and we could not secure DOD or administration support or even support from key members of the committee on either side of the aisle. But I intend to press forward on this issue. It is a matter of equity and fairness to the communities involved, and I hope to revisit it early next year.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

Mr. NUNN. Mr. President, how much time is remaining, and how much time does the manager on this side have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 46 minutes 14 seconds.

Mr. NUNN. Mr. President, I yield to the Senator from Nebraska such time as he may desire and thank him for his tremendous leadership in the committee as a whole and particularly in the Strategic Subcommittee which is one of our most difficult and important subcommittees. I thank the Senator from Nebraska. I know of no one who is a stronger supporter of national defense and also a strong supporter of spending our taxpayers' money wisely in pursuit of strong national security than the Senator from Nebraska. I thank him for his leadership, and I yield him such time as he may desire.

Mr. EXON. I thank my friend and colleague from the State of Georgia, the very distinguished and able chairman of the Armed Services Committee.

I wish to join my colleagues, Mr. President, in saluting the leadership of not only Senator NUNN, as just referenced, but also the great team that he has with Senator WARNER of the State of Virginia. We admire both of these individuals from both sides of the aisle in the Armed Services Committee where there is probably less partisanship than any other committee in the U.S. Senate. We have our disagreements. We work them out as best we can.

I rise to briefly make some points with regard to the defense authorization conference report. I urge my colleagues to support this effort that has been one of the most difficult efforts that we have ever made in coming to some kind of an agreement with the House of Representatives. Never before in my memory of 13 years on the Armed Services Committee have we had such a wide disparity of positions and such a great disagreement as we have had this particular year.

I would simply like to say that and come to the defense of the chairman of the committee in response to some implied criticism of whether or not we came within the budget constraints under which our committee continually operates. We discussed coming in under or at the budget figures time and time again in our hours of deliberation in the Armed Services Committee, which takes a tremendous amount of time of all of its members.

I would also like to just touch on a few things with regard to the strategic programs that come out of the jurisdiction of this Senator as chairman of that subcommittee of the Armed Services. Once again tonight we have had impassioned speeches by two Members of the Senate who have given those same impassioned speeches time and time again on the floor of the U.S. Senate about some programs that they have opposed for a long, long time. I think the record will clearly show that this Senator has been one of the leading advocates of eliminating programs that have outlived their usefulness or programs that we simply cannot afford under the total new philosophy under which we are operating.

I would simply cite, Mr. President, that indeed the Armed Services Committee is working very diligently—in the years ahead, not just this year—on meeting, for example, the reduction of 25 percent of our personnel. I have called—and call again tonight—for further reductions in many of our troops scattered all around this planet that we obviously do not need and cannot justify for the purposes of national defense. More of them should be called home as we face the difficult decisions of a trimmed-down national security budget but still one that is producing the lean and the mean military force that we need.

I simply cite, this Senator, in addition to leading the effort in many areas where we can make large savings, was, I think, the first to call for the elimination of the rail garrison MX program. When I offered an amendment to cancel that, we lost by one or two votes. Subsequently, on an appropriations bill, it was eliminated.

Also, this Senator has been involved in many other programs like the rail garrison MX, like some of the nuclear-tipped missiles that I thought had outlived their usefulness—especially with the fall of the Russian empire—that we could make a savings in that particular area. So I take a back seat to no one with regard to making savings and cutting expenditures in the Defense budget.

Once again, this year, you will see there has been a significant reduction in the total dollars authorized for national defense, as should be properly the case.

Let me just make a few comments, if I might, about the B-2 bomber, that continues to come under attack. I heard one Senator on the floor tonight deplore the fact that the headlines indicated that the B-2 was not killed. Well, the B-2 was not killed outright. But the B-2 has been crippled, to the place where I call it a walking skeleton with very little meat on it. Unless we can have the backing and the support of the President of the United States, this program will die a very quick death in 1992.

What we have done with the B-2 in this particular budget is to make minimum recommendations for authorization to keep the production line alive. Why is that necessary? Because those of us who think into the future, those of us who recognize that the United States of America is going to have a dramatic need for the projection of force at the command of the Commander in Chief, all around this globe, from the United States, are simply saying: Look, listen, and be rational on the B-2.

The facts of the matter are that it will require another vote in both the House and the Senate sometime next year as to whether or not the program is going to be killed outright. Unless we have more active backing and support from the Commander in Chief than we have had thus far, I predict it will die.

There was reference made to the fact that here we are spending billions of dollars more, on top of the $33 billion that we have already wasted. The statement was made that it is a waste in toto. What sense does it make to pile additional waste on top of that? It is good rhetoric, but it lacks facts.

I am pleased to see that the substantial majority in the Armed Services Committee, which has major responsibilities to look to the future, took the stand that it did and at least kept the B-2 alive until we can look at ongoing tests that are going on right now with regard to its stealthiness.

Some of the rhetoric I have heard on the floor of the Senate tonight makes me wonder how far some people do look ahead. It makes me wonder why it is obvious, in the press today, that the B-2 is something that is attacked over and over again—sometimes by what I think are inappropriate statements that have been attributed to members of the Armed Forces.

There was a big hullabaloo just recently when a top Air Force officer had indicated that the B-2 bomber probably was visible on some Soviet radar screens today, or could be picked up by Soviet radar today. The facts of the matter are that the B-2 airplane was never intended, and was fully recognized from the beginning, as not to be an invisible aircraft. The point of the matter is that only half of the story was told in the reference made by a top Air Force official.

The B-2 bomber, as far as we know now, subject to the completion of its stealthiness tests now ongoing, is not invisible nor was it ever intended to be invisible. The basic thrust of the electronics and technology that went into the B-2 was not to make it totally undetectable, but to construct it in such a manner that it could not be tracked on radar, pinpointed on radar, its direction discovered by radar—all of which things are necessary if it is to be destroyed.

Simply stated, it is easy to kill a program, and I am sure the people of the United States today, because of all the information that has been fed to them, are for killing the program. It is a popular political thing to do, to be against the B-2, unless you fully understand, unless you recognize that the main bomber force we have today, the largest part of our bomber force, is B-2's, all of which are over 30 years old. How many people in the United States of America today would like to get into a 30-year-old aircraft and fly from point A to point B? Not very many, I suggest. All of the pilots that we have flying the B-52's today were not born when the aircraft was manufactured. It is still a great airplane, but it cannot go on forever.

In addition to that, we have 98 B-1 bombers. If the B-2 fails its tests, or if the B-2 fails because of the vote of the Congress, then the facts of the matter are we should recognize that we are not going to have a bomber available other than the 98 B-1's and the few production B-2's that would be as part of our bomber force, basically no more than 105 bombers to defend and carry forward the force projection that any knowledgeable Commander in Chief would recognize that he might need at sometime in the future.

So it is indeed popular, and it is indeed politically correct to say: Forget the $33 billion that we have in this aircraft; forget the fact that the B-2 technology was basically the forerunner of that stealthy fighter aircraft that performed so very, very well in the recent Persian Gulf conflict; forget about all of that, and kill the program.

And if we kill the program, we will cripple the need for a land-based bomber in the United States capable of striking all around the world. Or, Mr. President, kill the prospect that just two fully operating and penetrating B-2 bombers, just two of them, could have carried out the raid on Libya a few years ago from a base in the United States, and eliminate all of the necessity for the large number of bombers and fighter aircraft in battle carrier groups that were rushed to that part of the world with considerable but necessary expense.

I do not think that the B-2 bomber is something that should be killed out of hand, regardless of the fact that it might be the politically popular thing to do. Those of us charged with looking into the future as to maintaining a proper force for a Commander in Chief to have under his command are saying: At least be cautious enough; at least give the stealthy tests a chance to prove the plane's worthiness, which is continuing to be attacked.

There are legitimate differences of opinion. At least I am proud of the fact, Mr. President, that the B-2 program has not been killed outright. But I simply say, it is a walking skeleton and it is not very healthy, but at least there were a majority of us who felt it was wise, looking into the future, to give the B-2 another chance before it was killed outright.

Therefore, I hope that the rhetoric that we have heard over and over again on this floor against the B-2, for those who I suggest have not taken a careful, long-range look, it should be given a chance, a minor chance, as has been directed by the Senate itself, and out of the conference that we just finished with the House of Representatives.

Mr. President, I thank the Chair, and I yield the floor.

Mr. COATS. Mr. President, I inquire how much time is remaining under the time allocated to Senator WARNER.

The PRESIDING OFFICER. The Senator has 22½ minutes.

Mr. COATS. Mr. President, I yield 10 minutes of that time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTOR. Mr. President, I thank my distinguished colleague, Senator COATS, and the ranking member, for yielding me 10 minutes.

I cannot begin, however, until the distinguished chairman returns because I have been discussing with him informally, off the record, a colloquy. So I cannot begin until Senator NUNN returns. I ask unanimous consent that I have the 10 minutes at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. I think under the previous unanimous-consent request, the Senator from Pennsylvania is now recognized.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition in order to be sure, really, as a precautionary matter, because I think it is fairly clear on the record which exists at the present time without this colloquy. But I have for the last few minutes been discussing with the distinguished chairman of the committee the language which appears on page 638 of the conference report which accompanies H.R. 2100, the defense authorization bill, and I refer now to the third full paragraph which begins:

> In recommending these amendments to the Base Closure and Realignment Act of 1990, the conferees reafirm the view expressed in the statement of the managers' (H. Rept. 101-923) accompanying the Defense Base Closure and Realignment Act of 1990, that actions taken under the act "would not be subject to the rulemaking and adjudication requirements (of the Administrative Procedures Act) and would not be subject to judicial review.

That is a shorthand reference to the conference report on the Base Closure and Realignment Act of 1990, which is set forth at page 706 of that report, in a more expanded paragraph, which begins: "The rulemaking (5 U.S.C. 553) and adjudication (5 U.S.C. 554)," and continuing for approximately a third of the page, end ending in the last line with "sections 2904 and 2905," that short provision which I read in full from page 638 is intended, really, to state the full lengthy paragraph, which is the last paragraph on page 706, which I have just described.

Mr. NUNN. Mr President, I say to the Senator from Pennsylvania that I followed that question very carefully, and I know this is an important matter to him and to other Senators, and also to the committee and to the people who handle this base closure legislation, including the Senator from Illinois [Mr. DIXON], the Senator from Virginia [Mr. WARNER], myself, and others.

The Senator is essentially correct. The language in this year's conference report, that is the fiscal year 1992 and 1993 conference report, on page 638, I believe it is the third paragraph, beginning with the words "in recommending" and ending up with the words "judicial review" is intended to capture the entire section on meaning that was set forth in the Defense Authorization Act for fiscal year 1991, page 706, the bottom of that page, last paragraph, beginning with the words "the rulemaking" and going through the words "commission under sections 2904 and 2905" at the bottom of page 706.

Mr. SPECTER. Mr. President, I thank Senator NUNN for that, because I wanted to make sure there was nothing intended by the current conference report, and I think that clarifies that point.

Mr. NUNN. On that specific point.

Mr. SPECTER. On that specific point.

Mr. NUNN. Right.

Mr. SPECTER. Mr. President, I have had a discussion with the distinguished chairman of the committee about some of the other matters, and these are subject to litigation which is currently in process in the case captioned "Arlen Specter versus Secretary Garrett."

In view of the lateness of the hour, I think the only other point worth making is the part of our discussion that within the Base Closure Act, that it is a fair statement that all the information which is used by the Secretary to make a decision ought to be available to Members of Congress.

Mr. NUNN. As a general proposition, I believe that to be the case. I believe that to be true. I have learned enough in this business to know that there are always unique and unusual circumstances, and I would not try to judge each case by my answer. I do know we have had a considerable amount of testimony in our committee relating to certain instances of withholding information. It just seems to me that even independent of any kind of act—and I know we reference the duty of the Secretary of Defense and others to make available to the GAO, which is an arm of Congress, information on the Base Closure Act, but even independent of that, it seems to me that the Department of Defense owes to the Congress of the United States and individual Members the obligation of making available information pertaining to these matters of base closure to the individual Members who make a request.

Mr. SPECTER. I thank the chairman for that comment. I consider that to be a very important point for a number of reasons. I think that in our society, with the separation of powers, we simply cannot function if an executive branch agency does not make available—or let me not generalize. Let me be specific—the Secretary of Defense and Secretary of the Navy do not make available to Members of Congress the information relating to a base closure so we are in a position to argue our case where the statute provides for a hearing, as the Base Closure Act does. And I would reference the specific statute in the Base Closure Act, section 2903(c)(4) which says:

> The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and alignments.

And as the Senator from Georgia, the distinguished chairman, has already noted, the Comptroller General of the United States, that is, the General Accounting Office, is an arm of the Congress so that whatever is made available there necessarily would be made available to the Members.

It is important under the statutory scheme when information is made available to the Comptroller General of the United States, all the information, as the statute provides, when it picks up on 2903(c)(5):

> The Comptroller General of the United States shall, by no later than May 15th of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

So that the statutory scheme is plain that the General Accounting Office, or the Comptroller General of the United States was to have a review of what the Secretary had done and could make that review only after having all the information that the Secretary used, and then on the date specified, May 15, which is in advance of the hearing date where Members appeared, for example, this year, on May 22 in Washington, so that the Comptroller General of the United States, that is to say the General Accounting Office, would then transmit to the Congress as well as the Commission——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. I ask unanimous consent for 2 additional minutes.

Mr. NUNN. I will be glad to yield that amount of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. So the Comptroller General of the United States, that is to stay the GAO, would submit to the Congress a report containing a detailed analysis of the Secretary's recommendations and selection process, so that the Congress, having gotten the GAO report based on all the information used by the Secretary, would be in a position to evaluate what the Secretary had done and to make an argument based upon the facts which the Congressman should have, Members of the Senate and House, and the benefits of the GAO report which the statute flatly says is to be based upon all of the facts used by the Secretary making his determination.

That is the point I wanted to make, and I thank the distinguished chairman for engaging in the colloquy. I might note the presence of the distinguished ranking Republican on the committee, Senator WARNER, and I do not want the record to be incomplete, that he was present with any disagreement. I do not want to have any adoptive omissions.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as I may require.

Mr. President, I want to say to my distinguished colleague from Pennsylvania therefore is not more diligent Member of this body as it relates to his own State and in particular those military installations in his State. He has taken a wide interest in those installations ever since I have been privileged to serve with him here now some 12 years in the Senate. In this instance he fought a brave battle.

Mr. SPECTER. Fight.

Mr. WARNER. I believe he views it as a fight still going on. But nevertheless his conduct to date has been tenacious.

Mr. SPECTER. I thank my distinguished colleague from Virginia. If I might briefly respond if for no more than a minute, I am pursuing the matter in my capacity as a Senator in Pennsylvania. That is what I do. But I also pursue it as a U.S. Senator and as a U.S. Senator am very concerned about national defense, and I think substantively I have a strong point there for the Philadelphia Navy Yard, but, even beyond the substance on the procedure, that there should be fairness, absolute fairness, which requires full disclosure by the Secretary, as the statute calls for, to the GAO and to the Commission and full disclosure to the Members of the Senate and House, and then, if full disclosure is made and the decision is made, let the chips fall where they may. But in the absence of that full disclosure and compliance with the procedures, then the law has not been followed.

I thank the Chair and yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, in my earlier remarks, I referenced a study that has just been released on the Soviet nuclear proliferation problem and the control of Soviet nuclear weapons problem and the dangers that flow from that. I also made it clear that I think it is a serious omission in this bill, that this is the principal threat we face in the world today, in my view, and that is the breakup of an empire that is the heaviest armed empire in history. They are breaking up at the same time that their nuclear and chemical weapons are not under the kind of control that I would like to see in the sense of being able to quickly carry out the agreement by President Bush and President Gorbachev to destroy tactical nuclear weapons.

The Soviets have problems in terms of transportation of those weapons. They have problems in terms of storage of those weapons. They have problems in terms of the technology required to dismantle safely those weapons. At the same time tens of thousands of people who are engaged and have been engaged in producing weapons of mass destruction, including nuclear, including chemical, including missile technology are losing their jobs. With that kind of expertise and knowledge, if we are not careful and if we do not get off our hands in terms of taking some action in the next few days, we are going to find, I think, a very serious proliferation problem and wake up sometime by the time we get back next year and find that there are Third World countires not only shopping and purchasing some of this information but also weapons themselves or the know-how to make these weapons.

So I think we have not dealt with this threat in this bill. Congressman ASPIN, and, I and others, and Senator WARNER, helped on this, and others were of help. The Senator from Michigan was a tremendous help.

We tried to put a provision in this bill that gave the Secretary of Defense money to deal with this problem and cooperate with the Soviets because their leadership wants help now and is asking for help to destroy about 15,000 weapons that have been aimed at us; to destroy weapons that we have spent trillions of dollars defending against.

We have that opportunity. We are passing it by on this bill, and I hope we do not pass it by on other bills before this session concludes. I think if we do, it will be one of the most serious omissions and one of the most missed opportunities we have had in dealing with military affairs for a long time. We will regret it for years to come if we do not take prompt action.

Mr. WARNER. Mr. President, if I could interject and state that I have certainly endorsed that part of the program as it relates to the increasing number of nations desiring to acquire these weapons. Given the backdrop now in the Soviet Union and the problems within the Armed Forces, they become the objects of offers of dollars, offers of all types, for those Soviet officers and enlisted men to perhaps take it upon themselves. That is the danger that the distinguished chairman has put his finger on and others.

Mr. NUNN. The Senator is entirely correct. He was very much in favor of this proposition. In fact, we had a meeting this morning with the authors of this report and, Mr. President, I ask unanimous consent that adjacent to my remarks there be printed in the RECORD a summary of the report and recommendations by the Harvard group which was made this morning. I ask unanimous consent that the Recommendations and Conclusion be part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PART IV—RECOMMENDATIONS AND CONCLUSIONS

A. Encouraging and Assisting Prompt Implementation of the Bush-Gorbachev Reciprocal Unilateral Proposals Regarding Non-Strategic Nuclear Weapons

B. Extending the Bush-Gorbachev Proposals to Strategic Weapons

C. Assuring Safety and Security During a Transitional Period

D. Addressing Proliferation Outside the Soviet Union

E. Exposing the New Political Structures in the Former Soviet Union to Prevent Conceptions of Nuclear Safety and Security

F. Adjusting U.S. Military Policy to the New Nuclear Realities in the Soviet Union

The preceding Parts I-III have analyzed the dangers to nuclear safety and stability posed by the profound political changes taking place in the Soviet Union. We have noted that there are three types of danger. First, the process of devolution of political authority that is plainly taking place in the Soviet Union creates the danger that the ultimate disposition of nuclear weapons among the new political structures will not be conducive to their safety or to international stability. Second, there is a danger of seizure, theft, sale, or use of nuclear weapons or components during the period of transition, particularly if there should occur a social disintegration of the nuclear weapons operating and custodial system—apparently still intact at present—that has performed these tasks for the past forty-two years. Third, there is a danger that any weakening of control over weapons or components could result in transfers outside of the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

These three dangers warrant immediate consideration of U.S. interests in the outcome of the portentous transformation in the former Soviet Union, and of the sources of U.S. influence over the course of events. Parts I-III analyzed the status of the nuclear weapons of the former Soviet Union, the political and economic changes that are overtaking them, and the existing safeguards against unauthorized or irresponsible actions. These actions also analyzed the alternative outcomes that may result, and assessed actions that could be taken to influence them in the direction of safety and stability.

In this Part IV we state the recommendations for action that, in our judgment, emerge from the preceding analysis. Most of the recommendations are addressed to the U.S. government, but others are addressed to authorities of the Soviet government, to authorities in the emerging republics, and to the world community. In order of urgency of attention, these are:

(a) encouraging and assisting prompt implementation of the Bush-Gorbachev reciprocal unilateral proposals regarding non-strategic nuclear weapons;

(b) extending the Bush-Gorbachev proposals to strategic nuclear weapons;

(c) assuring safety and security of Soviet nuclear weapons during a difficult transitional period;

(d) addressing proliferation outside the Soviet Union;

(e) exposing the new political structures in the former Soviet Union to prevailing conceptions of international stability and security;

(f) adjusting U.S. nuclear relationships and military policy to the new nuclear realities in the Soviet Union.

We emphasize that the pace and profundity of the events taking place in the former Soviet Union call for uncommon wisdom and agility by policymakers. Actions are needed now, as spelled out below. But we are also mindful that the policy will need to be adjusted constantly to accommodate a chaotically changing reality. Our recommendations will thus doubtless be adjusted in the months ahead. Whichever way events turn, the U.S. security policy community will need to remain engaged in the situation to protect the interests of the United States and the rest of the world.

A. ENCOURAGING AND ASSISTING PROMPT IMPLEMENTATION OF THE BUSH-GORBACHEV RECIPROCAL UNILATERAL PROPOSALS REGARDING NON-STRATEGIC NUCLEAR WEAPONS

The need: We have argued that non-strategic nuclear weapons are of concern because of their great number and variety and because they are more widely dispersed among the republics than strategic weapons. We have also pointed out that the system of procedural and technical safeguards that has prevented unauthorized seizure or use of these weapons for over forty years cannot be guaranteed as capable of providing a comparable future level of safety in the face of widespread social and economic disintegration of the kind that is distinctly possible in the Soviet Union. Thus removing these non-strategic weapons to central storage (perhaps passing through an interim process of disablement and multi-party custody, see below, this section) and ultimately destroying them is of critical importance.

Fortunately, political steps have already been taken to open the way for removal of many kinds of Soviet non-strategic nuclear weapons to Russia—and for their ultimate destruction—in the reciprocal unilateral proposals of Presidents Bush and Gorbachev in September 1991. Our first recommendations therefore concentrate on ensuring prompt and thorough implementation of these proposals.

Recommendations:

1. Match the boldness of the Bush-Gorbachev proposals with boldness and thoroughness of implementation. On the U.S. side, this means moving beyond "encouraging by example" to establishing a vigorous multi-agency program within the U.S. government to devise methods for movement, storage, and dismantlement of nuclear weapons jointly acceptable to the United States and the Soviet Union, and to be willing to provide Soviet authorities with direct technical cooperation in applying those methods.

2. Jointly declare the locations and types of weapons covered by these proposals. Seek the agreement of central and republic authorities that Soviet weapons covered by the agreement will be stood down from active posture immediately and withdrawn to deactivation sites in the Russian Republic and be prepared for eventual destruction.

3. Jointly declare a detailed timetable for implementation of the proposals, to complete implementation by March 1, 1992.

4. Where practical difficulties preclude relocation of all involved weapons to central deactivation sites by March 1, 1992, arrange for:

(a) disabling those weapons in place so they are unusable in their existing form; and

(b) the United States and authorities of the former Soviet Union to request the technical assistance of the International Atomic Energy Agency in providing extraordinary safeguards for these weapons and their nuclear materials. These safeguards would include a detailed accounting of the weapons and material being monitored and the presence of international observers outside the perimeter security fence of facilities where the weapons are deployed or stored.

These safeguards would enhance security against unauthorized seizures and allow newly independent republics of the former Union to accede without delay to the Nuclear Non-Proliferation Treaty as non-nuclear weapons states, even if weapons are still located on their territory.

5. Extend U.S technical cooperation with appropriate central and republic authorities to remove bottlenecks in the implementation of the Bush-Gorbachev initiatives, and to overcome problems in the transport of weapons, disabling or dismantling of weapons, or storage of special nuclear materials.

6. Declare that the United States expects the Bush-Gorbachev proposals to be implemented by the Union of Sovereign States and any successor states to the former Soviet Union.

7. Agree that efforts by parties to impede implementation of the agreement are a matter of joint concern, and that the United States will cooperate with the legitimate successor governments in defeating such efforts. Further agree that any nuclear weapons or sensitive weapon-related items that are seized or held hostage by outside parties are a matter of joint concern, and that the United States will cooperate with legitimate authorities to defeat them.

8. Extend technical cooperation to authorities charged with the recapture of nuclear weapons or sensitive weapon-related items seized by unauthorized parties.

9. Encourage Union naval authorities to follow the U.S. lead and henceforth not allow ships (other than submarines carrying SLBMs) to put to sea with nuclear weapons.

10. Invite NATO allies and other nations to join in providing the technical cooperation recommended in this and subsequent sections.

Additionally, cost-sharing agreements can be made with authorities in the former Union. Finally, work performed in the former Soviet Union pursuant to these recommendations can be conducted by U.S. firms operating in the former Soviet Union (e.g., building new storage and deactivation sites for nuclear weapons), which firms would be recipients of funds allocated for these purposes.

B. EXTENDING THE BUSH-GORBACHEV PROPOSALS TO STRATEGIC WEAPONS

The need: The Bush-Gorbachev initiatives deal mainly with non-strategic rather than strategic nuclear weapons. Strategic weapons are obviously a special concern to the United States since they are capable of striking targets in the United States directly. The fate of strategic weapons is more complicated than the fate of non-strategic weapons. If the Bush-Gorbachev agreement is implemented promptly as outlined above, strategic weapons will soon be the only weapons located outside the Russian republic. The fate of these strategic nuclear weapons may therefore determine the nuclear status of Ukraine, Byelorrussia, and Kazakhstan. These republics have greatly simplified these questions by stating their intention to be nuclear-weapons free.

We have argued that a single nuclear power should emerge from the political change occurring in the Soviet Union, that day-to-day control over the arsenal should remain undisturbed from established patterns, that republics that secede from the Union should be non-nuclear, and that removal of nuclear weapons from these newly independent states should take place as soon as possible in concert with a great nuclear builddown that would not simply transfer all the nuclear weapons of the former Soviet Union to the republic. We further pointed out the absence in any republic except Russia of the technical means for full-cycle operation and maintenance of a nuclear arsenal and the consequent practical necessity of the republics to work together to maintain responsible custody of the arsenal during the period of removal and builddown.

We believe that there are a number of near-term policy steps that the United States could take in an effort to increase the likelihood that nuclear outcomes in the former Soviet Union match U.S. interests and preferences.

Recommendations:

1. Reaffirm long-standing U.S. non-proliferation policy as opposing any increase in the number of nuclear weapons states.

2. Reaffirm U.S. policy which supports leaving the day-to-day operational structure of central control of nuclear weapons of the former Soviet Union undisturbed, even as the structures for political decisionmaking may change.

3. Affirm U.S. policy that successor states to the former Soviet Union should carry out the obligations of the Strategic Arms Reduction Talks (START) and Conventional Forces in Europe (CFE) treaties.

4. Immediately open discussions aimed at taking steps to implement weapon destruction and inspections called for in the START treaty on an accelerated timetable, including such steps as can be taken before ratification is complete. In parallel, take steps to hasten ratification. Minor modifications to the treaty should be entertained if they would hasten removal of nuclear weapons from non-Russian republics.

5. Accept the stated intentions of Ukrainian, Byelorussian, and Kazakh authorities to join the Nuclear Non-Proliferation Treaty as non-weapons states, and pledge U.S. technical cooperation to assist in the prompt removal of nuclear weapons from their territory. Emphasize that this step can be accomplished as part of the implementation of the START treaty. Encourage republican authorities to state their intention to work with the existing authorities that manage custody and movement of nuclear weapons to ensure continuing safety and security during the transitional period. Such a relationship can involve close consultation but need not involve shared custody or technical means of shared control over use of weapons. State the U.S. view that the legitimate security needs of new states emerging from the Soviet Union can be assured by the international community, that nuclear weapons will not address those legitimate needs, that the cost and complexity of proliferation would be very great in view of the near total absence of relevant facilities on their territories for operating or maintaining a nuclear arsenal, and that any emerging state that did not live up to its obligations under existing international treaties and regimes would lose the political and financial support of the international community.

6. State U.S. willingness to support the same kind of extraordinary safeguards of strategic weapons proposed above for non-strategic weapons, if such safeguards prove desirable.

7. State the U.S. intention to destroy weapons as well as delivery vehicles as part of the implementation of the Bush-Gorbachev agreements and START. Encourage Soviet authorities to follow suit, and offer U.S. technical cooperation in this process.

8. The United States will continue to have grounds for engagement with nuclear issues in Soviet Eurasia and should continue its attempts to exert positive influence no matter what path events take in the former Soviet Union. The U.S. could, for example, help devise arrangements for multi-party participation in nuclear decisionmaking, involving voting and vetoing procedures, that widen participation without loosening control. It could encourage the emergence of an arms control process among the former Soviet republics to minimize frictions and arms competitions that might arise among them. But the U.S. should also be prepared to adjust policies rapidly in reaction to outcomes that are disappointing from the U.S. point of view. It is distinctly possible that the United States will need to cope with outcomes it does not prefer but cannot prevent. Nuclear weapons may remain distributed across a number of the republics. Centralized control of the Soviet nuclear arsenal may erode or collapse. Successor state proliferation may occur. These outcomes would result in a more complex nuclear order and would pose more difficult challenges for U.S. policy. But the U.S. (as well as the broader international community) would continue to have a large interest in seeing that such arrangements are as benign as possible and that the adverse consequences of such outcomes are minimized. The preceding Parts I–III provide the basis for such adjustments to these recommendations if they prove necessary.

C. ASSURING SAFETY AND SECURITY DURING A TRANSITIONAL PERIOD

The need: While the procedures described above leading to the destruction of many types of Soviet non-strategic and strategic nuclear weapons are occurring, there will be a continuing need to assure the safety and security of weapons and components from seizure, theft, sale, and other unauthorized actions. The custodial system that has maintained safety and security of Soviet nuclear weapons for forty-two years is apparently intact at this writing. But we have argued that nuclear command and control is a social as well as a technical system, that the key safeguards against unauthorized actions built into this system are procedural rather than technical, and that not all Soviet nuclear weapons have the newest and most sophisticated coded locks and other technical safeguards. The nuclear command, control, and custodial system therefore cannot be safely presumed to be immune from systemic disintegration of the military and social systems in which it is embedded. Thus special attention must be given to the integrity of the custodial system, and to the morale of its personnel in this time of social upheaval.

Recommendations:

1. Carry out the steps outlined in (A) and (B) above.

2. Send U.S. technical teams to Moscow to explore mutually agreeable steps to improve safety and security, including U.S. technical cooperation in transport, storage, disablement, and dismantling of nuclear weapons and sensitive weapons-related components.

3. Provide technical cooperation to carry out the contraction and conversion to civil activities of the Soviet nuclear weapons complex.

4. Do not emphasize the retrofitting of technical devices such as Permissive Action Links or post-launch missile destruct devices onto Soviet nuclear weapons, as these steps cannot be carried out with the speed appropriate to the situation and might distract from more useful actions. Likewise, installation of cooperative warning systems is of secondary importance.

D. ADDRESSING PROLIFERATION OUTSIDE THE SOVIET UNION

The need: Economic disorder within the Soviet nuclear weapons complex—comprising facilities and trained personnel for producing and storing special nuclear materials, and for designing and fabricating nuclear weapons and components—creates a potential source of nuclear proliferation outside the Soviet Union unlike any ever faced by the non-proliferation regime. Nuclear materials, sensitive non-nuclear components of nuclear weapons, the talents of skilled bomb-builders, and even entire nuclear weapons might find their way onto world markets. These world markets have been demonstrated to be lavish in the prices that some nations are willing to pay for nuclear weapons technology. Hard-currency strapped Soviet enterprises and individuals will therefore be tempted by smuggling and sale. If systemic disintegration of the nuclear weapons production and custodial systems begins to take place, the world could see a diaspora of military technology not seen since the Nazi rocket scientists emigrated from Germany after World War II.

Recommendations:

1. Take steps (A)–(C) above.

2. Establish an intelligence liaison with appropriate authorities in the Soviet Union to share information about potential export of nuclear-weapons related materials outside of the Soviet Union.

3. Encourage legislatures in the republics to enact promptly strict export control legislation covering nuclear-weapons related technology in the republics, and encourage the establishment of strong enforcement mechanisms. Invite republics to become members of existing international control regimes as soon as they have put the necessary control mechanisms in place.

E. EXPOSING THE NEW POLITICAL STRUCTURES IN THE FORMER SOVIET UNION TO PREVAILING CONCEPTIONS OF NUCLEAR SAFETY AND SECURITY

The need: Entirely new political figures and structures are clearly taking power in the territory of the former Soviet Union in the course of the ongoing process of liberalization and democratization. Many have no prior experience in managing security affairs, let alone in managing full-cycle production, maintenance, custodial, and command and control systems for nuclear weapons. Many will have had little exposure to prevailing conceptions of nuclear stability and nuclear safety as these have developed over half a century of superpower custodianship of nuclear weapons. It is important that these new participants in the ongoing security dialogue with other nations be exposed to the best thinking about how to solve their security dilemmas peacefully, about norms of behavior that prevail in the international community, and in particular about the limitations of nuclear weapons as guarantors of military security. It is also important that these new actors on the world stage have the experience of being dealt with fairly and respectfully by the world diplomatic community.

Recommendations:

1. Engage emerging security policymakers in the republics in a broad security dialogue not confined to nuclear weapons-related matters, and expose them to the best international thinking about how their legitimate security needs can be met with international cooperation.

2. Encourage contact between emerging security policymakers in the republics and their counterparts in the West—both inside government and outside of government. The extra-governmental community that was instrumental in promoting understanding of security dilemmas and in devising innovative approaches to solving them during the Cold War has an obligation to turn its understanding and operating methods to the problem of Soviet nuclear devolution.

3. Continue and extend U.S.-Soviet military-to-military contacts. Be prepared to extend these to new military organizations in the republics if and when they emerge.

F. ADJUSTING U.S. MILITARY POLICY TO THE NEW NUCLEAR REALITIES IN THE SOVIET UNION

The need: The United States is accustomed to conducting its nuclear policy in the cold war context, that is, assuming a hostile and uncooperative but internally coherent Soviet Union. This context for strategic policymaking is now clearly called into question. The United States should recognize that the new situation raises opportunities as well as dangers. We believe that the United States should be prepared to think and act boldly in making adjustments to the dramatic change in the nuclear threat. Though we have not analyzed the full spectrum of adjustments to U.S. nuclear posture, deployments, and doctrine that might be warranted in view of the changes occurring in the Soviet Union, we make the following general recommendations.

Recommendations:

1. Offensive Nuclear Forces. The United States should be prepared to make more dramatic adjustments in its nuclear posture with the objective of promoting desirable nuclear outcomes in the former Soviet Union. This requires that unilateral moves and arms control proposals and agreements be evaluated not only in the context of traditional strategic concerns with stability, but in the light of the new and continuously changing political situation in the former Soviet Union and with an emphasis on their possible effects on the custody and control of the Soviet nuclear arsenal. We believe that a number of further steps beyond START, such as elimination of land-based ballistic missiles, de-MIRVing, and prompt movement toward deeper cuts, merit careful consideration because they might both reduce worries about nuclear spread in Soviet Eurasia and contribute to a desirable strategic nuclear relationship with the nuclear successor state.

2. Strategic Defense. The prospect of small-scale accidental or unauthorized launch by elements of the nuclear forces of the former Soviet Union has caused heightened U.S. interest in ballistic missile defenses. Our analysis bears on this point in two respects. First, unauthorized launch of ICBMs or SLBMs is only a small part of the overall problem of command and control of the Soviet nuclear arsenal during this period of political turmoil. Second, a purely unilateral initiative by the United States to develop and deploy robust strategic defenses at this time might affect the willingness of authorities of the former Soviet Union to ratify and implement the draft START agreement, which, as emphasized above, is an important policy tool for influencing the destiny of strategic weapons in the republics. Any U.S. initiative on strategic defenses should therefore be made through thorough consultation, and in the context of the START process.

3. The Alert Status of U.S. Nuclear Forces. In Presidents Bush and Gorbachev's reciprocal unilateral proposals of late September and early October, which dealt mainly with non-strategic nuclear weapons, steps were also proposed and subsequently taken to relax the alert postures of strategic bombers and ICBM's. Underlying these moves was the apparent judgment, which we share, that the traditional uses of high alert rates—for enhancing force survivability and for political signalling in crisis—were no longer justified in the new political setting. In particular, benefits of high alert rates were outweighed by the risks that high alert postures would contribute to the risk of accidental or unauthorized actions with nuclear weapons, and that changing alert rates in response to changing political fortunes could trigger anxiety and thus increase the chances of nuclear war. In this connection, we recommend that U.S. nuclear force commanders seek additional relaxations of operational practices, where consistent with stability, and encourage their Soviet counterparts to reciprocate.

Mr. NUNN. Mr. President, it would be my hope that working together with the Senator from Virginia, the Senator from Michigan, the Senator from Oklahoma [Mr. BOREN], who has been very active in this, the Senator from Indiana [Mr. LUGAR], who is taking a real leadership interest in this matter—working with these individuals on both sides of the aisle, I hope somehow we can strike the interest of the White House in this proposition; not only the interest, because I think they are interested. But they are not leading. They are not leading in this respect.

Without the President's involvement and without White House leadership, it is going to be very, very difficult to overcome opposition to what some perceive to be a foreign aid request. This is not foreign aid. This is in the national defense of the United States.

People say to me, well, we think you are right, but our constituents want us to protect America now in the sense of turning our attention to domestic matters. Mr. President, I cannot think of anything more important in protecting Americans than reducing the military threat that we face when we have an opportunity to do so. And I cannot think of anything more important to the American people than trying to avoid proliferation of weapons around the world, to the Saddam Hussein's of the world, that will come back to haunt us in the future.

To those who are saying how can we afford to spend $1 billion out of the defense budget or $500 million out of the defense budget for this purpose, my answer is how can we afford not to when we may very well spend literally hundreds of billions if not trillions of dollars in the years to come to protect against and to deter and defend against a proliferated threat around the world that has come from the arsenal breakup in the Soviet Union while we sat by and did nothing about it.

I think it would be a very serious error. I regret very much that this is not part of this bill. I will be working with my colleagues as diligently as possible until we adjourn to try to correct this omission, and to try to take affirmative action giving the Secretary of Defense discretion, giving him discretion and funding, to take the kind of action needed in the immediate future.

Mr. WARNER. Mr. President, could I say to my good friend, the chairman, that following the breakfast meeting this morning, Senator BOREN and I had the opportunity to meet privately with the Director of the Central Intelligence Agency, Mr. Gates, at which time we shared with him much of the discussions that we had with our group this morning.

He absolutely, indeed, expressed an interest in this subject. He was quite knowledgeable on it and conveyed to us I think some helpful guidance. That in turn was relayed to the national security adviser, and to the President. So, as the Senator mentioned, as we speak, the President and his staff are considering this matter once again.

Mr. NUNN. Mr. President, I thank the Senator from Virginia. I am delighted to hear that. I also would say I talked at length with Deputy Secretary of Defense Atwood, who just returned from the Soviet Union, who also believes—and I do not think he minds me quoting him since he was quoted in the Associated Press and other places—I think he believes this is one of the great threats we face. And I think it is safe to say he believes we ought to do something about it.

What we have is a lot of key individual people in the administration that believe we ought to do something about this, but we do not have the kind of leadership we need right now. I hope we will have it in the next 24 hours or so from the White House itself.

I yield to Senator from Michigan.

Mr. LEVIN. Mr. President, if the Senator will yield for one moment, then I will sit down so the Senator from Florida can make a brief statement. I will get back on the floor and spend a few more moments relative to the bill.

But first of all, I want to thank the Senator from Georgia. He has labored just ceaselessly to try to get into this bill a provision which is manifestly in the security interests of the United States, a provision which could lead to the direct dismantlement of nuclear weapons in what was once the Soviet Union.

As he has said, I cannot think of any provision which would more directly reduce the threat to our security than the provision which reluctantly was dropped from this bill. The proliferation which is threatened by the disintegration of the Soviet Union with tens of thousands of nuclear weapons is a threat, a manifest threat to American security. I have been gravely troubled by the fact that that provision was dropped.

Later on, I will explain why I have decided to vote against this bill, principally for that reason. I am that troubled by our unwillingness to see that it is clearly in our interest to dismantle Soviet nuclear weapons before they get into the hands of the crazies in this world.

I am very reluctant to vote against this bill because of the work which the Senator from Georgia, the Senator from Virginia, and so many others have put into this bill. I participated in this bill. I am proud of most of it. But again I am so troubled by the decision to drop this, which I know the Senator from Georgia had no alternative to do; that I have decided to express that feeling on my part by voting against this bill.

I want, before the Senator from Georgia leaves—I know he has to leave—to look him in the eye and tell him how proud I am of the work that he last done, how much I support it, how much I will continue to work with him to try to get this kind of an American security provision into this bill. I just wanted him to hear from me how much this country is in his debt for leadership which he continues to show in this effort.

I want to also thank our friend from Virginia for his joining now in trying to put together this provision in another vehicle.

Mr. NUNN. Mr. President, I thank my friend from Michigan. I cannot think of anyone who works more diligently, and is more effective on our committee than he is. He chairs the Conventional Forces Subcommittee. He does a tremendous amount of work. He is diligent, he is attentive, he is always there, he is always reading carefully every provision, and he is always contributing constructively.

A perfect example is this provision here. The Senator from Michigan has been a leader in getting this before the Senate. He has been a leader in our committee in trying to get it passed. I think his leadership, hopefully, will pay off before this session is over.

Mr. President, I find it very strange that anyone could take the position that when you are trying to put up some money that the Secretary of Defense would have discretion over to cooperate in the storage, safe storage and the destruction and dismantlement of nuclear weapons that have been pointing towards this country and our allies for the last 30 years, that someone would stand up on the floor of the Senate and behave as if this is a foreign aid provision, the equivalent of providing money to build a dam in some country in Africa, Asia or some other foreign aid provision.

I find it incredible that some of our colleagues believe that the American people cannot make this distinction. I have so much more confidence in the American people, in their ability to distinguish between dealing with a military threat and reducing that threat and avoiding the Saddam Husseins of the future attempting to gain nuclear control and knowledge. I have great confidence that the American people can make this distinction. Yet, some of our colleagues are saying, you are right, I do not believe our constituents will understand.

Mr. President, I think it is time for us to have leadership here in the Senate, leadership in the House, and leadership from the White House; without that, we will not make it. But we will be trying, and I am hoping we will have that leadership develop in the next few hours.

Mr. President, I know the Senator from Florida wants to be recognized. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes 33 seconds.

Mr. NUNN. How much time remains on the other side?

The PRESIDING OFFICER. Ten minutes 9 seconds.

Mr. NUNN. I yield the remainder of my time under the control of the Senator from Michigan.

Mr. WARNER. Mr. President, parliamentary inquiry. Do we now return to the pending DOD authorization?

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. Mr. President, I rise in support of the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993.

Both the House and the Senate went through very trying times this year in producing this piece of legislation, and after the longest Defense authorization conference in my memory, we finally got a product, and I think it is a good one.

As a member of the Senate Armed Services Committee and chairman of the Manpower and Personnel Subcommittee, I want to recognize the extraordinary and successful efforts of Chairman NUNN, and ranking member Senator WARNER in leading the committee in this particularly fractious year for defense. Also, my appreciation to Senator MCCAIN for his work as the ranking member of the Manpower Subcommittee; we work very closely together on all issues before the subcommittee.

Mr. President, today I will offer some rather detailed comments and assessments on manpower issues. Following these manpower comments I will discuss, in brief terms, some procurement and management issues that I feel are particularly worthy of note.

Mr. President, as chairman of the Subcommittee on Manpower and Personnel, I can say that the conference report contains military personnel provisions that provide for the combat readiness of our men and women in uniform, and for their quality of life.

Last year, we put the military services on a gradual glidepath that would result in a 22-percent reduction in active duty strength over 5 years—a reduction driven by the substantial easing of tensions in Europe. At the same time the Congress approved this plan, it provided a generous safety net of benefits for military personnel who might be involuntarily separated as a result of the strength reduction plan.

Since then, we have engaged in, and successfully concluded, the Persian Gulf conflict. In spite of the tremendous amount of personnel turbulence that this operation has had on the military services, they have shown great resilience in getting back on the strength reduction glidepath we set out before the conflict. I would note that in hearings we had on this matter, each service personnel chief testified that the strength levels in the President's budget request, which do place each service back on the glidepath we set out last year, were achievable and prudent.

MANPOWER STRENGTH LEVELS

So the conferees approved the active duty end-strength levels requested by DOD for each of the services for fiscal years 1992 and 1993. The levels reduce the active duty force by 106,358 from current levels in fiscal year 1992 and another 91,900 in fiscal year 1993.

At the same time, the conferees were increasingly concerned that these, and even greater strength reductions in the future, could require the involuntary separation of a substantial number of career military personnel. Therefore, the conferees authorized a program to encourage voluntary separations to avoid involuntary separations as the military services builddown.

Under this program, certain categories of military personnel who face the possibility of selection for involuntary separation would be offered the choice of two incentive packages to voluntarily separate.

Under the first option, such a volunteer could receive a lump sum payment of 15 percent of basic pay multiplied by the number of years of service of the volunteer. For example, in the case of an E-6 with 10 years of service, the lump sum payment would be $27,000. Such a volunteer would also be eligible for certain transition assistance, such as temporary military medical coverage, employment assistance, commissary and exchange shopping, temporary military housing, relocation assistance, and leave and travel benefits.

Under the second option, such a volunteer could receive an annuity of 2.5 percent of basic pay, multiplied by the number of years of service of the volunteer, to be paid out over twice the number of years of service of the volunteer. For example, in the case of an E-6 with 10 years of service, the annuity would be $4,500 per year for the next 20 years, or $90,000 in current dollars.

In addition to these incentives, the conferees provided the Secretary of Defense with the authority to waive the active duty strengths prescribed for fiscal year 1992, and to transfer funds to the manpower account to fund higher strength levels to avoid involuntary separations.

Mr. President, I believe that the Department of Defense should be able to avoid involuntary separations by prudently exercising these authorities.

MILITARY PAY AND COMPENSATION

Mr. President, with regard to military pay and compensation, the conferees approved a 4.2-percent pay raise for military personnel, effective January 1, 1992. This will give our men and women in uniform a pay raise that matches the average civilian wage and salary increase expected in the private sector.

The conferees also approved a number of other targeted compensation initiatives that provide certain benefits for military personnel and their families, including permanent increases in imminent danger pay, death gratuity pay, and family separation pay; a program to reimburse military families for adoption expenses; and reimbursements for certain travel expenses.

I think it is fair to say that we have provided a very decent compensation package, given the pressures on the Defense budget.

MEDICAL PROGRAMS

Mr. President, the conferees also approved a number of provisions to improve certain medical benefits for the families of military personnel, and to contain the cost of medical care in the Department of Defense.

Some examples include the authority to expand the existing dental insurance program for military dependents, to include a supplemental option offering broader dental care coverage; the provision of hospice care; the restoration of certain CHAMPUS benefits to beneficiaries who lose the benefits because of disability; the simplification and enhancement of CHAMPUS payment procedures; and the flexibility to manage, more efficiently, alternative forms of contracted medical care.

The conference also approved, with minor modifications, Senate-passed language relating to the current CHAMPUS reform initiative contract for California and Hawaii. The language adopted is designed to ensure that the Department may rebid this contract, which by its terms expires on January 31, 1993, without regard to any limitation on the availability of funds for that purpose, regardless of whether that limitation is enacted before, on, or after the date of enactment of this legislation.

Moreover, the language provides that any such limitation may not be treated as constituting or requiring the extension of that contract beyond the expiration date of the contract. In other words, if any appropriations measure enacted by the Congress prohibits or limits expenditure of funds for the purpose of rebidding the contract, that limitation will not constitute a justification for extending the contract thereby avoiding the normal competitive bidding procedures required by applicable procurement laws and regulations.

MILITARY PERSONNEL MANAGEMENT

With regard to improvements in military personnel management, the conferees approved provisions that provide for more effective management of the officer corps in terms of providing more equitable procedures for the appointment of regular officers, strengthening committee oversight on the utilization and retirement of senior officers, prescribing uniform rules for the management of warrant officers, and strengthening officer promotion procedures. These recommendations are consistent with our policy of providing a healthy, competitive environment in the military services that encourages professional excellence.

PERMANENT BENEFITS FOR PERSONNEL SERVING IN SUPPORT OF FUTURE OPERATIONAL CONTINGENCIES

Mr. President, as Senators will recall, we passed a number of provisions in the National Defense Authorization Act for fiscal year 1991, and in the Persian Gulf Authorization and Personnel Benefits Act of 1991 that updated and enhanced certain benefits, and corrected certain inequities in the way activated reservists were compensated. The conferees approved, as part of its Persian Gulf lessons learned provisions, making permanent these authorities which we had previously enacted as temporary authorities for Desert Shield/Desert Storm for certain active duty and activated reservists engaged in future contingencies.

Mr. President, there were two manpower issues that we spent a lot of time on this year, and I want to make sure that the rationale for the action taken by the conferees on them is clear. The two issues deal with the personnel strength levels for the National Guard and Reserve components, and on the establishment of a commission to study and report on the assignment of women in our military services.

SELECTED RESERVE STRENGTH

With regard to the first issue—selected reserve strength levels—the conferees approved substantially smaller reductions than requested by DOD.

For fiscal year 1992, DOD requested a reduction in Selected Reserve end-strength of 105,076, and a further reduction in fiscal year 1993 of 79,800, a cumulative reduction of 16 percent over 2 years. The conferees approved 36 percent of the requested reduction in fiscal year 1992—a reduction of 37,580 instead of the 105,076 requested—and 40 percent of the requested reduction in fiscal year 1993—a reduction of 33,505 instead of the 79,800 requested. The committee's action would still reduce Selected Reserve end-strength by 6 percent over 2 years, reflecting the Reserve support tail associated with the reductions in the Active component.

Quite frankly, the conferees found that the large 16-percent cut proposed by DOD lacked any sound force-structure basis. Instead, Defense witnesses testified that the cut was basically budget driven. The National Guard and Reserve components were given numbers to hit and given the job of pulling out units.

Mr. President, this approach led to incomprehensible results. For example, the Navy proposed to deactivate two Navy Reserve minesweeping squadrons to get down to its budget-driven Selected Reserve end-strength. This is completely at odds with the serious problems the Navy had with mines in the Persian Gulf. Two ships were damaged, one extensively, by mines. It took the Navy nearly 2 weeks to clear the mines so that one of the battleships could get close enough to Iraq to use its 16-inch guns. Further, General Schwarzkopf testified that he could not risk an amphibious landing by the Marine Corps because of lack of minesweeping capabilities in the Navy. Yet, because of having to achieve an end-strength that is almost purely budget driven, the Navy wants to cut its minesweeping capability. This does not make any sense, and the conferees have prohibited this cut in the conference report.

Another example is DOD's planned 21 percent reduction in Marine Corps Selected Reserve end-strength. How can this make sense when 55 percent of the Marine Corps Reserve had to be activated for the Persian Gulf conflict? Specifically, in order to implement the proposed reduction, the Marine Corps plans to deactivate a tank unit that fought with distinction in the Persian Gulf war. With regard to this unit, DOD's interim report on lessons learned stated:

> Postmobilization training was, for the most part, well supported by the Active Component, and was effective. Perhaps the best example of the effectiveness of this training is found in Company B of the 4th Tank Battalion, 4th Marine Division. This unit had been equipped with M60A1 tanks, a system that is much different than the more modern M1 and M1A1. When this unit was activated in November, it completed a 23 day M1A1 training program in 18 days. The unit arrived in Saudi Arabia on 19 February and went into battle on 24 February. In four engagements during the course of the war, Company B destroyed 59 enemy tanks, about half of which were T-72s, without losing one of its tanks.

How can pulling this unit out make sense?

The Navy and Marine Corps examples are but two of the many chaotic actions that the Reserve components would have to take if the Selected Reserve end-strengths proposed by the Department of Defense were to be approved.

So the conferees took the responsible action of recommending Selected Reserve end-strengths that preserve the combat readiness of the National Guard and Reserve components.

COMMISSION ON THE UTILIZATION OF WOMEN IN THE MILITARY

Mr. President, with regard to the issue of the assignment of women in the military, I believe we all acknowledge the outstanding contributions women serving in our Armed Forces have made to the national defense, despite laws and DOD policies that restrict their assignment from certain combat skills and positions. Today, women in the military serve in many extremely demanding roles. Some of these roles expose women to the risk of death in combat. Most recently, women have performed under such conditions in the Persian Gulf conflict.

Mr. President, we debated, on the floor of the Senate, the issue of what we should do about the so-called combat exclusion laws that prohibit women from being assigned to combat aircraft and combat ships in the Air Force and the Navy. It was the will of the Senate that we should repeal the combat exclusion laws with regard to assignment of women to combat aircraft, but retain the law with regard to the prohibition on the assignment of women to combat ships in the Navy. I spoke out against such action because I thought we should have a Commission conduct a comprehensive study of all aspects of this issue and make recommendations to us on the basis of its findings before we acted to change any laws. I still believe that my position is defensible on the merits; however, the majority of my colleagues thought otherwise. So the conference report contains a provision that repeals the statutory bars on the assignment of women to combat aircraft.

At the same time, the conferees approved a provision that would require the President to appoint a Commission to study and report on the assignment of women in the military. The Commission would consist of 15 members who have distinguished themselves in the public sector and in the private sector, and who have had significant experience in matters: such as social and cultural matters affecting the workplace; constitutional and other law; the effects of medical and physiological factors on job performance; military personnel management; and service in the Armed Forces in land, air, and sea combat.

The Commission could request, and the Secretary of Defense could waive all other laws or policies that restrict the assignment of women during the conduct of the study so that appropriate tests of assignment of women to combat skills and positions can be conducted.

The Commission would be required to submit its report to the President by November 15, 1992, and the President would be required to submit his comments and recommendations on the report to the Congress by December 15, 1992.

The Commission would be required to make specific recommendations with regard to whether existing law and policies governing the assignment of women in the military should be retained, modified, or repealed; what roles women should have in the military, including what, if any, roles women should have in combat; what transition process is appropriate if women are to be given the opportunity to be assigned to combat positions in the military; and whether special conditions, and different standards, should apply to women than apply to men performing similar roles in the military.

Mr. President, I think that establishing this Commission addresses many of the concerns I had raised on the floor of the Senate when I opposed the partial repeal of the combat exclusion laws. At this point, I think this is a very responsible approach for us to take on this very complicated, sensitive issue. I believe that, when we receive the results of the Commission's work, we will be able to act more positively by spelling out what we believe the role of women should be in each of our military services.

Mr. President, overall the conference report provides the personnel management tools that the military services need in these difficult times. It also recognizes the sacrifices that our men and women in uniform make every day to provide for our national security. As pressures grow to reduce the Defense budget, we cannot forget the vital human element, and I for one intend to continue to keep this as a high priority in the future.

Mr. President, I now move to some comment on some other defense authorization issues.

It is no secret that the B-2 stealth bomber was a major bone of contention in the conference. Given the strongly held views on both sides of the issue, I feel that the conference outcome on the B-2 was reasonable; namely, to authorize only one new production B-2 aircraft in 1992, but making release of the production money contingent on a further affirmative vote by both Houses of Congress next spring. Quite frankly, my personal view is that B-2 procurement should terminate at the 15 aircraft already funded—and I would hope that the Congress does not release the money for the 16th aircraft. It just makes no sense to beggar the Air Force budget, indeed the whole defense budget, to buy aircraft that at an absolute minimum will cost $865 million per copy.

That leads me to the B-1 aircraft. We have put over $28 billion into this heavy bomber; of the 100 aircraft produced we still have 97 in the inventory, but they have been languishing because of the refusal to address realistically some avionics deficiencies, and because of the delay by the Air Force in qualifying weaponry on this aircraft that it is perfectly capable of carrying. This country needs a heavy conventional bomber, the B-1 is capable of operating in sizeable numbers, and it is high time the Air Force gets on with implementing a B-1 conventional modernization program that takes full advantage of the aircraft's potential. Accordingly, the conference bill directs that such a B-1B bomber improved conventional capabilities plan be drawn up.

Another very important program, the V-22 Osprey tiltrotor aircraft, was funded this year to provide for development, manufacture, and operational testing of three production representative aircraft. This is an important breakthrough for this program that I contend will revolutionize low speed aviation not only in the military, but also in the longer term in commercial aviation. It is important that DOD, the Congress, and the manufacturer keep this program on track in order to ensure that tiltroter technology is not delayed in being incorporated into the operational inventory.

Mr. President, regarding the strategic defense initiative, I am in strong disagreement with the provision in this Conference agreement authorizing $4.15 billion for SDI in fiscal year 1992 and directing deployment of an ABM Treaty compliant system. I strongly disagree with this provision and the unnecessarily high funding level authorized for SDI. I opposed the deployment provisions and supported lower funding levels for SDI both in the committee markup and on the Senate floor.

While I have always supported a solid strategic defense research program, I am unconvinced that deployment of a strategic defense system is necessary, desirable, or even technically feasible. Clearly, with the failed coup attempt in the Soviet Union, the strategic relationship between the United States and the Soviet Union is more stable now than it has ever been since the end of World War II. Furthermore, I believe that the direct threat to the United States posed by accidental or unauthorized launches is extremely remote.

In addition, the proliferation of ballistic missiles in the Third World is also cited as a major justification for deployment of a strategic defense system. While no one should downplay the dangers posed by the proliferation of ballistic missiles, it is important to remember that ballistic missile proliferation raises more concerns about regional stability than about any direct threat to the United States. I do not share the view that the United States needs to rush out and spend billions of dollars to deploy even a limited SDI system to protect against the possible future threat of some Third World country lobbing a nuclear-equipped ICBM at the United States.

In short Mr. President, the Conference's action on SDI is a needless waste of increasingly scarce resources and threatens to be destabilizing.

I am pleased that the conferees agreed to include my language authorizing the Secretary of Energy to award up to $10 million in training grants to train and educate workers who are, or who may be, engaged in hazardous substances response activities, and to assess civil penalties up to $5,000 a day for each day contractors fail to certify to DOE that they have provided adequate hazardous waste training to workers.

This provision does no more than require the DOE to assure that hazardous waste workers are trained as they are in the private superfund program. This language is a mirror image of what is already in the current superfund law for private sites, which has been working successfully for 5 years now.

With three DOE facilities in my home State, I have become increasingly concerned over the lack of adequate training that DOE workers are receiving. This problem was also underscored in great detail by the recent review of worker safety at DOE by the Occupational Safety and Health Administration. At one site, workers were found to be machining hazardous wastes without proper protection and training. If this had happened at a private superfund site the contractor would be fined. However, although DOE can fine contractors for nuclear safety violations, under the Price-Anderson Act, contractors are not held accountable for nonnuclear worker-safety violations that may pose an equal or even more severe danger.

Without adequate training, many current DOE workers may not be able to keep their jobs because of the lack of proper skills. At the Fernald Facility in my home State this is not an abstract issue. Since 1988 some 500 people have lost their jobs. In its report to Congress this year, regarding the end of Fernald's production mission, DOE was unable to verify if Fernald workers had been adequately trained for hazardous waste work.

Work with hazardous substances will be a major component of DOE activities during the coming decades. DOE has estimated that during the next 5 years the most hazardous environmental restoration work will occur. This will involve efforts to prevent the spread of contamination and prevent unfortunate near-term public health impacts. This work presents immediate hazards to workers at sites not currently in environmental or health and safety regulatory compliance.

In the recent OSHA review of the DOE's worker health and safety program, a major reason why the DOE cannot guarantee its workers a safety working environment stems from a significant lack of controls over contractors. There currently exists no real leverage that the DOE can exercise over contractors to protect workers. This provision gives the DOE authority to regulate contractors in the area of worker training in a manner that makes it clear that the contractors are held accountable. I believe that is an excellent step at a critical juncture in our efforts to clean up DOE sites.

Regarding a different program, I wish to commend the House and Senate conferees for retaining the Senate language for a provision designed to establish priorities for the Department of the Army's activities in the development of medical countermeasures against biowarfare agents. The need for this provision is clear. In December 1990, the General Accounting Office [GAO] released a report on the Biological Defense Research Program [BDRP] that concluded that, because of lax controls, the Army "unnecessarily expended funds on research and development efforts that did not address validated threats, and may have duplicated research efforts of other Federal agencies." The GAO determined that the BDRP was spending an inordinate portion of its research funds on biological agents that had not been identified as validated threats by the Armed Forces Medical Intelligence Center [AFMIC]

The GAO's findings were dramatically underscored during Operation Desert Shield/Desert Storm when the Army was found to be unprepared to deal with Iraq's confirmed biological warfare capabilities. Lacking appropriate vaccines to protect our soldiers against anthrax and botulinum toxin, the Army was forced to make emergency requisitions for these materials from civilian and foreign sources. This bill contains a provision, section 251, that prohibits the obligation or expenditure of any DOD funds for product development or for research development, testing, or evaluation of medical countermeasures against a biowarfare threat agent that is not contained in the biological warfare threat list published jointly by the AFMIC and the Defense Intelligence Agency [DIA]. To ensure that the vast majority of the medical component of the BDRP research is concentrated on validated threats that could be confronted by the U.S. Armed Forces within the next 10 years, this provision requires that no less than 80 percent of the medical component of BDRP funding be targeted on such threats.

This bill also contains a provision, that I sponsored, that protects our industrial base for machine tools by supporting the extension of the purchase restriction which prohibits the Department of Defense from buying foreign machine tools. The U.S. machine tool industry is critical to maintaining this country's readiness, since machine tools are the foundation of virtually all of our manufacturing processes. I am pleased that Congress is working to foster the further development of that industry through the extension of the procurement restriction.

Last, I note that the bill resolves an issue involving another critical national security resource: the national defense stockpile. Some in Congress wanted to change the current system, by which Congress directly oversees the development and attainment of stockpile requirements, by allowing the President to unilaterally change stockpile requirements 30 days after notifying Congress of proposed changes. I could not support that position and successfully worked to have it eliminated from the conference bill. However, without the fullest possible examination of how this proposal would affect this Nation's readiness, I feel strongly that the Congress should not relinquish its oversight responsibility built into the current system. Consequently, I am pleased that this provision was eliminated from the conference bill.

Mr. President, these are but a few of the hundreds of issues in this very complex bill. As I said at the outset of my statement, I feel that it is a good bill and I urge my colleagues to vote for it.

Mr. DIXON. Mr. President, I am generally satisfied with the national Defense authorization bill for fiscal years 1992 and 1993. This bill is the result of many long hours of hard work by the Members and the staffs of both the House and the Senate. It is a good Defense bill. It downsizes our forces in an intelligent manner so as not to create an ineffective fighting force as we have done in previous force reduction programs. It balances force readiness, sustainability, and support in the face of a shrinking Defense budget.

Mr. President, I am glad to see that this bill removes the prohibition against women flying combat aircraft.

Based upon our recent experiences in Desert Storm, I agree that the Defense Department needs to reexamine its artificial restrictions on the role of women in combat.

We owe much to our service men and women. Even with these Defense budget cuts, I am happy that the bill has not ignored the fact that the quality of the service member's home and workplace is vital to morale and efficiency. With the dollars authorized in this bill for military construction, the quality of life for service members and their families will continue to be heightened.

Mr. President, even though I am generally happy with this bill, I still have some concerns. I am worried about our ability to move out troops and materiel in a crisis on short notice over long distances. I believe there is a lack of sufficient support in the bill for the C-17, airlifters. One lesson we learned from the Persian Gulf war was that we need more airlift capacity. Buying only four C-17's next year is far short of what we need. I am afraid if we cannot buy adequate numbers this next year, dire consequences may result in this program.

Mr. President, the lack of adequate numbers of C-17 airlifters is not by itself reason to vote down the bill, but it is a major concern of mine.

Mr. President, the Senate Armed Services Committee began working on this bill in April and as all my colleagues know, it is the hard followup work done by the staff that brings us here today to vote on a final product. Mr. Arnold Punaro of the majority and Mr. Patrick Tucker of the minority have done an outstanding job in working with the respective staffs in creating this product. I would like to take this opportunity to thank David Lyles, Bob Bayer, and Mary Kampo of the majority staff of the Readiness Subcommittee for their diligence and insight. It is impossible to accomplish worthwhile legislation without bipartisan cooperation. Ron Kelly and Ken Johnson of the minority staff have worked closely with their majority counterparts, and I thank them for their professionalism. And finally, Mr. President, I would be remiss if I did not also recognize the invaluable assistance that my personal staff provides me. My long-time chief Defense aids, Charles Smith, and two congressional fellows on my staff, Charles Mudd and Jim Rohacik, have all played vital roles in helping me shape this legislation. I want to thank them for their contributions and I wish continued success to Jim now that his fellowship with us has ended.

Mr. ROTH. Mr. President, I intend to vote against this conference report for the simple reason that it spends too much money and misses opportunities to save money.

But, before I get into the details of my concerns, I think it is important to recognize and applaud the conferees' support for removing the congressionally imposed restrictions against female pilots.

The conferees have recognized the value of women aviators for our Nation's defense. In July, the Senate strongly approved the amendment that Senator KENNEDY and I offered to end this artificial restriction. The Pentagon must have the authority to decide who is best qualified to serve in any position, including who flies in combat aircraft. The conference report gives DOD this authority and ends Congress' unequal treatment of men and women aviators.

Mr. President, 1 week before this conference report was filed, I came to the Senate floor to criticize the action of the House and Senate conferees on the fiscal year 1991 Defense authorization bill.

Specifically, I was disturbed by the Conferees' decision to make $1 billion available to the Secretary of Defense for aid to the Soviet Union. It made no sense to me to take $1 billion out of the United States defense budget, while the Soviet Union continues to spend many times that number on its defense.

If this proposal had prevailed, we literally would have taken $1 billion out of our defense budget so that the Soviets could spend $1 billion of their own money on their defense. The greatest source of funds for the Soviets is still their own defense budget.

Mr. President, we may need to provide humanitarian assistance to the republics that comprise the Soviet Union. It is my firm opinion that any assistance to the Soviet Union must have clear near-term benefit for the United States, as well as being in our long-term strategic interest.

The conferees' proposal did not meet that criteria, and I am happy to see that aid provision has now been removed from the conference report. But I wonder where the $1 billion went.

Finding potential savings is good, but we need to take the next step and that is to save the billion dollars by reducing the overall level of the Defense budget. I also note that the conferees deleted three B-2 bombers from the procurement budget.

I support this initiative, but, again, I think it is essential that this economy be reflected in greater savings in the defense budget. There was a 75 percent reduction from the President's request for B-2 bombers, but where are the $2.5 billion that should have been saved?

Mr. President, in October, I came to the floor to introduce my proposal for restoring jobs, opportunity, and growth to America—which I refer to as the job America plan. I proposed a similar plan last year when the Warsaw Pact threat disintegrated and the economy began to slow.

These plans would stimulate the economy by returning the peace dividend to the American taxpayer.

In short, the Defense conference report should call for $3.5 billion less spending than it does. That money ought to be put to use now to jump start this economy by implementing a plan such as my jog America proposal.

At a minimum, if Congress were to act as I suggest, then it would send an important message to Americans that institutional inertia will not prevent the Congress from responding to the current economic situation.

Accordingly, I urge that the report be rejected and the $3.5 billion be made part of a larger plan to stimulate our economy.

Mr. BROWN. Mr. President, the National Test Facility is our Nation's premier testing facility for the Strategic Defense Initiative. The work that is done there is invaluable in developing our Nation's strategic defenses.

I rise today to address a concern I have about a portion of the conference report for the National Defense Authorization Act for fiscal years 1992 and 1993. Page 495 of that report urges the upgrade of computer facilities at the Advanced Research Center, Huntsville, AL. My concern, Mr. President, is that the language contained in the report may be misunderstood by some as calling for a reprioritization of resources within the Strategic Defense Initiative Organization.

The report may be misunderstood by some to suggest that upgrades to the advanced research center computer facilities should come at the expense of the National Test Facility. I would like to ask my friend from Virginia, the distinguished ranking member of the Senate Armed Service Committee and a member of the conference committee, if that is his understanding of the language.

Mr. WARNER. Mr. President, in answer to the Senator from Colorado's question, it is not my understanding, nor do I believe it was the intent of the conference committee to suggest that upgrades to the research center facilities should restrict the work being done at the test facility. On the contrary, the conference report clearly states it is the committee's belief that the work being done at the research center is complementary to the work done at the test facility.

Mr. BROWN. I thank the distinguished Senator from Virginia for his insight and leadership on the important issue of strategic defense.

Mr. President, I would also like to ask the distinguished chairman of the Senate Armed Services Committee for his understanding of the intent of the conference committee.

Mr. NUNN. Mr. President, the National Test Facility provides critical work in the area of strategic defense research. It was the intention of the conference committee that upgrades to the advanced research center computer hardware and software would not conflict with the ongoing work at the National Test Facility in Colorado Springs.

Mr. BROWN. Mr. President, I thank my good friend from Georgia for clarifying this issue for the Senate. The National Test Facility has provided unmatched research for the Strategic Defense Initiative Organization. It is clearly in our interests to continue to support and fund the work that is being done there.

I yield the floor.

Mr. WARNER. Mr. President, I yield the remainder of the time under my control.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator is recognized for 10 minutes.

Mr. WARNER. Will the Senator yield for a moment?

Mr. LEVIN. Yes.

Mr. WARNER. Mr. President, I express my appreciation for the long hard work of the Senator from Michigan. We came to the Senate together some 13 years ago and served on this committee side by side. While we may have differed from time to time, I join with our chairman in saluting him for his hard work. There is not a line of work that goes through that committee, all during the course of the year, that the Senator from Michigan has not read. Sometimes he has the courage to say, "I am not sure that I understand it." But he reads it carefully, and before he departs that particular meeting, he understands it. I look forward to working with him.

Mr. LEVIN. Mr. President, I thank my dear friend from Virginia. We did indeed come here together. We have had a lot of good times together and, a few differences along the way, but they are very minor compared to the efforts we have been able to achieve.

As I said a little earlier, it is with reluctance that I have decided to vote against the bill that has such a tremendous positive input from Senators such as Senator NUNN and Senator WARNER. I know of no two Senators who operate better together in running a committee than do our good friends Senator NUNN and Senator WARNER.

Mr. WARNER. I thank my good friend from Michigan. I am anxious now to hear what he has to say.

Mr. LEVIN. Mr. President, this bill contains a great deal of good. It does, because it has had a great deal of effort put into it, under our chairman and ranking member, under the work of all of the members of the committee. This bill does indeed take some important strides forward in the defense of this country, in terms of our priorities, as well.

I have worked well with Senator WALLOP on the Conventional Forces Subcommittee, and we have been able to achieve a great deal in the area of conventional forces. This bill is responsive to many of the realities of a changing world.

It contains initiatives to address some of the shortcomings which we learned about in Operation Desert Storm.

For instance, we are investing in this bill in a program to reduce the likelihood of future American losses to friendly fire, and that is an important initiative.

There is a strong package to assure that our National Guard and Reserves are well-trained and ready with the equipment that they need. We protect our industrial base in some key areas so that we can preserve our ability to meet new emerging threats even as we scale back on our overall force structure.

We are also providing a substantial authorization, over $400 million, in 1989 for environmental cleanup at military bases that are being closed around the country, and that is the full amount which is needed for this purpose.

It is vital that we redress contamination on these bases so that local communities can reuse these sites for other purposes once they are closed.

On the nuclear side, we are finally shelving the rail garrison MX and SKAM missile and are not going to build any more nuclear Tomahawk sea-launched cruise missiles. There are important issues initiatives in this bill that do try to meet changing security threats. Some parts of this bill do not. We continue to authorize MX missiles even though Air Force wanted the program terminated. The price tag for that is over $450 million for six missiles. We are long past the time of buying more MX missiles which will add anything to the safety of this country.

We are continuing to try to force the Pentagon to develop a mobile Midgetman missile even after President Bush's announcement that we will not pursue land-based mobile missiles. The price tag in this year alone, just the year's portion, is $548 million.

Our deterrent force is more than sufficient without these additions, and our budget cannot sustain this kind of approach. We have to invest defense dollars wisely in programs that truly increase our security.

Those mistakes alone would not have caused me to vote against this bill because there is again so much good in this bill that I think on balance makes it a good bill.

But we made a grave mistake last week which, as I indicated before, troubles me greatly. We dropped from the conference report a forward-looking responsible major investment in our own security, and I am referring to the threat reduction provision which was authorized by chairman NUNN and chairman ASPIN of the House Armed Services Committee. That provision would have, as Senator NUNN said, provided completely discretionary authority to the Secretary of Defense to initiative programs that could have directly reduced the military threat facing us in what remains of the Soviet Union. It would have done that through the dismantlement of Soviet nuclear weapons.

We should have said "yes" to that innovative approach. We should have said "yes" to investigating a mere fraction, a small fraction of the cost of SDI, and we should have said "yes" to stopping cold the proliferation of weapons technology from a disintegrating Soviet Union to Third World dictators. But opponents mislabeled the plan a giveaway. Supporters in the administration were suddenly silent, and a few of us were left alone on this floor to defend the plan led by Senator NUNN.

The case is manifestly clear, if it will take more than a 30-second sound bite to look at, it is manifestly clear that we have invested billions of dollars year after year to match or defeat every Soviet weapon. We have spent billions to support an alliance that finally broke down the Berlin Wall, that broke the Warsaw Pact, that broke up the U.S.S.R. But last week it was decided that we could not make a small investment for the direct reduction in the numbers of Soviet nuclear weapons, a small investment against the reemergence of totalitarian dictatorships in the Soviet Union and against Soviet militarism.

For decades, Mr. President, we have spent billions to monitor their every move. We invented spy planes to fly over Soviet territory. Then we launched satellites that could detect the smallest changes in Soviet defenses. We then obtained intrusive onsite verification through arms control treaties. But when we might have a chance to send our own technicians with their own tool boxes into the Soviet Union to actually corral Soviet warheads and dismantle them, we refused because of the fear created by the label "Soviet aid."

It was a false label. It is a false label. What was proposed was a true American security measure. But because it took a few sentences to explain, the fear of voting for something that was falsely labeled as a Soviet assistance program killed an American security program.

And as Senator NUNN said, we underestimate the American people. Of course, we have to get our economic house in order and put our energies in the health and well-being of our citizens. But our people understand that renewal at home will be more difficult if we have to counter an aggressive military adversary again abroad. They understand that it is in our interest here in America for democracy to survive in the Soviet Republics which have thousands of nuclear warheads which would proliferate around this world.

Senator NUNN and others are making a new effort to try to restore this language to some bill. I am part of that effort. It is a bipartisan effort. It must succeed. I hope it succeeds.

In the coming months, many of us will be working to articulate changes that we need to make in our Armed Forces to meet the overall security needs of the United States. But we also need the Pentagon to look at the world with fresh eyes, reevaluate the true threats and to make tougher choices.

There is a great deal ahead of us, Mr. President, for reshaping our military forces to meet the changing needs. We need to focus on maintaining modern and ready conventional defenses, smaller forces that are well-trained, well-supplied, highly mobile, highly capable and with great morale. That means we are going to have to use our resources carefully. We cannot afford to continue to spend defense dollars on cold war relics such as more and more MX missiles, which the Defense Department does not want and a mobile Midgetman system, which the Defense Department does not want and which will not contribute to American security.

As I said, I think more of the agenda that we have to pursue could have been pursued in this bill. But the bill is basically a good bill, except for the bad and grave error that we made when the Nunn-Aspin initiative was dropped from this bill.

Principally because of that, I have decided to vote against this conference report. I want to highlight our failure to grasp an important security opportunity to make our people safer.

I hope, I pray that Senator NUNN and the rest of us are successful in getting this provision passed another way. I pledge to do everything in my power to see to it that that happens.

Again, we are all in the chairman's debt for his initiative. It is sometimes difficult to be out here alone, as he has been, defending a provision, but he is so right in this case that he deserves the support of all of us, and more than anybody, his talent and his energies have been invested in that provision, and I hope they will still be rewarded. I only wish they could have been incorporated in this bill.

Mr. President, I yield back the remainder of my time, and I believe that the Senator from Virginia has yielded back the remainder of his time.

The PRESIDING OFFICER. All time has been yielded back.

Under the previous order the vote will occur tomorrow at 9:30 a.m.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,441st day that Terry Anderson has been held captive in Lebanon.

KUWAIT EVACUEES PROVIDED IMMIGRATION RELIEF

Mr. CRANSTON. Mr. President, on Friday, November 15, President Bush issued a directive that provides temporary immigration relief and work authorization for approximately 2,000 former Kuwait residents who were airlifted from Kuwait shortly after the Iraqi invasion and brought to the United States. I want to take this opportunity to commend President Bush for this humanitarian gesture to families who would have faced the real tragedy that they would be separated from each other and possibly not allowed to return to Kuwait.

In August, the plight of the evacuees was brought to my attention by Dr. Iyad Al-Shurafa, a Kuwaiti evacuee who now lives in California. Subsequently, I and 20 of my colleagues sent a letter to President Bush urging him to issue an order allowing approximately 2,000 former Kuwaiti residents who were airlifted from Kuwait after the Iraqi invasion to remain in the United States for 4 years.

Shortly after the invasion of Kuwait, a number of families were airlifted and brought to the United States. While these flights were promoted as returning American hostages to the United States, many of the adult passengers were permanent residents of Kuwait and not United States citizens. Members of these repatriated families were conferred parolee status and allowed to reside and work in the United States. That status was extended until December 31, 1991, at which time they would have been required to return to their country of nationality.

Unfortunately, most of these repatriated persons do not have a country to which they can return. Many of the families evacuated from Kuwait are stateless—Palestinians having only travel documents, not passports reflecting citizenship. Most were born, worked, and lived their lives for many years in Kuwait but were not granted citizenship because of the strict Kuwaiti citizenship laws. The Kuwaiti Government will not guarantee that these persons will be permitted to return to Kuwait and indeed has expressed Kuwaiti hostility toward Palestinians. Furthermore, Israel will not allow them to go to Israel or the Occupied Territories.

Many of the repatriated persons are children and their parents are professionals—physicians, engineers, accountants, and businesspersons. They eagerly desire to earn a living in the United States. They were repatriated because they have children who are U.S. citizens. Without any protection for the parents of these evacuated U.S. citizen children, these families would become tragically separated. These families wanted to remain together in the United States until they are able to return to Kuwait with assurances that they will be treated fairly.

The Presidential directive allows the families to remain in the United States until January 1, 1996. As we took responsibility to bring these families to safety, I am pleased that we will continue our commitment to provide them protection until it is safe for them to return to Kuwait. Again, I commend President Bush for responding in a compassionate and humanitarian fashion to this matter.

Mr. President, I ask unanimous consent that a letter signed by 21 Members of the Senate be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 14, 1991.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: We are writing to urge you to issue an Executive Order that will provide temporary immigration relief for several hundred families currently living in the United States who were airlifted from Kuwait during the Gulf crisis.

Shortly after the invasion of Kuwait, a number of families were airlifted and brought to the United States under the Persian Gulf Evacuation Program. While these flights were promoted as returning American hostages to the United States, many of the adult passengers were permanent residents of Kuwait and not United States citizens. Members of these repatriated families were conferred parolee status for a few months. This parole, which authorizes them to reside and work in the United States, was extended until December 31, 1991, at which time they will be required to return to their country of nationality.

Unfortunately, most of these repatriated persons do not have a country to which they can return. Many of the families evacuated from Kuwait are stateless—Palestinians having only travel documents, not passports reflecting citizenship. Most were born, worked and lived their lives for many years in Kuwait but were not granted citizenship because of the strict Kuwaiti citizenship laws. The Kuwaiti government will not guarantee that these persons will be permitted to return to Kuwait and indeed has expressed Kuwaiti hostility towards Palestinians. Furthermore, Israel will not allow them to go to Israel or the Occupied Territories.

Many of the repatriated persons are children and their parents are professional—physicians, engineers, accountants, and businesspersons. They eagerly desire to earn a living in the United States. They are repatriated because they have children who are United States citizens. Without any protection for the parents of these evacuated United States citizen children, these families would become tragically separated. These families would like to remain together in the Unites States until they are able to return to Kuwait with assurance that they will be treated fairly.

Unless these families are accorded immigration relief, they face the real tragedy that they will be separated from each other and that they may not be allowed to return to Kuwait. As the country that took responsibility to bring these families to safety, the United States government has the ongoing responsibility to allow them to remain temporarily in the United States until the situation in Kuwait improves.

We urge you to issue an Executive Order which would provide these repatriated families four years temporary status and work authorization until it is safe for Palestinians to return to Kuwait. This order is in the same vein as the order issued for Chinese Nationals following the Tiananmen Square crisis.

Mr. President, we commend your efforts in coming to the aid of these families by airlifting them out of Kuwait after the invasion and bringing them to safety in the United States. We ask that you continue your leadership by allowing them to remain temporarily in the United States until the conditions improve for Palestinians in Kuwait.

Sincerely,

Terry Sanford, Edward Kennedy, Al Gore, John Chafee, Mark Hatfield, Alan Cranston, James Jeffords, Paul Simon, Barbara Mikulski, Daniel Inouye.

J. Bennett Johnston, Claiborne Pell, Charles Robb, John Terry, Harris Wofford, Herb Kohl, Brock Adams, John Warner, Paul Sarbanes, Paul Wellstone, John Breaux.

TRIBUTE TO FRANKLIN A. POLK

Mr. GLENN. Mr. President, recently, I was saddened to learn of the passing, at age 80, of one of Cleveland's more well known and involved citizens, Franklin A. Polk. Mr. Polk, who was the father of Minority Chief Counsel Franklin G. Polk of the Governmental Affairs Committee, had a distinguished career for more than half a century as a lawyer, public servant, and politician. He served for 8 years on the Cleveland School Board from 1943–51, and was the Republican candidate for mayor of Cleveland in 1949. Mr. Polk was active in many religious and fraternal organizations, and served for many years as a delegate to the American Bar Association House of Delegates and the Ohio Bar House of Delegates.

His career, and in particular, his dedication to meeting the legal needs of generations of Cleveland families were chronicled in an article last August in the Alumni Journal of John Carroll University.

I ask unanimous consent that the article, entitled, "The Neighborhood Counselor," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEIGHBORHOOD COUNSELOR

For 51 years they climbed his steps. Many spoke little or no English. Most had problems large and small in adjusting to life in a new country.

In the late 1940s, these so-called displaced persons—refugees from a Europe prostrated by war and shaken by the recent Communist takeover of Czechoslovakia and other Central European countries—flooded Cleveland, looking for work, which at the time was plentiful and family counselors who spoke their language, which were not. As they had for decades before, many settled in the neighborhood around Broadway and E. 55th, once called Little Bohemia for its dense concentration of transplants. And at 5725 Broadway on the second floor above a bank, Franklin Polk 35 was always available to dispense family legal services or simple guidance.

While he and his assistants juggled the details of hundreds of small cases—from the minutia of probate work to the arcane muddle of immigration law—he nevertheless managed always to remain an exceedingly public man. He founded a trial attorneys' group, served as president of the county bar association just eight years after becoming a lawyer, and agitated at every chance he could against abortion. He even made a credible run for mayor of Cleveland once.

And still he found time for prodigious professional mentoring. He remembers how difficult it was to establish a practice in 1940, when he first raised his shingle. "There were more guys running street cars than practicing law," he says. And so, over the years he sent a mass mailing to newly minted attorneys, offering them free overhead if they would come to his office and take up some of the bounteous casework he generated. One hundred and sixteen young attorneys took him up on the offer over the years. His alumni group, as he calls it, forms a network of admirers. One even chauffeurs him around town today.

But in April, coinciding with his 80th birthday; Franklin Polk reluctantly closed the office whose 24 steps he could no longer negotiate with his swollen legs, brought on by a heart condition. And with that, a final chapter was written in the career of one of Cleveland's pioneering family lawyers.

If you're Franklin Polk you got used to a life full of jaring contrast. As a national delegate to the American Bar Association, he once accompanied powerhouse lawyers from huge international firms to London, where they had an audience with the royal family. Then he would return to his dingy walk-up office with the minimalist formica paneling to minister to people from the old neighborhood, who came seeking his help on a range of family matters—legal and otherwise. "You never knew what was going to come up the steps," says his former secretary.

"I hear (about) a lot of lawyers having trouble getting business," says his son, Franklin, Jr., now the minority chief counsel and minority staff director of the U.S. Senate Governmental Affairs Committee. "But he always had a certain magic for that." His son remembers dinners in his childhood routinely interrupted by the interminable phone calls from clients. They were even waiting on hold when he would walk through the door at night.

"It was natural for these people to seek advice from a fellow ethnic," says James Masek, the editor of the *Neighborhood News*, which has chronicled the Old Broadway area since the paper's founding in 1920. "They're kind of suspicious of other people. And Frank was patient with people. He had the natural ability to get along with people."

And he knew their languages, at least portions of four. In addition to Czech, he spoke some Polish, Moravian and Slovak. (Czechoslovakia, a creation of the Versailles Treaty following World War I, represents a geographical marriage of three Slavic peoples—Czechs, Slovaks and Ruthenians).

Polk's brand of loyalty seems torn from the pages of a romance novel: extraordinarily appealing—rousing, even. Just hard to believe. In 1928, intent on helping his father, a clothes presser, find new work after he was partially disabled in an accident on the job. Polk approached the councilman of Ward 33, asking for help in securing a card from the city that would entitle the elder Polk to clip grass at city parks for $3 a day. The Republican councilman agreed. And 63 years later, Frank Polk remains a Republican out of an insistence on honoring a debt of gratitude to a man who has been dead for decades.

Like most ethnic, Catholic neighborhoods in the early and middle parts of this century, the Old Broadway area was dominated by a strong pastor. In this case, though, Monsignor Oldrich Zlamal was actually an international figure. Chosen by the National Catholic War Council in 1919 to travel to the newly established country of Czechoslovakia to lecture on American democracy. Fr. Zlamal kept his hands in foreign affairs even as he ran his neighborhood for forty years, until his death in 1955. On the verge of World War II, he raised money in the U.S. for a Czechoslovakian defense fund, and after the war, he organized relief efforts. He was therefore courted by a succession of Czech presidents, eager to keep the foreign aid flowing. The personal ties he formed translated into a stream of Czech immigrants for his neighborhood back in Cleveland.

In fact, through the trans-Atlantic human pipeline he helped erect, so many Czechs would land in Cleveland that it eventually became the world's fourth largest center of Czech population, trailing only Prague, Vienna and Chicago. "There is no truth to the rumor," one journalist joked during World War I, "that the capital of the Czechoslovak Republic will be removed from Prague to the neighborhood of Broadway and East 55th Street." This flood of immigrants and their families would form the core of Franklin Polk's client base.

Three boys—friends to this day—grew up in that neighborhood, attended South High and worshipped at Our Lady of Lourdes: Charlie Vanik, later a 13-term U.S. Congressman from Ohio; Ralph Perk, Republican mayor of Cleveland in the 1970s; and Franklin Polk.

Like his boyhood friends, Polk had his shot at high public office. But his one major plunge into elective politics should have been enough to convince him that his penchant for speaking his mind perhaps better suited him for the courtroom than political office.

In 1949, Polk ran for mayor of Cleveland as something of an unlikely combination: a Republican populist. From the outset, his chances of winning in a heavily Democratic city weren't good. But neither was Polk, who had once polled more than 120,000 votes to win a seat on the Cleveland school board, a political novice. He launched his mayoral campaign from his neighborhood by speaking briefly in Czech (drawing the wrath of local newspaper editorialists, who didn't take kindly to the sound of Slavic languages while the Iron Curtain was descending on Europe), and promptly went on a rhetorical offensive against the political status quo and Cleveland's downtown establishment.

But most of all, he launched a frontal assault on the incumbent mayor, Tom Burke, "Who has done less actual work than Mayor Tom?" Polk asked in a speech to the Lion's Club a few weeks before the election. "When he's not on the Great Lakes, he's in Tucson. When he's not in Tucson, he's in Nassau."

Just days before voters went to the polls, he charged that his opponent's policies were driving people from the city, which had recently slid from the sixth to seventh most populous in the country. "People are moving from the traffic-choked arteries, the polluted lakes and rivers, the smoke and the dirt," he said. He likened Cleveland's potential to the situation in Pittsburgh a healthy city that was beginning to scrub itself up under a young, vigorous new mayor. If Cleveland voters saw a parallel in there somewhere, the 38-year-old Polk offered no objections.

More than 40 year later, the history books record only the lopsided vote total, and that he was on the wrong side of the count. As a result, his opponent's name lives on through a namesake airport on Cleveland's lakefront, and Frank Polk returned to his legal practice, a footnote in the annals of Cleveland political history. There was, however, a forgotten story arising from that race, though it's not one that Polk tells himself.

But his campaign manager, Ralph Perk, recounts it in detail. He recalls how the race was tight heading into the final weeks. And then self-inflicted disaster struck when Polk ventured to a ward meeting for a routine campaign talk.

During a question-and-answer session, he was asked about his plans for a cabinet in the event that he won. And with his answer—coming just one year after Jackie Robinson braved tomatoes from the stands to play Major League baseball, five years before the Supreme Court outlawed segregation in Brown vs. the Board—Franklin Polk committed political suicide by candidly observing that he thought it was time a black be appointed to the cabinet.

His campaign workers scattered and his voter support evaporated almost overnight. He lost decisively.

"I gotta tell you," says Perk, "I never saw so many people leave a campaign in my life. It backfired more than anything I've ever seen in politics."

"He was too far ahead of his time," he adds.

Franklin Polk isn't sailing into retirement amiably like some placid model in a Norman Rockwell print. His pale, blue eyes grow stormy when the subject arises. He equates the end of his legal career with the end of life itself (he will refer to this story as "my obituary").

But if being a trailblazer provides any comfort, he's earned that many times over.

"One of the great things about Franklin Polk is that he pioneered the family practitioner," says Charles Vanik, who left Congress in 1981 and now practices law in Washington. "They're just starting to recognize the importance of family practices, like in medicine. Someone who stays with you all your life," he says.

"I always thought the people came to him almost as a priest," says his daughter, Loretta. "They came to him and said, my son's in trouble. And he'd talk to them. And ten years later, the family would give him their legal business." He could have climbed higher up the ladder of success, she says, but the neighborhood he loved always drew him back. "He liked the people. They were real people with real problems."

And Franklin Polk, the man who mails 2,000 Christmas Cards, ought to be proud of that.

CAPITAL RESEARCH CENTER

Mr. WALLOP. Mr. President, I would like to bring to the attention of my colleagues an organization which has proved to be an invaluable resource.

The Capital Research Center, located here in Washington, DC, publishes materials which are indispensable to keeping track of the myriad political action committees, special interest groups, tax-exempt foundations, and other related political organizations which crop up in this town every day. The center describes itself as "a nonprofit tax-exempt, educational organization" that "provides documented information and reliable assessments that donors, public officials, and other individuals can use to make informed decisions on these new and influential organizations."

The center's publications have become an oft-utilized resource for both myself and my staff in performing the day-to-day operation of my office. Let me briefly describe some of the services and products available from the Capital Research Center.

Perhaps the most useful item the Capital Research Center publishes is its report entitled "Patterns of Corporate Philanthropy." This book documents, on an annual basis, the donation practices of major American corporations. Mr. President, the details are truly astounding. Major American corporations give hundreds of thousands—if not millions—of dollars to liberal political groups which advocate policies diametrically opposed to the interests of American business. The liberal groups benefiting from this philanthropy also support, work with, and give financial backing to policial candidates who are ardent foes of American business.

The problem, Mr. President, is that most of us would not have this kind of information at our fingertips. It is impossible to keep track of all the groups which lobby Members of Congress and send them information. Like most Members, my office receives numerous inquiries from constituents requesting information about groups which have contacted them about issues or sought contributions. It is very helpful to have this type of information readily available.

The Capital Research Center publishes "Studies in Organization Trends," a series which analyzes "the role of interest groups; their activities, leadership, and funding sources; and their influence on the policy process." The first of these monographs, published in 1986, was "Second Front: Advancing Latin American Revolution in Washington." It documented the extensive network of leftist groups in the United States operating on behalf of Marxist governments in Central and Latin America—like Castro in Cuba or the Sandinistas in Nicaragua—and Communist insurgency movements such as the FMLN in El Salvador. Last year Capital Research Center published the fifth in this series, "Protecting the Environment: Old Rhetoric, New Imperatives," which took an in-depth look into the activities, personnel, and funding of environmental groups.

Finally, Capital Research Center also puts out a monthly newsletter, Organization Trends, which "reports on and analyzes the activities and aims of advocacy and grant-making organizations." A recent issue entitled "Targeted Voter registration: Nonpartisan Rhetoric, Partisan Reality" discussed the forces behind the vote registration movement in this country. Since another cloture vote on the "motor voter" bill is looming over the Senate, awaiting the call of the majority leader, this Senator felt it would be helpful for Senators to have information on the current activities of several supposedly "nonpartisan" voter registration groups.

According to the center, one of these organizations, called Project VOTE, was designed "to pioneer the strategy of registering citizens to vote as they waited in long lines to collect unemployment, food stamps, and social services." Although Project VOTE has claimed not to be working on behalf of any party of individual candidates, its literature leaves little doubt as to whom it would like to see win elections.

During the 1990 Senate elections, Project VOTE issued reports describing polling results in a number of close races. In North Carolina, Project VOTE pointed to polls indicating a lead of 4 percent held by our colleague, Senator HELMS. Not surprisingly, Project VOTE then chose as its registration goal 5 percent of the expected turnout. In describing the Kentucky Senate election of that year, Project VOTE characterized our colleague, Senator MCCONNELL, as being vulnerable because of his "weak record on the environment, strong antichoice position and promilitary stance." Since my friend from Kentucky won rather handily, considering the demographics of his State, this Senator wonders if maybe it is Project VOTE that is seriously out of touch with the electorate.

Project VOTE's pervasive bias should not come as any surprise, Mr. President, because the membership of Project VOTE's advisory board is heavily tilted to the left. It is comprised of numerous representatives of big labor and those from ultraliberal political groups such as NOW, the nuclear freeze group SANE, the Sierra Club, and Americans for Democratic Action. Similarly, much of the funding for Project VOTE comes from the organized left, including many unions and liberal foundations.

Mr. President, so that my colleagues can learn more about Project VOTE and other voter registration groups, I ask unanimous consent that articles contained in the November 1991 issue of Organization Trends be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Organization Trends, November 1991]

TARGETED VOTER REGISTRATION: NONPARTISAN RHETORIC, PARTISAN REALITY

In 1984, major segments of America's political left collaborated in a large-scale effort to register and mobilize vast new numbers of typically apathetic poor and minority voters.

Aided by nearly $7,000,000 in foundation grants to voter registration drives, many so-called "progressives" believed that with a huge influx of newly politicized voters who would vote according to their "class interests," a fundamental change in the character of political parties would occur and government policy would move decidedly to the left.

But the ability of the Republican Party effectively to mobilize equal numbers of new voters largely quashed such hopes. By 1988, if not earlier, as David Moberg reported in the September 21–27, 1988, issue of the socialist newspaper In These Times, many of the left had become apathetic about the extent to which broadbased voter registration among minorities and the poor might effect a radical transformation of American politics. Resources that year were concentrated in only 20 "key states" instead of being "spread over 40 [states] as in 1983–1984."

This observation seems to underscore a reluctant but practical move by "progressives" away from a grander vision of radically transforming politics toward an emphasis on targeting voter registration in specific states or localities (as Moberg says, "key battlegrounds") where important elections are expected to be close, and thus where a small percentage of "swing votes" can effect the outcomes favorably.

The efforts of at least two leading "nonpartisan" voter registration groups lend support to this thesis.

PROJECT VOTE!

A self-described "non-partisan, charitable organization working to increase minority and low-income voter participation," Project VOTE! was created in 1982 "to pioneer the strategy of registering citizens to vote as they waited in long lines to collect unemployment, food stamps, and social services."

As explained in an article by Richard A. Cloward and Frances Fox Piven in The Organizer, published by a training affiliate of the Association of Community Organizations for Reform Now (ACORN), the time was "ripe for issue-oriented drives among the millions of unregistered clients of the welfare state" against "the corporate-Republican alliance" and "militarization."

This would be accomplished by "taking advantage of the way the welfare state concentrates non-voters" who "congregate on its lines and in its waiting rooms. One example of an organization which is already experimenting with this technique is called Project VOTE. Volunteer registrars are assembled in a particular city on the day that food stamp recipients receive their vouchers in the mail. As lines begin to form at the banks and check cashing centers where the vouchers are exchanged for food stamps, Project VOTE volunteers distribute fliers dramatizing past and pending cuts in the food stamp program, pass out registration forms, and warn that food stamp benefits will be lost unless people register and vote. (The registration forms are collected after being filled out, names and addresses are copied for follow-up, and then the forms are turned over to local boards of election.) These tactics make it possible for small groups of volunteers to register thousands of people in a day."

Based in Washington, D.C., Project VOTE! and its roughly 100 local affiliates have registered over 1,200,000 voters, often in collaboration with "local coalitions of civil rights, labor, women's religious, poor people's advocacy, peace, citizen action, environmental, and other groups" like the United Auto Workers, Operation Big Vote, the A. Philip Randolph Institute (which led the drive in 1989 to elect Democratic Virginia governor and Presidential hopeful L. Douglas Wilder), the National Coalition on Black Voter Participation, and the National Association for the Advancement of Colored People.

Project VOTE! claims that it does not "help any candidate or party" and that its mission is solely to "make democracy work for all Americans." Its registration and education efforts, however, evince a decidedly pro-welfare stance, and its literature indicates that it has specific political and electoral outcomes in mind.

One "educational" flyer advises new registrants to "Vote For" "day care," "Head Start," and "health care." Another says that "[e]vents in Eastern Europe have created a new reality and a critical window of opportunity to dramatically cut military spending and the threat of nuclear war" and that "The 1990 elections could decide whether we permit that opportunity to pass us by" or "reap a peace dividend to save our environment, our educational system, and our cities."

Through new voter registration, "we'll no longer see a vast range of social programs sacrificed to pay for wasteful and unending military buildups. We can take the immense natural wealth of America back from the exploiters, developers and polluters."

Project VOTE!'s pronouncements indicate an interest in election outcomes that is more than incidental:

"Decisive results in key [1990] Senate and Governors races [could] mark the death knell—or the rebirth—of attempts to restrict abortions."

"With three Supreme Court justices passing age 90, and two others passing 77 by the time Senators elected this year stand for re-election, the 1990 elections will play a key role in deciding the makeup of the Supreme Court for decades to come."

"Governors chosen in '90 will draw the new election district lines—deciding the outcome of hundreds of elections until the year 2002."

"These elections will decide which party controls the Senate. That means deciding whether Jesse Helms or Claiborne Pell chairs the Foreign Relations Committee—and whether Strom Thurmond or Joe Biden chairs the hearings on future Supreme Court nominees."

TRANSLATING CONCERNS INTO ACTION

In translating these concerns into action, Project VOTE! carefully targets its registration and education campaigns in states where slight shifts in votes or influxes of new voters are likely to put Democratic candidates in office.

A report outlining Project VOTE!'s 1990 registration strategy, released four months before the November elections, notes that pre-election polls in North Carolina showed Democratic Senatorial candidate Harvey Gantt trailing "vulnerable Republican incumbent" Jesse Helms by only 4 percent. Project VOTE! therefore sought to register 80,000 new voters, "approximately 5% of expected turnout [emphasis in original].

Again, in Kentucky, where Democratic Senatorial candidate Harvey Sloane challenged incumbent Republican Mitch McConnell, whose "weak record on the environment, strong anti-choice position and pro-military stance [made] him vulnerable," Project VOTE! sought to register 19,000 voters, or 2.9 percent of the expected turnout.

Similar strategies were followed in the "priority states" of Michigan, Rhode Island, Texas, Florida, South Dakota, and Colorado. Project VOTE! claims these efforts merely describe the "political contests" of its 1990 "non-partisan voter registration and education drives. . ."

As with most voter registration groups, Project VOTE! combines registration with "persistent" and "intensive education." Follow-up letters and telephone calls "emphasize how decisions made by elected officials affect the registrants' lives" and are "carefully framed to be persuasive."

Given the dependency of Project VOTE!'s registrants on welfare programs, one may surmise that persuading them to vote in the desired direction is not particularly difficult. Project VOTE! estimates that such efforts have resulted to 82–87 percent turnout rates.

"THE WINNING MARGIN"

Project VOTE! also claims registrants have exceeded the winning margin" in four U.S. Senate races, five U.S. House of Representatives races, 23 state and local races, and the 1989 Virginia governor's race.

Paul Simon (D–IL), a leader in the recent fight against confirmation of Judge Clarence Thomas as an Associate Justice of the U.S. Supreme Court, says he "won election to the U.S. Senate [in 1984] by just 89,000 votes. Project VOTE! registered 131,000 new voters in Illinois. If it hadn't, I probably wouldn't be in the Senate."

Representative Peter Hoagland (D–NE) likewise remarks, "I won the election by 2,981 votes" and effuses that "if not for the voters you registered in my district, the outcome might well have been different."

Project VOTE!'s board of advisors includes several representatives of organized labor, among them Morton Bahr, Communication Workers of America; Owen Bieber, United Auto Workers; Mary Hatwood Futrell, National Education Association; Gerald McEntee, American Federation of State, County and Municipal Employees; Jack F. Moore, International Brotherhood of Electrical Workers; Vincent Sombrotto, National Association of Letter Carriers; John Sweeney, Service Employees International Union; Lynn Williams, United Steel Workers of America; and William A. Winpisinger, International Association of Machinists.

Other board members represent some of the nation's principal activist left groups:

Ira Arlook, Citizen Action.

Asia Bennett, American Friends Service Committee.

Kenyon C. Burke, National Council of Churches.

David Cortright, SANE/FREEZE.

Linda Davidoff, Human SERVE Fund.

Marian Wright Edelman, Children's Defense Fund.

Pablo S. Eisenberg, Center for Community Change.

Robert Greenstein, Center on Budget and Policy Priorities.

John E. Jacob, National Urban League.

Steve Kest, ACORN.

Michael McCloskey, Sierra Club.

Marc A. Pearl, Americans for Democratic Action.

Faye Wattleton, Planned Parenthood Federation of America.

Molly Yard, National Organization for Women.

Barry Zigas, National Low Income Housing Coalition.

With 1989 total revenue of $703,000 (of which only $458,000 was expended), Project VOTE! and its parent organization, Americans for Civic Participation, received support from such sources as the American Express Foundation (at least $5,000), Patrick and Anna M. Cudahy Fund ($5,000), General Mills Foundation ($5,000), Joyce Foundation ($50,000), Public Welfare Foundation ($40,000), and Rockefeller Family Fund ($25,000).

Similar 1988 donors included the Cudahy Fund ($5,000), Joyce Foundation ($40,000), Max Kade Foundation ($35,000), J. M. Kaplan Fund ($35,000), Rockfeller Family Fund ($15,000), and Z. Smith Reynolds Foundation ($50,000).

Project VOTE! and the Institute for Effective Action, a nonprofit which provides technical assistance to "people's organizations" and which helped design Project VOTE!s volunteer training materials, have received recent support in unspecified amounts from such other sources as the Campaign for Human Development, Center for Community Change, International Association of Machinists, International Brotherhood of Electrical Workers, International Union of Bricklayers, National Education Association, Service Employees International Union, United Steelworkers, Vanguard Public Foundation, Winthrop Rockfeller Foundation, and Youth Project.

OPERATION BIG VOTE

Another leading voter registration group is Operation Big Vote, created in 1976 to conduct "intensive voter education, registration and Get-Out-The-Vote (GOTV) activities in black communities" around the country.

OBV is a project of the National Coalition on Black Voter Participation, a Washington, D.C.-based "nonprofit, nonpartisan, tax-exempt membership organization committed to enhancing and protecting the right of full political participation by African-Americans and other minorities."

As part of its effort to develop "autonomous nonpartisan voter coalitions in local communities," NCBVP in 1990 provided training and technical assistance to such organizations as the Center for Policy Alternatives, Joint Center for Political and Economic Studies, NAACP Legal Defense and Educational Fund, American Federation of State, County and Municipal Employees, and League of Women Voters. Forty-five local OBV coalitions also received financial assistance and training through lectures, seminars, and voter registration and education workshops.

NCBVP emphasizes states where OBV coalitions are active according to five criteria: a large black population, large numbers of unregistered blacks, a record of low or uneven black voter turnout, the existence of local registration organizations, and "elections having a particular impact on the black community during a given year at the federal, state or local level."

This last criterion strongly resembles Project VOTE!'s concern with particular election outcomes, a concern seemingly reflected in NCBVP's funding of local OBV coalitions. NCBVP's annual report for 1990 says that of "45 OBV coalitions active in 27 states" that year, only 20 coalitions in 15 states received NCBVP funding.

IRS records further show that of $23,000 disbursed to local coalitions in 1990, funding was concentrated in four states, which received nearly 50 percent of all voter registration and education funds: California ($3,000 to 2 coalitions); North Carolina ($2,000 to 2 coalitions); Ohio ($4,000 to 3 coalitions); and Texas ($2,000 to 2 coalitions). The other 11, all in different states, each received grants of $1,000 or less.

Major electoral contests—all predicted to be especially close or to have important political ramifications—occurred in at least four of these states in 1990:

In California, where the governor's race between former San Francisco Democratic mayor Dianne Feinstein and Republican Senator Pete Wilson was expected to be (and was) very close and where the state was expected to pick up from six to eight new seats in the U.S. House of Representatives through reapportionment.

In North Carolina, where former Charlotte Mayor Harvey Gantt was trying to unseat incumbent Republican Senator Jesse Helms.

In Ohio, where Republican gubernatorial candidate George Voinivich, whose campaign platform included a commitment to reform and streamline state-administered welfare agencies, was running against incumbent Democrat Richard Celeste.

In Texas, where pro-abortion state treasurer and Democratic gubernatorial candidate Ann Richards opposed anti-abortion Republican Clayton Williams. Texas also was expected to gain several new Congressional seats in post-Census redistricting, a process which affects the contexts of political campaigns and which also requires final approval by the governor.

NATIONAL VOTER REGISTRATION ACT

NCBVP regards the National Voter Registration Act, which would mandate automatic voter registration in all state drivers' license bureaus and welfare agencies, as "a step in the right direction" that "would allow registration groups to focus more . . . scarce resources on those members of our community that [would still be] unregistered as well as on get-out-the-vote activities." (See related article, pages 4–5.)

NCBVP's 44-member board of directors, strikingly similar in composition to Project VOTE!'s advisory board, includes such individuals as Clifford Collins of the National Association for the Advancement of Colored People, Coretta Scott King of the Martin Luther King, Jr. Center for Nonviolent Social Change, and Robert McAlpine of the National Urban League, in addition to Richard Womack of the AFL–CIO and such union figures as:

Leonard Ball, Coalition of Black Trade Unionists.

William Burris, American Postal Workers Union.

Louis Brady, International Union of Operating Engineers.

Mary Mays-Carroll, Communications Workers of America.

Douglas Couttee, United Food and Commercial Workers International Union.

Don Jackson, United Auto Workers.

William Lucy, American Federation of State, County and Municipal Employees.

Leon Lynch, United Steel Workers of America.

James M. McGee, National Alliance of Postal Workers and Federal Employees.

Phil McLaurin, National Education Association.

Earl Robinson, International Association of Machinists and Aerospace Workers.

William Stodghill, Service Employees International Union.

Foster Stringer, Jr., American Federation of Teachers.

This pattern is also reflected in NCBVP's 88 member organizations, among which are the AFL–CIO, American Federation of Teachers, Joint Center for Political Studies, Leadership Conference on Civil Rights, Martin Luther King, Jr. Center for Nonviolent Social Change, National Association for the Advancement of Colored People, National Urban Coalition, National Urban League, Operation PUSH, Southern Christian Leadership Conference, and United Auto Workers.

NCBVP's total 1990 support of $259,261, of which almost 50 percent was allocated to Operation Big Vote, was derived (in unspecified amounts) from such donors as the AFL–CIO, American Federation of State, County and Municipal Employees, United Food and Commercial Workers Union, and United Steel Workers of America; Anheuser-Busch; the American Express, Cummins Engine, Ford, Joyce, Meyerhoff, and Rockefeller foundations; and the U.S. Bureau of the Census.

(For additional background, see the following articles in previous issues of Organization Trends: "Voter Registration and Ideological Politics," December 1984; "Ideological PACs and the 1988 Elections," August 1988; "Nonprofits and the Presidential Campaign of 1988," July 1988; and "Foundation-Supported Voter Registration: How Nonpartisan?," November 1987.)

NATIONAL VOTER REGISTRATION: A BOON TO THE LEFT?

For several years, federal legislation has been pending to require all states automatically to register voters in drivers' license bureaus and state human services agencies, such as welfare, unemployment, and vocational rehabilitation offices.

Proponents argue that such "agencybased" registration would increase voter turnout significantly as "an important expansion of democratic rights." Last year, the National Voter Registration Act overwhelmingly passed the U.S. House of Representatives, but it has yet to be considered by the Senate.

One group spearheading the drive for enactment Service Employees Registration and Voter Education (Human SERVE) Fund, a "national, nonpartisan voter registration reform organization which has been working for 10 years to establish voter registration services in all state offices serving the public."

Founded in 1983 by Frances Fox Piven and Richard A. Cloward, two "activist-scholars" who "have spent two decades working on welfare rights movements and similar efforts to increase the political organization and participation of the poor." Human SERVE has lobbied successfully for state-level "motor voter" registration. Fifteen states and the District of Columbia now register voters in motor vehicle departments, and several other states register welfare and unemployment claimants.

Human SERVE estimates that voter registration in all drivers' license bureaus would raise national registration from the present 60 percent to 91 percent. Most of the newly registered would be poorer and minority persons with historically lower registration and voting rates. While fewer poor and minorities own cars, many still register to drive or acquire photo identification. As one observer says, "This nicely takes the pro-welfare sting out of the project."

Yet Human SERVE says registration in all motor vehicle departments still would leave "residual inequalities" in registration rates, since rural and white persons are more likely to drive than urban and minority persons; in states with lower overall percentages of drivers, like New York, such disparities are potentially great.

Human SERVE therefore believes registration in all state human service agencies would capture another 4 percent of the voting age population and raise the national registration rate to 95 percent, the highest attainable level.

The group warns that "if the federal bill does not pass," and if racial and income disparities persist, "the voting rights community will be compelled to initiate a whole new series of costly and time-consuming law suits in states with lower drivers' license rates." The "prudent approach" is "to support passage of the federal bill, and then to litigate if states fail to implement human service registration as widely and uniformly as in driver agencies."

Not surprisingly, the National Voter Registration Act is supported by "a broad range of good government, public interest, civil rights, and labor groups" which, by automatically registering nearly all adult Americans, could focus primarily on "education" and get-out-the-vote efforts among select classes of voters.

The same would hold for both major political parties, however; and genuinely nonpartisan voter registration and education groups could refocus their efforts primarily toward disseminating useful, unbiased information. Those who believe the Act is a panacea to benefit preferred candidates could find their hopes short-lived, as did many on the left during the massive 1984 registration campaign.

In 1989, Human SERVE received $20,000 from the J. Roderick MacArthur Foundation and $15,000 from the Rockefeller Family Fund. Liberal Senators Bill Bradley (D-NJ) and Alan Cranston (D-CA) have commended Human SERVE'S work, as have such organizations as the Indiana Civil Liberties Union, Jobs With Peace Campaign, Lawyers' Committee for Civil Rights Under Law, People for the American Way, Project VOTE!, and Ralph Nader's Public Interest Research Group.

A NONPARTISAN ALTERNATIVE: VOTE AMERICA

Created in 1982, the Washington, D.C.-based Vote America Foundation, by registering young voters and encouraging traveling Americans to vote absentee, seeks to "safeguard that most precious freedom: the right to vote."

With support from foundations, individuals, and corporations, Vote America committed nearly half its $783,000 budget in 1990 to "educating and motivating young Americans, aged 18 to 24, to register and vote."

Chairman Joe M. Rogers says, "We should once again expect our educational system to produce adults who can read the newspaper, understand the relative context of an issue presented on the evening news and even recount the struggles of those who have fought and died for the right to vote here and around the world."

Vote America maintains a diversity of programs:

At the high school level, it distributes a curriculum packet with information on "the history and mechanics of voting," statewide elections, and registration deadlines.

At the college level, student groups and/or administrators receive comprehensive registration materials with information on organizing campus registration drives, statewide elections, and registration and voting requirements in all 50 states.

Travel industry companies each year place "reminders" to vote absentee "in hotel rooms, rental car agencies, airport, clubrooms, airplanes, cruise ships, travel publications, bus stations and travel agent ticket envelopes."

Hundreds of other companies receive materials for company-wide registration programs. Participating firms provide absentee ballot forms for traveling employees, conduct on-site voter registration in cafeterias and reception areas, pass out absentee ballot applications to customers, give employees time off to vote on election day, and otherwise remind employees about registration and voting deadlines through memos, newsletters, and bulletin board announcements.

There also is a nationwide campaign of public service advertisements in both the broadcast and print media. "During the three months prior to [last year's] Election Day, Vote America television spots were aired more than 86,000 times, generating an estimated three billion viewer 'impressions.'" Radio announcements created an additional 492,000,000, listener impressions.

Vote America's efforts show that voter registration and education need not be calculated or partisan. Among the organization's major donors in 1990 were American Airlines, AT&T, Bell Atlantic Charitable Foundation, Grey Advertising, Merrill Lynch, Philip Morris, Phillips Petroleum and Ryder.

THE CONSTITUTION DOES NOT REQUIRE CONGRESS TO EXEMPT ITSELF FROM THE LAWS

Mr. NICKLES. Mr. President, 3 weeks ago the Senate defeated two amendments of mine that would have made the Congress of the United States subject to many of the same laws that apply to everyone else in this country. The first amendment would have made Congress subject to the same civil rights laws and enforcement practices and to the same labor laws and enforcement practices that Congress requires the rest of the country to live under. The second amendment would have made the Senate subject to jury trials and punitive damages in employment discrimination cases under the same terms and conditions as the Senate was then—in the very bill before it—applying to other employers throughout the country.

During debate on those amendments, a few Senators said they believed my amendments were unconstitutional because they violated separation of powers principles. I said then that the Constitution raised no bar to my amendments. I repeat that position today and am pleased to be joined in that opinion by one of America's outstanding legal scholars, Bruce Fein. Mr. Fein asks in a recent article the same question I put to the Senate, "How can it be seriously argued that a congressional decision voluntarily to apply ordinary principles of law to its own Members would violate the Constitution?" In answer, Mr. Fein quotes the Supreme Court: "Our system of jurisprudence rests on the assumption that all individuals, whatever their position in Government, are subject to Federal law."

The American people are not willing to be governed by an elite corps of lawmakers who put burdens on the people that they (the lawmakers) are not willing to bear themselves. That is why this issue is not behind us; that is why the Senate's recent half-hearted efforts will not suffice. When this issue returns to the floor, I am confident that more and more Senators and Representatives will agree that the Constitution does not demand hypocrisy from nor privilege for the Congress of the United States. The Constitution of the United States does not bar Congress from abiding by the same rules and procedures that govern all other Americans. Mr. Fein's recent article makes this point effectively, and I ask that his article be placed in the RECORD at the conclusion of my remarks.

Mr. President, I am reminded often of the wisdom of this Nation's founders. On this subject, for example, I doubt that the advice of James Madison, our great patriot and scholar, can be improved upon. Madison is the greatest lawmaker the United States has known. He may be the greatest lawmaker in history, for he is the father of the Constitution of the United States and the principal author of the Bill of Rights. Madison wrote:

> [The House of Representatives is] restrain[ed] from oppressive measures [because] they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer, the genius of the whole system, the nature of just and constitutional laws, and above all the vigilant and manly spirit which actuates the people of America, a spirit which nourishes freedom, and in return is nourished by it.
>
> If this spirit shall ever be so far debased as to tolerate a law not obligatory on the Legislature as well as on the people, the people will be prepared to tolerate anything but liberty. *The Federalist* no. 57 (J. Madison).

Making Congress subject to the same laws that govern all Americans is not the kind of harm the Constitution sought to protect Congress against. Indeed, in Madison's view, the Constitution and the spirit of liberty combine to make congressional coverage under the laws obligatory. There is no constitutional obstacle to removing the artificial barriers that now insulate us from the real world. The Congress has thrown up those barriers and the Congress can take them down, and it is time—and past time—that we did so.

I thank the Chair.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 19, 1991]

CONGRESSIONAL FLIMFLAMMERY

(By Bruce Fein)

Why are so many Members of Congress held in low esteem? A major reason is their recurring insouciant intellectual dishonesty. Most will brandish any argument that furthers their personal or political welfare, no matter how preposterous.

Take the 1991 Civil Rights Act and numerous other laws that hold Members of Congress to a lesser legal obligation or provide more lenient enforcement procedures than obtain for the ordinary citizen. Senate Majority Leader George Mitchell, Maine Democrat, and House Speaker Thomas Foley, Washington Democrat, ardently defend the aristocratic legal privileges of Congress, a descendant of the First Estate in pre-revolutionary France. They and a majority of other members brainlessly bray that constitutional separation of powers principles require their regal treatment. They would think it lese-majeste to question whether either a syllable of constitutional text or history supports their legal elevation above those citizens who pay their handsome salaries. The notion that an assertion should be defensible by facts or reason is alien to their congressional existence.

It is thus characteristic that the Mitchell-Foley separation of powers argument is intellectual fraud, no more respectable than cold fusion.

Article I, section 6, of the Constitution provides that "for any Speech or Debate in either House, [Senators and Representatives] shall not be questioned in any other place." The initial formulations of the Speech or Debate clause simply stated: "Freedom of Speech and Debate in the Legislature shall not be impeached or questioned in any Court or Place out of the Legislature," and that wording was changed only for style and brevity. The purpose of the clause is to ensure uninhibited legislative debate and argument in congressional fora. Holding members legally accountable for such remarks and votes in judicial proceedings initiated by private parties or the executive would make the former vulnerable to intimidation through costly or harassing lawsuits. Congressional action would lose desired independence.

The narrowness of the Speech or Debate clause is fortified by the rejection at the Constitutional Convention of a proposal to make "each House, . . . [the] judge of the privilege of its own members." As Charles Pinckney, a convention delegate, later lectured: "[The Constitution] never was intended to give Congress . . . any but specified, and those very limited, privileges indeed. They well knew how oppressively the power of undefined privilege had been exercised in Great Britain, and were determined that no such authority should be exercised here. They knew that in free countries very few privileges were necessary to the undisturbed exercise of legislative duties. . . . they never meant that the body that ought to be the purest, and the least in want of shelter from the operation of laws equally affecting their fellow citizens, should be able to avoid them." Pinckney's views echoed those of the Father of the Constitution, James Madison, voiced in Federalist 57.

In sum, the Speech or Debate clause implements the Constitution's separation of powers by protecting freedom of deliberation and voting on the floor of Congress and in congressional committees. Would applying federal minimum wage and overtime provisions to Members of Congress threaten their freedom of debate and voting? Would the application of federal health, safety, or environmental statutes do so? Would authorizing private suits directly in federal district courts against members allegedly guilty of employment discrimination by on race, religion, gender, or disability undermine their independence in congressional floor or committee deliberations? Would requiring members to pay surcharges bank overdrafts?

These questions answer themselves to ordinary minds, unlike those of Messrs. Mitchell and Foley, and Supreme Court decisions confirm the obvious. They restrict the Speech or Debate clause to conduct within the "sphere of legislative activity," such as the deliberative and communicative processes by which Members participate in committee and floor proceedings with respect to the consideration and passage or rejection of proposed legislation. The cause does not reach countless acts by members, such as constituent communications, or the receipt of bribes to influence a vote.

How can it be seriously argued that a congressional decision voluntarily to apply ordinary principles of law to its own members would violate the constitution? That document fulsomely applauds legal evenhandedness. As the Supreme Court emphasized in Butz versus Economou (1978): "Our system of jurisprudence rests on the assumption that all individuals, whatever their position in government, are subject to federal law." The Speech or Debate clause is amply vindicated by prohibiting use of a member's vote or legislative statements as evidence of a legal violation.

Subjecting Members of Congress to the same laws that govern the great mass of society, James Madison observed, "has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments . . . without which every government degenerates into tyranny." To interpret the Constitution to deny Congress the power to adopt laws needed to prevent government degeneration into tyranny, as would Mr. Mitchell and Mr. Foley, is perverse

The 1991 Civil Rights Act recognizes the imbecility of the Mitchell-Foley constitutional worries. It prohibits senators from practicing employment discrimination on the basis of gender, religion, age, or disability, coupled with enforcement procedures involving the federal courts. But Congress should do more. Each chamber should require a recorded floor vote to retain or to create any member immunities from federal law and adopt resolutions renouncing the Mitchell-Foley embrace of a constitutionally privileged caste.

RECOGNITION OF RETIRED ADM. JOHN G. WILLIAMS, JR.

Mr. GORTON. Mr. President, I have recently learned of the death of a man who exemplified what one concerned and dedicated person can achieve in a lifetime. Retired Adm. Jack Williams succeeded in his career, as an active member of his community, and as a man devoted to family.

Jack Williams graduated from the U.S. Naval Academy in 1946, and from there proceeded to enjoy a long and distinguished military career, including teaching Naval Science at Oregon State College, serving as Executive Officer of the submarine U.S.S. *Stickleback*, and as Commander of the submarines U.S.S. *Sterlet*, U.S.S. *Haddo* and U.S.S. *Daniel Webster*. He later commanded a submarine squadron in Rota, Spain. In 1980, he was promoted to vice admiral, oversaw the Pacific fleet and became Deputy Chief of Naval Operations for submarine warfare. The last of an illustrious list of achievements was his appointment as Chief of Naval Materiel.

After retirement and cessation of the global travel that accompanies a military career, Jack and his wife Dorothy returned to the Pacific Northwest, to Long Beach, where they had met. In community as in career, Jack was generous with his energies, his time, and his talents, serving as president of the Columbia River Maritime Museum in Astoria, a member of the board for the Ilwaco Heritage Museum, and as vice president of the Keyport Undersea Museum. He helped found the Northwest Submarine League, which he served as president, was active with the boy scouts, and served as president of the local school board. Because of his stature in the community, I had planned to ask Jack to serve as a member of my Pacific County Advisory Committee, but the onset of his illness precluded my doing so. I have no doubt that his contribution would have been significant.

Finally, Mr. President, Jack Williams was a family man, not just in the narrower sense of having raised, provided for, and nurtured, with Dorothy, his own nuclear family, but in a larger, more joyous way. Jack and Dorothy Williams raised five children—Jack, Trond, Curt, Barbara, and Bronk—who, by the time of his death, had brought four spouses—Barbara, Cathy, Sheila, and Roger—and nine grandchildren—John, Carl, Trond, Matthew, Alex, Tara, Kate, Katie, and Hannah—to the immediate family. This growing clan gathered frequently at Jack and Dorothy's home and enjoyed each other as it seems fewer and fewer families find time to do these days.

But this was not the full extent of Jack's devotion to family. Each Labor Day is the occasion for an ever larger reunion of the extended Williams family, who celebrate in a uniquely American fashion their common Welsh lineage, and their sheer enjoyment of each other. Many families hold such reunions every ten years or so, but few do so on a yearly basis. Last year's gathering drew nearly 150 relatives. Next year's meeting will surely be more somber with the loss of this man who was a family leader, as he was a leader in all things. But they will meet, nonetheless, and in meeting will honor his memory.

Mr. President, I extend my sincere condolences to the family and many friends of Adm. John G. Williams, Jr., a man whose numerous personal successes contributed to the success of all he touched. In mourning his death, we also celebrate his life.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items 432, 435, 436, 437, 438, 439, 440, 441, 442, and 443, and the following nominations reported today by the Committee on the Judiciary: William Ho-Gonzales, to be Special Counsel for Immigration-Related Unfair Employment Practices; David C. Bramlette, to be U.S. district judge; Joe B. McDade, to be U.S. district judge; Anne C. Conway, to be U.S. district judge; Sam Sparks, to be U.S. district judge; Edith Brown Clement, to be U.S. district judge; David A. Faber, to be U.S. district judge; and Monti L. Belot, to be U.S. district judge.

Mr. President, I note for the record that all four nominees for the Department of Veterans Affairs, Calendar Orders 439, 440, 441, and 442, have given a commitment to respond to requests to appear and testify before any duly-constituted committee of the Senate.

I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees he confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. We concur.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Alan M. Dunn, of Virginia, to be an assistant Secretary of Commerce.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

William Stewart Johnson, of New Mexico, to be a Member of the Board of trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 1996 (reappointment).

A. David Lester, of Colorado, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1994.

Piestwa Robert Harold Ames, of California, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 1996

Wiley T. Buchanan, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 1996.

DEPARTMENT OF VETERANS AFFAIRS

Sylvia Chavez Long, of New Mexico, to be an Assistant Secretary of Veterans Affairs (Congressional Affairs).

Allen B. Clark, Jr., of Texas, to be Director of the National Cemetery System. Department of Veterans Affairs.

Jo Ann Krukar Webb, of Virginia, to be an Assistant Secretary of Veterans Affairs (Policy and Planning).

James Ashley Endicott, Jr., of Texas, to be General Counsel Department of Veterans Affairs

U.S. INTERNATIONAL TRADE COMMISSION

Peter S. Watson, of California, to be a Member of the United States International Trade Commission for the term expiring December 16, 2000.

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices for a term of 4 years.

David C. Bramlette, of Mississippi, to be U.S. District Judge for the Southern District of Mississippi.

Joe B. McDade, of Illinois, to be U.S. District Judge for the Central District of Illinois.

Anne C. Conway, of Florida, to be U.S. District Judge for the Middle District of Florida.

Sam Sparks, of Texas, to be U.S. District Judge for the Western District of Texas.

Edith Brown Clement, of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

David A. Faber, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia.

Monti L. Belot, of Kansas, to be U.S. District Judge for the District of Kansas.

STATEMENT ON THE NOMINATION OF WILEY T. BUCHANAN

Mr. WARNER. Mr. President, addressing the most recent action by the Senate relating to the Executive Calender No. 438, referencing Wiley T. Buchanan to be a member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development, I have had the privilege of knowing that distinguished citizen for some many years and, indeed, his father. I wish to congratulate him for having taken on this important responsibility and having been so nominated by the President of the United States. I am confident he will discharge his responsibilities in a very commendable manner in the best interests of our Nation.

I admired greatly Wiley T. Buchanan, Sr., former U.S. Ambassador to Austria. He is survived by his equally distinguished wife, Ruth, mother of the President's nominee.

STATEMENT ON NOMINATIONS OF JO ANN K. WEBB, SYLVIA CHAVEZ LONG, ALLEN B. CLARK, AND JAMES A. ENDICOTT TO POSITIONS AT THE DEPARTMENT OF VETERAN AFFAIRS

Mr. SPECTER. Mr. President, as ranking minority member of the Committee on Veterans' Affairs, I am pleased to support the confirmation of the nominations of four remarkable individuals to key positions at the Department of Veterans Affairs [VA]. Each nominee is highly qualified for the post to be assumed.

I am proud to say that the President's nominee to be the VA's Assistant Secretary for Policy and Planning, Jo Ann K. Webb, is a Pennsylvania native and is a graduate of the Pennsylvania State University, which she attended under the U.S. Army's Nurse Scholarship Program. Until recently, Mrs. Webb served as the Director of VA's National Cemetery System. Prior to that appointment, she had been a practicing registered nurse, a career employee at VA, and an adviser to VA on women's issues. As a registered nurse in the U.S. Army, she served as an operating nurse in, among other places, the Republic of Vietnam.

Ms. Sylvia Chavez Long, who is nominated to serve as VA's Assistant Secretary for Congressional Affairs, began her career at VA in 1989 as Deputy Assistant Secretary for Program Coordination and Evaluation. Prior to assuming this position, Ms. Chavez Long served for more than 16 years on the staff of former Representative—and currently Interior Secretary—Manuel Lujan of New Mexico as his veterans' and military liaison. She now moves to a VA position for which she is uniquely suited.

The congressional affairs activity at VA has made great strides since the arrival of Secretary Ed Derwinski and Deputy Secretary Tony Principi. Under Dennis Duffy, Deputy Assistant Secretary for Congressional Liaison, and Jo Sherman, Deputy Assistant Secretary for Legislative Affairs, the Office of Congressional Affairs has served the Congress well. I am pleased that Ms. Chavez Long, a person with a depth of congressional experience, will be overseeing this important program.

Allen B. Clark, nominated to be Director of the National Cemetery System, has most recently served the VA and Assistant Secretary for Veterans Liaison and Program Coordination. Mr. Clark served as a captain in the Special Forces in Vietnam during 1966 and 1967, where he received, among other decorations, the Silver Star for Gallantry, the Bronze Star, and the Purple Heart. Sadly, both of Mr. Clark's legs were amputated due to combat wounds in Vietnam. Clearly, however, none of his spirit was left behind in Vietnam. Since his retirement from service, Mr. Clark has received an M.B.A. from Southern Methodist University, and has been a banker and businessman as well as a spokesman for Vietnam veterans. I anticipate that he will apply that same dynamic spirit to the management of our national cemeteries.

Mr. James A. Endicott, the general counsel-designate, has resided and practiced law in Texas, and served as a domestic court master there, since his retirement from the U.S. Army in 1982. Like Mrs. Webb and Mr. Clark, Mr. Endicott is a veteran of Vietnam service. Mr. Endicott went to the George Washington University Law School while he was a young officer stationed here in Washington and, subsequently, amassed a distinguished career in Army law before retiring in 1982 as a colonel. I believe his legal and military experience will provide a special focus and sensitivity to his duties as the Secretary's chief legal adviser and manager of the attorneys and staff in VA's Office of the General Counsel.

Mr. President, each of these nominees is a highly distinguished and qualified individual. I urge my colleagues to approve their nominations.

STATEMENT ON NOMINATIONS TO POSITIONS IN THE DEPARTMENT OF VETERANS AFFAIRS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge confirmation of the four pending nominations to Department of Veterans Affairs positions—Allen B. Clark, Jr., who is nominated to be Director of the National Cemetery System; James A. Endicott, Jr., nominated to be general counsel; Sylvia Ann Chavez Long, nominated to be Assistant Secretary for Congressional Affairs; and Jo Ann K. Webb, nominated to be Assistant Secretary for Policy and Planning. On October 25, 1991, I chaired a hearing to consider these four nominations and yesterday, November 20, the committee voted by voice vote and and without dissent to report these nominations favorably to the Senate.

BACKGROUND

Mr. President, I would like to discuss briefly the qualifications of each of the four nominees, all of whom are well qualified to serve in the positions to which they have been nominated.

ALLEN B. CLARK, JR.

Mr. President, Allen Clark is a 1963 graduate of West Point and a highly decorated Vietnam veteran. As a Green Beret in Vietnam, he lost both legs as a result of wounds received in combat. He was awarded the Silver Star for gallantry in action, the Bronze Star, the Air Medal, the Purple Heart, two Vietnam Service Battle Stars, the Combat Infantryman's Badge, and Airborne Wings. He retired medically as a captain in 1968.

Mr. Clark earned a master's degree in business administration at Southern Methodist University in 1970. His professional career has included nearly two decades in the private sector, where he held positions in banking and industry. From 1978 to 1981 he served as a special assistant to Texas Governor, Bill Clements.

He has devoted significant time and energy to many civic organizations, including the United Way, the Dallas American Heart Association, and the Austin Vietnam Veterans Leadership Program. He also is a member of numerous veterans' service organizations.

In October 1989, Mr. Clark was confirmed by the Senate to be the Assistant Secretary for Veterans Liaison and Program Coordination. In that capacity, he served as the Secretary's principal advisor regarding the interests and concerns of veterans and veterans' service organizations and was responsible for conducting program evaluations under section 527—formerly section 219—of title 38, United States Code. While Assistant Secretary, he also served as the chairman of the Native American Coordinating Council.

If confirmed as Director of the National Cemetery System, Allen Clark will assume responsibility for the management of 113 cemeteries, approximately 1200 employees, and a fiscal year 1992 operating budget of $67 million.

JAMES A. ENDICOTT, JR.

Mr. President, Jim Endicott received his bachelor's degree in 1960 from the Citadel, where he was a distinguished military student and dean's list scholar. After graduation, he began his military service in 1960 as an Army 2nd Lieutenant with the 101st Airborne Division and then served for 3 years with the 24th Mechanized Infantry Division in Germany. He returned stateside to Ft. Myer, VA, where he served in the 3d Infantry. From 1965 to 1968, he attended law school at George Washington University while serving on active duty in the office of the Army's Judge Advocate General. After receiving his J.D. degree with honors in 1968, he served a year tour in Vietnam as a Deputy Staff Judge Advocate with the 4th Infantry Division.

From 1969, when he returned from Vietnam, to 1982, when he retired as a Colonel, he served in progressively more responsible positions in the Army's Judge Advocate General Corps. His last active-duty assignment was as special assistant to the chief judge of the Army Court of Military Review.

After retiring from the Army, he worked as an attorney in private practice for 7 years and then, in 1989, he began serving as a Family Law Court Master in Bolton, Texas, a position in which he served until his nomination.

Jim Endicott is admitted to the bar of the U.S. Supreme Court, as well as the Courts of Appeals for the Fifth and Federal Circuits, the Court of Veterans Appeals, the U.S. Claims Court, and the U.S. District Court for the western district of Texas, and to the Virginia and Texas bars.

He served for 2 years on the Texas Veterans Commission, an executive body that oversees a statewide staff of veteran service officers.

If confirmed as general counsel, Mr. Endicott will assume management responsibility for approximately 650 employees and a budget of $37 million. It is the responsibility of the Office of General Counsel to provide legal and policy advice to the Secretary as well as to all VA offices.

Mr. President, at Jim Endicott's confirmation hearing, I raised with him my concern that the current level of funding for the Office of General Counsel does not address properly the increased staffing demands related to the Court of Veterans Appeals. His responses assured me that he is aware of the staffing needs of the office and of the importance of the major new judicial review responsibilities before the court.

I was pleased that Mr. Endicott, in response to questions posed by both Senator THURMOND and me, acknowledged that the general counsel, in addition to representing the Department before the court, has a responsibility to ensure that veterans receive fair treatment and all benefits and service to which they are entitled.

In response to requests for his views on the relationship between the general counsel and the chairman of the Board of Veterans Appeals with respect to board matters that come before the court, Mr. Endicott acknowledged that the respective roles of the general counsel and the chairman may, at times, result in conflicting views as to the proper course for the department to follow in cases appealed to the court. He stated that he would not be inclined to settle a case, which would effectively reverse the BVA decision, without first consulting the chairman of the Board of Veterans Appeals and that he would strive to resolve amicably any differences between BVA and the office of the general counsel.

SYLVIA ANN CHAVEZ LONG

Sylvia Chavez Long received a degree in business administration from the University of New Mexico in 1970 and pursued further education at the Albuquerque Technical-Vocational Institute and the University of New Mexico.

After graduating from college, she worked for 2 years in the private sector in New Mexico and then, in 1972, joined the staff of then-Representative, now Secretary of the Interior, Manuel Lujan, where she served for 16 years as the Veterans and Military Liaison.

In 1973, Sylvia Chavez Long joined the U.S. Navy Reserve as an enlisted member. She rose to the rank of chief petty officer and in 1989 received a commission as a chief warrant officer. She remains a member of the Navy Reserve, currently as an administrative officer in the Office of the Assistant Chief of Naval Operations for Surface Warfare.

In 1989, she became the deputy assistant secretary for Program Coordination and Evaluation at VA. In that capacity, she had primary responsibility for conducting evaluations of VA's PTSD treatment programs and homeless veterans programs, as well as for coordinating the Native American Home Loan Guaranty Study mandated by Public Law 101-237.

Ms. Long has been awarded numerous honors in connection with her service in the Naval Reserve and is active in several associations, including the

Council of Hispanic Women, the American G.I. Forum, the Association of the U.S. Army, and the National League of Families. She was also a member of the board of directors for the New Mexico Vietnam Veterans Leadership Program and editor of the New Mexico Veterans News.

If confirmed as assistant secretary for Congressional Affairs, Sylvia Chavez Long will serve as a principal advisor to the secretary and deputy secretary concerning all legislative matters. She will be the direct liaison between VA and congressional Members and their staffs and, thus, will be responsible for facilitating and encouraging a positive working relationship between VA and Congress.

At the committee's October 25 hearing, I requested that Ms. Long work with the Secretary to inform VA employees of the Department's policy regarding communications between congressional offices and VA. In prehearing responses, she stated that the policy did not require that all communications be processed through the Office of Congressional Affairs, yet committee members, and our staffs, have sensed confusion and in some cases serious apprehension among central office and field staff when making routine requests for information or assistance. I am very pleased that Ms. Long agreed to honor my request to clarify the policy, and I am confident that, as a former congressional staff person, she fully understands how important it is that congressional Members and their staffs receive timely and accurate responses to inquiries.

JO ANN K. WEBB

Mr. President, Jo Ann Webb received her bachelor of science degree from Pennsylvania State University in 1970 and then served in the Army Nurse Corps for 5 years as a lieutenant and then captain. This included a year as an operating room staff nurse in Vietnam during 1971–72. She served as a nurse at U.S. Army hospitals in West Germany and at the Walter Reed Army Medical Center, where she was the head nurse of the Ophthalmology Surgery Service. In May of 1978, she received a master's degree in health administration from George Washington University.

Mrs. Webb served 3 years as an original member of the VA Women's Advisory Committee, 3 years as a consultant to ACTION, the national domestic volunteer agency, and 4 years as a health systems specialist at VA. For the past 2½ years, she has served VA as special assistant to the secretary and, since October 1989, as Director of the National Cemetery System.

Mr. President, the position of Assistant Secretary for Policy and Planning is a new one. If confirmed, Mrs. Webb would be responsible for facilitating the Secretary's policy development and planning processes and integrating both into the Secretary's strategic management process. In this capacity, she would manage 76 employees and a budget of almost $7.5 million for fiscal year 1992. At the committee's confirmation hearing, I stressed that, given the scarcity of resources in the current budget climate, there is a need for strategic plans to include a priority for programs that address the needs of service-disabled veterans and the survivors of such veterans.

CONCLUSION

Mr. President, each nominee completed the committee's basic questionnaire for Presidential nominees and the committee received letters from the Office of Government ethics certifying that each is in compliance with applicable laws and regulations governing conflicts of interest. I reviewed the FBI reports on the nominees and found no bar to their confirmation.

Mr. President, I am pleased to recommend to the Senate the confirmation of Allen B. Clark, Jr., to serve as Director of the National Cemetery System; James A. Endicott, Jr., as general counsel; Sylvia Ann Chavez Long, as Assistant Secretary for Congressional Affairs; and Jo Ann K. Webb, as Assistant Secretary for Policy and Planning.

STATEMENT ON NOMINATION OF ANNE CONWAY

Mr. MACK. Mr. President, it is with great pleasure that I present to you Anne Conway, nominee for the U.S. District Court in the middle District of Florida.

Anne Conway was born in Ohio and graduated from John Carroll University in 1972 with a bachelor of arts degree. She attended the University of Florida Law School. Anne excelled in law school where she was executive editor of the Law Review. She received the Book Award in Estates and Trusts and was the recipient of the McIntosh Award from the Center for Governmental Responsibility. Anne graduated with honors from law school in 1975.

After law school, she clerked for the Honorable John A. Reed, Jr., at the U.S. district court in Orlando. Upon completing her clerkship, she went into private practice and is currently a partner in the Carlton, Fields Law Firm in Orlando. Her practice consists mainly of civil litigation, primarily in Federal Court.

Anne Conway has been very active in the Florida Bar and in the Orange County Bar Association where she served as past chairperson of the State and Federal Trial Practice Committee. Anne also is involved in the Southern Ballet Theatre, the Orlando Museum of Art and the Lakemont Elementary School PTA.

Anne enjoys widespread support in her community and has earned the respect of her colleagues. I have received numerous letters and phone calls in her behalf praising Anne, not only for being an outstanding attorney but also for her participation in her community and for her devotion to her family.

As I have stated previously before this body, I established a Judicial Advisory Commission to make recommendations to me for district court openings in my State. The Commission highly recommended Anne for my consideration. The Commission found her to be a very qualified candidate for the United States District Court and I wholeheartedly concur.

This morning, Anne was voted on favorably by the Senate Judiciary Committee and her nomination was reported to the full Senate for consideration. I trust each of you will examine Anne Conway's fine legal record. I believe her to be eminently qualified for the position of Federal District Court Judge and I urge the Senate to confirm her without further delay.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Rules and Administration.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT

PM–97

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to provide you the Twenty-third Annual Report of the Department of Transportation's activities. This report reviews the Department's activities during fiscal year 1989.

FY 1989 was a year of major events in transportation. Evidence mounted that the crash of Pan Am 103 over Scotland was the result of terrorism. The *Exxon Valdez* oil spill heightened concern about safety of the transportation of oil. The Department reacted to these events and also worked to outline a national transportation policy to move

America into the 21st century. It held nationwide outreach meetings to help draft such a comprehensive national transportation policy.

This report also outlines the gains the Department made in meeting the goals of regulatory reform, greater safety and security in all modes of transportation, elimination of drugs from the transportation workplace, privatization of mass transit, and increased reliance on user fees to pay for transportation services.

The Department continued to eliminate needless Federal regulations and shift many Federal controls to State and local governments where they would be more effectively managed. This was certainly true of motor carrier regulation.

The Department required drug testing and drug use prevention programs throughout most of the transportation industry and the Department work force. The Department issued regulations designed to identify drug use problems, prevent the threat of drug use by those employees holding safety- and security-related positions, and ensure a drug-free transportation environment.

The bombing of Pan Am Fight 103 stressed the need to increase civil aviation security around the world to protect the traveling public from criminal and terrorist acts. The Secretary worked with authorities on terrorism to identify vital areas for improvement and to strengthen the Department's activities to address them.

As we forge a national transportation policy that underscores safety, security, and market forces, we must do so with the full realization that transportation must play a central role in our investment in America's future. Our competitive success depends on it.

GEORGE BUSH.

THE WHITE HOUSE, *November 21, 1991*.

MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 159) for the relief of Maria Erica Bartski; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1284) to make certain technical corrections in the Judical Improvements Act of 1990; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2763. An act to enhance geological mapping of the United States, and for other purposes;

H.R. 2790. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; and

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 238. Concurrent resolution concerning democratic changes and violations of human rights in Zaire; and

H. Con. Res. 242. Concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses.

At 2:50 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. ARCHER as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. DE LUGO, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. LEHMAN of Califronia, Mr. YOUNG of Alaska, Mr. HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conferences: Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DAVIS.

The message further announced that the House has passed the following bill, in which it requires the concurrence of the Senate:

H.R. 3635. An act to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

ENROLLED BILLS SIGNED

At 6:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; and

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2763. An act to enhance geological mapping of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2790. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 238. A concurrent resolution concerning democratic changes and violations of human rights in Zaire; to the Committee on Foreign Relations.

H. Con. Res. 242. A concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Committee on Rules and Administration was discharged from the further consideration of the following resolution; which was placed on the calendar:

S. Res. 198. A resolution amending Senate resolution 62 of the One Hundred Second Congress to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3762. An act to amend the Metropolitan Washington Airport Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 21, 1991, he had presented to the President of the United States the following enrolled bill:

S. 1475. An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1330. A bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes (Rept. No. 102–226).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1933. A bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes (Rept. No. 102–227).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

H.R. 3029. A bill entitled, "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 447. A bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 1776. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices for a term of four years;

Ernest Wilson Williams, of Tennessee, to be United States Attorney for the Middle District of Tennessee for the term of four years;

Anne C. Conway, of Florida, to be United States District Judge for the Middle District of Florida;

Monti L. Belot, of Kansas, to be United States District Judge for the District of Kansas;

David C. Bramlette, of Mississippi, to be United States District Judge for the Southern District of Mississippi;

David A. Faber, of West Virginia, to be United States District Judge for the Southern District of West Virginia;

Joe B. McDade, of Illinois, to be United States District Judge for the Central District of Illinois;

John M. Roll, of Arizona, to be United States District Judge for the District of Arizona;

Edith Brown Clement, of Louisiana, to be United States District Judge for the Eastern District of Louisiana; and

Sam Sparks, of Texas, to be United States District Judge for the Western District of Texas.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. COHEN, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. EXON, Mr. METZENBAUM and Mr. WELLSTONE):

S. 2000. A bill to provide for the containment of prescription drug prices by reducing certain nonresearch related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 2001. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of school buses; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON:

S. 2002. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. JOHNSTON:

S. 2003. A bill to provide an exception to the coverage of State and local employees under Social Security; to the Committee on Finance.

By Mr. DECONCINI:

S. 2004. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling for private activity bonds; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2005. A bill to amend section 2 of the Act of July 31, 1947 (61 Stat. 681); to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. KASTEN):

S. 2006. A bill to establish the Fox River National Heritage Corridor in Wisconsin, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 2007. A bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. BOREN):

S. 2008. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. FOWLER, Mr. HATFIELD, Mr. NUNN, Mr. GORTON, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. HEFLIN, Mr. SYMMS and Mr. BREAUX):

S. 2009. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. HATFIELD:

S. 2010. A bill for the relief of Jessielito G. Infante; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. PELL):

S. 2011. A bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics; to the Committee on Foreign Relations.

By Mr. SPECTER:

S. 2012. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for high speed rail and certain other mass transportation equipment; to the Committee on Finance.

By Mr. LEAHY:

S. 2013. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. PACKWOOD, Mr. GRAHAM and Mr. JEFFORDS):

S. 2014. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. D'AMATO, Mr. SIMON, Mr. HOLLINGS, Mr. NUNN, Mr. LUGAR, Mr. INOUYE, Mr. DURENBERGER, Mr. DECONCINI, Mr. STEVENS, Mr. METZENBAUM, Mr. GORTON, Mr. BUMPERS, Mr. DANFORTH, Mr. BOND, Mr. BURDICK, Mr. COHEN, Mr. CRAIG, Mr. REID, Mr. SIMPSON, Mr. THURMOND, Mr. MCCAIN, Mr. SHELBY, Mr. CONRAD, Mr. SASSER, Mr. FOWLER, Mr. BRYAN, Mr. SEYMOUR, Mr. HATCH, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. DIXON, Mr. FORD, Mr. HATFIELD, Mr. BURNS, Mr. SPECTER, Mr. LOTT, Mr. MACK and Mr. BOREN):

S. 2015. A bill to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the the defense of Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

By Mr. SEYMOUR:

S. 2016. A bill to protect, restore and enhance fish, and wildlife habitat within the Central Valley of California, mitigate Central Valley Project impacts in order to maintain the continued orderly operation of the Central Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. Res. 228. A resolution to amend the Albert Einstein Congressional Fellowship Program; considered and agreed to.

By Mr. LEVIN (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 229. A resolution to authorize testimony by and representation of a former Senate employee; considered and agreed to.

By Mr. ROBB (for himself and Mr. WARNER):

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam; to the Committee on Foreign Relations.

By Mr. SIMON:

By S. Con. Res. 79. A concurrent resolution expressing support for Zambia's transition to democracy; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. COHEN, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. EXON, Mr. METZENBAUM, and Mr. WELLSTONE):

S. 2000. A bill to provide for the containment of prescription drug prices by reducing certain nonresearch-related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, to requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes; to the Committee on Finance.

(Statements on the introduction of this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. REID:

S. 2001. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of schoolbuses; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. REID on the introduction of this legislation appear earlier in today's RECORD.)

By Mr. JOHNSTON:

S. 2002. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of schoolbus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

S. 2003. A bill to provide an exception to the coverage of State and local employees under Social Security; to the Committee on Finance.

ASSISTANCE FOR SCHOOLBUS DRIVERS

• Mr. JOHNSTON. Mr. President, today I am introducing legislation to help assist our Nation's schoolbus drivers who provide a very important role in the education of our children. Recently, several broad-based tax provisions have been enacted into law which adversely affect schoolbus drivers. The bills I am introducing today will provide some of our most dedicated school employees with relief which they need and deserve.

The first measure would permit bus drivers to deduct actual operating expenses, regardless of whether or not they itemize on their Federal tax returns. This was the law prior to enactment of the Tax Reform Act of 1986. Under current law, however, schoolbus drivers' actual expenses are treated as miscellaneous expenses, thus limiting the deduction to those who itemize and subjecting it to the 2-percent floor. This floor has prevented many schoolbus drivers from qualifying for any deduction for their actual operational expenses because they cannot meet the 2-percent floor applicable to miscellaneous itemized deductions. The result has been a substantial increase in schoolbus drivers' annual income tax liability. Moreover, even those bus drivers who itemize and qualify for deductions under the 2-percent floor have been penalized, especially those who file joint returns.

The second measure would exempt schoolbus drivers—and other State and local employees who work on a part-time, seasonal, or temporary basis—from paying Social Security taxes. Many of these individuals are already covered under State and local retirement systems; however, the law currently requires that they pay into Social Security as well. The result is increased costs to the employer and smaller take-home paychecks for the employees. Perversely, some States may even decide to remove these workers from their retirement systems, which could result in a reduction in, or loss of, retirement benefits for which the employees have worked for many years.

Our schoolbus drivers do a yeoman's job in transporting future generations to and from school. We all agree that education of our youth should be one of our highest priorities. Let's pass this legislation and provide some relief to those individuals who make it possible for our children to arrive at school in a safe and timely manner.

I ask unanimous consent that the text of the bills be printed in full immediately after this statement.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTIONS OF SCHOOL BUS DRIVERS ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 62(a) of the Internal Revenue Code of 1986 (relating to certain trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN EXPENSES OF SCHOOL BUS DRIVERS.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer in connection with the performance by the taxpayer of services as an employee while driving a school bus (as defined in section 4221(d)(7)(C))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCEPTION TO COVERAGE OF STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Subparagraph (F) of section 210(a)(7) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of clause (iv),

(2) by inserting "or" at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;".

(b) EMPLOYMENT UNDER FICA.—Subparagraph (F) of section 3121(b)(7) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of clause (iv),

(2) by inserting "or" at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

"(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11332 of the Omnibus Budget Reconciliation Act of 1990.•

By Mr. DECONCINI:

S. 2004. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling for private activity bonds; to the Committee on Finance.

STATE CEILING FOR PRIVATE ACTIVITY BONDS

Mr. DECONCINI. Mr. President, the economy is getting worse not better. Most of our economic indicators point to a deepening recession. Consumer confidence is at an all-time-low. The trade deficit is up. The President seems to argue that if we think the recession is over, it will be. Well, let me tell you this recession is not a figment of anyone's imagination. It is very real and we had better address it now before we sink into depression.

The news on the employment front in my State of Arizona is only getting worse. This is a story from yesterday's Arizona Daily Star reported by Jeff Herr, carries a headline "Burr-Brown Cutbacks May Affect 200 Jobs." The story states that the cutbacks are a result of "a major company restructuring triggered by the global recession."

Here I have a major employer in my State already in a recession and that is why they are cutting back over 200 jobs. Burr-Brown is a major Tucson, AZ, employer of nearly 1,200 workers in the semiconductor industry. It has been very successful. It has been above 1,200 before, and now we are seeing it start to shrink.

Today's news, from the same Arizona Daily Star is even worse. Reported again by Jeff Herr, the headline reads "Hughes to Cut 1,600 Jobs." This is Hughes aircraft, owned by General Motors, premier producer of missiles and other items. This is yet another sign of the weak economy and portends increasing unemployment and dislocation in Arizona.

We need leadership on the economy. Instead, we get platitudes. Yesterday, President Bush told NBC affiliates "I don't want to emphasize just the bad things, to talk us into a depression." Mr. President, it is not talk that is getting us into a depression, it is inaction. No action; no economic program from the White House.

Earlier this week the President told reporters, "I think I've got to do better in making clear what the message is." The administration has to spend less time worrying about what they say and worrying more about what they do. Or what they are not doing.

We need some action. And it is time for the President to put the politics aside and come help this country. How much time has he spent on domestic problems? Pretty soon, they are going to open up a White House in some foreign country for the President because that is where he is going to spend more time than he does here at the American White House.

There are a number of possible solutions to this economic crisis. Over the last 4 weeks, I have introduced a series of economic incentive tax bills. The legislation I have introduced targets different segments of the economy which are suffering in our current recession. My legislation seeks to create jobs. That is what we should be about if we want to get this economy moving again. I ask unanimous consent that a description of my entire four-part tax package and the full text of the bill I am introducing today be included in the RECORD at the end of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **DECONCINI**. There is no magic cure for our economic woes. I do not pretend to have some solution in my pocket. But at least I am doing some thinking about it and offering suggestions and directions for this country. I have sought a multifaceted approach to job creation and economic growth. In addition to my tax proposals, I am working on job creation through the appropriations process. Just last week, the Defense Appropriations Subcommittee, at my request, included funding for the procurement of 891 AMRAAM missiles, 2,400 TOW 2A missiles, and continued research and development of the AAAM missile. All of these projects are vital to our national defense, even in a period of time when we are building down that national defense. They will serve to preserve Arizona jobs which might otherwise be lost. In this case, both the workers of Arizona and our Nation's Armed Forces are winners.

We need more actions, Mr. President, not words. The Washington Post is quoted this morning as saying that the White House's Economic Policy Council has become a message machine. Council members are more concerned about communicating a message than curing the economy.

President Bush has come to sound like Hamlet who said "Nothing is either good or bad, but thinking makes it so."

Hamlet came to a tragic end Mr. President. I do not want to see our economy meet a similar fate. Let us move forward today. Let us act before inaction destroys the American economy and there is little left to talk about. It is not too late if we have some action.

I implore the President to move forward on economic grounds. And I hope when we return in January the Finance Committee and other committees that have jurisdiction will take up these tax incentive bills I have introduced, as well as other bills I will be introducing, including one involving a flat tax across the board with no deductions that I hope will spur the economic growth of this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[EXHIBIT 1.]

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE CEILING FOR PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Section 146(d)(2) of the Internal Revenue Code of 1986 (relating to adjustments after 1987) is amended to read as follows:

"(2) ADJUSTMENTS.—

"(A) YEARS BEFORE 1992.—In the case of calendar years after 1987 and before 1992, paragraph (1) shall be applied by substituting—

"(i) '$50' for '$75', and

"(ii) '$150,000,000' for '$250,000,000'.

"(B) YEARS AFTER 1991.—In the case of calendar years after 1991, paragraph (1) shall be applied by substituting—

"(i) '$100' for '$75', and

"(ii) '$300,000,000' for '$250,000,000'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

DESCRIPTION OF DECONCINI TAX PACKAGE

Mr. President, to reiterate, today I am introducing the fourth and last bill in my package of economic growth tax incentives. I do not need to repeat for my colleagues the statistics on the dire economic straits facing this country. Suffice it to say, that the double dip recession is a reality—unemployment is not abating and the near term future is far from rosy. That is why I have introduced four bills aimed at helping different sectors of our economy toward recovery.

The first bill I introduced, S. 1905, would repeal last year's increase in the airplane ticket tax from 8 percent to 10 percent. This 25 percent increase, on the heels of the war and the recession which dramatically cut into the airline industry's profits, has been devastating. It just does not make any sense to raise taxes on an industry which has suffered losses of $3.7 billion and $1.37 billion in the last two quarters. Since I introduced this bill 3 weeks ago, yet another airline—Midway—has failed. We must wonder which airline will be next? My bill would provide a boost to the airline industry and all its hard-working employees.

President Bush has admonished Americans to go out and buy a car or a home to help the economy. This insulated view of the American public fails to recognize that Americans are not out buying because they do not have any savings. Net national savings in this country have plummeted 80 percent in the last 40 years. The Japanese save at a rate almost three times ours; the average American under 35 has less than $5,000 in savings. You can not buy a house with $5,000. Therefore, I introduced the Savings Incentive Act, S. 1929, which encourages Americans to save by providing that the first $2,500 of interest earned on savings accounts for a single filer—$5,000 for a couple filing jointly—will be exempt from taxes.

The automobile industry is experiencing some of its most difficult times. Motor vehicle manufacturers experienced a $1.7 billion loss in the most recent quarter. Sales in September were 15 percent below July. In my home State of Arizona, 10 major new car dealerships have closed in the past year and new car sales have declined 33 percent. Therefore, I introduced S. 1957 which seeks to provide a boost to the auto industry by allowing individuals who buy a new car during 1992 to deduct the first year's interest from their taxes. One in seven Americans depend on the auto industry for their livelihood; we need to do something to help this industry.

Today, Mr. President, I am introducing the fourth part of my package. Economic development is the lifeblood for local communities, especially those in rural areas. Small issue industrial development bonds have long been an important tool in bringing jobs into cities and towns. Not only are jobs directly created by new businesses, but indirect employment in fields like construction significantly increase. In 1984, in another example of governmental overreaction, the amount of these bonds that State's are allowed to use was severely restricted. Currently the allocation is $50 per capita. Perhaps this is adequate for State's that are not growing, but for an active vibrant State like Arizona, it is just not sufficient and I suspect that other States have similar problems. Therefore, today I am introducing a bill to double the current limit on qualified small issue development bonds to $100 per capita. I hope that this provision will encourage growth and development at reduced cost to States and local governments.

Early next year, the Senate Finance and House Ways and Means Committees are expected to seriously consider a package of tax incentives to boost the economy. Any solution to our current economic crisis will have to be both comprehensive and diverse because this recession is deep and wide. I urge the chairmen to consider my proposals as part of their packages of recession solutions.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2005. A bill to amend section 2 of the act of July 31, 1947 (61 Stat. 681); to the Committee on Energy and Natural Resources.

AMENDMENT OF THE ACT OF JULY 31, 1947

• Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill to amend section 2 of the act of July 31, 1947 (61 Stat. 681).

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a)(1) of the Act of July 31, 1947 as amended, (30 U.S.C. 602(a)(1)), is hereby further amended to read as follows:

"(1) the contract is for the sale of less than five hundred board-feet of timber; or, if".

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 7, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend section 2 of the Act of July 31, 1947 (61 Stat. 681)."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The draft bill would permit the Secretary of the Interior to authorize negotiated contracts for the sale of less than five hundred thousand board-feet of timber by raising the volume of timber for which a contract could be negotiated from the present two hundred and fifty thousand board-feet (250 mbf) to five hundred thousand board-feet (500 mbf).

This amendment would facilitate the sale of insect and fire salvage timber primarily from scattered tracts of public lands which lack public access. Using California as an example, during fiscal year 1989, the Bureau of Land Management (BLM) negotiated over 70 timber sales under the provisions of the Act of July 31, 1947. In most instances, these sales were negotiated with adjacent private landowners and represented the only means by which salvage of the timber could reasonably take place.

Our experience indicates that competitive sales are possible only when access to the sale area is available to anyone who is qualified to bid. It is our policy to offer competitive sales only when such access is obtained. However, in the case of salvage timber, time is critical to prevent major timber volumes losses due to decay or insect damage. In these instances, negotiated sales offer BLM managers the flexibility to maximize economic return to the United States, to minimize insect infestations to adjoining lands, and to reduce risks of wildfire. Increasing the sale authority from 250 mbf to 500 mbf would provide broader application of the advantages of negotiated sales of timber.

The Office of Management and Budget has advised that there is no objection to this legislation from the standpoint of the Administration's program.

Sincerely,

DAVID O'NEAL
Assistant Secretary.•

By Mr. KOHL (for himself and Mr. KASTEN):

S. 2006. A bill to establish the Fox River National Heritage Corridor in Wisconsin; to the Committee on Energy and Natural Resources.

FOX RIVER NATIONAL HERITAGE CORRIDOR ACT

• Mr. KOHL. Mr. President, I am very pleased to reintroduce legislation to establish the Fox River National Heritage Corridor in Wisconsin. This bill is almost identical to legislation I introduced in the last Congress. The purpose of the bill is twofold: To federally recognize the Fox River corridor's role in our Nation's development; and to coordinate Federal, State, and local efforts aimed at preserving and enhancing the corridor's unique natural, historical, and cultural heritage.

The Fox River winds across Wisconsin, from Portage to Green Bay. Long before European explorers arrived, native Americans traveled the Fox River and lived along its shores. Later, history was made when explorers Marquette and Joliet followed the Fox and Wisconsin Rivers to reach the Mississippi River. Later, the Fox River played a critical role in the opening of the Northwest Territory, serving as a significant transportation corridor for settlers traveling into the Nation's vast interior.

Throughout the 19th and 20th centuries, the Fox River has played a significant role in the commercial and industrial development of this country. Besides serving as a transportation corridor, the Fox River's plentiful water supply attracted various industries to the region. In particular, the Fox River corridor quickly became famous for its concentration of paper mills, attracted by the region's vast forest reserves, access to major markets, and water supply. In fact, the lower Fox River has the Nation's highest concentration of paper mills along a single stretch of river.

Development in the region was further enhanced by construction of the world's first successful hydroelectric plant, powered by dams along the river. A local residence was the first to get electricity from a centrally located hydroelectric plant.

One of the most significant and historic features of the Fox River is the remarkable system of locks and dams. Although the locks along the upper Fox were abandoned in 1956 most of the locks along the lower Fox have been operational for the past 140 years. This lock system has the distinction of being one of only two hand-operated systems in the Nation, and the only one in continual operation since the time of its construction.

But this bill is not intended to focus on the individual parts that make up the Fox River corridor. Instead, the legislation attempts to tie together the many different aspects of the corridor. The Fox River, the locks and dams, the historic buildings and sites, the industrial and cultural heritage which has developed along the corridor—all these parts taken together represent a unique slice of American life which should be preserved for ourselves and future generations. That's why I'm introducing this bill today.

Now more than ever, Americans want to learn more about their history, their roots. We want to know how this great Nation came to be what it is today. Tourism is on the rise, with people looking for new and different educational experiences to share with their families. The Fox River National Heritage Corridor will provide the region with the identity it needs to maximize its tourism potential.

This legislation establishes a Fox River National Heritage Corridor Commission to integrate Federal, State, and local activities aimed at preserving and interpreting the corridor's diverse resources. The Commission will be composed of 21 members representing the State, local governments, and interested members of the general public. Commissioners will be appointed by the Secretary of the Interior, with input from the Governor of Wisconsin.

The Commission's chief duty will be the development of a cultural heritage and corridor management plan, which will coordinate and consolidate any Federal, State, and local plans in order to present a unified historic preservation and interpretation plan for the corridor. The Commission will hold public hearings and make every attempt to involve the public in development of the plan.

The plan will define the boundaries of the corridor, provide an inventory of all properties and structures of significance to the corridor, and outline an historic interpretation plan to illustrate the history of the corridor. The plan will also recommend policies for comprehensive resource management throughout the corridor, and contain a program for implementation of those policies.

After review and approval of the plan by the Secretary of the Interior, the

Commission will take steps to implement the plan. In so doing, the Commission will work closely with the State and with local governments in the region, as well as with the public. Interpretive materials, like guide brochures and historical markers, will be produced with the help of the Secretary of the Interior.

Finally, I should describe what this bill does not do. It does not involve any land acquisition, unless the land is offered as a donation, or money is donated for the acquisition of a property which has been offered for sale by a willing seller. In such cases, the land will be immediately transferred to whatever public agency is deemed appropriate by the Commission. There will be no condemnation of private lands for purposes of this legislation, and no land will be purchased with public funds.

Furthermore, this bill does not involve a significant expenditure of public funds. The bill authorizes Federal appropriations of up to $350,000 annually, but any Federal dollars spent must be matched by State, local or private dollars. In other words, this bill could accomplish a great deal with very modest resources.

In sum, I believe that this bill represents an impressive commitment on the part of many people living and working in the Fox River corridor. I have been impressed by the commitment and resolve among local residents who enthusiastically support this project. I will work with my colleague from Wisconsin, Senator KASTEN, to steer this legislation through Congress as quickly as possible. It is my strong hope that this legislation will be signed into law, and the Fox River National Heritage Corridor will become a reality.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fox River National Heritage Corridor Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Fox-Wisconsin waterway is famous as the discovery route of Marquette and Joliet;

(2) connecting the Great Lakes to the Great River, the waterway was critical in the opening of the Northwest Territory, serving as a major artery in bringing commerce to the interior of the United States and providing a vital communication link for early explorers, missionaries, and fur traders;

(3) within the Fox River corridor are an abundance of historic and archeological sites and structures representing early Native Americans, European exploration, and 19th century transportation and settlement;

(4) on the date of enactment of this Act, there are over 50 jurisdictions and a population of more than half a million people within the corridor, which is located within 300 miles of 22,000,000 people;

(5) historically tied to the development of the paper industry, the Lower Fox River is noted for having the highest concentration of paper mills along a single stretch of river in the United States;

(6) power generated from the river's early dams was responsible for the first successful hydroelectric plant in the world and the first residence electrified from a centrally-located hydroelectric plant;

(7) the Lower Fox River lock and dam system is the dominant historical element in the corridor;

(8) the 140-year old system is one of only two hand operated systems in the United States and the only hand operated system continually functioning since its inception;

(9) the system represents a distinct era in water transportation technology, falling between the earlier tow-path oriented models and the modern automated systems;

(10) the system is under threat of abandonment by the Army Corps of Engineers;

(11) the system has been placed in caretaker status by the Corps and operated by the State since 1984;

(12) despite State and local efforts, there is concern that the system will meet the same fate as the locks and dams of the Upper Fox River, which were abandoned in 1956;

(13) on the Upper Fox River, only the Eureka lock still operates, with restoration underway on the Portage Canal, the linkage between the Fox and Wisconsin Rivers;

(14) the full potential of the diverse natural and cultural features of the waterway, extending from Green Bay to Portage, and connecting to the Lower Wisconsin Riverway, will best be realized with assistance from the Federal Government; and

(15) the unique aspects of the waterway, from heavily developed portions of the Lower Fox River to the pristine expanses of the Upper Fox River, offer an opportunity to establish a nationally significant corridor representative of the Nation's Midwest heritage.

SEC. 3. PURPOSE.

The purpose of this Act is to provide a management framework to assist the State and its political subdivisions in developing and implementing integrated cultural, historical, and natural resource policies and programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Fox River in Wisconsin.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Fox River National Heritage Corridor Commission established in section 6(a).

(2) CORRIDOR.—The term "corridor" means the Fox River National Heritage Corridor established in section 5(a).

(3) PLAN.—Except as otherwise provided, the term "plan" means the Cultural Heritage and Corridor Management Plan prepared by the Commission pursuant to section 9(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Wisconsin or a State-designated management agency.

SEC. 5. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Wisconsin the Fox River National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor shall consist of the lands generally depicted on an appropriately dated and referenced map.

(2) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description of the boundaries established under this subsection.

(3) PUBLIC ACCESS TO MAP.—The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the State Department of Natural Resources.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with this Act.

SEC. 6. ESTABLISHMENT OF FOX RIVER NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is established the Fox River National Heritage Corridor Commission to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the corridor.

(b) FEDERAL FUNDING.—The Federal share of the annual expenses of the Commission in carrying out its duties under this Act may not exceed 50 percent.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 21 members appointed not later than 180 days after the date of enactment of this Act, of whom—

(A) one member shall be the Director of the National Park Service (who shall be an ex officio member), or a delegate of the Director;

(B) 20 members shall be appointed by the Secretary, in consultation with the Governor of the State, of whom—

(i) one member shall represent the State Department of Natural Resources;

(ii) one member shall represent the State Historical Society;

(iii) one member shall represent the State Department of Development;

(iv) one member shall represent the State Department of Administration;

(v) six members shall represent local governments in the Lower Fox region of the State;

(vi) two members shall represent local governments in the Upper Fox region of the State; and

(vii) eight members shall be citizens of the State from the general public, and shall have knowledge and experience in appropriate fields of interest relating to the preservation, use, and interpretation of the corridor, of whom—

(I) six members shall be residents of the Lower Fox region; and

(II) two members shall be residents of the Upper Fox region.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission for a 2-year term.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TERMS.—

(A) IN GENERAL.—Each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(B) MEMBERS FILLING VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term.

(C) Extended service.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) Compensation.—Members of the Commission shall receive no compensation on account of their service on the Commission.

(e) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) Meetings.—

(1) Initial meeting.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(2) Subsequent meetings.—After the initial meeting, the Commission shall meet at the call of the chairperson or six of its members, except that the Commission shall meet at least quarterly.

(3) Public meetings.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(4) Quorum.—

(A) In general.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(B) Budget.—The affirmative vote of six members of the Commission shall be required to approve the budget of the Commission.

SEC. 7. STAFF OF THE COMMISSION.

(a) In General.—

(1) In general.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Appointment and compensation.—Staff appointed by the Commission—

(A) shall be appointed subject to title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the extent authorized by section 3109(b) of title 5, United States Code, and at rates determined by the Commission to be reasonable.

(c) Staff of Other Agencies.—

(1) Federal.—On request of the Commission, the head of a Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) State.—The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or the political subdivision for the services.

SEC. 8. POWERS OF COMMISSION.

(a) Hearings.—

(1) In general.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) Subpoena authority.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) Powers of Members and Agents.—A member or agent of the Commission, if authorized by the Commission, may take any action that the Commission is authorized to take under this Act.

(c) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Funds to Obtain Money.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of the money to make a contribution in order to receive the money.

(f) Gifts.—

(1) In general.—Except as provided in subsection (g)(2)(B), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) Charitable contributions.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—

(1) In general.—Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Exception.—Subject to paragraph (3), the Commission may acquire real property, or an interest in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money given or bequeathed to the Commission on the condition that the money be used to purchase real property, or interests in real property, in the corridor.

(3) Conveyance to public agencies.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after the acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) Cooperative Agreements.—

(1) In general.—For the purpose of carrying out the plan, the Commission may enter into cooperative agreements with the State, a political subdivision of the State, or a person.

(2) Contents.—A cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, the political subdivision, or the person, that may affect the implementation of the plan.

(i) Advisory Groups.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

SEC. 9. DUTIES OF THE COMMISSION.

(a) Preparation of Plan.—

(1) In general.—Not later than 1 year after the Commission conducts its first meeting, it shall submit to the Secretary a Cultural Heritage and Corridor Management Plan.

(2) Sources.—The plan shall be based on Federal, State, and local plans in existence on the date of enactment of this Act, and shall coordinate and consolidate those plans to present a unified historic preservation and interpretation plan for the corridor.

(3) Contents.—The plan shall—

(A) define the specific boundaries of the corridor;

(B) provide an inventory that includes any property in the corridor that should be preserved, restored, managed, developed, maintained, or acquired because of its national, State, or local historic or cultural significance;

(C) develop a historic interpretation plan to illustrate the history of the Fox-Wisconsin waterway and its surrounding area;

(D) recommend policies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the corridor's historical, cultural, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization and expansion efforts;

(E) identify activities of mutual interest with the Fox River Management Commission;

(F) detail ways in which Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(G) contain a program for implementation of the plan by the State and political subdivisions of the State.

(b) Implementation of Plan.—

(1) In general.—After review and approval of the plan by the Secretary in accordance with section 11(a), the Commission shall implement the plan by taking steps to—

(A) preserve and interpret the historic resources of the Fox-Wisconsin waterway and its surrounding area; and

(B) support public and private efforts in economic revitalization and expansion consistent with the goals of the plan.

(2) Appropriate steps.—The steps that the Secretary may take include—

(A) assisting the State in preserving and renovating the lock and waterway system;

(B) assisting the State and local governments in designing, establishing, and maintaining visitor centers and other interpretive areas and exhibits in the corridor;

(C) assisting the State, local governments, and nonprofit organizations in increasing public awareness of and appreciation of the historical, engineering, architectural, environmental, and geological resources and sites in the corridor;

(D) assisting the State, local governments, and nonprofit organizations in the restoration of historic buildings with national, State, or local significance in the corridor;

(E) encouraging enhanced economic and business development in the corridor consistent with the goals of the plan;

(F) encouraging local governments to—

(i) adopt land use policies consistent with the management of the corridor and the goals of the plan; and

(ii) take actions to implement the policies;

(G) ensuring that clear, consistent signs identifying access points and sites of interest are placed throughout the corridor; and

(H) establishing corridor recognition by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

SEC. 10. TERMINATION OF COMMISSION.

(a) Termination.—Except as provided in subsection (b), the Commission shall terminate 5 years after the date of enactment of this Act.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the date of termination specified in subsection (a) if, not later than 180 days before that date—

(1) the Commission determines that an extension is necessary in order to carry out this Act;

(2) the Commission submits a proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of the State and the Secretary approve the extension.

SEC. 11. DUTIES OF THE SECRETARY.

(a) REVIEW OF PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove a plan submitted by the Commission not later than 60 days after date of receipt.

(2) APPROVAL.—The Secretary shall approve a plan if the Secretary—

(A) finds that the plan would adequately protect the significant historical and cultural resources of the corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the corridor;

(B) determines that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the plan; and

(C) receives adequate assurances from appropriate State officials that—

(i) the implementation program recommended in the plan will be initiated within a reasonable time after the date of approval of the plan; and

(ii) the implementation program will ensure effective implementation of the State and local aspects of the plan.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a plan submitted by the Commission, the Secretary shall advise the Commission in writing of the reasons for the disapproval and shall make recommendations for revisions in the plan.

(B) RESUBMISSION.—Not later than 90 days after receipt of a notice of disapproval, the Commission shall revise and resubmit the plan to the Secretary, who shall approve or disapprove a proposed revised plan in accordance with this subsection not later than 60 days after the date of receipt of the revised plan.

(b) INTERPRETIVE MATERIALS.—

(1) IN GENERAL.—Following approval of the plan under subsection (a), the Secretary shall assist the Commission in designing and producing interpretive materials based on the plan.

(2) TYPES OF MATERIALS.—Interpretive materials may include—

(A) guide brochures for exploring the corridor by automobile, train, bicycle, boat, or foot;

(B) indoor and outdoor visitor displays, which may include video presentations, at several locations along the corridor; and

(C) a mobile display describing the history of the corridor, to be used in the corridor, public buildings, libraries, and schools.

(c) TECHNICAL ASSISTANCE.—The Secretary shall, at the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the plan.

SEC. 12. DUTIES OF OTHER FEDERAL ENTITIES.

A Federal entity conducting or supporting activities directly affecting structures along the Fox River or the natural resources of the corridor shall—

(1) consult with the Secretary and the Commission with respect to the activities;

(2) cooperate with the Secretary and the Commission in carrying out the Secretary's and the Commission's duties under this Act, and, to the maximum extent practicable, coordinate the activities with the carrying out of the duties; and

(3) to the maximum extent practicable, conduct or support the activities in a manner consistent with the plan and with this Act.

SEC. 13. WISCONSIN RIVER STUDY.

(a) FINDING.—Congress finds that movement up the Fox River and subsequent travel along the Wisconsin River created one of the most important corridors opening the Upper Midwest.

(b) ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of the State, shall conduct an assessment of the historic linkage of the Fox River corridor and the Lower Wisconsin River.

(2) CONTENTS.—The assessment required by paragraph (1) shall identify the historic value of the Lower Wisconsin River, including points of special note and threats to the historic integrity of the corridor or the points of special note.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the assessment.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated to the Commission in each fiscal year $350,000 to carry out the Commission's duties under this Act.

(b) SECRETARY.—There are authorized to be appropriated to the Secretary in each fiscal year such sums as are necessary to carry out the Secretary's duties under this Act.•

• Mr. KASTEN. Mr. President: I rise to introduce legislation to create the Fox River National Heritage Corridor. The legislation that we are introducing today establishes a mechanism to protect and restore the historic Fox River System.

The Fox River has an important and varied history. Prior to Europeans coming to the region, it provided key points for settlement and served as an important transportation artery for Native Americans. Later the Fox played a key role in the settling of the Upper Midwest. Discovered by French Canadians, early explorers and fur trappers paddled their canoes into Green Bay and up the Fox River.

The Fox River was the lynchpin allowing the establishment of a trade route to develop commerce on our frontier. Not only did the Fox serve as an important corridor to Wisconsin's heartland, but it granted access to the entire Mississippi basin.

At Portage, WI, the Great Lakes, and the Mississippi basins are separated by a distance of only a couple of miles.

By portaging their canoes between the Fox and Wisconsin Rivers early travelers gained access to the entire Mississippi River system. A link was established to the South reaching to the Gulf of Mexico, and to the West reaching Montana via the Missouri River.

The Fox River link is the closest thing to a Northwest Passage ever established. It provided an easy means of transport for the movement of settlers and goods into the heart of America.

With the industrial revolution, the Fox River again played a key historic role. A system of locks and dams were established to allow the easy movement of goods.

The first hydroelectric dam in the Nation was built on the Fox. In fact, the first U.S. home to be wired for electricity is in the heart of the Fox River Valley, Appleton, WI.

Meanwhile, the Fox was becoming an industrial center.

The Fox River nurtured the establishment of the U.S. paper industry. Today, more paper is made in the Fox River Valley than anywhere else in the world. Much of our domestic technology was born there, and the Fox River Valley continues to lead the world in the development of paper products.

But the Fox River corridor is not just the home to the modern paper industry, or a monument to the early history of our Nation. It is truly a multiple use waterway.

Today the Fox River system attracts extensive recreational use. Some of the best fishing in the world is in this basin. There is a very high concentration of pleasure boats, as well as a center of diversified commerce.

This legislation will establish a mechanism to protect this valuable resource. The Fox River National Heritage Corridor Act will designate the Fox River as a National Heritage Corridor, and initiate an assessment of the suitability for designating the Lower Wisconsin River as such. Without this legislation, critical historical and natural resources will likely be lost.

We owe it to ourselves and future generations of Americans to protect this fabulous system.

This legislation has been years in preparation. Over the past 4 years I have worked closely with the people of the Fox River Valley to develop this bill.

This legislation is strongly supported in Wisconsin and by the entire delegation. In fact, the State legislature overwhelmingly passed a resolution in support of this legislation.

This bill brings together the need to protect historic features, promote tourism, and support the continued economic development of the Fox River Valley.

I hope that we can now act to enhance this living museum of America's environmental, cultural, and industrial heritage.•

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 2007. A bill to extend the Appalachian Regional Development Act of

1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1991

• Mr. ROCKEFELLER. Mr. President, today I am very pleased to introduce legislation, on behalf of myself and Senator BYRD, that is vital to my State of West Virginia and the Appalachian region.

In 1965, the Federal Government made a commitment to Appalachia to provide the assistance necessary to bring the region into economic parity with the rest of the Nation. This commitment has yet to be fulfilled. The gap has been narrowed in some of Appalachia, but we are by no means on a par with the rest of the country. The Appalachian Regional Commission is the instrument to continue to provide this extra assistance.

For many years, the ARC has been targeted for termination by federal officials who didn't understand the needs and potential of the people of Appalachia. Only because of support from Congress through the appropriations process has the ARC survived and continued its mission to help put Appalachia on an equal footing with the rest of the Nation. Crucial leadership from my distinguished, fellow Senator from West Virginia, ROBERT C. BYRD, has literally saved the day for the ARC year after year. And I have proudly joined him in fighting past efforts to extinguish this program. Time and time again, we have stood up to fight for the future of our State.

Quite recently, the tide has shifted some in our favor. The Bush administration finally recognized the benefit of the Commission, and this year actually requested funding for both the ARC highway and area development programs. This makes much more economic and practical sense. Investing now in the roads and infrastructure of our region is the key to building a strong economy in Appalachia. In the end, all Americans will benefit from a commitment of resources and leadership to Appalachia.

I feel that Senator BYRD and I were instrumental in helping the President realize the importance of the program. Just 11 days after President Bush took office, Senator BYRD and I went to the White House to meet with him precisely on this subject. We described to him the special needs of the region, explained the reasons for this economic distress, and detailed the progress the Commission has made over the last two decades.

We showed him the maps of the partially completed Appalachian Corridors, and the roads leading, as we pointed out, "halfway to nowhere." This made it clear to the President that failure to continue the program, and further refusal to finish the building of these crucial roads, would be a ludicrous waste of the State and Federal funds already invested.

This legislation I am introducing will reauthorize the Appalachian Regional Commission, and will enable both the highway and the area development programs to continue for a period of 5 years. The highway program will be authorized at $150,000,000 for 1992 through 1996. The area development program will be funded at $51,500,000 for the same time period.

The ARC is a partnership between the States and the Federal Government. Through this partnership it has been possible to reduce the region's school dropout rate, infant mortality, and illiteracy—widely recognized as basic deterrents to economic advancement. However, much remains to be done. According to a recent study, there were nearly 300 distressed counties in the Nation, and nearly one-third of these are in Apalachia.

Reducing, or even removing, the human obstacles to development will not be enough. We must also overcome the physical barriers to development that plague Appalachia, and the most obvious physical barrier is the Appalachian Mountains. To be convinced that these mountains inhibit development, all one must do is compare unemployment rates in counties that are insulated by mountains to those on the other side. In my State of West Virginia, there is a stark difference between the development in the three counties of the eastern panhandle and the interior counties just over the mountain.

Corridor H, which would connect Interstates 81 and 79, would virtually solve this problem for the central West Virginia. Completion of corridor G would connect the coalfields of West Virginia with three interstate highways and the capital of our State. Completion of the corridors would open the area to development. According to the ARC, a full 81 percent of the jobs created over the last decade are in counties that have a completed interstate or corridor.

We have an undeniably compelling case for reauthorizing the ARC and completing the corridors. As a result of the Commission, and the contribution of the Federal Government, life is better and opportunities are greater for the men, women and children that live in all 398 counties of the 13 States of Appalachia. The hopes and dreams, especially of the young, should not be left unrealized.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appalachian Regional Development Act Amendments of 1991".

SEC. 2. AMENDMENT OF STATEMENT OF PURPOSE.

Subsection (a) of section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 2(a)) is amended by inserting before the period at the end of the sixth sentence the following: "and in severely distressed and underdeveloped counties or areas lacking resources for basic services".

SEC. 3 ADMINISTRATIVE EXPENSES OF THE COMMISSION.

Subsection (b) of section 105 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 105(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to the Commission to carry out the provisions of this section an amount equal to $3,500,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997. Not more than $1,200,000 of the amounts authorized to be appropriated pursuant to the preceding sentence for each fiscal year shall be available for expenses of the Federal co-chairman, alternate, and the Federal staff.".

SEC. 4. ADMINISTRATIVE POWERS OF THE COMMISSION.

Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 106(7)) is amended by striking out "1982" and inserting in lieu thereof "1997".

SEC. 5. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AUTHORIZATION.—Subsection (g) of section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section an amount equal to $150,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

(b) FEDERAL SHARE.—(1) Paragraph (1) of section 201(h) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201(h)(1)) is amended by striking out "70 per centum" and inserting in lieu thereof "80 percent".

(2) The amendment made by paragraph (1) shall apply with respect to projects approved after March 31, 1979.

SEC. 6. DEFINITION OF FEDERAL GRANT-IN-AID PROGRAMS.

Subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended—

(1) by striking out "December 31, 1980" in the first sentence and inserting in lieu thereof "September 30, 1997", and

(2) by inserting "authorized by title 23, United States Code," after "road construction" in the second sentence.

SEC. 7. PROGRAM DEVELOPMENT CRITERIA.

Paragraph (1) of section 224(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 224(a)(1)) is amended by inserting before the semicolon at the end thereof the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services".

SEC. 8. AUTHORIZATION.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 401) is amended to read as follows:

"SEC. 401. In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there are authorized to be appropriated, to remain available until expended, to carry out this Act, $51,500,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

SEC. 9. TERMINATION.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 405) is amended by striking out "1982" and inserting in lieu thereof "1997".●

By Mr. HATCH (for himself and Mr. BOREN):

S 2008. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

QUALITY ASSURANCE IN THE PRIVATE SECTOR DRUG TESTING ACT

Mr. HATCH. Mr. President, today I am pleased to once join the senior Senator from Oklahoma in the reintroduction of the Quality Assurance in the Private Sector Drug Testing Act. This legislation is substantially identical to legislation that I introduced with Senator BOREN during the 101st Congress.

BACKGROUND

The facts about substance abuse in this Nation remain alarming. According to the National Institute on Drug Abuse and Alcoholism, 1 in every 10 people in this country currently has an alcohol problem. One in every 12 currently employed fulltime workers reports a current use of illegal drugs. In total, Federal estimates indicate that substance abuse in America now costs our economy an estimated $102 billion per year in lost productivity.

Because some 70 percent of all illegal drug users are currently employed, the linkage between the workplace and substance abuse is unavoidable. Employers can no longer afford to ignore these facts and write off this situation as an acceptable cost of doing business.

More than at any time before, the facts point to an acute understanding by employers that substance abuse in the workplace is needlessly draining productivity and imposing unreasonable costs on business that can, and must, be brought under control. Enlightened employers are now realizing that it is in their own best interest and in the best interest of their employees to bring this problem under control.

This is because the negative results of substance abuse in the workplace are blatantly coming into perspective. Substance abusive workers miss more work. They are tardy more often. They are more likely to injure themselves, their coworkers, and innocent individuals outside the workplace, generating additional workers' compensation costs or court actions. Generally, these businesses also pay more in sick leave, overtime pay, and other insurance costs because of substance abuse. In addition, product quality is put in jeopardy. I ask my colleagues: Would you want to buy a car with brakes installed by someone high on drugs? How about boarding an airplane whose mechanic was terribly hung over?

Understandably, companies are beginning to fight back with positive substance abuse strategies. Management's desire to provide a safe and healthful workplace, protect the integrity of their products and services, better protect the financial interests of their shareholders, and, most of all, lend a helping hand to the employees whose lives have been negatively affected, has led to the formulation of a range of tactics to deal with these problems. Obviously, an integral part of such a strategy is drug testing.

Let me note here that drug testing makes sense for employees as well as management. While the national leadership of organized labor seems regrettably opposed to drug testing, one after another of the local unions are agreeing to such tests. Often they have asked employers to initiate such programs independent of or through the collective bargaining process. Clearly, employees and their more enlightened representatives recognize that for reasons of personal safety, and to maintain the integrity of their health benefits fund, a truly drug-free workplace is an essential matter. While demanding fairness and reliability in these tests, employees have come to understand that drug testing is in their best interest also.

Mr. President, this area, drug testing, is the specific focus of this legislation. However, while it is obviously a necessary and important element of a workplace drug abuse program, we cannot afford to ignore the consequences that adverse employment decisions based on erroneous test results can have on an employee. While we recognize the merits of drug testing and should encourage employers to lend helping hands to employees to bring substance control under control, we must simultaneously ensure balanced protection for employees.

That is the purpose of this bill, Mr. President. The purpose is to ensure the accuracy and reliability of any drug test that is administered. This would be accomplished in this bill through the imposition of Federal standards that would guarantee uniformity and predictability with respect to drug testing programs.

The standards established under this bill would require that a federally certified laboratory be used to analyze all samples taken as part of a drug testing program. The standards require the confidentiality of drug test results. And, the standards provide a right for employees to explain why a test result may have been caused by factors other than drug abuse.

Specifically, the areas for which standards are required, such as chain of custody, quality assurance, and laboratory staff training, mirror the areas dealt with in the Federal National Institute on Drug Abuse [NIDA] guidelines. However, specific provisions as well as general administration ensures that the guidelines under this bill will be crafted specifically for the private sector, taking into account the positive features of the many fine business-run programs that currently exist.

Because of the strong safeguards that these standards would put into place, persons subject to drug tests will know they have the protection of Federal law against sloppily administered drug testing programs. They will have the comfort of knowing that, consistent with our scientific and technical capabilities, needless errors will be avoided.

SUMMARY OF PROVISIONS

The cornerstone of this bill is a requirement that no person may perform a drug test subject to the provisions of this act unless such person is sanctioned under a laboratory certification program established by the Secretary of Health and Human Services. Under this program, reliable standards would be promulgated to guide such certifications.

In establishing these standards, the Secretary is required to use scientific and technical criteria that will ensure that the testing scheme will yield accurate and reliable results. This certification process is designed to ensure that false positive or false negative test results will not occur.

Because modern science now offers the tools to meet this worthwhile objective, these requirements are designed to maximize the predictive value of tests. And, to further ensure the quality of this process, the Secretary is also required to review the criteria on an annual basis to see whether or not improvements can be made because of advances in science and technology.

In another important area, this proposal requires that an employer establish, as a condition of maintaining a drug testing program, a written anti-drug abuse policy. The policy must, at a minimum, contain an explanation of the circumstances under which a drug test will be administered, the procedures for notifying an employee of a sample that tests positive in a conforming test, and a statement that all tests will be conducted in a consistent and nondiscriminatory manner. Among other elements of these policies, an explanation of the safeguards for protecting the privacy of individuals, including chain of custody procedures, must be included in the policy.

Additionally, employers must make a reasonable effort to provide notice of the written anti-drug abuse policy to applicants and employees who would be subject to these tests. Again, as a condition of implementing a testing program, an employer must establish a drug awareness program to inform employees of the dangers of drug abuse. Under these awareness programs, information as to the existence and availability of counseling, employee assistance, rehabilitation, other treatment programs, and the penalties that may be imposed by an employer would also be made available.

Another critical provision in this legislation establishes standards under which an employer may require a drug test. While there is no provision mandating an employer to test, an employer is authorized to require a drug test of any individual who applies for a job. This is, of course, subject to the requirement that such tests be applied consistently and not be administered with an intent to discriminate against any certain individual or group of individuals.

For current employees, an employer is authorized to test under several circumstances. First, drug testing would be permitted on a "for cause" basis or when an employer has reason to suspect that an employee is using or is under the influence of drugs. Second, employee testing would be authorized as part of any scheduled medical examination. Third, employee testing would be authorized in cases when an accident, or near accident, involving actual or potential loss of human life, bodily injury, or property damage is at issue. Fourth, employers would be authorized to test employees who are undergoing, or have completed, a drug treatment program. Testing under this fourth category could be administered at any time during a reasonable period after the completion of a drug treatment program or up to 5 years following. If the employee has tested negatively during this period, the slate is wiped clean.

A final circumstance under which employers are authorized to test is in certain, specified, random circumstances. Specifically, these circumstances include: First, situations in which the test is part of a universal testing program; second, in work units, locations, or facilities where drug abuse has been identified as a problem; or third, in cases concerning sensitive employee positions. A sensitive employee is defined as an individual employed in a position whose duties involve responsibilities affecting matters such as national security, health, or safety, the environment, or other responsibilities requiring a high degree of trust and confidence.

As I stressed at the outset, Mr. President, this bill contains specific employee protections designed to protect against the possible abuses that could arise out of a drug testing program. The bill specifically prevents an employer from taking retaliatory action against employees who exercise the rights bestowed under this legislation. And, an employer would be precluded from taking any adverse employment action unless a second test confirms a positive test result. That is a very significant safeguard that I hope each of my colleagues will note. They will also note that there is but one exception to this general prohibition.

The exception is as follows. In the case of employees in sensitive positions, if the initial drug test indicates a positive result, the bill permits an employer to transfer or reassign the employee from that sensitive position, with no loss of pay, until the test result has been confirmed. Confirmation generally takes at least a day, and it makes sense to temporarily reassign the employee to a nonsensitive activity pending a confirmation.

As I indicated earlier, an additional employee protection that the bill would establish is the confidentiality of drug test results. The results of a drug test could be released to third parties only in very specific and very limited circumstances. These circumstances include a release to the employee or to another individual designated by the employee in writing, a release to representatives of the employer with a need to know such as employee relations or medical personnel, a release to drug abuse treatment providers who are assisting the drug abusing employee, and releases as required by applicable law.

The enforcement provisions of this bill are divided into two parts. Enforcement of the laboratory certification standards is the responsibility of the Secretary of Health and Human Services. This enforcement effort would be guided by existing enforcement provisions in the Public Health Service Act. These provisions have, of course, a well-documented history of effectiveness.

Enforcement of the employee protection provisions would be conducted in accordance with administrative process in the Department of Labor. Under this process, the Secretary of Labor would receive complaints, conduct investigations and hearings, and issue orders to remedy violations. The remedies provided under the bill would be exclusive and would include make whole compensation and other forms of equitable relief. Orders for such relief by the Secretary of Labor would be reviewable in the Federal courts of appeals.

Mr. President, another critical part of this bill addresses its effect on other laws. Specifically, the provisions in this bill preempt any State or local law, rule, regulation, order, standard, or cause of action that applies to private sector drug testing. Additionally, nothing in this bill prohibits any Federal agency from issuing regulations with respect to drug and alcohol testing of private sector employees, subject to language in the bill requiring that such regulations are not inconsistent with the standards applicable to scientific and technical procedures for testing established under this act.

Finally, the bill provides for an effective date 1 year after enactment that should provide adequate time for the Secretary of HHS to promulgate the standards mandated under the act while permitting employers to prepare adequately for the act to take effect.

CONCLUSION

Mr. President, I sincerely believe that this legislation represents a balanced approach to dealing with the problem of drugs and alcohol in the workplace while specifically providing safeguards for employees.

I invite my colleagues to join Senator BOREN and me in cosponsoring this important legislation.

Mr. President, I ask that the text of the Quality Assurance in the Private Sector Drug Testing Act of 1991 be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Assurance in the Private Sector Drug Testing Act of 1991".

SEC. 2. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that—

(1) drug abuse imposes an enormous toll upon society in terms of broken families and individual suffering, infants born with disabilities from their mother's drug abuse, lost productivity, increased treatment and health care costs, and the generation of criminal conduct which threatens the very social fabric of many communities;

(2) drug testing can be an effective deterrent to drug abuse when administered in a manner that provides for quality assurance;

(3) drug abuse in the workplace is a serious national drug problem;

(4) the private sector workplace is an appropriate arena in which to fight the war on drugs through the establishment of drug-free workplace programs that include drug testing;

(5) there are currently many good quality private sector drug testing programs, in which testing is performed in a variety of settings, such as: in testing facilities at the employment site, in clinics, hospitals and small independent testing laboratories, and in large, high-volume specialized testing laboratories. Under appropriately designed standards and procedures taking into account the experience of these programs, each of these options will have a place in a well-designed regulatory system; and

(6) the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" issued by the Department of Health and Human Services on April 11, 1988 are generally responsive to Congressional concerns for quality testing in Federal Workplace drug testing programs, and on a solid footing. These Guidelines do not embody the only proper approach to the challenge of providing test

quality or employee protection in the Federal workplace, and key features of the Guidelines must undergo continuing scrutiny and rethinking. While a number of the current Guidelines' provisions are not suitable for incorporation into a drug testing regulatory system for the private sector workplace, many of the Guidelines' principles and standards are appropriate for that purpose.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish Federal standards applicable to private sector workplace drug testing programs that will assure the quality of such programs; and

(2) to ensure uniformity and consistency in the application of such Federal standards to preempt State and local laws and such other requirements that regulate private sector workplace drug testing programs.

SEC. 3. PUBLIC HEALTH SERVICE ACT

(a) DRUG TESTING.—The Public Health Service Act is amended—

(1) by redesignating title XXVI (42 U.S.C. 300cc et seq.) as title XXVII; and

(2) by inserting after title XXV (42 U.S.C. 300bb-1 et seq.) the following new title:

TITLE XXVI—QUALITY ASSURANCE IN PRIVATE SECTOR DRUG TESTING

SEC. 2601. LABORATORY CERTIFICATION STANDARDS

(a) PROHIBITION.—No person may perform a drug test in connection with any drug testing program that is subject to the provisions of this title unless such person is a laboratory certified pursuant to subsection (b).

(b) CERTIFICATION.—Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall establish a program for certifying laboratories that meet standards for performing—

(1) drug screening tests

(2) drug confirmatory tests; and

(3) both drug screening and confirmatory tests.

(c) SCIENTIFIC AND TECHNICAL CRITERIA.

(1) In establishing standards for certification under subsection (b), the Secretary shall use scientific and technical standards that:

(A) maximize the sensitivity and specificity of the testing scheme;

(B) give due regard to the experience and practices of drug testing in the private sector workplace; and

(C) take into consideration the practices, procedures, and experience of forensic toxicology laboratory certification programs conducted by private, non-profit accrediting entities. The Secretary is authorized to designate such entities or appropriate State agencies to administer the certification program established under this section. The Secretary shall oversee and review the performance of any such entity or State agency so designated to ensure its compliance with the certification program established under this section.

(2) In establishing the certification program required under subsection (b), the Secretary shall appoint and consult with an expert advisory panel not to exceed 15 members comprised equally of representatives of private sector employers and employees with experience in workplace drug testing, laboratories which conduct drug testing, and recognized scientific and professional disciplines within the drug testing community.

(3) The certification standards required under this section shall include:

(A) reasonable requirements for chain of custody procedures, for laboratory staff training and skills, for ensuring the identity and integrity of specimens, and for confidentiality of test results.

(B) laboratory quality assurance requirements, to include where appropriate minimum proficiency sampling, in order to assure the competence of the laboratory to conduct drug testing under this title. Responsibility for laboratory quality assurance, including where appropriate the provision of blind samples, shall rest on the Secretary or his designee.

(C) a requirement that any sample which tests positive on an initial screen test be submitted for a confirmatory test to a laboratory certified for performing such a test under this title.

(D) a requirement that all negative test results by initial screen be reported to the employer promptly by direct means.

(E) a requirement that no positive drug test result be reported to the employer before a confirmatory test has been conducted, except in the case of employees in sensitive positions pursuant to Sec. 2605(c) of this title.

(F) prompt adoption of testing protocols for any drug for which reliable testing methods are available and for other drugs as such methods become available.

(G) initial screen cutoff levels to reflect current testing technology.

(H) no bar to certification of a laboratory based on its physical setup or location, and no bar to certification of a laboratory which is part of a hospital or medical clinic on the grounds that the laboratory's drug testing facility is no separate from a secure laboratory facility which performs diagnostic or therapeutic tests, no on the grounds that staff medical personnel are allowed access to the testing facility, so long as the laboratory meets the requirements of this title.

(I) a requirement that, after the effective date of regulations implementing section 353 of the Public Health Service Act, 42 U.S.C. 263a. a laboratory may not be certified under the program established by this section unless the laboratory is certified under section 353, except that a laboratory which performs only drug tests is not required to be certified under section 353 to be certified under this certification program, nor is it required to be certified under section 353 for the purposes of that section.

(4) A laboratory which performs drug tests only on samples of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system is not required to be certified under this section nor under section 353.

"(d) PERIODIC REVIEW.—At least once each year, the Secretary shall review, and where appropriate revise, the certification criteria established under subsection (b), taking into consideration the relevant scientific technical advances in the area of drug testing and revisions needed to reflect employer zero-drug tolerance practices.

SEC. 2602. ANTI-DRUG ABUSE POLICY

"(a) WRITTEN POLICY.—As a condition of implementing or maintaining a drug testing program, an employer shall establish a written anti-drug abuse policy that shall contain, at a minimum, an explanation concerning the—

"(1) circumstances under which a drug test will be administered, the procedures for notifying an employee of a sample which tests positive in a confirmatory test, and a statement the policy will be administered in a consistent and nondiscriminatory manner without regard to the position the employee holds;

"(2) safeguards established for protecting the privacy of individuals who are subject to testing, including chain of custody procedures and the limitations on disclosure of the results of drug tests;

"(3) availability of drug abuse treatment programs;

"(4) penalties that may be imposed by the employer for a violation of the anti-drug policy of the employer;

"(5) procedures for review by a medical officer in the case of a sample which tests positive in a confirmatory test; and

"(6) procedures under which an applicant or employee shall be given a reasonable opportunity to explain a sample which tests positive in a confirmatory test.

"(b) NOTICE.—An employer shall make a reasonable effort to provide notice of the written anti-drug policy to applicants and employees subject to testing using whatever methods the employer determines to be appropriate.

SEC. 2603. DRUG-FREE AWARENESS PROGRAM

"In order for an employer to be permitted to implement or maintain a drug testing program, such employer shall establish, as part of such drug testing program, a drug-free awareness program designed to inform its employees concerning—

"(1) the dangers of drug abuse, both inside and outside of the workplace;

"(2) the policy of the employer of maintaining a drug-free workplace;

"(3) information as to the existence and availability of counseling, employee assistance, rehabilitation, and other drug abuse treatment programs of which the employer is aware; and

"(4) the penalties that may be imposed by the employer on applicants and employees who test positive for the use of a drug, and for the manufacture, distribution, dispensation, possession, or use of a drug in the workplace of the employer.

SEC. 2604. STANDARDS FOR DRUG TESTING

"(a) APPLICANTS.—Nothing in this title shall be construed to prohibit an employer from requiring, as a condition of employment, that an applicant submit to and pass a drug test based on criteria established by the employer that are designed to achieve a drug-free workplace. Refusal by an applicant to submit to such a test may be treated in the same manner as a failure to pass a drug test.

"(b) EMPLOYEES.—Nothing in this title shall be construed to prohibit an employer from requiring an employee to submit to and pass a drug test—

"(1) on a for cause basis or where the employer has reasonable suspicion to believe that the employee is using or is under the influence of a drug;

"(2) where such test is administered as part of a scheduled medical examination;

"(3) in the case of an accident or incident involving the actual or potential loss of human life, bodily injury, or property damage;

"(4) during and for a reasonable period of time (not to exceed 5 years) after the completion of a drug abuse treatment program; or

"(5) on a random selection basis—

(A) in the case of sensitive employee positions;

(B) in work units, locations, or facilities where drug abuse has been identified as a problem; or

(C) as part of a universal testing program.

"(c) DEFINTION.—As used in this title, the term 'random' means the selection of individuals for testing based on uniform criteria so that no employee is selected differently from other employees in similar circumstances. The term 'universal testing' means a program in which every employee in a particular work unit, location, or facility of an employer is tested.

SEC. 2605. EMPLOYEE PROTECTIONS

"(a) PROHIBITIONS.—In the case of an applicant or employee, it shall be a violation of this title—

"(1) for an employer to fail to make reasonable efforts to inform the applicant or employee as to the drug testing policy of the employee;

"(2) for an employer to take any adverse action based on the unconfirmed positive results of a drug test, except as provided in subsection (c);

"(3) for an employer, on the request of an applicant or employee, to fail to provide such applicant or employee with a reasonable opportunity to be informed of a sample which tests positive in a confirmatory test; and

"(4) for an employer, on the request of an applicant or employee, to fail to provide such applicant or employee with a reasonable opportunity to explain the results of a sample which tests positive in a confirmatory test.

"(b) ANTIRETALIATION PROHIBITION.—It shall be a violation of this title for an employer to take retaliatory action against an employee because of the exercise by the employee of any right granted or protected under this title.

"(c) EXCEPTION FOR SENSITIVE EMPLOYEES.—Pending the receipt of the results of a confirmatory drug test, an employer may transfer or reassign an employee in a sensitive position to another area or position without any loss in compensation to such employee if the initial drug test result is positive. If a confirmatory test of such employee is negative, such employee shall be entitled to immediate reinstatement to the position from which such employee has been transferred or reassigned.

SEC. 2606. CONFIDENTIALITY

"(a) IN GENERAL.—An individual, other than the applicant or employee who is the subject of a drug test, shall not disclose information obtained as a result of a drug test, except as provided in this section.

"(b) PERMITTED DISCLOSURES.—An employer, or individual conducting a drug test on behalf of an employer, may disclose information acquired from a drug test only—

"(1) to the applicant or employee taking such drug test or any other individual specifically designated in writing by such applicant or employee taking such drug test;

"(2) to the employer, including the duly authorized representatives of such employer, that requested such test;

"(3) to any court, governmental agency, arbitrator, or mediator, in accordance with the provisions of Federal or State law;

"(4) to appropriate drug abuse treatment providers; or

"(5) as required in defense of claims, suits, or proceedings challenging any employment action taken by an employer in reliance in whole or in part upon a drug test.

SEC. 2607. EMPLOYER PRACTICES

"(a) SAFE WORKPLACE.—Nothing in this title shall be construed to prohibit an employer from taking action necessary to apply personnel procedures and policies designed to ensure a safe workplace, without regard to whether or not a drug test is administered.

"(b) DRUG-FREE WORKPLACE.—Nothing in this title shall be construed to prohibit an employer from taking action necessary, up to and including termination, in the case of applicant or employee—

"(1) whose drug test is determined to be positive after a confirmatory test;

"(2) who refuses to take a drug test authorized under this title; or

"(3) who tampers with or adulterates a drug testing sample.

"(c) PARTICIPATION IN DRUG ABUSE TREATMENT PROGRAM.—Nothing in this title shall be construed to prohibit an employer from requiring an employee to participate in, and satisfactorily complete, a drug abuse treatment program as a condition of continued employment where the employee has a sample which tests positive in a confirmatory test, has refused to submit to a drug test, or has tampered with or adulterated a drug test sample.

"(d) SENSITIVE POSITION.—Notwithstanding any other provision of law, nothing in this title shall be construed to prohibit an employer from refusing to place an employee in, or to reinstate such employee, to a sensitive position if such employee has a sample which tests positive in a confirmatory test.

SEC. 2608. DRUG ABUSE TREATMENT PROGRAMS

"As part of the drug-free awareness program established pursuant to section 2603, employers shall provide information to employees concerning the existence and availability of public and private drug counseling, employee assistance, rehabilitation, and other drug abuse treatment programs of which the employer is aware.

SEC. 2609. REGULATIONS

"Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall—

"(1) establish a program for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs as described in this title; and

"(2) issue such other rules and regulations as may be necessary or appropriate to carry out his or her responsibilities under Section 2601 of this title.

SEC. 2610. ENFORCEMENT AND RELIEF

"(a) LABORATORY CERTIFICATION STANDARDS.—The certification program established pursuant to section 2601(b) shall be enforced in accordance with the procedures and sanctions contained in subsections (g), (h), (i), (j), (k), and (l) of section 353 of the Public Health Service Act, 42 U.S.C. 263a.

"(b) EMPLOYEE CHARGES CHARGING UNLAWFUL DISCHARGE OR DISCRIMINATION; INVESTIGATION; ORDER.

"(1) CHARGE.—An employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this title may, not later than 30 days after such alleged violation occurs, file (or have any individual file on behalf of such employee) a charge with the Secretary of Labor (hereinafter referred to in this subsection as the 'Secretary') alleging that such discharge or discrimination violates the provisions of this title. On receipt of such charge, the Secretary shall notify in writing the employer named in the charge of such filing.

"(2) INVESTIGATION.—On receipt of a charge filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in such charge. Not later than 30 days after the receipt of such charge, the Secretary shall complete such investigation and shall notify in writing the charging party and the employer named in the charge (and any individual acting on behalf of the employer) as to the results of such investigation.

"(3) ORDER.—Not later than 60 days after the completion of an investigation conducted pursuant to this section, the Secretary shall, unless the proceeding on the charge is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the employer alleged to have committed such violation, issue an order providing or denying the relief prescribed in this section.

"(4) RELIEF.—In response to a complaint filed under paragraph (1), the Secretary determines that a violation of this title has occurred, the Secretary shall order the employer who committed such violation to provide such suitable relief as the Secretary determines appropriate, including reinstatement, promotion, and the payment of lost wages and benefits.

"(5) REVIEW OF ORDER.—An employee or employer adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of such order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review shall be filed not later than 60 days after the issuance of the order of the Secretary under paragraph (3). Review by the Court of Appeals shall conform to Chapter 7 of Title 5, United States Code.

"(6) FAILURE TO COMPLY.—If a party fails to comply with a final order issued pursuant to paragraph (3), the Secretary may file a civil action to enforce such order in the United States court for the district in which the violation was found to occur. Such court, in issuing any final order under this subsection, may award the costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party.

"(7) RULES AND REGULATIONS.—The Secretary of Labor may issue such rules and regulations as may be necessary to carry out his or her responsibilities under section 2610(b).

"(c) EXCLUSIVITY OF REMEDIES.—The rights and remedies provided for in this section shall be the exclusive enforcement rights and remedies for any violation of this title.

"(d) AFFIRMATIVE DEFENSE.—The good faith compliance of an employer with the standards and procedures established under this title shall constitute an affirmative defense against any charge filed under subsection (b).

"(e) CONSTRUCTION.—Nothing in this title shall be construed to require an employer to establish a drug testing program for applicants or employees or make employment decisions based on such test results.

SEC. 2611. EFFECT ON OTHER LAWS

"(a) STATE LAW SUPERSEDURE.—This section shall upon enactment of this title preempt any State or local law, rule, regulation, order, standard, or cause of action that applies to the private sector drug testing of an applicant or employee, or that relates to any matter addressed under this title. No State or local government shall adopt or enforce any law, rule, regulation, ordinance, standard or order relating to—

"(1) the certification of laboratories that perform drug testing analysis with respect to such analysis,

"(2) requirements for the conduct of drug testing under this title;

"(3) the establishment, scope, or conducting of employee or applicant drug testing programs;

"(4) the requirements applying to employer drug testing policies or drug awareness programs; or

"(5) any other matter relating to this title.

(b) Other Federal Laws.—Nothing in this title shall be construed to prohibit any Federal agency from issuing regulations with respect to drug and alcohol testing of private sector employees, including requirements for mandatory drug testing in specified circumstances, provided that compliance by an employer with the standards established under Section 2601(c)(3) of this title applicable to scientific and technical procedures also shall constitute compliance with such Federal agency regulations to the extent that such regulations differ from the standards established under section 2601(c)(3).

SEC. 2612. EFFECTIVE DATE

"Unless otherwise specified, the provisions of this title shall become effective one year after the date of enactment of this title, except that the prohibition contained in section 2601(a) shall not take effect prior to 1 year after establishment of the certification program required under section 2601(b).

SEC. 2613. SEPARABILITY OF PROVISIONS

"If any provision of this title, or the application of such provision to any individual or circumstances, shall be held invalid, the remainder of this title, or the application of such title to individuals or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 2614. DEFINITIONS

"As used in this title:

"(a) Applicant.—The term 'applicant' means any individual who has submitted an application to an employer, whether written or oral, for employment with such employer.

(b) Drug.—The term 'drug' means any controlled substance listed in schedules I through V of the Controlled Substance Act, alcohol, steroids, and lawful prescription medications which are the subject of abuse.

"(c) Drug Abuse Treatment Program.—the term 'drug abuse treatment program' means a program, such as an employee assistance program, designed to assist an individual in dealing with problems caused by drug abuse.

(d) Drug Test.—The term 'drug test' means any test procedure used to take and analyze blood, breath, hair, urine or other body fluids or materials for the purpose of detecting the presence or absence of a drug or its metabolites, except that for purposes of this Act the term drug test does not include breath alcohol analysis.

"(e) Confirmatory Test.—the term 'confirmatory test' means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

"(f) Employee.—The term 'employee' means an individual employed by an employer.

"(g) Employer.—The term 'employer' means an individual, partnership, corporation, association, or other entity, that employs one or more employees, and that is engaged in an industry affecting commerce.

"(h) Sensitive Employee.—the term 'sensitive employee' means an individual employed in a position whose duties, as defined by the employer, involve responsibilities affecting such matters as national security, health, or safety, environment, or other responsibilities requiring a high degree of trust and confidence.

(i) Medical Review Officer.—The term 'medical review officer' means a licensed physician, registered nurse, or other individual who possesses the training and skills necessary to assess the documentation and results of a drug test and to identify illicit drug use.

SEC. 2615. PROFESSIONAL ATHLETES

"For purposes of this title, professional athletes may be treated in the same manner as employees who meet the definition of section 2614(g), except that professional athletes shall not be covered by section 2606(a)."

(b) Conforming Amendments.—

(1) Sections 2601 through 2614 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2701 through 2714, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f) are each amended by striking out "2601" and inserting "2701".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2611" each place it appears and inserting "2711".

• Mr. BOREN. Mr. President, I am pleased to introduce again the Workplace Anti-Drug Abuse Act, which will play a vital role in the effort to detect and eliminate drug abuse in the workplace. My colleague, Senator Hatch, has explained the purpose and operation of the bill; I wish only to highlight a few of the important provisions in this act.

At the outset, we must keep in mind what this bill does not do; it does not mandate that any employer implement a system of drug testing for its employees. However, if an employer determines that such a system is necessary to combat the problems caused by drug abuse, this bill serves two functions. First, it establishes clear and uniform guidelines that employers must follow in establishing and operating their drug-testing programs. One of these requirements is that the laboratory performing the drug testing must be certified by the Secretary of Health and Human Services.

I note that the provisions concerning this certification process differ from similar provisions in the act that Senator Hatch and I introduced 2 years ago. The present bill is substantially more detailed in describing the certification standards, standards that are modeled after the National Institute of Drug Abuse guidelines applied in the Federal Government's drug-testing program but that are modified to provide flexibility for employers while continuing to ensure reliability.

The second function of this act is to protect the rights of workers. Surveys show that the majority of the workforce supports drug testing as a way to eliminate drug abuse in the workplace. This statistic is not surprising when one considers the dangers to workers caused by the abuse of drugs; drug use in the workplace costs this country $60 billion a year in worker accidents, insurance, lost productivity, and absenteeism.

While employees support drug testing, they have a right to expect that tests be conducted by reliable and federally certified labs, that tests be administered in a nondiscriminatory fashion, that employers provide full information about any drug-testing program, and that test results be kept confidential. This act ensures that those rights will be protected and that an employee whose rights have been violated can seek relief.

Simply put, this legislation strikes a balance. It provides employers with uniform and predictable standards for the implementation and operation of drug-testing programs, and it assures employees that testing will be conducted in a fair and accurate fashion.

I urge all Senators to study this bill carefully and to support this crucial legislation.•

By Mr. PACKWOOD (for himself,
Mr. Fowler, Mr. Hatfield, Mr.
Nunn, Mr. Gorton, Mr. Burns,
Mr. Shelby, Mr. Craig, Mr.
Heflin, Mr. Symms, and Mr.
Breaux):

S. 2009. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

REFORESTATION TAX ACT OF 1991

• Mr. PACKWOOD. Mr. President, today, I am introducing a comprehensive proposal, the Reforestation Tax Act of 1991, to encourage investment in and sound management of privately owned forest land. Identical legislation is being introduced in the House of Representatives by my colleague the gentleman from Oregon, Congressman Ron Wyden.

America's forests are one of our most valuable resources. They provide wildlife habitat, maintain watershed, and are used for a wide array of recreational activities such as hiking, camping, fishing, and hunting.

Our forests also serve as the foundation of a multibillion-dollar forest products industry. From lumber and construction materials to pulp and paper, timber provides a wide range of products that are essential to modern living.

The challenge for the future is to ensure we have enough forests to meet our wildlife habitat and watershed needs as well as sustain a reliable supply of timber for forest products. Harvest levels in many forest areas are undergoing large reductions in order to save endangered species, like the spotted owl. To fill this gap in our Nations's timber supply, we need to encourage private foresters to invest in and properly maintain their stock of trees.

Private forestry is a long-term, high-risk venture. Trees can take anywhere from 25 to 75 years to grow to maturity, depending on the type of tree and regional weather and soil conditions. The key to success is good management, which is costly. And fire and disease can wipe out acres of trees at any time during the long growing period.

Our legislation will boost private investment in forests and help with the cost of maintaining them. It does four things:

Partially eliminates tax on inflationary gains: The gain from the sale of private timber would be reduced by 3 percent for each year the timber was owned, up to a maximum reduction of 50 percent of the gain. This will partially protect long-term investors in forest land from being taxed on inflationary gains.

Doubles the reforestation tax credit: The current law reforestation tax credit has been eroded by inflation because it has not been increased since it was enacted in 1980. The bill doubles the reforestation expenditures eligible for the credit—from $10,000 to $20,000—and indexes this amount for inflation in the future.

Amortizaion of reforestation expenses: Similarly, the current law special 7-year amortization for up to $10,000 of reforestation expenses has not kept up with inflation since it was enacted in 1980. The bill increases this amount to $20,000, indexes it for future inflation, and reduces the amortization period to 5 years.

Passive loss rules: Proposed Treasury regulations discourage private foresters from employing sound forest management practices. The bill overturns the 100-hour rule in the regulations so that private foresters, like most other business entrepreneurs, can prove that they are materially participating in the forestry business.

This legislation is key to the preservation and expansion of investment in this vital natural resource. It has been endorsed by the following conservation, environmental, and forestry organizations:

The Wilderness Society;

The National Woodland Owners Association;

The Oregon Small Woodlands Association;

The Washington Farm Forestry Association;

The Forest Farmers Association;

1,000 Friends of Oregon;

The Idaho Forest Owners Association;

The Forest Landowners of California; and

The Natural Resources Defense Council.

I urge my colleagues to join us in this effort to encourage long-term investment in private forest land and cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reforestation Tax Act of 1991".

SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) In General.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

"SEC. 1202. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

"(a) In General.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

"(b) Qualified Timber Gain.—For purposes of this section, the term 'qualified timber gain' means the less of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

"(c) Qualified Percentage.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

"(1) 3 percent, by

"(2) the number of years in the holding period of the taxpayer with respect to the timber.

"(d) Estates and Trusts.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

"(b) Coordination With Existing Limitations.—

(1) Subsection (h) of section 1 of such Code (relating to maximum capital gains rate) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(2) Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(c) Allowance of Deduction in Computing Adjusted Gross Income.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by adding at the end the following new paragraph:

"(14) Partial inflation adjustment for timber.—The deduction allowed by section 1202."

(d) Conforming Amendment.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1202. Partial inflation adjustment for timber."

(e) Effective Date.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) Determination of Material Participation.—Subsection (h) of section 469 of the Internal Revenue Code of 1986 (defining material participation) is amended by adding at the end the following new paragraph:

"(6) Treatment of timber activities.—

"(A) In general.—A taxpayer shall be treated as materially participating in any timber activity for a taxable year if—

"(i) the taxpayer's participation in the activity for such year constitutes substantially all of the participation in the activity of all individuals for such year, other than individuals—

"(I) who are not owners of interests in the activity,

"(II) who are retained and compensated directly by the taxpayer, and

"(III) whose activities are subject to the oversight, supervision, and control of the taxpayer, or

"(ii) based on all of the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis during such year, except that for purposes of this clause—

"(I) the taxpayer shall not be required to participate in the activity for any minimum period of time during such year, and

"(II) the performance of services by individuals who are not owners of interests in the activity shall not be considered if the services are routinely provided by individuals specializing in such services and such services are subject to the oversight, supervision, and control of the taxpayer.

"(B) Partners and s corporation shareholders.—Subject to paragraph (2), the determination of whether a partner or S corporation shareholder shall be treated as materially participating in any timber activity of the partnership or S corporation shall be based upon the combined participation of all of the partners or shareholders in the activity.

"(C) Timber activity.—For purposes of this paragraph, the term 'timber activity' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

SEC. 4. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) Increase in Maximum Amortizable Amount.—

(1) In general.—Paragraph (1) of section 194(b) of the Internal Revenue Code of 1986 (relating to maximum dollar amount) is amended by striking "$10,000 ($5,000" and inserting "$20,000 ($10,000".

(2) Inflation adjustment.—Subsection (b) of section 194 of such Code (relating to limitations) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Inflation adjustment.—

"(A) In general.—In the case of any taxable year beginning in a calendar year after 1992, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) of such section.

"(B) Rounding.—In any increase determined under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50."

(3) Applicability to reforestation credit.—Paragraph (1) of section 48(b) of such Code (relating to reforestation credit) is amended by striking "section 194(b)(1)" and inserting "paragraphs (1) and (2) of section 194(b)".

(b) Availability of Deduction and Credit to Trusts.—Subsection (b) of section 194 of such Code (as amended by subsection (a)(2) of this section) is amended—

(1) by striking paragraph (4),

(2) in paragraph (5)—

(A) by inserting "AND TRUSTS" after "ESTATES", and

(B) by inserting "and trusts" after "estates", and

(3) by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—

(1) AMORTIZATION PROVISIONS.—Except as provided in paragraph (2), the amendments made by this section shall apply to additions to capital account made after December 31, 1991.

(2) TAX CREDIT PROVISIONS.—In the case of the reforestation credit under section 48(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to property acquired after December 31, 1991.

• Mr. SYMMS. Mr. President, I support this bill because it is a new attempt to offer a capital gains tax cut to a broad section of the forest industry. I would prefer, and I will continue to work toward, a broader capital gains tax cut, not just for forest products but for all assets.

We need to cut capital gains as a matter of fairness, but more importantly, a capital gains tax cut is one of the few effective means at our disposal to get the economy moving again.

This bill is particularly helpful in that it offers a formula under which the forest industry can benefit from capital gains indexing. I believe capital gains indexing is the best, most fair, and most effective way to reduce the capital gains tax. The trouble has always been how do we get this to apply in a reasonable way to timber.

But I want to make one thing clear: This bill applies to a broad section of the timber industry. If there is ever a successful effort to cut certain sections of the timber industry out of the bill, or if there is some effort to use these benefits to reduce the lands available for logging, my support for this bill will disappear immediately.

By Mr. CRANSTON (for himself and Mr. PELL):

S. 2011. A bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics; to the Committee on Foreign Relations.

NUCLEAR WARHEADS SECURITY AND PLOWSHARES ACT OF 1991

Mr. CRANSTON. Mr. President, I rise today to introduce the Nuclear Weapons Security and Plowshares Act of 1991. I am joined in this effort by my good friend and distinguished colleague, the chairman of the Senate Foreign Relations Committee [Mr. PELL].

The truly extraordinary changes taking place within the former Soviet Union today confront the world with a series of equally sweeping and momentous challenges.

Perhaps the greatest threat to international security in this post-cold war era comes from the continued threat of nuclear proliferation.

And perhaps the most important aspect of this threat today is the huge number of obsolete and unwanted nuclear weapons and huge quantities of weapons materials lying about in the far reaches of the former Soviet Union.

These weapons and weapons materials have been rendered surplus by the end of the cold war, the START Treaty, and unilateral Soviet declarations matching those initiated by President Bush. The newly independent republics do not want the weapons, but they do need help in getting rid of them in ways that prevent further regional instabilities or worldwide proliferation.

It is clear that the former Soviet Union cannot manage its mammoth nuclear legacy without outside help.

Last month Victor Mikhaylov, the Soviet deputy minister of atomic power and industry, warned that the Union needs help from the United States to reclaim, dismantle and make safe the enormous number of nuclear weapons involved. Mikhaylov noted that alone the Soviets cannot hope to address this problem before the end of this decade.

Enterprises, agents and individuals formerly involved in the weapons programs of the U.S.S.R. are already desperate for hard currency and there are growing reports of Soviet nuclear scientists looking to "freelance" their knowledge and skills around the world.

Unless we can find constructive ways to influence the direction of events, we are in danger of trading the balance of terror in the cold war years for an era of nuclear anarchy.

The problem of the weapons is aggravated by the twin threat to order and democracy created by the collapsing Soviet economy and shortages of food and basic necessities. Desperation may all too soon rule.

A few days ago, my good friend, Amb. Robert Strauss, spoke in the most vivid terms about what might happen if we do nothing. The situation in the Soviet Union, he said, "sure can blow up in our face in the next 6 months."

"I'd rather risk a couple of billion bucks out here for our country," Strauss said, "than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation."

Mr. President, I would ask each of my colleagues to reflect a moment on that day in August when we first heard a coup had taken place in the Soviet Union. At that moment, we faced the end of democratic change in the Soviet Union and a revival of the arms race.

Thanks to a burst of nationalist and democratic energy, the coup failed. As a result we are not facing a second cold war. Instead we need to stabilize the process of democratic change and prevent hunger and disorder from provoking another reactionary coup. And we need to help clean up the dangerous debris of 40 years of nuclear armament, lest it turn against us in new ways.

There is a mechanism to do both.

Time is short. As I think Ambassador Strauss is saying, there is a window of opportunity here—for us, for them, and for the world—that will surely slam shut if we do not know how to take advantage of it.

For that reason, Mr. President, I am proposing the "Nuclear Weapons Security and Plowshares Act of 1991." The bill provides a way for the United States and the Soviets to work together, in a mutually verifiable way, to gather, dismantle, and safeguard the materials in nuclear weapons that have been declared surplus. This can be done in a way that benefits the domestic United States economy as well as United States security interests, while providing the food and financial assistance essential to a peaceful transition in the former Soviet Union.

If enacted, this legislation could provide a needed next step to current arms reduction agreements that call for the elimination of some nuclear delivery systems but do not require the dismantling of warheads or safeguarding of nuclear weapons materials.

Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons-grade uranium diluted to civilian reactor-grade could eliminate a critical threat to nonproliferation efforts and consolidated democratic and free-market reform.

Mr. President, under this proposal the United States would use the commercial value of uranium derived from Soviet weapons to offset the cost of sending food to the people of the former Soviet Union, but also includes a sweetener for the Soviet republics, which have made it clear that they, too, want a say in nuclear weapons policy.

Twenty-five percent of the commercial monetary value of Soviet fissile materials acquired under the provisions of this bill would be given to the republics in the form of financial aid. These monies would be earmarked for the creation of regional and local development banks.

The Nuclear Weapons Security and Plowshares Act also expresses the sense of Congress that reductions in the Soviet weapons-usable fissile stockpile should be accompanied by a parallel decrease in our own inventories, and by implementation of bilateral, multilateral or international safeguards on these materials.

It is the intention of this bill to help stabilize the transfer of Soviet weapons uranium to civilian use through the United States Department of Energy, and also to focus attention and provide resources for safety storing and ultimately disposing of plutonium inventories.

Funds for carrying out the provisions of the bill would come from unobligated Department of Defense monies.

Mr. President, I believe that the purchase of diluted Soviet fissile nuclear material would be advantageous to United States domestic as well as security interests.

This bill would serve as an incentive for the control and dismantling of an almost-unthinkable number of Soviet nuclear weapons which, in other circumstances, could pose horrendous regional, strategic and proliferation risks.

Because the purchase of what would become a safeguardable form of moderately enriched uranium would be made with credits for American agricultural and other essential goods, U.S. dollars would be spent within the U.S. economy.

A few weeks ago, there were not a few voices raised during the debate on foreign aid in favor of tied aid. If this isn't tied-aid, then I don't know what is!

Mr. President, nuclear security for the United States has been tremendously expensive. The Nuclear Weapons Security and Plowshares Act provides for greatly increasing this security at much lower cost.

There are 10,000 to 20,000 warheads—about half the Soviet arsenal—which would be included under the terms of this proposal. Most of these are tactical weapons that are less secure against diversion or regional misuse than strategic weapons.

The United States still spends large sums to counter the threats posed by these weapons, and may end up spending even more if proliferation occurs.

The cost of this bill is more than justified on an avoided-defense cost basis. And, of course, the long-term gains in security will mean more money available to take care of our own long-neglected domestic agenda.

The purchased lower-enriched uranium can be used to reduce costs in the operation of Department of Energy enrichment plants. This use would not disrupt commercial markets. United States uranium producers have recently filed anti-dumping actions against the Soviets, and DOE's enrichment enterprise has been severely injured by low-priced sales by Soviet enterprises. This bill would reduce the domestic Soviet pressures that have led to this dumping and redirect Soviet efforts towards arms control, rather than commercial or even clandestine sales.

Enactment of this measure will provide substantial savings that will make the proposal revenue-neutral, and most likely positive.

The Department of Defense would avoid the future costs of countering tactical and strategic weapons that might otherwise likely remain intact and widely dispersed. There would also be savings from the reduction of the need to counter regional threats that might arise from eventual diversion of tactical weapons to third party states, or proliferation associated with migration of expertise.

American farmers and ordinary businesses, not defense contractors, would find themselves on the front lines in our effort to provide ourselves and our allies greater security.

Furthermore, the Department of Energy will save money on power and operational costs and increase future revenues from domestic and international sales.

Mr. President, penny wise and pound foolish is a bad way to run a government, but penny foolish and pound foolish at this critical time in our country's history will only ensure that the American people will not be able to enjoy the fruits of the end of the cold war.

Great challenges need to be met with great resourcefulness. Let's help the American farmer and the American worker win the peace for which so much money has already been spilled. Let us go forth in the manner which has made the United States a model for the rest of the world; let's show them that self-interest and common interest can be done.

Mr. President, I ask unanimous consent that several recent newspaper articles be included in the Record, as well as letters of support for the bill, two of the most highly-regarded practitioners in the non-proliferation field, and a "fact sheet" on the bill prepared by one of them, Dr. Thomas L. Neff of the Massachusetts Institute of Technology. I also ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Warheads Security and Plowshares Act of 1991".

SEC. 2. FINDINGS

The Congress finds that—

(1) the leadership of the Soviet Union is seeking to transform that country economically and politically while at the same time maintaining control of the more than 25,000 nuclear weapons on the territory of its newly independent constituent republics;

(2) the warheads in the Soviet nuclear arsenal contain quantities of valuable enriched uranium that may be processed and used in commercial nuclear power plants, as well as plutonium that should be placed under internationally accepted safeguards;

(3) failure of the United States and other modern democratic nations to fully support change in the Soviet Union may contribute to its further political and economic disintegration, thus creating a grave threat to world peace and stability;

(4) under the Strategic Arms Reduction Treaty and new commitments to dismantle tactical and strategic weapons, up to 40 percent of Soviet warhead materials will be rendered useless;

(5) current arms control agreements provide for the elimination of delivery systems, but do not address the issue of the dangerous and growing stockpile of weapons-usable fissile materials in retired nuclear warheads which are being recovered in the process of warhead dismantlement;

(6) a second and related danger resides in the possibility that such material might be sold, either officially or surreptitiously, in its weapons-usable form on an uncontrolled world market;

(7) the risk of clandestine or unsafeguarded international transfer of fissile materials presents a relatively new and highly dangerous threat to efforts at nuclear nonproliferation;

(8) a small portion of the plutonium and highly enriched uranium recovered as a result of the dismantlement of United States and Soviet warheads will be sufficient to supply nonweapons uses of these materials (such as fueling naval propulsion reactors) for decades, thus further production of these materials would be dangerous as well as wasteful because such production would make the problem of safeguarding against diversion unnecessarily complex; and

(9) action by Western governments to offer trade credits for purchases of food and other essential goods based on the commercial value of Soviet weapons materials would—

(A) strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(B) eliminate a critical threat to nonproliferation efforts; and

(C) help to consolidate democratic and free market reform in the Soviet Union.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons-usable materials from United States and Soviet warheads.

SEC. 4. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) Determination of Purchase Price of Soviet Fissile Materials.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) Collection, Dilution, and Safeguarding of Soviet Fissile Materials.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) Mutual Reduction in Inventories and Implementation of Safeguards.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) Proposed Agreement with IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency

(IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification; and to discuss the advisability and feasibility of an agreement to place all civilian fissle materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 5. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949; or

(2) agricultural commodities or other essential commodities purchased at market prices,

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 6. STORAGE, SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution on enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b).

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the plutonium accumulating in spent civilian-power reactor fuel.

SEC. 7. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium or separated plutonium.

SEC. 8. TRANSFER OF FUNDS CUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Department of Defense as he may designate during fiscal years 1992 through 1966 such funds as may be necessary to carry out the purposes of section 5.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency, done at the headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" includes all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (A) any uranium that is enriched to more than 20 percent in U–235 or U–233, or both, or (B) any mixture of plutonium isotopes containing less than 80 percent PU–238.

FEDERATION OF AMERICAN
SCIENTISTS FUND,
Washington, DC November 3, 1991.

Senator ALAN CRANSTON,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON, Your proposed "Nuclear Warheads Security and Plowshares Act of 1991" will be exceedingly helpful if enacted. Many of us are increasingly doubtful about the ability of the former USSR to manage its huge nuclear legacy without external help. Because of loss of confidence in the ruble, Soviet organizations are looking increasingly desperately for opportunities to earn hard currency. As your bill recognizes, that could be dangerous in the case of the Soviet nuclear establishment.

As your bill also recognizes, Soviet enriched uranium, both inside and outside nuclear warheads, has hard-currency value for legitimate peaceful purposes. After dilution to low-enrichment levels, it can be sold commercially as fuel for nuclear-power reactors.

It is important that this asset—one of the few fungible assets the Soviet people currently have—is not simply used for the benefit of a few well-placed apparatchiks. I think that your bill takes a long step in this direction by exchanging Soviet enriched uranium for essential commodities instead of cash. Some of these commodities will hopefully be used to keep the Soviet workers responsible for safeguarding and dismantling Soviet nuclear warheads on the job.

It is also important that your bill would have the U.S. undertake symmetrical commitments to verifiably move fissile materials from weapons to safeguarded storage or non-weapons uses. Otherwise, I think that Soviet hard-liners would balk at Soviet "unilateral disarmament."

Thank you for your far-sighted leadership in this matter. Please feel free to contact me if I can be of any further assistance.

Sincerely yours,

FRANK VON HIPPEL,
Chairman, FAS Fund (the research arm of the FAS) and Professor of Public and International Affairs, Princeton University.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY, CENTER FOR INTERNATIONAL STUDIES,
Cambridge, MA, November 20, 1991.

Senator ALAN CRANSTON,
112 Hart Senate Office Building, Washington DC.

DEAR SENATOR CRANSTON: Thank you for providing the final draft of the "Nuclear Warheads Security and Plowshares Act of 1991." The Act would facilitate a major step in arms control under a dramatically changed and changing situation in the Soviet Union, while providing the Executive Branch with flexibility in implementation. I believe the Bill reflects the major objectives of the proposal I put forward late in October, with additional incentives to the post-Soviet republics.

It is important to recognize that the U.S. and the USSR are no longer in symmetric strategic or institutional positions on weapons, and that many of the traditional assumptions of superpower negotiation no longer apply. This has been quite evident in the unilateral actions taken by Presidents Bush and Gorbachev. The dominant issue in the post-Soviet republics is now food and economic stabilization, not nuclear confrontation with the U.S. Nuclear weapons deployed across the republic, once assets of national power, have become liabilities to all.

It is in the interest of the U.S. to assist with food and economic stabilization and to help insure that nuclear weapons and weapons-usable fissile material do not go astray. These are related issues, since the desperations of economic stabilization that is explicitly linked to solution of a arms control problem that has been fundamentally transformed, in a way that meets U.S. Soviet security objectives.

We would not propose to help failing central ministries collect their weapons, lest they simply consolidate their power, but rather propose to trade peaceful economic assistance for the verified destruction and conversion to civilian use of surplus Soviet fissile material that is either in nuclear warheads or could—equivalently—be used to make warheads. This economic assistance would be provided in a way that provides direct incentives for the collection, dismantlement, dilution and safeguarding of surplus Soviet warheads.

To provide the most expeditious assistance, the U.S. should be prepared to purchase Soviet stockpiles of enriched weapons grade uranium equivalent in fissile content to weapons to be retrieved, dismantled and safeguarded under mutually agreed verification procedures. The United States stopped production of weapons-grade uranium in 1964. The USSR continued to produce it until at least 1987 and appears to have substantial stockpiles. Such stockpiles would actually pose the greatest new strategic threat to the U.S. since they are the most readily available for producing new weapons. Obsolete tactical weapons in the field pose a proliferation threat and need to be recovered.

Soviet officials estimate that it will take as much as a decade to collect and dismantle these obsolete warheads. By making an immediate purchase, the U.S. can provide the resources to make this possible, as well as aid the Soviet people at a critical moment. Material from warhead dismantlement can be gradually converted to safeguarded civilian use, with the volume eventually checked against the initial purchase agreement. Payment, in the form of credits, would be made as surplus fissile material was delivered. This procedure would allow a rapid aid response while allowing time for U.S. and Soviet defense institutions to develop, coordinate, and implement verifiable destruction of warheads.

The Bill as written calls for funds to be drawn from the DOD budget, reflecting the substantial gains to U.S. security. There is a question about how DOE should treat the material financially. I would suggest that DOE analyze the operation of its enrichment enterprise and calculate the cost savings that would result from use of Soviet fissile material in its operations, and that this be the part of the purchase cost eventually attributed to the DOE budget. It is clear that the bargain proposed has both commercial and security benefits and the amount paid can reflect both.

The language of the Bill appears to provide for dilution in the Soviet Union of weapons-grade uranium to a level consistent with safe transport and protection against misuse (perhaps 20 percent U–235 rather than 93 percent), and with IAEA safeguard regulations and capabilities. To reassure everyone, it should only be moved under such safeguards and with sufficient physical protection.

It must be recognized that despite current problems, authorities in the post-Soviet world will remain concerned about strategic balances now and in the future, just as the U.S. must. The transfer of substantial fissile stocks must therefore be guaranteed not to increase U.S. weapons capabilities. The safest way to do this is to convert the material to civilian use under international or bilateral safeguards. Moreover, both sides must be assured that weapons dismantlement will proceed in parallel and in ways that ensure mutual confidence. There are technical and institutional mechanisms for doing so.

It seems appropriate to offer purchase credits rather than currency since agricultural and other essential goods are most needed, and since such credits are more difficult to turn to military use and are unlikely to be hoarded by particular groups. Purchase credits can also play an important role in accelerating development of a market economy. However the credits are initially allocated, it is likely that they will be bartered internally until they find the highest value uses. For example, a weapons dismantlement facility may not be able to use a large amount of grain purchase credits, but they could use those credits internally to procure steel, chemicals or other necessities for their activities. In this way, the effect of the credits in providing a hard currency equivalent for internal transactions that would be multiplied many times over.

I hope these comments are of value in your subsequent deliberations. Please let me know if I can be of further assistance.

With best wishes, and

Sincerely,

THOMAS L. NEFF.

QUESTIONS AND ANSWERS: SOVIET FISSILE MATERIAL PURCHASE PROPOSAL

(Proposed "Nuclear Weapons Security and Plowshares Act")

What is the Soviet surplus weapons and weapons-material problem?

According to the Ministry of Atomic Power and Industry of the former Soviet Union, there are between 10,000 and 20,000 surplus nuclear warheads widely distributed among the newly sovereign republics. Most of these are tactical weapons, which are mobile and more easily diverted than strategic weapons.

The central agencies of the former USSR that might otherwise be able to reclaim these weapons and destroy them no longer have the resources to do so, nor perhaps the political of financial leverage to deal with republics. At least some republics would prefer international involvement in the dismantlement process to sole dominance by another republic or old central agencies. A system of food and other incentives would provide the carrot to get agreement. Agricultural credits would support the technical and logistic efforts through their barter value, without providing direct hard currency support to military or weapons agencies.

There are also large stocks of weapons-usable highly-enriched uranium and plutonium, which would be the preferred material for new modernized nuclear weapons-usable parts destroyed or otherwise secured against misuse, under bilateral or multilateral safeguards. At present, there is no evident basis for achieving this.

Why might the commercial value of weapons material provide incentives?

Warheads and fissile stocks consist of both highly enriched uranium about 93 percent U–235) and plutonium. If processed and diluted with natural uranium, the highly enriched uranium has significant commercial value for civilian program use. Some older tactical weapons may contain more than 50 kilograms of HEU, worth more than a million dollars if converted to civilian use. Stocks of HEU may be worth billions.

Plutonium stocks and material derived from weapons has little civilian value, but action on the associated HEU would provide mechanisms and incentives to collect, store and safeguard this dangerous material in the former Soviet Union.

Highly enriched uranium stocks and warhead material would be diluted down to levels that no longer make it usable for weapons and purchased by the U.S. government in exchange for purchase credits for U.S. agricultural and other goods.

How might a U.S. purchase of Soviet Uranium solve domestic commercial problems?

Former Soviet enterprises, including MAPI, have already been selling increasing amounts of natural and low-enriched uranium to raise much needed hard currency for their activities. But in doing so, they have helped drive down prices in Western markets to all-time lows. This has limited the amount the Soviets can earn. It has also severely damaged Western mining activities, increasing unemployment, and greatly reduced the value and the ability of the U.S. government's Enrichment Enterprise to make profitable sales.

Congress has mandated two current investigations of Soviet dumping, and U.S. uranium producers, together with the Oil, Chemical and Atomic Workers Union, have recently filed an unfair trade action against the Soviets.

A large-scale government-to-government purchase would relieve the pressures on the Soviets to dump commercially, providing them with far more assistance than could be derived from dumping. The lower-enriched uranium (e.g., 20 percent U–235) would be used by the U.S. Department of Energy to reduce power and other costs in its operations. In this way, surplus material would not enter commercial markets, relieving pressure on Western uranium producers and increasing domestic employment. Removal of the threat of continued Soviet enrichment sales at non-competitive prices would allow DOE both to reduce government expenditures and make profitable new sales.

Why is the proposal cost-effective in meeting U.S. security interests?

The U.S. already spends very large amounts of money to counter the threat of Soviet nuclear weapons. If surplus weapons, weapons material, or expertise lead to further nuclear weapons proliferation, such events would require large new defense expenditures, one lesson of Iraq.

Expenditure of modest sums to neutralize these threats now would be far preferable to the large expenditures needed to respond to them later. The savings on current programs could well exceed the cost of a fissile material purchase. The long-run avoided defense cost may be extremely large.

The food and other assistance to the former Union deriving from this purchase would help prevent the desperation that may otherwise lead to reactionary change in the former Union or in republics, changes that would pose new threats to U.S. security.

How does the proposal meet domestic U.S. objectives?

The U.S. wishes to provide assistance to the people of the former Soviet Union, but it is politically difficult to do so unless there is a quid pro quo that results in enhancing domestic U.S. interests.

The proposal does so by ensuring that cash expenditures are made in the U.S. economy, particularly in vital non-defense sectors like agriculture, by reducing costs at Defense and the Department of Energy, and resolving problems of unemployment caused by Soviet dumping.

The purchase proposal makes sense from a purely domestic perspective. It also provides substantial assistance in maintaining post-Soviet economic, political and nuclear stability, all of which are in U.S. economic as well as security interests. The proposal is consistent with other suggestions for assistance, but has explicit objectives and payoffs for the U.S.

[From Newsday, Nov. 21, 1991]

NUCLEAR ALARM—SEIZED PLUTONIUM, URANIUM HINT OF EUROPE BLACK MARKET

(By Earl Lane and Knut Royce)

WASHINGTON.—Recent police seizures of plutonium and enriched uranium in Western Europe provide firm evidence for the first time of a black market in nuclear material that would be required for clandestine nuclear bomb factories, experts have told Newsday.

The latest incident occurred last week, when Swiss police seized about 65 pounds of contraband material in Zurich. Laboratory analysis has shown it to be low-enriched uranium. In mid-October, police in Como, Italy—acting on a tip from two informants—seized a tenth of a milligram of radioactive material that was subsequently found to be nearly pure bomb-grade plutonium.

While there is no determination on the origin of the materials seized in Como and Zurich, specialists interviewed by Newsday say there are intriguing hints of possible Soviet or Eastern Block origin.

Both plutonium and highly enriched uranium, in sufficient quantities, can serve as the core for an atomic bomb. Access to even low-enriched uranium as was seized in Zurich—can save a bomb maker many steps in the process turning natural uranium into fissionable material, experts said. The amount of uranium seized—even if it was subsequently enriched to weapons-grade—falls well short of the amount needed for a bomb, experts said.

Additional indications of a shadowy trade in nuclear material come from Africa, where an Angolan businessman recently told a Belgian firm that he had five boxes of enriched uranium for sale at $100,000 each. A faxed copy of the offer, which included blurry photos of the boxes, was obtained by Newsday. The contents of the boxes could not be determined.

While access to nuclear material is strictly controlled under international conventions, black market sales have long been rumored. The reports have often proved to be hoaxes, but specialists say the incidents in Europe—which are still under investigation—are cause for alarm.

"My greatest concern does not have to do with the quantity of plutonium that's been found but the fact that you actually had nuclear material of weapons-grade potential crossing borders illegally," said William Potter, an arms-control specialist at the Monterey Institute of International Studies in California. "I'm not aware of any prior documented cases in which materials such as enriched uranium or actual plutonium have been seized in the black market."

Potter and other arms-control experts worry particularly that economic and political chaos in the Soviet Union might induce renegade entrepreneurs to try to divert substantial amounts of nuclear materials from Soviet military or commercial facilities.

The deputy prosecutor in Como, Romano Dolce, told Newsday that documents written in Cyrillic—the alphabet used in the Soviet Union, Bulgaria, Serbia and Mongolia—were seized with the plutonium sample. Dolce declined to discuss the documents in detail. But in an earlier interview with the Swiss News Agency, Dolce said he believes the material may have been smuggled out of the Soviet Union after the failed coup in August.

The plutonium—which police officials says was being offered as a sample of bigger things to come—consists largely of pure plutonium-239 with lesser amounts of the isotopes plutonium-238 and americium-241, according to a source familiar with the laboratory analysis of the material. The 0.1 milligram plutonium sample was embedded in a plastic casing about the size of a silver dollar, the source said.

John Hessard, a physicist at Imperial College in London, said such isotope ratios are consistent with material produced by a military weapons program.

In the case of the uranium seized in Zurich, lab analyses just completed have found that its enrichment is at a level consistent with use in Soviet-made RBMK nuclear reactors. Natural uranium ore contains two major varieties—or isotopes—of uranium. It is 99.3 percent uranium-238 and 0.7 percent uranium-235. For the material to be useful in a power reactor, scientists must raise the amount of uranium-235 isotope only a few percent; for an atom bomb, the enrichment level typically is increased to above 90 percent.

Laboratory analysis has determined that the enriched material seized in Zurich has been raised to 1.2 percent uranium-235. Several experts said that RBMK reactors have used fuel enriched anywhere from 1.1 to 1.8 percent during initial fuel loading. Western commercial reactors typically use fuel about 3 percent enriched in uranium-235. "It's possible it's from an RBMK," one physicist said.

"This could be evidence of the kinds of leakage out of the Soviet program that a lot of people are worried about," said Paul Leventhal, head of the private Nuclear Control Institute and a specialist on proliferation issues. Vladimir Medinsky, a spokesman for the Soviet Embassy in Washington, said he was unaware of the seizures in Europe but said "the Soviet Union must be looking into this."

There also are hints of a Soviet connection in the Angola case. According to an intermediary who provided the photos to the Central Intelligence Agency, an agency representative told him that the boxes appeared to be of Soviet origin. There has been no analysis of the material in the Angola incident, however, and efforts by Newsday to reach the businessman who made the offer have been unsuccessful. The CIA declined to confirm or deny whether it is investigating the incident.

Whatever the outcome of that case, nonproliferation specialists said they found it and the recent seizures in Europe to be troubling. "The big question is, were there larger amounts for sale, and are we looking at a criminal network that has access to those amounts?" asked Gary Milhollin, director of the Wisconsin Project on Nuclear Arms, a private group.

Intelligence specialists and several experts on nuclear proliferation cautioned that investigations of alleged black market activity in uranium often lead nowhere. One U.S. intelligence source who tracks such reports said that the recent cases may reflect efforts by arms dealers and smugglers to capitalize on a perceived buyers' market for enriched uranium in such potential nuclear states as Libya and Iran.

That view is reinforced by reports in recent years of several amateurish attempts to peddle small amounts of natural uranium concentrate—known in the industry as "yellowcake"—at exorbitant prices. Yellowcake is a starting material for any attempt to enrich uranium, either for use in power reactors or in nuclear bombs. Experts said clandestine sales of yellowcake could readily avoid existing international safeguards since the material is not tracked nearly as closely as enriched uranium.

Sen. John Glenn (D. Ohio), a member of both the Armed Services and Intelligence Committees, has called for stronger safeguards on all nuclear material, saying that without stronger controls, "significant amounts of this material will increasingly appear on the black market."

Leventhal said that a country seeking to develop a clandestine nuclear bomb potential would likely seek to buy yellowcake on the black market in order to avoid advertising its intentions.

But it is the impossible leakage of enriched uranium or plutonium that has specialists most intrigued. "It is potentially very disturbing," Leventhal said.

Kurt Zollinger, a chemist in the Zurich police laboratory—where the seized enriched uranium is being held—said in a telephone interview that it consists of many irregularly shaped, small pieces of black material. While the intended use and origin of the material is a mystery, Zollinger speculated that it might be broken pieces from a fuel rod for a reactor.

"If this is a fuel rod, it is manufactured material which is supposed to be accounted for" under international safeguards, Milhollin said.

Under the 1980 convention on the physical protection of nuclear material, enriched uranium must be stored under controlled access and shipped "under special precautions," including formal arrangements among the buyer, seller and carrier and compliance with laws of the importing and exporting states.

The Zurich material is to be shipped to the Paul Scherrer Institute, Switzerland's national nuclear research center, for further analysis. Andreas Pritzger, head of administration for the institute, told Newsday that the two samples tested so far both were 1.2 percent enriched uranium.

Dolce is convinced there is "a close link" between the incidents in Como and in Zurich. "They [Swiss officials] got information and details from us," Dolce said. Seven people were arrested in the Zurich case—four of them police infiltrators, according to Dolce. Swiss police have thus far played down any connection between the cases, however.

In the Angolan case, a businessman named Amandio Dias was identified as a person to contact for the sale of the alleged enriched uranium, according to two persons familiar with the proposed deal. The offer was made by Fax to the Belgian diamond firm and included blurred photos of two rectangular boxes for sale. The fax material included the price, the number of boxes, the location, Angola, and the notation "can be seen on the spot."

The Belgian firm passed the offer to a Canadian importer in Toronto. The Canadian, who spoke with Newsday but asked not be identified, said that he urged the Belgian firm instead to report the unusual offer to the CIA. Al DeProspero, a former Army special forces officer who was asked by the Canadian to serve as a go-between, said the information immediately raised eyebrows at the CIA. "The intelligence people jumped on it," DeProspero said. He said that a CIA representative remarked that the boxes appeared to be "of Soviet origin."

"Someone in one of the [former Soviet] satellite countries evidently is hungry, got rid of this stuff," said DeProspero. Repeated efforts to contact Dias in Angola were unsuccessful.

DeProspero and the Canadian agent said they did not know whether, in fact, the boxes did contain any enriched uranium—either the highly enriched type useful in atomic bombs or the low-enriched commercial grade used in nuclear power reactors.

[From the Washington Post, Nov. 13, 1991]

SOVIETS ACCUSED OF 'DUMPING' URANIUM ON U.S.

(By Thomas W. Lippman)

Driven nearly to extinction by falling prices, U.S. uranium procedures have formally complained to federal trade officials that the Soviet Union is illegally "dumping" the commodity on the American market.

If the Commerce Department and the International Trade Commission find that the complaint is valid, the Bush administration would find itself in the paradoxical position as early as next summer of imposing trade sanctions on the Soviet Union just as it is trying to help that nation's crippled economy.

Experts throughout the industry said this week that the complaint appears to have merit. Uranium, in the natural form known as "yellowcake" and in the enriched form used as fuel for nuclear power plants, is one of the few products the Soviet, Union can export to earn desperately needed hard currency. The shutdown of several nuclear power plants in the Soviet Union and Eastern Europe since the 1986 accident at Chernobyl has reduced Soviet demand for nuclear fuel, and the Soviets are aggressively seeking new markets, unloading their uranium in the face of a worldwide glut, according to the Energy Department and independent analysts.

The complaint was filed by 13 U.S. producers and the Oil, Chemical and Atomic Workers Union, which represents a fast-dwindling work force. They are represented by lawyers from the Washington office of Akin, Gump, Hauer & Feld, a firm whose most visible partner used to be Robert Strauss, now U.S. ambassador to Moscow.

The U.S. complainants say that they will lose $49.9 million this year because of the allegedly unfair Soviet practices. The Soviets also are reportedly underselling other producer nations, such as Namibia.

Laurence J. Hoffman, the firm's managing partner, said the lawyers "absolutely did not" consult Strauss or notify him that the complaint was coming. But the firm did inform the Bush administration, he said, and "the government may have" alerted Strauss to the case.

The trade complaint, formally filed on Friday, could be doubly embarrassing for the administration because the U.S. government stands to be a major beneficiary if sanctions are imposed. The Energy Department is this nation's sole producer of enriched uranium, and its obsolete plants have rapidly been losing market share to more efficient and lower-cost producers, including the Soviets.

The Energy Department is not a plaintiff in the case because U.S. anti-dumping laws were enacted to protect private corporations, not the federal government. As recently as a year ago, the Energy Department was negotiating with the Soviet Union to import Soviet enriched uranium to supply to its own clients—a deal that would have given the Soviets access to the U.S. market without price cutting and allowed the Energy Department to reduce production at its high-cost plants. However, that deal was blocked by Congress.

In a statement issued by Akin, Gump, Michael McMurphy, president of the Uranium Producers Association, said the producers "really struggled with the decision to file an anti-dumping petition. Nobody wanted to jeopardize sensitive political relationships, and everybody is concerned about the economic plight of the Soviet people. However, the industry is itself in serious straits caused by the devastating program of Soviet dumping and simply must do something about it."

Under well-established trade regulation procedures, the Commerce Department will investigate whether the Soviets are selling uranium at an unfairly low price. The International Trade Commission will decide whether the domestic industry has been harmed. If the answer to both questions is yes, according to Akin, Gump attorney Valerie A. Slater, the government will be required to impose cash import duties on the Soviet Union.

No one disputes that the U.S. uranium industry is in dire condition. Energy Department statistics-show that employment in the mines and mills, mainly in the southwestern states, has declined from 22,000 workers in 1979 to fewer than 1,300. Production is down from 44 million pounds in 1980 to about 9 million pounds. Prices have declined from a peak of $43.45 a pound in the 1970s to about $10 on the spot market.

The Energy Department, which once held a monopoly on the enriched uranium market in the non-communist world, now has about 40 percent of it, as competitors in France, Germany and Japan have entered the market, in addition to the Soviets.

U.S. nuclear utilities, which are free to buy their uranium wherever they wish, have turned increasingly to Canada, Australia and other foreign suppliers with more efficient mines and lower costs. Imports increased from 13.1 million pounds in 1989 to 24.3 million pounds in 1990, according to the U.S. Energy Information Administration. The Soviet share of the U.S. market has leaped from near zero in 1987 to about 17 percent.

The true value of Soviet uranium is difficult to determine, because the Soviet Union remains a state-controlled economy insulated from real prices for transportation, energy and labor. "They have no shareholders, no management and a bunch of virtual slaves," said Daniel R. Einbund, a New York uranium broker who has negotiated with them.

Much of the U.S. firms' complaint is devoted to calculations aimed at showing that the Soviets' export price is below its "imputed value," based on comparison with similar operations in Canada. The complaint says the price would have to rise at least 132 percent to be fair.

[The New York Times, Thursday, Oct. 24, 1991]

A GRAND URANIUM BARGAIN

(By Thomas L. Neff)

CAMBRIDGE, MS.—The Soviet Government is struggling to transform itself economically and politically while maintaining control of more than 24,000 nuclear weapons in the newly independent republics. Mikhail Gorbachev has pledged to dismantle thousands of them, but the bankrupt Government may not be able to pay for doing so in ways that prevent misuse or wider proliferation. There is, however, a way to pay for disarmament that also provides economic motivation to the republics and the central Government.

The warheads contain substantial amounts of valuable material that can be processed for use in commercial nuclear power plants. It may be advantageous for the U.S. to buy or barter of such materials and turn them safely to commercial use. This can be done in ways that protect Western and Soviet commercial and security interests.

If we do not obtain the material, agents in the former Soviet Union, perhaps uncontrolled by central authority, may flood commercial nuclear fuel markets with material from arms programs or even seek to sell weapons-grade materials to the highest bidders.

The Soviets have been selling increasing amounts of natural and enriched uranium in Western commercial markets, feeding a downward price spiral that has driven some uranium producers out of business and threatened the uranium enrichment business of America's Energy Department, the world's largest supplier of commercial fuel.

The risk of costly disruptions of the supply of uranium has been greatly increased by growing disorder in the former Soviet Union. Possible Soviet dumping could keep prices low for years, or alternately the supply may suddenly dry up. U.S. action thus offers the potential for stabilizing Western commercial markets.

The Soviet arsenal's explosive power comes from some 500 tons of uranium highly enriched in the isotope U-235 and about 100 tons of plutonium. If diluted with natural uranium, both highly enriched uranium and plutonium can be used in civilian reactors, though most countries prefer fuel not containing plutonium. Under the Strategic Arms Reduction Treaty and new commitments to dismantle tactical and strategic weapons, up to 40 percent of Soviet warhead material will be freed up.

A deal in which the U.S. offered trade credits for purchases of food and other essential goods could be based on the commercial value of the weapons material. The central Government could use these credits in negotiations with the republics to arrange for collecting, dismantling, diluting and exporting material usable for commercial but not arms purposes, and could pay for safe-guarding plutonium.

A typical warhead might yield fuel worth $200,000. Ten thousand warheads containing 200 tons of highly enriched uranium would be worth about $2 billion. This would be a good deal for the Soviets, for if they tried to sell such a volume commercially, prices would crash.

How might the material be accommodated without disrupting Western markets? The Energy Department could use the enriched material to help meet its delivery commitments, saving on its own production costs. It has tried to improve the economics of its enrichment enterprise, largely because of the threat of low-priced Soviet enrichment services.

Substitution of enriched Soviet material would result in larger Energy Department inventories of natural uranium, which potentially is a concern to miners in the West. But it seems better for everyone to accept a gradual buildup of U.S. natural uranium stocks in order to diminish the threat of large volumes of material that might destroy commercial markets and pose a major threat to international security.

It is important for the U.S. and the Soviet Union to be assured that such a transaction would not compromise their security. One solution is for Soviet enterprises to dilute the material down to a level that would make reuse of it for weapons difficult and transport safer. Dismantling weapons could be monitored bilaterally, with subsequent processing, shipment and conversion to reactor fuel in the U.S. safeguarded by the U.N. through the International Atomic Energy Agency.

A U.S.-Soviet agreement on weapon uranium would not just provide economic incentives to dismantle weapons but also would set useful precedents for dealing with the more difficult issue of plutonium stocks and for dismantling additional nuclear weapon systems.

Such an agreement would go far in satisfying non-weapons states that the superpowers are finally keeping their part of the bargain in the non-proliferation treaty. It would also provide a basis for international involvement in the post-Soviet republics that have nuclear activities, and would justify greater international oversight in other countries.

If the U.S. pursued and the Soviets accepted this grand bargain, the U.S. should accept bilateral monitoring of the dismantling of its own excess weapons and put subsequent processing of material from those weapons under international safeguards.

[From the Wall Street Journal, Oct. 20, 1991]

ARMS CONTROL—THE RISK NOW POSED BY THE SOVIET 'NUKES' IS ONE OF MANAGEMENT

(By John J. Fialka)

One day last spring, a heavily guarded military convoy emerged from the mists near Lychen, a resort town north of Berlin. After dropping off its keys with a local mayor, the column headed east toward home with its cargo: the terrible burden of an elite Soviet KGB military unit known as VK79.

Inside the Soviet trucks were dozens of desk-sized metal boxes, each containing a nuclear warhead for a Scud missile. Inside the warheads were explosive-wrapped globes of plutonium, each capable of triggering a blast almost as large as the one that devastated Hiroshima.

For many military units, the Cold War is over. But for detachments like VK79, it is more like the beginning of the end. The threat presented by its weapons lingers, because they are small, easily hidden, easily transported—and susceptible to theft.

MANY RISKS

Within the coming months and years, if all goes well, VK79's warheads will cease to exist. They are among some 10,000 tactical nuclear weapons that George Bush and Mikhail Gorbachev have vowed to eliminate, in history's first large-scale destruction of nuclear weapons (in the past, explosive parts of retired nuclear weapons have been recycled, not destroyed).

But Western experts have discovered that this "if" is a very big one. The rapidly unraveling Soviet Union lacks the resources to quickly collect and eliminate its share of the weapons, at least 7,000 warheads. Moreover, the 200 soldiers of VK79 don't seem to have the training or the experience to cope with terrorists, corruption, criminal gangs, coups, drugs and divisive politics—all growing facets of the uneasy peace they found when they returned home.

"They were oriented toward fighting a war," says William M. Arkin, military analyst for the environmental group Greenpeace and one of the first Americans to visit VK79's abandoned German base. Inside the 10-acre camp, hidden deep in a pine forest, he found a citadel—two underground bunkers surrounded by five barbed-wire-tipped fences, some electrified. Infantry trenches were arrayed around the bunkers, facing the probable direction of an enemy attack.

When Mr. Arkin, once a U.S. Army intelligence officer in West Germany, entered the bunker, he came upon a familiar scene; a secret world of warhead bays, sophisticated protective systems and evidence of extreme spit-and-polish discipline much like that in U.S. bunkers.

But he also sensed a big difference. The fenced compounds of U.S. nuclear storage sites, which dot the landscape in western Germany, are kept starkly illuminated and surrounded by open space. They were designed that way in the 1970s to cope with the more immediate threat of terrorists and demonstrators. The Soviet bunker had none of these features. Its soldiers seemed prepared only for the terrifying opening scenes of a third world war.

Today it is the non-war threats that are most worrisome to guard units like VK79, or units of the super-secret U.S. Army equivalent, the 59th Ordnance Brigade based in Germany. Of all nuclear weapons, tactical ones are the most vulnerable, because they are small enough for an enemy or a terrorist group to carry away.

MANAGEMENT IS KEY

Although a wide array of gadgets, including electronic combination locks called "permissive action links," are used by both sides to secure nuclear weapons, a determined expert can thwart them. The main defense is a tough management system involving tens of thousands of technicians and guards maintained by the U.S. and what remains of the Soviet Union. "It is their [the Soviets'] system of management that has to stay coherent. This is the one system that ought not to collapse in the Soviet Union," warns Fred C. Ikle, a former undersecretary of defense.

And it will have to stay coherent for a long time. A team of Soviet nuclear weapons experts who recently visited Washington said it may take 10 years and the equivalent of $2 billion to collect and destroy the tactical nuclear weapons. The Russians said they were considering plans to build a system of highly secured shelters to store about 15,000 weapons, after retrieval from outlying storage sites and other republics. (Only ethnic Russians were assigned to elite nuclear weapons units, so the republics would be starting from scratch in the business of guarding nukes.) After the weapons are retrieved, they are to be disassembled and their plutonium cores guarded in another type of shelter until they are burned up as fuel in reactors or submarines.

Victor N. Mikhailov, deputy minister of the Soviet Ministry of Atomic Power and Industry, worries that during the "several years" all this will take, "what might happen is difficult to predict." It would be cheaper and quicker, he told U.S. weapons experts, for the Soviet Union to pack a number of nuclear weapons in an underground tunnel and vaporize them with the searing blast from another nuclear weapon. "To destroy 30,000 weapons you will need 15 to 30 explosions underground," he calculated.

You also need money. During an informal meeting with U.S. senators, the Soviet nuclear experts suggested they needed U.S. funds to help build the storage and destruction shelters. But no such aid appears likely: Congress recently killed a provision in the defense budget that would have let the Bush administration spend up to $1 billion to help the Soviets shift their economy away from a war footing. Sen. Sam Nunn (D., Ga.), one of the measure's authors, contends such spending should be viewed not as aid but as "a direct way to reduce a threat to U.S. security."

U.S. weapons experts will begin talks with the Soviets in the next few weeks, an administration official says. The U.S. is prepared to offer "technical assistance" to help the Soviets destroy their weapons, he says, but he is unsure what form it would take. "We just don't know enough about their [nuclear weapons] system yet."

Even if the Soviets find funds for the destruction, there will be further difficulties: The system for accounting for the weapons must be perfect on both sides. Any missing nuclear device could provide a crisis. But tough accounting raises another touchy problem: secrecy. Both sides still worry that a mutually verified destruction process would reveal their bomb designs.

Complex problems are nothing new to U.S. politicians and officials who have spent many sleepless nights worrying about the ultra-secret business of managing tactical nuclear weapons. While other nuclear weapons were safely stored in remote silos, in hangers or under the sea, tactical ones have had to be kept in densely populated Central Europe.

Now much of this tension shifts to the Soviet side, where, in many cases, newly created managers and politicians must quickly learn the unforgiving nature of the mission of guarding the nukes. For the Russians, and the emerging rulers of the other Soviet republics, their job for months to come will be, in many respects, like the work of U.S. soldiers guarding the bunkers in what was West Germany.

Living close to danger and chaos came with their territory. There was always a Catch-22 aspect about what they did. U.S. Army nuclear artillery shells had to be housed within 15 miles of the East German border to be effective in wartime. That meant they were always in imminent danger of being overrun by Soviet forces before they could be used. Moreover, because they had to be stored in populous areas, threats of terrorist attack and political demonstrations were constant. The situation was a fertile one for morale problems. They began with the generals and ran to the lowliest guards in bunkers.

The presence of some 10,000 nuclear warheads that the U.S. Army pumped into Europe during the 1970s forced the Soviet army to spread out its armored formations so they couldn't be annihilated during an attack. But they also painted the U.S. Army into a corner; its strategy became "use them or lose them." Fortner Army chief of staff Gen. Edward C. Meyer recalls that in the 1970s, "the mission was delay, delay—then nuke. Every war game we played came to the point where you had to resort to nuclear weapons."

While the policy was clear, the matter of carrying it out haunted those in the nuclear bunkers. Since bunkers would be targets, at the first hint of preparations for an enemy attack, the mission was to load up the warheads and get them out in the field. That would take 10 hours, says a former commander of an Army nuclear ordnance company, who adds: "I know we would never get the first weapon out before we'd all be dead."

The actual protection and care of the warheads was left to carefully selected technicians, soldiers in their early 20s. The U.S. Army went to great lengths to keep technicians and guards happy, with everything in the bunker designed for "stress avoidance." The insides of U.S. bunkers are painted in soft pastels (as is the bunker vacated by the Soviet VK79). There is a great deal of busywork. Walls, hardware and floors are always kept freshly painted. "A clean bomb is a happy bomb," says a U.S. Army manual.

The Army also developed field manuals full of euphemisms to keep the average 22-year-old from thinking too deeply about his mission. For instance, troops nearest the nuclear blast wouldn't die from radiation burns and endless vomiting in their foxholes, but rather would sustain "Immediate permanent incapacitation."

As the commander of a nuclear bunker, says the former U.S. officer, who asked not to be named, "I was at the absolute mercy of the lowest dog in the unit. All he had to do is screw up and my career was gone. In the nuclear business, you had to be more perfect than perfect."

But perfect was hardly the word for the U.S. Army in Europe in the 1970s. The troops were plagued with drug, alcohol and morale problems, some of them a hangover from Vietnam. Nuclear units were no exception. In the officer's unit of 256 men, he says, there were almost 50 court martials, many for drug use.

By 1990, it was the Red Army that had severe morals problems. Soldiers in Germany began deserting and selling stolen uniforms and even weapons to get money. Moscow this spring ordered a hasty withdrawal of most nuclear units from Germany, up to two years ahead of time.

Mr. Arkin, the Greenpeace investigator, says the VK79 unit appeared equipped to handle every military contingency. There was a thick layer of earth on the roof and foot-thick doors to protect against direct hits. There were hundreds of gas masks, chemical protective suits, and an elaborate air conditioning and airlock system designed to thwart chemical attacks. He found a camouflaged loading dock and a timetable showing when U.S. satellites would pass overhead.

Unlike other departing Soviet units, which stripped their bases to the walls, VK79 had left in a hurry, abandoning much of its expensive equipment. "I guess the one thing they weren't prepared for was peace," he concludes.

[From the Los Angeles Times]

U.S. FEARS SALE OF SOVIET A-ARMS AND TECHNOLOGY

(By Norman Kempster and Stanley Meisler)

WASHINGTON.—U.S. officials are expressing increasing concern that the Soviet Union's extensive inventory of defense technology—including nuclear weapons hardware and expertise—may soon go on the world market as a new class of opportunistic capitalists try to turn a fast profit from superpower disintegration.

Echoing a theme that has been discussed privately among U.S. officials for some time, Defense Secretary Dick Cheney said Saturday that he is seriously worried that the breakup of the Soviet Union "will result in dissemination of knowledge about weapons of mass destruction."

Cheney, addressing potential Soviet arms proliferation on a Cable News Network television program, warned of "individuals who've got technical expertise going to work for other countries, and possibly even the flow of some of those weapons themselves to third parties."

Noting that the Soviet Union still has 27,000 to 30,000 nuclear warheads, Cheney said the experts who work on the Soviet nuclear program might be tempted by high salaries to join the nuclear programs of Third World countries. And he said that Iraq and North Korea are two countries that would probably be interested in hiring Soviet nuclear scientists.

"Remember how we started our space program after World War II with Werner von Braun and his German [scientists]," Cheney said.

Other Bush Administration officials have expressed concern about potential sales of Soviet chemical warfare weapons or, even worse, about a Soviet economic collapse that could spawn black market sales of all kinds of weapons during the chaos.

These officials said that Washington has made it clear to the central Soviet government and to leaders of the increasingly independent republics that they must prevent clandestine weapons sales if they hope to obtain economic aid from the United States and Western Europe.

That will probably be enough to stop government-level sales, said one senior Administration official who requested anonymity. But there is no guarantee that the authorities will be able to prevent individual hustlers from getting their hands on weapons or other technology that might find a ready market in the Third World.

"If things go to hell in a handbag, if there are outbreaks of domestic violence, then all of the reservations which local leaders might have about entering into unsavory arms deals might disappear," the Administration official said.

He said that in the "nightmare scenario," hard-pressed Soviet troops might start to sell their weapons to the highest bidder.

The way Administration officials and some American businessmen see it, weapons and other military technology are the only things produced by the Soviet Union that measure up to world standards. With the economy starved for hard currency, the temptation to sell that equipment may prove irresistible.

"I think the fact that they have not made any progress in terms of economic reform," Cheney said, "enhances the possibility that the kind of chaotic situation may develop where there'll be an even greater incentive for people to allow the spread of that [military] capability than has been true before."

Not all potential sales of Soviet military equipment would have a nefarious impact on the Third World. Some top-secret Soviet defense technology can be adapted to produce new and valuable civilian products.

For instance, Philip S. Myers, president of Montecito Trading Co. of Santa Barbara, said that Soviet rocket scientists have developed a chemical spray that could revolutionize the cleanup of oil spills at sea. That is, it could if Moscow had the manufacturing and distribution capacity to put it on the market.

Myers, who hopes to put together seed-capital funds to market Soviet technology, said the spray hardens petroleum into a solid mass. Applied to a leaking oil tanker, the chemical could turn the leaking oil into a patch that would stop the leak and harden oil already in the water into a glob that could be easily removed.

"They can bring out their beakers and show what it does," Myers said. "This is a breakthrough. But first they have to patent it and prove it. The Russians don't know how to pick up the ball from the point where they have the nifty little spray in the laboratory."

The senior Administration official said the United States would have no objection to the sale of military technology for clearly civilian uses. But he agreed with Myers that Soviet companies are ill-equipped to exploit scientific developments.

The Soviet Union has been able to sell military equipment for many years. The armies of Iraq and Syria, to name just two, use Soviet weaponry almost exclusively. But the market for legitimate government-to-government sales may be drying up. Soviet arms, at least in Iraqi hands, did not perform well against high-tech American weaponry during the Gulf War.

U.S. officials are concerned that if the Soviet Union is unable to sell its arms to legitimate buyers, the temptation may increase to unload the weaponry to terrorist groups or other purchasers who are shut out of the legal market.

Moreover, there is a growing concern in the West that the Soviet army will begin to unravel, leaving behind unemployed and increasingly desperate soldiers and arms makers who might try to support themselves by selling their equipment or skills to anyone willing to buy.

In his television interview, Cheney made it clear that the Soviet Union and its breakaway republics are not his only concern as a source of the technology of mass destruction. He also is worried that China may be in the business of spreading nuclear know-how and weapons.

"We're concerned that they [the Chinese] need to conduct themselves in such a way that they don't contribute to the spread of weapons of mass destruction," he said. "That's a point that we push with them consistently."

[From the Washington Times, Oct. 31, 1991]

ACCIDENTAL SOVIET MISSILE LAUNCH WORRIES THE WEST

(By Gerald Nadler)

MOSCOW.—Reports yesterday of an errant missile launch in the Ukraine underscored fears that the Soviet Union may be losing control of its nuclear arsenal.

"A ground-to-air missile was accidentally launched in the Ukraine," the Tass news agency said. "* * * The missile flew 7 kilometers [4.2 miles] toward Kiremenchug in the Poltava region, there was no explosion and consequently no casualties. The missile had no nuclear warhead."

The Interfax news agency said the missile landed on a highway near the town of Kremenchug, 40 miles south of Kiev. Shrapnel from the impact flew 450 feet, injuring several soldiers but no civilians, Interfax reported without elaboration.

Neither dispatch said when the missile leaped from its launch pad. But the timing of the reports could not have been worse for President Mikhail Gorbachev, who was in Madrid, Spain, for the Middle East peace conference.

August's failed coup prompted widespread concern that a disintegrating Soviet Union might lose control of its nuclear arsenal.

Doomsday fears arose when Soviet newspapers confirmed the hard-line plotters took the so-called black box needed to launch a nuclear strike from the detained Soviet president.

Heightening the alarm, the Ukraine declared independence after the thwarted coup and then recently demanded joint control over the nuclear weapons on its territory.

Kazakhstan, headed by its influential president, Nursultan Nazarbayev, also indicated it wants joint control over the nuclear arms on its territory. Kazakhstan is "a nuclear republic," Mr. Nazarbayev has said.

In London yesterday, Mr. Nazarbayev again said his Muslim central Asian republic would be a player in controlling and reducing nuclear arms through negotiations.

"The solution for the problem in our opinion consists in establishing double control over nuclear power, similar to the system of the 'double key' * * * used for a long time regarding the American nuclear arsenal in a number of countries in Western Europe," he said.

Mr. Nazarbayev's stand raises a dilemma for the United States, whose major arms treaties—including last July's START pact to cut long-range nuclear missiles by one-third—were negotiated with Mr. Gorbachev.

Both Ukraine and Kazakhstan pledged to honor the pacts. But they also indicated they want a say in implementing the accords.

Voicing the discomfort of the Western nations, Spanish Prime Minister Felipe Gonzalez said at a joint news conference with Mr. Gorbachev in Madrid that the Soviet Union must be preserved as a single country capable of maintaining a dialogue with other countries.

Soviet unity is compatible with respect for the sovereignty of the Soviet republics and will guarantee stability and international cooperation, the Spanish premier said.

Other Western nations are also seeking assurances from Mr. Gorbachev.

Mr. Gorbachev left Madrid for Paris yesterday to discuss nuclear security and Western aid with French President Francois Mitterrand. Soviet Foreign Minister Boris Pankin tried last week to reassure France that Moscow retained sole control over the Soviet nuclear missiles.

In Moscow, Soviet Defense Minister Yevgeny Shaposhnikov also dismissed the concerns about nuclear control.

"The nuclear button will remain as before, in the hands of the center," Mr. Shaposhnikov told the government newspaper Izvestia on Tuesday.

[From the New York Times, Nov. 7, 1991]

A SOVIET COMPANY OFFERS NUCLEAR BLASTS FOR SALE TO ANYONE WITH THE CASH

(By William J. Broad)

A new Soviet trading company is trying to market the power of underground nuclear explosions for commercial application to anyone in the world who has the cash.

It is the first time that nuclear blasts are known to have been put up for sale, but the venture is surrounded by great uncertainty given the political turbulence in the Soviet Union and rising opposition around the world to nuclear blasts.

The atomic explosions are being marketed by the International Chetek Corporation of Moscow, a private trading company tied to the Soviet arms complex. Its initial goal is to carry out blasts in the Soviet Union for the incineration of toxic wastes. But the company says it will eventually try to do whatever the customer wants, as long as it is commercial and peaceful in nature, including conducting nuclear explosions in other nations.

DANGERS CITED

The move has startled Western experts, who say nuclear blasts could damage the environment and that the nuclear devices would be at risk of falling into unfriendly hands. Other experts, however, say the Soviet ideas may have technical merit and should be evaluated.

There apparently are no international accords that bar one country from selling nuclear devices to another for peaceful purposes.

The nascent marketing effort shows the lengths to which the crumbling Soviet bloc will go to acquire hard currency by converting military industries to civilian ones.

"We're willing to entertain all ideas," said Danny Wolfson, an agent for Chetek at Ph.D. International Trading Inc., a small concern in Montreal, Quebec. "It doesn't matter who, where or when. We have all the technologies and they're going to be used."

Mr. Wolfson said Chetek is owned by shareholders that include company officers, private Soviet enterprises, a scientific center, and most importantly, the Soviet ministry charged with production of nuclear weapons.

HAS MANY USES

Of the world's nuclear nations, only the Soviets have an extensive record of using underground nuclear blasts for civil ventures. Applications have included the creation of underground storage vaults, seismic exploration of geologic formations and the stimulation of gas and oil production.

Opposition to the fledging effort at commercializing the blasts is widespread among environmentalists and arms-control experts who know of it.

Dr. William C. Potter, an official of the Monterey Institute of International Studies in California, tried to foster public debate over the marketing effort after visiting Chetek's office in Moscow last month. He wrote an article appearing on the Op-Ed page of The New York Times today.

"Chetek is representative of a general danger," Dr. Potter said in an interview. "Soviet weapons scientists are faced with tremendous economic hardships and are going to be tempted to sell their services to anyone who is prepared to provide hard currency.

Tariq Rauf, a senior associate with the Canadian Center for Arms Control and Disarmament, in Ottawa, has also investigated and publicized Chetek and similar Soviet ventures that are getting under way.

"Everyone in Moscow wants to make a deal," he said. "These people are not really concerned about the consequences of the sales. They only want the dollars."

Dr. Ray E. Kidder, a weapons expert at the Lawrence Livermore National Laboratory in California, said the notion of using nuclear blasts to incinerate hazardous wastes and even nuclear warheads had technical merit.

"It would be cheapest way to dispose of them, by far," Dr. Kidder said. "But lots of environmental questions would have to be settled. You'd also have to find ways to make sure the blasts would not be used covertly for the further development of nuclear arms."

Underground detonations are essential for perfecting new warheads. Thus, their cessation is often seen as a way to halt the nuclear arms race.

The Non-Proliferation Treaty, ratified in 1970, has no apparent prohibition against commercial sales, as long as the blasts are for peaceful purposes.

Its only conditions are that transfers from a nuclear power to a non-nuclear one occur "under appropriate international observation and through appropriate international procedures," and that the price be fair.

For decades the Soviets have led the world in applying nuclear detonations to civilian efforts, conducting more than 120 blasts. The United States also investigated such peaceful applications of the atom, but dropped the effort in the 1970's as fears arose about the contamination of the environment with radioactive residue from the work.

The Soviet Union used the blasts to create underground cavities for storing fuels and disposing of chemical wastes such as the brine produced by oil fields. Another use was to stimulate the production of gas and oil fields by shattering rock and releasing trapped pockets. They also used blasts to extinguish stubborn fires in gas wells, and to generate powerful shock waves that helped geologists learn more about the earth's crust and mantle.

Chetek, an acronym formed from the Russian words for man, technology and capital, was formed late last year to try to sell these and other nuclear technologies to the world. In particular, it has promoted the novel idea of using nuclear blasts to vaporize all kinds of extremely dangerous wastes. The destruction would occur a little more than a half mile beneath the earth's surface, where a nuclear bomb was surrounded by waste and then exploded.

MARKETING CAMPAIGN

The company's president, Vladimir B. Dmitriev, began a quiet marketing blitz in early April, hailing the process at an international scientific conference in Moscow on the elimination of chemical arms. "It will be possible to export services," Mr. Dmitriev told the conference. "The problem of chemical weapons and highly toxic waste products destruction is urgent for many countries of the world."

Later in April, Mr. Dmitriev traveled to Ottawa for a scientific meeting on the environmental consequences of underground nuclear testing, sponsored by the Canadian Center for Arms Control and Disarmament, a private group. There he startled the audience by detailing his company's plans and suggesting that a trial waste-elimination blast be conducted in the Soviet Union under international supervision.

Also at the meeting and backing the waste plan was Dr. Alexander K. Chernyshev, a department head at Arzamas 16, the principal Soviet bomb-design laboratory.

"Everybody in the room thought they were nuts," recalled John M. Lamb, executive director of the Canadian center and the meeting's chairman. Later Mr. Lamb objected strongly when Chetek sought to say in a promotional brochure that the Canadian meeting had "discussed and approved" the nuclear technology.

MOSCOW BACKED PLAN

The commercial effort did, however, soon get boost from Viktor N. Mikhailov, the Soviet deputy minister of atomic energy and industry. He wrote the United Nations to endorse Chetek and the notion of using nuclear weapons to incinerate all kinds of wastes.

On Oct. 7, Mr. Dmitriev of Chetek signed an agreement with Ph.D. International Trading to have the exclusive rights in North America for any waste destruction, and the international rights, excluding Europe, for all other nuclear services or technologies. "This process will be carried out by the company together with the ministry of nuclear energy of the U.S.S.R.," said the agreement.

Mr. Wolfson said that he has had preliminary discussions with companies in the United States and Canada about the destruction of chemical wastes as well as other peaceful applications of nuclear blasts.

Mr. Wolfson played down the idea that bombs would be traveling between countries, saying there would probably be strong political objections to such transfers. Even though such exports are envisioned by Chetek, he said, they might never materialize.

For the waste-incineration plan, he said, the initial strategy is for waste material to be shipped to the Soviet Union for destruction there. He said his company has already made arrangements for special canisters, trucks and ships that could safely transport even radioactive wastes.

PRICE RANGE

The cost for waste destruction, he said, ranged between $300 and $1,200 per kilogram, or 2.2 pounds. "It goes by the danger," he said. "We just can't take a back loader and go after it. You need specialized equipment. The actual transport is done at night because you don't want to bother anybody.

"People may not like it," he added, "but it's the cheapest, easiest way to get rid of really dangerous wastes."

Opposition to such blasts is great and growing, however, even in the Soviet Union. Last month, President Mikhail S. Gorbachev announced a unilateral, one-year moratorium on underground nuclear tests and urged other nuclear powers to follow suit.

Mr. Wolfson, without being specific, said the moratorium posed no difficulty. Private arms experts say that Chetek and the Soviet Defense Ministry are pushing to have the moratorium interpreted as applying only to blasts for arms development.

Christopher E. Paine, a senior research associate with the Natural Resources Defense Council, a private group in Washington, said the whole idea of marketing nuclear blasts was dangerous.

"It's, 'Have bomb, Will travel,'" he said. "It's serious and has huge implications for weapons proliferation. The largest nuclear establishment in the world is undergoing a process of financial and political disintegration."

[From the Atlanta Journal/The Atlanta Constitution, Nov. 4, 1991]

AID SOUGHT TO SECURE SOVIET ARSENAL

(By Joseph Albright)

WASHINGTON.—The chief of the Soviet nuclear weapons complex has appealed to the United States for up to $2 billion in U.S. aid to help him move thousands of nuclear warheads from unstable Soviet republics.

In meetings with senators and U.S. weapons experts last month, Victor Mikhaylov warned that all nuclear weapons storage depots in the Russian republic already are crammed with obsolete warheads.

Mr. Mikhaylov, the Soviet deputy minister of atomic power and industry, said that unless his ministry gets a foreign cash infusion, he will have to store surplus warheads for as long as 10 years inside spare bunkers in the Ukraine and other independence-minded republics.

That prospect has caused shudders among some nuclear weapons experts, especially since the Ukrainian Parliament has proclaimed its determination to create a 400,000-strong Ukrainian army. The republic, which borders Poland, Czechoslovakia, Hungary and Romania, expects to achieve full sovereignty through a popular referendum set for Dec. 1.

"If this is how much it would cost to get 10,000 nuclear weapons out of the hands of the republics and see them destroyed, it could be a bargain," said Chris Paine, a weapons expert at the Natural Resources Defense Council who heard the presentation.

In a reflection of the chaos besetting official Moscow, Mr. Mikhaylov launched his plea without going through ordinary diplomatic channels.

Arriving as a member of a Soviet scientific delegation Oct. 18, he spoke first to American scientists and then, in quickly arranged meetings, with four U.S. senators. He also is thought to have met with at least one Bush administration official during his weeklong stay.

U.S. SENATORS SIGNAL INTEREST

Sen. Ted Stevens (R-Alaska), the ranking Republican on the Senate defense appropriations subcommittee, took an interest in the proposal and urged the Soviet delegates to present it to the Bush administration through government-to-government channels, according to his spokesman.

Mr. Mikhaylov also met with Sens. John Warner (R-Va.), Edward M. Kennedy (D-Mass.) and Jeff Bingaman (D-N.M.) and with aides to Sen. Sam Nunn (D-Ga.).

A Nunn aide said Mr. Mikhaylov laid out a plan to spend $2 billion in foreign funds over the next four to five years. Mr. Mikhaylov said the money would build a new complex in the Russian republic that could temporarily store thousands of weapons, take them apart and keep the resulting uranium and plutonium in long-term storage vaults.

If the project is funded, Mr. Mikhaylov said, his ministry will be ready to dismantle 10,000 to 20,000 nuclear warheads over the next seven to nine years.

The Defense Department has estimated that the Soviet Union has 27,000 nuclear weapons. According to a new, unofficial estimate by the Bulletin of the Atomic Scientists, 19,000 of those weapons are in Russia, 4,000 are in the Ukraine, 1,800 are in Kazakhstan, 1,250 are in Byelorussia, and the rest are scattered among eight other Soviet republics.

[From the New York Times, Nov. 7, 1991]

RUSSIA'S NUCLEAR ENTREPRENEURS

(By William C. Potter)

Monterey, Calif.—It is premature to speak of the rise of capitalism in what once passed for the Union of Soviet Socialist Republics. But in at least one realm—nuclear trade—Russian entrepreneurs have discovered the free market with a vengeance. If you're in the market for a fast-breeder reactor, enriched uranium, a little heavy water or even "peaceful nuclear explosives," Moscow is the place to shop.

All visitors have to do is find their way to 15 Varvarka Street, home of the International Chetek Corporation, in the Kremlin's shadow. Chetek says it provides "peaceful nuclear explosives"—P.N.E.'s—as a desirable means of disposing of toxic waste, decommissioned reactors and retired nuclear weapons. A demonstration, the company says, is scheduled for the summer of 1992 at the Novaya Zemlya testing ground in the Soviet Arctic. For only $300 a kilo, Chetek promises to dispose of anyone's toxic waste (including Iraqi chemical arms) and guarantees "total safety." Chetek has also promoted P.N.E.'s as a way to put out Kuwait's oil fires.

Who are the Chetek nuclear salesmen? Where do they get their wares? Do they pose a threat to nonproliferation and strategic arms control?

Cheteck, an acronym for the Russian words for man, technology and capital, was founded in December 1990 as a private holding company. It is the child of the Soviet Ministry of Atomic Power and Industry and the All-Union Research Institute of Experimental Physics, better known as Arzamas 16, the Soviet nuclear weapon design center. The ministry has provided Chetek with exclusive rights to peaceful nuclear explosives; the institute has supplied much of the company's senior personnel. Chetek has also recruited from other Soviet nuclear research institutes and arms laboratories, which are struggling to survive in the post-Chernobyl, post-cold war environmental.

The marketing options for nuclear weapons are limited. But the founders of Chetek have discovered the old Madison Avenue wisdom that if you can't sell the product, alter the package. Voilá—nuclear weapons become peaceful nuclear explosives.

In a military-dominated economy that seeks to convert tank factories into ice cream machine plants, it is tempting to dismiss Chetek's machinations as another surreal but harmless product of the passing of Communism But the company may have closer links to the former and current Soviet military and nuclear establishment than it is prepared to advertise.

Chetek claims to have more than 200 million rubles in operating capital. It maintains a fleet of private jets and limousines, offices in eight cities in several republics and a luxurious retreat outside Moscow that was once the playground of the party elite. Rumors abound as to the sources of the company's fortune. Chetek may be a post-Communism success story. Alternatively, it may give new meaning to "blat," a Soviet-era term meaning "connections."

It is not clear how Chetek, even with its powerful patrons, will be able to carry out its intended 1992 demonstration in light of Mikhail Gorbachev's pledge of a one-year moratorium on nuclear tests. Chetek may also find that once word of its plans become more widely known that it had underestimated grass-roots opposition to testing in the Arctic. The company will probably need all the public relations help it can get, and has already hired a Canadian P.R. firm.

Most dangerous from the standpoint of nonproliferation is that Soviet firms like Chetek appear able to acquire and market nuclear-related material, equipment and know-how with little regard to export regulations. If the economy continues to deteriorate, one can expect nuclear export decisions in the former Soviet Union to be increasingly based on the need for hard currency. In this environment, perhaps it is too much to expect that entrepreneurs will show as much restraint as they do creativity in promoting their nuclear wares.

[From the Dallas Morning News, Nov. 12, 1991]

NUCLEAR MARKET

During a trip to the Soviet Union recently, a group of Americans was taken to what was once a top-secret ballistic missile manufacturing plant. There is some question whether the U.S. government knew of its location. Yet these Americans were given the royal tour.

That's not the half of it. The manager of the plant offered to sell a missile to one of the Americans who is a member of a wealthy oil family. The manager's asking price was $25 million, but when he was jokingly offered $20 million by the American, the manager said, "SOLD!"

In all likelihood, the manager was not joking. If he was willing to supply a wealthy American with a personal ballistic missile arsenal, he and others like him are certainly willing to supply wealthy despots with one of their own.

In the increasingly chaotic and economically strapped Soviet Union, everything is for sale to anybody with the cold, hard cash to pay. Some of the most saleable items are the things the Soviets were best at making and have the most of—military hardware.

If the Soviet sell-an-arsenal scenario doesn't make Americans more than a little uncomfortable, try "have nuke, will travel." It was reported last week that a newly formed Soviet company wants to sell its underground nuclear blast technology to dispose of the world's hazardous waste and for other peaceful purposes. The company, Chetek, would initially vaporize the waste in the Soviet Union after it was shipped there. But it would eventually export the nuclear devices to wherever its customers were. Neither the Peaceful Nuclear Explosion Treaty nor the Nuclear Non-proliferation Treaty prevents this, as long as the blasts are for peaceful purposes. But there could be no certainty that all customers would use the devices for peaceful means.

The potential security risks involved with this idea, not to mention the potential for environmental catastrophes from the nuclear blasts and the transport of toxic waste, are enormous. This takes the loose-Soviet-nukes scenario to new heights. The initial concern has been that the nuclear weapons in the restive Soviet republics might fall into the hands of militant nationalists. But now the leaders of these republics might follow the lead of Chetek and just sell them to the highest bidder.

Americans rightly want the Bush administration to spend more time on domestic issues, but the arms proliferation nightmare that is beginning to unfold with the disintegration of the Soviet Union is one that neither the U.S. president nor any other world leader can afford to ignore. This administration has been at the forefront of efforts to curb the spread of ballistic missiles and nuclear technology. But in the wake of what's going on in the Soviet Union, clearly more has to be done. Leading the international effort to prevent the sale of underground nuclear blasts should be part of that effort.

[From the Toronto Star, Nov. 8, 1991]

SOVIET NUCLEAR DEALS: A NEW TIME-BOMB?

(By Tariq Rauf)

A nuclear time-bomb may be quietly ticking away in the Soviet Union and some of its republics. Evidence is growing that some elements of the Soviet nuclear industry complex have teamed up with private corporations to market their wares abroad.

Controls on such exports have been weakened in the breakup of the old Soviet Union. And the dramatic reductions in Soviet Union defence expenditures and virtual collapse of the economic infrastructure have spurred creation of private commercial enterprises that are now seeking foreign markets for a variety of Soviet military goods, materials, services, and technologies.

Facing diminished resources and demand, the Soviet nuclear production complex also is seeking new ways of financing its laboratories and facilities. The threat of such developments to global non-proliferation norms cannot be over-emphasized, given the present unsettled state of affairs in the Soviet Union and its republics.

The defence industries used to get their funding from Moscow through agencies such as the Military-Industrial Commission (VPK) and the State Planning Committee (Gosplan). Both the VPK and Gosplan have now been dissolved.

Most Soviet defence industries now have conversion, or the production of non-military goods, as their main goal. But certain specialized ones, notably in the nuclear field, face structural problems in converting due to the nature of their products and services. It is these industries that are trying to finance their operations by entering into agreements with private corporations. These corporations, in turn, want to make money by seeking both foreign and domestic joint-venture markets for the products and services of the defense industries.

It is a matter of public record that Chetek, a private corporation reportedly funded from the defunct VPK's funds, is now financing part of the work of the Ministry for Atomic Power and Industry (MAPI) and of Arzamas 16, the main nuclear weapons laboratory in the Soviet Union. MAPI, the counterpart of the U.S. Department of Energy, is responsible for the entire Soviet nuclear fuel cycle and for the Soviet Union's nuclear weapons production and testing program.

With Chetek's financial support, MAPI and Arzamas are working on a commercial plan to dispose of—by means of underground nuclear explosions—such items as chemical and radioactive wastes, chemical weapons, decommissioned nuclear reactors and retired nuclear warheads. MAPI/Arzamas will provide the technological know-how, the "peaceful" nuclear explosive devices and destruction sites. A demonstration explosion was planned for next summer at the Soviet nuclear test site at Novaya Zemlya, in the Arctic region. While Soviet foreign ministry officials assert that the moratorium on nuclear testing recently announced by President Mikhail Gorbachev means a halt to all tests and the closing of the Arctic site, Chetek and Arzamas officials maintain that the moratorium exempts "peaceful" nuclear explosions.

A radio-chemical enterprise near Dodonovo in south-central Siberia is reportedly also associated with private commercial interests. Dodonovo has three military reactors, plus plutonium production and reprocessing and tritium separation facilities. And a partially built, 1,500-metric-tons-per-year reprocessing facility has teamed up with Chetek to market its "chemical" expertise, now that its government funding has been terminated and further construction halted.

There are reports that several other export-oriented partnerships exist, including one working on converting weapons-grade nuclear material from nuclear warheads for use in power reactors.

Previously, Technabexport (or Tenex), the export firm of MAPI, had the monopoly for all Soviet nuclear exports. Since these exports were channelled through a single government-controlled company, controls could be properly enforced. Tenex's monopoly has now been broken and other companies also have entered the field.

Canada should, among other measures:

Seek additional information on these developments from Soviet and Russian Republic officials.

Table Canada's concerns with both the Soviet and Russian foreign ministries.

Offer to share Canada's experience in drafting and implementing export control legislation.

Support the inclusion of Russia (and other relevant republics) in such arrangements as the Nuclear Suppliers Guidelines.

Consider sponsoring a multilateral conference or working group to examine the feasibility of a total cut-off in the production of weapons-grade fissionable (or nuclear) material.

Further, Canada might consider making future economic co-operation and aid to Russia and other republics with nuclear facilities conditional upon their enacting and enforcing acceptable export controls, making full-scope safeguards a condition of supply, and subscribing to other non-proliferation norms.

Tariq Rauf is co-ordinator of nuclear non-proliferation research at the Canadian Centre for Arms Control and Disarmament at Ottawa. He visited Moscow last month for talks on these issues with Soviet officials and business people.

[From the New York Times, Nov. 4, 1991]

THE SOVIET DISUNION'S MISSILES

The disintegration of the Soviet Union has left hundreds of nuclear arms in republics eager for independence. That risks perilous proliferation. The world was reassured by the republics' initial virtuous commitment to become nuclear-free. Now, however, nationalism is pushing them in the opposite direction.

The disintegration of authority at all levels of Soviet government makes prompt U.S. action imperative. Yet the Bush Administration has failed to press for ratification of a strategic arms treaty that makes deep cuts in these arms.

With the Start treaty in place, Washington could quickly agree to deeper cuts eliminating the missiles outside Russia. And it could insist on isolation of any republic that insisted on keeping nuclear arms. What is the President waiting for?

No good can come of permitting nuclear arms to fall under local control in a region with uncertain borders and long-suppressed ethnic rivalries. A nuclear-armed Ukraine would cause special alarm not only in Russia, but also in neighboring Lithuania, Poland and Germany. Of special concern to the U.S. are long-range missiles based in Kazakhstan, the Ukraine and Byelorussia.

Washington took heart from grass-roots anti-nuclear movement that prompted the parliaments in all three republics to declare nuclear-free status. Washington expected them to turn their arms over to Russia, and even negotiated a Start treaty provision to facilitate that.

But irked by Russian pressure, the republics have had second thoughts. Kazakhstan's President, Nursultan Nazarbayev, is now trying to use the 100 SS-18 missiles on his soil as a bargaining chip in negotiations with Moscow. And ardent nationalists threaten to overwhelm the nuclear abolitionists in the Ukraine. There have been disturbing efforts to bar removal of nuclear arms.

Washington remains unaccountably placid. There is even talk of delaying Start ratification until the lines of political authority in the Soviet Union are clarified. But that could take years. Prompt ratification would put the U.S. in a better position to insist that successor governments live up to Soviet international obligations, including the Nuclear Nonproliferation Treaty, which prohibits nuclear-armed states from transferring arms.

Washington could prevent proliferation by negotiating elimination of the missiles in the outlying republics. The republics know that those missiles were not slated for destruction under Start. Rising nationalism demands that they be given up only in return for cuts in Russian missiles.

The U.S. could make that easier by offering equivalent cuts—accepting a lower warhead ceiling in Start. Washington could also facilitate Start-mandated destruction of missiles by providing storage facilities and other help.

The Pentagon resists deeper cuts, saying there is no one in Moscow with authority to negotiate. But appropriate interlocutors do exist in the form of a State Council meant to deal with nuclear arms and Foreign Ministry negotiating teams that include representatives of the republics.

The Soviet republics, splitting at the seams, have nuclear weapons. The only rational American goal is the fastest possible nuclear disarmanent.

[From the Nuclear Fuel, Nov. 11, 1991]

CRANSTON FOOD-FOR-SOVIET-HEU BILL COULD SEND WEAPONS MATERIAL TO MARKET

Sen. Alan Cranston (D-Calif.) plans to introduce a bill this week that would call for the exchange of Soviet high-enriched uranium (HEU) now in nuclear weapons for U.S. food and cash. If the U.S. did buy the HEU, it could eventually find its way into the commercial market, but those commercial decisions would then be in the hands of U.S., and not Soviet, officials, Cranston aides said.

The draft bill, termed the Nuclear Warheads Security and Plowshares Act of 1991, calls for Soviet HEU to be collected, diluted, and placed under IAEA safeguards in exchange for surplus U.S. food and financial assistance. The ultimate fate of the material is not laid out in the bill. A draft of the proposal calls for the U.S. Energy Secretary to submit a plan for the storage and dilution of the HEU. The material could be "utilized in the civilian nuclear energy cycle," according to a Cranston handout on the bill. The bill itself says "warheads in the Soviet nuclear arsenal contain quantities of uranium that may be processed and used in commercial nuclear power plants, as well as plutonium that should be placed under international safeguards."

Cranston said in a letter seeking cosponsors for the legislation that though current arms control agreements call for the elimination of some nuclear delivery systems, they do not require the disposal of fissile material. "Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons materials could eliminate a critical threat to nonproliferation efforts and consolidate democratic and free market reform."

While the U.S. would send the surplus food to the central Soviet government under the Cranston bill, the proposal includes a "sweetener" for Soviet republics, which have been seeking a say in the country's nuclear weapons policy. The bill calls for 25% of the commercial monetary value of the Soviet fissile materials acquired under it to be given to the republics "in the form of financial assistance which shall be available only for the establishment of regional and local development banks."

The draft bill calls for the president to consult with U.S. allies and "determine a fair and equitable price for the purchase of existing stocks of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements." The proposal expresses a "sense of the Congress," i.e., a non-binding resolution that reductions in the Soviet fissile stockpile" should be accompanied by a parallel decrease in the U.S.'s own inventories of nuclear weapons-usable materials, and by implementation of appropriate safeguards on surplus materials."

Observers noted that the bill would use funds already obligated to, but unspent, by the Defense Department to pay for the commodities to be delivered to the Soviet Union, as well as the republics' development banks. The transfer of funds from defense to purchases of food would be attractive to lawmakers from agricultural states, the observers said.

Cranston and his partisans hold that the HEU from the Soviet weapons will reach the commercial market anyway, and that the draft bill would serve the purpose of stabilizing its transfer to the commercial U.S. market.

The bill also calls for a study by DOE and the Environmental Protection Agency on U.S. and Soviet stocks of plutonium and ways of safely and effectively storing and ultimately disposing of such inventories.

[From the Energy Report, Nov. 18, 1991]

CRANSTON TO PROPOSE GRAIN FOR URANIUM SWAP

Meanwhile, Sen. Alan Cranston, D-Calif., has another suggestion for helping the domestic industry. Next week he plans to introduce a bill shipping unobligated funds from the defense budget to the Commodity Credit Corp. in exchange for surplus agricultural products. Cranston would have the U.S. exchange the surplus crops for the Soviets' surplus highly enriched uranium at an exchange rate based on the commercial value of the uranium.

Lawmakers who were pushing for money to be given to the Soviets to help the financially struggling nation withdrew their efforts last week for lack of support. Now that it is clear the Soviets won't get something for nothing. Capitol Hill sources speculate, they may be willing to back a proposal like Cranston's.

Mr. PELL. Mr. President, I am pleased to be a principal cosponsor of the Nuclear Warheads Security and Plowshares Act of 1991. I congratulate the Senator from California [Mr. CRANSTON] for his initiative in introducing this legislation.

The Soviet Union faces a very real challenge that this bill addresses. The solutions proposed by the bill would be very much in both our interests.

The START Treaty to be considered next year by the Senate would, if ratified, lead to the elimination of several thousand warheads. The unilateral decisions by Presidents Bush and Gorbachev in September and October will lead to the elimination of additional thousands of nuclear warheads—possibly as many as 10,000 or so. These warheads could contain some 200 tons of high enriched uranium and some 50 tons of highly toxic plutonium. Because of the uncertain relationship between the Soviet Union's Central Government, the remaining 12 republics, and various ethnic groups, there is a significant possibility that these weapons or the nuclear materials could become items of commerce on the black market. If these nuclear weapons fall into the hands of dictators and terrorists, the world could be held hostage.

Dr. Valeri Davydov of the Soviet Institute of United States and Canada Studies comments on this situation:

> There was at least one incident, in Azerbaijan, in which a band of rebels briefly broke into an installation at which nukes were stored. That is why a majority of experts underlined the necessity to destroy the tactical nukes and welcome the new Bush proposals on arms control.

Our bill would make the uranium harmless by requiring the mixing of the 90 percent enriched uranium with normal uranium. Both the uranium and plutonium would be placed under safeguards. Soviet officials have stated that the Soviets will not be able to dismantle their nuclear weapons before the turn of the century. A decade is too long a time for the vast amounts of materials to be in an uncertain state.

The second key part of the bill is that the Soviet Union and the Republics would receive United States agricultural commodities in return for accepting this plan. This linkage makes a lot of sense to me, and it could have tremendous benefits for all involved.

By Mr. SPECTER:

S. 2012. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for high-speed rail and certain other mass transportation equipment; to the Committee on Finance.

INVESTMENT TAX CREDIT FOR HIGH-SPEED RAIL AND MASS TRANSPORTATION EQUIPMENT

• Mr. SPECTER. Mr. President, we must begin now to develop the transportation infrastructure we will need by the turn of the century. Reports indicate that congestion on our Nation's highways and airways is rapidly increasing. A study by the Federal Highway Administration forecasts that vehicle miles traveled on the Nation's roads will increase from 1.6 trillion in 1985 to 2.6 trillion in 2005. In turn, the average speed during trips is expected to decrease due to expected congestion.

The Federal Highway Administration expects vehicle delays to increase from 2.7 billion vehicle hours in 1985 to over 11.9 billion vehicle hours in 2005. To quantify this delay in terms of cost to the user, the 1985 cost of $12 billion per year will increase to $48 billion a year in the year 2005. This represents an increase of $36 billion per year in lost time and fuel costs. The Federal Highway Administration has further indicated that vehicle congestion in peak hours shows that in 1987, approximately 65 percent of peak hour was congested, up from the 1983 estimate of 54 percent peak hour congestion. If this trend continues, reports indicate that by the year 2005, nearly all peak hour travel will be under congested conditions.

At our Nation's airports, air traffic continues to increase adding additional congestion to an already full capacity system. According to the Transportation Research Board of the National Research Council, 11 major airports experience severe delays of over 8 minutes per takeoff. Reports indicate that the number of airports experiencing severe delays will increase to 29 by 1996 and is expected to be as high as 47 by 2005. The Department of Transportation expects demand for addition enplanements and passenger miles to more than double by the year 2005. The cost of delay in response to this demand is expected to increase from $5 billion in 1986 to $13 billion in the year 2005.

Mr. President, the recent report by Secretary of Transportation Samuel Skinner on National Transportation Policy recognizes the urgent need to upgrade our current modes of transportation. The policy direction of the report is based upon six essential elements to provide a transportation system well into the next century. Included in the policy's proposals are maintenance and expansion of our current modes of transportation, while encouraging advanced technology for transportation. I would agree that no single transportation mode will be able to meet the full range of transportation requirements, and that other forms of transportation should be developed which can offer relief for our Nation's highway and airway congestion. One of the most promising modes for this relief is that of the development of high-speed rail.

The development of high-speed rail was once an American initiative. Today, however, the United States trails behind a half dozen countries in the development and implementation of this advanced technology. The most promising of the high-speed rail technologies appears to be the use of magnets to separate the passenger vehicle from the guideway and to propel the vehicle at speeds up to 300 miles per hour. This approach, known as maglev, can offer high-speed ground transportation which is potentially superior to both airplanes and automobiles for trips between 100 and 600 miles. At these distances, it is believed that the journey may be too long to drive comfortably in a car but not great enough to be accommodated efficiently in today's large commercial aircraft and congested airports.

Mr. President, the bill I am introducing today will assist developers of high-speed transportation systems, while maintaining the essential partnership between public development and private enterprise. Specifically, the bill would provide a 10-percent investment tax credit for the development of high-speed intercity rail facilities. The tax credit will be provided to qualified investments at the purchase price which are placed in service during the specific taxable year. To qualify, the property must be new, domestically produced, and also be a high-speed rail mass transportation system which does not burn fossil fuels directly for its propulsion or lift.

It is my belief that the Federal Government must act as a catalyst in promoting domestic development of this technology. In addition to its development, I believe that such systems deserve to be produced using domestic technology, resources, and labor. Therefore, as required under the investment tax credit provisions, to be eligible for the tax credit the qualified investment must be completed in the United States with the majority of its resources domestically produced.

I long have been interested in the development of high-speed rail in the United States. In 1985, I introduced legislation to determine the most effective means in which the Federal Government could encourage the development of high-speed rail systems within the United States. It is through the development of that legislation that I now believe that development of high-speed transportation systems should be through public-private-labor partnerships. In addition, I supported legislation in 1984 which provided Federal consent to an interstate compact involving Pennsylvania, Illinois, Indiana, Michigan, and Ohio for the preparation of a feasibility study for the development of high-speed inter-city rail service.

Mr. President, a high-speed rail network will not only provide the transportation system necessary to relieve congestion on our Nation's highways and airways, but also will deliver benefits related to its planning and construction. In my own State of Pennsylvania, a study prepared by the Pennsylvania High Speed Intercity Rail Passenger Commission found that new jobs directly created can boost the State's employment growth rate by as much as 68 percent during the construction years. In addition to construction jobs, a domestically produced high-speed rail industry will bring with it all the production and manufacturing of the equipment associated with the technology.

It is equally important to note that this economic and business activity would be shared by a wide range of industries, sparking an employment upturn in many of the same industries that built the Interstate Highway System, such as construction companies and those providing the steel necessary to construct bridges and guideways. Heavy industry currently building conventional railroad equipment would have a new market, while construction also would involve the advanced technology required for communications, operations, ticketing, and other aspects of a high-speed rail system.

There are many projects under consideration throughout the United States. In Pennsylvania, the Pittsburgh maglev project which grew out of a working group of private enterprise, industry, labor, and local government in conjunction with the High-Speed Ground Transportation Center at Carnegie Mellon University, has proposed the development of a regional system extending out of Pittsburgh toward the Midwest and the east coast. Their immediate focus is for a demonstration project between the Pittsburgh International Airport and downtown Pittsburgh.

Pennsylvania is a perfect candidate for high-speed rail because it has two large cities about 300 miles apart, with the infrastructure to handle the construction and production of the system. Depending on the technology used, a cross State trip could take approximately 2 to 3 hours. A high-speed magnetically levitated train as proposed by the Pennsylvania High-Speed Intercity Rail Passenger Commission would greatly reduce cross-State travel time. The current 7-hour trip between Philadelphia and Pittsburgh, for example, could be cut to 2 hours and 8 minutes, with intermediate stops several in Pennsylvania communities such as Lancaster, Harrisburg, State College, Altoona, and Johnstown.

In addition to its transportation benefits, high-speed rail systems are appealing because of its environmental benefits. Magnetically levitated [maglev] high-speed rail systems have better energy efficiency and would reduce air pollution. Electrically powered vehicles do not emit any pollutant in comparison to autos, trucks, and airplanes which emit toxic emissions. In some cases, however, high-speed rail systems will indirectly produce pollutants, since powerplants do emit pollutants which provide the electricity for the systems. However, the amount of these emissions is considered much less than that from autos, trucks, and airplanes. If we are to encourage the use of alternative fuels and less emissions in our urban areas, I believe that the development of an alternative, environmentally sound transportation mode of high-speed rail needs to be pursued.

Mr. President, I wish to thank those who have contributed to the advancement and development of high-speed rail in Pennsylvania and the Nation. Specifically, of the Maglev, Inc. of Pennsylvania, Mr. James Roddey, current chairman of Maglev, Inc.; Mr. John W. Kapala, chief operating officer of Maglev, Inc.; Dr. Richard A. Uher, director of the High Speed Ground Transportation Center at Carnegie Mellon University; Mr. Jay Weinberg of the Steel Valley Authority; and, Mr. Evan Stoddard, Rev. Pierre Whalon, Mr. Philip Shucet, Mr. Donald Deer, Mr. Andrew "Lefty" Palm, and others on the board of directors and advisory committees of Maglev, Inc. In addition, I wish to thank Meyer Berger, Esquire, Mr. Robert Casey, president of the High Speed Rail Association, and Mr. David O'Laughlin of Pittsburgh for his assistance in the development of maglev systems and contributions to this legislation. And lastly, I want to thank Pennsylvania State Representative Richard Geist for his continued leadership in the development of high-speed intercity rail service in Pennsylvania.

Just as railroads once paved the way for the development of our Nation, high-speed rail can pave the way for revitalization of our cities by relieving congestion, stimulating tourism, increasing employment opportunities, and encouraging business development. The promise of these economic benefits has stimulated private industry with State and local interest to begin to develop high-speed rail service, but these interests cannot meet this national need for an improved transportation infrastructure on their own.

I am pleased to join with many of my colleagues in this quest for the development of this important mode of transportation here in the United States. The legislation that I am introducing today, in conjunction with other bills introduced, is testament of the U.S. Senate's desire for Federal support for development of this needed mode of transportation. The public-private partnership which the Secretary of Transportation is calling for certainly appears to be in place. Now the Federal Government must serve as the catalyst in promoting this technology domestically.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INVESTMENT TAX CREDIT FOR HIGH-SPEED RAIL AND OTHER MASS TRANSPORTATION EQUIPMENT.

(a) ALLOWANCE OF INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(4) the mass transportation credit."

(b) MASS TRANSPORTATION CREDIT.—Section 48 of such Code (relating to energy and reforestation credits) is amended by adding at the end thereof the following new subsection:

"(c) MASS TRANSPORTATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the mass transportation credit is the mass transportation percentage of the basis of each mass transportation property placed in service during the taxable year.

"(2) MASS TRANSPORTATION PERCENTAGE.—The mass transportation percentage is 10 percent."

"(3) QUALIFIED MASS TRANSPORTATION PROPERTY.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified mass transportation property' means tangible property—

"(i) which is used as an integral part of a qualified mass transit system, and

"(ii) the original use of which begins with the taxpayer.

"(B) QUALIFIED MASS TRANSIT SYSTEM.—For purposes of paragraph (1), the term 'qualified mass transit system' means a transportation system which—

"(i) is a high-speed rail system, a magnetic levitation system using magnetic forces for its lift and propulsion, or other land transit system (whether surface or subsurface), or a water or air transit system,

"(ii) is operated under franchise, license, or other regulatory approval of the Federal Government or a State or local government, or any agency or instrumentality thereof,

"(iii) charges a fare-for-hire,

"(iv) is open to the general public without restriction (other than fares and times of service), and

"(v) does not directly use or consume fossil fuels or their derivatives for its normal operation.

"(C) CONSUMPTION OF FUELS.—For purposes of subparagraph (B)(v), a system shall not be treated as using or consuming fossil fuels or derivatives, if—

"(i) such fuels or derivatives are used as lubricants (and are not involved in providing the motive or lift forces necessary for normal operation), or

"(ii) such fuels or derivatives are used in emergency operations."

(c) CREDIT ONLY FOR PROPERTY PRODUCED IN UNITED STATES.—Section 50(d) of such Code (relating to certain rules made applicable) is amended by adding at the end thereof the following new flush sentence: "In the case of the mass transportation credit, rules similar to the rules of section 48(a)(7) (relating to exceptions for property completed abroad or predominantly of foreign origin), as so in effect, shall apply."

(d) CONFORMING AMENDMENTS.—

(1) The heading for section 48 of such Code is amended by inserting "; MASS TRANSPORTATION CREDIT" after "REFORESTATION CREDIT".

(2) The item relating to section 48 in the table of contents for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting "; mass transportation credit" after "reforestation credit".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1991, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).●

By Mr. LEAHY:

S. 2013. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

SATELLITE HOME VIEWER ACT AMENDMENTS OF 1991

Mr. LEAHY. Mr. President, the bill I am introducing today, and that Congressman BOUCHER is introducing in the House, is intended to help reduce the amount that home dish owners have to pay for programming.

In 1988, Congress passed the Satellite Home Viewer Act, which created a temporary statutory license allowing satellite carriers to retransmit the signals of superstations and network affiliates for private viewing by home dishowners. That act specifically bars satellite carriers from discriminating in the prices they charge distributors of satellite programming as compared to the prices they charge cable operators.

In a report issued June 5, 1991, the Federal Communications Commission issued a report in which it concluded that some satellite carriers were engaging in price discrimination. This price discrimination against satellite distributors in turn drives up the price that home dishowners have to pay for programming.

The problem is that, although price discrimination is illegal under the Satellite Home Viewer Act, satellite distributors have no standing to sue to enforce their rights.

The legislation I introduce today will correct this anomaly by making clear that satellite distributors have such standing.

The bill also defines unlawful discrimination as: First, an unreasonable refusal by a carrier to deal with any distributor which meets reasonable requirements of creditworthiness, or second, discrimination in the price, terms, or conditions of service, taking into account cost savings reasonably attributable to the number of subscribers served by the distributor or cable operator.

In addition, the bill makes it clear that a satellite carrier may offer different price, terms or conditions to a distributor to the extent that the carrier can demonstrate that such differences are justified by differences in the cost of providing wholesale carriage.

The bill also emphasizes that nothing in its provisions creates any right on behalf of a satellite distributor in the copyright for works delivered to the distributor by a carrier.

The owners of home satellite dishes, many of whom live in rural areas, already have to pay a high price for television. Unlike cable subscribers, they have to pay for the dish itself and the decoder that allows them to watch scrambled signals. It is unjust and unnecessary to force them to pay more than cable subscribers for the programming itself. This legislation will put some teeth into the antidiscrimination section of the Satellite Home Viewer Act and help end the unfair treatment of home dishowners.

I ask unanimous consent that the full text of the bill be included in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act Amendments of 1991".

SEC. 2. FINDINGS.

The Congress finds—

(1) the Satellite Home Viewer Act of 1988 (hereafter in this section referred to as the Act) was adopted to create a temporary statutory license allowing satellite carriers to retransmit the signals of superstations and network stations for private viewing by owners of home satellite dishes;

(2) unlawful discrimination by satellite carriers against home satellite distributors was recognized as contrary to the public policy objectives of the Act and was made actionable as an act of copyright infringement under section 119(a)(6) of title 17, United States Code;

(3) the Act also required the Federal Communications Commission to conduct an inquiry and submit to Congress a report on whether, and the extent to which, satellite carriers discriminate against satellite distributors;

(4) on June 5, 1991, the Commission adopted a report which found that some carriers were charging home dish distributors significantly higher prices for superstation and network station programming than they were charging cable companies, and found that these disparities were not justified by the cost of providing service;

(5) the Act has been interpreted not to grant standing to sue to satellite distributors; and

(6) home satellite dish owners may be penalized by unreasonably high prices when a satellite carrier unlawfully discriminates against a distributor.

SEC. 3. UNLAWFUL DISCRIMINATION AGAINST DISTRIBUTORS.

Section 119(a)(6) of title 17, United States Code, is amended to read as follows:

"(6) DISCRIMINATION BY A SATELLITE CARRIER.—

"(A) INFRINGEMENT OF COPYRIGHT.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against a distributor.

"(B) UNLAWFUL DISCRIMINATION AGAINST DISTRIBUTORS.—

"(i) STANDING.—For any willful or repeated secondary transmission to the public by a satellite carrier which is actionable as an act of infringement under subparagraph (A), a distributor shall also have standing to sue.

"(ii) UNLAWFUL DISCRIMINATION.—A satellite carrier shall be determined to have unlawfully discriminated against a distributor under subparagraph (A), if the carrier—

"(I) has unreasonably refused to deal with any distributor which meets reasonable requirements for creditworthiness; or

"(II) has discriminated against a distributor, as compared to a cable operator or other multichannel video provider, in the price, terms or conditions of the service provided under this section, taking into account cost savings reasonably attributable to the number of subscribers served by such distributor, cable operator or other multichannel video provider.

"(iii) EXCEPTION TO UNLAWFUL DISCRIMINATION.—

"(I) EXCEPTION.—Notwithstanding clause (ii)(II), a satellite carrier may offer a different price or different terms or conditions to a distributor as compared to a cable operator or other multichannel video provider to the extent that the satellite carrier can demonstrate that such differences are justified by the difference, if any, in the cost of providing wholesale carriage for such cable operator or other multichannel video provider as compared to the cost of providing wholesale carriage for such distributor.

"(II) JUSTIFIABLE COST.—For the purpose of this clause, any costs associated with the retail provision of service, including advertising, marketing and other costs, may not be considered, except to the extent that the distributor, without coercion, requests the satellite carrier to provide such services.

"(iv) PROTECTION OF RIGHTS OF COPYRIGHT OWNERS.—No provision of this subparagraph shall be construed to create on behalf of any distributor any right, title or interest in the copyright for works delivered to the distributor by the satellite carrier.".

SEC. 4. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall be effective on the date of the enactment of this Act, shall apply with respect to acts of discrimination occurring before, on, or after such date, and shall apply to any satellite carrier or successor entity that receives or has received a statutory license under section 119 of title 17, United States Code.●

By Mr. GRASSLEY (for himself, Mr. PACKWOOD, Mr. GRAHAM, and Mr. JEFFORDS):

S. 2014. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

PENSION PROTECTION IN BANKRUPTCY ACT

● Mr. GRASSLEY. Mr. President, today, with my colleagues Senators PACKWOOD and GRAHAM, I am introducing legislation the purpose of which is to ensure that the Pension Benefit Guaranty Corporation receives priority in bankruptcy proceedings.

The need for this legislation arises from a recent district court decision which held that the Corporation does not have priority over other creditors for its claims in bankruptcy proceedings, and that, once in bankruptcy, a company does not have to continue funding its pension plans. Although the Corporation's claims are spelled out in the Tax Code and the Employee Retirement Income Security Act, the major statute regulating private pensions, they are not spelled out in bankruptcy law. Thus, creditors have argued that the PBGC was only a general, unsecured, creditor in bankruptcy proceedings. The recent court decision supported this claim.

This decision, if allowed to stand, could have a serious adverse effect on the viability of the Corporation. The Corporation believes that its current net worth deficit, now figured at $2 billion, could swell to $16 billion by the end of the decade as a consequence of this decision. Furthermore, the PBGC faces an exposure of some $40 billion in underfunded pension plans. Of this total, about $13 billion is concentrated in plans sponsored by financially troubled companies.

According to the General Accounting Office, in testimony presented before the Subcommittee on Oversight of the Committee on Ways and Means last August 1, the PBGC "* * * is experiencing financial difficulties." Although there does not appear to be an immediate risk to the PBGC's ability to pay benefits currently due and to meet its administrative expenses, the GAO does consider that the PBGC belongs on their list of "high risk" agencies and programs. The reasons for this were the "Corporation's long-standing control weaknesses, reported $1.8 billion accumulated deficit, and possible future losses for underfunded on-going pension plans * * *." According to the GAO in its August testimony, there is about $8 billion in underfunding among financially troubled companies in bankruptcy or close to it. (More recent estimates place that figure at closer to the $13 billion I just cited earlier.) The GAO stated that, in the event that many of these underfunded plans terminate in the near future "there is a serious question as to whether the Corporation's premium structure could be adjusted to meet the resulting funding needs. Such events could raise the possibility of Federal assistance."

Although the Pension Benefit Guaranty Corporation is probably not very well known by most workers or most retirees, it is clearly, by virtue of its responsibility for protecting the pension benefits of nearly 40 million people, one of the most important Federal agencies for millions of retired persons. The need for the pension protection provided by the PBGC arises when an employer experiences financial distress and is unable to fund those benefits. On such occasions, the PBGC draws on its premiums and trust funds to pay the pension benefits protected under terms of the Employee Retirement Income Security Act. The funds from which the PBGC draws to provide those pension benefits are built up from per employee premiums paid into the funds by companies sponsoring pension plans, from earnings on investments, and from recoveries in bankruptcy.

Depriving PBGC of a priority claim in bankruptcy has two major consequences for the Corporation's financial Health. The first, and most obvious and direct, consequence is that it reduces the recoveries the PBGC can make in bankruptcy. This weakens PBGC's trust funds. And it also reduces the pension levels of these companies' plan participants who receive a share of recoveries for those benefits not guaranteed by the PBGC. Second, and very important, failing companies with underfunded pension plans have a strong incentive to "dump" their pension obligations on the PBGC. A priority status for PBGC in bankruptcy proceedings would ensure that pension obligations are taken seriously by companies tempted to underfund their plans.

Mr. President, the legislation we are introducing today:

First, clarifies in the bankruptcy code PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled groups net worth.

Second, ties the priority claims for underfunding to a gradually increasing percentage of underfunding.

Third, gives tax priority to claims for underfunding due to shutdown benefits triggered within 3 years of termination of a pension plan.

Fourth, allows PBGC's claim to arise without having to terminate a plan in the event a sponsor liquidates and the controlled group assumes the plan.

Fifth, gives PBGC the option to be a member of creditors' committees.

Mr. President, I ask that the full text of the bill be included in the RECORD, together with a section-by-section description of the bill.

Mr. President, in conclusion I want to say that I think the Congress needs to take seriously the Pension Benefit Guaranty Corporation's financial exposure. I quite agree with Secretary of Labor Martin, Chairman of PBGC's Board of Directors, who said today that "steps must be taken now to make sure that pension promises made to American workers are kept and American taxpayers are not faced with the specter of another S&L-type bailout."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Protection in Bankruptcy Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to Title IV of the Employee Retirement Income Security Act of 1974

Sec. 101. Employer liability lien and priority amount.
Sec. 102. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Subtitle B—Amendments to Title 11, United States Code

Sec. 121. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.
Sec. 122. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.
Sec. 123. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

TITLE II—MISCELLANEOUS ERISA TITLE IV AMENDMENTS

Sec. 201. Enforcement of minimum funding requirements.
Sec. 202. Definition of contributing sponsor.
Sec. 203. Recovery ratio payable under corporation's guaranty.
Sec. 204. Elimination of the seventh revolving fund.
Sec. 205. Distress termination criteria for banking institutions.
Sec. 206. Variable rate premium exemption.

TITLE I—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to Title IV of the Employee Retirement Income Security Act of 1974

SEC. 101. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) REVISED LIMITATIONS ON LIEN AND TAX PRIORITY AMOUNT.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)";

and

(5) by adding at the end the following new paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) The term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) CONFORMING AND CLARIFYING AMENDMENTS RELATING TO AMOUNT ENTITLED TO PRIORITY TREATMENT IN INSOLVENCY AND BANKRUPTCY CASES.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) CLARIFICATION OF BANKRUPTCY AND INSOLVENCY CLAIM.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100–203, 101 Stat. 1330–361) is amended by adding at the end the following new clause:

"(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and

"(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) EFFECTIVE DATES.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99–272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100–203, 101 Stat. 1330–361).

SEC. 102. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING.

(a) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING SPONSOR.—

"(1) IN GENERAL.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) TRANSFER OF LIABILITY PAYMENTS TO THE ONGOING PLAN.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) REGULATIONS.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) CONFORMING AMENDMENT.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b)" and inserting "subsections (b) and (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for liquidations initiated on or after the date of the enactment of this Act.

Subtitle B—Amendments to Title 11, United States Code

SEC. 121. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) DEFINITION.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 122. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PRIORITY AS EXPENSES ARISING BEFORE COMMENCEMENT OF CASE.—Paragraph (7) of section 507(a) of title 11 of the United States Code is amended—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the date of the enactment of this Act or cases under such title which are pending on the date of the enactment of this Act and in which claims for liability have not been resolved as of such date.

SEC. 123. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MISCELLANEOUS ERISA TITLE IV AMENDMENTS

SEC. 201. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(e) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 202. DEFINITION OF CONTRIBUTING SPONSOR.

(a) IN GENERAL.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-351).

SEC. 203. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) IN GENERAL.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) TERMINATIONS.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) CONFORMING AMENDMENTS.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-362).

SEC. 204. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) TRANSFER.—Effective September 30, 1991, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) REPEAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1991.

SEC. 205. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) IN GENERAL.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 206. VARIABLE RATE PREMIUM EXEMPTION.

(a) IN GENERAL.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1991.

SECTION-BY-SECTION ANALYSIS OF THE PENSION PROTECTION IN BANKRUPTCY ACT OF 1991

TITLE I. EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A. Amendments to Title IV of the Employee Retirement Income Security Act of 1974

SEC. 101. Employer Liability Lien and Priority Amount.

Subsection (a) of section 101 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent for terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent events" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth amount described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owing the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 101(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

SEC. 102. Liability Upon Liquidation of Contributing Sponsor Where Plan Remains Ongoing.

Section 102 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidations initiated on or after the date of enactment.

Subtitle B. Amendments to Title 11, United States Code

SEC. 121. Amendment Permitting the Pension Benefit Guaranty Corporation to be a Member of an Unsecured Creditors' Committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

SEC. 122. Clarification of Priorities.

Subsection (a) of section 122 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify the seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4063, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition date.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987 that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after enactment or cases pending on enactment in which claims for liability have not been resolved as of the date of enactment.

SEC. 123. Notice Required Where Federally Insured Pension Plan is Administered by the Debtor or Its Affiliate.

Section 123 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on date of enactment.

TITLE II. MISCELLANEOUS ERISA TITLE IV AMENDMENTS

SEC. 201. Enforcement of Minimum Funding Requirements.

Section 201 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

SEC. 202. Definition of Contributing Sponsor.

Section 202 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

SEC. 203. Recovery Ratio under ERISA Section 4022(c).

Section 203 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

SEC. 204. Seventh Revolving Fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1991.

SEC. 205. Distress Termination Criteria for Banking Institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(b) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 205 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

SEC. 206. Variable Rate Premium Exemption.

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 206 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1991.•

• Mr. GRAHAM. Mr. President, I rise today to join the distinguished ranking member of the Senate Subcommittee on Courts, Senator GRASSLEY, in sponsoring legislation to ensure the financial soundness of the entity established to protect the retirement benefits of 40 million workers.

The Pension Benefit Guarantee Corp. was established by the Employee Retiree Income Security Act of 1974 to ensure that, when a private corporation or business went bankrupt or was in other financial trouble, employee pensions would not be in jeopardy.

The fund is financed by contributions from employers for each employee enrolled in a defined benefit pension plan.

Unfortunately, Congress did not foresee the large number of bankruptcies that have been filed in the last few years. The liabilities of the PBGC are much greater than expected. Despite the overall financial health of the defined benefit system insured by PBGC, the Corporation faces an exposure of $40 billion in underfunded plans.

The problem, Mr. President, is that companies facing financial difficulty often begin underfunding their pension plans or falling behind in their contributions to the PBGC. Once a pension plan is terminated for lack of funds, the PBGC is required by law to pick up payments to the plans beneficiaries. Today PBGC makes payments to 350,000 workers and retirees.

If the PBGC is going to be able to make payments to the thousands of pensioners whose former employers go bankrupt, the Corporation needs to be able to claim some of the assets of the liquidating business in the bankruptcy process. Otherwise, PBGC will have to come to Congress for a bailout.

Unfortunately, the bankruptcy courts have not consistently found that the PBGC has any right to a priority claim on assets of a liquidating business. The Corporation's claims are considered only after numerous other creditors are paid and only then considered on par with all other unsecured creditors.

I hate to be the voice of doom, but under the current economic climate, I think it is safe to assume that PBGC's responsibility for taking over pension payments will continue to increase. Mr. President, I don't think the American people will look very favorably on a costly bail out of another Federal insurance program. And frankly, the Federal Government can't afford to bail out the PBGC. If we are serious about ensuring pension payments, we have to give PBGC the ability to fight for its beneficiaries in bankruptcy court.

I remind my colleagues that the PBGC is an involuntary creditor in bankruptcy—it cannot establish terms for or limit its commitment to guarantee pension liabilities, but is required by law to insure certain workers' pensions.

This legislation clarifies the bankruptcy code with regard to the PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled group's net worth. The bill also gives PBGC the option to be a member of creditors' committees in order to have access to information routinely available to other creditors and to hasten the reorganization process.

According to James Lockhart, PBGC executive director, clarification and improvements in PBGC's bankruptcy status "would be among the most significant statutory changes that could be made to strengthen the pension safety net."

Some may oppose this bill because it introduces a new liability in bankruptcy that is not on the books when investors and service providers are deciding whether to do business with a company. In the next few years, Mr. President, companies will be required by the Financial Accounting Standards Board [FASB] to list their retiree health liabilities on their annual balance sheets. I submit that perhaps business should also be required to shed more light on their ability to meet their pension obligations in the future.

Mr. President, it is my hope that this legislation will be considered in a timely fashion so that PBGC can have a leg to stand on in bankruptcy court; American workers can be assured that their pensions are safe; and taxpayers can be relieved of the need for another expensive bailout.●

By Mr. Dole (for himself, Mr. D'Amato, Mr. Simon, Mr. Hollings, Mr. Nunn, Mr. Lugar, Mr. Inouye, Mr. Durenberger, Mr. DeConcini, Mr. Stevens, Mr. Metzenbaum, Mr. Gorton, Mr. Bumpers, Mr. Danforth, Mr. Bond, Mr. Burdick, Mr. Cohen, Mr. Craig, Mr. Reid, Mr. Simpson, Mr. Thurmond, Mr. McCain, Mr. Shelby, Mr. Conrad, Mr. Sasser, Mr. Fowler, Mr. Bryan, Mr. Seymour, Mr. Hatch, Mr. Johnston, Mrs. Kassebaum, Mr. Dixon, Mr. Ford, Mr. Hatfield, Mr. Burns, Mr. Specter, Mr. Lott, Mr. Mack, and Mr. Boren):

S. 2015. A bill to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense on Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

AWARDING OF BRONZE STAR TO VETERANS OF BATAAN

Mr. DOLE. Mr. President, I rise today to correct an injustice that has been done to the sailors and marines that fought at Corregidor in the Philippine Islands in the opening days of World War II.

In the dark days that followed the attack on Pearl Harbor, America found itself at war, ill-prepared and untested. With the bulk of the American fleet devastated, and our aircraft in the Pacific destroyed at Hickham and Clark Airbases, the Japanese invasion of the Philippines was timed to ensure the minimum of resistance. However under the command of Gen. Jonathan Wainwright, soldiers, sailors, and marines fought a holding action at Corregidor. Although these Americans were outnumbered and out-gunned and had no possibility of relief or resupply, they held Corregidor and the Manila Bay against battle-hardened troops and constant bombardment until April of 1942. After over 4 months of savage fighting and impossible deprivations, these American heroes, were turned over to ruthless captors and forced to endure the atrocities of the infamous Bataan death march. The courage, vigilance, and loyalty displayed by the defenders of Bataan will live forever in the annals of American military history.

As a result of this action, all U.S. Army personnel at Bataan were awarded the Bronze Star. However, the over 3,000 sailors, and marines who fought with the same tenacity and suffered the same terrible fate of the Bataan death march were not awarded the Bronze Star. I believe that the fact that these Americans were in another branch of the service should not deny them the same recognition and honor that their Army counterparts received. The American heroes of the United States Naval Service deserve that recognition and that honor. In my view, that honor is long overdue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARD OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVED ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT.

(a) Findings.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Phillipines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) the Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriate recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) Award of Bronze Star Medal.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

By Mr. SEYMOUR:

S. 2016. A bill to protect, restore, and enhance fish, and wildlife habitat within the central valley of California, mitigate Central Valley project impacts in order to maintain the continued orderly operation of the Central Valley project, and for other purposes; to the Committee on Energy and Natural Resources.

CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT OF 1991

Mr. SEYMOUR. Mr. President, I rise today to introduce the Central Valley Project Fish and Wildlife Act of 1991.

Mr. President, this bill is a beginning. It is a bill written in, by and for Californians. It is the product of California groups; urban, agricultural, conservation interests all working together to develop legislation to address the fish and wildlife needs in the Central Valley. This is a first step in an attempt to resolve the water dilemma which has torn at the State of California for decades.

Specifically, this bill provides a mechanism for water transfers from agricultural use to urban and environmental uses. It includes actions for the restoration of fish and wildlife, and mandates firm water supplies for the wildlife refuges and fishery habitat. And it preserves the agricultural economy which is so vital to our State.

For the record, my position on Central Valley project legislation has been clear from the very beginning. I have strongly opposed a federally mandated reallocation of California State water, and I will continue to oppose any Federal legislation which dictates how a State will use or allocate water within its borders. Since the first hearing on Senator Bradley's bill, S.484, in Los Angeles on March 18, I have opposed any Federal reallocation of California water. In my remarks at that hearing, I stated that the political will of the citizens of the State of California should not be substituted by the wisdom of the Potomac. I said then and still do have faith in the people of California to resolve our problems. This bill is a step in that direction.

I advocate consensus rather than advancing a particular bottom line or specific view or position. This bill allows flexibility for the people of California to work together to improve upon this legislation with one simple objective. The objective is balance.

California is growing at an estimated rate of 700,000 people a year. Imagine a city the size of San Francisco. This is California's annual growth. The demands upon the natural resources in California will only continue to increase as our population grows. If California is to ever clear this hurdle which threatens both our economy and the quality of life for our citizens, we must balance the often competing needs of our cities and rural communities with our limited natural resources. I do not believe that commerce and conservation are incompatible.

I believe that we must balance the quality of life for our citizens. We must balance the often competing needs of cities and rural communities. And in ensuring that commerce and conservation are not incompatible, there is going to be sacrifice and difficult decisions lie ahead of us, but working together, we will resolve the water dilemma which has polarized our State for so long.

Having attended all four hearings on CVP legislation, it is clear to this Senator that any CVP legislation that properly addresses fish and wildlife problems, can only result from compromise, cooperation, and consensus. Therefore, the only condition that I attach to this bill is simple. Californians must make the decisions that will shape this bill. As it will be Californians who will make the difficult decisions regarding water policy in my State, it will be Californians who must make these sacrifices.

This bill will provide firm supplies of water for fish and for wildlife. It will result in the transfer of water from agricultural use to thirsty cities such as Los Angeles and it will begin to bring about the restoration of the environment. Are these not long-term water policy solutions?

This bill is the beginning of a responsible and equitable solution. I am willing to consider any ideas from Californians on how to improve it. I am specifically interested in several areas. Today I will be calling various members of several conservation groups, such as the California Chapters of Ducks Unlimited and The Nature Conservancy, and agricultural organizations in California, to request their continued participation in developing a solution, as well as to discuss delivering much-needed water to rice land in the winter for duck habitat.

This can provide off-stream storage, as well as provide substantial benefit to wintering waterfowl who rest and feed as they make their way south through the Pacific Flyway.

I will also request their input on the potential benefit and feasibility of incorporating fallowed and set-aside land into dryland habitat for wildlife benefits. I will also speak with fishing interests to seek their input on specific ideas and recommendations to begin to restore the north coast and river fisheries. This bill includes several provisions such as the rehabilitation of the Coleman National fish hatchery, the installation of a temperature control device at Shasta Dam, and a program for the replenishing of river gravels for spawning. While these projects will help restore the fisheries, I realize that any restoration will not be complete without increased supplies of water.

This bill recognizes the importance of stabilizing and augmenting river flows to restore, and if possible, enhance the natural production of anadromous fish. The economic and asthetic importance of salmon and steelhead runs, striped bass, and other fisheries along the north coast of California and in the rivers and streams are vital to our State, as well as to the States of Oregon and Washington. In March of this year, I introduced S. 728, the Upper Sacramento River Fishery Resources Restoration Act. Many of the requirements contained in that bill, including mandated instream flow requirements, have been embodied in this bill. The Secretary of the Interior is directed to work with the State of California in establishing desirable flows in the rivers and streams below project dams. Once established, these flows will become a firm requirement of the Central Valley project.

In addition, the bill immediately commits water to the wildlife refuges in the central valley and then increases the supplies to be made available to these important wildlife and waterfowl areas. Upon enactment of this legislation, the Secretary of the Interior will begin the immediate delivery of more than 380,000 acre-feet of firm water supplies to the 15 National Wildlife Refuges and Wildlife Management Areas in the central valley. The wetlands and associated habitat are important to several threatened and endangered species such as the American peregrine falcon, bald eagle, Aleutian Canada goose, and San Joaquin kit fox, and support a winter population of nearly 6 million waterfowl. Sixty percent of the ducks, geese, swans, and millions of shore birds of the Pacific Flyway crowd the existing acres. The bill directs, by the turn of the century, the Secretary of the Interior to increase the water supply to over 525,000 acre-feet. This has been identified by the Secretary of the Interior as the amount needed to fully manage all lands within the existing refuge boundaries.

I am committed to making such water supplies to the refuges and to fish a requirement of the Central Valley project.

Growth in California's urban areas is causing an increasing strain on the State's developed water supplies. It is no secret that agriculture accounts for a significant amount of the water deliveries in California. This bill provides a mechanism for voluntary transfers of water from agricultural users to urban users. Water may be transferred from a Central Valley project water contractor to any water user in the State. Limits are placed on the quantity that may be transferred out of an area so as to protect local ground water and environmental resources and to protect the economies of rural farming communities dependent on water for agricultural production. Such transfers will be consistent with California State water and environmental laws. The water which will be available for transfer includes water resulting from programs involving the conjunctive use of surface and ground water supplies, water conservation programs, and temporary or permanent land fallowing. The transfer provision in this bill is the result of long and difficult negotiations between agriculture and urban users. This accomplishment is truly to the benefit of all Californians.

On October 31, this body passed the Reclamation States Emergency Drought Relief Act of 1991 which contained authorities for the Secretary of the Interior to carry out actions during drought conditions to reduce impacts on water users and fish and wildlife. Many authorities in that bill are needed even during nondrought years to meet the multiple demands for water in California. Some of the concepts of that bill have been incorporated here, such as conjunctive use of ground water and surface water and obtaining additional sources of water supplies. Others may be added as discussions are undertaken.

I am also interested in a funding mechanism devoted exclusively to the restoration of fish and wildlife in the central valley. Provisions in the bill direct the Central Valley project contractors to make annual payments into a fund established for this very purpose. Payments to the fund, of approximately $5.5 to $7.5 million annually will commence the first water year following enactment. Over 40 years, the total water contractor contributions will generate nearly $290 million for this purpose.

Mr. President, I intend to continue to work with the chairman of the Energy Committee, Senator JOHNSTON, as we continue the development of a responsible and balanced solution for California. In fact, Mr. President, several of the chairman's remarks at the September 4 hearing in San Francisco were helpful, and we have worked to incorporate these ideas into this bill.

Mr. President, I am committed to the resolution of the fish and wildlife problems in California's central valley. I am committed to the resolution of the water shortage problems faced by urban areas throughout the State. This bill is the beginning of the resolution of those problems.

ADDITIONAL COSPONSORS

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 487

At the request of Mr. GLENN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 487, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 664

At the request of Mr. INOUYE, his name was withdrawn as a cosponsor of S. 664, a bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes.

S. 878

At the request of Mr. DODD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 878, A bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 1128

At the request of Mr. GLENN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1128, a bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1641

At the request of Mr. BREAUX, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1641, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1755

At the request of Mr. BUMPERS, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1755, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mr. CRANSTON], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kentucky [Mr. FORD], the Senator from Oklahoma [Mr. BOREN], the Senator from Georgia [Mr. FOWLER], the Senator from New York [Mr. MOYNIHAN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1806

At the request of Mr. BROWN, the names of the Senator from Montana [Mr. BURNS] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1806, a bill to amend the Federal Water Project Recreation Act and to authorize the Secretary of the Interior to manage the land resources of Federal reclamation projects and for other purposes.

S. 1817

At the request of Mr. LAUTENBERG, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1817, a bill to amend the Trade Act of 1974 to require the National Trade Estimate include information regarding the impact of Arab boycotts on certain United States businesses.

S. 1830

At the request of Mr. WOFFORD, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

S. 1884

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1884, a bill to require the Secretary of Agriculture to conduct inspections of garbage from Canada and to assess fees for such inspections.

S. 1886

At the request of Mr. MCCONNELL, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1935

At the request of Mr. SIMPSON, the names of the Senator from California [Mr. SEYMOUR], the Senator from South Dakota [Mr. DASCHLE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1935, a bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture, and for other purposes.

S. 1950

At the request of Mr. DANFORTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

S. 1965

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1965, a bill to amend the Clean Water Act to provide global environmental protection incentives and enhanced competitiveness of domestic business.

S. 1978

At the request of Mr. CHAFEE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1978, a bill to amend title XVIII of the Social Security Act to remove the payment limitation imposed under such title with respect to the furnishing of psychiatric services in a nursing facility.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Tennessee [Mr. SASSER], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maine [Mr. COHEN], the Senator from Arkansas [Mr. PRYOR], the Senator from New York [Mr. D'AMATO], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Nevada [Mr. BRYAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mr. DOLE] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 149

At the request of Mr. ADAMS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate May, 1991, as "Older Americans Month."

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Alabama [Mr. SHELBY], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. INOUYE], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

At the request of Mr. DECONCINI, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Concurrent Resolution 65, supra.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. DECONCINI, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. PELL, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesian military.

At the request of Mr. MOYNIHAN, his name was added as a cosponsor of Senate Concurrent Resolution 77, supra.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. AKAKA], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. DIXON], the Senator from Arkansas [Mr. BUMPERS], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nebraska [Mr. EXON] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 213

At the request of Mr. GORE, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

SENATE RESOLUTION 221

At the request of Mr. COATS, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

AMENDMENT NO. 1347

At the request of Mr. DODD the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of amendment No. 1347 proposed to S. 543, a bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

SENATE CONCURRENT RESOLUTION 78—REGARDING THE UNFAIR IMPRISONMENT AND TRIAL OF DR. NGUYEN DAN QUE BY THE GOVERNMENT OF VIETNAM

Mr. ROBB (for himself and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial on November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trial, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

Mr. ROBB. Mr. President, we Americans often fail to fully appreciate the rights granted to us by our Constitution. Recently, our colleague, HARRIS WOFFORD, spoke out on the inadequacy of health care in this country, and was elected to the Senate in part because he did so. But in another country, a man who took the same stand on the same issue has been imprisoned for 12 years, and now faces trial for treason.

Dr. Nguyen Dan Que was on the teaching staff of Cho Re Hospital in Ho Chi Minh City, formerly Saigon. After the war, in 1975, he was named director of the hospital. Dr. Nguyen took his job seriously and began to speak out about the shortage of medicines and modern medical standards in his country.

In 1978, Dr. Nguyen was dismissed from his post and arrested for trying to improve the care of his patients. For 10 years, he was deprived of his freedom without charge or trial. In February 1988, Dr. Nguyen was released. Taking the Vietnamese Government's professed political renovation to heart, he again spoke out for nonviolent change in the political social system. But for taking advantage of the official policy of openness, Dr. Nguyen was again arrested, in clear violation of the Universal Declaration of Human Rights. He has been held since June of 1990 without charges.

According to Amnesty International, Dr. Nguyen Dan Que will be brought to trial on November 29, a week from Friday, charged with "activities aimed at overthrowing the people's government," an offense for which he could be put to death.

Mr. President, America was founded by people who spoke unpopular thoughts. They knew the right of free speech was so important that it was the very first amendment added to the Constitution. Free speech is still the fundamental right of democracy from which all of our other freedoms flow.

We cannot stand by and let that right be suppressed elsewhere without at least speaking out on its defense. Therefore, Mr. President, I am introducing a resolution today that would express to representatives of the Vietnamese Government our desire that Dr. Nguyen Dan Que, prisoner of conscience, be released immediately.

Mr. President, like several of our colleagues, I spent more than a year of my life in Vietnam. In part, because of that experience, I am working to help increase cooperation and improve relations between our two countries. Regrettably, the Vietnamese Government's actions in suppressing Dr. Nguyen Dan Que's speech move us in precisely the opposite direction. I hope that Hanoi will come to realize that no nation can advance when the minds of its people are not free. There would be no better way to acknowledge this simple principle than by releasing Dr. Nguyen Dan Que.

Mr. President, I thank the Chair and yield the floor.

SENATE CONCURRENT RESOLUTION NO. 79—RELATING TO ZAMBIA'S TRANSITION TO DEMOCRACY

Mr. SIMON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 79

Whereas the nation of Zambia achieved its independence from British rule in 1964;

Whereas Zambia has been administered under a state-of-emergency decree for the past 26 years and has been subjected to one-party rule for the past 17 years;

Whereas the Zambian economy faced continual decreases in commodity prices and, by 1989, Zambia's per capita income level has fallen to half its mid-1970s level;

Whereas the Zambian economy continues in a steady decline and the Zambian Government now incurs an external debt of $7.5 billion;

Whereas in 1990 the Government of Zambia had begun to institute a macro-economic arrangement with the International Monetary Fund and the International Bank for Reconstruction and Development (also known as the "World Bank");

Whereas in 1991 the Government of Zambia failed to meet its economic reform program with the World Bank and was subsequently suspended from $200 million in international asistance, in addition to a $5 million United States Government assistance program;

Whereas the people of Zambia have ceaselessly expressed their opposition to the Government of Zambia's policies;

Whereas the Zambian Government responded by releasing political detainees, by pardoning political prisoners and by enacting a law in December 1990, that allowed additional parties to participate in elections slated for October 1991;

Whereas on October 31, 1991, President Kenneth Kaunda and the people of Zambia demonstrated great courage and determination by conducting free and fair elections;

Whereas the Movement for Multiparty Democracy (MMD) won nearly 80 percent of the vote and secured 125 seats of the 150-seat Parliament; and

Whereas the elections were found to be free and fair without incidents of violence of corruption. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Congress—

(1) commends the people of Zambia for their commitment to democracy;

(2) congratulates President Frederick Chiluba on his historic election as Zambia's President;

(3) commends former President Kaunda and the United National Independence Party (UNIP) on their cooperation in allowing open participation in the recent elections;

(4) calls on President Chiluba to restore respect for internationally recognized human rights and to establish a system of governance that fosters open political participation and encourages the development of democratic institutions;

(5) urges President Chiluba to take steps to strengthen Zambia's economy, renew its debt service payments to the International Monetary Fund and restore Zambia's commitment to implementing its economic restructuring obligations with the World Bank;

(6) calls on the President of the United States to take steps to implement a comprehensive assistance program, in coordination with other Western donors, to the newly elected government and its people that support democratic and economic development in Zambia; and

(7) urges the President of the United States to encourage other industrialized nations to participate in supporting Zambia's newly-elected government.

• Mr. SIMON. Mr. President, I would like to submit a concurrent resolution, concurrent with a similar provision in the House, to commend Zambia for its recent free and fair elections. Zambia joins a growing trend, already well underway among Africa's French-speaking nations, toward the establishment of democratically elected leadership. We need to welcome this trend and do what we can to reinforce it by recognizing the achievements of those countries which are successfully democratizing. The resolution also encourages the United States and the international community to work with the new government of President Chiluba to get Zambia back on the road to economic recovery. Declining copper prices and other economic problems have reduced Zambia's per capita income to half of its mid-1970's level, and Zambia's per capita external debt is now the world's highest. These are crucial problems which we need to help address in an assistance program.•

SENATE RESOLUTION 228—RELATIVE TO THE ALBERT EINSTEIN FELLOWSHIP PROGRAM

Mr. HATFIELD submitted the following resolution; which was considered and agreed to:

S. RES. 228

SECTION 1. FELLOWSHIP PROGRAM.

Section 1 of the Senate Resolution entitled "A resolution to establish an Albert Einstein Congressional Fellowship Program" agreed to on August 2, 1991 (hereafter in this resolution referred to as the "Resolution") is amended—

(1) in subsection (a)—

(A) by striking "are" and inserting "is";

(B) by striking "three" and inserting "two"; and

(C) by striking "concurrent"; and

(2) in paragraph (3) of subsection (b), by inserting ", partial compensation" after "administration".

SEC. 2. SELECTION PROCESS.

Section 2 of the Resolution is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting a semicolon and "and"; and

(C) by inserting at the end the following new paragraph—

"(4) convene a panel of representatives of not less than six scientific and educational societies to select the two recipients of the Senate fellowships.";

(2) by striking subsections (b) and (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) INTERVIEWING.—Each fellowship recipient shall interview with various Senate committees and Senators' offices to determine the best placement for such Senate fellowship recipient.";

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(5) in subsection (c) (as redesignated in paragraph (4)), by striking "Recipients" and inserting "Fellowship recipients";

(6) by amending subsection (d) (as redesignated in paragraph (4)) to read as follows:

"(d) COMPENSATION.—Each Senate fellowship recipient shall receive one-half of the funds made available pursuant to section 6(a) as the Senate contribution to such recipient's compensation. The remainder of such recipient's compensation shall be provided by the Triangle Coalition for Science and Technology Education."; and

(7) in subsection (e) (as redesignated in paragraph (4)), by striking "up to 1 year" and inserting "ten months".

SEC. 3. EVALUATION.

Section 3 of the Resolution is amended by striking "and member of the Senate referred to in section 2(b)" and inserting "or member of the Senate in whose office a Senate fellowship recipient is placed".

SEC. 4. FUNDING.

Subsection (a) of section 4 of the Resolution is amended—

(1) by striking "and 1992" and inserting ", 1992 and 1993";

(2) by striking "1991 and $42,500" and inserting "1991, $42,500"; and

(3) by inserting "and $45,000 for fiscal year 1993" before "for the Senate".

SENATE RESOLUTION 229—AUTHORIZING TESTIMONY BY A FORMER SENATE EMPLOYEE AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. LEVIN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas the New York State Commission of Investigation has requested the testimony of Robert Shapiro, a former Senate employee on the staff of Senator Daniel Patrick Moynihan, in connection with a matter under inquiry by the Commission;

Whereas by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Shapiro is authorized to provide testimony to the New York State Commission of Investigation.

SEC. 2. The Senate Legal Counsel is authorized to represent Robert Shapiro in connection with the testimony authorized by section one of this resolution.

AMENDMENTS SUBMITTED

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT

DOMENICI (AND OTHERS) AMENDMENT NO. 1364

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. MCCONNELL, Mr. SIMPSON, Mr. CRAIG, and Mr. LUGAR) submitted an amendment intended to be proposed by them to the bill (S. 543) to reform federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure related to federally insured depository institutions, as follows:

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES UPON FINAL JUDGMENT.—In any implied private action arising under this title, brought on behalf of a class, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses under subsection (b) incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses under subsection (b) shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded under subsection (b) shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny the award if—

"(A) the prevailing party, during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from members of the class on whose behalf the action was brought prior to or at any time during such litigation. All such agreements between the counsel for the class and the class members shall be approved by the district court.

"(f) DISCOVERY MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstance make an award unjust.

"(g) AWARD OF FEES UPON DISMISSAL PRIOR TO TRIAL.—In any action brought on behalf of a class that alleges a violation of section 10(b) or 14 or the rules issued thereunder, where such action is dismissed prior to trial, the court shall order the nonprevailing party or that party's counsel to pay reasonable attorneys' fees and expenses incurred by any prevailing party if, upon motion to the court, the court finds that the plaintiff has failed to establish that, after reasonable investigation made prior to the commencement of the action, the plaintiff had reasonable grounds to believe and did believe that the action—

"(1) was well grounded in fact; and

"(2) was warranted based upon existing law or upon good faith arguments for the reasonable extension, modification, or reversal of existing law.

"(h) FEE AMOUNTS.—The amount of fees awarded under this section and the reasonable allocation of expenses among multiple parties shall be in the discretion of the court, based upon prevailing legal fees in the district, the prevailing party's legal and other bills, and the pleadings and proceedings in the case, provided that such fees and costs relating to representation at trial or deposition shall not awarded for simultaneous representation of any 1 defendant by more than 1 attorney. The amount recovered shall not include any amounts separately awarded under Rule 11 of the Federal Rules of Civil Procedure.

"(i) DEFINITIONS.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

SEC. . PROPORTIONATE LIABILITY REFORM.

"LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection ( ). A separate judgment shall be rendered against each defendant for that amount.

"( ) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"( ) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

DOMENICI AMENDMENT NO. 1365

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 543, supra; as follows:

On page 778, line 13, strike "Except" and insert "(a) LIMITATIONS.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection (c). A separate judgment shall be rendered against each defendant for that amount.

"(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"(d) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778, line 23, insert after the period the following: "Section 36(b) of the Securities Exchange Act of 1934, as added by subsection (a), shall become effective on the date of enactment of this Act and shall apply to all proceedings commenced on or after that date of enactment.".

DOMENICI (AND McCONNELL) AMENDMENT NOS. 1366 AND 1367

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. MCCONNELL) submitted two amendments intended to be proposed by them to the bill S. 543, supra, as follows:

AMENDMENT NO. 1366

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES.—In any implied private action arising under this title, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award if—

"(A) the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstances make an award unjust.

"(f) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from clients prior to or at any time during such litigation. In the case of a class action, all such agreements between the counsel for the class and the class members shall be approved by the district court.

"(g) DEFINITIONS.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnishes.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

On page 778, line 21, insert "(a)" after "section 36".

AMENDMENT NO. 1367

On page 778 line 19 strike the quotation marks and the final period and insert between lines 19 and 20 the following:

SEC. .

( ) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class.

( ) PROHIBITION ON CONFLICTS OF INTEREST.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the class may not be represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PAYMENT OF REFERRAL FEES.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, an attorney may not represent the class if the attorney has paid or is obligated to pay a fee to a third party who assisted him in obtaining the representation of any member of the class. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGMENT FUNDS.—Funds disgorged as a result of any action brought by the Commission in federal court or of any Commission administrative action shall not be distributed as payment for attorney fees or expenses incurred by private parties seeking a share of the disgorged funds except as such court may order upon a motion of the Commission.

RIEGLE (AND GARN) AMENDMENT NO. 1368

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill S. 543, supra; as follows:

Beginning with page 396, line 1, strike all through the end of title IV of the committee amendment.

Beginning with page 669, line 7, strike all through page 676, line 17, and insert the following:

(b) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) SUBSIDIARIES OF NATIONAL BANKS.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) Application.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) Definitions.—

"(1) Place in which insurance is provided.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) Principally located defined.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) Host state defined.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) No Affect on Bank Holding Company Insurance Activities.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. ____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) Prominent Disclosure That Insurance Products Are Not Federally Insured.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) No Favoring of Captive Agents.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) No Solicitation of Certain Insurance Before Providing Loan Commitments.—

"(1) In general.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) Exception for insurance required for credit agreement.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) Restrictions on Use of Nonpublic Customer Information.—

"(1) In general.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) Exception for credit-related insurance.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) Records of customer consent.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) Definitions.—

"(A) Customer defined.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) Nonpublic customer information defined.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) Additional restrictions.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) In General.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Insurance Underwriting.—

"(1) In general.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) Continuation of existing activities.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) Exception for certain federally reinsured crop insurance.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) Effective Date; Transition Rule.—

(1) Effective date.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) Transition rule.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage

in that activity during the period ending one year after that date of enactment.

RIEGLE AMENDMENT NO. 1369

Mr. RIEGLE proposed an amendment to the bill S. 543, supra, as follows:

Beginning with page 778, line 6, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) Effect on Pending Causes of Action.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) Effect on Dismissed Causes of Action.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which is dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) Definitions.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

HATFIELD AMENDMENT NO. 1370

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 543, supra, as follows:

At the appropriate place, add the following new section:

ELEMENTARY SCIENCE FACILITIES

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elementary Science Facilities Act".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 3. PROGRAM AUTHORIZED.

(a) Grants.—The Secretary is authorized to make allotments to State educational agencies under section 4 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

(b) Authorization of Appropriations.—There are authorized to be appropriated $30,000,000 for each of fiscal years 1993, 1994, and 1995 to carry out this Act.

SEC. 4. ALLOTMENTS OF FUNDS.

(a) In General.—From the amount appropriated under section 3(b) for any fiscal year, the Secretary shall reserve—

(1) not more than ½ of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this Act; and

(2) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) Allotment.—From the amount not reserved pursuant to subsection (a), the Secretary shall allot among State educational agencies as follows:

(1) One-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 11, inclusive, in the State bears to the number of such children in all States.

(2) One-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(c) Definitions.—For the purposes of this Act—

(1) the term "elementary school" has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(3) the term "Secretary", unless otherwise specified, means the Secretary of Education;

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(5) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

(d) Data.—The number of children aged 5 to 11, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 5. STATE APPLICATION.

(a) Application.—Each State educational agency desiring to receive an allotment under this Act shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of Application.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this Act to award grants to local educational agencies within the State to enable such local educational agencies to carry out the purpose of this Act;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every elementary school in the State is eligible to receive a grant under this Act once over the 3-year duration of the program assisted under this Act;

(D) funds provided under this Act will supplement, not supplant, State and local funds made available for activities authorized under this Act;

(E) during the 3-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in awarding grants under this Act;

(2) provide, if appropriate, a description of how funds paid under this Act will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 6 and 7 for distribution of payments under this Act within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 6. LOCAL APPLICATION.

(a) Application.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for only one grant under this Act.

(b) Contents of Application.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this Act to meet the purpose of this Act;

(2) include assurances that the local educational agency shall match on a dollar-for-dollar basis the funds received under this Act;

(3) describe, if applicable, how funds under this Act will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics;

(4) describe the process which will be used to determine different levels of grant amounts to be awarded to schools with different needs.

(c) Priority.—In awarding grants, the State educational agency shall give priority to applications that—

(1) assign highest priority to schools which are most seriously under-equipped;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using grant equipment and materials to teachers in schools not receiving grants.

SEC. 7. PARTICIPATION OF PRIVATE SCHOOLS.

(a) Participation of Private Schools.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for providing funds under this Act as will assure the equitable participation of such private schools in the purposes and benefits of this Act.

(b) Waiver.—If by reason of any provision of State law a local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers.

SEC. 8. PROGRAM REQUIREMENTS.

(a) Coordination.—Each State educational agency receiving a grant under this Act shall—

(1) disseminate information to school districts and schools, including private schools, regarding the grant program;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 6(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) Limitations on Use of Funds.—

(1) In general.—Grant funds and matching funds under this Act only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) Capital improvements.—Grant funds under this Act may not be used for capital improvements. No more than 50 percent of matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this Act is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 9. FEDERAL ADMINISTRATION.

(a) Technical Assistance and Evaluation Procedures.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this Act, shall develop procedures for State and local evaluations of the programs under this part.

(b) Report.—The Secretary shall report to the Congress each year on the program assisted under this Act.

GRAHAM AMENDMENT NO. 1371

Mr. GRAHAM proposed an amendment to the bill S. 543, supra, as follows:

At the end of title II, add the following:

SEC. . TERMS OF ADDITIONAL FUNDING.

(a) Direct Funding.—

(1) In general.—Of the $25,000,000,000 authorized for losses by other provisions of this Act, the Secretary of the Treasury shall make available to the Federal Deposit Insurance Corporation $10,000,000,000 from funds not otherwise appropriated.

(2) Limitation.—No sums described in paragraph (1) may be obligated after November 30, 1992.

(b) Additional Matching Funding.—

(1) In general.—The Secretary of the Treasury shall make the remaining funds authorized for losses by the other provisions of this Act available to the Federal Deposit Insurance Corporation, from funds not otherwise appropriated, in an amount equal to the amount of cash dividends the Federal Deposit Insurance Corporation receives after September 30, 1991, from receivership estates under its control, that were established on or before September 30, 1991.

(2) Limitation.—The matching funds appropriated by paragraph (1) may not exceed $15,000,000,000.

GRAHAM AMENDMENT NO. 1372

Mr. GRAHAM proposed an amendment to the bill S. 543, supra, as follows:

Beginning with page 212, line 6, strike all through page 217, line 4, and insert the following:

SEC. 211. PROHIBITION ON INSURANCE OF BROKERED DEPOSITS.

Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) by striking subsections (a) through (e) and inserting the following:

"(a) Prohibition on Insurance.—Notwithstanding any other provision of law, deposits obtained, directly or indirectly, by or through a deposit broker are not insured deposits under this Act.";

(2) by redesignating subsection (f) as subsection (b); and

(3) by striking subsection (g).

KASTEN (AND OTHERS) AMENDMENT NO. 1373

Mr. KASTEN (for himself, Mr. Mack, Mr. Coats, Mr. Helms, Mr. Burns, Mr. Nickles, Mr. Smith, Mr. Seymour, Mr. Lott, Mr. Mitchell, Mr. Chafee, Mr. Durenberger, Mr. Sanford, Mr. Graham, Mr. Pell, Mr. Lautenberg, and Mr. D'Amato) proposed an amendment to the bill S. 543, supra; as follows:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

D'AMATO AMENDMENT NO. 1374

Mr. D'AMATO proposed an amendment to the bill S. 543, supra, as follows:

On page 131, delete lines 1 through 3, and insert in lieu thereof "to ensure the safety and soundness of the institution.".

CONRAD AMENDMENT NO. 1375

Mr. CONRAD proposed an amendment to the bill S. 543, supra, as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) Findings.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(3) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

DANFORTH (AND OTHERS) AMENDMENT NO. 1376

Mr. GARN (for Mr. Danforth, for himself, Mr. Bond, and Mr. Kennedy) proposed an amendment to the bill S. 543, supra; as follows:

At the appropriate place, insert the following new section:

Sec. . Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

RIEGEL (AND GARN) AMENDMENT NO. 1377

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill S. 543, supra; as follows:

On page 109, line 11, strike "or".

On page 109, line 14, strike the period and insert "; or".

On page 109, between lines 14 and 15, insert the following:

"(C) to cover such other costs as may be necessary to meet the Corporation's obligations under this Act.

On page 113, between lines 9 and 10, insert the following:

"(4) REPAYMENT OF BORROWING.—Borrowing under this subsection shall be repaid by the sale of assets of failed institutions. In the event that the proceeds from the sale of assets are insufficient to repay an amount borrowed under this subsection to fund the acquisition of such assets, the amount of the shortfall shall be funded through borrowing under subsection (a), and shall be repaid through semiannual assessments in accordance with section 7(b).".

On page 113, line 10, strike "(4)" and insert "(5)".

On page 114, line 22, before "any other" insert "the expected cost of".

On page 115, line 9, insert "(a) IN GENERAL.—" before "Section".

On page 125, between lines 8 and 9, insert the following:

(b) ASSESSMENT RATE CHANGES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) RATE CHANGES.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

On page 130, line 15, after "pledged" insert "to the Corporation's obligation to pay".

On page 130, line 22, insert "appropriate" after "Each".

On page 131, line 5, insert "appropriate" after "Each".

On page 131, strike lines 8 through 11, and insert "standards—

"(A) take adequate account of—

"(i) interest-rate risk;

"(ii) concentration of credit risk; and

"(iii) the risks of nontraditional activities; and

"(B) reflect the actual performance and expected risk of loss of multifamily mortgages.".

On page 131, line 18, insert "appropriate" after "Each".

On page 132, line 2, strike "the terms 'Federal banking agency' and" and insert "the terms 'appropriate Federal banking agency', 'Federal banking agency', and".

On page 134, line 2, strike the quotation marks and the final period and insert the following:

"(4) SECURITIES AND EXCHANGE COMMISSION'S AUTHORITY.—Paragraphs (2) and (3) shall not be construed as affecting the Securities and Exchange Commission's authority under the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934.".

On page 152, lines 14 and 15, strike "by the insured depository institution".

On page 154, line 19, insert "appropriate" after "Each".

On page 155, line 2, insert "appropriate" after "Each".

On page 155, lines 20 and 21, strike "institution's capital falls below that level" and insert "institution becomes critically undercapitalized".

On page 161, lines 15 and 16, strike "insured depository institution that is undercapitalized" and insert "undercapitalized insured depository institution".

On page 161, line 19, strike "offices," and insert "office,".

On page 163, strike lines 8 and 9, and insert the following:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

On page 163, between lines 15 and 16, insert the following:

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

On page 166, lines 8 and 9, strike "appropriate Federal banking agency for that company" and insert "agency".

On page 166, line 16, strike "that controls" and insert "having control of".

On page 167, line 2, strike "that controls" and insert "having control of".

On page 167, line 15, strike "shall take" and all that follows through line 21 and insert the following:

"shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

On page 168, lines 11 and 12, strike "ceased to comply with capital standards" and insert "became undercapitalized".

On page 169, line 16, strike "any action" and insert "any 1 or more actions".

On page 173, line 4, strike "80" and insert "60".

On page 173, line 6, before the semicolon, insert ", or the institution has submitted a plan in compliance with the requirements of subsection (e)(2) or section 5(t)(6)(A)(ii) of the Home Owners' Loan Act, the appropriate Federal banking agency has approved the plan, and the institution is in compliance with the plan".

On page 174, line 25, before the period, insert "to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas".

On page 180, line 16, strike "a Federal banking agency" and insert "an appropriate Federal banking agency or the Corporation".

On page 180, lines 19 and 20, strike "the authority of any Federal banking agency or" and insert "any authority of an appropriate Federal banking agency, the Corporation, or".

Beginning with page 181, line 20, strike all through page 182, line 4, and insert the following:

"(A) means any insured depository institution or company with respect to which action is taken under this section, and any company having control of that institution or company; and

"(B) includes any person dismissed pursuant to an order under this section requiring an insured depository institution to dismiss a director or senior executive officer.

On page 184, lines 3 through 5, strike "NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2) and (f)" and insert "ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h)".

On page 184, line 18, before the first period, insert "or is operating under a written agreement with the appropriate Federal banking agency".

On page 188, line 12, strike "and".

On page 188, between lines 13 and 14, insert:

"(F) compensation, fees, and benefits, in accordance with subsection (c); and".

On page 189, between lines 6 and 7, insert the following new subsection:

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees, or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

On page 189, line 7, strike "(c)" and insert "(d)".

On page 189, line 8, strike "and (b)" and insert ", (b), and (c)".

On page 189, line 10, strike "(d)" and insert "(e)".

On page 189, line 16, strike "or (b)" and insert ", (b), or (c)".

On page 190, line 14, strike "or (b)" and insert ", (b), or (c)".

On page 190, line 18, insert "OR COMPANY" after "IF INSTITUTION".

On page 191, line 18, insert "or company" after "the institution".

On page 192, line 21, strike "(e)" and insert "(f)".

On page 193, line 1, strike "(f)" and insert "(g)".

On page 194, line 8, strike "law" and insert "statute".

On page 195, lines 4 and 5, strike "for replenishment of the institution's capital" and insert "for the institution to become adequately capitalized (as defined in section 37(b))".

On page 195, line 8, strike "that is likely" and all that follows through line 12 and insert "that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

On page 195, line 14, after "board of directors or its" insert "shareholders or".

On page 198, line 6, strike "(as amended by subsection (a))".

On page 199, lines 18 and 22, strike "affected".

On page 200, strike lines 17 through 19 and insert "consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 37(f)(2)(A)(iii).

On page 202, line 23, strike "an" and insert "a written".

On page 205, line 4, strike "a Federal" and insert "an appropriate Federal".

On page 205, line 12, insert "appropriate" after "Each".

On page 205, lines 24 and 25, strike "a Federal banking agency" and insert "any of the Federal banking agencies".

On page 207, line 22, after "and" insert "is a type of plan".

On page 208, lines 1 and 2, strike "that was eligible to receive such coverage as of July 15, 1991".

On page 209, line 16, insert "or its agent" after "broker".

On page 217, line 3, strike "July 15, 1991," and insert "that date of enactment".

On page 220, line 21, strike "Section" and insert "(a) In General.—Section".

On page 221, lines 13 and 14, strike "not less than 60 days before the beginning of each semiannual period".

On page 221, lines 19 and 20, strike "and the Resolution Funding Corporation under sections 21 and 21B" and insert "under section 21".

On page 221, line 21, strike ", respectively,".

On page 223, line 18, strike "(4)" and insert "(2)(F)".

On page 236, line 1, strike "a Federal banking agency" and insert "any of the Federal banking agencies".

On page 237, line 14, strike "the date" and insert "180 days after the date".

On page 240, lines 24 and 25, strike "meet applicable capital standards;" and insert "are adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act, as added by section 205);".

On page 258, line 21, before "restrict" insert "prohibit or".

Beginning on page 260, line 13, strike all through page 261, line 2.

On page 261, line 5, strike "or retain".

On page 261, strike lines 11 through 17, and insert the following:

"(A) Community Development Investments.—Acquiring or retaining investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs).

On page 262, lines 1 and 2, strike "or retaining".

On page 262, line 10, strike "or retaining".

On page 262, between lines 13 and 14, insert the following:

"(E) Bankers' banks.—Acquiring or retaining shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution, and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.".

On page 262, strike lines 14 through 19.

On page 263, between lines 4 and 5, insert the following:

"(3) Exception.—Paragraphs (1) and (2) do not apply with respect to any corporate debt security acquired outside of the United States to the extent permitted by regulation or order of the Board of Governors of the Federal Reserve System under section 25 or 25A of the Federal Reserve Act.

On page 263, line 5, strike "(3)" and insert "(4)".

On page 263, between lines 7 and 8, insert the following:

"(e) Activity Defined.—For purposes of this section, the term 'activity' includes acquiring any investment.

On page 263, line 8, strike "(e)" and insert "(f)".

On page 263, line 9, strike "a Federal" and insert "an appropriate Federal".

On page 265, between lines 20 and 21, insert the following:

(d) Savings Bank Life Insurance Grandfather Rights.—Section 5(i)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(4)) is amended by adding at the end the following:

"(C) Any Federal savings association that acquires, or that results from the conversion of, a savings bank chartered by a State that by State law authorizes its State chartered savings banks to sell or underwrite savings bank life insurance may sell or underwrite such insurance to the same extent that any savings bank chartered by that State may do so under State law.".

On page 279, between lines 10 and 11, insert the following:

(o) Reporting of Credit by Executive Officers and Directors.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

On page 281, line 8, insert "or" after the semicolon.

On page 281, strike lines 9 through 18.

On page 281, strike "(H)" and insert "(G)".

On page 292, lines 8 and 9, strike "or licensed under Federal or State law" and insert "under Federal law".

On page 295, between lines 9 and 10, insert the following:

"(B) Foregone tax revenues.—The Corporation shall treat Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund.

On page 296, line 11, strike "repay advances" and insert "recover the loss to the insurance fund, less any loss recovered through a special assessment on foreign deposits, arising from advances with respect to an insured depository institution".

On page 298, strike lines 9 through 12.

On page 300, line 4, strike "payments" and insert "payment".

On page 300, line 6, strike the quotation marks and the final period.

On page 300, between lines 6 and 7, insert the following:

"(7) Discretionary determinations.—Any determination under this subsection shall be in the sole discretion of the Corporation or the Secretary of the Treasury, as the case may be. No court shall have jurisdiction to stay, enjoin, restrain, or otherwise delay action taken under this subsection or jurisdiction over any claim relating to any act or omission of the Corporation or the Secretary with respect to any determination under this subsection.".

(b) Study and Report on FDIC Payments on Uninsured Deposits and Nondeposit Liabilities.—

(1) Study.—The Director of the Congressional Budget Office (hereafter referred to as the "Director") shall conduct a study on the effects of a reduction in payments by the Federal Deposit Insurance Corporation used

to satisfy the obligations of depository institutions on the uninsured deposits of such institutions and to creditors of such institutions other than depositors. The study shall—

(A) include consideration of—

(i) any estimated savings accruing to the Federal deposit insurance funds as a result of such reduction;

(ii) the long-term benefits to insured depository institutions and the Federal deposit insurance funds of increased market discipline as a result of such reduction; and

(iii) any other relevant information on the effects of such reduction; and

(B) include an estimate of the total savings that would have accrued to the Federal deposit insurance funds during the years 1988 through 1991 if such payments by the Federal Deposit Insurance Corporation had been reduced by 10 percent.

(2) Report.—Not later than 18 months after the date of enactment of this Act, the Director shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the Director's findings and conclusions resulting from the study conducted under paragraph (1).

On page 303, line 3, strike "Limitation" and insert "Limitations".

On page 313, line 18, strike the quotation marks and the final period.

On page 313, between lines 18 and 19, insert the following:

"(13) Presumptive safe harbor for certain partially owned subsidiaries.—Except as otherwise provided by the Corporation, no subsidiary of an insured depository institution shall be liable under this subsection if the insured depository institution and its affiliates do not, in the aggregate, directly or indirectly control more of the subsidiary's voting shares, or have a greater aggregate ownership interest in the subsidiary, than does any 1 company not affiliated with the insured depository institution.

"(14) Insured depository institution subsidiaries.—For purposes of this subsection, other than paragraph (1)(A) the term 'insured depository institution' includes any subsidiary of an insured depository institution.".

On page 317, lines 17 and 18, strike "liability to" and insert "rights of".

On page 317, between lines 20 and 21, insert the following:

(d) Clarifying General Application of Definitions of Affiliate and Subsidiary.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (w)—

(A) by striking paragraphs (4) and (5); and

(B) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new subsections:

"(aa) Subsidiary.—The term 'subsidiary'—

"(1) means any company that is owned or controlled directly or indirectly by another company; and

"(2) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(bb) Affiliate.—The term 'control' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

Beginning with page 317, line 22, strike all through page 321, line 13, and insert the following:

(a) In General.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended to read as follows:

"SEC. 4. ATTAINING INSURED STATUS.

"(a) Insurance Pursuant to Certification by Other Federal Banking Agency.—

"(1) In general.—Any eligible depository institution shall become an insured depository institution when all of the following subparagraphs are satisfied:

"(A) Application.—The Corporation receives an application from the institution.

"(B) Certificate.—The Corporation receives from the certifying agency a certificate stating that—

"(i) the institution—

"(I) is authorized to transact the business of banking, in the case of a national member bank;

"(II) is a member of the Federal Reserve System, in the case of a bank described in subclause (II) or (III) of paragraph (2)(A)(ii); or

"(III) is authorized to transact business as a savings association, in the case of a Federal savings association; and

"(ii) the certifying agency has considered the factors enumerated in section 6, and determined that insuring the institution's deposits under this Act is in the public interest.

"(C) No denial.—Either—

"(i) any period for denying insurance referred to in paragraph (3)(D) expires; or

"(ii) the Corporation notifies the institution or the certifying agency in writing that the Board of Directors will not deny insurance under paragraph (3).

"(2) Denial of insurance by Corporation.—

"(A) In general.—The Board of Directors may, upon a vote of a majority of all members, deny insurance to any eligible depository institution if the Board determines that insuring the institution's deposits under this Act is not in the public interest.

"(B) Standard applicable.—In determining whether to deny insurance under subparagraph (A), the Corporation—

"(i) shall consider the factors described in paragraphs (1) through (6) of section 6; and

"(ii) shall give due deference to the certifying agency's determination with respect to those factors.

"(C) Notice required.—If the Board of Directors denies insurance under subparagraph (A), the Corporation shall promptly notify the certifying agency, giving specific reasons for the denial.

"(D) Deadline for denial.—The Board of Directors may deny insurance under subparagraph (A) only during the 120-day period beginning on the date on which subparagraphs (A) and (B) of paragraph (1) are satisfied, or such additional periods as the Corporation may prescribe by order.

"(3) Definitions.—For purposes of this subsection:

"(A) Eligible depository institution.—The term 'eligible depository institution' means any depository institution that—

"(i) is engaged in the business of receiving deposits, other than trust funds; and

"(ii) is described in any of the following subclauses:

"(I) A national bank that is authorized to transact the business of banking.

"(II) A noninsured national nonmember bank that becomes a member of the Federal Reserve System.

"(III) A noninsured State bank that becomes a member of the Federal Reserve System (whether as a State bank or a national bank), except pursuant to section 9B of the Federal Reserve Act.

"(IV) A Federal savings association that is authorized to transact business as a savings association.

"(B) Certifying agency defined.—The term 'certifying agency' means—

"(i) the Comptroller of the Currency, in the case of a national bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a depository institution described in subclause (II) or (III) of subparagraph (A)(ii); and

"(iii) the Director of the Office of Thrift Supervision, in the case of a Federal savings association.

"(b) Insurance for Interim Depository Institutions.—

"(1) Interim federal depository institutions.—Any interim Federal depository institution that will not open for business shall become an insured depository institution when the appropriate Federal banking agency issues the interim Federal depository institution's charter.

"(2) Interim state depository institutions.—Any interim State depository institution that will not open for business shall become an insured depository institution upon approval by the appropriate Federal banking agency.

"(c) Continuation of Insurance.—

"(1) In general.—Any depository institution that was an insured depository institution on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 shall continue to be an insured depository institution after that date of enactment.

"(2) Charter conversion.—Any depository institution that results from any of the following transactions shall continue to be an insured depository institution:

"(A) The conversion of an insured Federal depository institution to—

"(i) a State depository institution; or

"(ii) a Federal depository institution.

"(B) The conversion of an insured State depository institution to—

"(i) a Federal depository institution; or

"(ii) a State depository institution.

"(3) Merger or consolidation.—Any depository institution that results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue to be an insured depository institution.

"(4) Federal reserve membership.—Any insured depository institution that becomes a member of the Federal Reserve System, or any insured State bank that becomes a national member bank, shall continue to be an insured depository institution.".

(b) Conforming Amendments.—

(1) Section 5.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(A) in subsection (a)(1), by striking "(1) National and state nonmember banks; state savings associations.—";

(B) in subsection (a), by striking paragraphs (2) through (7);

(C) in subsection (b)(6), by adding "and" at the end; and

(D) in subsection (b)(7), by striking "and" at the end; and

(E) in subsection (b), by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

(2) Section 6.—Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

On page 323, line 13, strike "pursuant to" and insert "under".

On page 324, line 23, insert "of the" after "Each".

On page 326, line 12, strike "March" and insert "June".

On page 327, line 21, before the semicolon, insert ", and Federal Reserve System membership status".

On page 328, line 6, strike "banks" and insert "institutions".

On page 328, move lines 16 through 18 2 ems to the left.

On page 328, after line 23, insert the following:

(f) ADDITIONAL REPORTS.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c) of this section, the Corporation shall submit to the Congress not later than October 31 of each year, the annual report on the activities and efforts of the Corporation.

"(2) CONTENTS OF REPORT.—Each annual report required under paragraph (1) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions for which the Corporation serves as a receiver or conservator:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

On page 330, line 19, after "oversight" insert "of insured depository institutions".

On page 330, line 22, strike "depository".

Beginning with page 334, line 3, strike all through page 337, line 17, and insert the following:

SEC. 227. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing procedures and generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40(a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of

this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) Definitions.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

On page 362, between lines 6 and 7, insert the following:

SEC. 231. DISCLOSURE OF CERTAIN INFORMATION.

(a) Public Availability of Examination Information.—

(1) In general.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in subsection (e), or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(2) Delay of publication.—

(A) Threats to safety or soundness of institution.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in subsection (e). Such determination may be renewed on an annual basis.

(B) Ongoing investigations.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in subsection (e), whichever is earlier.

(C) Delay pending criminal investigation.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in subsection (e), whichever is earlier. The Attorney General of the United States or of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(3) Exclusion of open institutions.—

(A) Open institutions.—This subsection shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(B) Affiliated solvent institutions.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this subsection shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

(b) Prohibition of Confidential Settlements.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in subsection (e) shall be made available to the public.

(c) Applicability.—The requirements of subsection (a) shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance;

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in subsection (e), the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

(d) Removal of Customer Information From Examination Reports.—In making available reports of examinations under subsection (a), the appropriate Federal banking agency shall excise the following:

(1) Noninstitution-affiliated parties.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) Institution-affiliated parties.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) Open institutions.—The names and all other identifying information pertaining to open insured depository institutions.

(4) Examiners.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) Whistleblowers.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

(e) Definitions.—For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

(f) Additional Disclosures by FDIC, NCUA and RTC.—

(1) Borrowers.—Within 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(A) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b); and

(B) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(2) Transactions.—Within 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in paragraph (1)), that caused a material loss to such institution or to the deposit insurance fund.

(g) GAO Audits.—The Comptroller General shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under subsection (a), and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under subsection (f), to assess compliance with the requirements of those subsections. The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this subsection.

SEC. 232. UTILIZING PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following:

"(K) Utilization of private sector.—In carrying out its responsibilities in the management of and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practical, efficient and cost effective recognizing all of the costs inherent in such contracts.".

On page 395, after line 25, insert the following new section:

SEC. 308. ATTORNEY GENERAL'S DETERMINATION ON COMPETITIVE FACTORS.

(a) Attorney General's Report.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end the following: "In every case, before acting on any application described in subsection (a), the Board shall give notice of the application to the Attorney General. The Attorney General shall provide a report on any application that presents significant issues regarding competitive factors. The Board shall consider any report by the Attorney General on the competitive factors involved in the transaction, unless the Board finds that it must act immediately in order to prevent the probable failure of the institutions involved in the transaction that is the subject of the application. Any report shall be furnished not later than 30 calendar days after the date on which it is requested, or not later than 10 calendar days after such date if the Board advises the Attorney General that an emergency exists requiring executive action.

(b) Bank Holding Company Act Amendment.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) Report to the Congress on Approvals of Anticompetitive Transactions.—The Board shall submit a report to the Congress on the day on which any merger or transaction is approved under this section that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under subsection (c) may have an anticompetitive effect in any market or for any product. The Board's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

(c) Federal Deposit Insurance Act Amendment.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) Report to the congress on approvals of anticompetitive transactions.—The responsible agency shall submit a report to the Congress on the day on which any merger or transaction is approved under this subsection that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under paragraph (4) may have an anticompetitive effect in any market or for any product. The responsible agency's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

At the appropriate place in title III, insert the following new section:

SEC. 3____. REGULATIONS TO PROHIBIT BRANCHING FOR DEPOSIT PRODUCTION.

Not later than 180 days after the date of enactment of this Act, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate regulations to prohibit any person from using any authority to engage in interstate branching primarily for the purpose of deposit production.

On page 475, lines 11 and 12, strike "authorized" and insert "unauthorized".

On page 492, between lines 21 and 22, insert the following:

"(6) Criteria relating to foreign supervision.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

On page 509, line 15, strike "Except as provided in subsection (d), the" and insert "The".

On page 510, strike lines 9 through 15.

On page 520, before line 1, insert the following:

SEC. 611. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

On page 520, line 1, strike "**611**" and insert "**612**".

On page 532, line 1, strike "**612**" and insert "**613**".

Beginning with page 532, line 14, strike all through page 537, line 13, and insert the following:

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Section 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) State Not Required to License Branches and Agencies of Foreign Banks.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment or operation of a State branch or a State agency by a foreign bank.".

(b) Section 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) Retail Deposit-Taking by Foreign Banks.—

"(1) In general.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) Exception.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(c) Section 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) Guidelines on Equivalence of Foreign Bank Capital.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 5(a), subsection (k), and this subsection.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

"(k) Equivalent Capital and Other Financial Requirements.—

"(1) Approval required.—No foreign bank may engage in the activities described in section 5(a)(5) without obtaining the prior approval of the Board.

"(2) Determination required.—The Board shall disapprove an application under paragraph (1) unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities in accordance with section 3(d) of the Bank Holding Company Act of 1956, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(3) Criteria for determination.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

"(4) Requirement for a separate subsidiary.—If the Board, taking into account differing regulatory or accounting standards, finds that adherence to capital requirements equivalent to those imposed on a domestic bank holding company under section 3(d) of the Bank Holding Company Act of 1956 can be verified only if banking activities are carried out in a domestic banking subsidiary within the United States, it may only approve an application under paragraph (1) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.".

Redesignate section 547 of the bill as section 559 and relocate appropriately.

Redesignate sections 548 and 549 of the bill as sections 547 and 548, respectively and relocate appropriately.

On page 555, line 6, strike "and" and insert "or".

On page 671, between lines 14 and 15, insert the following:

(g) Prohibition on Misrepresentation and Notice to Customers.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Misrepresentation of Guarantees and Customer Disclosure.—

"(1) Misrepresentation of guarantees.—It shall be unlawful for any person selling or offering to sell insurance in accordance with section 771 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 or other authority to represent or imply in any manner whatsoever that such insurance—

"(A) is guaranteed or approved by the United States or any agency or officer thereof; or

"(B) is insured under this Act.

"(2) Customer disclosure.—

"(A) In general.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that insurance products offered, recommended, sponsored, or sold by the institution—

"(i) are not deposits;

"(ii) are not insured under this Act;

"(iii) are not guaranteed by the insured depository institution; and

"(iv) are not otherwise the obligation of the insured depository institution.

"(B) Prohibition on joint marketing activities.—No insurance products may be offered, recommended, or sold on the premises of an insured depository institution or to customers of the institution as part of joint marketing activities unless the person marketing such insurance products prominently discloses to its customers in writing, in addition to the disclosures required in subparagraph (A), that such person is not an insured depository institution and is separate and distinct from the insured depository institution with which it shares marketing activities.

"(3) Enforcement.—The provisions of this subsection shall be enforced in accordance with section 8.

"(4) Regulations.—The appropriate Federal banking agencies shall promulgate regulations to implement this subsection not later than 1 year after the date of enactment of this subsection.".

On page 682, line 16, "insert "that is adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act)" before "may convert".

On page 685, lines 16 and 17, strike ", exclusive of a savings bank".

On page 685, between lines 17 and 18, insert the following:

(c) Safeguards on Certain Savings Banks.—

(1) In general.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Safeguards on Certain Savings Banks.—The following provisions shall apply to any insured savings bank resulting from a conversion under section 5(i)(5) of the Home Owners' Loan Act and any savings bank that is a direct or indirect successor to that savings bank:

"(1) Risky activities.—Section 28 shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a savings association.

"(2) Loans to one borrower.—Section 5200 of the Revised Statutes shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a national bank.

"(3) Separate capitalization required for certain subsidiaries.—

"(A) In general.—In determining compliance with any applicable capital standards, all of the savings bank's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings bank's capital.

"(B) Exceptions.—

"(i) Agency activities.—Subparagraph (A) does not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(ii) Mortgage banking subsidiaries.—Subparagraph (A) does not apply with respect to the savings bank's investments in and extensions of credit to a subsidiary engaged solely in mortgage banking activities.

"(C) Transitional rule.—

"(i) Inclusion in capital.—Notwithstanding subparagraph (A), if a savings bank's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings bank may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings bank's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings bank's investments in and extensions of credit to the subsidiary on the date as of which the savings bank's capital is being determined.

"(ii) Applicable percentage.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The acceptable percentage is:
Prior to July 1, 1995	75
July 1, 1992–June 30, 1993.	60
July 1, 1993–June 30, 1994.	40
Thereafter	0.

"(iii) FDIC's discretion to prescribe lesser percentage.—The Corporation may prescribe, by order, with respect to a particular savings bank, an applicable percentage that is less than the percentage prescribed by clause (ii) if the Corporation determines, in its sole discretion, that the use of the greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the bank's being in an unsafe or unsound condition.

"(4) Transactions with affiliates.—The savings bank may not engage in any transaction that would be prohibited under section 11(a)(1) of the Home Owners' Loan Act if the savings bank were a savings association.

"(5) Parent company subject to bank holding company act of 1956.—Section 10(*l*)(1) of the Home Owners' Loan Act does not apply with respect to the savings bank.".

(2) Conforming amendment to home owners' loan act.—Section 10(*l*)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(*l*)(1)) is amended by striking "other provision of law," and inserting "provision of the Bank Holding Company Act of 1956, but subject to section 18(t)(5) of the Federal Deposit Insurance Act,".

On page 688, line 20, insert ", a Federal branch, or a Federal agency" after "bank".

On page 689, line 7, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 10, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 12, insert ", a Federal branch, or a Federal agency" after "bank".

On page 689, line 17, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 19, insert ", Federal branch, or Federal agency" after "bank".

On page 690, line 11, insert ", Federal branch, or Federal agency" after "bank".

On page 690, line 17, insert ", Federal branch, or Federal agency" after "bank".

On page 691, line 5, insert ", a Federal branch, or a Federal agency" after "bank".

On page 691, line 18, insert "or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978)" after "branch".

On page 695, line 8 through line 13, strike "If the savings association" and all that follows through "States." on line 13.

On page 701, lines 22 and 23, strike "the Office of the Comptroller of the Currency or".

On page 716, line 14, strike "(e)" and insert "(f)".

On page 716, line 23, insert "punishable under" after "or".

On page 717, line 13, strike "1992" and insert "1993".

On page 722, line 1, strike "1991" and insert "1992".

On page 724, line 14, strike "or prosecutive".

On page 725, between lines 14 and 15, insert the following:

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

On page 724, line 15, insert "and other financial crimes" after "laundering".

On page 727, line 14, strike "are" and insert "is".

On page 731, between lines 11 and 12, insert the following:

Subtitle C—Money Laundering Improvements

SEC. 941. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 942. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 943. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 944. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 945. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting

"section 422 of the Controlled Substances Act".

SEC. 946. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 947. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 948. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 949. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 950. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 951. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 952. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 953. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316, and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 954. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 955. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 956. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 957. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 958. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

Beginning with page 731, line 12, strike all through page 744, line 17, and insert the following:

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1991".

SEC. 1002. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or mortgage lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or such mortgage lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.— An insured depository institution or mortgage lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A), based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the collateral before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of its extension of credit covenants, warranties, or other terms and conditions that relate to the borrower's compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires the borrower to cleanup the property prior to or during the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies at law or in equity may be available under applicable law for the borrower's breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—The limitations on liability provided under subsection (a)(1) and (a)(2) shall not apply to any person that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a)(1) and (a)(2).

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit that involves a security interest in such property. The regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) MORTGAGE LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that mortgage lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraph (1) shall be issued within 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or mortgage lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or mortgage lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its security interest.

Property is not acquired through foreclosure if the insured depository institution or mortgage lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) The term 'mortgage lender' means—

"(A) a company (other than an insured depository institution) that—

"(i) is regularly engaged in the business of making extensions of credit secured, in whole or in part, by property to nonaffiliated parties, and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that is regularly engaged in the business of buying and selling mortgage loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases mortgages (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the payment of an extension of credit to nonaffiliated parties, secured in whole or in part by real property, and extended by a mortgage lender (as such term is defined in subparagraph (A) of this paragraph), or an insured depository institution.

"(3) The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) The term 'extension of credit' includes lease transactions that are functionally equivalent to a secured loan.

"(5) The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a creditor under the terms of an extension of credit to secure the repayment of money, the performance of a duty or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.

"(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment, except that it shall not affect any administrative or judicial claims that have been formally filed as of such date.".

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 42. ASSET CONSERVATION.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability.

"(3) LIMITATION.—The immunity provided by paragraph (1) shall not apply to any entity that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1).

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Any property transferred pursuant to subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents;

"(2) the term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and

"(3) the term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.".

On page 746, strike lines 3 through 11, and insert the following:

(5) a Presidential commission should be established to carry out the duties described in section 1104.

Beginning with page 746, line 16, strike all through page 748, line 5, and insert the following:

SEC. 1104. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 1108.

On page 748, strike lines 7 through 25, and insert the following:

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

On page 749, line 15, strike "or any State government".

On page 756, line 26, after "pledged" insert "to the obligation to pay".

On page 771, strike line 23 and all that follows through page 776, line 3 and insert the following:

"(1) IN GENERAL.—It shall be unlawful for any broker or dealer required to be registered under this Act, or for any person associated with such broker or dealer (other than a natural person or financial institution), to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security by any customer in contravention of the rules and regulations prescribed under this subsection.

"(2) DISCLOSURE RULES.—The Commission shall, by rule, set forth standards for the disclosure by brokers and dealers required to be registered under this Act, and persons associated with such brokers or dealers (other than a natural person or financial institution), to customers of information concerning coverage under the Securities Investor Protection Act of 1970 (hereafter referred to as 'SIPA'). The rules of the Commission shall require every broker or dealer required to be registered under this Act,

"(A) to provide each customer with a written notification of SIPA coverage that discloses—

"(i) the current Securities Investor Protection Corporation (hereafter referred to as

'SIPC') membership status of such person; and

"(ii) a general description, prescribed by SIPC, of the operation of SIPA, the method and extent of customer protection provided under SIPA, the property that is protected under SIPA, and a statement indicating that SIPA does not protect against a decline in the market value of securities; and

"(B) to include conspicuously in any periodic statement sent to a customer regarding a securities transaction—

"(i) a clear statement as to the current SIPC membership status of such person; and

"(ii) any other information regarding SIPA coverage that the Commission finds necessary or appropriate in the public interest or for the protection of investors.

"(3) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may exempt, by rule or order, any person or class of persons, or any transaction or class of transactions from the requirements of this subsection.

"(4) DEFINITIONS.—The Commission shall, by rule, define the terms used in this subsection, except that—

"(A) the term 'customer' shall not include a broker, a dealer, a municipal securities dealer, or other such persons as the Commission shall provide in such rule; and

"(B) the term 'security', for purposes of and as used in this subsection, shall not include any security as the Commission shall provide in such rule.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of 1 year after the date of enactment of this Act or the effective date of rules and regulations prescribed by the Commission to implement the amendment made by subsection (a).

Beginning with page 778, line 9, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

On page 779, between lines 16 and 17, insert the following:

(1) in clause (i), by striking "deposits of each" and inserting "deposits of the transferor".

On page 779, line 17, strike "(1)" and insert "(2)".

On page 779, line 18, strike "(2)" and insert "(3)".

On page 779, line 20, strike "(3)" and insert "(4)".

On page 780, between lines 18 and 19, insert the following:

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

On page 782, between lines 7 and 8, insert the following:

(f) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following new paragraph:

"(8) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—For purposes of this subsection, if, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, any asset acquired from the bank that is not a qualified thrift investment shall not be treated as a portfolio asset of the savings association during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may, with respect to not more than 30 percent of the total assets acquired from the bank that are not qualified thrift investments, extend the 2-year period described in subparagraph (A) for not more than 1 year if the Director determines that the extension if consistent with the purposes of this Act.".

On page 791, line 16, strike "regarding action taken by a foreign government" and insert "arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred".

On page 796, immediately after line 17, insert the following new sections:

SEC. 1138. ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.

Any reference in the Internal Revenue Code of 1986 to a bank holding company shall not include any bank holding company that—

(1) engages (directly or indirectly) in any activity that was not permitted, and that the Board of Governors of the Federal Reserve System could not have permitted, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act; or

(2) owns or controls (directly or indirectly) shares of any company if the holding of those shares was not permitted, and could not have been permitted by the Board of Governors of the Federal Reserve System, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act.

SEC. 1139. COMMUNITY DEVELOPMENT AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24), as amended by section 716, is further amended by adding at the end of subsection (a) the following new paragraph:

"(10) COMMUNITY DEVELOPMENT.—To make investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs). The national bank may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. The Comptroller shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 1140. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1141. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

SEC. 1142. DELEGATED PROCESSING.

(Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713, note) is amended in the first sentence, by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 1143. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as specified in such covenant described in subparagraph (B) of section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay approval of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 1144. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the fourth undesignated paragraph and inserting the following:

"The Comptroller of the Currency is authorized to impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of his or her office. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expenses thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statues is amended in the second undesignated paragraph (12 U.S.C. 481)—

(1) by striking the second sentence;

(2) by striking the third sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the fourth sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the fifth sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 1145. INTERAGENCY SHARING OF INFORMATION.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PRIVILEGES.—

"(1) IN GENERAL.—The transfer or use of any information by, between, or among—

"(A) any appropriate Federal banking agency;

"(B) the Resolution Trust Corporation;

"(C) the Farm Credit Administration;

"(D) the Farm Credit System Insurance Corporation; or

"(E) the National Credit Union Administration,

and any other agency of the Federal Government, in any capacity, shall not constitute a waiver of any privilege applicable to such information.

"(2) DEFINITION OF PRIVILEGE.—For purposes of this subsection—

"(A) the term 'agency of the Federal Government' has the same meaning as in section 6 of title 18, United States Code; and

"(B) the term 'privilege' includes any work product, attorney-client, or other privilege recognized under Federal or State law that is available to an agency of the Federal Government.".

SEC. 1146. APPLICATION OF STATE LAW FOR INSURANCE PURPOSES.

Section 5136A(c)(4) of the Revised Statutes, as added by section 771, is amended to read as follows:

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch and any State bank or branches providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.".

SEC. 1147. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency that employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsection (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Office of Thrift Supervision.".

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union or the Administration;

"(B) any director, officer, or employee of any credit union; or

"(C) any officer or employee of the Administration.".

(2) Technical and Conforming Amendment.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(c) Coverage for Employees of RTC and RTC Contractors.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC and RTC Contractor Employee Protection Remedy.—

"(1) Prohibition Against Discrimination.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation in such corporation's capacity as manager of the Corporation or any personnel referred to in subsection (b)(9)(B)(ii)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) Enforcement.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) Remedies.—If the district court determines that a violation has occurred, the court may order the Corporation or the person that committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) Limitation.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

SEC. 1148. REAL ESTATE LOAN PORTFOLIOS.

No Federal financial regulatory agency shall criticize an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless the loan or investment may affect the institution's safety and soundness.

SEC. 1149. SENSE OF THE CONGRESS REGARDING THE CREDIT CRUNCH.

(a) Findings.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date, the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade from dramatic changes in tax rules.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) immediate and carefully coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors, and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate bad debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) foster a balanced regulatory environment among supervisors and examiners in the field with respect to commercial, multifamily and single-family real estate by ending market-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) promote a rational tax system for real estate owners and operators.

SEC. 1150. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) Reports to Appropriate Federal Banking Agencies.—

(1) In general.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) Exceptions.—

(A) Intelligence information.—

(i) In general.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) Procedures for receipt of intelligence information.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) Criminal investigations; safety of government investigators.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) Grand jury investigations; criminal procedure.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) Procedures for Receipt of Reports.—

(1) In general.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) Procedures related to each report.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) Definitions.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1151. TECHNICAL CORRECTIONS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

(2) in section 7(a)(8), by striking "the the" and inserting "the";

(3) in section 7(*l*)(7), by striking "the value of";

(4) in section 7(m)(5)(A), by striking "institution" the second time it appears;

(5) in the third sentence of section 8(a)(7), by striking "the period" the first time it appears;

(6) in paragraphs (3) and (4) of section 8(b), by striking "subsection (u)" and inserting "subsections (u) and (v)";

(7) in section 8(b)(6)(F), by inserting "appropriate" before "banking";

(8) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(9) in section 8(g)(2), by striking "depository institution" each time it appears and inserting "bank".

(10) in section 8(o), by striking "board of directors" each time it appears and inserting "Board of Directors";

(11) in section 8(r)(2), by striking "therof" and inserting "thereof";

(12) in section 11(a)(2), by striking the designation "(b)" and inserting the designation "(B)";

(13) in section 11(c)(6)(B), by striking "Owner's" and inserting "Owners'";

(14) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(15) in section 11(d)(8)(B)(ii), by inserting "provide" after "disallowed,";

(16) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(17) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(18) in section 11(i)(3)(A), by striking "or" the last time it appears and inserting "of";

(19) in section 11(q)(1), by striking "decided" in the second sentence and inserting "held";

(20) in section 13(f)(6)(A), by striking "has in default" and inserting "is in default";

(21) in section 13(i), by redesignating paragraphs (11) and (13) as paragraphs (10) and (11), respectively;

(22) in section 18(k)(4)(C)(ii), by striking "Board" and inserting "Corporation";

(23) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(24) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; and

(25) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or".

SEC. . DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan or reorganization, such corporation would not otherwise be highly leveraged.".

At the appropriate place in the bill, insert the following:

SEC. . REAL ESTATE APPRAISAL PROCEDURES.

(a) EXTENSION OF EFFECTIVE DATE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended.—

(1) by striking "July 1, 1991" and inserting "January 1, 1993"; and

(2) by striking paragraph (2) and inserting the following:

"(2) STATE REQUIREMENTS.—No State may require that appraisals in connection with federally related transactions be conducted by State certified or licensed appraisers prior to the date contained in paragraph (1).".

(b) WAIVER BASED ON SHORTAGE OF APPRAISERS.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "Subject to the approval of the Council";

(2) by inserting at the end of the first sentence the following: "or that there are other relevant reasons for such action";

(3) by striking the last sentence and inserting the following: "A waiver may be granted upon the motion of the State, a Federal agency, or a unit of general local government."; and

(4) by adding at the end the following:

"(2) TIMING.—The Appraisal Subcommittee shall determine whether to grant a request by an agency, State, or unit of general local government for a waiver under paragraph (1) not later than 60 days after such request is submitted.

"(3) DURATION.—A waiver granted under this subsection shall remain in effect for a period of 1 year.

"(4) DUPLICATIVE REQUESTS FOR WAIVER.—If a State is granted a waiver under this subsection, the Appraisal Subcommittee is not required to consider similar requests by units of general local government.

"(5) REGULATIONS RELATING TO WAIVERS.—The Appraisal Subcommittee shall promulgate and implement regulations to carry out this subsection not later than March 31, 1992.".

(c) DE MINIMUS EXCEPTION.—

(1) IN GENERAL.—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In determining"; and

(B) by adding at the end the following:

"(b) DE MINIMUS EXCEPTION.—The Federal financial institutions regulatory agencies shall exempt from the requirement for an appraisal by a State certified or by a State licensed appraiser—

"(1) any 1- to 4-unit single family residential transaction having a value of $100,000 or less; and

"(2) any other transaction having a value of $200,000, or less;

except that such agencies may establish a different value for the purposes of paragraph (1) or (2) if such agencies determine that unique economic conditions, geographic considerations, or other factors make such action appropriate.

"(c) HOME EQUITY LOANS.—The Federal financial institutions regulatory agencies shall establish and implement a separate de minimus standard applicable to home equity loans not later than 6 months after the date of enactment of this subsection.".

At the end of S. 543, add the following three titles:

TITLE—

SECTION 1. TITLE.

This Title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 2. DENOMINATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation on the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(d) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this Act. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 5. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPARED ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 6. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this Act shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) NOT NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this act unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

SECTION 1. TITLE.

This Title may be cited as the "James Madison-Bill of Rights Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—all coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)

SEC. 4. ISSUANCE OF COINS

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this Act may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1993.

SEC. 5. SALE OF COINS.

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act as a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this Act during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994. All remaining funds from the sale of the coins authorized under this Act shall be deemed as surcharges and promptly be transmitted according to section 7 of this Act.

SEC. 7. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 8. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 7 of this Act. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 7 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

TITLE —

SECTION 1. TITLE.

This Title may be cited as the "White House Commemorative Coin Act of 1991".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 500,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the 200th anniversary of the laying of the cornerstone of the White House. On each such one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 5. SALE OF COINS.

(a) SALE OF COINS.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to their issuance. Sales under this subsection shall be at a reasonable discount.

(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 6. ISSUANCE OF COINS.

(A) PERIOD FOR ISSUANCE.—The coins authorized under this Act—

(1) shall be issued beginning not later than May 1, 1992; and

(2) may not be issued after November 1, 1993.

(b) PROOF AND UNCIRCULATED QUALITIES.—The coins authorized under this Act shall be issued in uncirculated and proof qualities, except that not more than 1 facility of the Bureau of the Mint may be used to strike any particular quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out this Act. Nothing in this section relieves any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins in accordance with section 5 shall be promptly paid by the Secretary to the White House Endowment Fund (hereafter referred to as the "Fund")—

(1) to supplement the Fund for an endowment to be used as a permanent source of support for the White House collection of fine art and historic furnishings; and

(2) to be used for the maintenance of the historic public rooms of the White House.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Fund as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized to be paid to the Fund under section 8 from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured under the Federal Deposit Insurance Act or the National Credit Union Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

At the appropriate place in title XI of the bill, insert the following new sections:

SEC. 11—SENSE OF THE CONGRESS REGARDING COMPETITIVE SOLICITATION OF RESOLUTION PROPOSALS.

(a) IN GENERAL.—It is the sense of the Congress that in order to minimize the cost to the insurance fund, the FDIC when resolving troubled insured depository institutions, should vigorously solicit competing proposals from a wide spectrum of potentially interested acquirers and investors and, in so doing, should use a competitive bidding framework that affords a fair and impartial opportunity for participation by qualified and interested acquirers and investors and that is designed to produce the lowest-cost transaction with respect to each particular institution.

(c) DOCUMENTATION—The FDIC should document its evaluation of proposals by qualified acquirers or investors. Such documentation should include, but is not limited to,

(1) Reducing all last offers to comparables;

(2) Comparing all last offers using the same principles;

(3) Describing the assumptions used to compare, accept and/or reject any offer or last offer;

(4) Stating the reason(s) for cessation of negotiations with any potential acquirer or investor, if any; and

(5) Stating why the final agreement is the best obtainable by the FDIC.

Amendment intended to be proposed by Mr. Dodd:

At page 778, after line 5, insert the following:

"(c) EFFECTIVENESS OF AMENDMENTS.—The authority provided under subsections (a) and (b) of this section may be exercised at any time following the expiration of 180 days from the date of enactment, provided that the Chairman of the Commission shall in connection with such exercise certify in writing, with explanation, to the President and the Congress, after consultation with the Director of the Office of Personnel Management, that:

(1) the Securities and Exchange Commission, with the assistance of the Office of Personnel Management, has attempted to solve the Commission's difficulties in recruitment and/or retention of high-quality personnel through use of the flexibilities provided by the Federal Employees Pay Comparability Act of 1990; and

(2) despite such attempt, the Securities and Exchange Commission is faced with continuing or serious difficulties in recruitment and/or retention of high-quality personnel.

HELMS (AND SMITH) AMENDMENT NOS. 1378 AND 1379

Mr. HELMS (for himself and Mr. SMITH) proposed two amendments to the bill S. 543, supra, as follows:

AMENDMENT NO. 1378

At the end, add the following:

"SEC. . SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) SANCTION.—A foreign person which is a bank, financial institution, or insurer, and any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) TERMINATION OF SANCTION.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) WAIVER.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) DEFINITION.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

AMENDMENT NO. 1379

At the end of title XI of the bill, insert the following:

SEC. 1138. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTION.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

D'AMATO AMENDMENT NO. 1380

Mr. GARN. (for Mr. D'AMATO) proposed an amendment to the bill S. 543, supra, as follows:

At the appropriate place in the bill, insert the following section:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

BRYAN (AND SMITH) AMENDMENT NO. 1381

Mr. RIEGLE (for Mr. BRYAN, for himself and Mr. SMITH) proposed an amendment to the bill S. 543, supra, as follows:

The Senate believes that the responsibility to establish national banking policy would rest with the Congress and not Federal financial regulatory agencies;

The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage; and

The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto;" and

The Senate believes that real estate, activities, other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act; and

Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

Now, Therefore, it is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" section 4(c)(8) of the Bank Holding Company Act of 1956.

KERRY AMENDMENT NO. 1382

Mr. RIEGLE (for Mr. KERRY) proposed an amendment to the bill S. 543, supra, as follows:

On page 262, between lines 13 and 14, insert the following new subparagraph:

"(E) CORPORATE EQUITY SECURITIES.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

GRASSLEY (AND HARKIN) AMENDMENT NO. 1383

Mr. GRASSLEY (for himself and Mr. HARKIN) proposed an amendment to the bill S. 543, supra, as follows:

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

(14) CREDIT CARD SALES.—

(A) NOTIFICATION.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

(i) not in compliance with the minimum applicable core capital requirements; or

(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(B) WAIVER BY THE CORPORATION.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

(D) NO BREACH OF DUTY.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

(E) EFFECT OF WAIVER ON SUCCESSORS.—Where the Corporation has waived its right to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution; provided however, that nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

(F) CREDIT CARD CUSTOMER LIST.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customer list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

(G) Fraudulent Transactions Excluded.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.

SUMMARY

This language amends subsection (e) of section 11 of the Federal Deposit Insurance Act to provide a mechanism for parties to credit card sale transactions to obtain a waiver of the ability of the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. Subparagraph (C) clarifies that this amendment is not intended to prohibit the Corporation from granting waivers for other types of contracts.

Subparagrah (D) is intended to protect the Corporation from allegations that as conservator or receiver it has violated its fiduciary duty to all creditors by granting such a waiver prior to the failure of the insured depository institution. Without the protection afforded by subparagraph (D), the ability of the Corporation to grant such pre-closing waivers would be unduly hampered by risk of potential litigation claims.

Subparagraph (E) provides certain protections to purchasers of credit card receivables when the FDIC waives its rights to repudiate such agreement by effectively passing through to the successor of any failed institution any previously agreed to restrictions on the seller relating to its customers.

Subparagraph (F) would require the FDIC to prohibit the use of any credit card customer list of a failed institution if that list had previously been sold or transferred in an arms length transaction to another entity.

Subparagrpah (G) protects the Corporation from any agreements that are designed to hinder, delay or defraud the depository institution, its creditors, or the Corporation.

GORE (AND DeCONCINI) AMENDMENT NO. 1384

Mr. GORE (for himself and Mr. DeCONCINI) proposed an amendment to the bill S. 543, supra, as follows:

Expressing the sense of the Senate regarding United States policy toward Yugoslavia.

Since attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community;

Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Since attacks against the Republic of Croatia represent an effort to change postwar borders by force; and

Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force: therefore, it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory U.N. Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

NATIONAL ACADEMIC REPORT CARD ACT

HATFIELD AMENDMENT NO. 1385

Mr. HATFIELD proposed an amendment to the bill (S. 2) to promote the achievement of National Education Goals, to establish a National Council on Educational Goals and an Academic Report Card to measure progress on the goals, and to promote literacy in the United States, and for other purposes, as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE III—ELEMENTARY SCIENCE FACILITIES PROGRAM

SEC. 301. SHORT TITLE.

This title may be cited as the "Elementary Science Facilities Act".

SEC. 302. STATEMENT OF PURPOSE.

It is the purpose of this title to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 303. PROGRAM AUTHORIZED.

The Secretary is authorized to make allotments to state educational agencies under section 304 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

SEC. 304. ALLOTMENTS OF FUNDS.

(a) In General.—From the amount appropriated under section 310 for any fiscal year, the Secretary shall reserve—

(1) not more than ½ of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this title; and

(2) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this title.

(b) Allotment.—From the amount not reserved pursuant to subsection (a), the Secretary shall allot among State educational agencies as follows:

(1) One-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 11, inclusive, in the State bears to the number of such children in all States.

(2) One-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(c) Definitions.—For the purposes of this title the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Data.—The number of children aged 5 to 11, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 305. STATE APPLICATION.

(a) Application.—Each State educational agency desiring to receive an allotment under this title shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Content of Application.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this title to award grants to local educational agencies within the State to enable such local educational agencies to carry out the purpose of this title;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every elementary school in the State is eligible to receive a grant under this title once over the 3-year duration of the program assisted under this title;

(D) funds provided under this title will supplement, not supplant, State and local funds made available for activities authorized under this title;

(E) during the 3-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in awarding grants under this title;

(2) provide, if appropriate, a description of how funds paid under this title will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 306 and 307 for distribution of payments under this title within the State; and

(B) for approval of applicants by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 306. LOCAL APPLICATION.

(a) APPLICATION.—A local educational agency that desires to receive a grant under this title shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for only one grant under this title.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this title to meet the purpose of this title;

(2) include assurances that the local educational agency shall match on a dollar-for-dollar basis the funds received under this title;

(3) describe, if applicable, how funds under this title will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics;

(4) describe the process which will be used to determine different levels of grant amounts to be awarded to schools with different needs.

(c) PRIORITY.—In awarding grants, the State educational agency shall give priority to applications that—

(1) assign highest priority to schools which are most seriously under-equipped;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning of implementation and teacher training support hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using grant equipment and materials to teachers in schools not receiving grants.

SEC. 307. PARTICIPATION OF PRIVATE SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOLS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for providing funds under this title as will assure the equitable participation of such private schools in the purposes and benefits of this title.

(b) WAIVER.—If by reason of any provision of State law of local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers.

SEC. 308. PROGRAM REQUIREMENTS.

(a) COORDINATION.—Each State educational agency receiving a grant under this title shall—

(1) disseminate information to school districts and schools, including private schools, regarding the grant program;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 306(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Grant funds and matching funds under this title only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, text-books, or staff development costs.

(2) CAPITAL IMPROVEMENTS.—Grant funds under this title may not be used for capital improvements. No more than 50 percent of matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this title is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 309. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this title, shall develop procedures for State and local evaluations of the programs under this title.

(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this title.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for each of fiscal years 1993, 1994 and 1995 to carry out this title.

On page 2, after the item relating to section 212, insert the following:

TITLE III—ELEMENTARY SCIENCE FACILITIES PROGRAM

Sec. 301. Short title.
Sec. 302. Statement of purpose.
Sec. 303. Program authorized.
Sec. 304. Allotments of funds.
Sec. 305. State application.
Sec. 306. Local application.
Sec. 307. Participation of private schools.
Sec. 308. Program requirements.
Sec. 309. Federal administration.
Sec. 310. Authorization of appropriations.

On page 2, redesignate the item relating to "TITLE III" as the item relating to "TITLE IV".

On page 2, redesignate the item relating to section "301" as the item relating to section "401".

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

DECONCINI AMENDMENT NO. 1386

Mr. LEVIN (for Mr. DECONCINI) proposed an amendment to the bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purpose; as follows:

On page 2, line 8, strike "and".

On page 2, between lines 8 and 9, insert the following:

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

On page 2, line 9, strike "(3)" and insert "(4)".

On page 4, strike lines 15 through 19, and insert the following:

who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

On page 7, line 17, strike "and" after the semicolon.

On page 7, line 19, strike the period and insert a semicolon and "and".

On page 7, between lines 19 and 20, insert the following:

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

On page 8, line 14, insert "and Native American and Alaska Native health care and tribal public policy" before the period.

On page 8, line 20, insert "and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy" before the period.

On page 9, line 19, insert "and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy," after "environment".

On page 10, line 1, strike "Deserving" and insert "deserving".

On page 10, line 4, strike the period and insert a semicolon and "and".

On page 10, between lines 4 and 5, insert the following:

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

On page 10, line 11, strike "and".

On page 10, between lines 11 and 12, insert the following:

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues.

On page 10, line 12, strike "(C)" and insert "(D)".

COAST GUARD AUTHORIZATION ACT

HOLLINGS (AND STEVENS) AMENDMENT NO. 1387

Mr. LEVIN (for Mr. Hollings, for himself and Mr. Stevens) proposed an amendment to the bill (S. 1297) to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

Sec. 2. (a) Authorizations for Fiscal Year 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000; of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund; of which not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a); and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) Authorizations for Fiscal Year 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) Acquisition of Oil Recovery Systems.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(d) Command and Control Aircraft Acquisition.—(1) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") may submit a request for reprogramming of funds in order to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for congressional review of appropriations reprogramming requests. Subject to such reprogramming procedures—

(A) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for the multiyear lease but not for the purchase of aircraft; and

(B) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(2) The Coast Guard may transfer the current command and control aircraft to the vendor of any replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward such purchase, lease, or lease with option to purchase.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

Sec. 3.(a) Active Duty Personnel Strength.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) Military Training Student Loads.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

Sec. 4.(a) Active Duty Personnel Strength.—As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) Military Training Student Loads.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

Sec. 5.(a) In General.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) Technical Amendments.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

Sec. 6.(a) In General.—Section 357 of title 14, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have 20 or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have 20 or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed 30 days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have 20 or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within 90 days after such notification.

"(g) This section is not applicable to reductions in force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "Enlisted Personnel Board" and inserting in lieu thereof "Involuntary retirement of enlisted members".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriation Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than 30 days in any four-month period and not more than sixty days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15.(a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements (which shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public) that the coast Guard prescribes for nonpublic spaces.".

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

SEC. 19. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—For purposes of this section, the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

SEC. 20. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit.

OREGON OIL SPILL RESPONSE STUDY

SEC. 21. Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

SEC. 22. Before October 1, 1992, the Secretary shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter *Mackinaw*.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

SEC. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY WITH RESPECT TO APPOMATTOX RIVER, VIRGINIA

SEC. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees 13 minutes 14 seconds north latitude, 77 degrees 31 minutes 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

BRIDGE ACROSS WAPPINGER CREEK, NEW YORK

SEC. 25. Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401); section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

SEC. 26. The Secretary, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA

SEC. 27.(2) TRANSFER OF PROPERTY.—Notwithstanding any other law, the Secretary shall transfer without consideration to the County of Charleston all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b), subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) DESCRIPTION.—The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power line's connection with the South Carolina Power Company's power line at Folly Beach.

REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS

SEC. 28. Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7.(a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States; or

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States, shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION 1989

SEC. 29.(a) PAYMENT TO SALVORS OF LIFE.—Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and inserting in lieu thereof "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) TECHNICAL AMENDMENT.—Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and inserting in lieu thereof "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES

SEC. 30.(a) CONVEYANCE OF LIGHTHOUSES.—(1) The Secretary may convey by any appropriate means to the State of Oregon all rights, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all rights, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon; and

(2) the term "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon.

CONVEYANCE OF WHITE ISLAND LIGHTHOUSE

SEC. 31.(a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration;

(B) subject to such terms and conditions as the Secretary may consider appropriate; and

(C) the Coast Guard will complete its cleanup of the oil seepage on White Island and take any necessary measures to prevent further pollution.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) There is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For the purpose of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

TRANSFER AT JUNEAU, ALASKA

SEC. 32.(a) TRANSFER BY SECRETARY.—Notwithstanding any other provision of law, the Secretary shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) AVAILABILITY TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES

SEC. 33.(a) FINDINGS.—The Congress finds that

(1) The Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was mandated by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-397);

(2) recreational boaters who are required to pay this fee may not receive any direct service and cannot expect to receive any additional service in return for payment of the fee;

(3) recreational boaters already pay a motorboat fuel tax; and

(4) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of offsetting receipts in order to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II

SEC. 34.(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Mayflower II*, owned by Plymouth Plantation, Inc. (a corporation under the laws of Massachusetts).

(b) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) The Secretary may exempt the vessel *Mayflower II* from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under any law codified in title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

JONES ACT WAIVERS FOR CERTAIN VESSELS

SEC. 35. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) *Miss Lelia*, United States official number 577213.

(2) *Billfish*, United States official number 920896.

(3) *Marsh Grass III*, United States official number 963616.

BENTSEN AMENDMENT NO. 1388

Mr. LEVIN (for Mr. BENTSEN) proposed an amendment to amendment No. 1387 proposed by Mr. Levin (for Mr. HOLLINGS) to the bill S. 1297, supra; as follows:

At the appropriate place, insert the following:

DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS

SEC. . (a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east, 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 second west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 second west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 second west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of an out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds are follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the city of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15, 171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west, a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities, and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance at 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) AREAS EXCLUDED FROM DECLARATION OF NONNAVIGABILITY.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly known as the Rivers and Harbors Appropriation Act of 1899; 33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) *Expiration Date.*—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

BREAUX AMENDMENT NO. 1389

Mr. LEVIN (for Mr. BREAUX) proposed an amendment to amendment No. 1387 proposed by Mr. LEVIN (for Mr. HOLLINGS) to the bill S. 1297, supra, as follows:

At the appropriate place, insert the following new section:

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. . Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121-2(e)), is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

PELL AMENDMENT NO. 1390

Mr. LEVIN (for Mr. PELL) proposed an amendment to the concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesia military, as follows:

(a) FINDINGS.—The Congress finds that—

(1) On November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from the New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor the American ambassador to indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 21, beginning at 9:30 a.m., to conduct a hearing on international nuclear safety standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS AND SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs jointly with the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Regulations be authorized to meet during the session of the Senate on Thursday, November 21, at 1:30 p.m., to hold a hearing entitled, "Broadcasting to China: Applying the Lessons from the European Freedom Radios".

COMMITTEE ON FOREIGN RELATIONS

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 2 p.m., to hold hearings on ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, November 21, at 9 a.m., to hold a hearing on the narcotics and foreign policy implications of the BCCI affair.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 A.M., November 21, 1991, to receive testimony on the effect of Foreign Service plan and timber sale appeals on timber supply.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 21, at 10 a.m., to hold an executive business meeting.

I. NOMINATIONS

United States District Judges

Monti L. Belot, of Kansas, to be United States District Judge for the District of Kansas.

David A. Faber, of West Virginia, to be United States District Judge for the Southern District of West Virginia.

Edith Brown Clement, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Sam Sparks, of Texas, to be United States District Judge for the Western District of Texas.

Anne C. Conway, of Florida, to be United States District Judge for the Middle District of Florida.

United States Department of Justice

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices.

II. BILLS

S. 793. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes—DeConcini.

S. 313. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture extra judicial killing—Specter.

S. 826. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purpose—Heflin.

S. 474. A bill to prohibit sports gambling under state law—DeConcini.

S. 758. A bill to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity—DeConcini.

S. 759. A bill to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity—DeConcini.

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes (as amended by subcommittee)—DeConcini.

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material—McConnell.

S. 580. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons—Bentsen.

S. 120. A bill for the relief of Timothy Bostock (as amended by subcommittee)—Inouye.

S. 800. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini—Packwood.

S. 1776. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants—Kennedy.

S. 1941. A bill to amend the Immigration and Nationality Act for the purpose of reforming procedures for the resettlement of refugees of the United States—Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 1705, a bill to resolve claims of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, and the Sisseton-Wahpeton Sioux Council of the Assiniboine Sioux Tribe of Montana arising out of a judgment fund distribution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, November 21, 1991, at 9:30 a.m. The Committee will hold a full Committee hearing on business and investment opportunities in Eastern Europe, the Baltic States, and the Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 4 p.m., to hold a closed hearing with former Ambassador to Iraq, April Glaspie.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 6 p.m., to hold ambassadorial nominations hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 3:30 p.m., to hold a hearing on an ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 10 a.m., to hold a hearing on the international covenant on civil and political rights—Executive E, 95-2.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 8 a.m., to hold a hearing on whether the Senate should proceed to investigate circumstances surrounding the release of the American hostages in 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Thursday, November 21, 1991, at 4 p.m., to consider the nomination of Leo P. Duffy to be Assistant Secretary of Energy for Environmental Restoration and Waste Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed session on Thursday, November 21, 1991, at 9:30 a.m., to discuss the fiscal year 1992 defense appropriations bill conference report and to continue to discuss Air Force nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, November 21, 1991, at 9:30 a.m., for a hearing on Finding Medical Cures: The Promise of Fetal Tissue Research.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE CONFIRMATION OF RICHARD CULLEN TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA

• Mr. WARNER. Mr. President, I am extremely pleased to have this opportunity to take special note of the recent confirmation of Richard Cullen to be the U.S. attorney for the Eastern District of Virginia.

Richard is a highly qualified, successful attorney who will bring considerable talent and expertise to the position. His long tenure with the Richmond-based law firm of McGuire, Woods, Battle & Boothe—where he was a partner for the past 6 years—is testimony to his ability as a litigator. With his other professional experience and strong educational background, he brings with him facility as a scholar, adviser, and manager.

The eastern district, which extends from Washington's Virginia suburbs, south to Richmond and on to Tidewater, is one of the most active Federal judicial districts in our Nation. As U.S. attorney, Richard will be faced with the daunting task of dealing with an ever-increasing volume of cases, many of which address the most poignant issues of our day. The illicit drug trade continues to rank as a special challenge—one reason why the U.S. attorney's office now includes almost 90 lawyers. Fortunately, I can report, Mr. President, that cooperation among Federal, State, and local law enforcement officials is strong in the eastern district, which is a key to success in the fight against crime. Richard Cullen is dedicated to fostering that cooperation.

In one respect, the eastern district is one of the most important jurisdictions in the Nation: It counts both the headquarters of the Central Intelligence Agency and the Pentagon among its clients. I could not be more confident of a person's ability to meet the needs of those institutions, as well as to deal fairly with all Virginians, than I am of Richard's. In fact, as interim U.S. attorney for the past month, he has already begun to demonstrate that ability.

Like many of my colleagues, Mr. President, I invest considerable time and care in the task of identifying and recommending highly qualified individuals in my State to serve as Federal officials or on the Federal bench. These positions are of crucial importance to the lives and liberties of all of us. It is particularly gratifying to me, therefore, to have recommended— and to have seen nominated by the President and confirmed by the Senate—someone whose work I so highly respect and whose company I so very much enjoy.

I have the highest personal regard for Richard, and I look forward to working with him and observing his many future successes.•

THE CONGRESSIONAL CALL TO CONSCIENCE

• Mr. LEVIN. Mr. President, I bring to the attention of the Senate the case of Yan Satanovsky of Moscow, a Soviet Jew who has sought to emigrate since 1979.

When Mr. Satanovsky and his family first applied for permission to emigrate to Israel, they were refused on the grounds of secrecy. They were refused repeatedly, most recently in June of 1990 when their appeal to the Weapons Ministry of the Soviet Government was turned down. But, Mr. President, the secret work for which Mr. Satanovsky was denied permission to emigrate was his job at the Ministry of Machine Building, a job he left in 1974.

It has now been 17 years since Mr. Satanovsky supposedly had access to secrets and 12 years since he first applied to emigrate. He has the dubious distinction of being possibly the oldest active refusenik case.

There have been great changes in the former Soviet Union during the past few years. The movement of Soviet Jews is truly an exodus of Biblical proportions. New laws on immigration have been enacted, but not fully implemented. There are still practices which are inconsistent with the new law. And even though they have set a 5-year limit on secrecy, there are two problems in the case of the Satanovsky family: the secrecy limitation law will not be implemented until January 1, 1993, and, the law has a clause that allows individual cases to be stretched out for prolonged periods.

Mr. President, I hope the case of the Satanovsky family is resolved soon. I hope the leaders of the new central government of the former Soviet Union, who have become more willing to recognize human rights, will acknowledge the injustice being done to this family. I hope that my colleagues will understand that there is still a need for vigilance and still a need for action until all refuseniks have been allowed to emigrate.•

SMALL TOWN TRIUMPH

• Mr. SYMMS. Mr. President, today I rise to bring to the attention of my colleagues the innovative solution one rural community has found to help solve the rural health care crisis. Like most rural communities, Weiser, ID, is facing tremendous challenges to their efforts to provide adequate health care to its residents. Weiser's problems were exacerbated by the retirement of two physicians who had served their community for many years.

Mr. President, I ask that the very interesting article from the November 11, 1991 edition of the American Medical (Association) News be printed in the RECORD so it is available for people who share my concern over conditional of rural health care today.

Although I have introduced legislation to assist rural communities, and we have had some success in leveling the playing field, so to speak. Rural Americans still face tremendous obstacles in assuring that they will have adequate medical care.

The people of Weiser, a community near my hometown in southwest Idaho, took matters into their own hands—and succeeded.

The article follows:

SMALL TOWN TRIUMPH

(By Arnold Q. Collins)

WEISER, ID.—When this farm town of 4,700 signed a new physician in mid-October, hospital and town officials were in a celebratory mood.

The contract signing, at the polished dining table of Weiser's foremost bed-and-breakfast inn, ended a three-year search for a family physician. It punctuated an outpouring of community spirit and small-town hoopla that had buoyed Deland Barr, DO, and his wife, Salley, through a four-day visit to western Idaho.

Dr. Barr, of Wellington, Kan., was the answer to Weiser's prayers. An experienced family physician, he delights in doing obstetrics and was willing to cover the emergency room at the 27-bed Weiser Memorial Hospital.

Dr. Barr, 40, is a good-humored man, of stocky build, bearded and balding. He is leaving a successful practice in the flatlands of Kansas because "at 40 you stop and take a look at your life." He and his wife had always dreamed of living near mountains. In Weiser, the mountains begin just north of the potato and onion fields. Of his new, two-year contract. Dr. Barr says he's had "more misgivings signing house loans than doing this."

Administrator Phil Lowe of Memorial Hospital calls Dr. Barr "a natural, a perfect fit." Salley Barr, hoping to complete a master's in social work, has been offered employment at the hospital.

But the match-up didn't come easily. For three years, Weiser worried, planned, educated, raised funds and searched.

Weiser, named for a member of the Lewis and Clark expedition (and pronounced to rhyme with "Caesar"), is on the Snake River, which separates Idaho from Oregon. It is the largest of three towns in Washington County and has the only hospital, which serves 8,500 county residents and 1,500 inhabitants of adjacent Malheur County, Ore.

Of the three physicians practicing in town, two are about to retire. A third, Bryan Drake, DO, knew he could not handle the patient load and said he would leave unless help could be found. "Everyone was telling me, 'That's the best of all possible worlds—you'll make money hand over fist,'" says Dr. Drake, who is 38. "But you burn out and leave, and it's not healthy for the patients either, to be herded through like cattle and not well taken care of."

If Dr. Drake had left, only one physician would have remained in the county and he, too, is nearing retirement.

In 1988, shortly after his arrival in Weiser, Lowe identified the physician crunch as the hospital's No. 1 priority. With no doctors, the hospital would close and patients would have to travel to Ontario, Ore., 20 miles away, a hardship to the many elderly residents and a danger in cases of farming accidents and other emergencies.

In addition, the county's Economic Development Commission projected that a loss of physicians would depress the economy. Weiser Care, the town's nursing home, and Weiser Shelter Home, its retirement village, both depend on the town's doctors and, with the hospital, provide 132 jobs, with an annual payroll of $1.5 million.

For a year, the hospital sought a physician unsuccessfully. "We have all of these attractions—skiing, hunting, fishing, boating and camping," Lowe says. "But I can give you examples of hospitals that tried [marketing] the same things—and they're closed."

In January 1989, the hospital formed a physician-recruitment committee. Chaired by Lowe, it included a county commissioner, city attorney, liaison member from the northern part of the county, local business owners, clergy and the superintendent of schools.

Town meetings were held and residents made donations to a physician-recruitment fund, to be used for search fees, mailings and entertaining possible recruits. There were fund-raising car washes, sales of baked goods and Christmas trees, and canvasses of local businesses.

The committee contacted the Rural Health Education Center in Boise, a private non-profit corporation providing consultation to rural areas. The center searched its database and provided 40 to 50 names. Three were considered suitable for practice in Weiser and were brought in for interviews, but none of the meetings produced a solid candidate. For its services, the center charges a $500 annual subscription fee, plus $6,000 to $8,000 for a successful placement.

But Weiser, by its organization and persistence, ran into a stroke of good luck. In June it was chosen by Merritt, Hawkins & Associates of Irving, Texas, a large, retained-consultant firm, as recipient of Merrit, Hawkins' first annual pro bono search.

The company cited Weiser's "most complete and impressive" application, which included a chronology of the community's efforts to find a physician, testimony from former patients who had undergone life-saving interventions at Memorial Hospital and letters of support from an array of officials including U.S. senators and representatives.

The award put an 80-person national firm in Weiser's corner while saving the town the $17,000 to $20,000 in fees that Merritt Hawkins normally charges for its services.

Company officials say their success rate is 90%—compared with an industry-wide rate of about 48%—largely because they refuse to work with towns where the physician compensation package is too low.

Dr. Barr had contacted Merritt Hawkins looking for a job in Colorado or another place where he could ski. His wife, though born in South Carolina, had spent some childhood years living in the Himalayas, so was more than ready to introduce their three sons to the mountains of Idaho.

The search firm's chief officer, Joseph Hawkins, emphasizes that Dr. Barr was a real find. "Imagine a family practitioner making $120,000-plus. Ask him to move to the middle of nowhere, to a hospital that might be closed in five years."

During an initial trip to Idaho, the Barrs were greeted by signs and banners, treated to receptions and barbecues, and taken sightseeing. They experienced the town's hospitality—and its concern, says county development aide Jeanette Anderson. "Without doctors, this town would just fall. We can't imagine a worse situation."

The subsequent, contract-clinching visit came Oct. 17–20, homecoming weekend at Weiser High School.

Accompanied by a team of Merritt Hawkins consultants, the Barrs toured the hospital and met with Edward R. Wheeler, MD, the retiring physician whose practice Dr. Barr will take over after an initial period of partnership. "I met a laid-back guy pretty much like myself," Dr. Barr says. "I just knew we could work together."

The couple moved on to a luncheon in the downtown mini-mall, accepted salutes in the homecoming parade, toured again, and were feted at a barbecue replete with country fiddlers. Later they were singled out for applause during the victorious football game.

Weiser's real victory came the next morning when Dr. Barr signed a contract in which the hospital guaranteed him $430,000 a year for two years—28.5 percent more than the national average for family physicians. Says Dr. Wheeler, "He has common sense. Weiser needs him. I think he'll do fine."

The national news media covered the event, a source of amusement to Dr. Barr. "Its a real big deal," he says, "about someone who's just looking for a job."

But the attention reflects the critical state of the physician shortage in rural communities. Weiser's successful search does provide a few clues for other underserved areas: The town used a provident and businesslike approach, rallied community support, employed a search agency and offered a generous financial package.

However, the odds against small rural communities are mounting. The current shortfall of rural physicians is estimated at 11,142 by the National Rural Health Assn. and the pool of rural doctors in diminishing, with an estimated 26% nearing retirement.

Meanwhile, only 1.5% of medical students graduating last year declared an interest in rural practice, according to the Assn. of American Medical Colleges.

Making matters worse, few physicians seem willing to relocate from cities to rural areas. In rural recruitment, "there is a certain amount of robbing Peter to pay Paul," admits Merritt Hawkins information aide Phil Miller. "We'd like to take them from cities and put them into the rurals, but most of the physicians willing to practice in the rurals are already there."

Dr. Barr's situation is a case in point. A strong irony involved in his successful recruitment by Weiser is that Wellington, which he will leave next July, is also critically underserved.

President-elect Larry R. Anderson, MD, of the Kansas Medical Society has a family practice in Wellington. He says that Sumner County will be losing "a fine and active physician" in Dr. Barr. When it does, a county that had 19 doctors in 1976 will be left with only 10.

Dr. Barr agrees that to look just at Weiser's success is "missing the boat." But its future might have been grim without him. He looks forward to being there, and to pitching in.●

FIFTY YEARS OF SERVICE

● Mr. LEVIN. Mr. President, on Wednesday, December 4, 1991, members of the U.S. Tank Automotive Command [TACOM] will gather to honor three outstanding employees: Henry B. Jones, Director of Procurement and Production; Sophia T. Sapielak, accounting technician; and Samuel Letman, materials engineering technician. Each of these fine individuals will be celebrating 50 years of loyal service to the U.S. Government.

Mr. Jones began his career with the U.S. Government as a junior engineering aide in October 1941. Through hard work and dedication, he rose to his current position as Director of Procurement and Production. He has demonstrated superior expertise within his field and has received numerous awards, most notably the Presidential Rank Award.

Mrs. Sapielak is retiring as an accounting technician, a position that she has held for more than a decade. She is a valuable part of the U.S. Tank Automotive Command organization whose proficiency in accounting and clerical skills will not easily be replaced. Her dedication is evidenced by the numerous awards she has received over the years, most recently the Special Act or Service Award.

Mr. Letman has most recently worked as a materials engineer technician for TACOM. He has made significant contributions to the security of our country as both a civilian employee and as a member of the Armed Forces. His research into the development of tank automotive rubber components has done much to strengthen our mobile ground forces. In 1990, he received the Highly Successful Performance Award.

These outstanding individuals have demonstrated extraordinary commitment to their professions and their country. They have earned the respect and admiration of all who know them. I salute them.•

MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT OF 1991

• Mr. LEAHY. Mr. President, at a time when thousands of Americans are losing their jobs because of the recession, the United States must do more to feed the hungry and help the newly-unemployed. This legislation will help cushion the shock for families hardest hit by the recession.

Current economic policies have failed.

Let us look at the hard facts. Housing costs are skyrocketing—45 percent of low-income renters spend 70 percent of their paycheck on housing. Many of these families must often choose between feeding their children or keeping a roof over their heads.

The Mickey Leland bill that the Senate Agriculture Committee ordered reported today expands nutrition programs to meet the economic demands of the recession. This bill makes important improvements in the Child Care Food Program, the after-school child care program, and the Food Stamp Program.

Farmers, storekeepers, factory and steel workers across this country are sending their sons and daughters to school hungry every day. Millions of Americans are just two or three paychecks away from hunger.

The bad news is that one in every five children in America lives in poverty. The good news is that over 80 percent of food stamp benefits go to families with children.

The Mickey Leland bill, for example, adjusts shelter cost estimates to more accurately reflect real costs and provide necessary food stamp benefits. This bill also raises the vehicle asset limit, which food stamp recipients deduct from their income when calculating benefit levels. The current limit of $4,500, which was set over a decade ago, is increased to $5,500 and indexed to inflation.

The bill also allows more low-income children to participate in the Child Care Food Program and the after-school child care program. The Mickey Leland bill encourages absent fathers to meet their child support payments by not counting the first $50 of support paid or received each month as income for purposes of calculating food stamp payments.

These provisions recognize the economic realities of providing for a family, and act as a safety net that helps put food on the table of working, now struggling Americans.

This year the administration wants to build four B2 bombers. With the same $3.4 billion that these planes would cost, we could fund the entire Mickey Leland bill for 2 years.

I have said time and time again that a country as wealthy as ours has the money to provide for its own—unfortunately the administration seems to have an economic plan for every nation in the world except this one.

I have been working with members of the Senate Agriculture, Budget, and Finance Committees to fund this bill. To date, no agreement has been reached.

I have pledged that I will not take this bill to the floor of the Senate until we reach a funding agreement that can be met within the budget. This represents the same understanding as in the House Agriculture Committee. The passage of the Mickey Leland bill by the Senate Agriculture Committee is a positive step toward realizing a funding agreement.

I want to work with Senate leadership, in a bipartisan fashion, to fund the Mickey Leland bill. I deeply appreciate the cooperation of all the committee members regarding this bill. Senator HARKIN, as chairman of the Nutrition Subcommittee has been a major supporter of nutrition programs over the years.

Nutrition issues are not partisan in this committee. For years Senator DOLE has worked to maintain a bipartisan tradition when it comes to nutrition programs. That tradition has been maintained by the ranking member, Senator LUGAR, who has become a leader on this issue.

Senator McCONNELL, the ranking member of the subcommittee, has brought forward excellent ideas especially regarding child nutrition programs. Two excellent provisions of this bill were originally introduced by Senator McCONNELL. Senator McCONNELL'S provisions would allow more low-income children to participate in the Child Care Food Program and encourage more schools to participate in the after-school child care snack program.

The Mickey Leland bill takes sensible steps to support working families who are struggling to ensure security and self-sufficiency for their families. I urge Congress to reach an agreement soon to fund this important bill.•

THE CRISIS IN CROATIA

•Mr. WIRTH. Mr. President, I rise today to support the Gore-Pell resolution on United States policy toward Yugoslavia. The violence in that country this year has already claimed thousands of lives and cost billions of dollars. Despite the efforts of European Community diplomats and more than a dozen cease-fire agreements, there is no end in sight to this tragic fighting.

It is now evident that President Milosevic of Serbia is seeking to create a Greater Serbia out of the ruins of the Yugoslav State. He used the June 25 Croatian declaration of independence as a spark to ignite the anger and fear of Serbs living in Croatia, and then fanned the flame of violence once it had ignited. Now he hopes to create a Serbian State with Kosovo, Vojvodina, Montenegro, and as much of Croatia, Bosnia-Herzegovina, and Macedonia as he can gather. These efforts are a clear assault on the fundamental principle of territorial integrity and the rule of law. This new state would be based on the kind of repression that the Serbian authorities have used in Kosovo Province against ethnic Albanians.

I am also troubled by the active participation of the Yugoslav Federal Army in the bloodshed. When fighting initially broke out between the Croatian militia and Serbian guerrillas, the Army declared that it would use its superior strength to act as a peacekeeping force. Instead, the army has fought alongside the Serbian guerrillas, attacking and killing the Croatian citizens it is constitutionally obliged to protect.

Moreover, the army has not limited its role to fighting the Croatian partisans. It has destroyed Croatian villages, creating hundreds of thousands of refugees, and in the last few weeks has been heavily shelling the magnificent walled city of Dubrovnik, with its irreplaceable treasures of Byzantine, Gothic, and Renaissance art and architecture. After an 11-week siege, the Croatian city of Vukovar was captured by the army this week amid widespread reports of atrocities and with the town itself almost completely leveled. After more than 4 months of fighting, the army and the Serbian guerrillas are in control of more than one-third of Croatian territory.

The Army has even attempted political assassination. On October 7, Federal jets bombed the Croatian Presidential Palace in Zagreb, while Franjo Tudjman, the Croatian President, was meeting with Ante Markovic and Stipe Mesic, the President and Prime Minister of Yugoslavia.

Mr. President, this conflict may well have serious repercussions extending far beyond the borders of Yugoslavia. Since World War II, no border in Europe has been redrawn by force of arms. Serbian efforts to annex portions of Croatia are a dangerous precedent, particularly now, as the opening of Eastern Europe has allowed a number of border disputes and ethnic conflicts to rise to the surface. Bulgaria and Greece have long been interested in Macedonia. Should the conflict spread there, they may become involved. The ethnic Albanians of Kosovo may take the opportunity presented by this war to press their efforts to join Albania. The mass movement of Croatian refugees into Hungary may drag that country into the war if the Yugoslav Army decides that refugee camps there are providing a safe haven for Croatian fighters. Thus, this war has the potential to widen significantly, destabilizing the region.

As a Member of the Commission on Security and Cooperation in Europe, I do not want to look back in a few years and wonder why we didn't do everything in our power to stop this tragedy before it got out of hand. I appreciate the administration's decision to let the European Community take the lead in solving this conflict. It is first and foremost a European problem. With that said, I want to stress to the administration and to the members of this body that the stakes here are very high and the human tragedy enormous.

The reality is that European efforts at diplomacy have not stopped the bloodshed. I am pleased that the European Community has finally imposed trade sanctions against Serbia and that President Bush is supporting them. However, it is time to go further, because the peaceful and united Europe, which we have been working toward since 1945, is at stake. That is the purpose of the Gore-Pell resolution.

First, that resolution would call on the administration to begin consultations with our allies on the question of recognizing Slovenia, Croatia, and the other republics which have declared their independence from Yugoslavia. This will bring home to Serbia that its armed aggression will not be tolerated and cannot succeed. Recognition would make clear to Serbia that this is not just an internal problem that it can deal with as it chooses. This conflict has consequences for all of Europe.

The Yugoslav federation is not going to be reestablished out of this conflict. We must stop basing American policy on the assumption that the status quo ante can be restored. Slovenia is already well on its way to becoming a responsible member of the European family. Croatia is not likely to rejoin Yugoslavia in its present form. Moreover, Bosnia-Herzegovina and Macedonia have also declared their independence.

Second, the resolution calls for taking whatever steps are necessary to ensure that the United States is in full compliance with the European sanctions against Serbia.

Third, the resolution would provide for humanitarian assistance to the republics which have fighting on their territory. This would primarily be Croatia, but it would not limit out other Republics if the fighting spreads.

Fourth, the Gore-Pell resolution would place Serbia on notice that if its military assault on Croatia continues, the United States will support a strong U.N. Security Council response. Such a response could include the introduction of a U.N. peacekeeping force.

Fifth, the resolution would seek a clear and binding commitment from each republic to protect the rights of minorities on its territory, including a formal commitment to accept international inspection and, if necessary, arbitration to protect those rights. Because without protection for minorities we really have not solved anything, we've just changed one dictatorship for another.

Finally, the resolution would reaffirm our support for international efforts to bring about a restoration of peace and respect for the principle that territorial disputes cannot be settled by use of force.

Mr. President, let me emphasize that I am not criticizing the diplomatic efforts of the European Community. Diplomacy should always be the first step in dealing with any conflict. Unfortunately, diplomatic efforts to bring both sides to negotiate in good faith have not worked. It is now time for stronger measures to be considered.

Working with our European allies, we should be developing mechanisms to strengthen the economic and military embargo of Serbia, laying the groundwork for recognition, and working to bring the issue of a peacekeeping force before the Security Council. We must now play a larger role in this conflict, so that we can stop illegal attempts to change borders by force, and get the parties involved to settle their differences peaceably and agree on the political arrangements to take the place of the Yugoslav Federal Republic.

In concluding, I would like to note the valuable information and advice I have received on this issue from two prominent Coloradans—Mr. George Miketa of Pueblo, and Dr. Michael Muftic of Denver.•

VETERANS COMPENSATION IMPROVEMENT ACT

• Mr. SIMPSON. Mr. President, I would like to make a brief statement about S. 775, the veterans' radiation provisions bill for certain veterans. In particular, I am not convinced that this legislation is needed.

The Department of Veterans Affairs is concerned about this legislation because the department feels the presumptive disease regarding the urinary tract cancer is much too broad-based, and the scope of this disease should be limited. I fully agree. I, too oppose this provision because I feel it is unwarranted and simply a continuation of the expansion of presumptive diseases. There are currently 84 presumptive diseases and I do not believe the list should continue to grow.

At the same time, it pleases me to see that a compromise was reached regarding the examination of other activities involving exposure to ionizing radiation, between the Department of Veterans Affairs and the sponsors of this legislation.

This compromise ensures that the established VA Advisory Committee will be properly utilized and it will require the Committee to examine all material relating to exposure of veterans to ionizing radiation, and make recommendations to the Secretary of Veterans Affairs for further study. I worked diligently with Senators SPECTER and MURKOWSKI to hammer out this meaningful compromise on this provision of the bill.

I offer my support for this bill, but with caution. We must sound the cry regarding our fiscal situation and the huge national debt over $4 trillion. I urge my colleagues to look at what we already provide veterans in terms of benefits, health care, and other truly deserving programs.•

GARBAGE IMPORTED FROM CANADA

• Mr. LEAHY. Mr. President, S. 1884 requires that the Department of Agriculture (USDA), collect a fee of $150 per ton on garbage imported from Canada.

For a number of years the State of Vermont has been working to develop a new system for dealing with the solid waste problems. We have learned that we just cannot drive to the town dump every Saturday morning and think the problem is solved.

This has been a difficult process for Vermonters. It has cost Vermont taxpayers money. But we have made changes in our solid waste practices because they were necessary.

In the last few months there have been disturbing reports about Canadian garbage coming into the United States. Large amounts have entered both New York and Pennsylvania. It is my understanding that this garbage is coming into Vermont because Canadian cities have recently increased their dumping fees dramatically.

I know the big waste management companies think that they have found a good way to improve their bottom line.

I do not care.

I am concerned that the landfills in Vermont will be overwhelmed by this garbage and I want to stop this garbage from coming into the United States until we know what is happening.

This bill, which puts a $150/ton fee on this garbage, will stop this garbage from coming into the United States.

That is why I support it.•

AMENDING THE ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 228 relating to the Albert Einstein Fellowship submitted earlier today by Senator HATFIELD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 228) to amend the Albert Einstein Congressional Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Are there amendments? Is there debate? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 228) was agreed to, as follows:

S. RES 228

SECTION 1. FELLOWSHIP PROGRAM

Section 1 of the Senate Resolution entitled "A resolution to establish an Albert Einstein Congressional Fellowship Program" agreed to an August 2, 1991 (hereafter in this resolution referred to as the "Resolution") is amended—

(1) in subsection (a)—

(A) by striking "are" and inserting "is";

(B) by striking "three" and inserting "two"; and

(C) by striking "concurrent"; and

(2) in paragraph (3) of subsection (b), by inserting ", partial compensation" after "administration".

SEC. 2. SELECTION PROCESS.

Section 2 of the Resolution is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting a semicolon and "and"; and

(C) by inserting at the end the following new paragraph—

"(4) convene a panel of representatives of not less than six scientific and educational societies to select the two recipients of the Senate fellowships.";

(2) by striking subsections (b) and (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) INTERVIEWING.—Each fellowship recipient shall interview with various Senate committees and Senators' offices to determine the best placement for such Senate fellowship recipient.";

(4) by redesignating subsections (d), (e) and (f) as subsections (c), (d) and (e), respectively;

(5) in subsection (c) (as redesignated in paragraph (4)), by striking "Recipients" and inserting "Fellowship recipients";

(6) by amending subsection (d) (as redesignated in paragraph (4)) to read as follows:

"(d) COMPENSATION.—Each Senate fellowship recipient shall receive one-half of the funds made available pursuant to section 6(a) as the Senate contribution to such recipient's compensation. The remainder of such recipient's compensation shall be provided by the Triangle Coalition for Science and Technology Education."; and

(7) in subsection (e) (as redesignated in paragraph (4)), by striking "up to 1 year" and inserting "ten months".

SEC. 3. EVALUATION.

Section 3 of the Resolution is amended by striking "and member of the Senate referred to in section 2(b)" and inserting "or member of the Senate in whose office a Senate fellowship recipient is placed".

SEC. 4. FUNDING.

Subsection (a) of section 4 of the Resolution is amended—

(1) by striking "and 1992" and inserting ", 1992 and 1993";

(2) by striking "1991 and $42,500" and inserting "1991, $42,500"; and

(3) by inserting "and $45,000 for fiscal year 1993" before "for the Senate".

Mr. WARNER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

EXCLUSION OF TRUST INCOME OF INDIANS IN DETERMINING CERTAIN BENEFITS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 320, S. 754 to relating to Indians; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 754) to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, was passed, as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

CONCERNING THE USE OF FORCED LABOR IN CHINESE PRISONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 216, regarding the use of forced labor in Chinese prisons, just received from the House, the resolution be agreed to and the preamble agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 216) was agreed to.

The preamble was agreed to.

FORCED LABOR IN CHINA: AN INTERNATIONAL SCOURGE

Mr. SANFORD. Mr. President, the law of the United States is clear on the importation of goods produced by forced labor. China, though, continues to abuse its people and treat the international standards of human rights with a callous and cavalier defiance.

The legal history is not ambiguous. Over 100 years ago, the McKinley Trade Act of 1890 banned the importation of goods produced by convict labor. Forty years later, the Tariff Act of 1930 broadened the prohibition against the importation of prison-made goods into the United States. Most recently, on May 14, 1991, the Senate consented to ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105) which was adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

The United States trade relationship with China is indisputably an important one, both for the immediate benefit of the exchange of goods and services but, more important, I would argue, for the long-term potential of United States influence in China to promote the respect for human rights and political participation. Overarching that long-term goal, the commitment that the United States has made to oppose forced labor is inherent in the very fabric of America as defined by our Bill of Rights.

The prevalence of forced labor in China is well-documented. It has been reported by the Congressional Research Service, Asia Watch, and the General Accounting Office. The July 23, 1991 GAO report summary stated that "forced labor is an integral part of the political, judicial, penal and economic systems in the People's Republic of China [PRC] and is practiced throughout the country." Mr. President, Most Favored Nation (MFN) status is designed for countries that act responsibly in the world community. China's record is reprehensible.

If forced labor as a humanitarian disgrace is not enough, consider the despicable example it sets about respecting international trade law. The disregard for international standards has a devastating impact on the U.S. textile industry in my State.

China is the largest single exporter of textiles and apparel to the United States, accounting for 14 percent of our total imports. It is no secret that the U.S. textile and apparel industry is in dangerous waters on all fronts. The North American Free Trade Agreement [NAFTA] continues to be negotiated. On November 7, 1991, the Fiber, Fabric and Apparel Coalition for Trade (FFACT) reported that the elimination of textile and apparel quotas currently being negotiated would result in a drop of as much as 60 percent in U.S. production and the loss of nearly one million jobs.

Facing the threatening outcome for the textile and apparel industry of NAFTA and the Uruguay round—both legitimate trade agreements—how can we continue to expose our industry to the influx of Chinese textiles and apparel produced by the illegal labor of prisoners in inhumane conditions of squalor, disease, and abuse?

The steady increase of Chinese exports to the United States of products made with prison labor is not in the United States trade advantage nor is it acceptable to the United States conscience. I advocate continued relations with China. Therefore, the exposure of this Chinese policy must lead to its abolishment.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1176, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee is discharged.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President I am pleased to join with my colleagues Senator CHAFEE and DECONCINI in urging the passage of S. 1176, legislation to authorize the Morris K. Udall Scholarship and Excellence in National Environmental Policy at the University of Arizona. For nearly 30 years the gentle giant from Tucson represented his constituents with dedication, intelligence, and above all humor.

It is fitting that Congressman Udall's alma mater, the University of Arizona will be the site of the Udall Center for Environmental Policy. Morris Udall and environmental protection have been synonymous all his life. Mo Udall stood for environmental protection long before it became part of America's vocabulary. His efforts concerning public land management, wilderness, wild and scenic river designation, surface mining regulation and reclamation are legendary.

Early in my Senate career I served on the Senate Committee on Interior and Insular Affairs. On numerous occasions I had the pleasure of working with Congressman Udall. We worked on many issues of vital importance to the West. Mo Udall was always fair, he was always a gentleman and his word was his bond.

Senator DECONCINI will offer an amendment to add the training of Indian health care professionals to the mission of the foundation. Few in Congress have done more to advance the well being of native Americans than Mo Udall. As a member of the Senate Select Committee on Indian Affairs I strongly support this amendment. The health care problems confronting native Americans are varied and cry out for solutions. I look forward to working in the future with native American health care professionals who will be Udall scholars.

Again I commend my colleague from Arizona, Mr. DECONCINI, for initiating this legislation. I urge all of my colleagues to support this bill as fitting tribute to a man who served his constituents and the Nation well for nearly 30 years.

Mr. CHAFEE. Mr. President, I am proud to be a sponsor, along with Senators DECONCINI, BURDICK, and others, of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act.

I can think of no Member of Congress more deserving of this tribute than Mo Udall. He was an environmentalist before it was fashionable. His list of accomplishments on behalf of the environment and the preservation of natural resources is too long to enumerate.

As chairman of the Interior Committee in the House of Representatives, he infused an environmental ethic into our policies governing our national parks, mining and mineral exploration, government land, and Indian Tribes. The Alaska Lands Act and comprehensive laws governing strip mining stand as major accomplishments in the career of one of the most productive legislators of our time.

The Senator from Arizona [Mr. DECONCINI] should be commended for crafting this legislation. I am hopeful that all of my colleagues will join with us in honoring Mo Udall with this fitting tribute to his 30 years of service to the Nation.

AMENDMENT NO. 1386

(Purpose: To amend the bill regarding Native Americans and Alaska Natives)

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DECONCINI, proposes an amendment numbered 1386.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike "and".

On page 2, between lines 8 and 9, insert the following:

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

On page 2, line 9, strike "(3)" and insert "(4)".

On page 4, strike lines 15 through 19, and insert the following:

who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

On page 7, line 17, strike "and" after the semicolon.

On page 7, line 19, strike the period and insert a semicolon and "and".

On page 7, between lines 19 and 20, insert the following:

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

On page 8, line 14, insert "and Native American and Alaska Native health care and tribal public policy" before the period.

On page 8, line 20, insert "and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy" before the period.

On page 9, line 19, insert "and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy," after "environment".

On page 10, line 1, strike "Deserving" and insert "deserving".

On page 10, line 4, strike the period and insert a semicolon and "and".

On page 10, between lines 4 and 5, insert the following:

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

On page 10, line 11, strike "and".

On page 10, between lines 11 and 12, insert the following:

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues.

On page 10, line 12, strike "(C)" and insert "(D)".

Mr. DECONCINI. Mr. President, I am pleased that the Senate is today considering the Mo Udall Scholarship and Excellence in National Environmental Policy Act. This legislation is a fitting tribute to one of the finest individuals who has ever served in Congress. It is sponsored by 23 Senators, including the distinguished chairman and ranking member of the Environment and Public Works Committee.

Mo Udall was first elected to Congress in 1961 by a special election to replace his brother Stewart who was selected by President Kennedy to serve as the Secretary of Interior. During his tenure in Congress, Mo worked tirelessly to serve the people of the Second Congressional District, the State of Arizona, and the Nation. Although he was a leader in a number of areas, Civil Service Reform, Health Care and Campaign Finance Reform among them, he will be especially remembered for his commitment to protecting our precious natural resources. He was the author of landmark legislation such as the strip mining bill of 1977, the Alaska Lands Act of 1980 and most recently the Arizona Desert Wilderness Act of 1990. Mo often said that, "a nation that does not love and respect its land, does not respect itself."

It is for this reason that I introduced the Mo Udall Scholarship and Excellence in National Environmental Policy Act. This legislation will establish a national foundation as an independent entity of the executive branch with the express purposes of: First, increasing the awareness of the importance and promoting the benefit and enjoyment of our Nation's natural resources; second, fostering among the American population a greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States; third, identifying critical environmental issues; fourth, establishing a Program for Environmental Policy Research and an Environmental Conflict Resolution Program at the Udall Center for Studies in Public Policy on the campus of the University of Arizona; and fifth, developing resources to properly train professionals in the environment and related fields; and sixth, providing educational outreach on environmental issues.

To accomplish these goals, the legislation establishes a 10-member board of directors comprised of two Members of the House of Representatives, two Members of the Senate, two individuals selected by the President, the Secretaries of Interior and Education and two members from Mo's alma mater, the University of Arizona. The board will award scholarships, fellowships, internships, and grants to deserving individuals to pursue studies related to the environment.

The Foundation will also support the activities of the Udall Center on the campus of the University of Arizona. The Udall Center was established in 1987 to sponsor research and forums on a variety of critical public policy issues. Among the activities of the Udall Center that will be supported by the Foundation are the establishment of an environmental conflict resolution center, the creation of a repository for the Udall papers, and assembling an annual panel of experts to discuss contemporary environmental issues.

The legislation authorizes the creation of the Morris K. Udall Scholarship and Excellence in National Environmental Policy trust fund in the amount of $40 million which is to be administered by the Foundation. The proceeds of this trust fund will enable the Foundation to carry out the provisions of this legislation.

During consideration of the fiscal year 1992 Interior Appropriations bill, the Mo Udall Foundation was a topic of discussion between the House and Senate conferees for this legislation. There was unanimous praise for Mo by both his former House colleagues and the Senators on this conference committee. Accordingly, $5 million was included in this bill as an initial downpayment on the trust fund pending authorization. Also, in recognition of Mo's work on behalf of our Native Americans, Chairman YATES suggested that S. 1176 be amended to add the training of Indian health care professionals as a goal of the Foundation. I felt at the time, and still do, that this is an outstanding suggestion and therefore, I am offering an amendment that will do just that.

Also, to build on Mo's work on behalf of Indian self-determination, S. 1176 will also be amended so that the Foundation can provide scholarships to train native Americans in the field of public policy. As chairman of the House Committee on Interior and Insular Affairs, Mo was largely responsible for the passage of landmark Indian legislation such as the Alaska Native Claims Settlement Act, the Indian Financing Act, the Indian Self-Determination Act, the American Indian Policy Review Commission Act, the American Indian Religious Freedom Act, the Indian Child Welfare Act, the Indian Alcohol and Substance Abuse Prevention and Treatment Act, the Native American Grave Protection and Repatriation Act, and the Indian Child Protection and Family Violence Act.

Mr. President, Mo's efforts on behalf of our native American are nothing short of herculean. In the 14 years he was chairman of the House Interior Committee, over 184 Indian bills have been enacted into law. It is only appropriate that S. 1176 be amended to recognize Mo's efforts on behalf of the first Americans.

Mr. President, I want to thank the chairman and ranking member of Environment and Public Works Committee for their efforts to move this legislation forward. Without their assistance, we would not be here today.

Mr. President, this legislation will not only serve as a monument to one of our truly outstanding colleagues, but it will serve to prepare and train the next generation of leaders such as Mo Udall. I ask that my colleagues join me in supporting this legislation.

Mr. President, I ask unanimous consent that a list of Public Laws sponsored by Mo Udall be entered into the RECORD at this point. This list while not entirely complete, shows how prolific a legislator Mo was.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MORRIS K. UDALL LEGISLATIVE CAREER

87TH CONGRESS (1961–1962)

H.R. 7240—Authorizes an exchange of lands at Wupatki National Monument, AZ, to provide access to certain ruins to add certain federally owned lands. Became Public Law 87–136.

H.R. 10566—Provides for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, AZ. Became Public law 87–747.

88TH CONGRESS (1963–1964)

H.R. 946—Authorizes the establishment of the Fort Bowie National Historic Site, in Arizona. Became Public Law 88–510.

H.R. 7419—Authorizes the conclusion of agreements with Mexico for joint construction, operation, and maintenance of flood control works on the lower Colorado River. Became Public Law 88–411.

89TH CONGRESS (1965–1966)

H.R. 1746—Defines "child" under the Civil Service Retirement Act to include adopted child but not stepchild for lump sum benefits. Became Public Law 89–407.

H.R. 3320—Authorizes the establishment of the Hubbell Trading Post National Historic Site, in Arizona. Became Public Law 89–148.

H.R. 6845—Provides that the basic compensation for teaching positions in overseas schools operated by the Department of Defense be the same as basic compensation for similar positions under the Government of the District of Columbia. Became Public law 89–391.

H.R. 7648—Authorizes long-term leases on the Papago Indian Reservation. Became Public Law 89–715.

H.R. 10281—Government Employees Salary Comparability Act

Title I. Federal Salary Adjustment Act—Provides for an increase in the compensation of Federal employees of approximately 4.5 percent. Provides for the reconsideration and review by the Civil Service Commission of "acceptable level of competence" for purposes of step increases. Increases to GS–10 (now GS–9) the maximum level at which overtime compensation may be paid.

Provides for similar increase in the compensation of Postal employees and relocation allowances for such employees who are transferred.

Provides similar increases for employees in Department of Medicine and Surgery of the Veterans' Administration, for officers, and employees in the Foreign Service, employees in the legislative branch, and employees in the judicial branch.

Provides for an additional adjustment of salary rates in 1966 and periodically thereafter to make the Federal salary schedule comparable to the rates paid by private industry.

Provides severance pay, up to 1 year's pay, for employees who are involuntarily (except for cause) separated from the service. Bases such as pay on years of service and age.

Title II. Federal Salary Review Commission Act—Provides for a 10 member Federal Salary Review Commission to review the compensation of Member of Congress, Justices, and salary levels under the Federal Executive Salary Act. Provides for the Commission to submit a report by January 1967, and periodically thereafter.

90TH CONGRESS (1967–1968)

H.R. 2154—Provides long term leasing for the Gila River Indian Reservation. Became Public law 90–182.

92ND CONGRESS (1971–1972)

H.R. 15869—Provides that an action for money damages brought by the United States on behalf of a recognized tribe, band, or group of American Indians shall not be barred unless the complaints filled more than six years and ninety days after the right of action is accrued. Became Public Law 92-353.

H.R. 13825—Provides that an action for money damages brought by the United States on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status, shall not be barred unless the complaint is filed more than eleven years after the right of action accrued or more than two years after a final decision has been rendered in applicable administrative proceedings required by contract or by law, whichever is later. Became Public Law 92-485.

93RD CONGRESS (1973–1974)

H.R. 7730—The Secretary of Interior is authorized and directed to acquire through purchase within the so called San Carlos Mineral Strip as of January 24, 1969, all privately owned real property, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe. Became Public Law 93-530.

H.R. 3180—Franked Mail Amendment. The policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.

94TH CONGRESS (1975–1976)

H.R. 14227—Directs the Secretary of Agriculture to release the board of regents of the universities and State colleges of Arizona from the requirement that specified lands transferred by the United States for the use of the University of Arizona be used only for research or educational purposes.

95TH CONGRESS (1977–1978)

H.J. Res. 539—A resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians. Became Public law 95-64.

H.R. 4992—A bill to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian Business Development Program. Became Public law 95-68.

H.R. 8397—A bill to provide that a certain tract of land in Pinal County, AZ, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation. Became Public Law 95-361.

H.R. 10787—A bill to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management. Became Public Law 95-352.

H.R. 13972—A bill to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness Flathead and Lewis and Clark National Forests State of Montana. Became Public Law 95-546.

H.R. 2—To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes. Became Public law 95-87.

H.R. 3454—To designate certain endangered pubic lands for preservation as wilderness, and for other purposes. Became Public Law 95-237.

H.R. 10532—To amend Public Law 95-18, providing for emergency drought relief measures. An act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-1977 drought. Became Public Law 95-226.

H.R. 13650—To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management. Became Public Law 95-352.

96TH CONGRESS (1979–1980)

H.R. 39—A bill to provide for the designation and conservation of certain public lands in the state of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes. Became Public Law 96-487.

H.R. 1825—A bill to protect archaeological resources owned by the United States, and for other purposes. Became Public Law 96-95.

H.R. 3661—A bill to increase the authorization of appropriations under the Act of December 22, 1974. Became Public Law 96-40.

H.R. 1885—A bill to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies. Became Public Law 96-135.

H.R. 5278—A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments. Became Public Law 96-375.

97TH CONGRESS (1981–1982)

H.R. 2330—A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Became Public Law 97-415.

H.R. 4364—A bill to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, AZ. Became Public Law 97-386.

H.R. 5553—A bill to provide for the use and disposition of Miami Indians judgment funds in Dockets 124-b and 254 before the United States Court of Claims, and for other purposes. Became Public Law 97-376.

H.R. 6403—A bill to provide for the use and distribution of funds to the Wayndot Tribe of Indians in Docket 139 before the Indian Claim Commission and Docket 141 before the United States Court of Claims and for other purposes. Became Public Law 97-371.

H.R. 3809—A bill to provide for the development of repositories for the disposal of high level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high level radioactive waste and spent nuclear fuel, and for other purposes. Became Public Law 97-425.

H.R. 4707—A bill to designate certain National Forest Lands in the State of Arizona as wilderness, and for other purposes. Became Public Law 98-406.

98TH CONGRESS (1983–1984)

H.J. Res. 158—A joint resolution to make technical corrections in the Act of January 25, 1983. Became Public Law 98-608.

H.R. 1746—A bill to authorize appropriations for the Navajo and Hopi Indian Relocation Commission. Became Public Law 98-48.

H.R. 6206—A bill amending the Act of July 28, 1978 (P.L. 95-238) relating to the water rights of the Ak-Chin Indian Community and for other purposes. Became Public Law 98-530.

H.R. 4707—A bill to designate certain national forest lands in the State of Arizona as wilderness, and for other purposes. Became Public Law 98-406.

99TH CONGRESS (1985–1986)

H.R. 730—A bill to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ. Became Public Law 99-23.

H.R. 1185—A bill to amend the Act establishing the Petrified Forest National Park. Became Public Law 99-250.

H.R. 2698—A bill to designate the United States Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse". Became Public Law 99-213.

H.R. 4378—A bill to govern the establishment of commemorative works within the National Capital Region of the National Parks System, and for other purposes. Became Public Law 99-652.

H.R. 5430—A bill to amend the Gila River Pima-Maricopa Indian Community Judgment Distribution Plan. Became Public Law 99-493.

H.R. 1083—A bill to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the Implementation of compacts providing for the establishment and operation of regional disposal for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low level radioactive waste; and for other purposes. Became Public Law 99-240.

H.R. 4216—A bill to provide for the replacement of certain lands within the Gila Bend Indian Reservation, and for other purposes. Became Public Law 99-503.

H.R. 4217—A bill to provide for the settlement of certain claims of the Papago Tribe of Arizona arising from the construction of Tat Momolik Dam, and for other purposes. Became Public Law 99-469.

100TH CONGRESS (1987–1988)

H.J. Res 284—A joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week". Became Public Law 100-61.

H.R. 1963—A bill to amend the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State funds from the Abandoned Mani Land Reclamation Fund for expenditure in the future for purposes of abandoned mine reclamation, and for other purposes. Became Public Law 100-34.

H.R. 2937—A bill to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes. Became Public Law 100-153.

H.R. 3479—An Act to provide clarification regarding the royalty payments owed under certain Federal Onshore and Indian oil and gas leases, and for other purposes. Became Public Law 100-234.

H.R. 1414—A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents. Became Public law 100-408.

H.R. 4102—A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ and for other purposes. Became Public Law 100-512.

H.R. 4362—A bill to amend Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes. Became Public Law 100–648.

H.R. 5232—A bill to grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact. Became Public Law 100–712.

H.R. 5261—A bill to authorize and amend the Indian Health Care Improvement Act, and for other purposes. Became Public Law 100–713.

H.R. 4754—A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes. Became Public Law 100–415.

H.R. 1044—A bill to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes. Became Public Law 100–348.

H.R. 1223—A bill entitled "Indian Self-Determination Amendments of 1987". Became Law 100–472.

101TH CONGRESS (1989–1990)

H.R. 2843—A bill to establish the Kino Missions National Monument in the State of Arizona. Became Public Law 101–344.

H.R. 2570—A bill to provide for the designation of certain public lands as wilderness in the state of Arizona. (Arizona Desert Wilderness Act of 1990; Fort McDowell Indian Community Water Rights Settlement Act of 1990; Sudbury, Assabet, and Concord Wild and Scenic River Study Act; Camp W.G. Williams Land Exchange Act of 1989; Take Pride in America Act; Civil War Sites Study Act of 1990; Clarks Fork Wild and Scenic River Designation Act of 1990.) Became Public law 101–628.

H.R. 5237—A bill to provide for the protection of Native American graves, and for other purposes. Became Public Law 101–601.

Mr. McCAIN. Mr. President, today the Senate will honor a great man and a national treasure: Morris K. Udall.

When I last addressed the Senate about Mo it was on the occasion of his retirement. I wondered how to find words to honor one who has achieved so much, who has served his country and his countrymen with such grace and distinction.

I realized words could never fully describe what Mo Udall means to Arizona and our Nation. They ring hollow in tribute to a life which has exemplified action and achievement.

Mo Udall figures prominently in the laws of our Nation, his values memorialized in a natural heritage which is richer and healthier because of him. He is a public figure of enormous significance to our Nation's history. But the true measure of Mo's legacy can be found in the smiles of the countless souls whose lives he has touched.

Above all Mo Udall is a man of talent and humor, courage, compassion and integrity. The only worthy tribute would be to ensure the Nation carries on the work he has so nobly advanced.

Today, the Senate will vote to create the Morris K. Udall Excellence in National Environmental Policy Foundation and Scholarship. Passage of the legislation will ensure that the excellence of Mo Udall, his passion for the responsible stewardship of our natural resources, will endure in the leaders of tomorrow.

I congratulate Senator DECONCINI on his leadership and hard work in bringing this initiative before the Senate. Passage of this legislation is our way of saying—thank you Mo Udall, we have learned from you and your work will be carried on.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1386) was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill as amended? Without objection, the bill is engrossed for a third reading, deemed read a third time and passed.

(The text of S. 1176, as passed today by the Senate, will be printed in a future edition of the RECORD.)

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A 6-MONTH EXTENSION OF THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Mr. LEVIN. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3728, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee is discharged.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3728) to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, the bill provides for a 6-month extension of the Bicentennial of the Constitution.

I ask unanimous consent the Senate proceed to its immediate consideration; the bill be deemed read a third time and passed; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3728) was deemed read the third time and passed.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 253, S. 1297, the Coast Guard Authorization Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1297) to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) AUTHORIZATIONS FOR FISCAL YEAR 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medi-

cal care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) ACQUISITION OF OIL RECOVERY SYSTEMS.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

SEC. 3. (a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

SEC. 4. (a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

SEC. 5. (a) IN GENERAL.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) TECHNICAL AMENDMENTS.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

SEC. 6. (a) IN GENERAL.—Section 357 of title 14, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed thirty days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have twenty or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within ninety days after such notification.

"(g) This section is not applicable to reductions in force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "**Enlisted Personnel Board**" and inserting in lieu thereof "**Involuntary retirement of enlisted members**".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 10, 1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15. (a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements that the Coast Guard prescribes, consistent with preservation of the historic integrity of the vessel.".

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than one year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

SEC. 19. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—For purposes of this section, the term—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

SEC. 20. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of *maintaining the navigational aids in use on the property.*

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

OREGON OIL SPILL RESPONSE STUDY

SEC. 21. Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

SEC. 22. Before October 1, 1992, the Secretary of Transportation shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter Mackinaw.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

SEC. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY

SEC. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees, 13 minutes, 14 seconds north latitude; 77 degrees 31 minutes, 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

SEC. 25. The Secretary of the department in which the Coast Guard is operating, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

COAST GUARD RECREATIONAL BOAT TAX REPEAL

SEC. 26. Section 2110 of title 46, United States Code, is amended—

(1) by repealing subsection (b);

(2) in subsection (c), by striking "subsections (a) and (b)," and inserting in lieu thereof "this section,"; and

(3) by redesignating subsections (c) through (i) as subsection (b) through (h), respectively.

AMENDMENT NO. 1387

(Purpose: To make an amendment in the nature of a substitute)

Mr. LEVIN. Mr. President, I send a substitute amendment to the desk on behalf of Senator HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HOLLINGS, for himself and Mr. STEVENS, proposes an amendment numbered 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2.(a) AUTHORIZATIONS FOR FISCAL YEAR 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000; of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund; of which not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a); and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) ACQUISITION OF OIL RECOVERY SYSTEMS.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(d) COMMAND AND CONTROL AIRCRAFT ACQUISITION.—(1) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") may submit a request for reprogramming of funds in order to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for congressional review of appropriations reprogramming requests. Subject to such reprogramming procedures—

(A) The Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for the multiyear lease but not for the purchase of aircraft; and

(B) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(2) The Coast Guard may transfer the current command and control aircraft to the vendor of any replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward such purchase, lease, or lease with option to purchase.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

SEC. 3.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

SEC. 4.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1993, the Coast Guard is authorized as end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

SEC. 5.(a) IN GENERAL.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) TECHNICAL AMENDMENTS.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

SEC. 6.(a) IN GENERAL.—Section 357 of title 14, United States Code, is amended—

(1) By amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have 20 or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have 20 or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed 30 days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have 20 or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within 90 days after such notification.

"(g) This section is not applicable to reductions is force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "Enlisted Personnel Board" and inserting in lieu thereof "Involuntary retirement of enlisted members".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both,

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than 30 days in any four-month period and not more than sixty days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15. (a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof"; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements (which shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public) that the Coast Guard prescribes for nonpublic spaces."

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

SEC. 19. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—For purposes of this section, the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

SEC. 20. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit.

OREGON OIL SPILL RESPONSE STUDY

SEC. 21. Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

SEC. 22. Before October 1, 1992, the Secretary shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

SEC. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY WITH RESPECT TO APPOMATTOX RIVER, VIRGINIA

SEC. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees 13 minutes 14 seconds north latitude, 77 degrees 31 minutes 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

BRIDGE ACROSS WAPPINGER CREEK, NEW YORK

SEC. 25. Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401); section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

SEC. 26. The Secretary, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA

SEC. 27.(a) TRANSFER OF PROPERTY.—Notwithstanding any other law, the Secretary shall transfer without consideration to the County of Charleston all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b), subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) DESCRIPTION.—The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power line's connection with the South Carolina Power Company's power line at Folly Beach.

REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS

SEC. 28. Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7.(a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States, shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989

SEC. 29.(a) PAYMENT TO SALVORS OF LIFE.—Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and inserting in lieu thereof "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) TECHNICAL AMENDMENT.—Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and inserting in lieu thereof "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code.".

TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES

SEC. 30.(a) CONVEYANCE OF LIGHTHOUSES.—(1) The Secretary may convey by any appropriate means to the State of Oregon all rights, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all rights, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon; and

(2) the term "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon.

CONVEYANCE OF WHITE ISLAND LIGHTHOUSE

SEC. 31. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration;

(B) subject to such terms and conditions as the Secretary may consider appropriate; and

(C) the Coast Guard will complete its cleanup of the oil seepage on White Island and take any necessary measures to prevent further pollution.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property covered pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term "White Island Lighthouse" means the Coast Guard Lighthouse located at White Island, Isles of Shoals, New Hampshire, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to able the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

TRANSFER AT JUNEAU, ALASKA

SEC. 32.(a) TRANSFER BY SECRETARY.—Notwithstanding any other provision of law, the Secretary shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) AVAILABILITY TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES

SEC. 33.(a) FINDINGS.—The Congress finds that—

(1) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was mandated by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-397);

(2) recreational boaters who are required to pay this fee may not receive any direct service and cannot expect to receive any additional service in return for payment of the fee;

(3) recreational boaters already pay a motorboat fuel tax; and

(4) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the requirements that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of offsetting receipts in order to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II

SEC 34.(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstandig section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. 883), as applicable on the date of documentation with appropriate endorsement for employment endorsement for employment in the costwise trade of the United States for the vessel MAYFLOWER II, owned by Plymouth Plantation, Inc. (a corporation under the laws of Massachusetts).

(b) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under any law codified in title 33, Code.

(2) If the Secretary exempts the vessel from any requirements under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

JONES ACT WAIVERS FOR CERTAIN VESSELS

SEC. 35. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

Mr. HOLLINGS. Mr. President, I rise in strong support of S. 1297, the Coast Guard Authorization Act of 1991 which authorizes appropriations and manning levels for Coast Guard activities in fiscal years 1992 and 1993. The substitute amendment which I am offering today also includes other important provisions which provide for a sound investment in the future of the Coast Guard.

AUTHORIZATION LEVELS

With respect to funding, the bill provides an 8-percent increase for Coast Guard operating expenses over the level authorized for fiscal year 1991, totaling $2.57 billion for each of the 2 fiscal years 1992 and 1993. This account covers the basic needs of the Coast Guard, such as salaries, housing, medical care, training, and fuel.

From a budgetary standpoint, this bill will require the Coast Guard to run a tight ship, particularly give the multitude and variety of Coast Guard responsibilities. When the service was first established in 1790, its mission was fairly straightforward—to prevent smuggling and collect tax revenues. Since that time, many new responsibilities have been added, including search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety, and marine environmental protection. The diversity of the Coast Guard's mission is apparent when one looks at its involvement in several recent highly publicized events. From the blockade of Iraq to the cleanup of the *Exxon Valdez*, the Coast Guard has been on the frontline. S. 1297 is intended to provide the necessary funds for all these activities.

In addition to operating expenses, the bill authorizes appropriations of $452 million for fiscal year 1992 and $423 million for fiscal year 1993 for the Coast Guard's capital funding account. Capital funding, of course, includes the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft. Specific programs to be undertaken during the next 2 years include continuation of the 378-foot high endurance cutter rehabilitation program, acquisition of the remaining 110-foot Island Class patrol boats, delivery of the last HH-60J Jayhawk helicopters, replacement of seagoing buoy tenders and 44-foot motor lifeboats, and renovation of the Coast Guard cutter *Mackinaw*.

The bill also authorizes payments to retired Coast Guard military personnel, including the Coast Guard Reserve and the former Lighthouse Service. Authorizations of appropriations for retired pay total $488 million in fiscal year 1992 and $519 million in fiscal year 1993. Other accounts authorized in the bill cover research and development, bridge alteration, and environmental compliance and restoration.

With respect to manning levels, and end-of-year strength of 39,559 military personnel is authorized for fiscal years 1992 and 1993. The bill also calls for average military training loads for recruits and special training, flight training, professional training, and officer training.

RELATED ISSUES

S. 1297 also contains a number of other provisions that affect the Coast

Guard. Three of these provisions in particular are important to the State of South Carolina. First, the bill contains language authorizing the Coast Guard to lease property for the construction of Air Station Charleston. This facility, when completed, will provide vital Coast Guard search and rescue services to the Charleston area. Second, the bill designates the John F. Limehouse bridge, near Charleston, as an obstruction to navigation. The designation makes this obsolete bridge eligible for repair or replacement under the Truman-Hobbs Bridge Act. Third, the bill transfers surplus Coast Guard property on Folly Island, South Carolina to Charleston County. This property will be used as a public park and will provide the public with needed access to that island's beaches.

There is one provision, to which I am firmly committed, that the bill before us today regrettably does not include: the repeal of the Coast Guard's recreational boat user fee. This fee, which was included in last year's Omnibus Budget Reconciliation Act, went into effect on July 30 of this year. The Coast Guard has implemented this user fee in a manner that is unfair to many boaters. For example, in South Carolina, boaters on Lakes Marion and Moultrie are required to pay the fee despite not having a Coast Guard presence on these lakes. The same is true on the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River. In fact, this fee in general bears no relationship to any direct services of additional services to be received by the boaters.

Thus, during the Commerce Committee's markup of this authorization bill, I cosponsored an amendment offered by Senator BREAUX to repeal the boat user fee. Since that markup in late July, Senator BREAUX and I, along with others, have been working to identify an offset for the repeal of the user fee. Unfortunately, this issue has not yet been resolved, and thus the fee repeal has been removed from this bill. However, the bill before the Senate does include a statement of Congress' intent that this fee be repealed once offsetting receipts are determined. I assure my colleagues that I intend to continue my efforts to repeal this unfair fee on boaters.

WORLD MARITIME DAY

Related to S. 1297, on September 26, 1991, the International Maritime Organization [IMO] celebrated World Maritime Day. This year's theme was "Passenger and Crew Safety on Board Ship."

The IMO is a U.N. technical organization with 135 members and 2 associate members. From its very beginning in 1958 as the first international body devoted exclusively to maritime matters, the improvement of maritime safety and the prevention of marine pollution have been the IMO's most important objectives. Recently, the IMO has made great strides on issues pertaining to the theme of World Maritime Day 1991. With regard to passenger vessel safety, the United States, and particularly the Coast Guard, has helped make this progress possible. At the May 1991 session of the IMO's Maritime Safety Committee, the Coast Guard not only chaired a working group on passenger vessel safety but also worked closely with the IMO Secretariat to produce a global consensus on these issues.

Mr. President, ship passenger and crew safety are a paramount national and international concern, as is demonstrated by the theme of this year's World Maritime Day. I ask unanimous consent that the message from the Secretary General of the IMO, Mr. William A. O'Neil, marking the observance of World Maritime Day 1991, be printed in the RECORD at the conclusion of my remarks, and

I urge my colleagues to support the passage of this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MESSAGE FROM THE SECRETARY-GENERAL, MR. WILLIAM A. O'NEIL

This year IMO is celebrating its 14th World Maritime Day. Each year the Organization uses the Day to highlight a particularly important activity. But this year the theme is the most important subject of all—the safety of the passengers and crews who sail on board the world's ships.

The days of the great ocean liners and the emigrant ships may have gone, for nowadays most people travelling between continents do so by plane rather than ship. Nevertheless sea travel remains popular. More and more people are now choosing to take their holidays on cruise ships which offer all the comforts of a luxury hotel, with the bonus of visiting a different port every day. The short-sea routes are dominated by ro-ro ferries. And the bulk of the world's trade is still carried in a fleet of more than 78,000 vessels.

IMO's most important task is to make sure that the people who sail on these ships, whether they are passenger or crew members, arrive at their destination safely. Over the years a great deal has been done in this regard by adopting international measures which are then implemented by national Governments. IMO's Membership now stands at a record 135 States and its most important conventions apply to more than 97 per cent of the world's ships.

This shows that IMO's work has global support and it should mean that the safety standards in the world fleet are roughly the same everywhere, but regrettably this is not the case. A glance at the annual statistics for losses at sea shows that people traveling on ships from the country with the worst record are 114 times more likely to be involved in an accident than those on board ships from the country with the best. This is unacceptable.

The responsibility for enforcing IMO standards rests with individual Governments. When they ratify a convention they undertake to ensure that its provisions are effectively applied to all ships which fly its flag. Yet the huge discrepancy between the accident rates of various fleets indicates that this is not being done.

For the last few years, IMO has been handicapped by a serious cash-flow crisis caused by the failure of many Governments to pay their contributions on time. Payments were due in January but by July only 59 States had paid in full. The other 76 were behind for this year and many of them owe money for previous year's as well. This failure to meet their legal obligation is sapping the strength of the Organization and tends to divert everyone's attention and energy from the real issues of life and death of those at sea.

It should not be any surprise that several IMO Members have expressed concern at the huge differences in safety standards and the attitudes toward safety that seem to exist in different countries. This concern has deepened by the changes that are now taking place in world shipping and which are likely to continue in the years to come. Many shipowners are reducing the sizes of their crews in an effort to save money; but is enough being done to raise the standard of the crews that remain? The average age of ships today is 16 years, which is already fairly elderly in shipping terms, and old ships need more maintenance and repair than young ones. Are Governments and shipping companies doing enough to ensure that this is done?

The danger is that if the improvement in the casualty rate that marked the 1980s is halted in the 1990s many lives will be lost. In 1989, 3.7 million people took their vacation on a cruise liner; by the end of the century this figure is expected to grow to 10 million a year. Yet in recent years there have been a number of accidents to passenger ships which have resulted in the deaths of hundreds of people. Will 10 million people really want to go to sea if they think there is a serious risk of a fire on board or of the ship sinking and that those responsible for safety are not doing anything to improve the situation?

The stability of roll-on/roll-off passenger ships continues to give cause for concern, as does the continuing loss of bulk carriers, many of which have vanished without a trace in the past year. If nothing is done to stop these casualties the public will lose faith in shipping and some countries will become impatient with the ability of the shipping industry to introduce improvements on an international basis, through IMO. This could lead to a proliferation of regional or national standards and would be the end of any real attempt to raise safety standards internationally.

Standards might improve in some countries—but overall there would almost certainly be a serious reduction in safety levels, an increase in the casualty rate and more accidents involving heavy loss of life.

IMO is taking positive steps to prevent this from happening by becomming more pro-active rather than reactive in improving international safety legislation. Emphasis is being placed on the fact that no single unit in the safety chain can act alone but, instead, all must work in concert to achieve the common objective. Shipbuilders, classification societies, shipowners, ship managers, charterers, insurers, seafarers' unions, government administrations and IMO must all do their part to being about safer shipping and regain the confidence of the public—without always trying to put the blame on others for any failures.

For this part, IMO will continue to assist and encourage all parties in this endeavor and will provide leadership in the never ending quest for improvements to safety of life at sea.

Mr. KERRY. Mr. President, I rise today to support the Coast Guard Authorization Act of 1991. The Coast Guard provides valuable services to the Nation in the areas of drug interdiction, vessel safety, maritime law enforcement and protection of the marine environment.

I would like to thank the chairman of the Commerce Committee, Senator HOLLINGS, for accepting three of my amendments. Two of the amendments provide the necessary implementation for important international treaties designed to help protect the marine environment. The third amendment will provide the *Mayflower II*, a replica of the original *Mayflower* ship, with U.S. flagship status. It will also enable the guardians of the *Mayflower II*, Plymouth Plantation, to work closely with the Coast Guard to establish safety requirements that would enable the ship to sail on rare and special occasions while ensuring a safe trip for its passengers.

The first amendment I am offering will change the International Convention on Oil Pollution to require a vessel crew or facility personnel to report any observed oil spill. Under current domestic law, reporting is only required if the vessel or facility was responsible for the spill. Clearly, expanding the requirement to observers as well as spillers will increase the number of incidents that are reported and enhance our ability to respond to such events.

The second amendment implements changes to the International Convention on Salvage. These changes would allow salvors who attempt to prevent environmental damage during a salvage operation to be compensated, even if the attempt is not successful. This change is necessary because the traditional law of salvage, which is no cure-no pay, simply does not provide incentives that are needed to protect the environment from the hazardous materials that are carried by today's cargo ships.

Both of these treaties were negotiated through the International Maritime Organization in London and fully reflect U.S. interests. As a leader in international pollution reduction efforts, it is essential that the U.S. ratify and implement these provisions in a timely manner.

Finally, Mr. President, this legislation contains a provision for the *Mayflower II*, a replica of the original ship that brought the Pilgrims to America in the 1620's. The *Mayflower II* is part of a world-renowned living history museum located in Plymouth, MA. The replica was a gift from the British people after World War II as a symbol of friendship between our two nations. Over 11 million people have visited the ship since it arrived in Plymouth in 1958.

The *Mayflower II* periodically leaves her berth to visit other locations. These trips are conducted by qualified staff. Because the *Mayflower II* was built in 1955, as an accurate representation of a 17th century vessel, it carries no propelling machinery or modern equipment. A tug assist vessel accompanies her, carrying emergency equipment and electronic navigational equipment.

The amendment I am proposing today would allow the *Mayflower II* to meet an "equivalent level of safety" requirement rather than the existing standards that were established for modern vessels. The Plymouth Plantation has assured me that they plan to sail the vessel only a few times each year on very special occasions. In their view these safety requirements are essential when the vessel leaves its berth; they are committed to working closely with the Coast Guard to ensure the requirements are met. The safety requirements would be determined cooperatively by the *Mayflower II's* owners, investors, insurers, the U.S. Coast Guard, and tugboat operators. It would, for example, limit the weather conditions under which she could sail, define escort requirements and evacuation procedures, and enhance fire and life saving equipment. Without this change, it would be impossible for *Mayflower II* to sail. I want to assure my colleagues that this amendment will not jeopardize the safety of the crew or passengers of the vessel. It will only allow the Coast Guard and others to define specific safety standards that meet the special needs of this unique and historically important vessel.

Mr. President, the Coast Guard provides a number of valuable services to New England and to the Nation as a whole. Its mission to ensure safety in our waters is a gallant one. In the past few years the Coast Guard's mandated functions have increased. With the passage of the Oil Pollution Act of 1990 and the increased need for drug interdiction, the Coast Guard has had to reassess its budget and spending options. The bill we are passing today reflects the increased responsibilities which the Coast Guard faces.

I applaud the efforts of the Coast Guard throughout the Nation. I urge my colleagues to support this legislation that enables the Coast Guard to continue their essential work.

Mr. LAUTENBERG. Mr. President, I rise today in support of the Coast Guard authorization bill which includes a provision, incorporating the text of S. 1297, my bill to authorize the transfer of the Cape May Point Lighthouse to the State of New Jersey. I want to thank Senator HOLLINGS, chairman of the Commerce, Science and Transportation Committee for including this provision in the Coast Guard authorization bill we are considering today.

The Cape May Point Lighthouse is recognized by both the State of New Jersey and the Federal Government as an historically significant structure. The original lighthouse was built in 1823, and was the second lighthouse in New Jersey. In 1857, the Army Corps of Engineers began construction of the current structure and its light has guided navigators since 1859. It is one of the oldest active lighthouses in the Nation.

In 1986, the Coast Guard leased the lighthouse to the State of New Jersey which, in turn, subleased the structure to the Mid-Atlantic Center for the Arts to operate it as a museum of lighthouse and maritime history. By agreement, the Center assumes responsibility for restoration, maintenance, and operation of the lighthouse. This relationship has proved successful and has resulted in reopening the lighthouse to the public after more than a century.

The Cape May Point Lighthouse is currently in need of major repairs, the most important of which is repair of a leaking roof and the lantern room. The Mid-Atlantic Center for the Arts has applied to the State of New Jersey for historic preservation funds, but has been told that the project is ineligible for New Jersey State preservation funds, since the lighthouse is owned by the Federal Government.

The provision I included in the Coast Guard authorization bill would transfer ownership of the structure from the Coast Guard to the State of New Jersey. This transfer would allow the Mid-Atlantic Center for the Arts to receive preservation funds from the New Jersey State government. It will also help ensure that tourists can continue to enjoy the lighthouse and learn more about maritime history in southern New Jersey. Furthermore, the transfer would not affect the lighthouse's mission as a navigational aide because it assures the Coast Guard full access to the structure to maintain navigational activities.

The transfer of the lighthouse to New Jersey is widely supported in Cape May County, NJ, where the structure is located. The transfer also enjoys the support of the State of New Jersey.

I'm grateful to the chairman for his efforts and hope my colleagues will support this important effort.

Mr. ROBB. Mr. President, I rise today in support of S. 1297, the Coast Guard Authorization Act of 1991, and in particular, of section 24, which will facilitate the construction of a small hydroelectric facility on the Appomattox River in Virginia. The provision declares a narrow portion of the Appomattox River nonnavigable in order to remove a technical roadblock to the construction of a four megawatt hydroelectric facility by the Appomattox River Water Authority, a nonprofit State-chartered water supply agency, located in Petersburg, VA.

The authority has proposed building the hydroelectric facility at its existing Brasfield Dam, which was originally constructed by the authority to supply water to surrounding communities. Because the Appomattox River is a navigable water of the United States, the hydroelectric facility requires permits from a number of Federal agencies, including the Federal Energy Regulatory Commission [FERC]. The Authority has already received a permit from the Army Corps of Engineers and a license from FERC. However, because the Authority's charter says it must retain control over the Appomattox Reservoir, it has been impossible for the authority to accept the FERC license. FERC operating licenses require that FERC be given ultimate control over waterflows and other matters, control which the Authority does not believe its charter allows it to cede.

The provision in this bill is based on S. 1068, sponsored by Senator WARNER and myself. When S. 1068 was originally introduced, environmental groups raised some legitimate drafting questions. Section 24 of the Coast Guard bill reflects two specific changes suggested by the Environmental Defense Fund: the portion of the river declared nonnavigable was narrowed to 500 feet upstream and downstream of the Brasfield Dam; and the legislation now makes clear that the Clean Water Act will still apply to activities on all portions of the river. In addition, the Appomattox River Water Authority and the private company which will construct the hydrofacility have executed an agreement with the Virginia Department of Game and Inland Fisheries which will essentially require the Authority to do what FERC could have required: Build fish ladders to facilitate fish passage.

The Appomattox Authority is in a genuine bind: Its charter fundamentally conflicts with the requirements of the FERC license. The Coast Guard bill helps resolve the conflict and allows an otherwise fully permitted and engineered renewable energy project to proceed.

Mr. President, I want to make it clear that the declaration of nonnavigability contained in this bill is meant to address an unusual set of circumstances. It is in no way meant to set a precedent for exempting hydrofacilities from the requirements of FERC where these special circumstances do not apply.

I am pleased to support the Coast Guard Authorization Act of 1991, and I urge its passage.

Mr. PACKWOOD. Mr. President, I rise to support a provision included at my request in the Coast Guard authorization bill. This provision would open up some wonderful scenic sites for Oregonians and others from around the world. It would do this while saving the Federal Government some money, as well.

This provision would transfer two lighthouses located on the Oregon coast from the U.S. Coast Guard to the State of Oregon. People at the Oregon State Parks Department are excited about assuming ownership of the lighthouses and opening them up to the public.

Heceta Head, the first of the two lighthouses I would like to transfer, is located just north of the coastal town of Florence and right next door to the world famous Sea Lion Caves. The Heceta Head Beacon is one of the world's most photographed lighthouses, probably because it sits in front of a background of dark green firs and rocky headlands.

The Cape Blanco Lighthouse, the second lighthouse to be turned over to the State, is located on the westernmost headland of the Pacific coast. The historic Hughes House is the gateway to this tower that has guided sea vessels around the head since 1870.

Transfer of these lighthouses to the State of Oregon will allow the public the chance to enter these historic landmarks for the first time, will permit the construction of a museum and educational exhibits, and will provide much-needed tourism dollars to the local coastal communities. Visitors from across the country will be able to enjoy these time-honored sentinels of the Oregon coast.

My provision will allow the Coast Guard to continue operating navigational equipment at the lighthouses. However, the classic fresnel lenses on the beacons will cease to operate, so the public will be able to examine the mechanics of the light works. Alternate beacons will be placed atop these newly opened lighthouses, making them functional and enjoyable for Oregonians.

Mr. RUDMAN. Mr. President, I rise to support the amendment to transfer the White Island Lighthouse from the Coast Guard to the State of New Hampshire in order to preserve its historic and environmental assets. The State requested this transfer earlier this year and, along with my colleague, Senator SMITH, I have been working to honor it.

The White Island Lighthouse, at the Isle of Shoals, has been an integral part of New Hampshire's maritime history by standing as a guardian to Portsmouth Harbor since 1821. The State of New Hampshire, working with the University of New Hampshire, intends to renovate the property and undertake a variety of limited educational and historical programs in conjunction with similar activities at nearby Odiorne State Park. These programs will focus on the importance of the seacoast area to the economic and infrastructure development of New Hampshire over the past 170 years.

The State intends to limit access to the island out of concern for a tern nesting site located on the property. The State is working closely with the New Hampshire Audubon Society to ensure that all necessary measures are undertaken to preserve this important natural habitat and continue the nesting site at White Island.

I appreciate the support of Senator DANFORTH and Senator HOLLINGS, and their work on the Committee on Commerce, Science, and Transportation for this transfer as part of the Coast Guard authorization bill. This transfer will allow the State of New Hampshire to preserve this important part of its history and environment.

S. 1297, THE COAST GUARD REAUTHORIZATION ACT OF 1991

Mr. BREAUX. Mr. President, I rise in support of the Coast Guard Reauthorization Act of 1991. This bill supports the U.S. Coast Guard in its highly regarded work of protecting our shores. I remind us that the Coast Guard is a military service that in peacetime enforces America's maritime laws. The Coast Guard must patrol thousands of miles of coasts and inland waterways. The Coast Guard engages in illegal drug running interdiction. The Guard's services included search and rescue operations, and boat safety programs. Additionally, the Guard operates aids to navigation. In peacetime the Coast Guard's prime responsibility is to save lives and property at sea.

As if these responsibilities are not enough, Mr. President, we've added another. After more than 10 years of pressure from the administration, the 101st Congress yielded to those pressures and agreed to direct the Coast Guard to collect user fees from recreational boat owners. It is now clear that, as implemented, the fee is grossly unfair to over 4 million recreational boaters, and it is not fair to the Coast Guard to be required to collect it.

In order to alleviate the budget deficit, and without providing any new or improved services to boaters, the 1990 Budget Reconciliation Act requires the Coast Guard to collect a $25 per year fee from owners of boats that are 16 to 20 feet long; $35 if the boat is 20 to 27 feet; $50 for boats in the 27- to 40-foot category; and, $100 if your boat is longer than 40 feet. Boaters are subject to a fine or $5,000, if they fail to pay these fees.

Recreational boaters already pay registration fees, FCC radio license fees, State sales and property taxes, trailer and title fees, nearly $140 million a year in fuel taxes, and Federal luxury taxes. And now we've asked them to ante up another $700 million in so-called user fees.

Mr. President, not a nickel of this user fee collection is consigned to the Coast Guard. The Coast Guard is asked to collect over $700 million in 5 years, and all of it goes into the General Treasury to support deficit reduction. Calling this a user fee is a farce.

The Coast Guard admits that there is no relationship between specific services or benefits to boaters and this fee. In fact, Mr. President, the Coast Guard may be required to cut back services in some areas; the Coast Guard could lose revenue as a result of its costs in collecting the fee.

Under the user fee statute a user fee must be related to services rendered, Mr. President. In this case, any such relationship is tenuous at best. So, let's identify these user fees for what they are, Mr. President. They are in fact highly discriminatory deficit reduction taxes. And, as such, they are grossly unfair, and they should be repealed.

This bill moves us a step closer to getting that repeal. The Coast Guard reauthorization bill includes a congressional resolution calling for the repeal of the recreational boat user fee. While I would prefer an outright repeal of this unfair tax, budget act complications require additional time and negotiations for their unraveling in both the House and the Senate. The House has already passed a resolution in support of repeal of the boat tax by an overwhelming vote of 412-6. If the Senate concurs, repealing this user fee should be a matter of resolving budget act concerns.

It should be clearly understood that I, and my colleagues who are sponsoring my boat user fee repeal legislation, S. 843—it has 24 Senate sponsors—will continue to pursue full repeal of this unfair and discriminatory tax.

AMENDMENT NO. 1388 TO AMENDMENT NO. 1387

Purpose: To declare certain portions of Pelican Island, Texas, nonnavigable

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Mr. BENTSEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BENTSEN, proposes an amendment numbered 1388 to Amendment No. 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS

SEC. . (a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows: with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 second west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 second west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the city of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feed to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities, and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 341.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) AREAS EXCLUDED FROM DECLARATION OF NONNAVIGABILITY.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly known as the Rivers and Harbors Appropriation Act of 1899; 33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

Mr. BENTSEN. Mr. President, I rise to offer an amendment to the substitute to S. 1297, the Coast Guard Reauthorization Act of 1991, which has been submitted by my colleague, the distinguished Senator from South Carolina [Mr. HOLLINGS.] This amendment would declare that nonfederally owned real property on Pelican Island, TX is deemed non-navigable, thereby extinguishing any right of navigational servitude over that property by the United States.

Pelican Island is located within the city limits of Galveston, TX. It is an island of approximately 5,000 acres, approximately 2,100 acres of which are owned by the city of Galveston, the State of Texas, and various corporations and individuals. The 2,100-acre tract is almost fully developed and includes a city park, the site of Texas A&M University's Galveston campus, the Todd Shipyards, and other large and small businesses. The remaining 2,900 acres is owned in fee simple by the United States of America, and used by the U.S. Army Corps of Engineers as a disposal site.

Since 1988, the city of Galveston, along with Texas A&M University at Galveston, the Galveston Wharves Board, the Galveston Chamber of Commerce, the Galveston Economic Development Council, and owners of the privately held property on Pelican Island have actively discussed the future development of the Island among themselves and with the corps.

At the suggestion of the corps, the city of Galveston decided to pursue the enactment of Federal law that would facilitate the positive development of the island. It was this effort which led to the development of my amendment being offered today.

This amendment meets all of the corps' general policy criteria for declarations of non-navigability. Furthermore, the declaration will not obstruct any current or anticipated navigational channel and it expressly states that any further development is subject to all applicable Federal laws. Finally, this declaration only applies to nonfederally owned lands that are not submerged.

With the agreement of local interests, the text of the amendment includes stipulations requested by the corps that will ensure that certain corps activities will not be disrupted by the declaration. Specifically, the amendment allows for wider easements for dredging pipelines, an extension of current contracts allowing the corps to use some private property as a spoils disposal area, and an offshore easement for dredging operations.

Mr. President, this amendment is the results of 2 years of good faith negotiations between public and private parties in which the best interests of the city of Galveston and the United States have been thoroughly considered and addressed. All Federal Government guidelines have been followed and the specific operational requirements of the corps have been fully accommodated.

Therefore, I urge the immediate passage of this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1388) was agreed to.

AMENDMENT NO. 1389 TO AMENDMENT NO. 1387

(Purpose: *To amend the Act of October 13, 1989, to change the aggregate annual amount of the Federal share of awards to a designated National Maritime Enhancement Institute)*

Mr. LEVIN. Mr. President, I send an amendment to the desk for Senator BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. BREAUX proposes an amendment numbered 1389 to amendment No. 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. . Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121-2(e)), is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

Mr. BREAUX. Mr. President, I am offering an amendment to the Coast Guard authorization bill for fiscal year 1992. This amendment pertains to National Maritime Enhancement Institutes, NMEI's. NMEI's were provided as part of the Maritime Administration, MarAd, Authorization Act for fiscal year 1990.

Universities that are designated as NMEI's are responsible for conducting research that will promote and strengthen our domestic maritime industries in international trade. Institutions seeking NMEI status are required to submit applications to the Secretary of Transportation under regulations that are prescribed by the Secretary and are approved or rejected based on this prescribed criteria. The Secretary then may make research grants on an equal matching basis to these designated universities from amounts previously appropriated to MarAd for the purpose of research and development. There are currently four universities that have been designated as NMEI's by the Secretary—The University of California at Berkeley, Massachusetts Institute of Technology, Memphis State University, and Louisiana State University.

There currently is a cap of $100,000 on the aggregate amount that the Federal Government can spend on NMEI research. The Coast Guard and other Federal agencies have expressed a willingness to fund Institute research on matters within their concerns. Because MarAd has spent the full amount allowed over the past 2 years, funding from other sources has been precluded.

By raising the cap to $500,000, this amendment would increase their flexibility in providing funding for NMEI research as well as allow research funding by other Federal agencies. This amendment has no Budget Act implications since all funding for NMEI's is subject to authorization and appropriation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1389) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to amendment in the nature of a substitute, as amended.

The amendment (No. 1387) in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1776, the House companion, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1297, as amended, be inserted in lieu thereof', that the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table; that upon disposition of H.R. 1776, Calendar Nos. 253, 107, 108, and 109 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1776), as amended, was deemed read the third time and passed.

(The text of H.R. 1776, as passed today by the Senate will be printed in a future edition of the RECORD.)

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 331, Senate Concurrent Resolution 77, regarding the massacre of East Timorese civilians.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesia military.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Foreign Relations, with amendments, as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring),

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed twenty to sixty and injured as many as one hundred people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian solders also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia in violation of international law illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately six hundred thousand died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report evidence of human rights abuses, including torture, arbitrary arrest, and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50,000,000 in fiscal year 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately all International Military Educational Training program funds to the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) the American Ambassador to Indonesia should immediately visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request a report by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, to be made available as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict, providing for self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage Secretary General of the United Nations and the governments of Indonesia and Portugal and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

AMENDMENT NO. 1390

Mr. LEVIN. Mr. President, I send to the desk a substitute amendment of Senator PELL.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. PELL, proposes an amendment numbered 1390:

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, the American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Execution of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1390) was agreed to.

Mr. DURENBERGER. Mr. President, I rise in strong support of the resolution before the Senate pertaining to the tragic situation in East Timor. I am an original cosponsor of this measure, and vigorously urge my colleagues to support its rapid adoption.

Although the world's attention was focused on East Timor last week in response to the latest outrage by Indonesia, the sad truth is that this is only the latest in a long series of outrages perpetrated by Indonesia against the people of East Timor.

Mr. President, since I came to the Senate, I have consistently attempted to raise this country's awareness about the history of East Timor, its annexation by Indonesia after the collapse of the Portuguese colonial empire, and the violent human rights abuses that tragically persist in East Timor.

Over the years, I and a number of colleagues, both here in the Senate and in the House, have written many letters, sponsored resolutions, spoken with colleagues and constituents—all in an effort to call attention to the deplorable situation in East Timor and to call the Indonesian Government to task for its responsibility in that situation.

This latest tragedy, in which a still undetermined number of peaceful, nonviolent people were killed or seriously wounded by Indonesian forces, should serve to remind each and every one of us that the people of East Timor do not yet live in peace and freedom.

It is true that the Indonesian Government has stated that it regrets the incident and will thoroughly investigate. I welcome these expressions of regret.

But I must emphasize that my very real concerns stretch back many years, not just 1 week. I decided to sponsor this resolution because the Government of Indonesia has a long and sordid record of gross human rights violations and violent repression of popular will in East Timor. This situation is much graver than just last week's tragic events.

The resolution now before the Senate speaks for itself. It expresses our serious concerns about the recent as well as ongoing circumstances in East Timor. It calls upon the President to take certain actions that I believe should constitute the bare minimum action from the U.S. Government. This is a responsible, evenhanded response to the recent tragedy, with appropriate recognition of the longstanding abuses that regrettably persist in East Timor.

I strongly urge my colleagues to swiftly and unanimously adopt this measure.

Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD at the conclusion of my remarks.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 77), as amended, was agreed to.

(The text of Senate Congressional Resolution 77, as agreed to by the Senate today, will be printed in a future edition of the RECORD.)

Mr. LEVIN. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 3762

Mr. LEVIN. Mr. President, I ask unanimous consent that H.R. 3762, the Metropolitan Washington Airports Act Amendments of 1991, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, will the Senator indulge me for a moment?

Mr. President, this is a piece of legislation which I deem absolutely essential that the Congress of the United States address between now and whatever date this particular session may be recessed by the leadership.

This is a piece of legislation that has been worked on by the House of Representatives in conjunction with and in consultation with the administration—that is the Secretary of Transportation—as well as Governor Holton, former Governor of Virginia, who is the current CEO, so to speak, of the Washington Metropolitan Airport organization, together with certain other collateral groups to work with.

The problem is that the Supreme Court struck down the law that was adopted by the Congress some years ago. I was instrumental in drawing up the bill that was eventually passed by the U.S. Senate. The House then sought to amend the bill. I am not here to criticize, but they amended it in such a way that it provided a basis for the Court to find the law unconstitutional.

At the present time under the direction of Governor Holton, the Secretary of Transportation, and the board, the facilities at Dulles and National Airport are being modernized and expanded to first provide for a greater degree of safety, and second to take facilities which in many respects are far outdated and bring them into current usage practices, modernization.

Many of these contracts have been let. The authorities are in the process of going into the financial markets, primarily in the bonding markets, to raise additional capital. And absent action by the Congress on this piece of legislation before we recess there is no alternative but the authority has to stop the modernization and the seeking of the necessary funds, which would bring about an enormous amount of hardship to the millions of passengers that come to and depart from the Nation's Capital; not to mention the 535 Members of the Congress of the United States and their staffs, numbering in the many thousands and the constituency that comes here.

So I am very hopeful that the Congress will be able to work on this legislation. I have indicated earlier on the floor here of the Senate that it is my intention to try to work with both the Senate and the House to get together on a piece of legislation which can be inserted into the highway conference report, to which in a matter of minutes I will return as a conferee to discuss this and other matters.

I am hopeful that that conference will conclude this weekend. So that is one vehicle by which this legislation can be passed in a timely fashion, because the majority leader has made it very clear that that piece of legislation, namely the highway conference report, will pass before the Congress adjourns.

So I am confident that we will have action on this piece of legislation. It may well be that the Senate would desire to work its will in connection with one or more amendments. I know the Senator from Arizona, the Senator from Kentucky, the chairman, Mr. HOLLINGS of South Carolina, have all expressed an interest in possible amendments to the House bill.

In any event, I do hope. And I must pay particular credit to my colleague, Senator ROBB, who is a member of the Commerce Committee having primary jurisdiction over this legislation. We are all working together to see it passed. I am hopeful that it can be done.

I thank my distinguished colleague from Michigan and the Chair for indulging the Senator in these remarks.

Mr. LEVIN. The Senator from Virginia is an extraordinarily creative Senator. I am sure he will have a way to accomplish his mission in that regard, and I am sure introducing this in the highway conference will introduce a note of simplicity and perhaps unlock that conference.

Mr. WARNER. I thank the Senator. That is precisely why I am going about it in that way.

AUTHORIZING TESTIMONY BY AND REPRESENTATION OF FORMER SENATE EMPLOYEE

Mr. LEVIN. Mr. President, in behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization for a former Senate employee to provide testimony by and representation of the Senate Legal Counsel, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 229) to authorize testimony by and representation of former Senate employee.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Is there debate on the resolution?

AUTHORIZATION FOR FORMER SENATE EMPLOYEE TO TESTIFY AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, the New York State Commission of Investigation, a bipartisan, independent, State investigative body, has requested the testimony of Robert Shapiro, a former Senate employee on Senator MOYNIHAN'S staff. The commission believes that Mr. Shapiro's testimony may be helpful to its investigation into the purchase in 1984 and the eventual closing of Roosevelt Raceway in Hempstead, Long Island.

This resolution would authorize Mr. Shapiro to provide testimony to the commission, and also would authorize the Senate legal counsel to provide representation to Mr. Shapiro in connection with the requested testimony.

Although some of the matters about which the commission seeks testimony may be privileged, Senator MOYNIHAN does not wish to assert his privilege concerning matters that the commission considers important to its Roosevelt Raceway inquiry.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the resolution.

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 229

Whereas, the New York State Commission of Investigation has requested the testimony of Robert Shapiro, a former Senate employee on the staff of Senator Daniel Patrick Moynihan, in connection with a matter under inquiry by the Commission;

Whereas, by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288(b) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Shapiro is authorized to provide testimony to the New York State Commission of Investigation.

SEC. 2. The Senate Legal Counsel is authorized to represent Robert Shapiro in connection with the testimony authorized by section one of this resolution.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION TO ENGROSSMENT OF S. 543

Mr. LEVIN. Mr. President, I ask unanimous consent on behalf of Senator KASSEBAUM and Senator DOLE that in the engrossment of S. 543 the Secretary be directed to include the following amendment, which shall also be included in the substitute amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

The legislative clerk read as follows:

On page 6 of amendment number 1368 to S. 543, line 14, strike "(A)" and insert "(A)(i)."

On page 6 line 17, redesignate subparagraph (B) as clause (ii).

On page 6, line 22, redesignate subparagraph (C) as clause (iii).

"1991; or

"(B) the insurance is provided as agent or broker to an individual to whom insurance was actually provided by the national bank as of November 21, 1991."

MODIFICATION TO AMENDMENT No. 1377

Mr. LEVIN. Mr. President, I ask unanimous consent that amendment 1377 to S. 543 be amended by striking section 1126 and inserting the modifications that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, if the Senator will withhold that request, I would like to conclude the proceedings tonight with a few remarks on behalf of the majority leader.

He has taken a very active interest in the conference on the highways and has informed the conferees that it is his intention that this conference report is absolutely essential to all Americans, that it be passed, because it involves a considerable sum of money which, in accordance with Federal and State practices, can be, I think, reasonably and quickly injected into America's economy.

I have had the privilege of being a conferee on that now for some week to 10 days. The conferees met on Saturday and Sunday of last week and, like all conferences, they come to a point where there is not that certainty that we are going to achieve a result.

But when the majority leader walked in before the Senate and the House and all gathered, and in the presence of all indicated that he personally was going to see that the Congress of the United States remains in session until such time as the conferees assume the responsibility to reconcile their differences in such a manner that hopefully it will be accepted by both Chambers, that moved the bill and gave some certainty that it will become law and hopefully will be signed by the President and, of course, prior thereto be adopted by both parties. I wish to commend him for that action.

Mr. LEVIN. While on the subject of that bill, and since the hour is so early the Senator might want to add some words.

Mr. WARNER. The conferees will meet at 11 o'clock Thursday night.

Mr. LEVIN. I join in the sentiment of the majority leader as well as the Senator from Virginia. But I think he would concur, as I know the Presiding Officer would, that it is important we not only have a bill but that we have a bill which is fair to those States called the donor States which the Senator from Virginia, the Senator from Florida, and myself happen to represent. And I am sure that is one of the issues in that conference.

There has been an injustice for a long, long time to about 20 States in this country that have consistently contributed much more to that fund than they have gotten back based on very arcane formulas that no one can understand in our constituencies.

I wish the Senator well in his quest on the bill and on his continuing quest to get a fair bill for all the donor States.

Mr. WARNER. Mr. President, I am hopeful that is achieved and that the bill is recognized to be fair by the Senator from Michigan, and indeed the distinguished Presiding Officer, the Senator from Florida, who during the course of the debate on that legislation in this Chamber was a leader in advancing the cause of those States, of which mine is one.

I will say the distinguished Republican leader, Mr. DOLE of Kansas, together with the distinguished Senator, the ranking member, Mr. CHAFEE, and Mr. SYMMS are now working in a manner to achieve that result, together with Mr. MOYNIHAN, who was representing the majority on the Committee on Public Works.

So let us hope the leadership will be able to bring to this body a bill and represent that it strikes the best and most equitable arrangement which they feel can be achieved.

Mr. LEVIN. I wish the Senator well on both of his quests and also hope there will be sufficient time when that bill comes to the Senate we will have an opportunity to take a look at what the impact is on the various States.

I join in the Senator's comments about Senator GRAHAM of Florida, who led a very stalwart effort on this floor to try to produce greater equity for those donor States of which our States happen to be parties to.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, on behalf of the majority leader, Mr. MITCHELL, and—based on my understanding—with the clearance of the minority leader, Senator DOLE—

Mr. WARNER. Mr. President, that is correct.

Mr. NUNN. I ask unanimous consent that upon the completion of the debate on the DOD authorization conference report this evening, the Senate then stand in recess until 9 a.m., Friday, November 22; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein, with the following Senators recognized to speak for the time indicated: Senators BOND and MCCONNELL for 15 minutes equally divided, Senator LIEBERMAN for up to 7 minutes; that at 9:30 a.m., without intervening action or debate, the Senate vote on adoption of the conference report accompanying H.R. 2100, the Department of Defense authorization bill; that upon disposition of the conference report, the Senate then proceed to the consideration of House Joint Resolution 157, the supplemental appropriations bill, and that the cloture vote on the motion to proceed to House Joint Resolution 157 be vitiated; that the Rules Committee now be discharged from further consideration of Senate Resolution 198, a resolution amending Senate Resolution 62 of the 102d Congress to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran, and the resolution be placed on the calendar; that a motion to proceed to the consideration of the resolution be deemeed to have been made, a cloture motion on that motion to proceed, which Senator MITCHELL will send to the desk later this evening, to be filed against that motion, and the motion to proceed be deemed withdrawn following the filing of that cloture motion; and that notwithstanding the provisions of rule XXII, the vote on the motion to invoke cloture on the motion to proceed to the consideration of Senate Resolution 198 occur at a time on Friday, November 22, to be determined by the majority leader after consultation with the Republican leader with the mandatory live quorum being waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. LEVIN. Mr. President, if there is no further business today, I ask unanimous consent that the Senate stand in recess as previously ordered until 9 o'clock tomorrow, Friday, November 22.

There being no objection, the Senate, at 10:55 p.m., recessed until Friday, November 22, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 21, 1991:

FEDERAL ELECTION COMMISSION

TREVOR ALEXANDER MCCLURG POTTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997, VICE THOMAS JOHN JOSEFIAK, TERM EXPIRED.

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate November 21, 1991:

DEPARTMENT OF COMMERCE

ALAN M. DUNN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

WILLIAM STEWART JOHNSON, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 1996.

A. DAVID LESTER, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR THE REMAINDER OF THE TERM EXPIRING MAY 19, 1994.

PIESTWA ROBERT HAROLD AMES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 1996.

WILEY T. BUCHANAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 1996.

DEPARTMENT OF VETERANS AFFAIRS

SYLVIA CHAVEZ LONG, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS).

ALLEN B. CLARK, JR., OF TEXAS, TO BE DIRECTOR OF THE NATIONAL CEMETARY SYSTEM, DEPARTMENT OF VETERANS AFFAIRS.

JO ANN KRUKAR WEBB, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING).

JAMES ASHLEY ENDICOTT, JR., OF TEXAS, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS.

U.S. INTERNATIONAL TRADE COMMISSION

PETER S. WATSON, OF CALIFORNIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

WILLIAM HO-GONZALEZ, OF VIRGINIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS.

THE JUDICIARY

ANNE C. CONWAY, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

MONTI L. BELOT, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.

DAVID C. BRAMLETTE, OF MISSISSIPPI, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

DAVID A. FABER, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.

JOE B. MCDADE, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

EDITH BROWN CLEMENT, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

SAM SPARKS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

EXTENSIONS OF REMARKS

TRIBUTE TO DR. EDWARD L. BERNAYS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. KENNEDY. Mr. Speaker, today marks the 100th birthday of a man whose innovation in the realm of public relations impacted our country and countless societies around the world. This man is Dr. Edward L. Bernays of Cambridge, MA, who is affectionately known as the father of public relations.

Dr. Bernays' pioneering work in the early part of this century in the field of public relations helped set standards that continue to influence our society today. He was one of the first to call attention to racial injustice in the United States. His early work with the National Association for the Advancement of Colored People proved to be worthwhile and important in their quest for public awareness. In 1945, he also urged major companies to end discrimination by hiring more black citizens.

Dr. Bernays' contribution also extended to the American woman's fight for equal rights. His early work in the area of women's suffrage helped change the course of American history forever.

Having counseled serveral American Presidents, Dr. Bernays served as a consultant to the State Department, U.S. Information Agency, Department of Health, Education and Welfare, the Treasury Department, the Armed Forces, and helped form the National Association for Mental Health. His public relations campaigns crossed international borders. In the early part of this century, he helped bring about America's recognition of Lithuania's independence. He influenced human rights in India by convincing the newly independent Nation to add a bill of rights to their new consitution and rejected a lucrative offer from the Third Reich to assist them in the development of propaganda.

Dr. Bernays' many contributions profoundly shaped the field of public relations in the 20th century, and they continue to affect the American way of life. I am delighted to take this opportunity to join his family and many friends in wishing him a happy birthday on this very special day.

CONGRATULATING MARIAN HEARD

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SHAYS. Mr. Speaker, it is my privilege to congratulate Marian Heard on her selection as the new head of the Massachusetts Bay United Way.

While I am happy for her, her dedication and good work as the president and chief executive officer of the United Way of Eastern Fairfield County in Bridgeport, CT, will be greatly missed.

The residents of Fairfield County are grateful for the leadership she has given us and for the tremendous accomplishments of the United Way under her guidance.

She enriched the community through her work with community groups, as a member of a variety of business and professional organizations and with the Points of Light Foundation.

The Greater Bridgeport area is a much better place to live, thanks to Marian Heard's efforts. For that we are very grateful.

GROWING SPARE PARTS FOR PEOPLE IN SPACE?

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, I would like to call to the Members attention an article by Kathy Sawyer that appeared in the November 18 edition of the Washington Post. The article explains in great detail about advances in biotechnology discovered through our space program. On October 23, the Subcommittee on Space, of which I am chairman, conducted a hearing on those medical advances. I would like the record to note that our space program not only benefits the scientific and space communities but has practical uses for us on earth as well. As Ms. Sawyer's article explains, research from our space program has the unlimited potential to cure human diseases such as cancer. I would ask the Members to read about these advances and take into consideration the many benefits of our space program.

The article follows:

GROWING SPARE PARTS FOR PEOPLE IN SPACE?

(By Kathy Sawyer)

While NASA has forced on the problems of sending whole humans into space, some medical researchers say a giant leap for mankind could come from the care and feeding in orbit of the tiniest of people parts.

Since early in this century, scientists have used increasingly sophisticated methods to grow animal and human cells in laboratory dishes. Advances in these techniques have contributed to recent leaps in genetics and medicine.

But some types of cell farming have been limited by the press of gravity, researchers say. While many individual cell types will live and divide well under routine conditions, they can rarely be induced to assemble themselves into the complex, three-dimensional tissues of the sort that grow in the water-cushioned human womb. And some cells can't grow at all.

But a space biology team at NASA's Johnson Space Center in Houston has created a stir in the biotechnology world with a government-patented invention that researchers say lifts gravity's heavy hand without leaving the Earth.

Several clinical researchers are using prototypes of NASA's Rotating Wall Bioreactor to improve patient treatment. They say it approximates weightlessness so well that, in pilot programs, it has grown unusually large, unusually authentic swatches of human brain tumor, small intestine, fibrous connective tissue, colon (normal and cancerous) and mouse cartilage.

Stocked with cells that, in conventional systems, grew four layers deep before shutting down, the NASA bioreactor grew them in heaps, hundreds of layers deep, scientists said.

How much scientists can improve on these results once the bioreactor is adapted to work in prolonged weightlessness in orbit is a tantalizing question.

"We're sort of excited about its potential for growing large quantities of cells for tissue structures," said surgical oncologist J. Miborn Jessup of Harvard Medical School's New England Deaconess Hospital in Boston, who is using the bioreactor for colon cancer research. On the ground, "it provides a pretty good re-creation of what happens [in both normal and cancerous colon tissue] in vivo."

Glenn Spaulding, manager of the space center's biotechnology program, said the NASA team was surprised that a mere reduction in the mechanical stress of gravity produced such dramatic results. The team has been "overwhelmed with requests for the technology," he said. There are only 10 or 15 of the bioreactors, each hand-built for NASA. The government is negotiating with potential commercial builders, but for now, "we're the only ones you can call." The cells must be sent to Houston for growing.

AN INDUSTRY IN ORBIT?

Privately, some NASA sources express intense excitement about the possibility that this technology could become the catalyst for a new space-based industry—a kind of bio-body shop in orbit, growing tissues and perhaps whole organs for implanting. Some congressional space advocates see such technology as a possible antidote to charges that space activity often is too removed from mainstream human concerns to justify its high costs.

However, NASA officials caution that the technology is in its infancy, and that for now they see weightlessness as just another possible tool for basic research. Conceived in mid-1988, the bioreactor is to make its first orbital test flight aboard the shuttle Atlantis on a mission scheduled for launch Tuesday.

Bob Rhome, director of NASA's microgravity science and applications office, said NASA officials are determined not to raise expectations prematurely out of a zeal to justify space activity. "We want scientific concerns to set the pace," in contrast to the past, when "in some cases we have dragged the science community into space," he said.

The Houston team got the idea for the Rotating Wall Bioreactor while developing equipment for the planned space station Freedom. They saw the system initially as a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

way to mount the cell cultures in the shuttle and protect them from severe stresses during launches and landings.

In conventional lab dishes, cultures of normal cells grow until they form a layer one cell thick and then stop multiplying. Cancer cells, more prolific, grow into multiple layers that smother those on the bottom. Cells kept in liquid suspension get damaged or dislocated by shearing forces from turbulence as the bottles are agitated or rolled.

"A high-shear environment is like taking a baby's hair and touching it to your skin. That's 100-fold more shear than we want," Spaulding said.

In the bioreactor, cells and their liquid medium are confined between the walls of two tubes set one inside the other. The distance between the walls is so small that when the device turns, the medium moves with the walls, carrying the cells along.

As a result, even on the ground, shear damage to cells is reduced tenfold compared to other ways of keeping cells in suspension, Spaulding said. In orbit, "there should be between 100 and 1,000 or more times less shear" than in conventional systems on the ground.

PRODUCING "NORMAL" CELLS

Philip C. Johnson, an infectious diseases specialist at Houston's University of Texas Science Health Center, called the NASA bioreactor "pretty ingenious." In his research, he said, it has enabled him for the first time "to grow normal human intestinal cells," where before "we had to rely on cell lines from people with cancer. * * * Much of our research on processes had been done on non-normal cells."

Maylou Ingram, senior research scientist at Huntington Medical Research Institutes in Pasadena, is using the bioreactor to improve treatment for brain tumors. She said it grows cells "beautifully, prolifically and much more like they grow in the body." Tumor-fighting cells grown this way, once implanted in a patient's brain, also had an improved ability to recognize and attack real cancer cells.

But after a few weeks or months, depending on the types of cells, even the new bioreactor runs into the limits of gravity. As the tissue masses get bigger, they tend to "hit the wall," Spaulding said.

In space, ever-larger bioreactors humming in weightlessness for months or years might provide an almost natural stress-free space womb in which the cell cultures might develop without limit.

"The larger the size of the culture, the higher the fidelity [to real human tissue]," Spaulding said. With high enough concentrations of tissue, it might be possible to isolate basic processes: "How do cells become an intestine instead of a toe? * * * Once you know that, you can reproduce the mechanism on the ground."

Spaulding said, however, that many technical hurdles remained.

Still, laced through the caution is the hint of an audacious dream. Harvard Medical School's Jessup voiced it. "The bottom line is: I think it's possible to grow organs [for implant in humans] in space—theoretically. I don't want to sound like a way-out kook, and I know this is far in the future. But that is the utlimate utility of this kind of biotechnology."

Clearly, our space program offers us many benefits. We have not been able to cure many life-threatening diseases thus far on Earth, and so we must look to a new horizon which presents new opportunities: space. At the Space Subcommittee hearing, Dr. Glenn Spaulding demonstrated the almost unlimited possibilities for cell and tissue reproduction made possible by the Rotating Wall Bioreactor. By utilizing our space stations such as Freedom, we can save human lives because of the weightlessness of space. In an environment with no gravity, pharmaceuticals, crystals, and cells can be produced in unlimited quantities; but Earth's gravity only allows such research in limited amounts. Thus it is paramount that we continue to recognize and encourage these advancements in space.

INTRODUCTION OF THE PICK SLOAN PROJECT POWER ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce the Pick Sloan Project Power Act. The legislation will authorize the Interior and Energy Departments to make available Pick Sloan Missouri River basin pumping power to non-Federal irrigation projects in the State of Montana.

Mr. Speaker, the Pick-Sloan Missouri basin plan, as part of the Flood Control Act of 1944, was developed to promote the welfare of the region and the Nation. The initial purpose of the plan was to control flooding, develop irrigation, produce hydroelectric power, and improve navigation on the Missouri. Irrigation and electrical benefits for rural electric cooperatives were to be the benefits received by the upper regions of the Missouri basin. However at this point Montana, North Dakota, and South Dakota receive less than one-third of the low cost of hydroelectric power generated in the eastern division of the Missouri River basin which is approximately the same amount of low-cost power that Minnesota now receives.

In Montana only 5 percent of the acres planned for irrigation development have been developed under the Pick-Sloan Program and of the low-cost electricity produced annually only 6 percent is allotted to Montana consumers, which is mostly rural co-ops.

These privately developed irrigation projects are mostly on the land the Bureau of Reclamation designated for development and so are included in the Pick-Sloan plan for the acres to be developed for Montana and to be supplied with low-cost hydropower. Folks in Montana do not receive that power now because they never applied to Congress or received authorization as a Bureau of Reclamation project.

This legislation is an important first step toward obtaining Montana's rightful share of benefits from the Pick Sloan Act. Montana sacrificed valuable farmland when it allowed construction of the Fort Peck Reservoir on the Missouri. The problem is that the State of Montana has yet to reap compensation in return. This legislation will begin that process. The small portion of benefits promised to Montana under the Pick Sloan plan can be a big factor in boosting the economy of this area and the State. All we need is a little helping hand and this bill will do just that.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. MARGE ROUKEMA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. ROUKEMA. Mr. Speaker, today, my colleagues and I are introducting legislation which will reform the Pension Benefit Guaranty Corporation's [PBGC] standing in bankruptcy in order to ensure the long-term viability of the single-employer termination insurance program under title IV of ERISA—the Employee Retirement Income Security Act of 1974.

The Pension Benefit Guaranty Corporation [PBGC] maintains that failure to enact adequate bankruptcy reforms will result ultimately in the insolvency of the single-employer program and necessitate a future taxpayer bailout. Particular concerns have been raised in connection with recent bankruptcy court and U.S. district court rulings in the LTV case which have undermined the status of PBGC's claims in bankruptcy as currently described under ERISA.

As stated by the PBGC, the problems and proposed solutions are as follows.

First, companies in bankruptcy often cease contributions to ongoing pension plans even though benefits continue to be paid to plan retirees. To solve this problem, the bill would affirm in the bankruptcy code that pension contributions accruing after the bankruptcy filing are an administrative expense that should be paid, just like wages, during bankruptcy. Also, the PBGC would be given seventh priority claim for all contributions missed more than 180 days prior to bankruptcy filing, some of which are now only a general unsecured claim.

Second, debtors and creditors have challenged PBGC's priority claims. A recent court ruling, which upheld this challenge, could add billions to PBGC's deficit. Therefore, the bill would affirm in the bankruptcy code that in bankruptcy proceedings, a portion of PBGC's claim for employer liability—underfunding—has tax priority. In addition, the proposal would clarify the priority claim to be the greater of the current priority claim—the amount of underfunding up to 30 percent of the sponsor's and affiliates' net worth—or a percentage of underfunding starting with 10 percent and increasing 2 percent per year until it reaches 50 percent.

Third, under current law, a sponsoring company can escape underfunding liability if it liquidates while a plan is ongoing and another member of the controlled group takes over responsibility. In this case, the bill allows PBGC or the plan to assert a claim for underfunding against a liquidating sponsor even though a plan is not terminating and it is being taken over by an affiliate.

Fourth, most benefits arising as a result of plant shutdown and permanent layoffs are not prefunded and dramatically increase plan underfunding and greatly add to PBGC's losses. Under this proposal, PBGC would be given a tax priority claim for shutdown benefits incurred during the 3 years prior to termination.

Last, the PBGC is rarely included on the creditors' committee and has limited access to financial data necessary to pursue its claims. Under the proposal, PBGC would be given the option to be a member of the creditor's committee.

The legislation I am cosponsoring today will make needed clarifications and improvements to PBGC's position in bankruptcy. I remain hopeful that these or similar reforms will be enacted to strengthen the agency's ability to better protect employees and retirees from the loss of their pension benefits and assure the long-term stability of our $1 trillion defined benefit system.

I look forward to working with my colleagues on the Education and Labor, Ways and Means, and Judiciary Committees to protect the hard-earned retirement income of our Nation's workers and retirees.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GOODLING. Mr. Speaker, today, I am cosponsoring legislation which the Pension Benefit Guaranty Corporation [PBGC] strongly recommends as being necessary for the continued solvency of the ERISA title IV single-employer pension plan termination insurance program.

Today, PBGC protects the retirement benefits of 40 million workers and retirees without the use of tax dollars from the general fund. To cover the underfunding of the terminated plans it insures, it obtains revenues derived from premiums paid by sponsors of defined benefit pension plans and from investments. However, the financing of the single-employer program on a self-sufficient basis is becoming increasingly clouded because of the PBGC's current financial picture and future exposure to loss.

Although th PBGC currently has a net worth deficit of over $2 billion, it has sufficient revenue to pay benefits. However, by 1992 the PBGC projects that benefit payments will exceed premium income by over $100 million. While this potential negative cash flow is likely to be offset by investment income, before the end of the decade, benefit payments could exceed both premium and investment income.

Despite the short-term cash-flow health of the defined benefit program insured by PBGC, the PBGC faces an exposure of $40 billion in underfunded plans. The underfunding is concentrated in pension plans in the steel, airline, and automobile industries. Of this total, about $14 billion is in plans sponsored by financially troubled companies. This situation could present a serious risk to the continued health of the PBGC.

The future financial condition of the PBGC depends on whether this exposure becomes an actual loss during the 1990's. If PBGC's losses over the next 10 years average the net losses over its history—$300 million per year—PBGC could retire its deficit and experience a surplus in the year 2000. But a less optimistic forecast, based on average net losses for the past 9 years when PBGC began experiencing significantly larger losses, would show a deficit of $2 billion by the end of the decade. If the $14 billion of reasonably possible losses occur, the result would be a deficit of nearly $16 billion. The effects of a recent court ruling, which denies PBGC any priority status in bankruptcy, could add billions to PBGC's deficit. A continuation of the present economic slowdown could also lead to substantially higher losses.

In order to strengthen sponsor incentives to fund pensions and further reduce the insurance fund's exposure to loss, the PBGC is now seeking legislative changes that will clarify and improve PBGC's standing in bankruptcy proceedings. The PBGC is also looking at additional requirements for funding pension plans.

The intent of the legislation which I am cosponsoring is to restore and improve upon the legal framework that has been crafted under ERISA over the past decade. If the single-employer program is to survive in the longrun without severe reductions in guaranteed benefit levels, unsupportable premium increases, or an ultimate bailout by the taxpayers then the remedies suggested under this legislation, or similar ones, will have to be soon enacted.

The various features of the Pension Protections in Bankruptcy Act will give companies greater incentives to fund their plans rather than terminate them. In this regard, the bill clarifies that postpetition contributions and a portion of prepetition contributions and employer liability claims have priority under current law. Also, the Bankruptcy Code is amended to include contribution claims and a portion of employer liability claims: First, if prepetition, as taxes accorded priority under section 507(a)(7) of the Bankruptcy Code, and second, if postpetition, as taxes accorded administrative expense priority under section 507 and 503 of the Bankruptcy Code.

In addition, the PBGC proposal increases priority claim limits to the greater of: First, 30 percent of employer net worth, or second, the applicable percentage of remaining underfunding. The applicable percentage begins at 10 percent and increases 2 percentage points a year until it reaches 50 percent in the year 2012. The PBGC is also authorized to ignore the net worth computation when cost-effective to do so.

The proposal also gives tax priority to any plan underfunding due to shutdown benefits triggered within 3 years of termination. The bill provides that a liquidating sponsor in a controlled group would be liable to the plan for underfunding as if the plan were terminating.

Finally, the bill would give the PBGC a statutory right to be a member of the creditors committee and require a bankruptcy debtor or trustee to give PBGC the same notices it is required to give other creditors when the debtor or an affiliate sponsors a PBGC-covered plan.

It is important that the debate over this legislation and the long-term solvency of the PBGC begin in a timely manner. At stake is the continued viability of the defined benefit pension system and the payment of full pensions to the American workers who have earned their right to security in retirement.

LINE-ITEM VETO LEGISLATION

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, earlier today I introduced legislation which would amend the Constitution to grant the President line-item veto authority.

Since I have arrived here, I have observed that Congress has a hard time saying no to spending items. Congress has yet to make real progress in reducing the deficit and, in fact, the deficit has reached an all-time high. I believe that granting the President line-item veto authority will encourage Congress to carefully evaluate the legislation they fund and will give the President an opportunity to check Congress' spending habits. As with other legislation which is vetoed by the President, Congress will have the opportunity to override the veto.

My legislation would grant the President this authority by amending the Constitution. I believe that the granting of line-item veto authority is an important change and should be an amendment to the Constitution and that the public should voice their opinion on the matter through their State's approval of the amendment. Any amendment to the Constitution requires that the legislation pass the House by a two-thirds majority and then be ratified by three-fourths of the States. I believe this is the appropriate measure to follow.

In my legislation, all bills containing spending are subject to the authority except funding items for the functioning of the judicial branch. I have exempted the judicial branch, as I believe the functioning of our courts should not be used as a bargaining chip in political bickering.

Additional restraints on Federal spending are necessary. Congress is failing miserably to reduce the deficit and control spending. I believe the President's use of line-item veto authority will improve this situation. I urge Members to cosponsor this legislation.

At this point in the RECORD, I submit a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

"Section 1. The President may disapprove an item of appropriation in any Act or resolution presented by the Congress, except as provided in section 2.

"Section 2. The President may not disapprove under section 1 an item of appropriation for the operations of the judicial branch of the Federal Government.

"Section 3. Following disapproval under this article of an item of appropriation, the President shall return such item with objections to the House in which the bill or resolution containing such item originated.

"Section 4. Following the return of an item of appropriation, the Congress may reconsider the item in the manner prescribed under section 7 of article I of the Constitution for bills disapproved by the President.".

THE PEACE AND PROSPERITY COMMISSION ACT OF 1991

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HOAGLAND. Mr. Speaker, we are all familiar with the truly stunning events in the area formerly known as the Soviet Union. The rejection of communism and the collapse of the Soviet empire has opened an historic window of opportunity for peace and economic cooperation between the United States and the former Soviet Republics. The United States must now seize the initiative and insure that this tremendous potential is realized.

The immediate obstacle that stands in the way of transforming this potential into true peace and economic cooperation is uncertainty. Although we stand ready and willing to begin a post-cold war phase of economic relations with the former Soviet Repubics, their uncertain situation and lack of clear authority makes the effort a difficult one. That is why today I am introducing a companion bill to the bill (S. 1870) sponsored by my Nebraska colleague in the Senate Senator JIM EXON, to create a U.S./U.S.S.R. Peace and Prosperity Commission. This high-level bipartisan commission would analyze the economic relationship between the United States and the former Soviet Union, Republics of the Soviet Union, and the Baltic Republics. It would offer recommendations to the President and Congress on forms of economic cooperation to best serve the mutual interests of the United States and former Soviet Union.

The tenuous situation in the former Soviet Union is hampering propsects for economic cooperation in many ways. The absence of any clear central politcal authority in the country has given rise to local and republic disputes over control of resources and economic management. Legislation is being enacted at all levels, making it difficult for foreign businesses to keep pace with legal requirements. In addition, the insolvent ruble and banking system have exacerbated the economic situation.

Confronted with this instability, the United States needs a deliberative and farsighted approach. The commission created in this bill would consist of a panel of impartial experts, 23 members from government, business, and academia that will be selected by the President and the Democratic and Republican leaders of both Houses of Congress. The commission will report every 6 months for 2 years and offer short, medium, and long-term recommendations for cooperation between the United States and U.S.S.R. Union in all economic areas. The bill directs the commission to examine food processing and distribution, telecommunications, military conversion, transportation, and many other areas of economic importance.

Increasing economic cooperation to encourage trade and investment is essential for the recovery of the former Soviet Union. It also makes practical sense, because in light of the Federal budget deficit in this country, increasing U.S. aid to the Republics has become very unlikely. Trade and investment will therefore be the most important vehicles for growlth in the former Soviet Union.

In addition, there are important economic advantages for the United States to formulate a clear policy toward the former Soviet Republics. The vast underdeveloped area is rich in untapped natural resources. The large population could provide a significant new market for American exports. There is also tremendous potential for American investment. By expanding its economic cooperation with the former Soviet Union, we would be helping Americans as we move the world toward peace and prosperity.

There is significant economic opportunity for Senator EXON's and my constituencies in Nebraska. The former Soviet Union needs food, equipment and expertise in the areas of food processing, distribution, and storage. In addition, the communications infrastructure is outdated. Nebraska's agricultural, agribusiness, and telecommunications sectors could benefit significantly from this opportunity.

Mr. Speaker, I also wish to compliment two people who had a very important role in formulating the idea for this commission, former Congressman John Cavanaugh of Omaha, and Douglas County Commissioner Howard Buffett. Both of them contributed significantly to the drafting of this legislation.

I encourage my colleagues to consider this legislation. The United States and Soviet Union are entering a new and exciting era of cooperation. The potential for both peace and prosperity exists, but many obstacles remain. The time has come for the United States to seize the initiative in forging this new relationship with the Soviet Union, and we must do so while the opportunity remains promising.

A TRIBUTE TO DR. EDWIN K. REULING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STARK. Mr. Speaker, I rise today to offer best wishes to Dr. Edwin K. Reuling, who is retiring from the Castro Valley Unified School District Board of Education following 16 years of exceptional service.

Dr. Reuling began his career in education in 1964 at Michigan State University. He worked there as a director for several student programs while earning a Ph.D. in education. His successes at Michigan State brought him to California State University at Hayward in 1972 as an associate dean of students. He continues his work there today as associate vice president of student services.

Dr. Reuling's fine skills as a school administrator enabled him to join the Castro Valley Board of Education in 1975. During his years with the board he shared his abilities with numerous committees countywide. Early on, he received an honorary service award from the Barbara Crosby PTA for his service to youth and all children. Dr. Reuling also served four terms as board president.

Dr. Reuling has made a powerful impact on the many students, teachers, parents, and other citizens he has come in contact with over the past 16 years. Castro Valley High School won national recognition as an outstanding secondary school in 1985 and 1989—testimony to the significant leadership role of Dr. Reuling. His contributions will be missed.

TRIBUTE TO J. SAXTON LLOYD

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JAMES. Mr. Speaker, I am honored to rise today in tribute to J. Saxton Lloyd, a longtime business and civic leader who passed away on June 29, 1991. There are times when one just cannot let another day pass without recognizing such a prominent and admired citizen. J. Saxton Lloyd or "Sax" as he was affectionally known, was such a person.

Born in Savannah, GA, J. Saxton Lloyd was a resident of Florida since 1916 and had lived in Daytona Beach since 1924. Mr. Lloyd was married to the former Miss Adelaide Wells Crane in 1934. He was the father of twin sons, Robert and William, and the proud grandfather of 12 grandchildren and 7 great grandchildren.

After graduating from Seabreeze High School in 1926, Mr. Lloyd could not continue his formal education because of family financial difficulties. Sax was an excellent example of how a lack of higher education should not preclude a person from getting ahead. He was a strong advocate, however, of higher education to solve community problems.

Mr. Lloyd was founder of Lloyd Buick-Cadillac-BMW Inc., which has been in business in Daytona Beach, FL, for 61 years. His first employment in 1926, was as a service department employee with the then Buick dealer in Daytona Beach. During the Depression, he survived several personnel cuts and became parts and service manager at age 20. In 1930, the firm dissolved and Mr. Lloyd became secretary/treasurer of the newly organized company, Daytona Motor Co., which he bought in 1938. He changed the name to Lloyd Buick Cadillac in 1965 and served as general manager of that company until 1984.

Sax Lloyd was the founder and first chairman of the Civic League of the Halifax area. He was the yongest person to serve as president of the National Automobile Dealers Association, and chairman of the Cadillac and Buick dealer councils and was a member of the General Motors presidents' council. In 1963, Sax Lloyd gifted Sugar Mill Gardens in Port Orange to Volusia County as part of the county's park system. These beautiful gardens are now a part of the National Register of Historic Places.

With a keen interest in government at all levels, Sax Lloyd accepted appointments from three Florida Governors and Presidents Harry Truman and Dwight Eisenhower on their highway committees. He was appointed to the State of Florida's first State advertising commission, which he headed for 4 years. The commisson was responsible for creating and building Florida industry, promoting Florida commerce, encouraging visitors to the State and to raise the earning levels of residents. In

1952, Mr. Lloyd was appointed to the State road board. He also became chairman of the Florida Racing Commission which governs all paramutual business in the State. In 1955, Mr. Lloyd was appointed to a 2-year term as chairman of the Florida Development Commission which was established to promote the State and attract new industry. He was appointed to serve on the St. Augustine Historical Restoration and Preservation Commission by former Gov. Leroy Collins in 1959 and was vice chairman when he stepped down in 1966.

Serving as vice chairman of Bethune Cookman College's board of trustees, Mr. Lloyd was a long time supporter of this historically black college located in Daytona Beach. He contributed much of himself to the black community and will always be remembered for improving racial relations in Volusia County.

Locally, he was a member of the Rotary Club of Daytona Beach and became known as "Mr. Rotary." in 1961, Mr. Lloyd was elected president of the Daytona Beach Committee of 100, again working for the primary purpose of attracting industry to his home.

Sax Lloyd was able to express his lifelong interest in the automobile industry and sports when he was named chairman of the local Racing and Recreational Facilities Authority. This group contributed their efforts to the financing and construction of the Daytona International Speedway.

Never having been able to fulfill his dream of attending the University of Florida still did not stop Sax Lloyd from supporting the academic and athletic programs of this prominent Florida school. in 1982, Sax Lloyd was named an honorary member of the Florida Blue Key. He was a member of the University of Florida Foundation's board of directors, the president's council, and the Gator Boosters.

The people of Volusia County as well as the State of Florida and this Nation are fortunate to have had J. Saxton Lloyd. A man who stood so tall, ready to reach out and lend a helping hand. A man who proved that if you put forth effort, if you worked hard, if you really cared, you could be a success. A man who left his mark.

It is often said that an individual never really begins to help others until they turn their mirror into a window—and look to the plight of others, realizing they, too, can help. Sax Lloyd always recognized the need to give of oneself. He represented the best of America. He was committed to fostering community spirit, working for fair and ethical Government, and caring for his fellow man. His deeds will determine the kind of America we leave for future generations. The pages of history have been written by people like J. Saxton Lloyd. He accepted a personal responsibility for all mankind.

In the words of Winston Churchill, "We make a living by what we get. We make a life by what we give." J. Saxton Lloyd lived by these words of wisdom. Man is measured by his deeds. As he goes along life's way, it matters not whether he is famous or unknown, possessed of material goods or whether he walks in humble paths. Man's humanity and concern for his fellow man is what accounts for his greatness in the book of life. Sax Lloyd fulfilled that greatness.

Mr. Speaker, J. Saxton Lloyd was a truly great American. He was extraordinary, he was determined, he was courageous, and he was an inspiration to all. He will never be forgotten.

TRIBUTE TO CLINT PEOPLES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to Clint Peoples, former U.S. marshal for the northern district of Texas and senior lawman in tenure in the United States with 60 years service.

Marshal Peoples began his distinguished law enforcement career in 1930 as a deputy sheriff in Conroe, TX. He has held nine separate peace officers' commissions during his many years of service. Peoples has risen to the rank of senior captain of the Texas Rangers, only the second man in the history of the Texas Rangers to hold this title. Peoples was appointed by President Nixon to serve as U.S. marshal for the northern district of Texas, where he continued to serve under five presidents.

In his fight to maintain law and order, Peoples has confronted such notorious criminal figures as Bonnie and Clyde, Pretty Boy Floyd, Raymond Hamilton, and was involved in the closing of the infamous La Grange "Chicken Ranch." Despite his dealings with heartless criminals, he has preserved his Christian compassion for truth and understanding.

Marshal Peoples and his wife, Donna, have established a scholarship fund to assist children of current or former sheriffs who are seeking a degree or career in law enforcement. Peoples has had a law enforcement academy in Montgomery County, TX, named after him. He was instrumental in founding the Texas Ranger Hall of Fame and chaired the Texas Ranger Commemorative Commission and Foundation that honored the rangers on their 150th anniversary.

Peoples is honored by being the subject of a biography detailing his life from the early beginnings as a deputy with only a pistol and a pair of handcuffs. His image on his horse, Chico, is displayed in wax in the Southwestern Historical Wax Museum in Grand Prairie, TX. He has also commissioned a bronze sculpture entitled "One Man's Dream" with the proceeds designated to support the scholarship fund.

Clint Peoples will always be known as one of the good guys of the old West. The State of Texas is proud to have him as one of its distinguished sons. He has served as a protector of justice and servant of the people for 60 years.

Mr. Speaker, I commend Clint Peoples for his outstanding service and devotion to law and order, and I wish to extend a sincere "thank you" to him on behalf of all Americans for his dedication to law enforcement.

GARY TRUDEAU'S MEAN-SPIRITED ATTACK ON VICE PRESIDENT QUAYLE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PORTER. Mr. Speaker, elected officials in America are subject to criticism by the people they represent and the media, and that's the way it should be. Those who serve in public office are answerable for their conduct and performance. But in America we also expect that those who level criticism adhere to basic principles of fairness. Unfortunately, Gary Trudeau's recent *Doonesbury* strips attacking Vice President DAN QUAYLE fail to meet that important standard.

Neither I nor anyone else would challenge Mr. Trudeau's right to express his political views—as a cartoonist and commentator that is not only his right, it is his job. But his recent strips, which recount discredited charges against the Vice President by a felon who admitted he was lying, are an outrageous abuse of Trudeau's editorial discretion and violate basic tenets of journalistic practice.

And it's not only elected officials or Republicans, Mr. Speaker, who are complaining about Trudeau's attacks. Scores of newpapers across the country which run his daily strip have felt compelled to withhold publication because they were uncomfortable with the content. Even the *Chicago Tribune,* one of our Nation's leading newspapers whose editorial board is second to none in defending free speech, withheld publication of some recent Doonesbury strips that it found to be outside the boundaries of responsible commentary.

Newspapers are not in the business of squelching criticism of public figures, Mr. Speaker. In a November 15 article, here's what *Tribune* Associate Editor Douglas Kneeland had to say about his paper's decision to withhold publication of some of Trudeau's strips.

> We give wide latitude to columnists and political cartoonists to express their opinions. For many, perhaps most, irony and satire are their weapons of choice. Their job is not to be fair, but to make a point. But the *Tribune's* job in anything resembling news reporting is to be fair * * * Trudeau's strip ventures often into the minefield of politics, merrily setting off explosions along the way. And we wouldn't have it any other way. For that reason, we weren't surprised in this budding presidential election season by Trudeau's plunge into politics. We were troubled, however, by the format he chose. The strips seemed to be more designed to peddle an old story that had been found lacking in substance—both by federal investigators and by a number of news organizations that had looked into it—than to satirize Dan Quayle, who for years has heatedly denied the charges Trudeau is recycling.

Kneeland goes on to explain that the assertions made in Trudeau's strips "did not meet the *Trubune's* factual standards for publication" and that "[u]nder no circumstances would we allow our own writers to report them as fact in a story without supporting evidence such as the name of a qualified source."

This assessment is why dozens of newspapers have chosen to not provide Mr.

Trudeau with a forum for his unfounded attacks. It is also why he has lost the respect of countless readers who have enjoyed his sharp-edged commentary over the years but who cannot understand this series of vicious strips.

Mr. Speaker, one of our society's most precious rights is the freedom to criticize the government and its officials. But that right carries with it a responsibility to maintain fairness and decency in our public discourse, standards which Gary Trudeau has violated.

MARIE PONZILLO RECEIVES HOME ECONOMICS TEACHER OF THE YEAR AWARD

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, These days students have tough choices to make about their academic future. They look to teachers for advice and counsel in making these important decisions. Students today need positive role models who lead by example.

It is always special to find a teacher who provides all the normal academic requirements, but steps above this and becomes a friend and role model for the students.

Marie Ponzillo is this special kind of teacher. Ms. Ponzillo was recently named teacher of the year by the American Home Economics Association. This award recognizes excellence and creativity in teaching of home economics.

Ms. Ponzillo, is a home economics teacher at Crosby High School in Waterbury, CT. She has developed the Crosby Consignment Shop, which is a student-run program involved with recycling used cloths and providing retail business experience for the students. Profits from this program go to the students and the University of Connecticut Medical Center's Children With Cancer Fund.

I want to commend Ms. Ponzillo for her work to assure excellence in education. At this point in the RECORD, I would like to submit an article from the Journal of Home Economics outlining Ms. Ponzillo's accomplishments.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SCHULZE. Mr. Speaker, I am pleased to speak today as an original cosponsor of the Federal Program Improvement Act of 1991. This act represents the bipartisan product of the Ways and Means Subcommittee on Oversight, of which I am ranking Republican member.

I have long believed that Congress must be vigilant in looking over the shoulder of the far flung bureaucracy. No stone should go unturned in the search for possible fraud and abuse. This bill is the product of the kind of sustained, long-term oversight effort that is essential to good government. The bill makes key changes to five Federal programs that will result in significant, tangible savings to the taxpayer through improved Government operations.

First, Mr. Speaker, one of the most important sections of the bill addresses abusive telemarketing by unscrupulous durable medical equipment [DME] suppliers. Due to the high concentration of both elderly citizens and medical equipment companies in southeastern Pennsylvania, my home district has become a hotbed of this abuse.

Earlier this year, the Subcommittee traveled to West Chester, PA, and learned firsthand how boiler room telemarketing operations make unsolicited calls to unsuspecting seniors, and induce them to buy equipment that they don't need and don't want.

The bill puts an end to this practice by placing an outright ban on DME telemarketing under the Medicare Program.

I originally proposed such a ban in my bill, H.R. 3587, and I am pleased to say that my legislation has been incorporated in its entirety into this act. The act also gives the Department of Health and Human Services new authority to bring outrageously high DME prices down to current, more reasonable levels. In particular, the bill orders a complete review of the prices for TENS units and decubitus care equipment—two of the most abused items uncovered in our investigation.

Second, the bill reduces erroneous payments under the Medicare Secondary Payer [MSP] Program. Under the Medicare law, private insurers must pay claims before Medicare. However, doctors and hospitals often send claims to Medicare first, since Medicare pays more quickly. The Medicare contractors are then left to figure out who should really pay. As a result, the taxpayers lose up to $1 billion per year due to these erroneous payments.

This bill goes to the heart of the problem, by establishing new penalties for doctors and hospitals who repeatedly violate MSP screening requirements.

Third, the bill ends the abuses and mismanagement that have characterized the overtime pay system for U.S. Customs Service Inspectors. Under the 80 year old overtime law, inspectors get paid 4 hours pay for working just 1 minute past the end of the regular work day, or 16 hours pay for any work done on a Sunday.

Customs managers have treated the user fee fund that covers overtime expenses like free money, and Congress and OMB have exercised little or no oversight. This bill changes that situation by modifying Customs Service compensation rules to make hours paid bear a more direct relationship to hours worked. I personally advocated provisions to restore oversight of the overtime fund by making it open to OMB review, and subject to annual authorization and appropriation by Congress.

Fourth, the bill would reduce the erroneous payment of Federal benefits to persons who have died. It would do this by directing the Federal agencies to cross check their beneficiary lists with death data compiled by the Social Security Administration. This screening process will identify deceased beneficiaries more quickly and thus allow the agencies to stop issuing benefit checks more quickly.

Fifth, the bill directs the Pension Benefit Guarantee Corp. to improve its management system for the collection and tracking of premium payments by pension plan sponsors. The Oversight Subcommittee found that the PBGC's premium collection system was under stress because it was based on an out-of-date computer system. The variable rate feature of the PBGC premium pushed the collection system beyond its capability and the system crashed.

Mr. Speaker, the five major features of this act will improve the efficiency of Federal programs. The details are neither glorious nor flashy but they address the nitty gritty operational features which are essential for good management.

BEST WISHES TO DR. HERBERT GRAW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STARK. Mr. Speaker, I would like to extend my warmest wishes to Dr. Herbert Graw who is retiring after providing 8 years of outstanding service to the Castro Valley Unified School District Board of Education—years in which Castro Valley High School was recognized for national awards in 1985 and 1989.

Dr. Graw has long been dedicated to quality and opportunity in education. He holds a doctorate in education and is the associate vice president of off-campus programs at the California State University in Hayward.

During his tenure on the Board of Education, Dr. Graw acted as president of the board of education for 2 years. He was the representative to the Eden Area Regional Occupational Program for 6 years, including 2 years as chairperson. Dr. Graw also served as representative to the School Boards-Chabot College Board of Trustees Liaison Committee.

Dr. Graw has provided important guidance and support to the Castro Valley Unified School District and the people of Castro Valley. He will be missed by all.

FLAGLER COUNTY'S 75TH ANNIVERSARY

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JAMES. Mr. Speaker, the year 1992 will be a big year for Flagler County, FL, which is located near the center of the district I am proud to represent here in the Congress. For next year marks the 75th anniversary of the county, named after the businessman—Henry Flagler—whose railroad lines and resort hotels were so instrumental in opening up and developing the east coast of Florida back in the late 1800's and early 1900's.

Indeed, this milestone is of sufficient significance to people in Flagler County that commemorative activities have gotten underway already. This past June 29, for instance, the Flagler County Historical Society sponsored one of its planned activities, a first ever for the county—dinner-recital. Held at Palm Coast, this historic cultural event, which featured the internationally famous oboist Andrea Franceschelli of Perugia, Italy, also marked the first time such a musical superstar had performed in Flagler County.

Mr. Speaker, I'd like to take this opportunity both to commend the Flagler County Historical Society for hosting such an auspicious musical event and to invite my colleagues to come visit Flagler County as it celebrates its 75th anniversary. Located not far north of Daytona Beach, the county not only has much to offer but always has its welcome mat out.

A TRIBUTE TO THE HONORABLE D. FRENCH SLAUGHTER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PORTER. Mr. Speaker, I am pleased to add my accolades for our distinguished colleague, French Slaughter, to those of the Virginia delegation and French's many friends on both sides of the aisle. His retirement from the House due to ill health after nearly 7 years of dedicated service to the people of Virginia's Seventh District is a loss for them and for our Nation.

Throughout a career of public service that began in the Virginia General Assembly in 1958, French Slaughter distinguished himself as a thoughtful, effective advocate for his constituents, and a forceful voice for fiscal responsibility, and sound public policy. Here in the House, he was an outstanding member of the Committees on Judiciary; Science, Space and Technology; and Small Business.

A July editorial in the Richmond Times-Dispatch captured the way many of us feel about French's departure:

> With the resignation of Republican Representative D. French Slaughter, Jr. of the 7th Congressional District, the American people will lose the services of one of the most highly principled conservatives in public office. If Washington were dominated by political leaders who shared his values, the federal government would be far more responsible, effective and economical than it is . . . [h]e deserves our gratitude for his many years of service, and our best wishes for the future.

Together with so many of his colleagues, I second those sentiments, and include my own personal best wishes for French and his family in all the years ahead.

INTRODUCTION OF LEGISLATION TO ALLOW EMPLOYEES TO CHOOSE COLLECTIVE-BARGAINING REPRESENTATIVE OF THEIR CHOICE

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. WILLIAMS. Mr. Speaker, today I am introducing legislation to protect the rights of certain service employees to freely choose a bargaining representative. The legislation is intended to close a loophole created by interpretations of the law that are contrary to the intent of Congress. The bill amends section 9(b)(3) of the National Labor Relations Act to ensure that it is interpreted in a manner that reflects the intent of Congress when it enacted this provision in 1947.

Section 9(b)(3) provides that a bargaining unit is not appropriate when it includes both nonguard employees and "any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises." Section 9(b)(3) further provides that no union may be certified as the representative of a bargaining unit of guards if such union admits or is directly or indirectly affiliated with a union which admits nonguards to membership. The language of 9(b)(3) has been grossly misinterpreted to restrict the rights of a wide range of employees including doormen, desk clerks, and lobby attendants to mention only a few.

The bill I am introducing specifies that section 9(b)(3) applies only to those personnel "whose primary responsibility is to prevent employee disorders and misconduct of employees." Any plant guard hired for the purpose of ensuring that other employees obey and respect an employer's rules would remain subject to the restrictions imposed by section 9(b)(3).

The language of 9(b)(3) was included in the Taft-Hartley Amendments because of congressional concern over the decision of the Supreme Court in *NLRB* v. *Jones & Laughlin Steel,* 331 U.S. 416 (1947). In that case the Supreme Court upheld the ability of the NLRB to certify the United Steelworkers of American as the bargaining agent for the steel plant's guards. The Jones & Laughlin case raised concerns in Congress because the same union which represented the regular plant employees could be certified to represent the plant guards. In the event there was a strike of the plant employees, it was feared the guard employees would face the dilemma of having to choose between their duty to protect the employer's property and desire to honor the picket lines of their union. Section 9(b)(3) was enacted for the purpose of overturning NLRB versus Jones & Laughlin to eliminate this potential conflict of interest. The House report accompanying the 1947 amendments directly refers to "plant policemen and guards" and the terms "guards" and "plant guards" are used interchangeably throughout the legislative history.

Unfortunately the NLRB over the years has not consistently recognized this legislative intention. Their interpretation of the reach of 9(b)(3) has not been limited to plant guards with the specific and primary duty to enforce rules against other employees for the protection of an employer's property. Rather the Board has mistakenly extended the reach of 9(b)(3) to cover doormen, desk clerks, lobby attendants, elevator operators, watchmen, delivery drivers, armored car drivers, janitors and others. None of these employees has special duty to protect an employer's property against other employees. NLRB decisions at times have interpreted 9(b)(3) to cover employees if any part of their responsibility included the protection of an employer's property, a standard of coverage that includes most if not all employees.

Recent decisions of the Board suggest that the Board may be moving toward a recognition of the original intent of 9(b)(3). In the case of *Purolator Courier Corp.* 300 No. 103, (1990) the Board found that certain courier-guards are not guards within the meaning of 9(b)(3). They stated "these courier-guards are not engaged directly and substantially in the protection of customer property, and therefore are not statutory guards." Since Purolator Courier the Board's interpretation appears to be returning to the original intent of 9(b)(3). (See *Hoffman Security,* 302 NLRB No. 141, *EPS Guard Services, Inc.* 300 NLRB No. 34, *SMI of Pattison Avenue, L.P.,* Case 4–RC–17509) While it is encouraging that currently the Board seems to be moving in the direction of the original intent of Congress, there remains the concern that the Board has not gone far enough or that it could once again reverse its course.

The bill I am introducing today would clearly confine the scope of 9(b)(3) to cover only an employee who is a "plant security guard whose primary responsibility is to prevent employee disorders and miscondust of employees". It does not repeal 9(b)(3), but restores the original intent of Congress". While addressing the concerns that originally lead to the enactment of 9(b)(3), the bill ensures that employees who were never intended to be covered by 9(b)(3) regain the ability to choose the collective-bargaining representative of their choice.

ROY BYARS' 20 YEARS OF SERVICE AS WEATHER OBSERVER

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PICKLE. Mr. Speaker, Roy Byars has received another honor. This legendary man who hails from the Texas hill country has been not only a successful merchant, but an unbelievably good postmaster, as well. And all this time he has served as an official weather observer for Blanco, TX.

This year, Roy marks his 20th anniversary as a weather observer for the historical Blanco Weather Station. This station, which was founded in 1896, has had four official observers. Roy has upheld the fine tradition of taking the weather by serving as only the fourth observer for the station in almost 100 years. He follows the ranks of the first three observers, Mr. C.R. Crist, Mr. Charles E. Crist, and Mr. W.A. "Bill" Byars.

It is great to see honors come to a good man of the hill country. Roy is certainly worthy. And the Byars family is as strong as the granite hills of Burnet and Blanco Counties.

Mr. Speaker, I include the following article in the RECORD.

BYARS RECEIVES RECOGNITION PLAQUE—20 YEARS AS WEATHER OBSERVER

The local weather station is under the direction of the U.S. Department of Commerce National Oceanic and Atmospheric Administration National Weather Service, Southern Region with Robert W. Manning as Chief, of Regional Cooperative Program.

The Blanco Weather Station was established in May of 1896 and has now been here for over 95 years. One of the unique features of this station is that it was in one exact location for many of these years. Another unusual thing about it is that there have only been four observers during this time. Mr. R.C. Crist, the father of Charles E. Crist, was the first one and he was followed by the son, Charles E. Crist. W.A. "Bill" Byars started working at the Charles E. Crist business in 1933 and soon acquired the duties of "taking the weather". Sometime in the early forties after Mr. Crist's illness Bill became the official observer. Roy H. Byars also started to work at the same business in 1935 and he became the substitute weatherman when Bill was absent.

Bill died on December 23, 1971 and Roy took over the job completely and was named the official weather observer.

This week Roy was presented a plaque and a pin. The letter presented at the same time states: "This year marks your completion of 20 years as a cooperative weather observer. I join the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration and the Director of the National Weather Service in congratulating you on this outstanding record of public service.

Every day many organizations and individuals in governmental activities, as well as private enterprises, use the valuable information made available only through your efforts and wholehearted support.

Please accept the enclosed emblem as a small token of the high esteem with which your service is held. I hope you continue to find your weather work interesting." The letter was signed by Robert W. Manning.

Along with Roy's official duties he is also a Weather Watcher for TV station KVUE, Channel 24 in Austin. He reports any kind of unusual weather or rainfall and calls the station each day at 5:00 p.m. and at 9:00 p.m. and reports the low, high and present temperature of the day and any rainfall. This information is given during the stations Newscast at 6:00 p.m. and 10:00 p.m. daily.

The weather observing is very interesting and Roy has the records going back to May of 1896. The monthly rainfall records starting in 1900 are on display in the Blanco Lumber and Hardware business. This display was a project of the Blanco Lions Club and was started in the late forties and has been kept up ever since. He keeps the daily rainfall records posted on one of the bulletin boards in the Blanco Post Office and furnishes information for the Weather Facts column weekly for this newspaper.

PREVENTIVE CARE FOR THE ELDERLY: PROVIDING MEDICARE COVERAGE FOR ANNUAL PREVENTIVE EXAMINATIONS

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HOAGLAND. Mr. Speaker, I am pleased to introduce today a bill to provide Medicare coverage for annual preventive physical examinations. This legislation would add as a Medicare benefit, for all Medicare beneficiaries, an annual physical examination for what in medical jargon are called asymptomatic individuals. I am introducing this bill, the result of consultation with medical professionals, because for too long our health care system has paid billions of dollars for sickness, after the fact rather than for prevention of illness before the fact. It is time that we expand our effort to health problems before they become thousand dollar expenses.

Generally, Medicare, the Government health insurance program for the elderly and disabled, does not pay for preventive measures other than those specifically mentioned in the Medicare law. Thus, very few preventive services have been covered by Medicare. Only in the last 10 years has Congress begun a slow process of providing piecemeal coverage for a limited number of preventive services. Services currently covered by Medicare include pneumonia vaccine, hepatitis B vaccine for certain high-risk individuals, pap smears to screen for cervical cancer, and mammography screening for breast cancer.

In 1984, the Federal Government recruited dozens of health experts to form the United States Preventive Services Task Force and charged it with surveying the accumulating literature on the merit of hundreds of preventive measures. The panel's final report, issued in 1989, endorsed a complete schedule of periodic pap smears, mammograms, regular blood pressure, cholesterol checks, vaccinations for the elderly and counseling. The task force was a significant milestone for preventive care. In addition, the National Cancer Institute, the American Cancer Society, and the Health Policy Agenda for the American People, recommend annual exams for people over age 65.

Many recognize the value of preventive medicine. Earlier this year Blue Cross and Blue Shield, the Nation's large private health insurer, offered a health insurance plan covering periodic tests to detect cancer, heart disease, and other diseases for their subscribers. Ninety-five percent of health maintenance organization [HMO] plans cover preventive exams, but HMO's make up only 20 percent of the insurance marketplace. These efforts by Blue Cross and Blue Shield and others illustrate a growing recognition that preventive services must play a more prominent role in health care.

Many will argue that annual routine examinations will add to overall national spending on health care at a time when medical costs are soaring and Congress is looking for fundamental change in the Nation's health care system. But the concern about cost usually focuses on exotic high-technology procedures, not on simple, routine examinations. Adding an annual preventive exam under Medicare for the Nation's 33 million beneficiaries could add about $3 billion per year to the Federal Government's health care bill. Part of the cost would be paid by the beneficiary in the monthly premium, as is the current practice for Medicare part B benefits. However, the costs are more than outweighed by untold savings in future treatment costs. According to studies by the American College of Physicians, "Screening—the search for specific health problems in a person who has no known signs or symptoms—has enormous medical value in finding disease early, when it can be treated most successfully and economically."

A number of nurses in Omaha, NE, my hometown, who work for the Visiting Nurse Association have expressed interest in preventive examinations. One of the nurses is a coordinator for the Visiting Nurses Association in my congressional district and sees nurses identifying a problem requiring medical diagnosis and treatment, but unless the patient perceives it to be bad enough, does not go to the doctor until full blown symptoms develop. This makes the neglected medical problem more complicated and more expensive to treat when the patient finally gets to the doctor. This situation in Omaha, NE, is repeated around the country.

Health professionals have recognized the value of preventive services for many years. Early detection and treatment are not just cost effective. For diseases like cancer, early detection and treatment may offer the best chance for reducing mortality and duration of illness. It is time to move away from this traditional mentality of paying huge sums of money for unpredicted illness when it is exacerbated and expensive and move toward the encouragement of routine health maintenance and prevention. Not only does it make medical sense, but, most important, it means a better, healthier quality of life for millions of Americans.

THE FUTURE OF THE REPUBLIC OF GEORGIA

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GIBBONS. Mr. Speaker, recently the Subcommittee on Trade of the Committee on Ways and Means visited the Republic of Georgia in connection with our review of the United States-Soviet Trade Agreement. In Tbilisi, the delegation met with republic officials and business leaders. We learned of the fervent desire of the Georgian people to be free and independent of the USSR. We also learned of the Republic's movement toward a market economy and a democratic government.

I would like to share with my colleagues a speech delivered by the Counselor to the Prime Minister, Temur Gamtsemlidze, to the Business Council for the United Nations on September 11. This speech clearly sets forth the economic and political plans for the future of the Republic of Georgia as they chart independence from the old Soviet Union. I recommend it to all Members.

PLANS FOR THE REPUBLIC OF GEORGIA

(By Temur Gamtsemlidze)

Thank you. I assure you I am delighted to be here, and I thank you for coming here today to meet representatives of the Republic of Georgia. In a way, this is already an historic occasion, for us to be speaking with you in the building of the United Nations.

For exactly 70 years ago—in 1921—the League of Nations recognized the independence of Georgia after more than 100 years of domination by czarist Russia.

Now, after 70 years of domination by the Soviet Union, we are again coming before the community of nations of the world to ask for recognition of our independence and sovereignty.

We are also asking the United States government to recognize our independence. Under international law, we meet all the conditions for our independence to be recognized.

And we are both hopeful and optimistic that the next time we meet, we will do so with Georgia as a full member of the United Nations, taking its place among the community of sovereign and democratic nations, helping in the important work of international peace and understanding.

This is our goal.

And I assure you, we deeply appreciate any support that you may be able to offer us in our path to achieving that goal.

Indeed, by being here today, you are providing us with moral support. And we greatly appreciate it.

Why, as Americans, as business leaders, and as supporters of the noble goals of the United Nations, should you be interested in whether or not Georgia achieves recognition of its already declared independence?

First, let me just mention that only five republics have fully declared independence—the three Baltic Republics, which have now achieved it, and Moldavia and Georgia.

Others are in various stages of holding a referendum.

But Georgia held a referendum on the question of independence last March and our people voted overwhelming in favor. Our independence was proclaimed on April 9.

All we seek now is recognition. We have received recognition from the Baltic States and Romania. And we expect to receive it very soon from the other east European states—Bulgaria, Hungary, Poland and the Czech and Slovak Republic. We are also expecting early recognition from the New State Council in Moscow—and we believe that most other nations will then follow.

But Washington remains the key. In the last two days we have met with top officials at the State Department and the White House.

We have tried to convince them that we are no different from the Baltics. We were an independent nation for many centuries. We were recognized as independent by the League of Nations. We have our own language, culture, religion and national identity—all well established for over two thousand years. We are not only a distinct nation, but one of the world's oldest nations. Our capital city was founded in the fifth century (and this was our *new* capital. Our original capital existed for five centuries before that!)

Like the Baltics, we also were invaded and annexed by the Soviet Union against our will.

The chief difference between Georgia and the Baltic States is that we were annexed 20 years earlier—and our people suffered proportionately more under Soviet rule.

I do not say this lightly. 200,000 Georgians were murdered during Stalin's purges. Hundreds of thousands more were forced to leave their homes and sent to other parts of the Soviet Union as forced labor. Nearly every Georgian family today has horrible memories of this period. Nearly every family lost relatives.

As everywhere in the Soviet Union, the intellectuals were a special target. We lost a whole generation of leaders, writers and teachers. So I hope this will help you to understand the intensity of our desire for true independence—and our determination to achieve it.

I hope it will help you understand why we do not want to be part of any future political or defense union with the central government, no matter what form it takes.

We want our independence restored. We want our country back. We believe we have not only every legal right—but also an unassailable moral right.

In economic relations we also are very similar to the Baltic states. Our economic relations are so intertwined with the other Soviet republics that we have to continue them.

But like the Baltics, too, we are anxious to move away from this over-dependence on the Soviet economy. We are looking for new partners in the West. New trade relations. New industries. New investments.

We are not silly enough to burn our bridges. We have established markets with the other republics. These will continue.

But we must diversify. Our nation has much more to offer than potatoes for other parts of the Soviet Union.

Let me tell you of the opportunities that we see for Western businesses—and we hope especially for American business.

First, we are more Western in our outlook and attitudes than any other part of the old Soviet Empire. For centuries, we have been a crossroads of culture and trade between East and West and between North and South. We understand business and trade. It is in our genes. We were doing international business long before the Soviet Union was created and, if you excuse my mentioning this, long before the United States was created, too.

This means we are good people to do business with. We understand how it works. We understand this probably better than any other of the republics.

And this is why one of the first actions of our new democratically elected government was to introduce legislation that would sweep away all the old Communist restrictions on international trade and investment.

This legislation was finally enacted in July and is now the law of our land. Our doors are wide open to all American companies . . . and, of course, companies of other countries.

No requirements for sharing ownership of businesses with Georgian partners.

No restrictions on transferring profits out of Georgia. We clearly recognize those profits are your property, not ours. We are happy that you make them . . . and we will do all we can to help make sure you do make them.

I am pleased to make this pledge on behalf of our whole government and of our people. We want you to be in Georgia. And we will do all we can to make it a profitable experience for you.

I was going to say we will move mountains . . . but our mountains are just too big. And instead of moving them, we would like you to know that they provide some of the best skiing in the world. Experts say that our mountains are better than the Alps. So if any of you have interests in winter sports, I invite you to come to Georgia and see for yourselves. I do know one thing for sure: winter sports in Georgia are many times less expensive than in the Alps.

This brings me to my second point . . . the opportunities in Georgia for American business. What do we have that you might be interested in?

First and most obvious are the opportunities for the travel, tourism and hotel industries.

We have a Mediterranean climate, hundreds of miles of beautiful beaches, palm trees, great food and wine, great attractions for tourists of all kinds . . . from our world famous folk dancers and theater to unrivaled antiquities from the many early civilizations that met in ancient Georgia and contributed to our unique culture. And then we have the mountains . . . the Caucasus . . . the highest and most dramatic in Europe.

For the tourism industry, Georgia offers a combination of Rome, Monte Carlo and Switzerland . . . at one tenth of the price.

Georgia has been the great resort area of the Soviet Union for half a century * * * and now the rest of the world will discover it. American investment in this area should provide very quick and very good returns.

Agriculture is a major industry in Georgia. We are the chief producer of tea and citrus fruits for all the former Soviet republics. We are also a major producer of tobacco, grapes for wine, mulberry trees for the silk industry, and have a flourishing meat industry—especially lamb, pork and poultry.

While these agricultural sectors are all very successful—they are successful by Soviet standards. That means they need capital, modernization of equipment and methods, new packaging technology and, of course, marketing. This is a marvelous area of investment for American agri-business. There are world markets for Georgian agricultural products.

I would be especially neglectful if I did not mention Georgian wine, brandy and vodka. Another very big industry for us. If there is anybody here from Seagrams, or any importer of wines or liquor, there is a great opportunity here to be first with the best. Georgia red and white wines are among the best in the world. With Western-style labels and marketing, they will be best sellers.

Coming to the heavier industry sectors, Georgia is immensely rich in minerals, especially manganese. We also have major deposits of copper, coal, lignite, iron, molybdenum. We have oil. We have marble, dolomite and talc deposits. And construction-quality clays.

Georgia also has abundant hydro-electric energy. Excellent ports and road and rail facilities.

What do we make with all these riches?

We manufacture iron and steel, all kinds of machinery and machine tools, railroad and mining equipment, chemicals and building equipment.

And lots of other things that depend on these major manufacturing areas. For example, we have a strong shipbuilding industry. We also make trucks and buses.

So Georgia has a lot to offer and we urge you to come or send your representatives to investigate.

You can start joint ventures * * * or invest in privatized former state owned operations * * * or start completely from scratch. The opportunities for doing business * * * good business * * * are literally endless.

We are right now finalizing the privatization laws for both land ownership and the taking over of former state-owned enterprises. We are also revising our tax laws to encourage private enterprise in every sector.

All of these will be in place in a matter of two or three weeks.

Let me close with a few general remarks about the economic and political outlook for the Soviet republics in general, as viewed from Georgia.

Obviously, nobody knows for sure what the future form of any central Soviet government will be.

But the people of Georgia have made a decision. Whatever the future central government * * * if there is one * * * we do not want to be any part of it.

We will continue our traditional trade and economic ties with the republics, of course. If there is some kind of customs union, we will probably be a part of it.

But we want these decisions affecting our future to be made by our own government in Tbilisi, not Moscow.

Seventy years of being ruled by the center has been enough for us. We do not want to be part of any lingering Soviet political or military apparatus.

We in Georgia are sometimes quite surprised, I must say, at the amount of anguish expressed in the West over the loss of power of the central government.

We in the republics certainly do not share that anguish.

We read reports that the Soviet economy is collapsing because of the lack of central control.

This is a rather new theory of economics, I think.

The facts are that the Soviet economy has been collapsing for years because of the central government and its ideological passion for control.

The collapse of the central government means the economies of all the republics are now liberated from that stifling central control.

I can assure you, the economy of Georgia is not going to collapse. It is going to get stronger with every month that passes. Already it is being invigorated by Western investment and know-how and technology and by the opening of new Western markets denied to us before by the central government.

I think it will be the same story in every one of the republics. None of us is fearful. None of us wants that central control to return . . . with the exception of those hardline communist functionaries who now fear for their power and privileges.

Of course there will be some short-term setbacks as we adjust to the new conditions. That is natural. It is part of the price we are willing to pay for our freedom.

But we in the republics are not a helpless lot of people who need Moscow to tell us what to do.

We find the suggestions by well meaning western politicians and economists that we still need central control to be, well, let me say uninformed. The reality is different. By freeing our economies we are freeing the talents and skills and energies of our people to create new markets, new products and new industries. To develop new trading partners throughout the world.

We are excited by these developments and by the new prospects for building our own economic strength.

There is a new optimism in the air. There is a new determination to succeed. New private enterprises are being started every day.

Those economists who predict doom and gloom seem to have left out of account the enormous power of the human spirit. Our spirits have been liberated. We are on the road to building a better life for our people. We have waited a long time for this moment. Seventy very painful years. And we are not going to give it up. I can guarantee you that.

Let me close by just reminding you of the West German experience after World War II. You will recall that when Ludwig Erhard, the West German economics minister, wanted to remove all government controls of the economy and currency, the western allies were shocked.

They begged Chancellor Adenauer not to let this foolish man Erhard go ahead with his plans. Washington predicted that the West German economy would descend into chaos. London predicted it would collapse. Paris predicted that it would collapse. All the western economists wrung their hands in anxiety.

And what happened?

That silly man Erhard went ahead and freed the economy. That silly Chancellor Adenauer allowed him to do it.

And in a very short time, the West German economy had become the greatest economic miracle the world has ever seen.

It is a lesson we should do well to remember at this moment in history.

Freedom and independence are the solution, not the problem.

The people and the government of the independent republic of Georgia are totally dedicated to this proposition.

And we invite you to take part with us in creating this new economic miracle.

I thank you for being such a patient audience. My colleagues and I will be happy to answer any questions you may have.

A PARODY OF BANKING REFORM

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. NEAL of North Carolina. Mr. Speaker, the following editorial from today's New York Times is correct. Our attempts to reform, modernize, and make the banking industry safer and sounder and more competitive have largely failed. The bill we are dealing with today helps some in the area of regulatory and accounting reform, capital requirements, et cetera, but major reforms must await another day. I ask my colleagues to consider the thoughts contained in this editorial and help us when we next make the effort. Major reform is the real key to avoiding a taxpayer bailout in the future. I hope we can return to this subject soon. It's essential that we do so and do it soon. I commend the editorial to our colleagues.

A PARODY OF BANKING REFORM

Sadly, the only question remaining is how irresponsible the Congressional effort to reform the banking system will become. Committees in both houses have rejected the Administration's wise plan. Now they are littering flawed bills with one ugly amendment after another.

The best outcome would be for Congress to stop the farce. That means passing a simple bill pumping $150 billion into funds that pay off depositors at failed savings and loans and commercial banks—and leaving comprehensive reform as the first order of business next year.

The Administration submitted a farsighted bank reform bill last winter. It would have allowed banks to tap new sources of profit, at lower risk, by permitting them to open branches anywhere in the country and sell securities, insurance and mutual funds. The bill would also have corrected the major flaw in current law by requiring authorities to close failing banks before they went bankrupt, thereby protecting funds backing up insured deposits.

Initially, the House Banking Committee adopted an improved version of the Administration's plan. But then lobbyists for the insurance and securities industries dismantled it piecemeal and Treasury Secretary Nicholas Brady did previous little to salvage it. When the misshappen bill failed on the House floor, the committee produced a parody.

It would not allow banks to sell securities or insurance or open interstate branches. The Senate bill wouldn't allow entry into securities either; and it would grant interstate branching only at the price of taking away existing, severely limited rights to sell insurance.

The story gets worse. The Senate would put a cap on interest rates banks can charge on credit cards. The notion that Congress has to regulate prices in an industry with 6,000 competitors would embarrass even the Kremlin; and the cap would destroy a vital revenue source for banks wallowing in losses.

The House would rob other programs to replenish the fund backing insured depositors at failed savings and loan institutions. That's galling. A bank bailout is one program that Congress should finance by borrowing. By returning the loan to bank depositors, the money stays in private capital markets, insulting the economy from harm.

Rather than passing deformed reform that will harm the economy for decades, Congress could simply refund the insurance funds and fix the system next year. The U.S. is the only industrial nation, other than Japan, that keeps its banks out of securities and other financial industries. Asking Congress to bring banks into the 21st century might be too much. But why not into the 20th?

TRIBUTE TO JAMES W. MARTIN, STURGIS ANDREW SOBIN, AND WILLIAM J. MENNA OF ANSONIA, CT

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, I recently had the privilege of attending a gathering where homage was paid to three men who have served their community with distinction as mayors of the city of Ansonia.

James W. Martin, Sturgis Andrew Sobin, and William J. Menna will be remembered as true leaders—who used their tenure to modernize local government, fight for the rights of taxpayers and provide economic opportunity for the people of Ansonia.

JAMES WOOD MARTIN

James Wood Martin, the youngest of five children, overcame the death of his father, George Martin, at an early age. He delivered newspapers as a young man, earned Eagle Scout status and worked in a local clothing store during his high school years.

Mayor Martin enlisted in the U.S. Navy in 1945 and was discharged in 1946. From there, he became a journeyman carpenter in the construction business before fulfilling the dream of all Americans—running his own company—Martin Construction Co. from 1957 to 1971.

By the mid-1960's, he was asked to run for mayor of the city of Ansonia. He lost by 109 votes in 1966. In 1969 he won by over 1,000 votes. Mayor Martin has also served with distinction on a variety of local commissions including the school building commission, the charter revision commission, the veteran's memorial committee and the board of apportionment and taxation.

Mayor Martin has long been active in civic affairs—vice president of the Ansonia Chamber of Commerce, director of the Ansonia Copper "Pop Warner" Football Association, director of the Masonic Temple Association, vice president of the Prendergast School PTA and a member of the B.P.O.E. Elks Lodge of Ansonia, the Ansonia Lions Club, the Assumption Home-School Association, and the Shelton Congregational Church.

He has received special recognition as the Jaycee Man of the Year in 1963, as a special deputy sheriff for New Haven County in 1975 and recognition by the Connecticut Housing Finance Authority in 1975.

Mayor Martin continued his service to the public by, serving from 1971 to 1973 as executive director, Connecticut Mortgage Authority and then as chief of engineering services for the Connecticut Department of Mental Health from 1973 to his retirement in October 1989.

STURGIS ANDREW SOBIN

Sturgis Andrew Sobin was raised in both Ansonia and Derby. He graduated from Derby High School in 1945 and attended Worchester Polytechnic Institute and the University of Maryland.

Mayor Sobin was drafted, served in the Korean war and was granted an honorable discharge in 1954. He is a disabled American veteran.

He was active in voter registration drives in Ansonia and in 1969 was appointed selectman. A year later, Mayor Sobin was elected to the board of aldermen. From there, he was elected to fill the unexpired term of Mayor Martin. In 1971, Ansonia voters elected him to serve a full 2-year term which ended in 1973.

Mayor Sorbin secured funds for a sewage treatment and waste disposal plant as well as improvements to recreational facilities in Ansonia. He was the first full-time mayor of Ansonia.

He also negotiated contracts with private waste haulers to save the town thousands of dollars.

Most importantly, Mayor Sobin led efforts to create a full-time Office of Finance, modernized the bookkeeping and accounting practices in city hall and made sure city funds were invested on a day-to-day basis—thereby getting the best return on the Ansonia tax dollar.

Former Governor and U.S. Congressman Thomas Meskill appointed Mayor Sobin to the Connecticut Department of Special Revenue.

He helped establish rules, regulations, and licensing procedures for the State's legalized gambling enterprises.

Mayor Sobin subsequently drafted curriculum in this area which is now being offered by the University of Arizona.

He also negotiated for the acquisition of 100 acres for recreational open space for future generations of Ansonia residents.

Mayor Sobin has also served on the Connecticut Solid Waste Commission and Railroad Advisory Commission.

WILLIAM J. MENNA

William J. Menna began his elected career as a member of the Connecticut Legislature where he served with distinction from 1981 to 1983.

He then came home and was elected mayor, serving two consecutive 2-year terms which ended in 1987.

Mayor Menna realized the future of Ansonia depended on its economic health. The lower Naugatuch Valley was struggling under the weight of a recession during his first term, but through his stewardship, Ansonia held its own.

He led efforts to revitalize upper Main Street, brought the State Motor Vehicle Office back to Ansonia and supported a paramedic program.

Mayor Menna sheperded half a dozen businesses to his city, including Latex Foam, Spectrum Plastics, and Light Source Inc.

He also aggressively pursued State grants for a variety of services which led to improvements to Ansonia parks and other recreational facilities.

He also negotiated new agreements with the state to reap more court rental fees, introduced Student Government Day to local schools, and sold excess city property to generate revenue.

Mayor Menna also made sure the building he worked in was left in better condition than he found it. He was able to have the roof repaired and have the State declare city hall a historic building.

These men personify public service. At a time where confidence in our elected leaders is waning, their record of accomplishments was based on the premise that the interests of the taxpayers came first.

The city of Ansonia is a better place due to their leadership.

Mayor Sobin and Mayor Martin are both recovering from temporary illness.

I would like to wish them and Mayor Menna continued health and happiness and thank them for a job well done.

INTRODUCTION OF LEGISLATION REGARDING SOLID WASTE RECYCLING

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SANTORUM. Mr. Speaker, I rise today to introduce legislation designed to be a small step to further our Nation's objective of reaching a meaningful and effective solid waste recycling goal. House Resolution 245 ensures that all letterhead stationery used in the House of Representatives is made from at least 50 percent recycled material. It is time to stop talking about helping the environment and start acting.

For years, Congress has heard from environmental groups testifying before committee panels about how increased recycling can make significant strides toward reducing our country's landfills. Now it is our chance to show that we have been listening to the American public by requesting recycled paper for our stationery. House Resolution 245 is a simple straightforward piece of legislation that saves money. Currently, only 50 percent of all House offices are using recycled paper for their stationery needs.

This is a small, yet I believe significant, step which allows Congress to show that we are listening and that we are concerned about the environment. I urge my colleagues to join me in this endeavor and show their support for this legislation.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CHANDLER. Mr. Speaker, in 1974, Congress enacted landmark legislation to protect the retirement benefits of American workers, the Employee Retirement Income Security Act [ERISA]. Among the protections included in ERISA was the creation of a Federal agency that would insure the pension benefits provided by private employers. The Pension Benefit Guaranty Corporation [PBGC] was then, and continues to be, one of the cornerstones of the foundation that protects the retirement benefits for millions of American workers and retirees.

Currently, the PBGC protects the retirement benefits of nearly 40 million Americans in about 95,000 pension plans. Its revenues are derived entirely from premiums paid by employers that sponsor defined benefit pension plans. The PBGC is, in effect, a safety net for our private pension system. Unfortunately, that safety net is becoming frayed.

To correct this disturbing situation, Mr. Speaker, I am introducing today, along with a number of my colleagues, the Pension Protection in Bankruptcy Act of 1991.

In short, this bill would give the PBGC higher priority in bankruptcy proceedings, as well as a greater role in managing those proceedings. Such legislation is necessary because, while both ERISA and our current Tax Code make clear the PBGC's authority to assert claims for pension debt, companies in bankruptcy and their creditors have challenged this authority.

Mr. Speaker, the implications of these inconsistencies within current law are significant. Currently, the PBGC's net worth deficit exceeds $2 billion. If Congress doesn't act quickly to guarantee the PBGC priority in bankruptcy, the agency's debt could rise above $16 billion by the end of the decade.

To address this alarming situation, this legislation would:

Clarify in the Bankruptcy Code, the PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled group's net worth;

Tie the priority claims for underfunding to a gradually increasing percentage of underfunding, a more clear-cut test than the time-consuming and contentious determination of net worth;

Give tax priority to claims for underfunding due to shutdown benefits triggered with 3 years of termination of a pension plan because the benefits are very costly to the insurance fund;

Allow PBGC's claim to arise without having to terminate a plan in the event a sponsor liquidates and the controlled group assumes the plan;

Give PBGC the option to be a member of creditors' committees in order to have access to information routinely available to other creditors and to hasten the reorganization process.

Mr. Speaker, in introducing this legislation, I am aware that some of its provisions may raise questions or concerns among various groups and businesses. To these groups, let me say that I am sensitive to their concerns; and, furthermore, that I consider the introduction of this bill a starting point from which all interested parties can work. I welcome their comments and suggestions as to how we can both address their concerns and enact meaningful reforms.

But these are complicated issues which will require careful review and consideration. What's more, this legislation will be referred to three separate committees of jurisdiction, each of which will give the bill the close scrutiny it deserves. For these reasons, this may very well be a long and time-consuming process. If so, it is imperative that we begin this process now to ensure that Congress takes the action that is so clearly needed to protect workers' retirement security.

Mr. Speaker, if Congress learned anything from the savings and loan debacle it's that we must act swiftly and decisively when trouble appears on the horizon. Such is the case with the PBGC. If we don't act soon to improve its standing in bankruptcy, it is the American taxpayer that may very well be left holding the bag. Worse yet, it is the American worker who may lose his or her pension benefit. We simply cannot allow that to happen.

Mr. Speaker, I urge my colleagues to support and cosponsor the Pension Protection in Bankruptcy Act of 1991.

SECTION-BY-SECTION ANALYSIS OF THE PENSION PROTECTION IN BANKRUPTCY ACT OF 1991

TITLE I. EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A. Amendments to Title IV of the employee Retirement Income Security Act of 1974

Sec. 101. Employer Liability Lien and Priority Amount.

Subsection (a) of section 101 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent for terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent events" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth amount described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owing the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 101(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

Sec. 102. Liability Upon Liquidation of Contributing Sponsor Where Plan Remains Ongoing.

Section 102 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidations initiated on or after the date of enactment.

Subtitle B. Amendments to Title 11, United States Code

Sec. 121. Amendment permitting the Pension Benefit Guaranty Corporation to be a Member of an Unsecured Creditors' Committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

Sec. 122. Clarification of Priorities.

Subseciton (a) of section 122 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify that seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4063, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition date.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987 that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after enactment or cases pending on enactment in which claims for liability have not been resolved as of the date of enactment.

Sec. 123. Notice Required Where Federally Insured Pension Plan is Administered by the Debtor or Its Affiliate.

Section 123 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on date of enactment.

TITLE II. MISCELLANEOUS ERISA TITLE IV AMENDMENTS

Sec. 201. Enforcement of Minimum Funding Requirements.

Section 201 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

Sec. 202. Definition of Contributing Sponsor.

Section 202 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

Sec. 203. Recovery Ratio under ERISA Section 4022(c).

Section 203 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

Sec. 204. Seventh Revolving Fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1991.

Sec. 205. Distress Termination Criteria for Banking Institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(b) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 205 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

Sec. 206. Variable Rate Premium Exemption

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 206 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1991.

FIRMS FIND A HAVEN FROM U.S. ENVIRONMENTAL RULES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HUNTER. Mr. Speaker, in light of the proposed U.S.-Mexico free-trade agreement, I urge my colleagues to read the following article from Tuesday's *Los Angeles Times*. As the free-trade debate continues across the country, it is important that we remind ourselves of the environmental and social dangers of such a pact.

FIRMS FIND A HAVEN FROM U.S. ENVIRONMENTAL RULES

(By Judy Pasternak)

TIJUANA—It's not easy to make the trip every week. But for David Finegood, 71, it's well worth the trouble to drive three hours from Los Angeles and pass through a border checkpoint from the First World to the Third.

His destination is his furniture factory on the southeast end of town, the replacement for plants he closed in Compton and Carson within the last 20 months. He employs 600 people, the same number he laid off in the United States.

Wages are much lower here—about 13% of U.S. pay. There is virtually no workers' compensation expense. Best of all, in Finegood's mind, he no longer must deal with the constant intrusions of air quality inspectors, emissions monitors, lawyers and ever-stricter rules, rules, rules.

In the United States, his company paid tens of thousands of dollars in environmental fines and penalties in only two years. Lawsuits blamed his operations for incidents ranging from sawdust lodged in someone's eye to the spontaneous combustion of solvent-soaked rags forced the evacuation of 2,000 people.

Looming restrictions on polluting paints and varnishes promised to be more costly. So Finegood decided to go. "We're not trying to evade anything," he said. "We're trying to live with reality."

Reality these days is Muebles Fino Buenos, a literal translation of Fine Good Furniture. In many ways, it is the embodiment of environmental fears about a pending free-trade pact between the United States and Mexico. Environmental activists say they believe that a free-trade pact will create a Mexican haven for many companies with tainted records in the United States and a desire to lower the costs of controlling contamination.

The Tijuana incarnation of Fine-good's factories appears to abide by Mexican laws, or at least follow practices accepted by the government. This is more than most U.S.-owned companies here can claim, regulators on both sides of the border say.

Yet, even Muebles Fino Buenos pollutes more than the two U.S. plants did. Gases pour from the stacks for longer hours. Shifting winds carry the sharp tang of solvents to surrounding homes. "It makes me dizzy and my throat is sore," said Elodia Montano, a 50-year-old mother who lives near the plant's front gate.

Diesel trucks spew smog-forming exhaust during long-distance trips to a warehouse that was close to the U.S. plants. The Tijuana factory's jobs are part of the attraction fueling the city's explosive growth, outpacing the government's ability to treat sewage or provide drinking water.

The experience of Muebles Fino Buenos underscores the vagueness of Mexico's environmental rules, the regulators' lack of resources, the shortage or precise information about conditions here and the many years it will take, even for a government intent on change, to clean up the crisis.

One company may not have much impact, but there are nearly 2,000 foreign-owned firms, known as maquiladoras, allowed in Mexico under special trade rules since 1965. The largest concentration, about 530, is in Tijuana. Cumulatively, the industries have significantly fouled the water, air and soil.

Environmental awareness also had grown, and for Finegood that meant trouble. Though he invested in new technology, his companies started showing up in the violation logs of the South Coast Air Quality Management District.

The Compton factory exceeded solvent emissions limits in 1988; AQMD agreed to accept an out-of-court settlement of $17,500. The Carson plant paid $400 for sending out too much sawdust in 1988 and $1,000 in 1990 because neighbors complained about odors and dust. The inspectors "couldn't find an odor themselves," Finegood said, still softly seething, "but they called us a public nuisance."

In May, 1989, a waste hauler packed up a load from the Carson factory and headed for a hazardous materials dump in Santa Barbara County. In the Ventura County town of Fillmore, the driver pulled over for a nap. A Sheriff's deputy woke him, saying, "your truck's on fire."

Fear of toxic smoke led authorities to evacuate 2,000 people, more than 10% of Fillmore's residents, for about five hours. Prosecutors charged Finegood's firm with improperly preparing and marking the solvent-soaked rags in the drums, which made it more difficult for the hauler to take precautions and for firefighters to battle the flames. After a no-contest plea, the penalty was $2,350 plus $10,730 for cleanup costs.

Documents show that plant manager Tom Pliner told investigators that the company had called the Fire Department two years earlier because a drum full of rags spontaneously burst into flames inside the Compton plant. A forklift driver told authorities that another drum had started smoking three days before the incident in Fillmore. In April, 1990, nearly a year after the truck fire, a state health inspector cited Finegood's Carson operation because drums of waste at the factory still bore none of the identifying details required by law.

More problems lay ahead. The AQMD had passed a rule requiring furniture makers to cut down pollution by switching from solvent-based coatings to water-based coatings—likely to be more expensive—by 1996.

"We could see what was coming," Finegood said. "It was not economically possible."

He knew that other furniture companies were leaving the area. Indeed, a UCLA survey shows that 15% of the furniture industry's work force departed Southern California between 1987 and 1989, when the AQMD coating measure was passed.

Finegood wanted to stay near his customers in the West. But he did not want to risk going to another part of the United States that might follow the AQMD's lead. San Diego, for example, also is restricting use of solvent-based coatings.

The Compton plant closed in February, 1990. The Carson operation shut down last March.

Pliner transferred to a rambling new building in the heart of La Cienega, a working-class district here. Employees can get clean in the company shower room and healthy at the company doctor's office. For 75 cents, they can buy lunch, with unlimited tortillas, in the company cafeteria.

On Fridays, a guard rolls a cart onto the factory floor with individual cash-stuffed envelopes containing an average wage of $43 a week.

A block away, Montano's symptoms ebb and low with the breezes. In 25 years, she has watched the site at the end of Calle Primera change from a wheat field to a cement mixing facility, then the maquiladora. Until production geared up and odors started seeping out, she had no health problems, she said. She recovers a few hours after the fumes recede.

In the opposite direction, on a rise overlooking the back of the plant, Daniel Saavedra and seven relatives rarely venture out of their cramped quarters. Their home's walls blunt the olfactory assault of "tiner"—paint thinner—the Lutheran pastor said. "From 8 to 4, we smell it all day long."

Below, by the factory wall, lies a onetime elementary school. For years, church volunteers from the United States have leased the building as a campsite, sleeping in bedrolls on the floors. This past summer, for the first time, many suffered headaches and nausea.

The strength of the vapors varied from day to day. But most of the campers felt worse at "the mission." as they call the school, than they did at the drug recovery center where they planted trees or the convalescent home where they took orphans to visit the elderly.

"It was terrible to wake up to that smell," said Heidi Hyland, a Chicago seminary student who was a counselor during July. The first morning, she led a Bible study session outdoors until "this one girl in my group said * * * 'I just can't stand it. It's making me sick.'"

Often, a fine dust coated the group's three vans overnight. "It was lacquer," said Rob Lochner, another counselor. "I know it was. I've worked spraying at a carpentry shop."

The neighbors' complaints are consistent with exposure to solvents used in furniture making, said Paul Papanek, who heads the toxics program for the Los Angeles County Department of Health Services.

In the suburbs of Los Angeles, clean air rules set a strict daily cap on how much pollutant can escape from each plant's stacks. The limit forced Finegood's U.S. workers to stop painting and varnishing by mid-afternoon.

Here, employees start a half hour earlier and spray later, at least till 5 p.m. There is a small night shift too.

Workers aim nozzles of paint and lacquer at furniture passing by on a conveyor belt. A free-standing wall of pads is positioned on the other side—a setup designed to absorb the extra spray.

The pads are changed every two weeks, Pliner said. In the Los Angeles area, most companies install clean pads more often, anywhere from once a day to once a week, said Bill Kelly, an AQMD spokesman.

The factory tests its emissions every six months, Pliner said, declining to divulge the results. In the United States, the company monitored and logged them every hour.

Though Mexico adopted a General Ecology Law in 1988, giving environmental regulators authority over *maquiladoras*, the country has no measures limiting air pollution from furniture factories. "We are working on many other standards that are much more important," said Sergio Reyes Lujan, undersecretary for the environment. "The production of electricity, cement, textiles, chemicals."

He added that he is concerned about the health problems such fumes could cause, from mere irritation to long-term damage from smog. New factories, he said, will have to comply with whatever standard is the tightest in the world, until Mexico can frame its own.

As for existing companies, Reyes said, "I don't know if it's this week, next week, next month, or even next year, but with or without a standard, we will stop situations like that."

Meanwhile, plant manager Pilner said: "I haven't had any complaints."

But then the residents of *La Cienega* have not complained, except among themselves, about any of the contamination they suspect comes from *maquiladoras* in Tijuana. That is a common reaction, said Laura Durazo, a social anthropologist who helped form one of the city's nascent environmental groups.

"They simply accept," she said, "that this is part of Tijuana's progress."

In the yards of La Cienega stand empty 55-gallon drums purchased from used furniture stores or roving trucks—price: about $3.50. Most now serve as trash receptacles, but some hold water for washing or flushing toilets. "This container will be hazardous when emptied." one warns in English. "Residues will be explosive or flammable.

An outfall spills directly into a shallow stream where dogs splash and drink. In poorer neighborhoods, squatters use such canals for bathing. Water samples analyzed for The Times in August by a San Diego laboratory show levels of two suspected carcinogens, perchloroethylene and bis (2-ethyl-hexyl) phthalate, at 18 to 24 times the drinking water standards of the U.S. Environmental Protection Agency.

The concrete pipe emerges from a steep rise next to *Muebles Fino Buenos*. The company has told Mexican regulators that it sends its waste water into the city sewage system, in an area where there is no treatment. This particular pipe may also carry residues from any number of sites further southwest, where two more *maquiladoras* make magnetic heads and baby furniture. Perchloroethylene is used in both industries. Bis (2-ethylhexyl) phthalate is used to soften plastics.

Where do the chemicals come from? Mexican regulators are in no position to unravel mysteries like these.

Even with recent budget increases, there is little money for analyses and few staffers are available for investigations. For the foreseeable future, the government will simply have to trust in industry, said Diane Perry, a UCLA analyst who has studied the border region for the past five years. U.S. and other foreign owners "will have to do it on their own, knowing that the enforcement's not going to be there," she said.

In a widely publicized move this summer, border-area inspectors, with their ranks doubled to 100, visited 1,000 *maquiladoras* to check the firms' documents. They found that in 1990, less than a third of the companies had applied for the required environmental operating license, by 1991, after a series of well-publicized crackdowns, 55% had. In 1990, only 14.5% has proof that they sent hazardous wastes back to the United States for disposal as required; in 1991. 31% had.

The new figures show major progress, but Reyes conceded that they are still abysmal, "We will improve them further," he promised. To that end, inspectors are being hired to double the number along the border again in 1992.

Muebles Fino Buenos is one of the positive statistics. The environmental inspector who arrived Aug. 13 was the first ever to pay a formal visit. (One had dropped by briefly before). Pliner produced a notebook containing the factory's application. A stamp acknowledged its receipt on Sept. 27, 1990, by SEDUE—the Spanish acronym for the federal ministry that includes the environmental office.

The EPA also had been notified that about 325 drums of hazardous waste would be shipped back across the border in 1991.

The SEDUE inspector pronounced himself satisfied.

The license documents were submitted late—six months after opening for assembly of furniture and four months after spraying had begun. This was illegal, according to Reyes, but the government will not punish for the offense because it shows more effort than other firms have made. He added, that from now on, new industries will face penalties.

Because the license was pending, the company was churning out bedroom sets and tables without a permit. Operating under such circumstances also was not strictly legal: since 1990, every new business must have its license before even starting construction of its facility.

But environmental officials admit that it is partly their fault. More than a year after Muebles Fino Buenos submitted its papers, overworked regulators have not gotten around to reviewing the documents. The wait is typical. And until the application is examined, SEDUE cannot decide what changes, if any, to require.

"We are trying to respond very, very rapidly," Reyes said. "They are going to receive a written answer.

"We are rewriting history here. It was only recently that anyone here started to care about the environment. It will take time."

The backlog troubles EPA officials who deal regularly with SEDUE. Said one, who spoke on the condition of anonymity: "This is a situation where the economic activity has gotten way ahead of the regulatory activity."

The EPA official also worries about SEDUE's emphasis on documents: "I would like to put SEDUE [inspectors] in respirators and have them look at what's really going on. They're afraid to take the bull by the horns. . . . They just deal with the paperwork."

There also has been little attention paid to the indirect pollution caused by maquiladoras.

Finegood's warehouse is at what was once the Carson plant—just a few miles from what was once the Compton factory. Diesel trucks, the owner said, make 20 round-trip treks each weekday between Tijuana and the distribution center. In a year, that means about 13.9 tons of carbon monoxide is added to the air along the way. The trucks also discharge about 20 tons of nitrogen oxides and 4.2 tons of hydrocarbons, the two main building blocks of smog.

An overall increase in cross-border traffic—from 12.4 million crossings in 1987 to 16.9 million in 1990—concerns air pollution authorities in San Diego and the Los Angeles region. One problem is the Customs stations themselves, where hundreds of idling vehicles sometimes wait as long as an hour. Nearly half the cars and trucks are Mexican-registered and not subject to smog checks.

The jobs offered by Muebles Fino Buenos and the other maquiladoras also lure newcomers from the rural interior. Tijuana grew from about 429,500 people in 1980 to about 743,000 in 1990—and these official census numbers are widely assumed to be low.

The city's skyrocketing population has outstripped the government's ability to provide basic services. In response to complaints about a proposed border environmental plan, SEDUE recently announced that 24,000 houses will be connected to Tijuana's sewers next year. By 1995, an international treatment plant is scheduled to open, but financing arrangements are not complete. For now, 12 million gallons of raw sewage flow into the Tijuana River each day.

The operators of Muebles Fino Buenos know firsthand about the infrastructure problems. Raw sewage spilled across the property when pipes overflowed during a winter storm. And the company did not plan on constructing its own water reservoir and electric generating substation. But it had to be done.

Finegood does not mind. He sees himself protecting a 35-year investment. "I've spent much of my life in this company," he said. "I'm not a young kid anymore. But I couldn't get anything for the company there. Nobody's going to buy a furniture company in Los Angeles now."

H.R. 3842, THE TERRITORIAL SEA AND CONTIGUOUS ZONE EXTENSION AND ENFORCEMENT ACT OF 1991

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JONES of North Carolina. Mr. Speaker, Today I have introduced H.R. 3842, the Territorial Sea and Contiguous Zone Extension and Enforcement Act of 1991. The principal purpose of my legislation is to declare the sovereignty of the United States over the 12-mile territorial sea and to begin to implement Presidential Proclamation 5928 of December 27, 1988, which extended the U.S. territorial sea from 3 to 12 nautical miles for certain purposes.

At the end of his term in office, President Reagan declared a 12-mile territorial sea for the United States mainly to protect our national security interests. The Presidential proclamation had the effect of expanding the international seaward boundaries of the United States from 3 to 12 miles. Since the time George Washington was President, the United States has had a 3-mile territorial sea. But now, the United States has a 12-mile territorial sea, as do some 120 other nations which have acted in accordance with evolving international law.

Within its territorial sea, a nation exercises virtual sovereignty, similar to that which it exercises in its land territory. This means the United States can control all activities within the territorial sea vis-a-vis foreign persons and vessels, much as it does within its land territory. There is one exception—within the territorial sea, all foreign vessels have the right of innocent passage. Innocent passage does not mean, however, that vessels can conduct intelligence-gathering operations, and submarines must navigate on the surface and show their flag.

The Presidential proclamation asserted both the jurisdiction and sovereignty of the United States over the extended territorial sea. As an accompanying legal opinion from the Justice Department indicated, the question whether the President had the constitutional authority to assert sovereignty of the United States over an area that was equivalent, in international law, to the acquisition of territory was "open to some question." The most extensive acquisitions of territory by the United States have been accomplished through the use of the treaty-making power. By treaty, the United States acquired the Louisiana Purchase, the Gadsden Purchase, the Oregon Territory, California, Alaska, the Panama Canal Zone, and the Virgin Islands. In all these instances, the Senate had to give its advice and consent. The other major annexations of territory involved the admission of new States, such as Texas and Hawaii. These annexations were accomplished by the exercise of Congress' authority to admit new States into the Union. The only instances in which the President, acting alone, acquired new territory for the United States were the acquisitions of a few small islands in the Pacific Ocean.

To preserve the Congress' prerogatives to acquire new territory for the United States and to cure any possible defect in the proclamation, my legislation declares the sovereignty of the United States over the territorial sea. I note that similar declarations are contained in the comprehensive crime bills now pending before the Congress, H.R. 3371 and S. 1241. Should these bills be enacted into law before we have completed work on my bill, I will amend my legislation as needed.

The Presidential proclamation explicitly provides that the extension of the territorial sea to 12 miles does not alter existing State or Federal law. In other words, the United States has a 12-mile territorial sea in the eyes of the rest of the world, but until Congress amends Federal laws to conform to the extended territorial sea, existing authorities only apply within the former 3-mile territorial sea. This disclaimer means that Congress has the responsibility of completing what the President could only begin. If the United States is to have a meaningful 12-mile territorial sea, it must have the statutory authority to enforce its laws in the extended maritime zone. Only Congress can amend U.S. laws to accomplish this.

The second objective of my bill, therefore, is to amend various Federal maritime laws to make them applicable throughout the extended territorial sea. In most instances, the conforming amendments provide implementing agencies, such as the Coast Guard and the National Oceanic and Atmospheric Administration [NOAA], with important new enforcement powers over foreign persons and vessels violating U.S. marine resource laws. For example, the Coast Guard and NOAA will be able to seize vessels carrying illicit products when they first enter the 12-mile territorial sea. The bill also extends the coastwise laws of the United States, providing added benefits to the U.S. Merchant Marine and U.S. Fleet.

This bill represents only a start on the process of implementing the territorial sea proclamation. The laws amended by this bill are primarily those within the jurisdiction of the Merchant Marine and Fisheries Committee. For some months, the staff of my committee has been examining our law to determine which ones should be amended. This bill represents a first step in identifying laws to be amended. It is only the beginning of the process. Through the hearing process we will obtain the views of the administration and affected constituents to make sure we have not done something inadvertent or excluded some laws which should be extended. At the end of my statement, I have appended a list of laws amended by this bill.

The legislation also extends the contiguous zone of the United States from 12 to 24 nautical miles. The contiguous zone is a maritime zone adjacent to the territorial sea within which a nation can prevent infringement of its customs, fiscal, immigration, or sanitary laws and protect its territory and territorial sea. The contiguous zone was not extended by Presidential Proclamation 5928 because of the question whether the President, acting alone, could and should supersede the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone. This convention, to which the United States is still a party, only provides for a 12-mile contiguous zone. But, it has been overtaken by evolving customary international law which now recognizes the right of a nation to have a 24-mile contiguous zone. Acting together, the Congress and President can establish a 24-mile contiguous zone for the United States, providing further protection to our territory.

My bill also authorizes the Under Secretary of Commerce for Oceans and Atmosphere—The Administrator of NOAA—acting through the Director of the National Sea Grant College Program, to award a grant for a policy study of existing State and Federal laws to determine their adequacy for the management of living and nonliving resources within the extended territorial sea. The results of this study shall be provided in a report to the Congress, the President, and the public, in 1 year from the award of a grant to the sea grant institutions designated to conduct the study. I expect this study to examine whether any further changes are needed to Federal or State laws to manage the resources of the extended territorial sea.

This legislation explicitly provides that it does not change State or Federal boundaries as they existed prior to the enactment of this legislation. The dividing line between the States and Federal Government within the extended territorial sea is established by the 1953 Submerged Lands Act. With the exception of Texas and the gulf coast of Florida—which have a 3-marine league or 9-mile seaward boundary—all States and most territories have a 3-mile seaward boundary. Within this boundary, the States own and regulate offshore resources, including oil and gas and fish. Beyond this boundary, the Federal Government has exclusive jurisdiction and management responsibility. Nothing in my bill changes this demarcation of authority as between the States and the Federal Government. My bill only provides the Federal Government with enhanced enforcement powers over resources between 3 and 12 miles that are currently managed by the Federal Government.

Implementing the Presidential proclamation on the territorial sea is not a simple matter. For many years we have operated on the basis that the United States has a 3-mile territorial sea. Virtually all Federal maritime laws are based on this presumption. My bill sticks one toe in the water and begins to change this presumption. We will see through the hearing process whether the bill goes too far or not far enough. I welcome the support and comments of my colleagues, the administration, and interested parties in this endeavor.

LIST OF AMENDED MARITIME LAWS AND TERMS

Marine Mammal Protection Act—"import" and "territorial sea."

Endangered Species Act—"territorial sea."

Antarctic Marine Living Resources Convention Act—"territorial sea."

Fur Seal Act—"territorial sea."

Lacey Act—"territorial sea."

North Pacific Halibut Act—"import" and "territorial sea."

Magnuson Fishery Conservation & Management Act—"import" and "territorial sea."

National Sea Grant College Program Act—"territorial sea."

Marine Protection, Research, and Sanctuaries Act (titles I and III)—"territorial sea," "contiguous zone."

Shore Protection Act of 1988—"territorial sea."

Ocean Thermal Energy Conversion Act—"territorial sea."

Rivers & Harbors Appropriation Act of 1899—"waters of the U.S.," "navigable waters."

Anchorage Grounds—"navigable waters."

Vessel Bridge-to-Bridge Radiotelephone Act—"navigable waters."

Ports & Waterways Safety Act—"navigable waters."

Deepwater Port Act—"territorial sea" and "contiguous zone."

International Navigational Rules Act—"territorial sea."

Act to Prevent Pollution from Ships—"navigable waters."

Oil Pollution Act of 1990—"territorial seas."

Foreign Vessel Salvage Operations—"territorial waters."

Uninspected Vessels Generally—"navigable waters."

Recreational Vessels—"waters subject to the jurisdiction of the U.S."

Uninspected Commercial Fishing Industry Vessels—"high seas."

State Regulation of Pilots—"high seas" and "navigable waters."

Captain of the Port—"territory," "territorial waters of the U.S.," "waters within the jurisdiction of the U.S."

Merchant Marine Act, 1920 (sec. 27, 27A)—"points in the U.S."

Merchant Marine Generally—"navigable waters of the U.S."

Shipping Act, 1916 (sec. 1, 511)—"common carrier by water in interstate commerce," "high seas."

INTRODUCTION OF COMMERCIAL SPACE COMPETITIVENESS ACT OF 1991

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, today I am introducing the Commercial Space Competitiveness Act of 1991, a bill that is intended to encourage the growth and development of commercial space activities in the United States by establishing coherent policies for Federal activities which affect commercial space businesses.

Over the past three decades, commercial space activities have made important contributions to the U.S. Space Program and the national economy. Although communications satellites represent the only truly commercial space business to succeed to date, I believe that many exciting ideas exist for harnessing the benefits of space for economic gain. Many of these ideas will depend on the Federal Government as the initial customer and will be strongly influenced by Federal space programs and policies. For example, today the Federal Government spends more than 10 times as much on space goods and services as the private sector—and the vast majority of private sector space spending is for communications satellites.

I believe that the Commercial Space Competitiveness Act will help the entrepreneurs of today and tomorrow bring the benefits of space down to Earth for the benefit of all Americans and will maintain this Nation's leading position in commercial space activities. At the same time, greater dependence on commercial suppliers of space goods and services, as provided in this legislation, would improve the efficiency and cost effectiveness of our Nation's civil and military space programs.

The bill represents the product of three hearings held by the Subcommittee on Space in July. In these hearings, the subcommittee received testimony on the overall status of commercial space activities, the implications of the commercial space policy guidelines approved by the President earlier this year, and issues of concern to the commercial launch industry.

One critical issue we covered in our hearings involves the potential use of missiles retired from the military arsenal as space launch vehicles. As a result of the Strategic Arms Reduction Treaty signed this summer by President Bush and President Gorbachev, hundreds of military missiles will become available for alternative uses. By using these missile assets to build space launch vehicles, it may be possible to reap substantial benefits from the investment that American taxpayers have made in these tools of the cold war. On the other hand, using these missiles may be more expensive than buying commercial launch services and dumping these missile assets on the private market could cause significant damage to our commercial launch industry.

The bill I am introducing today would implement a responsible and careful approach to this complex and difficult problem. The bill basically requires any Federal agency wanting to use missiles assets for space launch to show that they are cheaper than available commercial launch services and to employ the services of the private sector wherever possible when using the missile assets as launch vehicles. The bill also sets up a process for selling excess missile assets to the private sector.

These and the other provisions of the bill are summarized in the attachment I have provided as part of my statement.

In closing, I urge my colleagues in the House and in the other body to recognize the great potential of commercial space activities and to give this bill their full support.

SUMMARY OF THE COMMERCIAL SPACE COMPETITIVENESS ACT OF 1991

Extension of Liability Provisions: Section 201 of the bill extends the sunset date on the Commercial Space Launch Act provision on Government payment of third party liability claims above industry's insured level, reflecting the continuing incapacity of the private insurance market to cover these liability risks.

Commercial Launch Services for Suborbital Payloads: Section 202 of the bill requires NASA, by 1993, to purchase commercial launch services for suborbital payloads. Such payloads are not included in the current law and NASA currently launches suborbital payloads using mostly civil service personnel. The bill also redefines the conditions under which NASA may exempt specific launches from the requirement to purchase commercial launch services. This redefinition specifically requires NASA to purchase commercial launch services if they could be made available in response to a procurement request, even if such services are not currently available. Greater use of commercial launch services should improve the cost effectiveness of Federal space programs and allow U.S. industry to improve its competitive position in international markets.

Launch Vouchers: Section 203 of the bill requires NASA to set up an innovative program to demonstrate the feasibility of issuing launch vouchers to space scientists for payment of commercial launch and payload integration services as part of grants they receive to develop suborbital or small orbital experiment payloads.

Space Transportation Infrastructure: Section 204 of the bill establishes a matching grant program in the Department of Transportation to improve and add to U.S. space transportation infrastructure. The program would require that at least half of the cost of any infrastructure improvement or development program funded by these grants be financed by private industry and the states. All projects must be recommended by a Selection Committee composed of NASA, the Defense Department, and the Transportation Department and be evaluated on the basis of the contribution of the grant activity to both Federal and industry needs.

Trust Fund for Licensing Fees: Section 205 of the bill establishes a trust fund to collect revenues from licensing fees assessed on launch companies by the Department of Transportation. Revenues in the trust fund may only be used for purposes approved by the companies which pay the user fees and may not be used to cover the operating expenses of the Department of Transportation.

Use of Decommissioned Missiles for Space Launch: Title III of the bill establishes policies for the Federal use of decommissioned missiles as space launch vehicles and for the possible sale of these missile assets to the private sector. The bill requires agencies to determine, before using the missiles for space launch, that use of missiles is more cost effective that the purchase of commercial launch services. The bill requires agencies using the missiles to purchase commercial services for refurbishment launch of the vehicles constructed from the missiles. The bill also establishes a process by which agencies will hold competitions for these contracts and a process through which agencies may sell excess missile assets to the private sector.

Anchor Tenancy and Termination Liability: Section 401 of the bill establishes criteria for when the Federal Government may enter into contracts as an anchor tenant (the first major customer) for commercial space products. The bill also provides NASA with the authority to compensate commercial providers in the event that the Government terminates anchor tenancy contracts for its convenience.

Use of Government Facilities: Section 402 of the bill establishes criteria for when non-Federal entities may use Federal space-related facilities. The bill requires the Federal agency owning the facility to charge users only for costs directly attributable to their use of the facility. Section 206 of the bill requires NASA to conduct an inventory and identify Federal launch facilities which could be made available for outside use.

Protection of Information: Section 403 of the bill amends the 1958 NASA Act to provide NASA with the identical authority available to all agencies under the Stevenson-Wydler Act. This authority allows agencies to protect from disclosure information which private companies develop in cooperative research activities with the agencies. NASA requested this provision because the agency prefers to use the authority of the NASA Act to arrange cooperative projects.

Commercial Space Achievement Award: Section 404 of the bill establishes an award for corporations or individuals who have contributed to commercial space activities or technologies. To qualify, corporations must obtain at least half of their space-related revenues from non-Federal sources.

TRIBUTE TO ST. PATRICK'S PARISH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CARDIN. Mr. Speaker, Today I rise to pay tribute to St. Patrick's Parish in the Fells Point community in Baltimore. The church was first established during George Washington's first term as President of the United States in 1792. It is currently the oldest active parish in the city of Baltimore. The parish has survived 200 years and will celebrate its bicentennial during 1992.

The first church building that was established by Father Garnier, the pastor of the church, was a crude, unplastered building on the third floor of a house located on Bond and Fleet Streets. The first mass celebrated had a congregation of 12, however, the number grew steadily under the guidance of Father Garnier.

The second church building was opened in 1793 in the home of Mr. Edward Haghthrop on Thames Street. In 1796, Father Floyd leased a lot on Apple Alley for $40 a year, and a church was built. Each member of the parish contributed to its construction. During this time, the congregation grew so large that the building was quickly outgrown.

In 1806, the cornerstone was laid for the new church building at the current site of St. Patrick's Church. The church was opened in 1807 and the citizens of Baltimore proudly and modestly proclaimed it the finest church in the area.

The parishioners of St. Patrick's have always responded to problems that afflict their community. The church began a school in 1815 with the mission of educating Baltimore's poor children, especially focusing on children who lacked educational opportunities. The church is also home to Assisi House. The mission of Assisi House is to provide assistance to Baltimore's poorest citizens by supplying food and clothing for the needy.

The faithful of St. Patrick's have experienced their own difficulties while focusing on the difficulties of other in the community. One serious challenge occurred in August of 1983. A disastrous fire seriously damaged the church building. The process of rebuilding was a slow and arduous task. For several years, the congregation was forced to worship in the church hall. Rebuilding continues to this day. However, the spirit of the Parishioners was not dampened by the damage of the building. Part of the building was lost, but not their spirit.

Mr. Speaker, I would like you and my colleagues to join me in celebrating the bicentennial of St. Patrick's, a parish dedicated to helping the community of Baltimore.

THE SITUATION IN THE SOVIET UNION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ASPIN. Mr. Speaker, Senator Nunn and I recently proposed giving the President authority to use $1 billion from the fiscal year 1992 Pentagon budget to provide food and medicine for the Soviet people this winter and begin the process of dismantling the Soviet nuclear arsenal and reducing its military industrial complex. I looked at the proposal as an insurance policy for the United States against chaos in a country with nearly 30,000 nuclear weapons. Like any insurance policy, it might prove unnecessary. But if the Soviet Government disintegrates and severe shortages of basic goods tear at the social fabric of the country, the command and control of nuclear weapons would surely weaken. A breakdown in discipline or even civil war would cause these weapons to fall into the wrong hands.

Unfair and inaccurate characterizations of the aid proposal created a political atmosphere that made it impossible to include the initiative in the fiscal year 1992 Defense Authorization Act. However, the specter of chaos in the former Soviet Union has not gone away.

Many recent press accounts confirm the strain. A story in the November 18 The Washington Post reported that Soviet health officials have or can produce only 30 to 35 percent of their drug needs this year. This figure is only half the supply available last year. Another story in the Post dated November 19 said United States Ambassador Robert Strauss has noted Russian and Soviet aid requests have shifted dramatically toward food staples like flour, wheat, and bread. Strauss added he was convinced the requests were based on genuine need. Another piece noted the mayor of St. Petersburg announced rationing of all kinds of food beginning December 15 because the city has been receiving only half of what it needs.

A November 17 article in the Baltimore Sun describes the potential exodus of Soviet scientists who design and build nuclear weapons. A November 21 article in The Washington Post raises the possibility of strife among republics and the Soviet military. In the story, a high-ranking Soviet Defense Ministry official warned that the armed services will defend themselves and their equipment from attack by force if necessary.

I am providing my colleagues a copy of these stories and hope they will bear these disquieting developments in the former Soviet Union in mind.

[From the Washington Post, Nov. 18, 1991]

SOVIET MEDICINE IN DIRE STRAITS

(By Eleanor Randolph)

MOSCOW.—"It's freezing in here," moaned Marina Elenova from under a sheet and blanket in Room 68 of the heart patients' ward in Moscow's Hospital No. 4. The room was cold, even for those in heavy sweaters, and Marina Elenova had wrapped her head with a dish towel for extra warmth.

"Also," she shouted, "the sheets have not been changed in a month."

As the doctors and guests turned to listen, Marina Elenova saw, perhaps for the first time, the hospital director and the heart ward chief, both looking distressed. Suddenly she became nervous, as many Muscovites still do in the face of authority. "But the treatment here is good, of course," she added quickly.

If Marina Elenova recuperates from a heart attack—13 percent in this ward do not—she will emerge from Moscow Hospital No. 4 in about a month. In the "cardiac therapy" ward, the death rate is high because the equipment is old, drugs are scarce, and the doctors are overworked. Like others taken to hospitals in the disintegrating Soviet Union, Marina is a victim of a medical system in a state of emergency.

"Now the situation here is so hard that the only idea for this hospital is to survive," Alexander Stepanov, director of No. 4, explained quietly in this office. Founded by empress Catherine the Great two centuries ago as Russia's first facility dedicated to healing the poor, this oldest hospital in Moscow has remained a center for anyone who needs help in this huge, struggling city.

"The only idea is to try to at least conserve the care that we have now," Stepanov said.

Doctors, patients and politicians here finally are acknowledging the Soviet medical system's vast problems. Officials are opening their hospitals to Western inspection teams, speaking frankly and begging the West for help. A photo in the Komsomolskaya Pravda newspaper last week, for example, showed a surgeon in an operating room in Sikhtivkar near the Urals holding up his "scalpel." It was an ordinary two-edged razor blade.

The number of deaths caused by substandard care is not available, but estimates of the number of people who will die over the next year due to inadequate care range up to hundreds of thousands. Interviews with a number of doctors, patients and medical officials—both those working here and those visiting from the United States—have helped draw a grim picture.

Drug supplies in the Soviet Union are erratic. Last year in the Russian republic, hospitals reportedly made do with 70 percent of the drugs needed. This year, health officials are saying they have—or are able to produce—30 to 35 percent of their needs. Vladimir I. Deighin, Russian deputy minister of health, said the shortage has been caused in part by the virtual disappearance of drugs produced for the Soviet Union by former satellite countries in Eastern Europe. Plants there now are demanding payment in hard currency instead of Russian rubles.

Deighin said the Russian government plans to buy 100 percent of the "life-essential" drugs needed, but such medicine is expensive at a time when everything, including hard currency, is in short supply. In October, the Russians paid about $59 million to Western pharmaceutical firms for a supply of life-essential drugs that Deighin said would last about a month.

Drug supplies from the West have not been arriving in the amounts or types that Russian doctors had hoped. Some drugs are unknown here and lose potency while scientists check them out. Others do not meet Russian or Soviet drug standards, such as some children's medicines with codeine. New pharmaceutical joint ventures are being formed to fill these gaps, Deighin said, but most will not begin full operations for more than a year.

Doctors and patients, however, said the need for some drugs is urgent. Insulin, which diabetics need to survive, is so scarce in some areas outside Moscow that only children and the sickest adults receive any.

Antibiotics are becoming scarce and are used only for serious cases in some areas. In Byelorussia, medical officials trying to save their supplies for residents of their republic have said that to obtain drugs, citizens now must have a prescription from a doctor and their Byelorussian residence card.

Equipment is anticipated and hard to obtain. At the All Union Cancer Research Center outside Moscow—the country's version of the U.S. National Cancer Institute—the huge diagnostic X-ray machine is 17 years old. The defibrillator machine for heart patients at Moscow's No. 4, bought from the former East Germany, is newer, but the staff said they had to start repairing it two months after it went into operation.

"If Western hospitals want to get rid of equipment after it's a few years old, we will take the second-hand machines gladly," said Boris I. Dolgushin, chief researcher at All-Union.

Even the most basic medical supplies are hard to find. Regular cotton thread is sometimes used to stitch wounds. Catheters are in short supply. Many hospitals have run short of disposable syringes and intravenous equipment.

Hospitals are often dark, grimy places, and efforts to enforce sanitary standards can be lax or ineffective. Cleaning people, who make barely enough money for a piece of sausage a week at today's prices, frequently refuse to work, sitting outside in the corridors smoking instead.

An American doctor from the Washington area recently toured what was said to be one of the Soviet Union's best surgery wards and said after the visit, "It looked terrible, awful."

"What concerned me most was that they did not change the sheets between patients. There was blood on the sheet, and I kept watching a fly light on it. Bandages were thrown in an old basin. I dare not ask how the medical wastes are disposed of here."

Doctors in the public health-care system—which is still the primary system for all but a few private doctors now opening clinics for the newly rich—are paid less than most bus drivers. Even though there are clinics with advanced and innovative care—such as those for eye surgery and skin transplants—the rewards in the field of medicine for ordinary doctors are dwindling, as they lose patients to such problems as a sudden lack of plasma, which occurred in Moscow during the last few weeks in September.

Some doctors have switched to less depressing and more lucrative jobs. Vasily Pavlov decided seven months ago to become an interpreter. "I liked being a doctor," said Pavlov, who has a wife and 4-year-old daughter. "But I couldn't live on the pay."

Others, such as Zakhar Simchovich, a specialist in arthritis and bone problems, have emigrated to the West. Simchovich left for Canada earlier this month because, as he said shortly before his departure, "professionally and for my family, it is like living in an earthquake."

Hospital patients, whose treatment in most cases is free, feel trapped in their beds, bored and afraid to question the medical staff about whether needles are clean or what medicines they are receiving. When a doctor or nurse walks into the room, fear among patients often is tangible.

Patients did not want to talk about their fears for the record, but at Hospital No. 4 in Moscow, heart patient Anatoly Barishnikov, 62, told visitors about a professor who had come to visit his ward earlier in the day. "I was surprised by the kindness of the professor," Barishnikov said. "He asked us questions very nicely," he kept saying, clearly unaccustomed to such treatment. "He listened so much to us."

In a society where medicines are hard to find and care is erratic, prevention is not a priority either. Immunizations have fallen off as supplies of vaccines diminish or lose effectiveness in unrefrigerated cupboards, even in Moscow. When a Moscow official asked an American group recently for help in obtaining dental supplies, he was asked whether there was fluoride in the city water. The Muscovite shook his head. They had barely heard of it, he admitted.

Problems with the official health-care system have become so overwhelming for many people that relatives provide the support care for ailing family members. In some cases, patients and their families "pay" for what is supposed to be free care by supplying to the medical facilities extra medicine or supplies purchased from the black market. If 10 disposable syringes are needed, for example, patients are advised to provide 30.

Others reject what serves for science in hospitals and turn to home remedies or medical charlatans. Medical scientists are alarmed at the increase in quacks who successfully trade on the emergency in Soviet medical care—such as a "healer" who has sold "charged water" to treat AIDS or a woman who sells a "magic stick" that she claims who remove nitrites if it is waived over food.

For many in the medical profession, foreigners provide the answer—either by bringing aid, providing money for joint ventures or appearing at their hospitals as paying patients.

In Hospital No. 4, in a building built in 1807, Korshunov Viacheslov, a famous Soviet hand surgeon, wants to have a section for, hardcurrency patients.

"But as you can see, the conditions do not encourage foreigners here," he said as he swept a hand toward a dim hallway. There along the wall, were extra beds. On one, a man sat, holding his bandaged hand and waiting for a spot in one of the rooms, which house 10 to 12 people. Down the hall, nurses appeared to be working on someone in a makeshift emergency ward. They had pulled portable curtains around the patient in the hallway for a moment of much-needed privacy.

"And worse is the first floor. The first floor is terrible," acknowledged Viacheslov. "It's frightening down there."

The first floor that day was indeed filthy and dark. The stairs were littered with cigarette butts and paper. Underneath was what looked like weeks of dust. As the visitors passed through, Stepanov said, "We have no one to clean. Those who are paid to do it don't want to do it. Even if we pay more, they still don't do it." The nurses and doctors sometimes have to scrub, but it wears them down month after month, he said. "They are too talented to be doing that, but they do it."

A revamping of the building is planned, but it will take more than paint and new linoleum floors to make it acceptable to a Western client, Viacheslov said. Without Western currency, however, the hospital will deteriorate. It is a debilitating cycle.

Now the doctors and nurses scramble to make everything last, to use supplies that they are not accustomed to using. Pain medicine, for example, is hard to find, and it often comes in forms that Soviet doctors have never seen.

Sasha, 17, a factory worker, knows about the drug supplies in this hospital. As he sat forlornly on a cot in a huge patient dormitory, he explained that his hand had been caught in a wood-processing machine two weeks before.

"There was no pain during the operation," Sasha said hesitantly. "But after, of course, it was very, very painful."

"But you didn't ever cry out in pain," chided Stepanov from the end of the bed.

"Oh, no sir, no sir," Sasha agreed quickly, as the other patients laughed or smirked at him.

Stepanov then turned to his guests and explained: "Sometimes our drugs don't work very well. Sometimes our patients simply have to stand pain."

[From the Washington Post, Nov. 19, 1991]

STRAUSS SEES URGENT NEED FOR SOVIET AID

(By Fred Hiatt)

MOSCOW, Nov. 18—U.S. Ambassador Robert S. Strauss said today he is concerned about growing U.S. opposition to aiding the Soviet Union, and he urged the West to provide food and debt relief to his economically depressed country.

He said he will return to Washington next month and argue for the "kind of aid the Soviets expect and probably need—I'm absolutely satisfied that the needs are as they represent them to be."

Strauss did not mention any specific aid programs currently being considered, but he said he fears that the political climate in Washington, particularly heading into an election year, will make it hard for President Bush to push for a large aid package.

Strauss also likened the restive Soviet republics to independence-minded teenagers who eventually will see the wisdom of maintaining some form of political union. But he acknowledged that "there will never be a center as we've known it in the past," and he was full of praise for Russian President Boris Yeltsin, whose government has superseded that of Soviet President Mikhail Gorbachev in many respects.

Strauss, a well-connected Democrat who assumed this highly visible post for the Bush administration three months ago, said that even with Western aid the situation here "sure can blow up in our face in the next six months." But he said that a "modest" U.S. investment would be well-spent if it helps this former Communist dictatorship become a peaceful, free-market democracy.

"I'd rather risk a couple of billion bucks out here for our country . . . than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation," Strauss said during his first substantive discussion with reporters stationed here since he settled in to his post.

Strauss's remarks came as senior finance officials of the seven leading industrialized democracies met with Soviet officials here to discuss aid and debt questions. The ambassador said Russian and Soviet aid requests have shifted dramatically recently, with "a lot more emphasis on just flour, wheat, bread."

"They know they're in for a hard time," he said.

The centralized economy built here over 74 years has disintegrated, with most Soviet republics declaring independence from Moscow and firms and farm collectives going their own way. But no new system has emerged to replace the old, and the result has been a deepening depression characterized by empty shelves, declining exports and a shortage of foreign currency.

Strauss said Western creditor nations should negotiate a plan under which the Soviet Union would continue paying interest on its massive foreign debt while delaying payments of principal. Such a plan would be possible only if the republics and central government cooperate, he said.

But he acknowledged that selling the idea of debt relief and food aid in Washington will be difficult. Sen. Harris Wofford (D-Pa.) recently won a special election in part by attacking the Bush administration for doing too little to help Americans.

Strauss said the danger of economic failure here is not a repeat of August's failed Kremlin coup, but a surge of popular discontent. "There's an awful lot of people who'd like to swap what they have now and go back to the security of knowing what two rubles would buy—knowing all they have to give up would be a little freedom of speech," he added. "Out of that kind of climate, demagogues are made."

Strauss said he met Yeltsin Saturday and found him "very strong, very up, very knowledgeable." He said the Russian president is realistic about the coming challenges and the need for some form of union to replace the old Soviet administration.

The ambassador said he believes the central government still has an important role to play in controlling nuclear weapons, the army and international economic policy. He predicted that the 12 remaining Soviet republics, 10 of which have declared independence, will eventually agree.

"At times, the republics remind me of our children when they were growing up and they were teenagers," he said. "They thoroughly enjoyed their independence until their laundry got dirty and they had to get their laundry done." But Strauss also said it is inevitable that a new regional federation will be "Russia-influenced and -driven," since Russia is by far the largest and wealthiest republic. Yeltsin's government this weekend assumed control of most Soviet financial mechanisms.

Asked whether he would advise U.S. businessmen to invest money here in such chaotic times, the millionaire Texas lawyer found a way to express what he said is optimism tempered by realism.

"If I had $100,000 and I was your age," he told a young reporter, "I'd be damn interested in coming over here and investing that $100,000. If I had $10 million and I was your age, I'd be interested in coming over here and investing $100,000 of it."

[From the Baltimore Sun, Nov. 17, 1991]

SOVIET NUCLEAR SCIENTISTS RIPE FOR OFFERS FROM HIGHEST BIDDER

(By Dan Fesperman)

WASHINGTON.—When the Soviet Union throws open its borders to would-be emigres this January, thousands of scientists who design and build nuclear weapons will face a decision that has government officials biting their nails from here to Moscow.

It is the nightmare prospect of Soviet "nuclear mercenaries" ending up anywhere from Iran to North Korea to Libya.

"After January, all the doors are open, and it is like the Wild West," said one Soviet official tracking the issue. "Some of these people, they have no scruples at all. They won't give a damn if it is Saddam Hussein or anyone else [who hires them], as long as there is work."

Such a possibility is realistic, he and other authorities say, because there is so little incentive for the Soviet scientists to stay.

Those who do can expect a bleak winter of unemployment brought on by 40 percent budget cuts in the Soviet nuclear program, or, if they're lucky, continued employment at low wages that for many are less than a bus driver makes. And even the higher-paid scientists will be trapped in the same crumbling economy, with its chronic shortages and ever-lengthening bread lines.

Those who leave, on the other hand, might be able to name their price in any of several places where governments want nuclear weapons expertise.

Anyone doubting that a few imported scientists can make much of an impact need only look back to 1945, when the United States plucked rocket scientist Werner von Braun from the ashes of Nazi Germany to jump start U.S. missile research and the space program.

That kind of potential impact causes officials to view the nuclear mercenary issue as a far greater danger than the already publicized fear that a Soviet nuclear weapon might fall into the wrong hands amid the chaos of political disintegration.

"You have scientists whose raison d'etre disappeared at the end of the Cold War," said William C. Potter, director of the Center for Russian and Soviet Studies at the Monterey Institute of International Studies. "They are ripe for offers from abroad."

Though estimates vary, authorities and government analysts say there are probably from 3,000 to 5,000 scientists with knowledge of such vital facets of nuclear arms production as uranium enrichment—generally the most difficult step in building a weapon—or bomb design.

Mr. Potter, who led a workshop of U.S. authorities on such issues last month in Moscow, said Soviet officials told him that "Soviet nuclear scientists have been approached by foreign governments for employment."

Apart from the economic incentives. Mr. Potter cites "the ideological, religious, ethnic, and historical ties" to Middle Eastern countries of some of the scientists in some of the southern Soviet republics. He also warned that there are far more people to worry about than the 3,000–5,000 at the heart of the nuclear weapons program.

"On top of that you have all of the people who have served in the Soviet armed forces in one capacity or another and have worked around or otherwise used nuclear weapons in their daily routines," Mr. Potter said.

"Then you have the people in the nuclear power sector who, while they may not be working with nuclear weapons, per se, have skills which would be of use to a potential proliferant."

In addition, he said, there are about 100,000 Soviet scientists with high enough security clearances to have obtained information that could be helpful to a fledgling weapons program.

To keep track of at least some of those people, U.S. intelligence services are stepping up efforts "in terms of developing analytical capabilities and increased resources," one U.S. official said. And keeping tabs on the mercenary issue will be one of the first chores of the CIA's new Non-Proliferation Center that opened in September.

But authorities here and in Moscow say that not even the Soviet government seems to have a firm handle on who knows what, much less the ability to keep track of the scientists if they start leaving in January. Nor is anyone likely to suggest trying to keep scientists from leaving.

That's especially true for the United States, which has long made a human rights issue out of restrictive Soviet emigration policies. One of the most frequently cited examples has been Andrei D. Sakharov, the nuclear weapons designer-turned-dissident who was repeatedly denied permission to leave the country until 1989, the final year of his life.

So, U.S. officials are trying to think of other ways to make the scientists stay put, such as helping to pay for research to determine the best way to disarm Soviet nuclear weapons.

Thousands would be dismantled under the recent arms treaty agreement, and other countries might keep the scientists employed doing this by picking up the tab, one official said. "At the policy level, there is a sense of urgency," he said. "You need to keep these people in the country or at least find some safe avenues."

Oleg Bukharin, a Soviet physicist who has joined efforts to alert his countrymen to such issues, said that the best way to keep scientists happy would be "by offering them a good job at a good salary," though he admitted that that will be difficult. Mr. Bukharin, who has spoken to colleagues who specialize in nuclear physics, said, "They seem to be very pessimistic, and they don't see any solution."

"It is difficult to say what they will do," said Andrei Zagorski, vice director of the center for international studies at the Moscow State Institute of International Relations. "It might happen that there are some that will accept those kinds of [outside] offers."

Mr. Zagorski joined Mr. Bukharin and a handful of other Soviet citizens last week in a return visit to the Washington area to meet with members of the U.S. group led by Mr. Potter. Mr. Zagorski is heading the nascent Association of Non-Proliferation in his country.

But even the scientists who stay home could become part of the nuclear proliferation problem, authorities say, if they end up working for a burgeoning wave of new companies that are trying to generate much-needed cash by marketing "peaceful nuclear explosions" and other arms-related technology to the world at large.

The early leader in this group is the International Chetek Corp., an 11-month-old company created by nuclear scientists who were about to be laid off from the Arzamas-16 nuclear weapon design center. With a boost of 200 million rubles from the Soviet Ministry of Atomic Power and Industry. Chetek has begun touting its willingness to blow up hazardous waste with underground nuclear explosions and has already hired a Canadian firm, PHD International Trading Inc. of Montreal, as its international sales agent.

Danny Wolfson, PHD's Chetek representative, said he has received about 40 inquiries from potential customers in Canada and the United States during the past two months, including one U.S. state that he would not identify.

That kind of interest alarms Tariq Rauf, senior associate of the Canadian Center for Arms Control and Disarmament, in Ottawa. "This is the first time anyone involved with nuclear weapons production has come on the market to offer their technology and services to anyone who is interested," Mr. Raul said. He said this only makes it more likely that some customer will end up acquiring the technology. "They [at Chetek] have not ruled out taking the PNEs [peaceful nuclear explosions] to other countries and using them on foreign soil."

"Totally impossible," Mr. Wolfson responded. "No nuclear device of any shape, matter or form will ever leave the U.S.S.R., under any circumstances." The waste will be shipped to the U.S.S.R. for destruction, he said.

Other new Soviet companies getting in on the nuclear business are Vremya, which Mr. Rauf said is marketing nuclear materials and equipment, and the uranium-marketer Tenex, a recently privatized enterprise.

Making these companies more worrisome, Mr. Potter said, is that Soviet controls on exporting such products are rapidly being relaxed, as oversight shifts from the Ministry of Foreign Affairs to the Ministry of Foreign Economic Relations.

"And the main mandate of the Ministry of Foreign Economic Relations is to bring in hard currency," he said. "Basically, everything is for sale."

[From the Washington Post, Nov. 21, 1991]

SOVIET ARMY SAYS IT WILL DEFEND ITSELF

(By Fred Hiatt)

MOSCOW, Nov. 20.—The Soviet army is prepared to defend its equipment and installations—by force, if necessary—against attacks from independence-minded republics, a military spokesman said in an interview today.

Lt. Gen. Valery Manilov, chief of information for the Soviet Defense Ministry, said his ministry and the Interior Ministry jointly have warned the republics not to try to seize Soviet military property. Such attempts "cannot be tolerated any longer," the ministries said.

"Under the law, the armed services have every right to defend themselves and their property, and they are determined to act in accordance with the law," Manilov said.

The ministries' warning represented the most forceful effort yet to prevent the Soviet armed forces' disintegration, which many fear could lead to civil war. Since a hard-line Communist coup failed three months ago, most of the 12 remaining Soviet republics have been accelerating their drives for independence, in many cases claiming the right to form their own armed forces and seize Soviet military equipment within their borders.

Manilov said the warning was aimed at the Ukraine, Moldavia, Georgia and Azerbaijan, all of which have laid claim to Soviet military property on their territories or have attempted to "take inventory" of arms and ammunition.

The movement has aroused most anxiety in the West with respect to nuclear weapons, which are concentrated in Russia but which also are located in the Ukraine, Kazakhstan, Byelorussia and perhaps other republics. Today, Manilov repeated assurances that "full-scale control" of nuclear arms is in the hands of the central government.

But the republics have been far more assertive with respect to conventional arms, claiming possession of army and navy bases and in some cases disarming small units of Soviet troops, according to press reports.

"Attacks on military units with the aim of seizing weaponry, armored vehicles, ammunition and other equipment pose the most serious threat to stability and internal security," the ministries' statement said. "In certain areas, military equipment and property of army units have been stolen. Only the restraint of army officers has made it possible to avoid bloodshed and numerous victims."

"The demands to cede weapons and military equipment have been accompanied by threats to stop supplies of water, fuel and energy," the statement said, without mentioning republics by name. "Such facts cannot be tolerated any longer. They are aggravating the already extremely tense situation and are fraught with the most unpredictable circumstances.

"No one should have any doubts that the army servicemen have every right to necessary defense, including the use of arms.

Alexander Konovalov, an expert on conventional arms and troops at Moscow's Institute of USA and Canada, said attempts by republics to divide the armed forces could eventually provoke armed clashes.

"Right now, it's very difficult to imagine such a thing, but everything is changing so quickly," Konovalov said in a recent interview. "The West has not realized the scope of the danger."

Konovalov said he believes that in the short term republics are unlikely to attack military installations but will try to woo their officers with promises of improved living conditions and benefits. He said such promises may be especially enticing in the Ukraine, where many troops returning from Eastern Europe have been living in tents for a year or more.

Also influencing the situation, he said, is the fact that about 30 percent of Soviet army officers are Ukrainian. Similarly, many of the troops stationed in Azerbaijan, which is believed to be arming itself in preparation for a possible conflict with neighboring Armenia, are Azerbaijanis.

Manilov said he has "no doubt" that Soviet troops in Azerbaijan and elsewhere "will remain loyal to their oaths and to the rules of their army . . . and to the defense minister and the general staff."

"I think this statement will have a sobering effect on violators and a morale-boosting effect on those in service," Manilov said.

NEW HAMPSHIRE MOURNS THE LOSS OF RICHARD DUNFEY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Richard P. Dunfey, an outstanding individual who has given a lifetime of distinguished public service and personal generosity to the citizens of New Hampshire. Richard died this week, and people from all walks of life are mourning the loss of this exceptional man, who spent the last 12 years of his life serving as the chief justice of New Hampshire's Superior Court.

Richard Dunfey was a proud member of a well-respected New Hampshire family. This family has always been willing to work tirelessly on causes they believed in, no matter what the financial or personal cost. Richard's death falls especially hard on the hearts of New Hampshire citizens, because it so closely follows the death of several others from the Dunfey family.

Mr. Speaker, on November 21, 1991, the Manchester Union Leader published an excellent editorial tribute to Richard Dunfey and the Dunfey family by Jim Finnegan, which I would like to share with my colleagues.

THE DUNFEY LEGACY

One hopes that when future historians comment on the legacy of the Dunfey family in New Hampshire they will not be too preoccupied with the purely political aspects of that legacy.

To be sure, the political impact the Dunfeys made on the Granite State, and indeed the nation, is legendary. But the Dunfeys, may it be recorded by historians for all time, were not simply good politicians.

They were good people.

That salient point was emphasized, although it hardly needed restating, by virtually everyone who commented on the death this week of Richard P. Dunfey, for 12 years chief justice of the state Superior Court and the sixth of the Dunfey children to die since 1989.

Over the years, this newspaper frequently has found itself on the opposite side of political issues from the powerful Dunfey dynasty, whose influence, outdistancing even its business interests, ran all the way to the White House. Could the history of those days be relived, undoubtedly nothing would be changed. The same political battle lines would be drawn, and the political wars would be waged just as vigorously.

But the deaths especially of Walter and William, and now Richard should remind all of us that some things in this life are much more important than points of ideological contention. The archtypical liberal, we have noted frequently, is generous—most notably with other people's, the taxpayers', money.

But the Dunfeys, perhaps due in large measure to their Irish heritage, are distinguished for their financial support of public charities and their many unheralded personal kindnesses.

Monsignor Philip Kenney made that point well when he said on the occasion of Judge Dunfey's death:

"Even though they were born here in America, I think their parents impressed upon them what I call an 'immigrant mentality.' There was always room at the immigrant's table for someone in need, and in a social sense, the Dunfeys have always shown great generosity toward the less fortunate, and most often, they have done so anonymously."

Political historian Charles Brereton was making much the same point when he observed:

"Once people become successful in business, a lot of them just sit at home and clip coupons, but not the Dunfeys."

Business, philanthropy, national and international political causes—whatever the Dunfeys did they did with verve and dedication and a genuine humanitarian instinct. They wouldn't have known how to be apathetic, to be less than role models deserving of emulation.

May the six remaining Dunfey children enjoy long lives perpetuating that enviable heritage.

TRIBUTE TO RABBI FABIAN SCHONFELD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Rabbi Fabian Schonfeld, spiritual leader of the Young Israel Synagogue of Kew Gardens Hills. Rabbi Schonfeld is being honored this weekend by a grateful congregation, on the 40th anniversary of the synagogue which he helped to found in 1951.

A simple listing of Rabbi Schonfeld's activities yields accomplishments enough for any man. He has been the spiritual leader of a vibrant religious community for 40 years. He has been president of the Rabbinic Council of America and the Rabbinic alumni of Yeshiva University. He is an executive member of the World Jewish Congress, chaplain to the Jewish postal workers, and a contributor to numerous Jewish publications. Within the religious community, Rabbi Schonfeld is looked up to for guidance, for wisdom, and for leadership.

And still, Mr. Speaker, when the people of Young Israel and their guests meet this Sunday to honor this man, the true congregation of Rabbi Schonfeld will not be fully represented. For Rabbi Schonfeld has for many years reached out to touch all the people of his community. A man of tireless and legendary compassion, Fabian Schonfeld has always extended his hand to everyone, regardless of race, regardless of all the trivial differences which so sadly continue to come between us.

He has worked with the police to help them understand the needs of the community, and with the Queens Valley Home Owners Association to improve the quality of life for the people of his county. Through his work on the Queens black-Jewish people-to-people project, Fabian Schonfeld has tried to bring together all the people of his larger congregation, to foster understanding, friendship, and above all compassion. City, State, and National politics have all been touched by his energy, and have all turned to him for help. If the measure of a man is in what he does for others, than Rabbi Schonfeld is truly a qiant.

Presidents have sought him out to inspire national conventions, and every local official I know has benefited from his counsel and wisdom.

It has been my privilege to know Rabbi Schonfeld from the time I was in Hebrew school. From that and other vantage points I have watched him work for the betterment of Queens and our Nation. It is my privilege to join those who honor him this weekend. I know that he will continue to show the same dedication and energy to his work that he always has, and that he will continue to touch the lives of all those around him. I am only sorry that we do not have more people like Rabbi Schonfeld among us.

Mr. Speaker, I ask all of our colleagues in the House to rise and join me in wishing Rabbi Schonfeld 120 years of health and continued good works.

OPPOSITION TO H.R. 3769

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. OWENS of Utah. Mr. Speaker, I rise in opposition to H.R. 3769. As we know, this legislation would cap credit card interest rates. That this issue strikes a significant emotional and political chord is without question. What we should question is both the short and long-term impact of this legislation in its current form. I appreciate this opportunity to present to my colleagues a number of important considerations before they cast their opinion, and possibly their votes, in favor of this legislation.

First, let us ask whether or not this legislation will provide an added boost to the economy. It is conceivable that for some consumers, this will somewhat lighten the burden of debt repayment. But most consumers are doing just that—paying off debt. They are jittery about their jobs. Their health care expenses. Their mortgages. They are holding on to their paychecks to save for better days. And a good number of consumers pay their credit card bills on time, with no interest added.

Before the end of the session, we will have mandated new, much higher capital levels on banks. Granted, much of the banking industry's current woes are self-inflicted. But what we will essentially be doing is telling banks "You have to have reserves of x amount, but you have to build that capital with one arm tied behind your back." A cap, in and of itself, would simply lower profit margins and exacerbate an already grave situation—banks cannot lend money to small businesses and homeowners if they don't have adequate capital.

Second, we seem to be forgetting what banks do. Granted, the existence of federally-insured deposits constitutes a basic social contract between banks, Government and consumers. We have been revisiting that contract over the past 3 weeks, and will likely do so again for years to come. But banks operate fundamentally as a profit-making enterprise, seeking to maximize profits and, more often than not, to minimize risks.

The banks' natural response to this legislation is not to increase lending. It is to charge higher annual fees, turn away higher-risk applicants and cut back on services. Should we tack on amendments to this bill prohibiting banks from taking these steps as well? If so, we cross the boundary from regulation to micromanagement. And we can't outlaw the possible inflationary consequences. Yet to avert the natural, market-driven reaction to such a policy, that is what we would have to do.

Third, we have heard much about the disparities between the prime rate and credit card interest rates. But let us look at that in a different perspective. Interest rates declined, yet economic recovery remains sluggish. Those rates declined as a result of administrative fiat, not market pressures. What that suggests is that the prime rate is artificially low, not necessarily that credit card interest rates are inordinately high.

We do have options. There are thousands of credit cared issuers nationwide, with variable rates and accompanying services. We can bridge the gap between the consumer and the marketplace by providing for greater disclosure of rates, and I am receptive to the solution advocated by the Gentleman from New York [Mr. SCHUMER]. Capping rates does nothing to enhance competition in the industry.

Mr. Speaker, I am pleased that the House leadership has opted to take a step back and think through this legislation more carefully. The American economy is more consumer-driven than that of almost any other industrialized nation. Americans will eventually pull out their wallets and there credit cards when the economy recovers. But we need a period of austerity to build our reserves and restore consumer confidence. Such is the downside of a market economy, but it is also the unfortunate reality. Credit card interest rates, and the accompanying consumer frustration, are a symptom of the more complex problem of rebuilding the Nation's low rate of savings. Let us not skirt around that important task by supporting the mandatory rate cap.

JEFFERSON COUNTY SHERIFF HONORED

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ERDREICH. Mr. Speaker, I'd like to take this opportunity to extend my congratulations to Sheriff Mel Bailey, who has been inducted into the Alabama Peace Officers Hall of Fame. I'd also like to share with my colleagues some of the many professional and civic contributions Sheriff Bailey has made to our community.

Sheriff Bailey has served Jefferson County as sheriff for more than 28 years. He held various positions with the Birmingham Police Department until being elected sheriff in 1963. One of his major achievements as sheriff was the creation of a professional law enforcement operation for Jefferson County.

Under Sheriff Bailey's leadership, innovative crime-fighting equipment was obtained for his department and for use by other law enforcement agencies. Sheriff Bailey implemented a standard training procedure for his officers and chaired the committee of the Alabama Peace Officers' Association that established standardized training for all law enforcement personnel. The Sheriff was also responsible for setting up one of this area's most effective neighborhood watch programs back in 1974.

Sheriff Bailey has been supportive of legislation that benefits both law enforcement and the citizens of Jefferson County. The Sheriff is actively involved in many professional, church and civic organizations in the State.

Sheriff Bailey is truly deserving of this prestigious award and it is my honor to pay tribute to one of Alabama's most highly respected elected officials. Attached is an editorial from the Birmingham News praising Mel Bailey for this distinguished honor.

[From the Birmingham News]

BAILEY MAKES HALL

Congratulations to Jefferson County Sheriff Mel Bailey, who has been inducted into the Alabama Peace Officers Hall of Fame.

Bailey has served the Birmingham area as sheriff for more than 28 years. He made the sheriff's office the professional division of government is has become.

He put his deputies into uniforms and marked cars and had them investigate auto accidents and keep proper records.

People in this county take those things for granted now, because of Bailey.

The Sheriff also was responsible for setting upon this area's most effective neighborhood watch programs back in 1974.

The Hall of Fame, which was created by the Legislature in 1987, only has six members.

Also inducted with Bailey was retired FBI agent Joel Hitt of Mobile, who served with the federal law enforcement agency 35 years.

Discussing Bailey's induction, former Peace Officers Association president Joseph W. Stone said the sheriff is one of the most highly respected elected officials in Alabama.

That's high praise that is well deserved.

Bailey's honor makes all Jefferson County feel proud.

H.R. 2440, THE CREDIT CARD DISCLOSURE ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SCHUMER. Mr. Speaker, today I am introducing, along with Mr. TORRES, chairman of the Consumer Affairs and Coinage Subcommitee of the House Banking Committee, a revision of H.R. 2440, the Credit Card Disclosure Act.

Last week, the President called for credit card issuers to bring sky-high credit card interest rates back down to Earth. When the Senate took him up on his request, it brought uncertainty and panic to Wall Street and a firestorm of criticism. By the White House's own admission, it turns out that the President was just winging it.

Well, we in the House are not winging it. For years, I have been calling on the credit card issuers to stop gouging the consumer and bring down rates. In 1988, we entered my Fair Credit and Charge Card Disclosure Act, which, for the first time, required card issuers to disclose clearly and conspicuously in tabular format, the terms of their cards on initial applications and solicitations. No longer could card issuers hide their high rates and fees in the fine print.

My belief was that if consumers knew about the high rates and fees they were going to be charged, they would take their business to competitors that offered lower rates. This bill succeeded in letting consumers know that they could get low-rate, no fee credit cards if they just shopped around.

This year, I introduced H.R. 2440, to further combat the card issuers who persisted in ripping off consumers on rates. It has become increasingly clear that the market for credit cards does not work. In a declining interest rate environment, many credit card issuers—primarily large commercial banks—continue to charge an average 19 percent interest to consumers.

You would expect that in a declining rate environment, banks would be passing on their savings from a lower cost of funds down to the consumer. In fact, the current situation is the exact opposite. Banks have lowered the interest they pay out to consumers for CD's, checking, savings accounts et cetera, but the rate they charge consumers for auto loans and credit card loans have actually gone up. Over the past 2 years, the average credit card rate has risen almost a full percentage point as the bank's cost of funds have gone down a full 2.5 points. Credit card rates are as high today as they were when the discount rate was 14 percent.

In the current recessionary climate, consumers are running up higher debt balances because they are out of work. Others are trying to get out from under the debt they rang up in the 1980's. It is therefore important to alert them to better credit opportunities and make it easier for them to switch to cards with less onerous interest rates. The Schumer-Torres bill facilitates a consumer's ability to change to lower rate cards and further increases disclosure by credit card companies so that consumers have the information to make an educated decision.

American consumers ran up over $328 billion in transactions in 1989 using 268 million credit cards and this is expected to rise to $500 billion by 1995. The typical American family has 4.6 credit cards. In families making over $75,000 per year, the number rises to 7.4 cards. Because the credit card is such a pervasive part of the American landscape, it is critical that the market work in the consumer's favor.

The bill we are introducing today accomplishes four things:

First, it fosters true competition in credit card rates by requiring banks to prominently notify cardholders of their interest rates on all advertisements and on the envelope of every mailing.

Second, if a card issuer changes any term of the credit card agreement, it must notify its customers 30 days in advance of the change and allow the consumer to cancel the card and pay off any outstanding balance on the original terms.

Third, it mandates a GAO study to once and for all find out why there is virtually no competition on interest rates among the biggest 10 banks.

Fourth after completion of the study, it authorizes the President to impose a reasonable floating cap, which at today's low rates would be about 15.5 percent. The President started this latest panic with his winging it, so we're going to let him determine whether to impose the cap.

We believe that this bill is a responsible and thoughtful response to the calls from the President, and ourselves, for lower interest rates. It is now up to the card issuers, in the next 9 months, to show that they compete for customers, not only with perks, but most importantly, with rates. It just makes no economic sense for 7 of the top 10 card issuers to offer the exact same 19.80 percent rate to most of their customers if there is true competition in the market as so many industry participants claim.

If the GAO study confirms our claims that there is no competition in the credit card industry, it will be up to the President to finally take meaningful action, to complement the strong disclosure provisions of our bill, instead of just winging it.

The president has fired the initial shot across the bow of the card issuers by calling for lower rates. In 9 months, the President again will be holding a loaded gun, in the form of the GAO report—and it will be up to him to pull the trigger and finish what he has started.

CONGRESSIONAL SALUTE FOR ALICIA M. TURENNE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. OBERSTAR. Mr. Speaker, it is with great pride that I rise today to pay tribute to Alicia M. Turenne from International Falls, MN, who placed second at the National Right to Life Oratory Contest. At a time when America has been called the disposable society, it is encouraging to see that there are committed young individuals who believe in the sanctity of life. Because an essential element of the pro-life movement is education, I would like to commend to the attention of my colleagues the award-winning speech of Alicia M. Turenne:

THE TRAGEDY OF ABORTION

(By Alicia M. Turenne)

When a 92 year old man dies in his sleep, we give it very little thought because this person has had the opportunity to live a full and satisfying life. A 48 year old person dies of a sudden heart attack, we are saddened because we feel that this person still had time to enjoy life and share experiences. A 19 year old student is killed in a car accident. We are angered at the senseless death of this individual who had just begun to experience the challenges and blessings of life. A five month old baby dies of crib death—we grieve for this child because he barely had a chance to fulfill the hopes and dreams we had for him. An infant still inside the mother's womb is killed by an abortionist. This baby did not have any chances, opportunities, or experiences. 1.6 million of these babies are killed each year in the United States.

Babies who at the moment of conception have 46 chromosomes and an entirely unique genotype that will determine every characteristic of this new life—until death. A baby who at only three to four weeks gestation has a backbone, a spinal column, a complete and complex nervous system, and a pulsating heart that is pumping blood. This same baby is not recognized as even "potential life" in the United States. A baby who at only six weeks gestation has tiny hands, fingers, and toes. The child's liver has taken over the production of his or her own blood cells, and the child has his or her own circulatory, digestive, and eliminating systems. Brainwaves can be detected and read by scientific instruments. Yet every year in the United States, 28 out of every 1000 women between the ages of 15 and 44 kill this baby. A baby who by the end of eight weeks gestation has a skeleton that has begun to change from cartilage to true bone, and a jaw with gums and teeth buds. The baby responds to touch, and perceptible movements can be recorded. Still one of these babies is killed every 20 seconds in the United States. A baby who after three months, the first trimester, has fully formed hands, fingers, legs, feet, and toes. Fingernails are beginning to grow and fingerprints appear. The heartbeat can be heard with a fetoscope, and genitals reveal the sex of the new child. The baby can turn its head, curl and fan its toes, and open and close its mouth. The child can sleep, wake up, and breathe amniotic fluid regularly which exercises and helps develop the respiratory system. The baby can drink, digest, and excrete portions of the fluid. This baby is not protected by law in the United States.

In a society in which we are so proud of our freedoms and liberty, it is ironic that we don't grant a baby its one natural right-life. Pro-choice advocates feel that a woman should be able to have her rights-to control her own body. I believe in these rights also-until her rights impose on the rights of another person, in this case the child she is carrying.

Pro-choice advocates also support abortion because there are many children in the world today that are suffering. This is true and it is definitely one of the evils of our society, but I can not understand how one can hope to correct one evil by compounding it with another evil—the taking of a life.

A third reason given to justify abortion is that the child in the womb is not normal. Sometime during development something went wrong, and the child isn't perfect. Which of us is perfect? Perfection is an unrealistic image portrayed to us in movies and in media propaganda. It is an opinion.

Denise is a friend of mine, and she is mentally handicapped. When I was in kindergarten, Denise worked in the lunchroom. Her job was to hand out the milk. I remember she would always point to the different kinds of milk—skim, chocolate, or two percent—showing us that we had a choice. After I had made my choice, and she had handed me the right kind, she would smile with the feeling of accomplishment that we all have after we've done something right. Now that we're older I still see Denise frequently around town, and she greets me with the same warm smile and "hello" as I remember from grade school. Denise is not the same as everyone else, but she has brought happiness to me just as I know I have brought happiness to her. Does society have the right to deny either Denise or me our happiness and friendship?

I have great faith in our country. The people of America, both as individuals and as a government, have always been able to find the truth and have implemented systems which protect the truth. I believe the Americans are truly good and that with education we will come to realize the tragedy of abortion. As a society we will learn to help unwed mothers, support and not condemn pregnant teenagers, and we will accept people as they are because we are all unique. Just as Americans found the truth and reversed the Dred Scott decision to recognize the black person as a human being, so will Americans today discover the truth and overturn the Roe vs. Wade decision of 1973 to recognize the unborn baby as a human being. Someday soon Americans will realize that the child within the mother's womb is indeed a human being, here for a reason, and definitely worthy of life.

IN SUPPORT OF THE HIGHER EDUCATION AMENDMENTS OF 1992

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1992

Mr. SERRANO. Mr. Speaker, I rise to call your attention to one of the most important pieces of legislation that will impact this Nation and how we prepare our youth for the future, H.R. 3553—the Higher Education Amendments of 1992.

I am one of those individuals who believes that when it comes to education there should not be any spending limits. Developing our human resources should be a priority because it would guarantee our future ability to compete in the global market. Education is power, and until every American recognizes that fact, and is afforded the opportunity to fully participate and reap the benefits, we shall continue to decline as a nation.

H.R. 3553 provides access to a quality education for all, albeit low-income students, part-time nontraditional students or, middle-income students. This bill is particularly sensitive to nontraditional students in that it includes measures to ensure equitable financial aid, special services such as child care and special hours for nontraditional students. I am particularly pleased that also incorporated in this measure is a provision I authored, the Teacher Opportunity Corps Program. This program would award grants to teachers aides/paraprofessionals working in economically depressed school districts. Several States have successfully initiated such programs involving committed individuals working as paraprofessionals, frequently employed in schools that serve children with the greatest needs, and that unfortunately, also suffer a shortage of full time qualified teachers.

I am especially pleased that the act also provides a mechanism to make whole the victims of unscrupulous schools who have defaulted on student loans and thus deterred many from continuing their education. If we can forgive a debt of $7 billion for Egypt, we can forgive students who have been taken advantage of by scheming operators.

It is particularly important that when students do enroll in college or university that they are focused on their studies and not distracted about whether their loan or grant will cover all their educational expenses. If we are truly about the business of refining this Nation's education system it is imperative that all students have access and choice of educational programs regardless of their economic background. By establishing the Pell grant program as an entitlement, students would be assured of an amount not subject to the whims of policymakers.

Mr. Speaker, I have often stated and stand by the fact that, education is the best and surest way out of the poverty and misery that our people live in. Many of the problems that affect our communities would be solved, or at least dealt with, if people had the ability to read, write and defend themselves properly. As we move into the 21st century, it is vital that we educate all Americans to acquire the skills and knowledge that are essential to being successful and productive members of our society. By enhancing the educational attainment of our competitiveness in the world market, we only can strengthen the state of our economy.

I urge my colleagues to support the Higher Education Amendments of 1992, H.R. 3553.

ALLEGHENY NATIONAL FOREST PROTECTION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. KOSTMAYER. Mr. Speaker, In the Allegheny National Forest [ANF]—Pennsylvania's only national forest—groves of cherry, oak and hemlock stand, towering over hiking trails and cold water trout streams. Within its congressionally-designated wilderness are thousands of precious acres largely untouched and unspoiled by man, including Pennsylvania's only designated wilderness. According to the 1986 Forest Service [FS] land and resource management plan for the ANF—

> The Forest is situated in the rugged plateau country of northwestern Pennsylvania. The topography is characterized by flat to rolling plateaus which are frequently dissected by stream valleys. . . . The watersheds provide high quality water supplies for local communities and habitat for deer, black bear, squirrels, rabbits, grouse, nongame species, and predators. At least 49 different mammals are common to the Allegheny. Water is a plentiful resource with several reservoirs and over 500 miles of stream available. These provide for a variety of fishing and hunting experiences. Opportunities for forest-based recreation are both numerous and diverse. Many miles of trails exist for the hiker, cross-country skier, and snowmobiler. Developed recreation facilities include four beaches, six boat launches, eighteen campgrounds, three overlooks, and nine picnicking areas.

The reality of the Allegheny National Forest is startlingly different, however. The ANF is home to 6,000 oil wells and the countless miles of dirt roads linking these wells. Because of the activities connected with oil and gas operations, many of the forest's streams that used to support native trout are now silted over, brine spills have killed the trees, and uncounted acres have been disturbed by road building, equipment storage, rock pit and pipeline construction, and the scattering of oil field debris and abandoned equipment. Quite by change, a group of citizens discovered a 33-ton pile of oily debris that had been dumped in the ANF with the apparent acquiescence of the Forest Service. Only after this inadvertent discovery was brought to their attention did the agency require removal and proper disposal. On countless occasions, private mineral operators have adopted the forest for their convenience, illegally using all-terrain-vehicles to carve short cuts through the woods to connect their well sites. The FS has resisted calls to adopt modern, environmentally sound land management practices and take decisive enforcement steps to balance oil and gas activities with other legitimate multiple use objectives.

Mr. Speaker, a routine staff investigation of the impacts of oil and gas operations on the Allegheny National Forest has led me to realize that the Forest Service regards itself as powerless to protect the lands and waters of the ANF. The Service's position is that since the oil and gas rights beneath its lands are privately owned, it can only use persuasion as a method to rein in activities that severely impact surface resources owned by the public. Today I am introducing legislation that would assure that the Forest Service and the public regain their authority to bring matters under control.

My bill gives the Forest Service 6 months to adopt regulations to protect the natural, cultural, historical, scenic and recreational resources in national forests from the impacts of privately owned oil and gas exploration and drilling. In 1979, the National Park Service promulgated regulations to control the activities of private oil and gas mineral rights holders inside national parks. These regulations permit oil and gas operations but with built-in safeguards that allow park rangers to prevent unnecessary or undue degradation to surface resources. As applied to the Forest Service, the rules would trigger a National Environmental Policy Act [NEPA] review that informs FS management officials and the public of the scope of planned activities and allows for the development of measures to mitigate the impacts of these activities. If the Forest Service fails to finalize rules within 6 months of this bill's enactment, then a modified version of the existing Park Service regulations would apply to the exercise of privately owned oil and gas rights in national forests.

These rules would compel the Forest Service to come to grips with the very troubling issue of the cumulative impacts of oil and gas development activities on national forests with significant private oil and gas ownership. As matters now stand, forest supervisions wash their hands of any attempt at assessing the impacts of road building, timber cutting, and oilfield waste disposal practices that accompany oil and gas activities. In the Allegheny National Forest, each of the thousands of oil or gas wells that have been routinely approved has required 5 or more acres of surface clearing. Yet, rather than seeking ways to mitigate the very real effects of such development, the Forest Service routinely ignores the cumulative impacts.

My bill also includes language authorizing citizen suits as a mechanism for bringing operations into compliance with the law. In many instances, and informed and vigilant citizenry is our best hope for protecting the public interest in the face of an entrenched and unsympathetic regulatory bureaucracy. The potential for enforcement action from ordinary citizens will send a message to unscrupulous operators while protecting responsible ones from unfair competition by those that flaunt laws and regulations that protect the environment.

Mr. Speaker, I am also introducing today legislation to amend the Solid Waste Disposal Act to require the regulation of produced water from oil and gas exploration, development and production. Produced water, a highly concentrated brine that accompanies oil and gas in underground formations, often contains elevated concentrations of metals and such carcinogenic compounds as benzene. These highly saline fluids can be 10 times saltier than sea water.

The damage that the unregulated dumping of produced water has done to the wetlands of the gulf coastal States has been amply documented in a Public Broadcasting Service documentary. Careless handling and discharge of these brines have killed trees and polluted streams in the Allegheny National Forest. The practice of land spreading as a disposal method in the such Eastern States and Pennsylvania and Ohio has, according to recent studies, caused an ominous build-up of the hazardous component of these brines in soils and groundwater. In short, the failure to regulate produced water disposal clearly and decisively at the Federal level has had very significant—effects on the environment.

Mr. Speaker, I am cognizant of the need to encourage domestic energy production in an environmentally sound manner. My bill on produced water regulation strikes a careful balance between the desire to stretch domestic reserves and the need to protect our environment. It provides producers with options on how they can treat their produced waters most effectively and economically while significantly improving the environment around their well operations. It is my hope that the House will move promptly on these bills when we reconvene in January.

ON THE OCCASION OF THE 15TH ANNIVERSARY OF THE VENTURA COUNTY AND COAST REPORTER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LAGOMARSINO. Mr. Speaker, I would like to take this opportunity to congratulate Nancy S. Cloutier and everyone associated with the Ventura county and Coast Reporter as they celebrate the newspaper's 15th anniversary.

Originally founded as an 8-page monthly newspaper named the Marina & Tower Views in November 1976, the Reporter went weekly in 1979 and changed its name to its present form.

The Reporter began its new life in 500 square feet of office space in wagon Wheel Junction on Buckaroo Avenue "over the barber shop, in front of the roller rink, and behind the bowling alley" with a staff of 5.

The publication became adjudicated as a newspaper of general circulation in 1981.

The Reporter moved to the Telephone Road Plaza in 1983, occupying 1,000 square feet and growing to 28 pages weekly. The paper continued to grow in staff and page size, eventually moving to its present 2,000 square foot location in Ventura Harbor Village in early 1986.

The Reporter is owned by Nancy, a 15-year Ventura resident who has been owner, publisher, and editor-in-chief for 12 years. There are 12 full-time and over 30 part-time employees who publish over 35,000 copies weekly.

The newspaper serves the communities of Ventura, Oxnard, Camarillo, Ojai, Fillmore, and Santa Paula, offering news of current events affecting the cities and county of Ventura as well as coverage of cultural events, fine arts, entertainment, sports, ecology, real estate, boating, and recreation.

Again, Mr. Speaker, I congratulate Nancy on achieving this milestone and wish her every success in the years to come.

INTRODUCTION OF THE SATELLITE HOME VIEWER ACT AMENDMENTS OF 1991

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BOUCHER. Mr. Speaker, today I am pleased to be joined by 13 of my colleagues in introducing the Satellite Home Viewer Act Amendments of 1991.

Senator LEAHY will be introducing a companion bill in the other body.

Mr. Speaker, the goal of the bill is simple—to lower the prices home satellite dish [HSD] owners pay to receive superstation and network affiliate programming.

The Satellite Home Viewer Act [SHVA] of 1988 established a legal framework for the retransmission of satellite-delivered broadcast programming, including superstations and network affiliates uplinked for the HSD market, by providing a statutory compulsory license to satellite carriers. The SHVA also prohibits satellite carriers from discriminating against HSD distributors in the use of this compulsory license. Despite the SHVA's explicit prohibition against discrimination, the Federal Communications Commission [FCC] documented in its June 5, 1991 report that discrimination exists and as a result HSD distributors are paying unreasonably high prices for broadcast programming.

While the SHVA permits injured parties to bring an action for violations of the prohibition against discrimination, the Copyright Office has concluded that HSD distributors are not entitled to sue for discrimination because they lack standing. The parties with standing, namely the copyright owners, have no incentive to sue because they have suffered on pecuniary injury. Thus, the aggrieved parties—HSD distributors—are left without a remedy for the price discrimination found by the FCC.

As a result, dish owners are paying excessive prices to receive broadcast programming. Most dish owners live in rural areas that are too sparsely populated to support a cable TV system and too remote or mountainous to receive clear over-the-air TV signals.

Our bill will amend the SHVA to allow distributors of programming to HSD owners to sue satellite carriers for unlawful discrimination. The bill will:

Give standing to distributors to bring civil actions against satellite carriers for unlawful discrimination.

Define "unlawful discrimination" as: first, the unreasonable refusal of a satellite carrier to deal with an HSD distributor which meets reasonable requirements for creditworthiness, or second, the refusal of a satellite carrier to offer to an HSD distributor the same price, terms or conditions, taking into account cost savings reasonably attributable to the number of subscribers served, as the satellite carrier has offered to a cable operator or other multichannel video provider.

Create an exception to the prohibition on unlawful discrimination where the satellite carrier can demonstrate that the price differential is justified by an additional cost incurred in providing wholesale carriage to the HSD distributor.

Permit distributors to avail themselves of the remedies provided for copyright infringement, including injunctive relief, compensatory and statutory damages, costs and attorney's fees.

This legislation has been endorsed by groups representing consumers, HSD owners, HSD dealers, and others, including the following: Consumer Federation of America, Consumer Satellite Coalition, National Rural Telecommunications Cooperative, National Rural Electric Cooperative Association, National Telephone Cooperative Association, the Program Packagers Segment of the Satellite Broadcasting and Communications Association, Heart of America Independent Satellite Dealers, National Farmers Union, National Grange and Communicating for Agriculture.

The Copyright Office has recognized the need for this legislation and so testified during a July 10, 1991 hearing before the Subcommittee on Intellectual Property and Judicial Administration.

I want to thank the Senator from Vermont [Mr. Leahy] for his assistance in structuring the legislation we are introducing today, and ask my colleagues in the House to join us in this effort. It is a straightforward means of solving a problem that is affecting hundreds of thousands of HSD owners throughout the Nation.

PRESIDENT BUSH AND CIVIL RIGHTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STOKES. Mr. Speaker, President Bush today is reportedly considering action that would shame and disgrace himself, his administration and his political party in the eyes of history.

On the very day that he signed the Civil Rights Act of 1991 into law, his administration contemplated using an Executive order to repeal 25-year-old Federal rules, regulations guidelines and policies designed to assure equal opportunity in employment and contracting. This action would be a perverse insult and slap in the face to every American who believes in the ideals of this Nation.

By Executive directive, President Bush has been urged to order Federal agencies to discard many of the programs that they have been using to break down long-standing practices of racial and sexual discrimination in employment and contracting. Such action would effectively abolish the uniform guidelines for employee selection, a set of rules and guidelines used by the EEOC to detect patterns of job discrimination and by other agencies in the design and implementation of their recruitment and hiring programs. It would effectively gut the guidelines of the Office of Federal Contract Compliance in which Government contractors must take affirmative action to insure that job applicants represent a diversified work force.

More devastating than the direct impact on Federal agencies is the spill-over effect that such an edict would have in the private sector. Employers and contractors have followed Federal guidelines and have developed policies that are consistent with Federal Government policy. President Bush's change of policies would provide fresh license to discriminate. Minority and female entrepreneurs who simply seek a piece of the action would be told that the "good old days" and the "good old boys" are back at DOT, the SBA, the FAA, NASA or wherever and that racism, sexism and cronyism will once again rule in the Federal contracting marketplace.

Mr. Speaker, any directive by President Bush would reduce his signing of the civil rights bill to a cynical act. Civil rights to this President are little more than a shell game: Give with one hand and take with the other. The President signs a bill to restore rights and remedies, his staff proposes a directive that emasculates those same rights and remedies. Although I am outraged, I am not surprised. This President and his predecessor have been in office 11 years and we have had 11 years of full retreat on civil rights, 11 years of vicious racial politics and 11 years of malicious and misguided policy. We should not forget the proposed tax exemptions to private segregated schools, the initial opposition to the Voting Rights Act extension, the wholesale attack upon and denigration of affirmative action, the clumsy effort to ban minority scholarships, Willie Horton, Clarence Thomas, the phony quota bill rhetoric and the rest of the sad legacy of this administration.

Mr. Speaker, perhaps issuing a license to discriminate as you sign a Civil Rights Act wins some political plaudits from the most insecure elements of our Nation. Perhaps it would be a clever diversion from the disaster that this administration has made of the national economy for 11 years. Whatever the explanation may be, the action would speak for itself. The proposed directive is an attempt to undercut the intent of Congress, to compromise legal protections granted by the courts and to roll back the clock on civil rights. Any such action would be a national disgrace.

I have seen a copy of the proposed signing statement for the Civil Rights Act of 1991 containing language directing Federal agencies to review and terminate existing affirmative action and equal employment policies. Apparently, the reaction to this proposal has been so negative that the administrative retreated from its issuance, at least for now. Let us hope that it is buried forever.

LINDA MEDDERS OF SANTA ROSA RECEIVES RECYCLER OF THE YEAR AWARD

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. RIGGS. Mr. Speaker, I am proud to announce that Linda Medders of Santa Rosa, CA, has been honored as the 1991 Recycler of the Year by the National Recycling Coalition of Washington, DC. She was awarded this honor in recognition of her outstanding achievements over the past decade for Empire Waste Management's recycling division in Santa Rosa.

With landfill problems affecting much of our country, the First Congressional District in northern California, under the leadership of Linda Medders and Empire Waste Management, has consistently reduced its landfill problems through community recycling and educational programs.

Linda Medders success story exemplifies the benefits of hard work and dedication. She began at Empire Waste Management's recycling division in Santa Rosa, CA, in 1981. As the only woman in a crew of 50, she started in the yard sorting the thousands of cans and bottles from the truckloads of materials that entered the facility daily.

Ten years later, after sorting material in the yard, running forklifts and bailers, organizing and driving reclamation routes, training drivers, handling community relations, speaking with schools and community groups, and creating and producing advertising, Linda now runs the recycling department of Empire Management, Inc., a division of Waste Management of North America.

Empire started one of the Nation's first curbside recycling programs in 1978, when sorting trash was relatively rare. When Linda came on board in 1981, Empire ran two residential recycling routes and two part-time commercial routes. Now there are 10 residential and 5 commercial recycling routes running full-time trying to keep up with the demands of the City of Santa Rosa, as well as Sonoma and Mendocino counties.

With Linda's knowledge of the recycling industry and the popularity of recycling growing simultaneously, Empire began working in the community to promote the advantages of its programs and how they could benefit the community and the environment. Linda began speaking at schools, hospitals, retirement homes, Cub Scout meetings, Lions Club sessions, and other forums to promote recycling. She also gave tours of Empire's facilities to children so they could see first-hand the thousands of cans and bottles being recycled.

When this outreach program started, Linda had to work to convince area groups to have her speak about recycling. Now, she is bombarded with so many requests for her time that she can barely keep up with them. Recently, Linda gave a tour of Empire's facilities to a visiting Russian delegation.

To promote Empire's message through advertising, Linda created these characters: Veri Peri, a small green bottle with a French accent who's pleading to be recycled; Red Daily, a cigar-smoking newspaper reminding people to save their papers; and Patty Plastic, a lonely plastic container with a valley girl accent. Using these characters in radio ads and print materials, Linda reached children and adults with the message that recycling is fun, as well as the right thing to do.

California's First Congressional District is proud of Linda Medders. Due to her hard work and dedication the communities of the district are becoming environmentally conscious and better educated about the benefits of recycling. I am proud to represent her and I encourage my colleagues to look at her achievements as a model for waste management programs around the country.

BUSH ATTACK ON CIVIL RIGHTS ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CLAY. Mr. Speaker, as we all learned this morning, President Bush was prepared to undo 30 years of civil rights progress at the very same hour that he was going to be signing the Civil Rights Act of 1991. I have seldom seen such an outrageous, cynical attack on civil rights as this.

White House staff began circulating a draft directive yesterday afternoon at 4 p.m., less than a 24 hours before it was to be announced, that would have eliminated all Federal policies that give preferences to minorities and women in hiring or promotion.

I am outraged. As far as I'm concerned, there is about as much difference between David Duke and George Bush as there is between tweedle-dee and tweedle-dum. Before the ink was even dry on the Civil Rights Act of 1991, George Bush had begun waging guerrilla warfare on the very rights it was intended to protect. This would have been worse than declaring open war on civil rights, as my good friend Ralph Neas of the Leadership Conference on Civil Rights said. That gives him too much credit. This would have been a sneak attack.

George Bush acts like David Duke won last week. Mr. President, David Duke lost. The good citizens of Lousiana were revolted. Do what the deepest of the Deep South did. Reject racist politics.

The President was thinking of doing through executive fiat what the Congress would not do. I am haunted by memories of Southern governors who used similar tactics in refusing to carry out the law of the land. This is a modern day version of the 1950's massive resistance and interposition to the extension of civil rights. This draft directive indicates an arrogant disregard for the law, the will of the Congress and the decency of the American people.

The White House draft being circulated for release today would have terminated the Government's 13-year-old Uniform Guidelines on Employee Selection Procedures, which are used by private and public employers to determine how to comply with anti discrimination laws. The directive also would have ordered all Government agencies to begin phasing out "any regulation, rule, enforcement practice, or other aspect of these programs that mandates, encourages or otherwise involves the use of quotas, preferences, set-asides or other similar devices, on the basis of race, color, religion, sex or national origin."

As we know now, the furor created by news accounts led President Bush to rescind the directive this morning. However, his press secretary refused to rule out the possibility that the President would later order the elimination of these policies that have opened doors for minorities and women for over 30 years.

As chairman of the Committee on Post Office and Civil Service I intend to ensure that any changes in the affirmative action policies of the Federal Government proposed by the White House in the implementation of the Civil Rights Act receive full and detailed congressional review. It is readily apparent that at least some in the White House no longer believe that race and sex discrimination are a problem. One wonders whether those individuals would even acknowledge that there has ever been a problem. I will do all within my power, however, to remind George Bush of the fact that many Americans continue to be denied equal opportunity on the basis of their race or sex, that Americans are still victimized by a legacy of over 400 years of discrimination, and that the Federal Government, especially in its capacity as an employer, has an imperative and abiding moral obligation to redress these wrongs.

GUN VIOLENCE IS OUT OF CONTROL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. AuCOIN. Mr. Speaker, the special interests are at it again. In the closing days of this session of Congress, the gun lobby is trying once again to kill the Brady bill. We beat them fair and square on the House floor, so they're trying to go around us to get their way.

Right-wingers in Congress in league with the gun lobby are trying to hold local crime-fighting funds hostage, hoping to defeat a simple waiting period for handgun purchases.

Evidence from the States shows the Brady bill will help keep guns out of the wrong hands. Oregon's own waiting period prevented over 250 felons and mentally disturbed people from buying handguns last year.

Gun violence is out of control, and so is the gun lobby. I'm sick and tired of its dilatory tactics. Congress must move the crime bill and the Brady bill before it adjourns.

CREDIT CARE LEGISLATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. TORRES. Mr. Speaker, today Congressman CHARLES SCHUMER and I are introducing legislation we have developed on the issue of credit card interest rates. We have come to an agreement that presents a prudent approach to addressing the disparities in rates consumers are charged on their credit card purchases.

The gloom and doom forecast of the banking industry amounts to a hue and cry over possible impingement on their profit margins. Banks are actually experiencing one of their largest credit card profit margins since 1982. It is clear that these profits are not being passed on to consumers in the form of lower interest rates, but instead are being achieved at the expense of the consumer.

When my subcommittee held a hearing on this very issue last month, it was apparent to me that the banks could not justify credit card interest rates at or near 20 percent when the cost of borrowing was near 5 percent. A 15-point spread cannot be justified based on costs alone.

However, we cannot dismiss the effect on the market of the Senate's vote last week to impose an interest rate cap. That action demonstrated just how volatile the marketplace is. While a rate cap is appealing, we must legislate in the national interest. I am confident that the approach Mr. SCHUMER and I have developed is the sensible way to proceed.

Our legislation, by mandating a study of the credit market, will keep attention focused on this issue which is so critical to Americans. Americans carry a total of more than 980 million credit cards and will run up a tab of close to $500 billion in credit card transactions by 1995. Because the credit card is such a pervasive element of our American economy, it is imperative that the market work in the consumer's favor. This issue will not go away until Congress is convinced that competition is alive and well in the credit card industry.

TRIBUTE TO ANDREW MATTHEW SNAUFFER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GEKAS. Mr. Speaker, I rise today to congratulate Andrew Matthew Snauffer, of Montoursville, PA, on attaining the rank of Eagle Scout. Andrew is the son of Donald and Kathleen Snauffer.

Drew, as he is known to his family and friends, worked his way up through the ranks in his Cub Scout and Boy Scout troops, earning numerous badges and awards since he first started Scouting in 1980. Drew is a member of Troop 21 at the Faith United Methodist Church in Montoursville.

Drew undertook an Eagle Scout project that benefited the Willing Hand Hose Company No. 1 of Montoursville and the Montoursville Fire District. Drew organized and supervised the unloading, cleaning, painting, and reloading of the cabinets on four fire trucks. Due to his effort, these fire trucks are now much more visible to traffic at nighttime. Drew worked with 24 other Scouts and firemen on this important venture, contributing a total of 176 man-hours to the project. What is most remarkable about Drew's effort was that he accomplished it while he was in a leg cast and using crutches because of a skiing accident. Such dedication under these circumstances is truly admirable.

Drew is currently attending Penn State University studying nuclear engineering. He was an outstanding scholar at Montoursville High School, as he received several academic and scholastic awards and honors. He has been very active in his local church and in local charitable organizations.

Mr. Speaker, I ask all of my colleagues to join me in paying tribute to Andrew Snauffer for his many achievements, as his family, friends, and fellow Scouts honor him on becoming an Eagle Scout. I have no doubt his future will be a bright one.

HOGAR CREA: 23D ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. RITTER. Mr. Speaker, I rise today to recognize the 23d anniversary of Hogar CREA, which is being celebrated this Saturday, November 23, at the Codado Convention Center in San Juan, PR.

I cannot say enough positive things about Hogar CREA's excellent work in helping drug addicts become free of their dependency. It is an important international organization that is heavily involved in the front-line battle against drug abuse in the United States and throughout many of the countries of Central and Latin America.

Hogar CREA first established itself in the continental United States in my congressional district in the Lehigh Valley of Pennsylvania. They now have a beachhead of 3 treatment centers in my congressional district and I am determined to help them spearhead their expansion into other areas and other cities and towns in the United States that need help with drug treatment and education.

Earlier this year, I helped arrange a meeting between Joe McHugh, the head of congressional liaison at the White House's Office of National Drug Control Strategy, and Juan Jose Garcia Rios, president and founder of Hogar CREA International.

Hogar CREA provides a unique drug treatment program to addicts that works. It has a success rate of over 90 percent and it is a treatment model worth studying and supporting.

I have seen first hand how Hogar CREA's treatment and rehabilitation program transforms hopeless drug addicts into productive and enthusiastic citizens who care about their communities and their fellow man. It is a metamorphosis that offers hope to people and communities throughout the United States and the Americas.

The banquet this Saturday in San Juan follows the 4th Annual Crusade for Faith and Hope that was held in August and reached out to 78 communities in Puerto Rico. The banquet commemorates yet another year of CREA's determination to provide rehabilitation to addicts and to prevent drug addiction through education.

Mr. Speaker, it is important to recognize and salute Juan Jose Garcia Rios for his outstanding courage, faith, and vision in founding Hogar CREA. The truths that he discovered in his own personal battle as an exaddict, have been a source of light for those struggling to overcome and unshackle themselves from drugs.

I would also like to thank Anger Blanco, vice president of Banco Central; Atilano Codero, banquet president; Donald Carson, CREA supporter from my congressional district; Tomas Torres, with WAPA TV Channel 4; Martin Cotto, national treatment director in the United States; Francisco and Silma Gonzalez and others for their support and work with Hogar CREA.

Mr. Speaker, Hogar CREA's 23d year of success and growth is something we should note as we look toward the future of better and more effective treatment for those afflicted with drug addiction in the United States.

I send my best wishes for their continued efforts and their banquet celebration in San Juan.

O.W. MOTIVATIONAL, INC., SELECTED AS THE 621ST DAILY POINT OF LIGHT

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to congratulate O.W. Motivational, Inc., on being selected as the 621st Daily Point of Light.

The organization was founded in 1987 by Dr. Obadiah Williams, a retired educator, and prepares students and their parents for successful academic careers. The Early Childhood Stimulation and Parent Training Program takes a proactive stance on the improvement of the American educational system.

The program equips children with the proper learning tools before they enter school. Preschool children and their parents, who are often from low-income communities, attend three 2-hour sessions each week where volunteers teach the alphabet, numbers, and other basic skills to the youngsters, while teaching their parents games and techniques for reinforcing the learning process at home. The children also practice visual and audio development, and motor and quantitative skills.

O.W. Motivational is currently based at the First Church of God in Cincinnati, OH. Volunteers are available at the church to tutor 1st through 11th grade students in reading and mathematics.

Obadiah Williams and his volunteers are an excellent point of light in honor of American Education Week, as they brilliantly light up Albert Einstein's theory that, any definition of a successful life must include serving others. I am proud to have this organization in my district.

INTRODUCTION OF THE DOMESTIC INDUSTRY SAFEGUARD ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GUNDERSON. Mr. Speaker, today I am introducing the Domestic Industry Safeguard Act, aimed at protecting American industry from foreign ownership which results in downsizing and asset sales.

Congress and the administration have been reluctant to adequately address the trend of increasing foreign ownership of U.S. businesses. While this trend is helpful in terms of increasing overall economic growth through investment, numerous examples exist of where foreign ownership hurts individual companies.

In 1987, I introduced similar legislation after several hostile foreign takeovers nationwide left thousands of American workers unemployed. Today, I am reintroducing the legislation after determining that this trend continues.

For example, since introduction of the first legislation, the French-owned Michelin Corp. bought up America's Uniroyal-Goodrich Tire Co. Promises were made by Michelin that the friendly buyout would result in recapitalization of Uniroyal-Goodrich operations. Instead, Michelin is forcing the closing of Uniroyal plants.

One of those plants, located in Eau Claire, WI, employed over 1,400 workers prior to the buyout. Earlier this year Uniroyal announced it would close the plant by late 1992. Since the announcement, over 700 employees have been permanently laid off, and the U.S. Government has had to step in with financial assistance for those displaced. This certainly cannot have been a good transaction from the perspective of U.S. interests.

As important, the transaction was clearly not in the best interests of U.S. workers, or communities built up around Uniroyal plants. Some 1,400 workers will be forced to retire or look for new work. In most cases, this requires relocation, retraining, and reassessment of retirement goals. For the community, the merger and subsequent demise of Uniroyal operations in Eau Claire will mean $20 million annually will be drained from the local economy. The secondary effect on local businesses and other local employees will be tremendous.

On a broader scale, the American economy is at risk. Upon introduction of this legislation in 1987, I reported that the annual number of foreign takeovers of American businesses increased eightfold between 1976 and 1986. That trend is increasing. At that time, foreign takeovers accounted for between 5 and 10 percent of total merger activity. The percentage continues to grow. In 1987, I quoted Lawrence Brainard, chief international economist for Manhattan's Bankers Trust as stating, "By the end of this century, the United States may have the most modern manufacturing sector in the world, but it won't own it."

An irony of foreign takeover is that, for U.S. tax purposes, foreign corporations are allowed to fully deduct their debt service financing while taking over a U.S. company. In times of increasing budget deficits, this deserves review by Congress.

Also, current law allows those leading takeover attempts to borrow up to 100 percent of the purchase price for the target company. This practice inevitably leads to the strategy of buying a company, stripping it of its most valuable assets to pay off debt, then selling the remaining shell of the company for profit. Such leveraged buyouts rarely have as a main goal improving the operations of a firm alone for profit.

The Domestic Industry Safeguard Act will not prevent foreign investment in, or even takeover of American companies. However, it requires more stringent reporting requirements and asset sale prohibitions for foreign firms attempting to take over U.S. firms.

The House Energy and Commerce Committee is currently acting to restrict the foreign ownership of some sensitive U.S. industries. These industries are targeted for protection due to the sensitive information that may be transferred abroad through takeovers. It is time to take a similar interest in the welfare of American workers and communities who have everything to lose in some foreign takeovers.

PEARL HARBOR VETERANS HONORED

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ROHRABACHER. Mr. Speaker, on Wednesday, November 27, 1991, 600 southern California veterans will receive the Congressional Pearl Harbor Commemorative Medal in honor of their military service in Hawaii on December 7, 1941.

This special ceremony will bring together over 1,000 people—Pearl Harbor veterans, next of kin, and proud families—in a World War II hangar at the Armed Forces Reserve Center Airfield in my district. Central to the organizing of this event is airfield commander, Lt. Col. James Ghormley III, California Army National Guard. His cooperation and leadership has made it possible for me to stage a great event in an environment familiar to our Pearl Harbor heroes.

The story of the American servicemen and women who defended Hawaii against the Japanese attack on Pearl Harbor is written with the ink of bravery, courage, and sacrifice. These defenders of freedom have earned their place in history. They deserve our recognition and we owe them our thanks. In the same tradition of commitment and shared honor, Colonel Ghormley and his servicemen and women have made possible this special recognition event for our Pearl Harbor veterans, and a great opportunity for us to express our thanks to them.

RALPH EMERY: A LIVING LEGEND

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GORDON. Mr. Speaker, middle Tennessee has known and loved many popular personalities—entertainers, public servants, and civic activists. But only a handful have earned legend status. Ralph Emery is one of those distinguished few.

As a youth during the late 1950's and early 1960's, I can remember settling back with my parents in our living room to listen to Ralph Emery's program on WSM radio. Only in his mid-20's Ralph already was developing a legion of fans of all ages with his down-home style and humor.

His stature skyrocketed throughout the Nation. Syndicated radio programs began in 1968, and his "Goody's Presents Ralph Emery" now airs on more than 445 radio stations. Between 1961 and 1970, he was voted the No. 1 country music disc jockey six times.

By 1972, his appeal grabbed the attention of the growing television industry, and he became host of the early morning "Opry Almanac" show on television station WSMV in Nashville. By January 1, 1972, the show had been renamed the "Ralph Emery Show."

For 20 years, his morning show has taken on a variety of challengers and today garners a 67-percent share of the morning viewing audience in middle Tennessee and southern Kentucky. No locally produced program in the country can match that record.

In addition, from 1974 until 1980 he hosted the syndicated television show "Pop Goes the Country." He hosted "Nashville Alive" on superstation WTBS from 1981 to 1983, and for the last 8 years he has hosted "Nashville Now" on the Nashville network, which is viewed daily in more than 1 million homes across the country.

From 1985 through 1989, the show was voted by the readers of Music City News, the Nation's largest country music publication as their favorite television series. In 1986 he was overwhelmingly voted favorite cable personality by readers of Cable Guide Magazine. In 1989, he was inducted into the Disc Jockey Hall of Fame.

Many stars forget their roots once they've reached the big time. They become detached from their fans. They abandon the places they call home. Not Ralph Emery. He remains active in civic affairs, using his name, his time, and his energy to make his community a better place for all to live.

While the folksy charm is the real Ralph Emery both on and off the camera, don't confuse his style with any stereotype, because he has a keen insight of not only the entertainment business but also the problems of everyday folks that is matched by few. It's that genuine warmth and sensitivity that have endeared him to thousands of people across our Nation.

Mention his name and just about anyone will tell you how Ralph Emery gives them more than just news and entertainment to start their day; he provides them with the kind of warm-hearted cheer that makes each new day a joy.

INTRODUCTION OF THE FEDERAL-STATE PESTICIDE REGULATION PARTNERSHIP ACT OF 1991

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HATCHER. Mr. Speaker, today I am joined by my distinguished colleague from Montana, Mr. MARLENEE, and 28 other Members in cosponsoring the Federal and State Pesticide Regulation Partnership Act of 1991 to ensure the effective and uniform Federal and State regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA].

The proposal we set forth today seeks to amend FIFRA by preempting local jurisdictions from regulating the sale and use of pesticides. This legislation will ensure that the field of pesticide regulation is occupied entirely by a partnership of Federal and State governments. The issues surrounding pesticide regulation are complex and demand that we rely on sound, scientific judgment based on fact. When regulations are based on fear, hysteria, and other unscientific grounds, we stand to lose many benefits and we threaten to dismantle an effective regulatory mechanism.

All citizens can and should have an interest in pesticide decisions, and we support the concept of locally specific pesticide regulation—when warranted and when scientific fact supports it. It is imperative, however, that those decisions be made in the context of a Federal-State partnership, and not scattered across tens of thousands of local bodies.

We believe that the Federal and State governments are best equipped with the resources and expertise necessary to develop and administer a sensible, uniform, regulatory program which will ensure that the public continues to enjoy the benefits of access to tested and proven pesticide products—both agricultural and nonagricultural products.

This legislation has the support of the Coalition for Sensible Pesticide Policy [CSPP], a broad coalition of almost 160 State, regional, and national trade associations whose members depend upon the use of tested and proven pesticide products. CSPP's members represent structural pest control companies, nurseries, florists, arborists, landscape and lawn care companies, general, specialty, and agricultural chemical manufacturers, advocates for sound environmental practices, and a wide variety of agricultural interests such as crop growers, animal producers, individual commodity groups, food processors, grocers, and wholesalers. Included at the end of this statement is a list of CSPP member organizations.

On June 21, 1991, the Supreme Court handed down a decision in the case of Wisconsin Public Intervenor versus Mortier which effectively opened the door for the more than 83,000 local jurisdictions nationwide to enact their own pesticide regulations. The Court ruled that, while FIFRA establishes a strict and complex Federal-State process governing the sale and use of pesticides, the FIFRA statute does not explicitly preempt local municipalities from regulating pesticides to the extent allowed under State law.

However, in reaching its decision, the Court was mindful of the potential chaotic effect of its ruling on the real world of pesticide use and regulation. Fully aware that tens of thousands of local municipalities with potentially insufficient expertise would be free to regulate pesticide use on their own, Justice White concluded, "* * * Congress is free to find that local regulation does wreak [such] havoc and enact legislation with the purpose of preventing it. We are satisfied, however, that Congress has not done so yet." The ramifications of this decision are potentially devastating.

We believe that the recent Supreme Court decision will:

Allow local regulation of pesticides to quickly encumber agricultural production. Immediately, farmers are at risk of facing regulation of their modern production tools by the smallest possible units of government—more than 83,000 sub-State jurisdictions throughout our Nation.

Result in fewer job opportunities in agriculture, the crop protection industry, and pest and vegetation control, because many of these businesses typically operate across several local jurisdictions, each of which would be free to adopt conflicting and/or overlapping regulations.

Result in reduced availability and use of tested and effective pesticides and other sanitation products, which would in turn reduce our ability to control the spreading of certain diseases via insect control. It could also increase the price of food through new artificial limits on agricultural productivity and food processing/storage protection.

Shift control away from EPA to local, often very diverse, jurisdictions on issues affecting the whole Nation. Even more troubling, these local government units will seldom have the scientific and technical expertise to make the difficult decisions which are currently the domain of EPA working in concert with other Federal and State bodies.

Undermine, if not eliminate, the Federal/State government control over key domestic regulatory matters, at a time when there are ongoing international trade discussions.

Erode the ability of the Nation's best scientific and technical experts to participate in complex pesticide regulatory decisions. By diverting these decisions to 83,000 local units of government, participation by such experts at EPA and the State level is made virtually impossible.

In addition to the economic impact I have just mentioned, a burgeoning umbrella of local regulation may damage the health and welfare of the American public. The Supreme Court's recent decision could result in reduced availability and use of tested and effective pesticides and other sanitation products which, in turn, would erode our ability to control the spread of disease via insect control. Too frequently, we forget about the important human health benefits provided by the proper use of pesticide products.

For example, proper mosquito abatement programs in numerous States effectively reduce the spread of diseases, such as mosquito-borne encaphalitis, carried by these insects. Without proper public health programs, these diseases might once again become epidemic in the United States. Herbicides also control ragweed, thus reducing the costs associated with suffering from hay fever. Other herbicides control dandelions and clover, and discourage stinging insects from recreational and home and lawn areas, thus reducing potential insect stings. In States across America, the proper use of pesticide products are used against ticks that cause Lyme disease.

LEGISLATIVE HISTORY OF PREEMPTION ISSUE

Under section 24(A) of FIFRA, Congress extended limited pesticide authority to the States to regulate the sale and use of pesticides. The legislative history clearly demonstrates that Congress did not want to share its authority with local jurisdictions.

When the Senate Committee on Agriculture passed its FIFRA bill in 1972, its accompanying committee report concluded:

> The Senate Agriculture Committee considered the decision by the House Committee to deprive political subdivisions of states and other local authorities of any authority or jurisdiction over pesticides and concurs with the decision of the House of Representatives. Clearly, the fifty states and the federal government provide sufficient jurisdictions to properly regulate pesticides. Moreover, few, if any, local authorities, whether towns, counties, villages or municipalities, have the financial wherewithal to provide necessary expert regulation comparable with that provided by the state and federal governments. On that basis and on the basis that permitting such regulation would be an extreme burden on interstate commerce, it is the intent that Section 24, by not providing any authority to political subdivisions and other local authorities of or in the states, should be understood as depriving such local authorities and political subdivisions of any and all jurisdiction and authority over pesticides and the regulation of pesticides. 3 U.S. Code Cong. & Ad. News, page 4008 (1972).

At about the same time, the Senate specifically rejected an amendment that would have allowed local political subdivisions such as cities, towns, counties, et cetera, to regulate the sale and use of pesticides. The vote was 71 to 0. Despite this explicit legislative history, the Supreme Court did not recognize that Congress never intended to vest local governments with the authority to regulate pesticides.

BACKGROUND ON WISCONSIN PUBLIC INTERVENOR, ET AL. VERSUS MORTIER, ET AL.

For those of you who are unfamiliar with the June 21, 1991, Supreme Court decision, I would like to give you some background surrounding the case. The Wisconsin Public Intervenor case centered on an ordinance adopted by the small town of Casey, WI, which required applicators to submit an application for a permit from local officials 60 days before the application of pesticides to public lands, aerial spraying of pesticides, or the application of pesticides to private lands subject to public use.

Individuals applying for the permit under this ordinance were required to provide a description of the pesticides to be used, associated risks, chemical and nonchemical alternatives, regulatory status of the specified chemicals, environmental impact of the proposed application, precautionary measures to preserve the health and safety of the public, and the positive and negative effects of eliminating or reducing the proposed use.

In addition, upon approval of the application, the ordinance required that signs be posted 24 hours prior to application. The town board vested itself with the authority to deny, amend, or grant the permit. A resident of Casey applied for such a permit. However, the town board denied the permit application. Subsequently, the resident brought suit against the town arguing that the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] preempted the town's ordinance.

A Wisconsin county court agreed and ruled that the Casey ordinance was preempted by FIFRA. The Wisconsin Public Intervenor and the town of Casey then appealed the lower court's ruling to the Wisconsin Supreme Court, which also held that FIFRA preempted the ordinance. The case was then appealed to the U.S. Supreme Court.

THE JUNE 21, 1991 SUPREME COURT DECISION

Justice Byron White wrote the Supreme Court's June 21 opinion and Justice Antonin Scalia wrote a concurring opinion. The Court received eight separate amicus briefs arguing points on both sides of the case, in addition to an early brief by the Justice Department urging the court to review the case.

In the end, Justice White wrote, "* * * we conclude that FIFRA does not preempt the town's ordinance either explicitly, implicitly, or by virtue of an actual conflict."

In reaching its decision, the Supreme Court reviewed various methods for finding Federal preemption, including express, implied, and actual conflict preemption analysis. In the end, the Court concluded that although congressional committee reports arguably supported the preemption argument, the express language of the statute itself did not provide sufficient justification for preempting local regulation of pesticides. In his written opinion, Justice White reasoned that because FIFRA did not actually address or provide the type of detailed regulations concerning pesticide use found in the Wisconsin statute, it could not be said to preempt all local regulation.

Mr. Speaker, I would like to direct your attention to an excellent analysis of the Supreme Court decision as written by Lawrence S. Ebner, partner in the Washington, DC office of McKenna & Cuneo. With your permission, we request that a copy of his article entitled "FIFRA Pre-Emption Battle Expected To Shift Congress, States in Wake of Supreme Court Decision," which appeared in the July 19, 1991, issue of BNA's Chemical Regulation Reporter, be included with my statement today.

In the article, Mr. Ebner writes, "* * * Perhaps the most disappointing aspect of the court's opinion is the short shrift that it gives to industry's arguments as to why local regulation of pesticides would obstruct Congress' objectives, including protection of health and the environment."

Mr. Ebner continues by stating that the Court offered little explanation for its finding that no actual conflict between FIFRA and local regulation exists. He writes, "* * * Instead, the court dismissed industry's arguments as resting on 'little more than snippets of legislative history and policy speculations.'"

The article aptly concludes that "* * * The challenge is to prevent the Wisconsin Public Intervenor decision from turning pesticide regulation on its head."

Mr. Ebner also makes an excellent rebuttal to arguments fueled on public fear and hysteria that industry's efforts to resolve the local jurisdiction issue will put the public at risk by "failing to take into account localized needs and conditions." His answer is one we should all take heed of, "* * *. To the contrary, both EPA and State agencies have in the past—and can in the future—adopt localized restrictions on pesticide use where and when appropriate. Equally important, pre-empting local governments from regulatory decisions are based on dispassionate scientific judgments, that they are well balanced and shielded from political pressures, and that cost-effective pest control will remain available for the benefit and protection of society."

EMERGENCE OF LOCAL ORDINANCES

During the 1980's and early 1990's, many local jurisdictions have been enacting restrictions on pesticides that create considerable hardship on farmers, ranchers, foresters, homeowners, pesticide users and manufacturers, formulators, and distributors. These nearly 85 jurisdictions have, in effect, attempted to deny the pesticide user and the public the specific benefits of pesticide control.

We now face the possibility that thousands of local jurisdictions will attempt to regulate the sale and use of pesticides, and the notification of use of pesticides. Many small businesses face the confusing prospect of trying to market pesticide products in multiple jurisdictions, thus impeding interstate and intrastate commerce. Since the Supreme Court decision, we have several other real world examples which illustrate just how complex the local jurisdiction is.

Within the few short months which have elapsed since the Supreme Court issued its decision, we have witnessed a firestorm of unnecessary local ordinances which, if adopted, could cost thousands and thousands of local dollars to implement. We do not feel that we should be wasting limited resources, especially at a time when we are having to reach deeper into pockets to fund programs that serve a purpose.

To give you some idea, the Burlington, VT City Council is considering a proposal that would require 72-hours advance notice prior to any commercial or private outdoor pesticide application to residential grounds greater than 200 square feet. Prenotification and posting requirements would also be established for application to trees and shrubs. In addition, the proposed ordinance would require that property owners adjacent to golf courses and other nonresidential application sites receive 72-hours advance notice. The draft regulation would also prohibit the use of lawn care chemicals on the grounds of a licensed day care center, preschool, primary or secondary school, without prior approval from the Burlington Board of Health.

Residents of Missoula, MT, recently overwhelmingly defeated a referendum which would have made it a violation of law to apply pesticides on any area larger than 50 square feet unless special signs were posted 1 day before application and 2 days after. Homeowners would have been subject to a fine of as much as $100 a day for violation of the ordinance—even if the pesticide application was performed by another party or even if the signs were stolen by somebody else off of their property. The mandate of this proposal, however, did not stop with the residents of Missoula, MT. This initiative went one step further by seeking to include pesticide applications made anywhere within 5 miles outside town limits. Had this proposal passed, it would have had a severe impact on the many ranchers and farmers who live and work near Missoula.

Posting requirements have also been considered in Howard County, MD. One proposal requires that signs be displayed for at least 24 hours prior to pesticide application by a custom or commercial applicator. Signs would have to remain posted for a period of 3 to 7 days following application.

Earlier this summer, the city of Lake Winnebago, MO, proposed an ordinance which would ban the use of a number of widely utilized pesticide products within city limits. The list of targeted chemicals includes diazinon and dursban. These two chemicals are commonly used in a variety of tested, effective, EPA-registered home garden pesticide products used by homeowners around the country. The city of Lake Winnebago proposal sets forth stiff fines of as much as $500 per incident.

In Ohio, the October 8, 1991, issue of the Cleveland Plain Dealer reported that the Fairview Park City Council adopted an ordinance which requires property owners and commercial applicators to provide written notice to occupants within 150 feet of spray application sites. The notice is required 1 week prior to pesticide application and must include information on when the spraying is to occur as well as a description of which chemicals will be used. The city council also approved a provision requiring that signs be posted at the application site.

In Denver, CO, a proposal is under consideration which would place posting and notification requirements on homeowners and building owners. Presently, Colorado pesticide law preempts local ordinances regulating commercial applicators. This ordinance would affect the property owner—regardless of the fact that he or she contracted the services of a commercial pesticide applicator.

The town of Agawam, MA, would make it illegal to spray pesticides between the hours of 6 p.m. and 8 a.m. If adopted, this would mean that pesticide applications in such facilities as schools and day care centers could only take place during normal operating hours when children were present. This ordinance, in essence, would significantly increase the exposure of children to pesticides.

In Mansfield, MA, an ordinance has been proposed which sets out specific requirements for the size and color of posting signs at application sites that differ from those requirements already set out by State law.

Another proposal would require the residents of Plum, PA, to remain in their homes during residential fumigations.

These examples are but a few of the many ordinances, based on inadequate expertise, which are emerging now on an almost daily basis. They illustrate very clearly the fact that local jurisdictions simply are not equipped to make the scientific and regulatory decisions required to regulate pesticides in a sound, reasonable fashion.

CONCLUSION

Before we, as a nation, face the chaos and havoc mentioned by Justice White, we need to reinforce and reinvigorate a Federal-State partnership of pesticide regulation, so that we can obtain a degree of effective and uniform public policy. To discourage 83,000 local jurisdictions from attempting to regulate the sale and use of pesticides, we need to enact this legislation, the Federal and State Pesticide Regulation Partnership Act of 1991, that will amend FIFRA to preempt local jurisdictions from regulating the sale and use of pesticides.

Mr. Speaker, we insert the bill in full with this statement.

COALITION FOR SENSIBLE PESTICIDE POLICY

Agricultural Alliance of North Carolina.
Alabama Agricultural Chemical Association.
All-America Rose Selections.
American Agri-Women.
American Association of Nurserymen.
American Farm Bureau Federation.
American Sheep Industry.
American Society of Agricultural Consultants.
American Sod Producers Association.
American Soybean Association.
American Wood Preservers Institute.
Animal Health Institute.
Arizona Pest Control Association.
Arkansas Agricultural Pesticide Association.
Associated Landscape Contractors of America.
Associated Landscape Contractors of Massachusetts.
California Association of Nurserymen.
Chemical Manufacturers Association.
Chemical Producers and Distributors Association.
Chemical Specialties Manufacturers Association.
Chocolate Manufacturers Association.
Colorado Pest Control Association.
Connecticut Nurserymen's Association.
Connecticut Pest Control Association.
Corn Refiners Association.
Delaware Association of Nurserymen.
Delmarva Agricultural Chemical Association.
Eastern Regional Nurserymen's Association.
Florida Nurserymen and Growers Association.
Florida Pest Control Association.
Garden Centers of America.
Georgia Green Industry Association.
Georgia Pest Control Association.
Gulf Course Superintendents Association of New Jersey.
Hawaii Agricultural Alliance
Hawaii Pest Control Association.
Idaho Soil Fertility and Crop Protection Association.
Illinois Fertilizer & Chemical Association.
Illinois Landscape Contractors Association.
Illinois Pest Control Association.
Indiana Pest Control Association.
Industrial Biotechnology Association.
Institute of Shortening and Edible Oils.
International Sanitary Supply Association.
International Society or Arboriculture (New Jersey Chapter).
Iowa Fertilizer and Chemical Association.
Iowa Nurserymen's Association.
Iowa Pest Control Association.
Kansas Fertilizer and Chemical Association.
Kansas Grain and Feed Association.
Kansas Termite and Pest Control Association.
Kentucky Pest Control Association.
Landscape Contractors Association, MD-DC-VA.
Landscape Ontario Horticultural Trades Association.
Louisiana AG. Industries Association.
Louisiana Pest Control Association.
Maryland Alliance for Responsible Regulation of Pesticides.
Maryland Nurserymen's Association.
Maryland State Pest Control Association.
Massachusetts Arborists Association.
Massachusetts Biotechnology Council.
Michigan Agri-Business Association.
Michigan Alliance for the Rational Approach to Pesticides (MARAP).
Michigan Nursery and Landscape Association.
Michigan Pest Control Association.
Millers National Federation.
Minnesota Biotechnology Association.
Minnesota Pest Control Association.
Minnesota Pesticide Information and Education.
Mississippi Nurserymen's Association.
Mississippi Pest Control Association.
Missouri Association of Nurserymen.
Missouri Pest Control Association.
National Agrichemical Retailers Association.
National Agricultural Aviation Association.

National Agricultural Chemicals Association.

National-American Wholesale Grocers Association.

National Arborist Association.

National Association of Plant Patent Owners.

National Association of State Departments of Agriculture.

National Association of Wheat Growers.

National Broiler Council.

National Cattlemen's Association.

National Christmas Tree Association.

National Confectioners' Association.

National Corn Growers Association.

National Cotton Council of America.

National Council for Environmental Balance.

National Fertilizer Solutions Association.

National Fisheries Institute.

National Food Processors Association.

National Forest Products Association.

National Grain and Feed Association.

National Grange.

National Landscape Association.

National Pest Control Association.

National Pork Producers Council.

Nebraska Fertilizer and AG-Chemical Institute.

Nebraska State Pest Control Association.

New England Nurserymen's Association.

New England Pest Control Association.

New Jersey Nursery and Landscape Association.

New Jersey Pest Control Association.

New Jersey Turfgrass Association.

New York State Nursery/Landscape Association.

New York State Pest Control Association.

North Carolina Landscape Contractors Association.

North Carolina Pest Control Association.

North Dakota Agricultural Association.

Ohio Agrobusiness Association.

Ohio Grain & Feed Association.

Ohio Nurserymen's Association.

Ohio Pest Control Association.

Oklahoma Fertilizer and Chemical Association.

Oklahoma Pest Control Association.

Oregon Agricultural Chemicals Association.

Oregon Association of Nurserymen.

Oregonians for Food and Shelter.

Pennag Industries Association.

Pennsylvania Agronomic Products Association.

Pennsylvania Nurserymen's Association.

Pennsylvania Pest Control Association.

Pest Control Operators of California.

Pest Control Operators of Oregon.

Pesticide Association of New York State.

Pesticide Association of North Carolina.

Professional Lawn & Pest Applicators of Idaho.

Professional Lawn Care Association.

Responsible Industry for a Sound Environment.

Rocky Mountain Plant Food and Agricultural Chemicals Association.

Society of American Florists.

South Carolina Pest Control Association.

South Dakota Fertilizer and AG Chemical Association.

Southern Agricultural Chemicals Association.

Southern Nurserymen's Association.

Tennessee Pest Control Association.

Texas Association of Landscape Contractors.

Texas Pest Control Association.

The Alliance for Environmental Concerns.

The Alliance of Rhode Island Professional Pesticide Applicators.

United Egg Producers.

United Fresh Fruit and Vegetable Association.

United States Canola Association.

United States Chamber of Commerce.

Virginia Pest Control Association.

Washington Friends of Farms and Forests.

Washington State Nursery & Landscape Association.

Washington State Pest Control Association.

West Virginia Nurserymen's Association.

West Virginia Pest Control Association.

West Virginia Vegetation Management Association.

Wholesale Nursery Growers of America.

Wisconsin Agri-Business Council.

Wisconsin Fertilizer and Chemical Association.

Wisconsin Forestry/Right-of-Way/Turf Coalition.

Wisconsin Landscape Contractor's Association.

Women Involved in Farm Economics.

[From the Chemical Regulation Reporter, July 19, 1991]

FIFRA PRE-EXEMPTION BATTLE EXPECTED TO SHIFT TO CONGRESS, STATES IN WAKE OF SUPREME COURT DECISION

(By Lawrence S. Ebner)[1]

On June 21, the U.S. Supreme Court ruled 9-0 that the Federal Insecticide, Fungicide, and Rodenticide Act does not pre-empt local governments from regulating the use of pesticides (*Wisconsin Public Intervenor v. Mortier*, 59 LW 4755, US SupCt 89-1905, 6/21/91; 15 CRR 387).

The court's opinion, written by Justice Byron White, is legalistic and mechanical, what The New York Times described on June 22 as "a dry review of the text and history" of FIFRA.

Justice Antonin Scalia's separate concurring opinion is a little more spirited, and even accepts industry's view of FIFRA's legislative history, but will be of interest primarily to legal scholars who question the legitimacy of using congressional committee reports to interpret federal statutes.

Neither the court's opinion nor Scalia's concurrence squarely addresses the real issue concerning local regulation: Whether allowing tens of thousands of municipal and county governments to ignore or second-guess the Environmental Protection Agency's and the states' scientific and regulatory determinations will undermine the well-coordinated system of professional federal/state pesticide regulation that has evolved under FIFRA during the past 20 years.

TOWN OF CASEY ORDINANCE

The Supreme Court made it clear at the outset of its opinion exactly where it was coming from on the issue of local regulation. The first footnote explains that the Town of Casey, Wis., which has a population of 400-500, is "large enough to enact the ordinance at issue" in the case (59 LW 4756).

The Casey ordinance requires a permit to be sought at least 60 days before applying pesticides aerially or to public-use lands. To obtain a permit the prospective pesticide applicator must submit to the Town Board extensive information, including a description of the pesticides and quantities to be used, their regulatory status and potential risks, available chemical and non-chemical alternatives, the environmental impact of the proposed pesticide application and any chemical alternatives, and the precautions that will be taken to protect the public.

The Town Board then can deny or grant the permit, or grant it with conditions.

If a permit is granted, placards must be posted giving at least 24 hours' advanced notice of the pesticide application.

It is impossible to read the elaborate text of the ordinance without concluding that the members of the Casey Town Board (1) have made it extremely difficult to obtain permission to use pesticides, and (2) have reserved for themselves apparently unfettered discretion to disallow or restrict the use of pesticides which both EPA and Wisconsin authorities have determined will not cause unreasonable adverse effects when applied in accordance with label precautions and directions.

The court held that "FIFRA does not pre-empt the town's ordinance either explicitly, implicitly, or by virtue of an actual conflict." Id. at 4757. This ruling reversed a decision of the Supreme Court of Wisconsin, and resolved the split of authority on FIFRA pre-emption of local regulation that had developed among several federal appellate courts and state supreme courts.

The Supreme Court case provoked numerous amicus curiae briefs, not only from pesticide industry associations, but also from the solicitor general, a number of states, public interest groups, and others.

THE COURT'S PRE-EMPTION ANALYSIS

The court identified "textual inadequacies" in FIFRA, such as inconsistent usage of the term "state," and found that "the statutory language * * * is wholly inadequate to convey an express pre-emptive intent on its own." Id. at 4758.

Based on FIFRA Section 24(a), which authorizes "states" to regulate pesticide "sale or use," the court found that "the statutory language tilts in favor of local regulation" because "political subdivisions are components of the very entity the statue empowers." Id.

Along the same lines, the court pointed to FIFRA's statutory structure in finding that "[w]hatever else FIFRA may supplant, it does not occupy the field of pesticide regulation in general or the area of local use permitting in particular." Id. at 4759.[2]

The court emphasized that "FIFRA's authorization to the states leaves the allocation of regulatory authority to the 'absolute discretion' of the states themselves, including the option of leaving local regulation of pesticides in the hands of local authorities," Id. at 4758.

Accordingly, the states remain free to enact legislation (as several have) to prohibit or otherwise restrict their political subdivisions from regulating pesticides.

Although the industry relied heavily on FIFRA's legislative history to establish congressional intent to pre-empt local regulation, the court found it "at best ambiguous." Id. In this regard, the court adopted EPA's view (expressed in the solicitor general's brief) that the two key Senate committees

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[1] Ebner is a partner in the Washington, D.C., office of McKenna & Cuneo, where he specializes in pesticide legal matters. He submitted an amicus curiae brief in Wisconsin Public Intervenor on behalf of the National Pest Control Association, National Agricultural Chemicals Association, Agricultural Commodity Coalition, Edison Electric Institute, and Chemical Manufacturers Association.

[2] The court's decision does make it clear the regulation of pesticide labeling "fall[s] within an area that FIFRA's program pre-empts." Id. at 4760. Accordingly, even under Wisconsin Public Intervenor, local governments, like the states, are pre-empted from regulating pesticide labeling. See FIFRA Section 24(b), 7 USC 136v(b).

(agriculture and commerce) with responsibility for rewriting FIFRA in 1972 "agreed to disagree" about local regulation. See id.

Scalia pointedly took exception to the other justices' interpretation of the same legislative history. He quoted from the 1972 Senate Agriculture Committee report which explained that FIFRA Section 24 "should be understood as depriving * * * political subdivisions of any and all jurisdiction and authority over pesticides." Id. at 4761 (Scalia, J., concurring) (quoting S Rep 838. 92 Cong. 2d Sess 17 (1972).

Scalia found that "[C]learer committee language 'directing' the courts how to interpret a statute of Congress could not be found, and if such a direction had any binding effect, the question of interpretation would be no question at all." Id. at 4761.

As to the supposed disagreement between the two Senate committees. Scalia cited a Commerce Committee report confirming that the Agriculture Committee report "states explicitly that local governments cannot regulate pesticides in any manner." Id. (quoting S. Rept. 970. 92nd Cong, 2d Sess 27 (1972).

According to Scalia, "[t]his legislative history clearly demonstrates * * * not (as the court would have it) that the two principal Senate Committees disagreed about whether [the 1972 FIFRA Amendments] pre-empted local regulation, but that they were in complete a accord that it *did*, and in disagreement over whether it *ought* to." Id. (emphasis in original).

Nevertheless Scalia concurred in the Court's holding because he believes that committee reports are unreliable indicators of congressional content.

INDUSTRY ARGUMENTS GIVEN SHORT SHRIFT

Perhaps the most disappointing aspect of the court's opinion is the short shrift that it gives to industry's arguments as to why local regulation of pesticides would obstruct Congress' objectives, including protection of health and the environment. Even where there is no express preemption, federal law pre-empts a state or local law which "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." Id. at 4767 (quoting *Hines* v. *Davidwitz*, 312 US 52, 67 (1941)).

Although the court "discern[ed] no actual conflict * * * between FIFRA and local regulation generally," it offered little explanation for this misperception.

Instead, the court dismissed industry's arguments as resting "on little more than snipets of legislative history and policy speculations." 59 LW 4760.

The industry had argued that local governments lack the technical resources and expertise to regulate pesticides competently; that local regulation would render superfluous the comprehensive system of professional federal-state regulation established by FIFRA, and that multiple, overlapping, conflicting or inconsistent, and onerous local ordinances would lead to regulatory chaos and prevent cost-effective pest control.

The court found that "Congress is free to find that local regulation does wreak such havoc and enact legislation with the purpose of preventing it * * * [but] has not done so yet." Id.

A NEW CHALLENGE

Because the Supreme Court has ruled that FIFRA as currently written does not preempt local regulation, the focus will shift from the courts to the legislative arena, where the industry will seek amendments to FIFRA or state laws. As a practical matter, such amendments will not change the status quo, since it has been widely understood for 20 years that local governments do not have the authority independently to regulate pesticides.

The challenge is to prevent the Wisconsin Public Intervener decision from turning pesticide regulation on its head. At a minimum, industry will urge local governments to exercise forbearance and give deference to EPA's and state agencies' scientific and regulatory determinations, while continuing to cooperate on pesticide enforcement.

Public interest groups inevitably—but erroneously—will contend that industry's efforts to meet the challenge of local regulation will place the public at risk by failing to take into account localized needs and conditions.

To the contrary, both EPA and state agencies have in the past—and can in the future—adopt localized restrictions on pesticide use where and when appropriate. Equally important, pre-empting local governments from regulating pesticides will help ensure that regulatory decisions are based on dispassionate scientific judgments, that they are well balanced and shielded from political pressures, and that cost-effective pest control will remain available for the benefit and protection of society.

Wisconsin Public Intervener affords Congress and state legislatures a fresh opportunity to reaffirm those objectives.

INTRODUCTION OF THE FEDERAL-STATE PESTICIDE PARTNERSHIP ACT OF 1991

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. MARLENEE. Mr. Speaker, Mr. HATCHER of Georgia and I, along with 28 other members of the House Committee on Agriculture, are introducing today the Federal-State Pesticide Regulation Partnership Act of 1991. Upon enactment, this legislation will rectify a serious problem which has arisen recently as we attempt to protect the public against any potential harm from the use of modern pesticides and agricultural chemicals. Congress and the various States have recognized the need to protect the public in this area, but we have also attempted to do so within a framework which allows for an orderly, scientifically sound regulatory approach, thus maximizing nationwide uniformity and enforcement in dealing with this serious manner.

Earlier this year, the U.S. Supreme Court issued a decision which held that our current Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] does not actually preempt local units of government from second guessing the Environmental Protection Agency and adopting their own pesticide regulations. Previously, most officials familiar with FIFRA and pesticide regulation had assumed that local governments were prohibited under the Federal statute from adopting such local regulations.

Under the Supreme Court's reading of FIFRA, however, some 83,000 local units of government—counties, cities, townships, even school districts—are now free to independently enact pesticide use regulations. Further, there is no requirement that such local regulations be adopted with even a shred of scientific input, and no requirement that the 83,000 local jurisdictions coordinate their rules. Consequently, that is a very real potential for conflicting and overlapping and inconsistent regulation.

On the surface, such a result may not seem particularly troublesome. But consider, for example, that home pest control or lawn service companies operating in urban areas could be faced with having to comply with 10 or 15 or more different sets of regulations in order to be in compliance. Just imagine the enormous additional costs which our consumers would be required to bear, not to mention the very real possibility that such companies simply could not adjust to so many conflicting and confusing rules in order to stay in business.

In addition, Mr. Speaker, the scope and economic impact of this problem is not as limited as some might think. Businesses which depend upon access to EPA tested and approved products include farmers and ranchers, home and commercial pest control companies, nurseries, arborists and florists, rights-of-way maintenance firms, and lawn care companies—just to name a few. In fact, to date more than 160 national, regional, and state-level trade associations and producer groups, representing thousands of businesses and tens-of-thousands of agricultural producers, have joined together to form the coalition for sensible pesticide policy in support of the bill we introduce today. The groups comprising this coalition—ranging from the National Association of State Departments of Agriculture to the U.S. Chamber of Commerce—are not opposed to the rational, reasonable, and scientifically based regulation of pesticides.

They do support this legislation, which now becomes necessary in order to prevent a state of regulatory chaos. They recognize that such chaos could actually threaten to undermine the orderly, effective regulation of such pesticide compounds. With confusing and conflicting regulatory disharmony, everyone will lose—agricultural producers, consumers, business enterprises, wage earners, local tax bases—virtually everyone will suffer an enormous and adverse economic impact.

The reality of local activity in this very complex and technical area of pesticide regulation is not speculative. Since the Court's decision, about 100 attempts at local regulation have been identified—and no two efforts have proposed identical sets of regulations. Not only are thousands of dollars being spent in supporting or opposing these ordinances, but misinformation about the safety and proper handling of pesticides is becoming epidemic. When this happens, the public interest and the proper regulation of pesticides are ill served.

Not all of these proposals are adopted or approved by local interests. On November 7, for instance, the voters of Missoula, MT, soundly rejected a referendum initiative which not only would have impacted that city's own residents, but which would have purported to extend the regulations to all persons within a 5-mile radius of the town's boundaries. We believe this result shows the public—when adequately informed about the issue—does not want or need more and more complex and localized pesticide regulations. Fortunately, in this case the good citizens of Missoula recognized that a three-tiered local-State-Federal regulatory scheme which conflicts and overlaps simply will not work in their best interests.

Some might attempt to say that we have not focused on the rights of local citizens to have a voice in the area of pesticide regulation. To the contrary, we absolutely believe that local input into this important area is wholly justified and highly desirable. However, we also believe that the public health and safety are best served when we employ the type of technical and scientific considerations involved in effective pesticide regulation within the context of the Federal-State partnership envisioned under FIFRA.

Finally, Mr. Speaker, I would point out that the Supreme Court did underscore in its opinion that Congress is certainly free to enact legislation for the purpose of preempting this hodge-podge of local regulatory activities if we believe that the result will wreak havoc with the goals and effectiveness of our nationwide statutory approach to the problem under FIFRA. We firmly believe the Federal-State Pesticide Regulation Partnership Act of 1991 which we introduce today will address the concerns expressed by the Court, and will prevent the political, regulatory, and economic havoc envisioned by the Court as a result of multitudinous local regulatory efforts. We respectfully urge the speedy adoption of this important measure.

NIH CELEBRATES 50 YEARS IN BETHESDA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the National Institutes of Health Alumni Association, which, this weekend, will celebrate the 50-year anniversary of NIH moving from Washington, DC, to its current headquarters in Bethesda, MD.

As NIH's Representative in the Congress, this landmark occasion in the history of the agency is a source of great pride for me. Little needs to be said about the outstanding biomedical research being conducted each day at NIH. As we all know, the agency has been at the forefront of efforts to combat the scourges of AIDS, cancer, heart disease, and other public health menaces.

NIH's move to Bethesda in 1941, signified the beginning of the agency's mandate to "further the health of all mankind," as President Franklin D. Roosevelt stated in 1941. Indeed, with the move came a complete reorientation of the Institutes from epidemic control and sanitary engineering to broad-based human health research, diagnosis, and treatment. Today, NIH has expanded the scope of its activities to include investigation of virtually all facets of human health.

This weekend, former and current NIH scientists, researchers, doctors, and support personnel will travel from all parts of the country and the world to celebrate this landmark in the history of the Institutes. It is a pleasure for me to bring this noteworthy event to the attention of the Congress, and I know that my colleagues join me in warmly congratulating the agency, its talented alumni, and the entire staff.

CREDIT CRUNCH REQUIRES IMMEDIATE ACTION

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HAYES of Louisiana. Mr. Speaker, today we received word from the Board of Governors of the Federal Reserve that they are lowering the discount rate by half a percentage point to 4.5 percent—the lowest rate in 18 years. That's an extraordinary measure, even in a time when the Fed has taken several steps to drive down interest rates. And it is ironic indeed as interest rates are falling that so many of our constituents are unable to obtain financing for sound business ventures.

Any number of factors might be blamed for such a state of affairs. But it is far more important to assure the future economic health of the Nation than to ascribe blame for the causes of the current crisis. Mr. Speaker, a lack of liquidity lies at the core of the Nation's inability to recover from this recession. Of course, in a market economy like ours, there are limitations—and appropriately so—to the ability of the Federal Government to leverage the performance of the economy. Unfortunately, despite all the positive measures that have been taken, economic recovery remains stymied by a persistent lack of liquidity.

There is little doubt among the men and women who run the farms and small businesses in this country that the combination of a weak economy and the savings and loan debacle have had a chilling effect on lending. Time and time again, our friends in the banking industry have told us that their willingness to make prudent loans for new ventures has been hamstrung by overly cautious regulators. Mr. Speaker, financial institutions need to reexamine their credit policies with a view toward the role these institutions play in fueling economic recovery. Regulators need to be sensitive to the dangers that overly restrictive credit policies pose to the health of the economy. Economic strength will minimize the effects of the bank failures these regulators are charged with resolving. The sooner the economy recovers, the less likely it will be that more taxpayer funding will be needed. Yet that recovery cannot occur unless regulators are equally vigilant in criticizing both unduly lenient and unduly restrictive bank lending practices.

Today, my colleagues from Texas [Mr. BRYANT], Washington [Mr. CHANDLER] and Florida [Mr. MCCOLLUM] are joining me in introducing a resolution expressing the sense of the Congress that the policy of the United States to foster improved financial stability of the Nation's banking and thrift institutions "shall be consistent with the preservation of the availability of credit, under safe and sound lending practices, for commercially prudent business purposes in order to create jobs and promote a speedy and robust economic recovery."

The resolution calls on the Treasury, including the Comptroller of the Currency and the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and the Federal Reserve Board, in consultation with the Secretaries of the Departments of Agriculture and Commerce and the Administrator of the Small Business Administration to review current policies and practices to identify those that may adversely affect the availability of credit for sound commercial purposes.

The resolution also calls for a report to the President and to Congress on the actions and initiatives taken and on any legislative recommendations.

I would like to include the text of the resolution in the RECORD at the conclusion of my remarks.

Mr. Speaker, the current combination of low interest rates and tight money is without precedent. It is choking our economy. I urge my colleagues to join me in supporting this resolution as a first step toward addressing the credit crunch.

WHOSE RECESSION IS THIS?

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BUSTAMANTE. Mr. Speaker, we're in a recession, one that may be very long. And what do we hear from the White House? "It's not my recession." The President, while he won't even admit we have an economic slump, is busy blaming it on Congress for not acting, on the banks for not lending, or even on the American people for not buying.

He's blamed it on the distinguished majority leader of the other body, who is also named George. Nice try—but obviously a case of mistaken identity.

No, Mr. Speaker, this recession is clearly the property of the White House. Clearly the property of this government-by-veto administration. And we need some leadership to get us moving out of it. Not blaming, not Congress-bashing, not criticism of the American consumer. We need leadership.

The Congress and the American people understand that this Bush recession can't just be wished or denied away. It's time for the President to realize that, too.

It's time to stop blaming, and start acting.

IN SUPPORT OF NATIONAL SENIOR SOFTBALL WEEK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a segment of our society which remains increasingly spirited—those who say you're never too old to stay active. I am of course referring to those who are engaged in sports and physical fitness well beyond their 50th birthday.

With a growing interest in health and fitness, our society has been witness to a great increase in the number of athletes over 50. One of the more popular sports for such individuals is softball. It is so popular, in fact, that each year at the end of September they have their own world series.

That is why I am introducing a resolution to designate the last week of September as National Senior Softball Week.

In 1985, Mr. Ken Maas and Ms. Jacqui Jolly founded the National Association of Senior Citizen Softball [NASCS] to dispel the myth of aging—that becoming older does not mean you no longer want to stay competitive and active. They promoted their association with missionary zeal to assist those who wanted to play softball, not just be bench warmers for younger players in other leagues.

To showcase the best in senior softball, Mr. Maas and Ms. Jolly began the NASCS tournament in Clinton Township, MI, starting in 1985 with 12 teams—contrasted with 57 teams in 1991.

By 1988, the NASCS tournament was so successful that the Sporting Goods Manufacturers Association [SGMA] approached Mr. Maas with the idea of a senior softball world series. Together they founded Seniors Softball World Series Inc., and held the first world series during the last week of September 1989 in Greensboro, NC, with 68 teams. Last year, the world series attracted 83 teams to Palm Beach County, FL. Next year the world series will be held from September 21 through September 27 in Wayne County, MI, and promises to be even more successful.

I am introducing this resolution to recognize those who participate in this competitive athletic endeavor on a national and international level. Not only are these participants having fun, they are promoting intergenerational role modeling by engaging in a worthwhile activity that gives our youth a positive image of the future.

I also want to pay tribute to the many who have dispelled the myth of aging by participating in senior softball. At an age when most have hung up their cleats, these competitors are making new friends, accepting new challenges, and adding years to their lives.

I urge my colleagues to support National Senior Softball Week.

PROTECTING PENSIONERS AGAINST PBGC INSOLVENCY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PETRI. Mr. Speaker, today, the Secretary of Labor will issue an alert to the Congress that one of the cornerstones of the foundation that protects the pensions of our Nation's workers and retirees is flawed and in need of repair. The Pension Benefit Guaranty Corporation [PBGC], established under the ERISA pension law to guarantee the benefits of pensioners in terminated underfunded plans, has already incurred a $2 billion deficit which will rapidly escalate unless the Corporation's rightful seat in the bankruptcy courts is restored and solidified.

Fortunately, for the 40 million participants in the defined benefit pension plans who look to the PBGC for their retirement income security, help is in the offing. I commend my colleague from the State of Washington, Representative ROD CHANDLER, for introducing legislation, the Pension Protection in Bankruptcy Act, which will help keep the PBGC solvent and able to meet its pension obligations in the long run. I am pleased to join Representative CHANDLER and many other of my colleagues in the House as a cosponsor of this important retirement income security measure.

Over the past decade the PBGC single-employer termination insurance program has received several shots of legislative aid in an attempt to place the program on a sounder financial footing. For example, employer premium taxes were increased substantially and made risk-related, minimum funding standards were strengthened, the insurable event was transformed from mere plan termination to one requiring financial distress, and the PBGC's recovery of plan underfunding in bankruptcy proceedings was enhanced. However, several recent court rulings involving the pension plans of the LTV Corp. threaten the PBGC's claim and status in bankruptcy and, therefore, the long-term solvency of the pension safety net.

These court rulings have set aside the priority claims for pension plan underfunding which are clearly given the PBGC under title IV of ERISA. Unless this new loophole is quickly closed, we can expect to see many other corporations, such as LTV, deliberately invoking chapter 11 bankruptcy proceedings in a blatant attempt to shed their unfunded pension liabilities. More immediately, the PBGC estimates that unless the loophole is closed the single-employer program could be faced with up to $8 billion in additional liabilities from companies already in bankruptcy.

The Congress has a clear duty to put to an end this idea that LTV and other companies may have, that is, to pass along to their competitors or the taxpayers the cost of paying the pensions of their own workers.

I urge my colleagues in the House, who wish to avoid another S&L type crisis and taxpayer bailout, to cosponsor and seek the early enactment of the Pension Protection in Bankruptcy Act of 1991.

AID TO FAMILIES WITH DEPENDENT CHILDREN EXTENSION ACT

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. MINK. Mr. Speaker, today, I have introduced legislation to extend Aid to Families with Dependent Children [AFDC] for 30 days after an individual or family become ineligible for assistance.

The transition between government assistance and self-sufficiency is often difficult. Despite an increase in income, families often cannot cope with the immediate elimination of AFDC funds. Plagued by unpaid bills, unexpected emergencies, and an unpredictable economy, families who are struggling to survive by their own means are often sabotaged by circumstances, they do not control.

In the case of families that are able to increase their income and wean themselves off of assistance, it is often 1 or 2 weeks after AFDC benefits have been cut off before they actually receive the increased income from a new job or promotion. This means children will go unfed, the sick uncared for, and families will suffer.

The legislation I have introduced today would give families an additional month to make this transition. The bill allows families who become ineligible for AFDC benefits or must reduce their benefits because of increased income to receive the current level of AFDC benefits for an additional 30 days. This would assure that the people will actually receive the increased income before AFDC benefits are reduced or eliminated.

Mr. Speaker, this is a practical solution to a real problem. I urge my colleagues to join me and support this 1-month extension of Aid to Families with Dependent Children benefits.

COSPONSORS TO H.R. 534

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. DAVIS. Mr. Speaker, I would like today to list additional cosponsors to H.R. 534, a bill to repeal the recreational boat tax: Representatives CASS BALLENGER, JOHN W. OLIVER, ROBERT K. DORNAN, JOHN R. KASICH, and RICHARD H. BAKER.

THE BREAST IMPLANT DECISION

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. LLOYD. Mr. Speaker, on November 14, 1991, Representative OAKAR and I introduced legislation to allow women of this country seeking breast implant surgery to be fully informed of the risks involved before making a decision. The Breast Implant Informed Decision Act (H.R. 3783), will require that all States enact informed-decision laws which require physicians to fully apprise women of all risks, both known and those currently being studied, associated with breast implants by way of a standardized written summary in layperson's terms. Unfortunately, this has not always been the case for the two million women who have already undergone the surgery since implants became available in 1961. For many of these women, implants have posed no problems or ill effects, but some women have had to deal with unwelcome and often unexpected side effects and other health concerns resulting from implants, namely those made of silicone gel.

Many of these women also assumed that the implants they sought were approved by the Food and Drug Administration [FDA]. Unfortunately, implants were on the market well before the agency began to regulate medical devices in 1976. However, due to concerns over their safety, the FDA has required that manufacturers of silicone gel implants provide the agency with evidence that their products are safe and effective by early January, 1992. Women should note that the FDA action does not mean that silicone gel implants are unsafe. Rather it means that the FDA does not have information from the manufacturers to prove their safety. The FDA reports that they still have not been presented with adequate data to answer their concerns.

On the same day that H.R. 3783 was introduced, an advisory panel to the agency issued its recommendation that silicone gel implants be kept available to women while necessary scientific research is conducted by the manufacturers. I am heartened to see that the panel also recommended that women be given detailed information about the risks and benefits of implants. The FDA will consider these recommendations and issue a final decision in early January.

Once again, women are shortchanged by inadequate research data. Understandably, they are confused, angry, and worried as a result. Women want the ability to make an informed decision as to whether the benefits of breast implant surgery outweigh the risks in their individual situations. This is especially the case for women recovering from breast cancer, many of whom report the invaluable role implants played in recovery back to their old selves. No matter what a woman's reason for seeking implants may be, she deserves to know the potential risks, both those that are currently known and those under investigation, before she makes this very personal decision with her physician. The Breast Implant Informed Decision Act will ensure this right to all women seeking breast implants in this country.

The Commissioner of the FDA, Dr. David Kessler, has assured us that the agency will make a balanced assessment of the risks and benefits of silicone implants and will do all they can to expedite research efforts to gain the necessary research data. Until women have access to the research results, they should not be precluded from access to an option which clearly has provided important benefits to hundreds of thousands of women. However, as is the case with all medical devices, women should also be aware that there are risks associated with breast implants. I urge my colleagues to support H.R. 3783 and the right to make an informed decision on this deeply individual and private issue.

A TRIBUTE TO R.E. "JEFF" KASLER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding public service and lifetime achievement of my good friend R.E. "Jeff" Kasler of Long Beach, CA. Jeff will be recognized at a special dinner in his honor in early December celebrating his 30 years of distinguished service with Kasler Corp.

Jeff Kasler is a giant in the engineering and construction industry. His career, spanning almost 45 years, has been highlighted by personal and professional integrity. Over the years, Jeff and his company have made important contributions to the high quality and technological sophistication of American civil engineering.

Following his service in the U.S. Navy Air Force, Jeff graduated from Purdue in 1946 with a bachelor of science degree in aeronautical engineering. After a year working as an aircraft designer for Northrop Aircraft, Jeff began his career in public works as a junior civil engineer with the California Bridge Department.

A couple years later, he went to work as a labor foreman with what was then Fredericksen & Kasler, a partnership founded and led by Jeff's father, C.E. "Jack" Kasler. In his 12 years there, Jeff served as a project superintendent, chief engineer and assistant general manager. The company grew and prospered laying the foundation for a promising future.

In 1962, Jeff founded and incorporated Kasler Corp. Under his leadership, the company has become a national leader in the construction and repair of highways, bridges, freeways, airfields, and other infrastructure projects in the Western United States. But Kasler's work has not been limited to roads and bridges. The 1980's began with Kasler Corp.'s award of a $145 million contract, the company's largest ever, for the space shuttle launch complex project at Vandenberg Air Force Base in California. The decade ended with Kasler receiving a $124 million contract, the largest highway contract in the history of the California Department of Transportation, for the Century Freeway Super 37 project due for completion in 1994.

Jeff's innovative work in research, testing and construction has earned him a great deal of well-deserved recognition. Among his many honors, Jeff has received the Distinguished Engineering Alumnus Award from Purdue University as well as the 1989 Lifetime Achievement Award from the Los Angeles Chamber of Commerce for being an "outstanding member of the industry whose professionalism and leadership has enhanced the economic vitality and quality of life in our region."

Mr. Speaker, words are not enough to measure my admiration and respect for Jeff Kasler who I am proud to call my friend. I join his many friends, his wife Elaine, and children Jill, Judy, and Steve, in asking you to join me in honoring this fine man who is certainly worthy of recognition by the House today.

SENATE—*Friday, November 22, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC.

PRAYER

The Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC, offered the following prayer:

Let us pray:

O come, let us sing unto the Lord: let us make a joyful noise to the rock of our salvation. Let us come before His presence with thanksgiving, and make a joyful noise unto Him with psalms. For the Lord is a great God, and a great king above all gods.—Psalm 95:1-3.

Almighty God of Heaven and Earth, Creator of love, forgiveness and, therefore, salvation, we are so consumed with ourselves—what we don't have, what we haven't achieved yet, what we think we need to be happy.

We lack faith in Your provision because we are reluctant to submit to Your perfect plan and trust You for the results. We are trying to save our lives and, therefore, we are losing them.

Help us, as the Thanksgiving season approaches, to appropriate Your provision for our forgiveness, to forgive ourselves, to forgive others who have hurt and disappointed us, to be genuinely thankful and praise God from whom all blessings flow. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 22, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein.

The Senator from Missouri [Mr. BOND] and the Senator from Kentucky [Mr. MCCONNELL] are permitted to speak for 15 minutes equally divided.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Missouri.

Mr. BOND. I thank the Chair.

WETLANDS SIMPLIFICATION ACT

Mr. BOND. Mr. President, today, I, along with Senator MCCONNELL, Senators HEFLIN, NICKLES, BURNS, CONRAD, DANFORTH, and PACKWOOD, introduce the Wetlands Simplification Act. This overdue, badly needed legislation is supported by the Missouri Farm Bureau, Missouri Department of Agriculture, Missouri Corn Growers Association, Missouri Soybean Association, Missouri Cattlemen's Association, the Cotton Producers of Missouri, Missouri Rice Council, Missouri Pork Producers, American Farm Bureau Federation, National Cattlemen's Association, National Association of Wheat Growers, American Soybean Association, the National Corn Growers Association, and the National Pork Producers Council.

Why are all these organizations supporting this legislation? Quite simply because the Federal Government has created a nightmare for farmers. Go into any coffee shop where farmers gather, or any town meeting, visit with a farm family in your State and ask them what is their greatest headache. And they will tell you it is wetlands and trying to figure out what to do with wetlands.

Farmers make their living from the land, working with it every day. Often their land has been in the family for many generations and, God willing, they hope to be able to pass it along to their children. You see, a farm family's land, including a wetland is precious to them, certainly more precious than it is to any Government or any interest group.

Most farmers I have talked to want to protect their land and they want to comply with the law. But it is heavy-handed Government, pushed by overzealous activists, that makes this very difficult. Some people seem more concerned about preserving a wet piece of ground than they are about preserving family farmers.

If you are a farmer with a single wet patch of ground on your land, you are up against four different agencies of the Federal Government, armed with complex and confusing regulations from two very different pieces of legislation overseen by two Senate committees. Even worse, the four Federal agencies probably will not even agree on whether the patch of wet ground on your farm is a wetland or not, let alone how you should handle it. But if you do not handle it right, you could be penalized or fined tens of thousands of dollars.

Any one of these four Government agencies could come on a farmer's land at any time with no warning and tell him one story about his land. The farmer, who works hard every day, struggles to make a living from his land for his family, pays his taxes and obeys the law, then follows this story and does what the Government agent tells him to do. However, the next week another one of these four Government agencies come on the farmer's land, again with no warning, and tells him a totally different story. Well, that farmer is now surprised, confused and not sure what to do. A week later the farmer gets a letter in his mailbox from the Federal Government threatening legal action and fines.

That is exactly what happened to Jerry Lightle and Ray Bleich, two farmers in Andrews County, MO.

Unfortunately, this is not an isolated case. This story is repeated every day in this country. Farmers across America dread the day they find a Government agent running around uninvited on their land. A neighbor, a friend, someone in the next county—most farmers know or have heard of a story like this. I have heard them all over my State, and I think it is time to say enough is enough.

We tried to clear up the wetlands problem during the 1990 farm bill debate. I believe the Soil Conservation Service [SCS] and the Agricultural Stabilization and Conservation Service [ASCS] personnel have done a solid job of educating farmers on sodbuster and swampbuster regulations. I believe the President has announced a commonsense approach to wetlands.

Unfortunately, when you throw in section 404 of the Clean Water Act, the wetlands issue becomes mud. The Clean Water Act was designed to prevent pollutants from flowing from one body of

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

water to another. Now regulators use it as an open-ended mandate for a completely different purpose. In less than 20 years, the section 404 program has gone from regulating navigable waters to regulating corn and soybean fields.

Mr. President, around the country, there are over 400 case studies where farmers and ranchers have been caught up in the bureaucratic mess of wetland regulations. These are the documents of those 400 cases. I want to share with my colleagues a few quick stories that took place in my home State of Missouri.

First, a little more than a year ago, my staff and I brought together four different agencies—the Corps of Engineers, SCS, EPA, and the Fish and Wildlife Service—together to work out a wetland problem on the farm of Earl Stolte in St. Louis County, MO.

As we listened to them, there were two very different views on whether this particular piece of property was a wetland, and the agencies could not even agree on the proper course of action for the farmer to follow. How is he, as a subject of the Federal Government, to respond to four different agencies that tell him four different things? It makes no sense.

Let me cite another example. Recently, Jerry Lightle in Andrew County was visited by a representative of the Corps of Engineers to discuss his 404 permit problem. The corps representative, after looking over the land, informed the farmer that he also had a wetland problem which was evident because he had standing over in the field cattails. He said, "Look at those cattails." The farmer, Jerry, informed the corps representative that what he was looking at were the heads of milo, grain sorghum, not cattails, not wetlands vegetation.

It is time for legislation that will end these regulatory nightmares that farmers and ranchers have been experiencing. It is time for a commonsense approach to wetlands, one which will assure that the legitimate environmental purposes are realized, but that farmers will not be subjected to four contradictory, conflicting and uncoordinated views from the Federal Government.

It is absolutely incredible to me that currently there are four different agencies and two different pieces of legislation regulating a single damp piece of ground on a farmer's land.

The inconsistency caused by separate determinations of wetlands substantially burdens farmers and ranchers. The results are unnecessarily cumbersome, slow, and unpredictable. They can be alleviated if responsibility for making wetlands determinations was carried out by one agency.

The Wetlands Simplication Act would give the Soil Conservation Service, in consultation with the Fish and Wildlife Service, the authority to provide consistent interpretations and make all technical determinations concerning wetlands on agricultural lands only. It would apply only on agricultural lands.

This bill will not reduce the oversight authority over wetlands. It will not change the underlying provisions. It is common sense to let the one Federal agency with the most experience be the one stop shop for farmers and ranchers when seeking answers on what to do about land on their property that may be wet.

The Soil Conservation Service has a long history of working with farmers; it knows farmers and farm operations and can apply that understanding to these determinations. With their 3,000 offices nationwide, SCS has a positive working relationship with the farming community in every county of the country.

I can assure you after talking with farmers in my State they have great respect for the expertise and for the understanding of the representatives of the Soil Conservation Service.

Out of the nearly 1.9 million wetland determinations that SCS has made to date, only about 300 have been appealed. This outstanding working relationship is vital to efforts to protect wetland resources because more than 60 percent of the lower 48 States' wetlands are in private ownership.

Wetlands serve as one of our Nation's most valuable natural resources. Protecting and preserving the millions of truly functional wetlands should be a national priority.

However, the 450,000 acres per year that have been largely attributed to agricultural conversion, are inaccurate and does not reflect recent trends. Recent estimates by the USDA, show the total annual wetland losses, both natural and manmade, range from 124,000 to 290,000 acres. Agriculture's share of wetland drainage was only 35 percent of that total.

We can preserve our wetlands without burying family farmers in red tape, bureaucracy, and paperwork. It is clear that we must increase Federal efficiency when dealing with wetlands and clear up any confusion in the agricultural community. The Wetlands Simplification Act is the cure to the problem. Farmers will be able to do their jobs, to earn their livings, and to get a simple, clear, definitive answer from one Federal agency.

That is why I ask my colleagues to join with me in cosponsoring and supporting this legislation.

Mr. President, I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wetlands Simplification Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) technical determinations with respect to wetland or converted wetland on agricultural lands (including the identification of wetlands and the development of wetland restoration and mitigation plans) are currently made by—

(A) the Soil Conservation Service, in consultation with the Fish and Wildlife Service, to carry out subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); and

(B) the Secretary of the Army, acting through the Chief of Engineers, to carry out section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(2) the system of separate determinations made under such Acts has led to unnecessarily cumbersome and slow decisionmaking and to a lack of consistency and unpredictable results in determinations;

(3) the lack of consistency places substantial burdens on private property owners that could be alleviated if responsibility for making the determinations was carried out by one Agency; and

(4) the Soil Conservation Service has a long history of working with agricultural producers to protect soil and water resources, has considerable soils expertise, and has field personnel in almost every county of the United States.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide that a single Federal agency shall be responsible for making technical determinations on agricultural lands with respect to wetland or converted wetland (including the identification of wetland and the development of wetland restoration and mitigation plans) in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service, in consultation with the Fish and Wildlife Service, shall be the Federal agency responsible for all such technical determinations concerning wetlands and converted wetlands on agricultural lands.

SEC. 3. COMPLIANCE WITH WETLAND CONSERVATION REQUIREMENTS.

Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by adding at the end the following new paragraph:

"(4) EFFECT OF DETERMINATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a technical determination with respect to wetland or converted wetland on agricultural lands (including the identification of wetland under paragraph (1) and the development of a wetland restoration or mitigation plan developed under paragraph (1)) shall be used in the administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(B) CONSISTENCY.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of this subtitle shall also be exempt from the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) so long as those lands are used as agricultural lands.

"(C) DEFINITION.—For purposes of this paragraph, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, and nonindustrial forest land, and any other land used to produce or support the production of an annual or perennial crop of a commodity, acquaculture product, nursery product, or livestock.".

Mr. MCCONNELL. Mr. President, we all realize the value of protecting our environment, particularly our water resources. It has been estimated that 1 out of every 20 acres of the world's land surface can be called a wetland. Wetlands can be found in all climates and countries.

Previous policy has neglected, to some extent, both the economic and ecological value of wetlands. Wetlands serve many valuable environmental, economical, and agricultural purposes. Wetlands serve an important role in erosion and flood protection. Obvious values such as wildlife habitats, water purification, and water storage alone would justify maintaining the wetland.

For a number of years Americans were told that clearing wetlands would help improve our infrastructure, particularly roads, and reduce diseases transmitted by insects. Many university and Government leaders were convinced that eliminating these swamps was the right thing to do. But, after much research, the American public is gaining a greater appreciation for the value of the American wetlands.

However, for all of the wonderful things wetlands do for our environment, there is probably no subject which is more complicated. No wonder it is so complicated—a total of four Federal agencies and various State agencies have some jurisdiction over wetlands and their use. These agencies all serve different constituencies and therefore follow different agendas. The lack of consistency resulting from separate determinations of wetlands has placed substantial burdens on private property owners.

Having four Federal agencies attempt to control wetland oversight has, and will continue to cause, much confusion. It is the American public, and more precisely the Nation's landowners, who suffer most from this slow, cumbersome and unpredictable process.

These "bureaucrats from the black lagoon" hide behind a shroud of forms and throw the landowner into a holding pattern, sometimes for years, until final decisions are provided. In several cases which I am familiar with in Kentucky, working through the process of obtaining proper permits and approvals can take 4, 5, and even 6 years. This often means thousands of dollars in legal fees plus lost income from the property. On top of this is the humiliation of fines, property liens, and even being sued by the Federal Government.

Kentucky Farm Bureau has documented several instances where farmers have encountered problems with wetlands determinations. The one common denominator is the inconsistency of the various Federal agencies. Not only in the actual determinations, but in the amount of time it takes to get an official determination. This is not just happening in Kentucky and Missouri, but in almost every State in the Nation. The American Farm Bureau Federation has compiled more than 400 similar examples from 40 States.

The regulations concerning wetlands must be condensed and handled in a consistent manner. The issue itself is confusing enough without having to get four different agencies attempt to agree on wetland policy. The Government and the American people will be better served by simplifying the process.

The lead agency for wetlands delineation should be an organization which has constant contact with the areas of wetlands, be accessible to the people most affected by wetland policy, and have the technical expertise to understand and implement the regulations in question.

This bill, which Senator BOND and I are introducing today is intended to clear some of the confusion which exists in the farm community over wetlands. It could also allow the various Federal agencies to concentrate their scarce resources in a targeted approach rather than the current broad, duplicative manner.

The bill would make the Soil Conservation Service [SCS], within the Department of Agriculture, the lead agency in wetland determinations on agricultural lands. The Soil Conservation Service maintains a long history of working with farmers and currently has the experience and technical background to oversee wetland jurisdiction of farmland. Additionally, the SCS will be required to consult with the Fish and Wildlife Service in order to provide consistent interpretations.

The bill does not intend to reduce the oversight authority over wetlands. The Corps of Engineers retains all permitting responsibilities. We wish to create consistency. It just makes sense to let the Federal agency with the most experience be the one stop shop for farmers when seeking answers on wetlands.

Ironically, the current hodge-podge of wetlands regulations was never intended to be a comprehensive national wetlands management program. We have a few square pegs which we have tried to pound into a single round hole. We must make a uniform, all-inclusive, wetlands program a national priority and do it now. If we don't act now thousands more acres of vital wetlands will be lost.

The debate and legislation over wetlands originated in 1972 with the passage of the Clean Water Act by Congress. Section 404 of the Clean Water Act began the era of wetlands protection. Section 404 gives the Corps of Engineers the power to issue permits needed to dredge or fill wetlands. Anyone wishing to alter a wetland by making it deeper or filling it must apply to the Corps of Engineers for a permit.

Section 404 has broadened oversight far beyond its original intent for many types of wetlands. Meanwhile, the failure to expand jurisdiction over nonpermitted conversion has cost the Nation hundreds of thousands of acres of wetlands. Last year one-quarter of a million acres of wetlands were converted by nonregulated means such as excavation, channelization, and drainage.

In addition to the 1972 Clean Water Act, Congress passed the swampbuster provisions in 1985. The swampbuster provision gives the U.S. Department of Agriculture the power to deny Federal commodity crop subsidies to farmers planting on wetlands which have been converted to agricultural uses after December 25, 1985.

The wetland regulations have become a mess of tangled, conflicting provisions. Most of my State's wetlands are in western Kentucky which is where rowcrop production is concentrated. It is not surprising that is where the majority of hotly disputed wetland cases occur.

By the current definition of a wetland, over 60 million acres of presently farmed wetlands could possibly be taken out of production and protected as wetlands. In this 60 million acres, the majority of land has small areas that are covered by water only after a spring rain and only for a matter of days. In the case of Kentucky, it is these river bottoms which are the most productive farmland in the State.

Of the figures I have found, it is reported that agricultural wetlands consist of 75 percent of the estimated 95 million acres of remaining wetlands. Over 71 million acres of wetlands are located in private, largely agricultural lands. The American farmer is by far the most affected party in the wetlands debate.

The Soil Conservation Service has and continues to be in day-to-day contact with all of the wetland areas. Their hands on experience, and their technical knowledge, makes them the obvious choice. There are 98 district conservation offices in Kentucky with a field staff which extends into all 120 Kentucky counties. Each conservation district operates with an elected local advisory committee made up from local residents.

Also, the Soil Conservation Service has a single statewide office to which all of these county and district offices are responsible. All 50 State offices are then ultimately responsible to the Department of Agriculture.

Another distinct advantage which the Soil Conservation Service has is an established appeals process for individual property owners to disagree with determinations by the SCS. Landowners have been very frustrated because the only process to disagree with a decision by the corps or EPA is through a court of law.

Simply put, Federal wetlands protection programs are a mess unless we act to streamline and improve the current procedures. If we do not act promptly, thousands more acres of wetlands will be lost and more landowners will be put unnecessarily through the wringer.

Mr. President, I want to thank the Senator from Missouri [Mr. BOND] for his leadership on this issue and commend him for his dedication to help our Nation's farmers, particularly those in my State of Kentucky. I want to encourage my colleagues to review this legislation and urge their support. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

FLEXIBLE MANDATORY CAP ON CREDIT CARD INTEREST RATES

Mr. LIEBERMAN. Mr. President, yesterday the Senate struck a blow for America's consumers when it approved, along with the banking legislation, flexible cap on credit card interest rates. Since we originally passed the credit card legislation last week my office, like so many others, perhaps all others, has been deluged with phone calls and faxes from the major banks and other credit card companies. My staff and I have met with representatives from these institutions, and listened to their arguments opposing interest rate caps, and describing the impact the cap might have on them.

They made some points that are worth considering. But I want to say here this morning that no one has convinced me that our basic premise, which is that the banks are charging too much interest on consumer credit card debt, is wrong. No one has convinced me that the basic premise of the need for some limits and the need for lower credit card interest rates is right.

What has disappointed me over the past week is the amount of hyperbole, misinformation, and at times indeed hysteria that has been spread by the special interest groups opposed to this credit card interest rate cap. The banks would have us believe we caused a 120-point drop in the stock market last Friday, when everybody knows there are a host of other economic indicators and facts that caused that drop. They would have us also believe that they will drop 60 million consumers, customers, credit card customers, abandoning this remarkably lucrative mass market business and issue credit cards only to the very rich. That does not make any economic sense.

We have been told that the regulation of interest rates is an unheard of intrusion into the free market.

Mr. President, it is time for some calm and perspective here. Regulation of interest rates is not, as the Secretary of the Treasury has said, a wacky idea. Indeed, it is as old as the Bible, and has been accepted as an appropriate part of legal systems since the earliest days of the English common law.

In fact, every State in this Union that I know of has some form of usury laws. Until the late 1970's most States imposed interest rate caps on consumer loans including credit cards, in order to protect consumers from unscrupulous lenders.

It is interesting to note that what brought an end to these State rate caps was not an economic revelation, but a remarkable Supreme Court decision, Marquette National Bank versus First Omaha Services Corp., that effectively enabled renegade States to lift credit card rate caps throughout the Nation by allowing credit card companies to charge customers whatever rate was allowed in the credit card company's home State. States could no longer protect their own citizens against usurious rates charged by out-of-State credit card companies.

Connecticut's experience with rate caps is instructive. Following the relentless increases in rates that naturally followed the Marquette decision, Connecticut, after much debate, enacted a 15-percent cap on credit card interest rates. The State was eventually compelled to lift the cap, not because credit card companies were stripping Connecticut residents of their cards or failing to issue cards to Connecticut residents, but because the State's cap could easily be circumvented by transferring the credit card company's home office to an out-of-State location which had no limit on credit card interest rates.

Just recently the attorney general of Connecticut, Richard Blumenthal, wrote to me urging that this Senate consider enacting a cap on credit card interest rates that could be exported to other States, as he put it. He urged us to make some improvements in existing credit card disclosure laws as well. His office was increasingly frustrated by its inability to take action against credit card companies located outside of the State which not only were failing to decrease the interest rates they were charging Connecticut residents, but were actually increasing the rates they were charging Connecticut consumers.

Attorney General Blumenthal's experience and, indeed, Connecticut's experience with credit card rates over the past 10 years greatly influenced my decision to cosponsor and support Senator D'AMATO's credit card amendment. Connecticut's experience has also increased my skepticism about the dire predictions with which the banking industry has reacted to the current proposal.

My constituents cannot understand why banks are paying them less and less on their savings but still charging them almost 20 percent interest on their credit cards. They cannot understand why the banks, given the annual fees, late fees and other charges that credit card companies require them to pay, cannot, as they claim, make a reasonable profit under a flexible rate cap that reflects the decreasing cost of money to the banks.

They simply do not understand why banks have decreased rates for auto loans and mortgages, loans that have clearly been hit as hard by bankruptcies and economic problems today as credit cards but cannot lower the rates for credit cards.

Mr. President, as this banking bill now goes to conference committee, I know that there are powerful forces arrayed to strip the credit card interest rate cap out of the bill. But I want to ask them this morning before they rush in to do that to think long and hard. I want them to understand that those of us who supported the amendment last week do not want to be unfair to the banks.

We believe that we can enact a cap that is fair to the banks but also fair to consumers as well, one that does not continue this hidden bailout for the banking industry. If that fair rate is not 4 percent over the IRS underpayment rate and the banks and the credit card companies can convince us that it can be 5 or 6 percent if they have fine-tuning recommendations to make to our proposal, if the retailers, as many have come to us and said they are different from the banks, they do not make money on credit cards, in fact they are loss leaders for them, we are open to all those discussions. That can all be fixed in conference. There is time to work out those details.

I think it is fair to say that those of us who believe in the need for a credit card interest rate cap are prepared to listen to our critics and accept reasonable changes in the current proposal. But what we cannot accept is a continuation of the status quo.

So I urge the conferees, the House of Representatives, the White House to join the Senate in sending the credit card industry a strong message: To get those unfair rates down and to support fairness for the average, hard-hit American consumer by moving expeditiously toward enacting a fair limit on credit card rates.

Mr. President, we, in Congress, cannot stand idly by and let consumers be treated so unfairly. Lower credit card interest rates must be achieved. The fundamental unfairness we are experiencing right now cannot go on, and I hope the message gets through to the banks and the credit card companies: Our economy will benefit if consumers say no to high rate credit cards and more banks say yes to lower rates.

I thank the Chair, and I yield the floor.

Mr. D'AMATO addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York.

CREDIT CARD CAPS

Mr. D'AMATO. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Connecticut as it relates to the opportunity for the Congress to do something to help the consumer, to help working middle-class families during this extraordinary difficult time of recession—and we are in a recession.

When the marketplace is free, when the marketplace is competitive, when there is true competition for business, there is no need for this kind of legislation, and I think my good friend from Connecticut would agree with me. But I think he would also agree that we do not have that kind of competition today. One need only look at the record and when one understands that the 10 largest credit card issuers control 50 percent of the market and sees that 7 out of 10 have the identical rate, 19.80, to the decimal; that the eighth has a 21 percent rate; and two others are at 16 plus; we find that there is not that kind of competition. And indeed, we know that something is wrong.

We all know it and we know why it is tolerated. We have heard it said in our Chambers and our private circles when those who have come to us said, look, this is an area where the banks are making lots of money. That is the real reason, because the banks are making billions of dollars in profits and no one denies them, nor would this Senator want to deny them a fair return on their investment. But when we talk about returns that are in excess of 100 percent, 200 percent, 300 percent, some approaching 400 percent how do I come to this?

Mr. President, the interesting thing is that the cost of money to the banks has come down. The Federal Reserve has continually moved, repeatedly, almost a dozen times, to reduce the cost of money.

Why has it lowered the discount rate?

It has lowered that so that it could make cheaper money available to the banks so that the banks, in turn, could cut their rates of interest that they charge and, indeed, they have.

And so while the cost of money to the banks has come down, while the cost of money that the banks pay out to those who have savings accounts, checking accounts, certificates of deposit are at historical lows, probably the lowest in the past 20 years—about 4.68 is what the average cost of money is for the banks—while the prime interest rate has come down during this time, there is an absolute correlation between what interest rates should be paid by consumers as it relates to the cost of money.

We have not seen reductions in the consumer area as it relates to credit cards, but we have seen increases. They have actually increased since 1985. While the cost of money to the banks have come down, they have increased the cost to the consumer. It is wrong. It is a hidden bailout. If anything, let us put the spotlight on it.

I have to say this. I do not think our legislation is perfect. As Senator LIEBERMAN indicated, people say, listen, maybe it should be tied to prime rate. Fine, we can come up with a formula basically 6, 6½ points over prime. Prime is 7½. Maybe it should be 7 over prime, a floating rate, an indicator of what money costs and what the best customer pays.

How much over prime?

This is not a ceiling, by the way; it floats. It is a ceiling that is tied to the cost of money or the cost of loans that are put out. So it is not an arbitrary ceiling—14 percent plus.

What should it be? Prime plus 8?

I ask my colleagues, is there not a point then when it becomes unconscionable to the people who have to pay this, particularly if the free market system is not permitted to work? Should it be prime plus 9? Prime plus 10? I say to my colleagues, when do we stand up and do what is right?

Maybe we have to rock some boats. It is a powerful lobby out there, and if we think that the people are upset with the institutions of Government, they are, and they have every right to be. I am convinced that they will attempt to take this measure out without attempting to, as my friend and Senate colleague, Senator LIEBERMAN from Connecticut indicated, fine tuning, make it so that it does meet the objections, the legitimate objections and concerns of some of the retailers.

There are differences between the retailer and the bank. But to simply throw it out or to come back with a nonsense study which will impede anything being done is wrong.

Why do we not stand up for that working middle-class guy? He knows something is terribly wrong. We know it, too. When do we have the guts and the courage to do what is right?

This is not the last. This conference report will come back. If it does not address this problem, I want to serve notice that this Senator is not just going to fold his little tent and go home. We are going to make our colleagues accountable and vote on this issue. The people have a right to see that we really are working to protect their interests. I believe that they are entitled to help.

Mr. President, I yield the floor.

THE DEVELOPING EUROPEAN ORDER—AND U.S. INTERESTS

Mr. HELMS. Mr. President, the 12-nation European Community will convene December 9 in the historic town of Maastricht in the Netherlands for a meeting that could well be a decisive turning point for Europe. Even more important, from my point of view, it may also be a turning point for the United States and its relationship with Europe.

Several questions are obvious: Will the Maastricht meeting mark the beginning of the end of state sovereignty in Europe? Will it mean that the European Community could emerge as a transnational political power in its own right? All of Europe is ablaze with speculation, but American observers have been strangely silent about an event which could affect the interests of the American people so vitally.

While the British remain true to their traditions of parliamentary sovereignty and state autonomy, the French and Germans press for ever greater political and monetary union. What is startling is that with the exception of defense policy, most of the other countries stand with Germany—and against Britain—in this debate. This tension between transnational power and state sovereignty will ultimately define the new world order.

Even if the Maastricht summit ends in stalemate, the fall of the Soviet empire and the evolution of Europe pose serious dilemmas for United States foreign policy. Powerful forces of nationalism, economic interest, and political and security interests will jockey for dominance in the new Europe. These forces will inevitably lead to new alignments, and to a new position for the United States in Europe.

So the question before us, Mr. President, is how can the United States make sure that the developing world order is an order which supports the interests of the United States?

From this side of the Atlantic, it is sometimes difficult to discern how complex the argument about political union and disunion is. There are a variety of different political interests at stake here. Indeed, in some ways we are watching an ongoing European version of the Philadelphia Convention of 1787.

The British on the one hand subscribe to the principle of subsidiarity. In other words, they want to see the EC only for business which cannot be done better at the national level or lower. The French, on the other hand, believe that the national governments should cede significant sovereignty to the EC, and then take turns controlling it through the European Council. The Germans are in favor of union, but would like to see the EC significantly federalized, with a greater emphasis on the European Parliament. Holland does not like the French plan either because it is afraid that the small states would lose political power.

Mr. President, there are other major issues. The Benelux countries, France, Spain, and Italy would all like to see the European Community develop a more activist social agenda. Again Britain leads the fight in keeping socialism at bay.

On defense issues there is also a split between those forces which favor more European alignment in the West European Union, and those which would like to maintain the power of NATO. And then there is Denmark, which wants to be able to incorporate its neutral Nordic neighbors within the EC structure, and so is dragging its feet on any kind of common security policy.

At the same time, there are other countries waiting in the wings which could also fundamentally alter the character of the EC. The countries of the European Free Trade Association, especially Sweden and Austria, are waiting in the wings to enter the EC. Also, the East European countries, in particular Poland, Czechoslovakia, and Hungary, would also like to become members of the European Community. Looking even farther down the road, a reconstituted Soviet Union, or Russia, or Ukraine could also be significant players in the European scene.

Mr. President, the EC is not the only transnational institution which needs to be studied. Other international institutions are already in place to shape the order that may emerge. Politically and strategically, the chief institutions to watch are NATO, the West European Union [WEU], the Conference on Security and Cooperation in Europe [CSCE], CFE, and EPC, the political arm of the European Community.

The oldest of these institutions, NATO, is being re-evaluated since its strategic mission of containing the Soviet threat seems to have been accomplished. Every one wants to know what its purpose will be in the future. The United States has a major role in NATO, and is therefore seeking a semipolitical role for NATO so that the investment which the United States has made in Europe continues to bear fruit.

However, the importance of CSCE seems to be growing at the expense of NATO. This is significant, since the Soviet Union has a major role in CSCE, but of course, is excluded from NATO. The growing influence of CSCE would seem to indicate a decline in U.S. influence concerning what happens in Europe at the same time that it gives the former Soviet Union a seat at the table—something it never has had before.

The Germans have shown that they are serious about political unification. But they also have the most to win from surrendering their sovereignty to a united Europe. With a population of 80 million people and the most advanced economy in the region, the Germans would control the vital aspects of a united Europe. In a way, they seem to consider the linkage of monetary union to political union as a way to force the other countries to fall into line. If the rest of the European Community does fall into line, the Maastricht conference may lead to political unification, and a major step in the surrender of state sovereignty by the member nations.

Economically, it is important to watch how the European Bank of Research and Development implements its projects of rebuilding the economies of the former Soviet Empire. The EBRD programs may increase the viability of the East Europeans coming into the European Community, but it could also work to sustain a neo-socialist government in the Soviet Empire.

The European Community has two alternatives before it. It could work to incorporate the economies of Eastern Europe in a continental wide version of German unification. On the other hand, it could maintain its current nucleus and base its growth on the economic compatibility of its members. For these reasons it is important to watch how economic integration of Europe develops in 1992 and beyond.

Everyone wants to be on the side of an economic winner, and the EC with its 345 million person population and $6.75 trillion GDP is likely to become the single largest and most important economic entity, until or unless the United States expands its own free market zone deeper into South America.

The EC has long had problems with its basic identity. What England wants is far different from what the socialist south wants. The development of majority rule on most issues in the European Community, would not only severely curtail state sovereignty; it would also lead to a union for more socialist in its economic and social principles. This development would have profound ramifications for the United States, not just economically, but at the most fundamental political levels as well.

Mr. President, there are also areas where existing institutions have not developed to cope with the emerging realities. The EC has handled the Yugoslavian crisis miserably. Nor is there a single international institution which is coping responsibly with the Baltics, Ukraine, or the other countries of the decaying Soviet Union. We need to be able to read the signs of emerging nationalisms and the power of new states, and prepare not just for what will happen, but for what may happen.

President Wilson's tired dreams of internationalism are being resurrected yet again. We must continue to expect to see the explosive effects of nationalism. Nothing can be accomplished on the international level if it goes against the grain of a nation's basic identity. We need only remember the experience of this century to know how fragile dreams of perpetual peace can be.

For these reasons, Mr. President, I submit that the developing world order may not turn out as beneficial as popular opinion seems to indicate. We need to implement a national security policy which can cope with unexpected, as well as expected, developments in Europe and the former Soviet Union. We need to be aware of the fact that the European Community could develop in any number of directions, not all of them in the interest of the United States.

The new European order could expand to include all of Europe and Russia or it could maintain its current nucleus. It could adopt a neosocialist agenda or commit itself firmly to free market principles. It could embrace the United States or it could attempt to isolate the United States. New powers in the Ukraine and Eastern Europe could emerge and old powers decline—as the Soviet Union seems to be doing now.

Mr. President, the institutional arrangements will not be for or against U.S. interests, but the content of those arrangements could well affect our future. For this reason, we have to ask ourselves what would be the best case scenario for the United States amid this mixture of opportunity and danger.

Throughout history, those countries have done best which have managed to avoid conflicts with their chief rivals, exploited opportunities for challenges through surrogates, and developed sound alliances based on a wide range of common interests and values. Our focus for developing United States relations with Europe should be a sound alliance strategy. We need to minimize the ability of an antagonistic rival to develop. And we need to promote international institutions which emphasize our common interests and values.

Mr. President, the European states are embarked on a historic task of redefining their most fundamental political arrangements. These states are doing so in the interests of promoting a stronger political community for the benefit of the European people. The United States, given its own history, would never stand in the way of such an endeavour if it were to be legitimately in the interests of all Europeans. The Europeans must know that we want to work constructively with them to build free markets and democratic political arrangements based on traditional European values.

Likewise, Mr. President, we should work toward the development of a strong Russia, a strong Ukraine, a strong Poland, and strong states in the Baltic which are democratic, market-oriented, and pro-American. We need to demonstrate, Mr. President, that these three qualities—democracy, market economies, and pro-Americanism are synonymous with strength.

Is this, then, the new world order of which we hear so much? I think not. The institutions of the new order need to be judged not by their structure, but by their content and their general directions. We should not applaud every development that results in a new, stronger Europe. We do not want to see our alliances with individual European nations weaken, nor our power to compete in European markets diminish. Neither do we want our own national integrity and sovereignty to vanish into some global superstructure that takes away our freedom of action.

Mr. President, we should support a strong, unified Europe only if it is in our interest to do so. The imposition of out-moded socialist welfare principles or the development of European defense arrangements which vitiate the sacrifices of American time, money, and blood must be fought.

It is true that we have vital security, political, and economic interests in Europe. But we cannot afford to support institutions which may be opposed to our interests in the long term.

Institutions such as the European Bank of Research and Development are redundant and potentially impossible to control. We should not send U.S. taxpayers' dollars overseas to promote institutions like these which dilute American strength and leadership.

Mr. President, we should be wary. We should be prepared to reject a new world order which does not develop in accord with our national interests. At the same time we should make sure that we do everything in our power to make sure that it genuinely does develop in our national interests.

The European summit on December 9 in Maastricht will be a time of testing for the developing world order. It may help to determine the direction of U.S. diplomacy in the years to come.

TRIBUTE TO JUDGE PELHAM JONES MERRILL

Mr. HEFLIN. Mr. President, it is with sorrow that I rise today to pay tribute to the life and career of the late retired Alabama Supreme Court Justice Pelham Jones Merrill. My friend and former colleague died on November 5 at the age of 84. Public service was truly in the blood of this teacher, legislator, and distinguished jurist from Cleburne County, AL.

His grandfather, J.W. Jones, served in the State legislature; his father, Circuit Judge Walter B. Merrill, served as a State senator and representative; an uncle, Ralph Jones, was a Senator and House Member; another uncle, Hugh D. Merrill, Sr., was Lieutenant Governor, a State senator, and House speaker; and a third uncle, John W. Abecrombie, served as a Member of Congress from Alabama, as an Acting Secretary of Labor under President Woodrow Wilson; and later as president of the University of Alabama. It is no wonder, then, that such a lineage produced a man of accomplishment like Pelham Jones Merrill.

Attending local schools and entering the University of Alabama at the age of 14, Pelham Merrill graduated at the age of 18. He taught school and coached for 5 years, eventually becoming the Bibb County supervisor of opportunity schools, where adult men and women learned to read and write.

He earned his law degree from Alabama in 1934 and soon became active in local and State Democratic Party politics. Beginning in 1936, he served in the State legislature, but left the political arena in 1942 to join the Air Force. After World War II, Pelham was elected to two terms in the legislature, twice serving as House Speaker pro tempore. He became Justice Merrill in 1952, when he was elected to the State's highest court. He served there as an associate justice until his retirement in 1976.

During his illustrious career, Judge Merrill worked diligently to improve Alabama's judicial system. He wrote numerous articles on the subject, and authored bills creating the courts of criminal and civil appeals. A Mason and American Legionnaire, he was a member of the Farrah Law Society; American Bar Association; American Judicature Society; Alabama State Bar; and the Alabama Law Institute.

Among his many honors and achievements were his election in 1978 to the Alabama Academy of Honor; his receiving the dean's award from the University of Alabama and Cumberland Schools of Law; and his being awarded the Eugene W. Carter Medallion, presented to him by the Administrative Law Section of the Alabama Bar.

Mr. President, Judge Pelham Jones Merrill's contributions to the administration of justice are countless. He displayed wisdom, amiability, and kindness on the bench and in the conference room. His persistence in the study of cases assigned to him and the promptness in which his decisions were made brought honor to the court. His opinions evoked outstanding comment from legal scholars all over the Nation, and were noted for their soundness, clarity, and forthrightness. He was truly a judge's judge. Everyone who served on the Supreme Court of Alabama with him always considered him to be Alabama's finest jurist. Like others who knew and worked with Judge Merrill, I considered it a tremendous pleasure and privilege to have served with him.

I extend my heartfelt condolences to his wife, Gladys, to whom he was married for 55 years, and to his entire family. One of Judge Merrill's favorite quotations, from Daniel Webster, epitomized his career:

> I shall be content if, when my days are numbered, it can truthfully be said of me that with such ability as I possessed, and whenever opportunity offered, I labored faithfully, to build this temple higher in my time.

If we assume that Pelham Merrill's "temple" was his State and its judicial system, then we know that he was very contented when he left us, for he did indeed leave his temple "higher during his time."

Mr. President, I ask unanimous consent that an article on Judge Merrill's career be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Montgomery Advertiser and Alabama Journal, Apr. 26, 1987]

SPECIAL ROOM TELLS THE TALE OF JUDGE'S ILLUSTRIOUS CAREER

(By Alvin Benn)

MONTEVALLO.—Pelham J. Merrill—teacher, coach, lawyer, prosecutor, soldier, legislator, Alabama Supreme Court justice and civic leader—has found a repository for mementos of his illustrious career.

It's a special room at Reynolds Hall at the University of Montevallo, and at 2 p.m. today friends from throughout Alabama will be on hand to help the 79-year-old Merrill dedicate it.

Credit for the room belongs to Merrill's wife of 51 years, a woman who has spent her life as his faithful companion, traveling partner and, at times, press agent.

"My husband has had careers in many fields and I felt they should all be preserved," said Gladys Merrill, as she took a breather from hanging up some of the certificates in the room.

The walls are filled with memories of a man who went to the University of Alabama at the age of 14 and used the head start as a springboard into multi-faceted careers.

His life hasn't surprised those familiar with the Merrill family. His father also was a lawyer, legislator and judge.

Pelham Merrill went him one or two better, however, and came away with some priceless stories about the movers and shakers of Alabama who held sway for more than half a century.

One of the most colorful was James E. "Big Jim" Folsom, a two-term governor whose career included some bizarre happenings—some apocryphal, but taken as the gospel today.

One belief held by many credits Folsom with shooting into the ceiling of the Montgomery Country Club during a reception many years ago.

Such was not the case, says Merrill, because he was there and knows who did it.

"Most folks there had taken several nips and a sheriff near us was just plain drunk," he said. "He kept telling a particularly boring speaker to shut up and when he didn't the sheriff pulled out his pistol and fired it into the ceiling."

Folsom, known to have taken a nip or two himself in his lifetime, was as sober as the judge during the event and was not about to leave.

"We all knew he'd be blamed for it and we wanted to get him out of there," Merrill said. "He went upstairs because he was afraid somebody might have been hit by the bullet."

No one was.

They were able to spirit Folsom out of the country club, and though he was innocent, the legend of Big Jim and the ceiling shooting was born.

That incident occurred decades after Merrill already had established himself as one of Alabama's leading citizens.

He had been a teacher and coach at West Blocton High School, where he taught the first seven classes and then was "allowed" to get the football team into shape late in the day.

His 13-member team had not won a game the year before he arrived. In his first year, they lost only one game and won the county championship.

His love of football remains, perhaps because of his closeness to the University of Alabama's famed Crimson Tide and the legendary Johnny Mack Brown.

The two were in the same class during the 1920s and Merrill remembers Brown as a talented runner with good looks and little gray matter.

"He was one of the finest and dumbest boys I ever met," he said of Brown, who helped Alabama win a Rose Bowl game and then captivated Hollywood with his Southern charm and chiseled features.

Brown, who became a leading man before turning out dozens of "B" westerns, must have been reading cue cards because he surely couldn't remember his plays in the huddle, Merrill said.

"Our coach was Hank Crisp and he kept telling Johnny Mack he'd make him a star, but he would have to remember his plays in order for that to happen," Merrill said.

Brown frequently called his own number to run the ball because he had difficulty remembering what the other players were supposed to do, he said.

When Merrill finally set up his law practice in Claburne County, he found out the Depression did not differentiate between rich and poor. Few had any money.

After one of his first months in practice, Merrill said, he and his partner had $7.00 left after paying their secretary and the rent.

"He got $5 because he was the senior partner," Merrill said. "Guess who got the $2!"

Merrill also found politics to his liking during those days and was elected to the Legislature three times from Claburne County.

He served in the Army Air Corps during World War II, then returned to the Legislature, where he gained the distinction of being the only person ever elected twice as speaker pro tem of the House of Representatives.

In 1947 he was named "Most Resourceful Member of the House" and in 1951 he was named "Most Effective Member" of the lower chamber.

In 1952, Merrill was elected to the first of four six-year terms on the Alabama Supreme Court.

He and his colleagues served during the most turbulent period of Alabama's history following the Civil War.

The civil rights movement emerged after the U.S. Supreme Court's decision to end segregation of schools, which was supported by Congress until 1964, Merrill said.

"Sure I supported segregation in those days," he said. "It was the law of the state and the land. If Congress had taken some action to end it before 1964, (that action) would have been supported at that time, too."

One of the U.S. Supreme Court's most illustrious justices during that period was Hugo Black, a man from Merrill's east Alabama stomping grounds who had to overcome the bad publicity about his Ku Klux Klan membership before gaining admission to the highest court in the land.

"Regardless of what FDR or anybody else had to say about him, he was one of the leading Ku Kluxers in the state," Merrill said. "He knew it was politically helpful in Alabama to be a friend of the Klan.

Black eventually became one of the Supreme Court's leading liberals and was constantly castigated in Alabama because of his pro-civil rights opinions.

For Merrill, his election to the Alabama Supreme Court proved to be the highlight of his career.

He said he loved the legal reviews and enjoyed writing lengthy opinions when they were justified.

Many justices said the work was arduous, but Merrill said it tended to keep his adrenalin pumping during most of the quarter century he served on the panel.

His reviews led some men to the electric chair and others to the bank to collect big judgments.

The case he remembers most involved a grain company and a takeover attempt by one of the stockholders.

It had little of the drama of a capital case, but money and greed tended to generate a special excitement.

According to Merrill, the case filled 26 or 27 volumes and became the most drawn-out appeal in Alabama history.

"It took a whole week just to hear the argument from the two sides," he said. "It was really something. I remember the stockholders used to go to Europe to discuss the price of wheat. It had that kind of element."

Merrill, inducted in the Alabama Academy of Honor in 1976, enjoys his many successes and the company of the woman who has been with him every step of the way.

They haven't had any children and look to the UM Merrill Room as the perfect place to preserve memories of a remarkable life.

For Gladys Merrill, the room is a dream come true.

"I've been thinking about it for a long time," she said. "It's a bit belated, but this is my golden wedding anniversary gift to him."

TO EXPRESS GENERAL RIDGWAY'S GRATITUDE FOR THE CONGRESSIONAL GOLD MEDAL

Mr. THURMOND. Mr. President, recently I had the pleasure of accompanying Senator NUNN, the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and the Vice Chief of Staff of the Army, Gen. Dennis Reimer to present the Congressional Gold Medal to Gen. Matthew B. Ridgway.

I want to report to the Senate that I was deeply moved, as were the other members of the entourage, when General Powell presented the medal to this distinguished patriot and military leader. It appeared that General Ridgway was deeply honored to be recognized for his service to this great Nation.

Mr. President, on behalf of General Ridgway, Senator NUNN, Senator WARNER, and I wish to express his gratitude and thanks to the Congress of the United States for the honor accorded him. I also ask unanimous consent that the letter from General Ridgway which expresses his sentiments be included in the RECORD following this statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

Hon. SAM NUNN,
Hon. JOHN W. WARNER,
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR STROM: Please accept my deepest appreciation for the honor which you and your distinguished colleagues have accorded me, so movingly embodied in the venerable Congressional Gold Medal and so warmly spoken to in the Senate Chamber and in Conference.

I am, of course, by no means the ultimate honoree. That which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve in the cause of freedom that has touched the lives of so many others in so many different lands.

In remembrance of them and on their behalf, I hope you will convey my gratitude and and thanks to the Congress of the United States.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Your gracious letter of 22 October is deeply appreciated. My only regret is that I was not able to travel to Washington. However, General Powell represented you superbly in conveying your good wishes.

I am not unmindful of the seriousness of this considered action of Congress, which not only has included the efforts of Senators Nunn, Warner and Thurmond, but has involved the concern of the Department of Defense, and, most particularly of your own, in arranging the Congressional Gold Medal ceremony in Pittsburgh last week.

As I wrote to the Senators, that which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve over many years.

On their behalf, as my own, I thank you for your personal interest and testimony.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

FISCAL YEAR 1992 DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. ADAMS. Mr. President, I take this time to indicate my support for, and I will vote for, the 1992 defense authorization conference report. Despite some reservations that I have about a number of issues, this bill contains several extremely important provisions for the State of Washington.

I am extremely proud of the provisions that establish a trust fund for the cleanup of nuclear waste at Hanford. This was one of my primary goals when I first came to the U.S. Senate in 1987. Today, this proposal is a reality.

Based on legislation I introduced earlier this year, the provisions, sections 3134 and 3135, fulfill the five critical objectives set out in my bill, S. 1462.

First, the legislation establishes a separate, environmental restoration and waste management trust in the Treasury.

Second, safeguards will assure that moneys put into the trust fund are used for nuclear waste cleanup at Hanford and other defense nuclear facilities around the country—and for this purpose exclusively. Money cannot be diverted to defense production or other purposes, as in the past. This has been a big problem for us with the Department of Energy. It will be a problem no more.

Third, the provisions establish greatly needed oversight over the waste cleanup process. They create a direct linkage between waste cleanup activities and waste cleanup agreements, like Hanford's Tri-Party Agreement. These agreements make sure cleanup funding and activities meet local and State laws and needs. The target completion date of 2019 is specifically included in the legislation to help avoid any slippage in DOE's commitment to critical cleanup.

Fourth, the provisions guarantee public participation in the cleanup process. This has been sorely missing. In such a sensitive area, it is no surprise that the absence of public input into DOE's plans may have been more through intent than oversight.

This bill requires consultation with Governors, attorneys general, affected Indian tribes and, most importantly, the public at large in developing 5-year cleanup plans. Section 3135(c) specifically makes $20 million in grants available to States to facilitate such participation and public oversight of the process.

Finally, the bill gives environmental restoration and waste management activities greater weight and visibility at DOE. The managers' statement specifically directs that an office, headed by an Assistant Secretary, be designated in DOE to carry out these activities.

The cleanup of defense nuclear waste is an overwhelming prospect. We are talking about the safety of hundreds of thousands of Americans. Dozens of communities. We are also talking about tens of billions of dollars. The figures boggle the mind.

This legislation gives the people of the Tri-Cities in Washington, and in other communities throughout this Nation, a fund dedicated to making their environment safer. To making their lives safer. I am proud of this bill, and look forward to assuring its implementation in the coming years.

I would also like to point out that this bill will fund my request of $5 million for the Hanford Health Information Network, $1.6 million in fiscal year 1992 and $1.8 million in fiscal years 1993 and 1994. This crucial program helps disseminate information to the people of Tri-Cities about radiation exposure that is or may affect their health.

Other programs for which I requested funding in this bill are the Environmental and Molecular Sciences Lab, which will receive $17.1 million in fiscal year 1992, and section 801 housing for service families at Whidbey Naval Air Station, which will receive $21.11 million in fiscal year 1992. Enlisted families currently wait up to 17 months for adequate housing. These funds should help meet the pressing housing demands at Whidbey.

Mr. President, at this point I wish to extend my deep appreciation to Chairman NUNN, and especially to Senator EXON, who worked closely with me in crafting the Hanford Trust fund provisions. I also wish to acknowledge the outstanding work of Ms. Madelyn Creedon, who assisted me and my staff in drafting the trust fund provisions.

This legislation is a tremendous step forward for defense environmental restoration, the rights of women in the military, and in a limited number of other areas. I support it for these reasons.

I have profound reservations, however, about the amount of taxpayer money that this bill will spend on outdated and unnecessary weapons programs. The bill authorizes $290.8 billion in fiscal year 1992, several billion dollars more than the fiscal year 1991 authorization.

Has nothing changed over the course of the last year? I am astounded that we are still arming ourselves for a showdown with the evil empire. There is no more empire.

We live in a changed world. Both the United States and the Soviet Union have announced massive cuts in their nuclear arsenals. More importantly, the Soviet Union no longer poses the same threat it once did to United States security. The Pentagon has downscaled the Soviet Union to a risk.

A $4.15 billion program for SDI has no place in this new world. Breaking the ABM Treaty, which the SDI provisions of this bill almost inevitably lead to, has no place in this world.

The same is true for the majority of the other strategic programs in this bill. We have agreed not to build more than 15 B-2 bombers. But this bill authorizes $1.8 billion for R&D on this airplane. This does not make sense.

These are substantial sums of money. Every day we hear pleas from the American people to help fix the economy, to offer better education and better health care. We have better uses for this money. I urge my colleagues to rethink their priorities.

DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. MITCHELL. Mr. President, section 334 of H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993, provides that the Department of Defense is to complete, not later than 36 months after enactment of this act, all draft final remedial investigations and feasability studies [RI/FS] at bases scheduled to be closed pursuant to the Base Closure Act of 1991 that are listed on the National Priority List. This provision affects the State of Maine in that the Department of Defense must now complete the RI/FS's for Loring Air Force Base within 3 years from the date of enactment. This new completion date is several years sooner than the time period originally thought necessary and agreed to by the Environmental Protection Agency [EPA], the State of Maine and the DOD.

I am concerned that some States, such as the State of Maine, are under such severe budgetary limitations that the State may not be able to obtain adequate funding or qualified personnel to oversee the expedited completion of the RI/FS as mandated by section 334. This potential lack of funding or personnel could also apply to the Environmental Protection Agency.

The RI/FS is necessary in order to understand the extent of the contamination at the base and to identify cleanup mechanisms. Only a thorough RI/FS can accurately assess the extent of the contamination at the base and identify appropriate cleanup methodologies. Quick completion of the paperwork should not be the sole object of this legislation.

I am further concerned that we may end up in a position a few years hence in which the Department of Defense is racing to complete the RI/FS's and the quality of environmental protection is undermined as a result. Clearly it is in the best interest of affected communities to have the base cleaned up and available for reuse as soon as possible, but environmental and health protection standards should not be compromised as a result.

I understand that section 334(c) provides for an extension of the deadlines established in the legislation in certain situations.

Mr. NUNN. The majority leader is correct in his understanding. Section 334(c) was included to address the problem that he has identified, as well as other situations. I would expect the DOD to request an automatic extension in cases where the Federal Environmental Protection Agency or the State expresses an inability to adequately oversee the RI/FS process due to a lack of funding, a lack of qualified personnel, or both.

We must ensure that cleanup of closing bases remains a high priority and that there are no unnecessary delays. At the same time, we must also ensure that the cleanup process is conducted in a manner that is consistent with all environmental requirements, and that will protect human health.

Mr. KOHL. Mr. President, last night we passed a $70 billion bailout for the Nation's banks by voice vote—presumably because the leadership was afraid that if Members had to publicly record their position on such an unpopular bill, the measure would have been defeated. Today I am afraid we are about to pass a $290.8 billion bailout for the Nation's defense industry by a recorded vote—presumably because the leadership wants to give Members an opportunity to get some political credit for supporting national defense.

The irony would be amusing if it was not so frightening.

I have no idea why supporting this Defense Authorization Act will generate political credit for anyone. As it has for the past 2 years, this legislation makes a rhetorical bow to the changing world in which we live. The speeches made by the proponents of this legislation recognize that the disintegration of the Soviet state and the Soviet threat has changed our national defense needs. Those speeches also acknowledge the economic and political ability of our allies to carry a greater share of the burden of preserving the peace and creating a new world order. And those speeches also pledge a complete reexamination of our defense programs and strategy, with an emphasis on reducing spending on unnecessary system, because the largest danger we face now is economic rather than military.

They are fine speeches.

But the details of the legislation does not mirror the language of those statements. Let me give you some examples.

As Senator LEAHY—who led the fight to terminate the B-2—pointed out last night, this bill really does not achieve that goal, despite claims to the contrary. I will not repeat his arguments today; suffice it to say that any bill which kills a weapon system by authorizing an additional $4.4 billion in spending on it is an amazing piece of work. And it is not just the B-2. Once again we have killed the V-22 Osprey by authorizing almost $1 billion in spending, despite the objections of the Department of Defense. We killed the F-117 by authorizing over $600 million for that program, despite the objections of the Department of Defense.

This list goes on, Mr. President. And my point is simply this: If the Department of Defense eliminated our enemies as well as the Congress eliminates unnecessary programs, we would either have surrendered or still be fighting in the Persian Gulf, in Korea, in Europe and Japan—and maybe even here at home in a desperate effort to win the Revolutionary War.

In addition, Mr. President, although I supported the latest vision of SDI—the so-called GPALS or global protection against limited strikes—I never in my most cynical moments thought that we would authorize $4.15 billion for the program. That is over $1 billion more than we authorized last year when we were still working on a concept of space based defense that had guided our research and development efforts for a decade. Now we have a new approach—a more limited, ground based system which builds on technology already in place—but instead of making a limited investment in this approach, we are throwing more money at it. That makes no sense in terms of traditional research and development strategy.

Finally, Mr. President, I would commend to my colleagues and to the country the argument advanced last night by Senator SASSER, the chairman of the Budget Committee. From his perspective as a person who looks at the overall spending of our Government—and deals with the staggering deficit that spending has produced—he rejects the approach taken in the bill because it does not reflect the priorities this Nation needs to set. Is defense spending down? Yes. Has it gone down as dramatically as the threats we face have declined? No. Is the level of defense spending appropriate given the other needs we face here at home—the need to improve our educational system, rebuild our highways and roads, make health care available and affordable, increase incentives for business development and job creation, give middle income Americans some tax relief? Absolutely not. We can not finance all of those needs through cuts in defense; after all, one of Government's most basic obligations is to "provide for the common defense." No one wants, and I would not support, a defense budget that failed to achieve that goal. But, Mr. President, this budget is excessive. We do not need it and should not support it. I vote no.

Mr. SANFORD. Mr. President, I want to commend the members of the Senate who have worked for the past 4 months to bring to the floor the conference report of the National Defense Authorization Act for fiscal year 1992-93. On August 2 of this year the Senate passed its version of the Defense authorization bill. There were world events that greatly altered the threat to our national security and those events have been factored into this legislation before us. Also factored into this legislation are our own domestic needs and the performances of our personnel and equipment during the war in the Southwest Asia.

Every State in the Union is affected by this bill in some manner. For North Carolina the legislation is of vast significance. Fort Bragg, Camp Lejune, Cherry Point Marine Corps Air Station, New River Marine Corps Air Station, Pope Air Force Base, and Seymour Johnson Air Force Base are all located in North Carolina. Twenty-five percent of the forces deployed in Operation Desert Shield and Operation Desert Storm came from these installation. This authorization conference report will provide for the beginning stages of a new medical center for Fort Bragg that would serve not only to benefit the soldiers and dependents located there, but all of the active duty military in North Carolina, surrounding States, and military retirees and their dependents.

It must be noted that the National Guard and Reserve are a vital part of the total force structure of the U.S. military. Approved in this legislation is $1.05 billion for equipment modernization for National Guard and Reserve units. The Air National Guard Unit based in Charlotte, NC, has for years maintained levels of proficiency above those of active duty units. They have done so with the oldest aircraft in the Guard. They are now scheduled to have those aircraft replaced thanks to this legislation.

Mr. President, H.R. 2100 benefits segments of the civilian population of North Carolina as well. At the beginning of the 102d Congress, the Desert Storm Personnel Benefits Task Force worked to offer emergency assistance to small businesses adversely affected by Desert Storm. As I mentioned earlier, there were tens of thousands of soldiers, sailors, airmen, and marines that left North Carolina for the Middle East. Those military personnel were also consumers and areas surrounding military bases were economically devastated during their deployments. Section 1087 serves to directly assist small business that suffered drastic losses due to the large deployments associated with the gulf war.

I wish to commend the conferees for taking note of the lack of funding made available to historically black colleges and universities that would like to either enter into or expand efforts in research programs sponsored by the Department of Defense. In addition to five predominantly black institutions of the University of North Carolina system whose chancellors advocated such action, North Carolina is home to six of the United Negro College Fund colleges and universities that would also benefit from section 812.

So much attention is given to the large ticket items of defense legislation. Most Americans are familiar with B-2 bombers, Patriot missiles, and Star Wars weapons, but the Defense authorization bill is so much more than hardware. The provisions that provide pay research funding, housing and numerous other nonhardware items so important to the infrastructure of our national security establishment are the ones that concern me most. The cold war is ended and the Congress must focus on the essentials when debating defense legislation. H.R. 2100 does just that and I give it my strong support and implore my colleagues to do so similarly.

Mr. DOLE. Mr. President, there are many important aspects to this conference report, hard won compromises on tough issues. On balance, this is a good bill that will provide for our security needs, begin the deployment of ballistic missile defenses, and continue modernization of many aspects of our force structure.

In addition, there are several programs important to my State of Kansas. Programs that represent jobs and make major contributions to our national security. But Mr. President, I intend to vote against this conference report and I want to take just a minute to discuss my reasons.

The position taken by the conferees on the B-2 bomber is so out of line with regard to our future security needs, and so terribly wasteful with our scarce defense dollars that I cannot abide by it. Although the Senate position, which I fought hard to sustain during our deliberations on the Defense authorization bill, provided for four additional B-2 bombers, this conference report supports only one. And that single aircraft cannot be built unless the Congress votes once again to allow it. This makes no sense.

I supported amendments that ensured the B-2 completes the required testing to prove that the bomber will work as advertised. In my view, that is a prudent approach. But to buy one bomber at a time, purposefully driving up the cost so that opponents can stand in mock horror about the price tag is irresponsible—and I won't be a party to it. This report provides enough money to buy three or four B-2 bombers but it spends billions to buy nothing.

Opponents claim that the B-2 is a waste of money. I don't believe that, but I do believe that spending money on a bomber that the Congress refuses to build is a waste—a waste of taxpayers money, a waste of our technology, and a wasting away of our future security.

In my view, America needs the B-2 bomber. It is insurance for an uncertain future. And without the B-2, the bomber leg of the triad will become obsolete. So, I think we should face facts here instead of playing games with the taxpayers' money.

Mr. KERREY. Mr. President, I would like to express my opposition to the conference agreement on the fiscal year 1992 Department of Defense authorization bill.

I have decided to oppose this agreement because it does not adequately reflect changes that have taken place both in the world and in this country. The level of defense spending provided in this bill was set out in the budget agreement negotiated between Congress and the administration in October 1990. Since that agreement was fashioned, the failed coup in the Soviet Union demonstrated that the nature of the threat against which we had been preparing to defend ourselves is far different than we thought. The world looks like a much different place than when we passed the budget agreement in October 1990 or when we passed the Senate's version of the fiscal year 1992 DOD authorization in August 1991.

Other things have changed as well. CBO recently estimated the fiscal year 1992 budget deficit at $362 billion, far higher than earlier estimates of $280 billion and far in excess of the total amount we spend on domestic discretionary programs such as education, transportation, agriculture, and the environment. Moreover, the demand for additional attention to vital domestic needs grows stronger every day.

I do not advocate simply cutting defense spending and increasing social spending to meet out needs. However, I do believe we need a fundamental reassessment of our priorities to allow us to build for greatness. This is particularly true in the case of our defense and domestic needs and in the wake of the Soviet coup.

This conference agreement reflects a cold war defense. It does not provide for a restructured military that conforms to the new realities of the post-cold war world. We must reassess our needs, maintaining our military superiority on a global basis, but not arming against an enemy that no longer exists.

We must question the approval of funds for unproven weapon systems when, at the same time, 37 million Americans have no health insurance, we do not fully fund our education needs or programs like Head Start, and, of course, when the national debt is pushing $3.5 trillion.

I think it is important for us, now and in the future, to develop a consensus about what this Nation needs in the way of strategic defense, keeping in mind that true national security involves more than spending billions of dollars on SDI or determining how many bombers to build. It will involve responding to new challenges in our education, transportation, health, and nutrition programs.

I'd like to comment on two specific aspects of the conference agreement. First, I am disappointed in the $4.15 billion figure authorized for the strategic defense initiative. This figure is substantially higher than the $2.9 billion authorized in last year's budget. I have serious concerns about this system, which is intended to develop defenses against short-range and long-range missiles, including its impact on the ABM Treaty. I remain unconvinced that SDI is either technically feasible or necessary—or that we can afford it.

I was pleased to see the conference agreement include a provision barring further production on the B-2 bomber beyond the 15 previously authorized. I am also encouraged by the bill's insistence on both House and Senate approval before any future procurement funding can be applied to the building of a new plane. I believe this one measure is a step in the right direction, but it is not enough.

I do not believe we should lower our defenses, but we must modify them to address changing threats, both domestic and international. I believe this defense budget is a product of yesterday's world.

Mr. NUNN. Mr. President, this conference report includes provisions that will have a major impact on the assignment and role of women in the military services, and I want to take a few moments to summarize these important provisions.

Under current law, women are prohibited from being assigned to combat aircraft in the Air Force, and women are prohibited from being assigned to combat aircraft and combat ships in the Navy. Women are prohibited from being assigned to combat aircraft in the Army by regulation.

Both the House and Senate versions of the Defense authorization bill this year included a provision that would allow women to be assigned to combat aircraft. This provision would do so by repealing the Air Force law, and that portion of the Navy law that prohibits the assignment of women to combat aircraft. Women would still be prohibited from being assigned to combat ships under both the House and Senate provisions, except that women could be assigned to these ships as aviation officers as part of a carrier air wing or as part of an air element assigned to other ships.

This conference report includes this groundbreaking provision. Women will soon be eligible to be assigned to combat aircraft in all of the military services. I am confident that women aviators will serve well in these new assignments.

Mr. President, the Senate bill also contained a provision that would require the President to appoint a commission of 15 members to conduct a comprehensive study and make recommendations on the assignment of women in the military services. The conferees agreed to include this provision in the conference report.

The commission will look at a series of issues involving the assignment of women in the military services, including social and cultural factors in the military workplace; mental, physical and other job requirements for serving in combat positions; public attitudes in the United States regarding the service of women in the military; and the legal and policy implications of opening combat positions to women on a voluntary basis.

During the course of the commission's work, the Secretary of Defense will be authorized to temporarily waive any laws or policies that restrict the assignment of women so that women may be assigned to any skills or positions in the military services on a test basis.

The commission will make a final report to the President by November 15, 1992, and the President is required by this provision to forward the commission's report to the Congress by December 15, 1992. The President's report to the Congress will contain his recommendations on whether existing law and policies regarding the assignment of women in the military should be retained, modified or repealed; what roles women servicemembers should have in combat; what transition process is appropriate if women military members are to be given the opportunity to be assigned to combat positions; and whether special conditions and different standards should apply to women than apply to men serving in similar military positions.

The work of this commission will be very important, Mr. President. I look forward to reviewing the commission's report and the President's recommendations on this matter.

All of us are aware of the many outstanding contributions of women in our military services, most recently in the Persian Gulf conflict. Indeed, this provision was inspired in large part by the dedication, professionalism, and sacrifice of the women soldiers, sailors, marines, and airmen who served their country with such distinction during Operation Desert Shield and Desert Storm.

FAIR COMPROMISE ON TOUGH ISSUES

Mr. GORTON. Mr. President, I would like to take a few moments to discuss H.R. 2100, and the fiscal year 1992 DOD reauthorization conference bill. I applaud both committees for their diligence in putting together a fair compromise on tough issues such as the strategic defense initiative, and the B-2 bomber. Not since World War II, has Congress had to budget for our Nations' defense in a time when the world has endured such dramatic changes. As a former member of the Senate Armed Services Committee, I can appreciate the hard work required to complete this bill, particularly in these very difficult times of massive international and military reforms.

B-2

The continuation of the B-2 bomber program is one of the most contentious issues faced by Congress today. I must admit that, when I was first elected as Senator, I had serious reservations concerning the need for this aircraft. I have since come to know the importance of this aircraft to our Nation's security, and have actively supported the continuation of the B-2 program. Although this bill does not comply with the Senate's decision to procure funds for four aircraft, it does authorize funds to keep the production lines open, and allows the Secretary of Defense to reexamine the B-2 program due to recent low observability testing problems. Upon completion of this review, both Chambers will be given a second look at the program, and will hopefully vote to authorize $1 billion for the procurement of one new aircraft. I am confident that the Secretary will find the B-2 aircraft acceptable and will continue to lend his support for the program.

SDI

America deserves the protection provided by technologies such as the strategic defense initiative because of the increased threat posed by the proliferation of independent, newborn states and a concern that political instabilities found worldwide could increase the potential for ballistic missile use, including accidental and unauthorized launches.

Nobody can predict what will unfold in world events, and it is premature to cut back on strategic defenses based on the assumption that all will change smoothly. For instance, the nuclear weapons outside the Russian Republic may be returned safely, and then again they may not. The Soviet Union may dissolve peacefully, and then again it may not. Who is to say how the course of events will unfold? But until we know exactly what will transpire, we must continue to perfect our strategic defenses to protect America and its allies against an unpredictable future.

I am pleased to note that the conference report generally reflects the language of the Nunn-Warner Missile Defense Act. Under this provision, the President is encouraged to begin negotiations on amending the ABM Treaty to permit defenses at multiple sites and sets a 1996 deployment date for a ground-based system and/or when the technology is feasible. Let me add here, that I think this additional language is both reasonable and necessary to ensure that the system we develop is the best possible.

WOMEN IN COMBAT

The Persian Gulf illustrated that women are an integral part of our national defense. As we have recently witnessed, the military duties that women perform can put them in areas of considerable danger. They have also proven themselves to be capable pilots; women have flown successful reconnaissance and refueling missions in Grenada, Panama, and the Persian Gulf. This bill will allow women to fly in combat aircraft with the stipulation that the Secretary from each military department may prescribe the conditions under which women may be assigned to aircraft engaged in combat.

Women have been flying military aircraft for over 20 years, and have proven themselves to be skillful pilots. This legislation opens a window of opportunity for women who have chosen to make military aviation a career.

There is, however, a significant amount of information to evaluate before we lift combat restrictions across the board. I support the provision directing the President to set up a commission to study the effects of women in military combat.

801 HOUSING: NAVAL AIR STATION WHIDBEY ISLAND

I would also like to take this opportunity to discuss a particular problem facing Naval Air Station Whidbey Island. This year, I amended the Senate DOD authorization bill to include NAS Whidbey on the list of bases to receive long-term leases for the construction of military housing. This particular provision remains in the conference bill and I would thank my colleagues on the committee for their support of the 801 program. I would also like to add that I am deeply committed to this project, and will continue to work with the Navy to ensure the construction of housing at Naval Air Station Whidbey in the very near future.

DEFENSE WASTE PRIVATIZATION

The Senate version of the authorization bill contained a provision based upon S. 1030, a bill that I introduced earlier this year. This provision would have expanded the Department of Energy's authority to enter into contracts with private industry for the cleanup of defense wastes. Such authority would enable DOE to bring the competitive spirit of the private sector to bear on cleanup of DOE waste sites, and would allow DOE to allocate its resources more efficiently. Increased privatization would also attract new commercial entities to communities near DOE sites, adding to the diversity of their economies.

Unfortunately, the privatization provision was dropped in conference. Although the conferees stated their support for increased privatization, there were a number of technical issues that they could not resolve. I look forward to working with my colleagues on these issues next year, and hope that together we can pass a privatization bill.

SMES

The conference agreement increases the authorization for the Superconducting Magnetic Energy Storage [SMES] Program to $20 million, and directs the obligation of $10 million in unobligated fiscal year 1991 funds. I am pleased that the conferees recognized the many benefits that could result from the successful operation of a full-scale SMES test model.

Partly because of its potential applications in the defense sector, SMES has been placed on the critical technologies list by the Department of Defense. But SMES also shows great promise as a means to increase the flexibility of the U.S. electrical distribution system. In my own State, SMES could solve peak loading problems in the Puget Sound area, and could help protect endangered and threatened stocks of salmon. For this reason, the conference agreement directs the Department of Defense to work with the Department of Energy in developing the SMES Program. I encourage the Department of Energy to be a willing and creative partner in this endeavor.

YAKIMA FIRING CENTER

Briefly, I would like to thank the members of the committee for their support in funding the expansion of the Yakima Firing Center. I feel that the compromise reached on the expansion accommodates all affected parties, and that the amount allotted for the project, although lower than the budget request, is both reasonable and fair.

Mr. President, I have a strong commitment to the above items, and would again like to commend the Armed Service Committee for its work in completing a very difficult and complex bill.

ARMOR COMBAT TANK BADGE

Mr. McCONNELL. Mr. President, although I will vote for final passage of the conference report accompanying H.R. 2100, the National Defense Authorization Act for fiscal year 1992 and 1993, I want to take a moment to speak on a provision which was deleted from the Senate's bill in conference.

In early August, I offered an amendment to the DOD bill requiring the Secretary of the Army to report on the feasibility of establishing an armor combat tank badge. I had hoped that through such a report, additional information and support for this badge could be gleaned.

Our armor soldiers are a unique breed of warrior, capable of rapidly engaging enemy forces throughout a theater of combat. If there is a ready lesson from Operation Desert Storm, it is that our armor forces are vital on tomorrow's battlefields.

Mr. President, I'd like to conclude my remarks by personally thanking the many supporters of my amendment. I'd like to single out the council of Armored Division Associations in Louisville and its chairman, Edward Reed.

Mr. BAUCUS. Mr. President, I rise in support of the National Defense Authorization Act covering fiscal year 1992–93.

This bill is far from perfect. I believe that in several regards, our defense policy remains bound by a cold war mindset. The effect of this mindset is not benign. Preoccupation with yesterday's war keeps us from focusing on the important struggles of today and tomorrow.

But we have taken a step in the right direction. In my view, key elements of this bill include the maintenance of a core nuclear deterrent; significant cuts in certain cold war era weapons; and the provision for a missile defense system to counter terrorist, accidental or rogue firings.

CORE NUCLEAR DETERRENT

Since World War II, international peace has rested upon the balance of nuclear terror. Fundamental change in the Soviet Union has changed forever the face of international security. Nevertheless, the world is in many ways more unstable today than at the height of the cold war. America continues to need a core nuclear deterrent.

One of the front line facilities in the maintenance of this deterrent is Malmstrom Air Force Base in my home State of Montana. In accordance with the START Treaty, Malmstrom is in the process of deactivating its Minuteman II missiles. These will be replaced by more modern Minuteman III's. I was extremely concerned at the potential effects of an amendment to the defense authorization bill that could have impeded the shift to Minuteman III's. Fortunately, clarifying language has been added to the conference report to insure that Malmstrom's modernization efforts will not be delayed.

SIGNIFICANT CUTS

I believe that our country continues to spend too much on defense. In a time of a diminished Soviet threat abroad and a budgetary crisis at home, we need to carefully marry our national security decisions to the nature of the threats we face.

We need defenses structured to address major regional conflicts such as the recent gulf war. This bill gives strong support to the weapons that were most important in winning the gulf war. We also need to realize that the most significant struggle facing America today is economic—a commercial battle with the Japanese and Europeans. In this arena, I strongly support the Defense Advanced Research Projects Agency's efforts to foster cooperation between the Government and private sector research organs. More programs like DARPA are needed.

We do not need weapons designed uniquely for a total war scenario with the Soviet Union. For many years, I have opposed the production of the B–2 bomber. This plane was designed for a scenario of total nuclear war. Despite the feeble repackaging effort of its proponents, the B–2 has no conventional mission not already covered by existing weapons systems—especially at the staggering cost of $860 million a copy. I would liked to have seen the B–2 eliminated altogether. At the very least, I hope the minimal funding for the plane signals its deathknell.

STRATEGIC DEFENSE

Strategic defense represents another area where this bill makes important progress, but continues to suffer from a cold war mindset.

I support the deployment of a limited, ground-based missile defense system. Instability in the Soviet Union has raised serious questions about the security of the Soviet's far-flung nuclear arsenal. Moreover, the Scud missiles of the gulf war provided a graphic demonstration of the danger of Third World missiles. We also learned that we know frighteningly little about the nuclear and missile capabilities of our adversaries. In recent weeks, North Korea and Iran have been added to the list of countries whose advanced nuclear efforts have taken the United States by surprise.

A ground-based antimissile system offers the hope of protecting the United States from an accidental, terrorist, or rogue missile attack. In my view, such a system matches the nature of the dangers Americans now face. It is a prudent insurance policy against our most likely threats.

In contrast to the prudence of a ground-based system, I am disappointed to see continuing funding for a space-based antimissile system. There is an overwhelming consensus among scientists that a space-based star wars system would not work. Unlike a modest ground-based system, a space-based system would cost hundreds of billions of dollars. It is ironic that while we spend millions to research Brilliant Pebbles, the Japanese pump money into research supportive of commercial enterprise.

CONCLUSION

We hear a lot of talk about entering a new era of international relations. I think we all realize that the world we have known for 40 years has changed forever.

Unfortunately, there often seems to be a lag time between realization and action. Too many of the programs we debate in Congress remain frozen by old mindsets. This is true not only in defense—but also in competitiveness, trade, health care, and education.

The defense authorization bill is far from perfect. The ghosts of the cold war remain apparent in weapons systems like the B–2 and Brilliant Pebbles.

But in sum, this bill is a significant step in the right direction.

Mr. PELL. Mr. President, it was with considerable misgivings that I cast my vote today for the fiscal year 1992 DOD authorization conference report.

On the one hand, I am very pleased that the conferees in their wisdom curtailed the B–2 Bomber Program, and I am especially glad that authorization has been provided for the third *Seawolf* submarine, a stabilizing weapons system that will serve our security needs well into the 21st century and the production of which is of great consequence to the economy of southern New England.

I can also see the possible wisdom of redirecting the SDI Program to provide for a limited antiballistic-missile system to deal with isolated accidental or deliberate launches. But it seems to me we should continue to examine this program at every step to make sure that it responds to a real threat and not to an illusory one. I regret that the limited program we are authorizing this year results in an increase in SDI funding.

I am especially concerned that future developments in this area do not lead to hasty or ill-considered revisions of the ABM Treaty. We need to be absolutely sure about the nature of the threat we face and the value of the proposed defense system before we take any steps to modify the treaty.

It is regrettable that circumstances required the withdrawal of the proposal of Senator NUNN and Congressman ASPIN to authorize use of up to $1 billion for humanitarian assistance to the Soviet Union and to promote conversion of the Soviet military industrial base. These are objectives which are certainly in our own national interest and hopefully they will be pursued in other contexts as circumstances allow.

But it is the bottom line figures of the conference report which cause my gravest misgivings. It seems beyond belief to me that this bill authorizes an amount which is actually $2 billion above the amount authorized for the current fiscal year. In the intervening time, the major threats to our national security have virtually evaporated, with the reduction of conventional forces in Europe and the withdrawal of tactical nuclear weapons. Yet we are now increasing our defense spending authority at the very time needs would appear to be decreasing.

Mr. President, the long debilitating struggle of the cold war was conducted at enormous cost and yielded no real victors but only improverished combatants. The Soviet Union is in shambles. And the United States, having spend some $12 trillions on defense over the 45-year period, now staggers under a national debt of over $3 trillion and a current deficit on the order of $300 billion.

Now we have an opportunity to stop this drain on our resources. The cold war is over and the threat has disappeared. There is no need to continue funding old solutions to old problems. I hope and urge that future DOD authorization bills will more accurately reflect the reality of our times.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to vote on adoption of the conference report to accompany H.R. 2100.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Conference report on H.R. 2100, an act to authorize appropriations for fiscal years 1992 and 1993 for military activities for the Department of Defense, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—79

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Dodd
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—15

Daschle
DeConcini
Dole
Hatfield
Kohl
Leahy
Levin
Metzenbaum
Pressler
Pryor
Riegle
Roth
Sasser
Simon
Wellstone

NOT VOTING—6

Bradley
Cranston
Dixon
Exon
Harkin
Kerrey

So the conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 157, which the clerk will state by title.

The assistant legislative read as follows:

A joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991; and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Appropriations, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act, not to exceed $3,814,100,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $508,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $309,500,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $460,000,000, of which $100,000,000 may be available for the procurement of combined effects munitions, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

REVOLVING AND MANAGEMENT FUNDS

(TRANSFER OF FUNDS)

ARMY STOCK FUND

For an additional amount for "Army Stock Fund", $410,000,000.

NAVY STOCK FUND

For an additional amount for "Navy Stock Fund", $450,000,000.

AIR FORCE STOCK FUND

For an additional amount for "Air Force Stock Fund", $280,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000.

DEPARTMENT OF VETERANS AFFAIRS

(TRANSFER OF FUNDS)

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For a Department of Veterans Affairs program of marriage and family counseling services for veterans of the Persian Gulf War and the spouses and families of such veterans: $10,000,000: Provided, That an Act authorizing the program is enacted during the One Hundred Second Congress.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101-189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft Procurement, Army" of chapter I, title I for the procurement of AH-64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101-165 for "Other Procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH-B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH-B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH-B radar program or powerplant to any other Department of Defense activity or program at the OTH-B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Act, 1991" (Public Law 101-28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any current or future sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any current or future sale" means any sale with respect to which the President was required to have submitted, or will be required to submit, a numbered certification to the Congress pursuant to the Arms Export Control Act on or after August 2, 1990.

MIDDLE EAST HUMANITARIAN RELIEF

SEC. 105. Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force not less than $15,000,000 shall be made available only for the prepositioning of relief supplies in the Middle East to meet emergency humanitarian needs and related transportation costs. In addition, the Secretary of Defense is authorized to use up to $15,000,000 in additional funds from the Defense Cooperation Account for this purpose.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs *and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".*

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriating paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000" each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appears in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102–139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, for necessary expenses under such Act: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available under the heading "Federal Emergency Management Agency, Salaries and expenses" in the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101–144), is hereby deleted.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by law, and for losses associated with 1991 crops under the same terms and conditions.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Millions of acres of land have been damaged by natural disasters, seriously affecting the local economy of much of the Nation. To respond to the effects of recent droughts, floods, freezes, tornadoes, and other catastrophes, an additional $28,000,000, to remain available until expended, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the Special Supplemental Food Program for Women, Infants and Children, $100,000,000.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to meet dire emergency needs resulting from devastating flooding in the lower Mississippi Valley, $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $15,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $10,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

Of the amount appropriated under this heading in the Energy and Water Development Appropriations Act, 1992 (Public Law 102–104), up to $5,440,000 shall be available for Buffalo Bill Dam Modification, Wyoming, as proposed in the United States Department of the Interior Budget Justifications, Fiscal Year 1992, for the Bureau of Reclamation.

CHAPTER V

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,600,000, to be derived by transfer from unobligated balances of Board for International Broadcasting, "Israel Relay Station", to be available for the costs of the participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.

CHAPTER VI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Childhood Immunization Program, $90,000,000.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $1,200,000,000: Provided, That this amount shall not be subject to sections 640(a)(2)(C), 637(5)(B) and 640(a)(3)(A) of that Act.

TITLE II—GENERAL PROVISIONS

SEC. 200. CONGRESSIONAL DESIGNATION OF EMERGENCY.—Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution are available for obligation only for costs of Desert Shield/Desert Storm or to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 203. CONSTRUCTION OF MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA.—The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189), the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510) and the Military Construction Authorization Act for Fiscal Years 1992 and 1993 and as provided for in the Military Construction Appropriations Act, 1991 (Public Law 101-519) (and the Military Construction Appropriations Act 1992 (Public Law 102-136)).

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, House Joint Resolution 157, making dire emergency supplemental appropriations for fiscal year 1992, provides appropriations totaling $7,965,100,000. Of this amount, $3,814,100,000 is for additional Desert Shield/Desert Storm costs and will be derived from the defense cooperation account. By definition, under the Budget Enforcement Act, these appropriations for Desert Shield/Desert Storm are deemed to be emergencies and, therefore, do not require offsets.

For domestic emergencies, the resolution contains appropriations for the Disaster Assistance Program of the Federal Emergency Management Agency [FEMA] totaling $943 million. For 1990 and 1991 crop losses, the resolution contains $1.75 billion; for the Soil Conservation Service, the resolution contains $28 million for watershed protection and facility repair; and for the Corps of Engineers, the resolution contains $40 million for flood repairs.

Finally, the resolution contains an additional $1.2 billion for Head Start, $100 million for the Women, Infants, and Children [WIC] Program, and $90 million for childhood immunization. These amounts were included in the House-passed bill by a floor amendment on a rollcall vote of 243 to 180. These appropriations do not meet the definition of emergencies as contemplated in the Budget Enforcement Act.

The committee has included them in order, hopefully, to expedite Senate and conference action on this dire emergency supplemental.

I cannot support them as emergency items, however.

Mr. President, the resolution also contains a congressional designation that all funds provided in the resolution are deemed emergencies under the Budget Enforcement Act. This language is identical to the House-passed provision. However, a congressional designation alone is not sufficient to avoid a sequester under the Budget Enforcement Act. Therefore, the House-passed bill, if enacted into law, would cause a sequester on all domestic discretionary appropriations for fiscal year 1992 of approximately 2.7 percent across-the-board. In order to prevent this possibility, the committee has included a provision which provides that the funds in this act may be obligated only to the extent and only in the amounts designated as emergencies by the President not later than the date of enactment of this act.

Let me point out that prior to last year's summit agreement, appropriations for emergencies had to be paid for within our discretionary caps. The outlays from appropriations for Hurricane Hugo and Loma Prieta, for example, have to be accommodated within our outlay caps as the bills come due.

It was my position at the summit that the Appropriations Committees should be held harmless for factors or events beyond our control, which is something new. As I have already indicated, the outlays for appropriations for such disasters as Hurricane Hugo and Loma Prieta have had to be accommodated within our outlay caps as the bills come due but not so under the budget agreement.

Such factors for which the appropriations for our domestic discretionary are to be held harmless included faulty economic and technical assumptions on interest rates, inflation, unemployment, and so forth.

We were successful in having these hold harmless provisions included in the summit agreement, which are now incorporated into the Budget Enforcement Act of 1990.

The Budget Enforcement Act also provides for an exemption from the budget authority and outlay caps, spending that is designated as "emergency requirements" by both the President and Congress. Senators should keep in mind that, prior to the Budget Enforcement Act, emergency spending was not exempt from the discretionary caps. So we negotiated with the administration the provision which holds us harmless for emergency spending if both the President and Congress agree to designate appropriations as such.

At this point, the administration has only agreed to declare $151 million of the FEMA appropriation as emergency spending. The balance of FEMA funding, $792 million, has not been declared an emergency by the administration. Instead, the administration takes the position that Congress cut the FEMA budget over the last 4 years and, therefore, should now have to provide offsets for $792 million of the FEMA appropriation. This position by the administration is, in my judgment, totally unfounded. Between 1985 and 1991, the executive branch requested $1.509 billion in appropriations for FEMA's disaster relief fund.

During that same period, Congress appropriated $3.142 billion. Furthermore, Congress' decision not to provide funds for fiscal year 1991 was based on information provided by FEMA that there were large amounts of money available from prior years' appropriations to meet 1991 disaster declarations.

So, it is not the fault of Congress that FEMA needs these additional appropriations in order to fund the Presidentially declared disasters that have occurred in 1991. The historical average is 24 disasters per year; for 1991, there have been 38 disasters declared by the President—14 more than an average year.

The administration has also refused to declare as emergency spending any of the $1.75 billion contained in the resolution for disaster crop loss assistance for 1990 and 1991. Yet, for 1990 generally, spring freezes reduced fruit yields in the East and heavy rains resulted in crop and property losses in Texas, Arkansas, and Louisiana. Late summer drought reduced peanut, corn, and soybean yields throughout the Southeast. North Dakota had its driest winter this century.

In 1991, several regions of the country, including the West, Midwest, Southern and Northern Plains have suffered drought. Heavy spring rains flooded Mississippi, Louisiana, Iowa, and Minnesota, delaying or preventing the planting of crops. Freezing temperatures in the Northwest decimated fruit and other crops; and, Hurricane Bob wreaked havoc in the Northeast.

As of October 28, 1991, a total of 1,392 counties have been designated either by the President or the Secretary of Agriculture for crop losses resulting from disasters occurring in 1991. This figure compares with 1,973 counties designated for crop losses resulting from disasters occurring in 1990; 44 of the 50 States are included in these designations. Of the remaining six States, five have disaster declarations pending. The magnitude of these figures demonstrate the widespread nature of disasters suffered by the farmers of this Nation over the last 2 years.

I urge the administration to work with us in conference on this resolution so that we can provide these disaster assistance funds to the American people who have suffered devastating losses caused by natural disasters. It is time that we wake up and pay at least as much attention to the problems facing Americans because of disasters beyond their control as has been paid to the problems of other nations.

Mr. President, this resolution contains an additional $3.8 billion to cover the costs of Operation Desert Shield/Desert Storm. The money is to be transferred from the defense cooperation account, made up of contributions from our allies. This will bring the total appropriated from that account to $48.3 billion. The problem is that we have received only $45.3 billion into the account leaving a shortfall of $3 billion.

I think the American public will be stunned to learn that two countries still owe us $3.25 billion, and that those two countries are Saudi Arabia and Kuwait, the countries that we, together with our British allies and other allies, saved from extinction. I encourage the leaders, I urge the leaders, in Saudi Arabia and Kuwait to think back to August of 1990. The United States did not hesitate then. The United States took swift, incisive action to stop the aggression of Saddam Hussein. Our country's military might and the blood of our citizens were committed to defend Kuwait and Saudi Arabia, and we expect them to honor their commitments to help us to shoulder the financial costs of that effort on their behalf, in the main.

Some may be concerned that after all of the pledges are finally collected the United States will come out with some kind of profit. I want to make it clear that this is not the case. The administration estimates the total cost of the war will be about $61 billion. Pledges, both cash and in-kind will offset almost $54 billion leaving the American taxpayer with a bill for approximately $7 billion. We are not asking for a handout from Saudi Arabia and Kuwait. We sent our men and women to their countries to save them from Saddam's brutal attack and now we want those countries to live up to their promises, made when they were desperately in need of, and when they desperately wanted, our help.

Section 104 of this resolution prohibits arms sales to Saudi Arabia and Kuwait until they completely fulfill their pledges. It is similar to section 109 of the first Desert Shield supplemental which was included because of concern that the United States, having borne the majority of the burden for the military operation in the gulf, would be saddled with picking up the tab for the financial costs as well. I and many of my colleagues feared that the mercifully quick end of the war would cause some of the contributors to rethink and to renege on their pledges.

Unfortunately the language in section 109 was not explicit enough. Now, more than 7 months after the end of the war, we discover that our fears are being realized. The payments have not been swift. Debts to the U.S. taxpayer seem to take a back seat to the hunger for new military equipment. This provision will reverse that order and make sure that these pledges are fulfilled before future arms sales can go ahead.

I understand that Senator KENNEDY will offer an amendment which I support, that will delay implementation of this provision for 120 days. This change will allow Saudi Arabia and Kuwait ample time, at their current rate of payment, to completely fulfill their pledges before the sanctions take effect. More importantly, Senator KENNEDY'S amendment will allow the continuation of existing contracts and, thereby, prevent the layoffs of employees of U.S. companies currently doing business with those countries.

Mr. President, before I yield the floor, I thank my distinguished colleague, the ranking member on the Republican side of the aisle, Senator HATFIELD, for his support, his cooperation, his helpfulness, his advice. As the ranking member of the committee, he always stands shoulder to shoulder with the chairman as we take up the various appropriation bills throughout the year. And this instance has been no exception.

He is a ready fellow soldier in the trenches, always there in time of trouble and always with the kind of encouragement that is often needed. I thank him and I thank all the members of the Appropriations Committee on both sides of the aisle, and I thank our diligent and effective and capable staff. Later, I will supply for the RECORD the names of staff persons on both sides of the aisle.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oregon.

Mr. HATFIELD. Mr. President, here we are, just 8 weeks into the fiscal year, with two regular fiscal year 1992 appropriations bills not yet signed into law, and we are considering a supplemental. This is an extraordinary situation that requires some attempt at explanation.

The bulk of the funding recommended in House Joint Resolution 157, more than $10 billion, is for the costs of Operation Desert Shield/Desert Storm, and was requested by the President last summer as a fiscal year 1991 supplemental. These funds are exempt from the discretionary caps of the budget agreement. An additional $693,000,000 fiscal year 1991 supplemental was requested at the end of June for disaster relief programs under FEMA. The President designated $151,000,000 of that amount as an emergency under the terms of the budget agreement, and recommended an offset for the balance.

The President's request languished in the other body throughout last summer. As the end of fiscal year 1991 approached discussions were held with the administration to reach compromise on a supplemental measure providing the funding requested by the President plus additional amounts for agriculture disaster relief, offset by reductions in other programs. Unfortunately, no action was taken, and the available offsets expired along with the fiscal year.

At the end of last month, the House finally took action on the supplemental, which by that time had become a fiscal year 1992 measure. The House committee reported H.R. 3543 with funding for Desert Shield/Desert Storm, FEMA, agriculture disaster relief, and a few other items. During consideration on the House floor, amendments were adopted adding $1.2 billion for Head Start, $100 million for WIC, and $90 million for child immunization programs. No offsets for these additional amounts were offered, since the bill included language declaring all funds in the bill to be emergencies under the budget agreement, and that sufficed for consideration in the House.

The budget agreement, however, stipulates that both Congress and the President must agree on emergency funding in order for that funding to be exempt from the discretionary caps of the agreement. Were the House measure to be signed by the President a sequester of approximately 2.7 percent would fall on nondefense domestic programs.

Faced with this prospect, the committee elected to take a different approach recommended by Chairman BYRD. We took up House Joint Resolution 157, a technical corrections measure which had been referred to the committee early this year, and amended it with most of the provisions of H.R. 3543. Thus all those matters, in addition to whatever may be added here on the Senate floor, will be subject to negotiation in conference. That will give us the opportunity to reach an agreement acceptable to both Houses and the administration.

In addition, the committee has included a provision stipulating that none of the funds provided are to be made available except to the extent they are designated by the President to be for emergency, the funds can be expended without triggering a sequester. Funds that are not so designated will lapse. In other words, the President can pick and choose what he wants to spend.

This is an extraordinary procedure, Mr. President, with ramifications that we may not fully appreciate. We may regret it, or come to see it as just another useful device in the budgetary games we play.

In any event, Mr. President, I join with the chairman in asking for prompt consideration of this measure so we can get on to conference and be done with it.

Mr. President, the chairman of the committee, Senator BYRD, has very eloquently and in great detail outlined the provisions of this supplemental appropriation. I am sure that Members who have read the bill as presented will be made aware of the provision to which Senator BYRD has referred, and that is the fact that we used House Journal Resolution 157, a bill for technical corrections, as the vehicle for this supplemental.

I only underscore that for one purpose, and that is to indicate, again, the great difficulty under which the Appropriations Committee had to deal with this matter. And I believe that this is, again, one of those extraordinary examples of how Senator BYRD, by his great knowledge of the Senate rules, procedures, and the history of the Congress, was able to take a most difficult task and resolve it through what might appear to be a very simple procedure—and yet a very profound one.

We have honored the custom of House-originated appropriations bills. By the same token, we are not dealing with the House-passed supplemental appropriations bill, H.R. 3543. So I am sure when the history of this Congress is written, there will probably be a footnote given to this particular procedure today and again demonstrating how at the same time we were able to move through the traditional procedures to reach the resolution of this issue.

I command Senator BYRD for that genius. It is a pleasure to work with my colleague from West Virginia. And I also want to indicate my pleasure in the work of the staff. We have a very harmonious staff on our Appropriations Committee, and I think that is one mark of its professionalism. It is a very professional staff.

Chairman BYRD and I, as the ranking member, I am sure, do express our appreciation from time to time, but perhaps not enough.

So we have this before us, Mr. President. I am not here to represent the perspective of the White House, necessarily, on this bill. But I think we ought to expedite it. I do not think there is any great pressure from the White House for this bill.

The House of Representatives placed a great deal more in the appropriations supplemental that they passed which we, in turn, have incorporated in this vehicle. And that represents another very important part of this procedure today, and that is we have recognized a certain political reality as far as returning some of those nonemergency programs—and yet very important programs—that the House added—women and infant children.

Mr. BYRD. We did not delete them. We did not delete them.

Mr. HATFIELD. We could have proposed a deletion, but we knew the practical politics, so we did not. By the same token, we did not want to put these other programs that are truly emergency into jeopardy. So there is this provision that Senator BYRD devised in accordance with the budget agreement, on the matter of the role of the President in being able to obligate these funds by declaring an emergency.

In our discussions in the committee, there were those who raised the question as to whether or not this was a form of a line item veto. There are no two people in this Senate who more avidly, and with a certain amount of pleasure, have united to fight line item veto proposals on this floor than Senator BYRD and I.

I want to make it very clear, Mr. President, that this is not a line item veto, and I do not think the White House, or anyone else who supports line item vetoes, should take any reading of this provision as a breakthrough from their perspective. I just want to make record on that, as the chairman did in the committee session, as the issue was raised in the committee.

Mr. BYRD. Mr. President, will the Senator yield on that point?

Mr. HATFIELD. I will be very happy to yield.

Mr. BYRD. I thank him for making this matter clear, anent the line item veto. At such time as that is ever brought up on this floor, it is my hope that I can surpass STROM THURMOND'S record for having held the floor the longest. At that time I promise the Senator I will be prepared to talk at great length—hours. At that time I will recite all of the English monarchs, beginning with Cerdic in 519, and all the way down to Elizabeth II in our time. I will give the period of each reign, for example Cerdic from 519 to 534. I will go through all that.

But, before I do that, I will give the reigns of all the Roman emperors, beginning with Augustus in 27 B.C., down to the fall of Rome in 476 A.D.

I will likewise give the years during which they reigned. There will be 88 of the Roman monarchs and 78 of the English monarchs.

And then I will speak of the Persian monarchs and give the time of their reign, from Cyrus the Great, down to the time of Alexander the Great.

And then I will relate all of the American Presidents and give their reigns, and I will not have any notes. I will just do it all. I will take my time and do it all.

Then I will name all of the books of the Bible, 66 books of the Bible. And I will be prepared to go on from there and do other things of likewise extraordinary nature.

Mr. HATFIELD. Shakespeare.

Mr. BYRD. So, when the time comes to fight the line item veto, or the enhance rescissions, which, the enhanced rescission, is much, much worse than the line item veto—to the magnitude of perhaps 100 times or more—my friend and I will be happy to entertain those who wish to talk about the line item veto. And we will make a record on that which, hopefully, the courts will one day take a look at if need be.

I thank my friend for yielding. I am prepared now, if someone, wishes, to start now.

Mr. HATFIELD. Mr. President, as much a history buff as I am, I hope we do not force our chairman into the activity, that historic review.

I would also say to the chairman, he cited Senator THURMOND as having held this floor the longest period of time. He is prepared to exceed that record. I would say the second longest holder of this floor was the late Senator from Oregon, Wayne Morris. And I would join the Senator from West Virginia by saying I am prepared to exceed Wayne Morris' record, if necessary, as well.

Mr. LEAHY. If the Senator would just yield for a commentary, the distinguished chairman and ranking member, also former chairman of the committee, knows the Senator from Vermont totally opposes the idea of line item veto. It would render the Congress virtually a secondary, almost historical accident in the system of Government. It would certainly go further than any other step possible to remove us as one of the three equal branches of Government.

It would be as if we totally stripped the courts of their jurisdiction. A line-item veto would not only remove the Congress from anything even approaching an equal branch of Government, but it also would be the worst possible way of doing this, because we would have done it ourselves.

Having said that, if the Leahy family were not planning to be home for Thanksgiving I would be almost inclined to introduce such an amendment just to hear the history lesson by the distinguished chairman. But before the distinguished chairman prepares to do that, let me assure him that perhaps it might be better if I were to join him in his office; maybe we could have a cigar together and he could give me that history lesson piecemeal, in due respect for those who have plans for Thanksgiving.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. I will be happy to yield?

Mr. BYRD. The Senator from West Virginia is prepared not only to speak on history, I will be very glad to enlighten those who support the line-item veto with respect to poetry, I will make copious quotes from Milton's "Paradise Lost," or Dante's—or someone would say Dante's "Divine Comedy," Darwin's "Origin of Species," Adam Smith's "Treatise on Economics," and with copious and generous helpings from Shakespeare and the Bible.

So I think it is well for the supporters, the misguided, I must say, well-intentioned but misguided supporters of the line-item veto to be forewarned so they may be forearmed. It may be well for the joint leaders to realize that if we ever get to that point in time, sine die may wait until January 3 of 1992 at noon.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield to me further, I note that should that matter be, I will be here standing foursquare with my chairman to speak against it, too. I cannot imagine any Senator, especially a Senator from a small State, who could ever say that they had shown respect for their duty to their State if they voted for such a thing.

I will join in some of those Shakespearean discussions, too. I will probably quote at length from my two favorites, "Richard III" and "King Lear." But having said all that, so we would not hold up people further, I do have an amendment——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. I yield the floor.

Mr. LEAHY. I realize I am on the Senator's time.

Mr. HATFIELD. No, no. I yield the floor.

Mr. LEAHY. I understand the managers may have some technical amendments they may want to go to. I advise the chairman that I am here prepared to bring up an amendment and I hope it will not take too long. So I yield.

Mr. HATFIELD. Mr. President, I think we have made adequate record on the matter related to the line-item veto. But I do only raise that for the simple point of this vehicle, this exercise in this year's appropriations supplemental is, indeed, extraordinary and historic.

Mr. President, I do hope the Senators who expect to offer amendments will make themselves available. I appreciate the Senator from Vermont being here on the floor to start the amendment process. But I only urge, particularly those on my side of the aisle, and all of our colleagues, that if they have a plan or an idea of an amendment, certainly to be here. Senator BYRD, our chairman, and I are here to do the business of the Senate. This being Friday, I am very hopeful we can expedite this procedure. I want to put the Senate on notice that, as far as I am concerned, I will not hesitate to call for third reading of the bill if there do not appear to be any further amendments at a particular point in time that Members wish to offer.

Mr. BYRD. Mr. President, I thank my friend, Senator HATFIELD, and also thank my equally good friend, Mr. LEAHY.

AGRICULTURE DISASTER ASSISTANCE

Mr. COCHRAN. Mr. President, I rise today to urge my colleagues to support the joint resolution (H.J. Res. 157) which includes the Dire Emergency Supplemental appropriations bill and the $1.75 billion it will provide for agriculture disaster assistance for this Nation's farmers. As you know, Mr. President, I have been working on this critical issue for over a year and am pleased that we are now in a position to provide the assistance our farmers so desperately need.

The devastating consequences of adverse weather conditions across the United States during the past 2 years are clear and well documented. It is estimated that in 1990 alone, Mississippi farmers lost $100 million. While some areas of my State escaped the effects of the terrible floods last spring and were able to achieve normal and, in some cases, even above-normal crop yields, other areas have experienced significant losses in 1991.

In response to this situation, Mr. President, I introduced on July 10, 1991, a bill to provide assistance to those farmers hard hit by natural disasters in 1990 or 1991. The fact that this legislation was cosponsored by over 30 Senators attests to the dimensions of the crisis facing many farmers today.

I am pleased that the bill before the Senate today will provide the assistance that is long overdue. I urge my colleagues to support this supplemental appropriations bill.

AMENDMENT NO. 1391

Mr. BYRD. Mr. President, I send to the desk certain technical amendments. Mr. President, I ask unanimous consent they may be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1391.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1391) was agreed to.

Mr. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1392

(Purpose: Subject to enactment of authorizing legislation to allow the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, to provide that not more than $2,000,000 of such donated funds may be obligated for certain costs associated with the Conservatory renovation)

Mr. BYRD. Mr. President, I will temporarily delay my friend from Vermont. I send to the desk an amendment by Mr. JOHNSTON, for himself and Mr. GORTON. I ask unanimous consent that it be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Mr. JOHNSTON in explanation of the amendment be inserted in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, for himself, and Mr. GORTON, proposes an amendment numbered 1392.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. . Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.".

Mr. JOHNSTON. Mr. President, no funds were included in the fiscal year 1992 legislative appropriations bill for the renovation of the Botanic Garden Conservatory.

Yet, private donations are continuing to be raised to plan for the outside national garden, which is expected to be complete in time for the 175th anniversary of the Botanic Garden in 1995.

We thus may be faced with a situation where outside improvements are complete, but the Conservatory—the crown jewel of the Botanic Garden—is not.

This amendment will allow private funds to be used to begin the planning process for the Conservatory reconstruction, subject to the enactment of authorizing legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1392) was agreed to.

AMENDMENT NO. 1393

(Purpose: To increase the rate of price support for milk and establish a surplus reduction program for the production of milk and products of milk)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. Leahy], for himself, Mr. Kasten, Mr. Kohl, Mr. Harkin, Mr. Durenberger, Mr. Jeffords, Mr. Wellstone, Mr. D'Amato, Mr. Wofford, and Mr. Daschle, proposes an amendment numbered 1393.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) In General.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) Protection of Consumers.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) Price Support.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) Rate.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 through 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) Recourse Loans for Processed Milk Products.—Subsection (e) of such Act is amended to read as follows:

"(e) Recourse Loans for Processed Milk Products.—

"(1) In general.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) Rate.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) Terms.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) Assessment.—

"(A) In general.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) Effect on orderly marketing.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) Consultation.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) Surplus Reduction Program.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) Surplus Reduction and Prevention Program.—

"(1) In general.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) National reduction in milk marketings.—

"(A) Annual determination.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) Criteria.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) Regional reduction in milk marketings.—

"(A) In general.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) Definition of regions.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) Regional marketing percentage.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I ask unanimous consent that this amendment be offered on behalf of myself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1394 TO AMENDMENT NO. 1393

Mr. LEAHY. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 1394 to amendment 1393.

Mr. LEAHY. Mr.. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is no ordered.

The amendment is as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) Price Support.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) Rate.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 through 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) Recourse Loans for Processed Milk Products.—Subsection (e) of such Act is amended to read as follows:

"(e) Recourse Loans for Processed Milk Products.—

"(1) In general.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) Rate.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) Terms.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) Assessment.—

"(A) In general.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) Effect on orderly marketing.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) Consultation.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) Surplus Reduction Program.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) Surplus Reduction and Prevention Program.—

"(1) In general.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) National reduction in milk marketings.—

"(A) Annual determination.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) Criteria.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) Regional reduction in milk marketings.—

"(A) In general.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) Definition of regions.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) Regional marketing percentage.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) Regional allocation.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) Surplus reduction contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) Rate of payments.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) Period of contract.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) Annual level of reduction.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) Milk marketing history.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) Enrollment period.—

"(i) Frequency of enrollment periods.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) Initial period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) Payments to participants.—

"(i) Timing.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) Annual settlement payment.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the

Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1996, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1996.—During each of the fiscal years 1993 through 1996, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1996, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, the amendment on behalf of myself, Mr. KASTEN, and others, is very straightforward. It refers to our dairy farms and the escalating problems that they are facing. Our Nation's dairy farmers are up against very difficult times. Over the past year, those farmers have suffered through a dramatic 25-percent drop in the market price—causing many to lose thousands of dollars in income. In fact, some of the same farmers who produce the food for our country have been forced to apply for food stamps just to feed their own families.

In virtually every State of the country, from Vermont to California, family farmers are in danger of losing their farms. Even the Department of Agriculture admits that dairy farmers' revenues will drop by $3 billion in 1991 alone. Some of our farmers may not make it through these hard times. That is true across the country. The dairy farmers in virtually every State—virtually every State—are in danger of losing their livelihood.

The amendment I have offered to the supplemental appropriations bill is to help our Nation's dairy farmers. Its purpose is very simple. The amendment would raise the minimum support price dairy farmers receive by $1, coupled with a voluntary diversion program. This increase will help save our family farmers by giving them a fighting chance to make it through this winter and next year.

It will not make them rich, but it will give them that fighting chance. I am offering this amendment because I have been blocked at all other attempts to bring the Dairy and Disaster Assistance Act, reported by the Agriculture Committee, to the floor of the Senate. Since we have not been able to bring that bill before the Senate, today I am offering a similar but, I point out to my colleagues, a pared-down dairy package.

So everyone understands, the amendment I am offering is a price-support increase, coupled with a basic diversion plan, and that diversion plan is acceptable to the administration and the Department of Agriculture.

Unlike the committee-passed version of the dairy bill, this amendment only includes the support price increases, the diversion plan, and a simple extension of the solid standards for California alone. We have dropped the general solids provision. We have also dropped all other provisions of the reported bill that were objectionable to the administration.

It is important for all Senators to know that this bill is within budget. Let me emphasize that. This bill is within budget. In fact, the dairy program has shown a remarkable record for budget responsibility. In the early 1980's, the dairy program cost around $2.3 billion a year. Notwithstanding inflation, notwithstanding the fact that virtually every other Government program has gone up, from the $2.3 billion a year it cost in the 1980's, it now costs under $500 million a year.

Given these budget cuts, it is important that the dairy industry keep supply and demand in balance so that we no longer accumulate expensive surpluses. That is the purpose of this amendment. It is a program which will better manage the supply of milk; Government purchases of surplus dairy products will be reduced; and the entire package will be budget neutral.

Mr. President, if the Senate does not respond today, there is going to be pain in rural America. If we do not pass this amendment and support price increase, we are going to lose our family farms. They already face the constant threats of rising costs, of declining profits, of dramatic boom-or-bust swings in the marketplace. The giant farms can make it through these lean times, but our small family farms struggle to survive.

When our country was founded, we were an agrarian Nation. We were made up of small farms. In the past 200 years, large corporate farms have come to dominate our landscape. But some of our past, one of the best parts of our past—the family farm—still survives.

There is real pain on that farm. We need this price support increase. We need this diversion plan. It will be funded by farmers, for farmers. It will cut Government cost. It makes sense, and it keeps this vital part of our Nation viable. It helps to protect rural America. It gives family farmers who have worked hard—honest, decent, clean-living people—a chance. It tells them that that hard work actually can pay off.

So if we want to keep the family farm alive, if we want to keep these men and women in business, then we need to pass this amendment.

Mr. President, I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, first of all, I am pleased to join my friend, the Senator from Vermont, the chairman of the Agriculture Committee. As he said, we have been working—he has been working, particularly in the committee—to try to deal with this problem.

The fact is that it is absolutely essential that we raise the price support for dairy and that we raise it before we leave here. This opportunity might not be perfect, but this is the opportunity that we have. That is why the amendment before us, of which I am a cosponsor, would raise the price support for dairy, and at the outset I simply want to urge my colleagues to join me in supporting it.

The basic components of the diversion program of this amendment have been agreed to. They have been agreed upon by the chairman, the ranking member of the Agriculture Committee, the administration, the National Milk Producers Federation, and many others. So the diversion part of this amendment is no longer controversial. As I say, it is basically agreed to.

While I have personally had to take a deep breath, frankly, to accept some of the compromises of this package, such as deleting the standards for milk which are now present in California, I have nonetheless decided this is an acceptable agreement for the 34,000 dairy farmers which I represent in Wisconsin.

So basically, Mr. President, this amendment boils down to one single issue—$1. There is nothing complicated or difficult to understand. It raises the price support level from $10.10 to $11.10. And simply translated, the amendment raises the price support by $1—$1. That is what we are talking about.

While I strongly support a higher increase, this dollar will provide a critical boost to some of America's most valuable farm communities. That is a point that I think all of us want to stress. We are not simply talking about individual dairy farms. We are talking about rural America, rural Vermont, rural Alabama, rural Wisconsin. We are talking about some of America's most valuable farm communities.

A drop of just a few cents in the dairy price can turn a profitable farm into a failed farm, into a foreclosed disaster.

Earlier this year, Wisconsin farmers experienced a drop in their income of more than 25 percent, and at the same time feed costs and energy costs have been rising, so they were squeezed. They found this is causing a very serious squeeze in communities with large dairy sectors. People who live inside the beltway, frankly, do not understand exactly what we are talking about and certainly do not understand how dire and how difficult the situation is in rural America, particularly in States like Wisconsin.

When you lose your job in the suburbs or in the cities, you go out and put an ad in the paper and try to find a new job. You go out and knock on doors. When you lose your farm in Wisconsin or in Vermont, or in some other place, when you lose your farm in the dairy country, your options are few. You are not trained for other kinds of things. There are not available other kinds of jobs. You cannot go out and do some other kind of work.

To ask these families to watch their life's work go down the drain I believe is simply unacceptable. It is unconscionable. They need and they deserve price stability, and that is what this $1 will provide.

There are those who believe we should wait until spring before we act on any price-support increase. I want to inform my colleagues that if we wait much longer, there might not be any cows left to milk for many of these dairy farmers, particularly in Wisconsin.

In fact, price stability is the key to a healthy agricultural economy. Without it farmers are going to go bankrupt. The economic hardship spreads from the farmers themselves, then to the banks who lend them money, then to the agribusiness dealers who supply them with feed and farm implements, and throughout the entire farm community.

So I want to emphasize the point I made earlier. We are not talking about a single dairy farm or dairy farmer. We are talking about a whole way of life. We are talking about rural economic development. We are talking about the opportunities and responsibilities that we here have in order to keep our rural communities vibrant.

Our rural communities cannot survive this kind of economic chain reaction. That is what we have been seeing. A situation in which farmers live on food stamps obviously does not help anyone.

Mr. President, bankruptcy and economic hardships are not the only things with which dairy farmers have to contend. Recently, I read a shocking article in a farm newspaper called Country Today, which is published in Eau Claire, WI. That article stated, "That suicide rates among men involved full-time in dairy farming are nearly twice as high as those of the general male population." And these were statistics according to the National Farm Medicine Center—twice as high. These are chilling statistics, and they are even more devastating when you stop and think about what our policies are doing and how they are affecting families all across this Nation.

We have more than bankruptcy and cash flow problems when we start talking about problems with the dairy farmers. We have real human tragedy.

According to a recent study by the U.S. General Accounting Office, while farmers are receiving 25 percent less for their milk, consumers only pay 5 percent less for milk products. This is very important because we see the price to the farmer going down by 25 percent, yet the price in the grocery store goes down only 5 percent. One of the issues that we are talking about here is the fact that we are finding the farmers in this sequeeze, but yet the consumers did not see that difference.

People talk about lags and say it would have gone down if the price was lower for longer, et cetera. The fact is we do not see the relationship. We have not seen the relationship between the price the people are paying and the price the farmers are receiving. I think it is important to recognize that because, if the price starts to go up, we also do not see the price going up at the retail level. Clearly consumers, as well as farmers, are right now being victimized by the current situation because they are not getting the benefits of the lower milk prices.

That is why all year I have been fighting to make price stability and fairness a reality for Wisconsin farmers, and I hope my colleagues, especially those 67 Senators who voted with us for a 30-percent increase in dairy back in March will today stand up with us for these financially strapped families and support this more modest increase, $1, roughly 10 percent increase in the price supports. They have been waiting too long. They have been waiting long enough. They need us to do the right thing, and the right thing for us to do is the very small price support increase of $1 to give them the stability that they need.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise as a cosponsor and strong advocate of this amendment.

Let me first say that I would have preferred to debate this issue on the Dairy and Disaster Assistance Act—a bill that was reported out of the Agriculture Committee in October. Unfortunately, we have been unable to bring that bill up because of opposition of certain Members acting on behalf of the administration. It has been made very clear to us that members on the Republican side of the aisle would use all procedural tools available to them to bring the Senate to a standstill should cloture be invoked on the motion to proceed to that measure. Given the press of this week, that threat has kept us from filing cloture on the bill and has forced us to the floor today.

I am not surprised that, now that we have been forced to raise this issue on the supplemental, the ranking member of the Agriculture Committee will oppose this amendment. But I hope that nobody will be swayed by his reasons.

The Senator suggests that anyone who wants the crop disaster benefits contained in this bill should vote against this amendment. In a letter sent to all members of the Senate yesterday, he said—and I quote:

> A vote for this amendment is a sure way to forestall any such benefits and ensure that hard-pressed farmers will not receive assistance.

Now, Mr. President, I know that there are hard-pressed farmers in many States who have lost their crops this year to floods, drought, and other disasters. But let no one suggest that these are the only hard-pressed farmers in America.

Dairy farmers in Wisconsin and across this country have suffered an equal disaster this year. The only difference is that their disaster is an economic one. And whether farmers have suffered at the hand of God or the hand of the market is not, in my mind, important. The fact remains that both have lost their livelihoods. Both are in desperate need of some assistance from the Federal Government. And both deserve our help.

Let me point out, Mr. President, that the pricetag for crop disaster assistance in this bill is $1.7 billion. The price tag for our amendment, however—an amendment that provides equally needed assistance to equally hard-pressed farmers—is zero. Our amendment would not cost the Federal Government a cent. Frankly, I am surprised that the ranking member of the Agriculture Committee can have no quarrel with a $1 billion disaster relief package but objects to a no-cost amendment to extend that relief to dairy farmers.

Mr. President, there is no legitimate fiscal argument against this amendment. The administration and the Senator from Indiana object to this amendment on purely philosophical grounds. And I hope that Members of this body will soundly reject their philosophy because it is a philosophy of callous indifference to American dairy farmers.

This administration's solution to the problem of surplus milk production is to drop the dairy price support. Supply management through attrition. Put enough dairy farmers out of work and the milk surplus will disappear.

Fortunately, Congress rejected this approach in the 1990 farm bill, and chose to freeze the dairy price support at its current level. However, because of the administration's refusal to endorse any kind of meaningful supply management program, we were unable last year to enact the kind of changes necessary to provide long-term price stability for the dairy industry.

Instead, USDA was directed to solicit and analyze supply management proposals from the dairy industry, and come back to Congress with a recommendation on a supply management program this year.

Now, Mr. President, USDA received almost 100 supply management proposals. Some were mandatory programs; some were voluntary. Some were permanent; some were designed as standby programs. One would have thought that USDA could have found a supply management program to its liking out of all of these proposals. But USDA came back with a recommendation that no changes to the current program were necessary.

What I find so discouraging about this recommendation—or lack thereof—is that it was made on June 14 of this year. It was made when milk prices were at their lowest level since 1978. It was made after 60 Members of this body went on record in support of a temporary price increase for dairy farmers. It was made at a time when there is virtually no disagreement that changes are needed.

Since then, many of us in Congress have tried to develop dairy legislation that would meet the needs of the dairy industry without adding to the costs of the dairy program. In July, I joined with the distinguished chairman of the Agriculture Committee and others in introducing a bill advocated by the National Milk Producers Federation. That measure created a $12.60 price support, a two-tier supply management program, and a new standard for the percent of solids-not-fat in fluid milk. Despite broad bipartisan support for the measure, the administration vowed to veto the bill. In addition, cattlemen, consumer groups, and dairy processors raised concerns about the bill's potential impact on beef and retail dairy product prices. Instead of pressing ahead with that measure—which, in retrospect, maybe we should have done—we went back to drawing boards.

The result is essentially the amendment before us. And from the dairy industry's perspective, this amendment is truly a compromise. We have reduced the support price to $11.10 to appease the administration. We have replaced the two-tier program with a voluntary diversion program to address the concerns of the administration and the National Cattlemens Association. We have taken out the solids-not-fat change for fluid milk to address the concerns of consumer groups and dairy processors. And, in a separate amendment, we will provide a means of ensuring that the WIC program is held harmless.

Despite all these concessions, Mr. President—and they have been many—dairy farmers in my state of Wisconsin still support this approach. They do, sadly, because they are desperate for help.

In recent survey done by the University of Wisconsin, 528 farm families—90 percent of them dairy farmers—were asked about their financial status. More than 83 percent of them said that they were in financial trouble. Nearly half of them said they did not know if they would still be farming in 5 years. And when asked to grade the Federal Government on its support for their industry and their way of life, 75 percent rated the Federal Government's job as poor.

Mr. President, we have to improve our job rating. We cannot continue to turn our backs on the hard-working dairy farm families across this country. If we ignore the financial instability in the dairy sector, Wisconsin alone may lose 5,000 dairy farms next year. If we ignore the distress in dairy-dependent communities, Wisconsin's suicide rate among farmers—already twice as high as the rate among nonfarmers—will continue to grow. If we ignore the fact that dairy farmers are paying 1991 costs of production and receiving 1978 prices for their product, Wisconsin farmers will continue to have to seek help to pay for such basic necessities as food, heating and medical expenses.

Certainly there are farmers who will survive. But there are many farmers who will not. And every farm forclosure and auction puts not only one farm family out of work, but several people in farm-related jobs. If we do not act now, some 10,000 dairy-dependent jobs may be lost. Last week, we provided over $5 billion to extend unemployment benefits to people out of work. Let us not put more people out of work here today.

Mr. President, this amendment will not increase the costs of the Dairy Program. It will not increase the retail cost of milk. It will not reduce the ranks of WIC recipients. And it will not drive down the price of cattle.

If we do not adopt this amendment, we will have acknowledged one farm-related disaster and not another. If we do not adopt this amendment, the situation will only get worse next spring and the pressure to act greater.

If we do not adopt this amendment, we will be as indifferent to the future of America's dairy farmers as this administration is.

Mr. President, I am not willing to do that, and I hope that my colleagues also will not be willing to do that.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I first want to remind my colleagues that earlier this year when it became readily apparent that we had a severe crisis in the dairy industry, and this body did react very favorably to try and help the dairy farmers. By a vote of 60 to 40, we moved forward with a rather controversial piece of legislation which, would have given us a more stable milk price in time to try and bring about something like we are bringing about today. So I first want to thank my colleagues for their support at that time for Senator LEAHY, myself and that proposition.

But, as I pointed out at that time, that amendment was a much more controversial and less desirable provision that we could have with more time and effort. Today, we have such an option for the Members to consider.

What we are doing here today is to try and provide stability which will ensure that we do not put more farmers out of business than is necessary, and at the same time give stability to the dairy pricing system, which has been in effect for many, many years.

It always grieves me when we have to talk and defend ourselves as representatives of dairymen, because the dairymen of this country are heros. They have done more for our society in the sense of demonstrating what productivity can do to give us a secure, reasonable food supply. So I, first of all, want to show and demonstrate by a chart which will indicate very clearly the tremendous advantage that our dairy farmers have provided to our society. That does not include just the fact that they have been productive and the prices have gone down, but it also shows things which we find ourselves trying to defend.

The dairy farmers productivity has allowed many, many more people to be able to be on the WIC Program because of the tremendous productivity and the fact that they have brought us a product which is cheaper now than it was 10 years ago, and therefore has provided for many more people to be given an opportunity to be on the WIC Program. It has reduced the cost of our School Lunch Program. It has reduced the cost of providing nutritional food to the needy in times of great need to much less of a cost than 10 years ago.

Let me point to this chart so I can show you where we were 10 years ago. In 1981 we had a support price, of $13.10.

At that time, we had a growing supply, and we ran into some problems. So we came up with an different supply management program, combined with some price cuts because of productivity, to bring the cost of the program down, and also to provide our customers a much more reasonable price for their product.

This top line here demonstrates what would have happened if the dairy supplemental had been adjusted to the cost of living index. So right now that price support which was, $13.10 a hundredweight, in 1981, if they had just gone along with the cost of living increases, the price support would be $19.63. But what is it? This is inflated dollars, I remind you. It is now $3 less than it was in 1981.

If you were to take into consideration that these are inflated dollars and ask yourself what is the real cost, based on the 1981 dollars, it would be $6.74 a hundredweight, or about half of what it was.

In other words, the productivity of the dairy industry is now providing us milk at one half the cost to consumers than it was 10 years ago. I say that because it irritates me when people get attacked by consumers groups that say our efforts will increase the price.

Let me examine the current situation with respect to that.

Right now, we have a price support of $10.10. But we have a price that is going up because this is the fall of the year. The reason it has increased is because we know that, by the cycle of cows and the way they produce milk, the fall, obviously is not time when cows have calves. So we have a reduction in the supply and therefore an increase in the price. Our farmers are getting well over $10.10, in the area of $12 to $13.

Thus, what we do today is to try to give that security to the farmers so that when the spring comes, by nature's cycle, calves arrive, and the production of milk increases in the spring. We will not fall off of the cliff again, as we did this past year and end up with serious economic ramifications on the dairy farmers and the dairy industry in this country. I want to point out that they are above where this amendment would increase the support price. So there should be no increase in the price to consumers, no impact the WIC program, and no reason not to support our very reasonable approach we have here.

Thus, for those that would say there are going to be ramifications as a result of this amendment, I say there is no rational basis for that because the price is above where it would be as a result of this amendment and if we hold it steady, it should have no real impact on consumers or any programs.

In addition, we will be using, under this program, a supply management program which we did use in 1983, when we had a problem of increasing supplies of milk, called a diversion program. In my mind, it is not the most preferable one, but it worked. It worked successfully. The problem was, however, it only was allowed to be worked for 15 months. We warned them at the time that it would work, but unless you expanded it to at least 3 years, it would not result in any change in the methodology in which our farmers produce milk.

A GAO study shows that it saved the Government from spending in reduced CCC purchases around $683 million during the 15 months. Six hundred eighty-three million dollars.

I point out now that it had a zero cost to the dairy program and, in fact, saved spending. We transferred that saving onto the school lunch people and onto others who did not have dairy food supplies available to them.

This diversion program under this proposal will be working for a length of time which should give us some security. You might ask: If it worked before, why not try it again? I was a Member of the House of Representatives at that time, and we had to take an oath, if this program works, that we will not suggest it again, because we do not like programs that work in agriculture. They sometimes get us in a position where we do not have to do anything. We do not like that. We took an oath with the administration at that time and said if this program works, we will not ask for it again.

Maybe I am going against that, but I shifted from the House to the Senate. So I figure that perhaps that oath is no longer in effect. I am certainly going to support this amendment.

What we have for you today is a program that is proven to work. It worked in 1983. It worked to save us almost $700 million. It brought supply under control. It kept the price at a reasonable amount, furthermore it even reduced prices to a certain degree at that period of time.

So I urge Senators that if they want to ensure that we have an adequate supply of milk for our public, at a reasonable price, and be consistent with the vote that they made earlier this year then support this program. Had dairy farmers not had good years many more would have gone out than have already. What we want to do now is not place them in a position where they have drained most of their equity to stay alive. Next spring when the normal flush period for dairy begins we will not give them the coup de grace or place them in a position where they no longer have the capital necessary to live through those negative cash flow through situations.

Again I commend my senior Senator from the great State of Vermont, one of the prime dairy areas of this country, for his efforts in bring this bill to us here. I urge Senators to be consistent with their vote in March when they demonstrated sincere desire to help the struggling dairy farmers of this country to get a fair price for their milk; we will pass this and hopefully get it approved by the House and enacted into law before it is too late for our dairy farmers.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I would like to thank both Senators from Vermont and other Senators who have sponsored this amendment. I am pleased to be an original cosponsor of the amendment.

In many ways this amendment seems to me like something that is too late, inadequate, and not enough. I wish it were not attached onto an emergency spending bill. But it is a step in the right direction. It is an absolutely essential thing for us to do right now if we are to respond at all to the concerns and circumstances of the lives of dairy farmers in our country.

Now we must take this step forward. I hope the Congress will pass it, and send it to the President. And I certainly hope the President of the United States will support this amendment.

First, Mr. President, let me tell you in the spirit of honesty that for thousands of farmers it is too late. We have been talking about the need for dairy farmers to have a price that they can make it on for almost a year. And throughout the past 9 months thousands of dairy farmers have been driven off the land. For them it is too late. The administration did not want to act. I hope it will act now.

Second of all, Mr. President, for a majority of the country's dairy farmers this price, let us be clear about it, $11.10 with voluntary diversion is really just a small step forward. I mean if the average cost of production in the United States is well over $13 per hundredweight, then 11.10 per hundredweight is just a step in the right direction, not unreasonable to be sure. Excepting for the fact the price should be even higher.

My State of Minnesota has lost 500 dairy farmers this year. That is 500 farmers forced from their business, forced off the land. This amendment will not bring them back.

But we will need this amendment to raise the price for other farmers. Mr. President, we have spoken on the floor of the Senate about other citizens in our country who are in economic pain. I have spoken on the floor of the Senate about those citizens. Citizens that are unemployed. We had that debate about extending unemployment benefits. We have talked about people without health care. We have talked about children without an adequate education. We have talked about how difficult it is for many small businesses to make a go of it in these difficult economic times.

Mr. President, you know as senior Senator from Nebraska that there is a pain felt in America's heartland that has been less remarked upon. Now that pain in the countryside may be a little less clear, it may be more hidden, but it is no less real.

It is not always observed through statistics. But anyone who travels throughout rural America, and who talks to dairy farmers, can experience their pain, can see it in the looks of the faces of people. I have spoken here before about the importance of dairy farming to my State's economy.

We have 15,000 dairy farms in the State of Minnesota. That is about a tenth of the United States total. The milk production for Minnesota generates over $1.3 billion in cash receipts last year.

We are the No. 4 dairy State in the United States of America. Yet, and I want to repeat this several times, yet the average herd size of a Minnesota dairy farm is about 50 cows, 50 cows per farm. So we are talking about a family farm structure of agriculture. We are talking about a business that generates $1.3 billion in sales a year that contributes to small town economies, that contributes to the economy of our State, that contributes to the economy of the heartland, that contributes to the economy of the Nation. And it is a family farm structure of agriculture.

Everybody loves the family farmer and the small business person, at least when it comes to rhetoric. But then when it comes to public policy, to make sure that family dairy farmers receive a fair price in the marketplace, all of a sudden the policies do not match the rhetoric.

Mr. President, I have said it before and I want to say it again on the floor, when we are talking about national dairy policy in the U.S. Senate, we are not only talking about a way of life, and we are not only talking about dairy farmers, we are talking about the very soul of this country. I am concerned and I will tell you something, every single citizen in this country should be concerned, whether or not they come from an agricultural State or not, that we are moving away from a family farm structure of agriculture to a factory farm system. That is what we are doing. We are making that transition. And if we make that transition, and we do not change the course of policy, every citizen in this country will deeply regret it. And I want to explain why.

A family farm structure of agriculture promotes economic vitality in rural America and in rural communities. It is also more environmentally sustainable.

And finally the dairy farmers in this country, and we all owe them an enormous debt of gratitude, have provided us with a plentiful supply of wholesome milk at a fair price. That is what we are trying to do with this amendment. It is not enough. It is too late for some, but at least it is a step in the right direction.

We are trying to enact public policy which will provide family dairy farmers with a fair price in the marketplace, or at least move us in that direction, while at the same time protect consumers and taxpayers and make sure that we have cost at a reasonable level.

We are not trying to make dairy farmers wealthy. We are not talking about powerful special interests.

Anybody who spends any time with dairy farmers in my State of Minnesota or anywhere in the country will realize that. We are just trying to achieve a fair and stable price, that is not too much to ask for, that is what anybody in business asks for, and that is what any wage laborer asks for.

This has been a long year for dairy farmers. During most of this year, they have seen their prices drop dramatically. Prices fell over 25 percent during a 12-month period starting in 1990, and yet at the same time, retail prices barely went down, if at all.

Now normally what we would expect is that when the farmers' prices go down, the retail milk prices go down. That way consumers who see the prices go down buy more in volume. That is the way it is supposed to work.

Unfortunately, the dairy market does not work that way. Instead, it works to the disadvantage of producers. Even when the farmers' prices go down—which is what has happened throughout most of this year—retail prices do not go down and retailers capture most of the profit. That is what the General Accounting Office tells us. Consumer demand does not increase because retailers do not drop their prices to reflect the costs. The middleman takes the middle, and the dairy farmer loses both ways.

Mr. President, farmers' prices have come up in the past several months, but there are indicators that the prices may go down again. Already cheese prices in Green Bay are turning down again, and that is usually a signal to dairy farmers that milk prices are about to decline.

The administration has said "There is no crisis in dairy." Three billion dollars in losses, according to one estimate, and thousands of dairy farmers driven from business. This is a crisis. "The market is working," the administration says. "Prices are coming back up." But the prices are not coming up to cover the cost of production. We still have a crisis. We have been waiting 8 months for action, and now it is time for the United States Senate and the House of Representatives and the President to take action.

Mr. President, before I was elected to the U.S. Senate, I would travel around the State and I would meet with farmers, and I used to hear over and over again the problem is that dairy farmers are divided, but we have had proposals around in which there was unity. Going back to last year—I believe it was in March—we had unity around a $1 increase per hundredweight. A veto threat in conference committee killed that. We had a proposal by Chairman LEAHY for $12.60, two-tier pricing. We were not able to move forward on that. We had the unity, but we did not take the action. Now, late in the session, I think we are about to take some significant action that will make a difference.

Let me make two final points: No. 1, it is profoundly disturbing to me that there are some who argue that if dairy farmers begin to get a fair price, somehow this will hurt poor people in this country.

Are we going to blame and punish dairy farmers, 160,000 dairy farmers, for the fact that one-tenth of the population, 23 million people, receive food stamps?

In Minnesota, there are dairy farmers who receive food stamps. Is that not a bitter irony? Also, surplus butter and cheese. I can hardly believe that the administration which has done so little for those people who are really in pain in the cities now will use that as an excuse—and I hope they do not—to do so little for dairy farmers across the country.

I want to remind my colleagues in closing that this is not a matter of urban versus rural. This is not farm versus city. It is not one region versus another. It is a matter of doing all we can by way of public policy to support family dairy farmers who have done such a marvelous job of providing us with wholesome milk at a decent price, farmers who have contributed so much to the national interest of this country. It is true that this is only a step in the right direction. But it is an important step, and I am very proud to be a part of this.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I hope that we might be able to get to the vote fairly soon. Senators have been asking me about that. Earlier this year we voted 60 to 40 in favor of this proposal. So Senators know how they voted then and will probably be reminded of this by the managers of the amendment at the time when they do vote.

I note also for Senators that it will be my intention, once this is over, at an appropriate time, to bring up another amendment on WIC cost containment. I do that to make very, very clear that adoption of this amendment will in no way cut into WIC participation. We have had strong bipartisan support of the WIC Program in this body. I have had the privilege, since I have been in the Senate, of being either the sponsor or main cosponsor of virtually every piece of WIC legislation that has gone through this body. I have either been the floor manager or one of the floor managers of every single WIC improvement item that has gone through the Senate. I would not, for this amendment or any other amendment, do anything to hurt WIC.

Our amendment, which will come up subsequently, will be designed to assure that nothing will happen to WIC. As I say, I have spent 17 years protecting WIC. I am not going to let WIC be hurt here.

Mr. President, I ask unanimous consent that I might yield to the Senator from Idaho for a series of questions which will not take more than, I think, a couple of minutes. I know he has a colloquy on some issues that he wishes to raise with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. I thank the chairman for yielding, and I am proud to be able to support the amendment he has provided us today. I want to compliment him on the effort and his persistence in trying to resolve the crisis that our dairy industry has been in. I have had the privilege of working with him on his committee, our committee, to try to achieve that.

But I have also worked with him to try to achieve a balance as it relates to the potential impact that I think some of us were very concerned about as to a program that would bring additional red meat to the market and, of course, result in some kind of price reduction that might impact the beef industry of this country. We have tried to resolve that and I believe that a diversion program designed like this, with the payment level where it is set, goes a long way toward resolving that issue.

But there were other things done in committee, Mr. President, that are awfully important that not only should, I think, the record show and be understood as to the intent of it, but should be discussed for a brief time on the floor.

My concerns, of course, as I expressed them, are an interest to bring balance to the red meat industry and the cattle interest, because I am saying here—and I think we all recognize—that the dairy industry provides a substantial portion of red meat along with the cattle industry to this country. So they are both cooperative types in this effort.

I ask the chairman, does the amendment follow the guidelines of the committee to protect the cattle industry as we discussed and voted on?

Mr. LEAHY. Mr. President, I would tell the distinguished Senator from Idaho the answer to that is a definite yes. I should also note for the Senate that the Senator from Idaho has been very important in getting this legislation here. He serves as a valuable member of the Senate Agriculture Committee. He comes from a State which has both a dairy industry and a cattle, or red meat, industry and has been invaluable in working with me and Senator JEFFORDS and with so many others in trying to balance those interests.

But to his first question—I know he has other questions—but to his first question, the answer is a definite yes.

Mr. CRAIG. Mr. President, it is my understanding that the amendment directs the Secretary to vary the beginning and the ending dates of the surplus reduction contracts to minimize the effects on beef producers, or red meat producers?

Mr. LEAHY. Again, Mr. President, the Senator is correct. Yes.

Mr. CRAIG. It is also my understanding that the amendment directs the Secretary of Agriculture to limit the monthly dairy cow slaughter and monitor this on a week-to-week basis and suspend the reduction program if the dairy slaughter rises excessively?

Mr. LEAHY. Again, Mr. President, I am pleased to state that the answer is yes.

Mr. CRAIG. I thank the chairman for yielding. I think all of us are concerned about the dairy industry as we know it, to bring some stability there in price structure and, of course, profitability to the family farmer who really is a large part of the dairy industry in my State and in the chairman's State, but also to recognize there could be other impacts as a result of dairy cattle moving to the market for slaughter.

These amendments that we have discussed, as well as the bill itself, works to mitigate that very effort.

I thank the Chairman for yielding.

Mr. LEAHY. I thank the Senator from Idaho.

The PRESIDING OFFICER (Ms. MIKULSKI). Who seeks recognition?

Mr. LEAHY. I believe I still have the floor, but I know there are other Senators who want to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, most Americans are not aware that dairy prices have hit their lowest point in 13 years. Few Americans know that dairy farmers all over the country are struggling to keep their operations going on the same price they received in 1977.

In real dollars, milk producers are receiving about one-half of what they were only 14 years ago. To be able to make a living at that price, dairy farmers are expected to increase productivity at over 5 percent per year for 14 years, more than three times the rate of productivity gain for the United States.

In my State of North Dakota, we lost one dairy farmer per day for a large part of 1991. One dairy farmer per day is going out of business in my State as a result of poor dairy prices and high operating costs. In 1985, there were 3,400 dairy farmers in North Dakota. By 1988, that number had dropped to 2,500. Today, Madam President, there are just over 1,500 dairy farmers in North Dakota.

Madam President, earlier this year I invited the Secretary of Agriculture to North Dakota. Secretary Madigan accepted my invitation, and we spent part of the time in my State on a dairy farm. The owners of that dairy farm that we visited, the Kalvada family, told the Secretary that these are the worst economic times ever to hit the dairy business.

In a hearing before the Agriculture Committee yesterday, an official of USDA told us that rural America is strong and healthy. Madam President, that just is not so. Nowhere is it more clear than in dairy.

My dairymen have told me that their bankers will not finance them any longer if the dairy program is not changed.

This bill provides that dairy producers receive an increase to make up for just 25 percent of the rate of inflation since 1977—that is not asking too much, not 25 percent more than inflation—just 25 percent of inflation.

The bill proposed by the dairy cooperatives, and embodied in Senator LEAHY'S bill, would mean that dairy farmers would receive a pay raise of about 1.5 percent per year for the past 14 years when inflation averaged 5.2 percent per year. In other words, even with the improved price in this bill, dairy producers are expected to increase their productivity by 3.7 percent per year to survive.

The American consumer pays a lower percent of his income for food than do the consumers of any other country in the world—about 10 percent. The American consumer pays so little because our farm programs have worked to the benefit of our consumers.

This legislation also protects the WIC Program from any effects. I am pleased that this small increase in dairy support will not affect that important program.

Additionally, I have worked hard to make sure that the red meat industry is not harmed by this dairy legislation. The committee accepted my amendment—with bipartisan support—to make sure that cattlemen and other red meat producers are not adversely affected.

In addition, the Leahy-Lugar compromise contains a provision that the Secretary may suspend the diversion program if dairy cow culling exceeds a certain level. These two provisions—my amendment and the Leahy-Lugar compromise amendment—should preclude any adverse effects on the red meat industry.

Let me close by stating once again that I am pleased to support this legislation with the above provisions to protect the red meat industry and the WIC Program.

Madam President, if you go to my State and visit the dairy farmers, what you will hear is that they are faced with a serious crisis: Falling prices, rising operating costs, and a level of payment in the marketplace that simply cannot sustain their lives.

These are not rich folks. These are not giant corporate dairy farms. These are family farmers who have made a living for generations on the land. And the question before this body is: Do we force these people from the land or do we give them a chance to continue?

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I rise to support the Leahy amendment to the supplemental appropriations bill in regards to the dairy farmers of America. We have seen an unusual situation. The dairy farmers' price at the marketplace has fallen over the last year-and-a-half between 30 and 40 percent of what they normally would have received for their milk. Unfortunately, this was not reflected in the price of milk at the supermarkets and grocery stores.

Consumers have been paying the price that they have been normally paying over a great number of years. The price that the farmer received is the lowest in 13 years. A lot of effort has been expended in trying to come up with a solution in regards to this problem.

Earlier, a two-tier system was considered. But opposition arose. Any time we deal with dairy, since cows are involved, we try to reach an accommodation by which dairy farmers can be helped but, at the same time, cattlemen and other red meat producers are not harmed in any way.

The Leahy amendment balances these concerns and in my judgment is an excellent legislative approach to try to be of assistance to our dairy farmers.

But at the same time, to not hurt the beef and red meat producers of this Nation.

The Leahy amendment to the supplemental appropriations bill will increase the safety net for American dairy farmers by $1. By increasing the support price for fluid milk by $1, we can avoid the painful price drop in the future that the dairy farmers have experienced over this last year and a half.

By coupling the price support increase with a marketing diversion program, this amendment will not increase budget outlays. The chairman of the Agriculture Committee, Senator LEAHY, is to be commended for forging this compromise and working out this bill. I congratulate him on achieving a bill which I think is in the best interest of America as a whole, and will be helpful to dairy farmers, but at the same time, will not hurt the beef and the red meat producers.

Madam President, while I am on the floor, let me also congratulate Senator BYRD and the members of the Appropriations Committee in drafting other aspects of this supplemental appropriations bill in a manner to be of assistance to the farmers of America.

We have seen unusual weather conditions at various localities throughout the United States. My State of Alabama has had sections of its State that have suffered from drought or unusual weather conditions that have decreased their production of various crops substantially 5 out of the last 6 years. We have certain sections, particularly the Tennessee Valley, which is the northern section of Alabama, that has had adverse weather conditions now for a number of years. Last year, the Tennessee Valley and the entire State of Alabama experienced extreme heat and drought conditions.

The lack of rainfall during the 1990 growing season and the erratic rains of 1991 pushed a number of Alabama family farmers to the brink of financial collapse. Therefore, it is imperative that a Federal disaster assistance program be forthcoming. According to the 1990 USDA estimates, cotton production in Alabama was down 35 to 50 percent. Peanuts were down 40 percent. Soybean production was reduced by 50 percent.

In the 1991 heavy spring floods, we found that they ruined many of the State's spring harvested crops, such as potatoes, wheat, canola, and sweet corn. We had also had in both years' freezes that occurred that affected our fruit crops, like our peach crop in Chilton County and other counties.

In 1991, these unusual weather conditions caused unusual conditions. Farmers have shown me potatoes, as an example in Baldwin County, Mobile County. If you took the potato and squeezed it, it would shoot out a stream of water. Those potatoes rotted in the field because of the adverse rain conditions as they existed during the spring of this year.

In the Tennessee Valley, they suffered unusual drought during the period of time in July and August when they needed rain. Earlier, they experienced too much rain and their planning season was delayed. Freezes came and destroyed many, many cotton bolls, and they were not able to produce anywhere near to the cotton.

In other sections of my State, in regards to the cotton crop, the rains came and, therefore, they did not suffer. But the bill is designed in a manner by which those who suffer will receive benefits, and those who did not suffer will not be receiving benefits.

We have had a very unusual situation in regard to our winter wheat production during this year. It was down considerably. The rains came at the wrong time, and it was too much rain. The unpredictable and erratic rain conditions in the State have caused a great deal of disaster.

The cotton farmers, particularly in the Tennessee Valley this year, not only experienced disaster as a result of no rains at the right time, but also too much rain at the wrong time. In addition to that, the price of cotton dropped by 30 cents a pound. The provisions in the supplemental appropriations represent a commitment to the American family farmer, a commitment that should not go unfulfilled, and the resolution will go a long way toward sustaining family farmers in this Nation.

This bill, of course, provides for both crop years. The House bill provides for a choice in regard to this, and I am sure that the conference will work out the differences. We have allocated $1.7 million in regard to disaster, and that will be considered. We hope that this will go through, the President will sign it, and that there will be some relief for our farmers who have suffered. The bill is crafted in such a manner as to where nobody gets a bonanza. If they have crop insurance, that is taken into account, too.

The last time that we passed the farm bill, we provided in the authorization bill for this. But no appropriations came along at that particular time.

We strove to try to attain it, but we were not able to attain it. So this year, we see that the supplemental appropriations corrects a real situation that needed correction, and we see that this bill is an excellent bill. It contains provisions dealing with disaster.

So I hope that we will pass the Leahy amendment rapidly as it applies to our dairy farmers and move forward in regard to the weather disaster provisions that are contained in the supplemental appropriations bill.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Madam President, I rise to support the amendment of my colleague from Vermont. He has asked me to be relatively brief about it, and I appreciate that, and I will be. I think I can get right to the heart of the issue.

I have been preceded today by some both more eloquent and perhaps more illustrative, as I look at some of the charts around here.

Mr. President, I come from the fourth largest dairy producing State. The country in which I was born and raised is probably the most productive dairy county in this country, certainly it is in the Upper Midwest. So the reality that the dairy farmers of this Nation are hurting is impressed on me every time I go home.

The last 12 months in the dairy industry have proven that a price of $10.10 per hundredweight is not enough.

If the Senate approves a dairy bill without a $1 increase in the price support, it would be like throwing a 10-foot rope to a drowning man 20 feet from shore.

The Senate has the opportunity today to provide long-term assistance to America's beleaguered dairy farmers. An $11.10 price support with a voluntary diversion program will assure farmers a fair price for their milk and keep them in business as well.

This dairy amendment will not only help dairy farmers—it will help the communities of rural America.

Our dairy farmers produce 10 billion pounds of milk, and manufacture 654 million pounds of cheese, 115 million pounds of butter, and 37 million pounds of powdered milk.

In January 1991, Minnesota had 15,350 dairy farms. Today we have 14,500 farms—850 fewer—and we are losing more each day. Without an increase in the support price, Minnesota will lose another 1,000 dairy farmers in 1992.

There is no blinking at the fact that there is a real problem in dairy right now. In 1991, dairy farmers saw the lowest prices for milk since 1978—with prices dropping as low as $10 a hundredweight. The rural countryside is devastated. As dairy farmers go out of business, so do all small businesses in the communities.

Everytime 7 dairy farmers shut down operations, 1 small business closes its doors and that is a loss of another 150 small businesses in my State.

It will help consumers who will have to pay higher prices as the number of local dairy farmers decreases. There is no question about that. We cannot rely on huge dairy farms in California for cost-effective production to meet the needs of consumers throughout this Nation.

Madam President, the United States is in a recession. Many people are having to do with less. But how many Americans are working 12 to 16 hours a day and getting the same pay as they did in 1979? The dairy farmers are, and it is impossible to pay 1991 bills with 1979 prices. My very eloquent colleague, the junior Senator from Vermont, made that case so very well on the floor.

Farm taxes have increased by 36 percent over the last 10 years, tractor prices increased by 70 percent, machinery costs by 88 percent, and fuel and energy costs by 39 percent.

Keeping dairy farmers in business is good for America. This is not an issue of city versus country or nutrition programs versus ag programs. It is an issue of what is right and what is good. This amendment will keep dairy farmers and rural small businesses and communities in operation. Most importantly, the amendment guarantees our Nation a supply of safe, fresh, affordable milk.

The best part of the amendment is that it has the support of the real dairy experts, the farmers themselves. I have heard from hundreds of them in my State, and they all say they must have $11.10 per hundredweight to survive. It would bring stability to their farms. I urge my colleagues to support our Nation's dairy farmers and to approve this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also rise in support of the amendment of the Senator from Vermont, the distinguished chairman and thank him for his effort in bringing us to this point.

Those who argue for no compromise on price support increases trouble me a good deal. We are a body that is based upon sacrifice and compromise and accommodation and appreciation of the difficulties that constituencies across the country face, whether they are ours or somebody else's, and this attitude about no compromise, this belief in no price support increases ignores the facts.

We did not see these arguments when we indexed taxes. We did not see these arguments when we argued for an increase in the cost-of-living allowance for various people. We did not see these arguments when salaries here in the Congress or down in the White House or any place else were considered. The fact is, each and every time those particular matters were brought to the attention of the Senate, we understood the need. We understood that we had to respond to very specific concerns and understandable needs and did so through compromise.

That is really what this is all about, Madam President. We are talking about compromise. Yet there are those who tell dairy farmers, "Forget it; we want you to swallow the costs. If you cannot make it on 1978 prices, find something else to do."

The fact is support prices are not in line at all with the cost of production today. Costs-of-production estimates are that prices last year alone to most dairy farmers, when having to deal with their costs, went up 10 percent. The fact is they are making up for their price in increases in volume and that, very frankly, has been self-defeating. A 2-percent increase in milk production last year resulted in a 30-percent drop in farm prices. USDA estimates the cost of production in the upper Midwest today at nearly $14 per hundredweight. Nationwide the cost of production is $13.62. So the price today is at least $1—$1 below the cost of production.

Now, what business anywhere in the country can survive for any length of time on a cost of production that is above the price that they receive in the marketplace?

The result has been very predictable, as it would be for any business. The result is that 5 percent of our producers in South Dakota have already been forced out of business. The result is that 10,000 farmers are estimated to have lost their opportunity to produce dairy products nationwide.

The administration argues that it is just the inefficient that are being forced out, that to a large extent it is the small, inefficient farmer that has no place in the modern agricultural environment that we work under today; that in order to be efficient you have just got to be bigger.

Nothing could be further from the truth. If size was any guarantee of efficiency, Eastern Airlines, Pan American, Midway would all be part of business today. If size were any factor of efficiency, the Bank of New England would be prosperous today. If size were any factor of efficiency, we would still have a lot of S&L's that are out of business today and the RTC would not even exist.

The fact is that size is no guarantee of efficiency. The fact is that there are family farmers who have an amazing level of productivity. The fact is that it is not their productivity that is driving them out of business today. It is the price.

A 30-percent price drop resulted in a monthly loss of $5.7 million in South Dakota alone. USDA projects that cash receipts to dairy farmers in the United States will drop by $4 billion this year. In the State of South Dakota, there has been a 7-percent increase in the number of farmers on food stamps in the last 3 months nearly all of them dairy farmers—a 7-percent increase. And what a cruel irony. Those producing food need food stamps just to buy it back.

This legislation is not going to turn these circumstances around completely. We recognize that. No compromise will ever do that. It will not do all that many of us would like it to do. Producers will be asked to submit to voluntary production controls and limit the exposure of the Federal Government in return for a fair, stable price.

So here are the final facts. The costs for administering the program will be paid for by producers through assessments, not the Federal Government; $11.10 is below the current market price. The bill will not increase retail market prices. Rather, wholesale prices will be prevented from crashing down to bankruptcy levels once again. Finally, an $11.10 support price in conjunction with the diversion plan will save taxpayers tens of millions of dollars in program costs over the next 5 years.

Madam President, those are the facts. Those, I hope, will be given consideration by all Members as we weigh the extreme importance of this legislation to every dairy farmer in America. I urge its adoption. I urge its careful consideration, and again I commend the sponsors for their leadership in bringing it to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to speak about the amendment on dairy and disaster assistance which was offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY.

DISASTER

First, I would like to express my strong support for passage of the disaster assistance provisions. This legislation will provide needed assistance to farmers who suffered crop losses due to adverse weather conditions for 1990 and 1991.

Mother Nature has again dealt a cruel blow to some farmers across the country.

Whether they have suffered from too much rain, or not enough rain, or freezing conditions, the result is the same—some farmers have lost their crops due to conditions beyond their control.

While Montana has been very fortunate this year and last to have had adequate rainfall throughout most of the State, there are farmers in a few areas in Montana who lost their crops because of adverse weather.

Last year, we had some farmers who suffered because of drought conditions. This year, our cherry farmers lost their crops because of a hard freeze.

Losses for these farmers are no less real than they were during the devastating drought years of 1988 and 1989.

That is why I strongly support passage of this disaster authorization, and the $1.75 billion that is provided for it in the supplemental appropriations bill.

Farmers in Montana and throughout the country should not have to suffer financial devastation at the hands of Mother Nature.

OPPOSE DAIRY

I am afraid, however, that I must strongly oppose passage of the dairy portion of the Senator's amendment.

I am sympathetic to the plight of dairy farmers. And I know that they have suffered hard times lately.

But unfortunately, this amendment threatens the financial well-being of Montana's largest industry—cattle. Therefore I must oppose it.

When I talk to Montanans about a dairy diversion program like the one we are considering today, they see red.

THE 1986 BUYOUT

They will never forget the devastating effect the 1986 dairy buyout program had on domestic cattle prices.

That program may be the single worst idea to come along in the farm debate in the last decade.

In 1986, during the week following USDA's announcement of the buyout, cattle prices declined nationwide by from $2 to $6 per hundredweight, depending on the type of cow. This decline equals a drop of from $20 to $60 per head; or a 1 week total of about $25 million.

Montana cattle prices, on the other hand, during that same period, dropped a whopping $8 to 10 per hundredweight. Or nearly $100 per head.

When you consider the fact that the cattle industry is the largest industry in the State of Montana, any kind of price fluctuation can have a devastating impact on our economy.

And let there be no doubt about it, a dairy diversion program, no matter what the form, could have a similar effect on cattle prices.

The 1986 price decline was caused in large part by the fact that the USDA did not follow the law when implementing the dairy buyout program. Montanans do not trust that the USDA will do it right this time either.

According to the National Cattlemen's Association, every $1 move in cattle prices today affects the cattle industry by about $6.6 million every week.

Cattlemen simply cannot withstand such a gouging.

Clearly, the 1986 proposal and the one before us today, set up a system under which we rob Peter to pay Paul.

What I am concerned about is that the cattle industry would be forced to represent Peter.

FRAGILE CATTLE PRICES

Montanans also believe that we could see a large number of cattle come on the market at a time when cattle prices are fragile. During August and September of this year, cattlemen suffered losses of up to $200 a head, and are today losing between $50 and $75 a head.

Montana cattlemen don't understand why we should pass legislation to help the dairy industry whose prices are currently increasing, at the expense of the beef industry whose price decreased 2 months ago and has not yet recovered.

All that the cattlemen ask is to be left alone to get a price based on the free market system of supply and demand.

LONG-TERM SOLUTION

In addition, it is clear by the amendment we are considering today that previous dairy surplus-reduction programs have had no lasting effect on the milk surplus or milk price situation.

Since 1986, production has increased with fewer dairy cows, but with substantially higher milk output per cow. There are also fewer dairy farms, but sharply larger average herd sizes.

What we need is a long-term solution to the recurring milk surplus problem so that the cattle industry is not continually threatened.

The only solution, in my view, is to let the market take its course.

Creating this diversion program will only place a Band-aid on the continuous milk problem and cause a rupture in the beef industry.

FREE MARKET FOR BEEF

Further, cattlemen—unlike dairy producers—benefit from no Government support programs. They live and die completely on the free market.

Therefore, I find it unfair that the cattlemen should be asked to pay for an additional dairy subsidy.

It is for these and other reasons that I am unable to support the dairy proposal.

It is unfair to come up with so-called solutions for the problems of one industry at the expense of another—especially when the other is the largest industry in Montana.

You can be sure that if the Government subsidizes competition to America's cattlemen, the cattlemen will come out the losers.

CONCLUSION

Finally, I want to again express my strong support for the disaster provisions of this amendment.

It is unfortunate for me that the dairy and disaster provisions are being considered together. I wish they weren't because I very much support disaster relief to American farmers.

But because the dairy proposal poses such high stakes for my State, I must vote against the package as a whole for the reasons I just outlined.

The essential point is this: I understand the problems facing the dairy industry, but unfortunately this amendment does not have sufficient safeguards to protect against another devastating blow to the beef cattle market such as occurred in 1986. That is the essential reason why I must oppose the amendment.

I do not like to be in the position where one segment of American agriculture is at odds with another. I do not think the dairy industry, nor do I think the beef cattle industry likes that position. We very much prefer to be in the position where we can reach an agreement, an agreement that would accommodate both the dairy industry and the beef cattle industry.

When we reach that accommodation, I think we will reach an agreement. Unfortunately today, we do not have that agreement. There are not sufficient safeguards built into the amendment which would give the requisite assurance to the cattle industry so that cattle and dairy could come to an agreement.

It is therefore with regret that I must, and very strongly, oppose the passage of this amendment. I urge my colleagues to do the same. Thank you Mr. President.

I yield the floor.

Mr. SIMON. Madam President, dairy farmers across the country have been asking Congress to come up with a more effective Federal Dairy Program. They want to see a fair price for their milk in relation to their cost of production and they want to see more stable prices. Senator LEAHY and others have been working hard to come up with a bill that the Administration can live with and that is fair to everyone involved. This bill raises milk price supports modestly, and it establishes a supply management program that will stabilize the production of milk and contribute to an overall more stable market for producers and consumers.

With the combination of an increase in the price support for milk and implementation of the diversion program, we have a dairy program that will stabilize prices to the farmer and the consumer with less cost to the Government. This bill does not raise the retail price of milk and it does not cost the Government more money. The supply management program implemented in the bill—the voluntary diversion program—is acceptable to the administration and to the dairy industry nationwide. It successfully manages the supply of milk in this country and does so in a fiscally responsible way.

Farmers are not the major recipients of the money we pay at the grocery store. In the past 2 years, the price of milk to the farmer has reached record highs and record lows. The General Accounting Office found that when milk prices dropped 25 percent, consumers only paid around 5 percent less for milk products. This bill will hopefully bring some fairness back into the market place. It will keep thousand of dairy farmers from going out of business, it will provide some hope for struggling rural America.

Regarding the disaster portion of this bill, I support the $1.75 billion appropriated in the supplemental appropriations bill for disaster relief to farmers suffering from a severe drought. Eighty-two counties in Illinois have been declared eligible for emergency loans by the Department of Agriculture. Some farmers in my State have losses up to 50 percent of their yields. Farmers in the Southern counties of Illinois were hit twice this year when the winter wheat crops were damaged by disease due to heavy rains. In December, farmers will start making financial decisions for the 1992 planting year. For some, a disaster payment will determine whether they are eligible for 1992 crop loans.

Congress gave the President what is in effect line-item veto authority over this bill. It is my hope that the administration will agree with Congress and appropriate the full amount for disaster relief to farmers.

It is apparent, however, that now more than ever we need a strong Federal crop insurance program to help farmers make wise financial management decisions. Farmers cannot continue to hang in the balance, while the administration and the Congress decide year after year whether to declare an emergency for disaster relief to farmers. I am looking forward over the next year to examining more thoroughly, proposals for a Federal Crop Insurance Program.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Vermont.

Mr. JEFFORDS. Madam President, I will be very brief.

Madam President, I understand the concerns of the Senator from Montana. I want to reassure him that first of all I am committed to working over the holidays and before next year to reach the kind of an agreement to which he referred, where the cattlemen and the dairymen can live in peace. I believe that this can be achieved.

Second, I want to reassure him and his colleagues that in 1983 when a similar diversion program was put into effect, there was absolutely no impact at all on the beef industry; that any impact this will have will probably be negative, if anything, because it might result in less cattle going on to the market.

Third, I would also point out to my colleagues that this past year, because of shortages of beef, especially in the area of lean beef where the dairy industry cattle are utilized, we imported over 1 million cows in order to supply the market. Thus, there should be further understanding that any impact, of which I believe there will be none other than ordinary culls—there should be no impact whatsoever upon the beef industry by this program.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I rise to oppose the amendment offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY. I do so with regret that this amendment is being offered on the dire supplemental appropriations bill.

We have considered dairy issues and issues involving other farm producers and consumers in America throughout the year. The dairy issues are important, and the problems faced by dairymen are very substantial.

I have no argument at all with the thought that has been expressed by many who have spoken this morning about the human tragedy of dairy producers in our country who are not making a profit.

Indeed, the figures that have been given by a number of Senators show the enormity of the problems of those individual producers—it was suggested by one of my colleagues that the average cost per hundredweight in the United States of America is in the ballpark of $14 per hundredweight—clearly, with the price minimum support price of $10.10, or the price offered in the amendment today of $11.10, or even the current market in the country, which ranges somewhere between $12 and $12.50.

If in fact the average production cost for dairy farmers is on the order of $14, by that reckoning the average dairy farmer in America is losing money, a lot of money. As a matter of fact, Madam President, in hearings held by the Agriculture Committee we took a look at figures from New England and Eastern States which showed that in fact there were 10 percent of dairy farmers in those States with average costs of $18. Indeed, 20 percent of the dairy farmers, as I recall, had costs of $16 or above.

Madam President, the basic question that faces this body and the country as we consider an amendment of this sort, is clearly, as one Senator has expressed it today, what business can survive if production costs exceed prices—exceed prices by quite a lot, as a matter of fact.

The answer is that no business, either a small dairy farmer or a large one or a retail merchant or a small manufacturer, can stay in business if production costs exceed prices for any sustained period of time.

I suppose the question, Madam President, that is being asked by the dairy farmers is essentially whether the United States of America, all of the rest of our citizens, ought to provide enough income to them—that is, the dairy farmers—so that their income will equal their costs. That is the position that the Leahy amendment approaches today.

It approaches it in a modest way because by my own reasoning the $11.10 as a support price does not come close to $14. I think the dairy farmers know that too. Many dairy farmers support this amendment as a step that they feel will be helpful to them. I will argue shortly that certainly not all feel that way; But if the amendment is clearly inadequate, if one were trying to get the whole job done—that is to sustain dairymen, all 160,000 of them in our country.

Madam President, what is really being suggested is that we attempt, in this specific industry, to do something that the public as a whole does not prefer to do for most industries. That is that we accept the fact that producers have costs, and through taxpayers funds, try to supplement income until the income of the producer is equal to those costs.

It has been suggested that this particular issue arises because diary farms overproduced, as in fact they did, the amount of milk that was demanded by the public in 1989 and 1990. When overproduction occurs, Madam President, the price falls. That is true in every business, even those in which there are marketing orders and governmental supports, such as the dairy business.

As a matter of fact, Madam President, unless there is substantially greater demand for milk and milk products in our country, we will perennially be in a situation, where a small increase in supply, a small increase in production, creates surplus and declining prices. In this particular case, the prices rose, and dairymen were apparently stimulated to produce more. They did so, and prices fell, all the way down to the floor; a $10.10 support price was provided by last year's farm bill.

Let me point out that last year's farm bill was favorable to the dairy industry. It provided a floor for dairy producers. There is no floor for hog producers or for apple producers. There is a very special niche here, a price for dairy producers. To say the least, the farm bill, if anything, we skewed in favor of dairy producers.

I congratulate the distinguished chairman of our committee, whose strong advocacy was largely responsible for that result.

But, Madam President, having given the benefit of the doubt to the dairy producers, as opposed to many other producers, dairy producers did produce more, and their price fell and hit the floor. Thus, earlier in this year, when the last dire supplemental appropriation came before us, impelled largely by the costs to this country of fighting and military activity in Desert Storm, you can imagine my surprise when in the midst of discussing the war, suddenly the distinguished chairman of the Agriculture Committee rose and suggested that we increase dairy prices by 25 percent.

Madam President, by and large the same sentiments were expressed then. Senators who have dairy farmers in fair numbers in their States came to the floor both to speak and to vote on behalf of what I considered an arbitrary increase in the price of one agricultural commodity. The proposal of the distinguished chairman was not to raise the price of corn by 25 percent, or soybeans, or cattle, or apples, but milk—a very specific targeted amendment.

I suppose history will record that debates such as the one we are now having are a principal reason why our country has very substantial financial problems; and even more, Madam President, why there is a certain cynicism in the public as a whole about the way we conduct our affairs. When constituents ask us how could the Federal budget get so far out of hand, or why do Members of the Senate listen to special interests, as opposed to consumer and Americans generally, one should look at this debate that we have had today.

A long train of my colleagues are coming in to say that dairy farmers in their States have production costs substantially greater than their income, and they are hurting, and they are hurting in an America that has many economic problems. Therefore, on a dire supplemental bill, at this point in the Congressional session, we ought to react by raising the support price by $1 and to go into a diversion program to assist them. This is to occur even though, by definition of the average prices and average production costs, even if this amendment were adopted, it would not do very much for them, in my judgment.

In fact, I will argue that this particular amendment will operate in a very perverse way, to the extent that it stimulates a significant number of the 160,000 dairy producers in our country to produce more. This is usually the way upward price signals in the market are interpreted. If the Federal Government guarantees a price, it is almost a knee-jerk reaction that more supply is forthcoming. Despite all of the hopes for the diversion that accompanies this legislation, the facts are that whenever prices have been raised, so have been expectations in surpluses. And we are then in a dairy industry which is prepared for another precipitous fall, and the cycle would bring distinguished Senators to the floor again to suggest still more price fixes for the dairy industry.

In fact, Madam President, if what is required here is some fairness—and that was suggested earlier on—fairness in the marketplace means supply and demand. Fairness must also be shown to consumers who do not pay a hidden tax for milk that they do not wish to consume. Fairness means that we do not attempt to reward a particular special interest in the hope that all the rest of America will not notice.

A suggestion was made that if a cost-of-living increase had been reflected in the dairy price over the course of the last 2 decades, the price of milk would now be $19. This is to suggest that we have a static economy, the same people, same productivity, same costs, and that absolutely nothing in the world changes. If you applied that logic to computers, and calculated what they were worth 20 years ago, as opposed to today, the results would appear ludicrous. The same would apply to a whole host of things that are very much a part of our lives. Of course, we do not hold prices equal for 20 years with cost-of-living indexes. We have efficiency and productivity gains in our economy, and that has brought us a higher standard of living. Our economy is not a static model in which we perpetually do identically the same thing.

I just say, in addition, that having made these arguments philosophically, let me make some that are very practical. I appreciate that there are Senators who sincerely want this amendment passed and a great number of us who sincerely want to be helpful to the dairy industry. But I think it ought to be known at the outset of this debate that the amendment that is being offered is very unlikely to become law. We know that because a letter as recent as November 20, 1991, mailed to the Honorable ROBERT DOLE, Republican leader, from Richard Darman, Director of the Office of Management and Budget, says in its final and concluding and most specific paragraph:

> We understand that there may be a floor amendment to attach the supplemental bill dairy provisions which would raise dairy price supports and increase the price of dairy products to consumers. These provisions, of course, are unrelated to the subject of supplemental appropriations. The President's senior advisers would recommend a veto of the bill if such an amendment were adopted.

This is not news, Madam President. The President's advisers, Mr. Darman; Secretary of Agriculture, Mr. Madigan, have throughout the year stated clearly if a price support increase were adopted, they would recommend a veto. That has been consistent. That is still the case.

So, in many ways, Madam President, we are proceeding today to what may be more accurately termed not a legislative proceeding but a public relations opportunity. A great number of Senators will find it useful to be recorded on this vote and to make statements on this supposed help for dairymen. But I think all Senators and the public generally should know that this is very likely not going to be accepted in the conference with the House, and if it should be, the entire appropriations bill will be vetoed on this account alone. This is an unacceptable result for the Congress in my judgment. So, Senators start this entire exercise today with a choreographed script, in which a number of Senators make a plea, make their case, and issue their press releases, confident that whatever the merits or demerits of this amendment might be, it will not become law and, as a matter of fact, dairy farmers will not be helped one whit.

I make this point very clearly, Madam President, because in the Agriculture Committee—my staff has been working with the staff of the distinguished chairman, the majority and minority staffs together, to try to devise legislation that would have incorporated a paid diversion program. This compromise, in fact, was acceptable to the Secretary of Agriculture by letter to the committee. That effort unhappily has not succeeded. And as a result, elements of the paid diversion are in the chairman's amendment today but with an increase in the support price which I would say is the fatal flaw.

Mr. LEAHY. Will the distinguished Senator yield on that one point?

Mr. LUGAR. I am happy to yield.

Mr. LEAHY. Would the distinguished Senator agree though, that on the paid diversion plan, that we have a bill before us with just that item? Unanimous consent has been requested to bring it up, and I think we would all acknowledge within a day or so of the end of the session it could come up only by unanimous consent.

Would the distinguished Senator from Indiana agree that there are at least four holds from his side of the aisle blocking that from coming up?

Mr. LUGAR. My understanding is that the chairman may be correct. I do not know the number, but there are persons certainly who have put holds on that legislation.

Mr. LEAHY. Madam President, if the Senator will just yield further for a moment, I would note and I concur in the fact that he and his staff have worked with me and others to put together a diversion program that is acceptable to the administration. My understanding is it would be signed into law if we could pass it.

I would hope, no matter what happens on this amendment, that those who are blocking that diversion program will allow it to go forth. It will help, it will help a lot more than all the great speeches all of us give—myself or anybody else—for or against, to help the dairy farmers, and the diversion program would help. I hope those Senators blocking it will allow it to go forward.

I thank the Senator from Indiana for his typical courtesy in allowing me to ask that question.

Mr. LUGAR. I thank the chairman and I appreciate the point he is making and his careful and accurate description of our cooperation on behalf of the dairy industry.

I would point out, as the chairman knows, that this is an issue that has continued for a long while and one of the problems with our compromise position is that it is easily blocked by those Senators who may or may not agree with us. But, nevertheless, the pending amendment is broader than our compromise by including more than something more than a paid diversion. That is why I rise to oppose it.

I would say that a part of the complications, as the chairman knows, is that there is strenuous opposition to this amendment from the National Cattlemen's Association.

I wish to, at this point, quote paragraphs written to me by Don B. Smith, president of the National Cattlemen's Association, in which in the second paragraph he says:

> Historically, cattle producers have strongly opposed dairy programs that artificially encourage or mandate the slaughter of dairy cows in order to reduce surplus milk production. Clearly, the proposed milk diversion plan, like the 1983 diversion program and the 1986 Dairy Termination Program, falls into this category.
>
> NCA has been, and continues to be, a strong advocate for allowing the market system to work. The intent of both the 1985 farm bill and the 1990 farm bill was to allow market forces to play a more important role in the function of the major government commodity programs, including dairy.
>
> The milk market supply and demand forces are working. In the fall of 1990, milk prices were at near record highs. Milk production increased to meet demand. Unfortunately, too much milk was produced and milk prices fell dramatically in the spring of 1991. In response to this, dairy cow slaughter increased, and in late summer of this year, the price of milk has increased. Currently, milk production has decreased to such a level, because of additional dairy cow slaughter, that it is estimated that only 1.5 billion pounds of milk will have to be diverted in 1992. This leads us to believe that if the current dairy program is allowed to work, then supply, demand and price equilibrium for milk will be accomplished in the near term.

I agree with the analysis of Mr. Smith and of the cattlemen. As they point out, the dairy program has been working.

When we last debated dairy, on a supplemental appropriations bill, the dairy price had fallen to the $10.10 price support floor. Now, dairy prices have risen to $12 per cwt. Supply and demand has worked. Cows as a result of low prices this spring, were culled, less milk was produced and prices rose. That price action occurred without the sought after changes to the dairy program.

I would simply point out, Madam President, there are certain other implications of this proposal, aside from the impact upon agricultural producers, that must be very carefully considered by this body. The distinguished chairman of the committee, Senator LEAHY, has mentioned that after disposition of this amendment, he will attempt to regain the floor to offer an amendment dealing with the retail price for purchases, made under a program designed to protect less fortunate women, infants, and children, the so-called WIC Program.

The chairman's interest in this amendment is obvious. Under the dairy proposal before us, very substantial problems are going to occur in the WIC Program if the price of milk goes up—and the U.S. Department of Agriculture estimates show that it will go up substantially.

So the chairman's plan is to cap or fix the price of milk, in retail stores throughout the country, to engage in the most egregious form of price control in order to try to remedy problems created by the price increases contained in this amendment. It is an extraordinary combination.

Madam President, I hope that Senators and the American public understand this point before it is too late. In short, if one is determined to rig prices by Federal statute, and then is reminded that the attempt hurts poor people, is the proper response to rush around and try to correct the problem by demanding that grocery stores sell the product to these people at a fixed price? I think not.

In fact, throughout all of the argument today Senators have suggested that the marketplace only works in one direction—toward higher retail prices. Some Senators state that lower dairy prices do not mean lower consumer prices. However, most Senators, at least who are scholars of this subject, appreciate that the lag factor between farmgate prices and retail prices, is a substantial one. But the market eventually reacts.

But even if it did not react, Madam President, playing the devil's advocate, are proponents of this measure really suggesting that the Senate in its desire to help 160,000 dairy producers ought to establish price controls in retail markets, controls designed to take away profits of those enterprises?

Or, Madam President, do Senators really believe that somehow we should, in a very perverse way, decide to start capping prices of milk for WIC recipients in retail markets? Do we believe that retail markets would not raise prices on other items to offset milk losses in order to stay alive?

Indeed, Madam President, why in a parallel situation, should not retail grocery stores come to this body and point out that their costs have been rising, their revenues, may be falling, and that there are more retail grocery stores in the United States of America than there are dairy farmers?

I have yet to hear during an Agriculture debate a serious proposal to make certain that every one of those stores remained in business and remained whole. As a matter of fact, we have not heard that argument made for anyone; for small manufacturers or entrepreneurs who are trying to create jobs in America.

Maybe, Madam President, what is sauce for the goose should be sauce for the gander: if we are to take the proposition that costs for dairy are high and we must in fact meet those costs by providing income. We should consider applying the same thing to almost any business in America and have a very strong number of adherents argue the point seriously.

Madam President, let me just sum up the situation. We have in front of us an amendment, and I have stated as clearly as I know how that the authoritative voice of the Office of Management and Budget, on behalf of the administration, says that this amendment will be vetoed if it finally arrives at the White House in this form after the conference between the House and the Senate. Therefore, in my judgment, this debate is important as an expression of our interest in the dairy industry, but the debate is not going to have a conclusion that will help dairy people.

If we had been serious about that situation, Madam President, we would have adopted legislation in the Agriculture Committee, and would have come to the floor in due course some time ago, that would have met with at least some agreement by the administration. And, as I have outlined, that formula has been found. However, as the distinguished chairman has pointed out our activities in attempting to work within the committee have come very late and, as a result, it is not surprising they did not find the unanimous favor which perhaps they need at this point.

Second, I would point out that the administration has indicated throughout the year that it has been more than willing to discuss this subject. In fact, the distinguished chairman and I have discussed the subject many times with Secretary Madigan and others. As a result of these discussions a number of administrative steps have been taken by the administration that I would argue strongly, under girded the rise in the price of milk this year without disturbing the support price or other mechanisms provided by the farm bill of last year. I contend that the farm bill is working as well in the dairy industry as it is for other commodities.

Finally, Madam President, we have other interests that are clearly at hand. The distinguished senior Senator from Montana, Senator BAUCUS, has spoken, and Senator BURNS, the distinguished junior Senator from Montana, will soon speak, discussing very real problems that cattlemen have when we delve into one sector of the agricultural economy and ignore others.

I would say finally, Madam President, that however one cuts it, this particular amendment, if adopted, will play havoc with the programs now run by the Food and Nutrition Service of the U.S. Department of Agriculture.

Let me put in the record the estimates of how much damage. USDA estimates that the legislation originally passed by the Senate Agriculture Committee, H.R. 2893, would raise the cost of programs run by the Food and Nutrition Service by an average of $277 million per year during fiscal years 1993 to 1996. During fiscal year 1992, an additional $100 million in costs will be imposed not only on the Federal Government but on nutrition program beneficiaries since program benefits will not yet have been indexed to account for the higher milk prices.

In addition, an average of 91,000 fewer people per month would be served by the Women-Infant-Children [WIC] Program according to USDA.

The amendment before us today admittedly would marginally cut that injury, because it does not impose the nonfat solids requirements of H.R. 2893. That has been deleted from the amendment today. But the effect would still be significant.

This amendment raises 1993 Federal Nutrition Service spending by $164 million, according to CBO. The price of milk would rise 17 cents a gallon in 1993 according to their estimate. The price support increases also mean higher consumer prices. The higher support levels will raise consumer costs by an average of $1.5 billion per year.

Madam President, if in this Chamber someone were to come in today and suggest a tax increase of $1.5 billion, Members would run for cover. That is not only unfashionable, that is totally unacceptable to Members and to the American public at this point.

Yet, Madam President, in the course of a very civilized debate to help a sector of our agriculture industry, if the product of our labors was to pass this amendment and it finally became law, I submit that this would, in fact, be a hidden tax on American consumers of $1.5 billion. That is a substantial hidden tax.

Let me say, Madam President, one can argue back and forth as to who is responsible. Senators have argued that the increase in dairy prices is not the culprit. After all, it is the grocery stores who are not lowering their prices fast enough, when the prices for dairy farmers go down. They are culpable.

Madam President, that argument is insoluble, in that grocery stores all over America use various products as loss leaders to get people inside the store. In fact, we applaud the long list of price cuts in the weekly shopping advertisements, dairy products sometimes among them, sometimes not.

The costs of this program, however, cannot be hidden. They are there. And they may be realized by dairy farmers, they may be realized by retail merchants, but they will not be realized by the American people who pay the $1.5 billion.

I would hope, Madam President, that the amendment would not find favor with Members today. I am hopeful, as a matter of fact, that we will not proceed down this course of raising the support prices.

I would say in fairness to all of agriculture in America, Madam President, that our committee strove last year, under the dedicated leadership of our chairman, Senator LEAHY, to fashion a 5-year farm bill. And one reason we wrote a bill for 5 years was to give some sense of stability. It was a grand bargain of sorts among hundreds of agriculture and consumer interests in America; a contract, in essence, about what was fair, as best we could fashion it at that point. I make no claim that the target price for corn is precisely the one that I would have wanted, or the marketing loan for soybeans.

These were compromises, reached over an entire year of debate, in which all parties were heard.

Now, Madam President, today we hear one segment of the agricultural industry in our country—an important one, but a segment nonetheless—saying essentially: We want better treatment. We want to ignore all of the agreements made with others and advance our own cause. At least the proponents on the Senate floor make that claim.

I would say, Madam President, that in my State there are 5,000 dairymen and that is a fairly large number. If the Chair would look down through the roll of the States, and see which ones have dairy farmers, I suggest the 5,000 that we have in Indiana, as part of the 160,000, are significant compared to the population of our State. And I visit with them a great deal because of my interest in agriculture, my interest in my own farm. I have contacts with people in the Farm Bureau, the Farmers Union, the Grange, and other organizations in our State.

Attitudes are very divided on this issue. I think it is fair to say that some dairy farmers who have high costs and who are genuinely fearful that they will not be able to continue, are prepared to support almost any amendment that would offer relief. And I understand that.

I would also say that a large number believe the Federal Government should not be in this business right now of jiggering up the Federal program for dairy farmers.

As a matter of fact, Madam President, a growing sentiment among dairymen in my State, and among farmers generally, amounting to somewhere between 35 and 40 percent, is that the Federal Government ought to get out of agriculture altogether.

I suspect at another time, if we were going to debate dairy again, I would want to offer for consideration by this body the thought that, as opposed to an incessant number of amendments, always attempting to do something to jack up prices arbitrarily, we ought to give careful consideration to the possibility of eliminating the dairy program altogether, and allowing supply and demand in this country to work in that industry.

My guess is that if we did so, fresh, healthy milk would come to the American people for less money. There would be a substantial consumer income gain from such a move. And as a matter of fact, such a course would be favored by a very large percentage of dairymen—perhaps even a majority—once they thought through all the hassles of the marketing orders and the arcane regulations that now put a straitjacket on this industry.

Madam President, this is late in the session, and we are debating an amendment that I believe is not going to be successful. Therefore, I am not prepared today to argue the entire philosophy of the program, but I will say: This is bad policy and an amendment that should not be passed.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The sponsor of the bill, Senator LEAHY.

Mr. LEAHY. Madam President, I know the Senator from Montana wishes to speak, and I will yield the floor in just a couple of minutes.

Madam President, we have had a number of people ask when we might come to a vote. With the primary opponent of the amendment on the floor, and with the primary proponents of the amendment on the floor, what I am going to do is propose a unanimous-consent request. I will not do it yet. But, I am going to propose a unanimous-consent request that we vote on this amendment at 1:30 today, and, that I be recognized 4 minutes prior to that vote.

This is what I intend to do. I wonder if, without losing my right to the floor, anybody wishes to indicate anything about that?

Mr. KASTEN. Madam President, I have been trying to survey our side, both opponents and proponents of the Leahy-Kasten amendment. I know the Senator from Montana wishes to speak for maybe 10 or 15 minutes and I know the Senator from Rhode Island wishes to speak, he has indicated, for 5 minutes.

It seems to me most of our proponents have spoken. There is a possibility the Senator from New York might want to speak, but that will not be for an extended period of time.

So I hope we can agree to something like this. I know the leadership is now meeting over on the house side, trying to determine the schedule for the weekend and early next week. Their hope was we would not vote before 1:30. That might be a way to expedite the process.

Mr. LEAHY. Madam President, if I might comment on that. I checked to see on the schedules of both the Republican and Democratic leaders, and others who had meetings. It seems that 1:30 helps everyone the most.

Let me make the unanimous-consent request, and then I will yield the floor if it is accepted.

Mr. LUGAR. Will the chairman yield for a moment before making the request?

Mr. LEAHY. Yes.

Mr. LUGAR. I noted the chairman was proposing 4 minutes of final summation before 1:30 on his behalf.

Could I reserve 4 minutes before the chairman at that point?

Mr. LEAHY. Certainly. What I would do, then, when I make the unanimous-consent request, is make it for 1:35. Let us state then, at 1:35 the Senator from Indiana be recognized; at 1:30, the Senator from Vermont, the proponent, be recognized.

I now do ask unanimous consent—another suggestion has been made. Let me do this.

At 1:20, the Senator from Indiana be recognized for 5 minutes; at 1:25, I be recognized for 5 minutes; and at 1:30, the Senate vote on the pending amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Vermont?

Observing none, the Senator's request is agreed to.

Mr. LEAHY. Madam President, I will yield the floor in just about——

The PRESIDING OFFICER. The Senator from Montana.

Mr. LEAHY. Madam President, I still have the floor.

The PRESIDING OFFICER. I am sorry; I thought the Senator had yielded the floor.

Mr. LEAHY. I am going to yield it, Madam President, literally in a matter of seconds.

I would just note, in response to one item we are addressing, whether this legislation might raise retail milk prices. I do not feel it would raise prices. We have given credits to the Soviet Union in the amount of several billion dollars, which is really a disguised foreign aid gift to the Soviet Union. That is going to raise prices. That is going to raise prices right here. That will be a tax on the American people, because we are going to have to pay for it. It is likely the debt will never be paid back.

We are able to do that in a moment. But when it is something that might help our people right here at home, it seems to me to be a matter of dispute.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I thank the floor manager for this amendment and the time to speak on it, and the ranking member on the Agriculture Committee for his very wise words this morning.

I also applaud those who champion the cause of their constituents, especially on this issue. I do not think there is anybody who has championed that cause any better than my colleague, Senator JEFFORDS.

It seems as though everytime we get into a debate about what we can do for our basic interests, particularly in agriculture, it is pretty hard to do anything for one group that does not impact another. It has been a pattern since time immemorial in agriculture that, yes, one segment has always thrived at the cost of another.

Any time that you are in the business of producing a raw product, a raw consumer product, you have a lot of problems. Not only is end price—what we get for our product—very important, but also what it costs us to produce it.

I think the argument has been made very well today about what it costs to produce that particular product. I am wondering if anybody has ever given any thought to what goes into that cost of production. Again, I go back: In the production of a raw product, you are subject to the whims of the consumer and the whims of government.

You are subject to the whims of the processor; you are also subject to the whims of government; you are also subject to the whims of retailers in the normal process of things and to the whims of government. Government is involved every step of the way.

We in Montana have dealt with this milk issue for our dairy producers in what I think is a very sound way. It may be the model of the future, but we have a milk control board. Of the consumer dollar, so much goes to the distributor, so much goes to the processor, and so much goes to the producer, and they agree on those prices. No matter where you live, you pay the same for a gallon of milk, whether you have it delivered to your doorstep fresh every morning or you drive down to the store and pick it up.

That is not what we are talking about today. We are talking about a pay diversion that has been recommended in this legislation. That is voluntary, nothing mandatory about it, and I understand that. The best figure we can get is it would take 70,000 head of cattle above the average to even make a dent in lowering the production. I do not know how many people who are standing on this floor who are in charge of making policy for this country have ever sat in an auction market and seen a program go into effect in Montana, sit in an auction market and see cow prices absolutely go through the floor, $5 to $7 a hundredweight on butcher cows, in 15 minutes through the auction, rattling right through there.

There are those who would say that it had a very short life, the quiver in that market went down, it did not last very long. Let me tell my colleagues, it lasted for a full year for those who had livestock on the market that day. Because in this business, we do not get paid by the month, we get paid whenever we sell our product, which is usually once, maybe twice, a year. You take $7 a hundredweight off a cow that weighs from 1,000 to 1,400 pounds and you have taken $70 a head to $120 a head off that animal in 15 minutes. The salvage value on butcher cows is as much a part of the management and the overall economic health of that ranch as is anything else. I imagine with our dairy farmers that is true, too.

What is the salvage of a cow once she has outlived her usefulness as a producer on the farm? Twenty thousand a month does not sound like much, but they want to get the annual surplus down under 4.5 billion pounds a year. If we do not hit the 4.5 billion and, say, production would go to 6 billion, the assessment against the milk producers to pay for this program would be refunded to whom? The dairy producer, 30 to 40 cents a hundredweight over a year's time, maybe 2 years' time. Say they go over 6 billion. And that is the USDA's penalty for being wrong. The USDA does not own any cattle. They are on the farms. If I was a dairy producer sitting out there and I could see 30 to 40 cents a hundredweight coming back to me after 2 years, I would make sure that they were wrong. My production would go up. No. 1, I am going to get paid another $1 a hundredweight to produce, plus at the end of a specific time, I am going to get maybe 30 to 40 cents on top of that.

I do not think that is being very fair with the taxpayers of this country. It sure is not fair to the dairy producer once it is seen and evaluated and it is done away with and all at once he says, Government has changed their mind, the policymakers said it had to go, and the rug is pulled out from under him. Not a very well thought out policy.

That is the meaning of it. The impact on the beef producers and the red meat production will be substantial. There will be impact because anybody who has done business with those people who process cattle or livestock will tell you that the real market does not mean much, but if the psychology is on your side, that is when you use it, and that is the tool that we as producers have against those who process our product.

The psychology in the market is what moves it. I have heard a lot of people say that you buy on facts, but you sell on emotions. And it is true. That is the real world. I do not know how many people who are involved in policymaking have actually seen this happen. I have. My route to this body is a little bit different than some folks who stand here and try to think on the policy, how it affects the business of a farmer. But we make these decisions at the cost of another segment of agriculture, and that is not fair. We have seen the psychology in the cattle market go down.

If you want to see or hear some great figures, you realize in 1940, we had 133 million head of cattle in this country. When the inventory is taken in January, we will have about 99 million head of cattle. And do you realize that that is a 30-, 35-percent decrease in numbers, but we are only 2 percent down in total red meat production? Which means our beef industry has done a pretty good job of becoming more efficient, not only with feeding and the kind of animals that they are breeding and the kind of animals that are going into the feedlot.

So what does it do? It affects all of the management and the management mix not only on the dairies of this Nation, but it also affects the management marketing practices, the management mix of the beef producer. I do not think either one of those segments deserve that. It is just as hard to make a living in the beef business as it is to make a living in the dairy business. I think we milked cows at one time. I am not sure milk did not pay for the old farm down in northwest Missouri. It is a tough way to make a living. So we know what it is like. Cows do not take Saturdays and Sundays off, Christmas, New Year's Day, and those things. The hours are the same; procurement of feed, investment in equipment and material, but still with some diversity.

But let us think about what we have done in order to hurt this dairyman more than anything else. Every time we talk about livestock, we talk about environment. How many rules and regulations have we passed out of this body that had a direct effect on how we manage our land and water and, yes, the environment in which we can handle livestock?

Every one of those rules and regulations cost money. The Government did not pay for it. It just did not come out of the air. The producer had to pay for it. When he pays for that, that adds to his cost of production. He cannot go to the marketplace and say, "OK, I put in a new milking parlor and I invested in some higher producing heifers. I have them on line and in production, and it cost me so much money, and now I must have more for my end product." He cannot do that because you know what that processor is going to say? "Big deal, milk is only $2.13 cents for a gallon. That is all I can get for it at the grocery store." So I cannot give you any more for the raw product. I can pay you a little more if it has different qualities to the milk, butterfat and this type thing. But I cannot pay you any more for the raw product.

General Electric, Westinghouse, big corporations, they say we have saturated the market on toasters and so we are not going to make any toasters next month. So they lay off people and they slow down the supply line until the market comes back to where they can have a lever in the market because they can control production. But on the farms and ranches of America, we just cannot shift gears and turn it off next Monday morning; and then the next Monday we just cannot shift gears and turn it on, because the plans to make a farm or ranch work are 2 and 3 years way out on the bench on how we buy, how we sell, the numbers we keep, the money it takes to manage our farms and our ranches. So it is not just like a spigot. You just cannot turn it on; you just cannot turn it off.

That is why this is bad policy, because it changes everything for the larger segment of the business called agriculture. Sure, feed producers, supplement suppliers, small towns have to retool because it is turned off or it is turned up.

We can say that the CRP program is the main thing, the conservation setaside is the most devastating thing that ever happened to our smaller towns. They set aside acres and nothing happened. It takes too much machinery to operate them. The farmer could bid his land into acres, the Government pays him for not producing and he goes onto CB&M rotation.

I would work very hard as a diary producer to make sure that this program failed because at the end of the year if we are over 6 billion pounds in surplus—and that has been the purchases by the CCC—then this assessment that we have assessed them on, this is returned to the producer.

Mr. President, I would also have some comments with regard to the WIC Program, of which I am very supportive. I was a county commissioner. No matter what we do in the Senate, the men in the trenches or the women in the trenches of this country called county commissioners are the ones who finally deliver the services. They are administered under county programs as predescribed by this body.

If you put a cap on WIC, which does more good for more people in our country at this time than probably any other single program as far as nutrition, concern for women, infants and children—tremendous program—but if you say they can only pay so much for milk, does the processor have to sell them the milk? It is a free market system. You have capped their ability to procure what they need for the people that they serve.

And if it stays at that level, then we are locked into paying a support price on a product forever the market will not go up because of the psychology in the market. I cannot emphasize that too much. Once the psychology is in the market, it is there, and it takes its toll to the producer and, might I add, to consumer.

So policy has to be that we step back and really evaluate what we are doing.

This is bad policy, not well thought out in its effect upon the farm and ranch communities across America. And, yes, our policy should be that this country should enjoy the same security from hunger, for shelter, for something to wear every day. I think some of our policies, most of our policies ensure that the man who can make a farm and ranch tick and go are designed that way. That gives us that little insurance policy that we do not have a shortage in food. But this disrupts all of that.

So the impact would be greatly felt by both ends with a lot of players in the middle, but they get to say very little.

Mr. President, I would add that should this amendment be successfully added to the supplemental, I have an amendment that I would offer to it. I think we, as policy members, must really think about what we are doing to the agricultural producers—not just the dairymen—across this Nation.

I thank the Chair. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. CHAFEE addressed the Chair.

Mr. LEAHY. Mr. President, I see the Senator from Rhode Island on the floor. I will yield to him in just a minute or so.

Mr. President, we have heard so much on this floor in opposition to this amendment that I sometimes wonder if people are talking about the same issue.

We are asked, why are we adding it to this bill? I will tell you why. Because several Senators objected to bringing it up separately. That is why. We have this sort of innocent look: Why is it on this bill? Because we tried to bring it up as a separate item and it was objected to.

I want this to go into law. I do not want to go through this exercise so we can all go home and say, "We gave wonderful speeches for you men and women on the farm; unfortunately, we do not have anything to bring to you.'' I want to pass this bill.

Look at this chart of the milk price index. People want to see what is happening. Here is what is happening on the farms. Here is what has happened since December 1984, and it has gone down to here. And we are saying we want to protect the consumers. Who is protecting the farmer? They are consumers also.

The fact is the price stays right up here for the processor, it stays right up here at the store, but it is down here for the farmers. When I go grocery shopping with my family, when I go in the grocery stores in Vermont or in Washington or in Virginia or anywhere else, the price of milk is still up there. It is still the same as it was months ago. But the farmer is getting an awful lot less.

What we are trying to do is give more to the farmer without costing the taxpayers. This amendment does not cost the taxpayers anything. I do not hear people objecting to the fact that there is $1.57 billion in here for crop farmers. I do not hear anybody objecting to that. That is real money. That is real money.

The fact is we are trying to change this program, without costing the taxpayers any money, to keep dairy farmers from going out of business. The fact remains that the dairy program has been cut substantially by hundreds of millions of dollars. But we should at least let dairy farmers make a living.

You know, some of the same people that objected to giving help to the dairy farmers, even though it is not going to cost the taxpayers any money, are the same ones that are going to support $1.75 billion for other crops. If you want to be consistent and object to all farm programs, do so. But do not play games. Do not say, well, we will object only for dairy farmers but we will throw those huge subsidies out for others.

Also, do not come on to this floor and tell us how wonderful it is that the administration has just given a $4 billion gift of foreign aid to the Soviet Union that the taxpayers are going to pay for. We can help out those poor farmers in the Soviet Union. We can give them a taxpayers' gift, even though it is going to raise our taxes and the price of food in this country—but you say do not do anything to help our own farmers. Do not do anything to help the men and women on our own farms, whether it is in Vermont, Wisconsin, Minnesota, or anywhere else.

Let us get some of these things in perspective. If we are going to help the farmers of Russia and Eastern Europe, with our tax dollars, let us do something here at home.

I yield to the Senator from Rhode Island. I would like to hear his views. Thank you.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Vermont yield? The Senator from Rhode Island.

Mr CHAFEE. Mr. President, I had reserved 5 minutes. I do not have to have it yielded to me. I am entitled to it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I am disappointed in the last barrage from the Senator from Vermont, Mr. President. We can go through this business of raising the hobgoblin of help to the Soviet Union, help to anybody else, and therefore that entitles us to give away any sum of money we want domestically.

I noticed that when the Senator from Vermont loosed his barrage against helping the Soviet Union, he did not raise anything about $4 billion to Israel, for example. He did not comment upon the $10 billion guarantee to Israel, or what we are doing elsewhere in foreign aid.

So if we are going to talk foreign aid, let us just not concentrate on the Soviet Union and say that because we are going to do something for the Soviet Union that entitles us to embark on any giveaway program that we can conceive.

Mr. President, there has been much talk this morning about the dairy amendment having been adopted in March by 60 to 40, so therefore, this is a foregone conclusion. I do not think that is necessarily so.

I would like to point out that after the vote on that amendment in March, there are a whole series of editorials that appeared, that were entitled, for example, in the New York Times, "Milking Poor Families; "or in the Washington Post, "The Senate: Wrong on Milk; "or in the Providence Journal, from my home State, "Green Mountain Muddle."

So I do not think we should consider this a forgone matter. I hope that more attention will be called to the effect that the adoption of such an amendment would have upon poor families in the United States of America.

I particularly would like to concentrate if I might on the cost of what this amendment will cost to nutrition programs over the next 4 years.

There is not a Senator on this floor that I suspect is not in favor of food stamps, is not in favor of child nutrition programs, is not in favor of WIC, is not in favor of special milk programs. The cost to all of those programs which we are always seeking money for, we always ask for additional money, we always fall short, the cost of these programs if this amendment is approved will go up over the next 4 years by nearly $1 billion $928 million.

Every year I have worked in tandem with Senator DECONCINI to increase the WIC money. My colleagues have now come to expect us to lobby them for increased funds for WIC. This year, the Senators responded overwhelmingly, and 86 of our colleagues, nearly nine-tenths of the Senate, joined us in writing to the Appropriations Committee to urge a boost in WIC funding.

So we achieved something. We did not get it all. But we got some increases. Now what we gave with one hand we are apparently proposing here to take away with the other hand by increasing the cost to the WIC Program and thus providing less of the WIC funds, making less of the WIC funds available for poor women in our country.

That is why the National Association of WIC Directors have grave concerns about this amendment. I know the sponsor of this amendment has noted that he will offer an amendment later on to help protect WIC. I think we all ought to look very closely at that amendment to see if it really accomplishes the goal of protecting WIC, the Women and Infants Nutrition Program.

I would note that even if that fix takes place, and we are not sure that it will, I suspect that it will not, it will not help the other nutrition programs that I just mentioned. Clearly, it does not help the consumers.

CBO estimates that under this amendment there will be an increase of 18 cents per gallon over the current $2.50. That is about a 7-percent increase. Some may say that is insignificant. Well, it is not insignificant to the poor families that are trying to purchase milk, trying to keep body and soul together.

Under the Leahy WIC amendment that is going to be proposed, as best we can ascertain as of now, the result of it will be to cause grocers to quit the WIC Program. And in another way it will hurt WIC because it will only protect milk; that is, the direct sale of liquid milk. It will not deal with cheese and infant formulas that of course stem from the original cost of the milk.

So it will only be a partial remedy. It will not be a total remedy.

I have sympathy for the dairy producers. We have some in our State. I am anxious for them to make a living. It is important that they do that because dairy farmers are important, in a whole host of ways. But I am convinced that we have to build into this amendment some real protection for the WIC Program, and until that is made possible I certainly cannot support it.

Mr. President, I ask unanimous consent that these editorials that I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 21, 1991]

MILKING POOR FAMILIES

What's one of the first things you'd do if you wanted to devastate poor families with young children? Raise milk prices. That's exactly what the Senate has approved, without hearings, as an amendment to an emergency appropriations bill. The provision would raise the price of whole milk by as much as 26 cents per gallon and low-fat milk by as much as 40 cents per gallon.

The sponsors, led by Senator Patrick Leahy of Vermont, contend that higher milk prices are needed to save dairy farmers victimized by a 25 percent drop in prices during the past year. The plight of dairy farmers is real, and some may go broke if milk prices don't recover. But their plight is not unique; millions of other Americans have been victimized by recession. Besides, if Congress wants to bail out dairy farmers, there are a lot of better ways than to take milk away from poor children.

The sponsors say their bill won't increase consumer prices very much because it affects only the price paid to dairy farmers. The basis for this claim is that because milk processors and retailers have successfully avoided passing plummeting raw milk prices on to consumers, they will now charitably choose to absorb the new price hikes. That's a novel but unconvincing assumption. The amendment would also raise the cost of food stamps and other Federal programs in ways the sponsors only partially recognize and offset.

It's no mystery why Senator Leahy wants to help Vermont dairy farmers with higher prices, whose origin few consumers will understand, rather than with higher taxes, which everyone will understand. What's odd is why 59 other senators, many from non-dairy states, went along with this outrageous affront to low-income families.

[From the Washington Post, Mar. 21, 1991]

The Senate: Wrong on Milk

The catch-all money bill now making its way through Congress is supposed to be confined to "dire emergency supplemental appropriations." But this is a joke. The Senate has turned its version into a vehicle for increasing farm price supports. An amendment passed 60 to 40 Tuesday evening would lift the incomes of both wheat and dairy farmers. The wheat provisions are bad enough—further export subsidies to reduce the price of U.S. wheat abroad after the government has already paid to raise it here at home—but the dairy provisions are the worst.

They would raise the price to the farmer of the milk you buy in the supermarket by roughly 25 percent. Proponents, led by Agriculture Committee Chairman Patrick Leahy of the dairy state of Vermont, say the large increase is justified because dairy prices have fallen a like amount in recent months and without the income, parts of the industry won't survive. At the same time they offer assurances that only part of the increase would be passed along to consumers (the rest would be absorbed by middlemen) and that the provisions would not affect the taxpayer or the deficit at all.

It may be true that in the short run part of the price increase would be absorbed and the budget effects would be minimal. A higher price would nonetheless be regressive, the more so because it would not just pluck money out of the budgets of poor people but could reduce the purchasing power of the government's supplemental feeding program for lower-income pregnant women, infants and children, an event Sen. Leahy was working to avoid.

The lasting damage would not be an income transfer; it would be structural. Dairy price supports used to be too high in this country. The 1985 farm bill put them on a more rational basis. The secretary of agriculture was required to adjust them every year—down to discourage producers if it seemed that production might otherwise be too high, up to bring forth more milk if likely production seemed too low. The mechanism worked—but in last year's farm bill Congress saw fit to change it so that supports can't fall beneath a certain floor that happens to be where they are today.

If that elicits a costly surplus for the government to buy, the legislation envisions a shift to production or marketing controls. A farmer will need the equivalent of a license, if not to milk a cow, at least to market the milk. The price increase the Senate would enact makes such an unwieldy result all the more likely. The price of milk is already a federal artifact too far removed from the useful reminders of supply and demand. This would make it more so. The administration is trying in the world agricultural trade talks to reduce the costly role of governments in agriculture. The Senate proposes to head in the opposite and wrong direction.

[From the Providence Journal, Mar. 22, 1991]

Green Mountain Muddle

Sen. Patrick Leahy of Vermont is a man of impressive flexibility. With much fanfare, the Senator has introduced a bill to crack down on alleged anti-competitive practices by three big drug companies that make most of the infant formula sold in the United States. And who could disagree with strong action if, in fact, the companies are engaging in these activities? But read on for a more ambiguous performance by the Senator.

First, what appears to be his principled side: Mr. Leahy, the Democratic chairman of the Committee on Agriculture, Nutrition and Forestry, says that questionable bidding practices by these concerns (Ross Laboratories, Mead Johnson and Wyeth-Ayerst) cost taxpayers $168 million a year, and keep 270,000 poor women, infants and other children off the government's highly effective WIC (Women, Infants and Children) nutrition program, which buys a third of all infant formula sold in the country.

The Senator asserts that the companies may be engaging in price-fixing, losing the government millions of dollars that could be going into the WIC program. The companies have repeatedly denied these allegations.

If the charges turn out to be true—and the Federal Trade Commission, among others, is investigating them—then the practices should be stopped immediately, and the perpetrators punished. The WIC program does such good work that any weakening of its ability to help the poor is distressing.

But now the Senator's more practical side: While Mr. Leahy has been quite properly looking after the interests of the poor, he has also been looking after the interests of the dairy industry, which might not be entirely the same. The Senator has sponsored a measure to raise the price of whole milk by as much as 28 cents a gallon, and low-fat milk as much as 40 cents a gallon.

It's hard to think of any measure that would hurt poor families with young children more—but Senator Leahy, in this instance, seems most concerned with pleasing a major economic force in his lovely state (and lovely, it is true, partly because of the presence of this force): The dairy industry.

Now, it is true that dairy farmers are suffering from a recent sharp drop in the price of milk. But the way to deal with that is not through gouging the consumer, and especially poor consumers. Other subsidies to dairymen should be considered instead. Meanwhile, a larger problem—that there's no economic justification for America to have as many dairy farmers as it has—will, it seems certain, be circumvented as skillfully by Senator Leahy as he has navigated the contradiction described above.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, there are only two people who had reserved time on this amendment, the Senator from Indiana and myself, I advise the Senator from Rhode Island. I will, because it would very close to the time consent of the Senator from Indiana, withhold until my time, to address some of the statements made by the Senator from Rhode Island.

I am glad to hear that he also is a supporter of WIC. As one who has carried the WIC bill every year since I have been here, I will be glad to have his help any time he would like to come and join us in getting supporters for it.

I am sure he is concerned about the few dairy farmers in his State. I did not hear objections from him when the banking bill went through, whatever effect that might have to help other interests in his State, but everybody has to decide what is important.

I yield the floor.

Mr. DIXION addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. If the debate has concluded, I have waited here patiently. I want to talk on another subject. In all fairness, if anybody wants to talk further on the dairy issue before the vote, I will wait until after the vote.

Mr. LUGAR. If the Senator will yield, at 1:20, the Senator from Indiana is to be recognized for 5 minutes for a presentation.

Mr. DIXON. Then, of course, I would not proceed at this time.

Mr. SHELBY. I rise today in support of the Leahy amendment to the DIRE Emergency Supplemental Appropriations Act. This legislation comes before the Senate at a crucial time, in the last days of this session of the 102d congress. Yet the timing of this bill is all the more crucial for America's family farms.

Mr. President, family dairy farms in our country have suffered from a 25-percent reduction in prices over the last several months. While many segments of the economy are feeling the effects of the current recession, few industries are suffering to the extent of the agricultural community.

The debate over dairy legislation began in the Senate this spring as several bills were introduced. While each of these efforts had the same goal—the preservation of the family dairy farm—reaching a consensus has been difficult. Moreover, legislative efforts on behalf of the dairy producers have been trained by veto threats from the bush administration.

The Senate Agriculture Committee has reported a bill that, I believe, represents the best interests of the dairy producers and the consumers at large. I applaud the efforts of chairman LEAHY and his colleagues on the committee. This bill provides for a reasonable price support level as well as voluntary diversion that is more acceptable to all parties involved.

This legislation will also address another fundamental need, Mr. President, disaster relief. America's farmers suffered extensive losses in 1990 and 1991 due to both drought and excessive rain. My home State of Alabama was adversely affected by both as well. It is not enough for congress to have good intentions, as past efforts to provide disaster assistance have failed to receive funding. The Senate must act today to provide this aid.

The integrity of the American family farm is assailed on many fronts today. The adverse economic climate has created havoc on our Nation's farms while ongoing trade negotiations could result in massive imports of subsidized agricultural goods from other countries. Many American farms are facing a life or death situation. Without assistance, a great many farms will go under.

No one will argue that disaster aid packages are expensive. However, as a Senator from a State that depends heavily on its agriculture industry, I, along with many of my colleagues in the Senate, know that losing our agriculture base will cause severe economic consequences.

I have historically supported disaster aid packages for farmers and such packages should not be partisan issues. The United States of America is the breadbasket of the world. We cannot allow for the destruction of our agricultural community.

Mr. President, I ask that my colleagues in the senate join me in supporting the Leahy amendment to the Dire Emergency Supplemental Appropriations Act.

Thank you, Mr. President.

Mr. WOFFORD. Mr. President, I rise today to encourage my colleagues to support the Leahy amendment to increase the support price for milk to $11.10 with a producer financed diversion program.

For Pennsylvania dairy farmers who are trying to deal with low milk prices, the drought further complicated their financial situation. Several dairy farmers have sent me copies of their milk check stubs to illustrate the decline in milk prices during the past year. One dairy farmer from Wyoming County produced 81,257 pounds of milk in July 1990 at a net value of $7,182.01. One year later, in June 1991 sales of 99,351 pounds had a value of $6,291.11. These figures speak for themselves. This farmer produced nearly 18,000 pounds more milk and received $1,000 less net income for the month. Many farmers have been forced to produce more milk to make up the lost income.

The producer financed surplus reduction program gets at the heart of the perceived problem in the dairy industry—over production. The amendment will allow a farmer to reduce production by entering into a contract with the Secretary of Agriculture. This is self-help program for dairy farmers. They are taking responsibility for their industry and allows producers who are frustrated with their industry to do something about it.

I understand why they are frustrated. A Government Accounting Office report, in August 1991, found that prices received by dairy farmers declined 25 percent and retail prices paid by consumers declined only 5 percent.

Dairy farmers would feel differently if the prices they pay for machinery, labor, feed, health care, et cetera, declined accordingly, but this isn't the case.

To add insult to injury, the administration may allow greater dairy imports under the Generalized System of Preferences [GSP] Program. This at a time when our own producers are struggling with low prices and surpluses. Why import more products when we can't market our own?

The GSP was intended to give preferential trade treatment to developing countries. It was the intent of the GSP Program from the beginning that economic advantages would not be offered to developing countries at the expense of established U.S. industry.

I think it's time we look right here at home for preferential treatment by granting our own productive farmers the same benefits as our foreign neighbors. We should be strengthening our agricultural exports, not giving up a greater share of domestic markets.

Mr. President, I urge my colleagues to support the Leahy amendment to the dire emergency bill.

Mr. LUGAR. Mr. President, the debate today is about a $1 increase in price support for milk and a paid diversion program. The proponents of this amendment have hoped that this would bring about higher income for dairy producers in this country. It is arguable whether that will be the case or not.

I argue on behalf of the opponents of the amendment that what an increase is likely to bring about is more production of milk. That action is likely to result in lower prices and the same crisis that impelled this debate.

In short, we are back to the dairy bill again, because of signals given to dairy producers leading them to overproduce in 1990, at a time when prices were much higher, and that overproduction led to a fall in price down to the support level of $10.10.

Ideally, we should leave the farm bill alone. It was a grand compromise by many interests. We tried to take into consideration supply and demand, as well as all of the controls on dairy and other producers in our country. I simply hope that that will be the final product of the debate; namely, that the price increases which are now occurring for dairy farmers in the marketplace will continue.

We have already seen prices come from $10.10 to a level above $12 and, in October, to a national average of $13.20. In my judgment, this amendment will hurt dairy farmers and will lead to overproduction and a fall of prices again.

In addition to that, very quickly, the amendment we have today will lead to a cost to consumers. I have estimated those costs are likely to be $1.5 billion. That is a hidden tax on citizens that we would not tolerate if it were offered in a straightforward way.

Mr. President, I am advised by USDA that, after analyzing the Leahy amendment this morning, they believe it will increase Federal spending $100 million in fiscal year 1992. That is the year we are now in, Mr. President—an increase of $100 million, because of the dollar limitation on assessment collections. The USDA projects the need for an additional $100 million in collections. That is a serious problem with regard to our current budget situation, quite apart from the $1.5 billion of hidden taxes that are implied by this amendment.

Senator LEAHY has already admitted there will be an impact on the Women, Infants, and Children Program and announced he will offer an amendment attempting to fix prices in grocery stores. He will try to remedy the injury by creating another injury and distortion in our markets.

That would be, I think, a catastrophe, to get involved now in setting prices in retail stores, even with the strong argument that somehow retail prices for milk ought to be managed in the same way that we are attempting to manage producer prices in this amendment.

Finally, I just have to say that the argument that somehow or other we are not taking care of our own—a very familiar argument heard in the politics of this country, particularly in the last 60 days—is a thoroughly misplaced statement in this situation. Whatever argument one has on credits to the Soviet Union, as a matter of fact, these are loans that we anticipate will be repaid. The United States has found the Soviet Union to be a good customer, with $20 billion of agriculture exports going to the Soviet Union. Ask any farmer around the country, and they are very much inclined to support those credit sales and the collections of money from the Soviets to pay for it.

The additional $1.5 billion recently is on top of $2.5 billion of credits that are already out there. Those credits were used to buy American corn, soybeans and, soybean meal—not money for the Soviets, but money for American farmers. Some on the Agriculture Committee may argue that because there have been sales of corn from Indiana, somehow or other that means we ought to have $1 more for milk today in Vermont. That seems shortsighted. Particularly shortsighted in view of the fact that all of us debated all commodity supports when we passed the 1990 farm bill; and now dairy is asking for differential treatment. In my judgment, it is not in the interest of the dairy industry. It is clearly not in the interest of the taxpayers, it is not in the interest of consumers, or in the interest of nutrition programs.

For that reason, the amendment should be defeated.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I yield 1 minute of my 5 minutes to Senator JEFFORDS.

Mr. JEFFORDS. Mr. President, I want to make a couple of comments. We have had a lot of discussion—and it is difficult for my colleagues to understand—but there are certain things that cannot be misunderstood; that is, the facts.

I want again to go to the chart which demonstrates the success of the dairy program over the last 10 years. As I pointed out earlier, if the price support in 1981 had kept up with the CPI, the present price support price would be $19.63. Where is it? At $10.10. We would only raise it to $11.10. Thus, it would be lower than what the CPI would have brought it to.

If you compare a deflated figure, it is half of what our farmers are getting. Look at what that had done, and we should do that not only for the consumers but for WIC participants. Probably 20 percent or more people that are on the WIC Program because of the high productivity of your dairy farmers and the decreasing costs. Probably as much as 50 percent of the people on WIC would not have been there if we had kept the same cost of the WIC Program. The dairy farmers are the heroes of the WIC Program, of the feeding programs, and of our consumers.

We are trying to maintain that high productivity, maintain the best agricultural program we have. They did not get any special treatment. Others got as good or better than dairy farmers did in the 1990 farm bill. We are trying to keep things where they are and give the benefits to the citizens of this tremendous, well-run program.

Mr. WALLOP. Mr. President, I am voting against this dairy diversion amendment. Over 1 million families with beef cattle operations are deeply and rightly concerned about the pending dairy and disaster assistance amendment being imposed on this emergency supplemental legislation today. Henry Wadsworth Longfellow once said, "We judge ourselves by what we feel capable of doing, while others judge us by what we have already done."

I am concerned about the plight of the dairy industry and interested in reaching an agreement which is appropriately beneficial for both the beef and dairy industries. However, as we debate this dairy amendment, distressing thoughts come to mind of the last Dairy Diversion Program of 1983. The diversion program eventually led to the failed Dairy Termination Program of 1985, when the beef market was forced to record-low levels. Thousands of hard working families in the beef industry were unnecessarily driven out of their business by the Government.

We are reminded of that other time so similar to this time, when Congress proposed a dairy diversion program requiring the Government to subsidize dairy farmers who agreed to freeze or reduce dairy production. Under dairy diversion provisions of this dairy and disaster assistance amendment, farmers who do not agree to freeze or reduce milk production would be assessed a mandatory fee. In principle, if the dairy industry has a government-subsidized dairy diversion program, the Government takes decisions for when dairy producers should sell their cattle assets on to the beef market away from those dairy producers, and the beef industry becomes unfairly influenced by Government directives—Government by its nature is incapable of dealing with more than one devil at a time.

As a rancher and long-time proponent of markets free from Government mismanagement, I remember clearly the legislation in 1983. It hit my socks too. Remember 1985, when Congress was no longer satisfied with a dairy diversion program and enacted the dairy termination program to further control dairy supply/demand levels. Senators heard speeches similar to the ones you're hearing today quoting studies supporting the Government's further involvement in the beef market. After pondering the rosy picture being painted of a Government-subsidized dairy program designed to market dairy cattle onto the beef market in an orderly way, Congress made a grave mistake: it enacted it. For a variety of uncontrollable reasons, business was not usual in the beef industry. The beef industry was severely damaged. As a result of the dairy termination program, and an economically unaware and an unpredictable Department of Agriculture, over a million head of cattle were driven on to the beef market. Beef inventories were reduced to a level not seen since 1962. Congress was judged by what we had done, and we were rightfully ashamed.

Unfortunately, when Congress finally came back to its senses and eliminated the termination program, granting back to the beef industry its present market free from Government intrusion, extensive damage had already been done to communities and businesses nationwide. Hundreds of families with beef operations were bankrupted and thousands more damaged by their own Government.

I had the privileged opportunity to speak in my home State of Wyoming a few weeks ago about a very important agricultural matter. My friend from Vermont, Senator JEFFORDS, made a special effort to travel to my home State to meet cattle ranchers and to see the challenges on their ranches. And I thank him for that effort. Perhaps, as have I, he spoke with strong ranchers expressing painful emotion, Mr. President, as they described the devastating effects of the failed dairy termination program on the beef market only 5 years ago. We have been judged by what we have done. We must expect to be judged by what we will do today and tomorrow.

Mr. President, no segment of agriculture should either profit from another segment's adversity, nor be the cause of that adversity. I empathize with the plight of the dairy industry. I hope a solution undamaging to the beef industry can be reached which appropriately benefits ailing dairy farmers. Nevertheless, it is of the utmost importance that the beef industry's free-market system is neither altered nor damaged.

Even with the proposed dairy diversion compromise, I believe a potential problem would remain if Congress enacts this legislation. No real caps on the number of dairy cattle to be pushed onto the beef market are included in this legislation. I believe the dairy industry has a recent history of considerable supply/demand fluctuations which cannot be completely controlled by any system of government. For example, in 1989 the dairy industry experienced large price increases due to a severe drought the year before. That drought increased dairy prices in 1989 and led to a dramatic increase in dairy production/supplies in 1990. What will happen if we enact a Government-subsidized dairy diversion program today, and it becomes necessary for many more dairy farmers to enter into dairy cattle diversion contracts next year? The answer is that Government's involvement in the beef industry would be never-ending.

Once again, under the logic of this legislation, if it's necessary to continue increasing the dairy support price, it is equally necessary to continue increasing the number of dairy diversion contracts. Good and hard working folks in the dairy industry will tell you that support prices must be considerably higher than even the proposed level being discussed today for many dairy producers to stay in business. If Congress adopts a philosophy today protecting most dairy producers from going out of business due to natural supply/demand dairy market fluctuations at the expense of the beef industry, the trend would be for Congress to continue increasing the support price and increasing the number of dairy diversion contracts entered into each year. It would be most unfortunate if Congress enacts this legislation inadvertently making the beef industry second-guess dairy diversion programs each year.

With all due respect to my distinguished friends and colleagues representing large dairy constituencies, I ask this important question: Is the beef industry assured by every Senator supporting this dairy legislation that the American people will not be asked to support future legislation—or regulation—next year or any year to increase the dairy diversion program or to institute a costly dairy buyout program? Of course the answer to that question is "no," Mr. President. I understand there is a lot of dissatisfaction in the dairy industry regarding a possible compromise in the price support level. I hear the dairy industry opposes a support price lower than $11.10.

Mr. President, even if this legislation passes with some sort of second-degree amendment further decreasing the potential impact of a dairy diversion program on the beef market, this Senator anticipates that the beef industry can unfortunately expect future proposals to further increase the dairy support price. Of course, if the support price is increased, it follows that the number of dairy diversion contracts necessary would also increase.

While both the beef industry and the dairy industry have common business interests, they have very different philosophies about Government's appropriate role in the marketplace. I believe we must learn from our mistakes by not traveling down the same misguided path again. This amendment does not really limit the number of dairy cattle which may be slaughtered from the proposed dairy diversion program.

For the benefit of the beef industry and thousands of communities nationwide involved in the beef industry, I would urge careful evaluation of this dairy diversion legislation. Sure there must be a better alternative to this important dairy issue which does not involve potential damage to the beef industry. Thank you, Mr. President.

Mr. SPECTER. Mr. President, I support the amendment offered here today by my colleague Senator LEAHY to the supplemental appropriations bill for fiscal year 1992 to assist our Nation's dairy farmers.

The dairy industry in Pennsylvania has suffered significant losses since last year and this legislation will assist these producers in maintaining their livelihood. I believe it is crucial that the Senate act prior to adjournment on this legislation so that as the industry approaches spring a program will be in place that will effectively regulate production and price levels to allow the producer a fair market price.

Dairy production and processing is a major part of Pennsylvania's economy. With Pennsylvania ranking fifth in the Nation for milk production, it produces annually about 10 billion pounds of milk worth approximately $1.3 billion to the Commonwealth's economy. The Pennsylvania industry boasts nearly 13,200 dairy farmers with 698,000 cows in production. In the past year I have visited personally on several occasions with the dairy producers of Pennsylvania to hear their concerns on the dramatic decline in the price paid for their hard work. Their voices were united in that the current program needs reform and that without assistance many farmers will be out of business.

As I have stated in the past, the current dairy program needs revision. It has resulted in producers having little or no control over the milk prices. In turn, the price reductions which occurred earlier this year resulted in many producers having to incur losses. This matter is further exacerbated at a time when the operating and production costs have been on the rise. The U.S. Department of Agriculture estimates that the price of milk paid to producers in 1991 will be below the costs of production. It is estimated that earlier this year in some areas of the Commonwealth the average dairy farmer was paid a market price that was $4 less than the cost of production. Any good businessperson will recognize that when the cost of production is greater than the price you are paid for you commodity, you will eventually be forced out of business. Our Nation cannot afford to lose any more of its vital rural population. That is why this legislation is necessary at this time.

The amendment by Senator LEAHY provides an increase in dairy support price paid to producers from the current level of $10.10 per hundredweight to $11.10 per hundredweight. The price support floor as established in 1949 is intended to protect farmers from price declines that could force them out of business. The price reductions and production cost increases Pennsylvania farmers experienced last summer is indicative that the current price support is not doing the job.

Further, to balance the increased price support the amendment directs the Secretary to operate and manage a voluntary surplus reductions program. This program is designed to reduce production to avoid surpluses in the market in order to obtain a stable, reliable price for both the consumer and the producer. A supply control program will help prevent catastrophic declines in the price of milk by managing amounts produced. To control the costs associated with the dairy program, the industry itself will pay for the voluntary surplus reduction program.

I understand the concerns expressed by cattle producers regarding this proposal. It is my belief that if we do not act on this legislations we will continue to experience price instability and drastic loss of dairy producers. I further believe that continued loss of producers would only result in greater numbers of dairy cows culled to market through foreclosures and sales. The amendment by Senator LEAHY does contain mechanisms to minimize the negative effect on the livestock industry. It directs the Secretary, when implementing the surplus reduction program, to stagger and limit the number of contracts between USDA and participating producers.

Price stability is a goal we must strive for in the dairy industry. Price instability has been found to drive producers from the farm and damages the ability of the market to provide a dependable supply of quality milk to consumers. Only through a managed program to control production and price can a stable dairy industry be achieved. While the proposal before us may not be perfect, it represents a culmination of efforts to develop a program that will treat every dairy producer fairly.

I am hopeful that in the long term, with stability in the price of milk through a realistic price support, a production management program and the development of international trade for dairy products, the dairy industry will remain a strong, vibrant industry in Pennsylvania and the Nation.

Mr. LEAHY. Mr. President, my distinguished colleague from Vermont let me borrow this chart.

It shows that 1983, where wheat, corn, and milk were roughly in the same area of support rates. Look where they are now. Wheat and corn up here, milk down here. There is no question where the favored area has been—and it has not been milk, in these farm bills.

In fact, just a few years ago, $2.5 billion was spent on dairy price supports. We made the change to save taxpayers money. I have supported changes to save taxpayers money. Today we spend one-fifth of that on dairy. I would like to see some of the people arguing against this amendment stand up, here, and tell me how many programs they have supported to save taxpayers money like that. Have they done it in the defense bill? No. Have they done it in the foreign aid bill? No. Have they done it anywhere else? No. We have done it here in dairy. The men and women who were dairy farmers sacrificed to try to bring down the budget deficits. Let us not say to them, your reward today is that we are going to throw you off the farm, that we are not going to allow you to continue dairy farming, and being an integral part of rural America.

The fact is, the Congressional Budget Office says that my amendment will save another $24 million. It does not cost. It saves even more money. We have cut the cost of this program by four-fifths. We can save more, but at the same time we can design this in a way that actually works for the dairy farmers.

People seem to be upset when I mention what we are doing in foreign aid. The fact is, when you want to send $4 billion to the Russians to help their farmers and to help their people, it is done just like that, with the snap of a finger.

Let us at least take some steps in this country when we are at the height of a recession, when we are hurting in rural America. Rural America is hurting more than any other part of the country. Let us say, at least, that we can be as generous to our own people, and as helpful to our own people, as we are to all of these other countries to whom we give foreign aid.

I yield the floor.

Mr. President, I yield back the remainder of my time and I ask for the yeas and nays on the second-degree amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—47

Adams
Akaka
Bentsen
Bond
Breaux
Bryan
Burdick
Byrd
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
Dodd
Durenberger
Fowler
Glenn
Gore
Gorton
Grassley
Heflin
Inouye
Jeffords
Kasten
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mitchell
Moynihan
Pressler
Riegle
Rockefeller
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—51

Baucus
Biden
Bingaman
Boren
Bradley
Brown
Bumpers
Burns
Chafee
Coats
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Garn
Graham
Gramm
Hatch
Hatfield
Helms
Hollings
Johnston
Kassebaum
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Robb
Roth
Rudman
Sanford
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Harkin
Kerrey

So the amendment (No. 1394) was rejected.

Mr. LEAHY. Mr. President, I ask unanimous consent that the yeas and nays which are on the underlying amendment be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I thank the Chair.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the first-degree amendment.

The amendment (No. 1393) was rejected.

Mr. LEAHY. Mr. President, I am very saddened by the Senate's rejection of this dairy amendment.

This has been a very tough year for our Nation's dairy farmers. Not only have prices dropped 25 percent between last January and early this year, but the administration has defeated dairy relief legislation three times.

The first time was last March, when the administration killed emergency dairy relief legislation that passed the Senate on a 60-40 vote.

The second time was last July, when White House veto threats derailed mandatory supply management legislation in the House and Senate Agriculture Committees.

The third time was today, when the administration led an all-out lobbying effort to block a support price increase for dairy farmers—a support price increase that passed the Senate Agriculture Committee last month.

The proposed amendment could put an additional $10,000 to $20,000 in the pocket of the average northeast dairy farmer. A northeast farmer participating in this program could have receive an all-milk price of between $13 and $14 per hundredweight. In some parts of the country, farmers would have received more.

I am not optimistic about passing that dairy relief in the future. While the Senate Agriculture Committee could pass our bill again, it has virtually no chance of becoming law unless the administration changes its opposition to it. I do not want to give any of our dairy farmers false hopes by passing a bill in the Senate Agriculture Committee only to have it defeated again by the administration.

In some ways, dairy farmers have more control over their lives than other farmers. They control their co-ops and the co-ops are exempt from the antitrust laws. There is nothing preventing farmer-controlled co-ops from working together and setting a price that is reasonable and will provide farmers with a fair price and an adequate income.

Certainly it would be better to pass national dairy relief legislation. But I do not see how that is possible while the current administration controls the White House. But at some point, if we are going to have any kind of a farm program at all, we ought to ask why this segment has to be singled out the way it has been here.

Rather than work to pass bill after bill, with the White House stopping each one, dairy farmers have no choice but to shift their energies inward to improve their lives. The key for dairy farmers is to organize themselves—locally, regionally, and statewide.

I will do all I can to help farmers achieve that goal.

Mr. President, I was going to next bring up the WIC amendment that I had told my colleagues earlier I was going to attempt to bring up right after this. But I know the distinguished majority leader is on the floor and the distinguished chairman is on the floor.

I ask unanimous consent that I may be able to yield to other Senators without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, I have just completed a meeting with the Speaker, the majority and minority leaders in the House, and the Republican leader of the Senate in an effort to reach an agreement on a process by which we can adjourn prior to Thanksgiving, as has been my objective for several months now. I am pleased to report to the Members of the Senate that the leadership is united in its determination to achieve that objective.

In order to do so, a great deal of work will have to be done between now and next Wednesday. This is an important bill we are now considering, and we have now been on it for almost the entire day up until this point and only one amendment has been disposed of. So it is obvious to both the Republican leader and myself that the Senate will have to be in session tomorrow if we are to have any hope of completing action prior to Thanksgiving.

So, Senators should be prepared for a late Senate session this evening and a session tomorrow. It is my intention, following consultation with the distinguished Republican leader, to proceed to the defense appropriations conference report following completion of this measure. I do not think any of us can at this moment know when this measure will be completed. I have discussed the matter with the chairman of the Appropriations Committee, the manager of the bill, and he has indicated he expects it will be some time because there are a number of amendments, but he and the ranking member and also manager want to proceed this evening. So we are going to proceed. It is my hope that those Senators who have indicated an intention to offer amendments will be prepared to do so and that we will not be subjected to lengthy delays during the day today waiting for Senators to offer amendments. That is never an attractive practice, and I think particularly so as we try to reach our objective of adjournment prior to Thanksgiving. But I want to reaffirm my determination to do that if it is at all possible.

We have to complete action on certain important measures, and we are going to try to accmplish as much of the Nation's important business as we can. And I think if there is any hope of reaching that objective, we will have to be in late tonight and tomorrow.

I would like to yield to the distinguished Republican leader, if I may.

Mr. DOLE. Let me reaffirm what the majority leader just stated. It occurs to me I would rather be in here tomorrow than on Wednesday, because I think, if people are going to be going anywhere for Thanksgiving, they need some traveltime. So I am very optimistic. I have been hoping we could finish tonight. I think we could, for all practical purposes, finish anything with any number of votes on it. We may be down to conference reports by tomorrow evening. And then if some felt like leaving at that time, that would be all right with me, too. We could just leave the leaders here; we could just wrap it up sometime next Tuesday. We would give you a ring.

In any event I think it looks like it is possible now.

Mr. MITCHELL. Yes, it does.

Mr. BIDEN. Mr. President, let me ask a question. I am happy and prepared to and delighted to be in here tomorrow to finish the business. But since all of us are in the same boat where the only thing we know our constituents do not understand is being told we are canceling a commitment we have made to them and give the reason because the Senate is in session and then they pick up the paper the next morning and find out the Senate is not in session and we look like we were not telling the truth—we are going to be in for certain tomorrow; is that correct?

Mr. MITCHELL. Mr. President, if I might respond, there is a natural longing to impose certainty in a situation, to wit, the Senate's operations, in which certainty is inherently impossible. If we finish this bill in the next hour and then we pass the defense appropriations bill in the hour after that and we finish three or four other bills by 6 or 7 o'clock tonight, all of which I think highly unlikely, it would not be my intention to say, well, let us come on in here because I earlier said we have to be here. I think that is not very likely.

I can say that if the Senator receives any such complaint, I will be pleased to field the questions from the people of Delaware.

Mr. BIDEN. Mr. President, I just ask if the leaders would be willing to write me a note. [Laughter.]

Mr. MITCHELL. I just say that I think it is highly unlikely that we will reach the point today that will render it unnecessary to have a session tomorrow.

If I knew that for sure I would say it. I think you better plan on being here, and I will be glad to write any note.

Mr. BYRD. Will the Senator yield to me?

Mr. LEAHY. Certainly.

Mr. BYRD. While we have a good attendance here, I wonder if Senators would indicate if they have amendments. I would like to see how many Senators—

Mr. D'AMATO. Mr. President, I am ready to go. I understand——

Mr. BYRD. Senator D'AMATO has one amendment.

Mr. D'AMATO. Yes; at least one.

Mr. BYRD. Senator NICKLES has one. Who else has amendments? Senator LEAHY has one. Senator LOTT has one. Senator LAUTENBERG has one. Senator CONRAD has one. Senator KENNEDY has one. Any others?

Mr. GORTON. Senator NUNN, I believe, has several.

Mr. BYRD. Senator NUNN has some amendments.

Mr. COATS. I possibly have an amendment. We think it might be accepted and worked out. It is in that category. We are not sure. There is one possible amendment.

Mr. BYRD. Very well, I ask my counterpart who is working with me, Mr. HATFIELD, if he would help on his side. We have the names of those who indicated. If we could find out from them, if during the afternoon we can get a time agreement on their amendments, and if we could also alert our Cloakrooms to have Senators who have amendments to let the managers of the bill know as soon as possible so we have some idea of how many amendments are going to be called up. At some point I would hope that my colleague will join me in moving to table all amendments after a certain point.

These initial amendments that we learn about, I am willing to not move to table them. But as the day wears on, if more and more amendments sprout, then I think we ought to form an alliance here and attempt to table amendments. That will not be for a while, however.

Mr. CHAFEE. Mr. President, I wonder if I might ask, was I to understand the distinguished Senator from Vermont suggesting he offer the same amendment all over again?

Mr. LEAHY. Mr. President, I still have the floor. I cannot imagine any Senator who would actually be so out of tune to think that, and I know the Senator from Rhode Island is not out of tune. So I suspect he was just trying to make a joke.

Mr. CHAFEE. I am not spending my time making jokes. It is just that I understand the suggestion to that effect.

Mr. LEAHY. Then, Mr. President, I suggest the Senator was out of tune, and, the answer is, of course not.

Mr. BYRD. Mr. President, if the Senator will continue to yield.

Mr. LEAHY. I do yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I have one final suggestion, and that is those Senators who have amendments, if they would call them up and speak briefly on them—they can have a vote up or down as far as I am concerned, but in order that we might not go too late into the evening, if they would call them up and get a vote on them, one way or the other so we can get on with the bill.

Mr. President, I thank the Senator for yielding.

The ACTING PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] has the floor.

Mr. LEAHY. Mr. President, can we have order, please?

The ACTING PRESIDENT pro tempore. The Senate will come to order. The Senator from Vermont has the floor.

Mr. LEAHY. I know I told others I am going to bring up a WIC amendment. In all likelihood, I will get us in and out of that in 5 to 10 minutes.

I ask unanimous consent that I be able to yield to the senior Senator from Massachusetts without losing my right to the floor, and I will then be recognized again on the WIC matter which I assure my colleagues will take a very brief time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1395

(Purpose: Substitute language to restrict arms sales to Saudi Arabia and Kuwait)

Mr. KENNEDY. Mr. President, for myself and my colleagues, Senators KERRY, SHELBY, DODD, SMITH, FORD, AND PELL, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy], for himself, Mr. KERRY, Mr. SHELBY, Mr. DODD, Mr. SMITH, Mr. FORD, and Mr. PELL, proposes an amendment numbered 1395.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

Mr. KENNEDY. Mr. President, I am proposing this amendment on behalf of myself, Senator KERRY, Senator SHELBY, Senator DODD, Senator SMITH, Senator FORD, and Senator PELL. I believe that the amendment has been cleared on both sides.

The amendment would modify a provision in the supplemental that would halt all American arms sales to Saudi Arabia and Kuwait until they have fulfilled all of their financial pledges to the United States for Operation Desert Storm.

I strongly support the objective of full payment of Desert Storm debts.

Our gulf war allies pledged both financial and in-kind contributions, and these commitments must be honored.

But, as drafted, the provision in the supplemental suspending arms sales to Saudi Arabia and Kuwait would cause significant unintended hardship for American defense workers in Massachusetts and elsewhere. It would force the cancellation of ongoing contracts worth billions of dollars, and lead to thousands of layoffs around the country.

For example, in Massachusetts, by halting all work on Patriot air defense missiles being built under contract for Saudi Arabia, the provision would lead to an immediate layoff of over 1,000 workers. In the longer term, this provision could mean the loss of over 5,000 jobs in Massachusetts.

There would be similar employment impacts in California, Florida, Michigan, Ohio, and elsewhere. These job losses would come at the worst possible time given the current recession, which is particularly severe in the Northeast.

The amendment that we propose would modify the arms sale provision to avoid these severe job losses. It would provide Saudi Arabia and Kuwait with 120 days to pay their Desert Storm obligations in full. If they failed to meet this deadline, new arms sales would be barred until they meet their obligations.

This amendment has two major advantages over the existing provision. First, it would avoid major layoffs in the American defense industry. Our defense workers were the unsung heroes of Operation Desert Storm. Their long hours and quality workmanship provided American forces with the technological capability that led to a quick victory with extremely low casualties. It would be unfair now to penalize these workers because other nations have been slow to pay the obligations arising from the war.

Second, the amendment would grant Saudi Arabia and Kuwait a reasonable time to make good on their Desert Storm commitments. To date, Saudi Arabia has paid $14.9 billion of its total Desert Storm commitment of $16.8 billion. It is paying off the balance at a rate of $500 million a month.

Similarly, Kuwait has already paid $14.6 billion of its total commitment of $16 billion. And, it is paying off the balance at the rate of $700 million per month.

Saudi Arabia and Kuwait have already paid about 90 percent of their Desert Storm commitments and they are on a schedule to reach payment in full within a few months.

If these two nations maintain this payment schedule, they will meet their Desert Storm commitments well within the 120-day timetable in this amendment.

Both nations should pay all of their debts associated with the gulf war. The amendment that we propose will achieve this objective in a reasonable manner without unnecessary hardship for American defense workers that a sudden cutoff will involve.

I want to thank the chairman of the Appropriations Committee, Senator BYRD, for his cooperation in working out this amendment. Through his efforts and those of his fine staff, I believe we have developed an alternative that protects both the Treasury and the job security of a large number of American defense workers.

This 120-day delay is designed to allow defensive sales already in progress to proceed. It should in no way be interpreted as an endorsement of the sale of offensive weapons to the region during this period.

I am deeply concerned over reports of administration plans for a massive infusion of offensive weapons into the Middle East.

There are reports of a proposal for the sale of 72 sophisticated F–15 aircraft to Saudi Arabia, as well as the possibility of providing Saudi Arabia with an offensive military capability. Since the gulf war, the administration has provided no overall assessment to Congress of the defensive needs of the region, and yet it has sold $11.5 billion in arms to the region since the war.

The United States is now the leading arms supplier in the Middle East and has sold $30.7 billion in arms to the region between 1987 and 1990. In the wake of the gulf war, it is imperative that we assess the legitimate needs of the region before moving forward on any such sales of offensive weapons—and certainly before we diverge from the long-standing United States commitment to ensure Israel's qualitative military edge.

I urge the administration to provide Congress with an overall assessment of the military threat and the legitimate defense needs of the region. Until Congress receives such a report it would be ill-advised for us to approve a new sale of offensive weapons to Saudi Arabia. I urge the administration to provide such a report within the 120-day period provided in this amendment.

Mr. President, I have talked to both managers of the legislation and I understand that this amendment is acceptable. All of us are desirous for the full repayment by Kuwait and Saudi Arabia for their obligations. They have been 90 percent fulfilled at the present time. At the rate that they are moving, they expect to be fulfilled within the 120-day period. This mandates that they do, where otherwise all sales to Kuwait and to Saudi Arabia will be curtailed.

In the pipeline prior to this particular action had been sales of defensive weapons systems, one of them the Patriot weapon system. This particular amendment, therefore, will insist that there be repayment by Kuwait and by Saudi Arabia, but it does provide a timeframe by which this sale will be made, and it is of 120 days. There is every expectation that there will be a full and complete payment of that particular obligation.

I want to lastly say I appreciate very much the consideration that has been given to this proposal by the chairman of the committee. I am in complete support with the objective of the particular amendment which has been put in place. This will ensure that the objective of the committee amendment will be carried forward, but it will also permit a defensive weapons system that had been effectively contracted for, to be completed without very significant loss and disruption of employment practices.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, my friend and senior colleague, Mr. KENNEDY, and I are offering an amendment to correct the unintended detrimental effect of an important provision added by the Senate Appropriations Committee to the supplemental appropriations bill.

That provision if enacted would halt all sales of United States arms to both

Saudi Arabia and Kuwait until they have paid the entire amount of their pledges to the United States to share the financial burden of Operation Desert Storm.

The distinguished chairman of the Appropriations Committee, who also is the manager of this bill, certainly deserves only the highest commendation for taking steps to ensure that the commitments made by our gulf war allies—particularly the two which were the foremost beneficiaries of our involvement in the Desert Shield and Desert Storm actions—are fully honored.

But as the provision is worded, very serious difficulties unintentionally would be imposed on firms manufacturing important defensive armaments and on their employees, in Massachusetts and other portions of the Nation.

An important illustrative case can be found in Massachusetts, where work currently is under way to manufacture Patriot air defense missile systems for Saudi Arabia. Enactment of the supplemental appropriations bill containing the arms sale prohibition in its current form would necessitate the immediate shutdown of the assembly line, resulting in the layoff of over 1,000 workers. As the ripple effect takes its toll, eventually this action could cost the Commonwealth over 5,000 jobs.

Mr. President, such employment loss never is an attractive prospect. At a time when a severe recession grips not only the State Senator KENNEDY and I represent but large regions throughout the Nation, such an outcome is unthinkable.

As Senator KENNEDY pointed out, the amendment we are proposing, with the distinguished Senators from Alabama [Mr. SHELBY], from Connecticut [Mr. DODD], from New Hampshire [Mr. SMITH], from Kentucky [Mr. FORD], and from Rhode Island [Mr. PELL], preserves the key thrust of the provision added by the Appropriations Committee—imposing an arms sale moratorium on Kuwait and Saudi Arabia until their Desert Storm financial obligations are paid in full. But it delays the effectiveness of that provision for 120 days.

In my judgment, it is appropriate to use the carrot and stick approach to this matter, rather than only the stick. It also may well be more productive. The moratorium provision, as modified by our amendment, serves notice of what will occur if the Kuwaiti and Saudi obligations are not met in the near future, but it also provides a reasonable amount of time during which those two nations can comply. In fairness, it should be noted, as my senior colleague, Mr. KENNEDY, indicated in his statement, that Saudi Arabia has to date paid $14.9 billion of its obligation of $16.8 billion, and that payments of $500 million are being received each month. Kuwait owes $1.4 billion of its original obligation of $16 billion and is making payments of $700 million a month. So both nations should be able to complete their payments within the 120 days provided by our amendment.

This advantage is joined by the fact that this amendment will prevent immediate and major layoffs of defense workers. It would be strikingly ironic and unjust if the defense workers who went into the equivalent of overdrive—increasing productivity, in some cases working double shifts, and otherwise responding in every possible way to be sure our soldiers, marines, airmen, and sailors had the weapons, delivery systems, and equipment they needed successfully to prosecute Operation Desert Storm—were made to suffer because Kuwait and Saudi Arabia have been slow in meeting their gulf war obligations.

The distinguished manager of the bill, Senator BYRD, has been gracious and accommodating in working with us to resolve this matter in a way that will preserve the original intent of the arms sale moratorium provision without imposing immediate and unfair hardships on U.S. defense workers or companies. I want to offer sincere appreciation to him and his staff—my personal appreciation and appreciation on behalf of several thousand Massachusetts workers who want only to be able to continue to produce a first-rate defensive weapons system.

Mr. President, I would like to thank the distinguished President pro tempore and manager of the bill and chairman of the Appropriations Committee for listening on this matter. I think he is absolutely correct in seeking to guarantee the full repayment and he is to be congratulated for setting up the structure that does that.

At the same time, Senator KENNEDY and the others who have joined in the amendment feel that this amendment avoids an unintended consequence. The workers courageously, obviously, went into double gear in order to meet the demands of Desert Storm and it would be clearly inappropriate for them to now somehow be handicapped inadvertently as a consequence.

I thank the distinguished chairman of the Appropriations Committee for being sensitive to that fact and for accepting this amendment as consequence.

Mr. SHELBY. I rise today to join my colleague on the Armed Services Committee as a cosponsor of this amendment. The amendment offered by Senator KENNEDY represents a good compromise on the issue of payment of the gulf war pledges by Saudi Arabia and Kuwait.

I can certainly understand the necessity for a provision in the supplemental appropriations bill which calls for the suspension of arms sales to Saudi Arabia and Kuwait until each country fulfills its gulf war pledge. The United States defended Saudi Arabia from further aggression by Saddam Hussein and liberated Kuwait. These nations made commitments which must be adhered to.

However, a vital component of the defense of Saudi Arabia and other nations of the Middle East was the Patriot missile. Every Member of this body can still visualize Patriot missiles streaking up into the night to intercept Saddam Husseins's Scuds raining down on Saudi Arabia and allied troops.

It is, therefore, understandable that Saudi Arabia wants to purchase Patriots from the United States. The Middle East remains an unstable region and the Patriot would add to that Nation's security.

This is also an industrial base issue. Contractors building this missile are dependent upon the sale that is already under contract and the proposed sale of an additional 12 fire units to keep workers employed until the next generation of Patriots are produced.

Mr. President, it is my understanding that Saudi Arabia has paid approximately 90 percent of its pledge of $16.8 billion and is on schedule to compete payment in the next few months. The amendment before the Senate would allow for an additional period of 120 days after enactment of this legislation before the provision takes effect. I believe that Saudi Arabia will have paid off its pledge by this time.

Mr. President, I commend the President pro tempore for his attention to this important issue. I also want to applaud Senator KENNEDY for his leadership. All nations that have made commitments to the United States to support Operation Desert Shield/Desert Storm must fulfill such commitments. I believe this amendment will ensure that these obligations are carried out in a fair and equitable manner.

Mr. DODD. Mr. President, I rise in strong support of the amendment proposed by the Senators from Massachusetts. I am proud to be an original cosponsor of this amendment. And I want to commend the Senator from Massachusetts [Mr. KENNEDY and Mr. KERRY] for their work on this important measure.

This amendment remains true to the original purpose of section 104, which was designed to ensure that our partners in the gulf war fully compensate the United States for the cost of that war. That is an important goal, Mr. President, and one that I wholeheartedly support. Americans took the greatest number of casualties among allied forces in the Persian Gulf, and Americans absorbed the greatest number of expenses. It is only fair that our allies, particularly Saudi Arabia and Kuwait, pay their share on a timely basis.

At the same time, Mr. President, the provision as written would immediately cut off all arms sales to Saudi Arabia and Kuwait—regardless of when those contracts were signed. That presents an unfair burden for a number of defense contractors that have spent weeks and months making plans based on those sales. Many of those contractors, such as Norden, Sikorsky, and a number of small suppliers, are located in the State of Connecticut. To ask these contractors to pay the price for Saudi and Kuwaiti intransigence is hardly equitable—especially when the economies of Connecticut and many other States in the region are so dependent on defense contractors.

Mr. President, the amendment currently before the Senate would address both issues in an honest and equitable manner. It would apply only to contracts signed after the provision takes effect. And the provision would not take effect until 120 days after the enactment of this legislation.

At the current rate of payment, that will provide plenty of time for Saudi Arabia and Kuwait to repay their debts in full. At the same time, it will provide those countries with a serious incentive to do so.

Mr. President, this amendment strikes me as a fair compromise, and I urge its immediate adoption.

Mr. PELL. Mr. President, I am delighted to be an original cosponsor of the legislation proposed by the Senators from Massachusetts [Mr. KENNEDY and Mr. KERRY]. The distinguished President pro tempore of the Senate and chairman of the Committee on Appropriations, Mr. BYRD, deserves our commendation for taking the position that Kuwait and Saudi Arabia must meet their pledged obligations as a result of the desert war. I think that this amendment preserves Senator BYRD's excellent intent and ensures that the Kuwaitis and Saudis will get a very strong message from the Senate of the United States. I should note that his amendment will allow military transfers and proposals regarding Saudi Arabia to proceed for 120 days.

One proposal is currently under consideration. Congress has been given informal notification of one particular sale, that of 14 Patriot anti-aircraft missile fire units. Against the background of the gulf war, I and other Members have concluded that Saudi Arabia has a legitimate need for strong missile defenses against potential threats from both Iran and Iraq.

At the same time, at this critical point in the quest for a peace settlement and in efforts to achieve multilateral constraint, I do believe that we should be very resistant to any plans to ship highly sophisticated offensive weapons to the gulf region. I intend to consult closely with the executive branch in the coming months with regard to this matter.

Mr. President, I ask that a letter that the distinguished Senator from North Carolina [Mr. HELMS] and I sent to the Secretary of State in regard to this matter be inserted in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, November 21, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing with regard to the proposed sale to Saudi Arabia of fourteen Patriot surface-to-air missile fire units with a total value of $3.3 billion. The Departments of State and Defense have been very helpful in consultations beginning last month, including a full briefing for staff on November 7, prior to the informal submission on November 14.

The Congress made it clear last year and this year in several legislative vehicles, including the Foreign Aid bill and the State Department authorization act that it draws a distinction between major offensive equipment and purely defensive equipment, such as the Patriot. With regard to this particular sale, we are not aware of any serious opposition.

We note that Saudi Arabia will face in the years ahead a missile threat posed by both Iraq and Iran. It is clear that adequate Saudi defenses against this threat can contribute to stability in the Middle East.

We note further that the proposed sale, taken together with a Patriot sale allowed by the Congress last year, would result in levels of equipment comparable to the Patriot forces deployed by the United States in Saudi Arabia during the Persian Gulf War. Accordingly, we believe that the Patriot sale is appropriate.

At the same time, we want you to understand that it is important that countries in the Middle East recognize the right of all nations in the region to exist within safe and secure borders and that they support the peace process. I hope you will continue your efforts to ensure that this is the case with such nations as Saudi Arabia. Moreover, a number of Members have expressed general concerns with regard to arms sales to the Middle East at this point in the quest for a peace settlement in the region, and there is a widely held view that the United States should be particularly wary of sales of major equipment that could jeopardize efforts to achieve supplier agreement on meaningful restraints.

Given the considerations we have outlined, we conclude that it would be appropriate for the Administration to submit a formal 30-day notification upon the expiration of the informal period in the first week of December.

We believe this approach will be understood and accepted by our fellow Senators. However, should substantial concerns materialize, we would expect to consult with you when Congress returns in January as to how best to proceed.

With every good wish.

Ever sincerely,
JESSE HELMS,
Ranking Minority Member.
CLAIBORNE PELL,
Chairman.

Mr. BYRD. Mr. President, I appreciate the concern and I understand the concern that has been expressed not only here this afternoon but prior to this afternoon by the distinguished Senators from Massachusetts. I thank them for offering the amendment. I am certainly willing to accept it.

I view the change that Senator KENNEDY and Senator KERRY and others who are cosponsoring the amendment are proposing as a positive contribution to the legislation. I understand the concerns about the possible adverse impact of the immediate cutoff of existing arms sales. I think the changes that have been proposed will take care of that problem.

I also thank the staff on both sides and the staff of Senator KENNEDY and my own staff for working to come up with language which allows us to achieve the intent of section 104 without jeopardizing American jobs.

I ask unanimous consent that I be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the amendment offered by the Senator from Massachusetts has been cleared on this side.

I would like to underscore a simple fact, though. In no way does this amendment diminish the deep feeling that was expressed in the amendment offered by the chairman of the committee in the first instance, but yielding to the pragmatic aspects of its implementation, the amendment in no way, from my perspective, diminishes the importance of that initial amendment. It is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 1395) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

AMENDMENT NO. 1396

(Purpose: To provide a minimum rate of price support for milk and to protect the WIC program)

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KOHL, Mr. DASCHLE, Mr. WELLSTONE, Mr. WOFFORD, Mr. KERRY, and Mr. HARKIN, proposes an amendment numbered 1396.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the substitute, add the following new section:

SEC. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

Mr. LEAHY. Mr. President, this amendment is offered on behalf of myself, Senators KOHL, DASCHLE, WELLSTONE, WOFFORD, KERRY of Massachusetts, and HARKIN. It speaks to savings in the WIC Program. It would actually put 63,000 more women, infant, and children on WIC.

WIC, I think most of us would agree, is one of our most important nutrition programs. Over the years I have offered amendments that have boosted funding for WIC, cut administrative costs, and added additional needy infants, children, and pregnant women to the program.

As stated earlier, I think I have either been the sponsor or prime cosponsor of every improvement in the WIC Program that has gone through this body in the past 17 years. I am pleased by the tremendous, bipartisan support on that. I remember times when most of the WIC bills were either a Dole-Leahy or Leahy-Dole, or others within this body who joined in them—the distinguished colleague from Vermont, and the distinguished Senator from Massachusetts and others who have been here.

This amendment was intended to follow the previous dairy amendment, had it passed.

This amendment was to be offered as an added insurance—insurance to protect WIC from any unintended, adverse impact.

CBO agrees with me. CBO's letter says that this amendment means that "no funding increases would be needed to maintain the WIC population." This means that WIC is fully—fully funded.

It is obvious that this bill now, as it is without the dairy amendment, would not be the best place to put the WIC amendment. So I will shortly withdraw the amendment. I have submitted it here and it will of course be printed and it will alert my colleagues to a form that I wish to use in WIC later on. With this WIC amendment, we can increase the number of people on WIC. Today, 40 percent of the women, infants, and children who are eligible for WIC cannot participate in the program. There is not enough money for them.

This amendment does more then fully protect WIC. It will stretch each WIC dollar, allowing more eligible infants, children, and pregnant women to receive benefits.

Right now, only 60 percent of those eligible for WIC actually receive WIC benefits.

Let's remember for a moment why WIC is so important.

For every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in Medicaid costs during the first 60 days of her newborn's life (report issued by USDA);

WIC reduces infant mortality;

WIC improves prenatal care; and

WIC reduces premature deliveries.

The amendment before the Senate would increase WIC funding without taking one penny from the U.S. Treasury.

Before I outline the amendment, it is important to review what is happening with milk at the retail level.

In January of this year, I asked the General Accounting Office to investigate reports of milk price gouging by retailers.

In September, GAO reported that the price farmers receive for a gallon of fluid milk dropped an average 20 percent between August 1990 and May 1991 while the price consumers pay for milk has declined by less than 5 percent.

In other words, consumer prices for milk are slightly lower than last year despite a big drop in the price farmers are getting for their milk.

An April 1991 Cornell University study, Agricultural Economics Prof. Richard Aplin, concluded:

As the farm price of milk dropped drastically * * *, most of the widening marketing spread can be attributed to a big increase * * * in the food retailers margin. * * *

Looking at the retailer, it is clear the average retail margins on Milk * * * are well in excess of the cost of supermarket's handling milk. * * * *Retailer margins have been well in excess in their costs at least since 1985 but the profitability of fluid milk to supermarkets has increased significantly in recent months.* (Emphasis added.)

The study concludes with the following observation:

Comparing retailer margins with the cost of handling milk in supermarkets suggest that fluid milk is a very profitable item for supermarkets.

Somebody is making a lot more while dairy farmers are making a lot less. Retailers and others are making a fast buck while dairy farmers are losing thousands of dollars.

No matter how greedy the retailers are, I am not proposing a general rollback of their prices. Neither am I proposing price controls.

However, price gouging at the retail level costs taxpayers' dearly. This is because taxpayers currently reimburse retailers for every item a WIC recipient buys, no matter how inflated a price the retailer charges.

When a WIC mother buys food, she exchanges special vouchers for food—such as milk, infant formula, cereals, and so forth. The recipients pay nothing; the State reimburses the store for the full retail cost of the food.

The amendment does not affect the WIC recipient. Rather, the amendment sets a limit on the amount of reimbursement a store can get for milk it sells to WIC participants.

The amendment does not regulate the price set by the store. Stores can continue to charge what they want for milk. However, if they charge too much, the WIC Program will only reimburse them for a fair price.

Cost controls on Federal expenditures are not a new concept.

For example, Medicaid uses cost controls to keep down the price on prescription drugs. The Veterans' Administration uses a similar procedure.

In fact, I wish the Pentagon used cost controls. I am tired of $500 toilet seats.

All of us have heard horror stories where stores in the inner-city or rural America take advantage of poor people who often lack transportation to travel to bigger stores.

Poor infants and children are getting ripped off by some stores that charge excessive prices.

Right now, we use cost containment for WIC. Legislation Congress passed saves over $600 million each year on infant formula for WIC. This puts over 1 million more women, infants, and children on WIC at no cost to American taxpayers.

Even the administration likes cost containment. A 1990 USDA report on WIC says that in addition to infant formula—

States need to have the flexibility to develop other cost containment models that better suit the specific WIC product being considered and the individual state's characteristics, *including retailer operations.* States should be able to take into consideration cost containment measures at the retail level such as coupons and cost-off discounts. (Emphasis added.)

Putting politics aside, the administration should be supporting my amendment because it furthers the goals outlined in the USDA report.

Several States—like Indiana and Texas—already use cost containment for WIC. Both Indiana and Texas require stores to sell less expensive brands to WIC recipients.

This amendment proposes a less severe approach than used in either Indiana or Texas. Instead of using the Indiana/Texas approach of limiting the brands a WIC recipients, buy any brand of milk they want.

The amendment simply puts a reasonable cap on the cost to the Government—and sets that cap at a reasonable amount for the retailer.

Let us deal for a moment with some of the arguments that commercial interests may raise against the amendment.

Some may claim that this might force stores off of WIC. There is no basis for this claim.

WIC milk sales are only a fraction of all milk sales in the country. Less than 3 percent of all milk sold is sold through WIC. Also, a store's WIC business is such a small part of that store's total business.

WIC customers buy products other than milk at the same store. This amendment will not affect the price or reimbursement of other WIC products, or non-WIC products.

However, if a store suffers from unusual circumstances, the Secretary of USDA can exempt stores from these limitations.

Others may claim that this amendment discriminates against small stores, rural stores, or inner-city stores.

This amendment does not discriminate against big stores or little stores, or against rural stores or urban stores.

It discriminates only against stores who are gouging their customers.

I do not like price controls. I am not in favor of them.

This amendment does not impose price controls. It is cost containment. It is a concept we should impose on more Federal programs, not less.

Every Member of this body all too well knows of the enormous Federal deficit and the urgent needs that go unfunded every day.

Today, we have the opportunity to add more people to one of the most successful programs in government without asking the taxpayers to contribute even one cent.

This is good government. This is the right thing to do.

The withdrawal of this amendment in ironic, as WIC is probably the program that all of us, at least the vast majority of us in this body—Republicans and Democrats alike—could agree has been one of our most important nutrition programs.

As I said previously, I am saddened by the Senate's rejection of the dairy amendment. All the cosponsors worked exceptionally hard on it. I would single out only one of the cosponsors, and not suggest the others have not worked hard, they have worked very hard, but I would single out one and that is my colleague and partner from Vermont, Senator JEFFORDS. Nobody on either side of the aisle worked harder, more diligently, longer hours than did Senator JEFFORDS. He knows, as I do, it has been a very tough year for our Nations' dairy farmers.

So, Mr. President, I thank all Senators who joined in this debate. I might say——

Mr. JEFFORDS. Will the Senator yield?

Mr. LEAHY. If I could complete just this one thought.

I especially want to extend as a personal matter my thanks to the ranking member of the Senate Agriculture Committee, who opposed me on this legislation. I congratulate him on winning. But I express my appreciation to him because in this, as in all other matters on which we work together, he has been honest, forthright, and direct with me. He has made very clear his position. He has never suggested otherwise. And I appreciate both that honesty and also the strong support I have received from him on other issues, as I hope he appreciates the support he has received from me on such issues.

Now, I would like to yield to my distinguished colleague and partner from Vermont.

Mr. JEFFORDS. I thank my colleague from Vermont for yielding.

I just want to echo some of the comments that have been made, but most importantly to commend him on the tremendous effort he has made in trying to bring forth successful legislation to assist beleagured dairy farmers.

As he has pointed out, it indicates that when you have dissension within the ranks of those within the dairy industry, it is very difficult to pass a bill, and that we have found out as an analysis of the votes would show.

But I also want to echo his comment on the WIC Program and again point out that it is the dairy farmers who have added more people to the WIC Program and allowed more women, infants, and children to participate in the WIC Program through their productivity, and thus there is no need in any way to chastise or in any way criticize the dairy industry because their productivity has helped more than anything else and certainly more than we have.

I know he shares my view that there would be nothing better for this Nation in health and otherwise than to make the WIC Program an entitlement program. The Harvard study of many years ago and many other studies have indicated that for every dollar we spend on the WIC Program, we save $3 in health costs and thus it is ridiculous to do anything other than have an entitlement program if we want to reduce health costs in this country.

Also, I know I speak for my senior Senator in that we have not given up, nor will we give up, on finding that magic program which will help our dairy farmers without creating any significant problems to others. I am hopeful now that we do know there are other options available to us, at least one option the administration agrees with, either in the next few days or at least early next year we will be able to do something to prevent the serious drop in price which we will expect to find next year.

With that, Mr. President, I yield back to the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my distinguished colleague for his kind words. I agree with his assessment of the situation.

I also should note the enormous work of the team led by Janet Breslin for the Senate Agriculture Committee: Lynnett Wagner, Jim Cubie, Tom Hebert, Ed Barron, and of course staff director, Chuck Riemenschneider. But I especially want to thank Dr. Breslin for putting together such a good team, and for all the work she did on it.

Mr. President, I would withdraw the WIC amendment now pending. I wish to say to the distinguished chairman of the Senate Appropriations Committee, Chairman BYRD, now has a herculean effort ahead of him. And time and again he, like Hercules, is up to it.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator has the right to withdraw the amendment. The amendment is therefore withdrawn.

The amendment (No. 1396) was withdrawn.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Vermont.

AMENDMENTS NOS. 1397, 1398, 1399, AND 1400, EN BLOC

Mr. BYRD. Mr. President, I send an amendment to the desk by Mr. REID, an amendment by Mr. BREAUX, two amendments by Mr. DECONCINI.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; that the motion to reconsider en bloc be laid on the table, and that statements and colloquies in explanation thereof be appropriately placed in the RECORD as though read.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (numbered 1397, 1398, 1399, and 1400) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1397

SEC. . From the funds made available for land acquisition of the United States Fish and Wildlife Service in the fiscal Year 1992. Department of the Interior and Related Agencies Appropriations Act (PL 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

Mr. REID. Mr. President, during the 101st Congress I introduced legislation to settle an 80-year-old war affecting northern Nevada, California, and the Pyramid Lake Indian Tribe. Public Law 101–618, the Truckee-Carson-Pyramid Lake Settlement Act, was enacted in November 1990 to provide for a multibureau action program in the Truckee-Carson River system to adequately balance the highly complex and controversial water management aspects of this settlement.

The Fish and Wildlife Service is involved in several aspects of implementing this legislation including a negotiated operating agreement for the Truckee River, protection of Pyramid

Lake Fisheries, and acquisition and transportation of water for the Stillwater National Wildlife Refuge. The Fish and Wildlife Service has just recently indicated to me that in order to accomplish these purposes, they need greater appropriations flexibility than that which was provided in the fiscal year 1992 Interior appropriations bill, Public Law 102–154.

My amendment provides the necessary flexibility by moving a portion of the money appropriated in the Interior appropriations bill for land acquisition for the Stillwater National Wildlife Refuge to the Resource Management Account of the U.S. Fish and Wildlife Service.

A total of $1.7 million is required for various activities under the Truckee-Carson-Pyramid Lake Settlement Act, such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. Of that amount, the Fish and Wildlife Service has advised me that $965,000 must be appropriated through a transfer of funds from land acquisition to the resource management account of the U.S. Fish and Wildlife Service. The amendment I am proposing directs that transfer to occur within the supplemental appropriations bill.

Mr. President, it took many years of work to complete the Truckee-Carson River settlement. It has the full backing of the administration and Congress. My amendment does not entail any additional appropriation by the Congress, and I understand that it has been cleared by both sides of the aisle.

AMENDMENT NO. 1398

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

Mr. BREAUX. Mr. President, on behalf of myself and Senators KERRY, BENTSEN, JOHNSTON, LAUTENBERG, ROBB, WELLSTONE, DURENBERGER, and LOTT, I want to raise a concern regarding a provision in Public Law 102–140, the act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1992, and for other purposes.

The Fisheries Obligation Guarantee Program [FOG], characterized as a simple Fishing Vessel Obligation Guarantee Program in this act, guarantees loans for the construction, reconstruction, reconditioning and purchase of shoreside fishery facilities, refinancing of existing vessels, and only to a minimal extent, construction of new vessels. I was pleased to see that the conferees provided a total of $2.7 million in subsidy costs and administrative expenses for this important program. These amounts were clearly required under the new accounting procedures of the Federal Credit Reform Act of 1990 [FCRA].

I am concerned, however, with the inclusion of a $10 million limit on loan guarantee authorizations under the act as currently written. Although there appears to be conflicting interpretations of FCRA requirements, appropriations for some other loan guarantee programs indicate that a specific loan guarantee authorization figure is not necessary, provided that a subsidy cost appropriation is made. We believe that the subsidy cost assumptions used are not accurate, and that the $1 million appropriated for subsidy costs should provide for as much as $66.7 million in loan guarantees.

Mr. HOLLINGS. The Senator from Louisiana makes a good point. The conferees had assumed that the program requires a 10-percent subsidy appropriation.

Mr. BREAUX. Although I disagree with the conferees' interpretation, I can appreciate the desire to limit the Federal Government's exposure to risky loans. A $27 million appropriation was needed in 1985 to cover losses incurred by the loan program after the collapse of the shrimp fishery in the early 1980's, however, the program has been restructured since then. Fees collected from program participants were increased in 1986, and a policy was implemented prohibiting loan guarantees for vessels in overcrowded fisheries. Over the last 5 years, according to Congressional Budget Office and agency calculations, the program has been operating at a profit. Furthermore, the fishing industry has expressed a willingness to increase the fee structure once again to provide even greater security for Government loan guarantees.

Mr. HOLLINGS. If the Senator would yield. His example of overcapitalization in the shrimp fleet represents a fear many people entertain when talking about loan guarantees for the fishing industry. The problems with fisheries in other parts of the country, for example in New England, have prompted buy back bills in the House that could place a significant drain on the Government's fiscal resources. With regard to the estimated subsidy rate, I agree there may be a need for reestimation of the program's cost to the Government as well as developing a more appropriate estimate of the subsidy appropriation's buying power.

Mr. BREAUX. The Senator from South Carolina has focused on the essence of the issue involved here. In the Senate's original report on H.R. 2608, we declined to fund the program because it was felt that there were already "too many boats chasing too few fish." As my colleague is well aware, however, there are several aspects of our domestic fisheries that are in need of development. Underutilized fishery resources, such as whiting and mackerel, could help increase exports and provide alternative fisheries for fishermen and plantworkers in heavily exploited traditional fisheries. In addition, both vessels and shore-based facilities must be upgraded in response to new Federal requirements concerning employee safety, environmental protection, and food safety.

Mr. HOLLINGS. I can assure my colleague that I would be pleased to work with him to resolve this problem.

Mr. BREAUX. I want to thank the Senator from South Carolina. I appreciate his willingness to address these concerns and his recognition of the productive nature of this particular loan guarantee program.

In an effort to address some of these concerns, Mr. President, I offer this amendment and ask that it be printed in the RECORD.

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATION GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "1,000,000" through to and including the sum "$10,000,000".

This amendment does not increase cost to the Government. I am not trying to turn this bill into a Christmas tree, rather, I am simply trying to provide the flexibility necessary to increase the authorization limit currently available under the law—if such an increase is appropriate. Whether or not reestimation of the program's cost to the Government reflects greater, or reduced, buying power for the $1,000,000 subsidy appropriation, loan guarantees in excess of the $10,000,000 limit originally provided will not, by definition, add to the Government's overall cost.

The 10-percent subsidy cost relied upon by the conferees represents an erroneous, and rushed, first estimate given by FOG managers in NOAA. In a staff memorandum, the Congressional Budget Office lists the baseline fiscal year 1992 subsidy for the FOG Program at 4 percent; given the $1 million subsidy cost appropriation, this rate would apparently translate into an allowable $25 million in loan guarantee authorization. A closer look at the historical data from the FOG Program, however, reveals subsidy rates of 1.5 percent using 1970–91 loan performance—a rate that permits approximately $67 million in authorizations—and negative 4 percent based on 1986–91 loan performance, which translates into a $25 million credit for appropriators.

Loan guarantee applications should not be turned down as a result of an overly conservative subsidy cost estimate. Since 1986, the FOG Program has approved an average of $69 million in new guaranteed loans per year. According to the National Marine Fisheries Service, at least 46 persons this year have either applied, or want to apply, for guaranteed financing under this program in the aggregate amount of $130 million. These numbers indicate a substantial need for loan guarantee authorization greater than the $10,000,000 million currently provided by law.

AMENDMENT NO. 1399

(Purpose: To require the termination of human rights abuses in order for Kenya to be eligible for United States assistance)

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1) and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

AMENDMENT NO. 1400

(Purpose: To express the sense of Congress that the President should recognize the independence of Ukraine)

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

Mr. D'AMATO. Mr. President, I rise as an original cosponsor of Senator DECONCINI's amendment in support of Ukrainian independence.

On August 24, 1991, the Ukrainian Parliament declared independence. On December 1, the Ukrainian people will reaffirm this declaration in a fair and free vote. It is my belief that the citizens of Ukraine deserve their freedom.

After more than 70 years of suffering, suffering that rivaled that of any oppressed peoples, the citizens of Ukraine will finally vote to walk away from their history of repression, oppression, and totalitarianism. A quick journey through the history of suffering in Ukraine reveals millions of deaths in the forced famine of 1932–33, millions more dead during World War II and an unknown, but tremendous death toll, in the gulags of Siberia.

Mr. President, the history of suffering in Ukraine and the determination to go on marks a significant trait of the Ukrainian people; they are survivors. And now, after 70 years of suffering, punishment, loss of loved ones, and unimaginable repression they have emerged to see a new light. The light of freedom. The light of self-determination. The light of a new world order, full of unknowns.

The citizens of Ukraine take a tremendous risk in following the path toward independence. Yet, they are willing to take this risk, they want to take this risk, because they know that a new day has come and that their rights will never again be stomped by the boot of oppression.

They realize that the fight ahead will be long and hard. Yet, they have chosen to carry on this fight. I have tremendous respect for the character of these people. By choosing independence, they have decided to walk through the darkness in order to see the light of freedom. It is our moral duty to stand with them.

Many potential problems are evident in an independent Ukraine. From ethnic tensions to the widely reported nuclear arms arsenal on their land, it is my firm belief that Ukrainians, energized by the power of freedom, will approach these problems within an honest and democratic forum, where decisions are made based on the will of the people rather than the power of the sword.

The Ukraine must establish itself as the guarantor of peace and freedom within its borders and the world community. With the support of the United States, other democracies, and the guiding light of freedom, I believe they can achieve this goal.

AMENDMENT NOS. 1401, 1402, 1403, AND 1404 EN BLOC

Mr. HATFIELD. Mr. President, I send a number of amendments to the desk that have been cleared on both sides, one on behalf of Mr. SPECTER, Mr. HARKIN, Mr. KENNEDY, and myself; one on behalf of Senator THURMOND and Senator HOLLINGS; two for the Senator from New York, Mr. D'AMATO.

I ask that they be considered en bloc, agreed to en bloc, and that the motions to reconsider and table be agreed to en bloc, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Numbered 1401, 1402, 1403, and 1404) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1401

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

• Mr. HARKIN. Mr. President, this amendment simply clears up a problem faced by health professions students who are seeking federally guaranteed HEAL loans to pay for school.

The problem was caused when the authorization for the HEAL program expired in fiscal year 1991. Since the start of this fiscal year, HHS has refused to guarantee loans to new HEAL borrowers. The Department even sent a memo to HEAL lenders on November 8 stating that, "until Congress reauthorizes the HEAL program, lenders may make HEAL loans only to previous borrowers."

This action by HHS has left almost 10,000 first-year students without access to loans to help pay for their schooling. I am particularly concerned about this because I have been contacted by the Palmer College of Chiropractic, in my home State.

With so many areas of the Nation suffering from shortages of doctors and other health professionals, we need to do more, not less, to help students of the health professions.

I recommend adoption of this amendment, which will allow these students to get the funds they need to attend school.•

Mr. HATFIELD. Mr. President, the Health Education Assistance Loan [HEAL] Program insures loans to students in the health professions. Eligible student borrowers obtain loans from participating commercial lenders, educational institutions, State agencies, insurance companies, and pension funds. The repayment of principal and interest is guaranteed by the Federal Government if the borrower becomes permanently disabled, dies, or defaults on the repayments.

On October 4, 1991, the Department of Health and Human Services notified lenders throughout the country that loans in fiscal years 1992 under the HEAL Program could only be made to prior HEAL borrowers. According to the Department, new HEAL loans cannot be made until Congress reauthorizes the program. Program authority expired on October 1, 1991.

This position is contrary to the intention of the Labor, HHS, and Education Subcommittee which included a loan limitation of $290,000,000 for fiscal year 1992 in the recently vetoed Labor, HHS, and Education appropriations bill. It also is contrary to the intent of the chairman of authorizing committee, Senator KENNEDY, as expressed in a colloquy during the Senate's consideration of the conference report accompanying H.R. 2707 on November 7, 1991.

An estimated 10,000 medical, dental, and other health professions students throughout the country are depending on receiving new loans. In most cases they already are attending classes and are receiving deferrals from the institutions for tuition payments. Many, however, depend on these loans also for living expenses.

The amendment makes clear the intent of Congress that loans in fiscal year 1992 under the Health Education Assistance Loans Program be available to both prior year borrowers and new borrowers. There are no costs to the amendment. The total number of loans still would be limited to the ceiling set for the HEAL Program by the amendment and by H.R. 3839, the Labor, HHS, and Education and related agencies appropriations bill for fiscal year 1992. I urge my colleagues to support the amendment.

AMENDMENT NO. 1402

(Purpose: To permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities and to permit States to use forfeited real property for State parks)

SEC. . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) in the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Mr. THURMOND. Mr. President, I rise today to offer an amendment for myself and Senator HOLLINGS. This amendment will permit the Secretary of Health and Human Services to waive certain Federal recovery requirements regarding the construction or remodeling of community mental health facilities. It includes the text of S. 1891—which passed the Senate unanimously on October 30, 1991—and an additional unrelated provision concerning the use by States of forfeited real property as public parks.

Under section 2713 of the Public Health Service Act (42 U.S.C. 300aaaa-12), the Federal Government may recover certain Federal construction funds used in building a community mental health center in two situations. In the first situation, the Federal Government may recover funds if at any time within a 20-year period after a center is constructed, the center is either sold or transferred. In the second case, the Federal Government may recover funds if a center "ceases to be used by a community mental health center in the provision of comprehensive mental health services."

In the latter situation, the Secretary of Health and Human Services may waive the recovery rights of the Federal Government (section 1713(d) of the Public Health Service Act, 42 U.S.C. 300aaa-12(d)) if the Secretary determines that there is good cause for waiving such rights.

By way of background, the waiver authority was included as part of the 1985 amendments to the Public Health Service Act. Unfortunately, the legislative intent of this provision is not entirely clear. The legislative history does not clarify the reason for authorizing the waiver authority in the second situation—where a facility ceases to be used as a mental health facility—and not in the first, where there is a sale or transfer of property. Nevertheless, it is reasonable to assume that one of the underlying purposes for the Federal right of recovery is to ensure that comprehensive mental health services are provided to the community for 20 years.

The Office of General Counsel at the National Institute of Mental Health [NIMH] has construed the waiver provision narrowly. Even though a facility may cease to be used as a mental health center, if a sale or transfer happens to be involved, no waiver would be available. In effect, the interpretation given by NIMH is that no waiver can be obtained where there is a sale or transfer of property, even though the new mental health center is larger, provides improved services, or is in a better location than the former facility. Surely this anomalous result was not intended.

Because of my concern with these unforeseen and unfortunate consequences, I am today introducing an amendment which would permit a waiver where a sale or transfer of property is involved. This does not mandate a waiver. Rather, it simply gives the Secretary of Health and Human Services authority to grant a waiver not only where a facility ceases to provide mental health services—as under current law—but also where a sale or transfer of property is involved.

Mr. President, by way of example, the Coastal Empire Mental Health Center in Beaufort, SC, desires to cease operations at its current location, and move to another nearby site provided by Beaufort Memorial Hospital, a local public hospital. The old site would become part of a new $23 million expansion of the hospital, which provides a large volume of free and below-cost medical care to the residents of the five counties surrounding Beaufort. On the new site an expanded and vastly improved mental health center would be constructed.

All the county and State governing bodies involved or affected by this proposal strongly support it, but because of the interpretation of NIMH on sales or transfers, the mental health center is not eligible for even consideration of a waiver. This is very disturbing, particularly where the equities and reasons for moving to a new facility are overwhelming. Accordingly, it is my hope that this legislation will prevent this and other such anomalous situations in the future.

Finally, included at the request of some Members of the House of Representatives is a provision relating to the use of forfeited real property as public parks. While there is general agreement on this latter provision, the Department of Justice has raised some reasonable concerns which I may wish to raise at a later date.

I appreciate the managers consideration of this amendment and I urge its adoption.

Mr. HOLLINGS. Mr. President, today I join my colleague Senator THURMOND to introduce a clarifying amendment which would permit the Secretary of Health and Human Services to consider a waiver of certain Federal recovery requirements in construction or remodeling of community mental health facilities.

Prior to 1985 amendments to the the Public Health Service Act, waiver of Federal right of recovery of construction funds could be considered when a community mental health center "cease[s] to be used by a community mental health center in the provision of comprehensive mental health services" or if the facility was "sold or transferred" within a 20-year period. Amendments passed in 1985, however, specifically retained such waiver authority only in the event of cessation of services and did not address sale or transfer.

Virtually no legislative history exists, but it clearly was the intent to ensure that comprehensive community mental health services be provided for 20 years if any Federal funds are used in the construction of the facility, and with this purpose there is no disagreement. However, the Office of General Counsel at the National Institute of Mental Health has interpreted the 1985 amendments so narrowly as to preclude any consideration of waiver if a sale or transfer is involved—even though a facility may cease to be used as a mental health center and the proceeds would be utilized to provide improved or expanded services in accordance with the original grant conditions. Failure to allow consideration of waiver in the event of sale or transfer, however, has led to unanticipated consequences. For example, Coastal Empire Mental Health Center in Beaufort, SC, wishes to sell its existing facility to Beaufort Memorial Hospital, a local public hospital, and to relocate to a new site at an expanded and vastly improved mental health center. The old site would become part of a new $23 million expansion of the hospital, which provides a high volume of indigent care in a five-county area. The result of the proposed sale and transfer would be improved services for both medical and mental health patients, and all State and local governments involved or affected strongly support it. When Coastal Empire submitted its plan to NIMH, the following response was received to the request: "While NIMH recognizes the worthy intent to expand and improve mental health services in the Beaufort area, based on its review of 42 U.S.C. 300aaa–12 and on advice of the Office of the General Counsel, we have determined that the law does not authorize a waiver of the Federal right of recovery when a community mental health center facility is sold or transferred to an entity that does not plan to use it as a CMHC in accordance with the original grant conditions."

It is reasonable to assume, since many CMHC's were constructed 15 or more years ago, that the experience of Coastal Empire is not unique and that more such situations will arise over the next few years as grantees outgrow their current facilities. We need to correct the statute to permit consideration of waiver so that the real intent of the law—provision of comprehensive community mental health services—can be met.

Mr. President, the amendment we offer today does not grant a waiver to Coastal Empire Mental Health Center or any other community mental health center. It merely permits the National Institute of Mental Health to consider waiving Federal recovery for a center which wishes to utilize the sale or transfer of its facility to continue provision of services or to expand or improve services under its original commitment. There is no cost to the Federal Government associated with this amendment. Rather, as would be the case if such a waiver could be granted to Coastal Empire, improved services could be provided to more needy individuals at no cost to the Federal Government. Too seldom do we get to do something that makes sense, helps people in need, and does not cost anything. I urge your consideration of this amendment.

AMENDMENT NO. 1403

(Purpose: To appropriate additional funds for the Department of State Terrorist Information Rewards Fund)

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

Mr. D'AMATO. Mr. President, Americans are the most frequently attacked nationality in the world. In 1990, there were 455 terrorist incidents worldwide and nearly half of them, 197, were against American targets. In these attacks, 10 Americans were killed and 34 injured.

On November 14, 1991, the Justice Department indicted two Libyan intelligence officials for the murder of 270 innocent people, 189 of whom were Americans, including 35 young students from Syracuse University.

Yet, these cowardly criminals are safely protected in Libya, far from the reach of American justice. How can we get them? One way is to offer cash rewards for information leading to their apprehension.

Presently, cash rewards are available through a reward fund in the State Department. My amendment would appropriate $5 million to this fund. It would make additional money available to be used to reward people with information that could prevent atrocities such as the bombing of Pan Am flight 103, or capture those responsible for them.

The Department of State has indicated to me that it supports my amendment to appropriate these funds. It is also my understanding that this amendment is acceptable on both sides.

Used at the Secretary of State's discretion, with the concurrence of the Attorney General, money from the fund rewards any individual who furnishes information leading to the arrest or conviction of any individual or group of individuals that conspires or attempts to commit an act of terrorism against an American national or American property.

Funding the State Department fund would facilitate the November 14, 1991, Justice Department indictment against the two Libyan agents, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi.

The offer of a significant sum of money—as much as $2 million on any single reward—could make a critical difference in persuading someone to come forward with information that could prevent a bombing such as that of Pan Am flight 103, or lead to the capture of its perpetrators.

We must send a message to the criminals who kill Americans. There is a price on your head. We will find you.

I urge my colleagues to support my important amendment.

AMENDMENT NO. 1404

(Purpose: Expressing the sense of the Senate that the President of the United States should pursue by any and all legal means the apprehension of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi for trial)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plane, Pan Am flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has led to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am flight 103; and

The families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

Mr. D'AMATO. Mr. President, my amendment calls on the President to pursue by any and all legal means, the apprehension, for trial, of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi, as charged by the Justice Department for their roles in the destruction of Pan Am flight 103 and the murder of 189 Americans aboard.

These heinous murderers are charged with obtaining both the bomb and the timers and planting it aboard the plane. These purposely conspired to kill all the passengers.

My amendment calls on the President, should offer rewards for information leading to the arrest and return to the United States of the two Libyan agents for trial.

It also states that the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie doctrine, the doctrine upheld by the Supreme Court, that allows for the extraterritorial apprehension of wanted terrorists.

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost 3 year investigation of the destruction of Pan Am flight 103.

And the families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones.

Finally, my amendment states that the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

We must send the message that wherever these cowardly criminals go, we will find them and bring them to justice. They must be apprehended. It is our duty to the memory of all those killed by their evil intent.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 1405

(Purpose: To amend the Harmonized Tariff Schedule of the United States to clarify the classification of certain motor vehicles)

Mr. D'AMATO. Mr. President, I rise today to discuss an amendment which is intended to close not only a loophole but an incredible gap that has been deliberately created in the vehicle import tariffs schedule that offers imports a competitive advantage against our domestic manufacturers.

Mr. President, each year this so-called loophole which I have to say is shocking, which is outrageous, which is anticompetitive, costs the U.S. taxpayers close to $0.5 billion a year.

So unlike most times when most of us come forward and we have a good program, a necessary program, we advocate it, and we are met with the budget constraints, I am coming forward today to offer an opportunity to bring about fairness in economic competition to increase jobs in America, to actually increase jobs here in America, and to provide 0.5 billion dollars' worth of additional revenue.

I have not even suggested an offset—that we spend it somehow. One-half billion dollars we can give to the taxpayers of America, We can reduce the deficit by $0.5 billion.

That sounds amazing. It truly is. It is amazing because when I go through the story of how this came about, I think that all of us should be shocked. I have no illusions in terms of what we are dealing with here, in terms of the entrenched, established, powerful groups that will rise in opposition and will come forward with some kind of contorted reason to oppose this.

I suggest that how this came about is a shocking, an arrogant display of broad, naked power and display of power that flies in the face of what is good for America, this country, and its people.

This amendment, as I said, not only raises millions of dollars in lost revenue but at the same time is a significant step toward restoring fairness to the United States-Japanese trade relations. The Japanese lobby gained a major share of our United States market for the multipurpose vehicles, MPV's.

What are we taking about? I am talking about vehicles like the Chevy Blazers, Ford Explorers, Jeep Cherokees. They did it by influencing—I use that word very carefully—by influencing the U.S. Treasury Department to classify certain foreign-made, multipurpose vehicles as cars instead of trucks for the purposes of import tariffs.

You see, the U.S. tariff that was imposed and is imposed on foreign-made trucks, the MPV's was 25 percent instead of only 2.5 percent on foreign cars. Vehicles classified as cars can be imported therefore much, much more cheaply when they penetrate the U.S. market.

So, consequently, by having the classification changed from a car, or to a car from a truck, they have $3,500—$3,500.

When the classification became a problem in January 1989 when the U.S. Treasury Department overruled a U.S. Customs Service decision which called a truck a truck and basically what we saw was that the Customs Commission in reviewing this matter, being called upon by the various lobbyists, the Japanese lobbyists, to make a review said obviously this is a truck. And it would not allow them to enter it designated as a car.

However, their decision was taken to the Treasury Department. There is no rational explanation for Treasury's ruling, but it found that this vehicle suddenly was no longer a truck. It became a car.

Understand what it did. It saved at least $3,500 in tax, in a tariff tax, that would have been paid to the U.S. Treasury. That meant that the taxpayers of this country were losing $500 million in revenues. There is no rational explanation for Treasury's ruling. The following facts will make that clear.

Foreign-made MPV's must meet U.S. Government standards, just like domestic vehicles. The standards are less stringent for trucks than for cars. Four different U.S. regulators must decide the classification is based on established standards.

I will show you the chart, the Environmental Protection Agency. EPA sets emission standards. The National Highway Traffic Safety sets various standards, and the Department of Transportation sets fuel standards.

Under each of these three regulators, these MPV's multipurpose vehicles are classified as trucks: EPA, a truck; the Department of Energy, a truck; the Department of Safety Standards, a truck.

How can a truck under EPA, a truck under the National Highway Transportation Safety Association, a truck under the Department of Transportation be a car according to Customs, the Treasury Department? How can a truck be a car?

The Job Fairness in Trade Equity Act, which I am going to be introducing, provides for a clarification to the U.S. tariff schedule. My bill simply requires that any vehicle classified as a truck for emission standards or a truck for fuel economy standards will be classified as a truck for tariff purposes.

In other words, you cannot classify it under EPA standards for emissions because the truck emission standards are much less. They are much less stringent. Therefore, the classification as a truck for one of these vehicles means that they do not have to meet those standards set for a car. The same is true as it relates to the miles per gallon.

If it is a truck, it does not have to meet the 26.5 miles per gallon test. We cannot and should not allow this practice to continue, because the consequences of our inaction on this measure are twofold: First, the U.S. taxpayer loses one-half billion dollars a year in forgone tariff revenues; second, we are subsidizing and supporting auto manufacturers and workers in Japan at the expense of workers in the United States. And while employment in the Japanese auto manufacturing industry has been growing, United States industry has lost 138,000 jobs over the past 5 years.

Mr. President, continuing this practice will mean that Japanese auto manufacturers pay less taxes and sell more vehicles, while the United States manufacturers sell fewer vehicles and U.S. workers lose their jobs.

Mr. President, I am going to give, if I might, a little timetable. In 1987, there was a growing demand for light trucks. People love the light trucks and multipurpose trucks. There was a growing demand for them and these family vehicles. The Japanese found there was an unfilled quota under the VER. The Japanese began to reclassify light trucks as passenger cars.

In the spring of 1988, the U.S. Customs initiated a review process of possible abuse of tariff regulations by the Japanese. This review was requested by U.S. companies and lasted almost 1 year. On January 4, 1989, the U.S. Customs ruled that light trucks could not be classified as cars. Commissioner von Raab said: "A truck is a truck is a truck."

Well, Japan acted swiftly. They organized their counterparts from Germany and Britain to contact the Secretary of Treasury to ask for reconsideration. The Secretary agreed to reconsider the U.S. Customs decision. Within 9 days, the U.S. Customs' decision was suspended.

Japan moved to kill the ruling permanently via a promotional campaign that the Customs ruling would harm United States consumers by increasing the price of light trucks. The big three U.S. auto manufacturers unified and sent letters to the President and Congress asking that the U.S. Customs original ruling stand. Within 45 days of the original U.S. Customs ruling, the Treasury Department overturned the decision and said that a truck is not always a truck, but that, for tariff purposes, it would be considered a car.

Then the Japanese convinced the administration to reclassify the vehicles as a truck once they were inside the United States, therefore meeting the less stringent truck standards for safety emissions and fuel economy standards.

Question: Will this decision hurt the consumers by forcing price increases? The answer is no. Until 1988, more than 98 percent of these vehicles were brought into the United States as trucks, and they paid their tariff of 25 percent. So this cost was already built into the importers' pricing margins. And if the importers' claim that there would be a huge impact were true, that would be different.

Mr. President, they did not reduce their prices to the consumers, reflecting the lower tariff. They passed on no-price reduction. So I think these claims about prices going up—which we will meet and we will hear how this is an anticonsumer, anticompetitive measure—are specious.

Let me, before I conclude, go through this again. Mr. President, what we have seen here is a clear case of incredible influence and power that was used at the expense of the American workers, the American consumers, and the American Treasury. On the business that this is going to create lower prices, et cetera, and more competition, we see that has not taken place. We see that the prices have not gone down to the consumers.

On the fact that a truck, for EPA emission standards, certainly should be a truck for all others, a truck for the standards as related to highway safety, a truck as it relates to miles per gallon, but a car when it comes to customs—why? Why has the same vehicle now turned into a car? It turned into a car simply because it saves the Japanese exporters $3,500.

Mr. President, the people sense that something is wrong. I believe that the people sense when Government is not responding to their legitimate needs and concerns, and as it becomes so heavily influenced by those who seek to gain material advantage, where fairness is a word that disappears, where equity is a word that has no meaning, where indeed the power of the special interest groups has become paramount.

How can you bring in a vehicle, which is a truck, and have it reclassified as a car, simply to escape the payment of $3,500? And then, so you do not have to meet the more stringent EPA standards as it relates to emissions, as it relates to fuel economy, have it reclassified as a truck? Either it is a truck for EPA, either it is a truck as it relates to the Department of Transportation, or it is a car. But to say that it is a car to come in, so that you can save $3,500, and then it becomes a truck for the classification of emission standards, and it becomes a truck for the classification of the Department of Transportation economy standards, is wrong. It is simply wrong. And at the same time, we see the American auto worker losing his job.

We wonder why the Japanese market goes up. Here we have a clear indication that while the U.S. auto market and workers have decreased from 867,000 jobs to 729,000 jobs, we see the Japanese auto market from 1987 to 1990 increasing.

I suggest to you that we are going to continue to lose jobs if we have these unfair predatory pricing practices, because that is exactly what this is. And if we have our own Government that interprets the rules the way it wants, not related to any fairness, not related to any real standards, but related to the special interest groups who are calling the shots, it is wrong.

What about the little guy? What about the taxpayer? What about the $3,500 that we are losing on every vehicle? Last year, they estimated that 135,000 vehicles came into this country, 135,000 that, by any reasonable standards, were trucks. But because we had this fast ruling, the overturning of the Customs Commissioner's ruling that a truck was a truck, except when it came to the special interest of the Japanese, when it came to saving $3,500 on average on each and every one of these trucks, this truck mysteriously became a car.

How are we going to compete against this? What is the American taxpayer to think? What is the little guy to think? What about the fellow in that factory working as hard as he can with a commitment to excellence? They cannot compete against this.

You wonder why auto workers become discouraged, and why plants become discouraged. You cannot compete against this. I cannot believe it, but we are doing it to our workers, to our own people, to our own taxpayers. What are we doing? We are disadvantaging them. It is unethical, unprincipled, and it is wrong.

Mr. President, I will soon send an amendment to the desk, but before I do, I want to say that I have no illusions as to what is going to take place here. I am simply going to say this amendment says that a truck is a truck is a truck. If it is a truck for all of the other purposes to meet the EPA requirements, if it is a truck to meet the fuel economy requirements, if it is a truck to meet the fuel safety requirements, then it should be a truck as it relates to the customs requirements.

Let me also say, Mr. President, coincidentally, before I conclude, that this same truck became a car last year for the purposes—and by the way, the Treasury Department did this; the Treasury Department did this. As it related to the luxury tax placed upon them, they said: Well, for this purpose, we will make this a car, because the car—or this car became a truck for the same purposes, because we would make them exempt; trucks are exempt.

So within the Treasury Department, we have two different rulings as it relates to the luxury tax. We find it is a truck because it escapes the payment of that luxury tax.

I am not suggesting that it should not be a truck for all purposes. I am suggesting that it is inconceivable—inconceivable—that we would find that this is not a car so that it can escape the $3,500 that it should be paying. I think it is unfair. I think that we should do something. I do not believe we are.

I think we will find on technicalities that the people will be denied the opportunity to have fairness applied. I think that is the kind of thing that many people are saying: Something is wrong here. And we have the vested special interest groups that will rise up with the chorus of how this is anticonsumer. And they will simply turn their backs on how it is that this classification came to be, who was behind it, and why it took place. And I am just suggesting it should not continue.

Mr. D'AMATO. Mr President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1405.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

3. any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082-2 of title 40 of the Code of Federal Regulations (as an effect July 1, 1990);

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

The PRESIDING OFFICER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The President pro tempore is recognized.

AMENDMENT NO. 1406

(Purpose: To revise a provision of the classified annex incorporated into the Department of Defense Appropriations Act, 1992)

Mr. BYRD. Mr. President, I send to the desk an amendment which has been cleared on both sides, an amendment by Mr. NUNN and Mr. WARNER, and ask unanimous consent that it be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1406) was agreed to, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

Mr. NUNN. Mr. President, I am offering an amendment on behalf of myself and Senator WARNER to the supplemental appropriation bill that actually relates to a provision in the fiscal year 1992 defense appropriations conference report, which the Senate will consider at a later time. It is necessary to offer this amendment on this supplemental appropriations bill because the defense appropriations conference report cannot be amended.

The amendment I am offering concerns a classified program, the details of which I cannot discuss here today. I can say that the conferees on the Defense Authorization Act and the Intelligence Authorization Act all came to an agreement on this program. We agreed that the administration could not proceed to full-scale development on this program in fiscal year 1992. Funding was also fenced with certain requirements on the Department of Defense. The classified annex to the National Defense Authorization Act, which was incorporated into the act, contains a provision that reflects this agreement. Likewise, the classified annex to the Intelligence Authorization Act contains a provision that is in accord with this agreement.

However, a provision was included in the classified annex to the Defense Appropriations Act that is inconsistent with and contradicts this agreement. That is why this amendment is necessary. I have spoken with the individuals on the appropriations committees who were involved in this matter. I do not believe this was intended since the authors of the appropriations provision were party to our negotiations. They now understand that the provision in the appropriations bill does not reflect our collective agreement. I want to emphasize that the authors of the appropriations provision in question have agreed to accept this amendment.

Unfortunately, the authors of the appropriations provision do not have a mechanism to correct their provision, since the House has already passed the defense authorization, intelligence authorization, and defense appropriations conference reports. Over here, the Senate has passed the defense and intelligence authorization conference reports. The defense appropriations conference report, as I mentioned earlier, cannot be amended.

Moreover, Mr. President, because the classified annexes to these conference reports have the force and effect of law, they can be changed only by an act of Congress. That is why I must offer this amendment to the supplemental appropriations bill.

I understand that this amendment is acceptable to all the parties involved. The amendment simply conforms the Defense appropriations bill to the Intelligence and Defense authorization acts in a manner which was understood to be the agreement. I urge the adoption of this amendment and thank the Chair.

AMENDMENT NO. 1405

The PRESIDING OFFICER. Is there further debate?

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD. Is the Senator ready to vote?

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New York?

The distinguished President pro tempore is recognized.

Mr. BYRD. Mr. President, the distinguished Senator from Texas [Mr. BENT-

SEN] the chairman of the Finance Committee, wishes to speak on this amendment.

I, therefore, ask unanimous consent that if the distinguished Senator from New York has no problem with my doing so, that his amendment be temporarily laid aside so that an amendment by Mr. LAUTENBERG may be—I understand Mr. LAUTENBERG has an amendment—he may call up his amendment; and with the further understanding that when Mr. BENTSEN reaches the floor, Mr. BENTSEN may be recognized to speak in opposition to the amendment by the Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. If the chairman of the Appropriations Committee would abide a question here. Is the suggestion being made that if I am in the middle of my remarks, that I halt at that point, or finish?

Mr. BYRD. No. I only suggest that the distinguished Senator be aware that Senator BENTSEN is going to be on the floor, and at the convenience of the distinguished Senator from New Jersey, he would yield to Mr. BENTSEN at whatever point he wishes to yield.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, might I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABORTION RIGHTS AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to offer an amendment that would reverse current Department of Defense Policy and allow servicewomen and military dependents access to safe and affordable abortion services in overseas military medical facilities. I am offering this amendment because, like a clear majority of Senators in this body, I see the injustice of the administration's policy. But I am also offering this amendment because this same provision was dropped narrowly by the Defense appropriations conferees last week even though a majority of my colleagues supported this amendment in the Defense appropriations bill. My colleagues who switched their votes told me that they would support this amendment if it was not on the Defense appropriations bill. They told me that the President would veto the entire Defense appropriations bill over the provision. Well, now I am heeding my colleagues suggestion and am offering this amendment. I want to take a few minutes to explain this issue to my colleagues.

Once again, Congress has to take action to prevent the further erosion of the constitutional rights of American women. This action is necessary to overturn a 1988 Reagan administration directive prohibiting American servicewomen and military dependents access to privately financed abortions in overseas military medical facilities.

Mr. President, like the gag rule, this directive came from nowhere and is an affront to every affected service person or dependent. From 1982 to 1988, servicewomen and military dependents could receive safe, privately funded abortion services in overseas military medical facilities. Then in June 1988, the Assistant Secretary of Health Affairs at the Department of Defense arbitrarily overturned existing policy without any direction from Congress or warning to the public.

The Assistant Secretary of Defense for Health Affairs took this action while conceding that providing privately financed abortions in overseas military medical facilities "does not violate the legal prohibition" against using Federal funds for abortions. The Reagan administration decided to ban such abortions anyway.

Mr. President, the issue here is whether or not a servicewoman or dependent who is stationed overseas leaves her constitutional rights at the U.S. border. In countries like the Philippines, Panama, and Saudi Arabia, abortion is not permitted. A servicewoman who seeks to terminate a pregnancy in those countries must either try to obtain an unsafe, back alley abortion or travel all the way back to the United States or some other country, where the service is available.

Mr. President, the U.S. military initially built U.S. medical facilities on our bases overseas because our service members are often stationed in countries where safe health care is not available. Since 1988, however, if a servicewoman wants to terminate an unintended pregnancy while stationed overseas, she does not have access to safe medical care. She has access to butcher knife care. And the result is severe medical complications. Not only does this Department of Defense policy rob women of their rights; it forces them into life threatening situations.

Mr. President, we should not treat our dedicated servicewomen as second-class citizens when they serve our country overseas. To the contrary, that is the time when we ought to make sure that every service that is available to our military is there and available to them. Do the opponents of my amendment think this policy is a good way to reward our brave and courageous servicewomen? Would we force our Nation's servicemen to travel all the way back to the United States to receive treatment for prostate cancer?

Mr. President, I also want to set the record straight on a few issues that have been distorted by proponents of this reprehensible policy. First, this amendment does not violate the statutory ban against using Defense funds for abortion established in 1984. It simply returns U.S. policy to the way it was from 1982 to 1988 where servicewomen and military dependents could receive privately financed abortions in overseas military medical facilities.

Second, this amendment will not allow third trimester abortions or so-called postviability abortions. This provision upholds all existing military regulations regarding reproductive health care that the military has promulgated within the Roe versus Wade framework. These existing regulations prohibit third trimester amendments unless the life or health of the mother is in danger.

Third, military service branches already have existing regulations that require parental notification for minors before any major medical procedure, including abortions, can be performed.

Fourth, this amendment does not require any military health care worker to perform an abortion if he or she believes that it is against his or her ethical, moral, or religious beliefs. All branches of the service have so-called conscience clauses that allow military health care workers to abstain from performing procedures that violate their beliefs.

Therefore, Mr. President, this amendment is not about using Federal funds for abortions, third trimester abortions, parental notification or making someone perform an abortion against his or her will. This amendment is about protecting the constitutional rights of our servicewomen.

Mr. President, if there are any critics out there who think that this current policy is not having a traumatic affect on our servicewomen or military dependents, I wish they would read the letter that I have from Dr. Jeffrey T. Jensen, M.D., head of the Department of Obstetrics and Gynecology at the U.S. naval hospital at Subic Bay in the Philippines.

I ask unanimous consent that the entire text of Dr. Jensen's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

HEAD, DEPARTMENT OF OBSTETRICS
AND GYNECOLOGY, U.S. NAVAL
HOSPITAL, SUBIC BAY, REP. PHILIPPINES,
FPO San Francisco, CA, May 11, 1991.

Hon. LES AUCOIN,
Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN AUCOIN: I understand that you are reintroducing an amendment to the DOD Authorization bill, which you had sponsored in 1990, which would allow overseas active duty military and their dependents the option of obtaining an abortion at a military treatment facility at their own expense. I would like to share with you some of the experiences I have had with this issue over the past two years at the U.S. Naval Hospital, Subic Bay, where I have served as a staff Obstetrician/Gynecologist, and Head of the Department of Ob/Gyn. They exemplify the danger and frustrations that our volunteer servicewomen and female military dependents are subject to in the Philippines. Hopefully these examples will help you and other members of Congress see even more clearly how the 1988 DOD prohibition against abortion at overseas hospitals has endangered women's lives and interfered with the readiness of our military.

First let me provide you with details of health care at the U.S. Naval Facility, Philippines, and contrast it with that available locally. The Naval Hospital is a 85 bed facility serving a patient population of about 17,000 active duty and dependents. It also serves as a referral center for the Fleet and Naval Station Diego Garcia. Our department provides comprehensive Ob/Gyn services to both active duty, retired, and dependent patients. Problems we are unequipped to deal with are transferred to other military treatment facilities. We have the equipment necessary to perform elective abortions, as it is identical to that used for spontaneous abortion. Olongapo City borders the base, and serves as the local liberty area for personnel. The community is known for its cheap bars and prostitution is a way of life for many economically disadvantaged women who flock to Olongapo. Needless to say, sexually transmitted diseases are common. I do not think our military leaders would be proud to show the parents of our sailors the lifestyle that is common in Olongapo. The Philippines is a third world country with high unemployment and a rapidly increasing population. Government population policies are severely restricted by the Catholic church. As a consequence, availability of contraceptive methods is low and the birth rate is high. Although abortion is illegal for any reason, it is commonly available. Procedures available range from abdominal massage and catheter insertion techniques of lay midwives to more sophisticated dilatation and curettage procedures provided by physicians. As all of these procedures are illegal, there is no quality assurance. I have visited the local hospitals. The facilities for legal procedures such as surgery and vaginal delivery are questionable. I can only imagine the facilities and equipment for sterilizing instruments in black market abortion clinics. One patient relayed a chilling story of instruments set to boil upon the stove, a technique ineffective against spore forming bacteria and certain viruses.

We admit about eight patients per year with complication from illegal abortion. In order to minimize this occurrence, I am outspoken and open when counseling my patients. I maintain an open door policy to any women needing information on options in early pregnancy. If a patient chooses abortion, I council her against obtaining the procedure locally due to the inherent risks involved in even the best clinics. If the patient intends to have a local procedure she is instructed to come to my clinic following the procedure for an examination to rule out infection or other problems. I fit them into my schedule without appointment. Unfortunately, many patients do not consult us, wrongly concluding that since the system does not support her choice a Navy physician will not be supportive or compassionate. Some even fear having their plans revealed to their (sponsor's) command. This has an obvious negative impact on the quality of the physician-patient relationship.

Not all illegal procedures result in complications. When problems do arise, however, there is a tendency to present late for legitimate care. Part of this is a suspicion of the system which initially denied care. It is against Navy regulations for active duty members to seek health care outside of the military system (unless referred by a military physician). An active duty woman suffering a complication might find herself in a "line of duty" investigation which could find her injuries non service-connected and ineligible for care in the military or VA system. If she suffered injury from faulty illegal care in the Philippines she also cannot be compensated through civil suits. Is this fair treatment for an individual who, having volunteered to serve her country, was guaranteed comprehensive health care as a benefit of service, and then sent overseas? To protect our patients, the unofficial policy we have adopted is to not document (in the medical record) illegal abortion as the antecedent cause of complications which may result in admission to our hospital. I imagine other facilities handle this problem in a similar fashion so accurate statistics on number of admissions for complications of illegal abortion may be impossible to obtain. Hospital administrators vary with respect to their concern and compassion for this problem.

I urge my patients to travel to Japan or the States if possible. This requires that a servicewoman take leave. For junior enlisted taking leave on short notice presents a problem, as leave is a privilege granted only if the needs of the command are met. As the safety of abortion procedures is inversely proportional to the length of gestation, delays contribute to morbidity. The servicewoman often finds herself in a situation where she must divulge (against her wishes) her most private decisions regarding her reproductive health. And she must do this in an environment which may be hostile to her intentions. Despite attempts at education by the Navy, the level of sexual harassment remains high. My patient could find this decision has a negative impact on her career if a supervisor is not supportive of a woman's right to choose abortion. Even after receiving permission from her command to take leave, my active duty patient faces the obstacle of obtaining transportation to a country where abortion is safe and legal. There seems to be some myth about the availability of government transportation to military personnel overseas. [In contrast to the situation for White House Staffers, air transport for military on leave is on a "space available" basis only, and flights do not occur every day. In addition, a flight may be canceled at any time. You may not sign up on the wait list for a flight until you are in a leave status, so chargeable leave time accumulates while you wait. The wait lists for the States is much longer than Japan. Furthermore, there is no guarantee of a return flight. This further increases time away from work anxiety, and expense. During peak transit times there may be no space available seats, resulting in the additional financial burden of commercial airline tickets.]

The predicament for active duty dependents is even worse as they are in a lower category of priority for space available flights (i.e. an active duty member on regular leave showing up on the day of a flight will get space before a dependent regardless of the duration of the dependent's wait). I know of at least two cases, one active duty enlisted and one dependent daughter, who were subjected to the increased morbidity and expense of a second trimester procedure secondary to wait involved for a space available flight. The fact that the risk of death and complications from their procedures was needlessly increased four fold left me exasperated and outraged. These are real people, military members (or their dependents) who volunteer their lives to defend their country and are denied the same standard of care available to other Americans.

For teenagers, the situation is more complicated and frightening. This problem is compounded by the local ruling which prevents minors (dependent children under 21) from access to health care, including contraceptive counseling, without parental consent. A recent survey done by students at our DODDS high school revealed that 61% of female and 81% of male juniors and seniors state that they are, or have been, sexually active. About 8–10 students carry a pregnancy to term each year. A comparable number have abortions. Combined, that number is roughly 10% of all female high school students (grade 9–12). In other words about 5% of all female high school students here will have an abortion! It is an unfortunate fact of life that not all families have perfect communication. Even the best parent-teenager relationships are strained by the intensely personal nature of sexuality and pregnancy. In families with dysfunctional communication, or where physical or mental abuse is present, it is unreasonable to assume that these issues can ever be openly discussed. Rather than confront an abusive parent (or disappoint a good one), teenagers often attempt to conceal their pregnancies and present late for prenatal care or abortion referral. Again, for those who choose to leave the Philippines for an abortion, the additional wait for transportation may add significantly to the risk of the procedure. The stories of young women who choose not to involve their parents and pursue illegal abortions locally horrify and sicken me. They are forced to travel to unsafe locations for the procedures. Often times the person performing the procedure cannot explain it in English. Prices are inflated to extorsion levels for Americans. Anesthetics are administered without appropriate monitoring. We have admitted two teens so far this school year for intravenous antibiotics and completion curettage following an illegal procedure. One, a high school junior was hospitalized for over 7 days. What impact this will have on her future fertility remains to be seen. In my opinion, it is only a matter of time before a teenage dependent daughter dies here from a complication of illegal abortion. Even legal termination presents serious difficulty for students. One of my patients, an intelligent high school sophomore who states she would have used a reliable birth control method had access to confidential care been available, went to Japan for her abortion, accompanied by her mother. Although she suffered no complications, she missed two and a half weeks of school due to flight delays.

Cases of fetal anomalies provide further insight into the arbitrary cruelty of the current law. We have the technology to screen for fetal malformations with high resolution ultrasound imaging, and detect chromosomal anomalies with amniocentesis and genetic studies. The military supports these diagnostic studies as they are the standard of care. Most patients are shocked to learn, however, that there is no federal funding for pregnancy interruption in the event that a serious anomaly is found, even if the anomaly is significant enough to be 100% fatal! This is not abortion for birth control; these couples are usually anxious to conceive again. Often times these are couples who have delayed childbearing and planned their pregnancy. Let me illustrate this with an example from my own practice. A 23 year Marine Lance Corporal and his 21 year old wife were pregnant with their first child. An ultrasound was performed at about 20 weeks in order to confirm gestational age, as the patient had presented late for prenatal care. At that time, multiple fetal anomalies were discovered. Repeat studies were performed with the same conclusions; the anomalies were incompatible with extrauterine life. The patient and her husband were counseled regarding the findings, and options for continuing or electively terminating the pregnancy were discussed. Observing the deteriorating condition of the fetus through multiple exams, the parents felt unable to cope with continuing the pregnancy and requested interruption. Although they had previously been told that federal regulations would not allow the procedure in our hospital, they again requested we reconsider this in view of the severity of the anomalies. The case was presented to the Hospital ethics and executive committees; both refused to go against federal regulations. A Lance Corporal has a take home pay of about $865/mo. Exclusive of transportation and incidental expenses, the cost of hospitalization and labor induction termination in Japan is around $2,500. With no savings, this young couple had no choice but to continue the pregnancy. Just imagine what it feels like as a physician to have to tell a patient that although you have the tools and training to end her suffering you cannot do so. I presume it is easy for policy makers to abstract themselves from this situation and consider the issue black and white. But attempt to visualize the emotional pain this real life situation creates in both patient and physician. The heartache a mother feels with each fetal movement knowing that her baby will never live past birth, and that she must be continually reminded and tormented by this knowledge until her delivery. The sadness and helplessness her physician shares at every office visit and phone call. This young couple lived through this hell for an additional 10 weeks until the doomed fetus suffered an intrauterine death. The labor induction which followed was long and painful, complicated at delivery by the massive size of the fetal abdomen (secondary to ascites), which had developed during the last several weeks of the pregnancy. After a year this couple has conceived again, this time with a normal fetus. Physically the patient is fine, but the emotional scars of this unnecessary suffering remain in both her and me. I can't help but think that this young marine's vision of what his country is willing to do for him and his family, in return for his dedication and professionalism as a soldier, has been forever altered.

The current situation in the military provides me with insight into the problems we would see if abortion were not readily available in the United States. The powerful and wealthy would continue to receive safe care with terminations provided by sympathetic private physicians in their own offices. The "have nots" would be unable to access this type of care for several reasons. Primarily, as these patients have not developed longstanding relationships with a physician, the doctor would be unwilling to run the risk of criminal prosecution to treat the patient. I am certain that many military gynecologists have found themselves in the position to help someone they trusted and have terminated a pregnancy by camouflaging it as an incomplete or missed spontaneous abortion. I consider this to be more an act of kindness than civil disobedience. Unfortunately, those with the greatest need, the young junior enlisted where the financial burden falls heaviest—are unlikely to benefit from this relationship. I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal, and common in the civilian community.

It is appalling to me that the President of the United States, Commander and Chief of the military, sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. It is my opinion that the Navy's attachment to its Philippine base centers more on its use as a liberty port than a shipyard. The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

Thank you for letting me share my experiences with you. Although I personally feel federal funds should also be available for abortions, this legislation alone would significantly improve the physical and mental health of military women overseas. By allowing women the option of obtaining the procedure in military hospitals at their own expense, we would guarantee them access to safe treatment at a clean facility in a timely fashion. The preparedness of the military would be improved not only by reducing lost work days, but also by enhancing morale through this expression of empathy for women's issues. I appreciate your dedication to improving the health care of active duty and military dependent women. If I can be of any further help with this issue (or any other women's health care issue) feel free to contact me.

Sincerely,

JEFFREY T. JENSEN, M.D.

Mr. LAUTENBERG. I will paraphrase the letter, Mr. President. He talks about the medical treatment that has to be done when a back alley abortion fails. He talks about the endangerment of a woman's life and alerted us to the fact that this failure to provide these kinds of services is threatening to American citizens who are serving their country overseas.

My distinguished colleague, Senator WIRTH, of Colorado, who has worked long and hard on this issue during consideration of the Defense Authorization bill, inserted this letter in the RECORD previously. For those who have not read this letter, let me summarize a few items contained in it.

First, Dr. Jensen sees approximately eight patients per year with complications from illegal abortions. These women typically come forward with these complications late and are experiencing life threatening situations. In other words, the military will pay to treat a woman who suffers from a botched abortion but will not allow her to pay for a safe abortion at a military medical facility to prevent this. This is absurd.

Second, Dr. Jensen's letter discusses a case where a lance corporal discovered that her baby would die at birth after several tests. After receiving medical counseling, she elected to terminate her pregnancy. But in this case she had no constitutional rights. Her options were either to carry her pregnancy several months knowing that the child was going to die, get an unsafe back alley abortion in the Philippines, or fly to Japan and pay $2,500 to have a safe abortion if she could get leave or a flight, on a monthly salary of $965.

Third, Dr. Jensen documents how difficult it is for servicewomen to get leave and a flight to travel to another country to terminate an unwanted pregnancy. Often servicewomen are forced to disclose this very personal decision to terminate a pregnancy to a superior officer in order to get leave. Also, women who often have to wait to get a flight to another country often have their health put at risk and are forced to go through further trauma.

Mr. President, it is time to end this disgrace and restore the constitutionally protected rights of our American servicewomen serving abroad and military dependents. I urge my colleagues to support this amendment.

Mr. President, it is my understanding that, under a previous agreement, we are to recognize the Senator from Texas. I relinquish the floor for that purpose, but retain my rights to the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

AMENDMENT NO. 1405

Mr. BENTSEN. I thank the distinguished Senator for his consideration and the chairman of the Appropriations Committee for giving me an opportunity to state my concern over this amendment.

I can well understand what the distinguished Senator from New York is trying to do here. What he is talking about is trying to raise this duty from 2.5 to 25 percent, as I understand it, to give it a truck classification. This is identical with a bill that he submitted back in August and that was referred to the Finance Committee. We, in turn, sent it to the administration; we sent it to the International Trade Commission for their comments.

Let me make one point very clear. This is a tax measure, and that is what it is. Under the Constitution, those things have to originate on the House side. That is their prerogative.

What this would do is increase the taxes paid on light trucks. So it is a revenue measure. If we send that to the House on this bill, it is going to be blue-slipped. All the work that has been put in by the committee members on the Appropriations Committee, all of the concerns that rest in this piece of legislation will be for naught. And we are talking about this right when we are talking about adjournment. All wasted.

It took too long to get this bill to the floor. It is too important to be treated this way. We have nearly 150 different tariff measures like this one that have been introduced and referred to the Finance Committee. We cannot act on these until we have a revenue measure from the House. That is just the way it is. That is the Constitution.

Just today, the House Ways and Means Committee's subcommittees acted on a miscellaneous tariff bill covering 227 tariff measures.

Let me make a further point. My understanding is the administration, a Republican administration, opposes this amendment. They say that it conflicts with our international agreement obligations under GATT. And that is as well as the Customs Cooperation Council, that it would be extremely difficult to administer. These are their arguments against it.

I will move to table, I understand that the distinguished Senator from New York has talked on this at some length. I would be happy to yield him 5 minutes, 10 minutes, with the understanding that I do not lose my rights to the floor, if he would like to speak before I move to table.

Mr. D'AMATO. I appreciate it.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mr. D'AMATO. I appreciate my colleague's courtesies. I have indicated quite clearly that it was this administration that reversed the ruling of the Customs Commission, who found that, indeed, a truck is a truck. And that it is a truck for the purpose of EPA, a truck for the purposes of the Department of Transportation, and that it should be a truck as it relates to coming into this country.

Except I think we found some extraordinary influence outside of the realm of fairness, outside of the realm of what equity should be. It suddenly makes a vehicle that had been a truck for years and years, a car, so that it could escape its payment of a proper tariff. And that is what we have here.

I can appreciate the sentiment of my colleagues, and that expressed by the distinguished Senator from Texas, that we worked hard to get this bill here. But I think it is about time. We waited a long time to get the bill here. The American people have been waiting too long, the American workers have been waiting too long, for fairness. This is costing our producers jobs—our auto manufacturers, who manufacture the Chevy, the Jeep, the Cherokee, the others. This is wrong.

The American taxpayer has waited too long. We are talking about $500 million a year in lost revenue. I think we should find a way to deal with this. And, to be quite candid, I do not believe we are going to get fairness out of the House Ways and Means Committee.

If they want to blue slip it, let them do it. I was on this floor when I brought up a cutoff of trade with Saddam Hussein. I pulled down that amendment at that point in time. I pulled it down because we said, oh, my gosh, this will be terrible and it will be blue-slipped by the House.

When are this body and the other body going to begin to stand up and say what is right for the people?

I have to tell my colleagues something. When we move to table this, let us understand we are moving against fairness, we are tabling something that seeks equity, we are moving against correcting an inequity that has existed for too long. There is no reason, except the special interest groups that came in, for the Japanese to be motivated to unfairly say a truck is a car because they can save $3,500. That is what took place. It is that simple. It did take place. And we can say this is a revenue measure.

When are we going to stand up for the people and stop worrying about the intricacies of the institution and make the institution work for the people? That is the problem around here. That is the message the people are sending.

They are saying we are sick and tired of Government not responding to our legitimate needs; finding manners and ways and loopholes to keep from doing what we should be doing. If you can tell me reasonably why we will call it a truck—oh, it is a tax measure. It is a measure to see that taxes that should be paid will be paid?

I agree with my colleague this was the administration. Let us give them a chance to address the inequity that they have created, because this is an inequity. Let them take a look at it. Let it see the light of day. I do not know whether the President has seen this. I do not know whether he believes this is really fair. Let us see what he thinks, whether the present situation is fair and whether it should be changed.

How do we get it changed? Do we have to wait for a revenue measure to come through to deal with it? We will have to wait forever, and we have been waiting forever.

The distinguished Senator is right, this is the same legislation I introduced in August. I have no doubt if he had the opportunity to deal with this fairly and equitably, he would. As he rightfully points out, this measure does have to be generated from the House of Representatives as a revenue measure.

But I would appeal to my distinguished colleague. If they, the other body, seeks to take it down on a technicality, then that will be their obligation, that will be their shortchanging of the people.

I think we should act on behalf of the people, work for them, give them an opportunity to get the fairness and protection they are entitled to. And that is what this amendment is aimed to do, to bring about fairness.

Mr. BENTSEN. I would say to my friend from New York, it is not the substance of the amendment, as to the equity or inequity that is involved here. I would be willing to entertain that kind of discussion if the ground rules let us act on this. But my colleague's argument is not with the Government, it is with the Constitution. And we are not going to amend the Constitution on the floor this afternoon.

So, when you have that kind of limitation put on you, this then turns into what we down south call "show time.'

I do not blame the Senator for wanting to get it off his chest and he has strong feelings about it. I had questions as to the classification, too, and I remember the argument over that classification and how it came about, the argument between Customs and the Treasury, and finally the administration stepping into it.

But we cannot resolve that here. We have a Constitution to face. Revenue measures come from the House. Just today the Subcommittee on Trade of the Ways and Means Committee acted on 227 of these items. So they do act. But then we have to get it over here.

The Senator will have prime time to discuss his amendment and it will be relevant under the constitutional procedures of the Senate and the House. So, at this point, Mr. President, I move to table the amendment.

Mr. SANFORD. Mr. President, I appreciate the efforts of my colleague from New York to clarify a discrepancy in the way in which various agencies of the U.S. Government categorize certain vehicles. Most of these agencies consider numerous of these vehicles to be trucks, but the U.S. Customs Service has classified them as cars. This distinction dramatically affects the amount of customs duties assessed on these vehicles when they are imported.

Like the Senator from New York, I would like this matter to be clarified. However, I am afraid, as the distinguished chairman of the Finance Committee, Mr. BENTSEN, has noted, that if we pass this amendment, it will force the House to blue-slip the entire supplemental appropriations bill, that is, kill it because it did not originate in the House as required by the Constitution. I cannot afford to let that happen. There are too many provisions in this bill that are crucial to my State, including provisions to help North Carolina farmers who have suffered significant crop losses in 1990 and 1991. The bill also includes much needed money for FEMA to offer assistance to those who have been the victims of disasters across the United States, including many in North Carolina who had their homes and businesses destroyed by Hurricane Hugo. Therefore, I must vote at this time to table the amendment of the Senator from New York.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—56

Akaka
Baucus
Bentsen
Boren
Bradley
Brown
Bryan
Burdick
Burns
Byrd
Chafee
Cochran
Craig
Cranston
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Hatch
Hatfield
Inouye
Johnston
Kassebaum
Kennedy
Leahy
Lugar
Mack
McCain
McConnell
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Rockefeller
Sanford
Seymour
Simpson
Smith
Stevens
Symms
Wallop
Warner

NAYS—41

Adams
Biden
Bingaman
Bond
Bumpers
Coats
Cohen
Conrad
D'Amato
Danforth
DeConcini
Dixon
Glenn
Gorton
Heflin
Helms
Hollings
Jeffords
Kasten
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Metzenbaum
Mikulski
Pressler
Riegle
Robb
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Specter
Thurmond
Wellstone
Wirth
Wofford

NOT VOTING—3

Breaux
Harkin
Kerrey

So the motion to lay on the table the amendment (No. 1405) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I will yield shortly to the Senator from New York for 30 seconds. But I would like for Senators to know about the list of amendments that I have in my hands. Mr. LOTT has an amendment. Mr. NICKLES has an amendment.

Does Mr. D'AMATO have another amendment?

Mr. D'AMATO. I do, but I believe the committee is ready to accept.

Mr. BYRD. Mr. D'AMATO has an amendment. Mr. LAUTENBERG has an amendment pending, I believe. Mr. CONRAD has an amendment. Mr. NUNN has three amendments.

Mr. COATS has an amendment. Mr. DOLE has an amendment. Mr. MCCAIN has an amendment. Mr. SPECTER has an amendment. Mr. KASTEN has an amendment. Mr. MURKOWSKI has an amendment. Mr. WALLOP, Mr. BOND, together with Mr. DANFORTH. Mr. BRADLEY has an amendment. Mr. STEVENS has an amendment. Mr. BINGAMAN, Mr. PELL, Mr. GORE have three amendments. Mr. BYRD has three amendments and Mr. HATFIELD three amendments. Does anyone else have an amendment?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. DOLE. I might say to the distinguished chairman that we are now doing a hotline to make certain we can accommodate, sort of put all of these in the basket, and that will be it. So we ought to have this information shortly.

Mr. BYRD. All right.

Mr. DOLE. That is on our side of the aisle.

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, are we asking also about second-degree amendments?

Mr. BYRD. I will shortly.

Mr. President, Mr. RIEGLE has three amendments. Mr. LEVIN has an amendment.

Mr. President, before anyone objects, I ask unanimous consent that the amendments I have listed, together with germane second-degree amendments thereto, constitute the only amendments that may yet be called up, with the exception that within 5 minutes from right now, if there are additional amendments called in on either side, we will add those to the list.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. There is a unanimous-consent request being propounded.

The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, reserving the right to object, I am not certain as to the contents of all of these amendments, but with respect to those amendments which are not appropriations matters but which constitute legislation on appropriations bill, I would certainly reserve the right to put in second-degree amendments, and I would tell my colleagues that this appropriations bill will not be a Christmas tree for every legislative matter that every Senator wants to have.

We have to understand that. If it is such, if it becomes such a Christmas tree, then there a number of baubles that I would want to put on which I think would engage us in conversation beyond Thanksgiving. I would hope that we would not do that because I support my chairman in the desire to get this bill out in its pristine form before Thanksgiving.

Mr. BYRD. Mr. President, I thank my friend.

Mr. METZENBAUM. Mr. President, reserving the right to object, I do not intend to object. Would the Senator from West Virginia please include on his list a possible amendment of the Senator from Ohio?

Mr. BYRD. I add one amendment by Mr. METZENBAUM.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS].

Mr. COATS. I also reserve the right to object, and I would like to add an amendment to the list.

Mr. BYRD. I have an amendment down for Mr. COATS. Does he wish two amendments?

Mr. COATS. We are consulting with Senator RIEGLE. We are working to see if we are working on one and the same. We will clarify that.

Mr. BYRD. So the list will be two amendments by Mr. COATS.

Mr. COATS. I appreciate that.

Mr. LEAHY. Reserving the right to object, I shall not. Does that show a Leahy agriculture amendment?

Mr. BYRD. It does not.

Mr. LEAHY. Could we add that to the list?

Furthermore that no points of order be waived by virtue of this request.

That Mr. SIMON be added to the list with one amendment; Mr. NICKLES, two additional amendments; two by Mr. KOHL; one by Mr. PRYOR; and one by Mr. BOREN.

Mr. JOHNSTON. Mr. President, did the leader reserve unlimited second-degree amendments for the Senator from Louisiana?

Mr. BYRD. Yes. That was in the request, the second-degree germane amendments.

Mr. JOHNSTON. Not necessarily germane.

Mr. BYRD. Oh.

Mr. JOHNSTON. Not relevant, not germane.

Mr. BYRD. Did the Senator wish to be listed for an amendment or two amendments?

Mr. JOHNSTON. Not knowing what the subject matter is, Mr. President, the problem is that there may be legislation on this appropriations bill which the Senator from Louisiana would oppose. If that is so, then we must get into other matters which are nongermane, nonrelevant.

I would just tell my colleagues this will not be a Christmas tree for legislation unless they are willing to deal with the matters which are of concern to the Senator from Louisiana, particularly energy matters.

I have been trying to get this floor to consider some energy matters which it was not willing to consider. If they are ready to consider it at this time, I am certainly more than anxious to do so. But if we are going to get into those matters, let us get all the way in. I am anxious to get home for Thanksgiving, but willing not to do so for a good cause.

Mr. BYRD. Then I amend my request as follows:

Provided that if any energy amendments, any amendments, any energy amendments are offered, the Senator from Louisiana may offer some second-degree amendments thereto.

Mr. JOHNSTON addressed the Chair.

Mr. BYRD. Not necessarily germane ones.

Mr. JOHNSTON. If the Senator will say just any nongermane amendments on behalf of the Senator from Louisiana.

Mr. BYRD. Any nongermane amendments on behalf of the Senator from Louisiana with respect to any energy amendments that may be offered.

Mr. JOHNSTON. With respect to any subject, because I have a number of interests.

Mr. METZENBAUM. Mr. President, I would have to object to that because it would give the Senator from Louisiana an advantage 99 other Members of the Senate will not have, and that is he would be in the position to offer second-degree amendments on any subject he wanted; the rest of us would not be in that position. I have a lot of respect for my friend.

Mr. BYRD. I hope the Senator from Louisiana will not push that hard. I think the request I have before the Senate will certainly afford him ample opportunity to offer nongermane amendments to any amendment that he wished, and his nongermane amendments could deal with anything else.

Mr. JOHNSTON. Mr. President, ordinarily I would not concede on this matter, but since my friend from West Virginia asked, as long as it pertains to energy, I will concede.

Mr. BYRD. Yes. I thank the Senator. Again I say with no points of order being waived.

Mr. COCHRAN. Mr. President, reserving the right to object, I am asked to advise the distinguished manager of the bill that there is an objection on this side to getting that unanimous consent at this time. We are working with the Senator who has expressed concern and we hope to be able to report back.

In the meantime, I do have some indications from other Senators interested in being listed as having amendments. Senator DOLE has three amendments.

Mr. BYRD. All right. Let me add three amendments by Senator DOLE.

Mr. COCHRAN. Senator STEVENS, two amendments instead of the one previously entered.

Mr. BYRD. Two amendments by Senator STEVENS.

Mr. COCHRAN. Two amendments for Senator HELMS.

Mr. BYRD. Two amendments by Senator HELMS.

Mr. COCHRAN. An amendment by Senator KASSEBAUM.

Mr. BYRD. One amendment by Senator KASSEBAUM; two more amendments by Mr. RIEGLE; another amendment by Mr. LEAHY; two amendments by Mr. GLENN. Mr. FOWLER has one amendment. Messrs. BUMPERS and PRYOR have one amendment. And Mr. HOLLINGS will object.

I should state that I am not attempting to get the time on any of these amendments. I am not attempting to get a time limitation on the bill. So the Senators are fully protected. What I am trying to do is get consent on the number of amendments that may be called up, and with the proviso that second-degree germane amendments may be added thereto.

I mentioned three amendments. I hope that shortly we can get such an agreement merely for the purpose of limiting the number of amendments, because as Senators have just seen, the list grew geometrically during the time I was making the request. So I hope we can get such limitation shortly.

Mr. WELLSTONE also has an amendment. So Senators can easily see what problems there can be. I hope we will be able to get an agreement before long which, as I say, will not waive points of order. It will not seek time limitations on the amendment; will not seek a time limitation on the bill. So any Senator may filibuster to his heart's content, if there are amendments called up and agreed to which he does not like.

I would importune and beseech my dear friends to let us get an agreement at this time, which is a most reasonable one.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, the Senator from Louisiana limited his request to germane amendments. Did other Senators limit their request to germane amendments, or did the other Senators have the ability to put in amendments on anything?

Mr. BYRD. They did not limit them to germane. The only germane provision I included in my request is that amendments in the second degree to any of the amendments listed be germane to the amendments listed.

Mr. JOHNSTON. I see. So that all other amendments in the second degree would be germane?

Mr. BYRD. Second-degree amendments would be germane to the first-degree amendments.

Mr. JOHNSTON. So with respect to the Senator from Louisiana, he may introduce nongermane amendments with respect to energy.

Mr. BYRD. That is—

Mr. METZENBAUM. I would have to object to that. Mr. President, I would reserve the right to object.

If the Senator from Louisiana were to be allowed to offer nongermane amendments on the subject of energy, he would, frankly, be in a position to bring issues to this floor that could not be brought in any other manner, and we would find ourselves in a position of either having to filibuster such a proposal or kill the supplemental appropriations bill.

So I have to say that I think the Senator from Louisiana should stand in the same position as all other Members of this body. He is my good friend, but I do not think I am prepared to give him that advantage in certainly an area such as energy, where there are many issues of some controversy, which could be controversial.

If that is the way the unanimous-consent request is propounded, I would have to object.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I am most anxious to serve the interests of the Appropriations Committee in getting the supplemental appropriations bill through. I would hope that we could have this appropriations bill limited to matters that are appropriations matters and not to legislative matters. I would be happy not to object, if we did not get into the other arena.

But if we are going to have unlimited amendments on unlimited subjects, from abortion to defense appropriations to whatever, then I think Senators should be protected.

Mr. METZENBAUM. We all are protected, as I understand it. We have the right to offer a second-degree amendment. I think that the way the unanimous-consent request was made, the Senator from West Virginia is limiting the number of first-degree amendments and spelling them out. There is no limit with respect to the debate, no limit with respect to the right to have a second-degree amendment.

But if the Senator from Louisiana is given a special cutout that he has a right to offer amendments in connection with energy matters that none of the rest of us have, it provides him with some special privileges that he is—

Mr. JOHNSTON. Well, the unanimous consent is a limitation on the privileges of Senators, otherwise available under the rules. What I am saying is, I do not know what the subject matter of the first-degree amendments are.

Mr. METZENBAUM. Neither do I. I heard some names mentioned over there that raise some concerns.

Mr. JOHNSTON. In effect, what I am asking for is the ability to kill those first-degree amendments by second-degree amendments. Let us be frank.

Mr. METZENBAUM. Do we not all want that same thing?

Mr. JOHNSTON. I think the Senator from Ohio should seek the same kind—should not limit his rights, I should say.

Mr. METZENBAUM. As I understand it, my rights are not limited by the unanimous-consent request of the Senator from West Virginia. He is saying that any second-degree amendment that is germane can be offered to any amendment.

Mr. JOHNSTON. If it is germane.

Mr. METZENBAUM. If it is germane. I am not clear what the idea is of the Senator from Louisiana. But let us assume that there was an abortion amendment. Is the Senator saying that he has the right to put an ANWR amendment on the abortion amendment?

Mr. JOHNSTON. What I am saying is, under the present rules, if an amendment were offered to the appropriations bill, then the Senator from Ohio could put on any nongermane amendments.

Mr. METZENBAUM. No. The way he has it, I believe——

Mr. JOHNSTON. Under the rules.

Mr. METZENBAUM. Under the rules, that is correct.

Mr. JOHNSTON. The distinguished chairman of the Appropriations Committee would like to limit that by saying that only germane amendments could be offered to that. And I think, frankly, I am not anxious—I am not anxious—for this bill to be a Christmas tree for any matter that any Senator would like.

I think many of these matters ought to go through committees. I think they ought to be more fully considered. But if we are going to have a grab bag out here, then we ought to be able to stop those amendments, in effect, by second-degree amendments.

Mr. METZENBAUM. As I understand it, we have that right, provided our second-degree amendment is germane; am I correct?

Mr. BYRD. That is correct. There is no time limitation on the bill, which allows any Senator or Senators to filibuster the bill, if they so wish. So everybody is protected.

I am simply trying to get some kind of limitation on the amendments so that we then can begin to work through time limitations on the amendments.

Mr. METZENBAUM. I have no problem with that.

Mr. BYRD. I think it would be better if I attempted—now that we have the names of several Senators who want to offer amendments—to get the subject matter of the amendments, so that we can lay out for all Senators the subject matter of the amendments that are being listed, and then perhaps we can get an agreement. So for the moment, I would desist.

Mr. METZENBAUM. I ask the Senator from West Virginia that if he desists and comes back to this subject, the Senator from Ohio would like to be advised in advance so I can be on the floor. I will be here within 5 minutes.

Mr. BYRD. If we have another rollcall vote, I will attempt at that time.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

AMENDMENT NO. 1407

(Purpose: To limit the use of funds for carrying out any Department of Defense policy that prohibits certain abortions overseas)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. WIRTH, proposes an amendment numbered 1407.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following:

SEC. 2 . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

Mr. LAUTENBERG. Mr. President, for clarification this amendment is designed to provide to servicewomen and military dependents the same rights that every other citizen of this country has.

We do not, when we recruit people, say to them: Remember that when you leave these shores, you also leave your rights behind. What we do say to them is that if you are stuck in another country someplace, and you need or want a privately funded abortion is in a military medical facility you don't have that right.

One day in 1988, an arbitrary decision was made, sent forward by Dr. William Mayer, Assistant Secretary for Health Affairs of the Department of Defense. The date was June 21.

Mr. President, I ask unanimous consent that a memorandum from Dr. Mayer for the secretaries of the military department be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 1, 1988.

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities.

Until this time, there has been no formal Department of Defense policy on the issue of performing abortions, not funded by the government, in military medical treatment facilities in certain countries in which quality medical care may not be locally available. In a very small number of cases, military medical facilities in several locations around the world have performed abortions when paid for, not by appropriated funds, but by the patient.

Under the law, funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The informal practice of performing so-called "pre-paid" abortions in very limited circumstances outside the United States does not violate the legal prohibition. However, it might suggest insensitivity to the spirit of the Congressional-enacted policy of withholding government involvement in the provision of abortions.

It therefore appears appropriate to establish formally a uniform Department of Defense policy in this regard. The policy is that the performance of pre-paid abortions in military treatment facilities is not authorized. To permit time for necessary instructions to be issued to facilities, this policy becomes effective October 1, 1988.

WILLIAM MAYER, M.D.

Mr. LAUTENBERG. Mr. President, suddenly a memorandum was sent out that limited the rights heretofore available for years, limited the rights of servicewomen and dependents of service families to get abortion services at military facilities. What was suggested was that, on a space available basis, you might be able to get the same rights.

Mr. President, what is suggested by the military as an alternative is, "Listen, why don't you wait and get a flight seat on availability and you can go back to the United States, or you can go to another country where abortion services are safe and clean."

Mr. President, that immediately poses a question. Does the Department of Defense policy put a servicewoman's health at risk when she is forced to wait for a flight back to the United States and her pregnancy advances further, possibly into the second and third trimester? The answer is "yes."

So, Mr. President, Department of Defense's policy puts the servicewoman's health in jeopardy by saying, "You wait until there is a seat available." Suppose a 15-year-old girl becomes pregnant, and she says, "I want my mother with me; I want my father with me. I want the comfort of my family around me when I go through this process." This is not something that people want to get. So then, does a dependent have to wait for three seats to become available and do they all ride on the same plane?

What happens if there are complications after an abortion? It can happen even in the best of circumstances. Do we say then, "No, no, too bad young woman. Your folks have to go home." Or if the person is a member of the service does that person have to take additional leave to take care of his or her daughter after a bad medical procedure? Certainly we would not ask that of a man who needs a particular treatment and ask him to take his personal leave and wait for an available flight to go back to the States, if the service is available on the base like abortion services have been before 1988.

This amendment doesn't require any health care workers to challenge their conscience. We say very clearly there is room for conscience objection to participating in any kind of a procedure the person deems objectionable. So we violate none of the rules that the military had already established before 1988, Mr. President, except the rules of fairness, the rules of decency. Can you imagine what would happen if we put on a recruiting poster or the agreement that an enlistee signs, saying, remember, like on a pack of cigarettes, military service may be injurious to your health? Do we say that not only enlistment in the service might be injurious to your health, but we should also say that it is injurious to your rights? What our Government says is serve your country, go to Saudi Arabia and go to the Philippines, but if something goes awry and you have a pregnancy that you do not want or you think is against the best interest of yourself or the fetus, but don't expect to retain your constitutional rights. There are many countries that only permit abortions under very strict terms. We have in the United States a law; it is Roe versus Wade. It is very clear what these privileges and rights are in our society under this Court decision. But it is also clear that you don't have these rights when you serve in the military.

Mr. President, there can be a lot of debate about whether or not Roe versus Wade ought to exist. There is going to be plenty of examination of that in the near future and there is a chance that the Supreme Court could overturn it. But how dare we say to someone who goes overseas to serve their country, often in very dangerous circumstances, "Remember, that if you go there, your rights are left at the national border."

So, Mr. President, this amendment is designed to make this wrong right and return our constitutional rights to 65,000 servicewomen and 400,000 dependents living abroad. Recently we had many discussions here about bringing the troops home. Well, I am one of those who favors that, but they are serving abroad at our behest. They are serving at our Government's direction. They are serving at the people's direction. While they are there, certainly they are entitled to all of the privileges and service and rights that any American citizen has.

Mr. President, I, with the distinguished Senator from the State of Colorado, TIM WIRTH, authored an article that appeared in the New York Times on November 13, 1991. It talks about abortion rights, and it is headlined, "Abortion Rights? Not in the Military," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 13, 1991]

ABORTION RIGHTS? NOT IN THE MILITARY

(By Frank R. Lautenberg and Tim Wirth)

WASHINGTON.—When a pregnant 21-year-old woman in the Philippines discovered that her child would be born with fatal birth defects, she and her husband reluctantly decided to end the pregnancy. Since abortion is illegal in the Philippines except to save the woman's life, she could have flown to Japan where its legal. On her husband's salary, the couple simply could not afford it. She was forced to carry the fetus to term with the agonizing knowledge it would die at birth.

The woman was not an impoverished Filipino but the wife of an American serviceman. Her husband was stationed at a naval base where the abortion could have been done safely and affordably, if not for a 1988 Defense Department directive barring abortions at U.S. military hospitals except to save a woman's life.

We've included an amendment to overturn this directive in the Senate version of the defense appropriations bill for 1992. Its fate will be decided in a House-Senate conference this week. The President has threatened to veto the entire defense bill in order to deny American servicewomen and military dependents access to safe abortions.

Last spring the nation shred a swell of pride and support for our forces in the Persian Gulf. Yet the President would tell our service members and their families that they deserve lower-quality health care than they could have at home.

In Saudi Arabia, where about 30,000 American women were stationed during Operation Desert Storm, abortions are illegal except to save the life of a woman. The laws are similar in Panama and the Philippines, where about 46,000 members of the military and their dependents are stationed.

Even where abortion is legal, American women may have to accept substandard medical care that endangers their life. Many developing countries cannot afford to test their blood supply for the AIDS virus. They lack antibiotics and trained personnel to provide high-quality health care. The results are deadly. In Latin America, complications from illegal abortions are thought to be the main cause of death in women between the ages of 15 and 39.

Lieut. Comdr. Jeffrey I. Jensen, former head of obstetrics and gynecology at the Subic Bay U.S. Naval hospital in the Philippines, has written a letter to Congress detailing his experiences over the last two years. He saw families forced to spend their life savings to travel to another country to have an abortion. He saw military doctors prohibited from providing counseling and care they believed to be in the best interest of their patients. He saw a young enlisted woman so distraught about her inability to end an unintended pregnancy that she committed suicide.

Overturning the Pentagon directive would allow servicewomen or military dependents to pay for their own abortions at overseas U.S. medical facilities. The Defense Department admits that the current ban on using its funds for abortions would not be violated.

The appropriations amendment upholds all regulations on health care that the military itself has established, including those prohibiting third-trimester abortions unless the life or health of the mother is in danger and requiring parental notification by minors before any major medical procedure, including abortion. It would not require any military health care worker to perform an abortion if it violated his or her ethical, moral or religious beliefs.

It is appalling that women who have volunteered to defend our nation should be expected to surrender a constitutional right because they are stationed in Manila instead of Manhattan.

Mr. LAUTENBERG. I ask unanimous consent to print in the RECORD an editorial in the Washington Post dated Saturday, May 18.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 18, 1991]

A PENALTY FOR SERVING ABROAD

In 1982 the Department of Defense prohibited the use of federal funds to pay for abortions. This policy is in conformity with the government's refusal to finance abortions for the poor through the Medicaid program, for government workers whose health insurance policies specifically exclude abortion and for those in desperate poverty in places overseas where the use of U.S. foreign assistance money is restricted. Americans living and working in this country, however, at least have access to safe abortions as long as they use their own funds to pay for them.

Not so for Americans serving their country in the armed forces abroad. Since 1988, members of the armed forces and their dependents have been barred from using military hospitals abroad for abortions even if they pay for the abortions privately. Many of them are stationed in countries where abortions are illegal. Others are in places where any kind of medical care in a local hospital is risky.

Congress did not require this wrongheaded regulation, and legislators can overturn it. An attempt will be made on Monday, when the House takes up the Defense Appropriations Bill. Last year, Senators Tim Wirth and John Glenn tried; they had 58 votes but not enough to stop a filibuster. In the House, the Les AuCoin-Ronald Machtley effort failed by only 16 votes. This year, the numbers look better. Servicewomen and military dependents abroad are not asking for special treatment, only the right to receive the kind of treatment—at their own expense—that is available in this country.

Mr. LAUTENBERG. Mr. President, I take a moment to read from that editorial:

> In 1982, the Department of Defense prohibited the use of Federal funds to pay for abortions. This policy is in conformity with the government's refusal.

And in 1982 they rearranged it so that no abortions can be paid for with Government funds. Those are the rules, but they did permit privately funded abortions. That means that persons pay for this themselves at a rate that is easily developed. There are HCFA and other agencies in the Government that can very clearly evaluate the rates for such service.

But the Washington Post editorial goes on to say that this access to safe abortions, as long as they use their own funds to pay for them, was available until 1988. Not so, the article says, for Americans serving their country in the Armed Forces abroad, and it describes again the condition.

In the last paragraph it says:

> Congress did not require this wrongheaded regulation, and legislators can overturn it.

An attempt is going to be made and again I make reference to the fact that this was in May. Senators TIM WIRTH and JOHN GLENN tried and they had 58 votes.

Mr. President, 58 votes, not enough to get cloture, not enough to stop a filibuster, but 58 sounds like a pretty good majority.

Consider, Mr. President, at that time there were a couple Senators favorably disposed to righting this wrong who are not with us in this Chamber.

In the House, there was an amendment to correct this reprehensible policy introduced by Congressman AUCOIN, that was adopted in the defense authorization bill by a 220 to 208 majority. We had an amendment dropped in the Defense appropriations conference, which I authored. We lost by two votes because the President threatened to veto the bill. This threat does not indicate an unwillingness by the majority of the House Members as well as Senate Members to support this. The numbers are certainly there. Mr. President, the question is what is right. That is what we are talking about.

The will of the majority is constantly thwarted by Presidential threats of veto and by a group of opponents who are distinctly in the minority.

Mr. President, I ask unanimous consent to add Senator METZENBAUM and Senator PACKWOOD as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Thank you, Mr. President.

Mr. President, once again I rise in support of this important amendment which is one that merely goes to equities. There are those who can debate whether or not we ought to change the Constitution. The Supreme Court, I hope, will rule on that one of these days and not duck the issue, whether Roe versus Wade ought to be changed. But until it is changed, that is the law of the land. That is the law of the land. That is what the Court has said.

Now why should we be in a situation in which we, the Government, the Pentagon says that that law of the land is going to apply to most people in one way but it is going to apply to women in the military in another way? Should we condone treating women in the military as second-class citizens? Should we get some kind of ideology in the way of our fair treatment of women in the military? I think not. That is what this amendment is all about.

Now people can vote on this amendment and raise all kinds of issues related to their positions on abortion. That is fine. But I think that should be done another day. What this is about is just very narrowly involved with a simple question: Are women in the military going to be treated the same way as women elsewhere in our society? Are we going to do it?

This amendment does not provide for the public funding of abortions. It does not remotely address whether a woman should have the right to choose to have an abortion. It does not allow postviability abortions. It does not force military personnel to be involved in providing abortion-related services if that is contrary to their religious or moral beliefs. And finally it does not preclude parents from being involved in these important decisions that their children may face. It is simply about equality.

AMENDMENT NO. 1408 TO AMENDMENT NO. 1407

(Purpose: To provide servicewomen and military dependents access to reproductive health services in overseas military medical facilities)

Mr. WIRTH. Mr. President, I have an amendment to the amendment and I would ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1408 to amendment No. 1407.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of amendment 1407, add the following:
>
> (a) IN GENERAL.—Chapter 55 of title 10, United States Code, is further amended by inserting the following new section:
>
> **SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.**
>
> (a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.
>
> (b) PAYMENT FOR SERVICES.—In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full costs including indirect costs of providing the service.
>
> (2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

Mr. WIRTH. Mr. President, the situation in front of us is again a very simple one. Our women in uniform volunteered to serve their country, not to give up their constitutional rights.

Our amendment would allow those stationed overseas to be able to use military medical facilities for the full range of reproductive health services permitted under U.S. law. Any service that cannot be funded by appropriated Federal funds will be paid for by the individual. And that if what current law is.

I ask you all to think back to this past spring when across the Nation we witnessed a powerful display of emotion and support for the accomplishments of our voluntary forces in the Persian Gulf. Flags were waved, ribbons were hung, and we sang praises to the accomplishments of our troops, and justifiably so.

But in the next breath we have turned around and told our service members overseas that they deserve a lower quality of health care than what they could have at home. These people risked their lives to protect our country. They must not risk their lives because we will not provide them access to safe health care.

If we do not include this amendment in the bill, we will only be hurting more Americans, and I do not believe that that is our mission.

The supplemental appropriations bill that we are considering today has been brought to us so that our debts from Operation Desert Storm can be paid. Our amendment provides an opportunity for Congress to repay a debt to our service members to restore basic rights that one arbitrary DOD directive took away from them. Passage of the amendment would be a statement of support for simple justice, decency and equality for our women in the military.

The words of Lt. Comdr. Jeffrey Jensen at the U.S. Naval Hospital in Subic Bay, Philippines bring to our attention the repercussions and human cost involved with this directive. Because he worked in a country where abortion is illegal, he was exposed to several situations where forcing women off the base to obtain illegal abortions endangered women's lives and interfered with the readiness of our military.

Lieutenant Commander Jensen wrote:

> I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise, I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal and common in the civilian community. * * *
>
> Not only are our U.S. service women faced with the horror of obtaining illegal abortions that are unsafe and expensive, but many avoid informing their military physician about complications from the abortion for fear of having gone against military regulations—which, if their superior is not supportive of the right to choose, could jeopardize their careers.

Do not be fooled into believing that women are not forced into the streets. Dr. Jensen states that at his hospital alone, about eight patients each year are admitted with complications from illegal abortions. This is a very real problem for the individuals in the military.

Dr. Jensen went on to say:

> It is appalling to me that the President of the United States, Commander in Chief of the military sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night, one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. . . . The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

I ask my colleagues to join me in carefully looking at this situation—remove some of the emotion of the issue, and look at how we should rationally solve this injustice.

Let us look at the situation—our service members are frequently serving our country in locations where safe health care is not available at local facilities. That is precisely why the United States has established medical facilities on our bases—to meet the needs of DOD personnel and dependents in these locations. That is why we do not depend on local hospitals in the Philippines or in Panama or Saudi Arabia.

In many countries where U.S. military personnel are stationed, abortion is illegal or access to abortion is severely restricted. Their country's laws, not ours. In Saudi Arabia, where approximately 30,000 women were stationed during Operations Desert Storm and Shield, abortions are illegal except to save the life of the woman. The laws are similar in the Philippines and Panama, where about 46,000 military personnel and their dependents are stationed. This is also the only situation when a woman can obtain an abortion on the base.

So what choices are we leaving these women? Because they are stationed in a place that does not allow a woman the right to choose whether or not to continue a pregnancy to term as is the case in our country, we eliminate her option to choose to have proper health care.

Where does our responsibility to protect the life of the woman end? Unless her life is in danger by carrying the fetus to term, we force her to pursue unsafe medical practices that put her life in danger for choosing to exercise her constitutional rights. What kind of reasoning is that? It is the illogical reasoning used at the White House.

Even in countries where abortion services are legal, many subject American women to substandard health care where the blood supply is not tested for disease and trained personnel may not be available. Is this a price we are asking those who are serving the Nation to pay—simply because they are stationed overseas?

Left uncorrected, the DOD directive has a terrible impact on lives of those in our Armed Forces. It is as Senator LAUTENBERG so clearly pointed out, unfair and unjust. We ought to end this folly and remove the arbitrary directive.

Mr. President, this is not an issue that is new to Members of the U.S. Senate. It is not new to a majority of Members of the U.S. Senate. It is not new to more than 60 Members of the U.S. Senate who agree that this is fundamentally unfair. More than 60 Members agree that this is fundamentally unfair. Yet we are in a situation where we have 58 or 57 or 59 votes. It has been a movable feast of votes, figuring out how to oppose this so a filibuster can continue.

Well it is time we have this out again and see where people are. Let us sort this out, and sort it out as clearly as we can. Now is the time to do that. This is a perfect vehicle. We are paying a lot of bills for Operation Desert Storm. We are paying the bills for much of the Operation Desert Storm and Desert Shield, and as we pay those bills let us make sure we are doing our duty for the women of this country.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, if ever there was a wrong that needed to be righted, if there is such a word, this is it.

Women in the military had no problem with respect to this matter of abortions until the 1988 DOD directive. They were permitted to have safe and privately funded abortions in overseas military facilities. And what we are trying to do here is restore the pre-1988 Department of Defense policy.

That policy was wrong. It was unfair. The women who serve in the military should not be discriminated against. And this is a matter of sending them out into the back alleys of some countries that do not permit abortions and saying they cannot use the medical facilities in American hospitals, even if they pay for those services themselves.

It is the wrong kind of approach. It is an indignity to America's women who are serving in the military. It is a backward step and it deserves to be righted.

What happens as a consequence of the present policy is that oftentimes a woman is forced, if she wants a safe abortion, to pay up to two or three times her monthly salary in order to receive an abortion in another country. And as has already been pointed out there are some countries where you cannot even get the abortion unless you use the back alleys.

This is unfair. This is wrong. No matter what our policies may be, no matter what our positions may be with respect to the matter of Roe versus Wade, or no matter how we feel about existing other provisions that the Department of Defense has on this issue, we should not deny American servicewomen this basic and fundamental right of choice, paid for out of their own funds in safe and secure military hospital facilities.

It does not affect Roe versus Wade. It does not affect the Department of Defense policy on parental notification. It does not affect the Department of Defense policy on third trimester abortions. It does not affect the existing statutory ban on using Department of Defense funds for abortions. This only gives a woman a fair right to use the medical facilities that are available in the country in which she is serving so that she not be forced to come all the way back to this country, or travel to some far distant country. It gives her a chance to be with her family in that country where she is serving, assuming her family is there.

I believe this is the right amendment. I think it is time for us to act. I think we have delayed far too long.

Mr. President, I hope this body will see fit to give America's servicewomen the rights to which they are entitled.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I think it is unfortunate that at a time when we are trying to move the Senate to adjournment, dealing with one of the last pieces of legislation necessary to accomplish that task, the supplemental appropriations, that we have to inject an issue that is, yes, important; yes, we have debated it on a number of occasions; and, yes, there are appropriate places to debate this. I think it is unfortunate that the debate has to be raised once again on the floor, particularly at a time like this.

We have a number of people in this country who are desperately waiting for the benefits that will be provided through this supplemental appropriations. Yet I think as everyone in this Chamber knows, and certainly as the proponents of the amendment know, this is simply an effort to cause the administration to veto this so the Members then can come to the floor, and others, and say the President once again thwarted the attempt of Congress to provide benefits for farmers, benefits for veterans, benefits for women under the nutrition program, immunization for young people, and so forth.

As you read through the supplemental appropriations bill you find a number of important programs that are going to receive very needed appropriations. Veterans from Desert Storm and their spouses, and families who need special counseling or marriage counseling services as a result of the trauma incurred by those families during the Desert Storm operation are provided for with an appropriation in this supplemental appropriations.

If we are going to insist on legislating on an appropriations bill, and we are going to inject an issue that has been before the body and debated on numerous occasions just in this session alone, with a sure veto of the legislation, we are going to deny these families and their spouses the opportunity to receive this important counseling.

There is humanitarian relief for a number of people who are unintended victims of the conflict in the Middle East. Those people will be denied that assistance. More important, or just as important, there is disaster relief for people whose lives, homes, property was devastated by a number of disasters in this country. There are farmers who have suffered drought. I have thousands of farmers in Indiana who will receive at best half of the net income that they received last year because of a severe drought that hit almost every one of our counties in Indiana during this past summer. There is more than $1.5 million available to provide that drought relief. That is being put in jeopardy by the proponents of this amendment. Disaster relief for flooding, coastal flooding, losses associated with crop loss in both 1990 and 1991 will suffer here.

Small things—maybe it seems small to some Members here but certainly important to others—relief for the State of Maine for potato disease. That relief is provided in this bill. Flood control along the rivers of Mississippi—Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, and other coastal emergencies is provided in this bill and, maybe most important, a special supplemental food program and nutrition program for women, infants, and children to the tune of $100 million. Special immunization, childhood immunization, funding for $90 million; Head Start funding for $1.2 billion—all of that is provided in this bill.

It is a bill that everyone in this body knows has to conform to the agreements made by the Appropriations Committee in the Senate and the House, by the people at OMB and the White House. And if we load it up with this or any of a number of other amendments that probably will be offered here we are going to find this once again the subject of a Presidential veto.

Then those who enjoy beating up on the President will say the President, in another cruel, heartless way, has vetoed money that goes to women and children and infants and so forth.

This particular amendment is particularly unnecessary because it is a solution in search of a problem. We hear a lot of talk about this being unfair to women; that women find themselves trapped overseas with no alternative but the back alley, and nothing could be further from the truth.

To confirm that, I contacted the Department of Defense to ask them what the exact situation was, and I want to quote back from the letter that they used to reply to my written inquiry about whether or not we face the problem. The proponents of the amendment like to paint the picture that we have hundreds, if not thousands of women who are trapped in some overseas location who desire an abortion and have no option, because the host country prohibits abortions except to save the life of the mother, or because the health conditions of the medical facilities and medical providers' lack of skills in that country simply do not allow for a clean, a sanitary, a safe abortion procedure and, therefore, these women, in desperation, are driven to the back alley.

Nothing could be further from the truth. The Department of Defense certified to me in writing that they have no record of any case, of any woman who has been denied any option for transportation back to her home State for the purposes of an abortion. The Department of Defense makes the first available military plane available to any women to take her back to her State of origin for the performance of an abortion for any reason without any questions asked if that woman makes the request for an abortion.

It simply is not necessary that this amendment be adopted to provide the kind of rights or belief that the proponents of the amendment say are being denied.

A second objection to the amendment is the fact that the amendment is totally unlimited in terms of the kinds of reproductive health services and the kinds of abortions that may be available to a woman in a military hospital if the amendment were adopted. Unlike restrictions, reasonable restrictions placed on the types of abortions performed in various States in our Nation, this amendment would allow an abortion for any reason on demand for any woman.

(Mr. ROBB assumed the chair.)

Mr. COATS. Mr. President, I am sorry that the proponent of the second-degree amendment is not on the floor. I did have some questions I would like to ask, but I do see the offerer of the first-degree amendment. I wonder without yielding the floor, Mr. President, if I could ask the Senator from New Jersey some questions as to the scope and extent of his amendment.

Is it true, I ask the Senator, Mr. President, that an abortion may be allowed under this amendment for any reason within a military hospital? In other words, would a woman be able in the 9th month of pregnancy to receive an abortion at a military hospital under the terms of this amendment?

Mr. LAUTENBERG. Will the Senator repeat the question, please?

Mr. COATS. I would like to ask the sponsor of the amendment that we are dealing with here some questions relative to the scope of the amendment that is provided. It is my reading of the amendment that this would allow a woman in the military an abortion, for any reason, in a military hospital; in other words, an abortion in the 9th month would be permissible, I assume, under this amendment.

Mr. LAUTENBERG. I assume that the Senator was on the floor during much of this discussion because we have been at it for some time now, and it is clear and the RECORD will indicate that this amendment allows the Department of Defense to operate under the existing rules and the law as it was established under Roe versus Wade. I was so specific in my comments. I am sorry the Senator did not hear it.

In the first trimester under Roe versus Wade, the State has no interest. In the second trimester, limited interest. In the third trimester, the State essentially has a compelling interest. This amendment continues to uphold this framework.

So we would not do anything that is not allowed to any other citizen in this country. If the Senator is asking me, should we restrict a service family member's rights and let the law apply only to those within the country's borders, I would say definitely no. I think that when we enlist someone in the service to defend our country, send them abroad, expose them to danger, I think we ought to say, hey, listen, at least you have the same constitutional protections that every person has.

Mr. COATS. I would like to reclaim my time, Mr. President. That did not exactly answer my question because it is clear that the laws of any particular State which may govern performing of abortions in the first trimester or second trimester or prohibitions of abortions in the third trimester are limited for whatever reason because laws passed by that State would not be applicable to a military facility overseas.

So my question is: It appears to me, unless the sponsors of the amendment can indicate otherwise, that a woman in the military stationed at a military facility overseas would not be covered by the laws of the particular State which she resided from relative to the securing of an abortion; in other words, there would be no limitations. And because this covers not only abortions but any reproductive health service, I would assume under this amendment a woman, say, stationed in the Philippines or Panama, Europe or wherever, could walk into a military hospital and on demand have an abortion even in the 9th month of her pregnancy or if she determine through an ultrasound process that the child was a boy and she wanted a girl or vice versa, she could ask for an abortion for the purposes of sex selection. Or if they determined through amniocentesis or some other procedure that there might be a slight handicap present in the child, regardless of what stage she was in, whether the first, second or third trimester, that such a woman could demand an abortion, and if that is the case, then obviously the rights inherently available to that woman in the military were not, as has been suggested, less than the rights of a woman living in the United States and actually greater than most rights available to women living in either New Jersey or Indiana, Colorado, or any other State in the Nation.

It seems to me this amendment would expand the rights available to women, not address an inequity. The discrimination appears to flow to the women, under this amendment, living in New Jersey or Colorado or Indiana.

I will be happy to yield to the Senator for an answer.

Mr. LAUTENBERG. Mr. President, I do not know whether the Senator is aware of the rules that apply and have applied even before 1988 dealing with abortion that say that no abortion shall be permitted in the third trimester, unless there is a threat to the mother's life or health. I think that is pretty clear.

Once again, I respond to the Senator's inquiry about restoration of rights. I am happy to hear that the Senator believes in the restoration of rights of those in the service because services in this country are generally available, perhaps with some States taking different views but for the most part, abortions are available without challenge in the first trimester, with limited restrictions in the second, and are typically forbidden unless the life or health of the mother is in danger.

Mr. COATS. Mr. President, I again make the point that laws that may be applicable or restrictions that may have been placed on performance of abortion in various States would not be applicable to a military facility overseas and, therefore, a woman would be able to demand an abortion for any reason at any time, including the ninth month of pregnancy if she so desired. It would not be restricted by any rights under the particular State law.

In reference to the court decision in Roe versus Wade, I think the Roe versus Wade decision and subsequent decisions have allowed for abortions in the third trimester to protect the life of the mother, or if her health is at stake, and that has been determined under a number of court decisions purely liberally to include anxiety, distress, or other health reasons.

So it would seem to me that this amendment is more extreme than virtually any, if not all, States of the Union in terms of how they have attempted to interpret the application of Roe versus Wade.

I think Members need to understand that my objection to this amendment is not premised on the debate over prolife or pro-choice.

It is clear that this amendment seeks to expand a right not available to most women, and that it attempts to provide a solution to a problem which does not exist.

Now, I would be happy to make, for the RECORD, Mr. President, a copy of a letter that I have received back from the Assistant Secretary of Defense in answer to my questions as to whether or not the Department has had any complaint filed concerning the current policy in effect. Their answer to that is "No".

I asked them if there were any legal challenges instituted concerning the policy, and their answer to that was "No".

I asked them if any members or their dependents have ever been denied access to an abortion as a result of their policy. Their answer was "No".

Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion? Their answer was "No".

Have any members or their dependents been denied access to the opportunity to leave a host country to return to the United States? Their answer was "No".

If the proponents of the amendment have evidence to the contrary, obviously we ought to make that part of the RECORD.

We have heard the letter of Dr. Jensen quoted at length in previous discussions of this amendment and again today. Perhaps it would be beneficial to follow up on that and find out just what the circumstances were in this particular case.

But it appears we are making the policy on the basis of one letter which applies to one woman without fully knowing what the circumstances are, because the Department of Defense has a policy which allows any woman to return to her home State for an abortion, for whatever reason she so desires.

It really does not seem to me to be necessary to propound this amendment, particularly at this time, on a bill which we know will not survive with this amendment attached to it.

So again I question why the amendment is being offered at this time. I question the necessity for the amendment. I believe we are facing a situation that simply is not necessary for us to go through once again.

Mr. WIRTH. Will the Senator yield?

Mr. GLENN addressed the Chair.

Mr. WIRTH. Will the Senator yield?

Mr. COATS. I would be happy to yield to the Senator from Colorado for a question.

Mr. WIRTH. The Senator asked four questions, and I would be very happy to very briefly respond. The questions asked which conditions were placed under this. Exactly the same under Roe, which is the constitutional law of the land. Abortions, as I pointed out, are not to be allowed in postviability time. That is exactly the same here. Roe also says it should be done with consultation of a physician to determine viability. Third, Roe also says, as the Senator correctly points out, States can regulate conditions postviability at any time. And DOD can do that and has in the past.

We are not talking about those conditions. We are talking about the fundamental rights under Roe, which is the ability of an individual to have an abortion if she wishes previability. That is the current law of the land as it applies to most people and not women in the military.

I thank the distinguished Senator for yielding.

Mr. GLENN addressed the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana retains the floor.

Mr. COATS. Mr. President, it occurs to me that this clearly is a case of legislating on an appropriations bill, although that is a decision not for me to make but for the Parliamentarian. But pursuant to rule XVI, I would raise a point of order, Mr. President, that this is legislation on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the—

The PRESIDING OFFICER. Does the Senator from Indiana raise the point of order at this time?

Mr. COATS. I raise the point of order at this time.

The PRESIDING OFFICER. Is it directed to the first- or the second-degree amendment?

Mr. COATS. At the underlying first-degree amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Mr. GLENN. We do not have a ruling from the Chair yet.

The PRESIDING OFFICER. After consultation with the Parliamentarian, the Chair rules that the point of order is well taken. It attempts to legislate on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] the Senator from Iowa [Mr. HARKIN], and the Senate from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—40

Bond
Boren
Burns
Byrd
Coats
Cochran
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Brown
Bryan
Bumpers
Burdick
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Fowler
Glenn
Gore
Gorton
Graham
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Wellstone
Wirth
Wofford

NOT VOTING—3

Breaux
Harkin
Kerrey

The PRESIDING OFFICER. So the decision of the Chair does not stand as the judgment of the Senate.

The pending amendment remains the Wirth second-degree amendment to the Lautenberg first-degree amendment.

Who seeks recognition?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Parliamentary inquiry. When would it be timely to offer an amendment?

The PRESIDING OFFICER. On disposition of the pending amendment.

Mr. SIMPSON. Mr. President, I would wish to briefly explain my vote on the procedural point of order regarding the Wirth amendment which would allow members of the armed services and their dependents the right to choose to have an abortion, just as stateside citizens have at overseas military health facilities. On August 2, 1991, the same issue was before the Senate, but in a different procedural context. On that date, I stated that I supported the amendment on the merits. However, the Wirth amendment, in the final day prior to the August Recess, threatened passage of a bill critical to the security of our Nation—the Defense Department authorization bill. At that time that amendment was the last major obstacle to the expeditious passage of the $290.8 billion bill providing for our Nation's security. On that bill, Members of the Republican leadership followed the course set out by the respected ranking member of the Armed Services Committee, and voted against cloture. Seven Democrats joined us in that vote. The House version of that bill had already passed on May 22. Therefore, work on reconciling the two, huge bills was then able to begin immediately. It was a very long and difficult process, and the final version of that bill passed this Chamber only last night.

As of the time, I speak to you now, there are approximately 75 amendments which Members intend to offer to this so-called dire emergency spending bill. This bill provides for $9.5 billion in spending authority in fiscal year 1992. The first form of this bill passed the Senate on March 20, 1991. It has been caught up in all sorts of intramural fun and games—politics—but it clearly has not lived up to its name. In fact, it is actually the last train leaving the station. We are voting on all sorts of things that are not relevant to this bill. Although the Chair ruled that the Wirth amendment was legislation on an appropriations bill—that objection certainly has little meaning to us when the floodgates have already opened as they have today. Since I favor the Wirth amendment on the merits, and have always supported a woman's right to choose, and because of the different circumstances surrounding this bill than those facing us last August—I was pleased to vote not to sustain the Chair's ruling, along with 56 of my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the Wirth second-degree amendment to the Lautenberg first-degree amendment.

The amendment (No. 1408) was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I rise today in support of an amendment offered by my esteemed colleague, Senator LAUTENBERG, permitting military personnel and their dependents to obtain abortions at military medical facilities overseas. The need to change DOD's inequitable policy preventing women from obtaining abortions in overseas military medical facilities is as important as ever and I am here to urge my colleagues to support Senator LAUTENBERG's amendment.

WHY THIS CHANGE IS NECESSARY

Let me tell you a dramatic story about what happened to a military couple stationed over in the Philippines, where abortion is illegal, I believe you will see why this amendment is so desperately needed.

The case has been poignantly related to Congress by a military doctor frustrated by his inability to help his patients. In that case, the couple, a 23-year-old lance corporal and his 21-year-old wife, were expecting their first child. At about 20 weeks, the woman underwent an ultrasound and multiple fetal anomalies were discovered. Additional testing indicated that the anonalies were so severe that the child could not live beyond birth.

The couple was counseled concerning the child's chances for survival and options related to continuing the pregnancy or electively terminating it. Faced with the deteriorating condition of the fetus, the couple chose to terminate the pregnancy.

It is at this point that the harshness and cruelty of DOD's current policy become most visible. This couple, devastated by the news that their child could not possibly live, made the decision to terminate the pregnancy, a decision fraught with agony. They were then faced with the fact that the abortion procedure could not be conducted in a military medical facility.

The couple then sought to obtain an abortion in Japan. However, at the time, the cost of an abortion in Japan was about $2,500 and the couple could not afford the procedure. A lance corporal does not make a large salary and the young couple had no savings. This family felt they had no other choice but to continue the pregnancy. For 10 weeks, the woman carried this fetus until it died. A long and painful labor was induced, a labor that was complicated by the fetus' anomalies. Mr. President, there simply was no need to put this couple through this kind of emotional trauma. The amendment Senator WIRTH and I propose would end this needless agony.

EFFECT ON OTHER CURRENT POLICIES

Despite suggestions to the contrary, Mr. President, this amendment merely overturns the current Department of Defense policy preventing servicewomen and dependents from obtaining abortions in military medical facilities. The amendment does not affect the ban on using DOD funds to pay for abortions because it requires that all costs associated with the abortion procedure be paid by the individual. Even DOD's own policy letter admits that the ban on using DOD funds is not violated when military medical facilities are used to perform abortions paid for by the individual. Nor does this amendment impact DOD regulations which provide that military medical personnel are not required to participate in abortion procedures if they object because of their ethical, moral, or religious beliefs.

WHAT THE AMENDMENT DOES

Adoption of this amendment eliminates the inequity that the current policy has created. It removes the obstacles that have been thrown in the way simply because these women are in the service or are dependents of those in the service. It simply gives these military women access to the same medical procedures available to women living in the United States.

Moreover, Mr. President, if people are not persuaded by the fundamental fairness of this amendment, this measure also eliminates the policy which can force a woman to seek an illegal abortion if she is stationed in a country outlawing abortions, and the policy which can force a woman to rely on a substandard health care system in a country that does not routinely apply the health care standards to which we in the States are accustomed.

What could possibly be the rationale for transforming an otherwise safe and legal procedure into an illegal act or a needlessly life-threatening situation? Why would DOD seek to make its people commit criminal acts or risk their lives for the sake of subverting a constitutionally protected right? Mr. President, I submit, we, as legislators, cannot stand by idly while the rights of these women are eroded.

THE DEBATE'S LEGAL FRAMEWORK

Before we embark on the kind of debate that has become customary whenever the Senate addresses issues related to abortion, let me lay out the contours of the real debate so that we can avoid being diverted by arguments that really have no place in this debate.

Let me begin at the most basic and fundamental level with the constitutional perspective. U.S. citizens have a constitutionally protected right to obtain an abortion.

People can disagree with that policy, but they cannot dispute, nor, more importantly, can they ignore, the fact that our Constitution has been interpreted to protect this fundamental right. Therefore, the question of whether abortion should or should not be a protected right is not an issue here today and arguments against this amendment based on the belief that abortion should not be legal miss the mark. Abortion is legal and thus, the debate must begin from that starting point.

The real question is whether we will continue to allow the Department of Defense to compromise the undisputed constitutionally protected rights of our servicewomen and dependents by denying them access to safe, legal abortions in military medical facilities overseas. Mr. President, I maintain that we cannot tolerate the arbitrary curtailment of constitutional rights.

And, Mr. President, let me add that when I speak of the arbitrary curtailment of rights I am not raising arcane concepts of constitutional law, I am talking about a policy which sends women to abortion clinics in underdeveloped countries exposing them to questionable health care practices. I ask you, Mr. President, what does that say about the respect the Department of Defense shows for the rights of individuals who would risk their lives to protect our basic freedoms.

When Mr. WIRTH and I introduced a similar amendment to the last 2 year's Defense authorization bills, opponents of the amendment raised a whole host of issues which really have no bearing on the merits of this amendment. Mr. President, I intend to put those arguments to rest at the very outset.

OPPOSITION'S ARGUMENTS LAST YEAR

Last year, opponents of this measure argued that the measure was unnecessary because the number of abortions performed in military medical facilities overseas would not be very high. They argued that it was unnecessary because DOD officials had not sought a legislative change to their policy. They argued that access to abortions in military medical facilities overseas was unnecessary because servicewomen and dependents could always fly back to the United States to obtain an abortion.

They also argued that the 1984 statutory ban on funding abortions would be undermined by this amendment. They argued that the funding ban was not just a funding ban, but that it was a ban on Government involvement in abortion services. They argued that the amendment would allow abortions to be performed in the third trimester of pregnancy, or that this amendment would be used as a vehicle to select the gender of a child.

OPPOSITION IS NOT PERSUASIVE

I think you will see, Mr. President, that none of these arguments is persuasive. In fact, I believe that most of these arguments are designed to confuse and inflame the issue.

As I've already mentioned, Mr. President, opponents last year sought to defeat this measure as unnecessary because, in their view, there isn't enough of a need for it. That is, it is unnecessary because too few women would need to obtain abortions in military medical facilities. In a related argument, opponents argued that the amendment was unnecessary because neither the Secretary of Defense nor the Assistant Secretary of Defense for health sought this legislation.

Mr. President, I find it almost incomprehensible that Members of this body would condition protection of a constitutional freedom on how frequently the need for protection arises. I ask those Senators what the magic number should be? Mr. President, even if it turns out that only one woman seeks to obtain an abortion, I believe all women should be guaranteed access to safe, legal abortions while they are stationed overseas. Moreover, the fact that senior officials in the Defense Department have not sought this legislation has no bearing on the issue. The right to an abortion is a constitutionally protected right. I do not think we need to look to these officials as the arbiters of our constitutional freedoms.

Mr. President, opponents of this measure have also argued that this amendment violates the statutory ban on using DOD funds to perform abortions. This argument is simply wrong, Mr. President. Under this amendment, the individual seeking the abortion would be responsible for its cost, including all indirect costs associated with the procedure. No taxpayer dollars would be used. And as I mentioned earlier, even DOD acknowledges that the ban is not violated when the individual pays for the abortion.

In a strange twist, these same opponents have argued that the current DOD policy need not be changed because women seeking abortions in countries where abortions are illegal or in countries where the health care system could imperil their lives are free to take leave, and fly back to the United States or to another country to obtain an abortion. I find it incredible that these same opponents who view abortions fully paid by the patient as involving the expenditures of DOD funds would suggest that women fly back on military aircraft to obtain abortions. If anything were to violate the ban on using funds, flying around on military aircraft would seem more likely to do it.

Moreover, needlessly making women fly around the world to obtain an abortion because they happen to be in military service and stationed overseas seems to be a thinly veiled attempt to make a woman's exercise of a constitutional freedom as difficult as possible.

Lastly, Mr. President, this amendment does not affect the scope of sanctioned abortions. So I ask my colleagues not to be taken in by arguments that this amendment would allow abortions in the ninth month of pregnancy or to select the gender of a child. This amendment merely provides access to abortions for military personnel stationed overseas. It does not allow or prohibit anything more or less than is allowed or prohibited in the United States.

Mr. President, as I have now said a number of times, I support this amendment because it demonstrates the fact that Congress respects the constitutional rights of our servicewoman and military dependents. I urge my colleagues to support this amendment to restore sanity and compassion and reject the absurd interpretation of the funding ban and its potentially deadly consequences.

Mr. CHAFEE. Mr. President, I would like to express my support for Senator LAUTENBERG's amendment. This amendment would simply afford women serving overseas in the military the same reproductive rights that they would have had they chosen to remain in the United States.

In the past years, we have seen an increasing participation by American women in the U.S. military. We welcome the service of these women, and admire their patriotism and courage. If anything, we should be going out of our way to accommodate these women, who often leave behind children to serve our country. Instead, we have a policy which discriminates against them and, in many cases, places them at medical risk.

There are many in this body who are opposed to abortion rights. Yet the fact remains, that, at least for now, in the United States, a woman has a right to terminate a pregnancy if she so chooses. Under current law, women in the military and female dependents of those serving in the military may not obtain abortions at military hospitals. An unfortunate 1988 directive prohibits military hospitals from providing abortions. This places these women in the untenable position of having to seek abortions at a health facility in that foreign country, if it is even legal, or to try to come back to the United States in time to have the procedure performed safely.

This is terribly unfair. First, in many countries, abortion may not even be legal, thus the woman may be forced to seek an illegal abortion. Second, many countries do not have the same standards of health care as we have in the United States, and the woman would be forced to use such substandard care. Thus, in effect, women stationed overseas, be they serving in the military themselves or dependents of military families are prevented from obtaining a medical service that is guaranteed by the U.S. Constitution.

This amendment would allow military hospitals to perform abortions and the woman would be required to pay for the service. We are not asking the U.S. Government to pay for the service, just to provide women with the same access to health care as she has in the United States. This is fair, and I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the underlying amendment?

The question is on the Lautenberg amendment, as amended.

The amendment (No. 1407), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 1409

(Purpose: To provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and other items and by extending for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit.)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 1409.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for he taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

Mr. SPECTER. Mr. President, in the interest of expediting the proceedings on this important legislation, I have had a discussion with the distinguished chairman of the Appropriations Committee hoping that this might set an example. Senator DOMENICI and I are prepared to agree if its agreeable with others to 40 minute time limits, equally divided.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SPECTER. I yield.

Mr. BYRD. Mr. President, the distinguished Senator has offered to limit debate on his amendment to 40 minutes to be equally divided. I wonder if there is any objection to that.

Mr. BENTSEN. Mr. President, reserving the right to object, I would say to the distinguished chairman of the Appropriations Committee, as chairman of the Finance Committee I am deeply concerned about the amendment. It obviously violates the constitutional ruling as to the origination of revenue measures. I want to be sure that the Senator from Texas had some time.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the amendment be limited to not to exceed 40 minutes with the Senator from Pennsylvania in charge of 20 minutes and the Senator from Texas in charge of 20 minutes.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, could we be advised as to what the amendment is?

Mr. SPECTER. Mr. President, I would be pleased to respond to my distinguished colleague from Ohio. The amendment seeks to alter the rules on withdrawals of funds from IRA's so that people would not have to wait until they are 59½ and could withdraw without penalty up to $10,000 a year to stimulate the economy.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the amendment which Senator DOMENICI and I are offering, is directed to provide a stimulus to the economy which is so sorely in need of increased consumer purchasing power. We face a very serious economic situation in the United States today and we are limited as to what we can do within the current budget agreement. It is not possible for additional expenditures to be made by the Government nor is it possible to reduce taxes in order to provide additional consumer purchasing power.

But after some thought and analysis, Senator DOMENICI and I propose that the very considerable existing funds in IRA's and 401(k) plans could be made available to stimulate consumer purchasing power. There are in these funds in excess of $800 billion. They cannot be withdrawn by those who own them, IRA's, for example, until someone is 59½ without paying a considerable penalty.

Our thought is, and this amendment proposes, that there would be permission to withdrawn up to $10,000 by middle-income or slightly higher taxpayers, limited to those who have incomes of $75,000 a year individually or for married taxpayers, $100,000 a year, without penalty and without tax in the year of withdrawal, providing that $10,000 is spent on consumer goods. The tax would then be paid in equal installments in each of the next succeeding 4 years.

We have given considerable thought to this amendment. We had tried to put it on the unemployment compensation bill which might have been a more appropriate vehicle, but could not do so. We recognize that technically it is legislation on an appropriations bill, but that is a rule which is honored in the breach when necessity arises, as it just did on the preceding amendment.

We think this is a very, very important measure which ought to be enacted this year. We have discussed this matter with the Secretary of the Treasury, Nicholas Brady, with the Chairman of the Federal Reserve, Alan Greenspan, with the Chairman of the President's Economic Advisers, Michael Boskin, and all have been very interested and have responded that it is a matter certainly worth pursuing. There has not been a final commitment made by the administration at this time.

We also have discussed with Chief of Staff, Governor Sununu, who has advised that this is the kind of a promise that in broad outline, again without a final commitment, that the President would like see moved ahead, although again there is no final commitment.

We are facing very, very serious economic problems. We are a nation with great wealth, great resources but we are in a state of great difficulty. We have sought for the past 2½ weeks to get some sophisticated projections as to how much would be spent, but candidly nobody knows. Even with the penalties, Mr. President, we are advised that there are some $10 billion a year withdrawn from IRA's, and it is the thought of Senator DOMENICI and myself that there would be very, very considerable expenditures. There is a relatively limited downside in terms of restricting savings because it is only $10,000 per person.

We think this would be a very significant help. It is patterned in effect after some of the legislation introduced by the distinguished chairman of the Finance Committee as to future IRA's where there are provisions for withdrawals for important items like first-time homebuyers, college education, and medical expenses. We think it is a very promising idea and urge its adoption.

How much time remains Mr. President?

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator has 15 minutes and 20 seconds.

Mr. SPECTER. I yield 5 minutes to my distinguished colleague from New Mexico.

Mr. DOMENICI. Mr. President, I note that the distinguished chairman of the Finance Committee is waiting and I am sure he knows we do not intend to take a long time this evening. We already agreed to a rather short time for debate.

Let me say that I am sure we will hear the argument that the country needs more savings and not less, and no one will get an argument from the Senator from New Mexico. He will not argue with anyone that says that. In fact, I think we should substantially change the Tax Code so that we have far more savings and far more investment and less consumption in this country. But I believe we are in a very serious economic downturn.

As a matter of fact, I believe that this is the most unusual of all downturns, because while the manufacturing industry is somewhat down, and unemployment is somewhat high, it is not really very high. We had a recession 2½ points higher than this one, in fact, the last time out. We were up around 9 or over 9 percent unemployment. But this one appears to many to be more severe, and I think that is the case because real estate is in an almost freefall status in the American economy. And it is a huge part of the GNP and a huge part of our assets and wealth.

Many people are worried about spending money because they think their property, their real property is going down in value and their homes are in jeopardy. I think that unless we build something very quickly on the consumer side to start confidence, I believe there is a chance that it will continue in that kind of downturn with real estate in somewhat of a freefall with the exception of housing starts, which are stabilizing a bit. Nothing to write home about yet, but stabilizing.

So it seemed to me that for a very short period of time, 6 months, you ought to be able to draw from your IRA account up to $10,000 spend, it on yourself, on your child, or on your grandchild for any of the following: a home, an automobile, home improvements, or the big appliances that go into a home. That is what we have enumerated. If people will do that, they will start the kind of growth that the economy needs.

Almost everyone says get the housing market started, stabilize that automobile market somewhat, and we will be coming out of this economic downturn. That is precisely what this will do. Now the argument that we should not take out of savings because over the long term we need savings, leads me to suggest the following. If this were to reverse the downward trend even 6 months earlier than it would otherwise occur, you will save more money in both savings accounts and in assets that will not disappear through bankruptcy and insolvency, than what you will take out of the IRA accounts to spend under this proposal.

I would not have been part of this unless I was absolutely confident that in the short term it will help, in the long term it will cause no damage, and we are not permanently changing anything. But if we could entice people to spend that money now, it would truly do some positive things.

Now you might ask: why would they withdraw it when it is only a penalty that is forgone? Well, we are also doing another thing. We are saying that the $10,000 that you take out, upon which you owe taxes, you do not have to pay right now. In fact you pay it over 4 years in 4 equal installments, the first one being at the end of the taxable year during which you withdraw the funds. It seems to me that is a big advantage along with no penalty, and we might get very, very many billions of dollars taken out and spent that would not otherwise have been taken out of the IRA accounts and spent.

Nonetheless, the concept of the incentive for IRA's should remain, and we ought to look in the long term at something better than we have been able to do. But for now this seems to be a petty good way to accomplish what most economic experts are saying we ought to try to do.

I thank the Senator for yielding me time, and at this time I yield the floor.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, this is a replay of the amendment of the junior Senator from New York that we dealt with earlier today. Let me make it very clear this amendment is a revenue measure. The Constitution says that revenue measures must originate in the House, the House feels very jealous about those prerogatives. That means all the work on the underlying bill, the dire emergency appropriations bill, could be down the tubes if this amendment is adopted.

Now let me talk about the substance of it for just a moment. This amendment does not encourage savings. This amendment will encourage the short-term spending of the retirement savings of the people of this country. It will allow them to use that money to buy TV's, VCR's, and boom boxes.

That is what would happen, if it ever became law. But it will not become law because adoption of the amendment would violate the Constitution of the United States and the House will object. Even if the House did not object, the courts would hold this not to comply with the Constitution because it is a revenue measure and revenue measures must originate in the House. As a result, this amendment is a wasted effort. In the end it is nothing more than showboating.

I strongly urge the Members of this body to resist this amendment. As I said, the Senate just defeated another unconstitutional amendment offered by the junior Senator from New York [Mr. D'AMATO]. But this amendment also reminds me of another D'Amato amendment that was passed here late one night where we tried to put a cap on credit card interest rates. I went along with that. It sounded good. By the next day I knew better. I began to understand what could happen to consumer spending and that many people might lose their credit cards. This amendment has the same kind of appeal as the earlier D'Amato amendment. It sounds good, but the long-run consequences could be very negative.

Let us take a closer look at this amendment and see what would happen if it ever became law. I have talked to some of the financial institutions in the country, and they are concerned about a possible run on the banks. They are concerned about the IRA accounts that they are administering and the amount of money that would pour out of the banks. Financial institutions are having enough trouble now with liquidity. If that kind of situation developed, if this amendment were really to work, to really stimulate the economy, then it would take a massive outflow in the IRA and other retirement accounts into consumption, consumption of durable goods.

But this is no time to deplete the retirement savings of the people of this country on consumer products. I don't think there will ever be such a time. It is one thing to allow IRA's to be used to invest in a home. It is one thing to allow the investment in the education of children or to take care of a serious unexpected medical illness, as has been done under some of the other IRA proposals. But to encourage people to deplete their savings to go out and buy durable goods is very short-sighted. My friend from New Mexico says he is confident that would result in a net positive for the economy. But, how does he know that? I do not know that. And he cannot know it. We can't afford to take that kind of risk with the retirement savings of millions of Americans.

My friend from Pennsylvania says that he talked to the Secretary of the Treasury and he says it was an interesting idea. Boy, I have used that line a lot of times without making a commitment on it. And that is what you are facing here.

So I strongly urge my colleagues not to buy this one. If you do, all the work that the chairman and ranking member of the Appropriations Committee have done on this supplemental appropriations bill could be for nothing. This critical and essential bill could go down the drain.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I wonder if I might have 4 minutes.

Mr. BENTSEN. In opposition to the amendment?

Mr. CHAFEE. Yes.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. BENTSEN. I am glad to yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join with the distinguished chairman of the Finance Committee in opposition to this amendment. This is a very, very difficult position for me to take because I have such respect for the sponsors of the amendment.

Setting aside the arguments that the chairman made regarding the fact that this would blue-slip the entire bill should the amendment succeed and it go back to the House—I think he presented those arguments very, very well—it seems to me we get back to the fundamental question that we are caught in a crossfire here, Mr. President. We are urged on the one hand to increase our savings in the United States. So IRA's were developed. And all of us, at least those that fall in the proper income brackets, use the IRA's as a form of saving, it is an inducement to save.

And then on the other hand, we have some saying the trouble with this recession is the consumer does not have confidence, the consumer is not out there spending enough. And so we have amendments such as this that would permit the more rapid and earlier drawdown of IRA's than currently is possible under the law.

I want to associate myself with the remarks that were previously given by the senior Senator from Texas. I just do not believe that is truly going to be a stimulus for the economy. I think there is probably going to be a rush on; it would disturb the banks with this withdrawal; there would be fewer savings obviously available.

Then what is it going to be used for? I do not think its going to be used—I may be mistaken; who knows?—but I just do not think it is going to be used for the major big ticket items that are going to be necessary to pull us out of this recession. I hardly think somebody is going to go out and buy a new automobile because they have some money in an IRA and they can pull it out early. In this kind of a mood that people have, your determination to buy a new car or not is based upon how good your job is, and whether you are going to keep your job. And your determination whether you are going to buy a new House is what are your job prospects, your wife's job prospects, are you going to keep the job, either of you. You do not make a decision to go out and buy a home, or buy an automobile because you can pull some of the money out of an IRA, and have to pay the income tax over a 4-year period.

So it does not come free. I would like to believe that it is going to be of help in pulling us out of the recession, but I have a feeling it is really not.

Now that does not mean we should not do something. And we have had the privilege of meeting with the distinguished Senator from New Mexico on what we should do. And of course everybody has different ideas.

But I would like to take this opportunity to submit to this body that what we ought to take are those steps that are going to encourage our competitive position in the world, and that is encourage our manufacturers to invest in more productive machinery so we can better compete. I think the route that that leads us to is the reinstallation of the investment tax credit.

Now, Mr. President, I am sure many will laugh to themselves when they hear that because the distinguished chairman of the Finance Committee for years, the senior Senator from Louisiana, used to say this, I will never forget, when we had our tax reform efforts—not efforts, when we reformed the Tax Code in 1986 and repealed the investment tax credit. He said, you will be back here reinstituting the investment tax credit when times are bad.

And I think he is right.

So, Mr. President, while I reluctantly rise in opposition, not solely for the procedural reasons but also for the reason I just do not think it is going to do the job, I would commend our good friend from New Mexico to keep up his efforts. He is giving us leadership on this side of the aisle, anyway. And I hope we continue to look at reinstituting the investment tax credit which I really think will do something positive, to pull us out this recession.

I thank the Senator from Texas.

Mr. BENTSEN. Does the Senator from Delaware care for some time?

Mr. ROTH. Yes.

Mr. BENTSEN. How much time do we have left?

The PRESIDING OFFICER. Eleven-and-a-half minutes.

Mr. BENTSEN. I yield 4 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, the Senate must not approve this amendment. I believe this proposal would compound the already devastating savings crisis in America.

I, too, have the greatest respect for the two Senators who are proposing this amendment. But as has already been said, it will neither help this country from the standpoint of savings, nor will it have the beneficial effect that they intend it have, to move this country out of a recession and into better times.

I greatly regret that the United States is not a savings country because it is affecting our ability to compete with other countries. It is a fact that the average 50-year-old only has savings of around $2,000—a deplorable fact. I am sure everyone here would agree with me.

But to propose now that individuals could take up to $10,000 for consumption is a very shortsighted proposal in my judgment.

What we are trying to do in the IRA, the super IRA that the distinguished chairman of the Finance Committee and myself are sponsoring, is to promote savings. It is true that we provide certain conditions under which it can be withdrawn—in the event of a crisis in health, to buy the first home, to send a child college. But those are incentives to get people to save more. And there is nothing attached to that here. This, in my judgment, is a dangerous precedent. If this becomes law and the courts would enforce it, it would mean every time there is some kind of crisis we would open the process of withdrawing funds, which is exactly the wrong way to go if we are going to promote growth and jobs in this country.

I also agree with the distinguished chairman when he says this proposal is not constitutional. This is a revenue measure. If it was adopted by the Senate, there is no question but what the House would reject it, and the entire supplemental bill would be gutted as a result.

So I hope my distinguished friends would not support this amendment. Both the chairman and I are strong believers we have to do something in the tax area to provide some help to both the American people and to the economy. But this is not the place, or time, or means of doing it.

So I encourage my colleagues to vote down this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senaltor from Pennsylvania.

Mr. SPECTER. Mr. President, I am a little surprised by the arguments advanced by the three speakers in opposition to this amendment because the Senator from Texas and the Senator from Delaware are sponsors of a very similar bill to have IRA's in the future, where they could be used for important purposes, like first-time home purchases, for college tuition, or medical expenses.

So, they are principal exponents of the proposition to have IRA's to be expended for important purposes of public policy. And that is precisely what is being done by this amendment.

When the country faces the serious problems we have now, I hardly think it is logical that as the Senator from Delaware says this is a terrible precedent because every time a problem arises we will be doing this sort of thing.

I would say to the Senator from Delaware that when a problem is as perilous as the economy of the United States is today, it is high time the Senate took some action. I do not think this Congress sought to go into recess. I do not think we ought to leave here after Thanksgiving for the month of December when the United States faces the serious problems that we have.

We should not be on vacation when millions of Americans are on a forced vacation by unemployment. When the Senator from Rhode Island says we ought to be doing something about it, we ought to have an investment tax credit, I agree with that. Let him bring a bill to the floor for an investment tax credit. We ought to be doing that to stimulate the economy, to encourage producers to have new equipment, to provide more jobs for Americans. But let us not all be nay-sayers. Let us find something which is useful. We have some great brain power in this body and some of those with the great brain power in this body are arguing against this bill.

We have the Senator from Texas and the Senator from Delaware and the Senator from Rhode Island who have been on the Finance Committee for five decades among them. Let us see tham bring forward some ideas which will help this country out of its serious economic problems.

When the Senator from Texas says he heard a great argument from the distinguished Senator from New York [Mr. D'AMATO] on credit cards, what does that have to do with the proposal that Senator DOMENICI and I are advocating? Every time something comes up there is some non sequitur about the credit card issue, it does not make any sense.

The Chairman of the Federal Reserve, Alan Greenspan, and the Secretary of the Treasury, Nick Brady, and Michael Boskin, the Chairman of the Council of Economic Advisers, said it was a lot more than interesting, but they are waiting to see something happen from the Congress.

Frankly, this Senator is also waiting to see something happen. We have a duty to the American people to advocate something constructive and positive. If somebody has a better idea, this Senator will be delighted to withdraw his amendment. But I heartily disagree with everybody saying, 'No, not now," and "massive withdrawals." we need some confidence in the American people on consumer purchasing power. People are worried about what is going to happen to their jobs.

I would paraphrase Franklin Roosevelt who said, "all we have to fear is fear itself." If the American people and the consumers see something constructive coming from the American Congress besides a lot of nay-saying, and others join in spending—people do have money but they are afraid to spend it. But if there is some concerted action taken to lend some purchasing power, consumer purchasing power—and it is their money, they do not have to take it if they do not want to. There is simply no penalty, and they pay the tax in 4 years.

This business about it being unconstitutional is simply not correct. The House considers appropriations bills to be revenue measures. I have sent for the precedents with Bob Dove, who is a noted expert on the Constitution. I have some familiarity with the subject myself. My research guide has come with some tools.

So I will yield the floor at this point, after inquiring what the remainder of time is that remains.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. How much time?

The PRESIDING OFFICER. Six minutes. The Senator from Texas has 8 minutes remaining.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, I agree with the distinguished Senator from Pennsylvania that the time has come for action. But I think it is important, in taking action, that we do what will not only help the short-term problem but the long range as well.

The problem with this proposal before us is that it is short range. It will take out savings from the Nation that is needed desperately for our long-term competitiveness.

I will say to the distinguished Senator from Pennsylvania that I wish he would look at my proposal, jog America, or the tax proposal introduced by Senator BENTSEN and sponsored by me in which we are, taxwise, trying to address the very problems we are discussing now. But there is a right way and a wrong way of doing that. While we want to jump-start the economy short term, it is critically important we do not do it in such a way that we hurt or damage the long-term growth prospects of this country.

I urge and I will send to my distinguished colleague my proposal which I introduced about a month ago to deal with the very problem with which he seeks to deal. I agree with my colleague. I would like to act, and think we should stay and do that now because I think the people are concerned and they are deeply concerned as to where this country is going.

Mr. President, there is a right way and a wrong way, and drawing down savings now short term is not going to help this Nation longer.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Will the President advise me when I am down to 2 minutes?

The PRESIDING OFFICER. The Chair will do so.

Mr. BENTSEN. Mr. President, my friend from Pennsylvania says that these bills that the Senator from Delaware and I have introduced on the IRA are comparable to what he is proposing today. He could not be more wrong. What we have done is to reinstate the fully deductible IRA—and create a new type of IRA. This amendment does nothing to promote savings. Our bill would allow some IRA withdrawals, but only for long-term investments—investing in that first home, investing in your children to send them to college, to pay for costly medical bills and then, of course, for retirement. But all those proposals promote new savings, making the IRA more attractive to millions of younger Americans.

Ours is prosavings. The proposal of the Senator from Pennsylvania is antisavings. It would hurt the long-term strength of the economy, by reducing the savings pool of this country. The annual savings rate in this country is about one-fourth what the Japanese save per capita, United States savings is less than half of what the West Germans save per year. Is it any wonder that we have a shortage of capital in this country?

What my friend is talking about is not a minor piece of legislation. It is major because it could affect the very fragile economy that we have in this country today. Do we really want people drawing down the retirement savings of this country to buy TV sets—to spend it on boom boxes.

The Senator from Delaware and I agree that something has to be done and has to be done soon, and that is why I have announced hearings on our tax legislation for next Tuesday. I urge my friend from Pennsylvania to be there. We would be delighted to have the Senator come and talk about his proposal. But a major piece of legislation like this—with its possibly serious effect on the economy and on the banks of this country, which are already in fragile condition—deserves full consideration of the committee of jurisdiction—the Finance Committee. I would be delighted to hear the Senator from Pennsylvania on Tuesday to tell us why he thinks this proposal will work.

But I say to my colleagues, what we need to do is to encourage savings in our country. Savings that are going to be used to help improve the productivity of our country, to help educate our people, to see that young couples who are having to live with mom and dad can own a home of their own. That is what we provide in the Bentsen-Roth IRA. That is the way we ought to go to invest in the future of our country.

I retain the remainder of my time.

Mr. DOMENICI. Will the Senator yield me 2 minutes?

Mr. SPECTER. I do.

Mr. DOMENICI. Let me first say this measure will last only 1 year, and that 1 year will start the date it becomes law. Second, Senator CHAFEE wondered whether people would indeed spend it for the things we have been speaking of here. I assure him they will spend it for that or they will have their penalty imposed, because they have to prove that to the IRS, just like you do on any other items within the Tax Code. It says that in the law, that is all you can spend it for and be entitled to be penalty-free and the 4-year payment of your taxes.

To those who oppose this because they are worried about savings, let me once again state the following: The Senator from New Mexico will join with anyone who will change our laws so that we will save more on a permanent basis. One of the reasons we are in this recession, or downturn—not the total reason, but one—is because we do not save enough. The problem now is not saving more. In fact, no one will tell you that they want the American people to save more now. In fact, they are saying they want to spend more, if anything.

Those who know about the economy are begging Americans to take money out of their savings account and spend it because we need customer purchases and confidence to come out of this downturn. We are merely saying that out of the $800 billion in IRA's and 401(k)'s, a small portion in the next year could be withdrawn for these purposes by the people we have described here. They will use it for the items we say they will use it for in the law, or they will not be entitled to have their penalty forgiven and their 4-year tax payment of the $10,000 that they take out of their IRA's.

I submit that if only $40 billion came out, or $50 billion, the economic prophets are doomed. They say we will have runs on banks. They are absolutely insane. You would have to draw $200 billion out of these accounts for a significant impact on savings. Actually, anywhere from $40 billion to $50 billion to $60 billion taken out of IRA's that would not otherwise come out would be a magnificent consumer purchase injection into this economy. None of the tax bills that have been introduced to fix this economy will do that much in consumer purchasing power, not a single one introduced by the distinguished chairman or others. In 1 year from $40 billion to $60 billion would flow into the economy for the purchase of big ticket items. Nobody's tax proposal does that.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, a number of objections have been raised to this amendment, and I submit none has any validity. I will start with the one about it being unconstitutional and cite as precedent an amendment on a continuing appropriations bill on September 24, 1981, which would leave the $3,000 limit on expenses away from home, challenged in the Senate, sustained as an appropriate amendment on continuing appropriations, accepted by the House of Representatives and became law.

I can give you many more precedents, but I found this one in response to the argument by the Senator from Texas.

This conclusively proves that the argument by the Senator from Texas is wrong on the constitutional issue, and I submit the other arguments raised are similarly invalid.

When the Senator from Texas tells me about hearings next Tuesday and invites me to come, I already know about them and I have already made an application to appear before the Finance Committee.

When the Senator from Delaware says this may be short term but we need something that is long term, I am delighted to do something that is long term and I am glad to hear the Senator from Delaware say he thinks we ought to stay in session, too. I believe that the Congress of the United States ought not to take off in December. I will be glad to appear, as I plan to be before the Finance Committee, to expound upon this bill. I would like to see the Finance Committee take up a variety of measures and apply the talent there to find an answer.

When the Senator from Texas says that there ought to be full consideration by the committee of jurisdiction, I think the American people want something besides hearing about the committee of jurisdiction. That is what this argument is all about. The members of the Finance Committee, the Senator from Texas, the Senator from Delaware, the Senator from Rhode Island, do not like a matter being taken up which is within their jurisdiction. It is time not to talk about jurisdiction; it is time to talk about answers.

There is nobody in this body who knows more about finance and budget than Senator DOMENICI. He served as chairman of the Budget Committee for 6 years with great distinction, and when anybody wants to crunch the numbers, they come to PETE DOMENICI.

When he cosponsors this legislation and exercises his judgment that it will put $40 billion to $50 billion of consumer purchasing power into the economy, that is significant. It is time we did something, Mr. President, besides naysay.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. BENTSEN. And the other side?

The PRESIDING OFFICER. Thirty seconds.

Mr. BENTSEN. Mr. President, this is not a minor amendment. If you vote for this, and if it carries, tomorrow morning when you hear the replies of the financial institutions of the country, you will be looking for a hole. You will be wishing you had not voted that way, and you will be trying to explain.

With Senator SPECTER'S amendment, we are talking about depleting long-term savings. That is the exact opposite of the legislation the Senator from Delaware and I have proposed. In the Bentsen-Roth IRA bill, we are talking about making long-term investments in the education of our children or buying that first home.

We think those are the positive things that have to be done. We are talking about permanent legislation, not some short-term spending spree that could affect the fragile economy; that could bring about a drain on the banks where they are having a very difficult time retaining enough liquidity today.

After all that, let us not forget what happens between the House and the Senate; and the relationship established between the two bodies by the Constitution. The authority to kill this bill is in the House, and the Ways and Means Committee will kill it. That means the appropriations bill could be voided, if this amendment were included.

Mr. BYRD. Will the distinguished Senator from Texas yield?

Mr. BENTSEN. I will be happy to yield.

Mr. BYRD. Mr. President, I support the position taken by the distinguished Senator from Texas. I only make this statement, which will be a little contrary to what he just said: The Ways and Means Committee maybe will blue-slip this. It will be blue-slipped before it gets to the House. It will be blue-slipped in the conference.

This is obviously a measure which is under the jurisdiction of the Ways and Means and Finance Committees, and under the Constitution revenue-raising measures must originate in the House. So I hope Senators will not take this amendment seriously in that it is being offered to this bill. We hope to get a bill to the President. This is a dire emergency bill. This bill is not going anywhere if we continue doing what we have been doing all afternoon.

I hope that Senators will vote to table the measure if the distinguished Senator from Texas moves to table it, because it is not going anywhere. It is not going anywhere in conference with this amendment on it, if it is adopted, and I do not want to see this bill go down the drain. We invested too much work in it already.

The PRESIDING OFFICER. The time has expired.

Mr. BYRD. I thank the Senator.

Mr. BENTSEN. I thank the Senator for his wise advice, and I will move to table when the Senator from Pennsylvania has used his allotted time.

Mr. DURENBERGER. Mr. President, I join the distinguished chairman of the Senate Finance Committee in opposing the amendment that would allow tax-free withdrawals from individual retirement accounts as a method of stimulating consumption in the economy.

Mr. President, none of us knows the short-term and long-term economic implications of this proposal. We already have one of the lowest savings rates in the world and this proposal will only serve to further drain savings. No one would doubt that this economy needs stimulation. Our factories need to be more productive; we need to increase our ability to compete abroad. We need more investment and we need more consumption.

I am convinced that we may need an economic growth package that will help jumpstart the economy. But piecemeal consumption measures written on the Senate floor as part of a supplemental appropriations bill will do nothing to help this economy. This will kill the appropriations bill because such tax legislation must originate in the House.

Mr. President, I know the chairman of the Finance Committee will be holding hearings on the state of the economy next week. I trust that the Congress and the President will act appropriately if a tax cut bill is necessary. However, this is not the appropriate time nor place to be putting together a tax bill.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has one-half minute.

Mr. SPECTER. Mr. President, when the Senator from West Virginia says he hopes the Senators will not take this bill seriously, I hope Senators will take seriously the serious problems of the economy. When he says this bill will go down the drain, I think it is a lot more important that the economy may go down the drain.

This is a positive step forward, and I urge my colleagues to vote for it and to resist the motion to table.

The PRESIDING OFFICER. Time has expired.

Mr. BENTSEN. Mr. President, I move to table the amendment, and I am joined in it by the distinguished Senator from Delaware.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—66

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Hatch
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Symms
Warner
Wellstone
Wofford

NAYS—31

Bond
Brown
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Garn
Gramm
Grassley
Helms
Hollings
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Sasser
Seymour
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Wirth

NOT VOTING—3

Breaux
Harkin
Kerrey

So the motion to table the amendment (No. 1409) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I would like to try to get a reading on a list of amendments that I have before me.

Mr. President, may we have order in the Senate? We do not have order in the Senate. I am looking at a couple of my friends on the Republican side.

Now let me see if I have order over here?

The PRESIDING OFFICER. Those Senators wishing to chat will please retire to the cloakroom.

Mr. BYRD. Mr. President, I think the time has come for some serious talk. The distinguished majority leader has indicated that if the bill is not completed tonight then the Senate will be in tomorrow, and I think that we must continue to go tonight as long as we can go, because even so, we will not finish tomorrow unless we get more work done this evening than we have done thus far.

This is a dire emergency supplemental bill. It is not a bill that should be a vehicle for various and sundry legislative amendments. If we had plenty of time, I could understand the feeling of necessity on the part of some Members to try to put their rider on this horse.

This horse is not going very far. I intend to drop a great many of these amendments in the conference because the President is going to veto it anyhow, so we might as well just kill it here if we continue to add these amendments.

I do not say that disrespectfully of any Senator who is serious about his amendment. But there has been a good deal of work done on this bill and obviously it is not a bill on which we ought to try to attach revenue amendments. We have had already two or three efforts of that today, and the Constitution, if we have read it lately, indicates that revenue-raising measures must originate in the House.

So we are wasting our time in calling up revenue measures, and those bills are not going to be blue slipped by the Ways and Means Committee. They are going to be blue slipped right in the room across the hall here when the conference meets.

I have 25 amendments listed on the Democratic side, and I have 35 amendments on the Republican side. And 35 and 25 add up to 60.

Now, I have been talking with my friend, Mr. HATFIELD, and it is my feeling that after a little more patience is demonstrated on the part of Mr. HATFIELD and myself, inasmuch as we only have 1 day left this week, that is Saturday, and we only have 2 days next week, if we hope to get out of here in time to give Senators an opportunity to catch their planes and make arrangements to get out of town before Thanksgiving, I thank that a desperate situation requires desperate action. So, it would be my intention if my friend will join me, and if he does not, I may try it anyhow, to move to table amendments that are legislative in nature and that are not of an emergent nature. This is a dire emergency bill.

I hope Senators will understand that I recognize their right under the rules to offer the amendments. I recognize how each Senator feels that his amendment is of such degree of importance that he should make an attempt to get it on this bill.

But it is not going anywhere, I tell my friends, and in order to save time, then, after a little while longer, after sitting here a little while longer, I am going to let Senators know when I am ready to start moving to table amendments that are legislative in nature, or that are not of a dire emergent nature. I am going to move to table.

Now the Senate might not want to table. I fully understand that Senators may vote otherwise. But, we have to take some extraordinary action here if we hope to complete this bill.

If we were going to be in session all next week, and all of the next week, it would be a different thing. We would have a lot of time for some fun. But the time is running out. And so I hope that Senators will understand the spirit in which I am saying these things. I am not angry. I am not impatient. I just feel that one has to face up to the reality of things, and the reality is that we hope to get this bill passed, and I do not want to go home and have the President charge Congress with not having passed a dire emergency supplemental.

Let me read the list.

Mr. HATFIELD. Will the Senator yield for just a moment?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, I thank the Senator for yielding. I would like to associate myself with the remarks made by the chairman. I will be a happy and willing partner for the extraordinary action that he has indicated might be taken.

Mr. President, I would like to just make one observation. From my perspective as a member of the Appropriations Committee, we have spent more hours in this Senate on amendments on appropriation measures than any other vehicle we act upon. I would only like to suggest that if you look at the number of amendments that have been adopted on Appropriations Committee bills in the past and the numbers that survive the conference, it is indeed a very poor cost-benefit ratio. The hours do not justify the efforts that have been made for those amendments.

I am using this as an illustration. We may add 35 amendments, and 2 survive the conference. That is the history of the appropriations conference because the House has more strict rules governing what can and what cannot be on an appropriations vehicle than the Senate has.

And the House just sits there in these conferences and says to us: It may be meritorious, but it does not fit our rules.

So I plead with the Senate as well to just learn out of our history that the hours we spend in this exercise do not bear results or fruit.

Mr. President. I again respect everybody's right to offer amendments on vehicles because our rules of procedure provide that right. But let us look at it pragmatically, and the practical aspects of how much good it does to spend the hours on some of these amendments when they have absolutely no chance of surviving, and the rotunda of this Capitol is full of thieves that rob these amendments from the Senate vehicle before we ever get over to the House on occasion. I just think that ought to be understood, too.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. MITCHELL. Mr. President, I strongly endorse the words of the distinguished chairman of the Appropriations Committee and urge our colleagues to permit prompt disposition of this measure.

And I now make an appeal to the self-interest of Senators. We have to complete action on this bill and then we are going to proceed to the Defense Department appropriations conference report, which I am advised will stimulate some debate—I hope not excessive—but a reasonable and fair and appropriate amount of debate.

It is my hope, and I have discussed this with the distinguished Republican leader, that we will then be able to go to the CFE Treaty. There is something which the President has asked the Senate to take up and consent to: the Secretary of State has asked repeatedly. We are now in the awkward situation where we have proposed taking that treaty up, but are now prevented from doing so by Republican objections to dealing with that treaty.

I know the distinguished Republican leader is working to eliminate those objections, but I appeal to my colleagues on the ground that this is an important measure for the country and something which the President has negotiated, which the President has asked us to act on and the Secretary of State has asked us to act on, and yet we are prevented from going to it at least up to this point because of Republican objections.

So I know the distinguished Republican leader is doing his best, working diligently in that regard, and I hope he is successful. In any event, we will have to proceed to it. If we cannot do it by consent, then it means a somewhat longer process involving the possibility of lengthy debate and numerous amendments, which I hope does not occur because I personally support the treaty and commend the President and the Secretary of State for its successful negotiation.

Mr. President, I have been asked by a number of Senators on both sides of the aisle about various items that have been before us and that may be before us. I would like to just state briefly that, both Houses now having passed the banking bill, that matter is now the subject of discussion with Senate and House participants, the Secretary of Treasury and others representing the administration. We have to act on that bill. We have to act on the Resolution Trust Corp. funding bill. That is essential.

The surface transportation bill is in conference. I know the conferees met very late last night, and into the early morning hours today. We hope that progress is being made there and that we are going to be able to act on that.

The conference has begun or I expect shortly will begin on the crime bill. We hope to be able to complete action on that measure as well.

The Finance Committee met this morning on the question of the Medicaid regulations, and I know that the administration and the Governors have worked out an agreement. Senator BENTSEN's committee has reported out a proposal that we are going to try to deal with. I hope it will be the subject matter of an agreement.

I do want to say that we will not be taking up the energy bill this year, but I do intend to give it a very high priority early next year. I know a lot of work has been done on it, particularly by the distinguished chairman of the committee, the distinguished Senator from Louisiana. I have discussed the matter with him and with the distinguished Republican leader. While it is, in my judgment, not possible to complete action on that legislation this year, it is important that we have a comprehensive national energy policy, and this is the matter which I intend to give a very high priority early next year. I look forward to working with the distinguished Senator from Louisiana in that regard.

Mr. President, I do not want to create the implication, if I have left anything out for this year, that I have suggested an exclusive list. There are several other things that we are going to take up and deal with. The distinguished Republican leader and I meet now on an almost continuous basis. I have attempted to highlight some of the important measures to buttress the points made by the distinguished chairman of the Appropriations Committee about the need to move promptly on this bill.

I now, Mr. President, yield to the distinguished Republican leader.

Mr. DOLE. I want to underscore what was stated by both managers. I would not wait too long. I would hope your patience is wearing thin, because we have been in fairly late every night this week and we will be in late this evening—we anticipate that—and we will be here tomorrow. I would say if the list got too long tonight, we would have to have something to do tomorrow in addition to the other matters listed by the distinguished majority leader.

I would be prepared to table all of them en bloc. Just ship them all up there and we would have one vote on 45 amendments. I think it would be unanimous.

These are very important amendments. Everybody has a right to offer amendments, but this is a dire emergency supplemental appropriations bill. I have given the distinguished chairman two pages of amendments on this side. In some places there is a name that has three amendments following it, so it is probably more than the two pages. If I understand this is satisfactory with my colleague, Senator HATFIELD. We are prepared to say we will not add any more amendments on this side. Hopefully within the next 30-40 minutes we can trim that list substantially. But I want to cooperate with the chairman and Senator HARTFIELD, and I think most members do. Whenever the chairman indicates that he is prepared to start tabling amendments, then I think he will have cooperation on both sides.

Mr. MITCHELL. Mr. President, if I just might add one point. We want to get this done because Senator DOLE and I are united in our determination that we are going to adjourn prior to Thanksgiving. Every Senator here—almost every Senator—has come up to me at some time or other in the last few weeks and said, "Now we have got to get out of here prior to Thanksgiving, and I encourage you, I urge you, I applaud you," various words of support. But each of those Senators must recognize that when this comes to delay, in the famous words of Pogo, "We have met the enemy and it is us." So we cannot have it both ways.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. We will be coming back next year. If we miss anything, next year, we will have another chance.

Mr. MITHCELL. That is right. There will be ample opportunity for Senators who feel they have something that is important to deal with it, recognizing again every Senator has a right to offer amendments. But those Senators who expressed a desire to complete action so that we can adjourn prior to Thanksgiving must recognize that, to the extent they contribute to the delay, they make it more difficult to obtain that objective.

Mr. BUMPERS. Before the majority leader yields the floor, will he yield for a question?

Mr. MITCHELL. Certainly.

Mr. BUMPERS. Would you like to provide some incentive to finish this bill by saying, for example, if we finish this bill tonight, we would not be in tomorrow?

Mr. MITCHELL. I am very sorry that I cannot say that because I have already said exactly the opposite of that twice today. When we finish this bill, we are going to go to the defense appropriations bill, and then it is my hope to go to the CFE Treaty tomorrow.

Mr. BUMPERS. So we will be in tomorrow regardless?

Mr. MITCHELL. Yes, we will.

Mr. BUMPERS. Then I do not care if we finish this bill tonight or not.

Mr. MITCHELL. I can provide a different incentive. If we do not finish enough matters tomorrow, we will be in Sunday. So maybe at some point tomorrow I can suggest that alternative, which I have been reluctant to do, because I have learned to take these days one at a time. But I hope the Senator will cooperate with us by permitting completion of this matter.

Mr. BUMPERS. I do not have any amendment. I will be here.

Mr. MITCHELL. I thank the Senator. That is a wholesome attitude.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. When the majority leader has finished.

Mr. MITCHELL. I yield to the Senator.

Mr. METZENBAUM. I am a supporter of what the Senator from West Virginia is attempting to do. I just heard the minority leader speak to the subject and say it is a dire emergency bill. As I read what is being done, I question whether it is of such dire emergency.

I am not looking for a confrontation or a dispute with the manager of the bill, but I wonder what is the urgency of doing this since it appears to be a transfer of some funds that came out of Desert Storm that the Arabs have been paying us that appears to pick up six helicopters and certain other items. I am not here really trying to make an issue, but I really am sort of asking why is there such a dire emergency that it could not be in a regular appropriations bill?

Mr. BYRD. I suppose I should answer the distinguished Senator by saying, if we did not pass this bill this year, we would be back in February and pass a bill at that time. But as the chairman of the Appropriations Committee, I am very reluctant to go home without passing this bill. I do not want the President to say the Senate could not pass or the Congress could not pass a dire emergency appropriation bill. There are some items in this bill that are of an emergent nature. There are others I do not consider to be. Some of them were voted in by the House of Representatives.

I can only say I think we have a responsibility to try to pass this bill and do it as soon as possible. Once we pass this bill in the Senate, those of us on the Appropriations Committee of course, as the Senator knows, have to go to conference and work there. And if we are going to be out next Tuesday and the President should elect to veto this bill, then we are at home and he has a pocket veto.

Mr. METZENBAUM. Is there anything that would affect our Nation's security adversely, if he did veto it? Or if we did not pass it?

As I looked over the items in the bill, and I do not claim to be an expert in this area, but I looked at six helicopters are being purchased. I looked at the AH64, which is an Apache helicopter that was not in the House bill but is in ours.

I am not taking issue about any of these items, but I just was, really, raising the question of why do we have to act at this point. And I think the Senator has already answered that we probably could do it in February. But there may be some things that are of a more urgent nature. I was asking whether there was anything specific that could be pointed out that falls into that category?

Mr. BYRD. Well, I think there are some items that are of an emergent nature in here. I do not think that this is a particularly needful question or answer, really. I had my mind set on trying to pass this bill.

There will be some items in conference that we may not consider to be emergent. I hope we can drop them.

Let me now read the list of amendments. I am not sanguine about getting agreement on the list, but I think Senators ought to just have an understanding about what amendments are going to be offered.

Pressler on GATT.

Kasten amendment on capital gains.

Kasten amendment on boat tax.

McCain amendment on defense. Whatever that is.

McCain amendment on the environment.

Warner, Washington National Airport amendment.

Warner, relevant.

Bond amendment on TWA.

Wallop amendment, Marine Corps modernization.

Danforth-Nunn amendment on university research.

Nickles amendment, change the marketing year definition.

Nickles amendment, an Interior technical amendment.

D'Amato amendment, Air National Guard.

Stevens amendment, *Exxon-Valdez* settlement fund.

Stevens amendment, dealing with salmon.

Stevens amendment, Senate seal.

Stevens amendment, technical correction.

Coats amendment on crop insurance.

Coats amendment, relevant. That does not tell us very much.

Gramm amendment, relevant. Same as the above.

Gramm amendment, delete nondire.

Hatfield amendment, unspecified.

Hatfield amendment, relevant.

Helms amendment, relevant.

Helms amendment, relevant.

Kassebaum amendment, family farm.

Kassebaum, relevant.

Dole, unspecified.

Burns amendment, Bureau of Indian Affairs and Parks.

Garn amendment, relevant.

Symms amendment, special prosecutor.

Murkowski amendment, National Freedom Act.

On the Democratic side:

Bingaman, R&D Defense Subcommittee.

Boren, Soviet tech assistance.

Bumpers with Pryor on FERC.

Byrd has a substitute for the bill. I hope I do not have to call it up.

Conrad, an amendment on end use certificates on foreign grain.

Bradley, Buffalo Bill Dam.

Cranston, money for scientific study on old growth forests.

D'Amato-DeConcini, Udall provision; make one feed grain base rather than separate.

Fowler, Hunting Safety and Preservation Act.

Kohl, high moisture corn, and a second amendment on refundable assessments.

Leahy, direct FHA to earmark funds for certain projects.

Levin, impact aid for school in Michigan.

Nunn, DOD university research, DOD museum funding, and Soviet nuclear destruction.

Pell, NOAA disaster relief for shellfish.

Pryor, SDI related.

Riegle, 50-50 Federal-State cost for low-quality fruit; include fireblight as disaster eligible; and make more dollars available for rehabilitation; to remove crop insurance criteria FMHA disaster funds; and increase appropriations for small business affected by agricultural disasters.

So, some of those I would understand probably are appropriate and can be adopted perhaps without debate or without much debate.

But there are others on there, as Senators will have noticed, that are pretty far-ranging and far-reaching.

So, Mr. President, I ask unanimous consent that those amendments—that the remaining amendments to the bill be limited to the amendments that I have just listed. It does not mean they will all be called up and it does not mean that they will be agreed to, by any means. And I would ask such unanimous consent provided, also, that no points of order be waived thereby.

Mr. JOHNSTON. Mr. President, reserving the right to object, I wonder if the chairman would expand his request by putting in two Johnston amendments, one related to nuclear waste and one related to the Arctic National Wildlife Refuge?

Mr. BYRD. Yes. I ask that they be included in the list.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. And two amendments by Mr. GLENN.

And, Mr. President, provided also that any second-degree amendment be relevant to the first-degree and any unspecified amendment be relevant to the committee substitute.

Mr. JOHNSTON. Mr. President, any second-degree amendments be relevant and germane to the first-degree amendments? I would like an exception with respect to nuclear waste and Arctic National Wildlife Refuge. In other words, I would like the ability to put in second-degree amendments relating to those two matters, to any first-degree amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not know the implication of the unanimous-consent request on the amendments that I have now drafted. So I would have to object, although I hope I will not have to object for long. I just do not know. We will have to check those. We hope they are relevant, but there are very strict rules on that, and I would object at this point.

The PRESIDING OFFICER. May I inform the Senate that part of the request was agreed to.

Mr. BYRD. Mr. President, I present the request.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. METZENBAUM. Does it again have the second-degree rights reserved to the Senator from Louisiana?

Mr. BYRD. Let me say any second-degree amendments be relevant to the first-degree and unspecified amendments be relevant to the committee substitute. Plus—if I may ask the Senator from Louisiana to add his proviso?

Mr. METZENBAUM. I would have to object so long as any one Senator in this body is given special rights over any other Senator. And particularly I do not know what the Senator from Louisiana would be intending to add as a second-degree amendment having to do with energy. I do not want to object, but I do not think it is appropriate to have any special reservation in connection with any particular subject, accorded to one particular Senator.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. JOHNSTON. Mr. President, the subject matter of the amendment which I will seek a reservation for, both in the first-degree and in the second-degree, has to do with drilling in the Arctic National Wildlife Refuge and preemption of the rights of the State to restrict nuclear waste. Both of these matters have been reported by the Energy Committee. The nuclear waste matter has been pending on the floor for some months and I would like very much to have that considered by the Senate. And if this bill is the vehicle for consideration of legislative matters, I think it is very appropriate they would consider it.

I am very glad to restrict the bill to dire emergency matters, but if it is not to be restricted, then I think these matters are more important than other first-degree amendments.

So I personally would object to a unanimous-consent agreement that would restrict the right of this Senator to offer those amendments. So those are the subject matters which I would like to address.

Mr. METZENBAUM. Mr. President, under those circumstances, I have to object.

I must point out that if the Senator from Louisiana, in my opinion, would have a right to offer those amendments in the first degree, they probably would be subject to a challenge on the basis of their not being relevant. And this way, the Senator would have an opportunity to come in through the back door, something he could not do through the front door. So I object.

Mr. BYRD. Mr. President, I can understand the objections. I have been around here quite a long time.

The PRESIDING OFFICER. Will the Senator from West Virginia withhold for an explanation? I say that the Chair did call for the earlier request, which was granted. The modified request is still in question.

The Chair did grant the request that included the list that the Senator from West Virginia read, but not the following request, which was modified.

Mr. JOHNSTON. Mr. President, is the Chair stating that the request for the Senator to limit, with the right of the Senator from Louisiana to put on a first-degree and second-degree amendments, was granted?

The PRESIDING OFFICER. The request that was granted was just to the list of amendments that was read by the Senator from West Virginia, and it did not pertain to the secondary amendments.

Mr. JOHNSTON. Mr. President, I do not believe the Chair called for a unanimous consent with respect to the limitation of the first list. I do not believe unanimous consent was granted with respect to that, because I made a reservation on that. I have been right here and made a reservation on that.

Mr. BYRD. Mr. President, I would rather see the request—I would rather see the announcement of the Chair vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I say that because I believe there was ample reason for Mr. JOHNSTON to be confused, and others as well, including myself, as to just what the status of things were. I respect the Chair greatly, especially the Member who presently occupies it, and I know he is trying to move forward in an orderly way. But I am glad we have vitiated that agreement.

I would like to present the agreement again, so that all Senators will understand what we are doing. I would like to renew my request concerning the list of amendments that I read, and that is all I will request right now—just the list that I read. Other Senators may reserve the right to object and ask for a request that they like.

Mr. JOHNSTON. Mr. President, reserving the right to object, I request the distinguished chairman to amend the request to allow first-degree amendments relative to Arctic national wildlife refuge drilling, and with respect to nuclear waste preemption in the first degree and in the second degree, with respect to any first-degree amendment.

Mr. METZENBAUM. I object.

Mr. GLENN. I wonder if the distinguished Senator from West Virginia will yield for a question?

Mr. BYRD. Yes, I will yield the floor shortly.

Mr. GLENN. I wanted to find out if I was included in there. A CHAMPUS reform initiative, in the long haul, will save us money. That I was concerned about; I want to make sure that was on there.

Mr. BYRD. Yes; the Senator has two amendments on there.

Mr. GLENN. I thank the Senator.

Mr. BYRD. May I say before I take my seat, many times I have seen—and I am sure the distinguished Republican leader, who is on the floor and has worked with me over the years, has seen—a very long list of amendments that were included in such a request. And nearly always, it has worked out, as far as I can remember, a good many of those amendments are never called up. They are merely put on the list for protective reasons. So while it may look rather formidable when one looks at the list, it really does not turn out that way.

But the initial step in bringing things to closure, I think, is to try to get a limitation on the number of amendments, so that at least we know when we get through them, there will not be anymore.

So I will attempt, I suppose, again a little later, to try to renew my request. But I am going to beg the indulgence of the Senate to forgive me for starting to move to table amendments pretty soon. I will not say I will try to move to table every amendment, and I may fail to get any of them tabled. But I think we have to make a start on this, or else we will not finish.

Mr. METZENBAUM. Will the distinguished Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. METZENBAUM. I want the Senator from West Virginia to understand the Senator has no objection to his getting a list of first-degree amendments, and I will not object to that. Nor would I object if the Senator from Louisiana listed his amendments as one of your first-degree amendments on your list. He has a right to do that, just as I can make any amendment I want.

What concerns me is the parliamentary situation that would develop if he had the right to offer a second-degree amendment having to do with nuclear waste or ANWR, and I do not want to put the Senate in that position.

I ask of my colleague from West Virginia whether or not he would be good enough to assure the Senator from Ohio that I do not have to stand here every moment of the evening. If the Senator has a request for first degree, I have no problem at all. If the Senator from Louisiana or some other Senator is to get a special reservation, then I would ask that the Senator from West Virginia protect my position so I do not have to stand here all night long.

Mr. BYRD. I certainly understand the Senator's feelings. I hesitate to assure any Senator that I will be able to protect him, because I might not be on the floor. I feel that is a pretty big responsibility for me. But certainly the Senator would hear on the television of any such request. If he called over and said he had to object, I respect that.

Mr. METZENBAUM. Things move rapidly here, and I just ask if before the Senator from West Virginia again propounds his unanimous-consent request, if he would be good enough to give the Senator from Ohio an opportunity to be on the floor with him.

Mr. BYRD. I will be happy to have someone get in touch with the Senator. I will alert him before I make such a request.

Mr. DOLE addressed the Chair.

Mr. BYRD. I yield to the Republican leader.

Mr. DOLE. Mr. President, I just suggest I think you can get the leadership to join you right now in tabling them. I do not know why we want to wait any longer. I see people trying to slip in before the final verdict. In my view, we have had enough time; we have been on this bill for a while. We can be out of here by 9:30 with seven or eight straight victories.

I think people will be discouraged. I will, as the Republican leader, join with the manager of the bill now to table any amendment on either side of the aisle.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I would like to make a couple of observations about this bill, and one of the reasons we are here tonight. I hate to say this, because I have the greatest respect for the chairman. He is not responsible for this bill, but this is not a dire emergency appropriations bill; it is a sham. There is a little, tiny piece of it, about $150 million, that is dire emergency domestic funding designated by the President. The rest of the domestic spending was put in by the House.

In fact, they started this process, having a dire emergency bill, about 6 months ago. It has been languishing ever since. Then they had big votes in the House, and put items in it that make everybody feel good. We are declaring that we need another $100 million for WIC, and it is an emergency, a dire emergency. And we need another $1.2 billion for education, and it is an emergency, a dire emergency. We just finished appropriating those programs in the annual appropriations bills. Nobody believes those are dire emergencies as contemplated in the Budget Agreement.

There is funding in this bill associated with acts of God, such as tornadoes that tore up a town, or maybe crop failure of an enormous size because of drought. This bill only has a piece that is designated as dire emergency funding by the President. The rest of it is more than a bit of mischief. The House puts all these things in knowing that they are not going to be paid for unless the President, after he gets the bill and after he signs it, declares those items to be emergencies. Just think of that. This is the second wave of appropriations following about 2 weeks after we finished the regular bills. We are making everybody in the country think we are really going to do these things, but as a matter of fact, we are not going to do them at all because we put some of this funding in knowing full well we are not going to pay for it. We know the President would not declare $1 billion for education a dire emergency when he has not yet signed the bill providing appropriations for education. That bill is coming back through the Senate. It has not even been signed, and it has increased funding for education. We've completed the bill that funds WIC. Following right behind these bills is this thing we call a dire emergency supplemental appropriations bill.

So it is no wonder that the Senators found this to be a pretty good opportunity, in a sense, to do likewise. To do like the House did, and put anything in it that they like, that they have been waiting around for a year, 2, maybe 3 years, to put on a bill. And some are insisting that they even get a vote.

I am not suggesting we should delay matters. I am merely suggesting that we will waste an awful lot of time. We do not have to have this bill up. We do not have to finish it. But I am for the chairman completing his bill, so I will support anything he wants to get rid of the amendments so we can get on with the business of the Senate. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Parliamentary inquiry. What is the status of the Senate at this time?

The PRESIDING OFFICER. The Senate is considering House Joint Resolution 157.

Mr. REID. Is there still pending a unanimous-consent request?

The PRESIDING OFFICER. The request was objected to.

Mr. REID. Mr. President, I want to make sure that I am heard on this matter and I will do that just very briefly. I wanted to alert my chairman that if there are amendments offered relating to nuclear waste, I want to make sure that I have an opportunity to second degree any such amendment. Therefore, I object, as has my distinguished friend from Ohio, to the previous unanimous-consent request to place not only a first-degree amendment but a second-degree amendment.

AMENDMENT NOS. 1410, 1411, 1412, 1413, 1414

Mr. BYRD. Mr. President, the following amendments have been cleared on both sides, and they are: two technical amendments by Mr. BYRD, of West Virginia; an amendment by Mr. DASCHLE; an amendment by Mr. LEAHY; an amendment by Mr. PRYOR; an amendment by Mr. CONRAD. They have been cleared on both sides.

Mr. DOLE. Have any Republicians been cleared?

Mr. METZENBAUM. Does the Senator from West Virginia mean they have all been cleared? Is that what he means?

Mr. BYRD. These amendments, most of them are technical. They are minor amendments. This is something that is not out of the ordinary. I am not trying to pull anything over on the Senate. They have been cleared.

I send them to the desk. I ask unanimous consent that they be considered en bloc and agreed to en bloc and the motion to reconsider be laid on the table and appropriate statements explaining them, if there be such, be included in the RECORD as though read.

Mr. DOLE addressed the Chair.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I am not the manager on this side, but I understand there is some question about the Leahy amendment, whether or not that has been cleared on this side.

Mr. BYRD. Mr. President, if I may have the amendment by Mr. LEAHY back. I will eliminate that from the request. The Republican leader is correct. I thank the Republican leader.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object, the distinguished Senator from West Virginia proposed sending to the desk an amendment he referred to as an amendment by Senator Pryor, from Arkansas. I am wondering if this is the amendment, in fact, that deals with hydroelectric power in Arkansas. Actually, I think the chief sponsor of that amendment is my senior colleague, Senator BUMPERS. Is this the one?

Mr. BYRD. Yes; the Senator is correct. The amendment is a Bumpers-Pryor amendment.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. And the subject matter is in accordance with what has been stated.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1410, 1411, 1412, 1413 and 1414) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1410

SEC. 17. EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1411

SEC. 17. EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1412

At the appropriate place, insert the following:

SEC. . AUTHORIZATION FOR SOUTH DAKOTA WATER.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

Mr. DASCHLE. Mr. President, I rise today to offer an amendment to address the ongoing water problems in South Dakota. This is a technical amendment that would authorize the Secretary of the Interior to perform a needs assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility, and cost of extending the Mni Wiconi water pipeline to the Rosebud Reservation.

The Mni Wiconi project was authorized in 1988 in Public Law 100–516. The goal of the project is to bring decent drinking water to areas in South Dakota where water quality and quantity are unsound, including the Pine Ridge Indian Reservation. Rosebud faces water problems similar to those on Pine Ridge and in other areas in western South Dakota. In order to address these problems, the Rosebud Tribal Council passed a resolution asking to become a part of the Mni Wiconi project. The current beneficiaries of the Mni Wiconi project, namely the Oglala Sioux Tribe and the West River and Lyman-Jones water systems, have passed similar resolutions supporting Rosebud's addition to the project.

In order to determine the wisdom of adding Rosebud to the project, which would require amending Public Law 100–516, it is essential that we better understand the water needs on the reservation, and the feasibility, both technically and financially, of amending the current law. Because Rosebud is outside the project area as defined by Public Law 100–516, the amendment I am offering today is necessary to give the Bureau of Reclamation the authority to perform the study.

It should be noted in the report language accompanying the fiscal year 1992 energy and water appropriation bill, the authority I am seeking by this amendment was granted. However, through an oversight, similar language was not included in the conference report, and the Bureau feels that they need specific authorization to perform the needed study.

I should note that this amendment will not obligate new funds. The Bureau would use unobligated funds, should they be available, to perform the study. I do not intend to have the Bureau use obligated fiscal year 1992 funds for the Mni Wiconi project, unless it becomes apparent that these funds will not be spent for the uses intended in the fiscal year 1992 appropriation.

Finally, Senator BRADLEY, the chairman of the authorizing subcommittee in the Energy Committee, supports this amendment.

This should be a noncontroversial amendment, and I would hope that it could be swiftly adopted.

AMENDMENT NO. 1413

(Purpose: To authorize extensions of time limitations in certain FERC-issued licenses)

On page 24, between lines 21 and 22, insert the following new section:

SEC. 204. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) TERMINATION OF AUTHORIZATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) CONSOLIDATION OF REQUESTS.—To facilitate requests under this section, the Commission may consolidate the requests.

AMENDMENT NO. 1414

(Purpose: To improve monitoring of the domestic uses made of certain foreign grain after importation and to modify procedures for suspension or debarment for use of foreign grain in connection with certain agricultural trade programs)

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

(a) DEFINITIONS.—For purposes of this section:

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraph (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a state of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

Mr. DOLE. Mr. President, I understand that there are two amendments on this side—again I am just passing through. I am not the manager. But there are members of the Appropriations Committee here. I will let Senator DOMENICI do this. These two have been cleared.

AMENDMENT NO. 1415

Mr. DOMENICI. Mr. President, I send to the desk an amendment in behalf of Senator D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator withhold for just a minute.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI for Mr. D'AMATO proposes an amendment numbered 1415.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, after line six insert the following:

"CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purpose of one MH-60G helicopter."

Mr. D'AMATO. My amendment, totalling almost $10.1 million, funds a replacement for the MH60G Pave Hawk lost by the 106th Air Rescue Group, New York Air National Guard, on October 30 while attempting to rescue a lone sailor caught in 25-foot waves whipped up by the freak storm that battered the New England coast 3 weeks ago.

The helicopter reached the lone sailor, but was unable to winch him aboard due to the intensity of the storm. With fuel dangerously low, the helicopter dropped survival equipment and sped for home.

It never made it. The helicopter was unable to link up with the HC130 sent to refuel it due to winds gusting up to 70 mph. Sixty miles short of Long Island the helicopter ran out of fuel. The pilot managed to skillfully ditch the helicopter and get his men safely out, but tragically, rescue specialist T. Sgt. Arden "Rick" Smith became separated from his comrades and drifted away in the darkness. He was never found.

Mr. METZENBAUM. Will the Senator from New Mexico yield?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Objection.

Mr. CONRAD. If I might just ask for a unanimous-consent request on sponsors.

Mr. METZENBAUM. I withdraw the objection.

Mr. CONRAD. Mr. President, if I might just make a unanimous-consent request with respect to the Conrad amendment that was just adopted, showing as original cosponsors Senator CRAIG, of Idaho; Senator DASCHLE, of South Dakota; Senator BURNS, of Montana; Senator BAUCUS, of Montana; and Senator PRESSLER, of South Dakota. I ask unanimous consent they be shown as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair. I yield the floor. I note the absence of a quorum.

Mr. DOMENICI. Mr. President, I believe we are ready to proceed. Will the Senator withhold?

Mr. CONRAD. I will be pleased to withhold.

Mr. DOMENICI. I have explained to Senator METZENBAUM this is an amendment that replaces an Air National Guard helicopter that was lost at sea.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1415) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of Senator BURNS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The following is to be added in the appropriate place:

"( ) The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992.".

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. METZENBAUM. Mr. President, would the Senator from New Mexico be good enough to explain what the amendment does?

Mr. DOMENICI. Would the clerk read the amendment? It is self-explanatory?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

( ) "The Secretary of the Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

Mr. DOLE. Mr. President, would the Senator yield?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I have to object to proceeding at this point in connection with this amendment until I have a chance to study it further. I am told that I already have a hold on the amendment.

Mr. DOLE. I did not note the Senator from Ohio objecting to any of the Democratic amendments. We put through five at once. He did not say a word. If he is going to stand there every night all night and object to every Republican amendment, there have not been too many of them cleared; in any event we are going to have a long evening.

We are going to play fair or we are not going to play at all.

Both of these amendments have been cleared by the managers, as had the five before. The Senator sat silent.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am not looking at these amendments as if they are Democratic or Republican amendments. I asked the manager of the bill whether the amendment had been cleared, whether those amendments had been cleared, and he said yes.

Mr. DOLE. So are these.

Mr. METZENBAUM. Apparently, I was just told by one of the staff people that I had a hold on this amendment. I did not know it. I do not know the reason why at this moment. But I would like to explore it.

I do not wish to keep the Senator from New Mexico from proceeding forward, and I just suggest that it be laid aside in order that I can check the facts. I certainly do not want to hold up the Senator from New Mexico nor the Senator from Kansas, nor anybody else. But I think every Senator has the right to know what we are adopting out here.

Mr. DOLE. He inquired about the helicopter amendment, which had been cleared. Now he has inquired about the second Republican amendments, which are Republican amendments. I did not hear him make any inquiry about the previous five amendments.

Mr. METZENBAUM. I think the Senator from Kansas is a little political, a little more political than the Senator from Ohio.

I did not know whether the first five were democratic or Republican amendments. The Senator from Ohio did not look at the amendments and did not know whether they were Democratic or Republican.

I will try to work it out with my colleague from New Mexico. I do not think it is a major problem.

I am afraid the Senator from Kansas is looking to be political, probably, and I am not.

Mr. DOMENICI. Mr. President, I assume that we want to let the Senate proceed. I want to make this comment.

This amendment also, so the RECORD will be complete, was a subject matter that was within the jurisdiction of the distinguished chairman of his Subcommittee on Interior. So we did not just get a flimsy type of perusal. We got one from very able committee chairman.

Mr. METZENBAUM. I would just suggest we not make a cause celebre out of the matter.

I ask the Senator from New Mexico to let us lay this matter aside temporarily so the Senate can proceed with other business, and we can take a look at it to see if we can work it out.

Mr. DOMENICI. Mr. President, I ask the the last amendment which I submitted in behalf of Senator BURNS be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NO. 1417, 1418, 1419, AND 1420 EN BLOC

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. GORE and an amendment by Mr. BRADLEY and an amendment by Mr. LEAHY and an amendment by Mr. STEVENS. I ask unanimous consent—may I have the attention of the Senator from Ohio? I send these amendments up en bloc.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; and that the motion to reconsider be laid on the table. They have been cleared on the other side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Numbered 1417 1418, 1419, and 1420) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1417

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

Mr. GORE. Mr. President, Narasimhan Sundararaman is an atmospheric scientist who is currently serving as the Secretary of the Intergovernmental Panel on Climate Change [IPCC], an organization chartered by the World Meteorological Organization [WMO] and the United Nations Environment Program [UNEP]. In this capacity and in his earlier work at the WMO, Dr. Sundararaman has been instrumental in advancing the science of climate change and ozone depletion and in informing policymakers of the important implications of the scientific findings. His contributions have truly been invaluable and have won for him the respect and admiration not only of his colleagues here at home but of scientists and policymakers from around the world.

Dr. Sundararaman began his tenure at the WMO on January 27, 1984. He assumed that position while on a separation transfer from the Federal Aviation Administration. An extension of 5 years to the transfer was granted by the FAA and, in light of his exemplary service, an additional extension for a period of 3 years was granted by the Secretary of State. The 8-year period comes to an end on January 26, 1991, and it is my understanding that there is no opportunity for further extension under Office of Personnel Management regulations.

The amendment that I propose would therefore provide that, at the discretion of the Secretary of State, Dr. Sundararaman may retain his position at the IPCC for a maximum of 3 additional years.

Mr. President, this additional extension of Dr. Sundararaman's service is crucial. The world community is currently engaged in negotiating an international convention on the emission of greenhouse gases. The issues involved in these talks are, of course, extremely complicated, and Dr. Sundararaman's input has been invaluable to our representatives as well as those of the other nations engaging in this endeavor. His loss at this time would be sorely felt, indeed.

Amendment No. 1418

(Purpose: To limit appropriations for the Buffalo Bill dam project to authorized amounts)

On page 22, line 5, before the period, insert ", subject to authorization".

Amendment No. 1419

(Purpose: To direct the Federal Highway Administration to allocate, to five Vermont municipalities, $990,000 earmarked in the Fiscal Year 1992 Transportation appropriations act for four bridge repair or replacement demonstration projects in those five municipalities)

At the appropriate place in the bill, insert:

"Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the city of Barre for the Granite Street Bridge, $350,000 to the city of Montpelier for the Bailey Avenue Bridge, $90,000 to the town of Brandon for the replacement of the Dean Bridge, and $90,000 for the town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.".

Amendment No. 1420

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES.

"(a) The caption for Section 713 of title 18, United States Code, is amended to read as follows:

"§ 713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives"

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a face impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, Knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon compliant by any authorized representative of any branch, department or agency of the United States."

(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

Mr. STEVENS. Mr. President, the United States District Court for the District of Alaska recently approved a judicial settlement which resolves claims by the Federal Government and the State of Alaska arising from the tragic oilspill by the *Exxon Valdez* in Prince William Sound, AK, in March of 1989. This amendment is necessary to clarify existing law and ensure that the $50 million received as restitution under the plea agreement and the Federal portion of the moneys received for future restoration costs under the agreement and consent decree can be spent as intended without further appropriation by Congress.

This amendment does not affect moneys received by the State of Alaska under these agreements or moneys received by the Federal Government for reimbursement of cleanup and response costs.

This amendment only addresses the disposition of the $50 million restitution payment to the United States under the plea agreement, and those amounts that the State of Alaska trustees and the Federal trustees agree should be transferred to the United States out of the joint fund established by the agreement and consent decree for future costs of restoration, replacement, or acquisition of equivalent natural resources.

In addition, this amendment is consistent with the terms of the plea agreement and the agreement and consent decree.

Mr. BYRD. May I say to my friend from Ohio, the way we attempt to work these out is that the amendments they have, they think may be cleared on their side, they are run by my staff people. My staff people work with the floor staff people. If there are Senators who have some problems with those amendments, then they are not given clearance.

But once we feel that they have been cleared on our side, we feel they can call them up, and ask that they be considered en bloc. And it works the same in reverse. We have amendments, and if we clear them over there, then I offer those amendments, and ask that they be considered en bloc. It saves the time of the Senate.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. Are these amendments that are being cleared, are these matters of substance or are these matters of minor detail? Are they matters of clarification? Could he give us some idea what he is going through so rapidly?

The Senator from West Virginia knows that when he was the leader of this body, at night I stood here and tried to find out what amendments were. That is all I am trying to find out now, what the amendments are.

Mr. BYRD. Senator, I have been in the Senate now for 33 years.

Mr. METZENBAUM. I have only been here 17 years.

Mr. BYRD. I have been here 33 years. I do not think I have ever had my integrity challenged.

Mr. METZENBAUM. I am not doing that.

Mr. BYRD. If the Senator will let me finish, he may speak and I will listen to him.

The PRESIDING OFFICER. The Senators will be advised they must address one another through the Chair.

Mr. BYRD. I have been here 33 years. I have been the majority leader, I have been the minority leader, I have been the majority leader again. I am now the President pro tempore, and chairman of the Appropriations Committee. I do not think I have ever been challenged as to my integrity.

I make mistakes like others do. But I am just as solicitous of the rights of my colleagues as the Senator from Ohio, and I am just as solicitous of the rights of my colleagues on their side of the aisle as any Senator over there can be.

I would be very careful if I thought that I was slipping through an amendment that the Senator from Ohio would object to or that any Senator would object to, because I know that sooner or later would come back to haunt me.

I do not think that anyone has ever found me getting an amendment through, saying that these have been agreed to, and questioning me as to whether or not they were checked on the telephone, or how were these checked out, how was this done.

Obviously, I do not know everything that is in every amendment that I send up, but I do trust my staff. When my staff runs it by the subcommittee, this is an appropriations bill, and the authorizing committee, that we have one of the finest staffs that ever was put together on this Hill. And they work with the floor staff. And that floor staff on the Democratic side works with that floor staff on the Republican side. If they ever catch me trying to slip something through here, then I will be the first to stand up here in the Senate and say I apologize.

But we cannot move forward on this bill if these little itsy-bitsy, teensy-weensy amendments—I will categorize them that way, because they are certainly not controversial or big amendments or they will not be sent to the desk.

If it is ever found out that ROBERT BYRD has entered into some kind of a cabal here, whereby they are going to slip a lot of controversial amendments through which the Senator from Ohio would object to, then I daresay that the members of the Democratic caucus will not let me continue to be President pro tempore of the Senate or chairman of the Appropriations Committee.

We do our level best. He has the right to ask these questions, I say to the Senator. But I am trying to assure him that he can go back to his office, and he can be just as safe in his mind and his heart, and as assured that things are being done right. If he finds that something went through tomorrow, I will be the first to come here to the floor, and ask that that action be vitiated. Let us do it over again.

So I will do everything I can to protect the Senator. But if we are going to be asked this question every time we send up a batch of amendments that have been cleared, we will not get out work done here. Obviously, I cannot answer the question as to what every amendment does. But I trust my staff. I trust the staff over here.

I said I would listen to the Senator.

Mr. METZENBAUM. I will not take long. I never question the integrity of the Senator from West Virginia nor the integrity of any Member of this body.

I have taken issue with the Senator from West Virginia, as he has taken issue with me on certain issues. That is doing his job, and I do mine. I did not find it inappropriate to find out what an amendment contains when it is coming before this body. You have answered my question. I asked you are these substantive, and you told me each teensy-weensy—

Mr. BYRD. The Senator will address another Senator in the third person.

Mr. METZENBAUM. I would be very happy to talk to the President pro tempore and can be certain that my friend from West Virginia will hear me, if that makes him feel more comfortable.

But the fact is, I do not question the integrity of anybody around here. I never have. All I thought is that I, as a Senator, had a right to know what was in amendments.

Since the Senator from West Virginia has assured the Senator from Ohio that these are—I forget his words, but something like teeny-weeny, itsy-bitsy amendments. If that is what they are, that is fine. But I did not find anything inappropriate about any Member of this body trying to find out what is being voted upon, and I do not intend to refrain from trying to find out today, tomorrow, or any other day in the Senate what is being voted on.

The Senator from West Virginia, to my knowledge, has never done anything to violate or to in any way cause anybody to question his integrity. And I do not.

But I do not see anything wrong with Senators knowing what is being passed. Because a lot of things have been passed in the U.S. Senate—not in this matter—but a lot of things have been passed that Senators woke up the next day, next week, next month, next year and found it had been passed, and they did not know it. So I have no objections, but I do not question the Senator's integrity. I do not think it is inappropriate to find out what the amendments are.

Mr. BYRD. Mr. President, if the Senator from Ohio will let me say this. It is not inappropriate, Senator. I did not say it was inappropriate. I simply said I was trying to assure the Senator—

Mr. METZENBAUM. And I am assured.

Mr. BYRD. That we are going to try to do everything right here. If there is a mistake made, I will be the first to try to correct it.

Mr. LEAHY. Mr. President, if I might, I will take only a moment, if I could have the attention of the Senator from West Virginia.

I know how difficult it is to be chairman of a complex piece of legislation. About a year ago, we passed the 5-year farm bill. I was the floor manager of that legislation. That bill had the distinction of being the longest and most complex piece of Senate legislation ever passed in history. It had the most words and was, in that regard, the longest one. We also passed it in the least amount of time.

There were evenings—and the Senator from West Virginia was here, and the Senator from Ohio and the Senator from New Mexico—when the distinguished Senator from Indiana [Mr. LUGAR] and I, would be here with a stack of amendments. I am not exaggerating, literally a stack a foot high. Those are highly complex things. We had to ask Senators on both sides of the aisle to trust that we had cleared the amendments. And we had.

By the time we got to conference, we felt it was our obligation as managers to completely clear up any question, to the satisfaction of the people asking the questions, or we would not have taken the bill to conference.

The point I make is this—any manager of any bill has a difficult time. Whomever is the manager of the Democratic side, or Republican side, is very careful to check these amendments. If we do not let them check the amendments, we do not let them clear the amendments, and then, we are going to be here singing Christmas carols before this bill gets done.

That is all I have to say, Mr. President.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

There has to be a high degree of mutual trust here in this body for us to get our work done. As far as I am concerned, there is that degree of trust.

I also will say that the distinguished Senator from Ohio [Mr. METZENBAUM] is right in that things can be done sometimes in haste, or when questions are not asked, and with everyone acting in good faith, mistakes can be made. I do not have any fault with that.

I ask unanimous consent that the action on the Daschle amendment 1412 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. NUNN had indicated that he had an amendment he wished to call up.

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, is not the pending business now the Burns amendment, which I had heretofore sent to the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. There is no longer any objection, as I understand it.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 1416) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1421

(Purpose: To clarify existing legal authority to deposit and expend funds received for restitution under the Plea Agreement and future restoration under the Agreement and Consent Decree arising out of the settlement of Federal claims resulting from the discharge of oil by the T/V *Exxon Valdez* on March 23-24, 1989)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS, which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. STEVENS, proposes an amendment numbered 1421.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution insert the following new section:

"SEC. . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91-082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

Mr. HATFIELD. Mr. President, this amendment is relating to the *Valdez* oil spill, and I ask now that it be agreed to.

Mr. BYRD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that Senators would be here to call up their amendments. I discussed with Senator NUNN a little earlier an amendment or two that he had. I urged him to call it up soon. I hope he has not grown weary of listening to the recent colloquy and left the floor.

Mr. President, after 8 o'clock I am going to start moving to table amendments that are legislative in nature and not germane.

And at some point, I will move that the bill be read the third time, and ask for the yeas and nays on that motion, and if the Senate wants to continue to offer amendments, they can vote my motion down. I do not relish saying these things, but because we are in an extenuating situation with Thanksgiving coming up and the hoped-for final adjournment being an objective of almost all Senators, I feel that it is necessary if we are going to get a bill to attempt to get the votes.

After 8 o'clock, I will have to start moving to table amendments that are legislative in nature and constitute legislation on the bill and not germane.

Mr. HATFIELD. Why wait until 8 o'clock?

Mr. BYRD. The question has been asked me, "Why wait until 8 o'clock?" I feel I should give some notice. It is a rather radical action on the part of the chairman to begin to table all amendments, but I think I might be justified in this situation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE SHOULD REJECT LAWRENCE LINDSEY'S NOMINATION TO BE A MEMBER OF THE FEDERAL RESERVE BOARD OF GOVERNORS

Mr. SANFORD. Mr. President, I rise to express my strong opposition to the nomination of Lawrence Lindsey to be a member of the Federal Reserve Board of Governors.

When considering nominations, particularly those for positions within the Cabinet or posts in the administration, I generally try to give the President the benefit of the doubt. It is his administration and he is generally entitled to have his choice of who is to serve in his administration. However, the nomination before the Senate today is not for someone to serve in the Bush cabinet; it is for a position on the independent Federal Reserve Board of Governors, the organization principally responsible for determining and implementing monetary policy for the country. Given the economic crisis currently plaguing the country, the importance of this position is magnified. It is the Senate's obligation to ensure that we are placing a well-qualified, independent, capable person on this key policymaking board.

OVERREPRESENTATION OF THE FIRST FEDERAL RESERVE DISTRICT

In examining Lawrence Lindsey's qualifications for this post, I started by looking at the Federal Reserve Act itself and the terms set forth in the statute for those who are nominated to fill these key positions. On this issue, I think the statute is clear and should serve as a guiding principle for the Senate. The statute states:

In selecting the members of the Board, *not more than one of whom shall be selected from any one Federal Reserve District*, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. (12 U.S.C. 241, emphasis added.)

I believe Mr. Lindsey's nomination violates the clear prohibition in the statute against more than one nominee from a given district. A fair reading of Mr. Lindsey's background, education, and work experience suggests quite clearly that he is from the First Federal District. This district includes the State of Maine, where Mr. Lindsey spent 4 years attending college, and the State of Massachusetts, where Mr. Lindsey has spent most of his professional life. He attended graduate school for his master's degree and Ph.D. in Massachusetts, and went on to spend the next 4 years teaching in Massachusetts.

Mr. Lindsey could quite appropriately serve as a nominee from the First Federal Reserve District. However, if the President had nominated him for that seat, he would have directly violated the clear prohibition in the statute against appointing more than one member to the Board from a given district, since the Federal Reserve Board already includes a member, Mr. John LaWare, from the Frist Federal Reserve District.

NOT A FAIR REPRESENTATIVE OF THE FIFTH DISTRICT

So instead of selecting from the many, many people who live, work and have been broadly engaged in the economic life of North Carolina, South Carolina, Maryland, or Virginia, the President selected Larry Lindsey as his nominee and contends that he meets the terms of the status simply because he has lived in a suburb of the District of Columbia while working for the last 3 years for the White House. The President has totally distorted the clear meaning of the statute. Mr. President, this is not sufficient and it is certainly unfair to the people of the South. The South is considered a major region within the United States, and rightfully so. The South has economic characteristics that are unique. It is outrageously unfair that the statute that ensures that our unique, regional needs will be fairly represented on the Board that determines our economic future is being blatantly violated.

The Federal Reserve Act is not a mere residency statute and the President should not be allowed to twist it into one. It does not require a nominee to have lived a certain amount of years in the district they would represent like a voting statute does. Instead, the statute calls for fair representation of the financial, agricultural, industrial and commerical interests of the district. With all due respect, Mr. President, Larry Lindsey could not possibly provide such representation because he has never engaged in the economic life of North Carolina, South Carolina, Virginia, or Maryland. Sure, he has technically lived in Virginia while working in the District of Columbia, but he has not been spending those years worrying particularly about the economic problems of Virginia, or running a business or a bank in Virginia or interacting with businessmen or farmers in Virginia. He has simply lived there while working on national policy issues for the White House. That is simply not sufficient to meet the terms of the statute.

Indeed, Mr. Lindsey was asked at his confirmation hearing what economic activity he has engaged in in the Fifth Federal Reserve District other than living in a D.C. suburb, and his answer was none.

Mr. President, I do not believe that the requirement for fair representation of the financial, agricultural, industrial, or commerical interests of the District is one which the Senate should ignore. Indeed, I believe the Congress, in designing the Federal Reserve System was appropriately mindful of the need to have representation from a number of regions and interests in the country. The clear rationale for the requirement is to ensure that views of what is going on in the economic life of one part of the country do not dominate the Board. Yet, Mr. Lindsey does not and cannot bring any such variety to the Board. He has no independent contacts in the District that would allow him to get a true feeling for what is really going on in the economic life of the Fifth Federal Reserve District.

LACK OF BOARD EXPERIENCE

Again, Mr. Lindsey was specifically asked at his confirmation who he would turn to if he wanted to get a sense of what was really going on in the private sector and in the business community and his response was "Well, I think that I would call on academic economist friends of mine who have worked for business organizations. The Conference Board for example." As my colleagues know well, the Conference Board is a business-oriented economic analysis group headquarted in New York. If that is the closest connection Mr. Lindsey has to the economic life in North Carolina or South Carolina, it is surely an indication that he is not adequately familiar with the agricultural or industrial interests of this region.

Moreover, I find his choice to contact academic economists first somewhat troubling. I speak without prejudice. I spent much time in the academic world. But at a time when the Federal Reserve needs to be in close touch with what is truly going on in the economy and the lives of workers, business people, and the unemployed across the region, I find Mr. Lindsey's response more than inadequate; it is quite disturbing.

IMPORTANCE OF GEOGRAPHIC DIVERSITY AND "REAL" EXPERIENCE

I might note, Mr. President, that the requirement that Federal Reserve Board members adequately reflect the economic life of their district has been fairly carefully adhered to over the past 10 to 15 years. Indeed, one has to go back to 1978 to find a nominee who had as little connection to the district from which he or she was nominated as Mr. Lindsey does. As a matter of fact, Senator GARN, the distinguished ranking member noted in the committee mark up on Mr. Lindsey's nomination, that he had raised the same objection to a nominee to the Federal Reserve Board that I am raising on the floor now. Senator GARN's comments during the Banking Committee mark up were, "Mr. Chairman, may I say to the Senator from North Carolina that I understand his opposition on the basis of geography. If he had been here in the late 1970's, he would have heard virtually the same speech from this Senator on a nominee of the Carter Administration." As I said during the committee's mark up, had I been here then, I would have supported him in that objection. The requirements in the Federal Reserve Act should not be treated so lightly.

In addition, in a hearing held in the Banking Committee just last week, former vice chairman of the Federal Reserve Board, Preston Martin, began his testimony with advice to the committee regarding their role in reviewing appointments to the Board itself. His statement is as follows:

> I appreciate academic credentials for Board membership. However, my 4 years on the Federal Board convinces me that it is clearly in the public interest to confirm board members who have a variety of "real world" experience, experience in the business arena, the financial areas, and time spent as regulators: all are useful at the Board, even indispensable.

Martin went on to impress upon the committee the importance of adhering to the statute in the Federal Reserve Act which guarantees fair regional representation on the Board. Again, I am quoting directly from Mr. Martin's testimony:

> A diversity of geographic backgrounds is a second criterion. The United States has now endured the increased impact of regional business cycles which have been notable: first the middlewestern Rust Belt, then the farm States' crisis, and then reversal of the Massachusetts Miracle all over New England. Today greater New York and its environs are suffering, and the growth rate in once booming California has yielded to normalcy, just ordinary growth. I respectfully recommend that this committee return to a criterion of the Federal Reserve Act which mandates geographic diversification of the Board membership itself, not just among the Fed bank presidents.

In addition to the concerns I have noted about Mr. Lindsey's failure to meet the clear requirements set forth in the Federal Reserve Act, I also am concerned about his independence on the Board. The Federal Reserve Board was set up to be insulated from the political process. Most positions on the Board were established as 14-year terms, some of the longest of any such positions requiring Senate confirmation. The decision to grant lengthy terms to Board members was clearly intended to give them a good deal of independence from the White House and the political pressures of election cycles. With Mr. Lindsey's nomination, I am concerned that we are not getting a nominee who will be independent of the White House. The only time Mr. Lindsey has spent in this region has been spent working for the White House. Given that close connection to this administration, I am concerned about how willing he will be to make decisions that are not in complete accord with the administration's views. In addition, Mr. Lindsey lacks the real world experience that Mr. Martin referred to as indispensable to the Federal Reserve Board.

NARROW ECONOMIC VIEWS

Finally, I am concerned over the appointment of Mr. Lindsey to the Board of Governors because of his views on the economy and the relationship between tax policy and monetary policy. Mr. Lindsey wrote a book just last year entitled "The Growth Experiment," in which he makes a number of disturbing claims. He is a strong proponent of supply side economics and states that "the Reagan tax cuts contributed only trivially to the booming deficits of the 1980's." Mr. Lindsey also asserts that "The country has exchanged economic peril for economic prosperity * * *. Those days [the late 1970's] of constant crisis are gone, largely because the large tax rate cuts for upper income and upper middle income taxpayers restored the incentives that drive the American economy." Mr. President, I am disturbed that a man possessing the academic credentials of Mr. Lindsey can make these statements with a clear conscience. I can only think that Mr. Lindsey's lack of personal experience in the real world and his reliance on academic economist friends have prevented him from grasping a true sense of the American economy and how it relates to real people. I should think my colleagues would be very reluctant to approve a nominee to the Federal Reserve Board who does not believe that our current economic troubles are not substantially if not completely, due to excesses of the 1980's, and more specifically, Reaganomics. If this was not clear last spring, it is abundantly clear today.

I am also concerned that Mr. Lindsey believes that tax cuts, more than monetary policy, have been responsible for bringing inflation down. At great economic and social cost, the Federal Reserve succeeded in reducing inflation from double digit rates in 1981 to a range of 3 to 4 percent in subsequent years by raising and holding up interest rates long enough to induce a major recession. Despite Mr. Lindsey's claims to the contrary, interest rates finally fell because the Federal Reserve ultimately responded to the serious deterioration of the economy and the sharply lower inflation rates. Inflation slowed because the economy slowed first, making it costly for workers and firms to continue raising wages and prices rapidly. Understanding the effects of monetary policy should be fundamental to a Board member. At a time when fiscal policy seems to be unable to revive the economy, we are relying on monetary policymakers to find a solution.

Given the debilitated state of the Nation's economy, the decisions made by the Federal Reserve are monumental. Misjudgments by the Fed could prevent much needed economic improvement. It is crucial that an appointee to the Federal Reserve possess a truly balanced understanding of the role and the power of monetary policy.

CONCLUSION

In conclusion, Mr. President, I think Mr. Lindsey lacks the real life experience associated with financial, industrial, agricultural, and commercial interests in general to make the crucial decisions that will bring our economy out of jeopardy and put it on a realistic, not a theoretical, path of growth. One step to finding this realistic solution is having Federal Reserve Board members who properly represent the Federal Reserve districts from which they are nominated. I do not think that there can be any doubt that Mr. Lindsey's nomination clearly violates the Federal Reserve Act which was designed to give us balanced representation. His presence on the Federal Reserve Board would upset the balance of diversity on the Board and stifle the voice of economic indicators from a major region of the Nation. I think the people of the Fifth Federal Reserve District, the people of the South, deserve a representative who has been a participant and has been able to develop a clear understanding of their economic needs. Without such a representative, policy cannot be crafted that is responsive to the needs of the entire country, including the South. In short, Mr. Lindsey is not only not the best person for this position, he is not even qualified. Therefore, I have urged my colleagues to uphold the statutes in the Federal Reserve Act and reject this nomination.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SANFORD. Certainly.

Mr. SARBANES. Mr. President, I subscribe to the point of view which the Senator has advanced with respect to this nomination because it seems to me clear that it is not conforming certainly with the spirit of the Federal Reserve Act, because I think the residential requirement is not simply a technical requirement that someone come down to work in Washington, DC, from an academic appointment at Harvard and then live in Virginia or Maryland and that residence there constitutes meeting the geographic requirements that are contained in the Federal Reserve Act. I agree completely.

Let me ask the Senator. As I understand the point he is making, it is his view that the person taken from a Federal Reserve district should have some nexus with that district; in other words, he should have some feel and sense for the industrial and commercial and agriculture life of the Federal Reserve district from which he is being drawn and ostensibly would represent on the board of Federal Reserve. Is that correct?

Mr. SANFORD. The Senator is correct. In fact, the statute specifically requires that.

Mr. SARBANES. Mr. President, we have had this problem come up before, I must say, where they have taken someone who is a Washington hand and then they say, well, you know, a number of years ago he went to school in this Federal Reserve district or something and then they use that as the basis to try to put him on the board and meet the geographic requirement.

I do not think that geographic requirement is something to be ignored or laughed at or simply brushed off. I think it has meaning. I think it was developed on the basis of good rationale and that the Senate ought to hold to that rationale. It certainly is not happening in this instance for the reasons which the very able Senator from North Carolina has detailed so eloquently. I am pleased to join with him in the position that he has taken on this nomination.

Mr. SANFORD. Mr. President, I thank the Senator from Maryland. I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleagues for expressing most forthrightly their sentiments on this. It has been my privilege to introduce this nominee on behalf of the President. I take issue with some of the conclusions that my distinguished colleagues from North Carolina and Maryland raised. But, nevertheless, I wish to thank them for allowing the nomination to go forward and to have the Senate work its will, presumably sometime tonight.

I had the pleasure of meeting with Dr. Lindsey on several occasions before his nomination came before the Senate Banking Committee and found him to be an exceptionally impressive individual. He has not only served as an economic advisor to two Presidents—I repeat, two Presidents—but he has taught at Harvard University, and has published numerous economic books and articles.

Dr. Lindsey has named several goals he wishes to achieve subject to his confirmation by the U.S. Senate and his eventual position as a board member of the Federal Reserve. Those goals include a growth oriented, noninflationary monetary policy, a regulatory position which would not impede credit conditions, reform of the Nation's financial system so that our banks can better compete internationally, and gradual reduction of inflation. These goals are laudable, and on track with the needs of our country's monetary policy.

Mr. President, I am pleased that Dr. Lindsey's nomination, in my judgment, enjoys bipartisan support in this Chamber. I think the President has made an excellent choice. I look forward to the Senate working its will on this nomination. I hope it will be favorable, because I think he will serve and discharge the duties as board member of the Federal Reserve with distinction and effectiveness.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The Senate continued with the consideration of the joint resolution.

Mr. DOMENICI. Mr. President, I want to get back to the subject matter before us.

I do not choose to use much of the Senate's time in explaining why I will vote against this joint resolution. I did a bit of it awhile ago in some extraneous remarks regarding what this bill was not. I have prepared an analysis of the bill, and an analysis of what we have failed to do in the normal appropriations process for disaster relief which led us to a point where the House had to put money in the disaster relief account and declare it an emergency, and that started this bill.

I have attempted to analyze the measure as best I can and I want to repeat: The House—not the Senate, not the Appropriations Committee—decided that they were going to take some votes on some measures and matters that had great political appeal and put them in this bill because obviously many, many House Members would vote for it. One was WIC, one was some money for Head Start, and one was some immunization money. We had just funded them in the regular appropriations bill, but somebody decided that if we were having another appropriations bill run through, we would put them on it.

Frankly, in our debate in the Appropriations Committee, there was no one that really tried to take the position that those funding items were emergencies. They are not. And so what we are doing is putting them in the joint resolution without a true emergency situation and sending them to the President. If he declares them an emergency, we will spend the money. And everyone knows that the President will not do that, because it is not a true emergency.

But I also indicate in my statement how these programs have increased over the last 5 years and indeed over the last year, and they have been substantial increases. I mean a program like WIC in the last 5 years has just grown dramatically; in the last year it has grown as much as almost any other program around. And well it should. So has the immunization program that is in here, and so has Head Start. So I have that analyzed in detail, and it will be my justification and explanation for what this bill is, and what it is not.

Mr. President, I must rise in opposition to House Joint Resolution 157, a bill making so-called dire emergency supplemental appropriations for fiscal year 1992, which was reported by the Senate Appropriations Committee on November 15.

Mr. President, this is the last appropriations bill that the Congress is likely to consider this session.

I oppose this bill because, as I said during the full appropriations committee markup session, it is way beyond mischief. By that I mean that this bill take to new heights the fiscal games that the Congress likes to play, but in my opinion. It is so disingenuous that I cannot let it go unchallenged.

Mr. President, this bill is a sham. Plain and simply it is an attempt by the Congress to make everyone think that they have addressed a problem when all it has done is found a mischievous way to avoid making difficult decisions on priorities for Federal spending.

It is way beyond mischief for the Congress to give the impression to the victims of natural disasters that they will receive relief under this bill when in fact they probably will not.

The bill is simply another attempt by the majority party in Congress to get around the bipartisan budget agreement, and to embarrass the President with charges that he is ignoring the domestic agenda when he does not declare every item of spending in this bill as an emergency requirement.

"DIRE EMERGENCY" ITEMS

Mr. President, before the President has signed the last of the 13 regular appropriations bills, the Congress is passing a $14.2 billion so-called "dire emergency" supplemental appropriations bill for fiscal year 1992.

The bill includes $10.1 billion for Operation Desert Shield/Desert Storm, which is funded out of allied contributions to the defense cooperation account or the Persian Gulf regional defense fund, and not from taxpayer funds.

Excluding the Operation Desert Shield/Desert Storm funding, and the $151 million in FEMA disaster assistance that the President declared "emergency requirements" back in July, which will not be charged against the discretionary spending caps in the bipartisan budget agreement, the Senate is today voting on adding $4.0 billion in budget authority and $2.85 billion in outlays to Federal spending.

Without the designation of these funds as "emergency requirements" by the President, making this disaster relief and other spending available would force a sequester of all domestic discretionary spending by between 1 and 2 percent across-the-board.

This bill again shows that Congress will not make the tough decisions. Rather, it specifies in this bill that these funds will be spent only when the President declares them as "emergency requirements," and therefore, outside the fiscal discipline of the fiscal year 1992 spending caps.

So this is the choice Congress is forcing on the President—he can either declare these funds "emergency requirements" when arguably many of them are not, and break the budget agreement, or, he can refuse to make that designation and be charged as insensitive to the plight of disaster victims and the domestic economy overall.

So I would ask my colleagues where is the lack of leadership in this country?

The Federal Government appropriately has in place programs that are available to assist the victims of natural disasters. It has been Federal policy to say that the Government is ready to help those who have suffered serious losses through no fault of their own.

The problem is that the Congress has not adequately funded the major domestic disaster relief account, the Federal Emergency Management Agency disaster relief account, for the past few years.

In each of fiscal year 1989, fiscal year 1990, and fiscal year 1991, congressional appropriations were significantly below the budget request, totaling $542 million less than was requested by the President over the 3 years. It is this amount that the administration has not designated as "emergency requirements" for purposes of this bill.

In the fiscal year 1992 VA-HUD independent agencies appropriations bill signed into law October 28, the bill accepted the President's original budget request of $184.5 million, reflecting Congress' growing realization that unmet disaster assistance needs were building up. The Congress did not, however, approve an additional $90 million requested by the President in June to meet revised estimates of fiscal year 1992 disaster needs.

Now, the Congress is trying to make up for this shortfall in funding in this appropriations bill and not be charged for that spending.

If there is a level of disasters above and beyond what we historically have experienced and responsibly budgeted for, the bipartisan budget agreement was designed to accommodate the costs associated with those disasters under the "emergency requirement" provisions.

To underfund the disaster assistance programs in order to fund lower priority programs, and then to expect the budget agreement to bail us out of that situation is, again, "way beyond mischief."

Mr. President, there is other spending in this bill which the Congress also seeks to exempt from the discipline of the budget agreement. The bill includes $1.75 billion for crop loss assistance. It is my impression that the President and Secretary of Agriculture have done their best with existing authorities and resources to address agricultural disaster needs in areas experiencing problems due to severe weather conditions.

The bill also seeks to declare "emergency requirements" for three programs, which have broad congressional support—the Women, Infants, and Children [WIC] Feeding Program, the Head Start program, and the Childhood Immunization Program.

I doubt if there is one member in this body who is not familiar with the good works done through these three programs.

It is for this very reason that:

The WIC Program increases by $250 million, or 10.6 percent, from fiscal year 1991 to fiscal year 1992. In fact, the WIC Program has increased by $797.6 million, or 44.2 percent, since fiscal year 1988;

The Head Start Program increases by $250 million, or 12.8 percent, from fiscal 1991 to fiscal year 1992, and by $995.7 million, or 82.5 percent, since fiscal year 1988; and

The childhood immunization Program increases by $66.9 million, or 36.7 percent, from fiscal year 1991 to fiscal year 1992, and by $150.7 million, or 153.6 percent, since fiscal year 1988.

Over the past 5 years, in the regular annual appropriations bills, the Congress has approved significant increases for these important programs. It has even done so in the first 2 years of the bipartisan budget agreement when caps were placed on spending.

But that is not enough. Congress now attempts to add another $1.39 billion to these three programs claiming there is some new emergency associated with them, when in fact, there is not.

Thus, Mr. President, even though this bill does not technically violate the Budget Enforcement Act, I must vote against this bill because it seeks to stretch the reasonable definition of "emergency requirements" under the bipartisan budget agreement and the Budget Enforcement Act of 1990. In passing this bill, the Senate will in effect be saying that it cannot uphold the intent of the budget agreement and set domestic priorities within that agreement.

FISCAL YEAR 1992 APPROPRIATIONS WRAP UP

Finally, Mr. President, we are almost to the end of congressional action on the fiscal year 1992 spending bills. With the exception of the foreign operations bill, which we will consider early next year, all of the regular fiscal year 1992 appropriations bills are about to be completed.

Very little has been said about Congress' record in abiding by the budget agreement. As is usually the case, Congress gets a mixed review.

On the "paygo" front, the Congress ultimately enacted an unemployment compensation bill that will pay for itself over the 5-year period. Yet, it could not resist making a deal to enact another expensive unemployment bill as part of the agreement to complete action on these much anticipated benefits.

Also on the "paygo" front, we have authorizing committees seeking to turn various programs into entitlement programs, but to avoid paying for them, the effective date of this entitlement spending is beyond the horizon of the budget agreement. Again, Congress seeks to spend more money on programs when it doesn't have the money to pay for them.

On the appropriations front, I must commend the distinguished chairman of the Senate Appropriations Committee for his commitment to upholding the bipartisan budget agreement. He has done his best under very trying circumstances.

It appears that the enactment of the regular appropriations bills will be within the spending caps on discretionary spending.

In enacting the bills, however, we have had to delay the obligation of funding totaling $4.1 billion in budget authority until late in the fiscal year to minimize the near-term outlays associated with our spending decisions. In so doing, we are putting increased pressure on the spending caps next year and are limiting our flexibility in making spending choices next year.

To live within the spending caps this year, the Congress has also made promises of funding by approving advanced appropriations for fiscal year 1993, and assuming that Department of Defense funding will be used to offset funding requirements of programs through domestic agencies like the Coast Guard, National Science Foundation, the National Aeronautics and Space Administration, and others.

Throughout it all, the spending caps have not been so tight to preclude the funding of special projects in many bills—both the domestic bills and the defense bill.

Mr. President, I regret that final action on the fiscal year 1992 appropriations bills this year finds this Senator opposing a bill reported by the Senate Appropriations Committee.

I have tried, as a member of that committee, to support the distinguished chairman and ranking member in their efforts to implement the budget agreement.

But in the case of this bill, I must strongly oppose the Congress' latest attempt to have it all without paying for it, and to use this as an excuse to attack the President on the domestic agenda.

I oppose this bill, and I say to my colleagues that if you are serious about upholding the bipartisan budget agreement and the fiscal discipline we set out in that agreement, then you will vote to defeat this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, several times today, I have attempted to get a unanimous consent concerning a list of amendments that we might attempt to—that we might, hopefully, limit the amendments to those on the list. I failed. There certainly, with 60 amendments, must be at least 30 Senators who have those amendments. So I am sure that I am not speaking in a vacuum tonight. Senators, I am sure, or their staffs, are watching television.

It is now 20 minutes until 8. If, within 10 minutes, an amendment is not offered, I am going to move to go to third reading, and I will ask for the yeas and nays on that motion.

Mr. DOLE. Why wait?

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. BYRD. No. No. I say within 10 minutes. I say, within 10 minutes, if no amendment is offered, I will move to go to third reading, and I will then ask for the yeas and nays.

I suggest the absence of a quorum.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2521, the Defense appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $497 million and under its 602(b) outlay allocation by $32 million.

I must compliment the distinguished manager of the bill, Senator INOUYE, and the distinguished ranking member of the Defense Appropriations Subcommittee, Senator STEVENS for their excellent work in attempting to bring Defense spending into conformity with the threats to U.S. security.

This bill complies with the ceilings on Defense spending set forth in the budget agreement over 1 year ago. However, in light of changing fiscal and international conditions, it is becoming increasingly clear that funding Defense activities up to the legally allowed limits no longer makes sense. I look forward to working with the distinguished chairman and ranking member in the months ahead to ensure that our budgetary priorities properly reflect to problems this Nation needs to address.

Mr. President, I ask unanimous consent a scoring table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2521

H.R. 2521

DEFENSE SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
New budget authority and outlays	269.9	176.5
Enacted to date	0	98.9
Adjustment to conform mandatory programs to resolution assumptions		0
Scorekeeping adjustments	0	0
Bill total	269.9	275.4
Senate 602(b) allocation	270.4	275.4
Total difference	−.5	
Discretionary:		
Domestic		
Senate 602(b)	0	0
Difference		
International	0	
Senate 602(b)	0	
Difference	0	
Defense	269.8	275.2
Senate 602(b)	270.2	275.2
Difference	−.4	
Total discretionary spending	269.7	275.2
Mandatory spending	2	2
Mandatory allocation	2	2
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	−1.0	−1.3
House-passed bill	7	
Senate-passed bill	−.3	.2

DEFENSE 1992 APPROPRIATIONS

[In thousands of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary spending:										
Domestic:										
New spending in bill	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
602 (b) allocation	NA	NA	0	0	0	0	0	0	0	0
Above/below (+/−) allocation	NA	NA	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
International:										
New spending in bill	0	0	0	0	0	0	0	0	0	3,416
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0	0	0	3,416
602(b) allocation	NA	NA	0	0	0	0	0	0	0	4,000
Above/below (+/−) allocation	NA	NA	0	0	0	0	0	0	0	−584
Defense:										
New spending in bill	270,781,222	177,644,351	270,396,692	176,324,193	270,243,247	176,352,343	270,044,147	176,106,562	269,821,920	176,327,947
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,396,692	275,190,123	270,243,247	275,218,273	270,044,147	274,972,492	269,821,920	275,193,877
602(b) allocation	NA	NA	270,454,000	275,355,000	270,244,000	275,222,000	270,244,000	275,222,000	270,244,000	275,222,000
Above/below (+/−) allocation	NA	NA	−57,308	−164,877	−753	−3,727	−199,853	−249,508	−422,080	−28,123
Total discretionary:										
New spending in bill	270,781,222	177,644,351	270,401,692	176,325,443	270,243,247	176,351,568	270,093,647	176,155,287	269,747,140	176,327,942
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Mandatory spending:										
New spending in bill	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Permanent appropriations	0	0	0	0	0	0	0	0	0	0
Outlays prior	0	0	0	0	0	0	0	0	0	0
Subtotal mandatory	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Resolution scoring adjustments	−100	−100	−100	−100	−100	−100	−100	−100	−100	−100
Adjusted mandatory total	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Bill total:										
Discretionary	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Adjusted mandatory	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Subtotal	270,945,222	276,674,281	270,565,692	275,355,373	270,407,247	275,381,498	270,257,647	275,185,217	269,911,240	275,357,972
602(b) allocation	NA	NA	270,618,000	275,519,000	270,408,000	275,386,000	270,408,000	275,386,000	270.408,000	275,390,000
Above/below (+/−) allocation	NA	NA	−52,303	−163,627	−753	−4,502	−150,353	−200,783	−496,760	−32,028
Discretionary total compared to:										
President's request	NA	NA	−379,530	−1,318,908	−537,975	−1,292,783	−687,575	−1,489,064	−1,034,082	−1,316,409
House-passed	379,530	1,318,908	NA	NA	−158,445	26,125	−308,045	−170,156	−654,552	2,499
Senate-passed	687,575	1,489,064	308,045	170,156	149,600	196,281	NA	NA	−346,507	172,655

Mr. BYRD. Mr. President, the Dire Emergency Supplemental Appropriations Act of 1992 passed by the House, provides $693 million in new budget authority for FEMA's disaster relief programs. Resources available for the current fiscal year were insufficient to meet the requirements of fiscal year 1991 and prior-year disaster declarations. FEMA has been unable to grant any assistance since May of this year.

Mr. President, I would like to enter into a colloquy with the distinguished Chairman of the Budget Committee, Senator SASSER, to discuss the importance of supplemental FEMA funding. Communities all across the country have suffered as a result of the current fiscal shortfall, and it is important that we assure an adequate level of supplemental funding.

Mr. SASSER. I thank the Senator from West Virginia for his kind comments and his recognition of this important issue. The FEMA Disaster Relief Fund plays a crucial role in assisting State and local entities address damages caused by a natural disaster. FEMA has helped many communities in my State of Tennessee get back on their feet after unfortunate circumstances have occurred.

The nature of disaster activity is highly unpredictable and 1991 and past year disaster-related needs have consumed all available FEMA funds. Communities are in dire need of restoration of facilities destroyed or damaged by natural events. During visits to Tennessee I have surveyed several areas and facilities which have sustained considerable damage due to flooding and tornado activity. As Senator BYRD stated, many localities have been waiting long periods of time for aid.

For example, Hamilton County has been waiting since February of 1990 for FEMA funds. Torrential rains in a residential area of Chattanooga caused an embankment to slide, tearing out 6 feet of Crestone Circle Road. This important city road has remained closed for over 18 months.

A flood in Graysville, Rhea County, during the beginning of 1991, weakened the piers of the Graysville bridge. Sections at both ends of the bridge subsequently collapsed. Since this time citizens of the area have had to find alternative ways of crossing Roaring Creek.

And, in May of this year, severe rains and flooding damaged roads and bridges in nine Tennessee counties including: Cheatham, Dickson, Hardin, Hickman, Humphreys, Lawrence, Lewis, Perry and Wayne. All nine counties have been designated disaster areas by the President, yet no financial assistance has been forthcoming.

These three examples highlight the urgent need to assure that FEMA is adequately funded. We must move quickly to provide supplemental funding. As the central agency for emergency response activities, FEMA must have the fiscal means to address disaster needs in a timely fashion. I agree with the FEMA funding level contained in the Dire Emergency Supplemental Appropriations Act and I trust that once this bill is approved FEMA will move quickly on past claims.

Mr. BYRD. I would like to thank the Senator for his comments. I share his interest in assuring that those communities in need of aid will soon receive the necessary FEMA resources.

Mr. SASSER. I thank the distinguished chairman of the Appropriations Committee for his support.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1422, 1423, 1424, AND 1425

Mr. BYRD. Mr. President, I send to the desk amendments, one amendment by Messrs. COATS, RIEGLE, and LEVIN; one amendment by Mr. RIEGLE; and one amendment by Mr. DOLE.

I ask unanimous consent that they be considered and agreed to en bloc; that the motion to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Nos. 1422, 1423, 1424 and 1425) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1422

(Purpose: To provide relief to farmers seeking low interest emergency loans)

At the end of page 20, insert the following:

"CROP INSURANCE.—Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

COATS CROP INSURANCE WAIVER AMENDMENT

Mr. COATS. Mr. President, this summer, farmers throughout America and especially the Midwest once again have suffered crop losses due to drought.

In Indiana, many farmers and farm experts indicate that the losses from the drought of 1991 may equal or surpass the devastating drought of 1988. Agriculture economists, crop specialists, and other farm experts from Purdue University are estimating that when the crop is marketed that crop losses in Indiana might be as great as half a billion dollars. We know that row crop losses alone will probably be a minimum of $350 million. Other Midwestern States which make up the bulk of row-crop production in the United States have experienced similar losses.

However Mr. President, unlike the drought of 1988, even with the severity of the drought of 1991, the crop markets did not respond to the losses. Thus, not only have farmers seen less corn and soybeans in their combines, they also see substantially less dollars in their pockets. Farm economists at Purdue are estimating that with the drought of 1991 farm income in the State of Indiana may drop as much as 50 percent.

All of this falls on the shoulders of farmers already suffering under the weight of previous crop failures, skyrocketing interest rates and other factors beyond their control. Many farmers are left asking themselves how they can possibly make it through another year—how can they possibly pay off high interest loans and still have the cash flow to plant the 1992 crop, let alone clothe and feed their families.

Today I am introducing an amendment which will ease the burden on some American and Hoosier farmers which are facing the bleakest of times. The Crop Insurance Waiver Amendment increases the financing options for those farmers who have been severely hurt by the drought of 1991. Under current provisions for drought relief in the supplemental bill, all farmers will be forgiven of this requirement except for those bottom 2 or 3 percent who need help the most. Under current law, only farmers who meet the criterion and have crop insurance policies would be eligible for low-interest FMHA loans. This amendment, Mr. President, seeks to waive that crop insurance requirement and thus make low-interest loans available to all qualifying farmers.

This bill will not affect those farmers who currently hold crop insurance policies—they will still be reimbursed at their full guaranteed rate, and also be eligible for low-interest FMHA loans if they meet the loan requirements. Some of the requirements that farmers must meet include having a loss of at least 30 percent and not being able to obtain financing through normal commercial means. It will only open up opportunities for all farmers to apply for 4.5 percent loans from the Farmers Home Administration.

This bill is a responsible means of addressing the financial hardships that farmers will be facing in the fall of 1991, and the spring of 1992. It is by no means an answer to every problem they face. Even with this option, farmers will still struggle to make ends meet. But it will help meet some urgent needs in difficult times.

Mr. President, it is my hope that the Senate will support this amendment.

AMENDMENT NO. 1423

(Purpose: To provide emergency crop loss assistance to producers of fruits and vegetables who suffered damage due to fire blight).

At the appropriate place, insert the following new section:

SEC. . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

(Purpose: To provide assistance for rehabilitating trees).

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

AMENDMENT NO. 1425

On page 19, line 13, insert the following after the ".": "For the purposes of this Act, the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

AMENDMENT NO. 1426

Mr. BYRD. Mr. President, I ask unanimous consent an amendment I send to the desk on behalf of Mr. PELL be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1426) considered and agreed to is as follows:

AMENDMENT NO. 1426

On Page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

Mr. PELL. Mr. President, I am pleased to offer this amendment to the Dire Emergency Supplemental Appropriations Act which would provide emergency assistance to those shellfishermen in Narragansett Bay whose livelihoods were severely disrupted by Hurricane Bob.

When Hurricane Bob struck New England on August 19 of this year, extensive damage was done to the rich shellfish beds located in Narragansett Bay. The flooding and power failures caused by Hurricane Bob forced wastewater treatment plants to release tens of millions of gallons of raw, untreated sewage into Narragansett Bay, contaminating shellfish beds and closing all of Narragansett Bay to shellfishing for 9 days.

I am offering this amendment because no currently funded federal program is available to help cope with the legacy of this ecological and economic disaster. Title III of the Interjurisdictional Fisheries Program of the National Oceanic and Atmospheric Administration [NOAA] can provide funds for the restoration of fisheries following natural disasters. Unfortunately, no funds are available for Title III of the Interjurisdictional Fisheries Program.

For this reason, this amendment requests that $300,000 be appropriated to fund the Interjurisdictional Fisheries Program for the purpose of funding the Rhode Island Quahog Transplant Fund, a shellfish restoration program. The amendment will accomplish two goals. First, the amendment will allow the vigorous restoration of contaminated shellfishing beds. Second, this amendment will directly benefit Narragansett Bay shellfishermen through the Rhode Island Department of Environmental Management's Quahog Transplant Fund. This fund will use the skills of these shellfishermen in the restoration of Narragansett Bay shellfish beds. This will allow these shellfishermen to recover a portion of their losses that were the result of Hurricane Bob.

I am pleased that the Senate has seen fit to address this vitally important issue and to rectify the dire consequences facing Narragansett Bay shellfishermen as a result of Hurricane Bob. With this amendment, the Narragansett Bay shellfishing industry will receive some measure of the assistance that they need. In order for this provision to become law, it must now be agreed to by a House-Senate conference committee and agreed to by the administration. I am hopeful that the measure will be enacted.

Mr. BYRD. Mr. President, the bill before the Senate, House Joint Resolution 157, the dire emergency supplemental appropriations bill, provides $1.75 billion for disaster payments to growers who suffered crop losses in the 1990 and 1991 crop years. This assistance is urgently needed by farmers in West Virginia and it is long overdue.

I have heard from growers in my State about the losses they have suffered. West Virginia's farmers were hard hit by detrimental weather conditions in 1990 and 1991. Thirty-nine counties in West Virginia are eligible for assistance under this bill. In 1990, a late freeze resulted in an estimated $15.2 million in crop losses in West Virginia, primarily damage to fruit crops. For example, the West Virginia growers experienced a 35-percent loss in the apple crop, an 85-percent loss in the peach crop, and plum and cherry crops experienced a 100-percent loss. In 1991, West Virginia farmers also suffered heavy losses in feed grain and vegetable crops.

The assistance provided in this bill is needed for farmers in West Virginia and all over our Nation. Without this assistance some farmers will be facing severe economic losses from which they may not be able to recover. I support providing assistance to those who have suffered 1990 and 1991 crop losses.

SOME IMPORTANT BENEFITS

• Mr. ADAMS. Mr. President, several provisions in this legislation are important to Washingtonians. This bill will benefit those who have suffered through disasters this past year as well as children in our state.

The fires in and around Spokane last month took lives and devasted millions of dollars in property. The bill recommends an additional $943 million for the Federal Emergency Management Agency, including $31 million for Washington State to deal with the wildfires and other disasters.

The FEMA funding will also assist with ritual dike repair and other flood mitigation projects. Lack of funding has crippled important work on these projects. A dairy farmer in Snohomish, Washington wrote to me to say that all his farmland in the river valley was ravaged by the great flood one year ago this month. Dangerous, unrepaired flood control facilities still exist in that area. Milk prices are so low, this farmer cannot afford to suffer through another flood.

The bill also makes $1.75 billion available for farm disaster assistance. Farmers who participated in Federal farm programs and had a 35-percent crop loss are eligible for 65 percent of the target price. For nonprogram farmers, they must show a 40-percent crop loss for disaster assistance. In Washington, where severe freezing and hail damaged wheat and some tree fruits, this disaster assistance is extremely important.

Supplemental appropriations of $90 million for child immunization, $100 million for the Women, Infants and Children [WIC] feeding program, and $1.2 billion for Head Start are also included in this legislation. These programs serve Washington's children. For every dollar spent on the prenatal component of WIC, the savings in Medicaid costs range from $2.84 to $3.90 for newborns alone.

Another section I support denies any military sales to Saudi Arabia and Kuwait until these governments have paid the $3.25 billion outstanding for Operation Desert Storm. American servicemen and women did not hesitate to serve when called upon to help defend these countries. Why the delay?

Finally, I want to go on record in support of the Leahy amendment. It provides protection for the WI program and will restore stability in milk prices for our farmers.

Our dairyers have suffered from the same fate as credit card holders over the last several years. Credit card interest rates have remained high while real interest rates have dropped substantially. Retail milk prices have remained steady, and even increased, while the price paid to farmers has plummeted.

Our dairyers have been hit by a double whammy: a recession and steeply falling milk prices. In the first six months of this year, Washington lost 80 dairy farms, out of 1,260. It takes 2 years for a calf to become a producing cow. Our farmers need and deserve some certainty. Senator LEAHY'S amendment will do this.

DISASTER ASSISTANCE

Mr. SEYMOUR. Mr. President, I would like to commend the distinguished chairman of the Appropriations Committee, Senator BYRD, and the ranking Republican, Senator HATFIELD, for their efforts to include disaster assistance in this supplemental bill.

California agriculture has endured more than its share of natural disasters this past year. In December 1990, a catastrophic freeze destroyed much of California's navel and Valencia orange crop, as well as many other crops. The damage to California agriculture was further compounded by losses due to 5 years of drought, and more recently due to an infestation of the sweetpotato whitefly in Imperial and Riverside Counties.

The devastating effects of the drought have been well documented. Last year, according to the California Department of Water Resources, roughly 800,000 acres of farmland were idled due to lack of water. The University of California, Davis has estimated that losses to irrigated crops totaled approximately $640 million. Another drought year similar to 1991 will be crippling to California's economy. In fact, the Bureau of Reclamation has already announced that even a normal year of rainfall will not provide enough water supply for regular deliveries.

In early October, an outbreak of the sweet potato whitefly, exacerbated by unusually warm weather, wiped out much of California's fresh winter vegetable crop. Crop damage estimates due to the whitefly infestation already total approximately $90 million. It is estimated that losses could reach $200 million by spring. This figure does not represent losses due to unemployment. Already, 2,500 farmworkers are out of work due to this infestation.

In terms of crop damage, the freeze which struck California in December and January was the most devastating. A Los Angeles Times article, dated January 6, 1991, stated the freeze is the worst to hit California citrus since the industry was launched in the 1870's. The California citrus industry supplies approximately 90 percent of the navel oranges, 50 percent of the fresh Valencia oranges, and 80 percent of the lemons in the United States. The citrus industry provides thousands of jobs and revenue to California's economy.

The freeze destroyed most of the navel and Valencia crop. This includes 90,000 acres of navel oranges, 40,000 acres of Valencia oranges, and 10,000 acres of lemons. The resultant on-farm crop loss was $450 million. Citrus trees also perished by the millions, burned by the freeze. Conservative estimates of crop damage have been as high as $1 billion. Some of the hardest hit agricultural communities were in the counties of Tulare, Fresno, Ventura, and Kern.

In Tulare County, crop damage exceeded $341 million, as unemployment reached upward of 23 percent. In the small town of Lindsay, unemployment reached 50 percent. In Fresno County, citrus producers had production losses totaling approximately $70 million.

This winter's freeze is the third worst disaster in the history of California, third only to the 1906 San Francisco earthquake and the 1989 Loma Prieta earthquake.

The combined efforts of USDA and the administration to assist farmers and farmworkers impacted by these disasters has been extraordinary. I am now convinced, however, that disaster assistance is the only solution to complete the economic recovery of these crippled rural communities.

Mr. President, I am hopeful that Congress, in close cooperation with the administration, will reach agreement on disaster assistance this year so that farmers will be able to get back to farming, and farmworkers will be able to go back to work.

Mr. SANFORD. Mr. President, let me briefly let my colleagues know that I intend to support the passage of the fiscal year 1992 supplemental appropriations measure which has been approved by the House and favorably reported from the Senate Appropriations Committee.

One major expenditure in this bill will help our farmers who have suffered significant crop losses in 1990 and 1991. These farmers have been waiting for relief for many months now. For many growers in North Carolina, help will come too late. It is high time that the Government did its share for these citizens who suffered severe drought, and in many areas hail, last year. Many of the same producers are presently calculating the losses resulting from this summer's heavy rains.

I have talked to many farmers of my State about the hardships that they have endured lately, some of whom have, in the last year and a half, made the painful decision to stop working the family farm.

Mr. President, North Carolina continues to rank among those States losing the largest numbers of farms. I will do what I can to see that we shed this distinction.

I must mention the wise advise of Ms. Jean Bryson of the little town of Faison in Duplin County, NC. Ms. Bryson tells me that the Government will end up paying one way or another—either through disaster payments or through the more expensive avenues of food stamps, unemployment benefits, and other programs resulting from a weakened economy. Ms. Bryson runs a farm supply operation and grows produce. She sees and hears the concerns of our producers; many of the men and women who are on the verge of bankruptcy today are not fly-by-night operators, but those conservative managers who have been in the business for generations and can no longer make a go of it.

I have talked with too many farmers in North Carolina who came into the 1991 growing season with a "must do" criterion for profit. Ms. Faye Wilcox of Lillington in Harnett County grows green beans, cucumbers, watermelon, and greens. She suffered a loss last year of nearly 80 percent of her crop. And, larger row-crop growers such as Mr. C.T. Perkins of Goldsboro in Duplin County saw somewhat similar situations. He lost at least 50 percent of his cotton last year and realized nearly as much damage to his corn.

Mr. President, since 1990, I have continuously pressed to find relief for these farmers and have endorsed freestanding legislation, as well as last year's reauthorization of the farm bill, which should have been sufficient to compel an appropriation for 1990 and 1991 crop losses. These efforts were apparently not adequate to get the job done in light of administration opposition.

These agriculture disaster relief provisions will do justice by those Americans who are bearing burdens not of their making.

This supplemental appropriations bill also includes $943 million for the Federal Emergency Management Agency. These monies are desperately needed to offer assistance to those who have been the victims of disasters across the United States.

In North Carolina, there were many who suffered losses due to Hurricane Hugo, which hit Mecklenburg, Gaston, and surrounding counties on September 21–22, 1989. There was massive destruction of homes, businesses, and farms. The cities and towns in the hurricane's path were without electricity and water over 2 weeks.

The cities of Charlotte and Gastonia responded very quickly to the emergency, moving the felled trees from homes and roadways and providing emergency phone lines and water. The total cost to Charlotte alone was over $42 million. But Charlotte and Gastonia together have over $8.4 million in claims from FEMA still outstanding. The money contained in this supplemental appropriations bill should finally cover those outstanding FEMA claims related to Hurricane Hugo.

I would like to add that this funding comes at a time when the cities involved are faced with having to reduce services due to FEMA's inability to reimburse the cities for the costs they incurred in their emergency efforts.

I must point out that the administration had requested only $150 million for FEMA's emergency funds. That small amount would not have covered the needs of Charlotte and Gastonia. Therefore, I am grateful that both Houses of Congress thought it imperative to provide the $943 million necessary to cover emergencies like those we experienced in North Carolina due to Hurricane Hugo.

And while on this subject, I would like to add that I believe we need to ensure that FEMA responds more promptly in offering followup assistance to communities like Charlotte and Gastonia. I am aware that it has taken quite a few months for FEMA to approve reimbursements for emergency expenditures to our North Carolina communities and I would hope that this improves in the future.

This bill also includes $1.2 billion in emergency funding for the Head Start Program to ensure that more eligible children receive funding under this program. I believe that early childhood education is vital to the later academic success of many students. Each year almost 1 million children from low-income families enter school for the first time. While their more fortunate classmates may face the new challenge with assurance, many children from low-income homes begin school with health problems and a lack of self-confidence. Without the skills and the will to move ahead, these children often fall behind in their first years of school and find their troubles further compounded as they pass through the education system. Head Start seeks to start low-income, disadvantaged and handicapped students out with the skills they will need to be academically successful. Increasing the funding for Head Start will ensure that more disadvantaged children across the United States can obtain the benefits of early childhood education.

Mr. SIMPSON. Mr. President, I rise to voice my opposition to the dairy legislation introduced as an amendment to the emergency supplemental appropriations bill. I believe that the legislation is shortsighted and not comprehensive. In my opinion, it does little to provide an extensive long-range dairy program that will assist the dairy producers, protect low-income consumers, or protect the integrity of the cattle industry.

My fine and able friend and colleague from Vermont, Senator LEAHY, presented an amendment today to increase the current price support of $10.10 for hundredweight for fluid milk to $11.10 per hundredweight. The amendment also called for a paid herd-diversion program. Although the increase in the price support is quite small. I opposed the amendment because I truly believe than an increase would send the wrong message to producers. It does not make a lot of sense to try to fight overproduction in the dairy industry, while attempting to rationally consider providing an incentive to overproduce.

I too have great concern for the dairy producers in my fine State of Wyoming and throughout the Nation. I know they are facing increasing production costs and are having some economic hardship. In my opinion, an increase in the support price would inhibit the current workings of a successful free market system. Wyoming producers have production costs of around $9 per hundredweight, while the price received for milk is around $10.50 per hundredweight. After taking out about 50 cents for taxes and management costs, producers end up making about $1 in profit per hundredweight. Current statistics from the Wyoming Department of Agriculture show that Wyoming producers are doing more than just breaking even.

The other concern with the amendment is the paid Herd-Diversion Program. I am opposed to dairy policy that artificially mandates the slaughter of dairy cattle to control the overproduction of milk. I believe that in the free market system business-oriented dairy producers will send their cows to slaughter when the milk market is in oversupply. I don't think the Government has to pay producers to make the "right" production decisions.

I have listened intently to both sides of this issue and fully comprehend that a serious philosophical difference exists between dairy and cattle producers. The cattlemen feel threatened by the aspects of any kind of diversion. Their stance is reasonable. The cattle industry was devastated in 1986 by the Dairy Termination Program which was grossly mismanaged by the U.S. Department of Agriculture.

I want to strongly state that the tactics sometimes employed by the adversaries, on this issue have been at cross purposes, so that in the end, little could really be done to forge dairy legislation that could benefit those dairy producers who need it more. That is most unfortunate.

I am optimistic that the Department of Agriculture will do its best to monitor the daily situation in the following months to ensure that the dairy industry is not irreparably damaged and the fine traditions of that industry preserved. My good friend Senator DICK LUGAR, the intrepid and splendid Senator from Indiana spent enormous amounts of his time in the last year to ensure a fair dairy policy for all of those who would be effected. His devotion to American agriculture is always commendable.

I would also like to recognize the fine efforts of my friend Senator LARRY CRAIG of Idaho. He forthrightly took on the task of continuing a dialogue between the sparring industries long after others had given up. His total dedication to good farm policy deserves great credit.

I do look forward to working closely with my colleagues in the following months to revisit and further investigate the plight of the dairy industry. I maintain my position that any legislative alternative to the current dairy policy adopted under the 1990 farm bill must always take into account the welfare of the cattle industry. These industries must work together and strive for common ground.

• Mr. HARKIN. Mr. President, I cannot support the fiscal year 1992 defense authorization bill. This remains a cold war budget in a post-cold-war world. The total military budget authority of $290.8 billion is an increase of $5.2 billion over fiscal year 1991. The Soviet threat is disintegrating before our eyes, and the Congress agrees to increase the defense budget, including $160 for the defense of Europe.

The Pentagon has estimated for years that about 60 percent of the military budget was justified on the basis of stopping a surprise Soviet-Warsaw Pact attack on Western Europe, with only 10 to 14 days' warning. In effect, we spent over $160 billion each year to defend our European allies.

Obviously, this basis for Pentagon budget planning has evaporated. The Berlin Wall is gone. The Warsaw Pact is dead. The Soviet Union itself is in disarray.

Proponents of continued high military spending contend that Soviet military forces are still strong and could be reinvigorated, and that the Soviets are still improving their strategic nuclear weapons, which remain as potent as ever.

A hard-line Soviet Government could regain control of the failing Soviet empire at any time. The next coup could succeed. But we would have years of warning before any new Soviet menace could even contemplate an attack on Western Europe. A reconstituted Soviet hard-line military would have to reconquer Poland, Czechoslovakia and possibly Byelorussia and the Ukraine to reach Germany.

Therefore we no longer have to maintain a massive military machine that can respond in 10 to 14 days. We can and must end our $160-billion dollar per year subsidy of our European allies. We can afford to shift active duty forces to the Guard and Reserve. We can afford to slow down our rush to produce a new generation of conventional high technological weapons. The gulf war showed that our existing military hardware is superior to modern Soviet planes and tanks in the hands of the Iraqis.

And we can and must end our expansion of our nuclear weapons arsenal. We must acknowledge that nuclear weapons serve no useful military purpose, except to deter their own use. We can deter any rational leader with a few hundred survivable nuclear warheads. We can afford deep reductions in nuclear weapons, from our current level of 12,000 strategic deliverable warheads down to 1,000 or so on each side.

Other proponents of excessive military budget point to the Iraq war to prove that we live in a dangerous and unpredictable world. But we defeated the world's fourth largest army in 43 days using just 15 percent of our total forces.

We do live in a dangerous world, and we must have a strong military, able to defend America against any potential enemy. But we are running out of enemies. Countries that might conceivably be hostile to the United States and their estimated annual military budgets include China, $21 billion; Iraq,

$13 billion; Iran, $22 billion; North Korea, $5.8 billion; Syria, $3.3 billion; Libya, $3 billion; and Cuba, $1.7 billion. The fiscal year 1992 Defense budget of $290.8 billion is therefore 13 to 270 times larger than any potential enemy. If we cannot defend ourselves spending more than 13 times any potential adversary, then maybe we aren't spending our money wisely. As the Iraq war illustrated, however, we have vast overkill capability.

But this defense budget for fiscal year 1992 ignores these realities of 1991. The Soviet Union is disintegrating before our eyes, and we authorize a $5.2 billion increase. The DOD budget is $90 billion more than we spent after the Korean war and after the Vietnam war, still in the midst of the cold war. This is irresponsible, given our grotesque and growing national deficit and unmet domestic needs.

We should not be determining our military spending by reference to last year's budget. Last year's budget was also a cold war budget. Our military budget should be determined by what we need to protect America and American interests around the globe, not by how much we were spending when the Warsaw Pact was intact.

I oppose many provisions in this bill, but let me cite several more egregious items.

First we have the B-2 stealth bomber. The administration requested $4.8 billion to build four more bombers. Congress wisely chose to cancel production, but we still authorized $4.4 billion. While $1 billion was put into escrow pending another vote to build one more plane next year, this still seems like quite a bargain: $4.4 billion authorized to build no planes, versus $4.8 billion to build four planes.

Then there is star wars, born to stop a massive Soviet attack with thousands of missiles and nuclear warheads. After spending $25 billion, more than that consumed by the entire Manhattan project that created the first atomic bombs, we have learned that we do not have the technology to stop even a small fraction of a Soviet nuclear attack. So now the goal posts have been widened. Now star wars has to stop only 200 warheads due to an accidental or *n*th country attack.

The original threat from the Soviet Union has diminished to insignificant proportions, but the star wars budget is increased by 30 percent over last year's budget, to $4.15 billion. While I do support the ground-based theatre, short-range missile defense systems such as improved versions of the Patriot missile, this accounts for only 20 percent of the SDI budget. We could provide a robust tactical missile defense system to stop real world threats and still cut SDI funding by more than 50 percent.

This defense budget contains other nuclear weapons programs, such as the Midgetman, $549 million; 6 more MX missiles, $252 million; 49 more of the D-5 missiles, $1.1 billion; and 120 Advanced Cruise Missiles, $610 million. In addition, the Department of Energy Atomic Energy Defense Activities is funded at $12 billion, or $1 billion more than last year for these nuclear weapons activities, including cleanup of the nuclear weapons production facilities. These nuclear weapon programs should be substantially reduced with the end of the cold war.

Finally, this bill includes an unknown authorization for various intelligence activities including the CIA, the National Security Agency, the National Reconnaissance Office, various other intelligence agencies, and super secret weapons in the so-called black budget. Outside experts estimate that this black budget may account for $30 billion of the $290.8 billion in this bill.

The American public has a right to know how much is spent on these supersecret projects. We must have accountability, particularly when funds as large as $30 billion, not million, are hidden from public view. Article I, section 9 of the Constitution requires that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time." The Constitution doesn't say all money except that in the black budget. It says that expenditures of "all public money" shall be made public.

During the cold war, we looked the other way and ignored this violation of the Constitution by keeping intelligence budgets secret from the American people. We can no longer accept this secrecy. The Senate Intelligence Committee voted to make the black budget total public, but this provision was removed at the insistence of the White House.

In short, I cannot support this budget which is rooted in the past. We must move to reduce our military forces and budgets to reflect the real external threats to our Nation, and to transfer funds from the military to deficit reduction and to making necessary investments in health, education, infrastructure, environmental restoration, clean energy development, and other urgent domestic needs.●

DEFENSE COOPERATION ACCOUNT

Mr. INOUYE. Mr. President, the Defense chapter of the supplemental provides an appropriation of $3.4 billion from the defense cooperation account to various DOD and related appropriations to cover incremental costs of Operation Desert Shield.

The amount provided is $850.4 million more than requested. The specific differences related to the proper allocation of costs to Operation Desert Shield for reconstituting Marine prepositioning forces which were not originally charged to Desert Storm, and for the replacement of equipment lost or damaged during Operation Desert Storm, but for which no funds were originally requested. These include: $70.2 million for Apache helicopters, $268.8 million for F-15E aircraft, and $40.7 million to replace damaged tailpipes on F-117 aircraft. An additional $100 million is included for Kurdish protection, and $15 million for humanitarian assistance.

The bill also provides a reallocation of $6.3 billion in previously appropriated funds among military personnel and operations and maintenance appropriations to reflect the latest estimate on how funds have been needed to cover the costs of Operation Desert Shield.

The committee has adhered strictly to the budget summit agreement that only funds to cover legitimate costs of Desert Storm have been included.

DISASTER ASSISTANCE

Mr. LAUTENBERG. Mr. President, I rise today to express my support for several important provisions of House Joint Resolution 157, the dire emergency supplemental appropriations bill. This legislation includes funds which will provide much-needed relief to many residents of my State who have been hard hit by natural disasters. This bill lends a helping hand to farmers who produce fruit tree crops in the southern part of the State, and provides sorely needed funds to replenish the Federal Emergency Management Agency disaster relief programs.

CROP DISASTER ASSISTANCE

Mr. President, 1990 was a disastrous year for growers of peaches, apples, and other fruits in my State. Extreme freezing temperatures late in the spring caused the loss of approximately 50 percent of the peach crop statewide, with losses on individual farms of up to 80 percent of total production. The apple crop was equally hard hit, while producers of other fruit crops, such as pears, plums, blueberries, and nectarines faced losses as well.

While the President declared the six counties in southern New Jersey eligible for disaster assistance, without funding for the crop assistance provisions of the 1990 farm bill, fruit farmers had nowhere to turn. Many peach producers face a risky outcome for their crops, with high up-front costs required for pruning and cultural activities. I have heard from peach growers in my State who are burdened with mounting debts because of their devastating losses. They fear that they will lose their farms and livelihood. This legislation provides relief for these farmers whose crops were crippled by freezing temperatures.

My hope is that this assistance will enable fruit farmers to get back on their feet, and to invest in next year's crop. Fruit production is a mainstay of New Jersey's agriculture industry. I am gratified that this bill takes action to assist farmers facing difficult times.

FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

This legislation contains $943 million to replenish the funding for FEMA's disaster relief programs. Without these resources FEMA will be unable to meet the emergency needs of our communities which have been hard hit by natural disasters. It is essential that we restore this funding so FEMA can assist communities that are struck by disasters to save lives, protect property, and protect public health and safety.

My State, along with other Northeastern and mid-Atlantic States, has experienced serious flood damage from the October 1991 storm. Shortly after the storm hit, I visited the coastal areas of New Jersey, along with State and Federal officials, to inspect the extent of the flood damage. I was deeply disturbed by the extent of the damage to private and public structures.

The Federal emergency relief well has run dry. In the midst of this recession, victims of natural disasters are hit twice—once by the economy and again by the storm. We have an obligation to ensure the availability of Federal resources to restore businesses and to assist people to restore their homes and their communities.

New Jersey's request for a Presidential disaster declaration is pending. I sent a letter to the President, cosigned by the rest of my colleagues in the New Jersey delegation, urging him to act promptly and favorably on New Jersey's request. If the President approves New Jersey's request for a declaration, my State will be forced to stand in a long line of backlogged emergency disaster relief obligations.

Mr. President, I note that the report accompanying this bill includes language at my request urging FEMA to actively use its power to provide assistance to communities that suffer flood damage and beach erosion in Presidentially declared disaster areas. It is my hope that FEMA, in conformity with the law, will apply its regulations liberally to provide prompt assistance to repair the flood damage and beach erosion in New Jersey caused by the recent storm.

I commend the distinguished chairman for his outstanding work on this legislation. It is important that we replenish funding for FEMA's disaster relief programs and provide funds for the crop disaster assistance program authorized in the 1990 farm bill. I urge my colleagues to support this legislation.

INDIAN HEALTH CARE

Mr. DECONCINI. I rise today to support this supplemental appropriations bill. I do so because there is funding in the bill to cover disasters—the true emergencies which have occurred over the past year which we could not have planned for nor anticipated. However, I do have reservations about this bill because it funds other very meritorious programs—programs like WIC, Head Start and Child Immunizations for which I have fought for increased funding for many years—but programs nonetheless, which do not meet the test of a true emergency under the Budget Act. I believe all these programs should be given higher priority in the budget and appropriations process. But after the process has been completed, we should live within the spending limits we were given. The supplemental appropriations bill should be the vehicle for funding only true emergencies.

If we start down this road of appropriating funds as emergencies, those programs which we could not fully fund in our regular appropriations bills because our allocations would not permit it, where do we stop, Mr. President?

For fiscal year 1992 my Treasury bill allocation was cut $1.6 billion in budget authority and $380 million in outlays from the current services level. I didn't like it, but I had to live with it. It forced the subcommittee members to pick and choose among competing priorities. We had to cut $97 million from GSA's rental program which funds Federal office space requirements. Most of these funds represent contractual requirements for leases. We had to cut $36 million from the program which funds operations and maintenance of Federal buildings. We had to cut $180 million from the Postal Service's revenue forgone program. And we had to delay the obligation of $97 million for redesign of the IRS computer systems—that agency's No. 1 priority. Mr. President, that was just my bill. Other subcommittees experienced similar problems. But we made our cuts. We had no choice. We were following the rules we were told to follow. What we are doing now is funding as emergencies certain programs the subcommittees were unable to fund. But there was no rhyme or reason to the process. If we are going to declare certain programs as emergencies, then why not include funds for the $1 billion backlog in the VA medical equipment account and the hundreds of millions of dollars shortfall in the VA medical care account?

One area that always gets overlooked in these emergency designations is health care for native American programs. The status of Indian health care services is deplorable. They suffer epidemic levels of debilitating diseases like diabetes and alcoholism; 40 percent do not receive early prenatal care; their children die at much higher rates than other Americans, and their elderly by and large do not receive basic geriatric services which most Americans take for granted.

Mr. President, I get upset when I see no rational basis for the designation of emergencies. I get upset when I know that Indian health care programs are underfunded by 30 percent, yet no one wants to call this problem an emergency and include additional funds in the bill for these accounts. Chronic underfunding of these accounts has forced the Indian Health Service and tribal health programs to ration care for many years. Sadly, native Americans must defer treatment for complicated health problems until a medical emergency arises which demands immediate attention.

I know the difficulty the distinguished Appropriations Committee chairman faced with respect to this bill, particularly with the previous action taken by the House. I also want to take this opportunity to acknowledge the support my distinguished friend and colleague from West Virginia gives in his own subcommittee to Indian programs—he has been extremely generous given the budgetary limits he faced.

I mention these areas simply to make the point that I think the process is askew. We ought to use the budget process to establish our national priorities. We ought to use the supplemental appropriations process to fund true emergencies which are agreed upon by the administration and the Congress.

DISASTER RELIEF PROVISIONS

Mr. FOWLER. Mr. President, I rise today on behalf of farmers from across the State of Georgia who have suffered too long from the failure of the White House and the Department of Agriculture to understand the critical need for agricultural disaster relief funding.

Today, the Senate can once again send a message to President Bush that we will not stand idly by while the Nation's rural economy reels from the effects of the 1990 drought and the torrential rains of 1991.

Through passage of this emergency supplemental appropriations bill, we can once again ask the President whether he will put the needs of American farmers on a level equal to that of farmers half a world away.

We can ask, once again, whether the President is willing to lend a helping hand to the working men and women who form the backbone of our Nation's rural economies.

We can ask whether the President is willing to put American farmers—and Georgia farmers—first.

In 1989, Congress provided needed relief to the Nation's farmers who suffered severe losses because of dry weather. But the drought of 1990 was worse—possibly the worst the farmers of Georgia have ever experienced.

The Governor of Georgia requested that 141 out of 159 Georgia counties be declared agricultural disaster areas. Out of about 73,000 farms in Georgia, 63 percent, or 45,132, experienced losses of 30 percent or more.

These losses were not confined to any region or any crop. Only 18 of 159 counties in Georgia did not experience overall crop losses of more than 30 percent. The losses extended to corn, peanuts, hay, pasture, grain, sorghum, cotton, and soybeans.

The revenue loss for Georgia alone is estimated at $750 million. I hate to imagine the number for the Southeast and across the Nation.

In spite of all this compelling evidence, there was nothing I or anyone else was able to do last year to convince the President and the Secretary of Agriculture to request disaster relief. We supplied the administration with the facts. We made our wishes known in the appropriations bill—all to no avail.

The bad weather combined with the administration's inaction have placed a heavy burden on small towns already suffering in a sluggish economy. Our farmers, who were just recovering from the hard times of the last decade, are harder hit than ever. Their difficulties have nothing to do with their management efficiency, economies of scale of any other administration buzzwords in agriculture.

Just this week, President Bush announced more than $1.5 billion in emergency assistance to the Soviet Union. Once we have completed action on this bill, I hope that President Bush will also be able to see his way toward approving emergency funds to help people suffering right here at home.

Mr. President, for more than a year now, the only thing that has stood between disaster-stricken farmers and the relief checks that they deserve is the President of the United States.

I certainly hope that remaining obstacle will be removed after a decisive vote in the Senate today.

BENEFICIAL PROVISIONS

Ms. MIKULSKI. Mr. President, I rise in support of the committee-reported version of this dire emergency supplemental appropriations bill.

The chairman of the full Appropriations Committee, Senator ROBERT C. BYRD, has crafted a bill that meets the needs of communities devastated by numerous natural disasters, and provides vitally needed funds for costs incurred as a result of Operation Desert Storm, and our chairman should be commended.

As chair of the VA, HUD, and Independent Agencies Subcommittee, there are a number of provisions, which I would like to mention.

First, the bill provides $943 million for FEMA disaster relief assistance. Recent disasters have hit many areas of the country from Hurricane Bob across the eastern seaboard, to devastating fires in Oakland, CA, and Washington State. Moreover, many communities have gone without needed Federal disaster assistance since April, when FEMA ran out of disaster relief funds and was forced to quit funding public assistance projects. Of the funds provided, FEMA is authorized to transfer up to $1.25 million to salaries and expenses, to hire additional personnel to meet the escalated level of disaster activity.

Some have said that this FEMA assistance is due to the Congress shortchanging the disaster relief account. Nothing could be further from the truth. Since 1985, the Congress has appropriated more than $3 billion in FEMA disaster relief, while the President has only requested $1.8 billion. So the Congress, in response to acts of God, for which this disaster relief fund is intended, has provided nearly 67 percent more for disaster relief since 1985 than requested during that time by Presidents Reagan and Bush.

Finally, I would like to add that 1991 has been a particularly devastating year in terms of natural disasters. There have been 38 declared disasters to date—costing $396 million—compared to 24 in an average year, costing $270 million.

In chapter 1, which covers costs incurred as a result of Operation Desert Shield/Desert Storm, $10 million is provided for marriage and family counseling for veterans returning from Operation Desert Storm. There has been an inordinate number of returning military personnel facing marital and familial difficulties as a result of service in the Persian Gulf. These veterans deserve to receive the counseling they need to adjust to civilian life. These funds will enable VA to employ a part-time marriage and family counselor at each VA facility.

The bill includes language allowing the Court of Veterans Appeals to transfer $950,000 to the Legal Services Corporation for grants to organizations to provide representation for pro se, or unrepresented, cases. These pro se cases make up 65 percent of all cases before the court, and require excessive amounts of time and personnel to process, thereby increasing the court's backlog of cases and denying veterans timely response to their appeals. Due to the emergency nature of this problem, and the growing backlog of veterans claims, this provision was included.

An administrative provision has been included giving the Environmental Protection Agency discretion to award one-half of 1 percent of construction grants funds to Indian tribes, thereby assuring the eligibility of Indian tribal governments and Alaska Native villages for EPA funds to construct wastewater treatment facilities. This set-aside existed up until 2 years ago, and will likely be re-established under the Clean Water Act reauthorization. In the mean time, Indian tribes have a vital need for sewage treatment construction grants, and without this language tribal governments and Alaska Native village will not have an opportunity to apply for these funds.

The bill also includes three technical amendments: First, making some minor adjustments to staffing at three HUD headquarters offices; second, repealing a cap on the CRAF-Cassini mission, and finally a technical provision has been included to correct a drafting error in the regular fiscal year 1992 VA, HUD, and independent agencies appropriations bill. Due to recodification, this VA-related provision is needed. Each item in this bill has a compelling and urgent need, and I urge my colleagues to support its expeditious adoption by the full Senate.

DISASTER RELIEF

Mr. DIXON. Mr. President, as I look at this dire emergency supplemental appropriations bill, I see very few things that can be classified as a dire emergency. Many provisions are worthy, some are even important enough to do right now. There is only one provision, however, that can truly be classified as a dire emergency: providing disaster relief to the farmers of this country.

Farmers in Illinois and across the Nation have suffered enormous losses in 1990 and 1991. Eighty-nine of Illinois' 102 counties have been declared disaster areas because of the drought-induced failure of the winter wheat crop. Eighty-six Illinois counties have been declared disaster areas because of the drought's destruction of our corn and bean crops. Counties normally yielding 174 bushels of corn per acre are currently harvesting as low as 20 bushels per acre. Counties accustomed to a yield of 50 bushels of soybeans per acre are now reaping yields as low as 20 bushels per acre.

Because of the nature of this bill, and the need to get desperately needed relief to our producers as soon as possible, I am reluctantly supporting passage of this bill. I can only hope that when this bill comes back to the Senate, that provisions that are not real emergencies and which should be considered in a more deliberative fashion are removed. I want to make it crystal clear, however, Illinois needs this disaster assistance. We must enact this bill before Congress adjourns for the year.

Mr. WELLSTONE. Mr. President, I rise in support of this emergency supplemental appropriations measure. There is no question that the circumstances faced by thousands of Americans this year due to natural disasters constitute an emergency. Nor can anyone argue that many thousands of children in this country do not face an emergency situation. Given recent statistics concerning American children, the supplemental spending in this bill for WIC, Head Start, and childhood immunization are clearly justified.

I would particularly like to note the need for this bill's agricultural disaster relief provisions. These funds are urgently needed to meet a real emergency in my State, as well as in the States of many of my colleagues. The situation in the countryside, where thousands of farmers face what could be calamitous economic losses this year due to the weather, justifies this emergency response. Despite our difficult budgetary circumstances, we must act.

In Minnesota this year, thousands of corn and soybean farmers, especially in the southern and western portions of the State, planted very late. In some cases, they were unable to plant at all. This was due to torrential rains, record rains, in the spring. Many now face serious financial loss. Of course, when farmers suffer an economic disaster, the economies of those small towns in which the farmers do their business also suffer.

Many Minnesota farmers, although they normally carry Federal crop insurance, could not obtain it this year because Federal crop insurance required planting your crop by a certain deadline date. The heavy rains prevented meeting this deadline. Many farmers switched from corn to beans because of the rain. These farmers actually were quite hopeful during the summer. The weather improved, and it appeared the beans would do well. Since they had planted late, however, all they feared was an early frost. Of course, we did have an early frost this year in southern Minnesota. The frost seriously damaged the crops of many of those farmers who had switched from corn to beans, and who though they had averted a disaster through their action.

Mr. President, farmers know they take risks. They know that the weather does not always cooperate with their need to make a living. But many of those who suffered serious damage this year in Minnesota have not been able in recent years, due to low prices, to build up a cushion to survive this disaster. And now the weather conditions of a single year, obviously beyond their control, threaten to wipe some out.

Along with many of my colleagues in both parties, I have pleaded for 5 months now with USDA officials to assist those hurt by this year's weather. I am happy we can finally offer some relief, and sincerely hope the President will recognize this emergency.

I have already spoken at some length about the dairy amendment to this bill. I will not add to those comments here.

I also wish, however, to note with pleasure that we were able to include in this bill the end-use certificate provisions, regarding imported agricultural commodities, introduced by my colleague from North Dakota. The provisions will improve the monitoring of some imported grain, and will help ensure that imported grain does not become part of our Government-supported grain export program.

Finally, I am very pleased we have been able to get to this bill before Thanksgiving, and I am grateful to Chairman BYRD for his efforts to ensure that outcome.

Mr. DODD. Mr. President, I rise in support of the legislation we are considering today to provide supplemental appropriations to meet several urgent needs. I support the legislation, first, because it will help meet our national commitment to the veterans of Desert Shield/Desert Storm. Second, the bill will expand the Federal resources we devote to the cost-effective early intervention programs for children and families throughout the Nation.

Some may argue that the needs of America's children do not constitute an emergency. But when infant mortality rates in our inner cities are higher than most Third World countries; when more than half of infants and toddlers in our Nation's capital lack immunizations; when thousands of children enter school not knowing colors or numbers, much less being ready to read—then, Mr. President, that is clearly a national emergency.

Very simply, the supplemental appropriations bill directs more funds to early intervention programs that have been proven to work. It begins by adding $1.2 billion to Head Start, a program that is a key to improving school readiness. Currently, two of every three eligible children cannot participate because there isn't enough money. Last year, we unanimously approved legislation I sponsored to authorize full funding for Head Start by 1995, so that every eligible child could participate. These supplemental funds will move us closer to meeting that commitment.

Why is it so important to keep that promise? Of course the children benefit—they are less likely to be held back in school or be placed in special education. Head Start also saves money: $1 invested in the program saves $4.75 in future costs related to welfare use and crime. But there is another reason we often overlook. A skilled work force is absolutely essential to our economic future. The work force of the future will have to be the best trained and educated of any in our Nation's history. To build that work force, we have to begin now, with the very children who are now missing out on that important early boost that Head Start gives them. So, while Head Start plays an important social role, we should point out that it can play a pivotal role in the long-term economic strength of our Nation as well.

The supplemental also provides $100 million for the Special Supplemental Food Program for Women, Infants, and Children—or WIC. The extra nutrition WIC provides helps to reduce infant mortality and the number of births at low birthweight. Like Head Start, WIC saves money—a $1 investment in the prenatal component saves $3 in short-term hospital costs alone. Yet, less than two-thirds of those eligible are served.

The legislation provides an additional $90 million for immunizations. The benefits of immunization are obvious. Dramatic declines in the incidence of diseases such as rubella, mumps, polio, diphtheria, tetanus, and pertussis mean a reduction in the impairments and institutionalization that can result from them. One dollar invested in immunizations will save $10 in later medical costs. Yet, in the District of Columbia, only 44 percent of infants and toddlers are adequately immunized, a rate that is similar to that of other large cities. To sit by and watch increases in cases of measles and mumps when we know exactly how to prevent them is insanity. Clearly, these additional funds would be money well spent.

Under the provisions of this bill, funds for these children's programs would not be released automatically, but only if the President declares that there is an emergency. It is my fervent hope that President Bush will look around him—visit a Head Start center or a clinic where children are immunized or a neonatal intensive care unit—and see that our Nation's children truly are in need and that these programs truly respond to an emergency. Unquestionably, when Iraqi troops filled the streets of Kuwait City, that was an emergency. I think if we look in the streets in Bridgeport or Hartford, we will find an emergency there, as well. I hope the President will join us in responding to our children's crisis.

Mr. President, this bill also serves to meet other critical needs, and I would like to take just one more moment to express my strong support for the increased funding included for the Federal Emergency Management Agency. Over 3 months ago, the State of Connecticut, along with much of the Northeast, was devastated by Hurricane Bob. Losses in my State alone topped $48 million. Given the extent of the losses and damage, President Bush declared Connecticut a major disaster in late August and FEMA stepped in to lend a hand to towns and communities around my State. Unfortunately, it was an empty hand as FEMA's disaster assistance fund had already been exhausted, and it will remain empty until FEMA's funds are replenished—something this legislation would finally do. In this regard, I urge my colleagues to support passage of this measure.

Mr. SEYMOUR. Mr. President, as the Senator from Utah is well aware, California's Bay Area communities continue in their efforts to recover from the devastation of the Loma Prieta earthquake. And there is no need for me to detail at any great length the added pain and trauma that has resulted from the recent fires throughout Oakland, Berkeley, and other East Bay communities.

Clearly, the Loma Prieta earthquake damaged and destroyed hundreds of structures throughout the bay area. However, today, I would like to draw your attention to one structure in particular, the Merritt Peralta Medical Center. Like any other facility that was damaged, Merritt Peralta immersed itself in the disaster survey report [DSR] process to secure FEMA funding for its damaged and now condemned hospital tower. But to the difference of other applications, FEMA delayed the Merritt Peralta applications for a period of 6 months.

It is important to note that this is the only hospital facility in the bay area that remains closed as a result of the earthquake. It is incurring significant losses daily, which limits its ability to provide comprehensive health care services to the community.

For 6 months, beginning in November 1990, medical center officials believed their DSR was being processed and that Federal funds would be forthcoming. However, it wasn't until May of this year that FEMA notified medical center officials that the DSR had been suspended. This delay has resulted in the medical center's application being pushed further down the funding list so that funding in the near future is unlikely.

Is it the understanding of the distinguished ranking member of the VA-HUD Appropriations Subcommittee that it is within FEMA's discretionary authority to restore the Merritt Peralta Medical Center application to its previous place in the funding queue so that the application can be processed immediately and the funding provided?

Mr. GARN. Mr. President, in response to the Senator from California, I would like to say that FEMA should give priority to projects where critical and compelling community needs such as health care are at stake. While I am not familiar with the specifics of the Merritt Peralta Medical Center case, its role as a needed health care center in the Oakland and Alameda County area should qualify it for such treatment. As long as its application for assistance is within the scope of FEMA regulations, I would encourage FEMA to act expeditiously.

On one final note, I would like to reiterate that the bill before us provides $943 million for FEMA disaster assistance programs. FEMA advises us this amount will be sufficient to take care of pending requests for public assistance, including projects dating back to the 1989 Loma Prieta earthquake.

Mr. SEYMOUR. Mr. President, I want to thank my colleague for his assistance and attention to this matter.

SENATOR LEAHY'S DAIRY AMENDMENT

Mr. DOLE. Mr. President, earlier today, the Senate rejected by a vote of 51-47 an amendment offered by the Senator from Vermont to increase the dairy support price and to establish a voluntary dairy diversion program. I commend the chairman of the Agricultural Committee for his diligent and untiring efforts on behalf of dairy producers.

Mr. President, the legislation considered earlier today was seemingly a final effort in an attempt to get some kind of dairy legislation passed by this body this year. Although the bill had changed drastically over the last 6 months, a few provisions remained which were of concern to myself and others.

Of course, many of us were concerned about the impact which a diversion program would have on the beef market. Admittedly, there were provisions in the bill to protect beef producers by establishing caps for increases in culling rates, but these caps were inconsistent with the amount of cows that would have to be liquidated in order to comply with other provisions of the law. In the end, I am pleased that we escaped the sure difficulties which would have arisen for beef producers with the implementation of the bill, and have avoided the "unintended" consequences of years past.

What's more, as several of my colleagues pointed out during the debate, this proposal would have had a severe impact on the ability to provide dairy products to low-income persons and those taking part in programs such as WIC—besides increasing the cost of milk to all consumers. Let me be the first to recognize the distinguished chairman's longstanding devotion to nutrition issues and his work on the WIC program and the food stamp program, but let's not think that the impacts on these programs can be swept away by mandating price controls at the retail level. That is one thing that I hope this body does not involve itself with.

For whatever reason, we've also seen producer support for the bill take a nosedive recently. I'm sure that most producer groups expect to be able to come back next year and get more, and maybe they will. But I also think—and I hope—that they recognized the impact which a dairy diversion program would have on the small producers, the husband and wife team milking 30 or 40 cows. Mr. President, those are the people who would reduce production in exchange for cash payments—not the large producers who would continue to expand and make up for the production forfeited by the small family producers.

But probably most important, for matters of this discussion, is the fact that I have a letter addressed to me from OMB Director Darman saying that President Bush's senior advisers would recommend a veto should this provision have been accepted. It seems to me that there are a number of provisions in this overall appropriations package that are important to a lot of people, so I'm pleased we did not put those interests in jeopardy.

Mr. President, I'm sure that this issue will be revisited next year, and maybe then we can do something responsible. We will be in the midst of an election year, so, most likely, it will not be responsible. But I hope that we all remember the lessons of this year—that the market did work—and keep any future debate focused on legislation which does not have such dire implications for so many other sectors of our economy, as well as consumers.

WINTER WHEAT DISASTER ASSISTANCE

Mr. DOLE. Mr. President, I rise to offer an amendment to the bill before us to include a disaster assistance provision for winter wheat producers who have already planted their 1992 crop. This provision offers disasters coverage for that crop which, although harvested in 1992, has already been planted and is now facing severe disaster conditions.

Although Kansas had a nearly average wheat crop this year, our fall crops were ravaged by drought conditions that reflect the driest year on record. While those crops will be covered—if a disaster bill should ultimately be approved by the administration—many wheat producers, who's crop should already be well established, are now facing a complete loss.

Mr. President, my State produces—almost exclusively—Hard Red Winter wheat, which is the most common and popular variety harvested in the United States. Winter wheat is planted in the early fall, and a producer hopes to have a good stand established before the harsh winter storms begin whipping across the plains. The crop matures and ripens in the spring, for harvest sometime in late June and early July.

Unfortunately, due to a drought which has left 100 percent of Kansas topsoil in short to very short moisture conditions, fields throughout the State lie bare because the seed has not even germinated. A good portion of that which had sprouted and emerged was severaly damaged several weeks ago by a winter storm which covered parts of my State with ice and more than a foot of snow. If that snow would have stayed in the field, it would have provided both moisture and needed insulation for the crop—but, unfortunately, most of it blew south. We did receive some timely rains earlier this week, but it is uncertain whether the crop will show any appreciable benefit.

My amendment specifies that, for 1991 crops covered under the act, 1991 crops includes those program crops planted in 1991 for harvest in 1992. The authorization bill, which should be coming to the floor this week, as drafted, already goes back in time to provide assistance for 1990 disasters. Given the current conditions in the major wheat producing areas of the country, I hope that my colleagues will join me in providing this assistance to the wheat producers who are in the midst of a disaster at this very time.

FUNDING FOR CALIFORNIA NATURAL DISASTERS

Mr. SEYMOUR. Mr. President, there is another aspect of this bill whose critical importance to victims of natural disasters cannot be overlooked.

Whether it be the few short seconds as we witnessed during the 1989 Loma Prieta earthquake, or the agonizing hours as we watched flames of death crawl up hillsides in Oakland, calamitous acts of God can destroy all that it has taken a lifetime to build, leaving entire communities to the arduous task of rebuilding. The statistics—individuals killed or injured, homes destroyed, families displaced, and the many other numbers used to tally such events—are always staggering.

"It was like a visit to hell at Ground Zero." That's how one resident of the Oakland Hills area described the recent fire storms that swept through California's East Bay communities. What began as a brush fire fueled by dry winds and 5 years of drought became a raging inferno consuming everything in its path. Seventy-four strike teams, each with 5 engines and over 1,000 firefighters and emergency response personnel battled this tremendous fire. Two of these valiant emergency workers, a police officer and a fire battalion chief, lost their lives in the process of serving their community.

Now its's our job to help them.

While I am pleased this bill would provide $943 million for FEMA disaster assistance programs and make good on our commitment under Federal law, I can't help but remark that this funding is long overdue. Estimates for public sector damage in the aftermath of the Oakland fires are in excess of $42 million. Moreover, the current estimate for unmet needs resulting from the 1989 Loma Prieta earthquake is $500 million.

That was 2 years ago, Mr. President.

I do, however, want to congratulate Chairman BYRD for moving quickly to bring this bill before us. On October 29, I wrote to the chairman to urge quick action for the sake of Oakland and every other disaster-stricken community. Without this supplemental appropriations bill, these communities would continue to languish without the Federal assistance due them.

Clearly, after such traumas, we can never expect to make any victim of natural disaster entirely whole. In fact, Federal law does not contemplate full reimbursement for losses. Rather, the Federal Government's role and relief programs as codified under the Stafford act are designed to supplement other forms of assistance, such as homeowners and property insurance. But 2-year delays in funding, with the actual construction work still to follow, is much too long for the individuals and communities who have suffered the destruction of an earthquake, fire, hurricane, or other calamity.

Mr. President, again, I am pleased to see the money for FEMA included in this bill. I do hope, however, that in the future, we will take better care to ensure that FEMA is adequately funded in order to prevent such delays in the future.

HURRICANE BOB

Mr. PELL. Mr. President, the dire emergency supplemental appropriations bill is an important piece of legislation for my home State of Rhode Island.

In late August of this year, Hurricane Bob swept across New England. Rhode Island was especially hard hit by Hurricane Bob. The path of the hurricane and Rhode Island's small geographic size created a devastating set of circumstances that made Rhode Island the only New England State to suffer the full force of Hurricane Bob within every single square mile of the State's borders.

The Governor of Rhode Island, Bruce Sundlun, asked the President to declare Rhode Island a disaster area under Public Law 93-288. The President subsequently declared Rhode Island a disaster area, which made my State eligible for disaster relief funds administered by the Federal Emergency Management Agency [FEMA].

These FEMA funds were to be used to reimburse State and local authorities for the costs associated with cleaning up after Hurricane Bob. In many cases, these costs represent a serious financial burden for Rhode Island cities and towns. This burden is even more serious when viewed in the light of the crippling state budget deficit which Governor Sundlun inherited from the previous administration.

One example of the urgent need for these emergency relief funds can be found in the town of Jamestown, RI. Jamestown has thus far spent $200,000 in scarce town funds for Hurricane Bob-related cleanup. In a recent letter sent to me by Jamestown Town Administrator Robert W. Sutton, Jr., the need for Federal assistance was described succinctly. "The town of Jamestown is a small community feeling the financial strains of this economy and we cannot afford this unanticipated and unbudgeted expenditure. We simply do not have the money."

Mr. President, this problem faces every Rhode Island community that has been forced to bear the costs associated with cleaning up after Hurricane Bob. This dire emergency appropriations bill is badly needed in Rhode Island, and I am pleased that the Senate has approved this measure.

The next hurdle that remains is for the members of the House and Senate Appropriations Committees to get together and rectify the House and Senate versions of this bill. I am sure this will be done quickly and it will then be up to the President to decide to approve or disapprove this important legislation.

I urge the President to approve this measure when it reaches his desk. Summer has long been over in Rhode Island. It is time for the Federal Government give us the opportunity to put Hurricane Bob behind us and allow us to get ready for the trials and demands of another New England winter.

Mr. JEFFORDS. Mr. President, I did not intend to talk about the National Cattlemen's Association's attempts to block dairy legislation. However, since their recent letter has been discussed and has been read into the RECORD, I feel compelled to do so.

It is clear from this letter that the NCA intends to continue to relate statements that mislead at best, deliberately distort more likely, past events.

It is my hope and desire that the individuals representing the beef industry and the dairy industry will be able to sit down over the holidays and reconcile their differences. I am hopeful this can happen because it is clear that they both have the same interests:

Fewer cows means less milk which means a higher milk price. Fewer cows means less beef and a higher beef price.

It is clear that both the beef industry and the dairy industry benefit from efforts to control the dairy herd size. Thus, it seems we ought to be able to sit down and achieve this result without pushing any dairy farmers or beef ranchers to bankruptcy to reach that goal.

Let me first review the history of the dairy policy in the 1980's. I would also like to bring my colleagues up to date on attempts to reconcile differences between the two groups.

By 1981, dairy cow numbers had substantially increased, causing higher production levels and a buildup of dairy surplus stocks. In an effort to deal with this problem, the 1981 farm bill instituted a set of triggers relating the minimum support level to the size of the CCC purchases. This was a major departure from traditional price support policy under which price changes were tied directly to parity. In addition it used an assessment to cut cost, but at the same time gave hope for a big price bonus.

Although I was not a member of the 1981 farm bill conference committee that instituted these changes in calculating the support price, there was a fundamental problem in establishing a program that only called for price cuts based upon levels of CCC purchases. It did not deal with the basic problem that was facing the dairy industry—cow numbers—too many cows.

Following this change in the 1981 farm bill, further legislation was enacted in 1982 which froze support price for 2 years, and provided for assessments of producers totaling $1 per hundredweight to help offset rising Government costs for CCC purchases. However, history has clearly shown that milk production levels do not respond well or quickly to price cuts, and during the period of 1981–83, cow numbers actually increased from 11.1 to 11.5 million head, although surpluses and program costs went down. But the program was successful; its period of operation was too short to have any lasting effect. The short period had to be agreed to to get any supply management program.

By 1983, dairy surplus purchases increased from about $247 million in fiscal year 1979, to a high of $2.7 billion. In response to these increased costs, Congress initiated the Milk Diversion Program, which paid farmers to reduce milk production for a 15-month period. An assessment on producers was utilized to help offset the cost of the program. This largely remedial measure did result in a reduction in cow numbers and milk production levels; however, the effect was only temporary. It did show that the combination of supply management and price cuts could be successful.

In 1985, although demand was increasing, the number of cows was increasing at a much greater rate. Thus, it was decided rather than put the whole industry into the throes of economic depression in order to bring the number of farmers down and gradually the number of cows, it would be much quicker and more efficient to reduce cow numbers by buying whole herds and slaughtering or exporting them. Since we were talking about 1.5 million cows, this obviously brought concern to the beef industry.

Representatives BOB SMITH and RON MARLENEE recognized something would have to be done to prevent an adverse impact upon the beef price, which at the time was low. Therefore, a program was worked out to help the beef industry. First, the beef promotion program was created. Second, the slaughter of dairy cows would be phased in gradually starting September 1, 1986. In addition, the dairy industry agreed to purchase the additional beef over normal culls that would come on to the market as the result of the buyout. This beef would be sent overseas to our military installations so as not to impact the domestic beef price. It also allowed for some distributions to the domestic nutrition programs but only in amounts that would not adversely affect domestic beef prices. The cost of the beef purchase program was to be paid from an assessment on dairy farmers. The calculations showed the price increase to dairy farmers as a result of this action would be more than sufficient to pay for the assessment.

The Senate bill had no such whole herd buyout. In conference, two major changes were made in the whole herd buyout program. First, the assessment was cut in half at the insistence of Chairman HELMS with the expectation that the savings to the Government would more than offset the cost of the buyout and the beef purchase program. Second, late at night during the end of the conference, representatives of the beef industry, led by Burton Eller, gained access to the staff conferees by bringing in hamburgers and other snacks. The conferees were convinced by Eller that it would be in the best interest of the beef industry to front load the slaughter program in the spring rather than to wait until the fall. This may well have been a reasonable request and might have worked. Thus the bill was changed to commence a front-loaded slaughter on April 1, 1986.

When it came time to announce the regulations and the commencement of the program in March 1986, a bad error was made by the Department of Agriculture. It announced on Friday, March 28, that the whole herd buyout would commence the following week and that the Government would commence the purchase and slaughter of 1.6 million head. They failed, however, to announce that the Government would be purchasing the excess beef off of the market, and therefore, it should have no adverse impact on the domestic beef industry.

The following Monday, after the announcement was made, a number of beef producers panicked and rushed their herds to market. Obviously, the price went down. In addition, the futures market had a flurry of activity. When I heard about it I immediately called the futures market and found that none of them knew that the Government was going to purchase the excess beef back off the market. The word of this aspect spread and the down price on beef and the futures activities ended in 2 weeks.

The beef price rebounded to where it was before this unfortunate incident. The beef price continued to rise and reached a high at year's end.

In April 1986, a lawsuit was brought by the beef industry which blamed USDA for the problem. There is no question that USDA deserved a lot of the blame. However, the beef industry has to carry some of the responsibility for not getting the word out to its producers about the new phase-in date and the red beef purchase program.

Aside from this unfortunate incident, the program was highly successful, saving the Government billions of dollars and allowing dairy farmers to go out of business with dignity instead of through bankruptcy. It does not seem that the program should be precluded now. In addition, since it would bring the size of the dairy herds down in a way that would not impact beef prices, it should be a program that is supported by the beef industry. Annual small cow or heifer purchases could keep this dairy supply under control and prevent any threat to beef prices.

It appears that somewhere in the area of $50 million was lost by beef producers who brought their beef to market during that 2-week time period. The bill introduced earlier this year offered to repay these farmers if peace between the industries could be reached. Considering the critical change to April 1, 1986, was requested by the Eller group, I believe this was most conciliatory. The National Cattlemen's Association [NCA] opposed the bill. Overall, with the two options in that bill, of exporting dairy cattle and the purchase and slaughter program combined with purchase of the beef off the market if necessary, both industries should benefit and no one should be hurt.

I strongly felt that I had done a substantial amount to address the concerns of the beef industry. A hearing was held in hope of reconciling the differences between the groups. Unfortunately, they did not desire to make peace and adamantly opposed my bill. They refused to offer help to the dairy farmers, and would not give any assistance to me in developing a plan to jointly help our farmers.

Since that time, we have tried to put together legislation that could ensure stability for the dairy farmers. We have tried a number of proposals, all of which have faced opposition. We have tried to address the concerns of the beef industry. Today we have a program which will secure stability for the dairy industry and has attempted to address all of the concerns of beef producers and others. I hope my colleagues will consider it closely and support it.

THE NEED FOR DISASTER ASSISTANCE FOR FARMERS

Mr. WOFFORD. Mr. President, I rise today to emphasize the need to provide our farmers with direct disaster payments due to this summer's devastating drought. We have the opportunity with the 1992 dire emergency supplemental appropriation bill to send a clear message to the agricultural community that we will stand by them when—through no fault of their own—they lose their crops.

During the 1991 drought, Pennsylvania has lost an estimated $600 million in economic activity. At a time when the Commonwealth is already coping with a recession, we cannot afford this additional loss. Sixty of the sixty-seven counties in Pennsylvania—more than 90 percent of the State—were declared disaster areas by the U.S. Department of Agriculture back in August. In a State where agriculture is the No. 1 industry, the loss is tremendous.

Farmers and rural communities will feel the effects of this economic loss for years to come. Many farmers will have to borrow money in order to continue operating. In many cases, they will have to struggle to repay an operating loan for a crop that doesn't exist. Agricultural lenders are deeply concerned.

But we need to be clear about what is necessary. Passing the dire emergency appropriations bill alone will not get the funds the drought-stricken farmers need. Before the funds would actually become available, the President will need to agree that an emergency has occured in order to comply with the restrictions contained in last year's budget agreement. Up until now, the President has not seen fit to declare such an emergency. He has not responded to the needs of farmers suffering as a result of the drought. I hope he will see the wisdom in acting now.

The moneys provided for in the dire emergency appropriations bill will not be every farmer's answer. For many, however, it will be the difference between staying in business and getting out. I urge its enactment.

Mr. BYRD. Mr. President, is there not a substitute that has to be agreed to before third reading?

The PRESIDING OFFICER. The Senator is correct.

Is there further debate on the substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. BYRD. Mr. President, I move that the joint resolution be read the third time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, the Senator from Virginia was seeking recognition.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Parliamentary inquiry. Is it in order for Senators to send to the desk amendments in the first degree?

The PRESIDING OFFICER. No amendments are in order at this time. The Senate has already adopted the substitute.

Mr. WARNER. Mr. President, parliamentary inquiry. Is the adoption of the substitute then a mechanism by which all amendments have now been cut off?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I was on the floor awaiting the arrival of a member of the Senate Armed Services Committee at which time I was to join with him. It was my understanding the managers were aware that was to take place. I stepped off the floor momentarily, at which time the most recent parliamentary decision by the Senate was taken. I was under the impression that the managers had asked for third reading but had deferred it to allow Senators to come to the floor and there was a period of 10 minutes. I did not know the period of 10 minutes expired. But I expect the parliamentary situation is such now that one may only speak to the bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, the distinguished Senator from Virginia was on the floor and seeking recognition.

Mr. WARNER. Yes.

Mr. BYRD. And I realize that the procedure that was followed is a rather unusual procedure here, but certainly well within the rules and precedents of the Senate. In fairness, I think that the Senator from Virginia ought to be allowed to call up his amendment.

I ask unanimous consent that notwithstanding the fact that the bill has been advanced to third reading that the Senator from Virginia be permitted to call up an amendment to the bill.

Mr. STEVENS. Reserving the right to object.

Mr. BYRD. And that consequently that amendment be open to an amendment in the second degree.

Mr. STEVENS. I shall not object.

Mr. WARNER. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. Will the Senator withdraw his request for third reading?

Mr. BYRD. Mr. President, I do not withdraw my request for third reading, but I have asked unanimous consent that the Senator from Virginia be allowed, nevertheless, to offer an amendment. I ask that third reading of the bill be had and then the Senator may offer his amendment notwithstanding.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia. At this time, it will not be my intention to send an amendment to the desk on this bill.

Mr. President, I understand the distinguished Senator from West Virginia has informed this Senator of my right to do so. I was going to do it in partnership with another member of the Senate Armed Services Committee. I am now advised perhaps—

Mr. BYRD. You may still do that.

Mr. WARNER. Mr. President, I do understand that, but I understand further it was the intention I was trying to reserve the right for my distinguished colleague to come forward but apparently that is not his intention at this time. As a consequence, I will perhaps have some comments to make with respect to the bill at a later time. I thank the courtesy of the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the motion to read the joint resolution the third time.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the joint resolution having been read the third time, the question is, shall the joint resolution pass, as amended?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS].

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS] would each vote "nay."

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 17, as follows:

(Rollcall Vote No. 270 Leg.)

YEAS—75

Adams
Akaka
Baucus
Biden
Bond
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—17

Bingaman
Brown
Burns
Craig
Domenici
Gore
Gramm
Kasten
Kohl
Mack
Murkowski
Nickles
Nunn
Roth
Smith
Wallop
Wirth

NOT VOTING—8

Bentsen
Breaux
Harkin
Helms
Kerrey
Pryor
Riegle
Symms

So the joint resolution (H.J. Res. 157) was passed, as amended.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

The title was amended so as to read:

Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate insist on its amendments to House Joint Resolution 157, request a conference with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees on the part of the Senate; and that the motions to reconsider these actions be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. LEAHY) appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON conferees on the part of the Senate.

Mr. GLENN. Mr. President, due to the rapid passage of this legislation, I regret that an amendment I would have proposed will not be considered.

Mr. President, my amendment would have had the effect of: First, prohibiting a mandated, noncompetitive extension of the current CHAMPUS reform initiative [CRI] contract; and second, prohibiting a mandated expansion of the CHAMPUS reform initiative.

Mr. President, the CHAMPUS reform initiative is a contract for the delivery of civilian medical care to the families of military personnel and military retirees and their eligible dependents in the States of California and Hawaii. The annual cost of the contract to the Department of Defense is about $800 million. The current 5-year contract expires on February 1, 1993, and the Commerce Business Daily has announced DOD's planned issuance of a new request for proposal [RFP] for another 5-year contract to be awarded competitively.

At the same time, the current contractor for CRI, Foundation Health Corp., located in California, has been lobbying for the noncompetitive extension of the contract.

Mr. President, I want to say that I do not fault the current CRI contractor for wanting a noncompetitive extension of the existing contract. Obviously, the contract must be profitable, otherwise the company would not want to continue to be the CHAMPUS intermediary.

I want to also say that our CHAMPUS beneficiaries have expressed general satisfaction for the health care services they have received under CRI, and I for one, believe that CRI should continue to be the mode of civilian health care delivery for CHAMPUS beneficiaries in California and Hawaii.

So I am not opposed to CRI. In fact, I think CRI has proven to be not only effective from the standpoint of patient satisfaction, but in holding down cost. And depending on cost/benefit analyses, a case could be made for the expansion of CRI to other States.

Mr. President, my problem is not with the concept of CRI, but with the procurement of CRI services as proposed in the Defense appropriations conference report.

Mr. President, the Defense appropriations conference report contains a provision that would noncompetitively extend the current CRI contract for 1 year. This particular provision would overturn a provision in the Defense authorization conference report we just passed that would ensure that the CRI contract would be renewed competitively. Quite frankly, the action we took in the Defense authorization conference report was in reaction to a provision in the House Defense appropriations bill that would mandate the noncompetitive extension of the existing CRI contract.

Mr. President, our Senate appropriators initially supported the authorization conference provision, but eventually gave in to the House appropriators in conference. I find this very disappointing because the Senate and House had already voted against such a flagrant disregard of fair procurement policy.

Mr. President, current Federal procurement statutes require competition for the award of Federal contracts. Federal agencies may "sole source" only under very limited circumstances that are specifically prescribed in law. Obviously, the Department of Defense saw no circumstances that would lead it to "sole source" because it has already announced its intention to issue an RFP for competitive bid.

If we allow a noncompetitive 1-year extension of the current CRI contract, we would be turning a blind eye to the Competition in Contracting Act and the Federal acquisition regulations. We would be singling out for special treatment a company that happens to be in the district of a senior member of the House Appropriations Committee. In doing so, we would be excluding other companies who may be equally or competent in providing the needed services.

Mr. President, aside from fairness, there is the issue of cost. Requiring a noncompetitive extension of the current CRI contract could potentially cost taxpayers millions of dollars. There are other companies who could compete for, and possibly win, a competitive contract that could result in lower cost and equal or even better health care delivery to CHAMPUS beneficiaries.

Mr. President, for these reasons, I regret that my Senate colleagues will not have the opportunity to vote in favor of fair and open competition, by voting for this amendment.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

INVESTIGATORY POWERS AUTHORIZATION

Mr. MITCHELL. Mr. President, pursuant to a prior order, following consultation with the Republican leader, I was vested with the authority to set a cloture vote on a motion to proceed to Senate Resolution 198, to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran.

I now ask unanimous consent that there be 1 hour of debate equally divided and controlled between Senators SANFORD and MCCONNELL and at the conclusion or yielding back of that time, the cloture vote occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who controls time under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. May I inquire: Does the leader care to make any additional comments?

Mr. MITCHELL. Mr. President, I will be making a statement shortly. I suggest the Senator proceed and then yield time to me.

Mr. SANFORD. All right.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, and the Chair again would ask who yields time?

Mr. SANFORD. I yield myself 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from North Carolina is yielded 5 minutes.

The Senator from North Carolina.

Mr. SANFORD. Mr. President, the U.S. Congress has an oversight obligation to represent the people in making certain that their National Government is being operated effectively and appropriately and within the bounds of the law. The duty falls to the Congress to examine serious allegations of extraordinary wrongdoing within the Government process.

There is no simple way for Congress to carry out those obligations. It can, and has, created a process for the employment of a special counsel within the structure of the administrative branch. The legal complexities, the political conflicts, the difficulties of focus and direction by Congress, and the high investigative costs make this less than satisfactory.

Congress can and has created special investigative committees to conduct public inquiries, but this approach is fraught with the inefficiencies of partisan differences.

Standing committees and subcommittees have been assigned investigative tasks, and most effectively when that assignment is made by full Senate resolution. This is the approach chosen by the Senate leadership in responding to the persistent charges that unwarranted and illegal actions were taken to delay the release of the Americans who had been taken as hostages from our Embassy in Iran.

The Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs was asked by the majority leader to take responsibility for inquiring into these old but enduring charges that the Reagan-Bush presidential campaign engineered the delay of the release of the hostages in Iran for political advantage and that in exchange they would provide what turned out to be, if it were true, illegal transfer of military equipment to the Iranian Government.

The ranking member of the subcommittee, Senator JEFFORDS, and I did not volunteer for this assignment. We accepted it as a duty to lay to rest, as true or false, these allegations of extremely heinous actions.

In accepting this unpleasant task, neither Senator JEFFORDS nor I bring any presumption of the truth of the allegations. Certainly, for my part, I hope we can quickly demonstrate that there is no factual basis for the charges.

But it is the Senate that must decide whether it wants to proceed, and if so, it must be the Senate that enacts this resolution empowering the committee to subpoena witnesses and documents and to take evidence under oath.

While the committee might proceed without such a resolution, and that might be the only path, the sounder policy is to make this inquiry a function of the entire Senate.

Mr. President, during the past 2 days we have examined three witnesses. Two were hostages who, along with fellow hostages, wrote to the President and to the Congress. We also heard from Gary Sick, adjunct professor at Columbia University, who put forward these very serious allegations in a widely read oped piece in the New York Times last April and who has recently written a book on the subject laying out the evidence as he sees it and, more importantly, laying out the evidence that might be obtained with official action in subpoena power.

Mr. Sick served on the National Security Council under Presidents Ford, Carter, and Reagan and is well known as an expert on the Middle East. He is a retired captain in the U.S. Navy. He has previously written a book about the fall of the Shah of Iran. He was involved in the efforts of the Carter administration to seek release of the hostages from the very beginning of the storming of our Embassy until their final release in January of 1981.

Mr. Sick very carefully set forth a series of unanswered questions, unanswered questions that seem to suggest that they deserve the attention of a serious congressional investigation, unanswered questions because answers cannot be obtained without the official authority, without the power of subpoena, without the power to put witnesses under oath. He asked some questions that seem to demand an investigation to find the answers if we are to lay to rest these longstanding charges.

For example, Cyrus Hashemi, who was apparently a participant in this action, if it took place, an international arms dealer, was the subject of very intense surveillance, phone taps, television intelligence, the most careful kind of coverage by the FBI, from the early fall of 1980 until after the inauguration in 1981 when the surveillance was suspended. This information alone might very well quickly give an indication of whether or not there is any truth to these allegations, may very quickly demonstrate that there is no real substance to be pursued.

All in all, Mr. Sick laid out about 20 such items which if we could pursue with the official power of subpoena and the congressional committee we probably could fairly quickly get the answers.

It is my belief that the honest answers to these questions can only be obtained with the power of the U.S. Congress, and it seems to me that we have that obligation.

I want to read a paragraph or two from the letter that the hostages wrote to the President and to the Congress, and I am reading from an open letter to the U.S. Congress, two paragraphs:

> For the last 10 years there have been rumors, reports, and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently, these allegations have been dismissed as unsubstantiated. But substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter.
>
> It is not appropriate to say there is insufficient proof-until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena power. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

It seems to me, Mr. President, that the Senate would be derelict if it ignored the requests from these former hostages who suffered so much while on duty on behalf of all of the people of the United States.

Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I also rise to express my belief that it would be appropriate for us to go forward. When this matter came up before the committee, I did not vote in favor. I voted "present" because at that time I did not have sufficient information upon which I could make a judgment as to whether or not it would be worth the Senate's time and money to proceed forward in this particular investigation.

I must say that I have had tremendous cooperation from the Senator from North Carolina. I have absolute confidence that he agrees with me that we must do everything we can to ensure that we keep matters under control and that nothing goes forward unless we have sufficient evidence that would warrant something other than the kind of investigation we intend to hold. Our task is to find out whether there is sufficient evidence out there, after the appropriate use of subpoenas and the powers of congressional testimony, to determine that a full investigation should go further.

On August 5, the majority leader announced that the Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee would be asked to conduct an investigation into allegations that officials of the 1980 Reagan Presidential campaign attempted to delay the release of the United States hostages in Iran.

As the chairman and ranking member of the subcommittee, it fell to Senator SANFORD and me to decide how such an investigation, if ordered, should be conducted. While neither of us had requested the task, we both agreed that if the full Senate approved the investigation, it should be carried out in a professional and nonpartisan manner.

We agreed that any staff would work under our joint jurisdiction and that all decisions would be made jointly by myself and the chairman. We both believe that such an investigation should be conducted with as little fanfare as possible. If an investigation begins, no statements would be made to the press until the subcommittee is prepared to releast its findings. We do not intend to hold public hearings in the course of the investigation, and only after its conclusion if the subcommittee should decide they are necessary.

Mr. President, the intensity and persistence of rumors that there was an attempt to delay the release of the hostages have brought us here today. In an effort to determine the nature and extent of the allegations, the Subcommittee on Near Eastern and South Asian Affairs held two hearings, yesterday and today, with two Americans who were held hostage in Iran and with Dr. Gary Sick, author of "October Surprise." Mr. Steve Emerson, author of the New Republic article "What October Surprise?" declined to testify. Our task was to determine if there is probable cause to warrant a more thorough and exhaustive investigation.

In the course of preparing for and conducting these hearings, I became convinced that there is a need to clear the air on this matter. President Bush and President Reagan both want it put to rest. Several of the hostages have spoken out about their need to resolve the question of whether they were unnecessarily detained in captivity. But more importantly, my analysis of the evidence presented to the subcommittee leads me to conclude that a relatively short investigation by our subcommittee could either lay to rest one of the central allegations of the October surprise or prove that insufficient evidence exists to resolve the issue beyond a reasonable doubt. Either way, the investigation would have performed a useful function in a brief period of time.

In my mind, the key element in the October surprise theory is the allegation that William Casey, Ronald Reagan's 1980 Presidential campaign manager, met with representatives of the Iranian Government in Madrid in late July and again in August 1980 to discuss the possibility of a deal to delay the release of the hostages in Iran. Dr. Sick lays out in his book a detailed account of these meetings as relayed to him by an individual who claims to have been present. This individual insists that an agreement was reached whereby the hostages would be released on the day of the inauguration in exchange for shipment of ammunition and military spare parts. He also claims that in addition to Casey and himself, five other people were present at each meeting.

In addition to questioning several of these participants, an investigation could pursue several other areas of information and related sources to determine whether such a meeting actually took place. Because of the limited scope and time of the inquiry and the relatively small number of people in question, I did not believe that such an investigation, properly staffed, would take more than a few months. After that time, it should be possible to conclude either that the meeting did or didn't happen, or that evidence no longer exists to prove anything.

If the preponderance of the new evidence should indicate that no such meetings took place, the matter would be put to rest. If, on the other hand, hard evidence should come to light that indicated a deal between Mr. Casey and the Iranians had been struck, then the entire investigation would probably be handed over to proper law enforcement officials. If the Iran-Contra investigation taught us anything, it was that a congressional investigation should not proceed where only the Justice Department or law enforcement officials should tread. And if the investigation concluded that there wasn't any conclusive evidence to be had on this question, then as much as could be done by this subcommittee would have been done and much of the public hype over this scandal would die and hopefully the matter would be put to rest.

As the ranking minority member on this subcommittee, I take very seriously my responsibility to see that all persons are treated fairly, that the tough questions get asked and the proper leads are pursued. I am confident that a short, professional and nonpartisan investigation could finally put this nagging scandal to rest.

I am concerned, as a member of the minority, that if we do not do so at this time, then this matter will linger on as a public issue continually in question. And it may very well be that someone may attempt to take political advantage of it as we move into the election next year. So I would urge the Members on this side of the aisle not presume at this stage that there is any intent to do anything other than search for the truth.

I urge a yes vote on the motion to invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the concern of the Senator from Kentucky is that the only October surprise envisioned in the investigation is the October 1992 surprise. This issue has already been considered by the Tower Commission by the House and Senate Select Committees on Iran-Contra, by the independent counsel, and by the Senate Intelligence Committee.

The congressional Iran-Contra investigation has already cost the taxpayers millions of dollars, with 50 staffers fanning out across the country looking for information to corroborate allegations by the press.

The majority report of the Iran-Contra Committee concluded—this is the majority report, Mr. President—the majority report of the Iran-Contra Committee concluded:

> Reagan campaign aides were approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected, and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

Mr. President, that is a quote from the majority report of the Iran-Contra Committee.

Mr. President, some now claim that the October surprise issue was not given adequate consideration in the Iran-Contra investigation. Well, the truth is that these allegations were not considered worth investigating any further.

Further, Congress was not the only institution to make that rational determination. The independent counsel has been hard at work since December 1986, costing taxpayers $27 million—and counting—with 38 people looking for evidence of Presidential wrong-doing. Five years later the cases against North and Poindexter have been summarily dismissed. The independent counsel could not prove what some people want to prove.

If there is any institution and it is now an institution, in Washington that is always on the prowl for new scandals to justify its existence, certainly it is the independent counsel. Yet even the independent counsel—with no limits on its terms, time, or issue jurisdiction—has found no reason or evidence to justify an investigation of the October surprise story.

The Tower Commission also reviewed many of the allegations we are about to hear—and as if that were not enough, the Intelligence Committee shoveled through this heap during the Gates confirmation hearings.

None of these investigations—conducted by able people from both sides of the aisle—has proven what some people still want to prove. Even the press is not buying this nonsense. In the last few weeks, both Newsweek and the New Republic have laid waste to these ridiculous allegations, the Newsweek piece of October 1 and the New Republic piece of the same week.

One, the New Republic, entitled "What October Surprise?" And in the Newsweek, "The October Surprise, the Charge, Treason; the Evidence, Myth." The evidence, myth. They laid waste to these allegations, charge by charge and line by line.

I happen to have caught the two reporters, the two principal reporters in each of the magazines on the Fox Morning News a couple of weeks ago. They were laughing about this. They said this is absurd. They said we can save the Congress the $600,000; just read the articles. Just read our articles.

Someone made reference tonight to the fact that one of the reporters did not want to appear before our committee, not because he was reluctant to tell what he thought had happened. He had already done that. But because he thought it was inappropriate to be appearing before a congressional committee as a reporter.

These reporters have said, in effect, we can save the taxpayers $600,000 that some people want to spend, by just reading the articles. And they are available for any Senators who would like to read them. In fact, this whole October surprise story really belongs in the National Enquirer, Mr. President. I can see the headline, "Gary Sick Sees Reagan Meet Iranian Officials and Big Foot." Or, "Elvis is Key Witness in October Surprise Investigation."

That is about what this amounts to, Mr. President. Yet we are seriously contemplating, apparently, spending $600,000 to investigate something that happened 11 years ago and did not, in fact, happen at any time.

Yesterday, the subcommittee heard from two former hostages on this issue. Both of them are courageous Americans, real patriots. But the truth is that they do not know anything more about these spurious charges than anyone else. And they were both honest and decent enough to admit it. Just yesterday, Charles Scott, one of the hostages who appeared said, and this is a direct quote:

> I have no firsthand knowledge from the point of view of whether or not there was an October Surprise. * * * I don't know if it happened or not.

Barry Rosen admitted that his suspicions arose entirely from "reading pieces of work that have been done by * * * Christopher Hitchins or Gary Sick and others." We spent an entire day yesterday talking to two wonderful Americans who endured great pain but could lend nothing to the inquiry, in terms of facts about whether this October surprise could have occurred. In other words, the hostages' knowledge of whether the October surprise story really happened is no greater than that of anybody in this body. Frankly, probably less.

I would also like to know this. We heard from two hostages and received a letter on the subject from a total of eight hostages. How do the other 46 hostages feel about it? We did not hear from them. We do not know how they feel about it—46 former hostages said nothing about this issue.

So where does that leave us today? Millions of dollars later, we are still poring over uncorroborated allegations of witnesses who are relying on hearsay, gossip, innuendo, and even outright lies of incredible scandalmongers.

Consider some of those who have spun this conspiracy web: Barbara Honegger. She apparently worked for the Reagan campaign—or should I say someone calling herself Barbara Honegger worked for the campaign. After all, she publicly admits to making decisions based on little voices that contact her. She may be qualified to discuss the paranormal and parapsychology which she pursued a masters in—but the question is whether her opinions are reliable. Maybe we should find out the source of her channeling and call him or her as a witness. That would be a great story for the National Enquirer.

We do not need to look far because she claims one of her sources is the notorious Richard Brenneke, well-known liar before the Foreign Relations Committee.

Mr. Sick has called Brenneke a man of courage for pursuing his misguided convictions. Our committee called him what he is: a liar. His stories change so fast, it's impossible to keep up.

But the very premise of Brenneke's fabrications is his claim to have worked for the CIA—a claim the CIA publicly denies.

In fact, in a memo we relied on in earlier Foreign Relations Committee proceedings, the CIA felt so strongly about Brenneke's fantastic fabrications that they departed from their historic practice of neither confirming nor denying employment and denounced Brenneke as a liar.

But it is not all Brenneke and Honegger's fault. They relied on sources at the Executive Intelligence Review. That is run by Lyndon LaRouche.

The last I checked, Executive Intelligence Review firmly believes that the Queen of England and Henry Kissinger conspire in international drug trafficking. In other words, they print the stories that the National Enquirer will not touch.

Next we have the ex-President of Iran, Bani-Sadr. By my count, his story has changed at least five times. He claims his memory improves with time. I think the only thing that improves is his Nielsen ratings and the amount of time he gets in the press.

This Bani-Sadr is the same who said that Jimmy Carter and his NSC adviser Brzezinski conspired with Saddam Hussein to invade Iran and restore the monarchy.

So if you believe his allegations about a secret Reagan campaign deal, why not swallow the whole pig in this perjurious poke?

Ben-Menashe is the last major player in this game of liar's poker. According to the ranking member of the Intelligence Committee, Senator MURKOWSKI, the committee found his story totally unbelievable. Then again, strange things happen to your imagination when sitting in a Federal prison for illegal arms deals.

Now let us look specifically at the ringleader of this conspiracy cabal: Gary Sick. I was simply astonished by Mr. Sick's revelations today before the subcommittee. Gary Sick said he relied on six sources to confirm that a key meeting took place launching the October Surprise. Among these six sources, there was only one supposed eyewitness—Jamshid Hashemi—an indicted arms dealer. And we have no proof other than Hashemi's word that he was there. The only other possible witness, Mr. Casey, continues to be unavailable for comment.

None of the five corroborating witnesses that Sick used were at this elusive meeting. In fact, most of them are Hashemi's partners in crime.

We have already talked about convicted arms dealer Ben Menashe. Menashe was not there but told Sick that he read about the meeting in intelligence cables. We asked Sick if Menashe had given him a copy of these cables—well, of course he had not.

The second corroborating witness is Admiral Madani—a close friend of Hashemi, whom Hashemi promoted for President over in Iran. Madani was not at the meeting—but if his friend said the meeting happened, then it must be true.9

That is the logic there.

Mr. President, the next witness Sick relied on was an arms dealer named Durrani, a Pakistani. But he also was not at the meeting. Sick never actually spoke with Durrani personally but heard about him from journalists.

The fourth corroborating witness was a Mr. Rupp. Rupp is a close friend and associate of Richard Brenneke, whom we have already discussed. Even Sick must have felt a little queasy about Rupp because he could not bring himself to interview Rupp but relied on hearsay from some unidentified journalist's account.

Finally, Mr. President, the last corroborating witness to Hashemi's eyewitness account is a Mr. Babayan. Mr. Babayan was not at the secret meeting either and Sick never actually spoke to Mr. Babayan either.

So, Mr. President, these are the sources on which we are going to bet hundreds of thousands of taxpayer dollars for an investigation of their wild and unproven allegations.

I have to wonder what the Senate and the world is coming to when we base decisions on how to spend large amounts of taxpayers' money on the ravings of channelers, liars, felons, and flat out flakes. Millions of dollars and years of investigative work later there is still no serious evidence today about the "October Surprise" that was not available to congressional committees, the independent counsel, and the Tower Commission.

Even the former hostages who testified yesterday could offer no factual basis for this inquiry to proceed. Both of them admitted to no firsthand knowledge. In fact, both described their conditions as total isolation and a communication vacuum.

The facts, Mr. President, we need facts. We have none. What does the other side want to spend to investigate this collection of wild, unsubstantiated allegations?

Let us start with travel: $40,000 is budgeted at a time when the voters are fed up with congressional junkets. Yet the committee will be jetting around the globe looking for more lost clues. We ought to call this expense "Air October" or better yet "Air Sick." Then we have $400,000 for more staffers. Just what Congress needs, a few more staffers. And we have a budget item of $72,000 for consultants. There is even $15,000 budgeted for special stationery. Why in the world are we spending $15,000 for "October Surprise" stationery. That will be a real keeper for the archives. I am surprised there is not a budget item for "October Surprise" T-shirts or coffee mugs.

Add all of this on top of the nearly 70 staffers and a $3 million budget that the Foreign Relations Committee already gets. Voters all across America, and even Democratic leaders are saying we should pay more attention to domestic problems and issues. So what does this resolution propose? That we give more tax dollars to the Foreign Relations Committee to investigate some wild ravings, wild ravings about foreign affairs that supposedly happened more than a decade ago.

If the voters want any proof that Congress does not understand or respond, this resolution is absolute convincing proof.

Some say we should pursue this just to lay it to rest once and for all. Mr. President, with that rationale, then why not investigate all the persistent allegations of vote buying by Democrats in the 1960 Democratic Kennedy campaign? Why do we not lay that to rest?

Frankly, Mr. President, we will never lay this to rest until we lay the President to rest. There will always be conspiracy-minded partisans who, for a buck or for a book contract, will be willing to smear the President and those around him. I think the taxpayers and our country have suffered this partisan witch hunt long enough. Sooner or later our constituents are going to think that the United States and U.S. Senate stands for unending scandals. It is time to bring the scandalmongering to an end, Mr. President, before our scandalmongering becomes itself a scandal.

As I said, the only "October surprise" envisioned by this investigation is an October 1992 surprise. I think it is entirely inappropriate to proceed with this resolution. I certainly hope cloture will not be invoked.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. McCONNELL. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. I thank the Chair, and I thank the Senator from Kentucky especially for what he just said. From time to time, Mr. President, it is becoming difficult to hold our heads up and call ourselves Senators. One really wishes maybe by now we might be to the point where Gilbert and Sullivan could relieve us of the unending pain of what we are doing to ourselves.

Fortunately, the Senator from Kentucky spoke with wit and made light of some of the idiocies and the ironies that are upon this. And my friend from Rhode Island also has wit. And I know him to be a friend, but this is not worthy of his committee.

What we are faced with here tonight is silly, it is petty, it is political and the country cannot stand all that. They have watched us be silly and petty and political and they watched us make fools of ourselves and they are used to it.

But what the country should not have to do is what the Senator from Kentucky just pointed out that they are going to have to do, should this resolution pass, is pay hundreds of thousands of dollars to prove what they already know to be the case. There is absolutely nothing that substantiates any kind of venture such as this. No doubt, no unusual kinds of things that sit in the bank, nothing.

What the public's interest is, besides a sort of prurient kind of current affairs type of interest is, I assume, what we do to ourselves. The public knows. The public has spent its hard-earned money learning this already. Why they should say that we are behind the expenditures of more funds to play political party games is beyond me. We are looking at trying to find some kinds of reasons for two failed Presidents, that of Bani-Sadr and that of Jimmy Carter.

I say to my friend I thank him for having wit. I find myself without any tonight as I look at what I am asked to vote on in behalf of the public that we all serve.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I yield 2 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I will speak briefly. First of all, I want to commend my friend from Kentucky for the very scholarly presentation he has made. As a member of the Foreign Relations Committee, I followed this debate and approached it with an open mind and there is absolutely nothing there to investigate.

Several of our national publications have completely blasted this theory. We are in a situation where we are wasting money. It is an absurd proposition. I could repeat many of the arguments that Senator McCONNELL has made, but I shall not do so except to say that as a member of the Committee, as one who has looked over the various documents and heard the testimony, this is something the Senate should not do, and I shall vote against it with a very firmly held conviction.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. I yield myself 30 seconds, simply to set the record straight. I am not going to attempt to answer.

The Tower Commission formed by President Reagan did not look into the 1980 allegations. The Iran-Contra committee did not investigate the allegations, had a simple footnote. The independent counsel, like the Iran-Contra Committee, was limited to the period of time covered by the Boland amendment, so they did not cover it. The truth of the matter is the October surprise has never been investigated by an official body and that is the reason we need to have the kind of investigation that can put people under oath.

Now, Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. I thank my distinguished colleague from North Carolina. I thank the chairman of the committee for his patience. I shall only take 2 minutes.

I commend the Senator from North Carolina for his initiative in sponsoring this resolution. Indeed, this matter has not previously been investigated except by a number of prominent investigative journalists who have laid on to the public record sufficient facts to raise very troubling questions about what did occur.

I have taken note of the reports by other journalists who have sought to debunk the theories put forward by Mr. Gary Sick, by Nightline, by Front Line, and others. But, Mr. President, more than sufficient evidence remains on the public record to warrant the kind of inquiry that the resolution before us would authorize.

Much has been made about the nature of some of these characters who have spoken out as part of these investigations. It is a fact that the kinds of people who are sought out as intermediaries in the sort of deal that is alleged here are frequently people of slippery reputations. The fact that those reputations now are used to indict what they are saying is perfectly fair, but they were not chosen by those who wished to investigate this matter as witnesses because of their reputations. They were chosen because they were the people who were sought out allegedly as intermediaries.

I believe that the evidence remaining, which has not been rebutted, is sufficiently powerful and credible to warrant not a presumption of any guilt of what has happened but a presumption that it does deserve to be looked into.

I shall vote for this matter, and I commend my colleague from North Carolina.

Mr. SANFORD. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. PELL. I thank the Senator from North Carolina.

As we all know, our Committee on Foreign Relations ordered reported Senate Resolution 198, the resolution to authorize and provide supplemental funds for inquiry into the allegations concerning the release of the American hostages in Iran.

The reports do keep coming up over and over again that someone may have tried to make a deal that involved delaying the release of the hostages in Iran in 1980 for political purposes. We all trust and believe that this is not correct, but the allegations keep rising, and I would think that those who are most vociferous in their opposition would really be enthusiastic if we are all equally sure that there is no fire where the smoke is.

Accordingly, it is my own view that this subject should be examined once and for all if for no other reason than the charges could finally be laid to rest, which would be a great relief to all of us, Democrats and Republicans alike.

Finally, I applaud the conscientious, nonpartisan manner in which the responsibility for this important task has been assumed by the chairman of the Subcommittee on Near East and South Asian Affairs, Senator SANFORD, and by the ranking minority member of our subcommittee, Senator JEFFORDS.

I yield the floor.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 12 minutes.

Mr. SANFORD. I recognize the Senator from Maryland, and yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I thank the able Senator from North Carolina. I commend him and the ranking minority member of the subcommittee, the very able Senator from Vermont, for their efforts to move forward on a fair and objective investigation.

Mr. President, I think the best way to start is to quote from a letter, an open letter to the United States Congress from a number of former American hostages in Iran. I now quote:

> For the last 10 years there have been rumors, reports and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently * * *

And this letter is dated June 13 of this year—

> these allegations have been dismissed as unsubstantiated, but substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter. It is not appropriate to say there is insufficient proof until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena powers. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

The sort of inquiry that they are asking for has not been conducted, and that is what this resolution, which is before us, is all about. This is not, as one of my colleagues said, a silly or a petty or a political matter. It seems to me people on both sides of the aisle ought to be concerned with having a proper inquiry in order to find out the answers to these questions that have been raised.

Yesterday, before our committee, Charles W. Scott, one of the hostages, a very impressive witness said:

> I'm frustrated. I want to see the thing put to bed one way or the other so we can get on with the important things that the United States has to face in the future.

And he later went on to say:

> I do find it appalling though that as a private citizen, if this thing took place, the question is how far will people go to ensure that their candidate is elected to the highest and most powerful position on the face of this Earth today. And that is really the question, and that is what bothers me. I want to believe that within our constitutional framework and our electoral process that is the way people reach that highest office in the land. And I'm not saying in this case, because you have no information. In fact, you might as well know this. I voted for President Reagan in '84. I voted for President Bush in '88. So I have no political or personal ax to grind on this thing.

And he went on then, Mr. Scott, to conclude, saying,

> The best shot we have to get at the answer is to go forward with this investigation.

I have heard Gary Sick put down here on the floor of the Senate tonight. All I can say to that is we have here a book, the "October Surprise," which is a very careful, reasoned book which deserves to be addressed on its own terms.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. SARBANES. It deserves to be examined.

If the Senator will just give me 30 seconds.

Sick was for 24 years an officer of naval intelligence. He served on the National Security Council, first under President Ford, then through President Carter's term, and then for a few months during Ronald Reagan's term.

The allegations which are widespread need to be addressed. They are not going to go away, obviously.

It seems to me the responsible thing to do is for the country to go forward with this inquiry, use the subpoena power, the other resources available, and try once and for all to find out the answer to these disturbing questions.

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes remaining.

Mr. McCONNELL. Mr. President, I yield 2 minutes to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

What we have before us today is the granddaddy of all conspiracy theories—the so-called October surprise.

This theory has a life of its own. It was born amid the followers of Lyndon LaRouche, and nurtured by the enterprising investigative journalists at ABC's "Nightline" and PBS "Frontline." Now that the key sources of the theory have been thoroughly debunked, one would think we could allow the theory to die a long-overdue death. But for some reason, we undertake a Senate investigation, at a cost approaching $600,000 in order to keep it alive awhile longer, which would amount to a full employment act for a number of lawyers as well.

I have watched some of this story unfold from my vantage point as vice chairman of the Senate Select Committee on Intelligence. When some of these allegations arose during the confirmation hearings of Robert Gates, we explored the credibility of some key sources such as Ari Ben Menashe and Richard Babiyan. In doing so, we found that we could quickly dismiss them.

I was bothered, Mr. President, when we heard no retractions when ABC News finally got around to polygraphing Mr. Menashe and discovered that he was not telling the truth. Instead, they simply turned to other sources such as Jamshid Hashemi. If it is possible to find a witness less credible than Ari Ben Menashe, I think ABC News may have found one in Mr. Hashemi.

Until I saw the recent pieces in Newsweek and the New Republic, I was quite concerned that American investigative journalism was headed straight for the supermarket tabloid rack. Thankfully, some investigative journalists working for the New Republic and Newsweek directed their considerable talents toward seeking the truth, and in the process, may have helped to save the medium itself.

Here is what the New Republic said in its November 18 article entitled "The Conspiracy that Wasn't."

> * * the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Sur-

prise stands up to any scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false.* * *

Newsweek, in its November 11 edition, said:

Newsweek has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply do not hold up. What the evidence does show is the murky history of a conspiracy theory run wild.

Mr. President, I ask unanimous consent those two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Newsweek, Nov. 11, 1991]

MAKING OF A MYTH

It is a story that will not die—a dark tale of conspiracy and political intrigue that, if true, would constitute something like an accusation of treason against George Bush, the late William Casey and other members of Ronald Reagan's 1980 presidential campaign. Briefly put, the "October Suprise" theory holds that Bush or Casey—or possible Bush *and* Casey—cut a secret deal with Iran in the summer or fall of 1980 to delay the release of 52 U.S. hostages until after the November elections. Their objective, or so the theory holds, was to deny Jimmy Carter whatever political advantage the hostages' last-minute release might create—or, in short, to swing the 1980 election toward Reagan and Bush.

The October Surprise theory has been kicking around for the past 11 years, and it has become a mother lode for conspiracy junkies of all political persuasions. It got its biggest boost early this year when Gary Sick, a former member of Jimmy Carter's National Security Council staff, wrote an article on the op-ed page of The New York Times asserting his belief that it could have happened. Sick, who has already written a *much praised book* ("All Fall Down") about the Iran hostage crisis, is about to publish a second book laying out his case for the October Surprise. The new book, to be published this week by Random House, is entitled "October Surprise." The Senate Foreign Relations Committee, meanwhile, voted last week to launch an investigation of the October Surprise theory, and the House Rules Committee is scheduled to vote this week whether or not to launch a separate investigation headed by Rep. Lee Hamilton of Indiana. So, true or not, the October Surprise is about to become yet another exhibit in the Beltway's chamber of Alleged Political Horrors—to escalate, along with the BCCI scandal, the Iran-contra affair and the savings and loan crisis, from cocktail-party gossip to subpoenas, sworn testimony and endless disputes among lawyers, investigators and witnesses.

Like all good conspiracy theories, this one forces all who would deny it to prove a negative—to prove that something did *not* happen. As any logician can testify, proving a negative is *ultimately impossible*. Equally disturbing, the October Surprise theory has now become complicated and so hideously detailed that no reasonable person can say with absolute certainty that there was no conspiracy and no deal. *But* NEWSWEEK has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply *do not hold up*. What the evidence does show is the murky history of a conspiracy theory *run wild*.

GOING MAINSTREAM: A STORY IS BORN

Washington in the fall of 1980 was, like the rest of the United States, obsessed with the U.S. Embassy hostages in Iran. It was a national crisis: public officials, the voters and the news media were grasping at every rumor. Jimmy Carter, then running for a second term, was almost completely preoccupied by obscure events half the world away; so was the Reagan campaign. In April, the Carter administration launched a desperate military gamble to extract the hostages from captivity, and failed, miserably, in the smoking wreckage at Desert One. The campaign proceeded: Carter turned back Edward Kennedy's challenge in the Democratic primaries, and Reagan dispatched George Bush. The hostage crisis, seemingly at an impasse, continued to simmer amid the hullabaloo of an election campaign. The election came and went with Carter's landslide defeat—and in December, with the hostages still held in Iran, rumors of some sort of backstage contract between the Republican campaign and the Iranian government first appeared in print.

The outlet was hardly prestigious: the Executive Intelligence Review, a periodical published by followers of right-wing political extremist Lyndon LaRouche. On Dec. 2, 1980. EIR ran a story alleging that former secretary of state Henry Kissinger, a target for LaRouche followers, "held a series of secret meetings during the week of Nov. 12 in Paris with representatives of Ayatollah Beheshti, leader of the fundamentalist clergy in Iran." This was attributed to "Iranian sources" in Paris. The article continued: "Top level intelligence sources in Reagan's inner circle confirmed Kissinger's unreported talks with the Iranian mullahs, but stressed that the Kissinger initiative was totally unauthorized by the president-elect. 'If you know any way of controlling that man,' said one Reagan insider, 'please let me know'." (Kissinger said the EIR report was "totally untrue.")

The story said that this meeting was the climax of a prior liaison: ". . . it appears that the pattern of cooperation between the Khomeini people and circles nominally in Reagan's camp began approximately six to eight weeks ago, at the height of President Carter's efforts to secure an arms-for-hostage deal with Teheran. Carter's failure to secure the deal. which a number of observers believe cost him the Nov. 4 election, apparently resulted from an intervention in Teheran by pro-Reagan British intelligence circles and the Kissinger faction."

EIR said that its source "stressed" that those involved in this effort "did not have the approval of Ronald Reagan himself." Fast-forward to 1983, when the LaRoucheans returned to the story. An article in the Sept. 2 issue of their journal New Solidarity gave more detail. "During the pre-election period, Carter and his crowd were frantically trying to negotiate a deal based on arms and spare-parts shipments, which Iran desperately needed after the outbreak of war with Iraq on Sept. 22 . . . The deal . . . fell through when the hard-line mullahs boycotted the Majlis in late October. Ayatollah Beheshti—known as the most pro-Soviet of the mullahs—was the key mover behind this."

When the story got its next boost—in an April 1987 article in The Miami Herald—it was from former Iranian president Abolhassan Bani Sadr, by now in exile in Paris. Bani Sadr "said he learned after the hostage release that two of the Ayatollah Ruhollah Khomein's advisers had been involved in negotiations with the Reagan camp. The negotiations were to delay release of the hostages until after Reagan became president . . . The former president identified the two as Hashemi Rafsanjani [now himself Iran's president] and Mohammed Beheshti." Bani Sadr said he had asked both men about this. "'They laughed.' he said. 'They didn't say no'."

The Herald's story didn't get much play. But when Bani Sadr next spoke, to Flora Lewis of The New York Times in August 1987, the story grew. With The New York Times, Bani Sadr was more specific than he had been with The Miami Herald. He said negotiations with the Carter administration had been going well. "But then in October, everything suddenly stopped. My aides found out it was because the group in charge of the hostage policy, Rafsanjani, Mohammed Beheshti and Khomeini's son, did not want Carter to win the election. There was a meeting in Paris between a representative of Beheshti and a representative of the Reagan campaign." These and subsequent events, Lewis wrote, "confirm for him persistent rumors that the Reagan campaign offered arms if the hostages were not released until after the 1980 election. . . ." The story had finally made it into the mainstream.

The timing was propitious—high summer, so to speak, for conspiracy buffs. The reason was the Iran-contra scandal, which proved that the Reagan administration had indeed engaged in secret dealings with Iran. Although the exact starting point of those secret negotiations remains obscure to this day, it seems clear that the roots of Iran-contra run deeper than anyone has been able to document publicly. The Reagan White House, it seems clear, was obsessed by Iran during the early 1980s. Iran-contra also showed that the administration was eager to engage in covert action, and that it was ready to lie, destroy documents and cover up a range of covert activities that violated the law.

Contragate, in short, created fertile ground for the October Surprise theory. Reporting in November 1987, the joint investigating committee created by the House and Senate relegated the October Surprise rumors to a footnote. "There have been allegations that officials of the 1980 Reagan campaign—in order to prevent a pre-election announcement. by President Carter (an 'October Surprise')—met with Iranian emissaries and agreed to ship arms to Iran in exchange for a post-election release of hostages," the report stated. "Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian emissaries about potential release of hostages, as were other campaign staffs. The committee was told that the approaches were rejected and found no credible evidence to suggest that any discussions were held or arrangement reached on delaying release of hostages or arranging an early arms-for-hostages deal."

It is likely that the October Surprise would have died somewhere in late 1987, except for the appearance of a group of apparently knowledgeable, conspiracy-minded "super-sources." Journalists are vulnerable to the lure of a super-source—another Deep Throat, someone who knows all and pieces everything together in a nice, neat package. In the October Surprise case, there are four would-be Deep Throats: Barbara Honegger, Richard Brenneke, Jamshid Hashemi and Ari Ben-Menashe. At some point each has claimed first-person knowledge of the conspiracy. The stories they told overlapped in broad outline—and in some cases, they compared stories, swapped details and helped each other become more convincing. Journalists committed to the notion of the October Surprise often acted as a conduit between them.

Barbara Honegger: Honegger was a researcher in Reagan's 1980 campaign and worked at the White House and the Justice Department until 1983. In summer of 1987, Honegger claimed that in late October 1980, in the Reagan campaign headquarters in the Washington suburb of Arlington, she had heard a jubilant staffer say, "We don't have to worry about an October Surprise. Dick cut a deal." Dick, presumably, was Richard Allen, the Reagan campaign's top foreign-policy adviser and subsequently Reagan's first national-security adviser. It was the first confirmation from inside—a bull's-eye for the conspiracy theorists and the journalists who were following their trail.

But there were several problems. The most basic was that Honegger was never able to identify this alleged staffer or say whether she had any reason to believe the staffer knew what he was talking about. The second was that Honegger, who published a book, "October Surprise," in 1989, herself seemed to have some difficulty in separating fact from fiction. Even Christopher Hitchens, a columnist for The Nation magazine and a sometime proponent of the October Surprise theory, said her expose was "diffuse and naive."

Richard Brenneke: A businessman from Portland, OR, Brenneke claims to have worked for the CIA for 18 years as a contract operative. He met Honegger in August 1988 in Washington, where she told him about her theories on the October surprise. Brenneke, astonishingly enough, claimed he had been present when the deal was done. He said the meeting had taken place in Paris, at the Hotel Raphael, on Oct. 19, 1980. And Brenneke confirmed what Honegger already thought: William Casey, then Reagan's campaign manager and later CIA director during Iran-contra, had represented the Reagan-Bush campaign. Donald Gregg, then a member of Jimmy Carter's National Security Council staff and later a national-security adviser for Vice President Bush, had been there, too. The Iranians were two arms dealers, Manucher Ghorbanifar and Cyrus Hashemi.

Then, two weeks later, Bani Sadr expanded his previous story. In Playboy magazine, Bani Sadr made the most surprising charge so far—George Bush was also present in Paris. (In a scathing story on the October Surprise, The New Republic reported last week that Bani Sadr has now retracted his claim that Bush was present.) Brenneke said he, too, could confirm that Bush was in Paris—and he said so, under oath, in Denver on Sept. 23, 1988.

Brenneke was testifying on behalf of Heinrich Rupp, 58, a pilot and gold dealer who had been convicted of bank fraud. Rupp was an old friend, Brenneke said, the two had been involved in covert ops for the CIA. Brenneke gave senstational testimony. He said he had worked for the CIA for 18 years, until 1985. He said that on Oct. 19, 1980, Rupp had flown "Mr. Bush, Mr. Casey, and a number of other people to Paris, France, from the United States for a meeting with Iranian representatives." Brenneke said he had been directly involved in one of what he said were three meetings with the Iranians. He listed the Americans present as Bush, Casey, Donald Gregg and Richard Allen. He said the Iranians included Hashemi Rafsanjani, who was then speaker of the Iranian Parliament and now president of Iran, and Cyrus Hashemi.

Brenneke's testimony made news—and among those who read it, with mounting fury, was the investigator from Sen. John Kerry's subcommittee, Jack Blum. Blum had spent thousands of hours checking what Brenneke had told him and had begun to believe that Brenneke was a fraud. The final proof, for Blum, came when he read Brenneke's assurance to the judge in Denver. "I will say, your honor, I have made these statements to Senator Kerry's committee and the United States Senate—again, under oath. . . ." Blum knew that was not true Brenneke had never mentioned any involvement in the October Surprise. Blum pressed the U.S. attorney's office in Denver to file perjury charges, and Brenneke was indicted in May 1989.

The trial, in April 1990, pitted Brenneke against the U.S. government—and the government lost. Donald Gregg, now U.S. ambassador to South Korea, testified he had not been in Paris on Oct. 19 or 20, 1980. Two of Casey's former secretaries said he had not been out of the country at that time. Two Secret Service agents said they were guarding Bush on the campaign trail when the meetings allegedly took place. A CIA records specialist said there was no trace that Brenneke had ever worked for the agency. But the government's case was sloppy, and Brenneke's lawyers played on the jury's doubts so skillfully that Brenneke was acquitted. In the process, he said he never meant to testify that he had actually seen Bush in Paris—only that he had been told Bush was there.

Ari Ben-Menashe: Ben-Menashe first surfaced as an October Surprise source in 1990, while he was being held in a federal prison in New York City on charges of attempting to sell U.S.-made military transport planes to Iran. Tried in October, he was acquitted after maintaining he had the secret approval of both the Bush administration and the Israeli government. Although Israeli officials deny it, Ben-Menashe claims he was an Israeli intelligence agent and an adviser to Prime Minister Yitzhak Shamir.

Like Richard Brenneke, Ben-Menashe has been interviewed many times by journalists looking into the October Surprise (NEWSWEEK, Nov. 4). Ben-Menashe says he, too, was in Paris on Oct. 19–20, 1980, as a member of a six-person Israeli team that helped set up the meeting. He says he saw Bush and Casey there, and that they were accompanied by Robert Gates, who is now George Bush's nominee as CIA director. He says the Iranian delegation was led by the Ayatollah Mehdi Karrubi, not Cyrus Hashemi and Manucher Ghorbanifar. He told NEWSWEEK that the meeting took place at the Hotel Ritz, not the Raphael or Crillon as Richard Brenneke claims; he also told another investigator, Israeli author Shmuel Segev, that the meeting was held at the Hotel George V. ABC News gave Ben-Menashe a lie-detector test in November 1990; according to Christopher Isham, an ABC producer, Ben-Menashe failed it.

Jamshid Hashemi: Jamshid Hashemi is a younger brother of Cyrus Hashemi, an Iranian arms dealer who died in London in 1986. Jamshid has been a source for ABC News and for "Frontline," the PBS documentary program. He claims that he, his brother Cyrus and Karrubi met William Casey in a hotel in Madrid in July 1980, to begin negotiating a secret deal with the Reagan-Bush campaign. There is at least some corroborating evidence for this claim. For one thing, knowledgeable officials agree that Cyrus Hashemi played a minor role during the hostage crisis—offering to help establish communications between the Carter White House and Iranian leaders. For another, as ABC-News reported, the register at the Madrid Plaza Hotel actually shows that "A. Hashemi" and "Jamshid Halaj" were registered as guests at the time in question, late July 1980.

MEETINGS AND MIXED MESSAGES

There are, of course, myriad further details to these shifting and mutually contradictory allegations. But the essentials are clear. There were two sets of meetings, the first between Karrubi, the Hashemi brothers and William Casey in Madrid, and the other in Paris in October. The second meeting involved either Casey and Gregg—or Casey, Bush and Gates—on the American side. On the Iranian side, depending on which "witness" is believed, it involved either Cyrus Hashemi and Manucher Ghorbanifar or the Ayatollah Karrubi. Bush, Gates and Gregg have all denied that they were in Paris on those dates, and that they ever tried to arrange a deal with any Iranian leaders. Casey is of course dead. So is Cyrus Hashemi. Ayatollah Karrubi has denied ever visiting Madrid.

A team of NEWSWEEK correspondents has spent much of the past eight weeks exploring the evidence for these allegations. The NEWSWEEK team believes that:

Casey did not go to Madrid: Jamshid Hashemi told his story at length to PBS's "Frontline" series in April and to ABC's "Nightline" in June. He would not appear on camera for either program, and he did not reply to NEWSWEEK's requests for an interview. He alleges that in March or April 1980, Casey made contact with Cyrus and himself while the pair were on a visit to Washington. Casey, he says, wanted to establish contact with an Iranian who was close to Ayatollah Khomeini. The brothers agreed to act as gobetweens. The meeting took time to set up, but in July, Cyrus asked Jamshid to bring the Ayatollah Karrubi from Teheran to Madrid to meet with Casey. According to Jamshid, Mehdi Karrubi arrived with his brother Hassan.

They talked with Casey over two consecutive days, Jamshid says—two morning sessions of some three hours apiece. Then in August, Jamshid says, there was a second meeting between Casey and Karrubi, also in Madrid. After an exhaustive search of press reports, of Casey's diaries and of the diaries of his colleagues, ABC's "Nightline" reported that there was a three-day window—July 27, 28 and 29—during which Casey's whereabouts were unknown. On the 30th, ABC reported, Casey was being interviewed by an ABC correspondent at Reagan campaign headquarters and dined that night with Bush in Washington.

But Casey's whereabouts during the July "window" are convincingly established by contemporary records at the Imperial War Museum in London. Casey, it turns out, took a three-day breather from the campaign to participate in the Anglo-American Conference on the History of the Second World War. As a veteran of the Office of Strategic Services—the forerunner of the CIA—Casey delivered a paper on OSS operations in Europe during the war. He went to a reception for conference participants on the evening of July 28, and he was photographed there. He delivered his papers on the morning of July 29.

ABC News acknowledged these facts in an update later in June—but still maintained that Casey had enough time on July 27 and 28 to fly to Madrid to meet with the Iranians. A close examination of the conference records by Newsweek, however, demonstrates that Casey in fact was present at the conference sessions in London on July 28. Historian Jonathan Chadwick, who organized the conference, kept a precise, day-by-day and session-by-session record of who was present and who was not. According to Chadwick's records, Casey was present at 9:30 a.m. on the 28th, stayed for the second morning session, leaving after lunch and returning at 4 p.m. He was also present, of course, on the 29th, when he delivered his paper. "I was very excited that such a big man was coming, but it turned out to be a disappointment," Chadwick said. "He just talked it through in a very gravelly voice. He came over as a very tough sort."

There are records showing where Casey slept and ate as well—at the Royal Army Medical College, close to the Imperial War Museum. Officials there say they have a bill in the name of "W. Casey" charging him for a room on the nights of July 27 and 28, and for "messing" (eating a meal) on the 28th and 29th. There is, in short, no possibility that Casey could have held meetings with anyone on two successive days in Madrid.

Finally, there are large questions about Jamshid's story. He told ABC's Ted Koppel, for instance, that he and Cyrus made big profits in the arms trade as a direct result of the meeting in Madrid. But there is little evidence that the Hashemis had much money to spare. Elliot Richardson, who was Cyrus Hashemi's attorney in a 1984 arms-smuggling case, said that Cyrus seemed to be dealing in a "remarkably petty" quantity of arms.

The Paris meeting did not occur: The vast discrepancies between Ben-Menashe's account and Brenneks's account show, at the very least, that one of the two men is lying. But the weight of evidence suggests that both versions are false.

Ben-Menashe has changed his story repeatedly: did it happen at the Ritz, as he told Newsweek, or at the Hotel George V, as he told Shmuel Segev? He is also confused about dates. In an interview with NEWSWEEK, Ben-Menashe said he was sure it was Oct. 19 or Oct. 20 because it was close to the Jewish festival of Sukkot. Sukkot, a movable feast, occurred on Sept. 25 in 1980.

There is reason to believe, meanwhile, that Brenneke was nowhere near Paris on Oct. 19–20, 1980. The evidence consists of Brenneke's own credit-card receipts and desk diary for that period of time. According to a recent story in New York's Village Voice newspaper by Frank Snepp, a former CIA agent who is now a freelance journalist and investigator, Brenneke's credit-card receipts show that he stayed at a motel in Seattle, Wash., from Oct. 17 to Oct. 19. His desk calendar, Snepp also reported, showed that he was home in Portland on Oct. 20. These records, Snepp said, were shown to him by Peggy Adler Robohm, a writer who at first admired and wholly believed Brenneke's stories. Robohm got the records from Brenneke himself, during a short-lived collaboration on his autobiography. Fearful of being caught in a literary fraud, Robohm ended their collaboration last summer.

(Brenneke did not return repeated calls from Newsweek. But one of his lawyers, Mike Scott, said Snepp's story was false.)

There is, finally, solid evidence that George Bush did not go to Paris on Oct. 19–20, 1980—the U.S. Secret Service logs recorded where candidate Bush was on those days. Those logs show that Bush campaigned in New Jersey and Pennsylvania on Oct. 17, and that he went to the Chevy Chase Country Club, outside Washington, during the day on Oct. 19. They also show that he delivered a campaign speech before the Zionist Organization of America at a Washington hotel that night. The logs show that he returned to his home at about 9:30 on the night of the 19th. The next day, Oct. 20, the Secret Service logs and press reports both record that Bush was back on the campaign trail in New Haven, Conn. Given the travel time involved, there is no reasonable possibility that he could have flown to Paris, met the Iranians and returned to the United States in that time period.

These details may or may not convince conspiracy theorists who cling to the October Surprise—just as the Warren Commission report failed to convince a whole generation of would-be investigators that Lee Harvey Oswald, acting alone, killed John F. Kennedy. But the evidence on, Bush and Casey's whereabouts—and on the bona fides of their accusers—must also be considered against the broad history of U.S.-Iran relations in the 1980s. Indeed, the October Surprise theory, rests on two broad-brush assumptions that are highly suspect.

One is the notion that Iran must have gotten U.S. weapons from the Reagan administration in return for delaying the hostages' release. Despite the record of the Iran-contra scandal, however, there is oddly little evidence of any substantial weapons "payoff" to Iran. An authoritative analysis by the Stockholm International Peace Research Institute shows that Iran spent approximately $5 billion on arms between 1980 and 1983—and $3 billion of that total went for military equipment from communist-bloc countries. It is true, apparently, that Israel supplied Iran with $50 million worth of spare parts for U.S.-built F-4 Phantom jets in the spring of 1980. But $50 million is chicken feed for swinging a U.S. presidential election. And Iran never got spare parts for its more potent F-14s, which rarely flew during the Iran-Iraq War but which could well have deterred Iraqi air attacks on Teheran and other cities. Only the United States could have provided the parts. Arms dealer Ian Smalley, who made a fortune selling weapons to Iran, says he does not believe that the Reagan administration cut a deal. "If the U.S. had been in the market, we would have been out of business," Smalley said.

A second pivotal notion is that secret negotiations on the hostage issue between the Carter administration and the Iranian government inexplicably broke down during October 1980. (Gary Sick, among others, places great emphasis on this fact.) But Iranian leaders were arguably distracted by the outbreak of the Iran-Iraq War, which began on Sept. 22. In a report for the Council on Foreign Relations, former Carter administration official Harold Saunders argues that the war "diverted and absorbed the attention of Iran's leaders"—and Saunders said that only "skillful management" by Rafsanjani got the Iranian Parliament to resolve its disagreements on the hostage issue. If, as some October Surprise proponents have claimed, Rafsanjani participated in the alleged secret deal with the Reagan campaign, why did he try to resolve the hostage impasse while Carter was still in power? Then, too, many Iranians hated Jimmy Carter. Eric Rouleau, who is now France's ambassador to Turkey, was a journalist, in Teheran at the time. Rouleau, who knew many Iranian leaders personally, says he heard no gossip about any pending deal with the Reagan campaign. But the Iranians were well aware that releasing the hostages could help Carter win the election—and Rouleau says there was "a lot of discussion, lots of declarations, to the effect that the Iranians would never give any kind of 'gift' to President Carter."

There is, finally, one tantalizing coincidence in the secret record of the hostage crisis. On July 1, or July 2, 1980, Cyrus Hashemi met with a member of the Iranian leadership at the Ritz Hotel in Madrid. He was, apparently, acting as a go-between for the Carter administration, which by then was desperately seeking some new avenue to reopen the hostage negotiations. (That meeting, Newsweek sources say, led to a last-ditch diplomatic initiative by Secretary of State Edmund Muskie in September.) Within a week, according to Bani Sadr's diaries, Bani Sadr was told by the Ayatollah Khomeini's nephew that Iran had been approached by Reagan's men with a proposition on the hostages. The meeting site—Spain—was mentioned. Could it be that the Ayatollah's nephew confused Reagan with Carter—and that the whole notion of the October Surprise stems from that simple mistake?

[From the New Republic, Nov. 18, 1991]

THE CONSPIRACY THAT WASN'T

(By Steven Emerson and Jesse Furman)

Few op-ed pieces prove to be as popular or long-lived as the one Gary Sick wrote for *The New York Times* last April. He claimed that in October 1980 officials in Ronald Reagan's presidential campaign made a secret deal with Iran to delay the release of the American hostages until after the election. In return, the United States purportedly arranged for Israel to ship weapons to Iran. The charges of an "October Surprise" weren't new. They had been circulating in the press since 1987. But Sick, who had served on Jimmy Carter's National Security Council staff and is the author of the acclaimed *All Fall Down* (1985), an account of the 1980 Iran hostage crisis, gave new impetus to the story. So did a show the following day by PBS's "Frontline," in which Sick was featured.

When Sick first wrote about the release of the hostages in his book, he explained that there were several reasons they were freed in January 1981: Iranian enmity for Carter, the complications of unfreezing Iranian assets, the disorganization of the Iranian regime, and the protracted nature of U.S.-Iranian negotiations. But in his op-ed piece, Sick wrote that in preparation for a new book on Iran, *October Surprise* (to be published this month), he interviewed "hundreds of people" who told him about a secret Reagan-Bush hostage deal in 1980. What finally persuaded him was "the absence of contradictions on the key elements of the story" provided by his sources. Sick became convinced that William Casey, then Reagan's campaign manager, had met secretly in Madrid in the summer of 1980 with Iranian intermediaries to negotiate a secret deal, and that Casey and other officials met in Paris in October 1980, after which Iran broke off negotiations with the Carter administration. Sick also wrote that three of his sources saw then Vice President George Bush in Paris as well, but that "in the absence of further information, I have not made up my mind about this allegation."

The Sick piece and the "Frontline" story prompted a spate of alarmed editorials, an indignant request from former President Carter for a "blue-ribbon panel" to investigate the charges, and congressional inquiries into the October Surprise.

But the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Surprise stands up to scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false, and their stories, full of internal inconsistencies, are also contradictory. Almost every primary source cited by Sick or "Frontline" has been indicted or was the subject of a federal investigation prior to claiming to be a "participant" in the October Surprise. Finally, evidence we have uncovered shows that William Casey and George Bush could not have been present at the meetings alleged by the sources.

The term "October Surprise" was actually coined by Reagan campaign aides who worried in the fall of 1980 that Carter would launch an operation to free the hostages in order to win the election. Thus in the fall of 1980 members of the Reagan campaign team often met to discuss developments regarding the hostages. there was concern that Carter would do something to exploit the hostage situation, and some of the things the Republicans did—such as stealing Carter's debate book—were sleazy. But they certainly did not amount to treason, as proponents of the October Surprise have charged.

The conspiracy theory began to catch on in April 1987. On the front page of the *Miami Herald*, Alfonso Chardy reported on a secret meeting in early October 1980 with Richard Allen and Laurence Silberman, then foreign policy advisers to Reagan, and Robert McFarlane, then an aide to Senator John Tower on the Senate Armed Services Committee. The article said they "met secretly" (it was actually in the hotel lobby) for "20–30 minutes" at the L'Enfant Plaza Hotel in Washington, D.C., with a "man who said he represented the Iranian government and offered to release to candidate Reagan 52 American hostages being held in Tehran." Allen told the House Foreign Affairs Committee last May that he went at the "insistence" of McFarlane, who only indicated that the meeting was about the Middle East. Although the article quoted Allen as saying that he rejected the man's offer as "absurd" and told him to deal directly with the Carter administration, the article strongly implied that this meeting was part of a new scandal linked to the Iran-contra affair. Allen's decision not to inform Carter officials of the meeting fueled suspicion about the story.

Abolhassan Bani-Sadr, the president of Iran from January 1980 through June 1981, was quoted as claiming that he "learned in 1981" that Iranian leaders Ali Akbar Hashemi Rafsanjani and Mohammed Beheshti had collaborated with Reagan campaign aides to release the hostages. (Beheshti and Rafsanjani, bitter political opponents of Bani-Sadr, had forced him from power. Beheshti was later killed by a bomb in 1981, and Rafsanjani is now president of Iran.) Bani-Sadr also charged that the Reagan officials had promised Iran that it would receive weapons for its war with Iraq. But Bani-Sadr stipulated that the promises of weapons were not linked to the release of the hostages—and furthermore, he didn't know if any weapons were eventually shipped.

In early July 1987 the October Surprise got a big push from the *Nation* with Christopher Hitchens's charge that the Reagan campaign assured the Iranians that "if they kept the American hostages until after the election," the Iranians would be rewarded with arms. Hitchens quoted Barbara Honegger, a Reagan campaign researcher and low-level worker in the Reagan White House, as saying that in late October 1980 she had overheard an unidentified "staffer" say, "We don't have to worry about an 'October Surprise.' Dick cut a deal," presumably a reference to Richard Allen.

As these charges began circulating, Bani-Sadr's memory improved dramatically. On August 3 Flora Lewis reported in a *New York Times* column, based on an interview, that Bani-Sadr now held without doubt that the "Reagan campaign offered arms if the hostages were not released until after the 1980 election." He also asserted that in October 1980 his "aides found out" that Rafsanjani and Beheshti had delayed the release of the hostages, that there was a meeting between Beheshti and a "Reagan campaign official" in Paris, and that he "learned later" that Allen, Silberman, and McFarlane met with an Iranian envoy in Washington.

Bani-Sadr's memory continued to improve. On August 9, 1987, *Miami Herald* reporter Chardy quoted him as now saying that "secret contacts between Reagan and Khomeini representatives" had fixed a deal in October 1980 to free the hostages. (Note that according to Sick in a 1988 *Los Angeles Times* story, "Bani-Sadr had nothing to do with the negotiations. He was completely out of it.") The article also reported that the Reagan administration approved of, or at least condoned, Israeli arms sales to Iran in 1981. All the ingredients for the cabal were now in place.

Then, in an August 1987 interview with Leslie Cockburn for her book *Out of Control*, Bani-Sadr said that he knew ahead of time that Rafsanjani and Beheshti sent an Iranian envoy to meet with Allen and Silberman and that he even protested to Rafsanjani and Khomeini that it was "dangerous" to renege on the negotiations with Carter. Remember that initially he claimed to have no prior knowledge of any such meeting. Later he said he "learned" about the meeting in 1981. Now he was saying that he knew of the meeting ahead of time.

It got better. The following year, in a September 1988 article in *Playboy* by Abbie Hoffman and Jonathan Silvers, which painted the most comprehensive October Surprise conspiracy to date, Bani-Sadr said definitively that George Bush was the Reagan campaign official who met in Paris with Beheshti in October 1980. (A year later Bani-Sadr said he had a "document" showing that Bush was present at the meeting—but he could not disclose the document because "the life of the writer . . . and the lives of many people would fall into danger.") Bani-Sadr's accusations about Bush prompted an editorial in *The Washington Post*—not especially disposed to defending Bush in general—in October 1988 that noted Bani-Sadr's motivation in "smearing Bush." The *Post* wrote, "Bani-Sadr has to hope that U.S.-Iranian relations will continue to be antagonistic if the Iranian opposition is ever to have a chance of gaining important American support. His effort to smear Bush betrays concern about tension lessening if the Republicans stay in power."

Emboldened by the eager response to his allegation by international journalists, Bani-Sadr wrote his memoirs, which went beyond even the October Surprise conspiracy. In My Turn To Speak: Iran, the Revolution & Secret Deals with the U.S. (published in France in 1989, and in the United States in 1991), Bani-Sadr portrayed himself as a man victimized by the double dealings of the Khomeini regime and the Reagan campaign.

At the same time a new "source" emerged—who was fortuitously able to confirm Bani-Sadr's allegations. His name was Richard Brenneke, an Oregon businessman, and he surpassed even Bani-Sadr in his ability to recall events that he had admitted earlier he knew nothing about.

Brenneke claimed to have worked for the CIA and FBI in addition to the Mossad and the French, Italian, and other intelligence services. He first surfaced in late November 1986, immediately after the official disclosure of the Iran-Contra affair, when he claimed that he personally had informed then Vice President Bush's office in February 1986 of secret details of the Iran-Contra affair. Reporters flocked to Brenneke as he began propounding incredible tales of U.S. and other covert operations. For example, he was a primary source for a front-page New York Times story on February 2, 1987, about the "Demavand project," a purportedly classified CIA-Pentagon operation to ship billions of dollars of sophisticated weapons, including tanks, bombers, and helicopters to Iran. Brenneke, the article reported, had provided the Times with "documents and tel-exes" including a letter of reference, dated June 20, 1979, which stated that he had been employed by the CIA for thirteen years and that the CIA "found him to be thorough, competent, and very trustworthy."

The CIA and the Defense Department issued categorical denials of the story. Other reporters at the Times began looking into Brenneke's allegations and his background. Both began to collapse. According to a veteran New York Times reporter, "We soon found out that Brenneke was . . . an absolute liar. Even the documents he gave us were forged, including the CIA letter of reference."

At The Portland Oregonian, reporters were amused at Brenneke's celebrity status: the paper had reported weeks earlier that Brenneke had greatly "exaggerated" his role in arms sales, that he had said he couldn't remember if he worked at the CIA, that none of his international arms dealing ever came to fruition, and that he had been the subject of an FBI investigation for his suspected role in a check-kiting scheme and a forged airplane title report years earlier.

For the most part, however, the press was willing to suspend disbelief. ABC News quickly ran a series of "investigative" stories based on new Brenneke allegations. In April 1988 the network aired a report based on a "confidential source"—who the network later admitted to be Brenneke—alleging that in 1983 the United States, working with Israeli intelligence, secretly flew weapons to the contras and used the planes on their way back to transport drugs into the United States.

Newsweek followed up with a story by Robert Parry that provided even more details about Brenneke's allegations, including the charge that Donald Gregg, Vice President Bush's national security adviser (now ambassador to South Korea), was part of the drugs-for-weapons operation. Parry suggested that he had independent confirmation of the ABC allegations, but Brenneke was the only named source for both news organizations. Over the next five months Brenneke's claims were the focus of more than 200 national news stories and columns. (One of the few reporters to raise questions about Brenneke was Mark Hosenball, who wrote an article for TNR in June 1988 saying that Parry and ABC had uncritically bought the story of an unreliable witness.)

It seemed there wasn't anything Brenneke did not know. He told The Los Angeles Times that he supplied explosives to a PLO training camp located in western Oregon, a camp about which Oregon law enforcement knew nothing. He told the Seattle Times of his knowledge of Israelis training Colombia drug cartel hit squads. He told the Detroit Free Press that he supplied U.S. intelligence with information from an Iranian military officer that included maps of Qaddafi's headquarters two months before the United States bombed Libya in April 1986. He quickly discovered that it was possible to get away with any allegation in the national security arena: if an intelligence agency already suspect in the public's mind, denied something, that merely reinforced the authenticity of the charges.

By late September 1988 Brenneke, having never mentioned anything about the October Surprise, suddenly emerged as the primary source of the conspiracy in the United States. His disclosures came right after he met Honegger, the former Reagan campaign aide, in August 1988. Honegger had become one of the leading champions of the October Surprise. She claimed to have her own intelligence and confidential sources who "confirmed" the conspiracy and began working on a book called October Surprise, published in 1989.

Honegger herself was no stranger to controversy. A believer in paranormal events (she has an unusual master's degree in "parapsychology"), she claimed a "source" with her voice contacted her in early 1980 to tell her she would get a job with the Reagan administration. She said that an intelligence officer told her that U.S. satellites parted the clouds during Reagan's inauguration to let the sun shine only on Reagan. When she resigned from the Reagan White House, she told a reporter that she had been guided by insights that she described as "channeled information . . . as if it were from the future."

Honegger says in her book that she met Brenneke on August 22, 1988, in Washington. At the meeting, Brenneke told her that he had learned from his "Iranian contacts" that a secret meeting was held at the Raphael Hotel in Paris on October 19, 1980, between William Casey, Donald Gregg, Iranian arms dealer Cyrus Hashemi, and Iranian merchant Manucher Ghorbanifar. Brenneke told Honegger that he was not present at the Paris meeting, but that he had been in the city that weekend and that his presence there was purely "coincidental."

Honegger, who had been in touch with Bani-Sadr and was eager to substantiate his story about Bush attending the secret Paris meeting, recounted the allegations. What could Brenneke tell her about "Bush's possible participation"? she asked. Brenneke said he would "make a few phone calls to see the 'lay of the land,'" and would get back to her.

A week later the Playboy article hit the stands.

On September 23, 1988, Brenneke suddenly recalled that he had attended at least one of the meetings in Paris in October 1980, that there were a total of three meetings held on October 19 and 20, 1980, and that he had played a pivotal role in the October Surprise deal. Brenneke was appearing that day as a character witness at a Denver court for the sentencing of his friend Heinrich Rupp. Trained as a Nazi pilot, Rupp was a Colorado gold dealer who had been convicted of bank fraud and sentenced to forty-one years in jail. Brenneke told the court that Rupp had been prosecuted to shut him up about his involvement in flying Reagan campaign aides to Paris in October 1980.

Brenneke testified that on October 18, 1980, Rupp participated, at the request of the CIA, in a flight taking Bush, Casey, Allen, and Gregg to a meeting in Paris with Iranian representatives to work out a deal to delay the release of American hostages until after the election. He said that Rupp had been a long-time CIA pilot, and that Rupp personally flew Casey to France. Brenneke also said that he attended the third meeting, at which Casey and Cyrus Hashemi (both men were dead by the time of Brenneke's testimony) and Gregg also participated.

Brenneke went on to say that a CIA officer named Robert Kerritt had given him instructions to go to Paris. And as a result of the meetings with Casey and Bush, he claimed that he witnessed an agreement over the "logistics of transferring $40 million [in U.S. funds] for the purchase of weapons [for Iran]." Asked whether he ever played a "role in conveying or transferring that money," Brenneke said, "I don't believe so."

After the February 1987 New York Times article had appeared, Brenneke had been contacted by Jack Blum, special investigator for the Senate Subcommittee on Terrorism, Narcotics, and International Operations, headed by Senator John Kerry. He met with Brenneke for hundreds of hours, and a year and a half later Brenneke began telling newspapers that Blum and the other staffers corroborated his allegations about the October Surprise. Moreover, Brenneke testified under oath in the Rupp hearing that he had provided the October Surprise information to the Senate subcommittee and that it was later confirmed by the staffers.

Yet according to Blum and other Senate staffers, not only did Brenneke never mention the October Surprise; the subcommittee found him to be an outright liar. The committee obtained thousands of pages of documents from law enforcement and intelligence agencies and discovered, says Blum, "that nothing he said was true—he had made it up based on what he read in the newspaper or what he was told."

The Senate subcommittee released a 1,166-page report in December 1988, in which two pages are devoted to Brenneke. Among the conclusions: "The records show that Brenneke was never officially connected to U.S. intelligence." The report noted that Brenneke "began telling his stories about his 'secret' life as a spy" after being stopped by the U.S. Customs Service on his way back from Europe and asked about documents relating to arms deals. "His response was to offer to become a Customs informant," stated the report. Customs declined the offer. The report also noted that "Brenneke applied for a job with the CIA when he finished school but his application was rejected."

By May 1989 Brenneke's stories began to catch up with him. A Denver grand jury indicted him for perjury for making false declarations under oath to a federal judge in the Rupp hearing. Brenneke's trial took place in Portland, Oregon, in April 1990. A CIA official testified that not only had Brenneke and Rupp never worked for the CIA; the agency had never heard of anyone named Robert Kerritt—Brenneke's supposed contact. Secret Service agents testified that Bush had not left the country in the two weeks before the election; two of Casey's secretaries said the same thing about their boss. Then Gregg testified that on the weekend of October 18 and 19, 1980, rather than being at the Paris meetings as Brenneke claimed, he was on vacation at a beach in Delaware; on Monday, October 20, he said he was back at work at the Old Executive Office Building. He recalled that the weather was cloudy and produced a photograph of himself and his daughter on the beach. The back of the photo is stamped "October 1980" from the processing lab. The photo showed a hazy but party sunny sky.

In response, Brenneke's lawyers produced Robert Lynott, a retired Portland TV weatherman who testified that his review of the weather reports showed there were overcast and rainy conditions most of that weekend in Deleware—and that therefore the photo must have been taken at a different time. This turned out to be the key piece of evidence on which the jury concentrated.

Following a three-week trial, Brenneke was acquitted, thanks to the prosecution's incompetence and overconfidence and the defense's success in shrouding Brenneke in the smoke and mirrors of the intelligence world. The prosecution was roundly criticized for not asking for or admitting any documentary evidence. The Secret Service agents didn't bring records to the trial, which made them vulnerable on cross examination. Casey's two secretaries admitted that Casey kept secrets from them, which rendered their testimony questionable in the minds of jurors.

Prosecutors did not introduce into evidence Gregg's datebook, which has the word "beach" penned on the October 18 weekend, or the four computerized White House memoranda that he sent from and received in his office on October 20. Thus the jury became preoccupied with the questions raised by the defense about the alleged date of the photograph. Three jurors later admitted that their "doubt" about the photograph was the main reason they had acquitted Brenneke.

Despite the litany of Brenneke's inconsistencies, October Surprise supporters touted his acquittal as proof of his veracity. Sick says: "Brenneke had the courage of his conviction in taking on the U.S. government on three key allegations [about the presence of Bush, Casey, and Gregg at the Paris meetings], and he was acquitted. . . . The evidence on George bush not being in Paris is less persuasive than that of Donald Gregg. The way Bush has dealt with this is very suspicious. There is not a single shred of evidence that Bush was where he said he was." "Frontline" embraced Brenneke's trial defense that the weather conditions on the Delaware shore on October 20, 1980, were incompatible with the Gregg photo, claiming that "U.S. government documents show the weather was cold and cloudy that weekend on the Delaware shore." In fact, detailed hourly weather maps of that weekend from the National Oceanic and Atmospheric Administration show that on Sunday afternoon weather conditions were compatible with the picture Gregg produced.

"Frontline," Sick, and October Surprise conspiracy supporters also rely on the "eyewitness testimony" of Brenneke's good friend Rupp. Weeks after Sick published his op-ed piece, in which he indirectly cited Brenneke and Rupp (though not by name), when questioned by reporters skeptical about Brenneke's credibility, he disclaimed any reliance on him. Rupp, however, was still a primary source. He has maintained that his involvement in a loan fraud, which led to the collapse of the Aurora Bank in Colorado in 1985, was actually due to the CIA, for whom he said he was working, as part of a "national security operation" related to Iran-contra.

Like Bani-Sadr and Brenneke, Rupp's sudden recall of the October Surprise came about belatedly. Only after his conviction for bank fraud, Rupp began telling newspapers and TV stations that he flew Casey to Paris on October 18, 1980, and insisted that Bush was present on the tarmac at the French airport. There are numerous inconsistencies in Rupp's account. He was unable to produce any proof that the worked for the CIA, and the plane he said he piloted to Paris that weekend, according to leasing company records, was actually parked in California. Furthermore, Rupp's passport (and Brenneke's too, for that matter) shows no exit from the United States or entry into France in October 1980. Rupp has told reporters he didn't know who his passengers were at the time of the flight to Paris. He claims only to have recognized the "Old Professor" six years later when Casey was shown "testifying on television" about the Iran-contra scandal (a dubious detail, seeing that Casey had a stroke a day before the televised hearings). Rupp also said it was only years later that he recognized the "tall man with the crooked eyes"—the person at the Paris airport—as George Bush. Is it conceivable that Rupp would not have recognized Bush or Casey when he saw them? After all, he claims to be a long-time CIA employee and pilot—and Bush was head of the CIA four years before. Moreover, Brenneke says that Rupp was one of "Casey's favorite pilots."

As for the allegations about Bush's presence in Paris on October 19 and 20, Secret Service records and contemporaneous news accounts of Bush's speeches show indisputably that he is publicly accounted for almost hourly—in numerous campaign stops—from October 15 through the late evening of October 18. On Sunday morning, October 19, according to information obtained by Gordon Crovitz of The Wall Street Journal, Bush had a private lunch with Judge Potter Stewart at the Chevy Chase Country Club. And Secret Service records show that agents went to the club to provide protection for Bush that Sunday morning. On the evening of October 19 Bush spoke at a campaign event at the Washington Hilton, which is substantiated by newspaper accounts. On Monday, October 20, according to a schedule released by the White House and confirmed by newspaper and wire service reports, Bush campaigned the entire day in several cities in Connecticut.

When confronted with this information, October Surprise buffs either claim that the Secret Service records were fabricated or maintain that Bush could have flown to Paris on the Concorde and technically returned eight hours later. But if he did fly via Concorde (or any other high-speed plane), it conflicts with all of the statements made by Rupp and Brenneke, who said that Bush and Casey has flown to Paris on October 18 on a BAC–111. Nor is it compatible with any of the statements made by the other key sources used by "Frontline" and Sick.

By any measure of honest reporting, the October Surprise conspiracy should have died long ago. But like a version of the child's game "telephone," the story had taken on a life of its own, changing and expanding as it went from source to source. More and more "eyewitnesses" began emerging who often appropriated elements of the conspiracy, swapped lies among themselves or were prodded by journalists, and then wove new tales inserting themselves as minor or major characters. Though Bani-Sadr has consistently claimed to have his own proof of the conspiracy, for his book his only evidence was excerpts from Brenneke's court statements in the Rupp hearing. An October Surprise cult emerged, fueled by entrepreneurial journalists who had made the allegations into a lucrative cottage industry. PBS's "Frontline" documentary, for example, cost about $200,000 to $250,000 to produce, paid partially by taxpayer funds.

"Frontline" touted Brenneke's acquittal on perjury charges, declaring that "the government tried and failed to prove that William Casey was not in Paris." "Frontline" and Sick did not tell the public about Brenneke's numerous misstatements, discrepancies, and prevarications, which cast doubt on the credibility of the entire October Surprise scenario. On "Frontline" Brenneke said again that Gregg and Casey traveled secretly to Paris in October 1980. (Allen had produced a videotape of his October 19 appearance on "Meet the Press," so his name did not come up this time.) But Brenneke changed his story once again. In September 1988 he testified that he did not play a role in the transfer of $40 million in weapons to Iran; on "Frontline" he said that he was instructed by Casey at the meeting to launder the $40 million through a Mexican bank and that he did so.

Rather than rely exclusively on Brenneke, Sick and "Frontline" featured new sources who they said "confirmed" each other's accounts. These included Houshang Lavi, Ari Ben-Menashe, and Jamshid Hashemi. Lavi, an Iranian-born arms dealer, claimed he was the unidentified Iranian emissary who met with Allen, McFarlane, and Silberman in Washington in early October 1980 at the L'Enfant Plaza Hotel. "Frontline" quoted Lavi as saying that he witnessed Khomeini's representatives being allowed to enter NATO bases in Europe and "pick whatever they want" for shipment back to Iran.

What "Frontline" and Sick did not reveal was the following: (1) Lavi's claim to have met the three Reagan supporters has been denied by McFarlane, Allen, and Silberman. (2) The only independent record of Lavi's meeting with anyone in 1980 are memoranda from the John Anderson campaign showing that he approached Anderson campaign officials on October 2 offering to secure the release of the hostages if the United States would unfreeze Iranian assets and provide F–14 spare parts. The campaign referred him to the State Department. (3) Lavi implied that he was acting on behalf of Bani-Sadr, but the State Department, according to 1980 department documents, found that he "had no authority to speak on behalf of Bani-Sadr," that he was a "self-appointed middleman" who was trying to broker a deal by going back to each party showing he had lined them up, and that "Lavi was a thoroughly disreputable character." (4) American and European defense and intelligence officials say it is ludicrous to believe that Iranians were escorted to NATO bases to play a military version of "supermarket sweep." (5) Since 1988, when Lavi was "discovered" by Honegger, he has made a series of unsubstantiated allegations, including that Customs Service agents assassinated an informant (Cyrus Hashemi) by pumping poison gas into his hospital room.

Even more than Lavi, "Frontline" and Sick relied heavily on the statements of Ari Ben-Menashe, an October Surprise source who only surfaced in 1990. "Frontline" described Ben-Menashe as a "former Israeli intelligence officer" and aired his claim to be "one of half a dozen Israelis sent to Paris at Casey's request to help coordinate arms deliveries" to Iran. "Frontline" reported that Ben-Menashe "saw a man [he] believed to be Bush" in Paris. Sick used Ben-Menashe as one of his major sources in proving that the October Surprise happened, that Casey was a key participant, and that Israel shipped weapons as part of the "deal."

Apparently emboldened by the acceptance of his allegations on "Frontline" and by Sick, last spring Ben-Menashe told several Australian newspapers and In These Times that he saw Bush arrive at a meeting on October 17 or 18, 1980, at a "top-floor conference room" in Paris, shake hands with Mehdi Karrubi, a leading Iranian cleric, and "close the door." But none of the other "eye-witnesses" and "sources" had ever mentioned Ben-Menashe's presence in Paris or that of any other Israelis, or of Mehdi Karrubi. Moreover, all of the reported sightings of Bush took place on October 19 or 20—not on October 17 or 18. Ben-Menashe has also claimed that Israel shipped more than $82 billion in arms to Iran since 1980—more than thirty-five times Israel's defense imports and domestic weapons production!

In an interview with In These times last April, Ben-Menashe claimed that it was he—not Lavi—who met to discuss the hostages in early October at the L'Enfant Plaza Hotel with Allen, McFarlane, and Silberman.

Without providing any evidence—despite repeated promises to reporters and to congressional officials to hand over "documents"—Ben-Menashe has belatedly become a key insider on other topical issues. He has claimed to have detailed inside knowledge of the Inslaw case. He said that he met many times with Robert Gates in Chile and the United States, and even that he transferred a suitcase containing $16 million to Gates at one point. (The CIA and the National Security Council provided documents to the Senate Intelligence Committee showing that Gates was meeting elsewhere at the time of every meeting cited by Ben-Menashe.) Ben-Menashe has said that McFarlane was a paid Israeli agent since 1978, had received "millions of dollars from Israel, and was the secret "Mr. X" in the Jonathan Pollard spy case. He even says that the United States, through Israel, shipped "billions of dollars of arms" to Iraq. He has become an "expert" on Israel's nuclear program—despite the fact that he never had any connection to it. He has claimed that in 1981 he planted the homing device at the Osirak reactor before it was bombed by Israeli planes, but records show he wasn't out of the country then. He has told Israelis and journalists that he was even offered to be head of the Mossad, Israel's secret intelligence service, but that he declined.

Sympathetic reporters uncritically portray Ben-Menashe as a "senior Israeli intelligence officer" and a "national security adviser" and "special emissary" to Israeli Prime Minister Yitzhak Shamir. In a recent interview, Sick said: "I am satisfied that Ben-Menashe knows a great deal. He has told me three or four things that I was able to corroborate. He told me he was an officer in a sigint [signal intelligence] unit. I have made no attempt to corroborate any of his other information [beyond allegations of 1980]." Seymour Hersh's new book, The Samson Option, which describes Israel's nuclear program and intelligence activities, uses Ben-Menashe as the primary source. Hersh said in an interview that Ben-Menashe was in sigint, that he was a "key player," and that "the Israelis want to hurt him bad" for his leaks of high-level classified information. But Hersh didn't interview Ben-Menashe until April, and he told The New York Times that he did not go to Israel to investigate Ben-Menashe's allegations or credibility. Hersh claims, incorrectly, that he would have been subject to Israeli censorship. What's more, according to U.S. and Israeli government documents and officials, Ben-Menashe was never in sigint, and the Israelis have never even attempted to initiate legal proceedings against Ben-Menashe, an act they would have obviously pursued if he were the source of important leaks. The closest access Ben-Menashe ever had to intelligence was his work as a low-level translator for the Israel Defense Forces External Relations Department from 1977 through 1987. Contrary to Hersh's assertion that the department is one of the most sensitive branches of military intelligence, it is in fact, compared with other branches, one of the most insignificant.

Ben-Menashe's responsibilities included translating letters and reports between the Israeli military and foreign military attachés. They did not include any translations of cables, though Israeli officials acknowledge that he did have access to minimally classified information, including a report in 1986 prepared for the United States discussing Israel's request to replenish weapons that it supplied to Iran as part of the Iran-contra operation. This alerted him to Israeli involvement in the affair, and to Iran's desperate search for weapons.

Like others before him, Ben-Menashe's recall of the October Surprise came about belatedly—after he was arrested in 1989, imprisoned for a year, tried, and ultimately acquitted in 1990 on charges of illegally trying to export planes to Iran. According to his own letter of resignation, he left in 1987 because he had not received a promotion in many years. (Ben-Menashe has told reporters that he was fired for leaking a covert operation.) His personnel file notes that he was denied a special security clearance at one point because he was considered "delusional." It also says that he had begun trying to peddle weapons in scams in Chile (where he impersonated an Israeli embassy official), Singapore, and Sri Lanka (where he impersonated a Hebrew University professor). Since 1987 he has periodically charged foreigners with being Mossad agents, without any evidence. The most recent and notorious of these claims, which appears in Hersh's new book, is against media giant Robert Maxwell, who has sued.

In 1989 Ben-Menashe was arrested in California along with two Americans. A U.S. Customs agent, posing as a buyer for Iran, tape-recorded some of the conversations in which the men offered to ship the military transport planes to Iran, using a false end-user certificate, for $12 million apiece. Ben-Menashe was going to obtain the transport planes from Israel. The trial of Ben-Menashe and one of the Americans was held in 1990 in New York (the other was tried in California); Ben-Menashe was eventually acquitted. Most of the evidence that the prosecution introduced was directed against his co-defendant, and the evidence submitted against Ben-Menashe was insufficient to convict him.

Yet the court records and information provided by prosecutors show how wildly inconsistent Ben-Menashe's story has been. In 1988 he told a Time reporter that he was involved in a "secret operation" to free American hostages in Lebanon by arranging the sale of planes to Iran through Israel. But a short while later Ben-Menashe told a U.S. Customs undercover agent that since 1987 he had been "self-employed as a journalist and a translator and a political writer doing a lot of traveling . . . [and] that he had no ties with the Ministry of Defense." The undercover agent also testified that Ben-Menashe revealed to him that he was trying to obtain planes from Israel to be sold to an arms buyer. At pretrial, however, Ben-Menashe told attorneys that he became involved in plane sales to Iran because he wanted to expose Israel's covert operations. Ben-Menashe said he was acting as an "undercover journalist gathering information for a book" to "expose the ugly role of Israel and the United States in weapons sales."

During and after the trial, Ben-Menashe contended that he was one of the leading intelligence agents in Israel: Ben-Menashe's lawyer told the court that only three people in Israel were "privy to what was going on with Iran-contra"—Shamir, Israeli counterterrorism official Amiram Nir, and Ben-Menashe. Ben-Menashe claimed that Shamir dispatched him personally to carry out an operation to investigate who was trying to sell planes to Iran. Accordingly to sworn affidavits, Israeli officials in the office of the prime minister, including Shamir himself, never heard of Ben-Menashe.

Despite his brazen claims of being a "senior intelligence officer," Ben-Menashe went to extraordinary lengths to prevent the prosecution from obtaining his personnel records. He refused to sign a waiver authorizing the Israeli government to release his records to the U.S. court, telling his lawyers and the prosecutor that to do so would constitute a violation of the "Official Secrets Act in Israel," punishable "by death." In fact, there is no such thing as an "Official Secrets Act" in Israel, and there is no death penalty for releasing classified information—nor for that matter has Israel ever invoked its death penalty, with the notable exception of the execution of Adolf Eichmann. The judge compelled Ben-Menashe to sign the waiver. The records were then produced, which showed he was just a translator.

As a final defense, Ben-Menashe supports claim that he must be credible because he knew of the Israel arms sales to Iran before they became public. But Israel officials note that this knowledge can be explained both by his work translating letters to the United States in 1986 and by the fact that rumors of Israeli arms sales to Iran had circulated routinely throughout the Israeli Ministry of Defense. Ben-Menashe supporters also cite the numerous trips abroad he made from 1980 through 1987, evidence, they claim, that he was a secret agent. Yet his trips were on non-paid leave, and were recorded in his civilian passport. He never possessed a diplomatic passport as he claimed.

The last "new" primary source used by "Frontline" and Sick was Jamshid Hashemi, an Iranian middleman. His account added a new dimension to the October Surprise: he claimed that, in addition to the meetings in Paris in October 1980, there were earlier meetings in July and August of 1980, which Casey attended and at which the "deal" was actually made to delay release of the hostages.

In interviews on "Frontline" and with Sick, Jamshid said that in July 1980 he and his brother Cyrus (who died in 1986) met secretly in Madrid with Casey, a "senior CIA officer," and Iranian cleric Mehdi Karrubi. Jamshid said that Casey urged that "the Iranians hold the hostages until after the election," and that he, Cyrus, and Karrubi attended a second meeting with Casey in August in Madrid, where "Karrubi expressed acceptance . . . the hostages would be released after Carter's defeat." In his op-ed piece, Sick accepted uncritically Jamshid's claims that he and his brother helped put the final touches on an agreement between Casey and Iran that weapons would be supplied if Iran delayed the release of the hostages.

Missing from Sick's and "Frontline"'s recounting are revelations of Cyrus's and Jamshid's backgrounds that show their credibility problems to be even worse than those of Brenneke and Ben-Menashe.

Cyrus Hashemi was a typical Iranian middleman, trying to marry up business deals between Iran and other countries by inflating his importance to each side. According to declassified CIA documents and American intelligence officials, in early 1980 he offered his services to the Carter administration in getting the hostages released in return for spare parts for Iran. His lawyer, former Attorney General Elliot Richardson, put him in touch with the State Department. During the abortive attempt to free the hostages in April 1980, Cyrus offered to organize assistance from supporters in Tehran. The State Department even supplied him with funds, through the CIA, to assist him. But Cyrus failed to demonstrate that he had any connections in Tehran, and the CIA concluded that "his offers were part of a scam." All contact was dropped with Cyrus.

Cyrus was only one of several self-anointed Iranian intermediaries who purported to speak for Iran in dangling the freedom of the hostages in exchange for military weapons. Sick himself observed as much several years ago, in a chapter for the 1985 Council of Foreign Relations anthology *American Hostages in Iran: The Conduct of a Crisis:* "Throughout the late summer and fall of 1980, the Carter administration had been approached by private individuals claiming to speak for Iranian authorities . . . the evidence strongly suggested that these were private entrepreneurs who saw the possibility of some lucrative business for themselves."

In mid-1984 Cyrus, Jamshid, and a third brother, Reza, were indicted for their illegal efforts from October 21, 1980, through November 1981 to ship tens of millions of dollars of military equipment to Iran. After learning about the Hashemis' secret contacts with Iranian arms procurement officials in September 1980, FBI agents wiretapped Cyrus's office and temporary apartment in Manhattan. According to a transcript of one conversation on October 21, 1980, Cyrus and several Americans discussed plans to fulfill a request from Iranian officials for Cyrus (who had told them that he could obtain badly needed weapons) to arrange the exporting of arms. In the conversations Cyrus admitted that the project was illegal and suggested various ways of avoiding detection. That was the day after Brenneke had said Cyrus was in Paris meeting with Casey. In a subsequent interview with ABC's "Nightline," Jamshid made another startling claim: that starting in August 1980, after the "deal" was concluded with Casey, tens of millions of dollars of American-made weapons were shipped by boat to Iran from Israel. No evidence exists to support the claim, but if it is true, why would the Hashemis have worked so feverishly to obtain weapons in October through what they knew were illegal means?

Reza pleaded guilty, but Cyrus and Jamshid fled to Europe to avoid arrest. Cyrus retained several lawyers, including Richardson, who asked Casey, unsuccessfully, for special dispensation for his client in light of his earlier "assistance" to the United States in 1980, referring to his secret work with the State Department. When that failed, Cyrus attempted, again unsuccessfully, to negotiate for charges against him to be dropped in return for his cooperation in interceding with Iranian officials to secure the release of the hostages in Lebanon. Throughout this period neither Cyrus nor Reza nor Jamshid ever revealed to their attorneys or to U.S. government officials their alleged secret meetings with Casey in 1980. Is it conceivable that these men, who were desperate to get the charges against them dropped and were threatening, according to memorandums of conversations between Justice and CIA officials at the time, to reveal anything they knew, would not have threatened to disclose the most damaging information they possessed—a secret deal between Casey and Iran in 1980?

According to court records, in 1985 Cyrus, still a fugitive from Justice, became involved with a group of international arms dealers, including Americans and Israelis, trying to sell arms to Iran. Cyrus then asked his attorneys to relay to the Justice Department his offer to serve as an informant in the arms transaction in return for dropping the charges. The U.S. government agreed only to be "lenient" with Cyrus. He accepted. Soon thereafter the Customs agents, as part of a giant sting operation, began working with Cyrus overseas and in the United States to record secretly his conversations with the arms dealers.

Cyrus died on July 21, 1986, in London. A coroner's report attributed his death to a virulent strain of leukemia, which had been diagnosed only days before. A U.S. Customs Service agent attended the autopsy and concurred in its conclusions. Nevertheless, Hashemi's supporters, including attorney William Kunstler (who represents one of the arms dealers) and "Frontline"'s Parry have stated that his death was "mysterious," that Cyrus was murdered to shut him up about what he knew about the October Surprise, and that the U.S. government has covered up his murder. Kunstler, who says that "there are suspicious needle pricks on both elbows" about the case, points out that The Village Voice is seriously considering paying for an exhumation. If anyone had an incentive to kill, Cyrus, however, it was the arms dealer. After all, it was Cyrus's death that forced the government to drop its case against these men.

On July 20, after Sick and "Frontline" had aired Jamshid's charges, ABC's "Nightline" picked up on them. In an off-camera interview Jamshid described the meetings in Madrid at which the deal was allegedly arranged. At the first of them, which he said covered two consecutive days in "late July," Casey and two unidentified Americans first proposed the deal to Mehdi Karrubi, a "close associate" of Khomeini. The Hashemis allegedly served as interpreters. According to Jamshid, the parties met in Madrid again two weeks later, when Karrubi conveyed Khomeini's approval of Casey's offer. "Nightline" and The Financial Times of London investigated Jamshid's charges and claimed to have found evidence that corroborated the story.

Among the "evidence" was the fact that hotel records indicate a Jamshid Halaj and an A. Hashemi checked into the Madrid Plaza in late July, and an Ali Balnean in August. These names allegedly confirmed Jamshid's recollection that he and his brother often used aliases. Jamshid even furnished "Nightline" with a business card using the name Ali Balnean. ("Nightline" also said that the name Robert Gray was in the hotel records. Robert Gray is a Washington public relations executive who served as Casey's top deputy in the 1980 campaign. He supplied "Nightline" with his passport, which indicated that he had not left the country in July or August 1980.) Even if one were to believe that the records were not altered, with the Hashemis running around the globe attempting to broker arms deals it would hardly be surprising that they had been in Madrid during the time Jamshid is talking about. Casey, however, was not.

"Nightline" said that Hashemi's accounts of the meetings were supported by the fact that William Casey was unaccounted for in the public record between August 8 and August 13, as well as July 27 to July 29. It is true that Casey was absent from the public record for a week in August, but it is surely more likely that he was busy with the Reagan campaign than flying off to Madrid. "Nightline" offered more "evidence" in support of the July absence: an unrelated article from The New York Times on July 30, 1980, about the complaints of a right-to-life group over Bush's selection as vice president, quoting a Reagan spokesman as saying Casey would deal with the group, "when he returns [today] from his trip abroad." (In a side note, "Nightline" did report that Jamshid Hashemi said Bush did not attend the alleged October Paris meetings as claimed by a number of others.)

However, "Nightline" had failed to find out that Casey was not in Madrid, but in London, at the Anglo-American Conference on the Second World War. So at the end of an unrelated show a week later, having been contacted by some of those who had attended the conference with Casey, "Nightline" provided a brief update on their previous report. They said that it had been confirmed that Casey had presented a paper on special operations in France during World War II on the morning of July 29, and showed a picture of Casey with some others taken at a reception on the evening of July 28. Ted Koppel said this would leave July 27 and early on July 28 for Casey to have met in Madrid (it is a ninety-minute flight from Madrid to London).

But "Nightline" was wrong again. Jonathan Chadwick, the secretary of the British planning committee for the conference, showed us documents from the conference, which chart the attendance of each participant at each session as well as their accommodations. Casey is not only accounted for on the evening of July 28 and the morning of July 29, but also for the night of July 27 and all day, except for a brief absence, on July 28. This makes Jamshid's story of two consecutive days of meetings impossible.

Not surprising, after the "Frontline" and Sick airing of the October Surprise, new "sources" emerged to tell of their dealings with Bush and Casey. Gunther "Russ" Russbacher claimed that he was the "smoking gun" in the October Surprise conspiracy. He told Marc Cooper of the Village Voice, in a story published this past August, that as instructed by his "big boss" at the CIA, he—along with "co-pilot" Richard Brenneke—flew Bush and Gregg back and forth to Paris in October 1980. What's more, Russbacher claimed that he flew back to the United States in a SR-71 supersonic high altitude spy plane in a flight that lasted ninety minutes. "Sitting next to me was George Bush," throughout the flight.

Russbacher gave his interview to The Village Voice from prison, where he is serving a twenty-one-month sentence for impersonating a federal officer. Yes, he too claims that he was framed by the CIA to shut him up. But he would not be silenced. And as noted by the Voice, Russbacher "has already become a sought-after guest on the radio talk show circuit (from a phone inside the prison) and his story has elicited queries from ABC 'Nightline,' NBC, CBS, The New York Times, Newsday, USA Today, San Diego Union, San Jose Mercury News, Dallas Morning News and other publications."

The Voice revealed that Russbacher had a lengthy relationship with federal authorities, going back to 1965 when he was arrested for impersonating a U.S. marshal, to his army desertion in 1967, his false claim that he was an Army major, and his escape from prison in 1975. In 1987 he pleaded guilty to securities fraud.

For believers in the October Surprise, no doubt there are other "sources" out there, waiting to provide their own testimony. Yet the story has finally begun to unravel—and at least one star witness seems to have caught himself in his own web of lies. The Voice, which has been a proponent of the conspiracy, published a piece in September declaring that Brenneke "was nowhere near the alleged conspirators' meetings in Madrid and Paris in 1980, where he claims he helped Republican big-wigs negotiate a secret hostage deal behind Jimmy Carter's back." The author, Frank Snepp, had obtained Brenneke's diaries and credit card receipts, which showed that between 1980 and 1982 Brenneke "was never away from his favorite Portland restaurants and shopping malls for more than a few days at a time"—despite his sworn testimony that he personally flew planeloads of arms to Iran for "four to five weeks at a time" and his claim to have met with Bush, Gregg, and Iranian intermediaries during the same period.

Brenneke had originally given his financial documents to a writer named Peggy Adler Robohm after she signed a contract with Brenneke and his agent last year to write his story. Initially an ardent believer in Brenneke, after scrutinizing his personal records Robohm found credit card bills, and personal calendar notations that showed indisputably that he had lied, and she volunteered her information to Snepp. Snepp, who had reported Brenneke's allegations as truthful for ABC News for several years, now admits that his "apparent October Surprise fabrications undercut the credibility of everything he touched." He also concedes that Brenneke's own letters "trace the evolution of his public allegations, showing how tips from journalists and other sources prompted him to change this or that date, or modify a particular story line."

Still, conspiratorialists are not easily dissuaded. Although Snepp no longer believes that Bush or Gregg went to Paris in October 1980, he believes that Casey met with Iranian officials in Madrid in July 1980 to negotiate a secret deal with the Iranians. As for Brenneke, Snepp questions whether he was deliberately planted to "sidetrack and sabotage the investigation." Nevertheless, it is important to note that despite the irrefutable evidence that Brenneke never participated in any meetings, none of the other key sources has ever disassociated himself from Brenneke.

Meanwhile, with Brenneke largely discredited, Ben-Menashe has emerged as the main source. The October issue of Esquire features an article by Craig Unger that rehashes many of the earlier allegations and Ben-Menashe's most fantastic stories about the conspiracy. Not to be outdone, Newsweek has hired Unger to be a special consultant to help promote its own October Surprise investigation, although it recently published a piece raising serious questions about Ben-Menashe's credibility.

Beni-Sadr himself seems to be tripping over misstatements he has made over the past several years. In an interview with THE NEW REPUBLIC in September 1991 at his home in Versailles, he recanted key allegations. Asked whether he still affirmed his charge in Playboy that Bush led the American side in secret Paris meetings with the Iranians and at least three arms dealers whom he also named, Bani-Sadr said, "No, that information had been given to me. So I gave the information so that it could be checked to see if they were there. For me, their presence does not matter. I have never guaranteed that those people were really those who had negotiated."

Pressed on his allegation in his book and in Playboy about Bush's presence in Paris, which he had said came from "intelligence," Bani-Sadr now backed away: "I have always repeated that I wasn't sure." He went on to say: "As a matter of fact, I am a sociologist. I do not deal with names; I deal with relations. And morally also I cannot really say if these people or other people were there because I am not sure.... I received names from Iran and I transmitted them; some proved to be true through research and others did not." Still, Bani-Sadr had a novel explanation for why he had raised the Bush charge: "It is said that Bush himself and his entourage initiated this information so they could later refute it and brand it all lies."

In the end, October Surprise believers point to their final fall-back argument: Casey was capable of doing anything. Indeed, Casey was capable of doing a lot of nasty things—as demonstrated by the Iran-contra disclosures. But no evidence has ever emerged that shows Casey at a secret meeting in Madrid or involved in any scheme to delay the release of the hostages.

On October 20, the very day that Brenneke and Ben-Menashe claim that Casey was in Paris, campaign records show that Casey had an 8 a.m. appointment at the Metropolitan Club in Washington and that he had two other appointments that day. Moreover, Richard Allen's personal telephone log shows that Casey made a telephone call to him on October 20 at 7:30 a.m., which Allen recalls as being local.

Proponents of the October Surprise theory, including Sick, cite as circumstantial evidence of a Reagan-Khomeini deal the facts that promising negotiations with the Carter administration in the fall of 1980 were broken off and that the Iranians dropped arms from their list of demands. Even here, however, the events do not support the conclusion. According to all accounts of the crisis, far from breaking off, the negotiations continued intensely through January. In September 1980 Khomeini sent his associate Sadegh Tabatabai to meet with the American negotiator, Warren Christopher, in Germany. "The first meetings were very promising." Christopher told The Los Angeles Times in October 1988. Tabatabai presented a set of moderate demands, including a U.S. non-intervention commitment, the unfreezing of Iranian assets in the United States, and the return of the Shah's wealth to Iran. In addition, Tabatabai asked for the delivery of some $350 million in arms and other military equipment that the Shah had purchased. Although Sick and other conspiratorialists remain surprised at the dropping of this demand, Christopher, who should know, notes: "I discouraged it, and it never came back. . . ." As he explained to the Los Angeles Times, "The issue of arms stayed on the table only briefly. I think they were just testing us."

In September 1980 Iraq invaded Iran. The Iraqi invasion preoccupied the Iranians, interrupting the negotiations. It was not until November 2, after they had stabilized the front, that the Iranians were able to return to the negotiating table. It was too late to reach a deal before the November 4 election. Both Christopher and Lloyd Cutler, counsel to President Carter, accept this explanation. As Christopher said: "It is an interesting question why the promising meetings we had in September ended so abruptly. . . . But I've always felt that the outbreak of the war seemed a sufficient explanation." In an op-ed piece in the New York Times, Cutler wrote that it was not until later in the fall that Hashemi Rafsanjani consolidated power, and any earlier deal would have made him vulnerable to attack from the more radical, anti-U.S. mullahs, including Bani-Sadr, who opposed the January deal with Carter as being too favorable to the United States. It was for this reason also that the Iranians rejected an October 11 offer from President Carter to provide, in exchange for the release of hostages, $150 million in arms that had been purchased by the Shah but held in the United States after the revolution. The release was in fact delayed, but it was done so unilaterally by the Iranians for their own motives—not least their enmity for Carter.

One of Sick's and "Frontline"'s major claims is that Israel served as a conduit for weapons immediately after release of the hostages. Yet none of their sources even remotely agrees on what arms were allegedly traded as a result of a deal, or how they were traded. Ben-Menashe's assertion that Israel sold $82 billion in arms to Iran over six years, mostly transported by plane, is contradicted by Jamshid Hasemi's statement that his brother arranged for the shipment of $150 million in arms by boat in four round trips from Israel to Iran between August 1980 and January 1981. Houshang Lavi declared that he witnessed Iranian officials select arms on NATO bases in 1981, and Richard Brenneke claimed that he laundered $40 million to Iran for arms purchases. And Bani-Sadr can't even get his own story straight. In In These Times he said that Iran received between $50 million and $100 million in arms during his administration. In his book and in our interview, however, Bani-Sadr denied that any large arms shipments were received when he was president, and that those promised as a result of the 1980 "deal" are continuing today.

Israel did in fact deliver arms, most probably with Reagan administration approval, in February 1981. However, State Department documents and interviews with Israeli and U.S. intelligence officials show that the amount was no more than $70 million. Moreover, the shipments were anything but an aberration. They were the resumption of what had been Israeli policy toward Iran prior to the crisis and the arms embargo, a policy that had often diverged from American interests. Israel had even continued some shipments during the embargo, but when Prime Minister Begin retroactively asked President Carter for his approval, Carter angrily refused, and no more equipment was traded. Shipments were resumed only after Carter himself, as part of a final agreement before he left office, lifted most sanctions on Iran on January 19, 1981.

Meanwhile, Sick has plunged even further into the depths of conspiracy. Several journalists say that earlier this year he told them that Gates was part of the October Surprise in 1980, and that the Senate Intelligence Committee chairman, David Boren, would not investigate because he was being "blackmailed" by the White House, which threatened to leak derogatory allegations about his personal life. According to Sick: "I never said I had personal knowledge of that. It was being told to me by other journalists." As for the bigger story, Sick says: "The whole October Surprise was a professionally managed covert action, and I'm frankly surprised that I have as much evidence as I do."

Sick's stubborn perpetuation of the story is all the more surprising given the scorn with which he greeted the Republicans' allegations in 1980 that Carter was planning an "October Surprise" to win the election. Six years ago, writing in the Council of Foreign Relations anthology, he declared: "In the last few months before the presidential elections, there were spurious reports that the Carter administration was planning a spectacular military operation against Iran. This so-called 'October Surprise' allegedly would be intended to win votes for the president. The story was a total fabrication. It was promptly denied by the White House, and a number of responsible newspapers refused to print it. Nevertheless, the story received widespread attention and soon developed a life of its own."

Mr. MURKOWSKI. Mr. President, investigative journalism is an American institution—one that we frankly depend on in a democracy. In the New Republic and Newsweek stories, I believe we witnessed a midcourse correction in investigative journalism. The journalists at those magazines, along with their editors, looked at the activities of their colleagues at "Nightline" and "Frontline" and said, "That's enough * * * this may be interesting and entertaining to some, but it isn't journalism of the sort that we want to practice." So I commend them for working to set the record straight.

As for us, Mr. President, I do not believe this is destined to be our finest hour. I heard it reported that the New Republic spent about $3,000 to disprove the October surprise theory. In true Government fashion, I predict that we will spend $600,000 to do the same thing.

Thank you, Mr. President.

The PRESIDING OFFICER. (Mr. DASCHLE). Who yields time?

Mr. SANFORD. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. I thank my friend, the Senator from North Carolina.

I think the search for truth ought to begin on this floor tonight. I find it ironic to hear my friend from Alaska saying that polygraph tests should now be used as a litmus test when some of the same Republicans were arguing about 3 weeks ago that in the case of Anita Hill, who took a polygraph test, that that should never even be brought up, much less considered in any way, shape, or form to judge the truth.

Mr. MURKOWSKI. The Senator from Alaska did not say that. ABC's news director said that.

Mr. FOWLER. I noted that the Senator from Alaska quoted that approvingly and with authority for his point on the polygraph, thus endorsing the concept.

The colonel that my friend from Maryland referred to is Colonel Charles Scott of my State of Georgia. He served our country for 31 years—in war and peace—bravely, courageously, and with distinction. He was held hostage by the Iranians for 444 days.

When the Senator from Kentucky [Mr. McCONNELL] earlier quoted Colonel Scott's testimony this morning, he stopped short of the truth. The Senator from Kentucky said "quoting Colonel Scott, 'I have no firsthand knowledge, I do not know whether it happened or not.'" Colonel Scott said that, but he said I want the truth. "We ought to have an investigation. I am no partisan," said Colonel Scott. "* * * 31 years I served my country. I voted for Ronald Reagan. I voted for George Bush. And at least we could find out the truth. Please, Senators, conduct an investigation and help us find out the truth".

That is what this is about this evening.

The PRESIDING OFFICER. Who yields time?

Mr. SANFORD. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds remaining.

Mr. SANFORD. I yield 4 minutes.

Mr. KERRY. Mr. President, I have listened to the proponents of this measure for the last 10 or 20 minutes and, in fact, everything that they have said is the reason they have made the argument for why we ought to go forward with an investigation because each and every one of them have spent time from their perspective trying to discredit each of the witnesses.

The point is there is a different point of view about these witnesses. And the question is whether we are going to have a legitimate investigation that seeks to decide in an appropriate manner who might or might not be telling the truth. The issue that is being asserted by those of us on this side is that they are not telling the truth. But this is an issue which raises fundamental questions about understanding about us, about this institution, about what happened, and we ought to answer them.

The very people who are making light of these witnesses, I might say, are the very people who made light of all the witnesses who said that the Contras were involved with drugs and arms, and those are the very witnesses today that are in the Noriega trial testifying under oath for the Government.

The people who make light of this are the very people who made light of the effort to say that General Noriega was involved in drugs and ought to be taken down, and then he was. Now he is on trial. The people who make light of this are the very people who made light of all of witnesses in the BCCI case, and now that is a matter of record.

The people that we say come up here and tell the truth so consistently have now been found guilty in our courts and are pleading guilty for having lied to the Congress.

So the question is, are we going to make an effort to find the truth or are we not? They assert that there is not somehow a record here that makes a case that we ought to investigate.

Well, Mr. President, this is an issue about that. Gary Sick, as Senator SARBANES said, as others have said, is no flake. This book is documented, and the existence of a book means that this issue will not go away. This Senate has seen fit to have an investigation of an issue not 10 years old but 20 years old, of an issue that has not had 1 or 2 investigations, but maybe 50. We have discovered 50 on the POW-MIA issue. In the hearings we held last week, we discovered already that those 50 previous investigations never even established the baseline of the numbers of people who were lost or may not have been lost. That is not even known for certainty.

There are secret lists. Right here I have a document about the arms sales, that shows that the arms sales went through BCCI, the very arms sales that were linked to this, and we know that Adnan Khashoggi had a $10 million check as part of the arms sales that went through BCCI. We are just learning about these things.

Gary Sick spent three administrations at the NSC, two of them Republicans—Reagan and Ford. He wrote a book that was highly critical of President Carter. He began his investigation for his book with a view that all of these allegations were poppycock. He did not believe them until he kept coming across them, until he discovered himself in his research that the Iranian Foreign Minister had told the Parliament on August 16 that: "The American Republican Party, in order to win the upcoming election, is trying very hard to delay the resolution of the hostage question until after the American election." He learned about the activities of Cyrus Hashemi, an international wheeler dealer who specialized in bringing Americans and Iranians together.

He kept learning about meetings that took place. So, Mr. President, the issue is whether or not we are going to perform for the American people what the hostages themselves have asked us to do. And the fact that the hostages alone have asked us, given what they went through in that desert, given the years they gave up of their lives, the danger they faced, that alone ought to require the U.S. Senate to do its duty.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from North Carolina is out of time.

The Senator from Kentucky has 5 minutes and 30 seconds remaining.

Mr. McCONNELL. I yield to the Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I believe pontificating has reached a new high in the Senate tonight. I had a call earlier this week from a North Carolinian—Democrat, by the way. I do not speak harshly about Democrats, but I would not be here had it not been for their votes along with Republicans. He said, "Jesse, you have all sorts of scams in Washington. I remember the Abscam." Then he said there was the "Iran scam." And he said now we have the "sham scam." That is what it is all about.

I wish the American people would take a look at the salaries proposed for this little fantasy that is about to unroll. They are planning to hire a chief counsel at an annual salary of $115,000. They are going to hire two associate counsels at an annual salary of $90,000 apiece. I guess that means a plain ordinary lawyer. And $80,000 each on an annual basis for four investigators. Well, it is coming down a little. That is $40,000 apiece. One executive secretary, $39,250. One security clerk at $33,500. Two paralegals, each for an annual salary of $29,625. One receptionist at $19,000. One secretary at $25,000.

I think that lays out the picture very well. It is just what the Senate has always needed: More high priced lawyers.

Mr. President, there are a whole lot more of things that could be said that have not been said.

Mr. President, on October 29, the Committee on Foreign Relations voted to report Senate Resolution 198, as amended, to the Rules Committee for further action. The vote was 9 ayes, 8 noes, and 1 present.

No member of the minority on the committee voted in favor of the resolution. Seven out of eight members of the minority strongly oppose Senate Resolution 198, even as amended. This is the resolution which has now been discharged from the Rules Committee by unanimous consent.

The original purpose of Senate Resolution 198 was to provide additional spending authority of $596,000 to the Committee on Foreign Relations for the purpose of investing "its duly authorized inquiry into allegations that private United States citizens acted to delay the release of United States hostages in Iran until after the 1980 Presidential elections."

The reference is to the so-called "October surprise"—that is, to a group of totally unsupported statements by journalists, former aides of President Carter, and dubious international adventurers that a conspiracy existed in the 1980 Presidential campaign to delay the release of the United States hostages taken in Iran on November 4, 1979.

In addition to the new spending authority the resolution provides unprecedented subpoena power to the Subcommittee on Near Eastern and South Asian Affairs to require witnesses to appear "any time or place" before staff for depositions—without the concomitant presence of committee members—and to produce subpoenaed documents, accounts, evidence, and so forth. The Senate legal counsel during the business meeting advised Members that the full committee itself does not have the sweeping power to compel witnesses to appear before staff under pain of contempt and other penalties.

Most members of the minority felt strongly that the resolution as presented exhibited a partisanship unworthy of the traditions of the committee. No specific evidence was presented by the supporters to the resolution to support the need for such an investigation. The undersigned believe that the expenditure of $596,000 represents an appalling waste of the taxpayers funds that would contribute to the lack of confidence that the public has expressed toward the Senate.

The committee adopted, 17 to 1, an amendment to broaden the investigation to include allegations against both United States citizens and Government officials who may have acted to manipulate the release of the hostages in Iran in relation to the 1980 Presidential election. The amendment gives only a semblance of balance to the partisanship of the original text.

LACK OF EVIDENCE

During the committee debate on the resolution, minority members pointed to the total lack of evidence justifying the expense of the taxpayer's money on yet another investigation. I asked whether there was "even enough evidence to look for a shred of evidence?" In answer to my question, I quoted from the majority report of the Iran/Contra Committees—repeat, the majority report—on page 162:

> Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

At that time, I pointed out that even the majority had found no credible evidence.

The distinguished Senator from Indiana [Mr. LUGAR] took the point further. He stated:

> The allegations are that our President, George Bush, and our former President, Ronald Reagan, were involved in a conspiracy with the Iranian Government to delay the freedom of American hostages. It is an outrageous charge.
>
> It goes to the heart of our entire political system. Anyone who does not see the gravity of this seems to me is simply moving in a very superficial realm to what is a fundamental charge as to the legitimacy of our government.
>
> The President of the United States, that is George Bush, is alive and he has testified that there was no October Surprise, there was no conspiracy, there were no visits by him or persons in his campaign in any such manner. He is our President now and he has given that testimony and he has said it a number of times, publicly and privately.

The distinguished Senator from Alaska [Mr. MURKOWSKI], pointed out that the chief witness cited as the basis of the allegations was completely unreliable. He said:

> As Vice Chairman of the Intelligence Committee, I have been exposed to the allegations and to one of the people who makes these allegations, one Ari Ben Menashe. He gave two extensive interviews to our Committee staff in the context of the Gates investigation. PBS "Frontline" did some stories based on the Ben Menashe tale. Newspapers ran other stories. The Intelligence Committee asked the FBI to investigate specific issues during the background investigation of Bob Gates. We asked the CIA's Inspector General to investigate. We also asked Bob Gates under oath—under oath—to answer allegations involving the October Surprise. We made inquiries and we simply found nothing.
>
> There is nothing credible, in my opinion, as Vice Chairman of the Intelligence Committee, to suggest that there is evidence which suggests there is more to investigate.

The distinguished Senator from Kentucky [Mr. MCCONNELL] was equally emphatic. He stated:

> The Tower Commission, the House and Senate Select Committees on Iran/Contra, and the Independent Counsel considered every dimension, every angle, every issue at some point or another, including, as Senator Murkowski indicated, as recently as the Gates hearings.
>
> My figures indicate that $6 million and 50 staffers were involved in the Iran/Contra investigation; the Independent Counsel, $27.6 million; and on and on. Now we want to go out and try to do it one more time.

The distinguished Senator from Indiana, [Mr. LUGAR], continued the case by making the following points:

> Clearly, if there were charges that were credible, if there were at least the normal due process of law, an indictment in which a fair number of people, a Grand Jury or someone, had looked at material, that would be one thing. But the contention that I am making is there is not a credible case. There is not any.
>
> It's not a question of covering up something. This is a question of manufacturing something to investigate.
>
> Now if the Majority is prepared to make a case that is credible to investigate, of persons who have some eye witness knowledge, documentation, and what have you, that would be worthwhile.
>
> But I'm saying in this case there isn't any evidence, at least that I've seen or that any of us have seen. This is why it appears to come as a matter of whole cloth out of someone's imagination.

Minority members of the committee were willing to discuss any factual evidence, if such evidence were available. In the course of the discussions, I proposed that the committee go into secret session, excluding members of the press, the public, and staff from the room, to receive any credible evidence that the proponents of the resolution could offer as justification. The proponents did not accept the offer, and did not submit any evidence in open or closed session supporting the credibility of the October surprise allegations.

THE COMMITTEE WITHIN THE COMMITTEE

Senate Resolution 198 also authorizes sweeping new subpoena powers to the Subcommittee on Near Eastern and South Asian Affairs, powers even greater than the full committee possesses, and lacking the checks and balances in the full committee rules. I pointed out that the effect of these new powers is to create a committee within the committee like the bank within the bank of BCCI, where actions hidden from the bank's officers and directors took place.

The committee within the committee concept turns the committee system on end because it endows a subcommittee, supposedly a constituent part of the full committee, with greater powers and secrecy than the full committee itself. Moreover, it creates a capsule of secrecy which excludes all other members of the committee, except the members of the subcommittee. Indeed, in the guidelines proposed by the chairman of the subcommittee, he arrogates to himself, with the concurrence of the ranking members of the subcommittee, the authority to make all decisions without even reference to other members of the subcommittee.

Minority members feel strongly that the exclusion of other Senators who are members of the full committee from the work and files of the subcommittee sets a dangerous and sinister precedent, and is a violation of rules 26 and 27 of the Senate.

The opportunity for abuse of the subpoena power is particularly serious. Under the rules of the Committee on Foreign Relations, the chairman—of the full committee—may issue a subpoena after consultation with the ranking minority member, or after a vote of the full committee.

When subpoenaed, witnesses must present themselves before the committee—that is, before a meeting of the members themselves—to give testimony or produce records. A witness who refuses faces charges of contempt or other sanctions of law. However, a witness who refuses to give a deposition to a member of the committee staff faces no penalty. He or she may voluntarily give a deposition before staff, but cannot be compelled to do so.

The fact that the committee must vote and at least one Senator must be present during testimony of a subpoenaed witness are built-in procedural safeguards which protect the rights of the witnesses as well as the integrity of the process.

However, the authority demanded by the subcommittee is indeed disquieting. Under the proposed authority, the subcommittee chairman, with the concurrence of the subcommittee ranking member, would be able to issue the subpoena. There is no provision for a vote by the members of the subcommittee, much less the committee as a whole.

Once the subpoena is issued, the witness would be compelled to give depositions before sfaff at any time or place, or face the penalties of contempt, as well as being compelled to produce subpoenaed documents or evidence. This contrasts sharply with the full committee practice of compelling witnesses to testify only before Members of the Senate.

The practice of allowing staff to travel anywhere to force witnesses to give depositions discards the inherent safeguard of requiring the presence of a Senator—an elected official responsible to the people—to be present. Not only does it multiply the physical possibilities of receiving coerced testimony, but it would require the most intense supervision of the staff employee by the subcommittee chairman to ensure that the civil rights of U.S. citizens are not violated.

But during the committee debate, the subcommittee chairman, Mr. SANFORD, indicated that he did not intend to provide such supervision. According to the transcript of October 22, he stated:

> We will attempt to leave as much as possible to the discretion of the professional investigators that we retain for the purpose, that we will not be personally involved in the investigation until, indeed, there is something for the Committee to hold some public hearings on.

Moreover, my colleague from North Carolina [Mr. SANFORD] reinforced this unsettling theme that the staff would be given free reign to conduct the investigation as they chose, by stating:

> We will not have a procedure that forces the professionals to tell us exactly where they are going and when, but that in advance we will indicate approval of going to location A, B, C, and D, but the time or the timing of that would be life to the professional counsel that we bring in for the purpose of directing the investigation.

Considering that the broad scope of the investigation stretches half way around the world, this admission suggests that the subcommittee chairman is relinquishing responsibility of staff investigators to do what they want with only vague guidelines to restrain them. Moreover, these special authorities would be given to a yet-to-be-hired staff of investigators whose skills and biases are not known.

Indeed, the subcommittee chairman is also seeking unprecedented authority in Senate Resolution 198 for the subcommittee to issue its own rules and guidelines, without putting them to a vote or discussion by the whole committee. If Senate Resolution 198 is approved, the subcommittee could make up its own rules as it proceeds and with no restraints whatsoever over its manner of proceeding or the targets of its investigation.

Ironically, the majority counsel of the committee and the legal counsel of the Senate had prepared a detailed set of consensus procedures to guide the subcommittee in its work. The minority did no participate in the drafting of these procedures, but I found them fair and reasonable with two or three minor corrections. Unfortunately, the subcommittee chairman rejected the draft procedures out of hand, and concocted a vague, but highly partisan procedure that virtually contradicted the consensus document on all key points.

The allegations involved in the so-called October surprise are inflammatory and after 11 years unsubstantiated. Indeed, the Senator from Indiana [Mr. LUGAR] called them ludicrous. Yet Senate Resolution 198 would allow a rogue "committee within a committee" to send staff all over the world with a mandate and extraordinary powers to investigate in secrecy whatever and whomever it chooses in connection with the so-called October surprise. The authoritarian powers sought by the proponents of this resolution stir the deepest apprehensions of the minority that this investigation is an act of the most blatant and tasteless partisanship.

THE COST

Senate Resolution 198 calls for increasing the over-all spending authority of Senate Resolution 62, the current omnibus committee funding resolution, by $596,000 for the period beginning March 1, 1991, and ending February 29, 1993, and expanding the spending authority of the Committee on Foreign Relations for that period. Presumably, the investigation would be completed during that period.

The proposed cost breakdown is as follows:

Salaries	$395,500
Consultants	72,000
Administrative	128,500
Total	596,000

The subcommittee seeks authority for the following staff:

Title	Annual salary	Total for period
1 chief counsel	$115,000	$57,500
2 associate counsels	90,000	90,000
2 counsels	80,000	80,000
4 investigators	40,000	80,000
1 executive secretary	39,250	19,625
1 security clerk	33,500	16,750
2 paralegals	29,625	29,625
1 receptionist	19,000	9,500
1 secretary	25,000	12,500
Total		395,500

This hiring profile essentially establishes a select committee within the committee. The outline of the personnel positions resembles the staff of a high-priced law firm or a prosecutor's office, rather than that of a bipartisan investigating committee. Not surprisingly, the subcommittee chairman has announced that he proposes to hire a distinguished former U.S. assistant attorney, well-known for successful prosecutions against judges, Members of Congress, and the executive branch as the chief counsel.

The minority is disturbed that a staff based upon the concept of what is, in effect, a special prosecutor, will inevitably taint the outcome of the investigation. Although the proposed chief counsel has an outstanding and well-deserved reputation as a prosecutor, the minority feels that introduction of a prosecutor's outlook at this stage of the investigation is entirely premature.

As noted above, the majority has cited no evidence of any crime. Nor has the majority suggested that any statutes might have been violated. Moreover, if any such statutes were violated 11 years ago, the question is moot, since by now the statute of limitations has run. The sole reason put forward for the investigation is the totally unsubstantiated charge of political manipulation of the electoral process.

Thus the notion of a prosecutorial approach to a long-past political question is akin to exhuming a corpse from the past century for forensic analysis to titillate historians. Finally, it undermines the objectivity and integrity of the investigating process.

The minority firmly believes, therefore, that the request to spend $596,000 on unsubstantiated political allegations is a total waste of the taxpayers' money for partisan political purposes.

Mr. President, clearly, this proposal needs additional discussion. I urge that the motion for cloture on Senate Resolution 198 be rejected.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, much has been said about the hostages. The hostages' credibility is not the issue. They, by their own admission, do not really know what happened; they have no earthly idea. They were in seclusion and probably are much less likely to know what happened even than people here in the Senate. So the hostages' credibility is not the issue here. The hostages do not know anything about this.

As a matter of fact, it could be argued that Gary Sick does not really know anything about this. He admitted today that the section in his book related to the key meeting that was alleged to have occurred in Madrid, he relied on six sources to prove that the meeting had happened in Madrid; of those six, only one claimed to have been there, and that was a convicted felon.

So, Mr. President, I repeat, the only October surprise envisioned by this investigation is a October 1992 surprise. There is no more basis to go back and investigate these allegations than there would be to investigate whether or not the Democrats stole the Illinois election in the 1960 Kennedy-Nixon race. That was only 31 years ago. Surely we can go back and look at that and see what really happened. There are all kinds of allegations out there, Mr. President. At what expense do we chase every rabbit that somebody in America wants to chase?

Mr. President, how much time do I have left?

The PRESIDING OFFICER. One minute and 50 seconds.

Mr. McCONNELL. I yield the remainder of my time to the Republican leader.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky for his statement and for his knowledge of this particular subject. I am not going to say anything derogatory about Gary Sick. He happens to live in Russell, KS, or he did live in my hometown. His parents live in my hometown. I have not had any contact with him for a long time.

Notwithstanding that, I think the Senator from Kentucky has made some salient points, and we are just wasting $600,000. That money might be better spent checking into Centrust and David Paul and some of these people who ripped off the American taxpayers for billions of dollars. Will that be investigated as part of this, I ask the Senator from Kentucky?

Mr. McCONNELL. I say that, unfortunately, an investigation of CenTrust is not envisioned by this.

Mr. DOLE. I do not think it is envisioned by anybody, as far as I can tell. It should be invested by somebody. I hope that all Republicans will vote against cloture.

I yield back my time.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Parliamentary inquiry. Do I have leader time left?

The PRESIDING OFFICER. Leader time has been reserved.

Mr. MITCHELL. I will be very brief and use a moment of my leader time.

Mr. President, in recent months serious allegations have been made in the media and elsewhere that individuals associated with the political campaign organization of then-Presidential candidate Ronald Reagan entered into a secret ageement with representatives of the Government of Iran. Allegedly, the agreement was to delay the release of United States hostages until after the Reagan administration took office in 1981, in exchange for the subsequent sale of arms to the Government of Iran.

The alleged actions are reported to have included a third government, or governments and other third parties, in the sale of, or the promise of the sale of weapons.

While I am not aware of any conclusive evidence of any such agreement, the seriousness of the allegations and the weight of the circumstantial information compel an effort to establish the facts. This is particularly so in light of the accusation that the President and former high U.S. Government officials were involved.

Although I personally accept President Bush's statement that he neither participated in, nor had any knowledge of such contacts, former Presidents Reagan and Carter and President Bush have all expressed the view that these allegations should be laid to rest once and for all.

Mr. President, we know two things: We know that the release of the hostages was delayed until moments after President Reagan took office. And we know that after taking office President Reagan authorized a secret effort to transfer arms to Iran. So the two events did occur. That is a matter of history. That is undisputed.

What we do not know is whether the two events occurred completely independently and totally by coincidence, or whether they were the result of a secret agreement linking them and causing them to occur in that fashion.

That is what this inquiry is intended to establish. I think it raises a question, a fundamental question in everyone's minds. If someone is so opposed to trying to find out the facts, the question arises: What are they trying to hide? Why are they so afraid of an inquiry? What is it that they are trying to conceal?

Common sense, and our own human experience in our daily affairs tells us that when some individuals and groups go to great lengths to prevent the facts from being made public, they are concerned about what those facts are and what those facts will reveal. So I think the fundamental question before the Senate now is a simple one: We know the release of the hostages was in fact delayed until moments after President Reagan took office, and we know that, shortly thereafter, President Reagan did in fact authorize the secret transfer of arms to Iran. Was that just a coincidence? Did it just happen completely independent of any agreement, or was there some agreement? We do not know. We ought to find out for the sake of all concerned and lay this issue to rest once and for all. If there was no agreement, then we ought to try to find out and get that on the record and establish it.

I should think all concerned would want to have the facts made public. So I urge my colleagues to vote for cloture, to permit this inquiry to go forward, so we can find out the facts once and for all, so that at least on this one occasion the American people can feel secure that nothing is being hidden, nothing is being concealed, and there is no coverup. We just want the facts.

Mr. President, I yield the floor.

Mr. KERRY. Mr. President, will the majority leader yield 30 seconds at this time?

Mr. MITCHELL. Yes.

Mr. KERRY. Mr. President, I want the record to be clear, and I say to the minority leader, David Paul's records and CenTrust's records had been subpoenaed by our committee over a year and half ago. We would welcome him as a witness; he is on our witness list. And if the minority leader would like to join in making $600,000 available to our staff and the two people who have done the entire investigation of BCCI, I promise him an investigation of CenTrust such as the Justice Department has never seen.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Senate Resolution 198, to amend Senate Resolutuon 62 (102d Congress) to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran.

Paul Sarbanes, Don Riegle, Claiborne Pell, Dennis DeConcini, Jim Sasser, Paul Wellstone, Bob Graham, Wendell Ford, Pat Leahy, Carl Levin, John Glenn, Paul Simon, Howard Metzenbaum, J.J. Exon, George Mitchell, Harris Wofford.

WAIVER OF CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call will be waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that the debate on the motion to proceed to the consideration of Senate Resolution 198, the resolution to amend Senate Resolution 62 of the 102d Congress, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS], is necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "nay."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—51

Adams
Akaka
Baucus
Bentsen
Biden
Boren
Bradley
Bryan
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—43

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Reid
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—6

Bingaman
Breaux
Bumpers
Harkin
Kerrey
Symms

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, as I had previously announced, the next item of business before the Senate will be the conference report on the defense appropriations bill. Having consulted with the Republican leader, the managers, and several other interested Senators, I will now propound a unanimous-consent request which, if approved, will permit us to dispose of that measure tomorrow and will permit us to complete or to discontinue the Senate session this evening.

I hope Senators will permit us to do so. If this is approved, there will be a maximum of 5 hours for debate on the defense appropriations bill commencing at 9 a.m., meaning a vote will occur not later than 2 p.m., although there is a possibility of time not being used and yielded back, and a vote could occur prior to that. I think I can safely assure Senators no vote would occur before noon under these circumstances. A vote could occur between noon and 2.

It is my intention, following consultation with the Republican leader, to proceed to the CFE treaty after completion of this measure tomorrow. That will be in the afternoon. I hope we can complete that during the day, tomorrow. These are two important measures.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that at 9 a.m. tomorrow, the Senate proceed to the consideration of the conference report to accompany H.R. 2521, the defense appropriations bill; and that it be considered under the following limitation on time: 5 hours total, with 1½ hours each under the control of Senators NUNN and WARNER; 45 minutes each under the control of Senators INOUYE and STEVENS; and 30 minutes under the control of Senator SASSER; that when all time is used or yielded back, the Senate proceed to vote without any intervening action or debate on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the unanimous-consent request having been granted, there will be no further rollcall votes this evening; however, Senators should be aware that we will have a full day tomorrow. I want to make clear that I mentioned two matters for consideration tomorrow. Senators should understand other matters may also be taken up tomorrow. I did not mean to limit tomorrow's session to just those two. Those are two matters we know we will be going to. There are possibly others as well. Senators should be prepared for activity in this regard tomorrow.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Does the majority leader have any idea how late he plans on going tomorrow?

Mr. MITCHELL. That will depend entirely on how long Senators choose to speak on the CFE treaty.

Mr. SARBANES. We will complete the first item, you have an agreement and then if you complete the CFE——

Mr. MITCHELL. There could be other matters. I just stated there may be other matters tomorrow. I did not intend by mentioning those two items to indicate that those two were the exclusive listed matters for tomorrow. There may be other matters. The Senate will be in session and it is expected to be a full day tomorrow. There may be other matters, depending on the necessity for doing so and trying to get some other matters cleared here.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to provisions in Public Law 101-628, as amended by Public Law 102-166, appoints Howard Coffin, of Vermont, to the Civil War Sites Advisory Commission.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANDEAN DRUG INITIATIVE

Mr. LEAHY. Mr. President, before I was elected to the U.S. Senate I spent 8 years as a prosecutor in Vermont, and like any prosecutor I saw the terrible toll of drug abuse.

Vermont has so far been spared the tidal wave of drugs and violence that has hit most of America's cities, but that is not to say those things do not exist in my State. Back when I was a prosecutor drugs were gaining in Vermont, and they still are. Often, drug use led to robberies and burglaries to pay for more drugs, and just as often assaults and even murders were committed under the influence of drugs. Careers and families were destroyed, with children usually suffering the most. I prosecuted hundreds of drugs cases, as well as a police officer who made a name for himself by planting drugs on innocent people and then lying in court.

So I know something of the devastation that drugs can cause. And I have watched, during my years in the Senate, how the appearance of crack cocaine and AIDS from shared needles in the 1980's surpassed our worst fears. I have voted for virtually every piece of legislation to fight drugs here and abroad—to support eradication and interdiction, law enforcement, education and prevention and treatment programs—billions of dollars to stop drugs at the source and discourage their use.

One of those programs is the Andean drug initiative—the administration's 5-year, $2.2 billion program to cut cocaine flow to the United States by 60 percent by 1990—through eradication, interdiction, and targeting the leaders of the drug cartels.

The Andean initiative was announced in late 1989, but we were pouring hundreds of millions of dollars into the Andean countries to fight drugs long before that. Back in 1987 the administration requested and we approved over $100 million in aid to Peru, Colombia, and Bolivia. We did the same in 1988 and 1989. We were told that a central goal of that aid was to counter the production and trafficking in narcotics. We were told that our aid would buttress the courageous efforts those countries were making to fight drugs.

What happened during those 3 years? What happened to the more than $350 million we sent down there?

Let us look at the administration's figures. In 1987 in Peru, 124,437 metric tons of coca were cultivated; 405 metric tons were eradicated, leaving a net of 124,000 metric tons. By 1989, eradication had increased to 1,285 metric tons, but production had risen faster. The net was 137,300 metric tons.

In Bolivia, we saw the same story. Net production of coca in 1987 was 46,500 metric tons. In 1989 it was 68,400 metric tons. In Colombia, it rose from 20,500 metric tons in 1987 to 33,900 metric tons in 1989.

All in all, during those 3 years, what we got for our $350 million was an additional 48,000 metric tons of coca, and more cocaine for sale on our streets.

We also saw that rather than fighting the drug traffickers, the police and the armed forces in those countries, and even top government officials, were in cahoots with them. They were getting rich off drugs, just like the traffickers.

And, we have since learned, that no mechanisms were in place to effectively monitor how those funds were spent.

Mr. President, one would have thought at that point someone would have asked whether there was a fundamental flaw in our strategy. Anyone who spent hundreds of millions of dollars of his own money to stop something from happening only to see it get worse, would at least say "Wait a minute. Maybe we are doing something wrong here."

But that did not happen. Instead, the solution was to send more money, and this time to put a lot more of it into guns and bullets. The Andean drug initiative, formulated without Andean input, calls for a huge increase in aid to the Andean countries with a major military component.

In 1990, the first year of the Andean initiative, antinarcotics aid jumped from $131 million to $264 million. This year it will jump to $372 million—triple what it was just 3 years ago. For 1992 the request is $490 million. The 5-year total for these three counties is $2.2 billion.

About half is for military aid, despite objections from some of the leaders of the Andean countries themselves. In 1989 military aid to Colombia, Bolivia, and Peru was $17 million. This year it is $77 million. The request for next year is $141 million. Total military aid for the 5-year Andean initiative is $1.04 billion.

And, from the separate international narcotics budget, another $100 million has been sent to the Andean countries in the past 2 years. Next year INM will spend another $54 million down there.

The administration's goal was to reduce the availability to cocaine by 15 percent by the end of 1991. 1991 is almost over. What has happened?

According to the administration, "there have been notable achievements in many areas." They mention "new, democratically elected governments * * * increased seizures, arrests, confiscation of assets, and signs of disarray within the trafficking organizations."

Those are important accomplishments. But what about the bottom line—the production of coca that is made into cocaine for sale in the United States? What does the record show after 2 years of the Andean initiative?

According to the administration's own figures, net cultivation of coca has dropped slightly since 1989 from 215,850 to 211,820 hectares in 1990, give or take 10 percent. But production of coca in the Andean countries has increased significantly, from 297,800 metric tons in 1989 to 310,000 metric tons in 1990. This year they predict 337,000 metric tons.

In other words, so far the Andean initiative has got us an additional 39,200 metric tons of coca—raw material for hundreds of additional tons of cocaine, at a cost to U.S taxpayers of about $630 million.

These are preliminary results—the Andean initiative is only beginning its third year, and we may yet see the results we are hoping for. But I am very concerned, and so should be every American taxpayer. Year after year the Congress has given the administration practically everything it asked for to fight drugs, both at home and abroad—$13 billion over the past 10 years. The Andean initiative is one example. Billions of dollars are going down there.

So far, the results are not encouraging. Despite some signs that the Andean Governments are cooperating better in the counternarcotics effect, I have serious concerns about the effectiveness of the administration's Andean strategy.

First, let us look at the economic aid. The administration says the purpose of the economic aid is to counter the destabilizing effects of the drug trade, and to promote economic growth. The idea is that with a strong economy a country like Bolivia can offer a better life to its people, without having to resort to growing or trafficking in coca.

Pehaps, in 10 years, with our aid and a lot of luck, Bolivia's or Peru's economies could become what Mexico's is today. Per capita income in Mexico is twice as large as Peru's and three times larger than Bolivia's. But today Mexico produces a third of the heroin and 70 percent of the marijuana imported into the United States. And over half of the cocaine that comes from the Andes to the United States goes through Mexico. Economic development has not made any difference in solving the drug problem, as far as I can see. These countries are so poor it will take many years for economic development to produce real alternatives to narcotics production.

Even in our own country, with an economy thousands of times larger than Bolivia's or Peru's, marijuana production is flourishing and drug use is far more pervasive. The United States continues to be a major transhipment country for narcotics.

So we should not be under any illusions that sending a billion dollars in economic aid to the Andes is going to solve our drug problem in a 5-year counternarcotics program, at least not as long as there is a demand for drugs in this country.

The military aid is another story. The administration has said we cannot win the war against drugs without it. Last year, we sent $77 million in military aid, and this year it will be about $141 million.

The Appropriations Committee's concern about the militarization of the Andean program is a matter of record. Last year, in its report on the 1991 foreign operations bill, the committee expressed its "growing concern [about] the administration's evident intention to continue a growing emphasis on the military component in U.S. counternarcotics efforts in the Andean region."

Referring to Peru, the committee, said:

> While the committee has consistently supported efforts to control drug trafficking abroad, that should not be taken as an endorsement of a policy which has the potential for drawing the United States into a protracted war against an insurgency in the Andean jungle.

The committee recommended that no military aid be provided to Peru until the Government took concrete steps to bring the military under civilian control and enforce respect for human rights, including bringing to justice military personnel responsible for the worst human rights abuses.

The committee's concern was based on reports from reputable human rights organizations, and reinforced by the State Department's own "Country Reports on Human Rights," dated February 1990, which concluded:

> Security forces personnel were responsible for widespread and egregious human rights violations. * * * There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military. * * * Credible reports of rape by elements of the security forces in the emergency zones were so numerous that such abuse can be considered a common practice condoned—or at least ignored—by the military leadership.

These and other concerns about the Andean initiative have also been cited by the General Accounting Office.

Let me quote from a recent GAO report about the Peru counternarcotics program:

> U.S. counternarcotics programs in Peru have not been effective, and it is unlikely that they will be effective until significant progress is made to overcome serious obstacles currently hindering U.S. programs. These obstacles include Peru's inability to maintain effective government control over military and police units * * * a lack of coordination and cooperation between military and police, failure to control airports, political instability * * * extensive corruption, widespread human rights abuses, and the effects of an economy heavily dependent upon coca leaf production.

The GAO went on:

> The executive branch has not established the management oversight needed to properly execute large counternarcotics aid programs. No reliable criteria have been established to measure Peru's progress in meeting U.S. counternarcotics objectives. Further, the U.S. Embassy lacks an end-use monitoring system for the military aid. * * * In addition * * * a substantial amount of training is being provided to police units that do not have a primary counternarcotics mission.

Although generally positive, the GAO's report on the Colombia program also mentioned several serious problems. It said:

> [T]he executive branch has not instituted the controls necessary to ensure that the aid is used as intended. * * * U.S. officials have not begun to monitor the Colombian military's use of aid and, as a result cannot ensure it is being used primarily for counternarcotics purposes. * * * [T]here is no reliable system for evaluating the success of the counternarcotics programs in Colombia. * * * [A]buse of civilians' human rights has increased * * * including [by] the military and police.

According to the administration, controls for monitoring how the aid for Colombia is used have recently been formulated. Presumably then, at least in the future, we can find out what our aid has accomplished.

The State Department inspector general recently completed a review of the United States counternarcotics program in Bolivia. He found many improvements, but he also found many problems. Let me mention some:

Interdiction still only stops 1 percent of the cocaine produced.

It is not possible to draw any realistic correlation between the effect of United States aid and interdiction results.

There is a lack of coordination between United States agencies operating in the field.

There is cross border expansion of illicit cultivation, processing, and trafficking.

Use of the Bolivian Army in the counternarcotics effort "may potentially increase human rights abuses" because of the army's history of such abuses.

The Bolivian Government agency tasked to regulate coca and prevent its movement to illegal processing centers has been ineffective due to corruption and other problems.

Coca cultivation is legal in the areas where many of the United States-funded control activities occur. In areas where coca is illegal, the Bolivian Government has been reluctant to fully enforce the law.

The price of coca has risen, making it more profitable to sell coca than to eradicate it voluntarily, or to switch to alternative crops.

I could go on.

Mr. President, despite all these problems, despite the hundreds of millions of dollars to fight drugs in the Andes and virtually nothing to show for it, the Congress will approve substantial economic and military aid to support the Andean initiative again this year, next year, and I suspect in future years. We will do so because of the devastating, tragic effects of drugs in our cities and towns.

But we also have a responsibility to see that the results justify the huge amount of money we are sending down there.

Right now I cannot say they are. I cannot ignore the problems that continue to plague this program, and the potential danger in the increasing emphasis on a military strategy where the line between counternarcotics and counterinsurgency is often blurred.

That is why, after repeated reports of widespread, egregious human rights atrocities by the security forces in Peru, I and other Members of Congress put holds on the military aid portion of the counternarcotics program there. Torture, rape, abductions, disappearances, extrajudicial executions—these are daily occurrences in the 40 percent of that country that is under a state of emergency.

The guerrilla insurgency, Sendero Luminoso, in a crusade to transform Peruvian society reminiscent of the Khmer Rouge, has massacred entire villages. But the State Department says the army is also culpable. In its zealousness to defeat Sendero the army has engaged in a scorched earth campaign that has terrorized the Indian population. That policy has only led to greater support for Sendero over the years.

We have insisted that before any military aid can go forward, specific steps must be taken to protect human rights. Elementary steps—like allowing the Red Cross access to prisoners. Like establishing a central registry of detainees, so family members can learn the whereabouts of their relatives. Like bringing to justice those responsible for some of the worst human rights abuses—cases where witnesses have come forward, where the perpetrators are known, and yet nothing has been done.

In response to United States pressure, the Peruvian government has taken several steps on human rights. But it is too early to say what impact they will have. Americas Watch reports numerous cases of alleged abductions, disappearances, and murder by the security forces since August. According to a November 20, 1991 Amnesty International report:

> Since the new government took office in July 1990 some 250 people have 'disappeared' or been extrajudicially executed * * * but the true toll of the victims will likely never be known. And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

Our insistence that military aid be preceded by improvements in human rights is fully consistent with our law, which prohibits counternarcotics aid to any government that engages in a pattern of gross violations of human rights.

Of the $94 million in economic and military aid intended for Peru this year, we agreed to release $84 million. We even agreed that $3.7 million for the army, despite its reputation as the worst human rights abuser of all the armed forces, intended for road building and other civic action programs, could go forward. We refused to release $10 million which was intended for counterinsurgency training and weapons for the army.

The State Department argued strongly against any conditions on the aid. They said the steps President Fujimori has already taken show that he is serious about human rights. I do not doubt the seriousness of President Fujimori, or of the leaders of the other Andean countries. They see that drugs are not only a U.S. problem. Drugs are destroying their countries too. But I have not forgotten how a United States-trained battalion murdered six Jesuit priests in El Salvador and then lied about it and destroyed evidence, despite the State Department's assurance that the army had been reformed.

If the Peruvian army wants our aid, it is going to have to stop the abuses by its own members. The Peruvian police should also be aware that we will apply the same standard to them. Abuses by their members will jeopardize the entire program.

In testimony on October 13, 1991, Assistant Secretary Levitsky reacted strongly to criticisms of the Andean program by the GAO, the State Department inspector general, and the Congress. Let me summarize Mr. Levitsky's response:

The critics do not "comprehend the realities" of getting things done in a foreign country.

By cutting $10 million in military aid for Peru, the Congress has "seriously compromised" the program. This aid was to train and equip army battalions to "aggressively pursue Sendero Luminoso." Without it, the army will remain ineffective and corrupt.

The Peruvian government has taken steps which "should" increase respect for human rights.

The purpose of the inspector general's audit of the Bolivia program was to "find fault * * * rather than provide an accurate picture." Mr. Levitsky dismisses practically all of the IG's findings.

Mr. President, as I said earlier, the Congress is going to continue to support the Andean initiative. We can see that it has achieved some things, and in another year we will be far better able to judge its results. We all want to stop the deadly flow of drugs into our country.

But the counternarcotics program in the Andes has been plagued by problems, and we are not going to just sign on the dotted line whenever the administration asks for another couple of hundred million dollars to send down there. The administration trumpets the numbers of arrests and seizures, laboratories destroyed, hectares eradicated, and corrupt officials ousted. Again, these are important. But we cannot ignore the fact that so far the results have been insignificant to the American people. The fact is, the amount of coca produced has increased 13 percent in 3 years. That is what the American people care about. That is what matters.

Nor can we accept that by cutting $10 million we are undermining the entire Andean program. We cannot ignore the dangers in pursuing a military strategy in a region where the armed forces commit bloodcurdling atrocities. The Andean initiative can only fail if we ignore the heinous crimes of the very people who would receive our aid.

Nor can we ignore the GAO, inspector general and dozens of press reports of corruption throughout the armed forces and at all levels of government in these countries. Corruption is endemic. Numerous State Department, Defense Department, and DEA officials have acknowledged it publicly. Yet we are sending billions of dollars down there.

I believe the Congress has a responsibility to do what we can to stop the flow of drugs into this country. I recognize that it is a complex problem that is not amendable to easy or quick solutions. But we have learned some things. Brute force, at the expense of human rights, only backfires. Ignoring corruption is the same as throwing money away. And, the huge demand for drugs in our own country is the fuel that feeds the fire.

So far, we have very little to show for our efforts and I intend to follow this program closely. I urge the administration to consult closely with Congress on its plans to allocate funds for this program in the future.

I ask unanimous consent that a November 20 Washington Post article about a recent massacre of 16 people in Peru, and a press release on Amnesty International's November 20 report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 20, 1991]

PERUVIANS LOOK FOR ANSWERS IN MASSACRE OF 16

(By Eugene Robinson)

LIMA, PERU—It seemed to be just another chicken barbecue, the Peruvian equivalent of an old-fashioned rent party. Residents of a little apartment block in a crumbling downtown district called Barrios Altos had printed flyers inviting one and all to a Sunday evening of food, dancing and beer—$2.50 at the door, the proceeds earmarked to repair the building's decrepit plumbing.

At 10:30 that night, the party eight hours old and beginning to wind down, two four-wheel-drive wagons with flashing police-style lights pulled up. Out scrambled six or eight men carrying automatic weapons and wearing combat boots. Witnesses said they ordered the 20 or so partyers to lie down in the building's cramped central courtyard, and opened fire. Sixteen people were killed, including a 9-year-old boy. The massacre on Nov. 3 shocked a nation already numbered by years of political turmoil and death.

More than 22,000 Peruvians have been killed since leftist insurgents began fighting the government 11 years ago, but most of the episodes have taken place in the countryside. The indiscriminate slaughter in Barrios Altos was just four blocks from the Congress building.

The massacre had other elements that set it apart. Most of the evidence points strongly to a paramilitary group, probably including policemen or soldiers, who wanted to eliminate one or more people at the party suspected of having links with Shining Path, the Maoist guerrilla group trying to destroy the Peruvian state.

But government investigators seem to be going out of their way to avoid seeing a paramilitary connection. The Peruvian Senate angrily rejected a report by the ministers of defense and the interior—both of them army generals—that attributed the massacre to Shining Path, another leftist group, or unnamed "others."

"The report was a disaster," said Sen. Enrique Bernales. "The authorities seem to be afraid to discover the truth."

The massacre comes at a time when the government of President Alberto Fujimori is under international pressure to improve its record on human rights. The U.S. Congress last month rejected $10 million in planned antidrug aid for the Peruvian army because of human rights abuses. Of more than $80 million in aid that was approved, most was conditioned on progress on rights. An Organization of American States human rights fact-finding commission called on Fujimori to follow through with promised rights initiatives.

Fujimori issued decrees that effectively put the country on a wartime footing in the fight against subversion. One measure, which Congress may challenge, gives the armed forces authority to confiscate goods and "reorient" the activities of individuals and businesses in the event of a "national mobilization."

The circumstantial evidence that a paramilitary group carried out the massacre starts with the fact that it took place less than 50 yards from a police intelligence headquarters and within two blocks of four other police installations. The area is guarded day and night, but none of the police on duty seems to have heard or seen anything.

The killers were said to be all men—Shining Path, by contrast, often includes women in its squads. They allegedly were of military bearing and carried sophisticated automatic weapons equipped with silencers.

The report rejected by the Senate insisted despite physical and eyewitness evidence, that silencers were not used.

The vehicles used by the killers fit the description of two registered to government security agencies, one of them to the presidential guard. Both vehicles were reported stolen earlier in the year, and neither of the thefts seems to have been investigated.

Finally, Sen. Javier Diez Canseco, a frequent government critic, has released a secret document that he says indicates army intelligence had the building under surveillance for at least two years, suspecting that supporters of Shining Path were holding meetings there.

When authorities searched the apartment of victim Filomeno Oscar Leon, the organizer of the barbecue, they found copies of El Diario, the Shining Path newspaper. Another of the victims had been formally accused of having terrorist links.

Several of the victims were ice-cream vendors who pedal through the streets on cycle carts selling their wares. The document released by Diez Canseco indicates that authorities believe Shining Path is trying to infiltrate the legions of street vendors who operate throughout Lima with a perfect cover to observe, agitate and move on.

While most experts find the idea of a silent, subversive ice-cream army far-fetched, they agree that Shining Path has made significant gains in metropolitan Lima, home to 7 million people, a third of the Peruvian population.

One of the most violent and uncompromising guerrilla groups in the world, Shining Path began its military campaign high in the southern Andes, now controls vast areas of the highlands and is stepping up its campaign in and around Lima.

The group has recruited mainly through terror, and has never been believed to enjoy widespread popular support. Two weeks ago, for example, Shining Path guerrillas murdered 42 peasants in a small highland town because they had taken steps to form one of the self-defense militias that are a major component of Fujimori's anti-terrorist strategy.

But Fujimori's belt-tightening economic policies have created a deep recession that has doubled the number of Peruvians living in "extreme proverty" to 8 million. In this new climate, say observers, there is more potential sympathy for Shining Path.

"The government washes its hands and tells the army to solve the problem of Shining Path," said Jose Bailetti, a retired army colonel whose think tank, the Institute for National Defense Research, has conducted human rights courses for active-duty officers. "The president sees it as a military problem, just like the last president, and the one before that. But it also has political, social and economic demensions."

PERU: HUNDREDS KILLED, "DISAPPEARED" DESPITE HUMAN RIGHTS PLEDGES

More than two hundred people in Peru were unlawfully killed or "disappeared" at the hands of the security forces this past year—some in brutal massacres of entire families—despite the president's repeated promises to respect human rights, Amnesty International said today.

"The reality of human rights in Peru is still a far cry from the pledges made more than a year ago," the human rights organization said.

"We've seen hundreds more Peruvians fall victim to brutal abuses, heard the president lash out against human rights activists, and are still waiting for the full action needed to change the course of human rights in Peru."

In a new report released today, Amnesty International said that since the new government took office in July 1990 some 250 people have "disappeared" or been extrajudicially executed, the majority in the country's military-run emergency zones—but that the true toll of victims will likely never be known.

And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

"We believe that a sense of impunity pervades the armed forces," the organization said in a letter to President Fujimori, also made public today. "It is a deadly and dangerous attitude that gathers strength from the continued failure to bring military perpetrators to justice and convict them."

In that letter, Amnesty International also said it was shocked by the president's recent blanket condemnation of human rights groups as "the legal arm of subversion" and "agents of terror"—a denunciation the organization fears could lead to more threats and attacks on activists.

The organization said the gross violations that have marked Peru for almost a decade often take place in revenge raids on peasant communities following attacks by the armed opposition group Shining Path (Sendero Luminoso) and the Movimiento Revolucionario Tupac Amaru (MRTA)—in some cases entire communities have been punished for opposition group atrocities.

The mass extrajudicial executions of peasants and suspected government opponents have continued under the new government, with at least five massacres by the security forces since mid-1990. Some 16 people, one as young as 11, were reportedly shot dead by soldiers and civil defense patrols in August 1990 in a massacre after they refused to join in an attack on the Shining Path. In May of this year, six other peasants were allegedly killed by soldiers posing as members of Shining Path.

Since July 1990, as well, close to 200 peasants and others have "disappeared", mostly from emergency zones, where the military has been known to assume that people support the opposition simply because they live in areas of armed insurgency. People "disappear" on the spot or after being arbitrarily arrested and most are never seen again. Those who are freed have often been tortured first; some have been found alive, dumped, bound and gagged, from an army vehicle, with no record of ever having been detained.

In its report, the organization strongly condemns atrocities committed by the MRTA and, in particular, by Shining Path, which has been responsible for the brutal killing of thousands of non-combatant civilians and captive troops since 1980 in clear breach of humanitarian standards. In the past decade, Shining Path has killed some 90 mayors in Peru and recently has killed a number of foreign nationals, including a nun, priests and development workers.

In its letter to the president, the organization said that such abuses, however, can never be used as an excuse for security force violations. "The terror tactics of opposition groups can never justify counter-terror by the forces of law and order," Amnesty International said.

The organization said it welcomed the government's recent positive steps towards protecting human rights, such as the granting of greater access to prosecutors investigating violations and access of the International Committee of the Red Cross to all places of detention.

More fundamental changes are needed in investigating violations and bringing those responsible to justice, the organization urged, such as moving human rights cases from military to civilian courts.

In the very few cases heard before military courts, there has never been a case which resulted in a member of the military being found guilty of committing human rights violations, even when the government has acknowledged that civilians were deliberately and arbitrarily killed.

ELECTION OF BOUTROS GHALI AS UNSYG

Mrs. KASSEBAUM. Mr. President, yesterday was a most significant day for the United Nations and for her member states. Yesterday, the Security Council recommended by unanimous vote that Boutros Ghali become the next U.N. Secretary General. The General Assembly's endorsement of the Council's recommendation is a certainty, and Mr. Ghali will take office as the United Nation's sixth Secretary General in early January.

Mr. President, I rise to offer my congratulations and best wishes to Boutros Ghali on this historic occasion. Truly a distinguished international public servant, he will bring to his new position a wealth of experience and an understanding of both developed and developing countries that few could rival. Boutros Ghali's career has prepared him well for the challenges he will soon face. As Egypt's Deputy Foreign Minister, he was a key architect of the Camp David accords which helped set the stage for the historic Middle East peace negotiations now underway. He has also played an instrumental role in forging closer ties between Egypt and her African neighbors, and in mediating a number of intra-African disputes.

Significantly, Boutros Ghali is the first individual from the African continent to be elected to the United Nation's top post. I am hopeful that he will play a very active role in attempting to resolve some of Africa's most pressing problems—problems which cry out for assertive U.N. leadership. The continuing conflicts in Somalia and Liberia, the humanitarian emergencies in the Sudan and Ethiopia, Africa's crushing debt burden, and the struggle of so many of Africa's people to achieve genuine democracy, all call for a creative and active United Nation's role.

In the years ahead, the United Nation's role as peacekeeper, election monitor, defender of human rights, and agent of positive change will likely grow. In order to meet these demands, Boutros Ghali will have to transform that organization into an entity where there is more discipline, less redundancy, and better coordination among U.N. agencies. In the decade of the 1990's, fiscal restraint must be the U.N.'s watchword.

Boutros Ghali takes the helm of the United Nations at a time of unparalleled challenge and opportunity. I wish him all the best as he attempts to redefine the United Nation's role in this new and exciting era.

OPPOSITION TO PRESIDENT'S FORMERLY ANNOUNCED POLICY TO END HIRING PREFERENCES IN THE ADMINISTRATION

Mr. GLENN. Mr. President, today I rise to express my surprise when I read that the staff of the President of the United States had yesterday chosen to create a standard for the Federal agencies that was inconsistent with the Civil Rights Act of 1991. Although the President has now disassociated himself from the directive, one cannot help but wonder whether that message will not creep into the regulatory process or White House guidelines in the future. Therefore, I want the RECORD to be clear that I disapprove of such anticivil rights rhetoric.

The Federal Government has always stated its goal to be the model employer. We have not always met that goal, but it is a worthy one that we must strive to achieve. Congress constantly makes employment laws for the private sector; we should include the Federal Government in those laws.

As chairman of the Governmental Affairs Committee, I presided over hearings concerning the employment and promotion opportunities in the Federal Government for women and minorities. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force.

In 1989, I requested that the U.S. General Accounting Office [GAO] conduct a Governmentwide survey of how well the Federal agencies are—here I am quoting from the letter—"implementing existing civil rights laws regarding the hiring, promotion, and retention of women and minorities in the Government. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force."

At the first Governmental Affairs hearing on the glass ceiling in Federal agencies held May 16 of this year, the U.S. General Accounting Office presented a survey of 25 Federal agencies. The Director of the Equal Employment

Opportunity Commission, Evan Kemp, and others testified that indeed a glass ceiling does exist within the Federal agencies. The glass ceiling is generally defined as an invisible and subtle barrier to the advancement of women and minorities. The GAO recommendations will enable the Equal Employment Opportunity Commission and the Office of Personnel Management to collect more meaningful data concerning Federal agencies and the advancement of women and minorities in key jobs within the agencies. It is clear that this is not the time to retrench our efforts in advancing the employment rights of women and minorities in the Federal workplace.

It is ironic that on the very day the Civil Rights Act of 1991 was to be signed into law, the now withdrawn White House Directive was to have been issued that would render the law meaningless within the Federal agencies. Each agency could have circumvented the protections mandated by the Civil Rights Act. The private sector would have been forced to comply with rules which would not have applied in the public sector.

Mr. President, although the Federal Government has made progress in the area of equal employment opportunity, it is still far from a model employer. In a recent report, the Department of Labor determined that the glass ceiling is a reality in the ranks of private sector corporations. The Senate, in the 1991 civil rights bill created a Glass Ceiling Commission. However, as I have said before, the public sector should not be ignored. The Federal Government should lead by example and become a fairness model in shattering the glass ceiling. We in the Congress must thoroughly monitor the Federal Government's hiring, promotion, and retention practices, including White House directives, guidelines, and regulations that will be promulgated on civil rights.

The Labor Department study identified barriers that restrict women and minorities from rising in the workforce of private sector corporations. The barriers often include: Lack of commitment by top management officials; reliance upon recruitment practices that result in limited applicant pools; lack of career advising and training; and a general lack of understanding that equal employment opportunity is a shared responsibility. I might add that providing for equality opportunity simply makes good business sense. Diversity has long been our biggest asset in this country. When we are restrictive either in Government or industry, we hurt ourselves and diminish our economic potential.

At our Governmental Affairs Committee hearing last month on the glass ceiling in Federal Agencies, several witnesses testified that the complaint process itself is a barrier to the advancement of women and minorities. The EEO complaint process is designed to aid the Government in ferreting our illegal barriers to employment and promotion. Therefore, if the complaint process is also flawed, barriers to career advancement multiply. The EEOC guideline to resolve cases is 180 days; the average time it takes a Federal Agency to resolve a claim is 418 days; and the Department of State and the Department of Justice each average over 1,000 days. Some Federal agencies are already playing fast and loose with the rules. The President is not well-served by staff members who seek to create additional barriers to full employment.

The U.S. Comptroller General, Charles Bowsher, has testified before this committee concerning critical issues facing the Federal Government. He told us that investment in human resources for Government operations is one of those critical issues.

According to census figures and the Department of Labor's Work Force 2000 report, our Federal work force will be different in 9 years. It will be more diverse; it will contain more women; it will contain more minorities and it will require more technological expertise. We must guarantee that the work force is well-trained and efficient. And we must ensure that Federal employees are secure in the knowledge that every right which is mandated in the private sector will exist for them.

Therefore, Mr. President, I hope that the ill-fated directive on White House policy with regard to affirmative action does not rear its ugly, divisive head ever again. The newly signed Civil Rights Act of 1991, as well as title VII of the Civil Rights Act of 1964, are very specific as to what is expected of the administration, not only the President, but also his aides and staff in fully implementing these policies.

That is the very least we must do.

DAVID A. "SONNY" WERBLIN

Mr. LAUTENBERG. Mr. President, I rise with deep sadness and a heavy heart to pay tribute to David A. "Sonny" Werblin, a friend and an outstanding New Jerseyan who passed away Thursday. Sonny Werblin was a special man who touched the lives of countless Americans. New Jersey is a better place today for his work.

Mr. President, Sonny Werblin was a success in every sense of that term. He was born March 17, 1910. He attended local schools in Brooklyn and graduated from Rutgers College in 1931. He then took a job with the Music Corp. of America. Starting as an office boy, he rose through the ranks to become the company's president in less than 20 years. As such, he headed a firm that represented many of the major concert, theatre, film, and television stars of the time.

But success in the entertainment field was not enough for Sonny. In 1963, he joined with four partners to purchase what was then known as the New York Titans, a bankrupt team in the American Football League. They were renamed the Jets. Sonny served as president, and turned the Jets into a world champion, in part by signing stars like Joe Namath and Matt Snell. Their 1969 Super Bowl victory over the Baltimore Colts still stands as one of the great football achievements of all time.

After building the Jets into a powerhouse, Sonny was named the first chairman of the New Jersey Sports and Exposition Authority. Again, Sonny proved a huge success. Under his leadership, the authority built the Meadowlands Sports Complex, which helped make New Jersey a player in major league sports. The Meadowlands was a catalyst for jobs and economic development, and a source of renewed pride in our State. There were those who, at the time, said that New Jersey would never succeed. But, Sonny Werblin made it happen.

Even after his success in Meadowlands he went on to become president of Madison Square Garden.

Mr. President, Sonny Werblin's success extended well beyond his professional career. he spent a great amount of time serving his alma mater, including a stint as chairman of Rutgers' Board of Overseers. Not surprisingly, his chairmanship coincided with a period when the university undertook the most successful capital fund-raising effort in its history. His efforts were widely appreciated, and earlier this year, Rutgers completed the Sonny Werblin Recreation Center.

Sonny Werblin received honorary doctorate degrees from St. Peter's College, where he served on the board of regents, Bethany College, and Rutgers University.

Mr. President, I want to extend my sincere condolences to Sonny's widow, Leah Ray, to his sons Robert and Thomas, and to the rest of the Werblin family.

Sonny was a special man who left a lasting mark on our State.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,442nd day that Terry Anderson has been held captive in Lebanon.

As you know, 2 days before Thomas Sutherland was released from captivity, his father-in-law and devoted advocate, William Murray, passed away. The funeral of the family patriarch was postponed so that Mr. Sutherland could attend. But the reunion was postponed due to medical considerations. And the ceremony commenced today without Tom and Jean Sutherland.

Mr. President, I ask unanimous consent that a Washington Post article, "For America's Family, A Bittersweet 'Rebirth'," be printed in the RECORD. And I call on my colleagues to keep this family and the families of the men still held hostage in their thoughts and prayers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR AMERICAN'S FAMILY, A BITTERSWEET 'REBIRTH'

(By Edward Walsh)

AMES, IA, November 19.—Since that dark moment in 1985 when Thomas Sutherland was kidnapped near the Beirut airport, William Murray had looked forward to this day, when he could join in celebrating his son-in-law's release from captivity.

For more than six years, Murray was the family's spokesman in the nightmarish hostage drama. It was a role relished by the retired professor of agricultural economics at Iowa State University here and two-time Republican candidate for governor of Iowa. "He had no problem with the limelight," his eldest son, David G. Murray, recalled today.

But William Murray never got to be spokesman at the drama's most critical moment. He could not relay the family's joyous feelings at news of Sutherland's release in Beirut today.

Murray died of cancer at age 88 here Saturday. According to his son, he knew that a hostage release was expected in the next few weeks but was unaware that it would come so soon and that one of those freed would be his son-in-law. "He missed it by a couple of days," David Murray said.

It has been a time of extraordinary passage for the family. It involved the death of the patriarch here, the expected birth this week of his 10th grandchild to Sutherland's daughter Ann in Berkeley, Calif., and what David Murray called "the rebirth of Tom Sutherland" in the Middle East.

"This is a bittersweet time for those of us in the Murray family," David Murray told about 200 people gathered at a ceremony today on the Iowa State campus to celebrate Sutherland's release and mourn William Murray's death.

News of Sutherland's release overwhelmed the sense of sadness that had touched the spacious, comfortable Murray house near the edge of the campus, alma mater not only of Sutherland but also of Terry Anderson, The Associated Press bureau chief in Beirut held longer than any Western hostage in Lebanon.

An American flag stood in the leaf-covered front yard of the Murray home, and yellow and red, white and blue ribbons encircled a nearby tree. The phone started ringing at 6 a.m. and calls continued all day.

Some were from Sutherland's wife, Jean, who arrived in the United States from Beirut Sunday night en route to her father's funeral, which had been scheduled here for Thursday.

According to family members here, Jean Sutherland spent much of the day in a public-telephone booth at the Newark, N.J., airport, confirming her husband's release and rearranging travel plans. They said she was to leave Newark for Frankfurt, Germany, late today and be joined there by the couple's two other daughters, Kit Sutherland of Fort Collins, Colo., and Joan Sutherland of Gresham, Ore.

Thomas Sutherland is expected to be reunited with them at the U.S. air base in Wiesbaden, Germany, that has served as the first extended stop for released hostages since the Iranian hostage crisis more than a decade ago.

Meanwhile, plans were being made here to delay William Murray's funeral until Friday so the Sutherland family, including the newly freed former hostage, can attend.

Sutherland's release also was celebrated in Fort Collins, where he taught animal sciences and genetics for 26 years at Colorado State University.

"He's quite talkative, articulate, full of jokes, the same old Tom," said Gerry Ward, 70, a longtime friend, after watching Sutherland on a televised news conference in Damascus, Syria. "I think I've aged more in the time Tom' been held captive than he has."

David Murray had a similar reaction after watching the news conference on television here. "He looked better than I thought, but I was not totally surprised," Murray said. "He is a resilient guy, and he always had a great sense of humor. . . . It was the same old Tom—the smile, the twinkle in the eye."

Love of agriculture and of teaching brought Sutherland, a native of Scotland, here in the mid-1950s for graduate study at one of the nation's preeminent agriculture schools where he met Jean Murray, his future wife. The same interests later took Sutherland to Beirut, where he was dean of the agriculture school at the American University of Beirut and she taught English.

David Murray said their devotion to agriculture and teaching served as a bond between his father and his brother-in-law, whom he described as "just like father and son." William Murray was a founder of the Iowa Living History Farms, a facility near Des Moines that commemorates the history of farming in Iowa. For the last several years of his life, David Murray said, his father had "two focuses—the Living History Farms and Tom Sutherland's release."

"You would have had an earful, I'll tell you," Murray said when asked how his father would have handled today's momentous developments. "It would have been a highlight of his life."

Instead, it was David Murray, chairman of the orthopedic surgery department at State University of New York-Syracuse Medical School, who spoke for the family. An eldest son unexpectedly thrust by death into the role of father, he scurried from interview to interview today with a broad smile on his face.

"At this moment, we can't be anything but happy," he said. "We'll get back to the sadness tomorrow."

FORCED REPATRIATION OF HAITIAN REFUGEES

Mr. KENNEDY. Mr. President, this week a Federal court issued a temporary restraining order suspending the Bush administration's shameful policy of forcibly repatriating Haitians fleeing the violence and turmoil in their homeland.

No matter what their eventual legal status may be, now is not the time to return Haitians to Port-au-Prince. None of these helpless civilians should be required to return to their homes until the legitimate and democratically elected Government of Haiti is restored and able to secure their safety.

At this point, the United States should take a leadership role within the Organization of American States and, with the assistance of the United Nations High Commissioner for Refugees, encourage other nations in the region to adopt several new initiatives to deal with this refugee crisis.

First, the administration should urge all countries in the region to refrain from forcibly returning Haitians until conditions in Haiti are stabilized, and should press these nations to grant temporary protected status or temporary safe haven to Haitians entering their country. The administration has the authority to do this within the United States under the terms of the Immigration Act of 1990, and it should use it today to protect the Haitian people.

At the same time, U.S. representatives should press within the OAS and the U.N. for the establishment of regional holding centers for Haitians rescued on the high seas. Such centers should be designed to provide protection and screening for bona fide refugees and temporary care for those deemed not to be refugees.

To persuade other countries in the region to join in this effort, the United States should immediately open such a temporary center, under OAS auspices, at an available camp or facility in Florida.

Finally, the United States must redouble its diplomatic efforts to restore democracy and peaceful conditions in Haiti. President Bush should renew his personal efforts to secure, under OAS resolutions, the return of President Aristide and the reestablishment of Haiti's civilian government. Only when this goal is achieved will it be possible to return Haitian immigrants to their homeland.

The escalating plight of the Haitian boat people, and the emergent conditions they face, require urgent humanitarian initiatives. The forcible repatriation of these innocent civilians to a country divided by chaos and violence would undermine the very humanitarian ideals and democratic freedoms upon which our own country is founded.

MICROGENESYS

Mr. DODD. Mr. President, since Magic Johnson's stunning announcement that he is infected with the human immunodeficiency virus [HIV] which causes AIDS, much of our attention has rightfully been focused on the spread of this disease and the tragic impact it has on the lives of those who are infected. I want to call my colleagues' attention to something going on in my State which gives us a glimmer of hope.

MicroGeneSys, a small biopharmaceutical company in Meriden, CT, developed the first AIDS vaccine which was cleared by the FDA for testing in humans in 1987. During clinical trials sponsored by the National Institutes of Health, the Walter Reed Army Institute of Research and Walter Reed Army Medical Center, and several universities both in this country and abroad, the vaccine has been administered to over 500 people without any adverse reactions.

Last summer, the distinguished New England Journal of Medicine published the first results of a study conducted by Dr. Robert Redfield of Walter Reed. The study reported that in 87 percent of the HIV infected recipients—13 of 15—who received six injections, the vaccine boosted their immune response against the AIDS virus and prevented a decline in T4 cells over the 10 month period of the study. Only 40 percent of the test volunteers—6 of 15—responded to a lesser schedule of 3 inoculations. (A decline in T4 cells marks the progression of HIV infection to development of diseases and symptoms associated with AIDS.)

At the recent National Institute of Allergy and Infections Diseases' [NIAID] AIDS conference, Dr. Redfield gave current data on the subjects of the study. After 24 months of treatment, the first 13 responders to the vaccine showed only a 2.8-percent decline in T4 cell counts. Historically, a 26-percent loss would have been expected in patients over this time period. Of equal note, most of the study participants who were given fewer dosages of the vaccine and classified as nonresponders in the New England Journal article displayed stabilized T4 cell counts after receiving additional dosages of the vaccine.

Another study by Dr. Christos Tsoukas of McGill University also reported encouraging results. Twenty of 21 recipients showed stable or elevated T4 cell counts after 12 months. Significantly, in addition to an elevated mean T4 cell count, the patients in the study also showed a mean increase in the percentage of T4 cells relative to other T cells. The ratio of T4 cells to other T cells is another measure of the health of the immune system, and its decline generally signals the onset of disease.

Mr. President, all of these test results are interim results, and they are not conclusive. However, they give us some reason for hope that we can develop a way to effectively help HIV infected people maintain their immune system function and stay healthy or at least stay healthy for a longer period of time.

I am pleased that this kind of work is being done by MicroGeneSys in my State.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:12 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes;

S. 1568. An act to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992 as the "Year of the Gulf of Mexico".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H.R. 3371) to control and prevent crime; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, Mr. Conyers, Mr. Schumer, Mr. Hughes, Mr. Staggers, Mr. Hyde, Mr. Sensenbrenner, Mr. McCollum, and Mr. Gekas: *Provided*, That Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Rangel, Mr. Archer, Mr. Vander Jagt; and Mr. Rostenkowski and Mr. Archer are appointed as additional conference for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Mr. Wylie, and Mr. Leach.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 822(f)) and sections 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Kildee, Mr. Martinez, Mr. Goodling, and Mr. Petri.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Rowland, Mr. Lent, and Mr. Bliley.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Swift, Mr. Eckart, Mr. Lent, and Mr. Ritter.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802, 1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mr. Wise, Mr. Towns, Mr. Horton, and Mr. McCandless.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Tauzin, Mr. Davis, and Mr. Lent: *Provided*, That Mr. Taylor of Mississippi is appointed in place of Mr. Tauzin for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Mr. Roe, Mr. Anderson, Mr. Oberstar, Mr. Hammerschmidt, and Mr. Inhofe.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2130. An act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992.

At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; and

H.R. 3839. An act making appropriations for the Departments of Labor, Heath and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2176. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the seventh special impoundment message of the President for fiscal year 1991 and his first special message for fiscal year 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC–2177. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report on the feasibility of establishing an International Criminal Court and the relationship to the Federal judiciary of such a court; to the Committee on Foreign Relations.

EC–2178. A communication from the Assistant Secretary of the Treasury (Legislative Affairs) and the Assistant Secretary of State (Legislative Affairs), transmitting jointly, pursuant to law, the third report on foreign contributions in response to the Persian Gulf Crisis; to the Committee on Foreign Relations.

EC–2179. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on verification of the CFE Treaty; to the Committee on Foreign Relations.

EC–2180. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the interest rate charged to borrowers, referred to as the cost of money rate, as determined by the Governor of the Rural Telephone Bank; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2181. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the Strategic and Materials Report for the period October 1990 through March 1991; to the Committee on Armed Services.

EC–2182. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual report on the implementation of the Community Reinvestment Act for 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC–2183. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Thrift Resolutions: FSLIC 1988 and 1989 Assistance Agreement Costs Subject to Significant Uncertainties"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on the Budget.

EC–2185. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC–2186. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the potential benefits of a shipper responsibility law; to the Committee on Commerce, Science and Transportation.

EC–2187. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on recommendations on the adoption of import and export restrictions on anadromous fish and anadromous fish products; to the Committee on Commerce, Science and Transportation.

EC–2188. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on air traffic control services in the Caribbean/Miami regions; to the Committee on Commerce, Science and Transportation.

EC–2189. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a report on meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–2190. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the State Energy Conservation Program for calendar year 1990; to the Committee on Energy and Natural Resources.

EC–2191. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the Industrial Waste Reduction Program Plan; to the Committee on Energy and Natural Resources.

EC–2192. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report on progress in preparing a report on deepwater ports and associated vessels; to the Committee on Environment and Public Works.

EC–2193. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on the audit of the Bank by independent auditors for fiscal year 1990; to the Committee on Governmental Affairs.

EC–2194. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report on the activities and operation of the Public Integrity Section, Criminal Division, Department of Justice for fiscal year 1991; to the Committee on the Judiciary.

EC–2195. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "System and Control Problems Further Weaken the Pension Benefit Guaranty Fund"; to the Committee on Labor and Human Resources.

EC–2196. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1990; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–253. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 47

"Whereas, since 1956, Wisconsin has contributed $1,150,000,000 more in transportation tax dollars to the federal government than it has received in federal transportation aids; and

"Whereas, Wisconsin has received 74 cents back for each federal highway tax dollar paid; and

"Whereas, in 1990, Wisconsin received back 7 cents for each federal transit tax dollar paid; and

"Whereas, improvements in the state's transportation system are needed to support economic growth and development; and

"Whereas, the current federal surface transportation program is scheduled to expire on September 30, 1991; and

"Whereas, Congress is currently considering reauthorization of the federal surface transportation program; and

"Whereas, the reauthorization of the federal surface transportation program will present an opportunity for Congress to provide Wisconsin, for the first time, with a fair share of federal highway and transit aids; now, therefore, be it

"*Resolved by the Senate, the Assembly concurring*, That the members of the legislature of the state of Wisconsin urge Congress to provide funding for federal highways and transit in Wisconsin and other states that is a more equitable distribution of federal highway and transit aids in relationship to each state's contribution in federal highway taxes; and, be it further

"*Resolved*, That the Senate Chief Clerk shall provide a copy of this joint resolution to the president of the U.S. Senate, to the Speaker of the U.S. House of Representatives and to each member of the congressional delegation from this state."

POM–254. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 26

"Whereas, Pursuant to Section 101 of the Highway Beautification Act of 1965 (23 U.S.C. Sec. 131) and Section 5419 (former Section 5288.5c) of the Business and Professions Code, a provision of the Outdoor Advertising Act, the Director of Transportation (formerly the Director of Public Works) and the Administrator of the Federal Highway Administration, on February 15, 1968, entered into an agreement to define and approve the size, spacing, and lighting of outdoor advertising displays located in areas zoned commercial or industrial; and

"Whereas, That agreement did not approve advertising displays which have changeable messages which can be changed by electronic processes or by remote control, except those with messages advertising only activities occurring on the property upon which the display is located; and

"Whereas, The state, and counties and cities, desire the authority to regulate the erection of off-premises changeable message signs, known as message center displays, as a means of providing economic and other benefits to the state and counties and cities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to direct the Administrator of the Federal Highway Administration to meet with the Director of Transportation of the State of California to amend the agreement entered into on February 15, 1968, pursuant to Section 101 of the Highway Beautification Act of 1965 and former Section 5288.5c, now Section 5419, of the Business and Professions Code, a provision of the Outdoor Advertising Act, to permit the state, and counties and cities, to regulate off-premises changeable message signs, known as message center displays, in accordance with the Outdoor Advertising Act; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of Transportation."

POM-255. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION 24

"Whereas, The Secretary of Health and Human Services has responsibility for determining those opportunistic infections that represent a diagnosis of acquired immune deficiency syndrome (AIDS) for purposes of both epidemiological surveillance and eligibility for certain entitlement benefits; and

"Whereas, The federal Centers for Disease Control, within the United States Department of Health and Human Services, are currently updating the definition of AIDS which has previously not acknowledged differential clinical manifestations of human immunodeficiency virus in various population groups, including, but not limited to, women and children; and

"Whereas, The determination of presumptive eligibility for federal Supplemental Security Income (SSI) program benefits for a person with human immunodeficiency virus (HIV) has been based on the definition of AIDS by the Centers of Disease Control; and

"Whereas, As a result, a person may develop HIV-related symptoms or opportunistic infections which render him or her incapable of working but that person cannot presumptively obtain certain benefits and services which target people with AIDS because, although he or she cannot work, the condition is not diagnosed as AIDS under the current case definition; and

"Whereas, The federal Social Security Administration, within the United States Department of Health and Human Services, is currently reviewing the criteria to establish presumptive eligibility for SSI for symptomatic persons with HIV infection who cannot work: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorialize the United States Secretary of Health and Human Services to establish criteria for the determination of presumptive eligibility for federal Supplemental Security Income program benefits that include HIV-infected persons who have previously been unable to obtain that eligibility, including, but not limited to, women and children; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health and Human Services, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM-256. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 32

"Whereas, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country in the Iraq-Kuwait crisis; and

"Whereas, The American people are united in their respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm; and

"Whereas, Those sacrifices also are borne stateside by military dependents whose reservist parents or spouses were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

"Whereas, Due to the Iraq-Kuwait crisis, more than 11,500 members of the United States Military Reserve who are residents of California have been called to active duty to serve their country; and

"Whereas, This sudden and unexpected call to arms has caused unavoidable financial and emotional hardship for those reservists, their families, and their dependents, and many of these reservists have suffered directly from substantial personal income reductions; and

"Whereas, Reservists called to active duty often lose their salaries without receiving comparable compensation from the military, which is a direct loss or injury to our nationals within the meaning of paragraph 16 of United Nations Resolution 687; and

"Whereas, The United Nations has created a fund to pay compensation for claims that fall within United Nations Resolution 687, which establishes a commission that will administer the fund; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States to claim compensation from the United Nations compensation fund for the military families of the United States, who sacrificed employment income to provide military service, and for their employers, who continue payment of the difference in salaries, including the State of California; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Representative of the United States to the United Nations."

POM-257. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 33

"Whereas, The Persian Gulf War has been brought to a swift and successful resolution by United States and Allied Forces who served with honor and distinction; and

"Whereas, Iraq's seven-month occupation of Kuwait has left Kuwait physically devastated and will require extensive reconstruction of oil-producing facilities, government buildings, and other public and private facilities; and

"Whereas, The United States government will play a significant role in the rebuilding effort, and American construction and engineering firms and equipment companies will benefit by being awarded a large portion of the reconstruction contracts that will be worth million of dollars; and

"Whereas, A significant portion of the United States military personnel involved in the Persian Gulf War were minorities and women; and

"Whereas, The California Legislature believes that the contribution made by minority and female military personnel in the Persian Gulf War should be recognized as a part of the reconstruction effort; now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the California Legislature encourages the United States government and all American companies participating in the reconstruction of Kuwait to adopt and implement as an employment goal the hiring of minority and female workers in proportion to the ethnic and gender composition of the American military personnel who served in the Persian Gulf War; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives; and to each Senator and Representative from California in the Congress of the United States."

POM-258. A resolution adopted by the Virginia Council of Chapters of the Retired Officers Association relative to missing in action in Southeast Asia and previous conflicts; to the Select Committee on POW/MIA Affairs.

POM-259. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; ordered to lie on the table.

"RESOLUTION

"Judge Thomas replaces retired Justice Thurgood Marshall, a giant of the United States law and the first member of the black race to hold a seat in the highest Court of the nation.

"After a stormy confirmation process, and in view of the immense challenge faced by this humble son of a small town of the southern state of Georgia, it is the duty of this High Body, in representation of the People of Puerto Rico, to extend its congratulations to Judge Clarence Thomas.

Be it resolved by the House of Representatives of Puerto Rico:

"SECTION 1. To extend the warmest congratulations of the House of Representatives to the Hon. Clarence Thomas, Judge of the Circuit Court of Appeals for the District of Columbia, on the occasion of his confirmation as Associate Justice of the Supreme Court by the Senate of the United States.

"SEC. 2. A copy of this Resolution, translated into the English language, shall be remitted to Judge Thomas, to the President and the Vice-President of the United States and to the members of the United States Senate.

"SEC. 3. A copy of this Resolution shall be delivered immediately to the communications media.

"SEC. 4. This Resolution shall take effect from the time of its approval."162

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 215. A joint resolution approving the extension of nondiscriminatory treatment (most-favored nation treatment) to the products of the Union of Soviet Socialist Republics (Rept. No. 102-228).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1869. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes (Rept. No. 102-229).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 188. A concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

S. Res. 196. A resolution expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet armed forces from the Baltic states and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 1128. A bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Francis S. M. Hodsoll, of Virginia, to be Deputy Director for Management, Office of Management and Budget;

Edward Joseph Mazur, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget;

Kathleen Day Koch, of Virginia, to be Special Counsel, Office of Special Counsel, for the term of five years;

Reggie Barnett Walton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Emmet Gael Sullivan, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years; H. Edward Quick, Jr., of Maryland, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1996;

Tirso del Junco, of California, to be a Governor of the United States Postal Service for the term expiring December 8, 2000; and

J. Sam Winters, of Texas, to be a Governor of the United States Postal Service for the term expiring December 8, 1999.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

William Kane Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994;

Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994;

Jose E. Martinez, of Texas, to be Director of the Trade and Development Program;

Robert Stephen Pastorino, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert Stephen Pastorino.

Post: United States Ambassador to the Dominican Republic.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: Shannon and Michael Lewis, none; Stephen Robert Pastorino, none.
4. Parents names: Adolph and Florence Pastorino, deceased.
5. Grandparents names: Mr. and Mrs. Giovanni Pastorino, Mr. and Mrs. Pierangeli, deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: $50, Diane Feinstein, Oct, 1990. $20, Congressman Dellums, Oct, 1990; James and Karen (Pastorino) Eagan.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Curtis Warren Kamman.

Post: Ambassador to Chile.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children and spouses names: Edward G. Kamman (son) none. John Curtis Kamman (son) none. Nichole Kamman (spouse of John) none. W. Stephen Kamman (son) $55 August 1, 1990, N.C. Democratic Party.
4. Parents names: Mildred I. Kamman, mother, none. Glenn F. Kamman, father, $25, November 12, 1988, Nat'l Republican Sen. Committee; $68, November 23, 1988, Nat'l Republican Sen. Committee; $25, January 7, 1989, 1989 GOP Victory Fund; $25, February 22, 1989, Republican Nat'l Committee; $50, March 13, 1989, Republican Nat'l Committee; $25, May 12, 1989, GOP Victory Fund; $25, June 21, 1989, Republican Nat'l Committee; $25, July 10, 1989, Nat'l Republican Sen. Committee; $25, July 20, 1989, Republican Nat'l Committee; $25, August 3, 1989, Nat'l Republican Sen. Committee; $25, August 14, 1989, Republican Nat'l Committee; $20, August 31, 1989, Nat'l Republican Sen. Committee; $25, September 11, 1989, Republican Nat'l Committee; $37, October 20, 1989, Republican Nat'l Committee; $15, October 19, 1989, Nat'l Republican Sen. Committee; $20, December 19, 1989, GOP Victory Fund; $25, January 4, 1990, GOP Victory Fund; $35, January 14, 1991, Republican Nat'l Committee.
5. Grandparents names: Horace Kamman (deceased), none. Bertha Kamman (deceased), none. Warren Merry (deceased), none. Ella Merry (deceased), none.
6. Brothers and spouses names: Jonathan Kamman, none; Beverly Medlyn (spouse of Jonathan) none; Robert Kamman, none.
7. Sisters and spouses names: No sisters.

George Fleming Jones, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: George Fleming Jones.

Post: Guyana.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: $10, April 8, 1987 Americans for Robertson; $20, July 12, 1987 Americans for Robertson; $20, December 13, 1987 Americans for Robertson; $50, September 20, 1988 Dukakis for President; $50, October 17, 1988 Dukakis for President.
3. Children and spouses names: George F. Jones III, $75, October 26, 1988 Keyes for Senate. My three other children, none. All four children are unmarried.
4. Parents names: Deceased.
5. Grandparents names: Deceased.
6. Brothers and spouses names: Nominee has no brothers or sisters.

William Edwin Ryerson, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Edwin Ryerson.

Post: Tirana, Albania.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Nina Ryerson Quistoff, Thomas, Marten, Jennifer and Nicholas, none.
4. Parents, J. Delbert Ryerson, father (deceased), Marian Ryerson, mother (deceased).
5. Grandparents: William B. Ryerson, grandfather (deceased), Loretta Ryerson, grandmother (deceased), Edwin W. Wheeler, grandfather (deceased), Emma W. Wheeler, grandmother (deceased).
6. Brothers and spouses: none.
7. Sisters and spouses: Jane Ryerson Logdon, none, George Logdon, none.

John R. Davis, Jr., of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John R. Davis, Jr.

Post: Ambassador to Romania.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Thorp Davis, Katherine, Anne, none.
4. Parents: John R. and Petronilla Davis (both deceased).
5. Grandparents: David and Claire Davis; Thorp and Minnie Wilcox (all deceased).
6. Brothers and spouses: none.
7. Sisters and spouses: Sister Petronilla, O.P., none.

Frederick Vreeland, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Frederick Vreeland. Post: Kingdom of Morrocco.

Contributions, amount, date, and donee:

1. Self, $1,000, Dec 4, 1987, "George Bush for President", $1,000, Jan 8, 1990 "The President's Club".
2. Spouse: None.
3. Children and spouses: Mr. and Mrs. Alexander Vreeland, New York, NY, none. Mr. Nicholas Vreeland, India, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Mr. and Mrs. Thomas Vreeland, Los Angeles, CA, none.
7. Sisters and spouses, none.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John H. Kelly. Post: Helsink, Finland.

Contributions, amount, date, and donee.

1. Self; John H. Kelly; none.
2. Spouse, Helena Marita Ajo-Kelly, none.
3. Children, David Snowdon Kelly, Maria Louise Kelly, none.
4. Parents, Clarice Kelly (father deceased).
5. Grandparents, (deceased).
6. Brothers and spouses Mr. and Mrs. James Kelly, $250, 1990, Michael Liu for Congress; $50, 1990, Patricia Saiki for Senate; $100, 1990, Republican National Committee; $100, 1989, Republican National Committee; $100, 1988, Republican National Committee; and $100, 1987, Republican National Committee.

Dr. and Mrs. Michael Kelly, $800, 1990, BDM International Political Action Committee; $800, 1989, BDM International Political Action Committee; $800, 1988, BDM International Political Action Committee; and $500, 1987, BDM International Political Action Committee.

7. Sister, Kathryn Kelly, none.

I have listed above the names of all members of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BURDICK, from the Committee on Environment and Public Works:

E. Gail Planque, of New Jersey, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1995; and

Herbert Tate, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself and Mr. WELLSTONE):

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for medical coverage of long-term benefits in home- and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

By Mr. BOND (for himself, Mr. MCCONNELL, Mr. BOREN, Mr. COATS, and Mr. GRASSLEY):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal Agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, Mr. KERREY, and Ms. MIKULSKI):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in the United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the medicare program; to the Committee on Finance.

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans Affairs.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans Affairs.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTION

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL and Mr. SIMON):

S. Res. 230. A resolution in support of Machine Tools VRA; to the Committee on Finance.

By Mr. SIMON:

S. Res. 231. A resolution expressing the sense of the Senate that the President should submit to the 102d Congress a proposal for reforming the health care system of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself and Mr. WELLSTONE):

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of long-term benefits in home and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

LONG-TERM CARE FAMILY PROTECTION ACT OF 1991

Mr. SIMON. Mr. President, I am introducing today the Long-Term Care Family Protection Act of 1991. I am pleased that my colleague Senator WELLSTONE is an original cosponsor.

Since 1988, I have been listening to people in Illinois and all over the country tell me we need a comprehensive long-term care policy. At times, such as back in 1989, it appeared we were going to move ahead on legislation. I sponsored in the Senate a bill that had been introduced by the champion of seniors, the late Representative Claude Pepper. It would have provided assistance for home- and community-based care, and it came close to passing. In that year I also joined Senator MITCHELL and Senator KENNEDY as a cosponsor of their separate bills providing long-term care assistance.

Since that Congress, we have lost momentum on this issue, and we need to regain it. The need for action has increased in recent years while the debate has shifted to problems in other areas of health care. I am wholeheartedly in support of comprehensive reform in national health care. But reform must include means to address the critical need in the area of long-term care, and we must not allow controversy about other parts of health care reform to delay action on this vital legislation.

There is a strong consensus in the country and in the Congress that long-term care must be a high priority for action. I am introducing this bill today in an effort to put long-term care back on the front burner.

Long-term care is more than a seniors issue. It is a family issue that is of paramount concern to millions of households. American families today are sacrificing to pay for long-term care for parents, grandparents, children, and other relatives. For those who try to keep a loved one at home, the cost may be in the loss of other important opportunities in their lives. An estimated 70 to 80 percent of all long-term home and community care is provided by family members. Most have no respite at all for their efforts. For those who need the services of a nursing facility, the costs are frequently catastrophic, not just for the individual but for a family.

The reality is that only about 5 percent of elderly Americans are in a nursing home at any one time. But the reality also is that these numbers are rising dramatically. In just 9 years, almost a million more senior citizens will be in nursing homes than today. And for every person 65 and older living in a nursing home, there are twice as many who need various kinds of long-term care in the community.

Estimates are that the nursing home population may be as high as 2 million by the year 2000, 3.8 million by the year 2030 and 4.4 million by the year 2040. If current rates continue, 43 percent of persons who turned 65 in 1990 can expect to use a nursing home at some time in their lives. People aged 85 and older are more than 4 times as likely as those aged 65 to 74 to need long-term care services, and this age group is one of the fastest growing in our population.

Most Americans do not realize it, but Medicare pays for very little long-term care. Before Medicaid can help, individuals or couples must exhaust their own resources, becoming poor enough to qualify by spending down their income, savings, and other assets. Long-term care saps the life savings of even the thriftiest middle- and lower-income families and forces countless seniors to close out their lives as paupers.

Today, about half of all long-term care is paid for through private sources, and 97 percent of private funding comes directly out of the pockets of consumers. Even though private sector insurance is sold by more than 130 companies and there are more than a million policyholders, estimates are that less than 3 percent of long-term care is currently being paid by these policies.

The Health Care Financing Administration estimates that under current programs, with no legislative change, total spending for nursing home care will increase from the current approximately $50 billion a year to $129 billion by the year 2000. Unless we act, seniors and their families will be forced to try to shoulder the burden of a major part of that amount out of their own pockets. The burden is growing and we need to address it now.

The Long-Term Care Family Protection Act would put us on the road to a responsible policy on long-term care. It is not as generous as our families need and deserve, but it would be a significant benefit to many individuals who need long-term care. It recognizes that while most people do not spend more than 6 months in a nursing home, those who must spend longer amounts of time fill most nursing home beds and face the greatest financial burdens.

The basic elements of this bill are:

First, nursing facility benefits, after 90 days of care, covered to a maximum of $2,400 a month, with a copayment of $500 a month. This amount is based on an average cost of nursing home care and assumes an individual could plan to supplement this coverage with private insurance or choose to spend more in a more expensive facility. To be eligible, an individual would need to have limitations in the ability to perform three activities of daily living such as eating, bathing, dressing, transferring, or toileting. This would cover about two-thirds of all individuals now in nursing facilities and about 77 percent of all those who have a memory problem or disorientation caused by a disease such as Alzheimer's;

Second, home and community care benefits that include case management; nursing care; personal care services; physical, occupational, speech-language or respiratory therapy; rehabilitative services, adult day care services; respite for family caregivers and other services ordinarily needed to enable a person with a chronic illness or disability to live at home. Eligibility begins with those needing assistance with two activities of daily living and the rate of reimbursement is increased for those needing assistance with four or more activities of daily living; and

Third, children with chronic illness or dependency on medical equipment would be eligible for long-term home care, and individuals with disabilities would be able to "buy-in" to Medicare to receive long-term care services.

I have suggested two funding sources in this legislation, and recognize that additional sources of funding will be needed to fully cover the intended benefits. Payment for long-term home and community care is limited in this bill to the amounts generated by the revenue source for the legislation, and I hope that early in the process of consideration, both the revenues and the benefit levels can be increased. This bill is a beginning. My intent is that we match long-term care service provisions to specific revenues to make sure the program is fully self-financed.

Under this proposed legislation, nursing facility care would be financed through an increase of one-half of 1 percent in the employer and employee portions of Social Security deductions. Home and community care would be financed through elimination of the cap—$125,000 in 1991—on income subject to the Medicare payroll tax of 1.45 percent.

Soon after I began working on long-term care legislation I received a letter from a constituent in Greenville, IL. In part the letter read:

> Last week our neighbor across the street was discovered near death because he had deprived himself of food and air conditioning in order to meet the cost of over $3000 per month to maintain his wife in our local nursing home. This man is 80 years old, owns his own home and at the time he retired 15 years ago, his income plus Social Security and Medicare was very adequate. Keeping his wife in the nursing home has cost him in 2 years $72,000. He has had his home for sale unsuccessfully for over a year. Now she must become a recipient of Medicaid and he of welfare. Just trying to deal with the redtape of all of this is enough to kill the man. How sad for America that it treats it elderly citizens in this way.

Too many Americans are experiencing this sad reality. Too many Americans are being reduced to poverty and deprived of their right to live with dignity because of our lack of a long-term policy. I am confident that we can build the support we need to pass meaningful long-term care legislation in the near future.

Mr. President, I ask that a section-by-section summary of the Long-Term Care Family Protection Act of 1991 and the text of the bill be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Care Family Protection Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New part C long-term care program.

Sec. 102. Conforming and miscellaneous amendments.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY INSURANCE

Sec. 201. Assuring self-financing of benefits under this Act.

Sec. 202. Assuring quality of long-term care.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care.

Sec. 302. Source of revenue for nursing facility care.

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

Sec. 401. Permitting individuals with disabilities to purchase medicare coverage during the 24-month waiting period for Medicare entitlement; permitting individuals with disabilities not entitled to long-term care benefits to buy into Medicare to obtain such benefits.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

SEC. 101. NEW PART C LONG-TERM CARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—LONG-TERM CARE PROGRAM

"SCOPE OF BENEFITS

"SEC. 1851. (a) SCOPE OF BENEFITS.—The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on behalf of such individual (subject to the provisions of this part) for—

"(1) home and community care; and

"(2) nursing facility care,

but only if the individual has been determined by a long-term care management agency (or others under arrangement with such agency) to be eligible for such care under section 1852.

"(b) HOME AND COMMUNITY CARE DEFINED.—(1) In this part the term 'home and community care' means the items and services—

"(A) which are home- and community-based items and services described in paragraph (2) furnished to an individual by a home care agency (as defined in section 1861(kk)) (or by others under arrangement with such agency) provided—

"(i) in a place of residence used as such individual's home; or

"(ii) subject to paragraph (3) on an outpatient basis at a—

"(I) hospital;

"(II) skilled nursing facility, or

"(III) rehabilitation center;

"(B) which are furnished under a written plan of care (for furnishing such items and services and other related items and services to such individual) which—

"(i) is established and periodically reviewed and revised by a long-term care management agency (or by others under arrangement with such agency); and

"(ii) reflects the individual's needs identified in the assessment under section 1852.

"(2) The home- and community-based items and services described in this paragraph are as follows:

"(A) Case management services.

"(B) Nursing care provided by or under the supervision of a registered professional nurse.

"(C) Services of a homemaker/home-health aide who has successfully completed a training and competency evaluation program approved by the Secretary.

"(D) Medical social services.

"(E) Personal care services.

"(F) Physical, occupational, speech-language, or respiratory therapy, or rehabilitative services.

"(G) Medical supplies (other than drugs and biologicals) and durable medical equipment, while under such a plan.

"(H) Medical services provided by an intern or resident in training of a hospital affiliated with the home health agency.

"(I) Respite services for family caregivers.

"(J) Adult daycare services (including at least one meal a day).

"(3) Home- and community-based services provided on an outpatient basis at a facility other than an individual's place of residence shall include the items and services described in paragraph (2) but only to the extent that such individual is at a facility to receive case management services or services including equipment not readily available in the individual's place of residence under arrangement with a home-health agency. But such items and services shall not include transportation to and from a facility.

"(c) NURSING FACILITY CARE DEFINED.—In this part, the term 'nursing facility care' means the following items and services furnished to a resident of a nursing facility (as defined in subsection (d)) and (except as provided in paragraphs (3) and (6)) by such facility, excluding, however, any such item or service if it would not be included under section 1861(b) if furnished to an inpatient of a hospital:

"(1) Nursing care provided by or under the supervision of a registered professional nurse.

"(2) Bed and board in connection with the furnishing of such nursing care.

"(3) Physical, occupational, or respiratory therapy, or speech-language therapy, furnished by the facility or by others under arrangements with them made by the facility.

"(4) Medical social services.

"(5) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility as are ordinarily furnished by such facility for the care and treatment of residents.

"(6) Medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of section 1861(l)), under a teaching program of such hospital approved as provided in the last sentence of section 1861(b), and other diagnostic or therapeutic services provided by a hospital with which the facility has such a agreement in effect.

"(7) Such other services necessary to the health of the residents as are generally provided by nursing facilities.

"(d) NURSING FACILITY DEFINED.—In this part, the term 'nursing facility' means—

"(1) a skilled nursing facility (as defined in section 1819(a)), or

"(2) a facility that is a nursing facility (as defined in section 1919(a)) which meets the requirements of section 1819(b)(4)(C) (relating to required nursing care), or

"(3) an intermediate or custodial nursing facility that meets the license requirements of the State in which it operates and such further requirements as provided by the Secretary.

"(e) LONG-TERM CARE MANAGEMENT AGENCY DEFINED.—(1) For purposes of this part, the term 'long-term care management agency' means an agency or organization, or a subdivision of such an agency or organization, which—

"(A) is a government agency; except that the agency or organization may be a private, nonprofit agency or organization with respect to a service area if there is no government long-term care management agency serving the area;

"(B) demonstrates expertise in managing health and social services for elderly individuals and is capable of completing the assessment and plan of care and arranging for services under section 1852 within a reasonable time period following referral to the agency or organization;

"(C) provides only case management services under this title and makes arrangements with a home care agency (with which it does not have a direct or indirect ownership or control interest) to provide long-term home care the agency or organization prescribes;

"(D) has policies, established by a group of professionals (associated with the agency or organization) including one or more registered nurses, one or more physicians, and one or more social workers, to govern the services described in subparagraph (B) which it provides;

"(E) maintains a sufficient number of professional case management teams which—

"(i) are trained in the process of determining eligibility for long-term home and community care and in assessing the needs of chronically dependent individuals, and

"(ii) include—

"(I) at least a registered professional nurse and a licensed social worker,

"(II) in the case of an individual under the age of 19, a physician, and

"(III) such other health professionals (including rehabilitation professionals) as are appropriate;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(i) is licensed pursuant to such law, or

"(ii) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(G) has been designated by the Secretary to perform the functions of such an agency with respect to residents of a State or specified subdivision thereof; and

"(H) meets such other conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council (established under section 1855(i)), may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization and for the effective and efficient operation of the program.

"(2) The Secretary may provide for a temporary waiver of any of the requirements of any subparagraph (other than subparagraph (A) or (B)) of paragraph (1) for such period (not to exceed one year, but subject to renewal) as the Secretary deems appropriate in the case of an agency or organization serving an area that is a rural area or that is designated as a health manpower shortage area under section 332 of the Public Health Service Act if—

"(A) failure to waive such requirements would significantly limit access to long-term home care services to beneficiaries residing in the area,

"(B) the agency or organization has made and continues to make good faith efforts to meet such requirements, and

"(C) waiver of such requirements does not jeopardize the health, safety, or well-being of beneficiaries receiving long-term home care services.

"(f) ELIGIBILITY UNDER THIS PART FOR CERTAIN DEPENDENT CHILDREN AND INDIVIDUALS NOT OTHERWISE ELIGIBLE FOR BENEFITS UNDER PART A.—(1) The provisions of section 1818 (other than subsection (d)) shall apply to this part in the same manner as they apply to part A, except that, with respect to this part, an individual need not be enrolled under part B of this title to be eligible to enroll under this part.

"(2)(A) A dependent child described in subparagraph (B) shall be eligible to receive home and community care under this part.

"(B) For purposes of this part, the term 'dependent child' means a child described in section 226(h) and who is determined by the long-term care management agency (or by others under arrangement with such agency) to be eligible for home and community care as provided under this part.

"ASSESSMENTS AND CERTIFICATIONS OF ENTITLEMENT

"SEC. 1852. (a) IN GENERAL.—In order to be eligible to receive benefits under this part each individual entitled to benefits under this part must receive an assessment and in order to be eligible to receive home and community care such individual must be certified as a chronically dependent individual as described in subsection (d)(1) and in order to be eligible for nursing facility care such individual must be certified as a chronically dependent individual as described in subsection (d)(2).

"(b) INITIAL ASSESSMENT.—The long-term care management agency established under section 1851(e) shall conduct an initial assessment of each individual entitled to benefits under this part in order to determine the level of care to which such individual is eligible.

"(c) CERTIFICATIONS FOR HOME AND COMMUNITY CARE AND NURSING FACILITY CARE.—(1) After conducting an initial assessment on an individual with respect to home and community care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(1). If the case management team determines that such an individual is eligible for care under this part, the team shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)) and shall establish a plan of care for such individual consistent with that individual's degree of impairment.

"(2) After conducting an initial assessment on an individual with respect to nursing facility care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(2)) and shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)).

"(d) CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—(1) In this part, for purposes of determining eligibility for home and community care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 2 of the following activities of daily living: bathing, eating, dressing, toileting, transferring, and eating; or

"(B) has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision of another individual in order—

"(i) to perform 2 or more of the activities of daily living described in subparagraph (A); or

"(ii) to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

"(2) In this part, for purposes of determining eligibility for nursing facility care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living as described in paragraph (1)(A); and

"(B) has a similar level of disability due to cognitive impairment as provided in paragraph (1)(B).

"(3)(A) For purposes of this part, an individual shall be considered to have a moderate level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 2 of the activities of daily living described in paragraph (1)(A).

"(B) For purposes of this part, an individual shall be considered to have a severe level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 4 of the activities of daily living described in paragraph (1)(A).

"(e) APPEALS.—For review of certifications made under this section, see section 1869.

"PAYMENTS AND COST SHARING

"SEC. 1853. (a) PROSPECTIVE PAYMENT BASIS FOR HOME AND COMMUNITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part for home and community care, amounts determined under a fee schedule (or other prospectively determined reimbursement mechanism) established and annually adjusted by the Secretary under paragraph (2).

"(2) The Secretary shall establish a fee schedule (or other prospectively determined reimbursement mechanism) consistent with the following:

"(A) Except as adjusted under subparagraph (C), the schedule or mechanism shall provide for uniform national payment rates.

"(B) The Secretary shall provide for an annual adjustment in the rates under such schedule or mechanism based on the Secretary's estimate, before the beginning of the year involved, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in long-term home care) for the year will exceed the cost of such mix of goods and services for the preceding year.

"(C) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of payment amounts which are attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor (established by the Secretary) reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. At least every 36 months, the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs for long-term home care in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category.

"(3) The maximum amount of payment that may be made with respect to long-term home and community care provided—

"(A) a chronically dependent individual (other than a dependent child described in section 226(h)) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 50 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a moderate impairment, or

"(ii) 65 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a severe impairment, and

the number of days in the month over which the individual is provided such care; or

"(B) a dependent child described in section 226(h) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 100 percent of the per diem amount that would be payable, under the plan of the State approved under title XIX, during the month if the individual were provided appropriate care in an appropriate institutional setting and if no limit on amount, duration, or scope of covered institutional services applied other than medical necessity, and

"(ii) the number of days in the month over which the individual is provided such care.

The monthly payment limitations established under the previous sentence shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

"(4) Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each State, the State average per diem payment rates that would apply (under paragraph (1)) for nursing facility care in the State on a full-time basis in the year if there were no reduction for coinsurance under this part.

"(b) PER DIEM PAYMENT RATE FOR NURSING FACILITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits payable under this part for each day of nursing facility care, after the first 90 days of such care an amount equal to $63 (subject to a maximum payment amount of $1900 per month) after the copayment requirement described in paragraph (2) has been met.

"(2) The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1854. (a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such Fund as provided in this part.

"(b) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Administrator of the Health Care Financing Administration shall be deemed a reference to the Secretary.

"(c) FUNDING.—

"(1) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(A) CERTAIN ADDITIONAL REVENUES.—There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by—

"(i) section 301, and

"(ii) section 302,

of the Long-Term Care Family Protection Act of 1991.

"(B) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than such taxes.

"(2) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (d)(3).

"(d) EXPENDITURES.—

"(1) HOME AND COMMUNITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(a) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(i).

"(2) NURSING FACILITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(b) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(ii).

"(3) LONG-TERM CARE ADVISORY COUNCIL.—Amounts in the Trust fund shall be available, as provided by section 1855(n), to carry out the functions of the Long-Term Care Advisory Council.".

(b) HOME CARE AGENCY DEFINED.—(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"HOME CARE AGENCY

"(kk) The term 'home care agency' means a public agency or private organization, or a subdivision of such an agency or organization, which is a home health agency (as defined in subsection (m)) or—

"(1) is primarily engaged in providing services of homemaker/home health aides and personal care aides;

"(2) maintains clinical records on all patients;

"(3) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(A) is licensed pursuant to such law, or

"(B) is approved, by the agency of such State or locality, responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(4) meets the conditions of participation described in section 1891(g) and such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; and

"(5) meets such additional requirements as the Secretary finds necessary for the effective and efficient operation of the program.".

(2) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(3) Section 1861(w)(1) of such Act (42 U.S.C. 1395x(w)(1)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(4) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (kk)".

(5) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or home care agency" after "home health agency", and

(B) in the second sentence, by inserting "home care agency," after "home health agency,".

(6) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(dd)(2)" and inserting "1861(dd)(2), or 1861(kk)".

(7) Section 1891 of such Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), the previous provisions of this section shall apply to home care agencies in the same manner as they apply to home health agencies.

"(2) In applying paragraph (1) with respect to home care agencies:

"(A) Any reference to a home health agency, home health aide, section 1861(m), or section 1861(o) (or paragraph (3) thereof) is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide, and section 1851(b), or section 1861(mm) (or paragraph (2) thereof), respectively.

"(B) Any dates or deadlines specified in the previous provisions of this section shall be 1 year after the date otherwise specified.".

(c) TRUST FUND CONFORMING AMENDMENTS.—(1) Section 201(a) of such Act (42 U.S.C. 410(a)) is amended, in paragraphs (3) and (4), by inserting "and section 1854(c)(1)(A)(ii)" after "of this section".

(2) Section 1817(a) of such Act (42 U.S.C. 1395i(a)) is amended—

(A) in paragraph (1), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the semicolon, and

(B) in paragraph (2), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, but no payments shall be made under title XVIII of the Social Security Act for services furnished under part C of such title before January 1, 1994.

SEC. 102. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) ENTITLEMENT TO BENEFITS OF SOCIAL SECURITY BENEFICIARIES.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(1) in subsections (a) and (b), by inserting ", and care benefits under part C," after "entitled to hospital insurance benefits under part A";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by redesignating paragraph (2) as paragraph (3), and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) entitlement of an individual to benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part C of title XVIII on his behalf for home and community care and nursing facility care furnished him in the United States during such month; and";

(D) in subsections (e)(1), (e)(4), and (f), by inserting "and long-term care benefits" after "hospital insurance benefits";

(E) in subsection (e)(3), by inserting "and long-term care benefits" after "hospital insurance benefits" the first place it appears;

(F) in subsection (e)(3), by inserting "and such long-term care benefits" after "hospital insurance benefits" the second place it appears; and

(G) in subsection (g)(1), by inserting "and for long-term care benefits under part C of such title" after "part A of title XVIII".

(b) ENTITLEMENT TO BENEFITS OF DEPENDENT CHILDREN.—Section 226 of such Act (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsections:

"(h) Every individual who—

"(1) is under 19 years of age,

"(2) is—

"(A) a citizen of the United States, or

"(B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month involved,

"(3) has been certified by a trained case management team of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of such a physician, any physician)—

"(A) to be chronically dependent or disabled and to be unable to perform (without human assistance or supervision) due to the individual's chronic dependence or disability at least 2 age-appropriate activities of daily living (as defined in section 1852(d)(1)), or

"(B) to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability,

"(4) has filed an application for benefits under this subsection, and

"(5) is not otherwise eligible for benefits under part A of title XVIII,

shall be entitled to benefits for long-term home and community care under part C of title XVIII for each month beginning with the first month the individual meets the requirements of this subsection and ending with the month following the month in which the individual no longer meets such requirements.".

(c) ENTITLEMENT TO BENEFITS OF RAILROAD RETIREMENT BENEFICIARIES.—Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)) is amended—

(1) in paragraph (1)—

(A) by striking "and outpatient hospital diagnostic services" and inserting "outpatient hospital diagnostic services, home and community care, and nursing facility care", and

(B) by striking "parts A and C" and inserting "parts A, C, and D"; and

(2) in paragraphs (4) and (5), by striking "part A" each place it appears and inserting "parts A and C".

(d) OTHER INDIVIDUALS.—The provisions of section 103 of the Social Security Amendments of 1965 shall apply to community care and nursing facility care under part C of title XVIII of the Social Security Act (and the Long-Term Care Trust Fund established under such part) in the same manner as such provisions apply to hospital insurance benefits under part A of title XVIII of such Act (and the Federal Hospital Insurance Trust Fund established under such part).

(e) DETERMINATIONS AND APPEALS.—Section 1869 of the Social Security Act (42 U.S.C. 1395ff) is amended—

(1) in subsection (a), by striking "or part B" each place it appears and inserting ", part B, or part C";

(2) in subsection (a), by inserting "or part C" after "a claim for benefits under part A";

(3) in subsection (b)(1)(C), by striking "or part B" and inserting ", part B, or part C";

(4) in subsection (b)(1), by striking "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a negative certification under section 1852(b), or the determination of a level of impairment under section 1852(b)(1),"; and

(5) in subsection (b)(2)(A), by inserting "or part C" after "part A".

(f) MISCELLANEOUS.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to home and community care and nursing facility care provided on or after January 1, 1994.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

SEC. 201. ASSURING SELF-FINANCING OF BENEFITS UNDER THIS ACT.

(a) STATEMENT OF PURPOSE.—The purpose of the amendment made by this section is to assure that all the additional costs to the Federal Government for home and community care resulting from the enactment of this Act do not exceed the additional revenues derived from the amendments made by section 301 of this Act.

(b) ASSURING SELF-FINANCING OF BENEFITS.—Section 1854 (42 U.S.C. 1395c) of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new subsection:

"(e)(1) Not later than 3 months before the effective date for 1994 and not later than October 1 of 1994 (and of each succeeding fiscal year), the Secretary shall, in close consultation with the Long-Term Care Advisory Council, estimate the amount (if any) for the transition period or for the succeeding fiscal year, respectively, by which—

"(A) the amounts of revenues to be transferable into the Trust Fund under subsection (c)(1)(A)(i) in that period or succeeding fiscal year exceeds or is less than—

"(B) the sum of—

"(i) the amount to be expended during that period or succeeding fiscal year under subsection (d)(1),

"(ii) the amount of claims expected to be received during that period or fiscal succeeding year under subsection (d)(1); and

"(iii) with respect to the provision of home and community care, any additional administrative costs to be expended during that period or succeeding fiscal year under this title, or under part B of title XI, as a result of the enactment of the Long-Term Care Family Protection Act of 1991.

In this paragraph, the term 'effective date' means January 1, 1994, and the term 'transition period' means the period beginning on the effective date and ending with the last day of the fiscal year in which the effective date occurs.

"(2) If the Secretary estimates under paragraph (1), with respect to a period or fiscal year, that a deficit exists, then—

"(A) the amount that is payable for home and community care furnished to any individual on each day in the period or fiscal year shall be reduced, subject to the limit established in paragraph (3), by such a copayment amount as the Secretary estimates to be necessary to reduce by ½ the amount of such deficit, and

"(B) the payment limits established under section 1853(a) for months in such period or fiscal year shall be proportionally reduced by such a percentage as the Secretary estimates to be necessary to achieve the same savings as are achieved from the application of subparagraph (A).

"(3) Any copayment amount established under paragraph (2)(A) may not exceed 5 percent of the Secretary's estimate of the national average daily payment rate for home and community care under this part for the period in which the copayment amount will be applied.".

SEC. 202. ASSURING QUALITY OF LONG-TERM HOME CARE.

(a) IN GENERAL.—Part C of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new section:

"LONG-TERM HOME AND COMMUNITY CARE QUALITY ASSURANCE

"SEC. 1855. (a) LONG-TERM HOME AND COMMUNITY CARE CONSUMERS' BILL OF RIGHTS.—The Secretary shall promulgate, by regulation, a long-term home and community care consumers' bill of rights, which shall recognize the following as rights of long-term home and community care consumers which may be asserted by the home and community care consumer receiving care under this part or the consumer's representative or guardian:

"(1) To be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle.

"(2) To be fully and promptly informed orally and in writing—

"(A) of services to be provided and any limits regarding availability of services from the home health agency or home care provider;

"(B) of whether services may be provided under this title or are covered by other sources, and whether uncompensated care may be available;

"(C) of charges for services and billing procedures, including an itemized copy of each bill submitted to any payor;

"(D) of changes in services or charges; and

"(E) of the procedures to follow if rights are violated or services are not satisfactory, including the right to a hearing before an entity other than a home health agency or a long-term care management agency.

"(3) To take an active part in creating and changing the plan of care.

"(4) To take an active part in selecting and evaluating the home health agency and the home care provider, and in selecting and evaluating treatment, care, and services.

"(5) To be served by individuals who are properly trained and competent to perform their duties.

"(6) To be fully informed by a home care provider of the provider's assessment of the home care consumer's condition, unless contradicted by documentation provided by a professional practitioner in the home care consumer's record.

"(7) To refuse all or part of any treatment, care, or service, and to be informed of the likely consequences of such refusal.

"(8) To receive treatment, care, and services in compliance with all State and local laws and regulations without discrimination in the provision or quality of services based on race, religion, gender, age, disability, or creed (except as provided under the Age Discrimination Act of 1975 (Public Law 94-135; 42 U.S.C. 6101 et seq.)), or because of a change in the source of payment.

"(9) To be free from mental and physical abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

"(10) To receive respect and privacy in the home care consumer's treatment, care, and services in caring for personal needs, in communications, and in all daily activities.

"(11) To be assured respect for the home care consumer's property rights.

"(12) To be assured confidential treatment of personal, financial, and medical records and to approve or refuse their release to any individuals outside the agency except as otherwise required by law or third-party payment contract.

"(13) To voice grievances and recommend changes in policies and services to staff or outside representatives of the consumer's choice and to be assisted in doing so when assistance is needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, by the home health agency, or by the home care provider.

"(14) To be free to fully exercise the consumer's civil rights and to be assisted in doing so when assistance is needed.

"(15) To receive promptly written notice from the long-term care management agency if treatment, care or services are to be reduced or terminated, and assistance to assure a smooth transition in services consistent with the welfare of the home care consumer.

"(16) To be promptly notified by the home health agency of acceptance or denial of services and the reasons for such denial.

"(b) HOME HEALTH AGENCY QUALITY ASSURANCE REQUIREMENTS.—(1) In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive funding for the provision of long-term home and community care services under this part, a home health agency must within 6 months after the date of the publication of such regulations—

"(A)(i) comply with the home and community care consumer's bill of rights promulgated under subsection (a); and

"(ii) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency or other providers under this part;

"(B)(i) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers regarding the provision of long-term home and community care services; and

"(ii) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(C) ensure that each long-term home and community care provider employed by or under contract with the home health agency receives training—

"(i) sufficient to meet a level of proficiency established by the Secretary in regulations (in consultation with representatives of the elderly, individuals with disabilities, and children, home health agencies, and experts in the fields of geriatric nursing, pediatric nursing, geriatric social work, pediatric social work, mental health, rehabilitation, and other appropriate health care professionals) to be appropriate in content and amount;

"(ii) which develops separate levels of proficiency in and is reflective of the range of skills required of long-term home and community care providers providing different levels of long-term home and community care services; and

"(iii) the extent of which shall be made available on request to each long-term home and community care consumer with respect to the amount of training or level of certification achieved by each long-term home and community care provider;

"(D) supervise all long-term home and community care providers employed by or under contract to the home and community health agency in accordance with regulations promulgated by the Secretary (including regular random onsite supervisory visits by registered nurses or other appropriate health care professionals); and

"(E) perform annual evaluations of quality of services rendered by long-term home and community care providers employed by or under contract to the home health agency which includes and documents long-term home and community care consumer involvement.

"(2) In addition to such other requirements as may apply, to receive funding for the provision of durable medical equipment services under this title, a home health agency or long-term home and community care provider shall in each case of a long-term home and community care consumer to which such services are provided—

"(A) issue written instructions for the operation of such equipment;

"(B) provide sufficient training to the long-term home and community care consumer, the long-term home and community care consumer's family, and staff to allow correct, safe operation of all such equipment; and

"(C) formulate an emergency plan appropriate to the services provided to the long-term home and community care consumer.

In the previous sentence, the term 'durable medical equipment services' means supply, maintenance, or training in the operation of durable medical equipment.

"(c) LONG-TERM CARE MANAGEMENT AGENCY QUALITY ASSURANCE REQUIREMENTS.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive payment for the provision of case management services under this part, a long-term care management agency must within 6 months after the date of the publication of such regulations—

"(1)(A) comply with the long-term home and community care consumers' bill of rights promulgated under subsection (a); and

"(B) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency under this title;

"(2)(A) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers; and

"(B) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(3) provide to each long-term home and community care consumer (or the consumer's representative or guardian) a written statement of the services to be provided to the long-term home and community care consumer and the schedule for provision of such services, as agreed upon by the long-term home and community care consumer;

"(4) provide to each long-term home and community care consumer a clear written statement as to how the consumer, or the consumer's representative or guardian, may appeal benefit and level decisions made by the agency;

"(5) maintain procedures that assure prompt access to long-term home and community care services for eligible long-term home and community care consumers;

"(6) ensure that personnel providing case management services to long-term home and community care consumers have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council; and

"(7) establish and implement case management processes which include—

"(A) a plan of care which states reasonable and measurable client objectives and long-term home and community care services to be provided to meet the objectives;

"(B) a plan of care that employs outcome measures insofar as they are appropriate and available for each long-term home and community care consumer served;

"(C) methods for periodic review of—

"(i) a long-term home and community care consumer's needs; and

"(ii) the plan of care for a long-term home and community care consumer;

"(D) methods for follow-up and on-going monitoring of patient and services delivery; and

"(E) a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

"(d) SURVEY REQUIREMENTS.—(1) The Secretary shall, in consultation with the Long-Term Care Advisory Council, promulgate regulations which establish procedures for surveying long-term care management agencies regarding compliance with conditions of participation established by this section.

"(2) Regulations promulgated under paragraph (1) shall include—

"(A) survey methodologies which include—

"(i) patient-oriented assessment techniques;

"(ii) process and outcome criteria for measuring the compliance of long-term care management agencies with conditions of participation under this title; and

"(iii) randomized, onsite review of a representative sample of long-term home and community care consumers to evaluate compliance with applicable conditions of participation;

"(B) a graduated schedule of unannounced surveys that provides surveys—

"(i) not less than every 9 months for long-term care management agencies that are determined by the Secretary to have a substandard record of compliance with applicable conditions of participation;

"(ii) not less than every 15 months for long-term care management agencies that are determined by the Secretary to have consistently satisfactory records of compliance with the applicable conditions of participation; and

"(iii) not less than every 12 months for other such agencies.

"(3) The results of surveys performed under this subsection shall be provided to the Long-Term Care Advisory Council and community advisory boards established under subsection (e)(1) and shall be made available to others in accordance with this title.

"(4)(A) The Secretary may enter into a contract with a State under which a State, which has survey and enforcement procedures which are determined by the Secretary to be at least equivalent to the survey and enforcement procedures which the Secretary would otherwise apply under this section, shall conduct surveys of compliance of long-term care management agencies (other than those owned or operated by a State) with the requirements of this section and provide for the annual transmittal to the Secretary of the results of such State surveys.

"(B) The Secretary shall develop and implement procedures for annually validating a representative sample of surveys of long-term care management agencies performed by States under subparagraph (A).

"(C) Procedures developed under subparagraph (B) shall provide for review of such surveys within 1 month after the performance of such a survey.

"(e) QUALITY ASSURANCE SYSTEM THROUGH PEER REVIEW ORGANIZATIONS.—(1)(A) The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care.

"(B) In awarding, administering, and evaluating contracts entered into with peer review organizations of the performance of monitoring under this subsection, the Secretary shall—

"(i) take into consideration information contained in reports issued by Consumer Boards under paragraph (2)(C)(iii);

"(ii) require that at least ¾ of the level of effort of a peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care provided;

"(iii) require that the remainder of the effort of a peer review organization shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the home and community care consumer, of the appropriateness and necessity of care denied under this title;

"(iv) require that any review by a peer review organization of a home health agency or a home and community care management agency include a representative sample of documentary reviews and personal interviews of home and community care consumers and home and community care providers;

"(v) require that if any portion of a peer review organization's responsibilities are provided by a third party under contract with the peer review organization the fulfillment of such responsibilities are fully integrated with other functions of such peer review organization; and

"(vi) require that the membership of a peer review organization board include representatives of all types of home and community care providers reviewed by the peer review organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

"(C) A peer review organization performing monitoring functions under this subsection may not be—

"(i) a home health agency;

"(ii) a home and community care management agency;

"(iii) a home and community care provider; or

"(iv) a fiscal intermediary.

"(D) The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities under this paragraph.

"(E) A peer review organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies who have been found to have not met professionally recognized standards of care.

"(2)(A) The Secretary shall establish a Consumer Board in each State within 1 year after the date of the enactment of this section.

"(B)(i) A Consumer Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary based on recommendations from organizations in each State representing home and community care consumers who are entitled to benefits under this title. Members must be entitled to benefits under this title or be representatives of organizations which represent home and community care consumers who are entitled to such benefits.

"(ii) Limited staff support and training shall be provided to a Consumer Board by the Secretary as is necessary to carry out its functions.

"(C) A Consumer Board shall—

"(i) monitor the review activities of peer review organizations by—

"(I) providing input into the awarding of contracts to peer review organizations; and

"(II) evaluating the contracts of peer review organizations and the mechanisms established to monitor home health agencies and home and community care management agencies;

"(ii) have access to—

"(I) information of peer review organizations,

"(II) results of State surveys conducted under subsection (d)(4)(A), and

"(III) information from toll-free hotlines (established under paragraph (3)), after protection of the identities of individual health care providers and consumers; and

"(iii) file an annual report with the Secretary and the chief executive officer of the State on October 1 of each year regarding the performance during the previous year of peer review organizations.

"(D) A Consumer Board shall not be involved in the day-to-day operation of peer review organizations.

"(3) Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

"(4) The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

"(5) Consumer Boards established under paragraph (2) and peer review organizations shall coordinate with State and local government officials to educate home and community care consumers regarding quality assurance programs and the various forms of assistance available to home and community care consumers with quality assurance problems under this title.

"(f) COMMUNITY ADVISORY BOARDS AND ADDITIONAL QUALITY ASSURANCE.—(1) Each State shall establish and appoint (based on the recommendations of long-term home and community care consumers, their representatives, and organizations representing these individuals and pursuant to regulations of the Secretary) members to a community advisory board (in this subsection referred to as the 'board') for each long-term care management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term home and community care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

"(2) Each board shall—

"(A) monitor the activities of the long-term care management agencies,

"(B) provide input in the selection of long-term care management agencies,

"(C) file a report with the Secretary on the findings of its monitoring not less frequently than annually, and

"(D) have prompt access to results of surveys and of investigations of complaints of the long-term care management agency with respect to which it was established and home health agencies providing long-term home and community care services to individuals in the area served by the agency.

Each report under subparagraph (C) shall be reviewed and its findings incorporated into the survey of long-term care management agencies under subsection (d).

"(3)(A) The Secretary shall develop and implement methods for monitoring the continuity of care provided to long-term home and community care consumers throughout episodes of illness and across care settings.

"(B) The Secretary shall develop and implement outcome-oriented criteria for use in determining quality assurance in long-term home and community care services.

"(g) SANCTIONS.—(1) The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions to be applied to long-term care management agencies providing case management services under this title for failing to comply with this section.

"(2) Sanctions and procedures established under paragraph (1) shall—

"(A) include civil monetary penalties (under the procedures described in section 1128A), a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies;

"(B) include specific criteria as to when and how each sanction is to be applied and the amounts of any fines and penalties;

"(C) be designed so as to minimize the time between the identification of violations and final imposition of the sanctions;

"(D) provide for a plan and schedule for corrective action by home health agencies found to be out of compliance with conditions of participation; and

"(E) require public disclosure of failures of home health agencies and long-term care management agencies to meet professionally recognized standards of care, and the sanctions imposed for such failures.

"(3) The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy, and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

"(h) DEVELOPMENT OF LICENSING POLICIES.—The Secretary shall—

"(1) encourage States to develop policies and procedures for the licensing of home health agencies;

"(2) gather information relating to activities of States in implementing licensing policies and procedures; and

"(3) issue a biannual report which summarizes information gathered under paragraph (2).

"(i) LONG-TERM CARE ADVISORY COUNCIL.—(1)(A) There shall be established, no later than 60 days after the date of the enactment of this section, an independent body to be known as the Long-Term Care Advisory Council (in this subsection referred to as the 'Council').

"(B) The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, rehabilitation, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care providers and their representatives, professionals with expertise in long-term care (including nurses, social workers, and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and State and local health and social service agency representatives. Appointments to the Council shall be for a term of not to exceed 4 years.

"(2) The purposes of the Council are—

"(A) to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part,

"(B) to review regularly the implementation of such provisions, and

"(C) to recommend to the Secretary and the Congress any needed changes or refinements to such provisions or regulations promulgated to implement such provisions.

The Secretary shall regularly and closely consult with the Council in the implementation and administration of the provisions of this part, including the issuance of regulations to carry out such provisions. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter, for these purposes.

"(j) STUDIES.—(1)(A) The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part.

"(B) Studies referred to in subparagraph (A) shall include examination of—

"(i) methodologies which develop and evaluate outcome standards in the provision of long-term home and community care services;

"(ii) mechanisms for ensuring and monitoring long-term home and community care quality by episode of care;

"(iii) the role of case management for ensuring quality in provision of long-term home and community care services;

"(iv) the differing approaches to and responsibility for the development of a plan of long-term home and community care services; and

"(v) the impact on quality of care of—

"(I) the separate reimbursement for supply of durable medical equipment to long-term home and community care consumers; and

"(II) the training of long-term home and community care consumers and their families in the operation of such equipment.

"(2) The Secretary shall report to Congress, by not later than 2 years after the date of the enactment of this part, on the findings of studies funded under paragraph (1).

"(k) REPORTS ON QUALITY ASSURANCE SYSTEM.—(1) The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year regarding the nature and performance during the preceding fiscal year of the home and community care quality assurance system established under subsection (e).

"(2) Each report required by paragraph (1) shall include information regarding—

"(A) the number of individuals served by long-term home and community care providers subject to the provisions of this section;

"(B) the amount of Federal funds expended for long-term home and community care services under this title;

"(C) examination of noncompliance with the provisions of this section by long-term home and community care providers who received funds under this title and the sanctions imposed;

"(D) the economic impact on home health agencies of requiring them to comply with the requirements of this section;

"(E) the impact of the requirements of this section on availability of long-term home and community care services in rural areas and to members of minority and ethnic groups;

"(F) the concerns and recommendations of community advisory boards and Consumer Boards; and

"(G) the status of studies undertaken under subsection (j).

"(l) DEFINITIONS.—For purposes of this section:

"(1) The term 'long-term home and community care consumer' means a chronically dependent individual who is provided long-term home and community care services.

"(2) The term 'long-term home and community care provider' means an individual who provides long-term home and community care services directly to a home and community care consumer.

"(3) The term 'long-term home and community care services' means home health services and long-term home and community care.

"(4) The term 'Consumer Board' means a Consumer Board established under subsection (e)(2).

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

SEC. 301. SOURCE OF REVENUE FOR HOME AND COMMUNITY CARE.

(a) ELIMINATION OF LIMIT ON WAGES OR SELF-EMPLOYMENT INCOME SUBJECT TO HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Section 230 of the Social Security Act (42 U.S.C. 430) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1986, this section shall not have the effect of limiting the total amount of any individual's net earnings from self-employment or remuneration for employment which is subject to the hospital insurance tax under section 1401(b), 3101(b), or 3111(b) of the Internal Revenue Code of 1986; and sections 1402(b)(1) and 3121(a)(1) of such Code shall not apply in determining the amount of any individual's wages and self-employment income for purposes of that tax."

(2) CONFORMING AMENDMENTS.—

(A) Section 1402(b) of the Internal Revenue Code of 1986 (defining self-employment income) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(B) Section 3121(a) of such Code (defining wages) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

SEC. 302. SOURCE OF REVENUE FOR NURSING FACILITY CARE.

(a) INCREASE IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	**The rate shall be:**
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(2) TAX ON EMPLOYERS.—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	**The rate shall be:**
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(b) TAX ON SELF-EMPLOYMENT INCOME.—The table in section 1401(a) of the Internal Revenue Code of 1986 (relating to rate of tax on self-employment income for old-age survivors, and disability insurance) is amended to read as follows:

"In the case of a taxable year

Beginning after:	**And before:**	**Percent:**
December 31, 1989.	January 1, 1993.	12.4
December 31, 1992.	....	13.4."

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

SEC. 401. PERMITTING INDIVIDUALS WITH DISABILITIES TO PURCHASE MEDICARE COVERAGE DURING THE 24-MONTH WAITING PERIOD FOR MEDICARE ENTITLEMENT; PERMITTING INDIVIDUALS WITH DISABILITIES NOT ENTITLED TO LONG-TERM CARE BENEFITS TO BUY INTO MEDICARE TO OBTAIN SUCH BENEFITS.

(a) DISABILITY BUY-IN.—Section 1818(a) of the Social Security Act (42 U.S.C. 1395i-2(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) has not attained the age of 65 and would be described in section 226(b)(2) if the phrases ', and has for 24 calendar months been entitled to,' ', and has been for not less than 24 months,' and 'including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted from subparagraphs (A), (B), and (C)(ii), respectively, of such section,";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) LIMITED BUY-IN FOR LONG-TERM HOME CARE BENEFITS.—Section 1818(a) of such Act

(42 U.S.C. 1395i-2(a)) as amended by subsection (a), is further amended by adding at the end the following: "In enrolling under this section, for months beginning with the first month that begins 1 year after the date of the enactment of this sentence, an individual has the option of enrolling for all benefits under this part or, for long-term care benefits described in part C of this title, or for both.".

(c) PREMIUMS.—Section 1818(d) of such Act (42 U.S.C. 1395i-2(d)) is amended—

(1) in the first sentence of paragraph (2), by striking "for months occurring in the following calendar year" and inserting before the period the following: "for benefits (other than for long-term care benefits described in part C of this title) for months occurring in the following calendar year for individuals described in subsection (a)(1)"; and

(2) by adding at the end the following new paragraphs:

"(4) The Secretary shall, during the next to last calendar quarter of each year, determine and promulgate the dollar amount which shall be applicable for premiums (other than for long-term care benefits described in part C of this title) for months occurring in the following year for individuals described in subsection (a)(1). Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals will equal 100 percent of the total of the benefits and administrative costs which he estimates will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals (other than with respect to long-term care benefits). In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.

"(5) The Secretary shall, during the first calendar quarter of 1993 and during the next to last calendar quarter of each year (beginning with 1993), determine and promulgate the dollar amount which shall be applicable for premiums for individuals enrolled for long-term care benefits under this section for months occurring in 1993 or in the following year, respectively. Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such period or calendar year with respect to individuals so enrolled will equal 50 percent of the benefits and administrative costs which will be payable from the Federal Long-Term Care Trust Fund for long-term care benefits provided and related administrative costs incurred in the period of year with respect to individuals so enrolled under this section. In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning on or after January 1, 1993.

LONG-TERM CARE FAMILY PROTECTION ACT SECTION-BY-SECTION SUMMARY

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New Part C Long-Term Care Program

Scope of Benefits

SEC. 1851. Establishes an entitlement in the Social Security Act, in a new Part C of Medicare, for payment for home and community care and nursing facility care for individuals determined by a long-term care management agency to be eligible for such care.

Home and Community Care Defined

Home and community care consists of items and services furnished by a home care agency (or others under arrangement with such an agency) and provided in a place of residence or on an outpatient basis at a hospital, skilled nursing facility or rehabilitation center. Items or services must be furnished under a written plan of care reflecting the invidividual's needs as determined in an assessment by a long-term care management agency. The written plan of care is to be periodically reviewed and revised by the long-term care management agency.

Home- and community-based items and services include case management services; nursing care provided by or under the supervision of a registered professional nurse; services of homemaker/home-health aide who has completed a training and competency evaluation program approved by the Secretary; medical social services; personal care services; physical, occupational, speech, or respiratory therapy, or rehabilitative services; medical supplies (other than drugs and biologicals) and durable medical equipment, while under the plan; medical services provided by an intern or resident in training of a hospital affiliated with the home health agency; respite services for family caregivers; adult daycare services (including at least one meal a day).

Home- and community-based services at a facility other than an individual's place of residence shall be provided to the extent the individual is there to receive case management or other services not readily available in the individual's place of residence, but shall not include transportation to and from a facility.

Nursing Facility Care Defined

Nursing facility care consists of items and services that would be provided to hospitals, inpatients under Medicare, including nursing care provided by or under the supervision of a registered professional nurse; bed and board; physical, occupational, respiratory, or speech-language therapy furnished by the facility or by others under arrangement with the facility; medical social services; drugs, biologicals, supplies, appliances and equipment as ordinarily furnished by the facility for the care and treatment of residents; medical services provided by an intern or resident-in-training of a hospital with which the facility has a transfer agreement under Medicare, under an approved teaching program, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement; and other services necessary to the health of residents as are generally provided by nursing facilities.

Nursing Facility Defined

A nursing facility is a skilled nursing facility as defined under Part A of Medicare; a nursing facility as defined under Medicaid; or an intermediate or custodial nursing facility that meets the license requirements of the state in which it operates and such further requirements as provided by the Secretary.

Long-Term Care Management Agency Defined

A long-term care management agency is a government agency or organization (or its subdivision, or a private nonprofit agency or organization if there is no government long-term care management agency serving the area) that demonstrates expertise in managing health and social services for elderly individuals and is capable of completing an assessment and arranging for services within a reasonable period of time following a referral. The long-term care management agency must provide only case management services and must make arrangements with a home care agency (with which it does not have direct or indirect ownership or control) to provide prescribed home care.

The long-term care management agencies must have policies established by a group of professionals, including one or more registered nurses, one or more physicians, and one or more social workers. It must maintain a sufficient number of case management teams trained in the process of determining eligibility and assessing the needs of chronically dependent individuals. Such teams shall include at least a registered professional nurse and a licensed social worker; in the case of the assessment of an individual under 19, a physician; and other health professionals (including rehabilitation professionals) as are appropriate. Where state and local law provides for the licensing of agencies or organizations of this nature, the long-term care management agency must be licensed pursuant to such law or approved by the licensing agency as meeting licensing standards.

The long-term care management agency must be designated by the Secretary and must meet conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council, may find necessary.

The Secretary may temporarily waive the requirements for a long-term care management agency (with the exception that it be a government or private nonprofit agency or organization with demonstrated expertise and ability to carry out its responsibilities in a reasonable period of time) in the case of an agency or organization serving a rural area or designated health manpower shortage area. A waiver would be granted for one year at a time if failure to grant such a waiver would significantly limit access to long-term home care and if the agency or organization is making good faith efforts to meet the requirements of this part.

Eligibility for Certain Dependent Children and Others

Individuals eligible under this part are those persons eligible under Part A of Medicare and dependent children under age 19 who are determined by the long-term care management agency to be eligible for home and community care under this part.

Assessments and certifications of entitlement

Initial Assessment

SEC. 1852. Each individual entitled to benefits under this part must receive an assessment and be certified as a chronically dependent individual. The long-term care management agency shall conduct an initial assessment of each individual to determine the level of care to which such individual is eligible.

Certifications

Following the initial assessment, a case management team shall certify whether or not the individual is a chronically dependent individual eligible for home and community care or for nursing home care. The team shall include in its certification a determination as to whether the degree of impairment is moderate or severe. In the case of certification for home and community care, the team shall establish a plan of care consistent with the degree of impairment.

Chronically Dependent Individual Defined

A chronically dependent individual is an individual who is unable to perform (without substantial assistance from another individual) multiple activities of daily living (bathing, dressing, toileting, transferring, or eating) or has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision to perform 2 or more of the activities of daily living or to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

For purposes of determining eligibility for nursing facility care, the term chronically dependent individual means an individual who is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living or has a similar level of disability due to cognitive impairment.

A person shall be considered to have a moderate level of impairment if he or she is unable to perform at least 2 of the activities of daily living; an individual shall be considered to have a severe level if impairment if he or she is unable to perform at least 4 of the activities of daily living.

Appeals of certification decisions shall be carried out under provisions applicable for appeals of benefits for Medicare Part A.

Payments and cost sharing

Prospective Payment Basis for Home and Community Care

SEC. 1853. Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing home and community care for eligible persons under this part. Such amounts shall be determined under a fee schedule or other prospectively determined reimbursement mechanism established and annually adjusted by the Secretary. The fee schedule or reimbursement mechanism shall provide for uniform national payment rates.

The Secretary shall provide for annual adjustment in the rates based on an estimate, before the beginning of the year, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in representative wages and prices) for the year will exceed the cost of such mix of goods and services for the preceding year.

The Secretary shall adjust the proportion of payment amounts attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. The Secretary shall update this factor at least every 36 months on the basis of a survey of the wages and wage-related costs for long-term home care in the United States. To the extent feasible, such survey shall measure the earnings and paid hours of employment by occupational category.

The maximum monthly payment that may be made with respect to long-term home and community care provided a chronically dependent individual (other than a dependent child) with a moderate impairment is 50% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care. For an individual determined to have a severe impairment, the maximum monthly amount is 65% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care.

The amount of payment for a dependent child in a month is 100% of the per diem amount that would be payable in a month under the state's plan for Medicaid if the individual were provided appropriate care in an institutional setting and if there were no limit on amount, duration or scope of covered services applied other than medical necessity, multiplied by the number of days in the month the individual is provided such care.

Monthly payment limitations shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each state, the state average per diem payment rates that would apply for nursing facility care in the state on a full-time basis if there were no reduction for coinsurance under this part.

Per Diem Payment Rate for Nursing Facility Care

Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing nursing facility care for eligible persons under this part. The amount available to an individual shall be, following the first 90 days of nursing facility care, $63 for each day of care (subject to a maximum payment amount of $1900 per month) after the copayment requirement has been met. The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

Federal long-term care trust fund

Establishment

SEC. 1854. There is created on the books of the Treasury of the U.S. a Federal Long-Term Care Trust Fund. The Trust Fund shall consist of gifts and bequests and such amounts as may be deposited in or appropriated to the Fund as provided in this part.

Funding

There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as a result of amendments made by this Act. Not less frequently than monthly, amounts estimated by the Secretary of the Treasury to represent the taxes paid to or deposited in the Treasury as a result of these amendments shall be transferred to the Trust Fund. Additional sums are authorized to be appropriated to the Trust Fund as may be required to make expenditures for nursing facility care.

Payments each year from the Trust Fund for home and community care are authorized and appropriated from the amounts determined under the provisions of this Act eliminating the limit on wages or self-employment income subject to the hospital insurance tax.

Payments each year from the Trust Fund for nursing facility care are authorized and appropriated from the amounts determined under the provisions of this Act increasing FICA taxes on employers and employees by .5%.

Amounts in the Trust Fund shall be available to carry out the functions of the Long-Term Care Advisory Council.

Home care agency defined

A home care agency is a public agency or private organization (or a subdivision) that is a home health agency as defined under Medicare or is primarily engaged in providing services of homemaker/home health aides and personal care aides; maintains clinical records on all patients; meets any applicable state or local licensing requirements; meets conditions of participation for an approved home health agency under Medicare and other conditions the Secretary may find necessary.

Conforming Amendments

Title XVIII of the Social Security Act is amended in appropriate places to include references to nursing facilities and home care agencies. Reference to a home health agency or home health aide is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide. Provisions of the Federal Hospital Insurance Trust Fund are amended to include provisions for the Long-term Care Trust Fund.

Effective Date

Provisions authorizing the appropriation of funds to the Long-Term Care Trust Fund become effective January 1, 1993, but no payments shall be made for services under this part before January 1, 1994.

Miscellaneous Amendments

Various provisions of the Social Security Act are amended to include appropriate references to long-term care benefits under part C.

Entitlement to Benefits of Dependent Children

Persons intitled to benefits for long-term home and community care include every individual who is under 19 years of age; is a citizen of the U.S. or an alien lawfully admitted for permanent residence who has resided in the U.S. continuously during the 5 years immediately preceding the month involved; has been certified by a trained case management team of a long-term care management agency, in consultation with an attending physician, to be chronically dependent or disabled. The individual must be certified to be unable to perform (without human assistance or supervision) at least 2 age-appropriate activities of daily living or to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability; has applied for these benefits and is not otherwise eligible for benefits under part A of Medicare.

Entitlement to Benefits of Railroad Retirement Beneficiaries

The Railroad Retirement Act of 1974 is amended to include home and community care and nursing facility care.

Determinations and Appeals

The hearing and judicial review procedures for appeals of Medicare part A benefits are made available to persons appealing a negative certification or any other determination with respect to a claim for benefits under this part.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

Assuring self-financing of benefits

The additional costs to the Federal Government for home and community care resulting from this Act are not to exceed the revenues derived from amendments made by this Act.

Not later than 3 months before the effective date for home and community care benefits, the Secretary, in consultation with the Long-Term Care Advisory Council, shall estimate the amounts transferable to the Trust Fund and the amounts expected to be expended during the succeeding year for home and community care. If the Secretary estimates that a deficit exists, the amount payable for home and community care shall be reduced by a copayment amount (no more than 5% of the national average daily payment rate for home and community care) necessary to reduce the amount of the deficit by one-half. The Secretary shall also reduce the maximum monthly payment limits for home and community care by a percentage estimated to be necessary to reduce the deficit by one-half.

Sec. 202. Assuring quality of long-term home care

Long-Term Home and Community Care Quality Assurance

SEC. 1855. Long-Term Home and Community Care Consumers' Bill of Rights.—The Secretary shall promulgate by regulation a long-term home and community care consumers' bill of rights that may be asserted by the consumer or the consumer's representative. These include the right to be treated with courtesy, respect and full recognition of one's dignity, individuality and right to control one's own household and lifestyle.

The individual has a right to be fully informed of services to be provided and any limit on services; of whether services may be covered by other sources and whether uncompensated care may be available; of charges for services and any changes in services or charges; of procedures to follow if rights are violated or services are not satisfactory.

The individual has a right to take an active part in creating or changing the plan of care and selecting and evaluating the home care provider, the treatment, care and services.

The individual has a right to be served by persons who are properly trained and competent to perform their duties.

The individual has a right to be fully informed of the assessment of his or her condition, unless documentation of a professional practitioner contradicts this right.

The individual has the right to refuse all or part of any service and to be informed of the likely consequence of the refusal.

The individual has the right to receive treatment, care and services without discrimination in the provision or quality of service based on race, religion, gender, age, disability or creed or because of a change in the source of payment.

The individual has the right to be free from mental and physical abuse, neglect and exploitation and to be free from chemical and physical restraints.

The individual has the right to receive respect for property rights; privacy in caring for personal needs, communications and all daily activities; and confidential treatment of personal, financial and medical records.

The individual has the right to voice grievances and recommend changes in policies to staff or outside representatives of the consumer's choice and to be assisted when needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, the home health agency, or the home care provider.

The individual has the right to be free to fully exercise his or her civil rights and to be assisted in doing so.

The individual has the right to receive prompt notice if services are to be reduced or terminated, assistance to assure smooth transition in services, and prompt notice of acceptance or denial of services and reasons for denial.

HOME HEALTH AGENCY QUALITY ASSURANCE REQUIREMENTS

The Secretary shall promulgate regulations making payment for the provision of long-term home and community care services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall ensure that each long-term care provider receives training sufficient to meet a level of proficiency established by the Secretary in consultation with representatives of the elderly, children and individuals with disabilities, and with appropriate health and social service professionals. Training must develop separate levels of proficiency and reflect the range of skills needed to provide different levels of longterm home and community care. The extent of training and level of certification of each provider shall be available on request to the long-term home and community care consumer.

The agency shall supervise all of its providers under regulations promulgated by the Secretary (including regular random, onsite visits by registered nurses or other appropriate health care professionals) and perform annual evaluations of quality of services. Evaluations must include and document consumer involvement.

To receive funding for provisions of durable medical equipment services a home health agency or long-term home and community care provider shall provide for each consumer receiving the services written instructions for the operation of the equipment; sufficient training to the consumer, the family and staff to allow correct, safe operation of the equipment; and an emergency plan appropriate for the services to the consumer.

Long-Term Care Management Agency Quality Assurance Requirements

The Secretary shall promulgate regulations making payment for the provision of case management services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall provide a written statement of the services to be provided, the schedule for provision of services and how the consumer or his or her representative or guardian may appeal the benefit decisions made by the agency.

The agency shall maintain procedures that assure prompt access to long-term home and community care services for eligible consumers.

The agency shall ensure that personnel providing case management services have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council.

The agency shall establish and implement case management processes that include a plan of care stating reasonable and measurable client objectives, services to meet the objectives, and outcome measures to the extent appropriate and available for each consumer served. The processes must include methods for periodic review of the consumer's needs and plan of care, methods for follow-up and on-going monitoring of service delivery, and a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

Survey Requirements

The Secretary, in consultation with the Long-Term Care Advisory Council, shall promulgate regulations establishing procedures for surveying long-term care management agencies regarding compliance with conditions of participation. The regulations shall include survey methodologies that include patient-oriented assessment techniques; process and outcome criteria for measuring compliance; and randomized onsite review of a representative sample of consumers.

The regulations shall include a graduated schedule of unannounced surveys not less than every 9 months for long-term care management agencies determined to have a substandard record of compliance; not less than every 15 months for agencies determined to have consistently satisfactory records of compliance; and not less than every 12 months for other such agencies.

The results of surveys shall be provided to the Long-Term Care Advisory Council, community advisory boards and others.

In the case of a state that has survey and enforcement procedures equivalent to the procedures the Secretary would apply, the Secretary may enter into a contract for the states to conduct the compliance survey required by this section. The Secretary shall develop and implement procedures for annually validating a representative sample of surveys performed by states. Such validation review shall take place within 1 month after the performance of a survey.

Quality Assurance System Through Peer Review Organizations

The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care. In awarding, administering, and evaluating contracts entered into with peer review organizations, the Secretary shall take into consideration information contained in reports issued by Consumer Boards; require that at least ¾ of the level of effort of the peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care; require that the remainder of the efforts shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the consumer, of the appropriateness and necessity of care denied under this title.

The Secretary shall also require that any review include a representative sample of documentary reviews and personal interviews of home and community care consumers and providers; require that any responsibilities carried out by a third party under contract with the peer review organization are fully integrated with other functions of the organization; and require that the membership of the peer review organization board include representatives of all types of home and community care providers reviewed by the organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

A peer review organization performing functions under this subsection may not be a home health agency; a home and community care management agency; a home and community care provider; or a fiscal intermediary.

The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities, and the organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies that have not met professionally recognized standards of care.

The Secretary shall establish a Consumer Board in each state within 1 year after the date of enactment of this section. The Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary on the basis of recommendations from organizations in each state representing home and community care consumers entitled to benefits under this title. The Secretary shall provide limited staff support and training as is necessary for the Board to carry out its functions.

A Consumer Board shall monitor the review activities of peer review organizations by providing input into the awarding of contracts and by evaluating the contracts and mechanisms established to monitor home health agencies and home and community care management agencies. A Board shall have access to information of peer review organizations, results of state surveys, and information from toll-free hotlines after protection of identities of individual providers and consumers. A Board shall file an annual report with the Secretary and the chief executive officer of the state on October 1 of each year regarding the performance of peer review organizations during the previous year. A Board shall not be involved in the day-to-day operations of peer review organizations.

Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

Consumer Boards and peer review organizations shall coordinate with state and local community officials to educate home and community care consumers regarding quality assurance programs and various forms of assistance available to consumers having quality assurance problems.

Community Advisory Boards and Additional Quality Assurance

Each state shall appoint members to a community advisory board for each long-term management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

Each board shall monitor the activities of the long-term care management agency; provide input into the selection of long-term care management agencies; file a report with the Secretary on the findings of its monitoring not less frequently than annually; and have prompt access to surveys and investigations of complaints.

The Secretary shall develop methods for monitoring the continuity of care provided to home and community care consumers throughout episodes of illness and across care settings, and shall develop outcome-oriented criteria for use in determining quality assurance in home and community care.

Sanctions

The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions for failure to comply with this section. Sanctions and procedures shall include: civil monetary penalties, a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies; criteria on when and how each sanction is to be applied and the amounts of fines and penalties; a design to minimize time between identification of violations and imposition of sanctions; a schedule for corrective action; a requirement for public disclosure of failure to meet professionally recognized standards of care and the sanctions imposed for such failure.

The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

Development of Licensing Policies

The Secretary shall encourage states to develop policies and procedures for the licensing of home health agencies; gather information relating to activities of states in implementing licensing policies and procedures; and issue a biannual report summarizing this information.

Long-Term Care Advisory Council

The Council shall be established no later than 60 days after the date of enactment of this section. The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care consumers and their representatives, professionals with expertise in long-term care (including nurses, social workers and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and state and local health and social service agency representatives. Appointment to the Council shall be for a term not to exceed 4 years.

The purposes of the Council are to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part; to review regularly the implementation of these provisions; and to recommend to the Secretary and the Congress any needed changes or refinements to these provisions or their implementing regulations.

The Secretary shall consult regularly and closely with the Council in the implementation and administration of the provisions of this part and on the issuance of regulations. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter.

Studies

The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part. The studies shall include examination of methodologies to develop and evaluate outcome standards; mechanisms for ensuring and monitoring quality by episode of care; the role of case management for ensuring quality in the provision of services; differing approaches to and responsibility for development of a plan of services; and the impact on quality of care of the separate reimbursement for supply of durable medical equipment and the training of consumers and their families in the operation of such equipment.

The Secretary shall report the findings of these studies to the Congress no later than 2 years after the date of enactment of this part.

Reports on Quality Assurance System

The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year on the nature and performance of the home and community long-term care quality assurance system.

Each report shall include information on: the number of individuals served; the amount of Federal funds expended; noncompliance by providers and sanctions imposed; the economic impact on home health agencies of requirements of this section; the impact of requirements of this section on availability of services in rural areas and to members of minority and ethnic groups; the concerns and recommendations of community advisory boards and Consumer Boards; and the status of studies on quality assurance measures.

Authorizations

There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.

Effective Date

The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care

Elimination of Limit on Wages or Self-Employment Income Subject to Hospital Insurance Tax

Section 230 of the Social Security Act is amended to provide that notwithstanding any provision of the Social Security Act or the Internal Revenue Code of 1986, there is no limit on the amount of an individual's net earnings from self-employment or remuneration for employment that is subject to the hospital insurance tax. Conforming amendments are made to the Internal Revenue Code of 1986.

Effective Date

The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

Sec. 302. Source of revenue for nursing facility care

Increase in FICA Taxes

Tax on Employees

The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to provide that the rate of tax on wages shall be 6.2 percent in 1992 and 6.7 percent in 1993 or thereafter.

By Mr. BOND (for himself and Mr. McCONNELL):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

(The statements of Senators on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

PROHIBITING MILITARY AND ECONOMIC AID TO TURKEY

Mr. PRESSLER. Mr. President, Turkey invaded Cyprus in 1974. Occupying forces of Turkey still control a large area of northern Cyprus, where they support the illegal Denktash regime. More than 1,600 Greek Cypriots and five American citizens who were captured by the Turks in 1974 still are missing and unaccounted for.

It is unfortunate, Mr. President, that the Government of the United States has been implicated, at least indirectly, in the continuing illegal Turkish occupation of Cyprus. The United States is the major supplier of Turkish military equipment. That equipment was illegally used in the 1974 invasion and continues to be used today to enforce Turkish control of northern Cyprus.

The United Nations has managed to initiate a series of discussions between Rauf Denktash, leader of the self-proclaimed breakaway territory, and the President of Cyprus, George Vassiliou. These talks have not resulted in progress toward a peaceful reconciliation. The political and military stalemate still exists.

Mr. President, it is time to put aside patience and forbearance in this matter. Within the last year, American and coalition forces liberated Kuwait, a country also occupied by hostile forces. Soviet troops have left Afghanistan for all intents and purposes. An Angolan peace treaty has provided for the departure of Cuban troops from that country. Vietnamese troops are leaving Cambodia. Yet, illegal Turkish troops and colonists remain in Cyprus. Seventeen years of Turkish occupation of over one-third of Cyprus must be brought to an end, and the United States and the world community have an obligation to contribute to a resolution of this problem.

Therefore, today I am introducing a bill to prohibit any military or economic assistance to Turkey until certain conditions are met.

Mr. President, I recognize that this is tough legislation. It is deliberately meant to be tough. We have tried other legislative formulas in the past. They have not worked. The U.N.-sponsored discussions have resulted in no concrete progress. Those talks are likely to continue to drag on, punctuated now and then by propagandistic displays of movement synchronized with the foreign assistance legislative calendar here in Congress. It is time for us to stop being led around on this issue by a recalcitrant ally. It is time for us to display courage in defending the principles of democracy as applied to Cyprus.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no military or economic assistance may be provided under the Foreign Assistance Act of 1961, as amended, or any other law, for Turkey, and that no credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey, until the President certifies to the Congress that—

(1) all Turkish military forces, in excess of those permitted by the 1960 Treaty of Guarantee, and all Turkish colonists are withdrawn from Cyprus;

(2) the Government of Turkey has returned to the Government of Cyprus under the auspices of the United Nations the formerly Greek Cypriot-occupied area of Famagusta/Varosha for the immediate resettlement of refugees;

(3) the negotiations under United Nations auspices have achieved significant progress towards establishing a constitutional democracy in Cyprus based on majority rule, the rule of law, and the protection of minority rights;

(4) the Government of Turkey has released and returned the five Americans abducted by the Turkish invasion forces in 1974 and 1,614 Greek Cypriots who have been missing since the Turkish invasion;

(5) the Government of Turkey is in compliance with the United Nations Charter, Article 2(4), United Nations resolutions on Cyprus including General Assembly Resolution 3212 of November 1, 1974, endorsed by Security Council Resolution 365 on December 13, 1974, Security Council Resolutions 353, 354, 357, 358 and 360 of 1974, and other relevant resolutions on Cyprus;

(6) the Government of Turkey is in compliance with the North Atlantic Treaty Preamble and Article 1; and

(7) the Government of Turkey is in compliance with the United States Foreign Assistance Act of 1961, as amended.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

SUSTAINABLE ENERGY TRANSITION ACT OF 1991

• Mr. WELLSTONE. Mr. President, we had an important vote on this floor 3 weeks ago on a cloture motion to end debate on the motion to proceed on S. 1220, the Johnston-Wallop energy bill. I consider that a historic vote for a new direction in national energy policy. I now want to contribute in an important and constructive way to that new direction by introducing the Sustainable Energy Transition Act of 1991 (S. 2020).

We need a national energy policy which will begin an orderly transition to a sustainable energy future built around renewable energy supplies and efficient energy use. National energy policy should also recognize and support the crucial role regional, State, and local efforts will play in such a transition process.

For the past few months, I have been working with many individuals from Minnesota, other States, and national organizations to develop legislation which will achieve these goals. I hope my colleagues will give serious attention to the bill I am introducing today.

The polls show that the American people are deeply concerned about threats to the environment resulting from climate change, national security vulnerabilities due to heavy dependence on imported oil, and declining economic prosperity and competitiveness in the new global economy. People are looking to us for leadership, and know each of these problems is tied to our wasteful energy habits. They are urging us to begin a transition to sustainable energy technologies by maximizing energy efficiency and rapidly expanding renewable energy production.

Each State and region has different opportunities and challenges for energy efficiency and renewable technologies, given the diversity of climates and indigenous resources. This diversity argues for implementing a transition to sustainable energy use at the State or regional level. That is the direction taken by the Sustainable Energy Transition Act. It provides the means to catalyze and support the diverse and creative energy programs across each of the 50 States toward achieving national energy goals.

The expertise, the experience, the motivation, and the regulatory authority to design and direct such programs are all found at the State level. Local entrepreneurs, businesses, and communities stand ready to take advantage of new technological opportunities for energy saving and development of local energy resources if given support.

This is a particularly important moment for this proposal. Billions of dollars in oil overcharge funding have supported an impressive range of State and local energy efforts. But, the funding that has been the lifeblood of most State energy offices will soon run out. Many successful State programs to conserve energy will be lost if these offices are forced to close. This bill will not only ensure their continued funding, but expand and build upon their success.

This legislation would also generate significant new employment opportunities in all States at a time when jobs are most needed. Studies indicate that energy conservation and renewable energy production are considerably more labor-intensive than conventional energy production, yet save substantial money and resources in the long run. Why not put people to work installing efficient lighting in homes across the Nation or building wind machines and ethanol plants in America with American labor?

This legislation would establish a multi-billion-dollar sustainable energy transition trust fund to support energy transition efforts. Those efforts would be based upon sustainable energy transition strategies which would be developed by the States, or regional consortia of States, with Federal support and guidance. The overall objective would be to launch serious and innovative programs in each of the 50 States aimed at achieving a 20-year national goal of reducing energy use by at least 10 percent and tripling renewable energy production.

Achieving an energy transition will be no small task—it will take the level of commitment by which we achieved leadership in space exploration and constructed an Interstate Highway System. This legislation proposes to fund these efforts from two appropriate sources—eliminating tax subsidies and imposing a fee on the major cause of climate change. First, it closes two large energy tax loopholes—the passive loss exemption and percentage depletion allowance. Second, it establishes a small carbon-based tax on fossil fuels. When fully phased in over 3 years, the carbon-based tax would amount to roughly one-half penny per gallon of oil produced or imported.

For that small cost, there will be many benefits in addition to saving consumers money and creating jobs. Investing in energy efficiency and renewable supplies will protect the environment and increase energy security. Serious investments in these technologies will improve our Nation's economic competitiveness and establish the United States as a leader in sustainable energy technologies. And by planning a long-term transition, economic dislocation and hardships to workers and communities dependent on fossil fuels can be anticipated and addressed.

I hope that this legislation will be an important part of any future national energy policy debate. A detailed summary of the bill is appended. I am introducing this legislation now and circulating it widely among my colleagues and others. It is my intention to reintroduce a revised bill in early January with original cosponsors.

Finally, I want to thank everyone on my staff, from other Senate offices, from my advisory group in Minnesota, and from energy, environmental, taxpayer, and consumer organizations who worked so hard to formulate what I believe is a fundamentally new approach to national energy policy. I look forward to working with many more colleagues and groups as we refine this legislation and prepare to move forward next session.

Mr. President, I ask unanimous consent that a summary of S. 2020 be included in the RECORD immediately following these remarks.

There being no objection, the summary was ordered to be printed in the RECORD as follows:

SUMMARY OF PROVISIONS ON THE SUSTAINABLE ENERGY TRANSITION ACT OF 1991—S. 2020

FINDINGS, PURPOSES AND GOALS

Findings: This legislation recognizes the importance of moving to sustainable energy use through maximizing energy efficiency and renewable energy production. It finds that the technology is now, or will soon be, available for such a transition. It states that by moving to efficiency and renewables, there will be a net increase in employment. It declares that fostering regional, state and local efforts will be the best course to take in order to implement such an energy transition.

The findings assert that communities dependent on fossil fuels should not bear the burden of this transition, and providing economic development and employment for those communities is an important part of a transition effort. It indicates that both energy exporting states and energy importing states stand to gain economically from a program of systematic investments in energy efficiency and renewables.

The bill states that a carbon tax is the appropriate source for funding programs to mitigate carbon-induced climate change, and that eliminating subsidies of non-renewable fuels is a necessary part of a transition to sustainable energy use. Finally, the findings declare that states and regions should be allowed to implement energy efficiency standards higher than federal standards in appropriate circumstances.

Purposes: The legislation has seven purposes:

(1) to ensure a sustainable energy future through increasing energy efficiency and the use of renewable energy sources;

(2) to enhance national security by reducing oil imports;

(3) to reduce US contribution to climate change by reducing fossil fuel use;

(4) to provide for economic growth and expanded employment;

(5) to assist individuals and communities affected by a transition away from fossil fuels;

(6) to establish the US as an international leader in sustainable energy technologies; and,

(7) to enhance US economic competitiveness generally.

Goals: The legislation establishes as its minimum goals the achievement by the year 2011 of—

(1) a reduction in national energy use by 10 percent from current levels, and

(2) an increase in renewable energy sources to supply 25 percent of domestic energy needs.

TITLE I—SUSTAINABLE ENERGY TRANSITION STRATEGIES

This Title defines the criteria for "Sustainable Energy Strategies," with which states (or regional consortia of states) need to comply within two years of enactment to be eligible for funding.

Sustainable Energy Strategies will delineate each state's or region's plans to achieve long-term (20 year) energy efficiency goals which meet or exceed the goals of the Act. The Strategies will include comprehensive long-term assessments and detailed short-term transition programs.

The legislation requires that the long-term assessment evaluate:

(1) the energy use of the state or region,

(2) the technical potential for efficiency improvements and renewable production,

(3) alternative plans for achieving those potentials,

(4) the market place barriers to increasing efficiency and deploying renewables, and,

(5) the social, economic and employment impacts of the alternatives, including impacts on equity and competitiveness.

Each state or region will also be required to produce a short-term assessment. This includes an Energy Transition Program which details the state or region's proposed actions during the next 5 years to achieve the efficiency and renewable energy production goals it has established in its Strategy. The Transition Program includes consideration of a broad range of public policies, from direct investment in technologies to public education programs. It must also address employment transition programs for individuals and communities affected by the transition to new energy sources.

The legislation specifies that the short-term strategy would also include a detailed budget for the plan, and a specific proposal for evaluation of the state's or regional consortium's progress towards achieving its goals, including evaluation of the success or failure of specific programs undertaken.

In developing both the long-term and short-term aspects of the strategy, the legislation directs states to consider the life cycle and external costs of technological options.

Strategies, once developed by a state or regional consortium, are reviewed by the Secretary of Energy at least three months prior to final submission to the Department of Energy (DOE). After final submission, the Secretary is directed to determine whether or not the Strategy meets the requirements of this Act. If it does, the State qualifies for funding through the Sustainable Energy Transition Trust Fund.

Strategies are required to be updated every three years. Updates will also include consideration and development of a short-term program for using "incentive funding" which the state may apply for from the Trust Fund.

The legislation allows states to enter into consortium agreements for carrying out the purposes of this Act. The Secretary is authorized to provide funding to facilitate consortium formation and support their operating expenses. The bill specifies that the formation of a regional consortium shall not decrease the funds available to any state.

TITLE II: SUSTAINABLE ENERGY TRANSITION TRUST FUND

A Sustainable Energy Transition Trust Fund is created in the Treasury. Expenditures from this fund are authorized to be available, as provided in appropriation Acts, for carrying out the provisions of this Act. Any unexpended balances remaining in the Fund are required to be invested by the Treasury in interest bearing accounts.

The Secretary of the Treasury is directed to appropriate to the Trust Fund amounts determined to be equivalent to the revenues received on an annual and continuing basis as a result of three provisions of this Act. They are:

(1) repeal of the passive loss exemption to the alternative minimum tax (estimated revenue gain: $300 million/year);

(2) phase-out of depletion allowance for oil, gas and coal (estimated revenue gain: $1.2 billion/year); and (3) an excise tax on the production or importation of coal, oil and natural gas (estimated revenue gain: $4.2 billion/year).

The excise tax imposed on coal, oil, and natural gas is based upon their relative carbon content, to reflect their contribution to eliminate change. The tax is phased in over three years. At its peak, it is equivalent (based on carbon content) to roughly a one-half cent per gallon tax on oil production.0

The funds generated by these three provisions are allocated into three separate subdivisions of the Transition Trust Fund—a designated fund, an incentive fund and a support fund.

Fifty percent of the total funds generated are allocated to the designated fund. Up to twenty percent of the designated fund is immediately available to be distributed to the states for developing Sustainable Energy Strategies. After approval of its Strategy, each state receives its share of the designated fund based upon the following formula: forty percent shall be divided equally among all States and sixty percent shall be divided in proportion to their population.

Forty-five percent of the total funds generated are allocated to the incentive fund. Incentive funding will be awarded to the states beginning five years after enactment of this act based upon their performance in achieving the energy efficiency and renewable energy production goals of this Act and their individual Strategies.

The Secretary of Energy, in consultation with the Transition Fund Advisory Board, is directed to make the incentive funding allocations based upon a review of each State's efforts and the evaluation and incentive funding application provided by each state. Incentive funding allocations will be made for a three-year period. The additional funds would support activities and programs consistent with the state or regional Strategy.

Five percent of the total funds generated are allocated to the support fund. These funds shall be used to support the Energy Transition Information Clearinghouse, state and regional research and training efforts, and the formation and operation of regional consortia.

A Transition Fund Advisory Board is created to advise the Secretary in carrying out the provisions of this Act, particularly the distribution of incentive funds. The bill specifies that the Advisory Board shall have eleven members, appointed on a non-partisan basis, representing a range of interests, technical expertise, and relevant government agencies.

Several specific requirements must be met by states receiving funds: (1) states must provide 20 percent of the financial support for the programs funded by the designated fund from sources within the state; (2) states must establish a statewide citizens energy council for advice regarding the conduct of the program; (3) local governments must be allocated at least 20 percent of the funds provided annually and must establish community energy councils to provide advice about local programs; and (4) a minimum of 2 percent of all funds must be spent on evaluating the strategies, programs, policies and other activities carried out under the Act.

Several restrictions are placed on expenditure of funds under the Act: (1) funds may be spent only for the implementation of energy efficiency and renewable energy projects and other programs consistent with the State or regional consortium's energy transition strategy, (2) the state must support a mix of both efficiency and renewable initiatives, with no less than 30% of the funds spent on either efficiency or renewables, and (3) not more than 10% of the funds provided may be used for administrative purposes.

TITLE III: ENERGY TRANSITION INFORMATION CLEARINGHOUSE

An Energy Transition Information Clearinghouse is established within the Energy Information Administration of DOE. The clearinghouse is directed to collect and disseminate information on:

(1) energy efficiency and renewable programs among the states;

(2) evaluations of both successful and unsuccessful policies and programs;

(3) sustainable energy strategies;

(4) the role of local governments and community groups in advancing strategies

(5) information on joint ventures and the use of private funding mechanisms

(6) such other informatin as necessary.

In addition the Clearinghouse is charged with promoting technology transfer and cooperating with State and local governments in carrying out this Act.

TITLE IV: RESEARCH AND TRAINING

This Title provides general direction for the Secretary of Energy to re-orient federal research efforts to support the goals and purposes of this Act.

First, it directs the Secretary to support State energy research and development efforts. It also directs the Secretary to promote the establishment or regional councils of State research and development officers and representatives of institutions of higher learning. Finally, the bill mandates that existing DOE research activities be reviewed and revised to designate appropriate regional research centers to support State activities under this Act.

Second, the bill directs the Secretary to support community colleges and vocational-technical institutions to create and expand training programs for energy efficiency and renewable energy technologies.

TITLE V: STATE AND REGIONAL STANDARDS

The legislation repeals the language of existing law which has been interpreted as possibly prohibiting states from adopting incentive programs for the purchase of more efficient automobiles.

Further, the legislation authorizes states or regional consortiums with a total population of more than 10,000,000 to adopt standards which are stricter than federal standards for automobiles and light trucks, heating and air conditioning equipment and other appliances, showerheads, or any other product which the state or regional consortium finds uses a significant quantity of energy.

Any state or regional standards adopted, however, must (1) be at least as energy efficient or renewable-energy intensive as the federal standards, and (2) must be adopted as part of the implementation of the state or regional consortium's sustainable energy strategy.

Further, the legislation details procedures for any person adversely affected by state or regional standards to petition for the Secretary of Energy to disallow standards which fail to save energy and which impede interstate commerce. While authorizing disallowance if the Secretary concurs, the legislation requires consideration of adopting a federal standard in cases where the Secretary finds that state or regional standard does save energy but impedes interstate commerce.

TITLE VI: AUTHORIZATION OF APPROPRIATIONS

This Title authorizes the appropriations of such sums as necessary to carry out out this Act.

Estimated amounts available to States in 1995 from the dedicated fund of the Sustainable Energy Transition Trust Fund

State	*Millions*
Alabama	$52.34
Alaska	26.94
Arizona	47.94
Arkansas	40.24
California	224.04
Colorado	46.64
Connecticut	46.14
Delaware	27.94
Florida	110.74
Georgia	68.24
Hawaii	31.04
Idaho	30.34
Illinois	105.64
Indiana	62.64
Iowa	43.34
Kansas	40.94
Kentucky	49.64
Louisiana	54.54
Maine	31.74
Maryland	56.04
Massachusetts	65.04
Michigan	88.74
Minnesota	53.74
Mississippi	41.84
Missouri	59.74
Montana	28.94
Nebraska	34.64
Nevada	30.74
New Hampshire	30.94
New Jersey	77.94
New Mexico	33.94
New York	150.24
North Carolina	69.24
North Dakota	27.94
Ohio	100.24
Oklahoma	46.24
Oregon	42.84
Pennsylvania	108.34
Rhode Island	30.24
South Carolina	47.84
South Dakota	28.34
Tennessee	57.94
Texas	142.64
Utah	35.24
Vermont	27.14
Virginia	65.94
Washington	56.24
West Virginia	36.54
Wisconsin	57.64
Wyoming	26.64•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

RIO GRANDE DESIGNATION ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the Wild and Scenic Rivers Act by designating an additional 12-mile segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System. I am pleased that my colleague, Senator DOMENICI, has joined with me in cosponsoring this bill.

You may recall that the Rio Grande in northern New Mexico was among the first rivers protected under the Wild and Scenic Rivers Act. We in New Mexico have a great regard for our free-flowing streams and we were eager for the designation. Water in our State is scarce, and the beauty of a flowing river is increased for us because of this scarcity.

This bill again shows the appreciation we have for our river resources. It will confer the designation "recreational river," as provided for in the Wild and Scenic Rivers Act, for an additional 12 miles downstream from the southern terminus of the Rio Grandes' existing designation. This will cover from the Taos Junction Bridge down to the village of Rinconada.

A majority of the lands in the proposed extension are public lands under the administration of the Bureau of Land Management. Private lands are centered around the village of Pilar for about 2 river miles, and at three locations downstream, totaling about 1¼ additional miles.

Mr. President, let me tell you about this 12-mile segment of river. Just south of the Taos Junction Bridge the river enters the Orilla Verde Recreation Area, a stretch with several developed recreation sites and with some prime riparian areas which provide homes to a variety of birds and animals. State Highway 570 follows the river in this section. South of the recreation area, beginning just below Pilar, the river carves its way through deep, spectacular canyons. There are stretches of rapids in this part of the river. And, above the canyon, State Highway 64 runs, providing pullouts to watch both the activities on the river and the river taking its course below. River rafters, boaters, people fishing, photographers, hikers and rockclimbers, campers—all use and enjoy the free-flowing Rio Grande along this 12-mile segment.

This bill will provide protection for this portion of the river from any new federally built, permitted, or licensed dams or other water resource projects which would have a direct and adverse effect on the free-flowing values of the Rio Grande.

But, "recreational river" is also the most expansive designation within the Wild and Scenic Rivers Act for continuing multiple resource management of the area—that's good for this segment. And this is why, under the designation "recreational river" the following may occur: optimum access by motorized vehicles on existing roads will be continued; public use areas may be in close proximity to the river; new structures will be allowed for both recreational use and habitation—but extensive recreational development is not required; recreation uses will be encouraged to the extent consistent with protection of the river environment; new rights of way will be discouraged, but if unavoidable, will be located and designed in ways to minimize effects on the river's values; lands will be managed for a full range of agricultural and livestock grazing uses, consistent with current practices; timber harvesting would be allowed under standard restrictions to avoid adverse effects on the river environment; water quality will be maintained or improved; existing dams and diversions may be maintained in such a way as to assure that the character of the waterway will remain generally natural; new mining claims are allowed and existing operations are allowed to continue; existing parallel roads can be maintained on either or both banks of the river; and finally, several bridge crossings and numerous river access points are permitted.

It is with this knowledge that the landowners along the river—Federal and private—support this designation. As recently as last week at a town meeting held near the proposed extension, the bill was greeted with clear and enthusiastic support. The bill will protect the values of the river that New Mexicans hold dear. And, finally, both the people who use the river, and those who live along it, will be assured of a beautiful, free-flowing stream for themselves and their children.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Designation Act of 1991".

SEC. 2. DESIGNATION OF RECREATIONAL RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the Rio Grande, New Mexico, wild and scenic river, designated pursuant to paragraph (4), located at the intersection of State Highway 567 and State Highway 570 at the site of the Taos Junction Bridge, downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from entry, sale, or other disposition under the public land laws, from all forms of appropriation under the mining laws, and from operation of the mineral leasing laws.

(b) LANDS.—

(1) DESCRIPTION AND MAP.—The lands referred to in subsection (a)—

(A) comprise approximately 1,349.36 acres;

(B) were conveyed from the State of New Mexico to the Bureau of Land Management on or about July 23, 1980, April 20, 1990, and July 17, 1990;

(C) are known as the Orilla Verde Recreation Area; and

(D) are generally depicted on the map entitled "Recreation Addition to Rio Grande Wild and Scenic River", numbered and dated .

(2) PUBLIC ACCESS TO MAP.—The map shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management; and

(B) appropriate offices of the Bureau of Land Management in the State of New Mexico.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

INITIATIVE FOR SOVIET DEMOCRACY ACT OF 1991

• Mr. BOREN. Mr. President, 2 days ago, I joined with my distinguished colleague from Indiana to call for a bipartisan, cooperative approach to deal with the crisis in the former Soviet Union. We said then, and continue to believe today, that the prospect of social chaos and of a return to anti-American leaders in Moscow is too great, at this pivotal moment in history, to be left to the petty maneuvers of party politics.

And so yesterday, a group of Senators from both sides of the aisle met to discuss legislation which would help the Soviets dismantle their most ominous weapons of mass destruction. I am pleased to see that Senator LUGAR and the chairman of the Senate Armed Services Committee, Senator NUNN, have unveiled the product of our bipartisan labor. I am proud to be a cosponsor of this measure and hope the Senate will look favorably upon it.

It is notable that today, the Senate will have considered not only this much-needed and sensible legislation, but also the treaty to slash conventional forces in Europe. Both serve the same strategic purpose: To reduce the ability of the Soviet military to inflict harm on America or our allies, whatever the future of the crumbling Soviet Union.

But Mr. President, where the Soviet Union is concerned, we must have a two-track strategy for safeguarding our security—and dismantling their weapons is only one of them. We must also move—with the same urgency, the same recognition that our actions will resonate generations from now—to bolster democracy in the Soviet republics.

No one should believe that the forces of repression, of hatred and iron rule, disappeared when the August coup failed. Those forces merely went underground, and their leaders are waiting patiently for democracy to sputter and die. For every reformer, there is a Vladimir Zhirinovski, the extremist, the neofascist, the conspiracy theorist. And for every Zhirinovski, there are 10 Russians who are hungry and angry and ashamed, who might become willing to give up on this curious idea of freedom. What a blow it would be Mr. President, not just to the Soviet people but to the American taxpayers who have spent untold sums to win the cold war, if the United States stood by, nervous and afraid, at this decisive moment in postwar history, only to see a dangerous and costly arms race reignited.

That is why I am introducing today the Initiative for Soviet Democracy Act of 1991. This bill, if enacted, would represent the first coherent effort by the United States Government to bolster the fledgling democratic institutions of the former Soviet Union. Its cost is modest, but its benefits will be profound and lasting.

The initiative for Soviet democracy is a three-pronged plan.

First, we would create a United States-Soviet Democracy Center in Moscow. This would be an institute where American and Soviet experts would determine the best means to address Soviet deficiencies in legal, business, and English language skills. The center would serve as a focal point for the numerous private efforts already out there to strengthen democracy and a market economy. It would sponsor training programs for Soviet policymakers, and issue policy recommendations to the United States President and Congress.

Second, the initiative would create two new Peace Corps programs. One, known as the United States-Soviet Democracy Corps, would send 100 American graduates of law, public policy, or business schools to serve as interns and advisers to a variety of republic governmental institutions. Another Peace Corps program, the United States-Soviet English language initiative, would send 200 volunteers to teach English in the republics.

Finally, the initiative would create leadership-by-example groups, or LEGS, a program of fellowships for young Soviet lawyers, lawmakers, and academics to spend 1 year observing American Government institutions at all levels.

Mr. President, the total proposed funding for this program is $12 million in fiscal year 1992, and $18 million in fiscal year 1993. This 2-year sum of $30 million represents less than one-fourth of 1 percent of the foreign aid budget. More importantly, it represents a wise investment in our own long-term security. And to forsake such an approach now because of party politics or a desire to score short-term political points would be terribly misguided.

We have heard in the last several weeks a strong sentiment against foreign aid boondoggles. We have heard cries for America first. These pleas come from the hearts of many Americans, and as I said Wednesday, I am among those who believe that if we don't take care of our problems at home, we won't be able to help anyone else. But Mr. President, the initiative for Soviet democracy is not a giveaway. It is not charity. It is—plain and simple—an act of rational self-interest. We are dealing with a very special case in the Soviet Union, the only entity with 30,000 nuclear warheads, 12,000 of them able to reach the United States.

It helps America if we start now, at this enormously uncertain time, to build lasting relationships with the young pro-Western, pro-American future leaders of the Soviet Republics. This is not a foreign aid issue. It is a national security issue.

As I said before, this initiative is a modest proposal. Let's remember how much the Soviets have to learn about democracy—about representation, about public accountability, about checks and balances, about regulatory law, about the relationship between free markets and political liberty. They have so much to learn, Mr. President, and so little time. The Soviet winter is coming, and their economy is mired in a disaster of unknown proportions. But we must start somewhere, and in a way that will provide lasting and concrete returns. This proposal is cost effective. It creates no bureaucracy. It relies not on huge grants of cash but on the sharing of American technical expertise. Programs like the Democracy Center, the Democracy Corps, the English language initiative, and the LEGS fellowships are seeds which we must plant now if we want to see freedom, peace, and demilitarization blossom in Moscow next spring.

Mr. President, in the years after World War II, America and the Soviet Union became locked in a costly cold war. Forty-five years and trillions of dollars later, we are so tantalizing close to a final resolution of that cold war. It is true that in this recession, we can't afford to throw money away. But to make a small investment now to ensure that the Soviets give freedom a chance is not a wasteful use of our funds. It is common sense. It is in the American interest. We have an unprecedented opportunity to consolidate the gains made by democratic reforms in the Soviet Union. For our own sake, let's finish the job we started.•

BY Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, and Mr. KERREY):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

NEW COLUMBIA ADMISSION ACT

Mr. KENNEDY. Mr. President, today, I am reintroducing legislation to grant statehood to the District of Columbia.

This legislation fulfills a fundamental right that no self-respecting democracy can ignore. Statehood is a matter of simple justice for the 600,000 citizens of the District of Columbia. All of the old arguments against it are more threadbare than ever.

The District of Columbia has a strong private sector and a sound economic base. It is time to put to rest, once and for all, the shameful myth that the District is nothing more than a collection of Federal monuments, federal workers, and foreign embassies. It is a living, breathing, thriving city that is home to large numbers of Americans who discover the same basic rights that all other Americans enjoy.

Contrary to popular belief, 70 percent of D.C. residents are employed outside the Federal Government. District residents pay more taxes to the U.S. Treasury than eight States. If taxation without representation is wrong for those states, it is wrong for the District of Columbia.

Nothing in the Constitution prevents statehood for the District. The proposed legislation carves out the Capitol, the White House, and other essential parts of the Federal Government, and Congress will continue to exercise exclusive jurisdiction over this area. That is all the Constitution requires.

The citizens of the District of Columbia are ready for this step. They want it and they deserve it. In 1980, they voted for statehood by a margin of 59 to 40 percent.

For generations, the residents of the District of Columbia have borne the burdens and responsibilities of U.S. citizens. The District lost more young men in the Vietnam war than 10 States. In the Persian Gulf war, the District of Columbia ranked fifth per capita, in reserves called to active duty. By every standard, the citizens of the District of Columbia deserve to be citizens of a State, not citizens of America's Last Colony.

We all know what's going on here. Opponents of statehood have felt in the past that the District of Columbia is too urban, too liberal, too Democratic, too black.

Those arguments can't stand the light of today. They're an insult to everything America stands for. No Americans anywhere in this country should have lesser rights because of where they live, their social philosophy, their political party, or the color of their skin.

It is time to end this disgraceful double standard. It is time to make the District of Columbia the 51st star in the American flag. And when we do, the flag will fly higher and prouder, because our democracy will be fairer and stronger.

"Fifty-four forty or fight" was a great American rallying cry of the past. May our rallying cry now be "Fifty-one in '92"—statehood for the District of Columbia in 1992.

Mr. SIMON. This year, as we celebrate the bicentennial of the District of Columbia, I am pleased to join my colleague Senator KENNEDY in reintroducing legislation to grant statehood to the District of Columbia. The residents of the District of Columbia have voted on and duly presented their application for statehood to Congress. Congress should debate and, ultimately, honor their request for admission.

I have supported national representation for the residents of the District of Columbia since I was a House Member in the 1970's. It is patently unfair for D.C. residents to be the hosts of Congress and yet have no voting representation in either the House or the Senate.

As Americans, we take for granted our right to contribute to national policy and to have representation in government. But those who move from Illinois or another State to Washington, DC, lose the rights they once enjoyed. They lose the right to voting representation in Congress as well as some measure of control over local schools and Government. This situation is discriminatory, yet it is correctable.

Our bill responds to the petition for statehood approved by the residents of the District of Columbia. It grants equal rights to the two-thirds of a million Americans who live in the District of Columbia. It gives them the right to do what other Americans have the right to do—elect two U.S. Senators and a voting Member of the House of Representatives. The bill further removes congressional control over many local activities of the District government and puts that power in the hands of local residents, where it belongs.

There are those who say that statehood for the District of Columbia requires an amendment to the Constitution rather than congressional passage of a statute. As chairman of the Senate Subcommittee on the Constitution, I have considered that argument and I am convinced that a constitutional amendment is not required.

Article I, section 8, clause 17 of the U.S. Constitution provides for a district of not more than 100 square miles, outside of the boundaries of any State, to serve as the Nation's Capital. At present, the District measures 68.25 square miles. The Constitution specifies no minimum area. A bill that grants statehood to much of the present District, while leaving a Federal enclave to serve as a capitol under the control of Congress would meet the requirements of article I. Our bill does that.

According to current census figures the residents of the District of Columbia outnumber the residents of three States—Wyoming, Alaska, and Vermont. When President Monroe signed the proclamation to make Illinois the 21st State in 1818, our Illinois population was just 55,211, less than 10 percent of today's District population.

Furthermore, District residents pay more in Federal taxes than eight States. Yet District residents have no voice when Congress votes on these taxes.

U.S. citizens in the District of Columbia serve in the military and have been subject to the draft. When we went to war in the Persian Gulf, the District of Columbia ranked fifth on a per capita basis in the number of reservists called to active duty. District residents had no voting representation on the floors of Congress during the historic vote to authorize a war in the Persian Gulf. District residents cannot vote for those in Congress who set our defense, foreign, and military policies. Can we just sit back and continue to accept this inequity within our country?

We have welcomed the democratic change sweeping Eastern Europe. It is ironic that the residents of Warsaw, Prague, and the other East European capitals all will have voices in their new legislatures, while the citizens of our Capital still do not. Accepting the District of Columbia as a State will end this inequity once and for all. I encourage my colleagues to cosponsor this important legislation.

By Mr. BOND (for himself, and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

• Mr. BOND. Mr. President, Senator DANFORTH and I are pleased to introduce legislation today which protects one of the most beautiful parts of our State—the Greer Spring tract in southeastern Missouri. It is identical to H.R. 3604, which was recently introduced by Congressman EMERSON and cosponsored by all members of the Missouri congressional delegation. It has been reported by both the House Agriculture and Interior Committees and the full House is scheduled to approve it before the Thanksgiving recess.

This breakthrough represents 4 long, hard years of dedicated negotiation by all the parties involved—Congressman EMERSON, Congressman VOLKMER, the current landowner, Mr. Leo Drey, and Missouri environmental groups. It is an excellent proposal which will preserve and protect this beautiful site, which is the second largest spring in the State, while allowing access to hikers, fishermen, hunters, and for forest management needs.

The legislation directs the Secretary of Agriculture to acquire 7,000 acres, including and surrounding Greer Spring. The 2,500 acres along the Eleven Point River, which includes the Spring, would be added to the Wild and Scenic Rivers corridor and managed under the current stringent guidelines. The remaining 4,500 acres would be designated the Greer Spring Special Management Area and managed under special guidelines for outdoor recreation, protection of the area's natural, archaeological and scenic resources, timber harvesting, mining and vehicular access. Hunting and fishing would be permitted within the special management area.

Fortunately, the $4 million needed to purchase the property is assured. Senators DANFORTH and EAGLETON secured $1.5 million in fiscal year 1987; Senator DANFORTH and I obtained $2 million in fiscal year 1989. In addition, Anheuser-Busch will make a generous contribution of $500,000.

Safeguarding this scenic land will preserve an essential part of Missouri's natural heritage. Greer Spring embodies the untouched wilderness that confronted explorers, pioneers, and settlers when they crossed the Mississippi River into Missouri territory. Preserving this tract will allow our children to enjoy the land that challenged and nurtured their forefathers.

I will pursue its passage at the earliest date, hopefully before Congress adjourns for the year.•

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

PREVENTION OF YOUTH INVOLVEMENT IN GANGS

• Mr. SIMON. Mr. President, I rise today to introduce legislation to establish the Early Gang Prevention Center Grant Program. This program builds on my earlier efforts to address the gang problem, the Gang Prevention Grant Program, which became law in 1988. The success of programs funded under this effort pointed out two things; we desperately need to continue working with youth involved with gangs and we must broaden our focus to include effective prevention for younger children.

Due to the dramatic rise of violent crimes by juveniles, the Justice Department, through the Office of Justice Programs—OJP—has begun to hold a series of site studies on gang crime throughout the Nation. Testimony at the recent hearings in Chicago provided a grim insight into the lives of those who are on the front lines combatting gang violence. Cook County State's Attorney Jack O'Malley spoke of the first degree murder charges filed against two gang members, 13 and 14 years old, for killing another 14 year old, apparently over recruitment. Mothers told stories of hiding their children in bathtubs when gang members start shooting. One mother testified that one of the few sentences that her 2-year-old child knows is: "Get down, get down, they're shooting." In Chicago, it has come to this.

The Early Gang Prevention Center targets the growing number of youth in our country joining gangs. These youth believe that becoming a gang member is their most worthwhile option. The loyalty among gang membership provides a secure family, and the profits from gang-related illegal activities such as drug trafficking are a powerful draw. However, the life of a gang member can be a violent one. Gang-related crime and violence have continued to increase at an alarming rate. In Chicago alone, gang-related homicides have risen from 38 in 1980 to 101 in 1990. Already many neighborhoods, both in urban and rural areas, are virtually controlled by gangs.

Both the public and private sectors have come up with strategies to deal with this growing problem. Attempts to lure youth away from gangs have revealed that gang members rarely leave their gangs. At the Chicago hearings, local law enforcement officials and residents alike stressed the importance of child oriented programs as the only real answer to the gang problem. We must concentrate on prevention and target those young people at risk of becoming a gang member. We must educate our youth to let them understand that gangs are a dead end. They need support to resist gang membership, as well as alternatives that allow them to pursue healthy avenues for their lives.

The Early Gang Prevention Center Program would allow professional staff to work through the school system and public housing to reach youth at the elementary level, when youth are seriously thinking of gang membership. Reaching out through the school system and public housing has been extremely successful as they provide the structure and consistency required for effective prevention. Staff would educate youth about the dangers of gangs, organize antigang action in the communities in which the youth live and cooperate with the social service agencies who already provide services for youth and their families. In addition, staff would be available for counseling at-risk youth and crisis intervention as needed. Successful prevention involves addressing all the complexities of this problem. Only through a multifaceted approach can we begin to effectively steer away youth from gang membership.

Without preventing these youth from becoming involved in gangs, we will see gang-related crime and violence rise to previously unheard of levels. We cannot afford to have thousands more of American youth joining gangs. It is imperative that we take action now to prevent our youth from becoming involved in activities that kill opportunities to lead a healthy and productive life, or more importantly, kill them. The Early Gang Prevention Center Grant Program gives young people a chance to fight off the powerful pull of gang membership. Gangs are fierce in their recruitment efforts. We must be just as forceful in our efforts to keep youth out of gangs. Strong prevention efforts, like this program, are the way to do that. We cannot afford to wait another day. It could be a matter of life and death.

Mr. President, I ask unanimous consent that the text of this bill be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTION OF YOUTH INVOLVEMENT IN GANGS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to State and local government agencies and to private entitles to establish and carry out programs to prevent elementary school children from becoming in volved in gangs.

(b) USE OF FUNDS.—Grants made pursuant to subsection (a) shall—

(1) target elementary school students, with the purpose of steering students away from gang involvement;

(2) provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed;

(3) develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs; and

(4) include a special location within the school or housing project for program activities.

(c) APPLICATION.—(1) An entity that desires a grant under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) An application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) REPORTS BY GRANT RECIPIENTS.—Each recipient of a grant under this section shall submit a report to the Secretary of Health and Human Services annually that—

(1) describes the activities that were carried out with grant funds during the preceding year; and

(2) describes the recipient's plans for the coming year.

(e) REPORTS BY THE SECRETARY.—The Secretary of Health and Human Services shall annually make an assessment of and report to Congress on the effectiveness of the grant program established by this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994.•

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

HAITIAN REFUGEE PROTECTION ACT OF 1991

• Mr. MACK. Mr. President, for weeks now we have been witnessing a tragic story of human suffering in Haiti as that country's people have demonstrated to the world the value they place on freedom. We've been reminded again just how precious freedom is and how equally difficult it can be to obtain.

Cuban news sources have reported that at least 120 Haitians are feared dead as a boat crammed with 200 people fleeing to the United States for freedom had sunk.

We cannot continue to operate a policy toward Haitian refugees that is based solely on damage control and crisis management. We must develop a lasting policy that works.

The argument that we should interdict and return Haitians to prevent further loss of lives only demonstrates that what is needed is an orderly safe process for Haitians seeking freedom.

Today, I am introducing legislation which provides the road to freedom without forcing people to risk their lives at sea. The bill essentially does two things:

First, it sets aside at least 2,000 refugee admission slots specifically for Haitians. This provision provides the process within which Haitians may flee persecution without compelling them to brave the high seas and risk their lives. This bill also provides that these 2,000 slots do not deplete the current 3,000 allotment for refugees admissions from Latin America and the Caribbean. I would encourage other freedom-loving nations throughout the world to take on a similar responsibility.

Second, the bill grants temporary protected status [TPS] to Haitians who are currently in the United States or who are in the custody or control of the United States. Importantly, the language in this bill ensures that those granted TPS will be able to access necessary Federal Assistance. As the first point of entry to the United States, Florida must be assured that the Federal Government will take its proper financial role.

Regrettably, our Haitian refugee policy has lost touch of the universal principal of freedom. It is a disgrace to intercept Haitians on the high seas fleeing persecution only to send them back to an island run by an illegal military leadership that rules by fear and violence.

Since the illegal military coup September 30, the Haitian people have lost hope that freedom will be theirs at last.

Now, more than ever, the United States must take a leadership role and call on all freedom-loving nations to band together to help restore Haiti's democracy. Once free, the Haitian people will have the opportunity to rebuild their country.

In the meantime, any immigration policy that systematically applies a double-standard to Haitians is morally wrong. That's why this bill is so essential. It corrects the injustice in our current policy that discriminates against the poorest of our Caribbean neighbors. It provides a logical and systematic plan for allowing Haitian refugees who are persecuted to come to the United States without crossing teacherous seas.

Haitian people are like any other on this Earth. They desire to live free. To treat them differently ignores the principles of freedom that have made this Nation great.

Freedom is the core of all human progress. When we forget that lesson, we have cheated ourselves and others who long to be free.•

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare Program; to the Committee on Finance.

ELIMINATION OF ANNUAL CAP FOR MEDICARE PAYMENT FOR CERTAIN OUTPATIENT SERVICES

• Mr. CHAFFE. Mr. President, today I am introducing legislation to make it easier for senior citizens to get needed physical therapy services through the Medicare Program. These services are critical to individuals who have suffered from such conditions as stroke or heart attack. My bill eliminates an existing $750 cap on payments for physical therapy or occupational therapy provided by therapists in independent practice.

Under current Medicare law, there is no limit to physical therapy services when they are provided either in a physician's office, or on an outpatient basis in a hospital. Medicare does, however, limit reimbursement for services provided by an independent physical or occupational therapist to $750 per calendar year. When a patient who receives services from an independent therapist reaches his or her limit, the patient must either stop treatment, change to a therapist in a physician's office or a hospital, or pay for these services out-of-pocket. Not only is it a burden for seniors to change providers, but for those Medicare patients who live in areas where there is a shortage of health care providers, a therapist in a physicians office or hospital may be unavailable, or reachable only by traveling long distances.

Some may argue that removal of this cap will significantly increase Medicare expenditures for physical therapy services. The Health Care Financing Administration [HCFA] however, has placed the services of these physical therapists under the new Medicare physican fee schedule and volume performance standards. These regulations would control payment for services performed by independent practitioners based on a fee schedule. Therefore, an arbitrary cap on reimbursement is no longer necessary.

Beside decreasing the availability of services to senior citizens, the current limit may actually increase costs to the Medicare Program. According to 1988 data, Medicare paid on average $1.62 less for physical therapy services by independent providers than for these same services when provided by a physician. Although $1.62 doesn't seem like much, when multiplied by the 1 billion physical therapy procedures that were billed to Medicare in 1988, the cost becomes clear.

My legislation would allow patients in need of physical and occupational therapy to receive these services without having to face the possibility of terminating treatment early, or continuing treatment elsewhere, because of a predetermined limit on Medicare reimbursement. I hope that my colleagues will join me in sponsoring this legislation which assures our senior citizens access to these critically needed services.•

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

WOMEN VETERANS' HEALTH EQUITY ACT

Mr. SPECTER. Mr. President, I am today introducing the women veterans' health equity bill of 1991. The purpose of this legislation is to begin the long march toward equality in treatment for our 1.2 million women veterans within the VA health care system.

BACKGROUND: A HISTORY OF PROUD SERVICE

Since the founding of our republic, women have served both in and as an adjunct to our Armed Forces. As we know, although 34,000 women served during World War I, women were brought into military service for the first time in large numbers in World War II, when some 384,000 women wore the uniform. Although women's components of the military were to have been phased out after the war, they remained as part of the peacetime military for the best reason of all: Their strong record of service. That decision was proved sound, as some 110,000 women served in the Korean conflict, while 261,000 served in Southeast Asia during the Vietnam era.

Of course, Mr. President, we have only recently witnessed the dramatic contribution of women in the military in the Persian Gulf war, as some 33,000 women soldiers were deployed in Southwest Asia. These brave women served in key combat-support positions: They served as pilots and crew members of planes and helicopters, drove trucks, ran prisoner-of-war facilities, served on support and repair ships, and built the infrastructure in construction battalions.

Today, the 233,000 women in uniform constitute 11 percent of our Active Force, while 155,000—13 percent—serve in our Ready Reserve. What is most impressive is that less than 20 years ago, women comprised less than 2 percent of America's military. Further, women veterans are currently the fastest-growing segment of the veteran population: Our 1.2 million female vets comprise 4.3 percent of the total veteran population. By the year 2000, that percentage will increase to 5.3 percent.

But we do not have to go just by statistics. Last July, when the Committee on Veterans' Affairs held its important hearings on the readjustment needs of Persian Gulf war veterans, I invited members of the 14th Quartermaster Detachment from Greensburg, PA to testify. Among others, we heard the testimony of Sgt. Mary Rhodes of California, PA, and Specialist Tracy Akra of Harrisburg, both wounded in the infamous Scud attack. Since then, my staff and I have maintained close contact with the 14th, including Specialist Angela Betton of North Versailles, PA, and Specialist Lois Abreski of North Huntington, PA, both still recovering from wounds at Walter Reed Army Medical Center here in Washington. These are remarkable individuals, Mr. President, of whom all Americans may be proud.

THE NEED FOR CHANGE

It is clear that women are, and have been, an integral part of our Nation's military and, as a result, of our Nation's veterans. And although the Department of Veterans Affairs [VA] has responded aggressively in many instances to womens' needs in the past few years, it is my view that much remains to be done.

This bill is aimed at correcting what I believe is the most important issue facing women veterans: Health care within the VA system. The VA has done good work in the general field of health care. Through a system comprised of 172 hospitals, and hundreds of outpatient clinics and readjustment centers, VA is engaged in important treatment and research. But frankly, Mr. President, that treatment and that research is primarily aimed at issues that affect men. That is simply an historical fact.

It is my firm belief that our commitment to quality of health care for women veterans receive must match the commitment these citizens have made to their country. I think that it is time to intensify VA's focus on women veterans. And that is what I intend to do through the Women Veterans' Health Equity Bill of 1991. This bill would address health issues affecting women veterans, both in terms of treatment and in terms of research.

EQUITY IN TREATMENT

In terms of treatment, the bill would require that VA provide "well-women care services" to two critical classes of women veterans: Those who suffer from a service-connected disability and those whose income would qualify them for mandatory inpatient treatment—currently $18,171 per year. These services, which would be directed toward the health-care needs of both younger and older women veterans, would include pap smears, breast exams, reproductive health care and family planning services.

I believe, Mr. President, that these services proposed in my bill are not only vital to women veterans, but that they also are in line with VA's admirable drive to emphasize preventive health-care services within the system.

EQUITY IN RESEARCH

The Department of Veterans Affairs has long been a leader in health-care research. We are justifiably proud of the pioneering work that has been done by the dedicated men and women working for, or under the auspices of, VA. And we match that pride with dollars: President Bush recently signed Public Law No. 102-139, the VA/HUD appropriations bill, which authorizes some $227 million for medical and prosthethic research.

Nevertheless, not very much of that money goes directly to issues which concern women. Indeed, when I was preparing this bill, Mr. President, VA could identify only about $1.7 million that was directed at research specifically involving women, and that figure was derived from a single researcher who, out of personal interest, kept track of that number. And even this $1.7 million is not exclusively from the VA appropriation: It includes funding from other Federal sources. Because of my view of the importance of the health-care needs of women veterans, I do not believe that is enough. Nor do I believe that VA should not have good figures on this important work.

To deal with these issues, my bill would require an expansion in VA medical research to focus on areas with health consequences for women, including breast cancer and osteoporosis, with 3-year funding of $6 million. In addition, VA would be required to coordinate its research relating to women veterans, so that those involved in these important areas are aware of what is being done.

In connection with this expansion of VA research, there is another area that is of considerable interest to me and, I believe, to women veterans. It concerns gender discrepancies involving the incidence of mental illness. In 1990, 14.8 percent of women were hospitalized within the VA with a diagnosis of psychotic illness; during that same period, 8.9 percent of men's admissions were for the same reason. We know also that psychotic illnesses suffered by male veterans are more likely to be related to alcohol than psychotic illnesses suffered by women veterans. We simply do not know the reasons for these disparities. Accordingly, this research provision of my bill would require a directed research study to examine this reported disparity.

Another important area, Mr. President, is finding out exactly what the health-care needs of our women veterans are. No such major study has been done since 1985, when VA commissioned Louis Harris and Associates to perform a population study of women veterans. At that time, the study seemed to indicate that women veterans had a cancer rate of 8.6 percent, as opposed to a rate of 5.2 percent in the general population of American women. That study also found that most frequently occurring cancer among women veterans was cancer of the reproductive organs, which occurred twice as often as breast cancer, while the general population of American women had exactly the opposite result.

Those are disturbing statistics, Mr. President. But what is perhaps most disturbing is the fact that the Harris Population Study is the only source we have to describe the population of women veterans. We need an update.

Accordingly, this bill would require VA to conduct a population study of women veterans and active-duty women, aimed at determining and predicting the health-care needs of women veterans, with an authorization of $1.5 million. This study is essential, Mr. President, if we are to enable the VA health-care system to meet the demands—now and in the future—of women veterans. The information collected will assist VA and veterans by targeting those needs and working out strategies, both in terms of treatment and research, to deal effectively with the needs of this population.

Another aspect of VA research that is important to me is ensuring that, when medical research based on an analysis of population is done, it is directed at issues important to and done in a way that will produce results meaningful to our women veterans. Accordingly, my bill would require that VA, in conducting medical research based on analysis of populations—in other words, epidemiological research—take into account problems significant to women, and that VA ensure that the population studied is representative of the number of women in the general population.

Finally, Mr. President, in order to ensure that Congress is able to keep current on the status of VA's research regarding women veterans, my bill would require VA to report annually to the Committees on Veterans' Affairs of the Senate and House of Representatives, from 1992 through 1995, on the status of research on women veterans.

CONCLUSION: LEADING THE WAY

The Women Veterans' Health Equity Act is an important step forward, Mr.

President. I know that it is not the solution to all the problems facing women veterans. But by providing a critical package of preventive health-care services and by requiring significant medical research relating to women veterans, I believe my bill will lead the way to a new and long-overdue emphasis on the needs of these patriots.

It has been said, Mr. President, that no nation can long survive that does not remember those who defended her. This Nation, through its extensive program of veterans' benefits, has shown that we do remember. But I believe our memories are unjustifiably hazy when it comes to the women who have put themselves in harm's way. My bill seeks to clear away that haze, to move us to the day when we do not speak of "men veterans" and "women veterans," but simply "veterans."

I urge my colleagues to support me in this mission.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my remarks, and that a detailed section-by-section analysis of the bill be placed immediately thereafter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women Veterans' Health Equity Act of 1991".

SEC. 2. WELL-WOMEN CARE SERVICES.

(a) REQUIREMENT TO PROVIDE SERVICES.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"§1771. Well-women care services

"(a) The Secretary shall furnish well-women care services to the women veterans referred to in subsection (b) in accordance with this section.

"(b)(1) The Secretary shall furnish well-women care services under this section—

"(A) to any woman veteran who has a service-connected disability; or

"(B) to any woman veteran who is eligible for hospital care under section 1710(a) of this title and the annual income of that veteran (as determined under section 1503 of this title) does not exceed the maximum rate of pension that would be payable to that veteran if that veteran were eligible for pension under section 1521(d) of this title.

"(2) Subject to section 1712(f) of this title, the Secretary may furnish well-women care services to a woman veteran who is eligible for hospital care under section 1710 of this title and who is not otherwise eligible for such services under this subsection.

"(c)(1) Except as provided in paragraph (2), the Secretary shall furnish well-women care services under this section in Department facilities through personnel of the Department who are qualified in the furnishing of such services.

"(2) In the event that the furnishing of well-women care services in facilities referred to in paragraph (1) is not feasible because of geographic inaccessibility or other reason determined by the Secretary, the Secretary may furnish such services by contract with non-Department facilities (including community-based health care organizations, private health care contractors, and nonprofit health care facilities) through appropriately qualified personnel of such facilities.

"(3) The Secretary shall prescribe qualifications for the furnishing of well-women care services applicable to the personnel referred to in paragraphs (1) and (2). The Secretary shall ensure that such qualifications apply uniformly to personnel of the Department and personnel of the facilities referred to in paragraph (2).

"(d) In order to furnish well-women care services under this section, the Secretary shall take such actions as the Secretary considers appropriate to encourage the employment and retention by the Department of gynecologists and other health care professionals who are qualified to furnish such services.

"(e)(1) For the purposes of this section, the term 'well-women care services' means health care services provided to women outside the maternity cycle, including counseling and services relating to the following:

"(A) Papanicolaou tests (pap smear).

"(B) Breast examinations and mammography.

"(C) The number and spacing of children.

"(D) Contraception.

"(E) General reproductive health care.

"(F) The management of infertility.

"(G) Adoption.

"(2) Well-women care services under this section do not include the following:

"(A) Pregnancy care (including prenatal and delivery care).

"(B) Abortion.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"1771. Well-women care services.".

SEC. 3. EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS.

(a) EXPANSION OF MEDICAL RESEARCH PROGRAM.—(1) Subject to paragraph (3), in carrying out the medical research program of the Department under section 7303 of title 38, United States Code, the Secretary, in consultation with the Chief Medical Director (who shall consult with the Assistant Chief Medical Director for Nursing Programs), shall initiate research and expand on-going research into the health consequences for women veterans of the matters referred to in paragraph (2).

(2) The Secretary shall initiate and expand research under paragraph (1) on the following matters as they relate to women:

(A) Breast Cancer.

(B) Gynecological and hormonal matters.

(C) Cancer of the organs of the reproductive system.

(D) Alzheimer's Disease.

(E) Osteoporosis.

(F) Post-traumatic stress disorder.

(3) The Secretary shall carry out the research referred to in paragraph (1) by any of the following means designated by the Secretary:

(A) Through personnel of the Department in facilities of the Department, including facilities of the geriatric research, education, and clinical centers designated pursuant to section 7314 of title 38, United States Code.

(B) Through personnel of appropriate independent medical research organizations (as determined by the Secretary) under a contract with or grant from the Secretary for such research.

(C) Through personnel of other departments and agencies of the Federal Government (including the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Department of Defense) under an agreement between the Secretary and the head of the department or agency for the performance of such research.

(b) RESEARCH STUDY.—The Secretary shall carry out a research study to determine—

(1) the frequency of the diagnosis of psychotic illness as the basis for the admittance of women veterans to facilities of the Department;

(2) the frequency of the diagnosis of that illness as the basis for the admittance of male veterans to such facilities; and

(3) an explanation for the difference, if any, in the frequencies referred to in paragraphs (1) and (2).

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Veterans Affairs to carry out subsections (a) and (b) as follows:

(1) For fiscal year 1993, $1,500,000.

(2) For fiscal year 1994, $2,000,000.

(3) For fiscal year 1995, $2,500,000.

SEC. 4. POPULATION STUDY OF WOMEN VETERANS.

(a) STUDY.—(1) Not later than December 31, 1993, the Secretary shall conduct a study to determine the health-care needs of women veterans as of that date and during the ten-year period beginning on that date.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans established under section 542 of title 38, United States Code, and, in consultation with the Secretary of Defense, the Advisory Committee on Women in the Services.

(3) In carrying out the study, the Secretary (with the assistance of the Secretary of Defense) shall examine the medical, biopsychosocial, and demographic histories of an appropriate sample of women veterans and women members of the Armed Forces who are serving on active duty. The sample shall include women veterans and women members of the Armed Forces who are serving on active duty who represent (as determined by the Secretary) the full range of ages, and ethnic, social, economic, and service-related backgrounds of such women. The protocol for the study shall meet standards for scientific merit prescribed by the Secretary.

(b) REPORT.—Not later than April 1, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study carried out under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs $1,500,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

SEC. 5. COVERAGE OF WOMEN IN THE MEDICAL RESEARCH PROGRAM OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) COVERAGE REQUIREMENT.—Subchapter I of chapter 73 of title 38, United States Code, is amended by inserting after section 7303 the following new section:

"§ 7303A. Research programs: requirements relating to research on women veterans

"(a) In initiating and carrying out any research referred to in subsection (b) that is based on an analysis of a population of persons, the Secretary shall ensure that, to the maximum extent practicable—

"(1) the matters researched reflect (as determined by the Secretary) matters that are significant for the general population of women in the United States; and

"(2) the population analyzed in such research are representative (as so determined) of the incidence of the condition or illness in the general population of women in the United States.

"(b) The research referred to in this subsection is any research carried out by or under the jurisdiction of the Secretary under section 7303 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7303 the following new item:

"7303A. Research programs: requirements relating to research on women veterans.".

SEC. 6. COORDINATION OF RESEARCH OF THE DEPARTMENT OF VETERANS AFFAIRS RELATING TO WOMEN VETERANS.

Section 7303A of title 38, United States Code (as added by section 5), is amended by adding at the end the following new subsection:

"(c) To the maximum extent practicable, the Secretary shall take appropriate actions to ensure that personnel engaged in research pursuant to a research program under section 7303 of this title—

"(1) are informed of the existence and progress of other research relating to women veterans conducted by or under the jurisdiction of the Secretary; and

"(2) have access to such research.".

SEC. 7. REPORT ON RESEARCH RELATING TO WOMEN VETERANS.

Not later than July 1 of each of 1992, 1993, 1994, and 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) a description (as of May 31 of the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary (including the research carried out under section 3 of this Act and section 7303A(a) of title 38, United States Code (as added by section 5 of this Act)); and

(2) recommendations of the Secretary as to future research (including a proposal for any legislation relating to such research) relating to women veterans.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) The term "Secretary" means the Secretary of Veterans Affairs.

(2) The term "Department" means the Department of Veterans Affairs.

(3) The term "facilities of the Department" means the following facilities at which the Secretary furnishes medical services:

(A) Facilities over which the Secretary has direct jurisdiction.

(B) Government facilities for which the Secretary contracts.

(4) The term "medical services" has the meaning given such term in section 1701(6) of title 38, United States Code.

(5) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SECTION-BY-SECTION ANALYSIS ON THE WOMEN VETERANS' HEALTH EQUITY ACT OF 1991

SECTION 1: SHORT TITLE

Section 1 would give the bill the short title of the "Women Veterans' Health Equity Act of 1991."

SECTION 2: WELL-WOMEN CARE SERVICES

Section 2 would add new section 1771 to title 38, United States Code, with the title "Well-Women Care Services."

New section 1771(a) and (b) would require the Secretary to furnish well-women care services to women veterans who (1) have a service-connected disability or (2) are otherwise eligible for VA hospital care and whose incomes do not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension (currently $18,171 for a single veteran). The Secretary would have the discretion to furnish well-women care services to women veterans who are not eligible under the above criteria, but are otherwise eligible for hospital care.

New section 1771(c) would require the Secretary to furnish well-women care services (1) in Department facilities by Department personnel qualified to furnish such services, or (2) by contract with non-Department facilities. New section 1771(c) would also require the Secretary to prescribe the qualifications for the furnishing of well-women care services both in Department and non-Department facilities.

New section 1771(d) would require the Secretary to take appropriate action to encourage the employment and retention by VA of gynecologists and other health care professionals who are qualified to furnish well-women care services.

New section 1771(e) would define "well-women care services" as the health care services provided to women outside the maternity cycle, including counseling and services relating to (1) pap smears; (2) breast examinations and mammography; (3) the number and spacing of children; (4) contraception; (5) general reproductive health care; (6) the management of infertility; and (7) adoption. Well-women care services would specifically exclude pregnancy care (including prenatal and delivery care) and abortion.

SECTION 3: EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS

Section 3 of the bill, in a freestanding provision, would require the Secretary, in carrying out the Department's medical research program under section 7303 of title 38, United States Code, to initiate and expand, in consultation with the Chief Medical Director (who whould be required to consult on this issue with the Assistant Chief Medical Director for Nursing Programs), research programs into the health consequences for women veterans with respect to (1) breast cancer; (2) gynecological and hormonal matters; (3) cancer of the organs of the reproductive system; (4) Alzheimer's disease; (5) osteoporosis; and (6) post-traumatic stress disorder. Such research would be conducted through VA personnel, through personnel of appropriate independent medical research organizations, and/or through personnel of other departments and agencies of the Federal Government.

Section 3 would also require the Secretary to carry out a research study to determine whether there is a difference, between men and women veterans, of the frequency of psychotic illness as an admission diagnosis in VA Medical Centers, and, if so, the explanation for any such difference.

Finally, section 3 would authorize appropriations to carry out the section of $1.5 million in fiscal year 1993, $2.0 million in 1994, and $2.5 million in 1995. Funds would be available until expended.

SECTION 4: POPULATION STUDY OF WOMEN VETERANS

Section 4, in a freestanding provision, would require the Secretary to carry out a study to determine, not later than December 31, 1992, the current health-care needs of women veterans, and their predicted health-care needs over the next ten years. The Secretary would be required to report these findings to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than April 1, 1994. The Secretary, in preparing this study, would be required to consult with VA's Advisory Committee on Women and with the Advisory Committee on Women in the Services of the Department of Defense. Section 4 would authorize $1.5 million to carry out such a survey, with funds available for obligation until expended without fiscal year limitation.

SECTION 5: COVERAGE OF WOMEN IN THE VA RESEARCH PROGRAM

Section 5 would add new section 7303A to title 38, United States Code. New section 7303A would require the Secretary, in conducting any research based on population analyses under section 7303 of title 38, United States Code, to ensure that, to the maximum extent practicable, (1) the matters researched reflect the extent to which such matters are significant for the general population of women in the United States, and (2) that the populations analyzed reflect the incidence of the illness or condition studied in the general population of women in the United States.

SECTION 6: COORDINATION OF VA RESEARCH REGARDING WOMEN VETERANS

Section 6 would amend section 7303A (as added by section 5 of the bill) to require the Secretary to take appropriate actions to ensure that the existence and status of research programs or projects relating to women veterans is accessible to all personnel engaged in research pursuant to section 7303 of title 38, United States Code.

SECTION 7: REPORT ON RESEARCH RELATING TO WOMEN VETERANS

Section 7, in a freestanding provision, would require the Secretary, not later than July 1 of 1992 through 1995, to provide the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing (1) a description (as of May 1 of the relevant year) of the status of each research project relating to women veterans and (2) the Secretary's recommendations as to future research and legislation relating to women veterans.

SECTION 8: DEFINITIONS

Section 8, in a freestanding provision, would define "Secretary," "Department," "facilities of the Department," "medical services," and "veteran" for the purposes of the bill.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans' Affairs.

SELF-FUNDING OF VA HEALTH CARE

Mr. SPECTER. Mr. President, no veterans' issue has higher priority with me than that of health care. It is critical that VA provide the best possible care to our veterans, particularly to those who have been disabled in service. Today, I am introducing legislation which, by providing an inventive for VA medical centers to increase collections from insurance companies, will substantially improve the quality of care at those centers.

My bill would amend title 38 of the United States Code to permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following 3 fiscal years the lesser of: First, the amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or second, the amount equal to one-half of that total amount.

It is no secret that the veterans' health care system is short of money, staff, and equipment. Rising medical costs and Federal budget constraints have tightened VA's budget and restricted the medical care it can provide to America's veterans.

Recently, Mr. President, the Committees on Veterans' Affairs of the Senate and House held an important joint hearing to take testimony concerning the forthcoming report of VA's Commission on the Future Structure of Veterans' Health Care. That blue-ribbon panel told us that, during the years 1980-90, VA's appropriated health-care funding, expressed in 1980 dollars, increased by about $600 million. That's an increase of about 10 percent. During that same period, the Commission told us, medical inflation skyrocketed by 117 percent.

As a veteran myself, as a member of the Committee on Veterans' Affairs for more than a decade, and now as banking Republican member, I find this situation profoundly disheartening. I salute Secretary of Veterans Affairs Ed Derwinski on the fine job he has done during the past few years to bring the VA health-care system back up to the quality our veterans should expect. The Secretary and I have spent many hours visiting VA medical centers in Pennsylvania and throughout the country. I know he's doing his best.

Still, it is up to us in the Congress to do our part as well. We are the ones, after all, who ultimately control the purse strings.

Since assuming the position of ranking Republican member on the Committee on Veterans' Affairs, I have worked hard to improve VA's health-care system. That was the key reason, for example, that I fully supported the Department of Veterans Affairs Physicans' and Dentists' Compensation and Labor Relations Act of 1991, which the President signed on May 7, 1991. This bill, by increasing pay for physicians and dentists in the VA health care system, will help attract and retain the kind of quality professionals our veterans deserve.

My concern for veterans was also the reason for my vote in support of Senator BUMPERS' amendment to H.R. 2519, the VA/HUD appropriations bill, which would have added some $430 million to VA's appropriation at the expense of the space station. That was not an easy vote, Mr. President. I know the space station is important. But when the choice is between delaying funding for the space station and veterans' health care needs, I must choose veterans. As I said during the debate on that amendment, "Fundamental budget priorities such as the veterans/related programs * * * take priority over a space exploration project."

That is also why I spoke out recently on the need for Geriatric Research, Education and Clinical Centers—known as "GRECC's"—in Pennsylvania. The kind of research performed by GRECC's, as demonstrated in a recent report by the Institute of Medicine of the National Academy of Science, can result not only in a better quality of life for our aging veterans, but also can be extraordinarily cost-effective. That is why I am working closely with Secretary Derwinski to establish GRECC's in Pennsylvania.

The legislation I offer today, Mr. President, is intended to continue to provide some relief from the budget crisis in the VA health system without the necessity of additional appropriations. And I am pleased to note that it is in direct agreement with one of the major recommendations of VA's Commission on the Future Structure of Veterans' Health Care. In his prepared testimony, Oliver Meadows, the Commission's chairman, said this:

> In our recommendations, we have tried to reconcile those conflicting problems of growing needs and national budget deficits. Our major recommendations in this area is that Congress authorize VA to be reimbursed for caring for veterans who are eligible for treatment in other settings—without that money being transferred to the Treasury or offset from appropriations you would otherwise authorize for VA programs.

This bill, Mr. President, is in line with that recommendation.

Under current law, VA hospitals and outpatient clinics are authorized to collect payment from third parties, such as private insurance companies, when veterans in these facilities are covered under their own policies. VA medical centers collect from these third parties, and—until last fall—sent the entire payment directly to the U.S. Treasury. Last November, in section 8011 of Public Law 101-508, the Omnibus Budget Reconciliation Act, we wisely added provisions which established the medical-care cost recovery fund. This fund is the depository for VA's collections, and the Secretary is authorized to use those funds to offset the costs of collection.

That was a good idea because it gave VA an incentive to spend money on the collection process. And it worked. When we passed OBRA, the Congressional Budget Office estimate revenues of $113 million from this provision for fiscal year 1991. In fact, VA collected $247.8 million from insurance companies. We've seen that this kind of incentive system works extremely well. And I'm certainly concerned that this process be as efficient as possible—those are important dollars which go toward reducing the deficit.

But frankly, Mr. President, I am more concerned with the provision of health care to veterans. And I think we can do better. I think we can draw on the desire to serve veterans that I know exists in the VA health-care system to bring more money and better treatment to the individual medical centers.

Let me give you some examples from my State.

During the period October 1, 1990 through June 30, 1991, the VA Highland Drive Medical Center in Pittsburgh established insurance receivables of nearly $3.2 million. To date, that center has collected about $500,000, an effective return of about 16 percent. Similarly, the VAMC in Butler, PA, has established receivables of about $4.6 million, and has collected $954,000 during that same period, a rate of 21 percent. Indeed, when we look at all VA Medical Centers in Pennsylvania for that period, we find insurance receivables established in the amount of $49 million, and collections of $8 million, a rate of about 16 percent.

What we're looking at, Mr. President, in Pennsylvania alone, is as much as $40 million in uncollected receivables.

My bill sets forth a simple idea: We already let VA keep some of its collections to pay for the administrative costs; let's permit the medical centers to keep some to provide patient care. I'm not saying VA should keep it all, Mr. President. I'm saying the medical centers should be able to keep up to one-half.

Let's use the Highland Drive Medical Center in Pittsburgh as an example. Suppose the director at Highland Drive knew that he could increase his budget by one-half of what his center collected. That's more than $1.5 million. I think it's obvious that he would do all he could to try for a 100 percent rate of recovery.

And suppose that the other hospital directors in Pennsylvania knew they could collectively increase their budgets by one-half of the $49 million in receivables. Mr. President, that could mean $24.5 million for veterans' health care in Pennsylvania, with $24.5 million to the Treasury. And it wouldn't require a nickel in appropriations.

Even under conservative estimates, my bill would bring in significant amounts of money to VA medical centers. VA tells us that, under present conditions, it estimates collections of $325 million in fiscal year 1992. And we know that, under the VA-HUD 1992 appropriations measure, Public Law No. 102-139, VA can retain up to $77 million of that amount for the cost of collections. Under my bill, Mr. President, that would mean a system-wide return of about $124 million, and does not take into account the obvious incentive the bill would provide to medical center directors.

That's a good deal no matter how you look at it.

Now there will undoubtedly be some criticism of this bill because it is thought by some that the Office of Management and Budget will simply deduct the amount recovered from VA's health care budget. I have a direct response to the concern: Congress controls the purse strings. The Constitution provides that it is this branch, Mr. President, which decides how much money will be appropriated. I am fully prepared to battle OMB on veterans' funding, just as I was willing to delay the space station to provide more money for veterans' health care.

This is a fair compromise between the needs of reducing the deficit while still increasing the medical care accounts at our local VA hospitals. It is based on an incentive which works, and it is supported in principle by a blue-ribbon commission which spent a year and a half examining the entire VA health care program. I look forward to hearings on this measure and urge my colleagues to support it.

Mr. President, I ask unanimous consent that the bill, along with a technical description of its provisions, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETENTION OF THIRD PARTY REIMBURSEMENTS BY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) REIMBURSEMENT.—Section 1729(g) of title 38, United States Code, is amended—

(1) in paragraph (2), by inserting "and shall be available to the Secretary as provided in paragraphs (3) and (4)" after "the Fund";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) Of the total amount recovered or collected by a Department facility in a fiscal year and deposited in the Fund, there shall be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

"(i) the amount equal to the excess of that total amount over the amount obligated pursuant to paragraph (3) for the payment of expenses, costs, and charges allocable to that facility in connection with the recovery and collection of such total amount; or

"(ii) the amount equal to ½ of that total amount.

"(B) Amounts that remain unobligated at the end of the period of availability shall be covered into the Treasury as miscellaneous receipts.".

(b) CONFORMING AMENDMENT.—Paragraph (5) of such section (as redesignated by subsection (a)(2)) is amended—

(1) by inserting "(A)" after "minus"; and

(2) by inserting ", and (B) any part of such balance that remains available for obligation pursuant to paragraph (4)" after "paragraph (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 2, 1992, and shall apply with respect to amounts recovered or collected under section 1729(g) of title 38, United States Code, after September 30, 1991.

TECHNICAL DESCRIPTION OF LEGISLATION RELATING TO RETENTION OF MEDICAL CARE COST RECOVERY FUNDS BY VA MEDICAL CENTERS

This bill would amend section 1729(g) of title 38, United States Code, relating to recovery by the United States of the cost of certain care and services in VA health-care facilities, by adding a new paragraph which would permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

The amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or

The amount equal to ½ of that total amount.

For example, if a facility collected $10 million in a fiscal year and had $3 million in allocable costs, the amount available for provision of direct patient care would be the lesser of—$7 million (total less collection costs); or $5 million (one-half total collections), so that the amount available would be $5 million.

On the other hand, if a facility collected 3 million in a fiscal year and had $2 million in allocable collection costs, the amount available would be the lesser of—$1 million (total less collection costs); or $1.5 million (one-half total collections), so that the amount available would be $1 million.

The bill would be effective with respect to fiscal year 1992 collections.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONFIDENTIAL PROXY VOTING

• Mr. COHEN. Mr. President, today I am introducing proxy reform legislation, which is designed to enhance shareholder participation in the corporate governance process. The current Federal regulatory program places almost insurmountable obstacles in the path of effective shareholder participation in corporate governance, and the result is a disturbing lack of accountability on the part of corporate management to the shareholders of the corporation.

Reform of the proxy process is required to strengthen shareholder democracy. My clear preference would be for the Securities and Exchange Commission [SEC] to pursue needed reforms in the proxy process under the broad authority Congress has granted the Commission to protect the interests of shareholders and to facilitate shareholder participation in corporate governance. Unfortunately, recent events have convinced me that the SEC cannot be relied upon to vigorously pursue such reforms and, therefore, that congressional action is required.

I have a longstanding interest in this issue. In 1986, the Governmental Affairs Subcommittee on Oversight of Government Management, under my chairmanship, held hearings and issued recommendations on the participation of institutional investors in corporate governance issues. The subcommittee found that pension funds, major shareholders in American corporations, were not engaging in a careful evaluation of those corporate governance issues which can affect the rights of shareholders and the value of their investments. In a subsequent report, the subcommittee made a number of recommendations aimed at encouraging institutional investors to become better informed and more active shareholders.

Earlier this year, the Oversight Subcommittee held a hearing examining whether the Federal regulatory program unfairly restricts shareholder proxy proposals. It was clear from the testimony presented at the hearing that the current SEC regulations restrict the ability of shareholders to hole corporate management accountable for their actions, and that there is a need to reform the proxy process to enable more effective shareholder involvement in matters of corporate governance.

I was encouraged by the testimony presented at the hearing by Linda C. Quinn, Director of the SEC's Division of Corporate Finance. Ms. Quinn emphasized the Commission's dedication to enhancing the voting rights of shareholders, reiterated the Commission's commitment to an ongoing review of the shareholder voting process, and indicated that the Commission would be coming forward in the near future with a proposal dealing with these issues.

I was further encouraged by the SEC's subsequent publication in June of a proposed rule containing several amendments to its proxy rules that are designed to facilitate shareholder communication with each other and with management in furtherance of the goal of informed proxy voting. The proposed rule has been characterized by SEC Chairman Richard Breeden and others as mild and was the first step in what was expected to be a broader revamping of the proxy process.

Regrettably, it appears that these mild reforms have been torpedoed by pressure exerted by corporate managements. In a campaign orchestrated by the Business Roundtable, the Nation's largest corporations have generated large numbers of letters in opposition to the proposed rule and have sought the assistance of administration officials in an effort to kill the proposed reforms. As a result of this campaign, plans to finalize the rule will apparently be delayed until next year, the proposals themselves will be redrafted and may be weakened, and any possibility of broader reforms may now be dead. Yesterday, the SEC formally announced that it will be revising the proposal and seeking further public comment before going forward with a final rule.

It has been my view for some time that reform of the shareholder voting process is necessary, but it was also my view that such reforms could and should be made by the SEC through the regulatory process. The Securities Exchange Act grants the SEC broad authority to promulgate rules and regulations which are necessary in the public interest and for the protection of shareholders. However, I am now convinced that congressional action in this area is necessary given the apparent failure of the SEC to successfully pursue even the most modest reforms designed to enhance shareholder democracy.

The legislation I am introducing today would provide for greater shareholder access to the proxy process by means of direct shareholder nomination of directors and more equitable treatment of shareholder proposals in the proxy statement. To ensure the integrity of the proxy voting process, the bill would require the Securities and Exchange Commission to issue regulations providing for confidential voting and tabulation of votes by an independent third party.

The bill would also encourage the SEC to expand the type of shareholder proposals relating to executive compensation for the corporate managers and board of directors that would be considered proper for shareholder action and, therefore, must be included in the proxy statement. The authority to define the types of proposals that will be required to be treated as proper subjects would remain with the SEC.

Shareholders have a legitimate interest in becoming more active participants in the proxy process. They are entitled to receive information on and have a voice in important decisions which affect them as stockholders and owners of a corporation. Moreover, as the beneficial owners of a corporation, they should also have reasonable opportunities to present to fellow shareholders and to management their own proposals and views on issues which are of concern to them.

The current Federal regulatory program blocks shareholders from effectively participating in the proxy process and, as a result, does not adequately protect the interests of shareholders. The reforms I am proposing are needed to remove obstacles to shareholder action and to restore accountability to the corporate governance process.

I urge my colleagues to join me in supporting this legislation which will enhance shareholder participation in the corporate governance process and corporate accountability.•

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

ALBERT EINSTEIN TEACHER FELLOWSHIP ACT OF 1991

• Mr. HATFIELD. Mr. President, I rise today to pay tribute to a very special member of my staff—Dr. June Yamashita. I have had the privilege of June's talents as part of my legislative team for the past year, and before she leaves next month to pursue other endeavors, I want to recognize her unique wisdom, enthusiasm, and perspective as both an educator and a special friend of the young.

June and I met almost a year ago after she was selected as one of four secondary schoolteachers to serve as an Albert Einstein congressional fellow. Two of these fellows were assigned to the Senate and two to the House, each to work on a personal or committee staff in the 102d Congress. Immediately, June and I shared two common bonds, our attendance at Stanford University and a kinship on the importance of mathematics and science education. I asked her to join my staff to work with me on new initiatives in education reform.

June arrived on Capitol Hill after 29 years in the classroom. From her experiences as a public high school mathematics teacher in Hawaii, she introduced fresh perspectives to me and my staff on how educational legislative proposals would actually work in a school system like her own. She spent a great deal of her initial time in Washington reading the myriad of reports on mathematics and science education, and attending workshops and conferences. Through these opportunities, she not only gathered an abundance of information from practitioners in the field, but she spread the word that there was both an interest and a commitment in the Congress to improve the Federal investment in this critical area.

In addition to the resource she has been to me, June has been an innovative and creative influence to those outside my office. She has crafted legislation, much of it well on its way to enactment, and in so doing, she has worked closely with members of my mathematics and science education "working group" to incorporate and present new ideas in the Congress. She helped me to assess basic needs within this community and ultimately, to direct Federal attention in the most effective manner possible.

Mr. President, I sponsored the initial Albert Einstein congressional fellowship program with complete confidence that the contributions our Nation's teachers could bring to the political process would be of tremendous benefit to our schools. June has brought this vision to life and while I will miss her daily presence in my office, I know that the legacy she leaves is an extremely positive one for teachers everywhere.

I ask unanimous consent that recent letters I have received from the Triangle Coalition for Science and Technology Education and the National Association of State Universities and Land-Grant Colleges in reference to June's accomplishments be included in the RECORD.

Furthermore, as a tribute to all of the fellows who have served this past year, and particularly in recognition of the splendid service of Dr. June Yamashita, I am today introducing legislation to permanently establish the Albert Einstein congressional fellowship program at the Department of Education. I ask unanimous consent that the text of the legislation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albert Einstein Teacher Fellowship Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a need exists to facilitate understanding, communication, and cooperation between the Federal Government and the science education community;

(2) the science education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers;

(3) secondary school science and mathematics teachers can provide insight into effective education programs; and

(4) a pilot program has confirmed the effectiveness of outstanding secondary school science and mathematics teachers serving in

professional staff capacities in the Senate and the House of Representatives.

SEC. 3. PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this Act to establish a national fellowship program for outstanding science and mathematics teachers.

(b) DESIGNATION.—A recipient of a fellowship under this Act shall be known as an "Albert Einstein Fellow".

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "contractor" means a nonprofit educational organization selected by the Secretary to administer the fellowship program assisted under this part;

(2) the term "outstanding science or mathematics teachers" means secondary school teachers who—

(A) are State or national winners of the Presidential Awards for Excellence in Science and Mathematics Teaching;

(B) have participated in the Woodrow Wilson Fellowship Program; or

(C) have been recipients of other similar recognition programs of a national scope;

(3) the term "secondary school" has the meaning provided by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Education.

SEC. 5. FELLOWSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary is authorized to establish the Albert Einstein Teacher Fellowship Program which shall provide outstanding secondary school science or mathematics teachers with fellowships in accordance with the provisions of this Act in each fiscal year.

(2) NUMBER OF FELLOWSHIPS.—The Secretary shall provide—

(A) 2 outstanding secondary school science or mathematic teachers with fellowships in the House of Representatives;

(B) 2 such teachers with fellowships in the Senate; and

(C) 1 such teacher with a fellowship in the following Federal agencies:

(i) The Department of Education.

(ii) The Department of Energy.

(iii) The National Institutes of Health.

(iv) The National Science Foundation.

(v) The Office of Science and Technology Policy.

(3) TERM OF FELLOWSHIPS.—Fellowships under this Act shall be awarded for a period of 1 year, beginning August 1 of any fiscal year and ending on July 31 of the succeeding fiscal year.

(b) PROGRAM ADMINISTRATION.—

(1) CONTRACT.—The Secretary is authorized to issue a contract to a qualified nonprofit educational organization (hereafter in this Act referred to as the "contractor") to administer the Albert Einstein Teacher Fellowship Program.

(2) DUTIES.—The contractor shall—

(A) develop and administer an application process for the awarding of fellowships under this Act;

(B) publicize the fellowship program in appropriate professional publications and directly invite applications from teachers listed in the directories of the Presidential Awardees, the Woodrow Wilson Fellows, and other national recognition programs;

(C) develop and conduct an initial screening process of applicants for the Albert Einstein Fellowship Program to narrow the pool of such applicants to 9 outstanding secondary school science teachers and 9 outstanding secondary school mathematics teachers;

(D) develop and conduct the process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(E) conduct, or enter into a contract with another qualified agency for the conduct of, a program of orientation for the fellowship recipients under this Act;

(F) establish and conduct a reporting and evaluation program for each year fellowships are awarded under this Act;

(G) submit an annual report and evaluation of the fellowship program assisted under this Act to the Secretary on August 31, 1993, and each year thereafter; and

(H) administer all disbursements of funds under this Act, including salaries and expenses incurred in conducting the selection process.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The contractor shall only use funds under this Act for fellowship recipient salaries, Social Security contributions, and administrative expenses including information dissemination, direct mailing, advertising, direct staff costs for coordination and accounting services, and expenses of conducting the final selection interviews in Washington, D.C.

(2) SPECIAL RULE.—The contractor may seek funding from non-Federal sources to provide an orientation program for the Fellows and an account from which the Fellows may be reimbursed for moving, travel, and professional meetings expenses.

(d) SELECTION.—

(1) IN GENERAL.—The contractor shall invite the 18 semifinalists to Washington, D.C. to participate in interviews after the initial screening process described in subparagraph (C) of subsection (b)(2) is completed.

(2) FINAL SELECTION.—

(A) The final selections shall be made in accordance with paragraph (2) and announced prior to May 1 preceding each fellowship term.

(B) The contractor shall develop and conduct a process whereby final selections of fellowship recipients under this part are made as follows:

(i) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees shall select the 2 fellowship recipients who shall be assigned to the House of Representatives.

(ii) The President pro tempore of the Senate and the Minority Leader of the Senate, or their designees shall select the 2 fellowship recipients who will be assigned to the Senate.

(iii) The Secretary of Education, the Secretary of Energy, the Director of the National Institutes of Health, the Director of the National Science Foundation, and the Assistant to the President of the Office of Science and Technology Policy, or their designees shall each select 1 fellowship recipient who shall be assigned within the department, institute, or office that such individual represents.

(e) FINAL PLACEMENT.—

(1) IN GENERAL.—Each individual selected to receive a fellowship pursuant to subsection (d) shall interview in the various sections, offices, or divisions within the department, institute, or office in which such individual is to be placed to determine the best fellowship placement for such individual.

(2) DATE.—The final placement described in paragraph (1) shall take place in August of each fellowship term.

SEC. 6. FELLOWSHIPS.

(a) SALARY.—Each recipient of a fellowship under this Act shall be paid at a rate of pay that shall not exceed the minimum rate payable for a position under GS-13 of the General Schedule.

(b) DEDUCTIONS.—Notwithstanding any other provision of law, from the salary described in paragraph (1) no deductions shall be taken nor employee benefits extended beyond payroll deductions described in subtitle C of the Internal Revenue Code of 1986.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2000.

TRIANGLE/NSTA,
College Park, MD, November 22, 1991.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: We are pleased to have had a role in bringing June Yamashita to Washington, D.C. Her selection as an Einstein Congressional Fellow for '90–91 is a clear demonstration of the high quality of both the pool of candidates and the group finally selected. June made a wonderful contribution to the launching of the Einstein Congressional Fellows program.

She brought the skills and insight of a teacher, the imagination of a student, and the enthusiasm of a new arrival to D.C. and offered them for service on Capitol Hill. She achieved a great deal in a short time. Over and over she has demonstrated her talent for working with others and shared the sense of professionalism she brought from her teaching. We are also aware of the contribution she has made to your staff and to your efforts to lead in education reform legislation.

We are pleased with all these efforts but most of all that we can join you in heartfelt thanks for her love of education and her willingness to share so much of her self with our staff and those who follow her as Einstein fellows. I hope you will convey to her our appreciation for all she has done to make science education a more visible and vital part of the national agenda.

Sincerely,

JOHN M. FOWLER,
Executive Director.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES
Washington, DC, November 20, 1991.

Hon. MARK O. HATFIELD,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I have learned that Ms. June Yamashita will be concluding her work on your staff next month. In behalf of the National Association of State Universities and Land-Grant Colleges (NASULGC), I am writing to express our deep appreciation for her outstanding work this year in support of your efforts both to secure an appropriation for and to propose the reauthorization of Title XI ("Urban Community Service") of the Higher Education Act. June was always responsive to our recommendations, comments and questions, and she skillfully negotiated several differences of perspective among the urban higher education representatives with whom she worked. She has played a key role in ensuring that the attention of the Federal Government will be focused increasingly on the resources and skills of the nation's urban universities.

I found June personally to be a delight, and I will miss her as we continue our work together to ensure that Title XI remains a part of the reauthorized Higher Education Act next year. NASULGC's urban universities and I wish June the best of luck as she returns to her home in Hawaii.

Sincerely,

NEVIN C. BROWN,
Assistant Director for Urban Affairs.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 509

At the request of Mr. HARKIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 509, a bill to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes.

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1123

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1123, a bill to improve the health care delivery system and ensure access to affordable quality health care through reduced liability costs and improved quality of care, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1423, supra.

S. 1533

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. ADAMS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Alabama [Mr. SHELBY], the Senator from Washington [Mr. GORTON], the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Utah [Mr. HATCH], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1810

At the request of Mr. DURENBERGER, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

S. 1835

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1835, a bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes.

S. 1863

At the request of Mr. LEVIN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1863, a bill to provide for the establishment of a program that shall facilitate, on a voluntary request basis, the reunion of birth parents and adopted individuals, birth siblings, or birth grandparents of adopted individuals, through a centralized computer network, and for other purposes.

S. 1872

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1894

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free-Trade Agreement, and for other purposes.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1933

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

S. 1998

At the request of Mr. EXON, the name of the Senator from South Carolina

[Mr. HOLLINGS] was added as a cosponsor of S. 1998, a bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week".

SENATE JOINT RESOLUTION 100

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 222

At the request of Mr. DASCHLE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 78

At the request of Mr. ROBB, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 78, a concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION NO. 230—RELATING TO SUPPORT ON MACHINE TOOLS VRA

Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 230

Resolved,

Whereas, the Machine Tool Industry is vital to our nation's national security and industrial competitiveness;

Whereas, no weapon or industrial product or manufacturing equipment can be made without using a machine tool;

Whereas, the United States Government signed five-year Voluntary Restraint Arrangements with Taiwan and Japan in 1986 in order to allow our machine tool industry to rebuild its competitiveness in order to continue to serve our nation's national security and economic competitiveness;

Whereas, arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development and new technology in general. The U.S. machine tool industry has used the VRA constructively, increasing investment by 78 percent and increasing productivity by 11.3 percent annually. And, simultaneously keeping price increases to the rate of inflation;

Whereas, the American machine tool industry has made some progress since the inception of the VRA's, but the progress has not been enough to bring the industry back from the devastation it suffered during the early 1980's at the hands of foreign targeters; and

Whereas, there still exists a dramatic disparity between the health of the U.S. machine tool industry and that of Japan and Taiwan. In the interest of fairness and vital national security, this industry must be allowed to continue their progress under the structure provided by Voluntary Restraint Arrangements: Now, therefore, be it

Resolved, That the United States Senate urges the President to renew the Voluntary Restraint Agreement with Taiwan and Japan for an additional five years in order to continue to protect U.S. national security and ensure industrial competitiveness.

• Mr. D'AMATO. Mr. President, 5 years ago when the White House negotiated voluntary agreements with Japan and Taiwan limiting imports of machine tools, the future of this old line, American industry brightened. Machine tools, used for punching, cutting, bending, and shearing sheetmetal, have played a crucial role in our industrial economy and national defense since the beginning of the century.

Then, hit by the recession of the early 1980's, years of unfair trading practices, America's machine tool industry lost ground to low cost imports. These factors, coupled with a cheap yen, gave the Japanese the opportunity to grab half the United States market for machine tools.

In 1986, citing the importance of the industry to our national defense, the Reagan administration acted to protect domestic machine tool producers and give them time to regroup by negotiating the 5-year voluntary restraint agreements [VRA's]. These VRA's expire December 31 of this year. Unless extended, the U.S. Government will effectively slam the door on an industry that has hustled and kept its promise to use the time wisely.

Solid and permanent gains have been made and the industry's ability to compete in the world market has increased dramatically. Arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development, and new technology in general.

New York-based Strippit, Inc., with annual sales exceeding $50 million and 400-plus employees, redesigned its entire computer-controlled machinery line. This same company now has a patent pending on a personal computer-based machine tool controller that will revolutionize the industry.

Another New York company, Hardinge Brothers, Inc., made substantial investments to modernize its plant and improve product quality. Robert E. Agan, President and CEO of Hardinge, recently testified before the House Ways and Means Committee that his company's emphasis on quality products has evolved into a multi-million dollar quality commitment program. Elaborating on the program, Mr. Agan said, "We have aggressively competed for the Malcolm Baldridge National Quality Award for manufacturing excellence, finishing in the top 22 companies in the country—a tribute to the effort we have undertaken. Without the VRA's, Hardinge may not have had the resources to commit to such a program."

And Strippit, Hardinge, and the rest of the U.S. machine tool producers played a vital role in the success of our military operation in Desert Storm. U.S. machine tool technology made possible such sophisticated U.S. weapon systems as the Patriot missile system, stealth bomber, and the Bradley fighting vehicle. Clearly, our national security would be gravely impaired if we had to depend on foreign sources for our critical industries.

The 70,000-strong skilled work force is committed to achieving manufacturing superiority. Management and labor have learned the lesson that being competitive requires constant improvements in technology and in the quality of production.

America's machine tool industry was not decimated overnight; it cannot be restored to full competitiveness overnight either. More time is needed to complete the industry's return to health. Certainly, the current recession that has lasted longer than anyone anticipated has not helped.

Extending the VRA's another 5 years makes sense. Let's not jeopardize the jobs of tens of thousands of skilled workers, threaten our national security and risk endangering an entire industry now that its recovery has begun.

The machine tool industry and America deserve better. •

SENATE RESOLUTION 231—URGING THE PRESIDENT TO SUBMIT A PROPOSAL TO REFORM THE HEALTH CARE SYSTEM OF THE UNITED STATES

Mr. SIMON submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 231

Whereas the United States currently spends more than $700 billion a year on health care services;

Whereas the United States spends about 13 percent of its Gross National Product on health care services, compared to an average of 8 percent for other industrialized nations;

Whereas the Administration projects that if current trends continue, health care spending will reach 16 percent of Gross National Product by the year 2000 and 37 percent of Gross National Product by the year 2030;

Whereas health care spending continues to increase by more than 10 percent each year;

Whereas spending for health care absorbed 15.3 percent of Federal outlays in 1990 and 11.4 percent of state and local outlays in 1990;

Whereas 37 million indiviudals in the United States, 13 percent of the total population, are not covered by health insurance;

Whereas the United States, as compared to other industrialized nations, currently ranks 18th in life expectancy, 22nd in infant mortality and 26th in low birthweight, an indication that a child will suffer illnesses throughout his or her life;

Whereas the United States has the highest administrative cost of an health care system in the industrialized world;

Whereas the successful overhaul of our health care system must include the participation and cooperation of providers of health care services, business, labor, consumer organizations, senior citizens' groups, and both major political parties;

Whereas fundamental changes to our health care system will require the commitment of Presidential leadership;

Whereas the President has yet to propose any board changes for our health care system: Now, therefore, be it:

Resolved, That it is the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATIONS ACT, FISCAL YEAR 1991

BYRD AMENDMENT NO. 1391

MR. BYRD proposed an amendment to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

JOHNSTON (AND GORTON) AMENDMENT NO. 1392

Mr. BYRD (for Mr. JOHNSTON, for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden."

LEAHY (AND OTHERS) AMENDMENT NO. 1393

Mr. LEAHY (for himself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) Subsequent months.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) Monitoring.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) Limits on new contracts.—

"(i) Monthly determination.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) Impact on new contracts.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) Use of government resources.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) Reduction in Price Received.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) Reduction in Price Received.—

"(1) Surplus reduction contracts.—

"(A) In general.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) Amount of reduction.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 through 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) Reconciliation commitments.—

"(A) 1991.—

"(i) Authority.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) Refund.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) Authority.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 through 1995.—

"(i) Authority.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) Assessment refund.—

"(A) Excess ccc purchases.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) Timing.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) Collection of funds.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) Minimum price provisions.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) Definitions.—

(1) In general.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) Definitions.—As used in this section:

"(1) Milk equivalent, total milk solids basis.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) Net removals.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) United states.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) Administration.—Section 204(d)(5) of such Act is amended by striking "(5) Administration.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) Administration.—In estimating".

(f) Conforming amendments.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) Period.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

LEAHY AMENDMENT NO. 1394

Mr. LEAHY proposed an amendment No. 1393 proposed by him (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 1395

Mr. KENNEDY (for himself, Mr. KERRY, Mr. SHELBY, Mr. DODD, Mr. SMITH, Mr. FORD, Mr. PELL and Mr. BYRD) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 13, and 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

LEAHY (AND OTHERS) AMENDMENT NO. 1396

Mr. LEAHY (for himself, Mr. KOHL, Mr. DASCHLE, Mr. WELLSTONE, Mr. WOFFORD, Mr. KERRY, and Mr. HARKIN), proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the substitute, add the following new section:

SEC. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

REID AMENDMENT NO. 1397

Mr. BYRD (for Mr. REID) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

SEC. . From the funds made available for Land Acquisition of the U.S. Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (PL 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the U.S. Fish and Wildlife Service.

BREAUX AMENDMENT NO. 1398

Mr. BYRD (for Mr. BREAUX) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

DECONCINI (AND OTHERS) AMENDMENT NO. 1399

Mr. BYRD (for Mr. DECONCINI), (for himself, Mr. SIMON, Mrs. KASSEBAUM, Mr. D'AMATO, and Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

DECONCINI (AND OTHERS) AMENDMENT NO. 1400

Mr. BYRD (for Mr. DECONCINI) (for himself, Mr. D'AMATO, Mr. DODD, Mr. WALLOP, Mr. MOYNIHAN, Mr. RIEGLE, Mr. HATCH, Mr. BRADLEY, Ms. MIKULSKI, Mr. SIMON, Mr. HELMS, Mr. KASTEN, Mr. PRESSLER, Mr. KERRY, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. MACK, and Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SPECTER (AND OTHERS) AMENDMENT NO. 1401

Mr. HATFIELD (for Mr. SPECTER) (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. HATFIELD, and Mr. RUDMAN) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of Section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of Part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

THURMOND (AND HOLLINGS) AMENDMENT NO. 1402

Mr. HATFIELD (for Mr. THURMOND) (for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

SECTION . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

D'AMATO AMENDMENT NOS. 1403 AND 1404

Mr. HATFIELD (for Mr. D'AMATO) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1403

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

AMENDMENT NO. 1404

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plan, Pan Am Flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has lead to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am Flight 103; and

The families of the victims of Pan Am Flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am Flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for commission of this terrible crime, no matter where they might be located.

D'AMATO AMENDMENT NO. 1405

Mr. D'AMATO proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate placed insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

"3. Any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082-2 of title 40 of the Code of Federal Regulations (as in effect July 1, 1990);

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

NUNN (AND WARNER) AMENDMENT NO. 1406

Mr. BYRD (for Mr. NUNN, for himself and Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1407

Mr. LAUTENBERG (for himself, Mr. WIRTH, Mr. CHAFEE, Mr. METZENBAUM, Mr. PACKWOOD proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of title II, insert the following:

SEC. 2. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

WIRTH AMENDMENT NO. 1408

Mr. WIRTH proposed an amendment to amendment No. 1407 proposed by Mr. LAUTENBERG (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of amendment 1407, add the following:

(a) IN GENERAL.—(1) Chapter 55 of Title 10, United States Code is further amended by inserting the following new section:

SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost, including indirect cost of providing the service.

(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

SPECTER AMENDMENT NO. 1409

Mr. SPECTER proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable-year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.)—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) Allocation of Research and Experimental Expenditures.—

(1) In general.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) Effective date.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) Low-Income Housing Credit.—

(1) In general.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) Effective date.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) Mortgage Revenue Bonds.—

(1) In general.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) Mortgage credit certificates.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) Effective dates.—

(A) Bonds.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) Certificates.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) Targeted Jobs Credit.—

(1) In general.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) Effective date.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

BYRD AMENDMENTS NOS. 1410 AND 1411

Mr. BYRD proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

Amendment No. 1410

SEC. . EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

Amendment No. 1411

SEC. . EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

DASCHLE AMENDMENT NO. 1412

Mr. BYRD (for Mr. DASCHLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following:

SECTION . AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

BUMPERS (AND PRYOR) AMENDMENT NO. 1413

Mr. BYRD (for Mr. BUMPERS, for himself and Mr. PRYOR) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, between lines 21 and 22, insert the following new section:

SEC. 204. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) In General.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) Termination of Authorization.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) Consolidation of Requests.—To facilitate requests under this section, the Commission may consolidate the requests.

CONRAD (AND OTHERS) AMENDMENT NO. 1414

Mr. BYRD (for Mr. CONRAD, for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, Mr. BAUCUS, and Mr. PRESSLER) proposed an amendment to the joint resolution (H.J. RES. 157), supra; as follows:

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

(a) Definitions.—For purposes of this section:

(1) Entry.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) Foreign grain.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) Certification Requirements Regarding Foreign Grain.—

(1) End-use certificate.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) Quarterly reports.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) End-Use Certificate and Quarterly Report Content.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraphs (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a statement of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality;

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

D'AMATO AMENDMENT NO. 1415

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 23, after line six insert the following:

CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purchase of one MH-60G helicopter."

BURNS AMENDMENT NO. 1416

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

The following is to be added in the appropriate place:

( ) "The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

GORE AMENDMENT NO. 1417

Mr. BYRD (for Mr. GORE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

BRADLEY AMENDMENT NO. 1418

Mr. BYRD (for Mr. BRADLEY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 22, line 5, before the period, insert ", subject to authorization".

LEAHY AMENDMENT NO. 1419

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert: "Unobligated funds in the amount of $990,000 authorized and appropriated under P.L. 102-143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $100,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with Sections 101, 106, 110, and 120 of Title 23 of the United States Code."

STEVENS AMENDMENT NO. 1420

Mr. BYRD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES

(a) The caption for Section 713 of Title 18, United States Code, is amended to read as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the

President and Vice President, and the seals of the United States

Senate and the United States House of Representatives".

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purposes of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or pruchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(d) Whoever, except as directed by the United States House of Represenatatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon complaint by any authorized representative of any branch, department or agency of the United States."

(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

STEVENS AMENDMENT NO. 1421

Mr. HATFIELD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the Resolution insert the following new section:

SEC. . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91–082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91–083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

COATS (AND OTHERS) AMENDMENT NO. 1422

Mr. BYRD (for Mr. COATS, for himself, Mr. RIEGLE, and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 157), supra; as follows:

At the end of page 20, insert the following: "CROP INSURANCE. Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

RIEGLE AMENDMENT NOS. 1423 AND 1424

Mr. BYRD (for Mr. RIEGLE) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1423

At the appropriate place, insert the following new section:

SEC. . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

DOLE AMENDMENT NO. 1425

Mr. BYRD (for Mr. DOLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 19, line 13, insert the following after the ".": "For the purpose of this Act, the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

PELL AMENDMENT NO. 1426

Mr. BYRD (for Mr. PELL) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

KASTEN (AND OTHERS) AMENDMENT NO. 1427

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. WALLOP, Mr. MACK, Mr. LOTT, Mr. NICKLES, Mr. SYMMS, Mr. SMITH, Mr. BURNS, Mr. COATS, Mr. CRAIG, and Mr. HATCH) submitted an amendment intended to be proposed by them to the joint resolution (H.R. Res. 157), supra, as follows:

On page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Family Tax Freedom Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

Sec. 101. Nonrefundable tax credit for children.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

Sec. 201. Reduction in individual capital gains rate.
Sec. 202. Reduction in corporate capital gains rate.
Sec. 203. Reduction of minimum tax rate on capital gains.
Sec. 204. Indexing of certain assets for purposes of determining gain or loss.
Sec. 205. Indexing of limitation on capital losses of individuals.
Sec. 206. Exclusion of gain from sale of principal residence.
Sec. 207. Effective dates.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

Sec. 301. Depreciation adjustment for certain property placed in service in taxable years beginning after December 31, 1991.
Sec. 302. Phase-in of expensing for property placed in service in taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

Sec. 401. Establishment of individual retirement plus accounts.
Sec. 402. Penalty-free IRA plus withdrawal for home purchase, higher education, and health costs.

TITLE V—TREATMENT OF PASSIVE LOSSES

Sec. 501. Treatment of certain real estate activities under limitations on losses from passive activities.

TITLE VI—ENTERPRISE ZONES

Sec. 600. Purpose.

Subtitle A—Designation of Enterprise Zones

Sec. 601. Designation of zones.
Sec. 602. Reporting requirements.
Sec. 603. Interaction with other Federal programs.

Subtitle B—Federal Income Tax Incentives

Sec. 611. Definitions and regulations; employee credit; capital gain exclusion; stock expensing.
Sec. 612. Alternative minimum tax.
Sec. 613. Adjusted gross income defined.
Sec. 614. Effective date.

Subtitle C—Regulatory Flexibility

Sec. 621. Definition of small entities in enterprise zone for purposes of analysis of regulatory functions.
Sec. 622. Waiver or modification of agency rules in enterprise zones.
Sec. 623. Federal agency support of enterprise zones.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

Sec. 631. Foreign-trade zone preferences.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

Sec. 641. Repeal.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

SEC. 101. NONREFUNDABLE TAX CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR CHILDREN.

"(a) General Rule.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter and chapter 21 for the taxable year an amount equal to the sum of—

"(1) $1,000 multiplied by the number of qualifying children of the taxpayer who have not attained the age of 6 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(2) $300 multiplied by the number of qualifying children of the taxable year who have attained the age of 6 but have not attained the age of 19 as of the close of such calendar year.

"(b) Limitation Based on Amount of Tax.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(1) the sum of the regular tax (reduced by the sum of the credits allowable under subpart A and section 32) and the tax imposed by chapter 21, over

"(2) the tentative minimum tax,

for the taxable year.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Eligible individual.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B) thereof).

"(2) Qualifying child.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3) (determined without regard to subparagraphs (C) and (E) thereof).

"(3) Certain other rules apply.—Subsections (d) and (e) of section 32 shall apply."

(b) Dependent Care Credit Not Available for Children Under Age 6.—Subparagraph (A) of section 21(b)(1) (defining qualifying individual) is amended by inserting "(other than an individual described in section 30(a)(1))" after "taxpayer".

(c) Conforming Amendment.—The table of sections for such subpart B is amended by inserting after the item relating to section 25 the following new item:

"Sec. 30. Credit for children."

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

SEC. 201. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) General Rule.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Rate.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies."

(b) Phaseout of Personal Exemptions and Limitation on Deduction of Itemized Deductions Not To Result From Net Capital Gain.—

(1)(A) Subparagraphs (A) and (B) of section 151(d)(3) (relating to phaseout of exemption amount) are each amended by inserting "modified" before "adjusted gross income".

(B) Paragraph (3) of section 151(d) of such Code is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) Modified adjusted gross income.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income reduced by net capital gain."

(2) Subsection (a) of section 68 (relating to overall limitation on itemized deductions) is amended by inserting "(reduced by net capital gain (determined in accordance with the last sentence of section 151(d)(3)(D)))" after "adjusted gross income".

(c) Technical Amendments.—

(1) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 202. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) General Rule.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) General Rule.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) Transitional Rule.—In the case of a taxable year which includes December 31, 1991, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after such date."

(b) Technical Amendments.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "15 percent".

SEC. 203. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 204. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) In General.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) General Rule.—

"(1) Indexed basis substituted for adjusted basis.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) Exception for depreciation, etc.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) Indexed Asset.—

"(1) In general.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) Certain property excluded.—For purposes of this section, the term 'indexed asset' does not include—

"(A) Creditor's interest.—Any interest in property which is in the nature of a creditor's interest.

"(B) Options.—Any option or other right to acquire an interest in property.

"(C) Net lease property.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) Certain preferred stock.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) Stock in certain corporations.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) Exception for stock in foreign corporation which is regularly traded on national or regional exchange.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) Indexed Basis.—For purposes of this section—

"(1) Indexed basis.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (A)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for the subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—This table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after June 30, 1991, see section 1022(a)(1)."

SEC. 205. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins.

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1990.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 206. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—Gross income does not include gain from the sale or exchange of property if such property has been owned and used by the taxpayer as the taxpayer's principal residence.

"(b) SPECIAL RULES.—

"(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(2) INVOLUNTARY CONVERSIONS.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(3) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which has been owned and used by the taxpayer as the taxpayer's principal residence, this section shall apply with respect to so much of the gain from sale or exchange of such property as is determined, under regulations prescribed by the Secretary, to be attributable to the portion of the property so owned and used by the taxpayer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1033(h) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(2) Subsection (l) of section 1034 is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any sale or exchange occurring after December 31, 1991, in taxable years ending after such date."

(3) Section 1038 is amended by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) Paragraph (7) of section 1250(d) is amended to read as follows:

"(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121)."

(5) Subsection (c) of section 6012 is amended by striking "one-time exclusion of gain from sale of principal residence by individual who has attained age 55" and inserting "exclusion of gain from sale of principal residence".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 121 and inserting the following new item:

"Sec. 121. Exclusion of gain from sale of principal residence."

SEC. 207. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to sales or exchanges occurring after December 31, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 205 shall apply to taxable years beginning after December 31, 1991.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

SEC. 301. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(j) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.—

"(1) IN GENERAL.—In the case of tangible property (other than residential rental property and nonresidential real property) placed in service in a taxable year beginning after December 31, 1991, the deduction allowable under this section with respect to such property for any taxable year (after the taxable year during which the property is placed in service) shall be—

"(A) the amount so allowable for such taxable year without regard to this subsection, multiplied by

"(B) the applicable neutral cost recovery adjustment.

"(2) APPLICABLE NEUTRAL COST RECOVERY ADJUSTMENT.—For purposes of paragraph (1), the applicable neutral cost recovery adjustment for any calendar year is the number determined by—

"(A) dividing—

"(i) the gross national product deflator for the calendar quarter of the preceding calendar year which corresponds to the calendar quarter during which the property was placed in service by the taxpayer, by

"(ii) the gross national product deflator for the calendar quarter during which the property was placed in service by the taxpayer, and

"(B) then multiplying the number determined under subparagraph (A) by the number equal to 1.035 to the nth power where 'n' is the number of calendar years after the calendar year in which the property was placed in service by the taxpayer and before the 1st calendar year beginning with or within the taxable year for which the deduction under this subsection is being determined.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—For purposes of paragraph (2), the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

(b) CORRESPONDING MODIFICATION TO DEPRECIATION SCHEDULES.—Paragraphs (1)(A) and (2) of section 168(b) (relating to applicable depreciation method) are each amended by striking "200 percent" and inserting "125 percent".

(c) AMENDMENTS TO ALTERNATIVE MINIMUM TAXABLE INCOME.—

(1) NO INCREASE DUE TO INDEXING.—Subsections (a)(1)(A)(i) and (g)(4)(A) of section 56 (relating to adjustments in computing alternative minimum taxable income) are each amended by inserting "(as adjusted by section 168(j))" after "section 168(g)" each place it appears.

(2) PHASE-OUT OF ALTERNATIVE MINIMUM TAX DEPRECIATION DEDUCTION.—Section 56 is amended by adding at the end thereof the following new subsection:

"(i) PHASE-IN OF FULL DEPRECIATION DEDUCTION.—

"(1) IN GENERAL.—The depreciation deduction with respect to any property determined under subsections (a)(1) and (g)(4) for each taxable year shall be increased by the applicable percentage of the depreciation differential for such taxable year.

"(2) APPLICABLE PERCENTAGE.—The applicable percentage for any taxable year shall be determined in accordance with the following table:

"In the case of a taxable year which begins:

After January 1 of:	And on or before January 1 of:	The applicable percentage is:
1992	1993	20
1993	1994	30
1994	1995	40
1995	1996	50
1996	1997	60
1997	1998	70
1998	1999	80
1999	2000	90
2000		100.

"(3) DEPRECIATION DEDUCTION DIFFERENTIAL.—With respect to any property, the depreciation deduction differential for any taxable year is equal to the excess of—

"(A) the depreciation deduction applicable for purposes of computing the regular tax for such taxable year, over

"(B) the depreciation deduction determined under subsections (a)(1) and (g)(4) for such taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 302. PHASE-IN OF EXPENSING FOR PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1996.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(k) PHASE-IN OF EXPENSING.—

"(1) IN GENERAL.—In the case of tangible property placed in service in a taxable year beginning after December 31, 1996—

"(A) the phase-in deductions with respect to such property shall be allowable under this section for the taxable year in which such property is placed in service, and

"(B) the applicable recovery period with respect to such property shall be reduced by the phase-in number of years.

"(2) PHASE-IN DEDUCTIONS AND YEARS.—For purposes of this subsection—

"(A) IN GENERAL.—The phase-in deductions with respect to any property are the aggregate deductions allowable under this section (determined without regard to this subsection and subsection (j)) for the first phase-in number of years in the applicable recovery period.

"(B) PHASE-IN NUMBER OF YEARS.—The phase-in number of years with respect to any property is the number of calendar years after 1996 and before the calendar year in which the property is placed in service.

"(3) ELECTION.—This subsection shall not apply to any property if the taxpayer elects not to apply this subsection to such property. Such an election, once made, shall be irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 401. ESTABLISHMENT OF INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an individual retirement plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—For purposes of this title, the term 'individual retirement plus account' means an individual retirement plan which is designated at the time of the establishment of the plan as an individual retirement plus account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an individual retirement plus account.

"(2) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—Except in the case of rollover contributions, the aggregate amount which may be accepted as contributions to an individual retirement plus account shall not be greater than the excess (if any) of—

"(i) the nondeductible limit with respect to the individual for the taxable year under section 408(o) (after application of subparagraph (B)(ii) thereof), over

"(ii) the designated nondeductible contributions made by the individual for such taxable year to 1 or more individual retirement plans.

"(B) $1,000 INCREASE AFTER 1996.—In the case of any taxable year beginning after December 31, 1996, the amount determined under subparagraph (A)(i) (without regard to this subparagraph) shall be increased by $1,000.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—The nondeductible limits under subparagraph (A) for an individual and for such individual's spouse shall be an amount equal to the excess (if any) of—

"(i) $2,000, over

"(ii) the sum of the amount allowed as a deduction under section 219 for contributions on behalf of such individual or such spouse, plus the amount determined under subparagraph (A)(ii) with respect to each.

In no event shall the sum of such limits exceed an amount equal to the sum of the compensation includible in the individual's and spouse's gross income for the taxable year, reduced by the sum of the amounts determined under clause (ii).

"(3) CONTRIBUTIONS AFTER AGE 70½.—Contributions may be made by an individual to an individual retirement plus account after such individual has attained the age of 70½.

"(4) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contributions may be made to an individual retirement plus account unless such rollover contribution is a contribution of a distribution or payment out of—

"(A) another individual retirement plus account, or

"(B) an individual retirement plan which is not allocable to any amount transferred to such plan which represented any portion of the balance to the credit of an employee in a qualified trust (or any income allocable to such portion).

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) IN GENERAL.—Except in the case of a qualified distribution, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an individual retirement plus account.

"(2) TREATMENT OF QUALIFIED DISTRIBUTION.—In the case of a qualified distribution from an individual retirement plus account—

"(A) the amount of such distribution shall not be includible in gross income; and

"(B) section 72(t) shall not apply.

"(3) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of an individual) on or after the death of the individual, or

"(iii) attributable to the employee's being disabled (within the meaning of section 72(m)(7)).

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year in which the individual made a contribution to an individual retirement plus account, or

"(ii) in the case of a distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years of the date on which such rollover contribution was made.

"(4) SPECIAL RULES RELATING TO ROLLOVERS FROM REGULAR INDIVIDUAL RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, any amount paid or distributed out of an individual retirement plan on or before the earlier of—

"(i) the date on which the individual attains age 55, or

"(ii) June 30, 1993,

shall not be included in gross income (and section 72(t) shall not apply to such amount) if the individual receiving such amount transfers, within 60 days of receipt, the entire amount received to an individual retirement plus account.

"(B) TREATMENT OF TAX-FAVORED AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), there shall be included in gross income (but section 72(t) shall not apply to) the portion of any amount transferred which bears the same ratio to such amount as—

"(I) the aggregate amount of contributions to individual retirement plans with respect to which a deduction was allowable under section 219, bears to

"(II) the aggregate balance of such plans.

"(ii) TIME FOR INCLUSION.—Any amount described in clause (i) shall be included in gross income ratably over the 4-taxable year period beginning with the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) ROLLOVER CONTRIBUTIONS.—For purposes of this section, the term 'rollover contributions' means contributions described in sections 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), and 408(d)(3).

"(f) DETERMINATIONS.—For purposes of this section, any determinations with respect to aggregate contributions to, or the balance of, individual retirement plus accounts shall be made as of the close of the calendar year preceding the calendar year in which the taxable year begins."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Individual retirement plus accounts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 402. PENALTY-FREE IRA PLUS WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 408A(d)(3) (as added by section 401) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iv) which is a qualified special purpose distribution (within the meaning of subsection (e)).

(b) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—Section 408A (as so added) is amended by redesignating subsections (e) and (f) as (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION FROM IRA PLUS ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified special purpose distribution' means—

"(A) a qualified first-time homebuyer distribution, or

"(B) an applicable medical or educational distribution.

"(2) 25 PERCENT ACCOUNT LIMIT.—

"(A) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(i) 25 percent of the sum of—

"(I) the aggregate balance of individual retirement plus accounts established on behalf of an individual, plus

"(II) the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(ii) the amount determined under clause (i)(II).

"(B) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of subparagraph (A).

"(3) DISTRIBUTIONS FROM IRA PLUS ACCOUNTS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement plan to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(B) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(C) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in clause (ii)—

"(I) gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and

"(II) section 72(t) shall apply to such amount.

"(ii) EXCEPTION.—Clause (i) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement plus account. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(iii) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plus account to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, such amount cannot be so used, the amount so paid or distributed may be paid into an individual retirement plus account as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(ii) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(iii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(iv) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(4) APPLICABLE MEDICAL DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—For purposes of paragraph (1), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(5) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLUS ACCOUNTS FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of paragraph (4)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(I) the taxpayer,

"(II) the taxpayer's spouse, or

"(III) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(ii) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE V—TREATMENT OF PASSIVE LOSSES

SEC. 501. TREATMENT OF CERTAIN REAL ESTATE ACTIVITIES UNDER LIMITATIONS ON LOSSES FROM PASSIVE ACTIVITIES.

(a) IN GENERAL.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) CONFORMING AMENDMENT.—Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE VI—ENTERPRISE ZONES

SEC. 600. PURPOSE.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate entrepreneurship, particularly by zone residents, the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

Subtitle A—Designation of Enterprise Zones

SEC. 601. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation.

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e)

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) June 30, 1992.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban development may designate—

"(I) not more than 50 nominated areas as enterprise zones under this section and

"(II) not more than 15 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B), not more than 30 by the end of the second 12-month period, not more than 45 by the end of the third 12-month period, and not more than 50 by the end of the fourth 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

"(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available);

"(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)); or

"(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the local government and the State in which the nominated area is located have the authority to—

"(I) nominate such area for designation as an enterprise zone,

"(II) make the State and local commitments under subsection (d), and

"(III) provide assurances satisfactory to the Secretary of Housing and Urban development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by such State and local governments in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

"(4) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the State or a local government in which the area is located is not complying substantially with the agreed course of action for the area.

"(c) AREA AND ELIGIBILITY REQUIREMENTS—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government;

"(B) the boundary of the area is continuous; and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of not less than—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(II) 1,000 in any other case; or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State or local governments in which the nominated area is located certifies, and the Secretary of Housing and Urban Development accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment and general distress;

"(B) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period;

"(C) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 1.5 times the national poverty rate for the period to which such data relate; and

"(D) the area meets at least one of the following criteria:

"(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

"(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

"(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State and the local government or governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug enforcement prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area,

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care,

"(v) health care, and

"(vi) other social service support,

"(H) provision of supporting public facilities, and infrastructure improvements,

"(I) encouragement of local entrepreneurship; and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

"(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief,

"(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

"(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, as are consistent with the intent of the enterprise zone program and have the greatest likelihood of success.

"(f) GEOGRAPHIC DISTRIBUTION.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia."

"(h) CROSS REFERENCES FOR—

"(1) definitions, see section 1391,

"(2) treatment of employees in enterprise zones, see section 1392, and

"(3) treatment of investments in enterprise zones, see sections 1393 and 1394."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of enterprise zones."

SEC. 602. REPORTING REQUIREMENTS.

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 603. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 (as added by this title) shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such title.

(b) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

SEC. 611. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) GENERAL RULE.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Enterprise Zones

"Sec. 1391. Definitions and regulatory authority.

"Sec. 1392. Credit for enterprise zone employees.

"Sec. 1393. Enterprise zone capital gain.

"Sec. 1394. Enterprise zone stock.

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

"(a) ENTERPRISE ZONE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) TERMINATION OF ENTERPRISE ZONE.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

"(b) ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

"(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

"(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

"(C) less than 10 percent of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

"(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

"(E) substantially all of the employees work within an enterprise zone.

"(2) RELATED ACTIVITIES TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

"(3) SPECIAL RULES.—

"(A) RENTAL REAL PROPERTY.—For purposes of paragraph (1), real property located within an enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be an enterprise zone business if—

"(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b);

"(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses; or

"(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

"(c) ENTERPRISE ZONE PROPERTY.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone property' means any property used in the active conduct of an enterprise zone business.

"(2) TERMINATION OF ENTERPRISE ZONE.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

"(d) RELATED PERSONS.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of title VI of the Economic Growth and Family Tax Freedom Act of 1991, including—

"(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

"(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal government, and

"(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) GENERAL RULE.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed $10,500.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE EMPLOYEE.—The term 'enterprise zone employee' means an individual—

"(A) performing services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

"(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal government, any State government or subdivision thereof, or any local government.

"(2) WAGES.—The term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(3) QUALIFIED WAGES.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

"(c) LIMITATIONS.—

"(1) PHASE-OUT OF CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $525, over

"(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds $20,000.

"(2) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (c)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating to the alternative minimum tax) with respect to such taxpayer for such year.

"(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of this chapter.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

"(b) DEFINITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone capital gain' means gain—

"(A) treated as long-term capital gain,

"(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

"(C) properly attributable to periods of use in an enterprise zone business.

"(2) LIMITATIONS.—Enterprise zone capital gain does not include any gain attributable to—

"(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

"(B) any collectibles (as defined in section 408(m)), or

"(C) sales or exchanges to persons controlled by the same interests.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $100,000 for any taxable year, nor $500,000 during the taxpayer's lifetime.

"(A) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

"(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) RELATED PERSON.—

"(A) IN GENERAL.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in subsection (b)(1).

"(B) EXCESS AMOUNTS.—The limitations described in subsection (b)(1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (b)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

"(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

"(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) SPECIAL RULES.—

"(A) LIQUIDATION.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(C) PARTIAL DISQUALIFICATION.—Where some, but not all, of the property acquired by the issuer with the proceeds of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

"(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

"(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

"(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

"(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disqualified.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months following issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation which—

"(i) does not have more than one class of stock,

"(ii) is engaged solely in the conduct of one or more enterprise zone businesses,

"(iii) does not own or lease more than $50,000,000 of total property (including money), as measured by the unadjusted basis of the property, and

"(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of such corporation is owned by individuals, partnerships, estates or trusts.

"(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of $50,000,000 of enterprise zone stock.

"(C) AGGREGATION.—For purposes of applying the limitations under paragraph (2), the issuer and all related persons shall be treated as one person.

"(3) AMOUNT PAID.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(f) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of this chapter to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(h) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction under subsection (a) for any taxable year, then—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"(i) CROSS REFERENCE.—

For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23); by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a)."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Enterprise zones."

SEC. 612. CORPORATE ALTERNATIVE MINIMUM TAX.

Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(iii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

SEC. 613. ADJUSTED GROSS INCOME DEFINED.

Section 62(a) (relating to the definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1394."

SEC. 614. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years ending after December 31, 1991.

Subtitle C—Regulatory Flexibility

SEC. 621. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any unit of government that nominated an area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code)."

SEC. 622. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

"(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

"611. Waiver or modification of agency rules in enterprise zones."

(c) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 611" immediately before "means".

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting "(except section 611)" immediately after "chapter"; and

(2) in subsection (b) by inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence.

SEC. 623. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action under section 7880 of the Internal Revenue Code of 1986.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 631. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

SEC. 641. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1428

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 848) an act Little Bighorn Battlefield National Monument, as follows:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABLITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37(a) of P.L. 92-203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

RECOGNIZING THE CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING THE ATTACK ON PEARL HARBOR AND WORLD WAR II

AKAKA AMENDMENT NO. 1429

Mr. MITCHELL (for Mr. AKAKA) proposed an amendment to the joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, as follows:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees".

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. LEAHY proposed an amendment to the bill (H.R. 3029) to make technical corrections to agricultural laws; as follows:

On page 321, line 9, insert after "Laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 of page 265.

FOWLER AMENDMENT NO. 1431

Mr. MITCHELL (for Mr. FOWLER) proposed an amendment to the bill H.R. 3029, supra, as follows:

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or

private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate of November 22, 1991, at 10 a.m. to consider a temporary moratorium related to the issues of medicaid voluntary donations, provider-specific taxes, and intergovernmental transfers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Friday, November 22, 1991, at 10 a.m. to conduct a hearing on the nomination of David Ryder to be Director of the Mint of the United States for 5 years.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Friday, November 22, 1991, at 10 a.m., in SR-332, to hold a hearing on the nominations of Charles R. Hilty, to be Assistant Secretary of Agriculture for Administration, and Gary C. Byrne, to be a member of the Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, November 21, 1991, after the first vote of the afternoon, to hold a business meeting to markup S. 767, the Mickey Leland Childhood Hunger Relief Act, and H.R. 3029, Food Agriculture, Conservation, and Trade Act Amendments of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 2 P.M. to hold an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 9:30 a.m. to hold an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 4 p.m. to hold a brief business meeting.

MEETING AGENDA

The Committee will consider and vote on the following business item:

LEGISLATION

(1) S. 1128, Omnibus Nuclear Proliferation Control Act of 1991.

(2) S. Res. 196, concerning a prompt withdrawal of Soviet armed forced from the Baltic States.

(3) H. Con. Res. 188, concerning freedom of emigration and travel for Syrian Jews.

(4) S. Con. Res. 78, regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

NOMINATIONS*

(1) Mr. John H. Kelly, of Georgia, to be Ambassador to the Republic of Finland.

(2) Mr. Williams Edwin Ryerson, of Virginia, to be Ambassador to the Republic of Albania.

(3) Mr. John R. Davis, Jr., of California, to be Ambassador to Romania.

(4) Mr. George Fleming Jones, of Texas, to be Ambassador to the Co-operative Republic of Guyana.

(5) Mr. Curtis Warren Kamman, of the District of Columbia, to be Ambassador to the Republic of Chile.

(6) Mr. Robert Stephen Pastorino, of California, to be Ambassador to the Dominican Republic.

(7) Mr. Frederick Vreeland, of the District of Columbia, to be Ambassador to the Kingdom of Morocco.

(8) Mr. Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994.

(9) Mr. Williams K. Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994

* All nominations are contingent upon the successful completion of their hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Friday, November 22, Beginning at 10 a.m., to conduct a hearing to examine proposed revisions to the procedures for determining wetlands jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRAVELERS WITH DISABILITIES AWARENESS WEEK

• Mr. KERRY. Mr. President, I want to commend the travel industry for participating in Travelers With Disabilities Awareness Week from December 1–7, 1991. This educational program was created in response to the enactment of the Americans With Disabilities Act to promote understanding throughout the tourism industry about the benefits and challenges of serving travelers with disabilities. Although this is a national program, I am very proud that it is being organized in my home State of Massachusetts, where the tourism industry is very important to us.

Now that the ADA is law and barriers to equal access for public accommodations and transportation are being eliminated, this awareness effort is extremely important in carrying out the spirit as well as the letter of the law. The tourism industry, to its credit, is preparing actively to welcome the 43 million Americans with disabilities. The Society for the Advancement of Travel for the Handicapped, or SATH, a nonprofit organization which has actively represented travelers with disabilities since 1976, estimates that these tourists have spending power of some $50 billion or 15 percent of the total $350 billion spent on tourism in the United States in 1990.

Participants in this awareness week include more than 200 hotels, motels, attractions, museums, transportation companies, travel agencies, State tourism departments and visitors bureaus. I would like to include a copy of the Awareness Manifesto which participants are signing to pledge their acceptance of the principles of this week:

TRAVELERS WITH DISASBILITIES AWARENESS WEEK MANIFESTO

The Americans With Disabilities Act is now law.

Increasing numbers of persons with disabilities are traveling, touring and enjoying hospitality services and leisure activities.

The travelers-with-disabilities market represents significant annual revenues.

Travelers with disabilities create jobs in the tourism industry.

We pledge our best efforts and understanding as participants in Travelers With Disabilities Awareness Week to promote:

Awareness of the needs of travelers with disabilities; and

Attitude of respect for travelers with disabilities; and

Accessibility to accommodate travelers with disabilities.

We also pledge to employ qualified persons with disabilities.•

COMMEMORATING THE SESQUICENTENNIAL OF THE CONGREGATION OF HOLY CROSS

• Mr. D'AMATO. Mr. President, I rise today to commemorate the national celebration of the sesquicentennial of the establishment of the Congregation of Holy Cross, in the United States.

The Congregation of Holy Cross was founded near Le Mans, France in 1837, by Father Basil Anthony Moreau. The Congregation of Holy Cross was a union of the Brothers of St. Joseph, dedicated to education, and the auxiliary priests of Le Mans, dedicated to missionary work. With this union, the future tenets of the Congregation of Holy Cross, were formed.

Father Edward Sorin and six Holy Cross brothers, at the invitation of Bishop Hailandiere, of Vincennes, IN, traveled from France to New York in September 1841. Father Sorin and the Brothers continued on to Vincennes, where Bishop Hailandiere offered them a plot of land that would become the site of Notre Dame University. Father Sorin went on to serve as President of Notre Dame University until 1865.

The Sisters of Holy Cross were brought from France in 1843, by Father Sorin, and established in Bertrand, MI, some five miles from Notre Dame. Nine years later, he moved them to a motherhouse adjacent to the University. Father Sorin was instrumental in bringing Eliza Maria Gillespie to the United States. As Mother Angela, she became to the Sisters of Holy Cross, what Father Sorin was to Notre Dame. The Sisters of Holy Cross, along with brothers from the congregation, provided important medical care and spiritual consolation for injured soliders during the Civil War.

With Father Sorin's election to superior-general in 1868, he began to supervise the educational and missionary activities of the Congregation in France, Canada, and Bengal, as well as in the United States.

From their humble beginnings in France, education has been a fundamental tenet of the Holy Cross Congregation, and these efforts continue today through their work in universities in Massachusetts, Pennsylvania, and Oregon. Their missionary work has expanded to Asia, Africa, and South America.

The Congregation of the Holy Cross has dedicated itself to the virtuous and admirable goals of education and missionary work serving generations of educationally and spiritually needy people. May the congregation continue to carry on with its good works and charity, educating generations of students all over the world in the interests of humanity and kindness.•

TRIBUTE TO STATE SENATOR THOMAS J. WYSS

• Mr. COATS. Mr. President, I would like to take this opportunity to ask my colleagues to join me in saluting Indiana State Senator Thomas J. Wyss, the only State legislator in the Nation chosen by the National Commission Against Drunk Driving to receive its seventh annual Distinguished Service Award.

During his 6 years of service in the Indiana General Assembly, Senator Wyss has fought tirelessly to pass legislation that will significantly reduce the number of impaired drivers on Indiana roads. His previous efforts include laws that make it more difficult for minors to falsify their drivers' licenses, and laws that give judges greater sentencing options for drunken driving offenders.

As Senator Wyss prepares for the next session of the Indiana General Assembly, he will take with him a message from 14,000 Hoosier students and the South Bend Adams High School chapter of Students Against Drunk Driving to continue his crackdown on drunk drivers. He plans to introduce a bill that would permit judges to impose consecutive sentences on persons convicted of causing multiple deaths or injuries as a result of their drunken driving.

Senator Wyss' commitment to public service also carries over to his time outside the State House. He serves as an officer in the Indiana Air National Guard and belongs to the Greater Fort Wayne Crimestoppers and the National Guard Association.

During his years of public service in the Indiana General Assembly and the

Indiana Air National Guard, Senator Wyss has provided dedicated and professional service to the citizens of Indiana, and Allen County in particular. He has distinguished himself as a man of principle whose efforts have saved the lives of many Hoosier travelers.•

TRIBUTE TO JAMES W. HEMPHILL

• Mr. HATFIELD. Mr. President, one of the greatest satisfactions of serving in the U.S. Senate is the opportunity to guide the growth of young people who choose to give their time and talents in a staff capacity in this august body.

Over the years I have been privileged to hold office representing the people of Oregon as a State legislator, as secretary of state, as Governor, and now as a U.S. Senator. I have been associated with literally hundreds of young people, each one contributing in his or her own special way to the offices I have held.

I can think of no individual who has been a part of my staff over this span of 40 years who has shown more loyalty to me and my associates than James W. (Jim) Hemphill.

I can think of no individual who has grown as much in his professional life as Jim Hemphill has done over the past 17 years he has been on my Senate staff. Jim started to work with me when he was 20 years of age.

It is particularly refreshing to see someone who is serving his fellow man who is truly motivated for the real calling we have in public service. Jim Hemphill has no agenda for himself; his performance over these many years has always been in the interest of the people of my State, and in assisting others in the office so that they may properly perform their duties.

One of the major responsibilities that Jim has had is the supervision of our intern program. In this capacity he has served as a role model and instructor for hundreds of young people. How would they describe him? Organized. Trustworthy. Knowledgeable. Compassionate. What more could one ask for in an evaluation by their associates?

Jim has served me as my executive assistant, office manager, as keeper of the books, as a staff assistant on the Rules Committee, and in various political assignments. He has performed with distinction in every one of these assignments.

Perhaps the most lasting memory of his time in my office will be the most important one. He met his wife-to-be, Gail Torokhanian, who also was a member of my staff, during his tenure with me. The Hemphills now have two fine children.

Now it is time for Jim to make even more use of his unusual talents. He will become executive assistant to the Archivist of the United States on December 16, 1991. I thank him not only for what he has done for me and my constituents, but most importantly for the positive example he has provided for so many others.•

MEGA-NOPR

• Mr. KASTEN. Mr. President, I rise today to bring to the attention of the Senate a matter recently proposed by the Federal Energy Regulatory Commission [FERC] which—if implemented as now outlined—would have dire economic consequences for the consumers of natural gas in my State of Wisconsin, as well as in many other States. Moreover, it could, in the long run, reduce the very competition within the natural gas industry that it purports to create.

Known as the mega-NOPR on gas service comparability, the FERC recently released this proposed rulemaking that will dramatically alter the way the natural gas business has operated, principally forcing the separation of the pipeline merchant, or sales, function from the pipeline's transportation function, and thus eliminating one of the ways gas is now purchased. While FERC's stated purpose of promoting these changes in order to level the playing field and enhance competition is worthy, and one which I would normally support, the direction FERC is proceeding would, in fact, actually reduce the options available to all purchasers of natural gas. The specific requirement to separate or unbundle the pipelines' merchant and transportation functions will clearly reduce their ability to provide the traditional, safe, and reliable delivery service offered for over a half century, thus limiting the opportunity of local gas distribution companies to shop among the greatest number of suppliers for the best price and most secure supply possible.

Mr. President, I want to emphasize that I strongly support competition and do not speak exclusively for any particular portion of the natural gas industry. I am, however, an unashamed supporter of natural gas users having as many options as possible to purchase gas. One of these options that is particularly important to those of us from the colder, northern tier States, and which I just alluded to is known as bundled, City-Gate Sales Service. This service, typically utilized by a local distribution company predominantly during the winter months, takes advantage of all the efficiencies of the pipeline system to make available the guaranteed delivery of natural gas regardless of the length or severity of cold weather. This service, of course, is not inexpensive, however, it is necessary, strongly desired by the consuming public, and—we believe—significantly more reliable and safe for the consumer than the alternative proposal offered by the FERC to unbundle the various components that make up the service and then repackage them as separate cost items. When this repackaging occurs, the efficiencies of the system I mentioned earlier unfortunately disappear, thus forcing the natural gas consumer to assume the supply risk or foot significant additional costs.

Limiting market choices, as I believe the proposed mega-NOPR actually does, is not the direction the FERC should be taking us. Rather, the FERC should provide the flexibility in the NOPR for consumers to decide what they want available from the market. Bundled, City-Gate Sales Service can provide substantial savings to all ratepayers—residential, commercial, and industrial consumers. It will provide greater security of natural gas supply to allow distributors to meet our winter heating needs. It will provide one key component in the natural gas supply options, thus allowing our distributors to compete for the best combination of price and secure supply. Moreover, I believe that the freedom to choose the type and form of services available—whether bundled or unbundled—is necessary to properly serve consumers, and increased competiton at the wellhead and at the burner tip is actually achieved.

Mr. President, the gas service comparability policy being developed by the FERC through the mega-NOPR obviously has economic consequences for my constituents as well as for those of other members representing the colder, Northern States. I would submit, however, that this policy could also adversely impact many other areas of this country, including those sections with a great reliance on the economic viability of smaller, independent natural gas producers. I would strongly urge my colleagues to take the time to review this policy very closely and not be fooled by its characterization as a plan to enhance competition. It clearly will not.•

BAHA'I COMMUNITY EMANCIPATION

• Mr. LIEBERMAN. Mr. President, I am pleased to note that the Senate Foreign Relations Committee has recently approved Senate Concurrent Resolution 43, The Baha'i Community Emancipation Resolution. I am proud to be one of the more than forty Senate cosponsors of this important statement of concern for the rights of a peaceful religious minority, the Baha'i community of Iran.

Although the Government of Iran has recently moderated its most repressive actions against Baha'is, the regime continues to persecute individual Baha'is because of their religion, and denies Baha'is the right to function as a law-abiding religious community.

Long before I was elected to the U.S. Senate, I discussed Iran's repression of the Baha'is with my Connecticut neighbor, Dr. Firuz Kazemzadeh. As a member of the elected national governing board of the 120,000-member American Baha'i community, Dr. Kazemzadeh has been a tireless spokesman for the rights of his coreligionists in Iran. He has testified many times before committees of the Congress, and he helps to remind us of the continuing need to speak out in behalf of an innocent and persecuted minority.

Thanks in part to international pressure—including the four resolutions adopted by the U.S. Congress during the past decade—conditions for many individual Baha'is have improved in recent months. No Baha'is have been executed for nearly 3 years, and few now remain in prison.

This resolution expresses our deep concern, however, that Baha'is continue to suffer religious discrimination. We have ample evidence, in the form of official government documents, that they are denied employment, pensions, and access to education, solely on account of their religion.

Moreover, the resolution makes clear our concern that Iran's largest religious minority is denied the basic rights guaranteed by the Universal Declaration of Human Rights: to organize as a community, elect its leaders, operate schools or carry on any of the normal functions of a law-abiding religious community.

It is my hope that the Government of Iran will acknowledge its responsibilities under the various international covenants to which it is a signatory, and will extend rights to the Baha'i minority.•

A TRIBUTE TO MR. ROGER BACCIGALUPPI UPON HIS RETIREMENT

• Mr. SEYMOUR. Mr. President, I am very pleased to have this opportunity to congratulate Roger Baccigaluppi upon his retirement as president and chief executive officer of the Blue Diamond Cooperative of California.

Since 1961, when Mr. Baccigaluppi joined Blue Diamond, the California Almond crop has increased tenfold, from 71 million pounds, worth about $50 million to 650 million pounds, valued at almost $1 billion. He has played a key role in this dramatic growth process as the leading officer of one of our Nation's strong and healthy cooperatives. As a major contributor in the efforts to modernize and stimulate California's almond industry, Mr. Baccigaluppi has overseen not only advances in technology and efficiency, but also the implementation of progressive marketing strategies. His efforts have been essential in helping the California almond become the State's leading food export and the nation's sixth largest agricultural export. Today, 94 countries consume California almonds.

Mr. Baccigaluppi's exemplary dedication, hard work, and vision have led him to his distinguished position of accomplishment. California's almond industry will miss his dynamic leadership, and its future leaders will undoubtedly draw inspiration from his example to continue on the path of thoughtful planning and healthy growth. I am confident Roger Baccigaluppi will continue, in retirement, to share his wealth of knowledge and experience to the increased productive benefit of California and American agriculture. I am sure my Senate colleagues join me in recognizing the fine work and outstanding accomplishment of my friend and fellow Californian, Roger Baccigaluppi.•

THE PHOENIX COUNTRY DAY SCHOOL CELEBRATES ITS 30TH YEAR

• Mr. McCAIN. Mr. President, I rise today to pay tribute to the Phoenix Country Day School, which is celebrating the 30th anniversary of its founding tonight. Located in a natural desert setting in Paradise Valley, AZ, this independent, not-for-profit college preparatory school has distinguished itself as an institution of invigorating academic achievement.

What began as a dream to establish a high quality school to prepare children for entrance into the best colleges in America, has blossomed into one of the finest schools in the Western United States. I must admit that I say this with a certain lack of objectivity, since two of my children attend Phoenix Country Day School.

The 30th anniversary celebration for PCSD appropriately has selected Mae Sue Talley as the guest of honor. Her vision of creating an outstanding college preparatory school has come to marvelous fruition, and we all owe her our most sincere gratitude for her lifelong commitment.

While I'm privileged to be a Phoenix Country Day School parent, it is readily apparent to all who visit or learn about the school that it is indeed a very special place. From its modest beginnings as a 93-student pioneer school on the arid outskirts of Phoenix, the Phoenix Country Day School has doubled its size and grown to over 570 students.

The Phoenix Country Day School has not only grown older and larger, it has intensified its commitment to academic excellence and love of learning. At a time when our Nation's students are facing increasing challenges from the academic achievements of other industrialized nations, we can point to the Phoenix Country Day School as a heartening example of educational success.

Mr. President, this is a school that vigorously challenges its students, and opens their minds to science, mathematics, the arts, and history. Offering a curriculum for students ranging from prekindergarten to the 12th grade, the Phoenix Country Day School has created an atmosphere for learning that is both rigorous and fun. You can feel this sense of mission in the open and warm relationships among students, faculty, and staff.

Students are taught a foreign language in kindergarten, and a proficiency in public speaking is a requirement for graduation. PCDS's extremely low student-to-faculty ratio allows a great degree of personal tutelage for its students.

The results of this positive and supportive atmosphere is a student body that not only achieves a high degree of academic excellence, but one that also carries forth the Phoenix Country Day School's fine tradition of service to the community.

All PCSD students participate in many worthy community service activities and projects, and the school has also established a 5-week summer program to help disadvantaged children stay in school. Known as Project Excellence, this endeavor is a good example of the caring and nurturing spirit of the faculty and staff at Phoenix Country Day School.

In its 30th year, the Phoenix Country Day School is impressively meeting its goal of preparing its students for success in America's finest universities in a superlative manner. Currently, 99 percent of its students enroll in college after graduation.

I want to offer my special thanks to the Phoenix Country Day School's board of trustees, and the head of the school, Ms. Margaret Madden, for their able stewardship of PCSD.

It is a pleasure for me to extend my congratulations to all the faculty and staff at the Phoenix Country Day School on this milestone in their proud history. I wish them continued success and accomplishment for many decades to come.

The students of PCDS are very fortunate to be able to benefit from this truly wonderful learning center.•

S. 543, THE BANKING BILL

• Mr. ADAMS. Mr. President, yesterday the Senate passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

I rise today to expalin why I would have voted against this bill. I simply could not, in good conscience, add my support to the bill in its present form.

I fully understand the pressures on the chairman of the Banking Committee in bringing the debate on this bill to a conclusion. I watched his frustration grow every day this bill was on the floor. His job was not easy. He should be commended for his efforts.

But I am concerned that in a effort to bring the debate to a conclusion, we have embarked down a path that will lead to greater uncertainty and more chaos in the banking industry.

I hoped the Senate would focus on the most critical problem facing the banking industry—the steadily worsening financial shape of our banks and the draining of the fund intended to protect the deposits of 110 million Americans.

I had hoped this bill would have addressed the worsening credit crunch, which is cutting off needed loans to small businesses and individuals.

Unfortunately, the Senate became embroiled in a third topic—how the banks could become bigger and richer—even if it might be at the expense of the rest of us.

Somewhere along the way we lost our focus on this bill.

I felt that strong regulatory reforms were an essential component to any bill. I believe the reform sections of the bill including risk-based assessments and capital ratios, early regulatory intervention, strong oversight of foreign banks, and protections against the BCCI's of the world are vitally important.

However, if we were truly interested in getting the banking industry back on its feet, that is where we should have stopped.

Mr. President, we need a banking system that serves people. We need a place for businesses, particularly small businesses, and individuals to obtain credit at reasonable rates. We need a banking system that offers consumers a place to keep their money, write their checks and pay their bills.

The bill that was agreed to yesterday expands powers for banks, ignores vital consumer protections and, I believe, puts American taxpayers in front of runaway locomotive.

Weak regulatory oversight, bad investment decisions, incompetent management and a weak economy has brought the banking industry to this point. Adding more uncertainty by expanding bank powers is not the direction I believe we should be going.

Mr. President, the bill opens the door for nationwide interstate branching. Attempts to strengthen this bill by allowing States to choose whether or not they want interstate branching banks failed. I believe this was a mistake.

Breaking down the barriers to interstate branching has potentially serious affects for Washington State.

In August of this year, Bank of America announced its intention to merge with Security Pacific. This new multistate banking company, based in California, will be the No. 1 player in Washington, controlling over 50 percent of the assets and 40 percent of the insured deposits. This is an incredible concentration of bank power in one out-of-State bank.

This merger is expected to cost Washington 4,000 jobs. A few weeks ago, the Wall Street Journal reported that First Interstate Bankcorp of Los Angeles' merger with First Interstate of Tacoma will cause 3,000 employees to be laid off. That is potentially 7,000 jobs in Washington.

That also means that decisions about loans in Longview and mortgages in Marysville will be made in California. Not in Washington.

Serious questions about the availability of credit, cost, and quality of services to consumers, influence on regional economies, and overall health of an individual State's banking industry must be answered. The advent of interstate branching greatly enhances these concerns. The Senate did not address these issues.

Two days ago, the Senate also sent a negative signal to the elderly of this country. The Senate voted to strip from this bill the basic services and check cashing provisions. With this vote, the Senate lost sight of those who most needed our attention.

Mr. President, this seemingly minor provision would have created equality and fairness for our seniors. It would have guaranteed that basic banking services, which we all need, were available at an affordable cost to retirees.

Yet, the Senate succumbed to the big banks and sold out those in our society who don't have a place at the bargaining table because they can't afford to hire high priced lobbyists to pull up a chair.

We also had the opportunity to strengthen this bill by putting a shorter leash on the FDIC and limiting insured brokered deposits. When the limitation on brokered deposits was defeated, the Senate admitted it failed to learn one of the lessons that the S&L debacle should have taught us.

As I stated earlier, I opposed this measure with deep regret. There were some provisions of this bill that were constructive and would have added stability to the industry.

The controversial provisions allowing banks to engage in risky securities activities were not included in the final package. Deleting these questionable provisions sent a strong signal to the American taxpayer that we understood the dangers in this approach.

As passed by the committee, S. 543 included what I believe was a balanced approach to the difficult problem of banks selling insurance.

Almost 10 years have passed since Congress last passed legislation establishing the authority of banks to sell insurance. However, regulators have, through regulatory fiat, eroded the historic barrier separating banking and insurance. On two occasions, in 1984 and 1988, Congress came close to enacting legislation to close loopholes created by the regulators.

As passed by the committee, S. 543 closed these loopholes. I believe this was a responsible approach to resolving a longstanding ambiguity.

The proponents of banking reform argue that times have changed—that we now have a global marketplace that requires flexibility and diversification for banks. Indeed, times have changed. However, it is highly questionable to maintain that allowing banks to sell insurance will propel our Nation's banks into the ranks of 25 largest banks in the world.

While the world has changed and technical advances continue to be made, it is important to focus on what has not changed. Safety and soundness, and a recognition of the special power and responsibilities associated with providing our economy's credit. These factors continue to define the fundamental features of banking.

If we would not have addressed the insurance issue in S. 543, we would have abdicated our responsibility to stop regulatory activism and legal sleight-of-hand.

The insurance industry today is among the most competitive industries in this country. In my State, the competition is intense and has resulted in fair prices and high quality services to consumers. There are over 500,000 insurance agents and approximately 6,000 life, health, and property/casualty companies in the United States. The premise that bank entry into insurance is necessary to enhance competitiveness is without merit.

I am disappointed that the Senate took a few steps back from the excellent work accomplished by the committee, but I still believe that the insurance provisions were a solid contribution to the overall package.

In addition, I am pleased that the Senate recognized that there is a human cost to the merger mania sweeping the country. The Senate accepted an amendment I offered to assure that Federal regulators examine the impact of mergers on employees. This is already required for mergers in the transportation field. It should be required here. Particularly when it is expected that mergers over the next decade could cost as many as 350,000 jobs.

The Senate is now on record endorsing the fact that no merge should occur without due consideration to the employees who lost their jobs. I believe this is a positive step forward and will reassure bank employees throughout the country that the Senate has not forgotten their plight in the rush to achieve efficiency.

Nonetheless, on balance I believe the bill passed yesterday is seriously flawed. It is my hope that when the conference committee convenes to iron out the significant differences between the House and Senate versions, that we can do better.

I believe we can do better. I will do everything I can to see the final bill is something that serves consumers, seniors, farmers, small businesses and others who depend on the ready availability of credit at reasonable rates. I will work for legislation that we all can be proud to discuss with our constituents back home.●

TRIBUTE TO MAJ. GEN. CHARLES S. COOPER III

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to retiring commander Maj. Gen. Charles S. Cooper III. I salute his 36 years of distinguished military service. He is retiring as commander of the New York Air National Guard, Headquarters, Stewart International Airport, Newburgh, NY. He has been responsible for the readiness, training, staffing, and equipping of New York Air National Guard's five flying and seven mission support units.

The general was born on December 27, 1933 in Boston, MA. He graduated from Garden City High School on Long Island, NY, in 1951. He earned a bachelor of arts degree, cum laude, in economics from Amherst College in 1955. His military education transpired at Air Command and Staff College and Air War College.

General Cooper began his USAF military career on June 12, 1955 when he was commissioned as a second lieutenant. He was a distinguished graduate of the Air Force Reserve Officer Training Corps Program. He entered active duty in 1956 and attended U.S. Air Force Primary-Basic Navigation School in Texas. In 1957 he was awarded navigator wings and assigned to the 962d Airborne Early Warning and Control squadron, Otis Air Force Base in Massachusetts.

In July of 1962 he joined the New York Air National Guard and was assigned to the 102d Aeromedical Transport Squadron. In 1972 he was appointed administrative management staff officer in the 106th Fighter Interceptor Group where he stayed until 1976 when he was appointed director of operations at Headquarters, New York Air National Guard. In 1978 he was appointed deputy commander and assumed his present position as commander on July 29, 1984. He was promoted to major general on May 22, 1985.

His military awards and decorations include the Meritorious Service Medal, Air Force Outstanding Unit Award, the Air Force Organizational Excellence Award, National Defense Service Medal, Vietnam Service Medal, Air Force Longevity Service Award with four oak leaf clusters, Armed Forces Reserve Medal, New York State Military Commendation Medal, New York State Long and Faithful Service Award with 25-year device, New York Humanitarian Service Medal, New York State Aid to Civil Authority Medal and the New York Exercise Support Ribbon.

The general is married to Ann (Lewis) of Baldwin, NY. He has four children: Deborah Iacoponi, Peter, Thomas, and Kathryn.

General Cooper is a highly skilled and ready patriot. I congratulate him on his 36 years of dedicated service to our Nation. General Cooper, thank you for your sacrifice and devotion. I wish you every success in your retirement.●

BATTLE CREEK ADVENTIST HOSPITAL 125TH ANNIVERSARY

● Mr. LEVIN. Mr. President, I rise today to join with the citizens of the city of Battle Creek, Calhoun County, and the State of Michigan in congratulating the Battle Creek, Adventist Hospital on the occasion of that institution's 125th anniversary celebration.

The hospital was founded as the Western Health Reform Institute in 1866 by a group of Seventh Day Adventist health pioneers. John Kellogg, father of the health care and food industry legends, Dr. John Harvey Kellogg and W.K. Kellogg gave the first $500 donation to the new hospital.

The institute served 2,000 patients in its first 10 years with only 10 dying, an average of 1 per year, an incredible record, especially for the time. Such an outstanding reputation catapulted the hospital into national prominence which it was to maintain for decades.

In 1877 the institute changed its name to the Battle Creek Medical and Surgical Sanitarium combining modern ideas of medicine with the wholistic approach of physical, psychological, and spiritual wellness. Practicing preventive medicine techniques such as proper diet, exercise, hydrotherapy, sunshine, and massage.

Under the leadership of Dr. John Harvey Kellogg, who served as its medical director for 67 years, and brother W.K. Kellogg, serving as its business director, the hospital gained worldwide recognition as a health care mecca drawing luminaries from all areas of society.

Inventor Thomas Edison, industrialists Henry Ford and Harvey Firestone, athletes Bill Tildon and Johnny Weissmueller, and U.S. President William Howard Taft all were patients at the sanitarium.

America, indeed the world's breakfast habits owe a great debt of gratitude to the sanitarium. The toasted flake cereal product was first developed at the sanitarium and then refined by W.K. Kellogg and others. C.W. Post, a one-time patient is said to have also gleaned ideas from there. He later founded the Post Cereal Co.

The original building for the sanitarium burned down in 1899 and the new building opened in 1903, which is now a portion of the Federal center. The final part of the building opened in 1927, which is now the towers portion of the Federal center. The sanitarium left this building in 1942 and the site became the Percy Jones Veterans Hospital. It moved over to the Old Stone Building and later moved from that to the present building now occupied by the hospital. The sanitarium reverted back to the ownership of the Adventist Church in 1974, which it had left in 1900, and changed its name to the Battle Creek Adventist Hospital in 1981.

The present Battle Creek Adventist Hospital is a 147-bed regional treatment center for metal health and addictions problems which serves 20 counties on a consistent basis but draws patients from all of Michigan and part of Indiana. It serves persons from ages 6 to senior citizen in a variety of modes, including inpatient, partial hospitalization and outpatient treatment at the Battle Creek setting as well as outpatient clinics throughout the region. The original Western Health Reform Institute and then the sanitarium, were forerunners of not only the significant work of the present Adventist Hospital in Battle Creek, but began what has become a worldwide health mission for the Adventists, who eventually established 568 health care facilities in 88 countries, including 60 hospitals in the United States and the world famous Loma Linda University and Medical Center in California.

I had the privilege of touring this outstanding institution last summer and meeting with some of its dedicated staff members. The spirit of wellness through wholeness still exists in the hospital's present incarnation as they remain on the cutting edge of mental health care and addiction treatment.

Mr. President, I ask you along will all of my colleagues in the Senate to join with me in extend our heartfelt congratulations to all the employees and supporters of Battle Creek Adventist Hospital as they commemorate their past and look forward to their future.●

TRIBUTE TO MARIAN L. HEARD

● Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special individual from my home State of Connecticut, Marian L. Heard.

In recognition of Marian Heard's tireless efforts as president and chief executive officer of the United Way of Eastern Fairfield County, she was recently promoted by this organization to a similar position at the United Way of Massachusetts Bay. Marian, who first joined with the United Way in 1974 as a child care program specialist and member of the planning department, worked her way up in the organization to her current position. As president and chief executive officer, a position she assumed in March of 1990, she manages an annual campaign of over $5 million and provides support to a $60 million agency and social service system covering the six-town region of Bridgeport, Fairfield, Easton, Stratford, Trumbull, and Monroe. Although her responsibilities in her new position will be much greater, Marion has clearly demonstrated that she is capable of handling the challenges that lie ahead.

Marian's deep concern for the greater Bridgeport community and helping it to meet its needs, is evidenced by her commitment and dedication to the United Way as well as to a wide variety of regional causes. Marian serves on several area United Way committees such as the national professional advisory council, the national issues committee and the national committee on foundations for the United Way of America. In addition, she serves as the vice chair of the donor choice committee for the United Way of Tri-State and is a member of both the professional advisory councils of the Southwestern United Ways and the United Way of Connecticut.

In her community, Marian has served as a member of the Governor's Child Day Care Council, an appointment which was personally bestowed upon her by the late Governor Ella Grasso. She has hosted her own radio program on WICC in Bridgeport for 6 years, and has won several awards for community service from such organizations as Big Brothers and Big Sisters of Fairfield County and the American Cancer Society.

Marian has also utilized her talents on a national level. In May, 1990, in a meeting at the White House, she was elected as the interim president and chief executive officer of the Points of Light Foundation. Under her leadership, the foundation wrote and adopted a strategic plan and presented the report of the foundation's goals to the honorary chairman, President George Bush, at a special meeting with the board at Camp David.

Marian's activities also highlight her strong commitment to a wide variety of educational causes. Her extensive involvement as an instructor at Housatonic Community College, and her involvement with the University of Bridgeport, where she is a trustee and president of the board of associates, exemplify Marion's dedication to improving the quality of our Nation's educational system.

Marian's involvement does not end here; she is also an accomplished businesswoman. Currently, she is a director at the Mechanics & Farmers Savings Bank in Bridgeport and a member of its audit and executive committees and chair of its contribution committee. She is also a member of the Negro Business and Professional Women's Club, the Bridgeport Rotary and the National Association of Female Executives.

This remarkable woman has been recognized numerous times for her efforts. Most notably, she was cited by the United Nations as one of the top 100 women in Connecticut. Marian was the first recipient of the John Garber Minority Professional Development Award, which was awarded to her by the YWCA for community service, the United Way of America and the Stratford Junior Chamber of Commerce. In 1989, she was named Woman of the Year by the Business and Professional Woman's Club of Bridgeport. In 1990, she was cited by the Housatonic Scout Council for Community Leadership and was presented the Golden Tee Award by the Cardinal Shehan Center for 20 years of volunteer leadership to the youth of the greater Bridgeport region.

The residents of Connecticut have been touched by the efforts and presence of this great individual. Mr. President, I hope that my colleagues will join me in paying tribute to Marian L. Heard for her unselfish devotion to improving the lives of others. Her boundless and energetic spirit, her deep concern for her community, for education, and for the United Way, serve as an inspiration to us all.●

LAMPF VERSUS GILBERTSON

● Mr. McCAIN. Mr. President, the Senate recently passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. That legislation contained a significant provision that protects investors from fraud.

Specifically, the Senate agreed to compromise language that would protect investors who filed securities fraud cases before the Lampf decision. The Supreme Court, in a 5 to 4 decision in Lampf versus Gilbertson, held that securities fraud cases must be brought within 1 year of discovery of the fraudulent act and, at most, within 3 years of the date that the fraudulent act occurred.

Furthermore, this decision was applied to cases filed in a timely fashion prior to the decision. Many cases were dismissed as a result. S. 543 eliminates the retroactive application of the decision, and protects suits filed before the Lampf decision. Without this provision, the Lampf decision would provide a legal escape hatch for perpetrators of some of the worst securities frauds in history.

Michael Milken of Drexel Burnham Lambert, Fred Carr of Executive Life Insurance, and Charles Keating of Lincoln Savings & Loan have moved to have their cases dismissed under the Lampf decision. It's simply not fair that fraud cases of such magnitude be dismissed by an arbitrary, legal technicality. A statute of limitations should not prevent the reasonable course of justice. The 1- to 3-year statute of limitations does not provide victims of fraud adequate time to file their claims.

The banking reform legislation did not extend the statute of limitations. That is why I have decided to cosponsor S. 1533. While eliminating the retroactivity provision is a step in the right direction, more needs to be done to protect investors from fraud. I support the extension of the statute of limitations to protect investors from fraud. It is equally important that we guard against the abuse of our judicial system.

Investors clearly deserve protection. But we must also guard against opening a floodgate of meritless litigation. We must balance the legitimate rights of defendants and plaintiffs. I hope a judicious compromise can be struck that extends the statute of limitations to a 2- to 5-year rule that at the same time protects American businesses from frivolous and meritless litigation. While present law may result in what Securities and Exchange Commission Chairman Richard Breeden described as a windfall of immunity, we must guard against creating an environment that would result in a windfall of litigation.

I look forward to working with Senators BRYAN, DOMENICI, and McCONNELL to equitably resolve this contentious issue.●

THE RETIREMENT OF OGLESBY, IL, POLICE CHIEF RUDY GANDOLFI

● Mr. DIXON. Mr. President, I rise today in honor of Rudy Gandolfi, Oglesby, IL, chief of police for the last 16 years. Chief Gandolfi spent 33 years on the Oglesby Police Force overall, and his retirement marks the end of a era in Oglesby.

Chief Rudy was not your average police chief. He concentrated his efforts not on the negative aspects of police work, but on the positive aspects. Crime prevention and community relations were what were important to him. Stories have been told of the chief arresting people and having those same people turn right around and praise him for his patience, his fairness and for treating them with dignity. In Oglesby, nobody commanded love and respect like Police Chief Gandolfi.

He was an extraordinary police chief, but he will probably be best remembered for his great contributions to the community outside of his duties as a police officer and police chief. For 39 years he has coached youth baseball in Oglesby. For 33 years he has been the director of the youth B.B. Gun Club; an organization which he founded. He also founded the "Just Say No" to Drugs Fun Day Program. This program, which started as a small scale event, he expanded to a full community project. He never turned down the opportunity to help with any community event.

The Oglesby News-Tribune recently ran an editorial which sums up the feelings of many on his commitment to the city and the people of Oglesby. It says,

> While longevity is respected, it isn't really the number of years that sets Gandolfi apart

from his colleagues. Instead, it is the devotion to his duties, the respect he commanded from citizens and his work with children that have earned this police chief the distinction as one of the area's best.

Congratulations to Chief Rudy Gandolfi on an outstanding career in law enforcement. He is indeed an inspiration to us all. I wish him success and happiness in the future.•

CONGRATULATING JIM ROHACIK, CONGRESSIONAL FELLOW

• Mr. DIXON. Mr. President, I rise today to extend my heartfelt thanks and deep appreciation to Jim Rohacik, a congressional fellow who worked with me on defense issues over the past year.

Jim joined my staff after a distinguished career with the U.S. Army. As a military officer he served his country in a variety of capacities including as the principal advisor to a member of the Joint Chiefs of Staff. He also served as principal advisor to the Chief of Staff of the Army for strategic and national security policy.

Even before becoming well-versed on these policy issues, he possessed a rich and extensive background. After earning a masters degree in physics, Jim went on to be an assistant professor of quantum and modern physics at West Point. His mastery of this technical field is complimented by his firsthand knowledge of ground warfare. A holder of the Purple Heart, he served tours in Vietnam and Germany as a commander of artillery forces. Indeed, he is both an impressive scholar and a decorated veteran.

Jim helped me with many issues during his tenure in my office. His valuable assistance on the Defense Production Act, the 1992–93 national defense authorization bill and base closure issues, contributed to effective legislation. I was also able to utilize his expertise on arms control and strategic force structure in a number of important meetings and hearings.

I am sure I speak for all of those on my personal staff and those members of the Senate Armed Services Committee staff who worked with Jim when I say his enthusiasm and diligence will be sorely missed.

Thanks Jimmy, for all your tireless work. You are a great American, and I wish you continued success.•

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

• Mr. DODD. Mr. President, I rise today in support of the Convention on the Elimination of All Forms of Discrimination Against Women. The treaty symbolizes a major breakthrough in the evolution of women's rights throughout the world.

The Convention was adopted by the United Nations General Assembly in 1979 and was signed by President Carter in 1980. Although it is not the first human rights treaty to address the plight of women, it is the first to do so in such a comprehensive manner. In the past 11 years, over 100 countries have ratified the Convention. The time has arrived for the leadership of this country to demonstrate its commitment to women and ratify this treaty as well.

The United States prides itself as being a leader in the promotion and preservation of equal rights and human decency for all. We have a rich history of great struggles to improve the status of women in employment, domestic relations, health care, law and education. As early as 1862, Congress showed its commitment to ending sexual discrimination. The Fair Labor Standards Act of 1938 applied equal minimum wage standards to both men and women. The 1964 Civil Rights Act prohibited employment discrimination on the basis of sex. And the Pregnancy Discrimination Act of 1978 prohibits employment discrimination on the basis of pregnancy, childbirth or related medical conditions. Even today, in the aftermath of the debate on the Civil Rights Act of 1991, the protection and promotion of women's rights are at the forefront of the political agenda.

Unfortunately, the women's rights agenda has not yet been fulfilled. In this country and in countries all over the world, women face many challenges to their basic human dignity. Today, millions of women live in poverty, unable to care for themselves or their children. In many cultures, exploitation and violent acts are accepted forms of behavior. In the workplace, women throughout the world face unequal pay, unsafe working conditions, and limited benefits. And in many instances, limited access to health care and poor living conditions literally threaten women's lives.

It is hard to believe that in an age of democracy and progressive government, injustice against women in many countries still exists. Enactment of the Convention will create universal codes of equality that guarantee women the right to reach their full potential. The treaty recognizes that the only difference between men and women is biological. It seeks to abolish discrimination in every facet of life—cultural, political, and economic. It also emphasizes the importance of family and children, including special provisions to balance the roles of men and women.

We have made it clear that we will not tolerate discrimination on the basis of sex. Unfortunately, women are still victims of harassment, prejudice and sexual stereotypes. Ratification of this treaty would not promise women preferential treatment. Instead, it promises them the basic rights to which they are entitled as human beings. I urge the administration to act quickly on the Convention and send a signal to the world that we are ready to act on the principles we espouse.•

TRIBUTE TO CINCINNATI, OH BUSINESSMAN DON E. HARDIN

•Mr. GLENN. Mr. President, I rise today to congratulate an outstanding man and community leader on the occasion of his election to the presidency of the American Orthotic & Prosthetic Association [AOPA]. Don E. Hardin, owner and president of Tribar Orthopedic, Inc., in Cincinnati, OH will assume the AOPA presidency on November 30, 1991.

The American Orthotic & Prosthetic Association is a national membership organization representing the approximately 1,200 facilities that provide orthotic and prosthetic [O&P] patient services to the physically challenged throughout the United States. Members of the O&P field design and fit braces and prostheses that enable physically challenged individuals to overcome often serious and crippling conditions and return to productive lives.

Mr. Hardin entered the orthotic and prosthetic field in 1966 as a sales representative. Since that time, he has served the national organization in a number of positions, most recently, as vice president in 1990 and secretary-treasurer for AOPA in 1989. Previously, he was the FDA Advisory Committee chairman and a member of the Government Relations Committee. His other duties within AOPA have included being chairman of the Regulatory Advisory Committee and a member of the Strategic Planning Committee for over 6 years. He has also served as Marketing Committee chairman and as chairman of the AOPA Charity Golf Tournament.

A native of Chicago, IL Mr. Hardin has been involved in the Cincinnati community for many years. He has been married for 23 years, and is the father of two children. His daughter recently joined him in the orthotics and prosthetics field and travels extensively with her father for Tribar Orthopedic. Like other small businessmen and businesswomen throughout America, Mr. Hardin is providing an invaluable service to his community as well as supporting our Nation's economy.

The American Orthotic & Prosthetic Association has elected an able and respected leader as their president. They are fortunate to have such a leader, and I commend Mr. Hardin on the occasion of his election.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

The text of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes, as passed by the Senate on November 21, 1991, is as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two members, appointed by the President, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) One member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the member appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3) and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6) and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt Securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.

CONCURRENT RESOLUTION CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

The text of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military, as agreed to by the Senate on November 21, 1991, is as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That—

(a) FINDINGS.— The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totaled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, and American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an inde-

pendent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

HIGH-PERFORMANCE COMPUTING ACT OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 272.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 272) entitled "An Act to provide for coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, science, and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to reap fully the benefits of high-performance computing.

(4) A high-capacity and high-speed national research and education computer network would provide researchers and educators with access to computer and information resources and act as a test bed for further research and development of high-capacity and high-speed computer networks.

(5) Several Federal agencies have ongoing high-performance computing programs, but improved long-term interagency coordination, cooperation, and planning would enhance the effectiveness of these programs.

(6) A 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy, outlining a research and development strategy for high-performance computing, provides a framework for a multiagency high-performance computing program. Such a program would provide American researchers and educators with the computer and information resources they need, and demonstrate how advanced computers, high-capacity and high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

SEC. 3. PURPOSE.

The purpose of this Act is to help ensure the continued leadership of the United States in high-performance computing and its applications by—

(1) expanding Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity and high-speed National Research and Education Network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities available for use through the Network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computing systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges;

(H) invest in basic research and education, and promote the inclusion of high-performance computing into educational institutions at all levels; and

(I) promote greater collaboration among government, Federal laboratories, industry, high-performance computing centers, and universities; and

(2) improving the interagency planning and coordination of Federal research and development on high-performance computing and maximizing the effectiveness of the Federal Government's high-performance computing efforts.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the director of the Office of Science and Technology Policy;

(2) "Grand Challenge" means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources;

(3) "High-performance computing" means advanced computing, communications, and information technologies, including scientific workstations, supercomputer systems (including vector supercomputers and large scale parallel systems), high-capacity and high-speed networks, special purpose and experimental systems, and applications and systems software;

(4) "Network" means a computer network referred to as the National Research and Education Network established under section 102; and

(5) "Program" means the National High-Performance Computing Program described in section 101.

TITLE I—HIGH-PERFORMANCE COMPUTING AND THE NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 101. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—(1) The President shall implement a National High-Performance Computing Program, which shall—

(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and

(B) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.

(2) The Program shall—

(A) provide for the establishment of policies for management and access to the Network;

(B) provide for oversight of the operation and evolution of the Network;

(C) promote connectivity among computer networks of Federal agencies and departments;

(D) provide for efforts to increase software availability, productivity, capability, portability, and reliability;

(E) provide for improved dissemination of Federal agency data and electronic information;

(F) provide for acceleration of the development of high-performance computing systems, subsystems, and associated software;

(G) provide for the technical support and research and development of high-performance computing software and hardware needed to address Grand Challenges;

(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, library and information science, and computational science; and

(I) provide—

(i) for the security requirements, policies, and standards necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks, including research required to establish security standards for high-performance computing systems and networks; and

(ii) that agencies and departments identified in the annual report submitted under paragraph (3)(A) shall define and implement a security plan consistent with the Program and with applicable law.

(3) The Director shall—

(A) submit to the Congress an annual report, along with the President's annual budget request, describing the implementation of the Program;

(B) provide for interagency coordination of the Program; and

(C) consult with academic, State, industry, and other appropriate groups conducting research on and using high-performance computing.

(4) The annual report submitted under paragraph (3)(A) shall—

(A) include a detailed description of the goals and priorities established by the President for the Program;

(B) set forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, including—

(i) the Department of Agriculture;

(ii) the Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Education;

(v) the Department of Energy;

(vi) the Department of Health and Human Services;

(vii) the Department of the Interior;

(viii) the Environmental Protection Agency;

(ix) the National Aeronautics and Space Administration;

(x) the National Science Foundation;

(xi) such other agencies and departments as the President or the Director considers appropriate;

(C) describe the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for specific activities, including education, research, hardware and software development, and support for the establishment of the Network;

(D) describe the levels of Federal funding for each agency and department participating in the Program for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies; and

(E) include an analysis of the progress made toward achieving the goals and priorities established for the Program.

(b) HIGH-PERFORMANCE COMPUTING ADVISORY COMMITTEE.—The President shall establish an advisory committee on high-performance computing consisting of non-Federal members, including representatives of the research, education, and library communities, network providers, and industry, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program;

(4) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in computing technology; and

(5) other issues identified by the Director.

(c) OFFICE OF MANAGEMENT AND BUDGET.—(1) Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget which—

(A) identifies each element of its high-performance computing activities which contributes directly to the Program or benefits from the Program; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the annual report submitted under subsection (a)(3)(A), and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the Program.

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) ESTABLISHMENT.—As part of the Program, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other agencies participating in the Program shall support the establishment of the National Research and Education Network, portions of which shall, to the extent technically feasible, be capable of transmitting data at one gigabit per second or greater by 1996. The Network shall provide for the linkage of research institutions and educational institutions, government, and industry in every State.

(b) ACCESS.—Federal agencies and departments shall work with private network service providers, State and local agencies, libraries, educational institutions and organizations, and others, as appropriate, in order to ensure that the researchers, educators, and students have access, as appropriate, to the Network. The Network is to provide users with appropriate access to high-performance computing systems, electronic information resources, other research facilities, and libraries. The Network shall provide access, to the extent practicable, to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

(c) NETWORK CHARACTERISTICS.—The Network shall—

(1) be developed and deployed with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and research institutions and educational institutions;

(3) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high-speed data networking within the telecommunications industry;

(4) be designed, developed, and operated in a manner which promotes research and development leading to development of commercial data communications and telecommunications standards, whose development will encourage the establishment of privately operated high-speed commercial networks;

(5) be designed and operated so as to ensure the continued application of laws that provide network and information resources security measures, including those that protect copyright and other intellectual property rights, and those that control access to data bases and protect national security;

(6) have accounting mechanisms which allow users or groups of users to be charged for their usage of copyrighted materials available over the Network and, where appropriate and technically feasible, for their usage of the Network;

(7) ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network;

(8) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible, and by contracting for customized services when not feasible, in order to minimize Federal investment in network hardware;

(9) support research and development of networking software and hardware; and

(10) serve as a test bed for further research and development of high-capacity and high-speed computing networks and demonstrate how advanced computers, high-capacity and high-speed computing networks, and data bases can improve the national information infrastructure.

(d) DEFENSE ADVANCED RESEARCH PROJECTS AGENCY RESPONSIBILITY.—As part of the Program, the Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) INFORMATION SERVICES.—The Director shall assist the President in coordinating the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and computer networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation.

(f) USE OF GRANT FUNDS.—All Federal agencies and departments are authorized to allow recipients of Federal research grants to use grant moneys to pay for computer networking expenses.

(g) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Director shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) the future operation and evolution of the Network;

(3) how commercial information service providers could be charged for access to the Network, and how Network users could be charged for such commercial information services;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally funded research networks;

(5) how to protect the copyrights of material distributed over the Network; and

(6) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

TITLE II—AGENCY ACTIVITIES

SEC. 201. NATIONAL SCIENCE FOUNDATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and support basic research and human resource development in all aspects of high-performance computing and advanced high-speed computer networking;

(2) to the extent that colleges, universities, and libraries cannot connect to the Network with the assistance of the private sector, the National Science Foundation shall have primary responsibility for assisting colleges, universities, and libraries to connect to the Network;

(3) the National Science Foundation shall serve as the primary source of information on access to and use of the Network; and

(4) the National Science Foundation shall upgrade the National Science Foundation funded network, assist regional networks to upgrade their capabilities, and provide other Federal departments and agencies the opportunity to connect to the National Science Foundation funded network.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation for the purposes of the Program $213,000,000 for fiscal year 1992; $262,000,000 for fiscal year 1993; $305,000,000 for fiscal year 1994; $354,000,000 for fiscal year 1995; and $413,000,000 for fiscal year 1996.

SEC. 202. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aerospace sciences, earth and space sciences, and remote exploration and experimentation.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of the Program $72,000,000 for fiscal year 1992; $107,000,000 for fiscal year 1993; $134,000,000 for fiscal year 1994; $151,000,000 for fiscal year 1995; and $145,000,000 for fiscal year 1996.

SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

(1) perform research and development on, and systems evaluations of, high-performance computing and communications systems;

(2) conduct computational research with emphasis on energy applications;

(3) support basic research, education, and human resources in computational science; and

(4) provide for networking infrastructure support for energy-related mission activities.

(b) COLLABORATIVE CONSORTIA.—In accordance with the Program, the Secretary of Energy shall establish High-Performance Computing Research and Development Collaborative Consortia by soliciting and selecting proposals. Each Collaborative Consortium shall—

(1) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing and communications resources;

(2) promote the testing and uses of new types of high-performance computing and related software and equipment;

(3) serve as a vehicle for participating vendors of high-performance computing systems to test new ideas and technology in a sophisticated computing environment; and

(4) be led by a Department of Energy national laboratory, and include participants from Federal agencies and departments, researchers, private industry, educational institutions, and others as the Secretary of Energy may deem appropriate.

(c) TECHNOLOGY TRANSFER.—The results of research and development carried out under this section shall be transferred to the private sector and others in accordance with applicable law.

(d) ANNUAL REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act and every year thereafter, the Secretary of Energy shall transmit to the Congress a report on activities taken to carry out this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary of Energy for the purposes of the Program $93,000,000 for fiscal year 1992; $110,000,000 for fiscal year 1993; $138,000,000 for fiscal year 1994; $157,000,000 for fiscal year 1995; and $169,000,000 for fiscal year 1996.

(2) There are authorized to be appropriated to the Secretary of Energy for fiscal years 1992, 1993, 1994, 1995, and 1996, such funds as may be necessary to carry out the activities that are not part of the Program but are authorized by this section.

SEC. 204. DEPARTMENT OF COMMERCE ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Institute of Standards and Technology shall—

(A) conduct basic and applied measurement research needed to support various high-performance computing systems and networks;

(B) develop and propose standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to systems; and

(C) be responsible for developing benchmark tests and standards for high-performance computing systems and software; and

(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research in weather prediction and ocean sciences, particularly in development of new forecast models, in computational fluid dynamics, and in the incorporation of evolving computer architectures and networks into the systems that carry out agency missions.

(b) HIGH-PERFORMANCE COMPUTING AND NETWORK SECURITY.—Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall be responsible for developing and proposing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(c) STUDY OF IMPACT OF FEDERAL PROCUREMENT REGULATIONS.—(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations that require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors use to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated—

(1) to the National Institute of Standards and Technology for the purposes of the Program $3,000,000 for fiscal year 1992; $4,000,000 for fiscal year 1993; $5,000,000 for fiscal year 1994; $6,000,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996; and

(2) to the National Oceanic and Atmospheric Administration for the purposes of the Program $2,500,000 for fiscal year 1992; $3,000,000 for fiscal year 1993; $3,500,000 for fiscal year 1994; $4,000,000 for fiscal year 1995; and $4,500,000 for fiscal year 1996.

SEC. 205. ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Environmental Protection Agency shall conduct basic and applied research directed toward the advancement and dissemination of computational techniques and software tools which form the core of ecosystem, atmospheric chemistry, and atmospheric dynamics models.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of the Program $5,000,000 for fiscal year 1992; $5,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $6,500,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996.

SEC. 206. ROLE OF THE DEPARTMENT OF EDUCATION.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Education is authorized to conduct basic and applied research in computational research with an emphasis on the coordination of activities with libraries, school facilities, and education research groups with respect to the advancement and dissemination of computational science and the development, evaluation and application of software capabilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Education for the purposes of this section $1,500,000 for fiscal year 1992; $1,700,000 for fiscal year 1993; $1,900,000 for fiscal year 1994; $2,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.

SEC. 207. MISCELLANEOUS PROVISIONS.

(a) NONAPPLICABILITY.—Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) ACQUISITION OF PROTOTYPE AND EARLY PRODUCTION MODELS.—In accordance with Federal contracting law, Federal agencies and departments participating in the Program may acquire prototype or early production models of new high-performance computing systems and subsystems to stimulate hardware and software development. Items of computing equipment acquired under this subsection shall be considered research computers for purposes of applicable acquisition regulations.

SEC. 208. FOSTERING UNITED STATES COMPETITIVENESS IN HIGH-PERFORMANCE COMPUTING AND RELATED ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) High-performance computing and associated technologies are critical to the United States economy.

(2) While the United States has led the development of high-performance computing, United States industry is facing increasing global competition.

(3) Despite existing international agreements on fair competition and nondiscrimination in government procurements, there is increasing concern that such agreements are not being honored, that more aggressive enforcement of such agreements is needed, and that additional steps may be required to ensure fair global competition, particularly in high-technology fields such as high-performance computing and associated technologies.

(4) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner which most effectively fosters the maintenance and development of United States leadership in high-performance computers and associated technologies in and for the benefit of the United States.

(5) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner, consistent with the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), which most effectively fosters reciprocal competitive procurement treatment by foreign governments for United States high-performance computing and associated technology products and suppliers.

(b) ANNUAL REPORT.—

(1) REPORT.—The Director shall submit an annual report to Congress that identifies—

(A) any grant, contract, cooperative agreement, or cooperative research and development agreement (as defined under section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) made or entered into by any Federal agency or department for research and development under the Program with—

(i) any company other than a company that is either incorporated or located in the United States, and that has majority ownership by individuals who are citizens of the United States; or

(ii) any educational institution or nonprofit institution located outside the United States; and

(B) any procurement exceeding $1,000,000 by any Federal agency or department under the Program for—

(i) unmanufactured articles, materials, or supplies mined or produced outside the United States; or

(ii) manufactured articles, materials, or supplies other than those manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, under the meaning of title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d; popularly known as the Buy American Act) as amended by the Buy American Act of 1988.

(2) CONSOLIDATION OF REPORTS.—The report required by this subsection may be included with the report required by section 101(a)(3)(A).

(c) REVIEW OF SUPERCOMPUTER AGREEMENT.—

(1) REPORT.—The Under Secretary for Technology Administration of the Department of Commerce (in this subsection referred to as the "Under Secretary") shall conduct a comprehensive study of the revised "Procedures to Introduce Supercomputers" and the accompanying exchange of letters between the United States and Japan dated June 15, 1990 (commonly referred to as the "Supercomputer Agreement") to determine whether the goals and objectives of such Agreement have been met and to analyze the effects of such Agreement on United States and Japanese supercomputer manufacturers. Within 180 days after the date of enactment of this Act, the Under Secretary shall submit a report to Congress containing the results of such study.

(2) CONSULTATION.—In conducting the comprehensive study under this subsection, the Under Secretary shall consult with appropriate Federal agencies and departments and with United States manufacturers of supercomputers and other appropriate private sector entities.

(d) APPLICATION OF BUY AMERICAN ACT.—This Act does not affect the applicability of title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d; popularly known as the Buy American Act), as amended by the Buy American Act of 1988, to procurements by Federal agencies and departments undertaken as a part of the Program.

Amend the title so as to read: "An Act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing.".

Mr. HOLLINGS. Mr. President, as an original cosponsor of S. 272 as introduced, I rise to support the version of S. 272, the High-Performance Computing Act of 1991, before us today. This is an important piece of legislation, which will help improve the coordination of the Federal Government's diverse computing research programs.

The bill before us represents a House-Senate compromise worked out by the Senate Commerce Committee, the Senate Energy Committee, the House Science Committee, and the House Education and Labor Committee. Working with the administration, we have crafted a bipartisan bill that will help ensure that the United States maintains its lead in the development and application of leading-edge computer technology.

The computer industry is one of the fastest growing segments of the U.S. economy, one that has generated tens of thousands of new jobs in the past few years. Even more importantly, computer technology has helped to improve the productivity and competitiveness of workers throughout the economy. Computers are used today by accountants, auto mechanics, grocery clerks, engineers, farmers—almost everyone—and the number of applications for computers increases daily.

Today's personal computers are more powerful than the best computers available 20 years ago. One of the reasons for the incredibly rapid advances in computer technology since the 1960's is the large Federal investment in computer research and development. Federal research grants funded the development of the first national computer network, some of the most commonly used computer software, and much of the fundamental research that led to development of today's personal computers and supercomputers. S. 272 is intended to continue this important investment, authorizing additional money for computing research and development that will fund the development of the next generation of computers, computer networks, and computer software.

In addition, this bill will provide necessary coordination of the various agencies doing computer research and development. The High-Performance Computing Program established by S. 272 will involve the National Science Foundation, the National Aeronautics and Space Administration, the Defense Advanced Research Projects Agency, the Department of Energy, the Department of Commerce, and a number of other agencies. The White House Office of Science and Technology Policy [OSTP], whose mission is to oversee multiagency research programs, will be responsible for ensuring that the computing research activities of these agencies support each other and mesh into a single coherent program. The Director of OSTP, Dr. Allan Bromley, clearly has the experience in coordinating successfully research in a number of areas. This kind of coordination is essential if different agencies, with different missions, are to work effectively together toward a common goal.

S. 272 has strong support from many different groups. As expected, the computer industry and the telecommunications industry strongly support this bill, and there are also strong supporters in the pharmaceutical industry, the aerospace industry, the information industry, and the manufacturing sector. I have received letters from librarians, scientists, teachers, doctors, senior citizens, and others, all expressing their support and enthusiasm for this bill. The reason for this broad support is clear—the technology developed and deployed under this bill will benefit all Americans, in every State across the Nation.

The coordination envisioned by S. 272 resembles that established in legislation which I authored last Congress, and which became law last year, dealing with global change research. This approach also can be followed for other technology initiatives dealing with other critical technologies. This year, I have introduced, among other technology competitiveness initiatives, S. 1329, the Federal Technology Strategy Act, to strengthen Federal efforts for the development and deployment of critical advanced technologies like advanced manufacturing, advanced materials, information technology, and biotechnology. A few weeks ago, the Commerce Committee approved S. 1330, the Manufacturing Strategy Act of 1991, which I also introduced to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies. Like S. 272, these bills will strengthen the U.S. economy by ensuring that U.S. companies have access to the advanced technology they need to compete in world markets without foreign competitors.

Mr. President, in closing, I commend Senator GORE and Chairman BROWN of the House Science Committee, who have worked hard to craft a sound program. I also acknowledge the important role played by Dr. Paul Huray, senior vice president of the University of South Carolina, who has helped to shape the High-Performance Computing Program established under this bill. We are proud of his contributions to this important national initiative.

This is a good bill that will have important implications for the future of U.S. technology. I urge my colleagues to support it.

Mr. WALLOP. Mr. President, I rise in support of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

This legislation establishes a comprehensive, 5-year Federal high-performance computing research and development program, and provides for the creation of a National Research and Education Network.

This legislation will help the United States advance the state of the art in high-performance computing, and thereby our competitive edge. It does so by directing the President to coordinate ongoing high-performance computing research and development activities by Federal departments and agencies.

There are some differences between S. 272 as passed by the Senate on September 11, 1991, and S. 272 as amended and passed by the House on November 20, 1991, the legislation which is now before the Senate, but these differences are not particularly significant.

For the purposes of the legislative history of the High-Performance Computing Act of 1991, it should be noted that S. 272 as passed by the Senate on September 11, 1991, was a melding of the provisions contained in S. 343 as reported by the Committee on Energy and Natural Resources (S. Rept. No. 102–64), and S. 272 as reported by the Committee on Commerce, Science, and Transportation (S. Rept. No. 102–57).

Although the Committee on Energy and Natural Resources has jurisdiction over many elements of this legislation, to accommodate the interests of the Senate Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources agreed to merge together the two bills and have the Senate pass only one bill, S. 272. Accordingly, the complete legislative histories of both S. 343 and S. 272 are to be considered when interpreting congressional intent expressed in the High-Performance Computing Act of 1991.

Mr. President, the High-Performance Computing Act of 1991 is the result of a joint effort between the administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Commerce, Science and Transportation, and the House Committee on Science, Space, and Technology. The administration and these three congressional committees have worked together long, hard, and cooperatively to fashion this legislation.

The pending legislation is especially important to the future of the United States' economy because high-performance computing has become an integral part of every aspect of modern life. For example, scientific investigation, product design, and manufacturing are now all heavily dependent on supercomputers. Thus, as is stated in the act's first finding, advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering and scientific advancement.

Although the United States has led the world in the development and use of high-performance computers, this lead is now being challenged by foreign competitors and it won't exist much longer if we do not take action. The legislation before the Senate is the kind of action we need.

It is important that the executive branch develop and implement, through this generic authorizing legislation, an appropriate Federal role in the promotion of high-performance computing and networking. Failure to do so would weaken our defense posture, it would weaken our competitive edge in the international marketplace and it would weaken our ability to achieve scientific advancements ahead of our international competitors. That would clearly be unacceptable.

For the benefit of the Senate and for the purpose of amplifying and clarifying Congress' intent in the High-Performance Computing Act of 1991, I would like to describe certain of its provisions.

The act establishes a 5-year Federal high-performance computing program [program] which consists of three key elements. One, it requires the President to establish goals and priorities for Federal high-performance computing research and development. Two, it requires the President to provide for interagency coordination of Federal high-performance computing research and development. And three, it creates a high-performance computer network, referred to in the legislation as the National Research and Education Network [NREN].

The legislation also contains numerous other provisions requiring certain Federal departments and agencies to undertake, or to continue to take, specified activities. Some of these are to be undertaken as part of the program, whereas others are to be taken in accordance with the program. As is always the case, activities undertaken pursuant to the act are subject to appropriations.

The most important feature of the High-Performance Computing Act of 1991, and perhaps the most significant improvement over certain of the act's parent bills, is its provisions which specifically give the President, and not a particular Federal department, agency, or any other person, full authority and responsibility for developing and implementing the program. Like S. 343, as reported by the Energy and Natural Resources Committee, the act does not designate by law a specific Federal department or agency as a lead agency for the program. If such designation is to be made, it is left to the President's discretion. It was decided to leave this matter entirely in the President's hands because over time circumstances may change, and what might be appropriate today might not be appropriate tomorrow. Thus, no agency is by law established as a lead agency or given authority to direct the activities of other agencies. Only the President, pursuant to his constitutional duties, has such authority.

Thus, within the context of the high-performance computing program establishing by this act, the President will retain full discretion to direct appropriate Federal agencies to undertake such activities as may be necessary to carry out the act's requirements. This gives the President the authority and flexibility necessary to implement and make changes in the leadership and management of the program as may be necessary to ensure that it is undertaken in the most effective and efficient manner.

Section 101(a)(1) confers exclusively upon the President the authority and the responsibility to implement the high-performance computing program, including: one, the establishment of the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and two, the interagency coordination of Federal high-performance computering research, development, networking, and other activities. Because the coordination role of the OSTP Director provided for by section 101(a)(3)(B) does not give the OSTP Director any authority to direct the activities of Federal departments and agencies pursuant to this act—that is reserved exclusively to the President—the OSTP Director cannot be held accountable for the failure of any Federal department or agency to carry out activities required by the act. Federal departments and agencies are themselves directly responsible and accountable for their activities pursuant to this act.

The coordination role for the OSTP Director envisioned by section 101(a)(3)(B) is that of helping to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other in order that such activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies pursuant thereto.

Section 101(b) requires the establishment of a high-performance computing advisory committee to provide advice to the OSTP Director on the high-performance computing program. Nothing in this section precludes the use of an existing advisory committee to satisfy this requirement.

Section 102(a) requires the establishment of a national research and education computer network [NREN] which shall be capable of transmitting data at one gigabit per second or greater by 1996. The requirement that the named Federal agencies support the establishment of the NREN is subject to, and subordinate to, existing and future agency mission requirements. The listing in a nonalphabetical order in section 102(a) of some of the Federal agencies and departments required to support the NREN is not be taken to imply that any particular agency is more or less responsible for supporting the establishment of the NREN, or has any superior or inferior position with respect to the NREN.

The statement is section 102(a) that the NREN link research and educational institutions, government, and industry "in every State" is to be taken as a goal, not a requirement to be read literally. Similarly, the requirement of section 102(b) that "Federal agencies shall work with State and local agencies, libraries, educational institutions and organizations, private network service providers, and others in order to ensure that researchers, educators, and students have access, as appropriate, to the Network," is a goal of the legislation, not a requirement. The words "to ensure" in this provision are not to be read literally as a specific statutory requirement.

The NREN created by this legislation is intended to enable government, industry, researchers, the higher education community and others to link together on a computer network in order to exchange information and data. Although Federal agencies and departments can connect agency and department-owned or leased networks to the NREN—and even make them part of the NREN—they will retain the total discretion to connect or disconnect as may be required by agency mission requirements, or for any other reason. Thus, even if any agency's network becomes the sole means by which others are able to access the NREN, the agency will retain full discretion to disconnect from the NREN notwithstanding how it may affect the other NREN users. This is made absolutely clear in section 102(c)(7) which provides that the NREN shall "ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network".

Although section 102(d) directs the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches and protocols needed to develop the network, this not to be read as giving DARPA and exclusive role within the Federal Government for this type of research and development; nor is this provision to be read as giving DARPA a "lead" role. It simply directs DARPA to undertake certain kinds of activities.

Section 207(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability of Federal contract law. This is made clear in section 207(b) by introductory phrase "In accordance with Federal contracting law. * * * " Thus, Federal contracting law will continue to apply to the procurement of all goods and services under the high-performance computing initiative, including procurement of supercomputers.

Section 208(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability to title III of the act of March 3, 1933, as amended by the Buy American Act of 1988. It is merely a congressional policy statement restating existing law.

Mr. President, with these understandings by the Senate, I support the passage of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

Mr. GORE. Mr. President, I rise in support of S. 272, the High-Performance Computing Act of 1991. This bill was first passed by the Senate on September 11 by voice vote. A companion bill, H.R. 656, passed the House on July 11.

The bill before us represents a House-Senate compromise which incorporates provisions of both bills. This version has bipartisan support in the House and the Senate, as well as in the administration.

The purpose of S. 272 is simple—to help ensure that the United States maintains its lead in advanced computer technology. Since World War II and the invention of the first electronic computer, the United States has led the world in developing and applying new computer technology. Our computer scientists laid the groundwork for the Information Revolution. Today, U.S. scientists and engineers generate new breakthroughs in computer design every year. Their creativity has ensured United States predominance in supercomputing and high-speed computer networking, two critical technologies transforming how research is conducted, products are designed, and business is transacted.

S. 272 would roughly double the amount of funding for high-performance computing during the next 5 years. Last year, the Federal Government spent $489.4 million on high-performance computing research and development. Under this bill, by 1996 that number would rise to approximately $1 billion each year. This investment is essential if U.S. scientists and engineers are to have the resources they need to develop and use more powerful supercomputers, more sophisticated software, and faster computer networks. Both the Europeans and the Japanese understand the incredible potential of supercomputing and are allocating hundreds of millions of dollars in an effort to catch up with the United States. And, according to a recent GAO report, High-Speed Computer Networks in the United States, Europe, and Japan, the Europeans and Japanese clearly recognize the importance of high-speed networks, and have plans and projects underway to enhance the speed and capability of these networks. In many areas, like high-speed networking and vector processor supercomputers, we may have only a 1- or 2-year lead. We must not lose that lead. This race is not winner-take-all, but it might as well be. Whoever is first to develop and effectively apply this technology will reap huge rewards in dozens of high-tech fields, from biotechnology to aerospace, from advanced materials to fusion energy. That translates directly into thousands and thousands of jobs—good jobs—which would otherwise go to our foreign competitors.

According to another GAO report, Industry Uses of Supercomputers and High-Speed Networks, U.S. companies are using supercomputing to increase their profits by millions of dollars. But that is not all that is at stake.

Supercomputing can help us better predict the weather, reduce air pollution, and improve health care.

Perhaps the most exciting part of the legislation pertains to the National Research and Education Network [NREN], a national, high-speed computer network that will connect millions of computer users at colleges, universities, Federal laboratories, libraries, hospitals, and businesses in every State. This network will be capable of transmitting billions of bits of data per second, enabling users to sit at their desks and use supercomputers thousands of miles away, access computer databases, and teleconference with colleagues. Linking powerful computers and computer-controlled research equipment to form a national colaboratory will enable researchers to work with others around the country as if they were across the hall. Creation of "Digital Libraries," huge electronic databases accessible over the network, will help students, teachers, doctors, and workers find the information they need without leaving their office.

The NREN will build on the NSFNET and other Federal, State, and private networks that make up the Internet, a research and education network which today links more than 1 million people. Today, the backbone of the NSFNET, which carries most of the network's traffic, runs at 45 megabits per second; the NREN will be at least 25 times faster and serve many more people. We will need gigabit speeds, 1 billion bits per second, to meet the rapidly growing demand for bandwidth on the network. The bill calls for deployment of a gigabit-per-second backbone by 1996. This is an ambitious goal, but without such speeds we will end up with what Dr. John Connolly, who runs the supercomputer center at the University of Kentucky, calls a graphic jam.

The NREN will enable some of America's best technical talent to experiment with high-speed networks, to develop new, exciting uses for such networks, and to demonstrate the benefits that networking can provide. In a way, the NREN is a national demonstration project that will spur the private sector investment needed to deploy a ubiquitous, fiber-optic network reaching every home, office, school, and factory in the country. Unfortunately, the private sector has not committed to building such a network because they are not convinced of its potential. The NREN will demonstrate what gigabit networks can do and generate the public demand for such services. When the general public sees what NREN users can do, they are going to want similar services in their home and office.

This bill is the first step toward meeting that need. It will fund development of high-speed networking technology and demonstrate its utility. Equally important, it will fund development of applications for networks and train people to develop, run, and use them.

But other steps will be needed. Today's telecommunications policies are designed for copper wire networks carrying voice traffic. We have to recognize that fiber optic computer networks are fundamentally different. We need to upgrade our policies as we upgrade our technology. I know that many of my colleagues, including Senators HOLLINGS, INOUYE, and BURNS on the Commerce Committee recognize that, and I look forward to working with them to design a national tele, communications policy for the 1990's and beyond.

Without new policies we will be unable to build the information infrastructure that the United States will need to compete in the next century. It used to be that a nation's transportation infrastructure determined success in international economic competition. Nations with deep-water ports did better than nations unable to exploit the technology of ocean transportation. Canals, railroads, highways, water and sewer systems—the list is a long one—were infrastructure investments found, through experience, to provide tremendous leverage for improving a nation's competitiveness.

Today transportation is less important compared to other factors, such as the ability to move information and to increase the value of this information. At the same time, however, we are confronted with massive and rapidly multiplying quantities of information. We are forced to deal with what I call exformation—accumulated surpluses of data that we know exist but are outside our conscious awareness. Advanced networking technology developed by this bill, coupled with intelligent, forward-looking telecommunications policies, can help us sort through that information and use it to improve the standard of living of all Americans.

The bill before us today has a long history. I personally have been working for almost 15 years to advance American computer technology and build a national high-speed, fiber-optic network. I held hearings in the House long before fiber optics had really emerged from the laboratory. Five years ago, I introduced legislation requiring that the administration evaluate the potential of supercomputing and high-speed networking. The White House Office of Science and Technology Policy [OSTP] responded in late 1987 with a report entitled, "A Research and Development Strategy for High-Performance Computing." The report called for dramatically increasing funding for high-performance computing. Unfortunately, the administration did not endorse the strategy. As a matter of fact, it took the administration more than 3 years to recognize the need for such an initiative.

In the meantime, I introduced the High-Performance Computing Act, and for the last 3 years have been working to build the support, both in Congress and elsewhere, needed to get it enacted. Last year, the Senate passed the bill but unfortunately it was blocked in the House by a few key Republicans. This year, I introduced the bill for a third time. A few weeks later, the administration, in its annual budget request, endorsed the program established by the bill. Now, thanks to the support of my colleagues in the House and Senate, we are about to send the bill on to the President.

This bill is a complex one, involving many different agencies, and thus several different congressional committees. In the Senate, both the Senate Commerce Committee and the Senate Energy Committee contributed to S. 272. The Energy Committee reported S. 343, which defines the Department of Energy's part of the High-Performance Computing Program. That bill was merged with S. 272, a Commerce Committee bill that outlined the program and laid out the roles of OSTP, the National Science Foundation, the National Aeronautics and Space Administration [NASA], and the Department of Commerce. The Commerce Committee and the Energy Committee worked together to assemble a coherent, multiagency program.

At the same time, in the House, the Science Committee and the Education and Labor Committee were working on H.R. 656, which Congressmen GEORGE BROWN, FREDERICK BOUCHER, TIM VALENTINE, And others had introduced in January. Their bill was quite similar to S. 272, but included additional provisions on the roles of the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Department of Education. The House passed H.R. 656 on July 11. The Senate passed S. 272 unanimously on September 11. Since then, we have been working with the House to come to an agreement on a compromise version acceptable to both sides.

This is a very important bill, one that will provide huge benefits to Americans everywhere. Not surprisingly, it has broad support, from researchers, educators, librarians, and businessmen. The computer industry, the telecommunications industry, the electronic information industry, and hundreds of high-tech companies in other sectors are united behind this bill. Within the administration, dozens of scientists and engineers have worked for years to promote high-performance computing and convince their bosses and OMB to fund the High-Performance Computing Program.

Here in Congress, Senators HOLLINGS, DANFORTH, and PRESSLER on the Commerce Committee, and Senators JOHNSTON, DOMENICI, and WALLOP on the Energy Committee, have helped refine this legislation and shape the High-Performance Computing Program. Their help and support has been matched by the efforts of Representatives BROWN, WALKER, BOUCHER, and VALENTINE on the Science Committee. I thank them and my colleagues for their support of this legislation.

Mr. President, I wish to take only 30 seconds to thank my colleagues for this, the final passage of the High-Performance Computing Act which establishes a nationwide network of information superhighways. It has now cleared both the House and the Senate. It is on the way to the White House. I hope and trust the President will sign it.

Again I thank my colleagues.

Mr. JOHNSTON. Mr. President, today, the Senate is considering S. 272, the High-Performance Computing Act of 1991, which is an amended version of that bill passed by this body in September. S. 272 sets out a solid Federal research program in high-performance computing that will help this country remain competitive in the world marketplace. What we are considering today represents a compromise reached between the House and the Senate on this very important issue.

The United States has led the world in the development of high-performance computing. The technology was developed in this country and we continue to lead in this area—for now. But that lead is being challenged. Some estimate that the Japanese will dominate the supercomputer market in the 1990's. Yet, the Japanese did not enter the field of high-performance computing until 1983. Today, outside of the United States, Japan is the single biggest market for, and supplier of, supercomputers.

The United States needs an integrated, cooperative program among industry, universities and government in supercomputing. It has been estimated that a modest Federal investment in high-performance computing would result in a $200 to $500 billion increase in the Nation's gross national product over a 10-year period. Furthermore, such an investment will help us to meet the challenge of foreign competition. The legislation before the Senate today will set the programs in motion to make that happen.

The President in his fiscal year 1992 budget requested an increase of almost $150 million for an interagency research and development initiative called Grand Challenges: High-Performance Computing and Communications. That initiative is to be congratulated. It represents a significant step toward assuring a continued lead role for the United States in high-performance computing. But we can do more. We need a significant long-term commitment to a national high-performance computing program if this initiative is to be successful. This act will do that. It will commit the Federal Government to a national high-performance computing initiative for 5 years. Such a commitment will enhance significantly our nation's competitive position in the area of supercomputing.

The High-Performance Computing Act of 1991 is the result of the combined efforts of the Administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Science, Commerce and Transportation, and the House Committee on Science, Space and Technology. We have all worked closely in crafting this language.

I want to thank the members of the Commerce Committee, in particular Senator HOLLINGS and Senator GORE, who have worked so hard on this issue. Senator WALLOP and Senator DOMENICI, who serve with me on the Energy and Natural Resources Committee, have also been instrumental to this process. Without the help of my colleagues, we would not be at this critical juncture in the consideration of the High-Performance Computing Act of 1991.

There are some differences between S. 272 as originally passed by the Senate and the Act before us today. Many of the changes are stylistic rather than substantive. However, some of these changes need a note of explanation.

There are two titles to the Act. Title I directs the President to implement a national high-performance computing program, to set out the goals and priorities for Federal high-performance computing research, development, and networking activities, and to provide for coordination of those activities.

While the President will identify the activities needed to be carried out under the program, the agencies themselves will perform the activities. Nothing in this legislation gives one agency authority to direct the high-performance computing activities of any other agencies. Similarly, the agencies will be held accountable for the failure to carry out the activities set out in the program.

The coordination function is limited to identifying Federal agency high-performance computing activities, pointing out overlapping efforts, and making suggestions as to what new high-performance computing activities might be undertaken as part of the program. It is the President, however, who will decide what activities to pursue and will implement those activities through the agencies.

This approach will ensure that the Federal strategy is built on agency strengths by giving the appropriate agency the responsibility to carry out activities in areas of demonstrated capability. It also will ensure that the strengths of the other agencies and departments are integrated where appropriate. No agency is locked into a lead role or given authority over any other agency. The President may realign agency roles and responsibilities as agencies' needs or capabilities change.

Title I also establishes an advisory committee consisting of representatives from industry and the academic community to provide the Director with advice on the high-performance computing program. This provision does not, however, require the President to create an entirely new advisory body. This provision allows the President to consider existing advisory bodies to fulfill this purpose.

Title I also establishes a multi-gigabit-per-second national research and education computer network. This network will link government, industry, and the academic community. Computer users at universities, Federal laboratories, and industry research centers will have access to supercomputers, computer data bases, and other research facilities. The network will be unequaled anywhere in the world.

We intend that the Federal network act as a catalyst for a much larger effort by the nation as a whole. As services over the network and the number of users increase, we expect that the private sector will begin to demand more and more from the network. We expect that universities and private industry will come to rely more and more on the network and will eventually be willing to fund the network itself or at least large portions of it.

Initially, the Federal agencies and departments will work together to connect, expand, and upgrade their individual networks. Existing user communities of Federal networks will be expanded. New user communities will be brought into these networks. Network speeds and capabilities will be upgraded as the results of research carried out under this legislation come to fruition. Eventually, a national network will be in place, operating at over 1 billion bits of data per second. The network will continue to grow, becoming faster and faster, and connecting more and broader user communities. It will become much like the telephone system we have in place today.

At the same time, each agency will be free to operate its own network to meet the specific needs and missions of that agency. To the extent an agency can contribute to the national network, it can do so. To the extent individual agency mission needs require autonomy from the national network, that autonomy is preserved.

This national network can only succeed as a cooperative effort of all the interested agencies. Each of these agencies must be intimately involved in the process—now and as the network continues to develop. We do not know what the network will look like in the coming years. Technology to develop the network envisioned by this legislation is still being developed. The legislation, therefore, must allow sufficient flexibility to meet the needs of the network as it evolves. It would not be prudent to create a rigid or overly burdensome management structure at this juncture, as might occur by vesting the management of the network in a single agency. It is for that reason that the legislation before us leaves the responsibility with the President to establish and oversee the network as it evolves.

We understand that the President has already created a Federal Network Council to oversee the evolution, operation, and management of the network. The Council is composed of representatives from all of the federal agencies. The Council is advised by a panel of distinguished individuals from industry, the universities, and the Federal laboratories. We think, at least initially, that this is the proper way to begin the establishment of this network. As the process moves forward it may become apparent that new management mechanisms are needed. The legislation allows the President to adapt to these changes. At any point in the process the President can take a fresh look at the future of computer networks in the United States. The authority to structure the network as he sees fit provides the President with an opportunity to devise a network that meets national needs, now and in the future.

The legislation requires the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches, and protocols needed to develop the network. This requirement is not intended, however, to create a role for DARPA in this area of research and development that is any greater than any other agency qualified to perform such research.

Title II of the act authorizes activities to be carried out under this initiative by the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Commerce, the Environmental Protection Agency, and the Department of Education. It is likely that the President will recommend other activities and roles for these and other agencies in the National High-Performance Computing Program. That would not be precluded by the act and would, in fact, be welcomed.

Section 201 authorizes activities of the National Science Foundation for the high-performance computing program. This section states that the National Science Foundation has primary responsibility for connecting colleges, universities, and libraries to the national network. Historically, the National Science Foundation has provided assistance to colleges, universities, and the library community to meet their advanced computing needs. This does not mean, however, that other Federal agencies should no longer provide assistance to users of agency networks that are connected to the national network. Rather, an individual agency, such as the Department of Energy or the National Aeronautics and Space Administration should continue to support the user communities that need access to its network.

Similarly, the legislation provides for the National Science Foundation to serve as the primary source of information on how to access the network. The National Science Foundation should provide information to those who have nowhere else to turn for such information. Any agency, such as the Department of Energy, that provides users with information on its network should continue to provide this information, and may expand its information services.

Section 203 is based on S. 343, as reported by the Committee on Energy and Natural Resources and incorporated in the Senate-passed version of S. 272 on September 11, 1991. Section 203 establishes for the Department of Energy a strong role in the national high-performance computing initiative. The Department of Energy would be one of several equals within the high-performance computing program established by this legislation.

The Department of Energy has historically had a key role in high-performance computing. The department and its laboratories are in a position to help maintain U.S. leadership, strengthen the U.S. computing industry, and encourage deployment of high-performance computing in analyses, design, concurrent engineering, and manufacturing for U.S. industry. In the past, the Department has fulfilled this role through its support of fundamental science and through the nuclear weapons research, development, and testing program. The role of the nuclear weapons development program is changing rapidly today. The Department's contributions now include a much broader spectrum of activities from the human genome project to enhanced oil recovery. With these new applications, the Department has a significant role to play in the continued development of high-performance computing.

The department's laboratories have become the world's most demanding, sophisticated, and experienced users of supercomputers. Manufacturers of high-performance computers routinely send new prototype computers to these laboratories for testing. The laboratories help the manufacturer identify problems, find solutions for those problems, and write the unique software packages required by supercomputers.

This legislation builds on that proven relationship between industry and the Department of Energy. The Secretary is directed to establish collaborative consortia composed of national laboratories and other Federal laboratories or agencies, educational institutions, and industry. The consortia will undertake basic research and development of high-performance computing hardware, software, and networks. The consortia will carry out research directed at scientific and technical problems that require the application of high-performance computing resources.

The Department carries out extensive high-performance computing activities. Some of these activities will be part of the President's program. Some of them will not. This legislation directs the Secretary to establish high-performance computing collaborative consortia in accordance with the President's program. The consortia, or their activities, need not be part of the program but only consistent with the program.

Section 207 in title II, Miscellaneous Provisions, makes clear that classified activities are not affected by this amendment. This section also makes clear that Federal agencies may procure prototype machines commonly referred to as paper machines.

Section 208(d) does not, nor is it intended to, modify or amend the applicability of or nonapplicability of title III of the act of March 3, 1933, as amended by the Buy America Act of 1988.

Mr. President, with these understandings by the Senate, I urge my colleagues to support the High-Performance Computing Act of 1991.

Mr. JOHNSTON. Mr. President, for the understanding of the Senate of S. 272, I would like to clarify the role of the President and the White House Office of Science and Technology Policy [OSTP] in coordinating the program.

I would like to engage my colleague, Senator HOLLINGS, the chairman of the Senate Committee on Commerce, Science, and Transportation in a brief colloquy on this matter to be sure that the Senate fully understands S. 272.

The legislation before us today states that the President shall implement a national high-performance computing program and provide for coordination of the activities set out in the program. The statutory language also gives the Director of the OSTP a coordination role in the program. I want to make sure it is clear what is meant by that statutory language. Does the Senator from South Carolina agree with me that this coordination role given to the Director does not grant the OSTP the authority to tell an agency how to run its supercomputing programs or other agency activities?

Mr. HOLLINGS. Mr. President, I would like to tell my distinguished colleague from Louisiana, the chairman of the Committee on Energy and Natural Resources, that he is absolutely correct. S. 272 does not give the Director of the OSTP authority to tell an agency how to run its supercomputing programs or any other activities. The coordination role given the Director by S. 272 is that the OSTP should identify agency activities regarding high-performance computing activities, point out overlapping efforts, and make suggestions to the agencies as to what new activities might be undertaken as part of the program.

The coordination role for the OSTP Director envisioned by this act is that of helping the President to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other so their activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. At all times the Director acts at the direction of the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies taken pursuant to the program. It is clear that the President is ultimately responsible for the program.

Mr. JOHNSTON. Mr. President, I would like to thank my colleague from South Carolina for clarifying that point. But, I would also like to ask him to what extent the OSTP will be held accountable for the failure of activities established in the President's program to be carried out?

Mr. HOLLINGS. Mr. President, the answer to the question of the Senator from Louisiana is that the OSTP Director will not be held at all accountable for the failure of agencies to carry out their activities under the program. The authority to establish and implement this program is conferred upon the President, and it is the President's responsibility to ensure that it is done. The President will decide what activities to pursue amd assure the proper implementation of these activities by the agencies and OSTP.

This act does not give the Director any authority to direct the activities of Federal departments and agencies under this program. That is reserved exclusively to the President. Each Federal department and agency is responsible and accountable for its activities taken pursuant to this Act.

In fact, the Director derives authority to coordinate programs from the Science and Technology Policy, Organization, and Priorities Act, which created OSTP. That act states that the Director of OSTP shall "assist the President in providing general leadership and coordination of the research and development programs of the Federal Government." While S. 272 gives the Director new responsibilities, such as reporting to Congress on the implementation of the High-Performance Computing Program, this act does not give the Director any more authority to coordinate the program than is already provided by the Science and Technology Policy Act.

In summary, the Director facilitates; he does not dictate. It is the head of the agency, not the Director of OSTP, who decides how best to fulfill the mission of the agency.

Mr. JOHNSTON. I thank my colleague for clarifying these points with me.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 256, H.R. 848, relating to the Little Bighorn Battlefield Monument.

The PRESIDING OFFICER. The clerk will report the bill by the title.

The bill clerk read as follows:

A bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1428

(Purpose: To extend for 19 months the restrictions on alienation of Settlement Common Stock of Alaska Native Corporations.)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI proposes an amendment numbered 1428.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABILITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37 (a) of P.L. 92–203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629c(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

Mr. STEVENS. Mr President, this amendment, which I offer on behalf of myself and my distinguished colleague from Alaska, Senator MURKOWSKI, is the product of extensive consulation among the members of the Alaska congressional delegation, leaders of the Alaska Native community, and the leadership of the authorizing committees in both the House and Senate. It is intended to give Congress and the native community much needed breathing room to deal with a complex issue that bears directly on the viability of the 1971 native land claims settlement.

Congress established village and regional corporations throughout Alaska to manage assets received by natives in the settlement. Recently, a village corporation in southeast Alaska launched an effort to take over the regional corporation against the will of the regional corporation's board of directors.

This unexpected development raises difficult questions about the future of the 1971 settlement. I am particularly troubled to learn that since that news of this takeover effort broke, wall street investment bankers have contacted the Department of the Interior to gather information about Alaska's native corporations.

The Alaska Native Claims Settlement Act [ANCSA], as amended in 1987, includes provisions allowing native corporation shareholders to lift restrictions on alienation of their settlement common stock after December 18th of this year. Frankly, none of us in 1987 expected any native corporation to lift these restrictions unless there was an overwhelmingly broad consensus among its shareholders to do so.

The situation in southeast Alaska, however, raises the possibility that an outside corporation or individual, working in concert with a bare majority of a native corporation's shareholders, might effect a lifting of alienability restrictions and a subsequent takeover of the native corporation. A substantial number of the native corporation's shareholders thus could be involuntarily deprived of their heritage as Alaska Natives. This would be a particularly harsh and unjust result for the thousands of natives who depend on the use of their corporation lands to maintain their traditional subsistence hunting and fishing way of life.

Congress never intended this result, Mr. President. We never intended to put Alaska native corporations "in play."

Contested takeovers of Alaska native corporations raise profound policy questions that need to be examined in depth by Congress. We need to strike the proper balance between the right of shareholders to shape the future of their corporations and the strong congressional interest in the preservation of the native lands claims settlement.

This amendment would give the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee the time needed to undertake this task by extending for approximately 19 months the existing prohibition of alienation of settlement common stock. In addition to outright sales, that prohibition includes pledges, assignments in present or future, and any other form of alienation. A native corporation's board of directors could elect not to accept this extension by adopting a resolution to that effect by March 1st of next year.

In developing this amendment, we have consulted with the Alaska Federation of Natives [AFN] and other native organizations, including the able representatives of the southeast village corporation that prompted the current debate. AFN strongly supports the amendment. I hope that AFN will be able to develop a consensus position on takeovers, which can be presented to the authorizing committees and Congress as a whole.

Mr. President, Senator MURKOWSKI, Representative DON YOUNG, and I greatly appreciate the cooperation and help of the distinguished chairman and ranking Republican of the Senate Energy Committee and the distinguished chairman of the House Interior Committee. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 848), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1988.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1988), entitled "An Act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) the report of the Advisory Committee on the Future of the United States Space Program has provided a framework within which a consensus on the goals of the space program can be developed;

(2) a balanced civil space science program should be funded at a level of at least 20 percent of the aggregate amount in the budget of the National Aeronautics and Space Administration for "Research and development" and "Space flight, control, and data communications";

(3) development of an adequate data base for life sciences in space will be greatly enhanced through closer scientific cooperation with the Soviet Union, including active use of manned Soviet space stations;

(4) the space program can make substantial contributions to health-related research and should be an integral part of the Nation's health research and development program;

(5) Landsat data and the continuation of the Landsat system beyond Landsat 6 are essential to the Mission to Planet Earth and other long-term environmental research programs;

(6) increased use of defense-related remote sensing data and data technology by civilian agencies and the scientific community can benefit national environmental study and monitoring programs;

(7) the generation of trained scientists and engineers through educational initiatives and academic research programs outside of the National Aeronautics and Space Administration is essential to the future of the United States civil space program;

(8) the strengthening and expansion of the Nation's space transportation infrastructure, including the enhancement of launch sites and launch site support facilities, are essential to support the full range of the Nation's space-related activities;

(9) the aeronautical program contributes to the Nation's technological competitive advantage, and it has been a key factor in maintaining preeminence in aviation over many decades; and

(10) the National Aero Space Plane program can have benefits to the military and civilian aviation programs from the new and innovative technologies developed in propulsion systems, aerodynamics, and control systems that could be enormous, especially for high-speed aeronautical and space flight.

SEC. 3. POLICY.

It is the policy of the United States that—

(1) the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator"), in planning for national programs in environmental study and human space flight and exploration, should ensure the resiliency of the space infrastructure;

(2) a stable and balanced program of civil space science should be planned to minimize future year funding requirements in order to accommodate a steady stream of new initiatives;

(3) any new launch system undertaken or jointly undertaken by the National Aeronautics and Space Administration should be based on defined mission and program requirements or national policies established by Congress;

(4) in fulfilling the mission of the National Aeronautics and Space Administration to improve the usefulness, performance, speed, safety, and efficiency of space vehicles, the Administrator should establish a program of research and development to enhance the competitiveness and cost effectiveness of commercial expendable launch vehicles; and

(5) the National Aeronautics and Space Administration should promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR NASA.

(a) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and development", for the following programs:

(1) United States International Space Station Freedom, $2,028,900,000 for fiscal year 1992, of which $18,000,000 is authorized for the design and development of an Assured Crew Return Vehicle.

(2) Space transportation capability development, $679,800,000, of which $40,000,000 is authorized for propulsion technology development, and $10,000,000 is authorized for launch vehicle design studies, including single-stage-to-orbit vehicles.

(3) Physics and astronomy, $1,104,600,000, of which $3,000,000 is authorized for carrying out scientific programs which have otherwise been eliminated from the Space Station.

(4) Life sciences, $163,900,000.

(5) Planetary exploration, $299,300,000.

(6) Earth science and applications, $756,600,000, of which—

(A) $5,000,000 is authorized for the purchase of Landsat data at cost for global change research;

(B) $5,000,000 is authorized for the purchase of long-lead parts for a follow-on to Landsat 6;

(C) $1,000,000 is authorized for remote sensing data conversion;

(D) $3,000,000 is authorized for a pilot study and prototype demonstration to convert remotely-sensed aircraft and satellite data into machine readable form for global change research; and

(E) $2,000,000 is authorized for converting Landsat data collected prior to the date of enactment of this Act into a more durable archive medium.

(7) Materials Processing in space, $120,800,000.

(8) Communications, $39,400,000.

(9) Information systems, $42,000,000.

(10) Technology utilization, $32,000,000.

(11) Commercial use of space, $107,000,000.

(12) Aeronautical research and technology, $591,200,000.

(13) Transatmospheric research and technology, $72,000,000.

(14) Space research and technology, $324,800,000, of which $10,000,000 is authorized for a solar dynamics power research and technology development program, including a ground test of the technology, and $10,000,000 for a program of component technology development, validation, and demonstration directed at commercial launch competitiveness.

(15) Exploration activities, $34,500,000.

(16) Safety, reliability, and quality assurance, $33,600,000.

(17) Tracking and data advanced systems, $22,000,000.

(18) Academic programs, $64,600,000.

(b) SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Space flight, control, and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,328,900,000, of which $375,000,000 is authorized for the Advanced Solid Rocket Motor program.

(2) Space shuttle operations, $2,970,600,000.

(3) Launch services, $291,900,000, amounts of which may be expended for the Mobile Satellite launch if—

(A) the Administrator, in consultation with the Chairman of the Federal Communications Commission, determines that uncertainties with respect to the status of the American Mobile Satellite Corporation as the sole Federal Communications Commission license holder for mobile satellite services have been resolved; and

(B) at least 30 days prior to the obligation of any funds for the Mobile Satellite launch, the Administrator submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report detailing plans for reimbursement to the National Aeronautics and Space Administration for its portion of launch costs of the Mobile Satellite.

(4) Space and ground network, communications, and data systems, $920,900,000.

(c) CONSTRUCTION OF FACILITIES.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $35,000,000.

(2) Modification for Earthquake Protection, Downey/Palmdale, California, Johnson Space Center, $4,400,000.

(3) Modifications for Safe Haven, Vehicle Assembly Building, High-Bay 2, Kennedy Space Center, $7,500,000.

(4) Rehabilitation of Crawlerway, Kennedy Space Center, $3,000,000.

(5) Restoration of Shuttle Landing Facility Shoulders, Kennedy Space Center, $4,000,000.

(6) Restoration of the High Pressure Gas Facility, Stennis Space Center, $6,500,000.

(7) Construction of Addition for Flight Training and Operations, Johnson Space Center, $13,000,000.

(8) Construction of Advanced Solid Rocket Motor Program Facilities (various locations), $100,000,000.

(9) Modernization of Industrial Area Chilled Water System, Kennedy Space Center, $4,000,000.

(10) Rehabilitation and Expansion of Communications Duct Banks, Kennedy Space Center, $1,400,000.

(11) Replacement of 15 KV Load Break Switches, Kennedy Space Center, $1,300,000.

(12) Repair of Site Water System, White Sands Test Facility, $1,300,000.

(13) Replacement of Central Plant Chillers and Boiler, Johnson Space Center, $5,700,000.

(14) Modifications to X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $5,200,000.

(15) Restoration and Modernization of High Voltage Distribution System, Goddard Space Flight Center, $7,000,000.

(16) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $17,000,000.

(17) Modernization of Main Electrical Substation, Jet Propulsion Laboratory, $5,500,000.

(18) Restoration of Utilities, Wallops Flight Facility, $3,500,000.

(19) Repair and Modernization of the 12-foot Pressure Wind Tunnel, Ames Research Center, $25,000,000.

(20) Upgrade of Outdoor Aerodynamic Research Facility, Ames Research Center, $3,300,000.

(21) Modernization of 16-foot Transonic Tunnel, Langley Research Center, $3,400,000.

(22) Modifications to the High Pressure Air System, Langley Research Center, $11,700,000.

(23) Rehabilitation of Central Air System, Lewis Research Center, $5,600,000.

(24) Rehabilitation of Icing Research Tunnel, Lewis Research Center, $2,600,000.

(25) Construction of Data Interface Facility, White Sands Test Facility, $4,000,000.

(26) Rehabilitation of Tracking and Data Relay Satellite System (TDRSS) Ground Terminal, White Sands Test Facility, $5,700,000.

(27) Repair of facilities at various locations, not in excess of $1,000,000 per project, $31,700,000.

(28) Rehabilitation and modification of facilities at various locations, not in excess of $1,000,000 per project, $34,800,000.

(29) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $750,000 per project, $12,900,000.

(30) Environmental compliance and restoration, $36,000,000.

(31) Facility planning and design, not otherwise provided for, $34,000,000.

Notwithstanding the amounts authorized in paragraphs (1) through (31), the total amount authorized by this subsection shall not exceed $430,300,000.

(d) RESEARCH AND PROGRAM MANAGEMENT.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and program management", $2,422,300,000.

(e) INSPECTOR GENERAL.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Inspector General", $14,600,000.

(f) USE OF FUNDS FOR CERTAIN CAPITAL ITEMS AND GRANTS.—(1) Notwithstanding the provisions of subsection (i), appropriations authorized in this Act for "Research and development" and "Space flight, control, and data communications" may be used—

(A) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(B) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

(2) Title to facilities described in paragraph (1)(B) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each grant under paragraph (1)(B) shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

(3) None of the funds appropriated for "Research and development" and "Space flight, control, and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(g) AVAILABILITY OF APPROPRIATED AMOUNTS.—Appropriations authorized under this section for "Research and development", for "Space flight, control, and data communications", or for "Construction of facilities" may remain available until expended. Appropriations authorized under this section for "Research and program management" for maintenance and operation of facilities and for other services shall remain available through the next fiscal year following the fiscal year for which such amount is appropriated.

(h) USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS AND EXTRAORDINARY EXPENSES.—Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) USE OF FUNDS FOR FACILITIES.—(1) Except as provided in subsection (f), funds appropriated pursuant to subsections (a), (b), and (d) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(2) Except as provided in subsection (f), funds appropriated pursuant to subsections (a) and (b) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(3) Funds appropriated pursuant to subsection (d) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

(j) CRAF/CASSINI MISSION.—Section 103(a)(1)(S) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Public Law 101–611; 104 Stat. 3192), is amended—

(1) by striking "$1,600,000,000" and inserting in lieu thereof "$1,900,000,000";

(2) in clause (i), by striking the semicolon at the end and inserting in lieu thereof ", of which not more than $263,000,000 shall be available for fiscal year 1992;"; and

(3) in clause (iii), by striking "$640,000,000" and inserting in lieu thereof "$940,000,000".

(k) TOTAL AUTHORIZATIONS FOR FISCAL YEARS 1993 AND 1994.—There is authorized to be appropriated to the National Aeronautics and Space Administration for "Research and development", "Space flight, control, and data communications", "Construction of facilities", "Research and program management", and "Inspector General" a total amount of $15,601,000,000 for fiscal year 1993, and $16,959,000,000, for fiscal year 1994, to remain available until expended.

(l) REPROGRAMMING FOR TRANSATMOSPHERIC RESEARCH AND TECHNOLOGY.—The Administrator may reprogram up to $67,000,000 of the amount authorized for "Research and development" for fiscal year 1992 to use for the purposes described in subsection (a)(13). No such funds may be obligated until a period of 30 days has passed after the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such transfer.

SEC. 5. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Appropriations authorized under section 4(c)(1) through (31)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent; or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized to be appropriated under section 4(c) (1) through (31) shall not be increased as a result of actions authorized under paragraphs (1) and (2).

SEC. 6. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 4 (a) and (b) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 4(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 7. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 4 (a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt, by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts *and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.*

SEC. 8. FACILITY MAINTENANCE OFFICE.

The Administrator shall create a Facility Maintenance Office within the Office of Management Systems and Facilities which shall plan and direct facilities maintenance management for all National Aeronautics and Space Administration sites.

SEC. 9. GEOGRAPHICAL DISTRIBUTION.

It is the sense of Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 10. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 4(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 11. TRANSMISSION OF BUDGET ESTIMATES.

The Administrator shall, at the time of submission of the President's annual budget, transmit to Congress—

(1) a 5-year budget detailing the estimated development costs of each individual program under the jurisdiction of the National Aeronautics and Space Administration for which development costs are expected to exceed $200,000,000; and

(2) an estimate of the life-cycle costs associated with each such program.

SEC. 12. NATIONAL SCHOLARS PROGRAM FEASIBILITY STUDY.

(a) STUDY.—The Administrator shall conduct a study to evaluate the feasibility of initiating a National Scholars Program, as described under subsection (b), under which a select group of students would receive Federal support for education in mathematics, science, and related disciplines. The purpose of the National Scholars Program would be to help increase the number of Ph.D. recipients in mathematics, science, and related disciplines among the Nation's economically disadvantaged.

(b) DESCRIPTION OF NATIONAL SCHOLARS PROGRAM.—Under the National Scholars Program referred to in subsection (a), the Administrator would—

(1) select economically disadvantaged high school students for participation in science programs supported by the National Aeronautics and Space Administration or other institutions where they would receive specialized instruction in mathematics and science and would learn about practical applications of mathematics and science in the programs and activities of the National Aeronautics and Space Administration; and

(2) select economically disadvantaged undergraduate and graduate students as recipients of Federal financial support for predoctoral and doctoral studies in mathematics, science, and related disciplines.

(c) CONTENTS OF STUDY.—The study required by subsection (a) shall address, among other matters—

(1) whether the National Aeronautics and Space Administration could adequately implement the National Scholars Program;

(2) different options for structuring the National Scholars Program, including its establishment as a pilot program;

(3) the cost of the Program, with annual cost estimates for the first 10 years of the Program;

(4) alternative funding sources for the Program;

(5) the criteria for selecting students for participation in the Program;

(6) the appropriate number of students for annual participation in the Program;

(7) the organizational location within the National Aeronautics and Space Administration at which the Program and its activities would be administered;

(8) the management of the Program;

(9) the possible ways in which the Program or its concepts can be extended to other Federal agencies, State agencies, educational institutions, and private organizations;

(10) the existence of any current public or private sector programs which are similar to the Program, the benefits and disadvantages of those similar programs, and whether a new program would unnecessarily duplicate current efforts; and

(11) the extent to which existing Federal, State, and other science education programs and activities could be used to complement or supplement the Program.

(d) REPORT.—Within 6 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the study required by subsection (a).

SEC. 13. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended to read as follows:

"AUTHORIZED APPROPRIATIONS

"SEC. 24. There is authorized to be appropriated to the Secretary for fiscal year 1992—

"(1) $5,104,000 to carry out this Act; and

"(2) $20,000,000 for a program to ensure the resiliency of the Nation's space launch infrastructure, only if a statute is enacted into law to establish that program within the Department of Transportation.".

SEC. 14. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,491,000 for fiscal year 1992, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) LANDSAT DATA CONTINUITY.—It is the sense of Congress that the National Space Council, in coordination with the Committee on Earth and Environmental Sciences, should establish policy recommendations for carrying out the President's commitment to maintaining the continuity of Landsat data, including plans and programs for a successor to Landsat 6, organizational options and recommendations for acquiring Landsat data for global change research, national security, environmental management, and other governmental purposes, and options and recommendations for encouraging the use of Landsat data by commercial firms and development of the commercial market for such data. Such policy recommendations shall be transmitted in writing to Congress at the time of submission of the President's fiscal year 1993 budget.

SEC. 15. OFFICE OF SPACE COMMERCE AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce $491,000 for fiscal year 1992.

SEC. 16. AMENDMENT OF PUBLIC LAW 100–147.

Section 107(a) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100–147; 101 Stat. 864) is amended—

(1) by inserting ", in both then year and constant dollars," immediately after "estimated cost";

(2) by inserting "assembly (including related costs);" immediately after "construction of facilities;"; and

(3) by adding at the end the following new sentence: "Each such plan shall also include the estimated cost, in both then year and constant dollars, of operations for at least the first full year of steady operations of the space station.".

SEC. 17. MULTIYEAR CONTRACTING.

Along with submission to Congress of the National Aeronautics and Space Administration fiscal year 1993 budget request, the Administrator shall—

(1) present a study which assesses the usefulness of granting similar authority as under section 2306(h) of title 10, United States Code, to the National Aeronautics and Space Administration; and

(2) recommend no less than five candidate programs to be considered by Congress for multiyear contracting.

SEC. 18. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, including any subcontract under such a contract.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Administrator, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 19. QUALITY ASSURANCE PERSONNEL.

(a) EXCLUSION OF NASA PERSONNEL.—A person providing articles to the National Aeronautics and Space Administration under a contract entered into after the date of enactment of this Act may not exclude National Aeronautics and Space Administration quality assurance

personnel from work sites except as provided in a contract provision described in subsection (b).

(b) CONTRACT PROVISIONS.—The National Aeronautics and Space Administration shall not enter into any contract which permits the exclusion of National Aeronautics and Space Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to the Congress at least 60 days before entering into such contract.

SEC. 20. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ENDEAVOR TEACHER FELLOWSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, in tribute to the dedicated crew of the Space Shuttle Challenger, a trust fund to be known as the "National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of gifts and donations accepted by the National Aeronautics and Space Administration pursuant to section 208 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476b), as well as other amounts which may from time to time, at the discretion of the Administrator, be transferred from the National Aeronautics and Space Administration Gifts and Donations Trust Fund.

(b) INVESTMENT OF TRUST FUND.—The Administrator shall direct the Secretary of the Treasury to invest and reinvest funds in the Trust Fund in public debt securities with maturities suitable for the needs of the Trust Fund, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Interest earned shall be credited to the Trust Fund.

(c) PURPOSE.—Income accruing from the Trust Fund principal shall be used to create the National Aeronautics and Space Administration Endeavor Teacher Fellowship Program, to the extent provided in advance in appropriation Acts. The Administrator is authorized to use such funds to award fellowships to selected United States nationals who are undergraduate students pursuing a course of study leading to certified teaching degrees in elementary education or in secondary education in mathematics, science, or technology disciplines. Awards shall be made pursuant to standards established for the fellowship program by the Administrator.

SEC. 21. DRUG AND ALCOHOL TESTING.

(a) SHORT TITLE.—This section may be cited as the "Civil Space Employee Testing Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) the success of the United States civil space program is contingent upon the safe and successful development and deployment of the many varied components of that program;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the positions affecting safety, security, and national security;

(4) the use of alcohol and illegal drugs has been demonstrated to adversely affect the performance of individuals, and has been proven to have been a critical factor in accidents in the workplace;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs in increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(c) TESTING PROGRAM.—(1) The Administrator shall establish a program applicable to employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(2) The Administrator shall, in the interest of safety, security, and national security, prescribe regulations within 18 months after the date of enactment of this Act. Such regulations shall establish a program which requires National Aeronautics and Space Administration contractors to conduct preemployment, reasonable suspicion, random, and post-accident testing of contractor employees responsible for safety-sensitive, security, or national security functions (as determined by the Administrator) for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension, disqualification, or dismissal of any employee to which paragraph (1) or (2) applies, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such employee has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.

(d) PROHIBITION ON SERVICE.—(1) No individual who is determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act shall serve as a National Aeronautics and Space Administration employee with responsibility for safety-sensitive, security, or national security functions (as determined by the Administrator), or as a National Aeronautics and Space Administration contractor employee with such responsibility, unless such individual has completed a program of rehabilitation described in subsection (e).

(2) Any such individual determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act who—

(A) engaged in such use while on duty;

(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (e);

(C) following such determination refuses to undertake such a rehabilitation program; or

(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties which such individual performed prior to the date of such determination.

(e) PROGRAM FOR REHABILITATION.—(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (c) in need of assistance in resolving problems with the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. Each contractor is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (c)(2). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any National Aeronautics and Space Administration contractor from establishing a program under this subsection in cooperation with any other such contractor.

(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

(f) PROCEDURES FOR TESTING.—In establishing the programs required under subsection (c), the Administrator shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the

individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the initial confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information of employees; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(g) EFFECT ON OTHER LAWS AND REGULATIONS.—(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or other that is inconsistent with the regulations promulgated under this section.

(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this Act that govern the use of alcohol and controlled substances by National Aeronautics and Space Administration employees with responsibility for safety-sensitive, security, and national security functions (as determined by the Administrator), or by National Aeronautics and Space Administration contractor employees with such responsibility.

(h) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.

Mr. GORE. Mr. President, I am pleased to bring to the Senate the final compromise version of the fiscal year 1992 authorization bill for the National Aeronautics and Space Administration. This bill has been approved by the House of Representatives and is now ready for final passage by the Senate. Approval of H.R. 1988 will provide needed congressional guidance to the President and NASA for the U.S. Space Program for fiscal year 1992 and many years to come.

Mr. President, this is the second time the Senate will have considered and adopted legislation authorizing funds for NASA's Civil Space and Aeronautics Research and Technology Program for fiscal year 1992. On September 27 of this year, the Senate approved a very similar bill reported by the Commerce Committee. I am pleased to advise my colleagues that the present bill incorporates may of the same provisions as the earlier Senate-passed bill.

Overall, this bill authorizes $14.896 billion for NASA for fiscal year 1992. This is significantly above the amount provided earlier this year by the Appropriations Committee, but nonetheless represents a reduction of nearly $600 million from the President's request.

It is my sincere belief that enactment of this bill, which combines funding priorities for this fiscal year with a series of policy provisions, will help ensure greater success for the U.S. space program. Such support is essential, as recent disappointments, such as the flawed mirror on the Hubble space telescope and the jammed antenna on the Galileo probe to Jupiter, have focused public attention on the risky nature of our space program. By focusing our authorization bill in ways that strengthen programs such as the Mission to Planet Earth, the end result will be a much stronger, more robust space program.

Mr. President, I will ask unanimous consent that a brief summary and explanation of H.R. 1988 be included in the RECORD at the end of my statement. For the benefit of my colleagues, however, I would like to highlight several of the specific program authorization levels included in this bill.

H.R. 1988 authorizes the full $2.03 billion requested for the space station Freedom Program, of which $18 million is authorized for initial design and development of an assured crew rescue vehicle.

While the bill makes significant reductions to the proposed NASA/DOD unmanned new launch system, pending the submission of detailed launch design studies and mission needs assessments, funding was authorized for continued propulsion technology work. The bill also provides $10 million for a new program to develop and validate component technology intended to help ensure the continued competitiveness of the U.S. commercial launch industry.

We have also agreed to continue funding authority for the comet rendezvous and asteroid flyby mission. This is a reversal from the earlier Senate-passed authorization bill and reflects a compromise with our colleagues in the House. However, should the planned European contribution to this mission fail to materialize during the coming year, the issue of continued funding for the CRAF mission will certainly be revisited by the subcommittee next year.

H.R. 1988 makes a number of changes to NASA's Earth Science Program, which I believe are critical to this bill. In addition to authorizing funds for the Earth observing system and Earth probes, the bill authorizes a series of funding enhancements above NASA's budget request, including $3 million for the development of a prototype data set using aircraft remote sensing data; $2 million for recovering deteriorating Landsat data; $5 million for the acquisition of Landsat data for global change research; $5 million for the procurement of long-lead parts for a Landsat 6 follow-on; and $1 million for the conversion of classified remote sensing data to civilian use.

In an effort to establish funding priorities, we have identified these and other programs as being in need of additional, albeit modest, funding in fiscal year 1992. Of course, I am aware that this authorization bill is being considered after the President has signed into law the appropriations bill that funds NASA. The constrained budget that came from that bill, NASA has argued, has left the agency with limited flexibility to allocate scarce funds. Nonetheless, it remains the responsibility of the authorizing committees to provide policy guidance to NASA on programs that need additional funding.

As we worked with our colleagues in the House to shape this compromise bill, NASA did not object to our language authorizing additional funds for the Earth science programs I just noted or several other programs. Accordingly, it is my expectation that the programs identified in our bill will be funded in the operating plan for fiscal year 1992, now being developed by the NASA Administrator.

Mr. President, I want to touch on two provisions that have been deleted from the final bill in an effort to reach a compromise. The first was the Senate authorization for the flight telerobotic servicer, a technology program that was originally intended to provide critical assembly and maintenance to the space station. Quite simply, we had no choice in this matter, as NASA put the FTS program at the bottom of its priorities for space technology programs. That made it virtually impossible to preserve, given existing funding limitations.

I am convinced, however, that the development of automation and robotics will play a central role in NASA's future exploration activities. More importantly, it will contribute to increased human productivity in other parts of the economy. It would be a mistake to relinquish all telerobotics flight activity to other countries. In fact, recent press accounts indicate that the Japanese, through the Toshiba Corp. and the National Space Development Agency, have begun discussions with NASA about obtaining the technology developed through NASA's FTS program in order that it can be incorporated into the Japanese space program. I strongly urge NASA to take advantage itself of the component developments of FTS and explore ways in which investments in both the hardware and software can be incorporated into programs that first provide benefit to this nation.

The final bill leaves in place the current U.S. policy which prohibits the use of foreign launch capabilities for U.S. Government satellites. In the bill first developed by the House, language was adopted outlining conditions under which this policy requirement could be waived. However, now that the decision has been made to upgrade our west coast launch facility, there is no known launch opportunity that would necessitate a deviation from our current launch policy. Accordingly, the waiver language was dropped from the final bill, with continued support for our current policy on launching U.S. Government satellites.

Mr. President, before concluding, there is one last item of importance in this bill that must be highlighted. I am speaking of the requirement that beginning next year, NASA provide to the Congress projected development costs for each major mission, program, and project for a 5-year period, as well as the projected life-cycle costs of each. As I have stated several times this year, information on NASA's long-term budget profile is needed to enable the Congress to better understand how funding decisions made in the current year create a wedge which affect future funding opportunities. This data is to be submitted at the time of the President's annual budget transmittal to the Congress and is to be specific to individual programs and missions, not simply NASA's broad disciplines. I strongly urge NASA to give careful attention to the development of the long-term budget data required in this bill, as it will have a very real impact on future funding decisions related to the U.S. space program.

Mr. President, I believe this legislation will help ensure that the United States maintain its leadership in space and aeronautics. I urge my colleagues to join me in supporting the passage of H.R. 1988.

I ask unanimous consent that the explanation be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF H.R. 1988

OVERVIEW AND SUMMARY OF MAJOR PROVISIONS

The Bill provides $14.896 billion in new budget authority and amends previously provided budgetary authority to authorize a total of $15.159 billion for F.Y. 1992. This represents a reduction of $594 million from the President's request.

The Bill also provides general new budget authority for the next two fiscal years in the amount of $15.601 billion for F.Y. 93 and $16.959 billion for F.Y. 94. These authorizations represent a 5% real growth per year, accounting for an annual inflation of 3.8%, from the fiscal year 1992 appropriated level.

Specific funding initiatives include the following:

The bill provides $2.029 billion, the full request, for Space Station Freedom. Of this amount, $18 million is authorized for design and development of an Assured Crew Return Vehicle.

Up to $40 million is provided for propulsion technology studies and $10 million for vehicle design studies including single stage to orbit vehicles in order to establish a firm technology base for a possible New Launch System. The Committee intends to thoroughly review the need for and potential roles of such a New Launch System pending the availability of a substantive program plan and detailed budget submission.

The bill provides, within Physics and Astronomy, $3 million to carry out scientific programs which were eliminated from the Station due to the reduction in attached payload accommodations.

Within Earth Sciences, the bill provides $5 million for Landsat data purchases at the cost of reproduction and authorizes funding for long lead Landsat parts in order to preclude a gap in data coverage. $1 million has been made available for other remote sensing data conversion from Defense related data bases and $3 million has been provided for a pilot study with the objective of making aircraft and satellite remote sensing data available for Global Change research in machine readable form. The Committee expects Department of Energy capabilities to be brought to bear on this effort. Finally, the bill provides $2 million for the conversion of archived Landsat data into a more durable medium. The Committee places a high priority on the maintenance of a consistent and usable set of Landsat data both in the past and in the future.

Within Space Technology, the Bill provides $10 million for solar power research and technology development and $10 million for a program of component technology development, validation and demonstration directed at commercial launch competitiveness. The Committee expects that, in carring out this program, close coordination and cooperation is established with the private sector and with Agency elements responsible for the procurement of launch services for Government payloads. One major goal of this program is to reduce the cost of launch services for the Government.

Also within the Space Technology account, the Bill provides $15 million for telerobotics research in order to capitalize on the investment made in the Flight Telerobotic Servicer program. The Committee expects that NASA will incorporate the results obtained to date in developing a robust long term activity in this area, and will explore ways in which hardware and software advances from the Flight Telerobotic Servicer program can be incorporated into future telerobotics designs.

Within Space Shuttle production and operational capability, $375 million has been made available for the Advanced Solid Rocket Motor program. The Committee recognizes that this amount contains $50 million which was transferred from the Construction of Facilities account but not specifically provided for in the Appropriations bill. The Committee does not wish to restrict NASA's budget authority for Construction of Facilities and therefore would support a reprogramming for ASRM, if necessary, to meet total F.Y. 1992 requirements for the program.

Also within this general account, the Committee has provided $112 million for the Assured Shuttle Availability program. A general $10 million reduction has been applied without prejudice.

Within Launch Services, funds have been authorized for the launch of the Mobile Satellite provided that all administrative and judicial uncertainties with respect to the status of the license are resolved and a plan of reimbursement from other Federal Agencies for their share of usage.

The bill amends previously provided budgetary authority for the Comet Rendezvous/Asteriod Flyby—Cassini program to reduce the amount available for F.Y. 1992 with a concomitant increase in the total program amount made available through program completion. The Committee has taken this action in view of the severe shortfall in agency wide appropriations in F.Y. 1992 but has maintained its commitment to a full program authorization. The Committee, however, will revisit this commitment in the event that foreign participation in this program does not materialize.

Special reprogramming authority for transatmospheric research and technology has been provided within the Research and Development account in order to provide NASA the flexibility to commit sustaining funds, in combination with appropriated amounts from Department of Defense, for the continuation of the National Aerospace Plane program.

The Bill establishes a Facility Maintenance Office within the Office of Management Systems and Facilities in order to centralize programmatic authority for planning, budgeting, and carrying out an agencywide facility maintenance program.

The Bill includes a provision which requires a special 5-year budget plan for developmental programs in excess of $200 million. The programs reported in this submission must include an estimate of life-cycle costs. For the purposes of this submission, life-cycle costs must include, as a minimum, ongoing annual mission operating budgets, data analysis programs, planned hardware upgrades, and other costs that will be incurred in future years. The intent of this provision is to provide the Committee with specific information to enable prudent decisions to be made in allocating funds for the immediate fiscal year.

The Bill includes a National Scholars Program feasibility study intended to review options for increasing the number of PhD recipients among economically disadvantaged groups.

The bill authorizes for the Department of Transportation up to $20 million for a program to ensure the resiliency of the Nation's space launch infrastructure by improving the efficiency and effectiveness of launch facilities. The availability of this authority is subject to the enactment of subsequent legislation establishing a grant type program for managing and allocating these funds.

The Bill establishes a drug and alcohol testing program for all safety-sensitive, security employees working at NASA or with NASA contractors. This testing program mandates random, pre-employment, post-accident, and reasonable suspicion testing, while authorizing periodic testing. While not mandating rehabilitation for an employee who tests positive, the Bill precludes such an individual from returning to a safety-sensitive, security, or national security position until a rehabilitation program has been completed.

The Bill directs the Administrator to incorporate Department of Health and Human Services guidelines on laboratories and testing procedures. In addition, the bill mandates a series of procedural safeguards which promote individual privacy, require the confirmation of drug and alcohol tests by a scientifically recognized method capable of providing quantifiable data, require split samples that will allow samples to be retested, provide for the confidentiality of test results, and ensure that the selection of employees for testing must be by nondiscriminatory and impartial methods.

The Committee recognizes that NASA has implemented a Drug-Free Workplace Program pursuant to Executive Order 12546 and that testing for illegal use of controlled substances by NASA employees has been conducted since March, 1989. The Committee has included this provision in the Bill to codify this existing drug testing program for employees in designated positions, as well as to require testing for alcohol and to extend these testing requirements to NASA contractors in certain positions. Enactment of this section is not intended to disturb the drug testing program already underway at NASA. Nor is it the Committee's intent to expand the testing population beyond the pool of testing designated positions already identified by NASA. NASA has done a great deal of work in the drug testing area and this language is not intended to threaten the validity or the scope of the current program.

Mr. HOLLINGS. Mr. President, the bill before us represents a final compromise with the House on the National Aeronautics and Space Administration authorization bill for fiscal year 1992. The House of Representatives passed H.R. 1988 as amended on November 7. Senate concurrence today will send this legislation to the President. I urge my colleagues to join me in supporting final passage of this bill.

Mr. President, given our current fiscal situation and projections of a Federal budget deficit for fiscal year 1992 that may reach $350 billion, there can be no doubt that spending priorities must be established. This is true not just for NASA, but for the entire Federal budget. Accordingly, during consideration of this compromise bill, we have worked to make program reductions in certain areas to help establish funding priorities for fiscal year 1992 and the remainder of the decade.

In total, the legislation authorizes $14.9 billion for NASA's space and aeronautics research and technology development programs for fiscal year 1992. When combined with the existing multiyear authorization for the CRAF and Cassini missions, the effective fiscal year 1992 program level for NASA provided by this bill is $15.1 billion, which represents a reduction of $595 million from the President's request. The bill also authorizes funding for the National Space Council, the Office of Commercial Space Transportation in the Department of Transportation [DOT], and the Office of Space Commerce in the Department of Commerce.

Mr. President, the bill before us also authorizes a total funding level for NASA for fiscal year 1993 and 1994. These authorizations were in the original House-passed bill and are intended to serve as a reference point for NASA and the Office of Management and Budget in developing budgets for the next 2 years. These authorizations, however, will not obviate the need for an authorization bill next year, as we still will need to authorize the specific program funding levels. While agreeing to the inclusion of this provision, I continue to believe that an annual authorization bill is important in our effort to maintain adequate congressional oversight of the many programs that comprise the U.S. space program.

The legislation includes a number of policy provisions that will help the effectiveness of our space program. Foremost of these is the requirement that NASA establish a drug and alcohol testing program for all safety-sensitive, security, and national security employees working at NASA or with NASA contractors. In a program patterned after the drug and alcohol testing program established for transportation safety-sensitive and security workers in the recently-enacted transportation appropriations bill—Public Law 102-143—this bill requires random, preemployment, postaccident, and reasonable suspicion testing. The bill also allows periodic testing should the Administrator of NASA determine such testing is needed.

Mr. President, NASA currently has in place a testing program in which approximately 2,300 individuals in designated safety sensitive, security, and national security positions are tested for controlled substances. This legislation codifies that testing program and extends it to require testing of these same employees for alcohol, as well as to individuals in safety-sensitive, security, and national security positions with NASA contractors.

Billions of taxpayer dollars are being invested in the development of many risky and technically complex projects for the civil space program. it is therefore incumbent upon us to do all that we can to make the space program as reliable and safe as possible. Drug and alcohol testing will serve as an invaluable tool in that regard.

The enactment of this legislation is not intended to disturb the testing for controlled substances already conducted by NASA. The agency has done a greal deal of work in this area, and H.R. 1988 is not intended to threaten the validity or the scope of the current testing program.

Of course, a testing program of this type needs safeguards that provide all possible protection to ensure the accuracy of test results and to protect innocent employees. This bill accomplishes this objective by requiring that testing follow Department of Health and Human Services [HHS] guidelines; the initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the test results and medical histories be protected.

With respect to alcohol testing, Mr. President, I urge NASA to work with officials at HHS and DOT in developing standards for impairment. The expertise that has been developed at these two Federal agencies will help to ensure that NASA successfully complies with the 18-month deadline required by this bill for implementing the new testing program. This is a longer period of time than was provided in the transportation appropriations law, as officials at DOT have done more work in developing an alcohol testing program for transportation workers. The alcohol testing requirements in this bill will ensure that designated employees within NASA and with NASA contractors do not drink and perform safety-sensitive, security, or national security activities.

Concerning random alcohol testing, the testing provisions in H.R. 1988 give NASA sufficient authority to develop rules to determine when testing will occur. The authority will allow NASA to require random tests centered around the time of employee performance. This legislation gives NASA ample authority to focus the rules and procedures appropriately and the ability to avail itself of the latest techniques, such as breathalyzers, to carry out the testing.

Mr. President, we have worked hard this year to ensure that those who drink alcohol or use illegal drugs are removed from jobs that can adversely affect public safety or national security. The testing program established under this legislation will further our efforts to protect that public interest. I urge my colleagues to join in final passage of this legislation.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL CIVILIAN EMPLOYEES REMEMBRANCE DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 198 designating "Federal Civilian Employees Remembrance Day" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1429

Mr. MITCHELL. On behalf of Senator Akaka, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The bill check read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. AKAKA proposes an amendment numbered 1429:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1429) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 198) and its preamble are as follows:

S.J. RES. 198

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and high level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickam Airfield, Kaneohe Naval Air Station, Bellows Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Airfield;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificently that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar Nos. 148 and 237 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL CORRECTIONS IN THE JUDICIAL IMPROVEMENTS ACT OF 1990

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1284.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1284) entitled "An Act to make certain technical corrections in the Judicial Improvements Act of 1990", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Chapter 23 of title 28, United States Code, as added by section 103 of the Judicial Improvements Act of 1990, is amended—

(1) in section 471 by striking "this title" and inserting "this chapter"; and

(2) in section 474(a)—

(A) in paragraph (1)—

(i) by striking "chief judges" and inserting "chief judge"; and

(ii) by striking "court of appeals for such"; and

(B) in paragraph (2)—

(i) by striking "a court of appeals" and inserting "a circuit may designate another judge of the court of appeals of that circuit,"; and

(ii) by striking "court to perform the chief" and inserting "court, to perform that chief".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by —

(1) striking the comma after "title"; and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)), as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) TEACHING COMPENSATION OF JUSTICES AND JUDGES RETIRED FROM REGULAR ACTIVE SERVICE.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United States Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

"(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

SEC. 7. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) RETIREMENT OF JUDGES OF THE CLAIMS COURT.—Section 178 of title 28, United States Code, as added by section 306(a) of the Judicial Improvements Act of 1990, is amended—

(1) in subsection (f)(2)(A) by inserting "(except for subchapters III and VII)" after "chapter 84"; and

(2) in subsection (j)—

(A) in paragraph (1)—

(i) by striking "(2)" and inserting "(4)"; and

(ii) by striking "so practices law" and inserting "engages in any such activity";

(B) in paragraph (2) by striking "If" and inserting "Subject to paragraph (4), if"; and

(C) in paragraph (3) by inserting "for" after "(other than".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8339(n) of title 5, United States Code, as amended by section 306(c)(4) of the Judicial Improvements Act of 1990, is amended by inserting a comma after "United States commissioner".

(c) THRIFT SAVINGS PLAN.—(1) The section 8440b of title 5, United States Code, entitled "Claims Court Judges", as added by section 306(d) of the Judicial Improvements Act of 1990, is amended—

(A) by redesignating such section as section 8440c; and

(B) in subsection (b)—

(i) in paragraph (4)(A) by striking "subsection (d)" and inserting "subsection (c)";

(ii) by striking paragraph (7) and redesignating paragraph (8) as (7); and

(iii) by adding at the end the following:

"(8) Notwithstanding paragraph (4)(B), if any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an annuity under section 178 of title 28, and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding paragraph (4)(A), if any Claims Court judge retires under circumstances making such judge eligible to make an election under section 8433(b), and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440b. Claims Court judges."

and inserting after the last item under subchapter III the following:

"8440c. Claims Court judges."

(3) Paragraphs (8) and (9) of section 8440c(b) of title 5, United States Code (as added by paragraph (1)) shall be effective as of January 1, 1991, and shall apply to any Claims Court judge retiring on or after such date.

(4)(A) The section 8440c of title 5, United States Code, entitled "Judges of the United States Court of Veterans Appeals" is amended by redesignating such section as section 2440d.

(B) The table of sections at the beginning of subchapter III of chapter 84 of title 5, United States Code, is amended by striking

"8440c. Judges of the United States Court of Veterans Appeals."

and inserting

"8440d. Judges of the United States Court of Veterans Appeals."

(C) Section 5(b) of Public Law 102–82 is amended—

(i) by striking "8440c" and inserting "8440d"; and

(ii) by striking "(as added by subsection (a))".

(D) section 7296(f)(2)(A) of title 38, United States Code, as amended by section 5(c)(1) of Public Law 102–82, is amended by striking "8440c" and inserting 8440d".

(E) section 7297(n) of title 38, United States Code, as amended by section 5(c)(2) of Public Law 102–82, is amended by striking "8440c" and inserting 8440d".

(d) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8402(g) of title 5, United States Code, as added by section 306(e) of the Judicial Improvement Act of 1990, is amended by inserting a comma after "such chapter".

SEC. 8. NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL.

(a) MEMBERSHIP.—Section 411 of the National Commission on Judicial Discipline and Removal Act (title IV of the Judicial Improvements Act of 1990) (28 U.S.C. 372 note) is amended by striking subsections (e) and (f) and redesignating subsections (g) through (h) as subsections (e) through (f), respectively.

(b) CLERICAL AMENDMENTS.—(1) The subtitle heading for subtitle II of the Judicial Discipline and Removal Reform Act of 1990 is amended by striking "Impeachment" and inserting "Discipline and Removal".

(2) Section 409 of the National Commission on Judicial Discipline and Removal Act (28 U.S.C. note) is amended by striking "hereafter" and inserting "hereinafter".

SEC. 9. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

Section 318(c) of the Judicial Improvements Act of 1990 is amended by striking "March 31, 1992" and inserting "March 31, 1993".

SEC. 10. OTHER TECHNICAL CORRECTIONS TO TITLE 28, UNITED STATES CODE.

(a) PROCEDURE FOR REMOVAL.—Section 1446 of title 28, United States Code, is amended—

(1) by striking "petition for" each place it appears and inserting "notice of";

(2) in subsection (c)(3), by striking "petition is first denied" and inserting "prosecution is first remanded";

(3) by striking paragraphs (4) and (5) of subsection (c) and inserting the following:

"(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

"(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.";

(4) by striking "petition" each place it appears and inserting "notice"; and

(5) in subsection (d)—

(A) by striking "the removal" and inserting "removal"; and

(B) by striking out "and bond".

(b) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447(b) of title 28, United States Code, is amended by striking "petitioner" and inserting "removing party".

(c) APPOINTMENT OF CIRCUIT JUDGES.—Section 44(c) of title 28, United States Code, is amended by striking "this Act" and inserting "the Federal Courts Improvement Act of 1982".

SEC. 11. AMENDMENTS TO RULES OF CIVIL PROCEDURE.

(a) TECHNICAL AMENDMENT.—Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking "Rule 4(m)" and inserting "Rule 4(j)".

(b) AMENDMENT TO FORMS.—Form 1–A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1–B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18–A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date.

SEC. 12. CONFORMITY WITH RULES OF APPELLATE PROCEDURE.

Section 2107 of title 28, United States Code, is amended—

(1) by designating the first and second paragraphs as subsections (a) and (b), respectively;

(2) by striking the third and fourth paragraphs;

(3) by designating the fifth paragraph as subsection (d); and

(4) by inserting after subsection (b), as so designated, the following:

"(c) The district court may, upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, extend the time for appeal upon a showing of excusable neglect or good cause. In addition, if the district court finds—

"(1) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry, and

"(2) that no party would be prejudiced,

the district court may, upon motion filed within 180 days after entry of the judgment or order or within 7 days after receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.".

Amend the title so as to read: "An Act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts.".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 344, H.R. 3029, making technical corrections to agricultural laws.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3029) to make technical corrections to agricultural laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SEC. 2 TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.
Sec. 120. Payment options for winter wheat producer.
Sec. 121. Modification of milk production termination program.
Sec. 122. Cotton classing fees.
Sec. 123. Sense of Congress regarding targeted option payments.
Sec. 124. Transfer of peanut quota undermarketings.
Sec. 125. Cotton futures contracts.
Sec. 126. Report on lamb price and supply reporting services of the Department of Agriculture.
Sec. 127. Cotton first handler marketing certificates.

TITLE II—CONSERVATION
Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the future.
Sec. 204. Amendments to the Food Security Act of 1985.
TITLE III—TRADE RELATED TECHNICAL CORRECTIONS
Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendments to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing of United States agricultural expertise.
Sec. 339. Competitive insurance.
TITLE IV—RESEARCH
Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Miscellaneous research provisions.
Sec. 407. Sustainable agriculture research and education.
TITLE V—CREDIT
Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE
Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.
TITLE VII—RURAL DEVELOPMENT
Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.
TITLE VIII—AGRICULTURAL PROMOTION
Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.
TITLE IX—FOOD AND NUTRITION PROGRAMS
Subtitle A—Food Stamp Program
Sec. 901. Certification period.
Sec. 902. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 903. Categorical eligibility for recipients of general assistance.
Sec. 904. Exclusions from income.
Sec. 905. Resources that cannot be sold for a significant return.
Sec. 906. Resource exemption for households exempt under AFDC or SSI.
Sec. 907. Technical amendment on transitional housing.
Sec. 908. Notices to monthly reporting households.
Sec. 909. Performance standards for employment and training programs.
Sec. 910. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 911. Value of allotment.
Sec. 912. Prorating within a certification period.
Sec. 913. Codification of limitation on recovery of stale claims.
Sec. 914. Recovery of claims caused by nonfraudulent household errors.
Sec. 915. Demonstration projects for vehicle exclusion limit.
Sec. 916. Definition of retail food store.
Subtitle B—Commodity Distribution and Children's Programs
Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Rules relating to food stamp retailers and wholesalers.
Sec. 923. Child care clarification.
Sec. 924. Homeless children's feeding projects.
Sec. 925. Reduction of Federal paperwork for distribution of commodities.
Sec. 926. Advance funding for commodity purchases.
Subtitle C—Farmers' Market Nutrition Program
Sec. 931. Purpose.
Sec. 932. Farmers' market nutrition program.
Sec. 933. Conforming amendment.
Subtitle D—Procurement of Infant Formula for WIC
Sec. 941. Definitions.
Sec. 942. Procurement of infant formula for WIC.
Sec. 943. Procedures to reduce purchases of low-iron infant formula.
Sec. 944. Incentive to encourage joint purchasing of infant formula.
Sec. 945. Technical assistance.
Subtitle E—Indian Subsistence Farming Demonstration Grant
Sec. 951. Purposes.
Sec. 952. Definitions.
Sec. 953. Indian subsistence farming demonstration grant program.
Sec. 954. Training and technical assistance.
Sec. 955. Tribal consultation.
Sec. 956. Use of grants.
Sec. 957. Amount and term of grant.
Sec. 958. Other requirements.
Sec. 959. Authorization for appropriations.
Subtitle F—Technical Amendments
Sec. 961. Technical amendments to the Food Stamp Act of 1977.
Sec. 962. Amendment relating to the Hunger Prevention Act of 1988.
TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS
Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.
Sec. 1010. Perishable agricultural commodities.
Sec. 1011. Egg products inspection.
Sec. 1012. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1013. Grant to prevent and control potato diseases.
Sec. 1014. Collection of fees for collection services.
Sec. 1015. Meat and poultry inspection.
Sec. 1016. Fees for laboratory accreditation.
TITLE XI—EFFECTIVE DATE
Sec. 1101. Effective date.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b-3a(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441-2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) Announcements.—

"(i) Preliminary announcement.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) Final announcement.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) Corn and sorghum bases.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) Rice.—Section 101B(e)(4)(B) (7 U.S.C. 1441-2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) Approval of cover crops and practices.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(b) Cotton.—Section 103B(e)(4)(B) (7 U.S.C. 1444-2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) Approval of cover crops and practices.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(c) Feed Grains.—Section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) Approval of cover crops and practices.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(d) Wheat.—Section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) Approval of cover crops and practices.—The Secretary, in carrying out subclause

(I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) Issuance.—Section 103B(a)(5)(E) (7 U.S.C. 1444–2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) Issuance.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) Exception.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) Prevailing World Market Price.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444–2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) Malting Barley.—

"(1) Assessment required.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) Value of malting barley.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) Exception to assessment.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(2) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) Sugar Price Support and Marketing Assessments.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) Supplementary Nonrecourse Loans.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) Sugarcane.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) Sugar beets.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) Collection.—

"(A) Timing.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) Manner.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) Security Interests.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) Sugar Cane and Sugar Beets.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) Sugar Information Reporting.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) Duty of Processors, Refiners and Manufacturers to Report.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including such person's purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include any products derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2), adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner, establish such marketing allotments for the fiscal year or any portion of such fiscal year, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugar-

cane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) dry peas (limited to: Austrian peas, wrinkled, seed, green, yellow, and umatilla), lentils, or mung beans.".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441–2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444–2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444–2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b–3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o); and

(ii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a), by striking "Administrator of Veterans' Affairs" both places it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,";

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)"; and

(13) in section 503 (7 U.S.C. 1463), by adding at the end the following new subsection:

"(i) TEMPORARY TRANSFER OF BASES.—Notwithstanding any other provision of this sec-

tion, in the event of a natural disaster that prevents producers on a farm from planting all or a portion of a program crop acreage base on a farm, the Secretary may provide for the transfer for that crop year of some or all of the crop acreage bases between farms owned or operated by the same producers, under such terms and conditions as are determined appropriate by the Secretary.".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) In General.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) Funds.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) Price Support for High Moisture Feed Grains.—

(1) In general.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) Price Support for High Moisture Feed Grains.—

"(1) Recourse loans.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) Eligibility of acquired feed grains.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) Conforming amendment.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) Section Redesignation.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) Conforming Amendments as Result of Redesignations.—

(1) Price support program.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) Marketing Quotas.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) Missing Language.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) Missing Language.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) Extra Language.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) Amendment to Food and Agriculture Act of 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be

in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. PAYMENT OPTIONS FOR WINTER WHEAT PRODUCER.

Notwithstanding any other provision of law, if the producers on a farm were prevented from planting winter wheat in 1990 for harvest in 1991 as the result of drought, the producers shall be eligible to exercise the payment options described in section 107B(p) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(p)) for the 1991 crop of wheat, whether or not the producers timely filed a request for prevented planting credit with the Secretary of Agriculture.

SEC. 121. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

SEC. 122. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 123. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 124. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 125. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 126. REPORTING ON LAMB PRICE AND SUPPLY REPORTING SERVICES OF THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry.

(b) FACTORS.—In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

SEC. 127. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b), by striking "AFFECT" and inserting "EFFECT"; and

(3) in subsection (c), by inserting "and" after "Animal".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

The Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended to read as follows:

"CHAPTER 2—FARMLAND PROTECTION

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan.

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that on or before August 1, 1991—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means a trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468, in which Federal funds or eligible loans received under this chapter are deposited, or will be deposited, for use by the trust fund.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for loans made by lending institutions to State trust funds.

"(2) ASSISTANCE.—Under the program, the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan made by lending institutions to State trust funds and shall for each such 10-year period subsidize the interest on the loans at the allowable interest rate for the first 5 years after the loan is made, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH ELIGIBLE STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan made by lending institutions to each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under procedures developed by the Secretary, during each of the first 5 years after the date on which each such loan is made; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each loan the State trust fund receives from any given lending institution, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the purchase of stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall purchase the stock within 1 day of the stock being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Treasury fails to comply with the requirements of this chapter or otherwise fails to provide the funding required by this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall purchase stock offered by the Secretary under subsection (c) on the day offered and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in section (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under section (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings, to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the loans guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loan guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date a State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board) by the pilot project State, political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any Funds provided by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) MATCH AND MAXIMUM AMOUNT.—

"(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

"SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

"(a) IN GENERAL.—This chapter shall become effective on October 1, 1990.

"(b) AGREEMENT WITH VERMONT.—Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State.

"(c) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.

"SEC. 1471. COMPTROLLER GENERAL REPORTS.

"On December 1 of each of the years 1991 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1472. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking "fall and winter"; and

(2) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

TITLE III—TRADE RELATED TECHNICAL CORRECTIONS

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for transmission with the annual report.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

"'(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.'".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

(a) In General.—Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended to read as follows:

"SEC. 1110. FOOD FOR PROGRESS PROGRAM.

"(a) Short Title.—This section may be cited as the 'Food for Progress Act of 1985'.

"(b) Establishment.—There is established a program to be known as the 'Food for Progress Program' (hereafter in this section referred to as the 'Program').

"(c) Agreements.—The President may enter into agreements with eligible countries (as described in subsection (e)), or with private voluntary organizations, businesses, or cooperatives, to provide agricultural commodities under this section to support the democratization of the governments of the countries, the granting of individual liberties to the people of the countries, the development of a free market economy, and the promotion of economic growth and freedom within the countries.

"(d) Types of Assistance.—Commodities made available under this section may be provided on a grant basis, on credit terms, or on such other terms as are determined by the President.

"(e) Eligible Countries.—To be eligible to participate in the program established under this section, a country shall, as determined by the President—

"(1) have begun the transformation of the system of government of the country from a nonrepresentative type of government to a representative democracy; or

"(2) have made commitments to introduce or expand free enterprise elements in the economy of the country.

"(f) Commodity Credit Corporation.—

"(1) Duties.—The Commodity Credit Corporation shall—

"(A) make such agricultural commodities available to the President as are determined under section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) to be available to carry out agreements entered into by the President under this section; and

"(B) finance the sale and exportation of commodities made available under this section to the extent necessary to carry out agreements entered into by the President under this section.

"(2) Purchase of commodities.—The Commodity Credit Corporation may purchase commodities for use under this section if—

"(A) the Commodity Credit Corporation does not hold stocks of the commodities at the time of the purchase; or

"(B) Commodity Credit Corporation stocks at the time of the purchase are insufficient to satisfy commitments made in agreements entered into under this section and the commodities are needed to fulfill the commitments.

"(3) Expenses.—In connection with the Program under this section, the Commodity Credit Corporation may pay—

"(A) the cost of acquiring the commodities;

"(B) the costs associated with packaging, enrichment, preservation, and fortification of the commodities;

"(C) the processing, transportation, handling, and other incidental costs up to the time of the delivery of the commodities free on board vessels in United States ports;

"(D) the ocean freight charges from United States ports to designated ports of entry abroad;

"(E) the costs associated with transporting the commodities from United States ports to designated points of entry abroad in the case—

"(i) of landlocked countries;

"(ii) of ports that cannot be used effectively because of natural or other disturbances;

"(iii) of the unavailability of carriers to a specific country; or

"(iv) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(F) in the case of commodities for urgent and extraordinary relief requirements (including prepositioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(G) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"(4) Limitation on expenditures.—No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of any commodities) in each fiscal year shall be used to carry out this section unless the excess is authorized in advance in appropriations Acts.

"(5) Title I transfers.—Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to carry out this section with respect to commodities made available under such Act.

"(g) Agreements.—If the President enters into an agreement with a private voluntary organization, business, or cooperative under this section, the agreement—

"(1) shall require the organization, business, or cooperative to use any commodities provided to it under this section to carry out the purposes of this section;

"(2) may permit the organization, business, or cooperative to sell or barter any commodities provided to it under this section, and use the amounts generated through the sale or barter—

"(A) to promote the establishment and expansion of private enterprise in the recipient country;

"(B) to aid in the availability of food in the recipient country through improved agricultural research, processing, transportation and marketing systems, and instruments of production in the country; and

"(C) to help develop commercial markets for the purchase of agricultural commodities; and

"(3) shall contain such other terms and conditions as are determined necessary by the President.

"(h) Multiyear Basis.—An agreement entered into under this section may provide for commodities to be made available on a multiyear basis subject to the availability of funds and commodities.

"(i) Transshipment of Commodities.—An agreement entered into under this section shall prohibit the resale or transshipment of the commodities made available under the agreement to other countries, unless the resale or transshipment is authorized by the President.

"(j) Displacement.—In carrying out this section, the President shall, to the extent practicable, avoid the displacement of any sales of United States agricultural commodities that would otherwise be made to eligible countries and avoid disrupting foreign and domestic markets for United States agricultural commodities.

"(k) Restrictions on Agreements.—No agreement shall be entered into under this section if the agreement would result in—

"(1) the inability of the Commodity Credit Corporation to provide sufficient commodities to carry out food assistance programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or domestic commodity and disaster assistance programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or agricultural trade programs established under the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.);

"(2) a shortage in the domestic supply of any commodities that would be required under the terms of the agreements; or

"(3) the inability of the Commodity Credit Corporation to maintain adequate carryover stocks to meet any emergency, the requirements of the Agricultural Act of 1949, or the requirements of any other Act.

"(l) Report of President.—Not later than January 15 of each year after a year in which an agreement entered into under this section is in effect, the President shall prepare and submit, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the commodities and funds made available under this section during the previous fiscal year. The report may be combined with other reports required to be submitted to Congress under the Agricultural Trade Development and Assistance Act of 1954 or the Agricultural Trade Act of 1978.".

(b) Conforming Amendments.—

(1) Combination of programs.—Section 205 of the Agricultural Trade Act of 1978 (7 U.S.C. 5625) is amended—

(A) by striking "The" and inserting "(a) Blended Credit Program.—The"; and

(B) by adding at the end the following new subsection:

"(b) Food for Progress Program.—The programs authorized under this title may be used in conjunction with, and for the purposes specified under, section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o).".

(2) Direct credit program.—Section 201 of such Act (7 U.S.C. 5621) is amended by adding at the end the following new subsection:

"(f) Repayment in Foreign Currencies.—The Secretary may waive the requirement in subsection (e) that payment of principal and interest be made in only United States dollars if the Secretary determines that the waiver would significantly aid in the development of the importing country as a foreign market for the commercial sale and export of agricultural commodities.".

SEC. 336. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) Debt Forgiveness.—The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

(b) Coordination of Foreign Assistance Programs.—The first sentence of section 413 of such Act (7 U.S.C. 1736g) is amended by striking "this Act" and inserting "title III".

SEC. 337. REPORTING REQUIREMENTS.

Notwithstanding any other provision of law, the Secretary of Agriculture shall not issue a final regulation to carry out section 214 of Public Law 98–180 (7 U.S.C. 509).

SEC. 338. SHARING OF UNITED STATES AGRICULTURAL EXPERTISE.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States' agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies."; and

(2) in paragraph (9), by striking "$5,000,000" and inserting "$10,000,000".

SEC. 339. COMPETITIVE INSURANCE.

Title II of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 et seq.) is amended by adding at the end the following new section:

"SEC. 206. COMPETITIVE INSURANCE.

"(a) INTERMEDIATE FINANCING AND CREDIT GUARANTEES.—In the case of any intermediate-term financing under section 201 or intermediate-term credit guarantee under section 202, of an amount of at least $10,000,000, the Secretary shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction supported by the loan or guarantee.

"(b) REFERRAL TO THE SECRETARY OF COMMERCE.—In any case in which the Secretary finds that a fair and open competitive opportunity is not available to United States insurance companies in a country with respect to which the Secretary is considering a loan or guarantee, the Secretary shall forward to the Secretary of Commerce information regarding any country that denies United States insurance companies fair and competitive opportunities. The Secretary of Commerce shall determine whether to—

"(1) refer the trade barrier to the Trade Policy Committee created pursuant to section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872); or

"(2) bring the matter before the Trade Promotion Coordinating Council, created by section 3 of Executive Order No. 11846 of March 27, 1975 (19 U.S.C. 2111 note), for consideration of a recommendation to the President that access by the country to official export credit be restricted.".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89–106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR–4 program" and inserting "IR–4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3744) is amended—

*(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and*

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101–624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c)(2) (7 U.S.C. 5928(c)(2)), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 407. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331e.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—

(1) INDIAN LANDS.—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(A) in subparagraph (D)(i), by inserting "If" and inserting "Except as provided in subparagraph (F), if";

(B) in subparagraph (D)(i)(II), by striking "such" and inserting "an"; and

(C) by adding at the end the following new subparagraph:

"(F)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

"(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

"(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

"(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided for in subparagraph (D), as modified by this subparagraph.

"(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

"(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

"(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

"(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

"(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

"(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, the fact that—

"(aa) the Secretary may foreclose on the property;

"(bb) the property will be offered for sale;

"(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher, but that the property may be purchased by another party; and

"(dd) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

"(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

"(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that is in the best interests of the Federal government.

"(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(I) the sale;

"(II) the fair market value of the property; and

"(III) the requirements of this subparagraph.

"(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

"(aa) the fair market value of the property; or

"(bb) the outstanding principal and interest of the loan.

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal government.".

(2) BORROWER-OWNER.—Section 335(e)(1) of such Act (as amended by paragraph (1)) is further amended—

(A) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (G)"; and

(B) by adding at the end the following new subparagraph:

"(G) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, for the export of agricultural commodities and products from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance covers at least 95 percent of the amount loaned for the purchase of the commodities or products.

"(3) A bank for cooperatives is authorized to provide such international banking services as are customarily provided within the banking industry, to the extent the services are convenient or useful to the bank in carrying out the activities specified in paragraphs (1) and (2). The services include—

"(A) providing a full line of correspondent banking services, such as advising or confirming letters of credit covering any commodity or product without requiring financing, collections, wire transfers, or payment orders; and

"(B) issuing standby letters of credit to satisfy requirements for bid or performance bonds related to the export of agricultural commodities and products from the United States.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENT TO SECTION 3.7(f).—The first sentence of section 3.7(f) (12 U.S.C. 2128(f)) is amended to read as follows: "The banks for cooperatives may make and participate in loans and commitments and extend other technical and financial assistance to—

"(1) cooperatives formed specifically for the purpose of establishing or operating water or waste disposal facilities in rural areas; and

"(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate water or waste disposal facilities in rural areas.".

(g) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1)—

(A) by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C); and

(B) by adding at the end the following new subparagraph:

"(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.".

(h) AMENDMENT TO SECTION 4.9(d)(2).—Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

"(2) NON-VOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

"(B) MEETINGS.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

"(C) TERMINATION OF ASSISTANCE BOARD.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.".

(i) AMENDMENT TO SECTION 4.21.—Section 4.21 of such Act (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF BANK DIRECTORS.

"The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not adversely affect the safety and soundness of the bank.".

(j) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(k) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(l) AMENDMENT TO SECTION 5.17(b).—Subsection (b) of section 5.17 of such Act (12 U.S.C. 2252(b)) is amended to read as follows:

"(b) The Farm Credit Administration shall not have authority, either directly or indirectly—

"(1) to approve bylaws, or any amendments, modifications, or changes to bylaws, of System institutions; or

"(2) to approve the salary scale, compensation, or benefit or retirement plans for employees of System institutions.".

(m) AMENDMENT TO SECTION 5.19(a).—The fourth sentence of section 5.19(a) of such Act (12 U.S.C. 2254(a)) is amended by inserting after "shall include" the following: "an analysis of the compensation paid directors,".

(n) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(o) AMENDMENT TO SECTION 5.58(4)(B) of such Act (12 U.S.C. 2277a–7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(p) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a–14(d)(1)) is amended by striking "insured".

(q) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a–2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(r) AMENDMENTS TO SECTION 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b–3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(s) AMENDMENT TO SECTION 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

(t) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(u) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa–6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i); and

(B) by striking "such Act" in clause (i) and inserting "such section".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926–1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa-1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa-1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary may make grants to consortia of academic medical centers and land grant colleges and universities for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or consortia (as provided in paragraph (1)(C))".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Agricultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. CERTIFICATION PERIOD.

The proviso of section 3(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)(2)) is amended by inserting after "period may be up to" the following: "(A) twenty-four months for any household that has no other source of nonexcluded income other than supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.) or retirement benefits under title II of such Act (42 U.S.C. 401 et seq.), or (B)".

SEC. 902. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 903. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 904. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "used for" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or pur-

chase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 905. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to determine the value of a resource to be excluded under this paragraph if the State agency determines that the valuation is unnecessary and the basis for the determination is recorded.".

SEC. 906. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 907. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 908. NOTICES TO MONTHLY REPORTING HOUSEHOLDS.

Section 6(c)(2)(D) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(2)(D)) is amended—

(1) by striking "accordingly) and" and inserting "accordingly),"; and

(2) by inserting after "section 11(e)(10) of this Act," the following: "and, if the household fails to file by an extended deadline, be afforded notice consistent with section 11(e)(10),".

SEC. 909. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes and improvements in household members' educational levels.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 910. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 911. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 912. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or the termination of a certified household when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 913. CODIFICATION OF LIMITATION ON RECOVERY OF STALE CLAIMS.

(a) IN GENERAL.—Section 13(b) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Action to recover claims shall be taken with reasonable promptness.

"(B) The State agency shall take action on those claims for which 12 months or less have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case of overissuance and may choose to take action on those claims for which more than 12 months have elapsed.

"(C) No action shall be taken on claims for which more than 6 years have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case involving an overissuance.".

(b) APPLICATION.—The amendment made by this section shall not apply to the two pilot projects conducted, in conjunction with the Internal Revenue Service, to intercept Federal tax refunds to satisfy claims arising under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), initiated before the date of enactment of this Act.

SEC. 914. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 915. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

(a) IN GENERAL.—Section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) is amended by striking "The" and inserting "Not later than October 1, 1992, the".

(b) REQUESTS TO PARTICIPATE.—The Secretary of Agriculture shall solicit requests to partici-

pate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by April 1, 1992.

SEC. 916. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99–570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution and Children's Programs

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. RULES RELATING TO FOOD STAMP RETAILERS AND WHOLESALERS.

(a) Special Rules.—The Secretary of Agriculture shall, in issuing regulations regarding disqualification from participation or the participation of a retail store, wholesale store, or other vendor in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or the special supplemental food program for women, infants and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), minimize (to the extent consistent with section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2016)) the imposition of disqualification penalties for the store or vendor where the violation occurred in circumstances in which a program violation is not caused by a manager, operator, or owner of the store or vendor (where the violation occurred) but rather is caused by a nonmanagement employee (such as a check-out clerk, a person without final authority to hire and fire store employees, a janitor, or a bagger) working in the store or location where the violation occurred.

(b) Contrary Regulations of No Effect.—Any regulations issued in violation of this section shall be of no force and effect.

SEC. 923. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by inserting after "25 percent" the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less, and".

SEC. 924. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) In General.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public bodies, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "and not less than $350,000 in fiscal year 1991, $550,000 in fiscal year 1992, $650,000 in fiscal year 1993, and $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public bodies, and shall advise each State of the procedures for applying to participate in the project.".

(b) Other Means.—The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

SEC. 925. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in subsections (b)(3) and (b)(6), by striking "to needy" each place it appears and inserting "to hungry or needy";

(2) in subsection (c) by striking "to needy persons" and inserting in lieu thereof "to hungry or needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy or hungry persons"; and

(3) by adding at the end the following new subsection:

"(j) Priority System for State Distribution of Commodities.—

"(1) Soup kitchens.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) Institutions that serve only low-income recipients.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy or the hungry. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) Other institutions.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy or hungry persons.".

SEC. 926. ADVANCE FUNDING FOR COMMODITY PURCHASES.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by inserting after section 3A the following new section:

"SEC. 3B. ADVANCE FUNDING FOR COMMODITY PURCHASES.

"(a) In General.—The Secretary may use the funds, services, and facilities of the Commodity Credit Corporation to purchase commodities for the domestic food assistance programs administered by the Secretary. Notwithstanding any other provision of law, the purchases may be made in advance of the fiscal year in which the purchases will be delivered for use in the programs. If no appropriation exists for the fiscal year of delivery, the use of funds under this section shall not exceed the appropriation amounts for the fiscal year prior to the fiscal year of delivery.

"(b) Reimbursement.—Subject to available appropriations, the Secretary shall reimburse the Commodity Credit Corporation for the amount of funds advanced under this section using funds from the appropriate domestic food assistance program account.

"(c) Settlement and Adjustment of Claims.—

"(1) In general.—Notwithstanding any other provision of law, the Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under a domestic food assistance program administered by the Secretary; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the particular domestic food assistance program.

"(2) Litigation.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Farmers' Market Nutrition Program

SEC. 931. PURPOSE.

The purpose of this subtitle is to authorize grants to be made to State programs designed to—

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruit and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at the markets.

SEC. 932. FARMERS' MARKET NUTRITION PROGRAM.

Subsection (m) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended to read as follows:

"(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) ensure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program which may be satisfied from State contributions that are made for similar programs.

"(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each State plan, and need not award grants to each State that submits a State plan.

"(5) Each State that receives a grant under this subsection shall ensure that the program for *which the grant is received complies with the following requirements:*

"(A) Persons who are eligible to receive Federal benefits under the program shall only be persons who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the program; and

"(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program not more than 18 percent of the total amount of program funds in its first fiscal year of operation, not more than 17 percent of the total amount of program funds in its second fiscal year of operation, and not more than 16 percent of the total amount of program funds in each subsequent fiscal year of operation.

"(ii)(I) Each State that received Federal funding in any of the fiscal years 1989 through 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) may use for administration of the program not more than 18 percent of the total amount of program funds for fiscal years 1992 and 1993, not more than 17 percent of the total amount of program funds for fiscal year 1994, and not more than 16 percent of the total amount of program funds for fiscal year 1995.

"(II) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional 2 percent of the total program funds for administration of the program for any fiscal year.

"(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

"(6)(A) Each State that received Federal funding in fiscal year 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) shall continue to receive benefits under this subsection, provided that the State continues to comply with the requirements established by this subsection, as determined by the Secretary.

"(B)(i) If sufficient funds are appropriated and a State provides the requisite match amount under paragraph (3), the State shall receive no less Federal funds than it spent in the prior fiscal year.

"(ii) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $50,000 or the amount that the State spent for the prior fiscal year if that amount is less than $50,000.

"(C) In providing funds to serve additional recipients in States that participated in the Federal program in the previous fiscal year, the Secretary shall take into consideration—

"(i) the availability of Federal funds not spent during the prior program year in the State making a request to serve additional recipients;

"(ii) documentation that justifies the need for an increase in participation; and

"(iii) demonstrated ability to satisfactorily operate the existing program.

"(D)(i) A State that has not received Federal funding under this subsection for the fiscal year prior to the fiscal year for which it is submitting a State plan, and that desires to receive a grant under this subsection, shall submit a State plan to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(ii) Each State plan submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

"(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

"(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with this or similar programs;

"(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

"(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

"(iv) give preference to State plans that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of recipients in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

"(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

"(G)(i) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

"(ii) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

"(iii) If, after the requirements of clauses (i) and (ii) have been met, funds remain unallocated, the unallocated funds shall be reallocated in the following fiscal year under the procedure established in paragraph (10)(B)(ii).

"(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

"(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(C) If the same State agency administers both the special supplemental food program for women, infants, and children established under subsection (c) and the farmers' market nutrition program established under this subsection and similar administrative activities for both programs are combined, the Secretary shall not require that the administrative expenses of these activities be treated separately for purposes of cost accounting. Administrative expenses accrued under this subsection shall be reimbursed under this subsection.

"(8) The Secretary shall collect from each State that receives a grant under this subsection information relating to—

"(A) the number of recipients served by both Federal and State benefits under the program for which the grant is received;

"(B) the rate of redemption of coupons or vouchers distributed under the program;

"(C) the average amount distributed in coupons to each recipient; and

"(D) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a compilation of the data collected under paragraph (8).

"(B) The compilation shall be submitted by May 1, 1995.

"(10)(A) There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $9,500,000 for fiscal year 1995.

"(B)(i) Each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unobligated funds shall be returned to the Secretary by February 1st of the following fiscal year.

"(ii) The Secretary shall establish procedures to reallocate funds that are returned by any State as provided in clause (i), or that are not allocated under clauses (i) and (ii) of paragraph (6)(G). Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.

"(11) For purposes of this subsection:

"(A) The term 'coupon' means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

"(B) The term 'program' means—

"(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

"(ii) farmers' market nutrition program authorized by this subsection.

"(C) The term 'recipient' means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection.

"(D) The term 'State agency' has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State.".

SEC. 933. CONFORMING AMENDMENT.

Section 501 of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1668) is repealed.

Subtitle D—Procurement of Infant Formula for WIC

SEC. 941. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 942. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no less frequently than annually, solicit bids for a joint cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a joint cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a joint contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) The Secretary, in soliciting bids for contracts to be awarded under subparagraph (G), and State agencies not participating in a contract awarded pursuant to subparagraph (G), shall consider soliciting bids for each type of infant formula (such as milk- or soy-based) separately.

"(ii) In carrying out clause (i), the Secretary and State agencies shall take into account—

"(I) whether the number of manufacturers and other suppliers eligible to bid will be increased under the approach described in clause (i);

"(II) any administrative issues; and

"(III) whether the total rebates or discounts received are likely to increase under such an approach.

"(iii) State agencies deciding not to accept bids for each type of formula separately shall advise the Secretary of the basis for the decision.

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding separate bid solicitations, along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) encourage alternative types of contracting for the acquisition of supplemental foods, including soliciting bids for each type of infant formula (such as milk or soy-based) separately;

"(ii) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(iii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iv) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(v) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of the person, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened.

"(ii) The Secretary shall determine the length of the disqualification referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification

and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 943. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1993, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 944. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.".

SEC. 945. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

Subtitle E—Indian Subsistence Farming Demonstration Grant

SEC. 951. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. 952. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 953. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 954. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 955. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 956. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 957. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 958. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 959. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle F—Technical Amendments

SEC. 961. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centum" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at"; and

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,
and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 962. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a–1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "applicators" and inserting "applicators".

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": Provided, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as a full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w–1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100–532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i–1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a–1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 17th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the"; and

(2) in section 17B(a) (7 U.S.C. 87f–2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in the first sentence of section 317(a) (7 U.S.C. 217a(a)), by striking "charging and collection, at any stockyard" and inserting "charging and collection, in transactions at any stockyard, market agency, or dealer"; and

(3) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1011. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) PURPOSES.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) INSPECTION OF EGG PRODUCTS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) PROHIBITED ACTS.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) PENALTIES.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) REPORTING OF VIOLATION TO UNITED STATES ATTORNEY FOR INSTITUTION OF CRIMINAL PROCEEDINGS.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) IMPORTS.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) RELATION TO OTHER AUTHORITIES.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1012. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) IN GENERAL.—The Secretary of Agriculture shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes,; after "rabbits",.

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1013. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1014. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "For airport inspection services, the Secretary shall collect no more than $62,000,000 in fiscal year 1992 and $67,000,000 in fiscal year 1993 from airline passengers and commercial aircraft operators. Fees may only be collected from commercial aircraft operators to the extent that the Secretary estimates that the amounts referred to in the preceding sentence could not be collected from airline passengers.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1015. MEAT AND POULTRY INSPECTION.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of meat food products that contain meat components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the meat component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the meat food product;

"(B) the resulting meat food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting meat food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in the Secretary's discretion) whenever the Secretary determines such action is necessary to effectuate the purposes of this Act.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of poultry food products that contain poultry components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the poultry food product;

"(B) the resulting poultry food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting poultry food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in

the Secretary's discretion) whenever the Secretary determines the action is necessary to effectuate the purposes of this Act.".

(c) PUBLIC COMMENT AND HEARING ON PUBLIC HEALTH ISSUES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) solicit public comment through a Federal Register publication on the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b); and

(B) conduct at least one hearing regarding the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b).

(2) TESTIMONY.—The Secretary shall invite the National Academy of Sciences, food safety scientists, food industry representatives, the Food and Drug Administration, the Centers for Disease Control, public interest groups, and other scientific experts, to testify or submit testimony for the record. A transcript shall be taken of the proceedings.

(d) STUDIES OF EXEMPTIONS.—

(1) EXEMPTION FOR PRODUCTS THAT HAVE NOT BEEN HISTORICALLY CONSIDERED BY CONSUMERS AS PRODUCTS OF THE MEAT OR POULTRY FOOD INDUSTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) contract with the National Academy of Sciences to conduct a study on the potential impact on consumers, on the affected industries, on public health, and on the role of the Department of Agriculture, of striking, in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)), and in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)), the exemption for products that have not been historically considered by consumers as products of the meat or poultry food industry; and

(B) report the results of the study to Congress.

(2) OTHER EXEMPTIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(A) contract with the National Academy of Sciences to examine other exemptions regarding consumers, the affected industries, public health, and the Department of Agriculture; and

(B) report the results of the study to Congress.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective 1 year after the date of enactment of this Act.

SEC. 1016. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, without prior appropriation or apportionment, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).".

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) to which the amendment relates:

(1) Section 201 (other than section 201(f)).

(2) Section 307.

(2) Section 338.

(3) Title V.

(4) Section 602(c).

(5) Section 701 (except as provided in subsection (c) of this section).

(6) Section 702.

(7) Section 703.

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall not apply with respect to certification periods beginning before the date of the enactment of this Act.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 904(3) of this Act shall be effective on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 951(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 905(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 905(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 910 of this Act shall become effective on September 30, 1991.

(4) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 918 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

(5) FARMERS' MARKET NUTRITION PROGRAM.—

(A) IN GENERAL.—Subtitle C of title IX of this Act, and the amendments made by such subtitle, shall become effective on October 1, 1991, and shall be implemented beginning on October 1, 1991.

(B) GRANT PROGRAM.—Notwithstanding section 553 of title 5, United States Code, the Secretary of Agriculture may administer subtitle C of title IX of this Act, and the amendments made by such subtitle, throughout fiscal year 1992 as a grant program under agreements with participating States and not pursuant to regulations published in the Federal Register.

AMENDMENT NOS. 1430 AND 1431

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to send to the desk two amendments en bloc, and I ask their immediate consideration; that the amendments be agreed to en bloc, the amendments being offered in behalf of Senators LEAHY and FOWLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 1430 and 1431) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1430

On page 321, line 9, insert after "laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 on page 265.

AMENDMENT NO. 1431

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FOWLER. Mr. President, I rise today to introduce the Recreational Hunting Safety and Preservation Act as an amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991.

Mr. President, as the Senate labors on this evening to complete its business before the Thanksgiving holiday, hunters across this Nation are headed into the field to take part in a recreational activity that is as American as pumpkin pie.

The deer, quail, and rabbit seasons are in full swing in Georgia, and hunters throughout my home State are enjoying the great outdoors and hoping to put a special treat on the table for their holiday meal.

But in many cases, these lawful, licensed hunters will be blocked from practicing this age-old tradition by self-styled animal rights activists employing tactics that are both illegal and dangerous.

Recently, we have seen this type of lawlessness on the rise on our Federal lands. Hunters are being attacked and harassed by demonstrators seeking to disrupt these lawful hunts.

Presumably these zealots believe themselves to be champions of the environment and protectors of wildlife. But who are they defending against? We all know that, traditionally, lawful hunters have been a major force in conservation efforts.

We can all think of many cases in which sport-hunting organizations have led the way in efforts to preserve wildlife and wildlife habitat—forests, wetlands, waterway corridors, prairies, and other homes to native birds and animals. Lawful hunters have been important allies in our efforts to preserve and improve our natural environment, including our wildlife heritage.

Yet a handful of antihunters are organizing concerted and deliberate efforts, throughout the country, to disrupt lawful hunting activities. Their militant tactics range from verbal abuse to, increasingly, violent confrontation.

Mr. President, we should not allow this harassment to dictate our national traditions or our national environmental policies. Nor can we allow a lawful activity, but one that requires extreme safety precautions, to degenerate into a truly dangerous situation both for hunters and protestors.

We should not let ourselves be lulled into thinking that these particular confrontations are harmless, that they should be overlooked because some might find the cause of saving animals sympathetic. We cannot afford to waive respect for lawful behavior, or to condone lawlessness, on the one hand and seek to eliminate crime on the other.

The amendment I am introducing is modeled after the best features of similar laws which already exist in 41 States. I will prohibit knowing and intentional harassment of hunters on national forestlands. It provides for civil penalties, injunctive relief, and civil lawsuits.

Today, sport hunting is a highly regulated activity that is a critical component of wildlife management. Unfortunately, we have lost much of the wide open space we once enjoyed. Habitats have dwindled, and many natural predators, regrettable, have disappeared. As a result, hunting is essential to maintain healthy population levels for many species.

License fees and excise taxes from over 16 million lawful hunters generate more than $3 million a day for wildlife habitat and management. Because of these efforts, Americans enjoy increasing numbers of deer, turkey, bear, elk, upland game birds, antelope, and many nongame species.

So it is a serious mistake in my opinion to brand hunters as somehow enemies of wildlife or enemies of the environment. I also think it is most highly regrettable to see fanaticism overwhelm lawful and responsible conduct.

There is plenty of room for debate and disagreement in this country. But the firing line is not the proper forum. Let's draw the distinction between democracy and anarchy. Let's channel legitimate debate through appropriate channels.

Meanwhile, let us show our support the lawful right of hunters to their place in the great outdoors and pass this legislation today. We need to send a strong message to those who would illegally obstruct the rights of hunters today, before the hunting season is in full swing around the country. We need to make it clear today that we expect our laws to be respected—that we mean for law-abiding citizens to go about their business unmolested.

Mr. SANFORD. Mr. President, I rise to offer my strong and sincere support to the recreational hunting safety and preservation amendment to the agriculture technical corrections bill to the 1990 farm bill. Such action is long overdue, and hunter protection is an issue for which I have fought and one which I think deserves legislative affirmation. In early June of this year, I introduced, with the help of Senators BREAUX, SYMMS, COCHRAN, and HATCH, a bill which is similar in nature to the language now before the Senate.

I wish to especially thank Senator FOWLER, who has worked diligently to bring the Nation's attention to this cause, and Senator BURNS and other colleagues who have championed hunters' rights.

It is unfortunate that the tradition of responsible hunting in this country is being challenged by those who have little understanding of the sport, and those who wish to see all hunting of wildlife eliminated. The harassment of hunters and the obstruction of lawful hunts has become increasingly frequent in recent months. In 41 States it is now illegal to harass hunters; I am glad Congress is taking action to establish similar guidelines for our national forests. This amendment will protect citizens attempting to carry out a lawful hunt within a national forest.

Those persons found to have intentionally disturbed wildlife resources or abused property in order to disrupt the lawful taking of these resources may be assessed a civil penalty of not less than $1,000. If this violation involves the use of force or violence, penalties may not exceed $10,000. Funds collected from civil penalties imposed under the act will aid State wildlife restoration projects, the North American waterfowl management plan, or other wildlife enhancement programs beneficial to our national forests.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting antihunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

Each year, American hunters spend several hundred million dollars for licenses, duck stamps and excise taxes on equipment and ammunition. Much of that money is used to finance game research and management programs and to purchase important wildlife habitats that will benefit all species. The American hunter is a responsible conservationist who knows, and adds value to game species, and thereby ensures their preservation. These men and women have been instrumental in efforts which have led to dramatic increases in populations of white-tailed deer, elk, wild turkeys, wood ducks, and other species.

Mr. President, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. This amendment will help ensure stable and healthy populations of game animals for hunters and nonhunters alike. I hope my colleagues will join Senator FOWLER and me in supporting this measure that will protect the property and safety of hunters who abide by all Federal and State game laws in the taking of animals within a national forest.

Mr. LEAHY. Mr. President, the farm bill technical corrections legislation contains a number of technical and other small changes to the Farms for the Future Act of 1990.

In this instance I am making changes, that I think are, in a sense, totally unnecessary. All too often we in Congress are forced to amend laws we have already enacted in order to attempt to force the administration to implement laws as we had originally intended.

This was necessary since the Department has issued regulations that are contrary to the intent and purposes of the act. The Department has made it nearly impossible for the State of Vermont to benefit from the law.

Second, the law clearly requires, and the conference report on the farm bill reiterated the point, that the Department of Agriculture was to provide funding to the State of Vermont for farmland preservation. In spite of clear language requiring the Secretary to implement the program in Vermont, the Department has yet to act.

There is no question that Vermont was entitled to the funding and that the Treasury Department is required to provide the funding to the Agriculture Department to provide to Vermont. The Comptroller General of the United States has so formally ruled.

In spite of the Comptroller General's decision, and in spite of the language in the law, the Department has not implemented the law.

These changes make it once again clear that Vermont is to get funding for its own Farms for the Future Program.

WINTER WHEAT DEFICIENCY PAYMENTS TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to winter wheat farmers in Kansas and elsewhere.

Because of last year's budget cuts, the deficiency payments paid out to farmers participating in the farm program will be smaller this year than in years past. Those payments are reduced by basing the deficiency payment margin on a 12-month weighted average price for wheat rather than by a 5-month weighted average price, as was the case under the 1985 farm bill. Under these provisions, wheat growers would not receive their entire deficiency payment until July of the year following the harvest of the crop rather than in December of the same crop year—as was the case over the past five years.

Mr. President, the provision which has been included in the technical corrections bill merely moves the majority of the payment back up to December payment date. Primarily for cash flow purposes, it is beneficial for farmers to have these payments made immediately preceding the time of the year at which many debt payment obligations come due.

Because the payments are transferred within the same fiscal year, this provision adds no additional cost to the Federal Treasury, nor does it violate the provisions of last year's budget reconciliation. It does put cash in the hands of producers at a time of the year when they most need it, and I thank my colleagues for their cooperation in assuring that this technical correction was made.

CORN/SORGHUM BASE TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to farmers in Kansas and elsewhere.

In brief, Mr. President, this provision fixes a drafting error in the language of the 1990 farm bill which—if left alone—stands to have drastic operational consequences for producers of feed grains in Kansas and elsewhere. Under the law established by the 1985 farm bill, feed grain farmers—specifically corn and grain sorghum in my State—were able to combine the acreage planted to both corn and sorghum into one feed grains crop acreage base. Within that one base, farmers had the flexibility to plant any mix of feed grains that they desired. That flexibility is vital to these producers, who may need to alter planting decisions based upon weather conditions, pest infestations, and other natural occurring factors which play a central role in the productivity and profitability of any farming operation. It has been one managerial decision which farmers have had the luxury to make without the Government's input.

The drafting of the 1990 bill, however, directed the Secretary of Agriculture to separate these bases and disallow the flexibility of switching planting decisions from one crop to another. Nobody in the House, the Senate, or the conference committee intended for this to happen—but with a 718 page bill it is not difficult to make a few mistakes. The Department of Agriculture was very cooperative in using their discretion to allow producers to follow the 1985 law for this crop year, but a legislative fix is now needed to extend this important provision.

This provision simply reports the flexibility of the 1985 law, and allows planting decisions to remain in the hands of those who should be making them—farmers.

EC THIRD COUNTRY MEAT DIRECTIVE

Mr. DASCHLE. Mr. President, I rise today to voice my extreme concern with the European Community's actions inhibiting U.S. meat exports to the 12 nations of the Community. More than a year ago, November 1, 1990, the European Community shut off all U.S. meat imports under the guise of the third country meat directive.

Only last month, did the European Community agree to relist 14 U.S. slaughter plants as eligible for exporting meat to the Community. This action is a step in the right direction, but the progress has been painfully slow and there is a significant unresolved issue concerning the equivalency betwee United States and EC meat inspection systems.

We can no longer tolerate stalling tactics. Throughout this dispute, EC pork products have been flooding the U.S. market. The EC exported more than $325 million of pork products to the United States last year. The National Pork Producers Council estimates that since November 1990, American pork producers have lost $50 million.

Mr. LEAHY. I too concur with my distinguished colleague from South Dakota. The EC has acted unfairly. This is an important market to U.S. meat producers, and in 1990, U.S. pork and beef exports to the EC totaled $30 million.

The U.S. Trade Representative, with the support of the U.S. meat industry has initiated a 301 investigation for relief from the EC third country meat directive earlier this year.

Final resolution of this issue is dependent on the EC recognizing the equivalence of the U.S. meat inspection system, instead of requiring U.S. plants to operate identically to the EC plants.

Mr. DASCHLE. I have proposed legislation (S. 1738) to declare the EC's third country meat directive a non-tariff trade barrier and to ban EC meat imports into the United States until the EC allows U.S. meat producers full and fair access to EC markets.

I had considered offering this legislation as an amendment to the dairy and disaster assistance bill. However, as a result of meetings that began this month between United States and EC officials to resolve differences in our inspection systems, I will hold my legislation in abeyance at this time. I fully intend, however, to pursue this legislation to ban meat imports from the EC if these issues are not resolved.

In the meantime, I will personally monitor the progress of these proposed meetings, and stand ready to pass legislation should it be necessary.

Mr. LEAHY. I would offer my friend the Senator from South Dakota, my personal commitment to either pursue this issue with the administration or work for passage of this legislation if the European Community fails to make progress in this issue.

Mr. LUGAR. Mr. President, my colleagues have accurately and forcefully explained the situation regarding the European Community's third country meat directive.

While the recent agreement by the EC to relist 14 plants is indeed a step in the right direction, the constant attempts by protectionist elements in the EC to create unnecessary trade barriers to American meat exports cannot continue year after year as they have.

My colleagues and I will continue to support the administration's effort to bring this regrettable situation to a fair conclusion. If that is not possible, then the United States will have to employ remedies available under current trade law to defend the interests of our meat exporters. If those remedies are insufficient, then Congress will need to consider legislation to address the situation.

INVESTMENTS IN RURAL AMERICA

Mr. PRYOR. Mr. President, as the Senator knows some concerns have arisen over the interpretation of provisions of law in the Food, Agriculture, Conservation and Trade Act of 1990 affecting telephone companies and cooperatives that borrow from the REA [Rural Electric Administration]. I had considered offering some technical amendments to clarify current law. However, it was decided that would be unnecessary. The 1990 farm bill did not need to be amended in this technical corrections bill since current law already addressed my concerns.

However, I wanted to make sure that the Senator is in agreement with my interpretation of these provisions.

Under current REA procedures, REA mortgages prohibit a mortgagor from: First, paying dividends on capital stock, membership or equity capital certificates (other than stock certificates dividends); second, making any other distribution to its stockholders, members or subscribers; third, purchasing, redeeming or retiring any of its capital stock, membership or equity capital certificates, or fourth, making any investment in affiliated companies, unless after such action the mortgagor's current assets will equal or exceed its current liabilities, exclusive of current liabilities incurred for addition to plant, and the mortgagor's adjusted net worth will be at least 40 percent of its adjusted assets.

Section 2356 of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 act) creates an exception to the 40 percent rule for investments in affiliates. The previous so-called limited dividend policy restricted rural independent and smaller telephone companies from utilizing their own financial resources to expand their telephone systems and networks and from carrying on related services, much of which is done through corporations owned by a common parent.

These mortgage restrictions and policies also prohibit REA telephone borrowers from investing in the new telecommunications technologies that have not been traditionally considered telephone service, that is cellular. Section 2356 allows telephone companies to make such investments and investments in non-telephone-related rural development projects. This is the main point of this discussion—that these investments are not to be made in urban areas but in rural America.

The intent of that farm bill provision is made clear from the title of section 2356, itself. It is called: "Encouragement of Investment by Telephone Borrowers in Rural Development Projects."

Utilization of telephone company resources as long as it is properly directed is a useful way to enhance, promote, develop, and expand rural telephone companies while permitting them to meet new and rapidly changing technology. Moreover, it is important that both business and residential customers served by REA borrowers have access to the same services and technology as those available from other local exchange and long distance carriers in order to foster rural development.

Section 205(b)(2) defines a qualified telephone borrower as one whose net worth is at least 20 percent of its total assets. This provision is intended to mean that the borrower must satisfy the 20 percent rule before making the investment, not after making it.

In other words, investments in a rural development project including those made to affiliate will not be adjusted out in determining compliance with the minimum net worth rules under both existing or future REA mortgages so long as the investment is to an affiliate that provides basic telephone, cellular, microwave, BETRS, paging satellite, data transmission or other telecommunications service or engages in the sale, manufacture, maintenance, financing, programming, installation or construction of equipment to facilitate providing or improving telecommunications and related services.

These investments would need to take place in the rural communities served by the companies to take advantage of this new provision.

Section 2356 adds to title 11 (7 U.S.C. 922 et seq.) section 205(a) which provides that amounts invested in affiliates by a qualified telephone borrower shall not be considered dividends or distributions of capital so long as such investments do not exceed one-third of the borrower's net worth. It is certainly appropriate that the one-third limitation apply only to investments in rural areas made after section 2356 was adopted.

Mr. LEAHY. I agree with the Senator's assessment of section 2356 and agree that it already provides new and additional investment authority for telephone borrowers to the extent those investments serve rural America.

I do want to point out that aspects of current REA telephone law and policies need to be carefully reviewed with an eye toward possible amendments to reduce any potential for abuse. These points, the points the Senator raise, are simply a clarification of how telephone companies may further assist rural America under current law.

ELDERLY NUTRITION COLLOQUY

Mr. PRYOR. Mr. President, I am very pleased that the farm bill technical corrections amendments contain a provision extending for another year—through fiscal year 1994—the elderly nutrition pilot projects authorized under section 1775 of last year's farm bill. These pilot projects will demonstrate whether the Secretary can effectively provide entitlement commodities to nutrition programs for the elderly through the National Commodity Processing Program.

I was disappointed that the pilot projects did not get off to a fast start. However, at my request, in September of this year, Department of Agriculture staff met with several major elderly nutrition groups to discuss alternative proposals for implementing successful pilot projects. My staff informs me that the meeting was fruitful and candid, and I hope that the Department will begin to implement the pilot projects as soon as possible.

Because of the delay in implementation, it is important that authority for pilot projects be extended through fiscal year 1994. Therefore, I strongly support inclusion of the extension provision in the technical corrections bill and would urge the conferees to retain this provision in the conference report.

In addition, I strongly urge the Secretary of Agriculture to work cooperatively with the major elderly nutrition groups and all interested parties in order to implement successful pilot projects.

Mr. LEAHY. I concur with Senator PRYOR that authority for the elderly nutrition pilot projects should be extended through fiscal year 1994 and pledge to seek inclusion of this provision in the conference report on the technical corrections bill. Moreover, I join Senator PRYOR in urging the Department of Agriculture to work closely with all interested parties to assure successful implementation of the pilot projects.

WATER OR WASTE FACILITY SPECIFICATIONS

Mr. HEFLIN. Mr. President, in the Food Security Act of 1985, Congress included a provision which required the Secretary of Agriculture to take into consideration any recommendation by a loan applicant or borrower concerning the technical design or choice of materials to be used for a water or waste facility. If the Secretary rejects this recommendation, the applicant must be given a comprehensive justification, in writing, for the Secretary's determination. It is my understanding, however, that there are field offices of the Farmers Home Administration [FmHA] that have routinely desregarded this law and FmHA's own regulation.

To address this problem, I believe it would be prudent for the Administrator of the FmHA to immediately issue an administrative notice to all of FmHA's field offices noting the following: "In the approval and administration of a loan made by the Farmers Home Administration for a water or waste disposal facility, FmHA shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility. If FmHA determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, FmHA shall provide such applicant or borrower with a comprehensive justification, in writing, stating the reasons why alternative designs or materials were required for the project."

Mr. LEAHY. That is an excellent idea and I believe the Department should follow up on this request.

SECTION 922

Mr. LEAHY. In reference to section 922, it is my understanding that the reference to minimizing penalties does not mean that the minimum penalty possible would always be applied when a violation is caused by a nonmanagement official such as a clerk as opposed to the owner. Rather, it means that the penalty assessed when a clerk commits a violation would be less than when an owner commits the same violation. Is this a correct interpretation?

Mr. LUGAR. Yes. In the case of food stamps, the Senator's interpretation is correct.

Mr. SIMPSON. Mr. President, I rise in support of H.R. 3029, the technical corrections bill to the 1990 farm bill. This bill does "fine-tune" previously existing provisions in the omnibus package of farm legislation which we passed last year.

The bill includes numerous provisions which assist the vast majority of our Nation's agricultural producers. Those provisons range from changing support payment dates to establishing critical programs necessary for the survival of some of our country's oldest farm industries.

I am especially pleased that S. 1935 was included as an amendment to this important bill. I introduced that bill, with Senators WALLOP, BURNS, BAUCUS, CRAIG, DASCHLE, SEYMOUR, PRESSLER, GARN, HATCH, DOMENICI, and GRASSLEY. It required the Secretary of Agriculture to evaluate the current marketing and price reporting system and followup with the establishment of a lamb price and supply reporting service based on the findings.

Lamb producers from across the country have faced the incredible challenge of determining the workings of the lamb market without adequate market information in the last 10 years. That lack of information has led to the recent decline in the industry which has forced many producers to abandon a livelihood which was an important part of their heritage.

I am optimistic that the technical corrections bill provides necessary changes for many agricultural programs. I was pleased with the efforts and complete cooperation of my fine friend and colleague Senator LEAHY. His assistance was truly invaluable and I personally thank him for including these most important lamb provisions. I would also like to thank my good friend Senator DICK LUGAR who so generously supported the lamb provisons.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I know the distinguished Senator from Pennsylvania wished to address the Senate. I believe there is a period before we are able to complete action.

So I ask unanimous consent that the Senator from Pennsylvania be recognized for 5 minutes to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ATTENDING PHYSICIAN

Mr. WOFFORD. Mr. President, earlier today I sought to amend the Public Health Service Act to require that Members of Congress pay the full market value for the free medical care they now receive. There were objections, and I reluctantly withdrew my amendment.

The Senate is now considering several pieces of vital legislation such as reauthorizing sections of the Public Health Service Act and I have no desire to jeopardize these important bills.

Nevertheless, I believe my bill is vitally important. I am willing to stay and work on this legislation and other matters of vital importance to working Americans such as tax relief and ways to create more jobs.

But if Congress decides to adjourn, I will be back here in January, when we reconvene, pushing for its passage. I intend to do so because the enactment of this bill will be a significant step toward putting us on the course to an affordable health insurance system for all Americans.

Today, when we who are members of Congress get sick, we can go to the office of the attending physician to get free medical care, physicals, blood tests, x rays, lab work, even prescription drugs. What we would not get is a bill.

When there is no such medical care available to the great majority of the American people, it is unacceptable for us to be an island of free service. My bill ends that. We cannot forget that while these benefits are free to us, they cost taxpayers.

By putting ourselves on the same footing as our constituents, we will more directly and personally appreciate the health care crisis facing this country.

Our present inadequate system of health care is bankrupting our families, our businesses, our communities, and our whole economy.

Let me call my colleagues' attention to a notice now circulating among our staff. The words on this notice convey the problem. Written in capital red letters it says: "Due to dramatic changes in costs and coverages, please review your current plan." Members of our staff, like most Americans today, have no ability to avoid skyrocketing health care costs. Members of Congress should not be insulated from this reality.

Under my legislation, each member would pay for medical services provided by the attending physician of the Capitol.

By paying for these services, Members of Congress would take a small but significant step that would indicate that they understand the American people's concern about the lack of affordable and available health care. By putting ourselves on the same footing as the American people we would offer a sign of hope that the Congress will soon follow with action for comprehensive health care reform.

I want to take this opportunity to note that this bill is cosponsored by Senators MIKULSKI, ROCKEFELLER, KERREY of Nebraska, WIRTH, WELLSTONE, METZENBAUM, DECONCINI, CONRAD, and LEAHY.

I hope we can soon get it passed and then proceed to develop and enact a practical and comprehensive plan for national health insurance.

Mr. President I yield the floor.

Mr. STEVENS. Before the Senator yields the floor, Mr. President, would he yield?

Mr. WOFFORD. I yield.

Mr. STEVENS. I wonder if the Senator is familiar with the fact that by Executive Order signed by President Roosevelt during World War II, Members of Congress while in Washington are deemed to be eligible for the assistance of the military physicians that are on duty in this town, and that is the basis for the availability of medical services for those of us who are long distances from our homes, from our personal physicians, and that the Capitol physician's office is run on that basis.

There are military physicians there to answer to those people who are here away from their own physicians on an emergency basis. Is the Senator familiar with that?

Mr. WOFFORD. I am.

Mr. STEVENS. I put the Senator on notice that I will ask for a hearing on the bill and oppose enactment of it until we explore what this physician's office has meant in saving lives of the Members of the Senate, Members of the House, of the staffers and visitors to the Capitol over the period of time since it has been here.

I understand what the Senator is saying concerning the availability of health care to our citizens generally, and I do support this. But I think President Roosevelt had a reason for what he did in World War II, and it should not be brushed away.

I congratulate the Senator on his recent campaign. But I intend to see to it that the services that have been available for Members of Congress and for visitors to the Capitol since the period of World War II are not brushed away as quickly as the Senator seeks to do so.

I yield the floor.

Mr. WOFFORD. I welcome such a hearing, if the distinguished Senator from Kentucky, the chairman of the Rules Committee, can schedule it. I am aware of the good services of the attending physician, and have talked to him and would welcome such a hearing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session, and that the Committee on Commerce, Science, and Transportation be discharged from consideration of the following nominations: Mary S. Gall, Victor Gold, Karen B. Phillips, Mary L. Azcuenaga, and Leslee B. Alexander; and nominations for permanent appointment in NOAA; and that the Committee on Rules and Administration be discharged from further consideration of the nominations of Scott E. Thomas and Trevor A. McC. Potter to be members of Federal Election Commissions.

I further ask unanimous consent that the Senate proceed to the consideration of those nominations, in addition to the following: Calendar Nos. 292, 445, and 451; and these nominations reported today by the Committee on Governmental Affairs: Francis S. Hodsoll, Edward J. Mazur, Kathleen Day Koch, H. Edward Quick, Jr., J. Same Winters, Tirso del Junco, Reggie Barnett Walton, and Emmet Gael Sullivan.

I further ask unanimous consent that the nominations be confirmed en bloc; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

CONSUMER PRODUCT SAFETY COMMISSION

Mary S. Gall, to be a Commissioner of the Consumer Product Safety Commission.

CORPORATION FOR PUBLIC BROADCASTING

Victor Gold, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

INTERSTATE COMMERCE COMMISSION

Karen B. Phillips, to be a Member of the Interstate Commerce Commission

FEDERAL TRADE COMMISSION.

Mary L. Azcuenaga, to be a Federal Trade Commissioner.

CORPORATION FOR PUBLIC BROADCASTING

Leslee B. Alexander, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

FEDERAL RESERVE

Lawrence B. Lindsey, Federal Reserve.

U.S. ATTORNEY

Ernest W. Williams, to be U.S. Attorney.

U.S. DISTRICT COURT

John M. Roll, to be U.S. district judge.

OFFICE OF MANAGEMENT AND BUDGET

Francis S. Hodsoll, to be Deputy Director for Management, Office of Management and Budget.

Edward J. Mazur, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

OFFICE OF SPECIAL COUNSEL

Kathleen Day Koch, to be Special Counsel, Office of Special Counsel.

U.S. POST OFFICE

H. Edward Quick, Jr., to be Commissioner, Postal Rate Commission.

J. Sam Winters, to be a Governor, U.S. Postal Service.

Tirso del Junco, to be a Governor, U.S. Postal Service.

ASSOCIATE JUDGE

Reggie Barnett Walton, to be associate judge.

Emmet Gael Sullivan, to be associate judge.

STATEMENT ON THE NOMINATION OF LAWRENCE LINDSEY

Mr. McCAIN. Mr. President, I am proud today to vote in favor of this superbly qualified nominee to the Board of Governors of the Federal Reserve.

Lawrence Lindsey is clearly qualified to serve on the Board of Governors. He received a Ph.D. from Harvard University in 1985. He won the Outstanding Doctoral Dissertation Prize for his thesis. He was an associate professor of economics at Harvard University. He served President Reagan with distinction and is presently the Special Assistant to the President for Domestic Economic Policy.

He is also the author of "The Growth Experiment: How The New Tax Policy Is Transforming the U.S. Economy." This persuasive work has been widely praised. William E. Simon, former U.S. Secretary of the Treasury, stated:

> Few revolutions have been so plagued by myth and mistruths as the Reagan Revolution in tax reform. Larry Lindsey's book sets the record straight on the enduring achievements of the Reagan experiment, which has put our economy back on the road to prosperity and sustained growth.

The support for Dr. Lindsey is bipartisan. Senator MOYNIHAN stated:

> The breadth and depth of Dr. Lindsey's knowledge, his skills and abilities make him, in my estimation, an ideal candidate for the Board of Governors.

Mr. President, I reiterate, Lawrence Lindsey is clearly qualified to serve on the Board of Governors. I applaud the President for selecting another excellent nominee.

However, I must disparage the U.S. Senate for its mishandling of this nomination. The Senate's handling of this nomination is representative of the abuse of the power to advise and consent. This nominee was not the victim of a leak or a special interest group smear campaign. This nomination appears to have been delayed for petty partisan reasons.

Thus, while the economy was in recession, the Federal Reserve Board was unable to tap the breadth and depth of Dr. Lindsey's knowledge. When the country needed a person of Dr. Lindsey's qualification, the Senate delayed.

The Senate did not delay because Dr. Lindsey was unqualified. The Senate delayed for petty partisan reasons to the detriment of the economy and the American people.

President Bush nominated Dr. Lindsey on February 27, 1991, nearly 8 months ago. Has it taken the Senate 8 months to finally realize that Dr. Lindsey is qualified? I hope not because that would clearly speak poorly of the competence of the Senate.

It is outrageous and almost Orwellian that Dr. Lindsey and the monetary policy of the United States has been held hostage for 8 months.

Mr. President, I applaud the President, chide the Senate, and strongly support this nominee. The country needed him 8 months ago, and we need him now.

He will be a powerful voice for noninflationary economic growth.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE LINDSEY

Mr. SYMMS. Mr. President, today were considering the nomination of Dr. Lawrence Lindsey to the Board of Governors of the Federal Reserve. It is a testimony to our Nation's strength that we are still able to attract people like Dr. Lindsey to public service. I believe we have before us the nomination of a man who has outstanding qualifications and its my hope we can confirm him quickly.

I believe we need to confirm Dr. Lindsey without delay. The Federal Reserve Board is an immensely powerful and important institution, particularly as our economy is struggling to recover from recession. The decisions made by the Board include the setting of the discount rate, changing the Federal funds rate, setting the growth rates in the monetary aggregates, and responding to movements in the exchange rate.

These decisions can have a major impact on the how soon our economy recovers and on how strong that recovery will be. Its unfortunate the Board has been short-handed at this juncture because the Senate has so far failed to act promptly.

Dr. Lindsey's credentials are truly impressive. He graduated magna cum laude from Bowdoin College in 1976. In

1981, he earned a masters degree in economics from Harvard University and received his Ph.D. in economics from Harvard 4 years later. Not just another alchemist of the Dismal Science, his doctoral dissertation received the National Tax Association's Outstanding Thesis Award for 1985. After graduating he joined the Harvard economics faculty and was promoted to associate professor in 1988.

Since receiving his Ph.D., Dr. Lindsey has cut an impressive path in academia at Harvard, at the National Bureau of Economic Research, and at the National Tax Association. And he is one of those rare people who can write for academic publications like the Journal of Finance, the National Tax Journal, and the Journal of Public Economics as well as for the popular press.

In fact, I recently had a rare experience; if none of my colleagues have had this experience recently I recommend it. I met with Larry and I understood him. How often have you ever met with an economist and understood what he said?

Dr. Lindsey's experience extends far beyond our borders. As international affairs grow in importance, he brings an international perspective having been a consultant with the Frankfurter Institute in Germany. He worked with the Adam Smith Institute in the United Kingdom and worked with members of Prime Minister Thatcher's staff.

He assisted the Moderate Party in Sweden on their tax policy where his efforts may soon bear fruit because the Swedish people recently turned the reigns over to the Moderates, having thrown the Socialists and their failed Swedish model of government planning out of office. And, most recently, he was a consultant with the Foundation for Fiscal Studies in the Republic of Ireland.

He did not just deliver an obscure academic paper on these occasions, either. Dr. Lindsey's research was cited by Nigel Lawson, then Chancellor of the Exchequer in Great Britain, as a motivation for Britain's own reform of their income tax. Very few American economists can claim to have had such an impact on economic policy on an international scale.

Dr. Lindsey not only has outstanding academic qualifications but his policy experience is impressive as well. He served from 1981 to 1984, at the Council of Economic Advisers under Chairmen Murray Wiedenbaum and Martin Feldstein where he rose to the position of senior staff economist for tax policy.

In January 1989, he joined the Bush administration as Associate Director for Domestic Economic Policy in the White House Office of Policy Development. In January 1990, he was commissioned as a Special Assistant to the President for Domestic Economic Policy. The Federal Reserve has two very important functions in our economic system. The first, of course, is the setting of a monetary policy that will encourage economic growth and price stability. Most people who have thought about monetary policy figure they could do it as well as the Fed. I know I fall into that group. I doubt if many of us would do very well if we kept track of our predictions, just as we prefer not to keep track of our football picks come Monday morning. Setting monetary policy in today's world is incredibly difficult. And it is not made any easier by the knowledge that your mistakes are measured in lost jobs and higher inflation.

Predicting the strength of the economy is essential for determining the right levels of money growth. In fact, the hardest part about encouraging economic growth and price stability is predicting and performance of the real economy and the underlying inflationary forces.

We in Congress make the job of predicting economic growth much more difficult by constantly changing tax policies, regulatory policies, budget policies, and so forth, all of which impact on the economy.

First on this list, without question, is tax policy. When Congress changes tax policies, the economy can be affected very quickly. Some effects of a change in tax policy are felt immediately. For example, a cut in the capital gains tax results in virtually an immediate increase in asset values. The flip side is also true, as history will recall with Speaker Jim Wright's suggestion of some years ago that we consider an excise on stock transactions. The result—the stock market went into a tailspin.

Whatever the immediate effect of a change in tax policy, the full effect takes years. Currently, I am told, there is no one on the Board of Governors who has any special expertise in tax economics. There are numerous staffers, of course, but no one on the Board. There is no one, therefore, currently on the Board who can properly assess the impact of new tax policies on the economy.

I am hopeful, for example, that the Congress will be able to develop an economic recovery tax cut package to encourage investment. Dr. Lindsey's knowledge and experience will prove invaluable in making growth predictions and in setting aside the foolish ideas that an economic growth package would drive up interest rates. In case anyone has missed it, let me point out that the vast majority of proposals recently have been budget neutral even on a static basis.

In a world of self-proclaimed experts, Dr. Lindsey is a true, bona fide expert in tax policy and its economic effects. He will be a great asset to the Board as they try to take new tax policies into account when formulating their projections for growth and employment. Consequently, the Fed will be better able to adjust to the Congress' twists and turns and monetary policy will be better geared to stabilizing inflation and encouraging more rapid economic growth.

The second function of the Federal Reserve is to oversee and preserve a stable banking system. Again, Dr. Lindsey's expertise may be brought to bear immediately as a member of the Federal Reserve Board because he is been the White House's point man on banking reform and he understands the issues and the policies as well as anyone. I think his background will be invaluable in advising the other member of the Board as to how banking reform should be implemented.

Having worked in academia, overseas, and under two Presidents, Dr. Lindsey understands the formulation of economic policy and he understands the process of implementing policy. His knowledge, skills, and abilities make him a perfect candidate for the Board of Governors. We would be hard pressed to find someone with comparable experience.

Dr. Lindsey's nomination was approved by the Senate Banking, Housing and Urban Affairs Committee by a vote of 16 to 5. During his confirmation hearings before the Senate Banking Committee, Dr. Lindsey testified that he will pursue four goals while serving at the Federal Reserve:

First, to ensure economic recovery through a noninflationary, growth oriented monetary policy;

Second, to reduce the inflation rate gradually so that the Nation may come to enjoy the long term benefits of price stability;

Third, to ensure that the Federal Reserve's regulatory stance does not unnecessarily restrict credit conditions; and

Fourth, to support reform of the nation's financial system to meet the challenges of the global marketplace of the 21st century.

Dr. Lindsey has won bipartisan support and his writings have been lauded by both conservatives and liberals. Those who have worked with him have praised his receptiveness to new ideas. He does not let partisan politics get in the way of moving ahead on good policy proposals regardless where they came from.

The Nation is divided into 12 districts. One rule for the nomination of individuals to serve as a Governor of the Board of the Federal Reserve is that no district may be represented by more than Governor. This rule was established to ensure the President will select Governors to provide fair representation of the financial, agricultural, industrial, and commercial interests and geographic diversity of the country.

Dr. Lindsey was nominated to represent the fifth district which includes

West Virginia, North Carolina, South Carolina, the District of Columbia, Maryland, and Virginia. There has been some question as to whether Dr. Lindsey has been a resident of Virginia long enough to fulfill the residency requirement.

In my opinion, reserving chairs at a central bank based on geographic considerations is an archaic practice in a modern economy. Nevertheless, those are the rules and Dr. Lindsey and his family meet those rules.

The Lindseys have lived in the fifth district for a total of 5½ years. They own a home in Clifton, VA, where they have lived since returning to Virginia to join the Bush administration. They own no real estate or personal property in any other state and vote, pay taxes and register their cars in Virginia. Dr. Lindsey was commissioned from Virginia as an officer in January 1990, when he was named Special Assistant to the President.

I do not see how any reasonable person can question whether the Lindsey's qualify as residents of Virginia. I believe, and I am sure the President of the Senate, Senator BYRD could say for sure, but I believe some people have even run for the Senate and won having lived in the state for much less time than the Lindsey's have lived in Virginia.

As I have said before, Dr. Lindsey's distinguished professional career and superior academic expertise speak for themselves. We are entering into a new world. The changes in Russia could have a tremendous impact on our economy. Our banking system is under an immense strain and will undergo reform. We are struggling with a recession and the Congress is working towards an economic recovery package. The Federal Reserve will benefit tremendously from the knowledge and experience Lawrence Lindsey brings to the Board of Governors. I urge my colleagues to confirm Dr. Lindsey without delay.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE B. LINDSEY

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Dr. Lawrence B. Lindsey who has been nominated by President Bush to serve on the Board of Governors of the Federal Reserve System. He will represent the Fifth Federal Reserve District which includes South Carolina, North Carolina, Virginia, Maryland, part of West Virginia, and the District of Columbia.

On February 28, 1991, President Bush submitted Dr. Lindsey's nomination to the Senate. Dr. Lindsey testified before the Committee on Banking, Housing, and Urban Affairs on May 7, 1991, and on July 10, 1991, the committee approved his nomination by a vote of 16 to 5.

Dr. Lindsey is a magna cum laude graduate of Bowdoin College where he was elected to Phi Beta Kappa. He earned a masters degree and a doctorate in economics from Harvard University. He received the National Tax Association's Outstanding Thesis Award for his doctoral dissertation. He is a prolific author, having written more than 40 publication on economic policy, as well as a book, "The Growth Experiment."

Dr. Lindsey served at the Council of Economic Advisors from 1981 until 1984 when he joined the Harvard University economics faculty as an assistant professor. He was promoted to associate professor in 1988.

President Bush named him the Associate Director for Domestic Economic Policy in the White House Office of Policy Development in January 1989. One year later, he became Special Assistant to the President for Domestic Economic Policy.

Dr. Lindsey has both wide-ranging professional and academic experience in economics. His achievements demonstrate that he has the high qualifications required of a Governor of the Federal Reserve Board.

I join a number of others in both the public and the private sector in endorsing Dr. Lindsey. I believe that he will be an excellent addition to the Board of Governors of the Federal Reserve System and I urge his speedy confirmation by the Senate.

STATEMENT ON THE NOMINATION OF JUDGE JOHN ROLL

Mr. DECONCINI. Mr. President, I am pleased that the Senate has confirmed Judge John Roll's nomination to be U.S. district judge for the District of Arizona. I introduced Judge Roll at his Judiciary Committee confirmation hearing on November 20, 1991, and would like to share with my colleagues the statement I made before the committee regarding Judge Roll's outstanding qualifications. The following is the text of my remarks:

STATEMENT OF SENATOR DECONCINI ON THE NOMINATION OF JUDGE JOHN MCCARTHY ROLL

Mr. Chairman, it is a distinct pleasure and honor to introduce Judge John Roll to the Senate Judiciary Committee, today. As a member of the committee for the last 14 years, I have worked on hundreds of judicial nominees and chaired or attended numerous nomination hearings. One of the great honors of being on this committee is the opportunity to participate actively in the nomination process.

That honor is even greater when you know the nominee and have personal knowledge of his capabilities. Mr. Chairman, as Pima County attorney before I came to the Senate in 1977, I am proud to state that Judge Roll was one of my deputy prosecutors at that time. He is an excellent lawyer. And he will be an excellent Federal district court judge.

Judge Roll was part of our team at the Pima County attorney's office that was recognized by the National District Attorney's Association as "the National Model Office for Major Cities." One of the items I treasure most is the resolution Judge Roll and the other staff in that office gave me in recognition of my tenure as Pima County attorney. That plaque, with Judge Roll's signature on it, is hanging in my personal office, today.

Judge John Roll will bring a wealth of experience to the Federal bench. He served as deputy Pima County attorney from 1973 to 1980. From 1980 to 1987, Judge Roll was an assistant United States attorney in Arizona. Since 1987, Judge Roll has been a judge on the Arizona court of appeals. He has been a distinguished member of that court and has developed an excellent reputation.

From the time his nomination was announced, I have been contacted by numerous lawyers and other judges in Arizona regarding the quality of Judge Roll's work on the State court of appeals. They have forwarded some of the highest recommendations I have ever received for a Federal district court nominee.

Indeed, one State supreme court justice wrote me and described Judge Roll's work the following way: "Consistently thorough, well-reasoned, logical in approach and legally consistent and accurate." That Justice's only regret in Judge Roll's nomination was that the State judiciary would lose an outstanding member of its court.

These comments from his colleagues and the lawyers that appear before him are the true testament of a good judge. We all know that the quality of a person's work is more important than the positions a person holds. From my personal experience, I can think of few judges in my State that have obtained such a great level of respect and admiration on the bench in such a short period of time.

Mr. Chairman, the Federal district court in Arizona was a legacy of reputable judges. Judge Roll will replace Judge Alfredo Marquez, who had a distinguished career on the Federal district court. Judge John Roll will be an excellent replacement for that court and will continue that legacy. The Federal district court will be well served by his confirmation.

Mr. Chairman, I look forward to following Judge's Roll's distinguished career on the Federal bench. I fully support his confirmation and I am confident he will serve this country well.

I would also like to introduce to the committee Judge Roll's wife, Maureen, and their three sons—Robert, Patrick, and Christopher. They have every reason to be proud of their father, today.

STATEMENT ON THE NOMINATION OF EDWARD QUICK

Mr. PRYOR. Mr. President, I am happy to speak on behalf of the nomination of H. Edward Quick for the position of Commissioner on the U.S. Postal Rate Commission.

Mr. Quick's experience and knowledge will make his contribution on the Commission of great value not only to the Commission itself, but also to the people of this Nation who are affected by the decisions and actions of the Postal Service.

I speak from personal knowledge of both Mr. Quick and the Postal Service; I have observed and admired Mr. Quick as he served as my legislative director during the last 5 years and I have observed and had concerns about the Postal Service during my tenure as chairman of the Postal Oversight Subcommittee in the Senate.

Mr. President, I would like to take just a moment to talk about Ed Quick's proud career of public service and 23 years of work in the U.S. Senate. I hired Mr. Quick in late 1986. At that time he was administrative assistant to one of the Senate's finest Senators and a close friend of mine, now-retired Senator Thomas F. Eagleton. Senator Eagleton had hired Mr. Quick all the way back in 1969, to be part of his Senate staff during his first year in office. Mr. Quick became one of Senator Eagleton's closest advisers and soon was named his administrative assistant.

I understand that other administrative assistants often called Mr. Quick "The Chairman," out of respect for his knowledge of the Senate, his seemingly intuitive understanding of the American electorate, and his stature among his peers.

In fact, Mr. President, I have relied on these qualities in Mr. Quick during his years of work for me. I will always remember him particularly for his tremendous work for me on my legislation regarding what I have called improving the quality of work in the Senate. His advice and counsel on this issue and many others will be greatly missed in my office as he moves onto bigger and even better things.

There are others in the Senate whom I want to recognize who have been key supporters of Ed Quick's nomination. Most notable is Senator JOHN C. DANFORTH, my good friend from the State of Missouri, who came to know Mr. Quick through Senator Eagleton and their work together on behalf of the State of Missouri. Another very notable Senator in this process is Senator TED STEVENS of Alaska. Senator STEVENS is the ranking Republican member of our Subcommittee on Federal Services, Post Office and Civil Service. His help and support have been generous and greatly appreciated.

Finally, Mr. President, let me publicly thank Ed Quick for his service not only to my office and the people of Arkansas whom I represent, but also for his service to the Senate, an institution he has been loyal to and has worked to improve for 23 years.

During his nomination hearing before the Senate Governmental Affairs Committee, Mr. Quick gave what I thought was poignant testimony.

Mr. President, I know of no one better suited for the job of Postal Rate Commissioner than Ed Quick and urge my colleagues to support this nomination.

I ask unanimous consent to have Mr. Quick's statement printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF H. EDWARD QUICK, JR., NOMINATED TO BE COMMISSIONER, U.S. POSTAL RATE COMMISSION

Thank you, Mr. Chairman.

I thank President Bush for nominating me. I especially thank those who have supported me and advocated my course with unceasing determination; you, Mr. Chairman, Senator Stevens and Senator Danforth.

I believe that I am very fortunate. I have had wonderful parents, and as you have seen, I have a wonderful family. I am also singularly lucky because I have had the great good fortune to have worked for almost 23 years in the U.S. Senate and, during that time, to have worked for 2 of the finest men to serve in that body in current time—you, Mr. Chairman, and former Senator Thomas Eagleton. They each have an acute sense of justice, are fearless advocates of the causes they believe in, and are extraordinary politicians.

Of all these qualities, I think that the last is the most admirable, particularly when politicians and, most noteworthy, members of Congress are scored and pilloried with greater gusto now than even we have come to expect as normal.

Last night I was reading about politicians in several different anthologies and reference books. Predictably, most descriptions were negative and unflattering. I did, however, come across a description of politicians early this century in the British House of Commons by F.S. Oliver which I think is apt for the situation in the Congress and the Nation today, and I'd like to read that.

He says: "If we eventually escape from our present perplexities, it will not be because theorists have discovered some fine new principle of salvation or because newspapers"—or, I might add, television—"have scolded and pointed angry fingers at this one or that, or because we, their readers or listeners, have become excited and have demanded that something must be done. It will be because these decent, hardworking, cheerful, valiant, knockabout politicians, whose mysterious business it is to manage our affairs by breaking one another's heads shall have carried on their work as if nothing extraordinary was happening and shall have jumbled something out of their contentions that will be of advantage to their country. The notion that we can save ourselves without their help is an illusion, for politics is not one of those crafts that can be learned by the light of nature without an apprenticeship."

I am proud to have worked for 2 "decent, hardworking, cheerful, valiant, knockabout politicians and to have come to know and observe many others here in the Senate—and I might add, to have come to know many fine staff members such as myself, who worked for these knockabout politicians. It has been a great education for me, and I hope that it has prepared me for the service on the Postal Rate Commission.

LABOR-HHS APPROPRIATIONS

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3839, the Labor-HHS appropriations bill, just received from the House; that no amendments to the bill be in order; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3839) was deemed read a third time and passed.

• Mr. HARKIN. Mr. President, I rise reluctantly in support of H.R. 3839, the fiscal year 1992 Labor, Health and Human Services, Education, and related agencies appropriations bill. The bill is identical to H.R. 2707 with one exception: section 514 of that bill, the language adopted by the House and Senate in identical form to prohibit the administration from implementing the gag rule, has been deleted.

The conference report on H.R. 2707 passed the Senate on November 7, by a vote of 73 to 24. The President vetoed the bill on November 19, and the House failed to override the President's veto on November 20, with a vote of 276 to 156. Earlier today, the House passed the new bill, H.R. 3839, by a vote of 359 to 56. All the report language included in House Report No. 102–121 and Senate Report No. 102–104 as modified by the conference report language included in Conference Report 102–282 apply in full to H.R. 3839; all the floor colloquies that were provided as further guidance on H.R. 2707 also apply fully to H.R. 3839.

Mr. President, earlier I said that I support adoption of H.R. 3839 reluctantly. I say reluctantly because it is a sad day for America when the President vetoes a $204.9 billion education, health, job training, and human services appropriations bill because he objects to language included in the bill guaranteeing American women full and complete medical information.

In order to preserve the gag rule the President was willing to put at risk almost $205 billion intended for maternal and child health, unemployment assistance, education funding for Pell grants and chapter I, nutrition programs for the elderly, immunization programs for children, and NIH biomedical research to help us find cures for many diseases that afflict mankind, and many other programs. It's ironic that the self-appointed Education President vetoed a bill that provides $31.9 billion for education programs, 9 percent more than last year.

Mr. President, unfortunately since the House was unable to override the President's veto, we are now forced to adopt this new legislation deleting language overturning the gag rule.

I fully supported overturning the gag rule and I continue to support overturning it. I believe the gag rule is misguided, reactionary, and inappropriate public policy. The gag rule prevents health professionals from fully informing their patients. That does not make any sense.

Why on Earth would we want to insert the Government into a doctor's examining room? Supporters of the gag rule must think women are unable to make decisions for themselves. Supporters of the gag rule must think the Federal Government should make women's most intimate and personal choices.

I find that attitude patronizing, paternalistic—and pathetic. It is ridiculous on its face and grossly unfair to women.

Next year we will revisit this issue. Even though the President may be able to gag the doctors in title X clinics, he will not silence American women and he will not silence this Senator. I will continue to fight for the right of American women to be informed and for the right of American women to choose.•

EDUCATION FUNDING

• Mr. **LAUTENBERG**. Would the distinguished chairman of the Labor-HHS-Education Appropriations Subcommittee be willing to respond to a question regarding education funding in the Labor-HHS-Education appropriations bill?

Mr. **HARKIN**. I would be happy to engage in a colloquy with the distinguished Senator from New Jersey.

Mr. **LAUTENBERG**. The Senator from Iowa included funding in the Senate Labor-HHS-Education appropriations bill for the Community Education and Employment Centers [CEEC] that were authorized in the 1991 Perkins Vocational Education Act—section 363 of Public Law 101–392. I worked hard to secure this authorization. Section 363 was based on my bill to establish CEEC's, S. 1477, which I introduced in the last Congress. It was adopted in revised form as my amendment number 1466 to the Perkins Vocational Education Act when it was considered on the Senate floor. As finally enacted, it authorized $7.5 million per year to be made to no more than five school districts. The Senator from Iowa included full funding for this program in the fiscal year 1992 Labor-HHS-appropriations Senate report and additional report language encouraging the Department of Education to demonstrate this program in an urban school district in New Jersey. The Senator also included $2 million in the national programs and demonstrations section of the Vocational Education Program to carry out two demonstrations of centers described in the CEEC authorizing legislation. In fact the Senate report language cites section 363 of Public Law 101–392 as the basis for these demonstrations.

Unfortunately, final funding for the Vocational and Adult Education Basic Grant Program did not meet the $1 billion trigger level and the $7.5 million was dropped in conference. The conferees did, however, retain the $2 million in funding for the two demonstrations.

Yet, the conferees have provided sufficient room within the $14 million appropriated for national demonstration programs to allow an initial demonstration of CEEC's in both urban and rural settings. The $2 million was retained for two demonstrations that would enable a test of the CEEC concept in rural settings. But, the problems of poverty, joblessness, and mismatches of training and job opportunities prevail in many of our urban centers. The CEEC was intended to test a broad-based approach to the educational and vocational needs of students from impoverished and disadvantaged urban backgrounds.

While a portion of the remaining $12 million for national demonstration programs has also been earmarked for other purposes, it is my understanding that funds remain for use by CEEC's in urban areas. So, my question to the Senator from Iowa is as follows: Within the $14 million appropriated for national demonstration programs, would there be funds available to demonstrate the CEEC concept in an urban area?

Mr. **HARKIN**. Yes; $3 million is available in the vocational education national demonstration account for three CEEC demonstration programs.

Mr. **LAUTENBERG**. In addition, if a New Jersey school district or districts submit a meritorious application for a CEEC demonstration, would the distinguished chairman of the Senate Labor-HHS Subcommittee encourage the Department of Education to fund such a demonstration?

Mr. **HARKIN**. Yes; the committee has previously noted that economically and disadvantaged students in low-income urban school districts in New Jersey would greatly benefit from the extensive services offered in these model demonstration centers. The committee has also encouraged the Department of Education to test the success of the CEEC model in an urban school district in New Jersey, where students face the same barriers to education and employment that the program is designed to address.

Mr. **LAUTENBERG**. I would like to thank the Senator for engaging in this colloquy and providing direction to the Department of Education with respect to a demonstration of the CEEC Program.•

ORDERS FOR TOMORROW

Mr. **FORD**. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 9 a.m. Saturday, November 23, and that following the prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later in the day.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. **FORD**. If there is no further business today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess until 9 a.m., Saturday, November 23.

There being no objection, the Senate, at 10:43 p.m., recessed until Saturday, November 23, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 22, 1991:

DEPARTMENT OF TRANSPORTATION

JERRY RALPH CURRY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE JAMES BUCHANAN BUSEY IV.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SCOTT M. SPANGLER, OF ARIZONA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT (OPERATIONS), VICE C. ANSON FRANKLIN, RESIGNED.

THE JUDICIARY

ANITA A. BRODY, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 22, 1991:

FEDERAL RESERVE SYSTEM

LAWRENCE B. LINDSEY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1986.

EXECUTIVE OFFICE OF THE PRESIDENT

FRANCIS S. M. HODSOLL, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

EDWARD JOSEPH MAZUR, OF VIRGINIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

OFFICE OF SPECIAL COUNSEL

KATHLEEN DAY KOCH, OF VIRGINIA, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF 5 YEARS.

THE JUDICIARY

REGGIE BARNETT WALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS.

EMMET GAEL SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

POSTAL RATE COMMISSION

H. EDWARD QUICK, JR., OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 1996.

U.S. POSTAL SERVICE

THE FOLLOWING NAMED PERSONS TO BE GOVERNORS OF THE U.S. POSTAL SERVICE:

TIRSO DEL JUNCO, OF CALIFORNIA, FOR THE TERM EXPIRING DECEMBER 8, 2000. (REAPPOINTMENT)

J. SAM WINTERS, OF TEXAS, FOR THE TERM EXPIRING DECEMBER 8, 1999, VICE IRA D. HALL, JR., TERM EXPIRED.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FEDERAL ELECTION COMMISSION

TREVOR ALEXANDER MC CLURG POTTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997.

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997. (REAPPOINTMENT)

THE JUDICIARY

JOHN M. ROLL, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DEPARTMENT OF JUSTICE

ERNEST WILSON WILLIAMS, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

CONSUMER PRODUCT SAFETY COMMISSION

MARY SHEILA GALL, OF VIRGINIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 27, 1991.

CORPORATION FOR PUBLIC BROADCASTING

VICTOR GOLD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

INTERSTATE COMMERCE COMMISSION

KAREN BORLAUG PHILLIPS, OF VIRGINIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1996.

FEDERAL TRADE COMMISSION

MARY L. AZCUENAGA, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1991.

CORPORATION FOR PUBLIC BROADCASTING

LESLEE B. ALEXANDER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING GERRY C. MC KIM, TO BE CAPTAIN, AND ENDING RICHARDO RAMOS, TO BE ENSIGN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 15, 1991.

HOUSE OF REPRESENTATIVES—*Friday, November 22, 1991*

The House met at 10 a.m.

The Reverend Paul E. Lavin, pastor, St. Joseph's Catholic Church on Capitol Hill, Washington, DC, offered the following prayer:

Some of us refer to God as the Compassionate and Merciful One, some of us say Adonai, some of us speak of Father, Son, and Holy Spirit.

Whatever words we use, let us take a moment to place ourselves in the presence of God.

Be with us that we may help our Nation be an image of justice, a mirror of sanctity, a protector of the truth, a refuge for the oppressed, a treasure to the poor, a hope to the wretched, and a light to the whole world.

Direct all our actions by Your holy inspiration and carry them on with Your gracious assistance that every work of this Congress may begin from You and with Your grace, be part of Your work to make our world a more just and decent place. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. TAYLOR] please come forward and lead the House in the Pledge of Allegiance.

Mr. TAYLOR of North Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE REVEREND PAUL E. LAVIN

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today as a very proud representative of northern Pennsylvania, the Wyoming Valley. Father Lavin, who just gave the prayer bringing the House to order, is a native son of Wyoming Valley, the only valley in the United States that provided a name for a State in our Union.

Father Lavin reflects the family values of Wyoming Valley and Wyoming, PA. He attended grade school there. He graduated with a bachelor of arts degree from one of our finest liberal arts colleges, King's College in Wilkes-Barre, PA. He was ordained at the Washington Cathedral by Cardinal Patrick O'Boyle on May 17, 1969.

Since that time, Father Lavin has served in the Maryland area, representing many of the youth programs of that area, and then later went on to serve as the Catholic chaplain at the American University here in Washington, DC, between 1979 and 1987.

Today, Father Lavin is the 12th pastor to serve at St. Joseph's Church, the Catholic parish which serves the Capitol Hill area.

There are two distinctions in Father Lavin's life that I would like to point out to my colleagues. One, that he has concentrated his efforts on instilling in our young people a sense of community by teaching them, by example, the family values they need to be good citizens and to partake in the magnificent democratic process that we have. He knows where the investment of talent should be made and where the capital of this Nation should be best expended, with our youth.

The second thing he has done is, by taking the parish at St. Joseph's here on Capitol Hill, he knows that an awful lot of us in government need the values that he fosters. He is taking care of a second generation of kids, those of us who have the pleasure of serving in the Congress of the United States and in the legislative branch of this Government. He instills in us the values and leadership that he so ably has taught the youth of this country through the 20 years since his ordination as a priest.

Mr. Speaker, I welcome here today a favorite son of Wyoming Valley and King's College, PA, as our chaplain for today, Rev. Paul E. Lavin.

THE MERIT SYSTEMS PROTECTION BOARD ADMINISTRATIVE JUDGES PROTECTION ACT OF 1991

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I introduced a bill today, the Merit Systems Protection Board Administrative Judges Protection Act of 1991. The bill would extend to administrative judges at the Merit Systems Protection Board [MSPB] the same statutory protections as enjoyed by administrative law judges [ALJ's]. MSPB administrative judges review employment decisions of Federal agencies for approximately 2 million Federal employees. Two-thirds of the full-time Federal civilian work force depend upon the fairness and integrity of employment-related decisions rendered by 62 administrative judges at the Board.

One of the most widespread employment related problems in the Federal workplace, as documented by the MSPB upon the request of the Congress, is sexual harassment. The MSPB in response to the Congress conducted two studies of sexual harassment in 1980 and 1987. In 1987, the MSPB sent out questionnaires to 13,000 Federal employees and received 8,523 responses. In 1987, 42 percent of all women and 14 percent of all men reported they experienced some form of uninvited and unwelcome sexual attention. The total cost to the Federal Government for this non-job-related behavior is estimated at $267.3 million during the survey period of May 1985 to May 1987. These costs are based on job turnover, sick leave used, lost individual productivity, and lost group productivity due to sexual harassment.

MSPB administrative judges are responsible for hearing and deciding direct appeals from Federal employees who allege that an adverse personnel action was taken against them because of their whistleblower activities. In 1989, when the Whistleblower Protection Act was enacted, the Senate report stated that Federal employees may appeal to the MSPB and that the first review is to be by an administrative law judge and then the Board. However, administrative judges hearing these cases at the Board are not ALJ's as the act contemplated, nor do they have the protections of ALJ's under the law to ensure the impartiality and independence of their decisions.

MSPB administrative judges hear sensitive personnel cases on sexual harassment and whistleblower protections involving highly placed agency officials. In fact, the House just recently authorized the MSPB to hear appeals on misconduct cases from the Senior Executive Service. Federal employees relying upon the integrity and independence of the decisions of the MSPB administrative judges are not aware that these judges are subject to removal, suspension, and performance appraisal by their agency of their hearing and decisionmaking functions. Currently, MSPB's performance appraisal determines whether these judges receive cash awards for their work.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MSPB conducts both preissuance and postissuance quality reviews of decisions issued by MSPB administrative judges. No facet of a decision is immune from review. Reviewers may include headquarters personnel who perform no hearing or decisionmaking functions. The results of these reviews may influence a judge's overall performance rating and pay.

Most Federal employees believe that they are entitled to a fair hearing before losing one of their most precious possessions, their livelihood. Unfortunately, Federal employees have less protections than we currently grant an individual applying for Social Security benefits or public assistance. A denial of Social Security benefits will trigger the right to a hearing before an administrative law judge, who cannot be intimidated or influenced because of the statutory protections guarding an ALJ's decisional independence. Federal employees are not aware that their case before the MSPB will be subject to quality review.

I believe that Federal employees should have the same protections in hearings before the MSPB on critical personnel decisions that may in fact ruin an individual's career. For these reasons, I have introduced a bill to give MSPB administrative judges the same protections as ALJ's in regard to removal and suspensions only for good cause, rotation of case assignments to ensure impartiality on the part of the decisionmaker and no performance appraisal of their adjudication functions. These protections will guard the integrity of the Merit System Protection Board in reviewing Federal employment practices and keep them free from political influence. I think this is important to the civil service system and it is not a difficult task to undertake, since extending these provisions would be budget neutral.

I urge my colleagues to join me in providing these safeguards to the process of reviewing important employment decisions in the Federal Government.

PRESIDENT'S POSITION ON ABORTION

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, on the issue of a woman's right to choose, George Bush has used his veto pen again to sustain a position which the vast majority of the American public does not share. Some people believe that the President merely opposes the use of public funds for abortions, but his position is far more extreme. There is not a single type of Federal financing for abortion in any of the choice bills that the President has vetoed.

On the gag rule, the President vetoed the right of a woman to have her doctor tell her all of her options. Not a dime of Federal money was involved to provide for an abortion.

On the defense appropriation bill, the President vetoed the right of an American servicewoman abroad to spend her own money on an abortion. Not a dime of Federal money was involved.

□ 1110

On the D.C. appropriations bill, the President vetoed the right of the District government to use its own locally derived funds to pay for an abortion, not a dime of Federal money involved. And on international family planning, the same, not a dime involved for the use of abortions.

On choice, this is a President with an extreme position, one that is at odds with the American people and the clear majority of them.

Mr. Speaker, George Bush has used the enormous power of his veto to impose his will. It is the worst example of catering to special interests currently operating in Washington.

SMALL BUSINESSES KNOW THAT TALK IS CHEAP; BUT IT'S HOW YOU VOTE THAT COUNTS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, in a few days we will adjourn for the year. Many of us will go home to hold conferences or seminars for small business owners in our districts.

We want to show them that we understand how important they are to our local communities and to our Nation's economy.

We'll give civic club speeches extolling the virtues of small business. We'll cheer small business owners for leading the country in job creation and economic growth.

But, Mr. Speaker, when it comes to promoting small business, talk is cheap.

Saying nice things to the small business owners in our communities is fine, but it doesn't make up for the damage done by mandates, antigrowth tax policies and bureaucratic redtape forced on small business by the Democrat-controlled Congress here in Washington.

And so my colleagues, I urge you to remember as you address the civic clubs and small business organizations back home: Small businesses know that: It's easy to say that you're for small business. But it's how you vote that counts.

THE TEXTILE INDUSTRY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, last year the President of the United States vetoed a textile bill, a textile bill that would have merely set only 1 percent growth in imports of textiles into this country.

I was in my district the other day in a store and was talking with an unemployed textile worker. And he picked up something off the counter and looked at it, it said, "Made in China." And that unemployed textile worker said to me:

> When are we going to stop this? When are we going to understand that we are giving our jobs away? When are we going to understand that one of these days, and very soon, our American workers are not going to have jobs and they are not going to be able to purchase homes and they are not going to be able to purchase automobiles? They are not going to be able to support themselves, and the economic base of this country will be gone.

President Bush, I say to you, do not veto the middle-income people in this country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Members are reminded to direct their remarks to the Chair, not to the President.

DROUGHT RELIEF

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, I am taking the floor today to express my hope that you have on your list of legislation that must be passed before our adjournment, the dire emergency supplemental appropriations bill. The House passed the supplemental on October 29, and it's currently awaiting consideration by the other body.

It is absolutely no exaggeration to say that my constituents are in dire need of this assistance, both the additional funds for FEMA disaster assistance, and the $1.75 billion in the bill for crop-loss assistance for farmers and ranchers.

In Nebraska, producers have experienced losses due to severe drought, hail, high wind, excessive rain, flash flooding, and killing frost. The State emergency board [SEB] has declared 22 counties in the State have exceeded a 30-percent loss in at least one crop enterprise, with many counties suffering across-the-board losses exceeding 30 percent.

These people are hard-working taxpayers, the foundation of our economy, and I urge this Congress, and the administration to respond to their plight. Helping them is an investment in this country, and we should not go home for turkey—or Christmas—until we have responded to the ravages of nature, and made that investment.

GOVERNMENT BY VETO

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, under Presidents Eisenhower, Nixon, Ford, and Reagan, we had divided Government, but we did not have paralyzed Government, with a Republican in the White House, and a Democratic Congress, the two political parties, must work together to solve the Nation's problems.

With President Bush, this tradition has been discarded. Rather than governing by consensus, comity, and accommodation, President Bush has used this—the veto pen—to thwart change, frustrate the will of the American people, and stop our efforts for economic recovery.

This summer, he killed our bill to send extended unemployment benefits to families whose breadwinners lost their jobs in the Republican recession. He vetoed our second bill. Only when the waters of recession lapped at the lawn of the White House, did he sign our bill. But that was after the President forced down the levels of benefits for unemployed workers.

Government by veto is not leadership, Mr. Speaker. We need cooperation, not opposition and dissent, from the one man elected by all Americans.

TERRORISM IN EL SALVADOR

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, last Saturday marked the second anniversary of the brutal slaying of six Jesuit Priests, their housekeeper, and her adolescent daughter by Salvadorean security forces at the University of Central America.

For 2 years we have watched and waited for justice to prevail in El Salvador. In an unprecedented feat, two army officers have been convicted for the atrocity. While we applaud this verdict, we know that it is not over. As long as seven subordinate members of the army—who self-confessed to the eight murders—are free, and as long as the original architects of the execution are veiled, justice has not been served in El Salvador. I urge my colleagues to continue to press for the truth in the Jesuit case as well as the other, lesser publicized cases of State-sponsored terrorism in El Salvador.

THE FSX AIRPLANE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, one of the most long-term significant decisions made since George Bush became President was his veto of the legislation which would have stopped the partnership of Japan to codevelop a new jet fighter called the FSX. The President was so dedicated to jointly develop this airplane with Japan—with new generation and new technology in connection with fighter aircraft—that he vetoed efforts, by the majority of both Houses of Congress, to stop this transfer of technology. What are the consequences of this veto?

The United States for over 50 years has been the undisputed leader in aircraft production and aerospace development. Well over 1 million jobs exist in that industry alone. Yet this veto, and the resulting joint development of the FSX fighter plane in Japan, will provide the Japanese with sensitive high technology aerospace information.

By his veto pen the President puts America in the vulnerable position of losing thousands of jobs overseas, of losing our historic and unparalleled military and civilian technology to our foreign competitors.

It is said that the pen is mightier than the sword. In the case of this George Bush veto, the veto pen has become a sword aimed right at the heart of the American aerospace industry.

YANOMAMI INDIANS RECEIVE LANDS IN BRAZIL

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I want to commend Brazil's President Collor for signing a decree to legally recognize 36,000 square miles of Brazilian forest as Yanomami territory. These people of the rain forest have faced extinction due to rapid deforestation. The Congressional Human Rights caucus has met with individuals from the Yanomami Tribe who have traveled around the world seeking protection of their rights at the expense of their personal health and safety. We send them our continued support and congratulate them on this victory.

Since the Houston summit in 1990, where the G-7 nations expressed their interest in protecting existing forests, Brazil has been working on a pilot program for sustainable use of their rain forests. The environmental benefits of conserving their unique ecosystem are clear. However, the survival of the culture and respect for the basic human rights of the forest dwellers are intrinsic to the success of the forest plan. Now, thanks to the commitment of Brazilian Environment Secretary Jose Lutzenberger and the will of President Collor, the forest plan can be received as just one part of a commitment to cultural survival in Brazil. President Collor should not be the last to recognize the rights of indigenous people.

□ 1120

PRESIDENT BUSH HAS BECOME THE "JUST SAY NO" PRESIDENT

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, President George Bush has adopted Nancy Reagan's drug policy as his domestic policy, but unfortunately just saying no will not do it anymore.

As my colleagues will accurately chronicle in later remarks, the President has left behind him a trail of disappointed disasters on our economic and domestic front. And in the words of Al Jolson, "We ain't seen nothing' yet."

The President has promised to veto help for beleaguered dairy farmers, for striker replacement legislation, to veto pending campaign finance reform and taxpayer fairness for the middle class, to veto cable TV regulation and Federal facilities environmental cleanup, and to veto national voter registration and the disaster relief bill that my Republican colleague mentioned just a few moments ago.

Yes, this Republican President has chosen to espouse the view of another Republican predecessor, Teddy Roosevelt, but he has changed it just a little. He speaks shrilly and carries a big pen. Yes, for many Americans the best, truly, is yet to come.

SUPPORT ELEVATING ENVIRONMENTAL PROTECTION AGENCY TO CABINET-LEVEL STATUS

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I am aware of the fact that the rules of the House require us to address the Chair and no one else, so, Mr. Speaker, I am addressing you and I am pleading to you, I am urging you to encourage the chairman of the Government Operations Committee to join us in taking advantage of an opportunity to elevate the Environmental Protection Agency to Cabinet-level status. I say this on a bipartisan basis.

We have worked painstakingly for many, many months to craft a bill that has been passed by the Senate, sponsored by Senators GLENN and ROTH on a bipartisan basis. That bill is now on the table, Mr. Speaker, and we can move it rapidly before the gavel comes down on this first session of this Congress.

I would point out that a broad bipartisan coalition of our colleagues in the House encourage the support of this legislation. It is endorsed by every major environmental group in America today. It is time that we gave to the environment the attention it deserves, and elevate this Agency to Cabinet-level status.

TOO MANY WHITE HOUSE VETOES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, at every opportunity from 1983 to 1988 the White House trumpeted "The Reagan Recovery, the Reagan Recovery." Now that we are in a Bush recession the White House is desperately trying to disown the consequences of their own economic policies.

The vetoes being talked about today demonstrate just how fully the Republicans have been in control over the past 10 years. They demonstrate how the White House has turned a Democratic majority in the Congress into a minority. They also demonstrate why no Congress since World War II has ever been able to change any President's budget by more than 2 percent.

Continuous threats of vetoes have prevented Congress from successfully challenging administration fiscal policy. On foreign aid, for instance, the Reagan-Bush White House twice threatened the Congress with the veto of foreign aid bills because the White House felt that we did not spend enough, at the same time that this White House is threatening to veto help for dairy farmers because it provides, in their view, too much help.

What we need from the White House is more vision, more cooperation, and less unilateral negativism.

PROTECTION FOR PRODEMOCRACY CHINESE STUDENTS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, today I am introducing legislation that will provide long-term protection for prodemocracy Chinese students. These students are currently protected by the President's Executive order of April 11, 1990, but this Executive order will expire.

My bill would authorize the U.S. Attorney General to adjust the status of Chinese nationals protected by the Executive order to that of permanent resident, if the President has not certified before July 1, 1993, that conditions in China permit their safe return. To be eligible for his adjustment, the dissidents would be required to:

First, apply for the adjustment of status during the 6-month period beginning July 1, 1993;

Second, have resided continuously in the United States since April 11, 1990, with exceptions for travel as authorized by Executive Order 12711; and

Third, be present in the United States when the application is filed.

The detention of dissidents Dai Qing and Hou Xiaotian by Beijing officials during Secretary Baker's recent visit to China gives reason to believe that prodemocracy Chinese nationals in the United States will face retribution if and when they return to their homeland.

It is crucial that we show our commitment to freedom and democracy by protecting these brave young men and women. Please join me and Congresswoman PELOSI in cosponsoring this important piece of legislation.

WORKING AMERICANS DESERVE ADEQUATE MINIMUM WAGE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I am holding the symbol, unfortunately, of the present administration, and that is the veto pen. The President has used a veto pen 24 times to frustrate the American people, the vast majority of this Congress, and the vast majority of the American people in legislation that they need to address a lot of the problems in this country. Unfortunately, the only industry that appears to be growing in this Nation, thanks to the President's efforts, is the veto pen industry.

He has vetoed, for instance, on June 13, 1989, a minimum wage bill that would have provided the first increase in many years for the working poor, the people that are working, Mr. Speaker. He was pressing for capital gains for the highest income while vetoing legislation to assist the lowest income.

Middle-income persons know that they lost income in earning power over the past decade, but yet thousands of working poor fell below the poverty line. The President's response is to press for legislation that assists the upper 1 percent while vetoing legislation that protects the bottom percentages.

How does one get money for stoves, refrigerators, and cars? We give them a decent wage, not a veto.

DEMOCRATS GETTING THE MESSAGE ON POLITICAL LEGISLATION

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, it appears that the Members of the Democratic majority are visibly upset about the President's exercise of his constitutional veto power. I guess they are finally beginning to get the message. They have to stop fooling around with political legislation, legislation designed to score points for the next Presidential election, and start working with the President of the United States if we are going to get something done for the American people. That is what they are asking for.

Respected Washington Post columnist David Broder wrote a column recently and he criticized the efforts of the majority in the Congress, talking about the results of our divided government, the fact that we were not accomplishing anything, but he did not blame the President. He blamed the majority, the Democrat majority in the Congress. He said that he had spoken recently with Republicans and he believed that they were about ready to govern, that they had the answers that could provide the solutions to the problems that the American people are looking for.

I think when the American people see time after time nothing but political legislaltion coming out of this body, which the President then is forced to veto, they understand why constitutionally he was given that authority and why it is about time that the Democrat majority gets that message.

THE PRESIDENT FLIP FLOPS ON CIVIL RIGHTS LEGISLATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, on October 22, 1990, the President vetoed the civil rights bill and that was sustained by one vote in the Senate. Yesterday, almost 1 year later, he signed the civil rights bill. But then that morning he set aside a proposed Executive order that would eliminate affirmative action within the executive branch.

Like so many other domestic issues, the American people are not sure where the President stands on this issue.

There is a basic principle in this country, and it is a principle that says we believe in equality of rights and that we believe that there are no rights unless there are remedies. We cannot just talk about rights unless we are prepared to remedy wrongs.

This Nation needs now, more than ever, leadership, not ambivalence. It needs commitment, not uncertainty. It needs to appeal to the best in our people, not the worst.

Protecting the rights of the weakest among us protects the rights of all of us.

The President may be able to veto the civil rights bill. He can never veto the spirit and hope for equality and equal justice that is America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair will remind our guests in the gallery that we are delighted to have them with us, but they are not to respond either positively or negatively to statements made by Members on the floor.

THE FINGER POINTERS ARE THE ONES WHO CONTROL

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today, a day like all days, there is a lot of finger pointing here at the President by the Democrats, the same old carping, carping, carping.

But my friends, since 1954 every Speaker here has been Democrat, every chairman of the committees has been a Democrat, and every subcommittee chairman.

□ 1130

We have a good deal of applause, but why all the carping? You are in charge.

This card right here, 268 Democrats have it, 167 Republicans, 100 more Democrats than Republicans.

Do you know this veto pen that you are holding up here, do you know the President could not even buy that without your permission?

I find people are upset with the bickering. It seems that nothing works in this Government any more, just, you know, give and take.

Why do we not get together? Why do you not with your big majority in the House work with the President and let us do something positive for America for a change? Let us stop the bickering.

People put their trust and confidence in us to come here and do a job. Let us not betray that trust and confidence. Let us do what is best for America. Let us work together.

PRESIDENT WANTS TO GOVERN BY VETO

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, the President takes great pride in the fact that Congress keeps sustaining his vetoes—he wants to govern by veto, not by actually passing programs that will help the American people.

Let us look at the effect of his veto and threats to veto civil rights legislation. Last year he vetoed an important civil rights bill that would have reversed a number of Supreme Court decisions which restricted the right of workers to sue their employers for job discrimination. This year he repeatedly threatened to veto similar legislation and finally agreed to sign the bill.

His veto and threat to veto delayed action on this important subject for more than a year.

And yesterday, even as he signed the bill, he sent out mixed signals that he really doesn't support the basic thrust of the legislation.

While he did not veto the latest bill, he may have been signing it in invisible ink.

OLD-FASHIONED POLITICS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, if you are a veteran in my district in southwest Florida, you might travel over 100 miles to the nearest veterans hospital and still be turned away because your ailment is not service connected and there are no facilities available. But I can tell you about one place where the Government honors its pledge "to care for him who shall have borne the battle"—Allen Park, MI where over one-quarter billion dollars is being spent to modernize and replace a veterans hospital that already has empty beds. But what good is that? I hear the laments of our veterans who ask, "Why can't I receive the same care here in southwest Florida?" Thousands of growth State residents ask this question and so do I. We pay the same taxes as the rest of the country but we are always shortchanged on Federal resources. And it is not just veterans, most funding formulas are biased against growth States, and the current mind-set is so entrenched, so antediluvian that it cannot adjust to the changing needs of dynamic modern America. So I ask, Mr. Speaker, why cannot modern growth States ever get a fair shake? Is it just old fashioned politics?

A LEADERSHIP VOID IN THE WHITE HOUSE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, America has a right to expect leadership from her Presidents. Under difficult circumstances, Presidents are expected to pull the country together, set goals, provide solutions.

Yet while our working middle class families struggle to survive, and lose sight of an America in which children can hope for a better life than their parents, this President denies that any problems exist.

The President says he has compassion. He speaks with feeling about the need to preserve the family values that have kept America strong.

But when families said they needed leave to take care of sick children and ailing grandparents, what did President Bush do? When parents asked for leave from their jobs to care for a new infant or newly adopted child, what did President Bush do? When parents asked for leave for family emergencies, what did President Bush do?

He vetoed the bill that would have provided all those things. That was a year and a half ago, Mr. Speaker. A year and a half that families went without. Now, this year, we have finally passed a bill weak enough for the President to sign.

Mr. Speaker, this is not courage. This is not caring. This is not compassion. And it certainly is not leadership.

WHAT IS THE PROBLEM WITH THE PRESIDENCY

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, I have been listening to my colleagues talk this morning and I am trying to figure out what the problem of the Presidency is, why we have this inactivity, why we have this negativism.

At a time when the country, frankly, needs an Eisenhower, we seem to have drawn a Coolidge. Eisenhower could work with the Congress, Coolidge ignored the Congress and ignored the country; but I think it is something deeper than that. I think maybe it is crystallized best in his veto of the minimum-wage bill and in the very tepid amount that we finally gave them.

I think we have a President who does not realize that when he was elected, he was to be President of all the people, the little people as well as the big people, his supporters as well as his opponents. He is to look out for the best of all American society, not a narrow band of ideologues who somehow brought him to power.

I am afraid the country will continue on its present course until the President realizes his responsibilities to all Americans, young and old, black and white, of every race and of every religion and born to every station of life. Until the President realizes that, I am afraid that these kinds of speeches we are giving this morning will continue and the country will suffer as a consequence.

PRESIDENT NO

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the President has sent more veto messages to the Congress than he sent domestic initiatives. We should start calling him President No. President No has nothing left but the veto because his party in addition to a budget deficit also suffers from an idea deficit. Supply-side economics, the President once called it voodoo economics. It does not work. The boogie man of communism has faded away. The GOP learned the consequences of being wrong on the choice issue. Race politics exploded in their face in the form of David Duke.

But President No still needs something to pay the rent for the ideological ax grinders. What does he use? The veto. That is great for President Bush. It gives him something to do, keeps his speechwriters working, but the politics of "no" hurts working Americans.

Take the veto of the family leave bill. The recession already has working families worried about losing their jobs. Why they have to worry about whether they will still have a job after having a baby or caring for a dying parent is beyond me.

Mr. Speaker, if President Bush continues to be President No, the American people will tell him he has no job protection next November and will veto him out of office.

U.S. PHARMACEUTICAL COMPANIES FALLING TO JAPANESE OWNERSHIP

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, how many United States pharmaceutical companies were purchased by the Japanese in 1988? The answer is zero. In 1989 the answer is once again zero. But in 1990, 19 major United States pharmaceutical companies have fallen to ownership by Japanese investors either by a direct buyout or purchase of 15 percent of the company and control of all research and development funding.

These acquired businesses are high-demand companies on the leading edge of technology ranging from biotechnology to food supplements. In many cases, Japanese firms paid two to three times the actual value of the company in the purchase price.

The trend typifies the coordinated commercial strategy employed by many of our trading partners, particularly Japan. It appears pharmaceutical is about to move up beside autos, bearings, and semiconductors as the next target to be assaulted.

This targeting has also been extended to our university campuses. Recent joint ventures between Japanese companies and the research arms of several large universities have opened the doors to our most basic and important mechanism for technology development.

WHAT IS IN A NAME?

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, what is in a name?

Last Sunday while I was watching "This Week with David Brinkley," I heard Vice President QUAYLE refer to the Governor of New York on several occasions as Mahr-io, with an exaggerated stress that seemed to this listener to be a not so subtle attempt to appeal to ethnic prejudice; for Mario, unlike J. DANFORTH, ends in a vowel. If that is the Vice President's intent, then he should be careful, for there are a lot of Marios out here in America, a lot of Theresa Marias, a lot of Guillermos, a lot of Mohammads, a lot of Ravis and Chaims, a lot of Bjorns and a lot of Lings, and a lot of Stephanos.

Put us all together and we are the mosaic of America.

So yes, J. DANFORTH, Mario does end in a vowel, but remember, so does Bubba.

STOP MILITARY AID TO EL SALVADOR

(Mr. COX of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of Illinois. Mr. Speaker, 2 years ago last Saturday, six Jesuit priests and their two women associates were brutally murdered by uniformed members of the Salvadoran military. Their only crime had been their work for a more just El Salvador. Much evidence points to the complicity of high-ranking members of the Salvadoran armed forces. At the time of the slayings, the United States-supported Government of El Salvador assured the world that the guilty parties would be brought to justice. We are still waiting for justice to be served.

Throughout the last decade, the United States Government provided massive military aid to the Salvadoran armed forces. Not surprisingly, the conflict in El Salvador escalated. At the time, President Reagan told the American people that this aid was necessary to prevent the spread of communism in Central America. Now, with communism in decline around the world, it is time to stop defining our policies by what we are against, and instead, tell the world what we are for.

Continued military aid to El Salvador will do nothing to foster the growth of democracy in Central America. If we are serious about promoting our values, we must change our focus to economic assistance. Only in a stable economic climate can democracy flourish.

Recently, Congressman JIM McDERMOTT, who has been a true leader on this issue, and I sent a letter to the House leadership stating our goals for making significant cuts in military aid to El Salvador. The letter was signed by 55 Members who share our concerns. Unified leadership on this issue is critical if we are ever going to resolve the outstanding issues in the peace negotiations.

PENNED DOWN BY THE PRESIDENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am very proud of this House. This House, under Democratic leadership, has done all sorts of things for the hopes of Americans. And what has happened? We get them out of this House and out of the Senate under Democratic leadership, and they go to the other end of the street and they get penned down by the President of the United States.

Let me list some of those hopes: Family medical leave, America's families want that; help to mediate the Eastern Airlines strike, we wanted that; the civil rights bill, women's rights, native American businessmen having a preference when dealing with the Federal Government, sanctions against foreign companies engaged in biological and chemical warfare, intelligence reports to this Congress so we know what is going on.

Mr. Speaker, I could go on and on and on. Those things passed. We tried to make America's lives better, and the President penned them all down.

I think we are getting tired of getting penned down, and America's hopes being penned down.

The President must like poor Americans; he is doing everything he can to create more of them.

I AM ON THE RIGHT SIDE OF THE AISLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, coming from an Irish-American Catholic family, born in Harlem, New York, Manhattan, on 110th Street; my family was Democrat when I was young. By all rights I should be sitting on the majority side.

However, because of term limitations and because of Jim Farley, the postmaster general, FDR's campaign manager the first two times around, Jim Farley, my dad's handball partner at the New York AC said, "Harry, he should not have a third term. He is going to die in office." He was only off by 89 days.

He said, "What was good enough for George Washington should be good enough for Franklin." It is too bad. But he was a great leader during the Second World War. However, my family did switch to Republican. Here I am, 21 years of age, in Florida, in pilot training at College Station, last time I ever saw a Republican Speaker up there, Joe Martin.

Now I am 58, I have five grown kids all in their thirties, eight grandchildren. And this House has been controlled by Democrats for almost 38 years, my entire life, and we are running up a debt of $1,400,000,000 a day. I think maybe I am on the right side of the aisle. I do not know; I will debate it.

THE COLD WAR IS NOT OVER

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, the growing tensions in the Korean Peninsula show that the cold war is still at least a bit chilly. Yesterday I heard testimony from Richard Perle, the former Reagan administration official. He stated that in order to stop the development of nuclear weapons in North Korea, "The use of force is probably the only effective measure available to us."

The use of force? How about international pressure? How about dialog? How about coordinated sanctions?

Mr. Speaker, where have we heard this all before? Are Americans again being called off to wage war on foreign soil?

Yesterday I introduced legislation to encourage peace and reunification between the two Koreas and to encourage North Korea to allow international teams to inspect its nuclear facilities.

No question that the nuclear program is the largest obstacle to peace. They must allow inspections and eventually elimination of nuclear weapons. However, Mr. Speaker, we should be working to achieve the goals of unification and elimination of nuclear weapons on the Korean Peninsula, not by force but by peaceful means.

BUYING AMERICAN CARS WILL STIMULATE U.S. ECONOMY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, last night, national public radio reported that the President—to stimulate the economy—is considering incentives for those Americans who buy cars made in the United States.

Kudos to the President.

And kudos to Steven Boyd—the president of the Bank of Glen Burnie, Maryland—who has instituted a 1 percent discount on all loans made to those borrowers who buy American cars. Boyd has been deluged with calls by would-be buyers interested in his proposal.

With 6.8 percent unemployment, we need to think of our people. The greatest unemployment benefit package is one that provides jobs.

The way to stimulate the economy is jobs. Jobs for Americans. Jobs for taxpayers who pay the frieght for all those great programs that we pass in the Congress. The automobile industry is vital; stimulate it and stimulate all American manufactured goods as well, via investment tax credits for them.

If there are no jobs, there are no incomes, and no income taxes, revenue to the IRS.

We should applaud the efforts of Mr. Boyd and of the President. It is time we started concentrating on American jobs and not on the needs of our allies.

REMEMBER THE JESUITS

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, 2 years have passed since Salvadoran soldiers assassinated six Jesuits and two witnesses in cold blood.

Our colleague, JOE MOAKLEY, with his staff, has tirelessly pursued this case. On Monday, he concluded that, in all likelihood, the crime was systematically planned and ordered by five officers at the highest level, none of whom have been accused or tried.

Where is the outrage about this travesty of justice? Chairman MOAKLEY's report is the best example yet of the level at which this horror originates. It starts at the top. it starts with the people who cash the U.S. check.

We cannot simply shrug our shoulders and walk away from this crime. We must remember that these men were gunned down for their beliefs by a military that kills with impunity. I hope this case will spell the end of this sad chapter in our history. We owe it to the Jesuits and thousands of others to end our military aid to El Salvador.

EL SALVADOR

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, almost 2 years ago to the day, during consideration of the foreign aid authorization bill, Members of this House gave firm notice to the Government of El Salvador that it expected justice to be carried out in the case of the executions of six Jesuit priests, their housekeeper, and her daughter, who had been murdered by the military just days before.

After almost 2 years and constant pressure, a milestone was set—two Salvadoran officers were convicted of human rights abuses for the first time. And while many hailed these convictions as a historic dent in the traditional impunity of the Salvadoran Armed Forces, a careful examination of the trial clearly demonstrates that justice has not been carried out.

Only two of the nine soldiers indicted in the murders were convicted. Among the seven acquitted were those who confessed to having pulled the triggers. They were acquitted for obeying the commands of those two officers on the scene who ordered the slayings.

Mr. Speaker, United States policy for more than 10 years has stressed the establishment of an independent and functioning system of justice in El Salvador. I for one do not consider just a system which excuses murderers who were just following orders.

Nor am I satisfied that all those responsible for these murders have been tried. Our colleague JOE MOAKLEY has recently issued a report indicating that high-ranking Salvadoran officers—unindicted coconspirators—actually conceived of, and then covered up their roles in, the Jesuit killings.

A just and peaceful resolution of the war in El Salvador requires that the full truth be established in this case.

□ 1150

INTRODUCTION OF CAPITAL GAINS TAX CUT PROPOSAL

(Mr. DONNELLY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, today I am introducing legislation to provide a capital gains tax cut for working class Americans. In my legislation, taxpayers would have a lifetime capital gains bank of $200,000. Any taxpayer, throughout the person's lifetime, could exclude up to 50 percent of the gain on the sale of a capital asset, up to the limit in the bank, for a maximum tax rate of 15.5 percent.

The benefit would phase out as a taxpayer's income increased above $200,000. Under my bill, individuals who sold stocks saved for retirement or a second home, or elderly individuals who had a large gain in the sale of their principal residence, would benefit. Because the bill has a 3-year holding period, no short-term stock speculators would qualify.

Finally, my bill provides that taxpayers could index the cost of real estate for inflation. An inflation-induced gain is not a capital gain and should not be subject to tax.

Mr. Speaker, I make up the revenue loss by increasing the top marginal tax rate from 31 percent to 34 percent for people with incomes of more than $250,000 per year. These people saw their tax rates decline in the 1980's from 70 percent to 31 percent, while middle-class Americans saw their taxes increase over the last decade.

Mr. Speaker, there is now a clear majority of the members of the Committee on Ways and Means who would support some sort of middle-class tax relief in regard to a capital gains reduction. This much-needed shot in the arm for a dismal economy can only be accomplished if the President becomes realistic and is willing to compromise.

Mr. Speaker, I insert a summary for the RECORD.

SUMMARY OF MIDDLE-INCOME CAPITAL GAINS PROPOSAL

All individuals would have a lifetime capital gains "bank".

Bank limit would be $200,000 per person.

All individuals would be entitled to the $200,000 bank; for example each spouse of a married couple would each have a separate limit.

Any individual who sold a qualified asset could exclude up to 50% of the gain on the sale, up to the $200,000 limit.

Qualified assets would include all capital assets under present law, except collectibles.

Under the bill, the maximum tax rate on capital gains income would be 15.5% (i.e., ½ of the maximum 31% tax rate).

The full benefit would not be available in any year that a taxpayer had adjusted gross income in excess of $200,000.

In the case of a sale or exchange of real property, taxpayers would be able to index their basis in the asset to the rate of inflation.

Thus, no tax on inflation-induced gains.

Example: taxpayer buys a house for $100,000 and sells it 9 years later for $200,000. Inflation was 5% per year over the 9-year period. Basis for measuring gain is $145,000, so gain is $55,000.

A three-year holding period would apply, so that the deduction would not be available to any taxpayer who held the asset for less than three years.

Holding period would encourage long-term investments; no tax break for stock speculators.

The bill would be paid for by increasing the top marginal tax rate of 31% to 34% for individuals with taxable income in excess of $250,000.

POLLS SHOW PUBLIC REJECTS ABORTION AS FAMILY PLANNING METHOD

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, we have done what is right by the American people. Based upon the results of several nationwide polls it is clear that the majority of Americans consider it wrong to use abortion as a method of family planning.

A June poll by the Wirthlin Group revealed that a full 83 percent of Americans oppose the use of abortion as a method of birth of birth control. Simply stated, American taxpayers feel strongly, that they should not be forced to subsidize abortion advocacy of any kind.

It's time to tell the truth about the title X regulations. it is clearly an issue of taxpayer's choice. It is wrong to expect the majority of Americans who oppose abortion as family planning to support a program that makes no distinction between the two. It also provided no way for parents to have input in their daughter's decisions.

The fact is that title X was created as a pregnancy prevention program. It was intended to help poor women avoid unplanned pregnancy and plan for the arrival of each child. All discussion regarding title X makes it very clear that there was never intended to be any connection between title X activities and abortion-related activities. These regulations have corrected abuses of taxpayer dollars and restored integrity to the program.

What is most difficult to understand is why some of the Members feel that the taxpayers are somehow obligated to fund an activity that most Americans find morally wrong—the promotion of abortion as family planning. Family planning prevents pregnancy. Abortion stops a beating heart. I commend my colleagues for restoring integrity to this process.

URGING A CUT OFF OF MILITARY AID TO EL SALVADOR

(Mr. ATKINS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, 2 years ago members of the Salvadorean military viciously murdered six Jesuit priests, their housekeeper, and her 15-year-old daughter.

On September 28 of this year, a court finally delivered a long-overdue guilty verdict against two Salvadorean officers, but the soldiers who actually carried out the murders were found not guilty.

Earlier this month, thanks to the work of the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and his investigating committee, we learned of new evidence which points to the involvement of top Salvadorean military officials in plotting the murders.

Mr. Speaker, this year the United states has spent over $300,000 per day on military aid to El Salvador. Think of it. That is $300,000 a day to bankroll murderers in the Salvadorean Army who sadistically kill unarmed priests.

These are not our values, Mr. Speaker. This is not the purpose of foreign aid. It is time to stop military assistance to El Salvador.

SUPPORT ASKED FOR LEGISLATION TO BENEFIT MIDDLE CLASS SEEKING HIGHER EDUCATION

(Mr. ANDREWS of New Jersey asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ANDREWS of New Jersey. Mr. Speaker, I have some good news and some bad news. The good news is that unlike in most areas, the President does have a higher education policy. The bad news is that that education policy says you can go to college if you are very wealthy or very lucky. It is a higher education policy that says that middle-class people can pay for Pell grants, but they cannot get them, middle-class people can pay for student loans but they cannot borrow them, and middle-class kids can watch as everybody else's kids have a chance to go to school and theirs cannot.

Mr. Speaker, we have a chance to do something about that. H.R. 3553, reported out by the committee on Education and Labor, would change that policy. I urge my colleagues to support H.R. 3553 and put the middle class back in the freshman class.

PREVENTING DISASTER IN HAITI

(Mr. HALL of Ohio asked and was given prmission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, once again, the faces of hungry children could fill our TV screens and front pages. But, I'm not talking about refugees in the Horn of Africa. Today, I am speaking of children a few miles south of Florida—in Haiti.

Even before the coup, Haiti was the poorest country in this hemisphere. Since the embargo, programs that fed 420,000 people each day now serve fewer than 20,000. The lack of fuel and the desperate security situation is making it impossible for those programs to continue any work at all. As of today, there is no fuel or food arriving in Haiti.

But Port au Prince doesn't have to be Baghdad, Mr. Speaker. If the President and international community act now, innocent children and pregnant mothers won't have to face famine and disease.

Earlier this week, several members of the Select Committee on Hunger and I wrote to President Bush to recommend that the OAS negotiate the delivery of food and emergency supplies in Haiti. The OAS could directly supervise the delivery, with distribution through relief organizations that already exist. The OAS' physical presence and the spotlight of world public opinion will ensure the supplies are used for solely humanitarian purposes. This emergency relief operation won't violate the terms of the embargo. What's more, it could set an important precedent—in Haiti, we could prevent famine instead of addressing a tragedy after it's too late.

TEXAS CONSTITUENT SPEAKS OUT ON ISSUE OF HOMELESSNESS

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. WASHINGTON. Mr. Speaker, let me say a word this morning on behalf of those who have no tongue, but not from me—from Andrea Lazar, who lives in the 18th Congressional District of Texas. She wrote the President:

DEAR PRESIDENT BUSH: Three weeks ago you came to Houston. Three weeks ago cold weather came to Houston. On the evening news the first story was about your coming to Houston. The second story was about the cold weather coming to Houston. They interviewed a man who said he was lucky because a friend of his gave him two blankets.

Mr. Speaker, within 24 hours President Bush raised $1 million for his 1992 campaign. Within 48 hours two Texas cities raised almost $2 million for the President's campaign.

There are hundreds of thousands of families with forgotten faces who call the streets of America home. Imagine how many homeless shelters and homes we could build with $2 million. Imagine for a minute how much progress we could make on the issue of homelessness and how many people could be helped if you spent 2 hours at a fundraiser to benefit the homeless in every American city.

Mr. Speaker, I am proud to represent Andrea Lazar in the Congress of the United States, and I associate myself with her remarks.

Mr. Speaker, the full text of her letter is as follows:

HOUSTON, TX, *November 17, 1991.*

THE PRESIDENT
The White House, Washington, DC.

PRESIDENT BUSH: Three weeks ago, you came to Houston. Three weeks ago, the first cold weather of the fall season hit Houston.

On the evening news, the first story was about your visit. The second story was about the weather—about what a surprise the cold weather was, especially for those living in the streets. One man said that he was one of the lucky ones because a friend of his gave him two blankets.

President Bush, within the span of 24 hours, you raised at least $1 million for your 1992 Presidential campaign. Over a total of 48 hours and two Texas cities, you raised close to $2 million dollars. All for your 1992 Presidential campaign.

There are hundreds of thousands of families and forgotten faces that call the streets of America "home." Can you imagine how many homeless shelters, or homes for the homeless, we could build for $2 million?

Can you imagine, for a minute, how much progress we could make on this issue—and how many people could be helped—if you spent 2 hours at a fundraising dinner to benefit the homeless in every major city in America?

To all of us, to all of the world, your priorities are outrageously clear.

ANDREA LAZAR.

PASSAGE OF TRANSPORTATION BILL WOULD HELP IN DECLINING ECONOMY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the President says that all the figures show that the economy is great and it is progressing. The only problem is that the engine will not work. The fact of the matter is that we are losing jobs. We are still losing our industries. We are losing consumer confidence, and the newest figures out on unemployment are at epidemic proportions. I ask the Members to take a look at them.

No; the engine will not go because the battery is dead. It does need a jump start, and we have a golden opportunity with the Transportation Act of 1991, with $151 billion over a 6-year period, and we would be foolish if we did not do something about it. The economic crisis is getting worse, the session is getting short, and the people are getting very impatient.

Mr. Speaker, we need this transportation bill. We need it now. Let us not go home without it.

□ 1200

U.S. RECOGNITION IS NECESSARY TO STOP THE WAR IN CROATIA

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, over the last 3 days, Americans and the world have witnessed the unbelievable carnage and destruction of the city of Vukovar in eastern Croatia by Serbian insurgents and forces of the Serbia Communist government. The damage has been described as the greatest destruction to touch Europe since World War II.

In today's Washington Post, Stephen S. Rosenfeld writes on the op-ed page about the ineffectiveness of the outside world in stemming the brutal aggression of Serbia in Croatia, where it is estimated 10,000 Croatians have died in the last 5 months.

Rosenfeld suggests that a U.N.-imposed oil embargo is the last best hope for sparing the former Yugoslavia. While that may be somewhat naive, since the Serbs reportedly have a year's supply of oil to fuel its fighting machine—the fifth largest in all of Europe—it certainly is one part of the solution. The most effective answer requiring no military force or United States resources is recognition by the United States of the independence of Croatia and Slovenia. Regrettably, if the Bush administration has seen the wisdom in that approach early on, it is doubtful the destruction of Vukovar would have occurred.

Mr. Speaker, I commend Mr. Rosenfeld's column to my colleagues.

[From the Washington Post, Nov. 22, 1991]

THE LAST, BEST HOPE FOR YUGOSLAVIA

(By Stephen S. Rosenfeld)

To view the wasteland of Dubrovnik and Vukovar—representative places of the greatest destruction to touch Europe since World War II—is to invite an obligation to redouble efforts to ensure that this carnage does not go on.

These results of civil war in Yugoslavia are horrible in themselves. They also deserve to be taken as harbingers of things to come—not everywhere but in the Soviet Union and many other places where ethnic passions run strong and traditions of democratic and consensual accommodation run weak.

What is troubling is not just the thousands of deaths and the phenomenon of ethnicity aflame but the spectacle of the outside world's ineffectiveness. A deterministic view spreads that autonomous "historical" or "cultural" demons have been let loose, forces that cannot be controlled, and that others can do no more than put up a wall and wait on the theory that eventually the fire will burn out and meanwhile others will not be singed.

There is an element of realism in accepting the limitations of European and American policy in Yugoslavia. The West has now moved to impose some economic sanctions, but there is no sign that either public or official opinion is prepared to move on to put in international forces to separate the warring parties.

But there is also an element of evasion in expecting the limited pressures so far brought to bear to accomplish the large and necessary goal of bringing Yugoslavia to a new political place.

In fact, the mismatch between means and ends is recognised within the Bush administration. The president joined up with the European Community's economic sanctions well aware that these were unlikely to slow down the Serbian juggernaut in Croatia. A cutoff of strategic oil imports would have a better chance of doing the job.

But that would have to be a broad international project, not just a European one, and it would have to be undertaken through the United Nations. So far this path has been blocked by, among other things, the Soviet Union's reluctance to act in Yugoslavia in a way that might act a precedent for U.N. intervention in its own ethnic torments.

Here is where Eduard Shevardnadze's reappointment as Soviet foreign minister becomes immediately intriguing. Can this prestigious author of the "new political thinking" design and carry through a policy that makes further international action in Yugoslavia not so much threatening as helpful to other countries afflicted with ethnic strife?

The evident answer lies in the European Community's effort led by Lord Carrington to put together a package solution. This means an urgent halt to the use of force to bring about unilateral political change; in the current context this bears most heavily on the Serbs, who are on a cruel offensive against Croats. But it also means effective protection—different approaches are possible—for minorities in all republics, including Serbs who have been in peril in Croatia.

If you look just at the television pictures of the fighting, you will be drawn to the side of the Croats, the conspicuous victims. But if you reflect just briefly on the history, you will realize that Serbs' concern for fellow Serbs must be factored in. The Carrington mission has been poorly explained in this country, but this is what I take its logic to be.

The subject stirs passion, not to say cynicism. If you listen to most Yugoslavs, and to most Americans of Yugoslav descent who are active in the policy debate, you will miss the central fact that all the Yugoslav nationalities share responsibility for the current tragedy and that all must be prepared to contribute to a solution.

It has to be considered awfully doubtful that the EC's Carrington and Cyrus Vance, the United Nations' designated mediator, have any chance left to draw the parties toward a political solution. It could yet happen that the particular one-sided result that is being put into effect on the ground by Serbian arms will settle into place and will be ratified by time.

But that is to say that a prompt international oil embargo, which would most affect Serbia, is probably the best remaining way to even the odds in a bargaining context where Serbia's army now gives it literally an overwhelming advantage.

This is also probably the last best hope for sparing Yugoslavia much further agony—and for making the essential demonstration that in these hideous ethnic disputes, political will can tame history.

TIME TO END MILITARY AID TO EL SALVADOR

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, like a horrible nightmare, the killing of El Salvador goes on and on.

Except this nightmare does not end when the alarm clock goes off.

A case in point is the 1989 murder in cold blood of six Jesuit priests, their housekeeper and her 15-year-old daughter.

Two Salvadoran Army officers have been convicted of the crime.

We know who pulled the trigger, but who gave the orders?

Earlier this week, the Speaker's task force on El Salvador gave us the likely answer to that question.

The killings were planned the day before at a meeting of five senior Salvadoran officers.

They included the current minister and vice minister of defense and the then-chief of the Air Force.

Is it any wonder that the investigation is at a standstill?

Are these guys going to blow the whistle on themselves?

Of course not.

But this Congress can blow the whistle on a policy that subsidizes the killers of priests, peasants, and children.

It is time we ended military aid to El Salvador, and that is what we ought to do.

RETURN COUNTRY TO WHERE IT BELONGS

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, being a new Member of this body, I was disappointed the other day when the President vetoed the Labor-Health and Human Services bill. It amazes me how the same people who will tell a woman that she has to have a youngster that is unwanted, how they will walk past a little baby who sleeps in an abandoned car, will walk past a little baby who sleeps in an abandoned house, will walk past a mother and baby who walk down the street with nothing to eat. That amazes me.

Mr. Speaker, I would say to the President, veto sending our jobs to foreign countries; veto women and children walking the streets. Do that, and then we will return the country to where it belongs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to direct their remarks to the Chair, not to the President.

LET US REMEMBER JOHN KENNEDY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, 28 years ago today, President John F. Kennedy was taken from us by an assassin's bullet. This young and energetic American leader ushered in a period of great hope and great expectations.

He gave this country a sense of direction, a sense of purpose, a vision. He had a vision of this Nation as the New Frontier. President Kennedy inspired the best in all of us.

We should remember that President Kennedy said the "torch has been passed on to a new generation." In his brief Presidency, John Kennedy carried that torch with dignity.

On this day, let us remember the life and times of President John Fitzgerald Kennedy.

PEOPLE OF EL SALVADOR DESPERATE FOR PEACE

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Maine. Mr. Speaker, I am very pleased that Members of Congress—on both sides of the aisle—have recognized the horror that occurred; 2 years ago, today, when six Jesuit priests, their housekeeper and her 15-year-old daughter were brutally murdered by members of the military of El Salvador.

The full truth to this terrible crime has yet to be revealed.

It is one of the horrors of a civil war that has cost American taxpayers over $4 billion and has cost over 75,000 people, most of them innocent men, women and children, their lives.

Congressman JOE MOAKLEY should be applauded for his tireless efforts as chair of the Speaker's Task Force on El Salvador to find the truth and demand justice in the murder case of the Jesuit priests.

The administration should apply clear and strong pressure on the Salvadoran Armed Forces to immediately reciprocate the unilateral cease-fire that was recently announced by the FMLN opposition.

As a nation, we should stand foursquare behind the United Nations in its efforts to broker a final peace in this war torn nation. A peace that the people of El Salvador desperately want, need, and deserve.

And, as a Congress, we should stop the flow of American tax dollars to murder, oppression, and injustice once and for all.

REMEMBRANCE OF MURDERED EL SALVADORAN PRIESTS, HOUSEKEEPER AND HOUSEKEEPER'S DAUGHTER

(Mr. REED asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, I rise today sadly to commemorate the death 2 years ago of six Jesuit priests, their housekeeper, and their housekeeper's daughter, in El Salvador. Through the efforts of the gentleman from Massachusetts [Mr. MOAKLEY], we have found out that these dastardly crimes were perpetrated by soldiers—supposed soldiers.

Mr. Speaker, I spent 12 years in the U.S. Army. I graduated from West Point and was trained at Fort Benning. Believe me, these are not soldiers. They are gangsters in costume. We cannot continue to provide military assistance to what is not a military force.

Mr. Speaker, this is not just a case of excesses, the impardonable excesses of undisciplined troops. This was a deliberately plotted crime by the very hierarchy of the Salvadoran Army. We cannot tolerate that. As long as we tolerate this, we will not only desecrate the memory of those brave Jesuits and those two women, we will desecrate the memory of every American who served in uniform to fight for the principles we believe in, and it is not the murder of innocents, it is justice and law.

SEARCH FOR JUSTICE MUST CONTINUE IN DEMJANJUK CASE

(Mr. TRAFICANT asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the case of Ivan the Terrible is exploding. Recent documents I received through the Freedom of Information Act absolutely prove that the Justice Department had for 13 years the identity of

Ivan as being John Ivan Marchenko. This case now warrants a full congressional investigation.

Mr. Speaker, Israel acted on this case on information and evidence they thought was reliable. The truth is it was not. Israel cannot be faulted.

We must now know where is Marchenko? Is he dead, or is he alive somewhere sweating out the ordeal of John Demjanjuk?

Mr. Speaker, this matter deserves an investigation. They have the wrong man sentenced to die in Israel. When you let one man's rights be abrogated, you threaten the rights of all Americans.

I am asking Congress now to look at the activities surrounding the case of Ivan the Terrible, the most infamous killer of the entire Holocaust.

SUPPORT JUSTICE AND PEACE IN EL SALVADOR

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, this week marks the second anniversary of the slaying of six Jesuit priests, their cook and her daughter at the University of Central America in El Salvador.

Despite an investigation, a trial, and the conviction of two Salvadoran officers, the whole truth surrounding these slayings has yet to be revealed.

My colleague, Chairman MOAKLEY, issued this week his final report regarding the murders. It provides new information supporting widespread assertions that other high-ranking Salvadoran military officials were also involved in the murders. Yet, their guilt was concealed by a conspiracy of silence by all but one member of the military testifying at the trial. They saw nothing, said nothing or lied before the court.

Mr. Speaker, the six priests and their associates dedicated their lives to peace, justice and democracy. If the United States truly wishes to pay tribute to their lives, everyone must work to ensure that U.S. policy reflects the goals and ideals these individuals gave their lives for.

Mr. Speaker, I hope my colleagues will join me in calling on President Bush to show leadership by demanding the full truth on the Jesuit case; by withholding any future financial assistance that we give to the Government until the truth is known; by supporting the United Nations in brokering peace negotiations, and by pressuring the Salvadoran military to reciprocate the FMLN's recent unilateral cease-fire. The opportunity for peace is at hand. Let us do everything we can to support it.

EL SALVADOR

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, it has been 2 years since six Jesuit priests, a housekeeper, and her daughter were brutally murdered by Salvadoran Army troops. The soldiers who invaded the UCA University campus that November night in 1989 came to murder not only the priests, but the idea of democracy and freedom in El Salvador. This was an act of unspeakable outrage. Not only did it profoundly shock us, it provoked us into action.

At the time of the murder, the United States had spent $4 billion on aid to El Salvador. More than 70,000 people had been killed. A civil war had torn El Salvador apart for over a decade.

Now, 2 years later, elections have been held in El Salvador, a trial has been held to convict those who killed the priests, and a congressional task force under leadership of Congressman JOSEPH MOAKLEY has made its final report on the conspiracy involved in planning the murder—a conspiracy which involved the highest levels of the Salvadoran Armed Forces.

There is a powerful message in this. It is that without intervention and without congressional pressure, there would have been no progress in finding some justice for those eight martyrs. This is small comfort, since there is so much more to be found out about who was also involved as well as those prosecuted, but it does help on this day of memory.

I urge my colleagues to insist that military aid to a country that cannot prevent the military's abuse of its citizens be stopped.

NO MORE MILITARY AID FOR EL SALVADOR

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, 2 years ago this week, an army squad entered the campus of the Central American University and in cold blood, murdered six Jesuit priests, their housekeeper, and her 15-year-old daughter. Two years after the massacre in El Salvador, there is now compelling circumstantial information, revealed in Chairman MOAKLEY's report, that the decision to murder these Jesuit priests was made at a meeting of the Salvadoran military's top officers.

Mr. Speaker, since these murders, the United States has provided El Salvador with $166 million in new economic support funds, as well as millions of dollars in assistance already in the pipeline. The recent continuing resolution also makes available up to $3.5 million more per month to the military in El Salvador. Yet, the full truth on the role of the military's commanders in this brutal, premeditated crime has not been uncovered, and those responsible for the decision have not been held accountable.

The Salvadoran military has acted with impunity, terrorizing and murdering civilians throughout El Salvador's civil war. Their institutionalized brutality culminated in this tragic event which destroyed the backbone of El Salvador's intellectual community. Unfortunately, the brutality has not ended.

President Cristiani is trying to bring the Salvadoran military under some control The peace process will not work unless the military cooperates. We can help. Cutting military aid will help to promote peace. Peace and justice are the best memorial we can provide for the slain Jesuit priests.

THE TRAGEDY ON AMERICA'S STREETS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, obviously we should show compassion for the situation in El Salvador and people who have been murdered there, and our policy ought to also recognize that.

The gentleman from Illinois was absolutely right a moment ago. We ought to be just as worried about the citizens who are being murdered on our streets every night. And the fact is that we have heard from the Democrats now for a period of months and weeks about how President Bush is too concerned about what goes on overseas. The 1 minutes today sound to me as though the Democrats should heal themselves. It sounds to me as though they are more concerned about what goes on in El Salvador than they are about what goes on in the streets of Washington, DC.

We need a crime bill out here, a tough crime bill that does something about the murder on our streets.

And what happened when this House had to face up to that issue yesterday about a real crime on the streets approach? The majority of the House, by almost a 2-to-1 majority, voted against having the Federal Government have mandatory penalties against people who wield guns on the streets of America.

I tell my colleagues that the American people are worried about the fact that the guns are being used against them, and they are being murdered on their own streets. And they may worry about the people in El Salvador, and they should, but they are more worried about their own families. We ought to act here.

NO MILITARY ASSISTANCE FOR EL SALVADOR

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in 1985, I received one of the greatest honors that I have ever enjoyed. I was awarded an honorary degree from my alma mater, the University of Notre Dame.

On the very same day that I was awarded that honorary degree, a degree was also received by Jose Napoleon Duarte, the former President of El Salvador and a Notre Dame graduate.

It was awkward for me, but I felt at the same time appropriately resolved in behalf of my votes to that point and my votes since then of not providing military assistance to the country of El Salvador.

I admired then and I admire today, after his death, President Duarte's great resolve and his great courage in handling his terminal illness, but I really do not believe that providing military assistance under any circumstances to that country solves the problems that plague the country.

I think we ought to cut off the aid, and then we will be able to establish peace and justice in El Salvador.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R 2076 HOUSE JOINT RESOLUTION 201

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2076 and of House Joint Resolution 201.

The SPEAKER pro tempore. (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, pursuant to the order of the House on Thursday, November 21, 1991, I call up the bill (H.R. 3839) making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

The Clerk read the title of the bill.

Mr. NATCHER. Mr. Speaker, all time yielded will be for the purposes of debate only.

Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the bill I present today replaces H.R. 2707, which was vetoed by the President on Tuesday. This veto was based on his objections to the provision of the bill related to abortion counseling in family planning clinics. As Members know, the House failed to override this veto by a vote of 276 to 156. The number of votes against the override was identical to the number who voted against the conference report on November 6. As a result, we have had to start over with a new bill.

I want to emphasize that the new bill is identical to the bill vetoed by the President, with the single exception of section 514, the abortion counseling provision. Section 514 has been stricken in its entirety. All of the dollar amounts are identical to the vetoed bill and all the terms, conditions and limitations are as agreed to in the conference on H.R. 2707. The committee expects the instructions contained in the House and Senate reports and the conference report on H.R. 2707 as well as floor debates to apply to the new bill. I will insert in the RECORD at the end of my statement a table comparing the amounts provided in the new bill to those in the House, Senate, and conference versions of H.R. 2707.

It is clear that the abortion counseling provision provokes deeply held beliefs on both sides. I urge my colleagues to support this new bill. It represents the best we can do for the many important programs that are funded within it. The longer we delay in passing a second bill, the more these critical activities will be hurt.

At the present time, the programs of the Departments of Labor, Health and Human Services, and Education are funded at the rate specified in the continuing resolution. This rate is the lower of the 1991 level, or the House or Senate passed bills. Compared to the levels in the vetoed bill. The continuing resolution provides $4.6 billion less in discretionary budget authority. To cite a few examples of programs that are being shortchanged by the continuing resolution:

	Million
Chapter 1	−631
Natinal Institutes of Health	−839
Low-income energy assistance	−500
Education for the handicapped	−239
Student financial assistance	−171
Vocational education	−184

It is not right for these programs and many others like them that do so much to improve the health of our country and the education of our children to be further jeopardized while we debate the abortion counseling matter. I urge my colleagues to support this new bill. The table which I referred to earlier follows:

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	nand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
SUMMARY							
Title I - Department of Labor:							
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
1993 advance	---	---	---	---	(187,700,000)	(187,700,000)	
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
Title II - Department of Health and Human Services:							
Federal Funds (all years)	151,680,827,000	165,657,345,000	167,121,817,000	168,803,583,000	168,611,962,000	168,611,962,000	
Current year	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	
Title III - Department of Education:							
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(30,492,138,000)	(31,964,771,000)	(31,964,771,000)	
Title IV - Related Agencies:							
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
Total, all titles:							
Federal Funds (all years)	183,185,834,000	200,611,414,000	203,853,322,000	204,775,269,000	204,919,763,000	204,919,763,000	
Current year	(161,730,264,000)	(173,813,414,000)	(175,939,021,000)	(176,830,277,000)	(176,796,071,000)	(176,796,071,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,848,692,000)	(27,848,692,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(10,151,227,000)	(10,551,719,000)	(10,551,719,000)	
TITLE I - DEPARTMENT OF LABOR							
EMPLOYMENT AND TRAINING ADMINISTRATION							
PROGRAM ADMINISTRATION							
Job training programs	19,884,000	21,528,000	21,528,000	21,528,000	21,528,000	21,528,000	D
Trust funds	(2,118,000)	(2,179,000)	(2,179,000)	(2,179,000)	(2,179,000)	(2,179,000)	TF*
Employment security	316,000	442,000	442,000	442,000	442,000	442,000	D
Trust funds	(12,611,000)	(13,472,000)	(13,472,000)	(13,472,000)	(13,472,000)	(13,472,000)	TF*
Financial and administrative management	13,343,000	14,502,000	14,502,000	14,502,000	14,502,000	14,502,000	D
Trust funds	(10,075,000)	(10,686,000)	(10,686,000)	(10,686,000)	(10,686,000)	(10,686,000)	TF*
Executive direction and administration	4,376,000	5,031,000	5,031,000	4,376,000	4,376,000	4,376,000	D
Trust funds	(3,870,000)	(4,047,000)	(4,047,000)	(3,870,000)	(3,870,000)	(3,870,000)	TF*
Regional operations	15,215,000	16,132,000	16,132,000	16,132,000	16,132,000	16,132,000	D
Trust funds	(24,319,000)	(26,745,000)	(26,745,000)	(26,745,000)	(26,745,000)	(26,745,000)	TF*
Apprenticeship services	16,051,000	16,553,000	16,553,000	17,000,000	17,000,000	17,000,000	D
Total, Program Administration	122,178,000	131,317,000	131,317,000	130,932,000	130,932,000	130,932,000	
Federal funds	69,185,000	74,188,000	74,188,000	73,980,000	73,980,000	73,980,000	
Trust funds	(52,993,000)	(57,129,000)	(57,129,000)	(56,952,000)	(56,952,000)	(56,952,000)	
TRAINING AND EMPLOYMENT SERVICES							
Grants to States:							
Block grant	1,778,484,000	1,778,484,000	1,773,484,000	1,773,484,000	1,773,484,000	1,773,484,000	D
Summer youth employment and training program	682,912,000	682,912,000	682,912,000	682,912,000	495,212,000	495,212,000	D
Advance appropriation, FY93	---	---	---	---	187,700,000	187,700,000	D
Dislocated worker assistance	526,986,000	526,986,000	576,986,000	576,986,000	576,986,000	576,986,000	D
Federally administered programs:							
Native Americans	59,625,000	58,690,000	59,625,000	64,000,000	63,000,000	63,000,000	D
Migrants and seasonal farmworkers	70,288,000	56,911,000	75,288,000	80,000,000	77,644,000	77,644,000	D

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707				
	Comparable	Budget Request	House Bill	Senate Bill	Conference	New Bill	Mand Disc
Job Corps:							
Operations	800,238,000	837,033,000	846,033,000	847,033,000	846,533,000	846,533,000	D
Construction and renovation	67,259,000	50,464,000	52,464,000	80,464,000	73,000,000	73,000,000	D
Subtotal, Job Corps	867,497,000	887,497,000	898,497,000	927,497,000	919,533,000	919,533,000	
Veterans' employment	9,120,000	8,792,000	9,120,000	9,120,000	9,120,000	9,120,000	D
National activities:							
Pilots and demonstrations	36,216,000	27,753,000	27,753,000	38,753,000	35,753,000	35,753,000	D
Research, demonstration and evaluation	12,927,000	10,000,000	10,000,000	11,927,000	10,000,000	10,000,000	D
Other	22,673,000	13,706,000	16,706,000	25,606,000	23,606,000	23,606,000	D
Subtotal, National activities	71,816,000	51,459,000	54,459,000	76,286,000	69,359,000	69,359,000	
Subtotal, Federal activities	1,078,346,000	1,063,349,000	1,096,989,000	1,156,903,000	1,138,656,000	1,138,656,000	
Total, Job Training Partnership Act	4,066,728,000	4,051,731,000	4,130,371,000	4,190,285,000	4,172,038,000	4,172,038,000	
Job training for the homeless	11,223,000	---	7,400,000	11,223,000	9,312,000	9,312,000	D
Total, Training and Employment Services	4,077,951,000	4,051,731,000	4,137,771,000	4,201,508,000	4,181,350,000	4,181,350,000	
Current year	(4,077,951,000)	(4,051,731,000)	(4,137,771,000)	(4,201,508,000)	(3,993,650,000)	(3,993,650,000)	
FY 1993	---	---	---	---	(187,700,000)	(187,700,000)	
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS							
National contracts	304,481,000	267,395,000	304,481,000	312,000,000	308,241,000	308,241,000	D
State grants	85,879,000	75,419,000	85,879,000	88,000,000	86,940,000	86,940,000	D
Total	390,360,000	342,814,000	390,360,000	400,000,000	395,181,000	395,181,000	
FEDERAL UNEMPLOYMENT AND ALLOWANCES							
Trade adjustment	269,000,000	226,000,000	226,000,000	226,000,000	226,000,000	226,000,000	M
Other activities	500,000	250,000	250,000	250,000	250,000	250,000	M
Total	269,500,000	226,250,000	226,250,000	226,250,000	226,250,000	226,250,000	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS							
Unemployment Compensation (Trust Funds):							
State Operations	(1,458,435,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	TF*
State integrity activities	(278,249,000)	(304,723,000)	(304,723,000)	(304,723,000)	(290,723,000)	(290,723,000)	TF*
National Activities	(6,213,000)	(6,486,000)	(6,486,000)	(6,486,000)	(6,486,000)	(6,486,000)	TF*
Contingency	(391,544,000)	(440,703,000)	(440,703,000)	(440,703,000)	(440,703,000)	(440,703,000)	TF*
Subtotal, Unemployment Compensation(trust funds)	(2,134,441,000)	(2,262,885,000)	(2,262,885,000)	(2,262,885,000)	(2,248,885,000)	(2,248,885,000)	
Employment Service:							
Allotments to States:							
Federal funds	21,177,000	22,500,000	21,177,000	22,500,000	21,838,000	21,838,000	D
Trust funds	(783,940,000)	(727,500,000)	(783,940,000)	(815,600,000)	(799,770,000)	(799,770,000)	TF*
Subtotal	805,117,000	750,000,000	805,117,000	838,100,000	821,608,000	821,608,000	
National Activities:							
Federal funds	3,806,000	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	D
Trust funds 1/	(56,114,000)	(72,500,000)	(85,000,000)	(80,000,000)	(80,000,000)	(80,000,000)	TF*
Targeted jobs tax credit	(19,518,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	TF*
Subtotal, Employment Service	884,555,000	844,700,000	912,317,000	940,300,000	923,808,000	923,808,000	
Federal funds	24,983,000	24,700,000	23,377,000	24,700,000	24,038,000	24,038,000	
Trust funds	(859,572,000)	(820,000,000)	(888,940,000)	(915,600,000)	(899,770,000)	(899,770,000)	
Total, State Unemployment 2/	3,018,996,000	3,107,585,000	3,175,202,000	3,203,185,000	3,172,693,000	3,172,693,000	
Federal Funds	24,983,000	24,700,000	23,377,000	24,700,000	24,038,000	24,038,000	
Trust Funds	(2,994,013,000)	(3,082,885,000)	(3,151,825,000)	(3,178,485,000)	(3,148,655,000)	(3,148,655,000)	

1/ FY 1991 total for computer operations not available for obligation until Oct. 1, 1991. House & Senate bills include $12,500,000 for computer operations, not available for obligation until 9/30/92.

2/ Includes Federal, Trust and advance Trust funds.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS...	328,000,000	236,990,000	236,990,000	236,990,000	236,990,000	236,990,000	M
Total, Employment & Training Administration.....	8,206,985,000	8,096,687,000	8,297,890,000	8,398,865,000	8,343,396,000	8,343,396,000	
Federal funds..................................	5,159,979,000	4,956,673,000	5,088,936,000	5,163,428,000	5,137,789,000	5,137,789,000	
Current year..................................	(5,159,979,000)	(4,956,673,000)	(5,088,936,000)	(5,163,428,000)	(4,950,089,000)	(4,950,089,000)	
FY 1993.......................................	---	---	---	---	(187,700,000)	(187,700,000)	
Trust funds....................................	(3,047,006,000)	(3,140,014,000)	(3,208,954,000)	(3,235,437,000)	(3,205,607,000)	(3,205,607,000)	
LABOR - MANAGEMENT SERVICES							
SALARIES AND EXPENSES							
Labor-management relations service.....................	5,733,000	5,526,000	5,526,000	5,526,000	5,526,000	5,526,000	D
Labor-management standards enforcement................	25,238,000	26,530,000	26,530,000	26,530,000	26,530,000	26,530,000	D
Pension and welfare benefit programs..................	56,405,000	63,784,000	63,784,000	62,784,000	63,284,000	63,284,000	D
Total, LMSA..	87,376,000	95,840,000	95,840,000	94,840,000	95,340,000	95,340,000	
PENSION BENEFIT GUARANTY CORPORATION							
Program Administration subject to limitation (Trust Funds)......................................	(41,641,000)	(47,787,000)	(47,787,000)	(47,787,000)	(47,787,000)	(47,787,000)	TF
Services related to terminations not subject to limitations (Trust Funds)...........................	(27,773,000)	(25,025,000)	(25,025,000)	(25,025,000)	(25,025,000)	(25,025,000)	TF
Total, PBGC (trust funds)........................	(69,414,000)	(72,812,000)	(72,812,000)	(72,812,000)	(72,812,000)	(72,812,000)	
EMPLOYMENT STANDARDS ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement of wage and hour standards................	91,295,000	97,336,000	97,336,000	96,586,000	96,586,000	96,586,000	D
Federal contractor EEO standards enforcement..........	52,585,000	55,909,000	55,909,000	55,909,000	55,909,000	55,909,000	D
Federal programs for workers' compensation............	60,427,000	67,985,000	67,985,000	67,985,000	67,985,000	67,985,000	D
Trust funds..	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	TF
Executive direction and support services..............	10,846,000	11,396,000	11,396,000	10,846,000	10,846,000	10,846,000	D
Total, salaries and expenses....................	216,145,000	233,661,000	233,661,000	232,361,000	232,361,000	232,361,000	
Federal funds................................	215,153,000	232,626,000	232,626,000	231,326,000	231,326,000	231,326,000	
Trust funds..................................	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	
SPECIAL BENEFITS							
Federal employees compensation benefits...............	318,000,000	188,000,000	188,000,000	188,000,000	188,000,000	188,000,000	M
Longshore and harbor workers' benefits................	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	M
Total, Special Benefits..........................	322,000,000	192,000,000	192,000,000	192,000,000	192,000,000	192,000,000	
BLACK LUNG DISABILITY TRUST FUND							
Benefit payments and interest on advances............	866,019,000	861,135,000	861,135,000	861,135,000	861,135,000	861,135,000	M
Employment Standards Admin., salaries & expenses......	28,900,000	30,145,000	30,145,000	30,145,000	30,145,000	30,145,000	M
Departmental Management, salaries and expenses........	23,171,000	25,579,000	25,579,000	25,579,000	25,579,000	25,579,000	M
Departmental Management, inspector general............	371,000	333,000	333,000	333,000	333,000	333,000	M
Subtotal, Black Lung Disablty. Trust Fund, apprn	918,461,000	917,192,000	917,192,000	917,192,000	917,192,000	917,192,000	
Treasury administrative costs (indefinite)...........	756,000	756,000	756,000	756,000	756,000	756,000	M
Total, Black Lung Disability Trust Fund.........	919,217,000	917,948,000	917,948,000	917,948,000	917,948,000	917,948,000	
Total, Employment Standards Administration......	1,457,362,000	1,343,609,000	1,343,609,000	1,342,309,000	1,342,309,000	1,342,309,000	
Federal funds................................	1,456,370,000	1,342,574,000	1,342,574,000	1,341,274,000	1,341,274,000	1,341,274,000	
Trust funds..................................	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Safety and health standards	7,620,000	8,078,000	8,078,000	8,078,000	8,078,000	8,078,000	D
Enforcement:							
Federal Enforcement	123,935,000	133,508,000	133,508,000	134,008,000	134,008,000	134,008,000	D
State programs	63,731,000	66,344,000	66,344,000	66,344,000	66,344,000	66,344,000	D
Technical Support	16,684,000	17,708,000	17,708,000	17,708,000	17,708,000	17,708,000	D
Compliance Assistance	37,370,000	38,942,000	38,942,000	41,942,000	40,692,000	40,692,000	D
Safety and health statistics	29,116,000	30,390,000	30,390,000	30,390,000	30,390,000	30,390,000	D
Executive direction and administration	6,737,000	7,137,000	7,137,000	6,737,000	6,937,000	6,937,000	D
Total, OSHA	285,193,000	302,107,000	302,107,000	305,207,000	304,157,000	304,157,000	
MINE SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement:							
Coal	87,338,000	94,750,000	94,750,000	95,100,000	95,100,000	95,100,000	D
Metal/nonmetal	35,223,000	37,718,000	37,718,000	37,718,000	37,718,000	37,718,000	D
Standards development	1,363,000	1,516,000	1,516,000	1,516,000	1,516,000	1,516,000	D
Assessments	2,313,000	2,455,000	2,455,000	2,455,000	2,455,000	2,455,000	D
Educational policy and development	14,953,000	14,152,000	14,152,000	15,152,000	14,152,000	14,152,000	D
Technical support	20,563,000	21,322,000	21,322,000	21,615,000	21,615,000	21,615,000	D
Program administration	11,808,000	14,244,000	14,244,000	11,808,000	12,808,000	12,808,000	D
Total, Mine Safety and Health Administration	173,561,000	186,157,000	186,157,000	185,364,000	185,364,000	185,364,000	
BUREAU OF LABOR STATISTICS							
SALARIES AND EXPENSES							
Employment and Unemployment Statistics	67,159,000	85,709,000	85,709,000	75,549,000	85,709,000	85,709,000	D
Labor Market Information (Trust Funds)	(51,488,000)	(50,399,000)	(50,399,000)	(48,599,000)	(50,399,000)	(50,399,000)	TF*
Prices and cost of living	74,336,000	85,000,000	85,000,000	80,960,000	85,000,000	85,000,000	D
Wages and industrial relations	25,738,000	45,216,000	45,216,000	29,366,000	45,216,000	45,216,000	D
Productivity and technology	5,699,000	6,316,000	6,316,000	6,316,000	6,316,000	6,316,000	D
Economic growth and employment projections	3,479,000	3,844,000	3,844,000	3,844,000	3,844,000	3,844,000	D
Executive direction and staff services	27,258,000	32,419,000	32,419,000	27,258,000	30,839,000	30,839,000	D
Total, Bureau of Labor Statistics	255,157,000	308,903,000	308,903,000	271,892,000	307,323,000	307,323,000	
Federal Funds	203,669,000	258,504,000	258,504,000	223,293,000	256,924,000	256,924,000	
Trust Funds	(51,488,000)	(50,399,000)	(50,399,000)	(48,599,000)	(50,399,000)	(50,399,000)	
DEPARTMENTAL MANAGEMENT							
SALARIES AND EXPENSES							
Executive direction	21,419,000	27,911,000	24,911,000	21,419,000	21,419,000	21,419,000	D
Transfer from ADAMHA for employee assistance	---	---	---	(2,000,000)	---	---	NA
Legal services	52,722,000	58,588,000	58,588,000	56,985,000	57,786,000	57,786,000	D
Trust funds	(278,000)	(332,000)	(332,000)	(332,000)	(332,000)	(332,000)	TF*
International labor affairs	6,572,000	7,284,000	7,284,000	7,284,000	7,284,000	7,284,000	D
Administration and management	20,209,000	21,812,000	21,175,000	21,812,000	21,494,000	21,494,000	D
Adjudication	14,603,000	16,187,000	16,187,000	16,187,000	16,187,000	16,187,000	D
Promoting employment of the disabled	4,077,000	4,078,000	4,078,000	4,740,000	4,409,000	4,409,000	D
Women's Bureau	7,413,000	7,562,000	7,562,000	8,319,000	7,940,000	7,940,000	D
Civil Rights Activities	4,338,000	4,534,000	4,534,000	4,534,000	4,534,000	4,534,000	D
Undistributed	---	---	---	-1,600,000	---	---	D
Total, Salaries and expenses	131,631,000	148,288,000	144,651,000	140,012,000	141,385,000	141,385,000	
Federal funds	131,353,000	147,956,000	144,319,000	139,680,000	141,053,000	141,053,000	
Trust funds	(278,000)	(332,000)	(332,000)	(332,000)	(332,000)	(332,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
VETERANS EMPLOYMENT AND TRAINING							
State Administration:							
Disabled Veterans Outreach Program	(77,170,000)	(34,910,000)	(79,170,000)	(79,170,000)	(79,170,000)	(79,170,000)	TF*
Local Veterans Employment Program	(71,095,000)	(74,223,000)	(73,095,000)	(73,095,000)	(73,095,000)	(73,095,000)	TF*
Subtotal, State Administration	(148,265,000)	(109,133,000)	(152,265,000)	(152,265,000)	(152,265,000)	(152,265,000)	
Federal Administration	(21,180,000)	(20,054,000)	(20,054,000)	(20,054,000)	(20,054,000)	(20,054,000)	TF*
National Veterans Training Institute	(2,440,000)	---	(2,440,000)	(2,440,000)	(2,440,000)	(2,440,000)	TF*
Total, Trust Funds	(171,885,000)	(129,187,000)	(174,759,000)	(174,759,000)	(174,759,000)	(174,759,000)	
OFFICE OF THE INSPECTOR GENERAL							
Audit:							
Federal funds	20,693,000	20,673,000	20,673,000	20,673,000	20,673,000	20,673,000	D
Trust funds	(3,784,000)	(4,023,000)	(4,023,000)	(4,023,000)	(4,023,000)	(4,023,000)	TF*
Investigation:							
Federal funds	7,729,000	8,245,000	8,245,000	8,245,000	8,245,000	8,245,000	D
Trust funds	(310,000)	(334,000)	(334,000)	(334,000)	(334,000)	(334,000)	TF*
Office of Labor Racketeering	10,495,000	11,322,000	11,322,000	11,322,000	11,322,000	11,322,000	D
Executive Direction and Management	5,119,000	6,396,000	6,396,000	5,119,000	6,080,000	6,080,000	D
Total, Office of the Inspector General	48,130,000	50,993,000	50,993,000	49,716,000	50,677,000	50,677,000	
Federal funds	44,036,000	46,636,000	46,636,000	45,359,000	46,320,000	46,320,000	
Trust funds	(4,094,000)	(4,357,000)	(4,357,000)	(4,357,000)	(4,357,000)	(4,357,000)	
Total, Departmental Management	351,646,000	328,468,000	370,403,000	364,487,000	366,821,000	366,821,000	
Federal funds	175,389,000	194,592,000	190,955,000	185,039,000	187,373,000	187,373,000	
Trust funds	(176,257,000)	(133,876,000)	(179,448,000)	(179,448,000)	(179,448,000)	(179,448,000)	
Undistributed salaries and expenses reduction	---	---	-30,000,000	-13,269,000	-31,991,000	-31,991,000	D
Total, Labor Department 1/	10,886,694,000	10,734,583,000	10,947,721,000	11,022,507,000	10,985,531,000	10,985,531,000	
Federal funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
FY 1993	---	---	---	---	(187,700,000)	(187,700,000)	
Trust funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES							
HEALTH RESOURCES AND SERVICES ADMINISTRATION							
HEALTH RESOURCES AND SERVICES 2/							
Health Care Delivery and Assistance:							
Community health centers	478,191,000	478,191,000	478,191,000	478,191,000	478,191,000	478,191,000	D
Transfer from "Educational excellence"	---	---	---	(49,000,000)	(49,000,000)	(49,000,000)	NA
Subtotal, Community Health Centers	(478,191,000)	(478,191,000)	(478,191,000)	(527,191,000)	(527,191,000)	(527,191,000)	
HUD health service grants	3,416,000	3,000,000	7,500,000	4,692,000	6,096,000	6,096,000	D
Targeted infant mortality initiative:							
Healthy start	25,000,000	138,659,000	69,330,000	25,000,000	40,000,000	40,000,000	D
Additional appropriation 9/30/92	---	---	---	50,000,000	25,000,000	25,000,000	D
Community health centers	---	---	69,329,000	---	10,000,000	10,000,000	D
Subtotal	25,000,000	138,659,000	138,659,000	75,000,000	75,000,000	75,000,000	
Total, Community Health Services	506,607,000	619,850,000	624,350,000	557,883,000	559,287,000	559,287,000	
Migrant health	51,723,000	51,723,000	51,723,000	53,700,000	51,723,000	51,723,000	D
Transfer from "Educational excellence"	---	---	---	(6,000,000)	(6,000,000)	(6,000,000)	NA
Subtotal, Migrant Health Centers	(51,723,000)	(51,723,000)	(51,723,000)	(59,700,000)	(57,723,000)	(57,723,000)	
Black lung clinics	3,708,000	3,708,000	3,708,000	4,000,000	4,000,000	4,000,000	D
Health care for the homeless	39,036,000	63,041,000	51,000,000	61,041,000	56,021,000	56,021,000	D
Family planning	144,311,000	150,000,000	---	162,000,000	150,000,000	150,000,000	D

1/ Includes Federal and Trust funds.

2/ Budget and House bill include delayed obligation of $86,000,000 until Sept. 19, 1992. Senate delays until 9/30/92 through 10/30/92. Conference agreement assumes a total of $125,000,000 of delayed obligations until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
National Health Service Corps:							
Field placements	42,256,000	42,256,000	42,256,000	42,256,000	42,256,000	42,256,000	D
Loans and scholarships	48,795,000	53,795,000	58,795,000	58,795,000	58,795,000	58,795,000	D
Subtotal, Natl Health Service Corps	91,051,000	96,051,000	101,051,000	101,051,000	101,051,000	101,051,000	
Hansen's Disease services (Carville)	19,792,000	19,489,000	19,489,000	19,489,000	19,489,000	19,489,000	D
Payment to Hawaii, treatment of Hansen's Disease	3,383,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	D
Home health demonstration grants	2,928,000	---	---	2,900,000	2,900,000	2,900,000	D
Alzheimer's care grants	---	---	---	5,000,000	4,000,000	4,000,000	D
Trauma care	---	---	---	10,000,000	5,000,000	5,000,000	D
Undistributed	---	---	---	-12,900,000	---	---	D
Total, Health Care Delivery & Assistance	862,539,000	1,006,862,000	854,321,000	967,164,000	956,471,000	956,471,000	
Health Professions:							
Exceptional need scholarships	9,759,000	10,400,000	9,759,000	9,759,000	9,759,000	9,759,000	D
Minority centers of excellence	14,151,000	14,920,000	27,920,000	14,140,000	24,140,000	24,140,000	D
Public health special projects	3,757,000	---	3,757,000	4,557,000	4,307,000	4,307,000	D
Health administration grants	1,554,000	---	1,554,000	1,554,000	1,554,000	1,554,000	D
Public health traineeships	3,416,000	---	3,416,000	3,416,000	3,416,000	3,416,000	D
Health administration traineeships	484,000	---	484,000	484,000	484,000	484,000	D
Preventive medicine residencies	1,654,000	---	1,654,000	1,654,000	1,654,000	1,654,000	D
Family medicine residencies	36,108,000	---	36,108,000	32,000,000	36,108,000	36,108,000	D
General dentistry residencies	3,834,000	---	3,834,000	3,834,000	3,834,000	3,834,000	D
General internal medicine and pediatrics	17,256,000	---	17,256,000	16,250,000	17,256,000	17,256,000	D
Family medicine departments	6,831,000	---	6,831,000	6,400,000	6,831,000	6,831,000	D
Physician assistants	5,021,000	---	5,021,000	5,021,000	5,021,000	5,021,000	D
Area health education centers	19,237,000	---	19,237,000	19,237,000	19,237,000	19,237,000	D
Health education and training centers	3,904,000	---	3,904,000	3,904,000	3,904,000	3,904,000	D
Health professions data analysis	1,762,000	---	1,762,000	1,762,000	1,762,000	1,762,000	D
Disadvantaged assistance	30,817,000	32,841,000	30,817,000	30,817,000	30,817,000	30,817,000	D
Disadvantaged minority health improvement	10,734,000	10,734,000	23,234,000	10,734,000	20,000,000	20,000,000	D
Minority HPSL initiative	2,928,000	15,000,000	15,000,000	14,928,000	14,964,000	14,964,000	D
Allied health grants and contracts	1,659,000	---	1,659,000	4,000,000	2,830,000	2,830,000	D
Interdisciplinary traineeships	4,392,000	---	4,392,000	5,000,000	4,696,000	4,696,000	D
Health professions spec ed initiatives	2,398,000	---	2,398,000	2,398,000	2,398,000	2,398,000	D
Geriatric centers and training	13,708,000	---	13,708,000	13,708,000	13,708,000	13,708,000	D
Pacific Basin activities (including Medical officer training)	2,440,000	---	2,440,000	2,608,000	2,560,000	2,560,000	D
Native Hawaiian health care	3,416,000	---	3,416,000	3,600,000	3,600,000	3,600,000	D
National practitioner data bank	1,926,000	5,000,000	7,000,000	5,000,000	6,000,000	6,000,000	D
User fees	---	-5,000,000	-5,000,000	-5,000,000	-5,000,000	-5,000,000	D
Nurse training:							
Advanced nurse education	12,463,000	---	12,463,000	12,463,000	12,463,000	12,463,000	D
Nurse practitioners / nurse midwives	14,639,000	---	14,639,000	14,639,000	14,639,000	14,639,000	D
Special projects	10,532,000	---	10,532,000	11,000,000	11,000,000	11,000,000	D
Traineeships	13,664,000	---	13,664,000	14,151,000	14,151,000	14,151,000	D
Nurse anesthetists	1,430,000	---	1,430,000	1,930,000	1,930,000	1,930,000	D
Undergraduate scholarships	2,380,000	---	2,380,000	2,380,000	2,380,000	2,380,000	D
Loan repayment for shortage area service	1,455,000	---	1,455,000	1,455,000	1,455,000	1,455,000	D
Nurse disadvantaged assistance	3,416,000	4,160,000	3,416,000	3,416,000	3,416,000	3,416,000	D
Subtotal, Nurse training	59,979,000	4,160,000	59,979,000	61,434,000	61,434,000	61,434,000	
Total, Health professions	263,125,000	88,055,000	301,540,000	273,199,000	297,274,000	297,274,000	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
MCH and Resources Development:							
Maternal & child health block grant	587,310,000	553,627,000	580,000,000	686,000,000	650,000,000	650,000,000	D
Pediatric emergency care	4,880,000	---	4,880,000	4,880,000	4,880,000	4,880,000	D
Organ transplantation	3,723,000	3,387,000	5,137,000	3,387,000	3,737,000	3,737,000	D
Health teaching facilities interest subsidies	476,000	450,000	450,000	450,000	450,000	450,000	D
Perinatal facilities	976,000	---	---	---	---	---	D
Total, Resources Development	597,365,000	557,464,000	590,467,000	694,717,000	659,067,000	659,067,000	
Buildings and facilities	1,844,000	---	---	---	---	---	D
Rural health research	4,674,000	4,139,000	4,139,000	5,000,000	5,000,000	5,000,000	D
Rural outreach grants	19,518,000	---	---	25,000,000	22,500,000	22,500,000	D
Acquired Immune Deficiency Syndrome (AIDS):							
Training of health personnel	17,029,000	17,029,000	17,029,000	17,029,000	17,029,000	17,029,000	D
Facilities renovation grants	4,029,000	4,029,000	---	---	---	---	D
Pediatric health care demonstrations	19,518,000	19,518,000	19,518,000	20,000,000	19,800,000	19,800,000	D
Ryan White AIDS Programs:							
Emergency assistance	87,831,000	87,831,000	100,000,000	122,137,000	122,000,000	122,000,000	D
Comprehensive care programs	87,831,000	87,831,000	91,819,000	122,137,000	108,000,000	108,000,000	D
Early intervention program	44,891,000	44,891,000	55,000,000	44,891,000	50,000,000	50,000,000	D
Subtotal, Ryan White AIDS programs	220,553,000	220,553,000	246,819,000	289,165,000	280,000,000	280,000,000	
Subtotal, AIDS	261,129,000	261,129,000	283,366,000	326,194,000	316,829,000	316,829,000	
Program management including AIDS	98,548,000	100,851,000	103,700,000	98,548,000	103,700,000	103,700,000	D
Total, Health resources and services	2,108,742,000	2,018,500,000	2,137,533,000	2,389,822,000	2,360,841,000	2,360,841,000	
MEDICAL FACILITIES GUARANTEE AND LOAN FUND:							
Interest subsidy program	20,000,000	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000	M
HEALTH EDUCATION ASSISTANCE LOANS PROGRAM (HEAL):							
New loan subsidies	---	21,813,000	30,000,000	30,000,000	30,000,000	30,000,000	M
Liquidating account	---	35,502,000	48,000,000	48,000,000	48,000,000	48,000,000	M
HEAL loan limitation (non-add)	(260,000,000)	(185,000,000)	(260,000,000)	---	(290,000,000)	(290,000,000)	NA
Subtotal	---	57,315,000	78,000,000	78,000,000	78,000,000	78,000,000	
Program management	1,400,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	D
Total, HEAL	1,400,000	58,815,000	79,500,000	79,500,000	79,500,000	79,500,000	
VACCINE INJURY COMPENSATION:							
Pre - FY89 claims (appropriation)	79,920,000	---	80,000,000	80,000,000	80,000,000	80,000,000	M
Post - FY88 claims (trust fund)	154,080,000	84,920,000	84,920,000	84,920,000	84,920,000	84,920,000	M
HRSA administration (trust fund)	2,500,000	2,000,000	2,500,000	2,500,000	2,500,000	2,500,000	M
Subtotal, Vaccine injury compensation	236,500,000	86,920,000	167,420,000	167,420,000	167,420,000	167,420,000	
Total, Health Resources and Services Administration	2,366,642,000	2,183,235,000	2,403,453,000	2,655,742,000	2,626,761,000	2,626,761,000	
CENTERS FOR DISEASE CONTROL							
DISEASE CONTROL 1/							
Preventive Health Services Block Grant	92,702,000	107,472,000	92,702,000	150,000,000	135,000,000	135,000,000	D
Prevention centers	4,367,000	3,949,000	4,367,000	6,000,000	5,184,000	5,184,000	D
Lead poisoning prevention	7,790,000	14,949,000	7,790,000	25,000,000	23,000,000	23,000,000	D
Sexually transmitted diseases:							
Grants	73,638,000	77,638,000	73,638,000	77,638,000	77,638,000	77,638,000	D
Direct operations	11,330,000	11,910,000	11,330,000	11,910,000	11,620,000	11,620,000	D
Subtotal, Sexually transmitted diseases	84,968,000	89,548,000	84,968,000	89,548,000	89,258,000	89,258,000	

1/ Budget and House bill include delayed obligation of $94,000,000 until Sept. 19, 1992. Senate bill delays obligations of $94,000,000 until 9/30/92 through 10/30/92. Conference agreement assumes a total of $134,000,000 of delayed obligations until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
Immunization:							
Grants	182,004,000	208,865,000	248,865,000	223,865,000	238,865,000	238,865,000	D
Additional appropriation 9/30/92	---	---	---	10,000,000	10,000,000	10,000,000	D
Direct operations	30,129,000	46,510,000	46,510,000	51,510,000	46,510,000	46,510,000	D
Vaccine stockpile	2,928,000	---	---	---	---	---	D
Adverse events reporting	2,470,000	2,470,000	2,470,000	2,470,000	2,470,000	2,470,000	D
Subtotal, Immunization programs	217,531,000	257,845,000	297,845,000	287,845,000	297,845,000	297,845,000	
Infectious disease excluding AIDS/TB	43,689,000	45,179,000	45,179,000	49,579,000	47,379,000	47,379,000	D
Tuberculosis grants	9,109,000	12,334,000	13,334,000	17,334,000	15,334,000	15,334,000	D
Chronic & environmental disease prevention	51,408,000	56,664,000	56,664,000	76,264,000	71,264,000	71,264,000	D
Breast and cervical cancer screening	29,259,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	D
Injury control	24,036,000	26,066,000	26,066,000	28,066,000	28,066,000	28,066,000	D
Occupational Safety and Health (NIOSH):							
Research	86,508,000	86,508,000	86,508,000	97,886,000	95,600,000	95,600,000	D
Training	10,472,000	10,472,000	10,472,000	10,972,000	10,972,000	10,972,000	D
Subtotal, NIOSH	96,980,000	96,980,000	96,980,000	108,858,000	106,572,000	106,572,000	
National Center for Health Statistics:							
Program operations	48,301,000	48,301,000	48,301,000	48,301,000	48,301,000	48,301,000	D
Program support	3,105,000	3,105,000	3,105,000	3,105,000	3,105,000	3,105,000	D
1% evaluation funds (non-add)	(19,000,000)	(33,800,000)	(25,000,000)	(33,800,000)	(29,400,000)	(29,400,000)	NA
Subtotal, health statistics	51,406,000	51,406,000	51,406,000	51,406,000	51,406,000	51,406,000	
Epidemic services	68,714,000	78,228,000	73,714,000	79,728,000	76,000,000	76,000,000	D
Buildings and facilities	31,951,000	8,338,000	6,338,000	38,338,000	25,600,000	25,600,000	D
Program management	3,016,000	3,309,000	3,309,000	3,016,000	3,016,000	3,016,000	D
Acquired Immune Deficiency Syndrome (AIDS)	494,660,000	494,660,000	480,000,000	480,000,000	480,000,000	480,000,000	D
Total, Disease Control	1,311,586,000	1,396,927,000	1,390,662,000	1,540,982,000	1,504,924,000	1,504,924,000	
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/							
National Cancer Institute:							
Regular program	1,676,507,000	1,772,560,000	1,793,257,000	1,788,331,000	1,792,026,000	1,792,026,000	D
Research training	37,252,000	37,670,000	37,252,000	37,252,000	37,252,000	37,252,000	D
Additional appropriation 9/30/92 1/	---	---	---	184,647,000	160,000,000	160,000,000	D
Subtotal	1,713,759,000	1,810,230,000	1,830,509,000	2,010,230,000	1,989,278,000	1,989,278,000	
National Heart, Lung, and Blood Institute	1,080,251,000	1,162,725,000	1,155,707,000	1,143,705,000	1,152,707,000	1,152,707,000	D
Research training	46,691,000	47,199,000	46,691,000	46,691,000	46,691,000	46,691,000	D
Subtotal	1,126,942,000	1,209,924,000	1,202,398,000	1,190,396,000	1,199,398,000	1,199,398,000	
National Institute of Dental Research	142,867,000	154,771,000	155,184,000	152,215,000	154,442,000	154,442,000	D
Research training	6,051,000	6,168,000	6,051,000	6,051,000	6,051,000	6,051,000	D
Subtotal	148,918,000	160,939,000	161,235,000	158,266,000	160,493,000	160,493,000	
National Institute of Diabetes, Digestive, and Kidney Diseases	590,853,000	633,863,000	643,401,000	628,442,000	639,661,000	639,661,000	D
Research training	24,419,000	24,694,000	24,419,000	24,419,000	24,419,000	24,419,000	D
Subtotal	615,272,000	658,557,000	667,820,000	652,861,000	664,080,000	664,080,000	
National Institute of Neurological Disorders and Stroke	528,398,000	569,838,000	570,010,000	570,041,000	570,033,000	570,033,000	D
Research training	13,345,000	13,517,000	13,345,000	13,345,000	13,345,000	13,345,000	D
Subtotal	541,743,000	583,355,000	583,355,000	583,386,000	583,378,000	583,378,000	

1/ Budget and House bill include delayed obligation of $400,000,000 until Sept. 19, 1992. Senate bill delays obligations of $606,647,000 until 9/30/92 through 10/30/92. Conference agreement assumes delayed obligation of $575,000,000 until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
National Institute of Allergy and Infectious Diseases.	887,089,000	955,581,000	952,643,000	945,765,000	950,924,000	950,924,000	D
Research training..............................	20,187,000	21,130,000	20,187,000	20,187,000	20,187,000	20,187,000	D
Subtotal..	907,276,000	976,711,000	972,830,000	965,952,000	971,111,000	971,111,000	
National Institute of General Medical Sciences........	667,930,000	738,292,000	728,080,000	723,078,000	726,830,000	726,830,000	D
Research training..............................	92,080,000	94,888,000	92,080,000	92,080,000	92,080,000	92,080,000	D
Subtotal..	760,010,000	833,180,000	820,160,000	815,158,000	818,910,000	818,910,000	
National Institute of Child Health and Human Development..................................	462,584,000	503,137,000	508,289,000	507,454,000	508,080,000	508,080,000	D
Research training..............................	16,372,000	17,447,000	16,372,000	16,372,000	16,372,000	16,372,000	D
Subtotal..	478,956,000	520,584,000	524,661,000	523,826,000	524,452,000	524,452,000	
National Eye Institute..................................	245,947,000	264,767,000	264,966,000	259,935,000	263,708,000	263,708,000	D
Research training..............................	7,294,000	7,493,000	7,294,000	7,294,000	7,294,000	7,294,000	D
Subtotal..	253,241,000	272,260,000	272,260,000	267,229,000	271,002,000	271,002,000	
National Institute of Environmental Health Sciences...	230,122,000	243,472,000	244,006,000	239,967,000	242,996,000	242,996,000	D
Research training..............................	10,906,000	11,012,000	10,906,000	10,906,000	10,906,000	10,906,000	D
Subtotal..	241,028,000	254,484,000	254,912,000	250,873,000	253,902,000	253,902,000	
National Institute on Aging............................	313,969,000	338,664,000	352,745,000	365,393,000	362,231,000	362,231,000	D
Research training..............................	9,783,000	9,894,000	9,783,000	9,783,000	9,783,000	9,783,000	D
Additional appropriation 9/30/92 1/.............	---	---	---	22,000,000	15,000,000	15,000,000	D
Subtotal..	323,752,000	348,558,000	362,528,000	397,176,000	387,014,000	387,014,000	
National Institute of Arthritis and Musculoskeletal and Skin Diseases..................................	186,393,000	197,859,000	198,123,000	196,222,000	197,648,000	197,648,000	D
Research training..............................	6,854,000	6,938,000	6,854,000	6,854,000	6,854,000	6,854,000	D
Subtotal..	193,247,000	204,797,000	204,977,000	203,076,000	204,502,000	204,502,000	
National Institute on Deafness and Other Communication Disorders....................................	130,950,000	142,287,000	140,510,000	147,623,000	145,845,000	145,845,000	D
Research training..............................	3,985,000	4,034,000	3,985,000	3,985,000	3,985,000	3,985,000	D
Subtotal..	134,935,000	146,321,000	144,495,000	151,608,000	149,830,000	149,830,000	
National Center for Research Resources...............	332,589,000	318,230,000	306,534,000	314,561,000	312,554,000	312,554,000	D
Research training..............................	2,666,000	2,745,000	2,666,000	2,666,000	2,666,000	2,666,000	D
Subtotal..	335,255,000	320,975,000	309,200,000	317,227,000	315,220,000	315,220,000	
National Center for Nursing Research..................	35,330,000	39,247,000	38,751,000	41,488,000	40,804,000	40,804,000	D
Research training..............................	4,392,000	4,500,000	4,392,000	4,392,000	4,392,000	4,392,000	D
Subtotal..	39,722,000	43,747,000	43,143,000	45,880,000	45,196,000	45,196,000	
National Center for Human Genome Research............	83,309,000	105,178,000	89,006,000	105,200,000	101,152,000	101,152,000	D
Research training..............................	4,109,000	5,309,000	4,109,000	4,109,000	4,109,000	4,109,000	D
Subtotal..	87,418,000	110,487,000	93,115,000	109,309,000	105,261,000	105,261,000	
John E. Fogarty International Center.................	17,519,000	19,922,000	19,922,000	19,922,000	19,922,000	19,922,000	D

1/ Budget and House bill include delayed obligation of $400,000,000 until Sept. 19, 1992. Senate bill delays obligations of $606,647,000 until 9/30/92 through 10/30/92. Conference agreement assumes delayed obligation of $575,000,000 until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
National Library of Medicine:							
Regular program	66,251,000	73,308,000	74,408,000	75,392,000	75,146,000	75,146,000	D
Medical library assistance	14,691,000	16,309,000	14,691,000	14,691,000	14,691,000	14,691,000	D
Biotechnology information	10,466,000	10,937,000	10,466,000	10,466,000	10,466,000	10,466,000	D
Subtotal	91,408,000	100,554,000	99,565,000	100,549,000	100,303,000	100,303,000	
Office of the Director	97,651,000	95,176,000	149,176,000	125,724,000	143,313,000	143,313,000	D
Buildings and facilities	168,687,000	104,125,000	108,625,000	89,485,000	103,840,000	103,840,000	D
Total N.I.H.:							
Regular program including training	8,276,739,000	8,774,886,000	8,824,886,000	8,771,486,000	8,835,405,000	8,835,405,000	
Additional appropriation 9/30/92	---	---	---	206,647,000	175,000,000	175,000,000	
Total	8,276,739,000	8,774,886,000	8,824,886,000	8,978,133,000	9,010,405,000	9,010,405,000	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION							
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH 1/ (INCLUDES AIDS)							
National Institute of Mental Health:							
Research	455,500,000	491,754,000	491,754,000	531,754,000	505,754,000	505,754,000	D
Instrumentation grants	1,323,000	1,338,000	1,323,000	1,338,000	1,323,000	1,323,000	D
Research training	26,942,000	27,701,000	26,942,000	27,701,000	26,942,000	26,942,000	D
Clinical training	13,670,000	---	8,000,000	13,670,000	10,835,000	10,835,000	D
Community support demonstrations	24,885,000	25,880,000	24,885,000	25,880,000	24,885,000	24,885,000	D
Prevention demonstrations	4,880,000	5,075,000	4,880,000	6,075,000	5,478,000	5,478,000	D
Grants to States for the homeless (PATH)	26,153,000	43,116,000	26,153,000	43,153,000	30,000,000	30,000,000	D
Homeless services demonstrations	5,861,000	---	5,861,000	5,861,000	5,861,000	5,861,000	D
Homeless research demonstrations	---	20,000,000	---	---	---	---	D
Protection and advocacy	15,614,000	---	15,614,000	19,500,000	19,500,000	19,500,000	D
Direct operations	40,982,000	43,982,000	43,982,000	40,982,000	43,982,000	43,982,000	D
Subtotal, mental health	615,810,000	658,846,000	649,394,000	715,914,000	674,560,000	674,560,000	
National Institute on Drug Abuse:							
Research	257,896,000	284,624,000	270,000,000	275,000,000	270,000,000	270,000,000	D
Instrumentation grants	504,000	524,000	504,000	524,000	504,000	504,000	D
Research training	6,783,000	7,020,000	6,783,000	7,020,000	6,783,000	6,783,000	D
Treatment demonstrations	45,465,000	46,955,000	46,955,000	46,955,000	46,955,000	46,955,000	D
AIDS demonstrations	73,193,000	71,550,000	71,550,000	71,550,000	71,550,000	71,550,000	D
Direct operations	32,186,000	35,552,000	35,552,000	32,186,000	35,552,000	35,552,000	D
Subtotal, drug abuse	416,027,000	446,225,000	431,344,000	433,235,000	431,344,000	431,344,000	
National Institute on Alcoholism and Alcohol Abuse:							
Research	138,849,000	149,932,000	149,932,000	154,932,000	152,432,000	152,432,000	D
Instrumentation grants	575,000	581,000	575,000	581,000	575,000	575,000	D
Research training	3,542,000	3,666,000	3,542,000	3,666,000	3,542,000	3,542,000	D
Substance abuse homeless demonstrations	15,983,000	---	15,983,000	15,983,000	15,983,000	15,983,000	D
Direct operations	11,789,000	12,596,000	12,596,000	11,789,000	12,596,000	12,596,000	D
Subtotal, alcoholism	170,738,000	166,775,000	182,628,000	186,951,000	185,128,000	185,128,000	
Office for Treatment Improvement:							
Alcohol, Drug Abuse & Mental Health block grant	1,268,670,000	1,268,670,000	1,235,000,000	1,405,670,000	1,360,000,000	1,360,000,000	D
Treatment grants to crisis areas	31,296,000	32,548,000	31,296,000	35,986,000	35,986,000	35,986,000	D
Treatment improvement grants	83,363,000	86,698,000	83,363,000	83,363,000	83,363,000	83,363,000	D
Capacity expansion program 2/	---	68,000,000	---	---	---	---	D
Treatment waiting list grants reappropriation	38,545,000	---	---	---	---	---	D
Direct operations	5,209,000	7,718,000	7,718,000	5,209,000	7,718,000	7,718,000	D
Subtotal, Treatment improvement	1,427,083,000	1,463,634,000	1,357,377,000	1,530,228,000	1,487,067,000	1,487,067,000	

1/ Conference agreement assumes delayed obligations of $164,100,000 until 9/30/92.

2/ Budget proposes additional $31 million transfer from forfeiture fund.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Office for Substance Abuse Prevention:							
Prevention programs	112,003,000	125,505,000	112,003,000	135,500,000	130,000,000	130,000,000	D
Community youth activity program	20,162,000	---	15,162,000	4,669,000	9,916,000	9,916,000	D
Community prevention grants	99,118,000	113,852,000	99,118,000	107,183,000	99,151,000	99,151,000	D
Transfer to DOL Departmental Management	---	---	---	2,000,000	---	---	D
Training	25,986,000	25,986,000	25,986,000	20,986,000	20,986,000	20,986,000	D
Direct operations	14,200,000	16,237,000	16,237,000	14,200,000	16,237,000	16,237,000	D
Subtotal, Substance Abuse Prevention	271,469,000	281,580,000	268,506,000	284,538,000	276,290,000	276,290,000	
Treatment outcome evaluations	8,134,000	8,598,000	8,598,000	8,598,000	8,598,000	8,598,000	D
Buildings and facilities	7,775,000	7,775,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Office of the Administrator	11,368,000	14,895,000	14,895,000	11,368,000	13,132,000	13,132,000	D
Total, Alcohol, Drug Abuse & Mental Health	2,928,404,000	3,048,328,000	2,917,742,000	3,175,832,000	3,081,119,000	3,081,119,000	
ST. ELIZABETHS HOSPITAL	11,711,000	---	---	---	---	---	D
Total, Alcohol, Drug Abuse & Mental Health Admin	2,940,115,000	3,048,328,000	2,917,742,000	3,175,832,000	3,081,119,000	3,081,119,000	
ASSISTANT SECRETARY FOR HEALTH							
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH 1/							
Population affairs:							
Adolescent family life	7,789,000	12,000,000	---	---	7,789,000	7,789,000	D
Health Initiatives:							
Office of Disease Prevention and Health Promotion	4,577,000	4,577,000	4,027,000	5,000,000	4,514,000	4,514,000	D
Physical fitness and sports	1,443,000	1,443,000	1,443,000	1,443,000	1,443,000	1,443,000	D
Minority health	14,470,000	15,016,000	15,016,000	15,016,000	15,016,000	15,016,000	D
National vaccine program	9,631,000	2,300,000	12,500,000	2,300,000	8,000,000	8,000,000	D
Health Service Management	21,020,000	21,220,000	21,770,000	21,770,000	21,770,000	21,770,000	D
Acquired Immune Deficiency Syndrome (AIDS)	8,238,000	8,773,000	8,773,000	8,773,000	7,503,000	7,503,000	D
Undistributed	---	---	5,789,000	---	---	---	D
Total, OASH	67,168,000	65,329,000	69,318,000	54,302,000	66,035,000	66,035,000	
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS							
Retirement payments	95,717,000	104,303,000	104,303,000	104,303,000	104,303,000	104,303,000	M
Survivors benefits	5,926,000	6,650,000	6,650,000	6,650,000	6,650,000	6,650,000	M
Dependent's medical care	19,230,000	20,499,000	20,499,000	20,499,000	20,499,000	20,499,000	M
Military Services Credits	3,399,000	3,222,000	3,222,000	3,222,000	3,222,000	3,222,000	M
Total, Retirement pay and medical benefits	124,272,000	134,674,000	134,674,000	134,674,000	134,674,000	134,674,000	
AGENCY FOR HEALTH CARE POLICY AND RESEARCH							
Health services research:							
Research	25,424,000	5,329,000	25,424,000	5,329,000	26,224,000	26,224,000	D
Trust funds	(1,012,000)	(1,050,000)	(1,012,000)	(1,050,000)	(1,012,000)	(1,012,000)	TF*
AIDS	10,252,000	10,800,000	10,252,000	10,800,000	10,252,000	10,252,000	D
Program support	2,274,000	2,330,000	2,274,000	2,330,000	2,274,000	2,274,000	D
Subtotal including trust funds	38,962,000	19,509,000	38,962,000	19,509,000	39,762,000	39,762,000	
1% evaluation funding (non-add)	(13,444,000)	(39,544,000)	(13,444,000)	(34,544,000)	(13,444,000)	(13,444,000)	NA
Medical treatment effectiveness:							
Federal funds	57,806,000	15,824,000	57,806,000	50,824,000	63,120,000	63,120,000	D
Trust funds	(4,880,000)	(36,723,000)	(4,880,000)	(6,723,000)	(4,880,000)	(4,880,000)	TF*
Subtotal, Medical treatment effectiveness	62,686,000	52,547,000	62,686,000	57,547,000	68,000,000	68,000,000	
1% evaluation funding (non-add)	---	(10,400,000)	---	(15,400,000)	---	---	NA

1/ Budget proposes delayed obligation of $4,000,000 until Sept. 19, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Total, Health Care Policy and Research:							
Federal Funds	95,756,000	34,283,000	95,756,000	69,283,000	101,870,000	101,870,000	
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	(7,773,000)	(5,892,000)	(5,892,000)	
Total, 1% evaluation funding (non-add)	(13,444,000)	(49,944,000)	(13,444,000)	(49,944,000)	(13,444,000)	(13,444,000)	
Total, Health Care Policy and Research (non-add)	(115,092,000)	(122,000,000)	(115,092,000)	(127,000,000)	(121,206,000)	(121,206,000)	NA
PHS travel reduction	---	---	-8,000,000	---	-8,000,000	-8,000,000	D
Total, Public Health Service:							
Federal Funds	15,182,278,000	15,637,662,000	15,828,491,000	16,608,948,000	16,517,788,000	16,517,788,000	
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	(7,773,000)	(5,892,000)	(5,892,000)	
HEALTH CARE FINANCING ADMINISTRATION							
GRANTS TO STATES FOR MEDICAID							
Medicaid current law benefits	48,794,085,000	56,712,895,000	56,712,895,000	56,712,895,000	56,712,895,000	56,712,895,000	M
State and local administration	2,760,865,000	3,186,254,000	3,186,254,000	3,186,254,000	3,186,254,000	3,186,254,000	M
Proposed legislation	---	-91,500,000	---	---	---	---	D
Subtotal, Medicaid program level, FY 1992	51,554,950,000	59,807,649,000	59,899,149,000	59,899,149,000	59,899,149,000	59,899,149,000	
Less funds advanced in prior year	-10,400,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	M
Total, current request, FY 1992	41,154,950,000	46,307,649,000	46,399,149,000	46,399,149,000	46,399,149,000	46,399,149,000	
New advance, 1st quarter, FY 1993	13,500,000,000	17,100,000,000	17,100,000,000	17,100,000,000	17,100,000,000	17,100,000,000	M
PAYMENTS TO HEALTH CARE TRUST FUNDS							
Supplemental medical insurance	34,730,000,000	38,684,000,000	38,684,000,000	38,684,000,000	38,684,000,000	38,684,000,000	M
Hospital insurance for uninsured	559,000,000	584,000,000	584,000,000	584,000,000	584,000,000	584,000,000	M
Federal uninsured payment	46,000,000	37,000,000	37,000,000	37,000,000	37,000,000	37,000,000	M
Program management	---	116,485,000	116,485,000	96,083,000	116,485,000	116,485,000	M
Proposed legislation	---	-20,402,000	---	---	---	---	M
Total, Payment to Trust Funds	35,335,000,000	39,401,083,000	39,421,485,000	39,401,083,000	39,421,485,000	39,421,485,000	
PROGRAM MANAGEMENT							
Research, demonstration, and evaluation:							
Regular program, trust funds	(35,621,000)	(36,000,000)	(45,621,000)	(45,621,000)	(45,621,000)	(45,621,000)	TF*
Rural hospital transition demonstrations, trust funds	(24,398,000)	---	(21,000,000)	(25,000,000)	(23,000,000)	(23,000,000)	TF*
Essential access community hospitals, trust funds.	(9,759,000)	---	(9,759,000)	(9,759,000)	(9,759,000)	(9,759,000)	TF*
Subtotal, research, demonstration, & evaluation.	(69,778,000)	(36,000,000)	(76,380,000)	(80,380,000)	(78,380,000)	(78,380,000)	
Medicare Contractors (Trust Funds):							
Operating funds, current	(1,493,959,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	TF*
Contingency reserve fund	(58,210,000)	(100,000,000)	(257,000,000)	(257,000,000)	(257,000,000)	(257,000,000)	TF
Subtotal, Contractors	(1,552,169,000)	(1,557,000,000)	(1,714,000,000)	(1,714,000,000)	(1,714,000,000)	(1,714,000,000)	
State Certification:							
Medicare certification, trust funds	(159,497,000)	(160,000,000)	(160,000,000)	---	(150,000,000)	(150,000,000)	TF*
Proposed legislation, user fees, trust funds	---	(-160,000,000)	---	---	---	---	TF*
Subtotal, State certification	(159,497,000)	---	(160,000,000)	---	(150,000,000)	(150,000,000)	
Federal Administration:							
Trust funds	(301,409,000)	(333,006,000)	(331,752,000)	(188,598,000)	(331,752,000)	(331,752,000)	TF*
Less current law user fees	(-248,000)	(-77,000)	(-77,000)	(-77,000)	(-77,000)	(-77,000)	TF*
Proposed legislation, user fees, trust funds	---	(-34,902,000)	---	---	---	---	TF*
EMERGENCY FUND	---	---	---	(306,804,000)	---	---	NA
Subtotal, Federal Administration	(301,161,000)	(298,027,000)	(331,675,000)	(188,521,000)	(331,675,000)	(331,675,000)	
Total, Program management	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(1,982,901,000)	(2,274,055,000)	(2,274,055,000)	
Total, Health Care Financing Administration:							
Federal funds	89,989,950,000	102,808,732,000	102,920,634,000	102,900,232,000	102,920,634,000	102,920,634,000	
Current year, FY 1992	(76,489,950,000)	(85,708,732,000)	(85,820,634,000)	(85,800,232,000)	(85,820,634,000)	(85,820,634,000)	
New advance, 1st quarter, FY 1993	(13,500,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	
Trust funds	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(1,982,901,000)	(2,274,055,000)	(2,274,055,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
SOCIAL SECURITY ADMINISTRATION							
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	46,958,000	40,968,000	40,968,000	40,968,000	40,968,000	40,968,000	M
SPECIAL BENEFITS FOR DISABLED COAL MINERS							
Benefit payments	837,511,000	813,000,000	813,000,000	813,000,000	813,000,000	813,000,000	M
Administration	7,081,000	7,336,000	7,336,000	7,336,000	7,336,000	7,336,000	M
Subtotal, Black Lung, FY 1992 program level	844,592,000	820,336,000	820,336,000	820,336,000	820,336,000	820,336,000	
Less funds advanced in prior year	-215,000,000	-203,000,000	-203,000,000	-203,000,000	-203,000,000	-203,000,000	M
Total, Black Lung, current request, FY 1992	629,592,000	617,336,000	617,336,000	617,336,000	617,336,000	617,336,000	
New advance, 1st quarter, FY 1993	203,000,000	198,000,000	198,000,000	198,000,000	198,000,000	198,000,000	M
SUPPLEMENTAL SECURITY INCOME							
Federal benefit payments	16,184,751,000	16,105,000,000	16,105,000,000	16,105,000,000	16,105,000,000	16,105,000,000	M
Beneficiary services	32,517,000	39,100,000	39,100,000	39,100,000	39,100,000	39,100,000	M
Research demonstration	8,275,000	11,000,000	11,000,000	14,000,000	14,000,000	14,000,000	M
Administration	1,183,378,000	1,321,391,000	1,321,391,000	1,321,391,000	1,321,391,000	1,321,391,000	D
Zebley administration	232,000,000	---	---	---	---	---	D
Subtotal, SSI FY 1992 program level	17,640,921,000	17,476,491,000	17,476,491,000	17,479,491,000	17,479,491,000	17,479,491,000	
Less funds advanced in prior year	-3,157,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	M
Total, SSI, current request, FY 1992	14,483,921,000	13,926,491,000	13,926,491,000	13,929,491,000	13,929,491,000	13,929,491,000	
New advance, 1st quarter, FY 1993	3,550,000,000	5,240,000,000	5,240,000,000	5,240,000,000	5,240,000,000	5,240,000,000	M
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds) 1/	(3,510,774,000)	(3,834,000,000)	(3,834,000,000)	(3,752,200,000)	(3,834,000,000)	(3,834,000,000)	TF
Zebley administration 2/	(232,000,000)	---	---	---	---	---	TF
Portion treated as budget authority	(600,150,000)	(648,000,000)	(648,000,000)	(639,800,000)	(648,000,000)	(648,000,000)	TF*
Subtotal, LAE operating level	(4,342,924,000)	(4,482,000,000)	(4,482,000,000)	(4,392,000,000)	(4,482,000,000)	(4,482,000,000)	
(Contingency reserve)	(46,385,000)	(50,000,000)	(100,000,000)	(50,000,000)	(100,000,000)	(100,000,000)	TF
Subtotal, LAE	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(4,442,000,000)	(4,582,000,000)	(4,582,000,000)	
Total, Social Security Administration: Federal funds	18,913,471,000	20,022,795,000	20,022,795,000	20,025,795,000	20,025,795,000	20,025,795,000	
Current year FY 1992	(15,160,471,000)	(14,584,795,000)	(14,584,795,000)	(14,587,795,000)	(14,587,795,000)	(14,587,795,000)	
New advances, 1st quarter FY 1993	(3,753,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	
Trust funds	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(4,442,000,000)	(4,582,000,000)	(4,582,000,000)	
ADMINISTRATION FOR CHILDREN AND FAMILIES							
FAMILY SUPPORT PAYMENTS TO STATES							
Aid to Families with Dependent Children (AFDC)	11,296,000,000	12,135,000,000	12,135,000,000	12,135,000,000	12,135,000,000	12,135,000,000	M
Payments to territories	16,346,000	16,346,000	16,346,000	16,346,000	16,346,000	16,346,000	M
Emergency assistance	191,600,000	176,900,000	176,900,000	176,900,000	176,900,000	176,900,000	M
Repatriation	5,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	M
State and local welfare administration	1,448,200,000	1,512,800,000	1,512,800,000	1,512,800,000	1,512,800,000	1,512,800,000	M
Work activities / child care	317,000,000	433,000,000	433,000,000	433,000,000	433,000,000	433,000,000	M
At risk child care	150,000,000	300,000,000	300,000,000	300,000,000	300,000,000	300,000,000	M
Proposed regulatory savings	---	-38,900,000	-38,900,000	---	---	---	M
Subtotal, Welfare payments	13,424,146,000	14,536,146,000	14,536,146,000	14,575,046,000	14,575,046,000	14,575,046,000	
Child Support Enforcement: State and local administration	1,181,000,000	1,309,000,000	1,309,000,000	1,309,000,000	1,309,000,000	1,309,000,000	M
Federal incentive payments	296,000,000	332,000,000	332,000,000	332,000,000	332,000,000	332,000,000	M
Less federal share collections	-906,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	M
Subtotal, Child support	571,000,000	626,000,000	626,000,000	626,000,000	626,000,000	626,000,000	
Total, Payments, FY 1992 program level	13,995,146,000	15,162,146,000	15,162,146,000	15,201,046,000	15,201,046,000	15,201,046,000	
Less funds advanced in previous years	-3,000,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	M
Total, Payments, current request, FY 1992	10,995,146,000	11,862,146,000	11,862,146,000	11,901,046,000	11,901,046,000	11,901,046,000	
New advance, 1st quarter, FY 1993	3,300,000,000	4,000,000,000	4,000,000,000	4,000,000,000	4,000,000,000	4,000,000,000	M

1/ Budget, House bill, and conference agreement include delayed obligation of $80,000,000 until Sept. 19, 1992.

2/ Available FY 91-93.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	M
ENERGY ASSISTANCE PROGRAMS							
LOW INCOME HOME ENERGY ASSISTANCE:							
Regular program	1,340,445,000	875,000,000	950,000,000	1,094,393,000	1,014,393,000	1,014,393,000	D
Congressional emergency	---	---	---	---	80,000,000	80,000,000	D
Additional appropriation 9/30/92	74,610,000	50,000,000	50,000,000	405,607,000	405,607,000	405,607,000	D
Emergency allocation 1/	---	---	(600,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	NA
ENERGY EMERGENCY CONTINGENCY FUND	195,180,000	100,000,000	---	---	---	---	D
Total, Energy assistance programs	1,610,235,000	1,025,000,000	1,000,000,000	1,500,000,000	1,500,000,000	1,500,000,000	
Total including emergency	(1,610,235,000)	(1,025,000,000)	(1,600,000,000)	(1,800,000,000)	(1,800,000,000)	(1,800,000,000)	
REFUGEE AND ENTRANT ASSISTANCE							
Cash and medical assistance 2/	234,216,000	---	117,600,000	117,600,000	117,600,000	117,600,000	D
Additional appropriation 9/30/92	---	---	---	116,616,000	116,616,000	116,616,000	D
Social services	82,952,000	---	82,952,000	82,952,000	82,952,000	82,952,000	D
Voluntary agency program	39,036,000	---	39,036,000	39,036,000	39,036,000	39,036,000	D
Preventive health	5,631,000	---	5,631,000	5,631,000	5,631,000	5,631,000	D
Targeted assistance	48,795,000	---	48,795,000	48,795,000	48,795,000	48,795,000	D
Undistributed	---	410,630,000	---	---	---	---	D
Total, Refugee Resettlement	410,630,000	410,630,000	294,014,000	410,630,000	410,630,000	410,630,000	
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS							
Current year	-566,854,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	D
Advance funding	583,934,000	---	1,122,992,000	1,122,992,000	1,122,992,000	1,122,992,000	D
Total	17,080,000	-1,122,992,000	---	---	---	---	
COMMUNITY SERVICES BLOCK GRANT							
Grants to States for Community Services	349,372,000	---	349,372,000	370,000,000	360,000,000	360,000,000	D
Homeless services grants	33,181,000	---	25,000,000	30,181,000	25,000,000	25,000,000	D
Discretionary funds:							
Community economic development 3/	20,494,000	---	21,500,000	22,000,000	22,000,000	22,000,000	D
Rural housing 3/	4,099,000	---	4,099,000	4,099,000	4,099,000	4,099,000	D
Farmworker assistance 3/	3,025,000	---	3,025,000	3,025,000	3,025,000	3,025,000	D
National youth sports	10,832,000	10,832,000	12,000,000	12,832,000	12,000,000	12,000,000	D
Technical assistance	244,000	---	244,000	244,000	244,000	244,000	D
Subtotal, discretionary funds	38,694,000	10,832,000	40,868,000	42,200,000	41,368,000	41,368,000	
Community Partnerships	4,050,000	---	---	4,050,000	4,050,000	4,050,000	D
Community Food and Nutrition	2,440,000	---	5,484,000	7,000,000	7,000,000	7,000,000	D
Total, Community services	427,737,000	10,832,000	420,724,000	453,431,000	437,418,000	437,418,000	
GRANTS TO STATES FOR CHILD CARE							
Block grants to States 4/	731,925,000	731,925,000	825,000,000	825,000,000	825,000,000	825,000,000	D
FY 91 rescission	---	---	-144,925,000	---	---	---	D
Subtotal, block grants	731,925,000	731,925,000	680,075,000	825,000,000	825,000,000	825,000,000	
Licensing grants to States	13,000,000	13,000,000	25,000,000	13,000,000	---	---	D
Total, Child care grants	744,925,000	744,925,000	705,075,000	838,000,000	825,000,000	825,000,000	

1/ Available only upon submission of a formal budget request designating the need for funds as an emergency as defined by the BEA.

2/ House bill makes funding available only through 3/31/92. Conference agreement does not include termination date.

3/ Conference agreement assumes delayed obligation until 9/30/92. The Senate bill delayed obligation of $22,000,000 of Community economic development funding until 9/25/92.

4/ FY91 total makes available Sept. 7, 1991. FY 1992 request, House & Senate bills include delayed obligation of these funds until 9/19/92. House bill assumes rescission of $144,925,000 of FY91 funds. Conference agreement makes total available on 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---------------- H.R. 2707	----------------	----------------	New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
PROGRAM ADMINISTRATION							
Federal Administration	76,093,000	81,000,000	81,000,000	76,093,000	81,000,000	81,000,000	D
Research & evaluation	10,735,000	6,500,000	6,500,000	13,735,000	11,500,000	11,500,000	D
Total, program administration	86,828,000	87,500,000	87,500,000	89,828,000	92,500,000	92,500,000	
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	M
HUMAN DEVELOPMENT SERVICES							
Programs for Children, Youth, and Families:							
Head start:							
Regular grants	1,951,800,000	2,051,800,000	1,963,800,000	1,951,800,000	1,951,800,000	1,951,800,000	D
Transfer from ''Educational Excellence''	---	---	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	NA
Subtotal	(1,951,800,000)	(2,051,800,000)	(2,213,800,000)	(2,201,800,000)	(2,201,800,000)	(2,201,800,000)	
Child development associate scholarships	1,397,000	1,397,000	1,397,000	1,397,000	1,397,000	1,397,000	D
Family crisis program:							
Child abuse state grants	19,518,000	19,518,000	19,518,000	21,518,000	20,518,000	20,518,000	D
Child abuse challenge grants	5,367,000	5,367,000	5,367,000	5,367,000	5,367,000	5,367,000	D
Runaway and homeless youth	35,132,000	35,132,000	35,132,000	36,370,000	35,751,000	35,751,000	D
Family violence	10,735,000	10,735,000	10,735,000	21,470,000	20,000,000	20,000,000	D
Abandoned infants assistance	12,557,000	12,557,000	12,557,000	12,557,000	12,557,000	12,557,000	D
Emergency protection grants - substance abuse.	19,518,000	19,518,000	19,518,000	19,518,000	19,518,000	19,518,000	D
Subtotal, family crisis	102,827,000	102,827,000	102,827,000	116,800,000	113,711,000	113,711,000	
Dependent care planning and development	13,175,000	13,175,000	13,175,000	13,175,000	13,175,000	13,175,000	D
Child welfare services	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	D
Less amounts derived by transfer	-27,352,000	---	---	---	---	---	D
Subtotal, child welfare services	246,559,000	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	
Subtotal, Program for Children, Youth, and Families	2,315,758,000	2,443,110,000	2,355,110,000	2,357,083,000	2,353,994,000	2,353,994,000	
Programs for the Aging: 1/							
Grants to States:							
Supportive services and centers	290,818,000	290,818,000	290,818,000	324,000,000	317,000,000	317,000,000	D
Ombudsman activities	5,367,000	5,367,000	5,367,000	11,367,000	8,367,000	8,367,000	D
Nutrition:							
Congregate meals	361,083,000	361,083,000	361,083,000	373,000,000	367,000,000	367,000,000	D
Home-delivered meals	87,831,000	87,831,000	87,831,000	91,831,000	89,831,000	89,831,000	D
Federal Council on Aging	181,000	181,000	181,000	181,000	181,000	181,000	D
Grants to Indians	14,639,000	14,639,000	14,639,000	15,224,000	15,124,000	15,124,000	D
Frail elderly in-home services	6,831,000	6,831,000	6,831,000	7,000,000	6,916,000	6,916,000	D
White House Conference on Aging	976,000	---	---	3,400,000	2,000,000	2,000,000	D
Undistributed	---	---	---	-3,400,000	-2,000,000	-2,000,000	D
Subtotal, Aging programs	767,726,000	766,750,000	766,750,000	822,603,000	804,419,000	804,419,000	
Developmental disabilities program:							
State grants	64,409,000	64,409,000	64,409,000	71,773,000	67,706,000	67,706,000	D
Protection and advocacy	20,982,000	20,982,000	20,982,000	24,080,000	22,500,000	22,500,000	D
Subtotal, Developmental disabilities	85,391,000	85,391,000	85,391,000	95,853,000	90,206,000	90,206,000	
Native American Programs	33,376,000	33,376,000	33,376,000	34,376,000	34,126,000	34,126,000	D
Human services research, training & demonstration:							
Comprehensive child development centers	24,398,000	24,398,000	45,000,000	24,398,000	24,398,000	24,398,000	D
Transfer from "Educational excellence"	---	---	---	(20,000,000)	(20,000,000)	(20,000,000)	NA
Subtotal, Comprehensive Child Development	(24,398,000)	(24,398,000)	(45,000,000)	(44,398,000)	(44,398,000)	(44,398,000)	
Child abuse discretionary activities	14,639,000	14,638,000	14,639,000	14,639,000	14,639,000	14,639,000	D
Runaway youth - transitional living	9,939,000	9,939,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Runaway youth activities - drugs	14,786,000	14,786,000	14,786,000	15,786,000	15,286,000	15,286,000	D
Youth gang substance abuse	14,786,000	14,786,000	7,100,000	14,786,000	10,943,000	10,943,000	D
Temporary childcare/crisis nurseries	11,055,000	11,055,000	11,055,000	11,055,000	11,055,000	11,055,000	D

1/ Senate bill included delayed obligation of $25,000,000 until Feb. 1, 1992. Conference assumes delayed obligation of $25,000,000 until Sept. 30, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
Child welfare training	3,559,000	3,559,000	3,559,000	3,559,000	3,559,000	3,559,000	D
Child welfare research	6,652,000	7,807,000	6,652,000	6,652,000	6,652,000	6,652,000	D
Adoption opportunities	12,687,000	12,687,000	12,687,000	12,687,000	12,687,000	12,687,000	D
Aging research, training and special projects	25,941,000	25,941,000	25,941,000	25,941,000	25,941,000	25,941,000	D
Social services research	2,879,000	3,879,000	7,879,000	12,879,000	10,379,000	10,379,000	D
Developmental disabilities special projects	3,025,000	3,025,000	3,025,000	3,325,000	3,248,000	3,248,000	D
Developmental disabilities university affiliated programs	13,907,000	13,907,000	15,407,000	16,407,000	16,030,000	16,030,000	D
Total, Human Services Res, Trng & demonstration	158,253,000	160,407,000	179,730,000	174,114,000	166,817,000	166,817,000	
Program direction	73,906,000	88,000,000	88,000,000	79,034,000	88,000,000	88,000,000	D
Total, Human Development Services	3,434,410,000	3,577,034,000	3,508,357,000	3,563,063,000	3,537,562,000	3,537,562,000	
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE							
Foster care	1,813,186,000	2,223,668,000	2,223,668,000	2,223,668,000	2,223,668,000	2,223,668,000	M
Adoption assistance	189,832,000	201,861,000	201,861,000	201,861,000	201,861,000	201,861,000	M
Independent living	60,000,000	70,000,000	70,000,000	70,000,000	70,000,000	70,000,000	M
Prior year claims	520,911,000	118,476,000	118,476,000	118,476,000	118,476,000	118,476,000	M
Transfer to child welfare service	27,352,000	---	---	---	---	---	M
Total, Payments to States	2,611,281,000	2,614,005,000	2,614,005,000	2,614,005,000	2,614,005,000	2,614,005,000	
Total, Administration for Children and Families	27,438,272,000	27,009,080,000	28,291,821,000	29,170,003,000	29,118,161,000	29,118,161,000	
Current year	(23,554,338,000)	(23,009,080,000)	(23,168,829,000)	(24,047,011,000)	(23,995,169,000)	(23,995,169,000)	
FY 1993	(3,883,934,000)	(4,000,000,000)	(5,122,992,000)	(5,122,992,000)	(5,122,992,000)	(5,122,992,000)	
OFFICE OF THE SECRETARY							
GENERAL DEPARTMENTAL MANAGEMENT:							
Federal funds	78,944,000	91,673,000	86,673,000	79,444,000	91,673,000	91,673,000	D
Trust funds	(22,451,000)	(22,786,000)	(19,111,000)	(22,310,000)	(22,786,000)	(22,786,000)	TF
Portion treated as budget authority	(7,899,000)	(8,215,000)	(6,890,000)	(8,040,000)	(8,215,000)	(8,215,000)	TF*
Total, Departmental management	109,294,000	122,674,000	112,674,000	109,794,000	122,674,000	122,674,000	
OFFICE OF THE INSPECTOR GENERAL:							
Federal funds	51,918,000	63,842,000	63,842,000	58,191,000	58,191,000	58,191,000	D
Trust funds	(19,202,000)	(20,476,000)	(16,363,000)	(16,333,000)	(16,363,000)	(16,363,000)	TF
Portion treated as budget authority	(23,467,000)	(26,871,000)	(21,470,000)	(21,500,000)	(21,470,000)	(21,470,000)	TF*
Total, Inspector General	94,587,000	111,189,000	101,675,000	96,024,000	96,024,000	96,024,000	
OFFICE FOR CIVIL RIGHTS:							
Federal funds	17,066,000	18,524,000	18,524,000	18,524,000	18,524,000	18,524,000	D
Trust funds	(97,000)	(99,000)	(99,000)	(99,000)	(99,000)	(99,000)	TF
Portion treated as budget authority	(3,807,000)	(3,901,000)	(3,901,000)	(3,901,000)	(3,901,000)	(3,901,000)	TF*
Total, Civil Rights	20,970,000	22,524,000	22,524,000	22,524,000	22,524,000	22,524,000	
POLICY RESEARCH	8,928,000	5,037,000	5,037,000	5,037,000	5,037,000	5,037,000	D
Total, Office of the Secretary:							
Federal funds	156,856,000	179,076,000	174,076,000	161,196,000	173,425,000	173,425,000	
Trust funds	(76,923,000)	(82,348,000)	(67,834,000)	(72,183,000)	(72,834,000)	(72,834,000)	
Total, Office of the Secretary	(233,779,000)	(261,424,000)	(241,910,000)	(233,379,000)	(246,259,000)	(246,259,000)	
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	-116,000,000	-53,099,000	-134,349,000	-134,349,000	D
UNDISTRIBUTED TRAVEL REDUCTION	---	---	---	-9,492,000	-9,492,000	-9,492,000	D
Total, Department of Health and Human Services:							
Federal Funds	151,680,827,000	165,657,345,000	167,121,817,000	168,803,583,000	168,611,962,000	168,611,962,000	
Current year FY 1992	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
FY 1993	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
TITLE III - DEPARTMENT OF EDUCATION							
COMPENSATORY EDUCATION FOR THE DISADVANTAGED 1/							
Grants for the Disadvantaged (Chapter 1):							
Grants to local educational agencies:							
Basic grants	5,001,975,000	5,001,975,000	5,805,000,000	5,176,575,000	5,387,000,000	5,387,000,000	D
Additional appropriation 9/30/92	---	---	---	138,000,000	138,000,000	138,000,000	D
Concentration grants	555,775,000	674,775,000	645,000,000	575,175,000	596,000,000	596,000,000	D
Additional appropriation 9/30/92	---	---	---	14,000,000	14,000,000	14,000,000	D
Subtotal, grants to LEA's	5,557,750,000	5,676,750,000	6,450,000,000	5,903,750,000	6,135,000,000	6,135,000,000	
Capital expenses for private school children	36,108,000	36,108,000	38,000,000	42,108,000	40,054,000	40,054,000	D
Even start	49,771,000	60,000,000	100,000,000	54,500,000	70,000,000	70,000,000	D
State agency programs:							
Migrant	294,596,000	294,596,000	322,000,000	294,596,000	308,298,000	308,298,000	D
Neglected and delinquent	36,108,000	36,108,000	36,000,000	36,108,000	36,054,000	36,054,000	D
State administration	59,140,000	59,140,000	64,500,000	59,140,000	61,820,000	61,820,000	D
State program improvement grants	14,785,000	30,000,000	32,250,000	18,000,000	25,125,000	25,125,000	D
Evaluation and technical assistance 2/	13,175,000	17,000,000	17,000,000	13,175,000	15,088,000	15,088,000	D
Rural technical assistance centers 2/	4,463,000	4,463,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Total, Chapter 1	6,065,896,000	6,214,165,000	7,064,750,000	6,426,377,000	6,696,439,000	6,696,439,000	
Migrant education:							
High school equivalency program 2/	7,807,000	8,135,000	8,500,000	8,119,000	8,310,000	8,310,000	D
College assistance migrant program 2/	1,952,000	2,034,000	2,500,000	2,030,000	2,265,000	2,265,000	D
Subtotal, migrant education	9,759,000	10,169,000	11,000,000	10,149,000	10,575,000	10,575,000	
Total, Compensatory Education programs	6,075,655,000	6,224,334,000	7,075,750,000	6,436,526,000	6,707,014,000	6,707,014,000	
Subtotal, forward funded	(6,048,258,000)	(6,192,702,000)	(7,042,750,000)	(6,408,202,000)	(6,676,351,000)	(6,676,351,000)	
IMPACT AID							
Maintenance and operations:							
Payments for ''a'' children	585,540,000	588,540,000	585,540,000	588,540,000	588,540,000	588,540,000	D
Payments for ''b'' children	136,626,000	---	136,626,000	136,626,000	136,626,000	136,626,000	D
Payments for Federal property (Section 2)	16,590,000	16,590,000	16,590,000	16,590,000	16,590,000	16,590,000	D
Payments related to decreased activity (Sec. 3e)	1,952,000	---	---	1,952,000	1,952,000	1,952,000	D
Subtotal	740,708,000	605,130,000	738,756,000	743,708,000	743,708,000	743,708,000	
Disaster assistance (Section 7)	13,663,000	---	---	---	---	---	D
Construction	26,349,000	15,000,000	26,000,000	26,000,000	26,000,000	26,000,000	D
Additional appropriation 9/30/92	---	---	---	2,000,000	2,000,000	2,000,000	D
Total, Impact aid	780,720,000	620,130,000	764,756,000	771,708,000	771,708,000	771,708,000	
SCHOOL IMPROVEMENT PROGRAMS 4/							
Educational improvement (Chapter 2):							
State and Local Programs:							
State block grants 3/	448,914,000	448,914,000	450,000,000	450,000,000	450,000,000	450,000,000	D
Evaluation	976,000	---	---	---	---	---	D
Subtotal	449,890,000	448,914,000	450,000,000	450,000,000	450,000,000	450,000,000	
National programs:							
Inexpensive book distribution (RIF)	9,271,000	9,271,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Arts in education:							
Regular program	4,392,000	4,392,000	3,700,000	8,600,000	8,600,000	8,600,000	D
Initial forward funding (House only) 3/	---	---	4,900,000	---	---	---	D
Law - related education	5,855,000	---	6,000,000	6,000,000	6,000,000	6,000,000	D
Subtotal, National programs	19,518,000	13,663,000	24,600,000	24,600,000	24,600,000	24,600,000	
Total, Chapter 2	469,408,000	462,577,000	474,600,000	474,600,000	474,600,000	474,600,000	

1/ $200 million originally requested within this account for Choice Schools considered under the Educational Excellence account.

2/ Current funded.

3/ Forward funded.

4/ Many activities previously funded in this account transferred to Education Research & Improvement.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	Senate Bill	Conference	New Bill	Mand Disc
Civics education	---	---	3,000,000	3,800,000	3,800,000	3,800,000	D
Drug-free schools and communities:							
State grants 1/	497,709,000	497,709,000	497,709,000	517,617,000	507,663,000	507,663,000	D
School personnel training	23,395,000	23,395,000	23,395,000	24,331,000	23,863,000	23,863,000	D
National programs:							
Regular programs	60,914,000	60,914,000	60,914,000	63,351,000	62,133,000	62,133,000	D
Emergency grants	24,331,000	49,500,000	25,000,000	30,304,000	30,304,000	30,304,000	D
Subtotal, drug-free schools	606,349,000	631,518,000	607,018,000	635,603,000	623,963,000	623,963,000	
Strengthening teaching and administration:							
Eisenhower mathematics and science education State grants 1/	202,011,000	239,011,000	240,000,000	240,000,000	240,000,000	240,000,000	D
Christa McAuliffe fellowships	1,954,000	2,036,000	2,000,000	2,000,000	2,000,000	2,000,000	D
Other school improvement programs:							
Magnet schools, desegregation program	109,977,000	109,977,000	110,000,000	110,000,000	110,000,000	110,000,000	D
Education for homeless children & youth 1/	7,313,000	---	37,000,000	25,000,000	25,000,000	25,000,000	D
Women's educational equity	1,995,000	500,000	2,000,000	500,000	500,000	500,000	D
Training and advisory services (Civil Rights IV-A)	21,329,000	21,329,000	22,000,000	22,000,000	22,000,000	22,000,000	D
Dropout prevention demonstrations	34,064,000	29,214,000	50,000,000	35,427,000	40,000,000	40,000,000	D
General assistance to the Virgin Islands	4,366,000	4,366,000	4,500,000	4,500,000	4,500,000	4,500,000	D
Ellender fellowships/Close up 1/	4,101,000	---	4,100,000	4,500,000	4,300,000	4,300,000	D
Follow through	7,265,000	---	10,000,000	7,265,000	8,632,000	8,632,000	D
Native Hawaiian Education	6,366,000	---	6,400,000	6,400,000	6,400,000	6,400,000	D
Foreign Language Assistance 1/	4,880,000	---	5,000,000	12,000,000	10,000,000	10,000,000	D
Subtotal, other school improvement programs	201,656,000	165,386,000	251,000,000	227,592,000	231,332,000	231,332,000	
National writing project	1,952,000	---	---	3,000,000	2,500,000	2,500,000	D
School year extension study commission	976,000	---	---	---	---	---	D
Total, School improvement programs	1,484,306,000	1,500,528,000	1,577,618,000	1,586,595,000	1,578,195,000	1,578,195,000	
Subtotal, forward funded	(1,164,928,000)	(1,185,634,000)	(1,238,709,000)	(1,249,117,000)	(1,236,963,000)	(1,236,963,000)	
EDUCATIONAL EXCELLENCE / AMERICA 2000							
Educational Excellence:							
New generation of American schools	---	180,000,000	---	---	---	---	D
Merit schools	---	100,000,000	---	---	---	---	D
Governors' academies for teachers	---	70,000,000	---	---	---	---	D
Governors' academies for school leaders	---	22,500,000	---	---	---	---	D
Assistance for parental choice programs	---	200,000,000	---	---	---	---	D
Choice demonstrations of national significance	---	30,000,000	---	---	---	---	D
Alternative teacher and principal certification	---	25,000,000	---	---	---	---	D
Commission on time, study, learning, and teaching	---	1,000,000	---	---	---	---	D
Subtotal, Educational excellence	---	628,500,000	---	---	---	---	
Vocational and Adult Education:							
Regional literacy resource centers	---	5,000,000	---	---	---	---	D
Literacy initiatives	---	5,000,000	---	---	---	---	D
Higher Education: Endowment grants for HBCUs	---	10,000,000	---	---	---	---	D
Assessment, Statistics, Research and Improvement:							
World class standards/achievement tests	---	12,400,000	---	---	---	---	D
Goals panel: National report card	---	2,000,000	---	---	---	---	D
America on line	---	5,000,000	---	---	---	---	D
Assessing workplace literacy skills	---	2,000,000	---	---	---	---	D
Statistics: Expansion of the adult literacy survey	---	1,100,000	---	---	---	---	D
Assessment: Preparing interim tests	---	5,000,000	---	---	---	---	D
Fund for the Improvement and Reform of Schools and Teaching	---	10,700,000	---	---	---	---	D
Subtotal, ASRI	---	38,200,000	---	---			

1/ Forward funded.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Departmental Management: Program administration	---	3.300.000	---	---	---	---	D
Head start 1/	---	---	250,000,000	250,000,000	250,000,000	250,000,000	D
Community and migrant health centers 1/	---	---	---	55,000,000	55,000,000	55,000,000	D
Comprehensive child development centers 1/	---	---	---	20,000,000	20,000,000	20,000,000	D
Consolidated funds - regular appropriations 1/	---	---	250,000,000	---	100,000,000	100,000,000	D
Consolidated funds - by transfer 1/	---	---	---	(100,000,000)	---	---	NA
Total, Educational excellence	---	690,000,000	500,000,000	325,000,000	425,000,000	425,000,000	
BILINGUAL AND IMMIGRANT EDUCATION							
Bilingual education:							
Bilingual programs	121.039,000	123.814.000	171,000,000	123.814,000	147.407,000	147.407,000	D
Support services	11.632.000	11.632,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Training grants	36.066,000	36,066,000	36,000,000	36,000,000	36,000,000	36,000,000	D
Immigrant education	29.277,000	29.277,000	30,000,000	30,000,000	30,000,000	30,000,000	D
Total	198.014,000	200,789,000	249,000,000	201.814,000	225,407,000	225,407,000	
SPECIAL EDUCATION							
State grants:							
EHA grants to States part ''b''	1.854.210.000	1,976,095,000	1.976,095,000	1,976,095,000	1.976,095,000	1,976,095,000	D
Chapter 1 handicapped grants	148.861.000	125.661,000	135.661,000	148.861,000	143,000,000	143,000,000	D
Preschool grants	292.770,000	295,920,000	295,920,000	320,000,000	320,000,000	320,000,000	D
Grants for infants and families	117.108,000	128,819,000	175,000,000	175,000,000	175,000,000	175,000,000	D
Subtotal, State grants	2,412,949,000	2,526,495,000	2,582,676,000	2,619,956,000	2,614,095,000	2,614,095,000	
Special purpose funds:							
Deaf-blindness	12,849,000	12,849,000	13,000,000	13,000,000	13,000,000	13,000,000	D
Severe disabilities	7.869,000	7.869,000	8,000,000	8,000,000	8,000,000	8,000,000	D
Serious emotional disturbance	1,952,000	1,952,000	4,000,000	4,000,000	4,000,000	4,000,000	D
Early childhood education	24,202,000	24,202,000	25,000,000	25,000,000	25,000,000	25,000,000	D
Secondary and transitional services	14,639,000	14,639,000	17,000,000	19,000,000	19,000,000	19,000,000	D
Postsecondary education	8,559,000	8,559,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Innovation and development	20,174,000	20,174,000	24,000,000	21,000,000	21,000,000	21,000,000	D
Media and captioning services	16,424,000	16,424,000	17,000,000	17,000,000	17,000,000	17,000,000	D
Technology applications	5,593,000	5,593,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Special studies	3,904,000	3,904,000	4,000,000	4,000,000	4,000,000	4,000,000	D
Personnel development	69,289,000	69,289,000	89,800,000	89,800,000	89,800,000	89,800,000	D
Parent training	9,759,000	9,759,000	10,200,000	12,000,000	12,000,000	12,000,000	D
Clearing houses	1,525,000	1,525,000	2,000,000	2,000,000	2,000,000	2,000,000	D
Regional resource centers	6,620,000	6,620,000	7,000,000	7,000,000	7,000,000	7,000,000	D
Subtotal, Special purpose funds	203,358,000	203,358,000	240,000,000	240,800,000	240,800,000	240,800,000	
Total, Special education	2,616,307,000	2,729,853,000	2,822,676,000	2,860,756,000	2,854,895,000	2,854,895,000	
REHABILITATION SERVICES AND DISABILITY RESEARCH							
Vocational rehabilitation State grants:							
Grants to States	1,632,625,000	---	1,735,480,000	1,788,000,000	1,788,000,000	1,788,000,000	M
Supported employment State grants	29,150,000	---	29,150,000	31,065,000	31,065,000	31,065,000	M
Client assistance	8,310,000	---	8,310,000	9,141,000	9,141,000	9,141,000	M
Subtotal, State grants	1,670,085,000	---	1,772,940,000	1,828,206,000	1,828,206,000	1,828,206,000	
Special purpose funds:							
Special demonstration programs	18,368,000	---	18,368,000	25,103,000	31,103,000	31,103,000	M
Supported employment projects	10,023,000	---	10,023,000	10,423,000	10,423,000	10,423,000	M
Recreational programs	2,617,000	---	2,617,000	2,617,000	2,617,000	2,617,000	M
Migratory workers	1,060,000	---	1,060,000	1,060,000	1,060,000	1,060,000	M
Projects with industry	19,445,000	---	19,445,000	20,390,000	20,390,000	20,390,000	M
Helen Keller National Center	5,367,000	---	5,367,000	5,867,000	5,867,000	5,867,000	M

1/ To be made available on July 1, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Independent living:							
Comprehensive services	13,619,000	---	13,619,000	14,200,000	14,200,000	14,200,000	M
Centers	27,579,000	---	27,579,000	29,000,000	29,000,000	29,000,000	M
Services for older blind	5,914,000	---	5,914,000	6,505,000	6,505,000	6,505,000	M
Protection & advocacy for severely disabled	976,000	---	976,000	1,074,000	1,074,000	1,074,000	M
Subtotal, Independent living	48,088,000	---	48,088,000	50,779,000	50,779,000	50,779,000	
Training	33,353,000	---	33,353,000	36,688,000	36,688,000	36,688,000	M
National Institute on Disability & Rehabilitation Research	58,924,000	---	58,924,000	61,000,000	61,000,000	61,000,000	M
Technology assistance	20,982,000	27,340,000	27,340,000	28,000,000	28,000,000	28,000,000	M
Evaluation	976,000	---	976,000	1,025,000	1,025,000	1,025,000	M
Subtotal, Special purpose funds	219,203,000	27,340,000	225,561,000	242,952,000	248,952,000	248,952,000	
Consolidated request, new legislation	---	1,976,040,000	---	---	---	---	M
Total, Rehabilitation services	1,889,288,000	2,003,380,000	1,998,501,000	2,071,158,000	2,077,158,000	2,077,158,000	
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES							
AMERICAN PRINTING HOUSE FOR THE BLIND	6,136,000	6,136,000	5,500,000	6,600,000	5,900,000	5,900,000	D
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:							
Operations	36,884,000	36,884,000	38,500,000	39,097,000	39,097,000	39,097,000	D
Endowment grant	328,000	342,000	---	342,000	342,000	342,000	D
Subtotal, NTID	37,212,000	37,226,000	38,500,000	39,439,000	39,439,000	39,439,000	
GALLAUDET UNIVERSITY:							
University programs	47,623,000	47,623,000	48,473,000	50,480,000	50,480,000	50,480,000	D
Precollege programs 1/	21,223,000	21,223,000	21,223,000	22,560,000	22,560,000	22,560,000	D
Endowment grant	976,000	1,000,000	976,000	1,000,000	1,000,000	1,000,000	D
Construction	2,440,000	1,000,000	2,500,000	2,500,000	2,500,000	2,500,000	D
Subtotal, Gallaudet University	72,262,000	70,846,000	73,172,000	76,540,000	76,540,000	76,540,000	
Total, Special Institutions for Disabled	115,610,000	114,208,000	117,172,000	122,579,000	121,879,000	121,879,000	
VOCATIONAL AND ADULT EDUCATION							
Vocational education:							
Basic grants	856,503,000	890,656,000	1,077,000,000	897,500,000	900,000,000	900,000,000	D
Additional appropriation 9/30/92	---	---	---	50,000,000	50,000,000	50,000,000	D
Community education employment centers	---	---	---	7,500,000	---	---	D
Supplemental grants, equipment	---	---	100,000,000	---	---	---	D
Additional appropriation 9/30/92	---	---	---	10,000,000	10,000,000	10,000,000	D
Community - based organizations	11,711,000	11,711,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Consumer and homemaking education	33,352,000	---	38,000,000	33,352,000	35,000,000	35,000,000	D
State councils	8,783,000	8,783,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Tech Prep	63,434,000	63,434,000	100,000,000	65,971,000	90,000,000	90,000,000	D
Tribally controlled post-secondary vocational institutions 2/	2,440,000	2,440,000	2,500,000	2,500,000	2,500,000	2,500,000	D
National programs:							
Research	6,831,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Technical assistance, sec. 404 (d)	---	---	2,000,000	---	2,000,000	2,000,000	D
Demonstrations	12,970,000	9,000,000	12,000,000	14,000,000	14,000,000	14,000,000	D
Data systems (NOICC/SOICC)	4,880,000	4,880,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Subtotal, national programs	24,681,000	23,880,000	29,000,000	29,000,000	31,000,000	31,000,000	
Bilingual vocational training	2,888,000	2,888,000	3,000,000	3,000,000	3,000,000	3,000,000	D
Subtotal, Applied technology education	1,003,792,000	1,003,792,000	1,370,500,000	1,119,823,000	1,142,500,000	1,142,500,000	

1/ Kendall Elementary and Model Secondary Schools.

2/ Senate bill and conference agreement make funding available 10/1/91.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707			New Bill	Mand Disc
			House Bill	Senate Bill	Conference		
Adult education:							
State Programs	201,035,000	221,500,000	250,000,000	221,500,000	235,750,000	235,750,000	D
National programs	7,807,000	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Literacy training for homeless adults	9,759,000	---	---	9,759,000	9,759,000	9,759,000	D
Workplace literacy partnerships	19,251,000	19,251,000	20,000,000	19,251,000	19,251,000	19,251,000	D
English literacy grants	976,000	976,000	1,000,000	1,000,000	1,000,000	1,000,000	D
State literacy resource centers	---	---	---	10,000,000	5,000,000	5,000,000	D
Prison literacy training program	---	---	---	10,000,000	5,000,000	5,000,000	D
Subtotal, adult education	238,828,000	250,727,000	280,000,000	280,510,000	284,760,000	284,760,000	
Technology education demonstrations	964,000	---	1,000,000	---	---	---	D
Commercial truck driver training	1,952,000	---	---	3,000,000	2,500,000	2,500,000	D
Total, Vocational and adult education	1,245,536,000	1,254,519,000	1,651,500,000	1,403,333,000	1,429,760,000	1,429,760,000	
STUDENT FINANCIAL ASSISTANCE 2/							
Pell Grants: Academic year 1992 - 1993 1/	5,374,282,000	5,775,121,000	5,350,000,000	5,360,000,000	5,360,000,000	5,360,000,000	D
Contingency	---	---	100,000,000	100,000,000	100,000,000	100,000,000	D
Presidential Scholarships, new legislation	---	170,000,000	---	---	---	---	D
Supplemental educational opportunity grants	520,155,000	346,945,000	570,000,000	570,000,000	577,000,000	577,000,000	D
Additional appropriation 9/30/92	---	---	---	62,000,000	---	---	D
Work-study	594,689,000	396,615,000	595,000,000	618,476,000	615,000,000	615,000,000	D
Income contingent loans	4,880,000	10,000,000	5,000,000	4,880,000	4,880,000	4,880,000	D
Perkins loans:							
Federal capital contributions	156,144,000	---	156,000,000	156,000,000	156,000,000	156,000,000	D
Loan cancellations	---	15,000,000	13,000,000	15,000,000	---	---	D
Subtotal, Perkins loans	156,144,000	15,000,000	169,000,000	171,000,000	156,000,000	156,000,000	
State student incentive grants	63,531,000	---	64,000,000	76,000,000	72,000,000	72,000,000	D
Total, Student Financial Assistance	6,713,681,000	6,713,681,000	6,853,000,000	6,962,356,000	6,884,880,000	6,884,880,000	
GUARANTEED STUDENT LOANS (LIQUIDATING)							
Contract authority to liquidate pre-1992 loan subsidies	(4,209,818,000)	(3,075,711,000)	(3,075,711,000)	(3,075,711,000)	(4,190,459,000)	(4,190,459,000)	NA
Appropriation, including shortfalls (non-add)	(5,381,422,000)	(3,105,711,000)	(3,105,711,000)	(3,105,711,000)	(4,220,459,000)	(4,220,459,000)	NA
GUARANTEED STUDENT LOANS PROGRAM							
Guaranteed Student Loans:							
New loan subsidies (contract authority)	---	2,655,636,000	2,655,636,000	2,655,636,000	2,655,636,000	2,655,636,000	M
Mandatory admin expenses (contract authority)	---	164,611,000	164,611,000	164,611,000	164,611,000	164,611,000	M
Total	---	2,820,247,000	2,820,247,000	2,820,247,000	2,820,247,000	2,820,247,000	
GSL LOAN ADMINISTRATION	34,671,000	46,433,000	46,433,000	40,000,000	45,000,000	45,000,000	D
HIGHER EDUCATION							
Aid for institutional development:							
Strengthening institutions	87,831,000	87,831,000	90,000,000	87,831,000	87,831,000	87,831,000	D
Strengthening historically black colleges & univ.	87,831,000	87,831,000	100,000,000	87,831,000	100,000,000	100,000,000	D
Strengthening historically black grad institutions	11,711,000	11,711,000	12,000,000	11,711,000	11,711,000	11,711,000	D
Endowment grants	17,462,000	7,462,000	7,500,000	7,500,000	7,500,000	7,500,000	D
Subtotal, Institutional development	204,835,000	194,835,000	209,500,000	194,873,000	207,042,000	207,042,000	
Program development:							
Fund for the Improvement of Postsec. Education	14,639,000	14,639,000	15,000,000	15,000,000	15,000,000	15,000,000	D
Minority science improvement	5,855,000	6,101,000	6,000,000	6,000,000	6,000,000	6,000,000	D
Innovative projects for community services	1,464,000	6,830,000	1,463,000	1,463,000	1,463,000	1,463,000	D
Student Literacy Corps	5,367,000	---	5,367,000	5,367,000	5,367,000	5,367,000	D
International educ & foreign language studies:							
Domestic programs	28,670,000	28,670,000	34,000,000	30,170,000	30,000,000	30,000,000	D
Additional appropriation 9/30/92	---	---	---	4,000,000	4,000,000	4,000,000	D
Overseas programs	5,855,000	5,855,000	6,000,000	6,000,000	6,000,000	6,000,000	D

1/ 1991 includes prior year shortfall and contingency.

2/ Conference agreement assumes $62,000,000 of the total is not made available until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Foreign language & area studies fellowships VI	11,342,000	11,342,000	13,000,000	13,000,000	13,000,000	13,000,000	D
Subtotal, International education	45,867,000	45,867,000	53,000,000	53,170,000	53,000,000	53,000,000	
Cooperative education	13,175,000	13,175,000	14,000,000	14,000,000	14,000,000	14,000,000	D
Law school clinical experience	5,855,000	---	8,000,000	8,000,000	8,000,000	8,000,000	D
Subtotal, Program development	92,222,000	86,612,000	102,830,000	103,000,000	102,830,000	102,830,000	
Construction:							
Interest subsidy grants, prior year construction	20,396,000	19,412,000	19,412,000	19,412,000	19,412,000	19,412,000	D
Academic facilities	4,197,000	---	---	---	---	---	D
Subtotal, Construction	24,593,000	19,412,000	19,412,000	19,412,000	19,412,000	19,412,000	
Special grants:							
Assistance to Guam	488,000	---	500,000	500,000	500,000	500,000	D
Margaret Chase Smith Library	976,000	---	---	---	---	---	D
John McCormack Institute	2,928,000	---	---	---	---	---	D
Robert A. Taft Institute	683,000	550,000	550,000	550,000	550,000	550,000	D
Magnuson Endowment	2,928,000	---	---	2,000,000	2,000,000	2,000,000	D
Model Law Center, Seton Hall University	5,367,000	---	---	---	---	---	D
Bethune-Cookman	---	---	300,000	300,000	300,000	300,000	D
Urban Community Service	---	---	---	10,000,000	8,000,000	8,000,000	D
Subtotal, Special grants	13,370,000	550,000	1,350,000	13,350,000	11,350,000	11,350,000	
Aid for students:							
Special programs for the disadvantaged (TRIO plus)	333,758,000	---	385,249,000	385,249,000	365,249,000	365,249,000	D
Additional appropriation 9/30/92	---	---	---	20,000,000	20,000,000	20,000,000	D
Consolidated undergrad outreach (proposed leg)	---	384,249,000	---	---	---	---	D
McNeir graduate outreach (proposed leg)	---	10,826,000	---	---	---	---	D
Undergraduate scholarships:							
Byrd honors scholarships	9,271,000	9,271,000	9,271,000	9,642,000	9,642,000	9,642,000	D
National science scholars	976,000	10,000,000	4,500,000	4,500,000	4,500,000	4,500,000	D
Douglas teacher scholarships	14,639,000	14,639,000	15,000,000	15,000,000	15,000,000	15,000,000	D
Subtotal, Undergraduate scholarships	24,886,000	33,910,000	28,771,000	29,142,000	29,142,000	29,142,000	
Graduate fellowships:							
Harris graduate fellowships	17,566,000	---	17,600,000	17,600,000	17,600,000	17,600,000	D
Harris public service fellowships	3,198,000	---	3,200,000	3,200,000	3,200,000	3,200,000	D
Javits fellowships	7,807,000	---	8,000,000	8,000,000	8,000,000	8,000,000	D
Graduate assistance in areas of national need	24,885,000	---	30,000,000	25,000,000	28,000,000	28,000,000	D
Minority participation in graduate education	5,953,000	---	5,826,000	5,953,000	5,953,000	5,953,000	D
National graduate fellowships (proposed leg)	---	54,107,000	---	---	---	---	D
Subtotal, Graduate fellowships	59,409,000	54,107,000	64,626,000	59,753,000	62,753,000	62,753,000	
Veterans' education outreach	2,733,000	---	2,700,000	2,733,000	2,700,000	2,700,000	D
Legal training for the disadvantaged (CLEO)	2,928,000	---	3,000,000	3,045,000	3,045,000	3,045,000	D
School, college & university partnerships	3,904,000	---	4,000,000	4,000,000	4,000,000	4,000,000	D
Total, Higher education	762,638,000	784,501,000	821,438,000	834,557,000	827,523,000	827,523,000	
HOWARD UNIVERSITY							
Academic program	153,515,000	153,515,000	153,515,000	158,515,000	153,515,000	153,515,000	D
Endowment grant	2,928,000	4,500,000	2,928,000	4,500,000	2,928,000	2,928,000	D
Research	4,616,000	4,616,000	4,616,000	4,616,000	4,616,000	4,616,000	D
Howard University Hospital	28,301,000	28,301,000	28,301,000	29,500,000	28,301,000	28,301,000	D
Emergency construction	5,855,000	---	23,600,000	2,000,000	23,000,000	23,000,000	D
Total, Howard University	195,215,000	190,932,000	212,960,000	199,131,000	212,360,000	212,360,000	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (LIQUIDATING):							
Borrowing authority	29,277,000	---	---	---	---	---	D
Interest subsidy payments	8,449,000	3,598,000	3,598,000	3,598,000	3,598,000	3,598,000	M
Total, College Housing Liquidating	37,726,000	3,598,000	3,598,000	3,598,000	3,598,000	3,598,000	
COLLEGE HOUSING AND ACADEMIC FACILITIES PROGRAM							
New loan subsidies	---	---	---	7,539,000	7,539,000	7,539,000	D
Federal administration	---	---	---	566,000	566,000	566,000	D
Loan limitation	---	---	---	(30,000,000)	(30,000,000)	(30,000,000)	NA
Total, College Housing Program	---	---	---	8,105,000	8,105,000	8,105,000	
EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT							
Research	64,714,000	74,296,000	71,000,000	71,500,000	71,000,000	71,000,000	D
High technology demonstration program	---	---	8,000,000	---	---	---	D
Statistics	44,313,000	51,974,000	50,000,000	44,313,000	47,313,000	47,313,000	D
Assessment (NAEP)	19,211,000	28,086,000	28,000,000	20,000,000	29,900,000	29,900,000	D
Fund for Innovation in Education	27,737,000	27,737,000	19,000,000	27,737,000	24,000,000	24,000,000	D
Fund for the Improvement and Reform of Schools and Teaching:							
Grants for schools and teachers	5,284,000	1,880,000	5,284,000	5,495,000	5,495,000	5,495,000	D
Family-school partnerships	3,611,000	927,000	3,611,000	3,755,000	3,755,000	3,755,000	D
Eisenhower mathematics & science educ national program	11,711,000	14,711,000	14,000,000	18,000,000	16,000,000	16,000,000	D
(Clearinghouse non-add)	---	---	---	(6,000,000)	(3,500,000)	(3,500,000)	NA
Math Science consortium	---	---	---	15,000,000	12,000,000	12,000,000	D
National Diffusion Network	14,151,000	14,151,000	14,000,000	14,700,000	14,700,000	14,700,000	D
Blue ribbon schools	885,000	885,000	---	885,000	---	---	D
Javits gifted and talented students education	9,732,000	9,732,000	9,732,000	9,732,000	9,732,000	9,732,000	D
Star schools	14,417,000	10,000,000	---	17,404,000	17,417,000	17,417,000	D
Additional appropriation 9/30/92	---	---	---	1,000,000	1,000,000	1,000,000	D
Educational partnerships	4,233,000	4,233,000	4,233,000	4,233,000	4,233,000	4,233,000	D
Territorial teacher training	1,769,000	1,769,000	1,769,000	1,769,000	1,769,000	1,769,000	D
Leadership in educational administration (LEAD)	3,831,000	370,000	370,000	370,000	370,000	370,000	D
Midcareer teacher training	987,000	---	---	---	---	---	D
National council on educational goals	1,952,000	---	---	---	---	---	D
Innovations in teacher education, new legislation	---	20,000,000	---	---	---	---	D
Subtotal	228,538,000	260,751,000	228,999,000	255,893,000	258,684,000	258,684,000	
National board for professional teacher standards	4,880,000	---	4,880,000	4,880,000	4,880,000	4,880,000	D
Total, ERSI	233,418,000	260,751,000	233,879,000	260,773,000	263,564,000	263,564,000	
LIBRARIES							
Public libraries:							
Services	83,898,000	35,000,000	83,898,000	83,898,000	83,898,000	83,898,000	D
Construction	19,218,000	---	14,218,000	19,218,000	16,718,000	16,718,000	D
Interlibrary cooperation	19,908,000	---	19,908,000	19,908,000	19,908,000	19,908,000	D
Training 1/	651,000	---	5,000,000	5,000,000	5,000,000	5,000,000	D
Research and demonstrations	325,000	---	325,000	325,000	325,000	325,000	D
Research libraries	5,855,000	---	5,855,000	5,855,000	5,855,000	5,855,000	D
Library literacy programs	8,163,000	---	8,163,000	8,163,000	8,163,000	8,163,000	D
College library technology	3,904,000	---	3,904,000	6,404,000	6,404,000	6,404,000	D
Foreign language materials (Title V-LSCA, VI-HEA)	976,000	---	1,476,000	976,000	1,476,000	1,476,000	D
Total, Libraries	142,898,000	35,000,000	142,747,000	149,747,000	147,747,000	147,747,000	

1/ Training funds requested under Higher Education.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
DEPARTMENTAL MANAGEMENT							
PROGRAM ADMINISTRATION	284,595,000	303,567,000	301,952,000	284,008,000	299,000,000	299,000,000	D
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	48,405,000	56,000,000	56,000,000	51,691,000	55,000,000	55,000,000	D
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	24,837,000	28,521,000	26,932,000	26,530,000	26,932,000	26,932,000	D
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	-10,000,000	-3,785,000	-10,660,000	-10,660,000	D
Total, Departmental management	357,837,000	388,088,000	374,884,000	358,444,000	370,272,000	370,272,000	
Total, Department of Education	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(30,492,138,000)	(31,964,771,000)	(31,964,771,000)	
TITLE IV - RELATED AGENCIES							
Action (Domestic Programs):							
Volunteers in Service to America:							
VISTA operations	30,287,000	35,803,000	32,693,000	34,683,000	32,688,000	32,688,000	D
VISTA Literacy Corps	4,621,000	4,930,000	4,621,000	4,930,000	4,776,000	4,776,000	D
Student Community Service	976,000	976,000	976,000	976,000	976,000	976,000	D
Subtotal	35,884,000	41,709,000	38,290,000	40,589,000	38,440,000	38,440,000	
Special Volunteer Programs:							
Drug programs	2,191,000	1,451,000	1,000,000	1,451,000	1,225,000	1,225,000	D
Older Americans Volunteer Programs:							
Foster Grandparents Program	62,946,000	62,946,000	62,946,000	65,590,000	65,590,000	65,590,000	D
Senior Companion Program	27,569,000	27,569,000	27,569,000	28,727,000	28,727,000	28,727,000	D
Retired Senior Volunteer Program	33,425,000	33,425,000	33,425,000	34,830,000	34,128,000	34,128,000	D
Subtotal, Older Volunteers	123,940,000	123,940,000	123,940,000	129,147,000	128,445,000	128,445,000	
Inspector General	976,000	1,017,000	920,000	976,000	954,000	954,000	D
Program Support	28,301,000	30,435,000	29,528,000	29,528,000	29,528,000	29,528,000	D
Total, Action	191,292,000	198,552,000	193,678,000	201,691,000	198,592,000	198,592,000	
Corporation for Public Broadcasting: 1/							
FY 1994 (current request)	253,309,000	260,000,000	253,309,000	284,000,000	275,000,000	275,000,000	D
FY 1993 satellite replacement	65,327,000	---	---	---	---	---	D
Subtotal, Corporation for Public Broadcasting	318,636,000	260,000,000	253,309,000	284,000,000	275,000,000	275,000,000	
Federal Mediation and Conciliation Service	27,037,000	28,145,000	28,118,000	29,118,000	28,118,000	28,118,000	D
Federal Mine Safety and Health Review Commission	4,189,000	4,719,000	4,357,000	4,357,000	5,143,000	5,143,000	D
National Commission on Acquired Immune Deficiency Syndrome	2,928,000	3,000,000	2,000,000	3,000,000	1,750,000	1,750,000	D
National Commission on Children	1,073,000	---	---	950,000	950,000	950,000	D
National Commission on Libraries and Information Science	732,000	911,000	750,000	911,000	831,000	831,000	D
National Commission to Prevent Infant Mortality	390,000	---	390,000	440,000	440,000	440,000	D
National Council on Disability	1,439,000	1,642,000	1,497,000	1,642,000	1,569,000	1,569,000	D
National Labor Relations Board	147,461,000	162,000,000	162,000,000	162,000,000	162,000,000	162,000,000	D
National Mediation Board	6,514,000	7,008,000	6,775,000	6,775,000	6,775,000	6,775,000	D
Occupational Safety and Health Review Commission	6,247,000	6,711,000	6,497,000	6,497,000	6,711,000	6,711,000	D
Physician Payment Review Commission (trust funds)	(3,778,000)	(4,495,000)	(4,300,000)	(4,495,000)	(4,398,000)	(4,398,000)	TF*
Prospective Payment Assessment Commission (trust funds)	(3,875,000)	(4,210,000)	(4,030,000)	(4,030,000)	(4,030,000)	(4,030,000)	TF*
Railroad Retirement Board:							
Dual benefits payments account	326,927,000	315,000,000	315,000,000	319,100,000	319,100,000	319,100,000	D
Interest payment	---	---	9,000,000	---	---	---	D
Less income tax receipts on dual benefits	-16,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	D
Subtotal, dual benefits	310,927,000	297,000,000	306,000,000	301,100,000	301,100,000	301,100,000	
Federal payment to the Railroad Retirement Account	400,000	400,000	400,000	400,000	400,000	400,000	M

1/ FY 1991 approp. adv. in FY89 is $298,870,000.
FY 1992 approp. adv. in FY90 is $327,280,000.
FY 1993 approp. adv. in FY91 is $318,636,000.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Limitation on administration:							
(Retirement)	(69,936,000)	(74,037,000)	(74,037,000)	(73,287,000)	(72,287,000)	(72,287,000)	TF*
(Unemployment)	(15,287,000)	(17,263,000)	(17,263,000)	(17,263,000)	(17,263,000)	(17,263,000)	TF*
Subtotal, administration	(85,223,000)	(91,300,000)	(91,300,000)	(90,550,000)	(89,550,000)	(89,550,000)	
(Special Management Improvement Fund) 1/	---	(13,910,000)	(3,264,000)	(3,264,000)	(3,264,000)	(3,264,000)	TF*
Total, limitation on administration	(85,223,000)	(105,210,000)	(94,564,000)	(93,814,000)	(92,814,000)	(92,814,000)	
(Inspector General)	(5,855,000)	(7,700,000)	(6,089,000)	(6,700,000)	(6,395,000)	(6,395,000)	TF*
Soldiers' and Airmen's Home (trust fund limitation):							
Operation and maintenance	40,581,000	42,123,000	40,581,000	42,123,000	41,352,000	41,352,000	D
Capital outlay	11,223,000	4,220,000	4,220,000	4,220,000	4,220,000	4,220,000	D
United States Institute of Peace	8,393,000	8,911,000	8,393,000	11,918,000	11,000,000	11,000,000	D
United States Naval Home (trust fund limitation):							
Operation and maintenance	---	10,055,000	10,055,000	10,055,000	10,055,000	10,055,000	D
Capital program	---	1,253,000	1,253,000	1,253,000	1,253,000	1,253,000	D
White House Conference on Library and Information Services	488,000	---	---	---	---	---	D
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	---	-2,367,000	---	---	D
Total, Title IV, Related Agencies:							
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year, FY 1992	(761,314,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
FY 1994	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
SUMMARY							
Title I - Department of Labor:							
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
1993 advance	---	---	---	---	(187,700,000)	(187,700,000)	
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
Title II - Department of Health and Human Services:							
Federal Funds (all years)	151,680,827,000	165,657,345,000	167,121,817,000	168,803,583,000	168,611,962,000	168,611,962,000	
Current year	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	
Title III - Department of Education:							
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(30,492,138,000)	(31,964,771,000)	(31,964,771,000)	
Title IV - Related Agencies:							
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
Total, all titles:							
Federal Funds (all years)	183,185,834,000	200,611,414,000	203,853,322,000	204,775,269,000	204,919,763,000	204,919,763,000	
Current year	(161,730,264,000)	(173,813,414,000)	(175,939,021,000)	(176,830,277,000)	(176,796,071,000)	(176,796,071,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,848,692,000)	(27,848,692,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(10,151,227,000)	(10,551,719,000)	(10,551,719,000)	

1/ Request available for FY 1992 - FY 1996:
House and Senate bill and conference agreement
available for FY 1992 only.

The text of H.R. 3839 is as follows:

H.R. 3839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $73,980,000, together with not to exceed $56,952,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $3,861,338,000, plus reimbursements, to be available for obligation for the period July 1, 1992, through June 30, 1993, of which $63,000,000 shall be for carrying out section 401, $77,644,000 shall be for carrying out section 402, $9,120,000 shall be for carrying out section 441, $1,848,000 shall be for the National Commission for Employment Policy, $5,400,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $3,900,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $187,700,000 is appropriated for part B of title II of the Job Training Partnership Act, as amended, in addition to amounts otherwise provided herein for part B of title II, to be available for obligation for the period October 1, 1992 through June 30, 1993; and, in addition, $73,000,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1992 through June 30, 1995; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under part B of title III of the Job Training Partnership Act, to be available for obligation for the period October 1, 1991 through June 30, 1993; and, in addition, $9,312,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds appropriated under this heading in Public Law 100–436 to continue acquisition, rehabilitation, and construction of six new Job Corps centers shall be available for obligation through June 30, 1993.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $308,241,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $86,940,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95–250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $226,250,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–491–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235 and 243–244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212 (a), (5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $24,038,000 together with not to exceed $3,148,655,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1992, and of which $18,427,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1992, through December 31, 1992, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502–504 and 5 U.S.C. 8501–8523), and of which $21,838,000 together with not to exceed $799,770,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1992, through June 30, 1993, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period September 30, 1992, through June 30, 1993, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $440,703,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1992 is projected by the Department of Labor to exceed the 3.24 million level assumed in the President's fiscal year 1992 Budget Request, based on the Administration's December 1990 economic assumptions, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund. The Appropriations Committees shall be notified immediately of any request by the Department to the Office of Management and Budget to apportion any of these funds.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1993, $236,990,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $95,340,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1992, for such Corporation: *Provided*, That not to exceed $47,787,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $231,326,000, together with $1,035,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $192,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements from Federal Government agencies unobligated on September 30, 1991, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1992.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $917,192,000, of which $861,135,000, shall be available until September 30, 1993, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $30,145,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,579,000 for transfer to Departmental Management, Salaries and Expenses, and $333,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $304,157,000, including $66,344,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $185,364,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $256,924,000, together with not to exceed $50,399,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $4,409,000 for the President's Committee on Employment of People With Disabilities, $141,053,000, together with not to exceed $332,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $174,759,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,320,000, together with not to exceed $4,357,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 100. (a) Notwithstanding any other provision of law, on or before December 1, 1991, the Secretary of Labor, acting under the Occupational Safety and Health Act of 1970, shall promulgate a final occupational health standard concerning occupational exposure to bloodborne pathogens. The final standard shall be based on the proposed standard as published in the Federal Register on May 30, 1989 (54 FR 23042), concerning occupational exposures to the hepatitis B virus, the human immunodeficiency virus and other bloodborne pathogens.

(b) In the event that the final standard referred to in subsection (a) is not promulgated by the date required under such subsection, the proposed standard on occupational exposure to bloodborne pathogens as published in the Federal Register on May 30, 1989 (54 FR 23042) shall become effective as if such proposed standard had been promulgated as a final standard by the Secretary of Labor, and remain in effect until the date on which such Secretary promulgates the final standard referred to in subsection (a).

(c) Nothing in this Act shall be construed to require the Secretary of Labor (acting through the Occupational Safety and Health Administration) to revise the employment accident reporting regulations published at 29 C.F.R. 1904.8.

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1992".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, X, XII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101-527, Public Law 100-579, and the Native Hawaiian Health Care Act of 1988, $2,360,841,000, of which $450,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That of the funds made available under this heading, $125,000,000, of which $25,000,000 shall be for the Healthy Start program, shall not become available for obligation until September 30, 1992: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $19,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans authorized by title VII of the Public Health Service Act, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $290,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $1,500,000.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, section 794 of title VII, XV, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,504,924,000, of which $25,600,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That of the funds made available under this heading, $134,000,000 shall not become available for obligation until September 30, 1992: *Provided further*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $29,400,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,989,278,000: *Provided*, That of the funds made available under this heading, $223,446,000 shall not become available for obligation until September 30, 1992: *Provided further*, That the Director of the National Institutes of Health, within thirty days of enactment of this Act, may transfer such portion of $160,000,000 which becomes available on September 30, 1992 as she deems appropriate to other Institutes for research directly related to the prevention, treatment or cure of cancer: *Provided further*, That within the funds provided under this heading the Institute shall establish a Matsunaga-Conte Prostate Cancer Research Center.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,199,398,000: *Provided*, That of the funds made available under this heading, $54,555,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $160,493,000: *Provided*, That of the funds made available under this heading, $7,903,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $664,080,000: *Provided*, That of the funds made available under this heading, $28,457,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $583,378,000: *Provided*, That of the funds made available under this heading, $27,357,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $971,111,000: *Provided*, That of the funds made available under this heading, $45,627,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $818,910,000: *Provided*, That of the funds made available under this heading, $48,104,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $524,452,000: *Provided*, That of the funds made available under this heading, $27,368,000 shall not become available for obligation until September 30, 1992: *Provided further*, That funds made available under this heading shall not be used to conduct the SHARP survey of adult sexual behavior and the American Teenage Survey of adolescent sexual behavior.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $271,002,000: *Provided*, That of the funds made available under this heading, $12,504,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $253,902,000: *Provided*, That of the funds made available under this heading, $8,846,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $387,014,000: *Provided*, That of the funds made available under this heading, $31,308,000 shall not become available for obligation until September 30, 1992: *Provided further*, That the Director of the National Institutes of Health, within thirty days of enactment of this Act, may transfer such portion of $15,000,000 which becomes available on September 30, 1992 as she deems appropriate to other Institutes for research directly related to Alzheimer's disease.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $204,502,000: *Provided*, That of the funds made available under this heading, $7,593,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $149,830,000: *Provided*, That of the funds made available under this heading, $7,486,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $315,220,000: *Provided*, That of the funds made available under this heading, $15,000,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $45,196,000: *Provided*, That of the funds made available under this heading, $2,646,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $105,261,000: *Provided*, That of the funds made available under this heading, $10,000,000 shall not become available for obligation until September 30, 1992.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $19,922,000: *Provided*, That of the funds made available under this heading, $800,000 shall not become available for obligation until September 30, 1992.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $100,303,000: *Provided*, That of the funds made available under this heading, $3,500,000 shall not become available for obligation until September 30, 1992.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $143,313,000, of which $25,000,000 shall be for the support of the women's health study and shall remain available until September 30, 1993: *Provided*, That of the funds made available under this heading, $12,500,000 shall not become available for obligation until September 30, 1992: *Provided further*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That $7,500,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to emergency activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $103,840,000 to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 612 of Public Law 100-77, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $3,081,119,000: *Provided*, That of the funds made available under this heading, $164,100,000 shall not become available until September 30, 1992, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $66,035,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $101,870,000 together with not to exceed $4,880,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,012,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,444,000.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $46,399,149,000, to remain available until expended.

For making, after May 31, 1992, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1992 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1993, $17,100,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $39,421,485,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social

Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101–508, and section 4005(e) of Public Law 100–203, not to exceed $2,274,055,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $257,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That the use of the term "unanticipated costs" in the foregoing proviso refers only to costs associated with unanticipated workloads: *Provided further*, That the Secretary shall make a recommendation upon enactment of this Act and thereafter prior to the first day of each following quarter of the fiscal year, about the extent to which contingency funds may be necessary to be expended: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, and section 274A(d)(3)(E) of the Immigration and Nationality Act, $40,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $617,336,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1993, $198,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $13,929,491,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further*, That for fiscal year 1992 and thereafter, all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1993, $5,240,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,582,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $100,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That of the total amount provided, $80,000,000 shall not become available for obligation until September 19, 1992.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,901,046,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1993, $4,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,500,000,000, of which $80,000,000 is hereby designated by Congress to be an emergency requirement pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and of which $405,607,000 shall become available for making payments on September 30, 1992.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $300,000,000: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $410,630,000: *Provided*, That of the funds made available under this heading for State cash and medical assistance, $116,616,000 shall not become available for obligation until September 30, 1992: *Provided further*, That when sufficient funds have been made available to reimburse all allowable fiscal year 1991 claims for refugee cash assistance, refugee medical assistance, unaccompanied minors, and State and local administrative costs, fiscal year 1991 funds appropriated for cash and medical assistance may be used to supplement insufficient fiscal year 1990 grants to States for the programs of refugee cash assistance and refugee medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "1992" and inserting in its place "1993".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following paragraph:

"(5) For fiscal year 1993, the Secretary shall make allotments to States under paragraph (1) no later than October 15, 1992.".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $437,418,000, of which $41,368,000 shall be for carrying out section 681(a) of the Community Services Block Grant Act, $4,050,000 shall be for carrying out section 408 of Public Law 99–425, and of which $7,000,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program: *Provided*, That $29,124,000 made available under this heading shall not become available for obligation until September 30, 1992.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $825,000,000, which shall not become available for obligation until September 19, 1992. For carrying out section 402(g)(6) of the Social Security Act, no funds are provided for fiscal year 1992.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, $92,500,000, together with such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That of the funds appropriated in Public Law 101–166 for the Commission on Interstate Child Support, $400,000 shall remain available through September 30, 1992.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101–239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, $3,537,562,000, of which up to $6,225,000 shall remain available until expended for information resources management: *Provided*, That of the funds made available under this heading for carrying out the Older Americans Act of 1965, $25,000,000 shall not become available for obligation until September 30, 1992: *Provided further*, That of the amounts provided under this heading $2,000,000 shall be for the White House Conference on Aging, which shall only become available for obligation upon enactment into law of authorizing legislation and shall remain available until expended.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,614,005,000, of which $118,476,000 shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,673,000, together with $31,001,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $60,794,000, together with not to exceed $37,833,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein: *Provided*, That funds appropriated for the Office of the Inspector General are further reduced by an additional $2,603,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,524,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,037,000.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 212. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 213. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 214. Travel expenses of the Department of Health and Human Services are hereby reduced by $9,492,000: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

SEC. 215. During the twelve-month period beginning October 1, 1991, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State under part B or part E of title IV of the Social Security Act, by reason of a determination made in connection with any review of State compliance with the foster care protections of section 427 of such Act for any Federal fiscal year preceding fiscal year 1992.

SEC. 216. Section 499A(c)(1)(C) of the Public Health Service Act (42 U.S.C. 289i(c)(1)(C)) is amended—

(1) by striking out "9" in the matter preceding clause (i) and inserting in lieu thereof "11"; and

(2) by striking out "3" in clause (iii) and inserting in lieu thereof "5".

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1992".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $6,707,014,000, of which $152,000,000 shall become available on September 30, 1992 and shall remain available through September 30, 1993 and $6,524,351,000 shall become available on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That $5,525,000,000 shall be available for basic grants under section 1005, $610,000,000 shall be available for concentration grants under section 1006, $70,000,000 shall be available for the Even Start program under part B, of which not to exceed 2 percent shall be available for a national evaluation and not to exceed 5 percent shall be available for State administration, $308,298,000 shall be available for migrant education activities under subpart 1 of part D, $36,054,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $61,820,000 shall be for State administration under section 1404, and $25,125,000 shall be for program improvement activities under section 1405: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $771,708,000, of which $588,540,000 shall be for payments under section 3(a), $136,626,000 shall be for payments under section 3(b), $16,590,000 shall be for Federal property payments under section 2, $1,952,000, to remain available until expended, shall be for payments for decreases in Federal activities under section 3(e), $2,000,000 for section 10, which shall become available on September 30, 1992 and remain available until expended, and $26,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $6,000,000 for awards under sections 5 and 14(c): *Provided*, That none of the funds available for section 3 shall be used for payments under section 5(b)(2): *Provided further*, That funds available for section 2 may be used for payments under section 5(b)(2) of 50 percent of a local educational agency's payment for the prior fiscal year based on its entitlement established under section 2: *Provided further*, That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education: *Provided further*, That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further*, That notwithstanding the provisions of sections 3(d)(2)(B), 3(d)(3)(B)(ii), and 3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991: *Provided further*, That none of the previous provisos related to revisions in the use of prior year data in determining payment amounts provided for under this account or related to preliminary payments shall be effective for fiscal year 1992 and preliminary payments shall be authorized on the same basis as provided for prior to the enactment of Public Law 102-103.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; title IV of Public Law 100-297; title II of Public Law 102-62; and the Follow Through Act, $1,578,195,000, of which $1,236,963,000 shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That of the amount appropriated, $24,600,000 shall be for national programs under part B of chapter 2 of title I, $3,800,000 shall be for civic education programs under section 4609, $30,304,000 shall be for emergency grants under section 5136, up to $2,000,000 shall be available for the national evaluation of the dropout prevention demonstration program under title VI, and $240,000,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, as amended.

EDUCATIONAL EXCELLENCE

(INCLUDING TRANSFER OF FUNDS)

For carrying out educational improvement activities authorized in law, including activities under the Head Start Act, sections 329 and 330 of the Public Health Service Act (Migrant and Community Health Centers), and section 670T of the Comprehensive Child Development Act, $425,000,000 which shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That the allocation of these funds, which may be transferred as necessary to other Department of Education accounts, shall be determined by the Secretary of Education in consultation with the Congress based on authorizing legislation enacted into law as of December 31, 1991: *Provided further*, That none of these funds shall be allocated to initiate programs proposed by the President in his budget amendments of June 7, 1991 unless these activities shall be specifically authorized during 1991: *Provided further*, That not less than $250,000,000 of these funds shall be transferred to the Head Start program, not less than $55,000,000 of these funds shall be transferred to the Community and Migrant Health Centers programs, not less than $20,000,000 shall be transferred to the Comprehensive Child Development Centers and $100,000,000 shall be for new America 2000 educational excellence activities, if enacted into law: *Provided further*, That the December 31, 1991 deadline for enacting new authorizations for the America 2000 initiatives may be delayed by the Secretary until April 1, 1992 if he determines that sufficient progress is being made towards final approval of such legislation except that this delay shall not apply to programs administered by the Department of Health and Human Services.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $225,407,000, of which $36,000,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals With Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,854,895,000, of which $1,976,095,000 for section 611, $320,000,000 for section 619, $175,000,000 for section 685 and $143,000,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1992, and shall remain available through September 30, 1993.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, $2,077,158,000, of which $31,103,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), including $6,000,000, to remain available until expended, for a grant to a hearing research center to support applied and basic research activities, which shall be awarded competitively, and $6,000,000 for grants to establish regional comprehensive head injury prevention and rehabilitation centers, which shall be awarded competitively: *Provided*, That, until October 1, 1992, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $5,900,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $39,439,000, of which $342,000 shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $76,540,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, $1,429,760,000 of which $3,000,000, to remain available until expended, shall be for the national assessment of vocational education, $2,500,000 shall become available on October 1, 1991, for tribally controlled postsecondary vocational institutions under title III, part H, and $60,000,000 shall become available on September 30, 1992 and remain available through September 30, 1993 and the remainder shall become available for obligation on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $29,000,000 shall be for national programs under title IV, including $12,000,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education and $2,000,000 shall be for technical assistance under section 404(d); $14,000,000 for demonstrations and $5,000,000 for data collection: *Provided further*, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $4,000,000 shall be for national programs under section 383, $5,000,000 shall be for literacy clearinghouse activities under section 384, $5,000,000 shall be for State Literacy Resource Centers under the National Literacy Act of 1991, and $5,000,000 shall be for prison literacy activities as authorized under section 601 of the National Literacy Act of 1991, as amended by Public Law 102–103.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $62,000,000, which shall become available on September 30, 1992 and remain available through September 30, 1993, together with $6,822,880,000, which shall remain available through September 30, 1993, and of which $100,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,400 during the 1992–1993 program year, which shall be the maximum Pell grant that a student may receive: *Provided*, That notwithstanding section 479A of the Higher Education Act of 1965, as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 411(b)(6) of the Higher Education Act of 1965, no Pell grant for award year 1992–1993 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,105,711,000.

GUARANTEED STUDENT LOANS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, including administrative costs other than Federal administrative costs, as authorized by title IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purposes of the program: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended. In addition, for administrative expenses to carry out the guaranteed loan program, $45,000,000. In addition to amounts appropriated in this Act for liquidation of contract authority in the "Guaranteed Student Loans (Liquidation)" account, there is also provided for payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $1,114,748,000 which shall be transferred to the Guaranteed Student Loans (Liquidation) account.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, XI–B, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, and title XIII, part H, subpart 1 of the Education Amendments of 1980, and section 140(a) of Public Law 100–202, $827,523,000 of which $24,000,000 shall become available on September 30, 1992 and of which $7,500,000 for endowment activities under section 332 of part C of title III of the Higher Education Act, $2,000,000 for section 140(a) of Public Law 100–202, and $19,412,000 for interest subsidies under part D of title VII of the Higher Education Act shall remain available until expended and $300,000 shall be for section 775, part G, title VII: *Provided*, That $9,642,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d–37(b) and 1070d–39(a)): *Provided further*, That $1,450,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further*, That funds appropriated for Special Programs for Students from Disadvantaged Backgrounds may be allocated notwithstanding section 417D(d)(6)(B) (20 U.S.C. 1070d) to the Ronald E. McNair Post-Baccalaureate Achievement Program.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $212,360,000, of which $2,928,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480), and $23,000,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1992, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d–2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

(LIQUIDATING)

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part F, of the Higher Education Act, as amended, $7,539,000: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $30,000,000: *Provided further*, That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101–510. In addition, for administrative expenses to carry out the direct loan program, $566,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 2012, section 2016, and title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100–297; title V of the Higher Education Act, as amended; title IX of the Education for Economic Security Act; and section 6041 of Public Law 100–418, $258,684,000, of which $25,300,000 shall be for research centers; $35,049,000 shall be for regional laboratories including $10,000,000 for rural initiatives; $7,175,000 shall be for the Educational Resources Information Center; $976,000 shall be for field-initiated studies; $47,313,000 shall be for education statistics; $29,900,000 shall be for national assessment activities; $24,000,000 shall be for activities under the Fund for Innovation in Education, including $6,000,000 for a high technology demonstration grant, including equipment, which shall be awarded competitively; $5,495,000 shall be for Grants for Schools and Teachers under subpart 1, and $3,755,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100–297; $14,700,000 shall be for national diffusion activities under section 1562; $16,000,000 shall be for national programs under section 2012, including $3,500,000 for the National Clearinghouse for Science and Mathematics under section 2012(d); $12,000,000 shall be for regional consortia under section 2016; $9,732,000 shall be for Javits gifted and talented students education; $18,417,000 shall be for star schools, of which $1,000,000 shall become available for obligation on September 30, 1992, and of which $4,000,000 shall be to establish a demonstration of a statewide, two-way interactive fiber optic telecommunications network, carrying voice, video, and data transmissions, and housing a point of presence in every county, which shall be awarded competitively; $4,233,000 shall be for educational partnerships; $1,769,000 shall be for territorial teacher training; and $370,000, which shall remain available until September 30, 1993, shall be for Leadership in Educational Administration.

In addition to these amounts $4,880,000 shall be available for teaching standards activities under the same terms, conditions and limitations applicable to funding made available for this purpose in fiscal year 1991.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and titles II and VI of the Higher Education Act, $147,747,000 of which $2,500,000 shall be for a biotechnology information education demonstration project under the Higher Education Act, title II, part D, $16,718,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $5,000,000 shall be for section 222 and $325,000 shall be for section 223 of the Higher Education Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $299,000,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,000,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $26,932,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 306. Subsection (e) of section 1321 of the Higher Education Act of 1965 (20 U.S.C. 1221–1(e)) is amended by inserting at the end thereof the following new paragraph:

"(7) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of money, gifts or donations of services or property.".

This title may be cited as the "Department of Education Appropriations Act, 1992".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $198,592,000: *Provided*, That $32,688,000 shall be available for title I, section 102, and $1,225,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1994, $275,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles, and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $28,118,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,357,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100–607, $1,750,000.

NATIONAL COMMISSION ON CHILDREN

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Children, as established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100–203, $950,000 to remain available through December 31, 1992.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $831,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99–660, $440,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,569,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $162,000,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $6,775,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,497,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,398,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,030,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $319,100,000 which shall include amounts becoming available in fiscal year 1992 pursuant to section 224(c)(1)(B) of Public Law 98–76: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $400,000, to remain available through September 30, 1993, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,264,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $72,287,000 to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,263,000 shall be apportioned for fiscal year 1992 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,395,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $41,352,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $4,220,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,000,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $10,055,000, to remain available until September 30, 1993.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $1,253,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. (a) Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $31,991,000; salaries and expenses of the Department of Education are hereby reduced by $10,660,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $142,349,000, including $8,000,000 of funds appropriated in this Act for travel costs of the Public Health Service: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

(b) Notwithstanding any other provision of this Act, there are hereby appropriated an additional $214,000 for "Salaries and expenses, Occupational Safety and Health Review Commission" and an additional $786,000 for "Salaries and expenses, Federal Mine Safety and Health Review Commission".

(c) Notwithstanding any other provision of this Act, appropriations in this Act for carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 shall not become available for obligation until September 30, 1992.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992".

The SPEAKER pro tempore. Pursuant to the order of the House on Thursday, November 21, 1991, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 1 hour, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill, H.R. 3839, and that I be permitted to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

□ 1220

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is always an honor to follow the distinguished gentleman from Kentucky [Mr. NATCHER], who has been my mentor, teacher, and leader for many years.

It is almost 2 months now since October 1, the deadline for all 13 appropriations bills to be on the President's desk. I am disappointed that this bill was not completed months ago.

Mr. Speaker, this bill is a good bill. I want to thank the staff again. This is the third time we have been on the floor this year. I am just sorry that the bill did not pass last time and was not signed by the President. But today is a new day, and this is an opportunity to present a good bill, a clean bill that has so many excellent programs for all of us to support. I am sure the majority of Members of our party will support this bill. It is filled with good programs to assist the poor and the elderly, the sick and the unemployed, and programs to educate our children. These programs are expensive, but they are an investment in our future.

I would like to present some of the highlights of the bill that we did not have an opportunity to address the last time we were on the floor. In the Health and Human Services category, probably the crown jewel in the Labor-HHS appropriations bill is the National Institutes of Health. There are curently 13 institutes, and we are going to create the 14th. Senator KENNEDY called me a couple of weeks ago and told me that the Senate is going to adopt the Pursell amendment that will create the National Institute for Nursing. We look forward to this outstanding new Institute that will continue the work of the National Center for Nursing Research.

Within the Center for Disease Control in Atlanta will receive $1.5 billion, an increase of $193 million. It is actually a 15-percent increase over the last year. Why do we do this? Because of the tremendous need and the shortage of Federal dollars over the previous years for critical areas such as preventive health.

There is $298 million for immunization of our young children to prevent disease and to save lives. That is one of the important aspects of this entire appropriation bill, to save lives. Twenty-three million dollars is designated for lead poisoning prevention, a new initiative that I thank the committee for approving.

There is $50 million new for breast and cervical cancer screening, and we want to thank many women Members of Congress who supported this effort. The women's health initiative will be funded at $100 million, including $25 million for a new women's health study; $10 million for National Institutes of Health women's health grants; $30 million for the National Institutes of Health breast cancer research.

Thanks to LOUIE STOKES and other members of the committee there are some exciting new programs to address minority health concerns.

The subcommittee responded to a request from Secretary Alexander and President Bush and appropriated $100 million for the President's America 2000 Program to help with local efforts to attain our national education goals, if authorized by April 1, 1992. I want to thank the committee for that effort. The bill provides $2.3 billion for Head Start. I think this has been a joint effort on both sides of the aisle, a bipartisan effort, to insure that all children start school ready to learn.

There is $70 million for Even Start, a salute to the gentleman from Pennsylvania [Mr. GOODLING] and his able leadership over the years. It also provides in this bill $623 million for drug-free schools and communities so that every school can offer a disciplined environment that is conducive to learning, without drugs. It also includes $6.9 billion for student financial aid, an increase of $171 million.

If we look at the various student aid programs, work study, GSL, Pell grants, and all of our combined student aid programs, we see that over 6 million students in America will benefit and have the needed assistance to attend college.

So in closing, I would have preferred the Labor-HHS-Education bill that was vetoed by the President. However, I strongly support this bill.

Mr. Speaker, I look forward to a lively and informed debate on the labor, health and education needs of this Nation. America needs this bill and I recommend very highly that we support it.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Appropriations Committee.

□ 1230

Mr. WHITTEN. Mr. Speaker, I rise in support of this bill. I am very proud indeed of the work of my colleagues on the Labor-HHS Appropriations Subcommittee. Our chairman, the gentleman from Kentucky [Mr. NATCHER], the ranking minority member, the gentleman from Michigan [Mr. PURSELL], and other members of the subcommittee have done a very good job indeed on a difficult bill.

This bill affects all Americans. It looks after the poor, the sick, the elderly, the unemployed, our children, and the national interest, and our committee stays within the budget ceiling.

When we are looking around the world for places to spend our money, it is absolutely essential that we start at home and take care of our own people, on whom all else depends. We have got to give our country that attention, because of our country is all that is behind our money. An educated, healthy population with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Speaker, this bill includes funds for all phases of education, both higher and secondary, including universities, colleges and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

I congratulate the gentleman from Kentucky and all my fellow members on this subcommittee for producing an excellent bill which looks after our own country.

OUR SITUATION IS SERIOUS

Let me say for the record, I truly believe we face a situation in our Nation's history more serious than any other unless it be the Revolutionary War and the great, or rather the terrible Depression of the late 1920's and 1930's, where our financial system broke down completely.

Our Nation owes a greater debt than any nation in the history of the world—$4 trillion—but not, may I say, because of our committee. For our Committee on Appropriations, since 1945, has held the total of appropriations bills $180.8 billion below the recommendation of our Presidents. It is entitlements and binding contracts, which bypass our committee's discretion, which has done us in.

WE MAY ASK, HOW DID WE GET INTO THIS FIX?

Enactment of the 1981 Tax Act has cost us over $2.4 trillion in income.

We have sustained an increase of over $1.1 trillion in our trade deficit since 1980, first, because we have given away a large share of our domestic markets and thereby destroyed many of our farmers and businesses, and second, because we have failed to retain our normal share of foreign markets.

The trade deficit by year since 1981 follows:

[In billions of dollars]

1981	34.6
1982	38.4
1983	64.2
1984	122.4
1985	133.6
1986	155.1
1987	170.3
1988	137.1
1989	129.4
1990	123.4

Our financial system is in a dangerous condition. Our money is not backed by gold and silver. It is backed only by our promise to pay, and by our country itself. I have pointed out how our promises are overextended. We need to look at what we are letting happen to our country.

We must distinguish the difference between paper money and material wealth.

We are neglecting our real wealth, the country itself, many of our dams, harbors, reservoirs, and other public structures are being neglected. In my judgment, we face a real need for a jobs bill; not only to find a place for our troops upon their return, but also for the thousands and thousands who are being laid off in all types of industry all across our country.

We need to protect and restore our country, for it is the wealth and strength of our country that we must look to in the years ahead.

We need to stop charging investment spending up to the year in which it is spent and start spending it over the useful life of the asset.

We have reached the point where we must realize we live in a competitive world. We had better quit letting our own country down in order to curry favor with other nations of the world.

APPROPRIATIONS BILL STATUS

Mr. Speaker, I would also like to point out that action on this bill brings us very close to completing the regular 1992 appropriations cycle.

The total of these bills has also once again been under the amount requested by the President, and we are within all the limits. Many Members don't know that since 1945, we have held the total of all appropriations bills $180.8 billion below the total requested by the Presidents.

Of the 13 regular bills, 10 have been signed into law. The Defense conference report, which passed the House earlier this week, and this labor-HHS bill are in the final legislative stages. The remaining bill, foreign operations, which passed the House on June 19, has been held in the Senate at the request of the President until the next session and is carried until March 31 under restrictive rates in the continuing resolution.

COMMITTEE ON APPROPRIATIONS IS DOING THE JOB

Mr. Speaker, we all can take great pride in the work of the 59 Members who serve on the Committee on Appropriations. All members of our committee put in extremely long hours and give much time and thought to the difficult decisions we must make. And they do it with little fanfare.

This year, our 13 subcommittees heard more than 5,200 witnesses in 271 hearing days of testimony which totaled over 98,000 printed pages. These hearings, which began on the day that the President's budget was submitted to Congress, February 4, are not usually exciting, but they are extensive and necessary for making the tough spending choices we must make.

This was a difficult year. When we started out in February, our staff had identified over $8.7 billion in additional immediate needs for our domestic programs that could not be met under the budget caps.

Our committee had to roll up its sleeves and make some very difficult choices to meet the needs of our country as fairly and responsibly as possible. And I believe we have succeeded.

SPENDING PRIORITIES MUST CHANGE

Mr. Speaker, I have to say that I wish we could have done more to invest in our country than what the budget summit caps allowed us to do. It is through our appropriations bills that we make the public investments in roads, bridges, harbors, airports, science, education, research and development, law enforcement, housing, environmental protection, and many other important areas that will keep our country growing and prospering into the 21st century.

The figures show we have been starving our domestic discretionary appropriations throughout the 1980's in favor of consumer spending through entitlements, which though necessary, do not add to the real wealth of our country.

Mr. Speaker, I note that it is now once again in style to talk about tax cuts to spur private investment in this country. As important as that is, we must not forget that it is just as important to the economic future of this country to have an adequate public investment base. It does little good to throw all our eggs in the private investment basket if our industries do not have a good transportation network to get their goods to market, or do not have an educated and healthy work force, or safe and drug-free workplaces, or clean water and air.

It is pennywise and pound foolish to starve the domestic discretionary budget—which is our investment budget—in favor of expanding entitlement spending or paying for additional tax cuts. We must have balance.

APPROPRIATIONS BILLS ARE SETTING NATIONAL PRIORITIES

Mr. Speaker, within the tight limits imposed on us, the Committee on Appropriations has done its best to focus the more than $720 billion in our jurisdiction on programs that meet three basic goals: First, to enhance America's economic competitiveness into the 21st century; second, to improve the quality of life for all Americans; and third, to protect America's national security.

To do this, appropriations bills continued to give priority to such important areas as: Lasting capital investments, science/civilian research and development, education, environmental protection, nutrition and health, law enforcement/drug abuse prevention, veterans programs, housing, and parks/natural resources/conservation.

I am taking the time to point these areas out because our committee looks after these programs year in and year out, whether they are in the public eye or not. Each year, we seem to have different areas in our budget that some Members and some of the media want to reward with little concern for and at the expense of other domestic programs. One year it is drug abuse, another it is the homeless, another it is education or child care. These are all worthy objectives that deserve support. My point is that we must be fair and we must have the resources to sustain a variety of very important programs—not just what is the hot topic in any given year.

Mr. Speaker, I am proud to serve on the Committee on Appropriations which recognizes these facts and does a yeoman's job to look after our country in these very difficult times.

At this point, I would like to submit for the RECORD a list highlighting some of the accomplishments in our 1992 appropriations bills.

HIGHLIGHTS OF ACCOMPLISHMENTS

DOMESTIC PRIORITIES

The "Budget Summit Agreement" limited annual growth in new discretionary budget authority for 1992 to 5.5 percent for domestic programs. It also foreclosed the option of paying for domestic increases with reductions in foreign aid or military spending. Under these constraints, the Committee on Appropriations has identified an immediate 1992 shortfall of at least $8.7 billion in fully justified domestic needs that cannot be met.

Funds available for domestic programs in 1992 were focused on the following priority areas:

Lasting Capital Investments

$18.65 billion (obligational authority) for Federal highway capital spending, an increase of $2.4 billion (+15%) over 1991, and an increase of $2.2 billion over the President's request. This will be the amount within which the FY 1992 authorized program levels will be set in the highway reauthorization bill.

$4.29 billion for FAA aviation capacity expansion and modernization programs, an increase of $399 million (+10%) over 1991.

$3.767 billion for mass transportation programs, an increase of $497 million over 1991 and an increase of $438 million over the President's request.

$3.172 billion for Corps of Engineers water resources development activities, an increase of $233 million over 1991 and $88 million more than the President's request.

$2.288 billion for Rural Electrification Administration electric and telephone loans, $493 million (+28%) more than 1991 and $861 million over the President's request.

$985 million for rural water and sewer loans and grants, $150 million (+18%) more than 1991, and $335 million over the President's request.

$257 million for the Economic Development Administration $80 million (+45%) more than 1991, and $237 million more than the President's request.

$3.40 billion for the Department of Housing and Urban Development's community development grants program, $200 million more than 1991, and $480 million above the President's request.

$823 million for Bureau of Reclamation water resource development and irrigation activities, a decrease of $66 million from 1991, but $18 million more than the President's request.

Science/Civilian Research and Development

$14.32 billion form the National Aeronautics and Space Administration, $452 million (+3%) more than provided in 1991, but $2.273 billion (+19%) more than the amount provided in 1990.

$2.578 billion for programs of the National Science Foundation, an increase of $261 million (+11%) over 1991. This includes $465 million for science education activities—an increase of $143 million (+44%) above 1991 and $75 million above the President's request.

$247 million for the National Institute of Standards and Technology, $31 million more than 1991.

$1.637 billion for research of the Department of Agriculture, including basic and applied research in the fields of livestock, plant sciences, entomology, soil and water conservation, nutrition, and agricultural engineering. This is an increase of $122 million (+8%) over 1991, and $108 million over the President's request.

$2.962 billion for energy supply, research and development activities of the Department of Energy, an increase of $435 million (+17%) over FY 1991, and $40 million more than the President's request.

$444 million for fossil energy research and development, an increase of $217 million above the President's request.

$536 million for energy conservation programs, an increase of $41.2 million (+8%) over 1991, and $211 million more than the President's request.

$218 million for Federal Aviation Administration aviation research, engineering and development programs, an increase of $13 million over 1991, and $8 million more than the President's request.

$1.731 billion for the fisheries development, weather service, marine and environmental research programs of the National Oceanic and Atmospheric Administration, $257 million (+17%) more than 1991.

Education

$31.965 billion for programs at the Department of Education, an increase of $4.871 billion (+18%) over 1991. This includes $22.873 billion for discretionary eduction programs which is an increase of $1.888 billion over 1991, and an increase of $1.120 billion above the amount requested by the President. The major increases over 1991 include $631 million for compensatory education activities under Chapter I; $139 million for vocational education; $239 million for education of the handicapped; and $171 million for student financial assistance. In addition to these increases for existing education programs, $100 million would be appropriated to carry out new education initiatives which may be authorized during 1991. The bill also fully funds the guaranteed student loan program which is expected to provide more than $11 billion in new loans to students in 1992.

$2.202 billion for Head Start, an increase of $250 million (+13%) over 1991, and $162 million over the President's request.

Environmental Protection

$6.669 billion for programs of the Environmental Protection Agency, an increase of $574 million (+8%) over 1991 and $457 million more than the President's request. This includes $2.40 billion for EPA construction grants/State resolving funds, an increase of $500 million above the President's request; $51.25 million for non-point source water pollution grants, $27.5 million more than the President's request; $37 million for asbestos in schools loans and grants, the President requested no funds for this program; and $50 million for the National Institute of Environmental Health Sciences for hazardous waste research and training, an increase of $29.2 million above the President's request.

$86 million for the Corps of Engineers regulatory program, an increase of $15 million (+21%) above 1991.

Nutrition and Health

$32.690 billion for domestic food and nutrition programs of the Agriculture Department such as WIC, Food Stamps, Child Nutrition, and emergency food assistance. This is an increase of $3.573 billion (+12%) over 1991.

$9.01 billion for biomedical research at the National Institutes of Health, $734 million (+9%) over 1991 and $236 million more than the President's request. Funds provided will support at least 6,000 new grants. This amount includes an increase of $276 million over 1991 for the National Cancer Institute. About $100 million of the NIH increase over 1991 is targeted to women's health issues, including breast and ovarian cancer, reproductive problems, heart disease, and osteoporosis. The President's budget made no similar request for women's health issues.

$75 million for grants to provide a wide range of pre-natal services in areas where infant mortality rates are very high. This is an increase of $50 million over the 1991 level.

$298 million for childhood immunization, an increase of $80 million (+37%) over 1991 and $40 million over the President's request.

$1.921 billion for AIDS research, education, and care, $106 million more than the amount expected to be spent on similar AIDS-related activities in 1991. Included in this total is $280 million for the Ryan White AIDS CARE programs, an increase of $59 million (+27%) over 1991.

$1.7 billion for Indian health needs, an increase of $128 million (+8%) over 1991, and $282 million above the President's request.

$760 million for the Food and Drug Administration, an increase of $69 million (+10%) over 1991, and $187 million over the President's request.

Law Enforcement/Drug Abuse Prevention

$11.67 billion for the Justice Department and the Judiciary for law enforcement and administration of justice, an increase of $1.143 billion (+11%) over 1991. This includes over $532 million in program increases for the war on drugs and crime and the administration of justice.

$1.472 billion for the U.S. Customs Service, an increase of $207 million (+14%) over 1991.

$475 million for the U.S. Secret Service, an increase of $64 million (+16%) over 1991.

$6.674 billion for the Internal Revenue Service, an increase of $566 million (+8%) over 1991.

$336 million for the Bureau of Alcohol, Tobacco and Firearms, an increase of $32 million (+9%) over 1991.

Veterans Programs

$32.616 billion for activities of the Department of Veterans Affairs, a net increase of $343 million over 1991, and $312 million more than the President's request. This includes a $1.267 billion (+10%) increase for veterans medical care, $316 million more than the President's request.

Housing

$9.82 billion (including $1.75 billion of recaptures in the elderly and handicapped programs) for the Department of Housing and Urban Development's annual contributions for assisted housing account, $295 million more than 1991 and $754 million above the President's request. In addition, $1.861 billion is provided for two new housing programs—HOME investment partnerships program ($1.5 billion) and Homeownership and opportunity for people everywhere (HOPE) grants ($361 million).

$2.477 billion for rural housing loans, an increase of $498 million (+25%) over 1991, and $571 million more than the President's request.

Parks/Natural Resource/Conservation

$1.4 billion for the National Park Service, $39 million more than 1991 and $125 million more than the President's request. This includes $953 million for Park Operations, an increase of nearly 9% over 1991.

$748 million for the Fish and Wildlife Service, including a $38 million increase (+8%) above 1991 for operations.

$910 million for the Bureau of Land Management, including an increase of $34 million over 1991 for operations.

$2.754 billion for Soil and Water Conservation programs of the Department of Agriculture, $427 million (+18%) more than 1991.

MILITARY SPENDING PRIORITIES

The "Budget Summit Agreement" specified that up to $291.361 billion in budget authority could be appropriated for military spending programs, an increase of $1.443 billion over the 1991 limit. The agreement also foreclosed the option of paying for domestic increases with reductions in military spending programs.

The 1992 appropriations bills provide a total of $290.936 billion in new budget authority, $750 million less than the President's request, and $425 million under the "Budget Summit" spending limit. This is in keeping with the traditions of the Committee and the Congress which have made a total net reduction of $154.5 billion in Presidential defense budget requests between 1980 and 1991. Military spending appropriations for 1992 were tailored to emphasize morale, readiness, mobility, deployability, and sustainability. Priority was given to keeping the current force ready and supplied with the proper equipment. Major highlights include:

$78.27 billion for military personnel, $21 million over 1991 and $249 million more than requested by the President.

$83.36 billion for operation and maintenance, $379 million less than 1991 and $2.04 billion under the President's request.

$39.40 billion for research, development, test and evaluation, $3.43 billion over 1991 and $180 million above the President's request.

$64.26 billion for procurement, $2.91 billion less than 1991 and $894 million more than the President's request.

$3.681 billion for environmental restoration and waste management at the Department of Energy's defense production complex, an increase of $636 million (+21%) over FY 1991.

$8.563 billion for military construction activities, an increase of $201 million over 1991, but $55 million below the President's request. This includes $759 million for two separate Base Closure Accounts.

Reallocation of funds in the President's request to enhance readiness including:

Strong National Guard and Reserve Forces:	
Personnel and Operation & Maintenance	+$500,000,000
Equipment	+1,900,000,000
Depot maintenance backlog	+468,000,000
Real property maintenance	+500,000,000
Sealift	+600,000,000
Landing Craft Air Cushion (LCAC) vessels	+238,000,000
V–22 Osprey	+625,000,000
Upgrade M1 tank	+266,000,000
Ammunition	+99,000,000
Multiple Launch Rocket System (MLRS) Rockets—maintain production line	+110,000,000
Marine Corps Intelligence—night vision enhancement	+55,000,000

Note: Rescissions of previously appropriated funds totaling $1.1 billion.

Mr. PURSELL. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. PORTER], an outstanding member on my side of the aisle.

Mr. PORTER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I want to begin by commending my chairman, the gentleman from Kentucky [Mr. NATCHER] who has done a magnificent job with this bill. I may not always agree with the gentleman's funding priorities, but his commitment to education, his dedication to the integrity of the budgeting and appropriations process mark him, Mr. Speaker, as one of the great legislators in this Congress.

Mr. Speaker, we have wonderful staff on the committee. They do an outstanding job for Members on both sides of the aisle and I commend them for their outstanding work as well.

I also want to thank my leader, the gentleman from Michigan [Mr. PURSELL] who did an outstanding job in his first year as ranking member. His staff, Dr. Dave Recker and Kevin Kraushaar gave me and my staff tremendous help throughout the appropriations process.

Mr. Speaker, I am, obviously, disappointed that we did not override the President's veto of the original version of this bill, which included my language to delay implementation of the gag rule. I thank my chairman, the gentleman from Kentucky [Mr. NATCHER] for his forebearance. I know he does not like to add provisions to the bill that are on controversial subjects like abortion counseling. He was willing to do so in this case and was greatly behind the original bill, and the conference report, and the override attempt.

I am obviously greatly concerned that the gag rule will now be implemented, interfering as it does with basic rights of the American people to know their rights under the Constitution and interfering as it does also with the basic physician-patient relationship and the rights of a doctor to properly counsel a patient regarding their medical options.

I am also concerned that it undermines my party, my party's adherence to the principle of individual liberty which is as old as the party itself. Nevertheless, we cannot hold up this bill any longer, and it must be passed.

The bill has great implications for the future of this institution. We have appropriated $100 million for the America 2000 Program which will revitalize our failing school systems and will create a new generation of schools that will provide all Americans with the education necessary to contribute to our society and our economy.

Unfortunately, this program has not yet been authorized. We put the money in for the authorizers to come forward. There is a deadline of next April. I would urge the authorizing committee to act and bring this program forward and allow this money to be spent in revitalizing education in America.

One of the provisions of the bill that I find most troubling, however, is the delayed obligations that rose to $4 billion in this appropriations bill, more delayed obligations than in any other measure, money that is not available during the course of the fiscal year, but only on the last day when it cannot be counted or scored against the allocation. It therefore looks like money that we are committing for programs that are important to our country and that are important to the American people, but, really, the money that is not there.

I believe this process is absolutely unconscionable. I know that the President proposed some delayed obligations in his budget. We included some of them in our version of the bill, but the amount has been hugely increased in this bill, and I think it is wrong. It is a travesty on the appropriations process. It is phony money and phony budgeting designed to evade the spending caps in the budget agreement and ultimately to undermine and abrogate that budget agreement.

For example, Mr. Speaker, we have included an additional, delayed obligation $200 million increase for cancer research in the bill, money that should give hope to millions of Americans. But that $200 million is phony money. It is a promise that will not be kept next year, a promise that might never be kept, because of the outlay squeeze. This is political posturing at its worst and simply should not be tolerated.

I want to say right now, Mr. Speaker, that if we are going to do this again next year, I will not be able to support the bill.

We have to be honest with the American people. We have to set the priorities, make the hard choices that we were sent down here to do; compromise, yes, between the House and the Senate, but then live with those tough decisions.

Mr. Speaker, I also want to comment on one priority that is not addressed adequately in the bill, and that is money for impact aid. Impact aid is a program that helps those communities to educate children whose parents live on military bases, and therefore pay no property taxes to help support local schools. We have level funded this program this year. It is not adequate. It is not sufficient. There are many areas in our country where the cost of educating those children is simply being pushed on to local taxpayers without the Federal Government paying its fair share of that amount.

In my own district, we have two school districts, each of which spends about $6,000 for each child per year for education where the share of the Federal Government is less than one-third, about $1,800 in one case, about $2,100 in another.

These school districts are going bankrupt. One of them Highland

Park—Highwood, District III, is presently over $7 million in debt because impact aid is inadequate. It is petitioning to go out of existence and be absorbed by surrounding school districts. The other, North Chicago Consolidated District 187 at the Great Lakes Naval Training Center, the largest naval training center in the United States, will go bankrupt next year. They have exhausted their tax base. They are in debt as high as they could possibly go. There is no place for them to go, and the reason is that the Federal Government is not living up to its obligation to pay for the education of those children. It is not even coming close to doing so.

Maybe there are some places in the United States where the costs of educating children are so low that impact aid may be a windfall; but believe me, Mr. Speaker, in the 10th District of Illinois where we spend a lot of money to educate children and where we put education at a high priority and where costs are high, the Federal Government is falling way, way short of its obligation, and we simply must correct this in next year's bill and put this at a higher place in our funding priorities.

Mr. Speaker, this bill contains money for many, many worthy projects. I commend my chairman, the gentleman from Kentucky [Mr. NATCHER], my ranking member, the gentleman from Michigan [Mr. PURSELL], and the other members of the committee on bringing forth a bill under difficult circumstances that we can all support.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, usually it serves no useful purpose to say "I told you so," but I think it might serve a useful purpose today to say, as I said at the time we considered this bill in the full committee, when it was on the floor of the House, while the bill was in conference and after it came out of conference, it serves no useful purpose to hold this bill up with a legislative matter. The provision to delay the gag rule attached to this bill instead of moving a permanent repealer as a separate bill was the wrong tactic and has backfired, not only against those who oppose the gag rule but also against other programs in the bill.

The Commerce Committee or any other committee which would handle the repealer of the gag rule reported and we should have acted on permanent legislation, instead of the mere delay provision which held up this bill. But instead of that, those both in and out of the Congress who were interested in the gag rule or eliminating the gag rule decided to tie a temporary one-year delay onto this bill, instead of moving a permanent solution through the legislative process.

Now, no one has benefited from that procedure, and I hope they will not try that failed approach next year again. The people who were interested in getting rid of the gag rule, and I voted that way, the ones who were interested in getting rid of the gag rule merely took the pressure off the authorizing committee and the permanent legislation has not moved the bill yet.

In addition to that, even if the delay on implementation had succeeded, at most that delay would have been effective for 10½ months of fiscal year 1992 instead of 12 if it had been successful.

In addition to that, numerous other programs in this bill, are being denied the increase in funding they will receive in 1992 for six weeks of the fiscal year. The increase between 1991 and 1992 in this bill is $18 billion.

□ 1240

And the increased level for those various health programs, education programs, training programs is being denied to each one of those programs for this last 6 weeks because this emotional issue that is a legislative matter was on this bill.

This is no way to legislate. This is no way to treat the Committee on Appropriations. It is no way to treat the subcommittee of the Committee on Appropriations. That issue should be taken up and brought to the floor by the legislative committee. It would take the same number of votes to pass separate permanent legislation that it did to hook an amendment onto this bill. And there were adequate votes.

That issue, separated by itself, would have passed by more than a 2-to-1 majority—we all know that—in both Houses.

So I am taking the floor today to say this is an important bill, it is a $203 billion bill. It involves programs affecting people all the way from conception until after they die; children's programs, feeding programs, training programs, college programs, Social Security, even burial benefits.

Mr. Speaker, this bill should not be hung up by one emotional issue of this kind. It should be handled in the regular legislative manner.

So I say today let us pass this bill now, we are right where we would have been if the gag rule amendment had not been hooked onto this bill 2 or 3 months ago, except that dozens of programs lost 6 weeks of increased funding which they needed from the beginning of the fiscal year rather than 6 weeks into the fiscal year. So let us pass this bill again.

Vote for the bill today.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN], a member of the Committee on the Budget.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I rise in opposition to this version of the Labor/HHS appropriations bill for fiscal year 1992, just as I have each time it has been presented to us.

Now that the language concerning the so-called gag rule has been removed, I hope that Members of this House will focus on the budget ramifications of this bill.

I might add that the authorizing committee with respect to the gag rule, the Committee on Energy and Commerce, has taken action on that legislation, and I supported it there, doing away with the gag rule.

There is a $4.2 billion fiscal time bomb just waiting to explode in our faces next year as we try to meet the very difficult domestic discretionary spending caps for fiscal year 1993. According to the CBO, our outlay caps for domestic discretionary spending for 1992 of $212 billion and $224 billion for 1993 are probably going to be revised downward due to lower inflation numbers by at least $1 billion in January and all in all for 1993 and I quote CBO on this:

> Domestic discretionary outlays might have to be cut between $4 billion and $8 billion below the baseline in fiscal year 1993 to stay within the cap.

That is before we throw in this increase from this bill today. My colleagues, that will mean a freeze in outlays between 1992 and 1993. Sure, the appropriations say this bill meets the spending targets for 1992. And congratulations are in order for meeting the most strict interpretation of the budget law and I say that out of the greatest respect for the members of the committee, the gentleman from Kentucky and the gentleman from Michigan.

But this by increasing budget authority by close to $4.2 billion on September 30, 1992, the very last day of the fiscal year, pushes at least $2 billion in outlays and possibly more in fiscal year 1993. That is a budget cul-de-sac that I thought we had put onto the trash heap of history last year when we adopted the Budget Enforcement Act. If we did not then, we should today. If you think it is tough to live by the budget disciplined of the three spending caps this year, passing this bill will only make the domestic spending caps that much tighter in 1993, to the tune of at least $2 billion in outlays.

Let me say again in order to meet the spending caps in fiscal 1993 which because of liberal accounting such as these obligational delays and inflation adjustments means domestic spending will have to be held at a virtual absolute freeze in comparison to 1992.

So we are going to have to find savings in other domestic discretionary programs to offset these. It is like the old commerical, "You can pay me now or you can pay me later." Only in this case the very people who support this fiscal landmine in the domestic discretionary field of battle are going to be the first ones to scream bloody murder when they have to start cutting domestic programs to meet the fiscal years 1993 caps.

I have no illusions, my colleagues, but I would hope this bill could be defeated so we could send it back to the committee to be fixed—and it does not require more than a 2-percent adjustment—and I hope the President would veto it solely for budgetary reasons.

I urge my colleagues to be aware of what they are doing and vote "no" so we can straighten this out now rather than later.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to simply take this time to engage in a colloquy with the subcommittee chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. Speaker, I want to take this opportunity to stress the importance that the conference committee placed on insuring that the Medicare contractor program be adequately funded; 36 million seniors and disabled Americans and the health care providers that participate in the Medicare Program expect to receive efficiently and timely delivered services and benefits.

As you know, the conferees were very concerned that the level of funding provided in the bill for the Medicare contractor budget was inadequate to maintain the current level of services to Medicare beneficiaries and providers. Specifically, the conferees were concerned about the Medicare beneficiary toll-free telephone service, the timely payment of Medicare bills, and maintaining current timeframes for resolving hearings and appeals, and urged the administration to make funds available from the contingency fund to prevent any disruptions in the Medicare Program.

Given those strong reservations regarding the adequacy of the Medicare contractor funding level, it would not be prudent, I am sure you would agree, for the Department to subject the Medicare contractor activity to any further reductions. This account is already $37 million below the fiscal year 1991 level, which represents a 2½-percent cut. Furthermore, we know that the number of Medicare claims is estimated to increase by 11 percent.

Specifically would you not agree it would be imprudent and inconsistent with legislative intent when implementing section 513(a) of the bill, which assigns specific dollar reductions to salaries and expenses of the Department of Labor, Health and Human Services, and Education, to reduce the Medicare contractors budget?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the chairman.

Mr. NATCHER. I thank the gentleman for yielding to me.

Mr. Speaker, I agree with the gentleman from Wisconsin that it would be imprudent for the Department to use section 513(a) to further reduce funds for Medicare contractor activities provided for in the bill.

Mr. OBEY. I thank the chairman.

Mr. Speaker, I think it is important to make that point clear.

Mr. Speaker, in what time I have remaining I would simply like to urge that the House pass this bill as expeditiously as possible. I think it is unfortunate that this bill got involved in what in essence was an irrelevant issue because of the politicization of the title X program by the White House.

I think everyone here understood that there was absolutely nothing in those provisions that would have provided in any way, shape, or form for support for abortion services; certainly nothing which would have encouraged in any way persons to have abortions.

What was at stake here was very simply and very clearly the right of American citizens who use services provided by the Federal budget to receive full information without the censorship of the Government which is supposed to guarantee their right to information, not try to find ways to deny them that information.

Mr. PURSELL. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. YOUNG], a distinguished leader on our subcommittee and a national leader on a particular program which I think he will describe to the Members of Congress today.

□ 1250

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to pay a special tribute to the gentleman from Michigan [Mr. PURSELL] and to Chairman NATCHER for the leadership they have shown on the subcommittee. They have put together a truly profamily bill. The legislation that we have before us today as an appropriation bill, I expect, touches the lives of more people directly than any other appropriation bill that we bring before this House.

Chairman NATCHER and the ranking member, the gentleman from Michigan [Mr. PURSELL] have done yeoman service and provided strong leadership, along with the tremendous staff support that we have had and support by all the members of the committee who are so dedicated to making these programs work.

Mr. Speaker, I rise in support of this bill. It spends a lot of money, but it spends the money on things that the American people need and deserve and want. This is a profamily bill.

Through the billions of dollars our subcommittee has included in the bill, we will learn more about, and hopefully cure, some of the diseases which claim millions of lives every year. Funding for all forms of cancer research, including breast, cervical, and testicular cancer are funded in this legislation. Research programs will continue to study heart and lung diseases and to determine how we can reduce the risk of heart attack and stroke. Miraculous genetic research will continue to diagnose and one day cure such childhood killers as cystic fibrosis and juvenile diabetes.

Medical research initiatives are funded to better understand the causes and potential treatments for Alzheimer's disease, hearing loss, and blindness which afflict so many older Americans.

There is $300 million in this bill, Mr. Speaker, for vaccinations. It is almost a tragedy to have to report that right here in a our Nation's Capital, in the District of Columbia, a recent Washington Post survey found that 44 percent of the children of the age at which they should be vaccinated have not been vaccinated. Mr. Speaker, following my remarks I would like to include this story so my colleagues can understand the magnitude of the problem. Measles has reared its ugly head here in the District of Columbia and throughout America because vaccinations have not been delivered to the people who need them. We included funding for the National Vaccine Program to improve vaccines and to better distribute them. These diseases are measles, mumps, whooping cough, diseases that we thought we had totally defeated but are coming back. This bill addresses that issue and provides money for the vaccine program.

This bill is also an education bill. Along with many other items relating to medical research and medical care, it also provides money for education. There is a 10-percent increase this year in discretionary spending for education, much of which will be very important to our local school districts. This bill funds math and science instruction, where we have felt for such a long time that we were not doing as well as we should. It covers vocational training and handicapped services. The Head Start Program is funded in this bill, as well as assistance for students who want to go on to college. Pell grants, student loans, and work-study programs help offset the cost of rising tuition. The National Youth Sports is also funded in this bill. It is a program that many folks have not heard about, but it is a program that children off the streets during the summer, children who have had no opportunity for any exposure to a real education. It gives them something to do in the summer, and it gives them exposure to higher education. The program has been highly successful in getting these students to go on to more education rather than dropping out of school.

Older Americans Act programs are funded in this bill. Mr. Speaker, these include the Meals on Wheels and Congregate Care Programs, which are vital to communities such as Pinellas County, FL, which I represent. The Senior Community Services Employment Program is funded by this bill to not only provide employment opportunities for seniors, but through their work, to benefit community programs such as our schools, libraries, police, and fire fighters.

Funds to administer the Social Security Administration and the Medicare Program are all in this bill. We have included specific directions to the Secretary of Health and Human Services to ensure that Medicare claims continue to be processed in a timely manner and that the toll free telephone lines, which provide a cost effective way for beneficiaries to receive quick access to information about the program and their eligibility to services, remain operational without disruption.

Mr. Speaker, the list is long, and it goes on and on, covering the items included in this bill and funded by this bill. But I want to take the remaining time that I have to speak about another program that has been so close to my heart now for some 6 years.

Six years ago I had the opportunity, the unfortunate opportunity, to be with a young 10-year-old girl who died of a form of leukemia. It was a difficult evening as we walked out of that hospital and as I spoke with doctor Jerry Barbosa, I said, "What could we have done? What could anyone have done to save Brandy's life?"

He said, "If we could have had a bone marrow transplant for her, she probably could have lived."

I knew nothing about bone marrow transplants and did not even know what he was talking about. So I inquired. He said, "What we need in America is a registry, a central location of the names of people who are willing to be bone marrow donors for others who are going to die without a bone marrow transplant."

I said, "That doesn't sound like it should be too hard to accomplish."

When I came back to Washington, however, I found it was not as easy as I thought it is was going to be. But the Members of this House and, more specifically, the members of this Appropriation Subcommittee and the Appropriation Subcommittee on National Defense supported my every effort to establish this registry, and today I can report, Mr. Speaker, that nearly every American who needs a life-saving transplant today is able to find a donor.

Without the support of Chairman NATCHER, Chairman JACK MURTHA of the Defense Appropriations Subcommittee, our committee's ranking member JOE MCDADE, CARL PURSELL, and every member of the committee, there would be no national registry. They supported my requests for appropriations 5 years ago to establish the national registry and they have enthusiastically supported every request I have made since then to provide for the needs of the national registry, and most importantly, funding for donor education, recruitment, and testing.

The National Marrow Donor Program is different than many of the programs in this bill. It is not a program that we fund with the hope that it may lead to a cure for a disease. It is a program that works, that saves lives, and that gives patients and families hope for a disease-free life where there would have been little hope before its creation.

We have appropriated over the years a modest amount of funding for the program to cover only the most basic of costs for its establishment and operation. It is a well run and efficient program with no waste and little overhead. The return on the investment we have made in its creation and with our continuing support has meant life for hundreds of men, women, and children.

I brought two charts with me today to show the dramatic growth of this program which did not even exist 5 years ago. As you look at the charts—charts not reproducible in the RECORD—you might believe that they are the same, but they are really not. The first chart indicates the number of donors who have had their blood typed to become listed in the national registry. This chart shows 331,000-plus Americans in the register. However, this chart is several weeks old, and I am able to report that that 331,000 figure is now right at 500,000, a half million Americans who have had their blood typed to be listed in the national bone marrow registry as a possible donors to save the life of someone who needs a transplant.

With the funds we have included over the past 18 months, the national registry has more than doubled in size and we are well on our way to our goal of a national registry of at least one million donors.

The second chart shows the number of transplants we have done since this registry went into effect is 733. That is unrelated donors who have been identified for patients throughout our Nation and the world. That 733 in the last several weeks has gone up to nearly 1,000. I want to tell the Members about those thousand people. Before those thousand people had a bone marrow transplant, they had no hope for life. They had a terminal disease, and there was no hope for recovery because the disease they had was terminal. Whether it was a form of leukemia, or another form of blood cancer, or one of some 60 types of diseases that can be cured with a bone marrow transplant, without the transplant there is no hope for life.

Not all of those people made it, for one reason or another, but the vast majority of them have lived. Their donors gave them a second chance at life.

After being involved with this program for 5 years, my own daughter walked into my office one day and said, "Dad, I have leukemia." So I know first hand how it feels to have a child or someone in the family with that type of a terminal disease. The good news is that she had her transplant, she got her miracle, like so many others, and she is alive and well today.

Mr. Speaker, I just talked with some folks I know who are going through a transplant procedure in Kentucky. They had their transplant 2 weeks ago. They had a tough case, but they are doing well. They found their donor through our registry that was created here in the House of Representatives.

In St. Petersburg, FL, there is a young black American man who we searched for 3 years to find a donor. Because he was a minority, it was difficult to find him a donor because of the genetic makeup so important to the typing of the bone marrow and the blood. We finally found Grant Hartley a donor through this registry. Grant Hartley had his bone marrow transplant 2 weeks ago tomorrow. He is suffering today. He is hurting because it is not an easy procedure, but he is going to live. He has had his leukemia cured, and we believe he is going to go through this transplant successfully, with a chance for life.

One of the things we do in this program is set aside certain amounts of money for the recruiting of minority donors. With the success of our program, a Caucasian can normally find a donor today, but as I said earlier, a minority still finds it difficult to find a donor. We have provided money in this bill to expand the recruiting for minority donors.

With funds specifically earmarked for minority recruitment activities last year, we increased by more than threefold the number of minority donors in the national registry.

Because genetics play such an important role in finding a matched donor for a terminally ill patient, a black-American patient will more than likely find a donor from the black-American community. The same holds true for Hispanics, native Americans, Asian-Americans, and other minority groups. Before we kicked off this concerted minority recruitment effort last fall in St. Petersburg, FL, there was little if any hope for finding a matched donor for a minority patient.

With the dramatic increase in minority donors, we are seeing an equally dramatic increase in minority patients who are finding a matched donor and a second chance at life. The success of this effort and the entire National Marrow Donor Program was highlighted last month when we identified a matched unrelated donor for Grant Hartley.

Mr. Speaker, saving lives is what this program, and this entire bill, is all about. It truly is pro-family legislation that every Member of this House can proudly support.

All in all, this is a good program, Mr. Speaker, and I urge my colleagues to support this program and this bill.

The article follows:

[From the Washington Post, Sept. 12, 1991]

MORE THAN 50 PERCENT HERE LACK IMMUNIZATIONS

(By Amy Goldstein)

More than half the children age 2 and younger in the Washington area have not received proper immunizations, leaving 93,000 infants and toddlers vulnerable to preventable diseases such as measles, polio and mumps, according to a regional study.

The study, sponsored by the Metropolitan Wahington Council of Governments and issued yesterday, represents the first analysis of how many children in the region recieve the vaccines that have long been recognized as keys to good health.

The figures indicate that the 175,000 children in the area who are 2 or younger are immunized less frequently than the national average. But the District's rate of 44 percent is comparable to that of other major U.S. cities, according to local and federal health officials.

The study found wide variations among local jurisdictions in the percentage of children who received recommended vaccines for measles, mumps, whooping cough, rubella and polio.

Montgomery County children had the highest vaccination rate, 76 percent, while those in Prince William County had the lowest, with only 35 percent having received proper vaccines, the study found.

"This is a big problem," said Acting D.C. Public Health Commissioner Georges C. Benjamin, who was chairman of the regional group of health officials that worked with COG staff to prepare the report, which was based on local health departments' data.

Benjamin and other health officials said vaccines are vital because some childhood diseases can be particularly dangerous—and occasionally, even fatal—in very young children, and because unimmunized babies can readily infect adults.

The release of the COG study coincides with the start of an intensive campaign during the next several months by local health officials to increase the number of childhood vaccinations.

The campaign will make use of an infusion of vaccine provided by the federal Centers for Disease Control in Atlanta and will focus on ways to reach children of immigrants, single parents and low-income families.

The regional initiative is beginning as health officials and researchers across the country express mounting concerns about a resurgence of some childhood diseases once thought to have been virtually eliminated in the United States by vaccines.

Measles cases in particular have soared during the last two years. Nearly 28,000 U.S. cases were reported in 1990, according to federal figures. The 89 deaths attributed to the disease last year represented the highest level in two decades.

The COG study found that more than 500 children in the Washington area contracted preventable diseases last year, including about 400 who developed mumps, 78 who caught measles and 51 who had whooping cough.

Measles outbreaks have occurred recently in several counties in the Washington area.

Last April, a Howard County high school wrestler appeared responsible for the largest measles outbreak in Maryland in a decade.

The same month, six children in Prince William day-care facilities came down with the disease.

Researchers now believe that the diseases' return is caused, in part, by parents' failure to make sure their infants and toddlers get recommended vaccinations.

The disease control center advises that children, by age 2, should have received four doses of vaccine for diptheria, tetanus and whooping cough; three for polio; and one each for measles, mumps and rubella.

In Prince William, Anne Wilburn, a nurse supervisor for the county health department, said the immunization rate there has plunged in the last year from about 43 percent to 35 percent, substantially lower than the regional rate of 47 percent. Nationally, the vaccination rate is 70 percent according to a recent study.

Wilburn said the drop puzzles local health officials, who have formed a group to analyze the problem and try to reach more children. She speculated that the drop may be caused by parents who bring children to local clinics for some vaccines, but do not return for a complete series.

A Centers for Disease Control study this year of nine large cities, including the District, found that the immunization rate for 2-year-olds varies from 12 percent in Houston to 46 percent in New Orleans. The District, with 44 percent, was tied for second, the study found.

The campaign that COG is sponsoring will include a drive to increase the number of properly vaccinated 2-year-olds by 40 percent by December.

"We want to get as much vaccine as we can into these kids—it's an all-out push," said Elin Gursky, the epidemiology and disease control director for the Prince George's County health department, a leader of the campaign.

All county health departments in the area provide free vcaccinations. To help them extend their reach, the disease control center has given the local departments enough doses to vaccinate 8,000 infants and toddlers.

Health experts said they have been hindered more by parents' failure to bring their children for periodic shots than by a shortage of vaccine.

"The problem isn't that the tool is inadequate," said Roger Bernier, assistant director for science of the disease control center's division of immunization. "The problem is, we don't make use of the tool we have."

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr, EARLY].

Mr. EARLY. Mr. Speaker, I want to thank the chairman of our subcommittee for yielding time to me.

Mr. Speaker, I rise in strong support of this bill, and I would like to speak to one specific part of this bill, NIH.

Many Members, Mr. Speaker, state that there is a lot of money in this bill for the National Institutes of Health—$9 billion. However, as someone who has dedicated themselves to learning about the NIH and supporting the NIH, I submit to you that this level of funding is wholly inadequate.

There are over 44 clinical trials of new drugs and therapies that will not be funded because we did not provide enough money in this bill. What are these diseases? Cancer, Gaucher's disease, heart disease, asthma, multiple sclerosis, the flu, sexually transmitted diseases, and glaucoma to name a few.

With the money that we have provided in this bill, 73 percent of the research grants that have been approved by peer review panels will go unfunded because of lack of money. It is quite a paradox—we have the best and the brightest minds in the world who can do much to further medical research, but we are still unable to provide for them enough resources to do it with.

As Thomas Jefferson states: "You can promise yourself anything—but health—without which there is no happiness." The NIH is the jewel which will provide for this Nation health for this and future generations.

Medicine's past 100 years have been nothing less than miraculous.

Not only has life expectancy increased, the sheer amount of pain, discomfort and disability we must endure in our lifetime has been strikingly reduced.

We have found cures for many kinds of diseases, some of which have been erased from the face of the Earth, like polio. We have found vaccines to prevent diseases that use to kill our children, such as diphtheria and pertussis. We have engineered new cancer drugs, heart, drugs, discovered antibiotics, and transplanted organs from one person to give another person the gift of life.

We have done all of this and much, much more because of one thing—the National Institutes of Health. We have cured much disease and disability, and spared much human suffering, because of a public private partnership that we embarked on over 100 years ago when the Federal Government made the commitment to fund medical research.

It is the single most important commitment of this Member of Congress to continue this tradition and support the National Institutes of Health in this fine bill. This is the program that promises the greatest hope and wealth to all Americans—their health.

In fact, the mission statement of the NIH clearly states: "Science in pursuit of knowledge to extend health, life and reduce the burden of disease and suffering."

There is not one Member in this Chamber today whose own life has not been positively affected, or whose family has not benefited from the advances in medical research made by the NIH. I know that I have, as the father of eight children.

The National Institutes of Health is the agency that we rely on to find cures for diseases, to train our doctors, researchers and nurses, and to give us the tools to fight diseases such as AIDS, and cancer, and heart disease.

Today, the NIH is on the verge of the greatest breakthroughs in the history of medicine. Our past investment in medical research has placed in a new era—the era of molecular medicine.

Because of our advances in molecular medicine, we will be able to cure cancer, we will be able to cure cystic fibrosis; we will be able to cure genetic diseases. All of this and more is possible because of the research programs at the National Institutes of Health.

It is the NIH that has kept this Nation competitive in the international marketplace. We stand as the worldwide leader in the biological sciences because of the National Institutes of Health and every nation on the face of this earth looks to our researchers and our research efforts to set the pace.

The past investment in medical research funded through the National Institutes of Health has contributed much to the economy of this Nation. The fine work done by researchers at the NIH has given birth to the biotechnology industry. An industry which the Department of Commerce estimates will be a $2 billion industry in 1992; and a $40 billion industry by the year 2000.

Last year, the era of gene therapy was begun by the NIH. A 4-year-old child, born with an inherited illness that prevented her immune system from working, received an infusion of one billion cells into which the normal gene—that had been identified earlier because of medical research at the NIH—had been inserted. The infusion of this gene therapy took only 30 minutes, there were no side effects, and history was made quietly on the afternoon of September 14, 1990.

Scientists are calling this the fourth revolution of medicine. And this miraculous achievement represents the best of which the NIH is capable, and the culmination of year of support for the most basic of medical and clinical research.

SCIENTIFIC OPPORTUNITIES WITHIN THE NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES THAT WILL NOT BE FUNDED WITHIN THE FISCAL YEAR 1992 CONFERENCE LEVEL

1. The resurgence of Tuberculosis (TB) is a public health emergency that must be aggressively addressed immediately. A drug resistant strain of TB has emerged that public health officials universally agree could turn into an epidemic in immune suppressed individuals. This has been reported on recently in the New York Times. Resources are necessary for the NIAID to fund targeted drug and vaccine research to combat this threat.

2. Within the Conference allowance we will be able to provide only inflationary increases to our initiative to develop a multivalent single dose vaccine to protect children from the common diseases of childhood.

3. The incidence of AIDS in Women presents an important emerging opportunity. A Women's HIV Study is critical to determining those factors specifically related to Women that affect the progressions of HIV AIDS in this population.

4. Basic research and clinical studies to identify a vaccines for sexually transmitted diseases is an area of science with significant opportunities that will go unfunded within the Conference level for the NIAID.

5. The following clinical trials are ready to begin but will go unfunded at the Conference level. Clinical trials are of paramount importance if we are to translate the findings of basic research to clinical application.

(A) Prophylactic therapy for neonatal herpes infections.

(B) Treatment of Cryptosporidiosis with 566C80.

(C) Efficacy trial in infants for a conjugate pneumococcal vaccine.

(D) Efficacy trial of a Group B streptococcal directed IVIG in neonatal sepsis.

(E) Treatment of toxoplasmic encephalitis with azithromycin.

(F) Effect of protein-polysaccharide conjugate vaccines in pregnant women.

(G) Clinical trial to compare the efficacy of IVIG vs MAb in combination with acyclovir for the prophylaxis of CMV infections in renal transplant patients.

(H) Efficacy trial of antivirals including thymosin alpha 1 for treatment of chronic hepatitis.

(I) Clinical trial to assess the efficacy of intravenous ribavirin in severe influenza virus infections.

(J) Treatment of HIV infection with non-nucleoside analog reverse transcriptase inhibitors.

6. The development of a vaccine against HIV infection is one of the highest priorities of the NIAID. Resources are needed to develop the capacity to conduct trials on a nation-wide basis to ensure the speedy evaluation of candidate vaccines.

7. In the field of Transplantation the NIAID would like to be able to fund a nation-wide study of African-American families to acquire minority specific serological tissue typing reagent. This research project would enable the NIAID to make strides in identifying those characteristics unique to African-Americans that result in a greater transplantation rejection rate than other population groups.

8. The potential exists to improve even further the diagnostic tools available to identify Lyme Borreliosis. Resources are required to expand the basic research activities related to this area.

□ 1300

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, do the rules of the House say what size type these conference reports are supposed to be printed in?

The SPEAKER pro tempore. No; they do not.

Mr. DANNEMEYER. Mr. Speaker, I have been advised this one is size 6. You almost need a magnifying glass to read it.

The SPEAKER pro tempore. The Chair would announce this measure was printed and is being considered as a regular bill (H.R. 3839).

Mr. PURSELL. Mr. Speaker, this is 6-point type. As a former printer, I would say it is half the size of a regular typewriter.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, hallelujah! Hallelujah! Hallelujah! I am rejoicing over the fact that the House was finally able to put politics aside and offer a Labor-HHS-Education appropriations conference report that will benefit women, children, students and the workers of America.

Much of the discussion has been about women's rights, but what we failed to discuss were the needs of women in America. Today, we have a measure before us that addresses these needs. The conference report includes $50 million for the Breast and Cervical Cancer Control Program, which will enable States to develop effective breast and cervical cancer education programs for women and health care professionals.

In addition, $2 billion has been appropriated for the National Cancer Institute which will be used for research grants, updating research centers and the training of researchers. I have no doubt that NCI will take seriously the urging of Congress to increase attention to breast, ovarian, cervical and prostate cancer. With this dedication, I am hopeful that the NCI will come several steps closer to finding a cure for breast cancer, for which there is no cure, as well as the other cancers affecting women, men, and entire families.

Mr. Speaker, I am also pleased that the conference report appropriates $27.8 billion for the Department of Education, an increase of almost $5 billion over last year. I know many students in my district rely on the Compensatory Education Program, vocational education and special education programs, to name a few. Education is one of the most vital links between our society and the future. If we are truly serious about economic growth in our country, restoring our ability to compete with other industrial nations and providing an opportunity for all individuals to have a decent standard of living, then we must be concerned about the quality of education in our country.

Lastly, in a time of controversy about whether Congress is really helping the workers in America, I am pleased with the provisions of the bill which enhance our current job training, job corps, summer youth programs, and dislocated workers programs. I believe a better, stronger work force in America will result.

Hallelujah, Mr. Speaker, we have done it. We will pass a bill in which Congress and the President will show pride, but most importantly, it is a bill in which the citizens of America will show pride. I urge all of my colleagues to vote for the Labor-HHS-Education conference report.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise today to express my strong support of H.R. 3839.

This bill provides $204 billion for many of the programs which provide the fuel for an aching American economy. These programs help to ensure that Americans are healthy, educated, and employed. Every American, infants to the elderly are beneficiaries of this bill.

I want to commend the chairman Mr. NATCHER for the tenacity and commitment he has displayed in getting this bill through the Congress. It took 5 days of meetings for the House and Senate to resolve our differences in conference. Since being reported out of conference, this is the third time we have considered funding of these programs on the floor.

As we wrestle with the impact of the recession, it is time that we get this measure passed into law. Our school districts, hospitals, employment offices, universities, and many other programs need their fiscal year 1992 appropriations. The American public has waited long enough.

Specifically, this bill includes: $2.2 billion for Head Start, 13 percent more than the amount provided last year; $298 million for childhood immunization, 37 percent more than last year's level; $32 billion for education programs, $2.3 billion over the President's request and 9 percent over 1991 levels; $9 billion for National Institutes of Health biomedical research; $1.9 billion for AIDS research, education, and care, $106 million more than last year's level; $3.1 billion for alcohol, drug abuse and mental health programs; $2.3 billion for unemployment compensation operations, $114 more than last year's level; $4.6 billion for the Social Security Administration administrative expenses—$425 million more than 1991; and $1.5 billion for low income energy assistance, $475 million more than the President's request.

Mr. Speaker, passage of this bill today will provide a substantial part of the investment we need to ensure the future welfare of our Nation. From infant morality to Medicare this bill provides the broadest coverage of programs we need to move this country forward.

For these reasons, I ask my colleagues to join me in final passage of H.R. 3839.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have mixed feelings about this bill. On the one hand I am very pleased to find that we have convinced the people at Planned Parenthood that they are not going to be able to refer persons who come to their premises for abortions. They say they are not going to take $37 million in Federal funds. I would suggest that Congress may want to use that money to increase what we are spending on adolescent family life under title XX.

□ 1410

We find these programs in Illinois, sex respect; in the State of Georgia, postmorning sexual involvement; in Operation Get Down in Michigan have demonstrated success. And the whole premise of this adolescent family life program specifically encourages teenagers to postpone sexual activities and supports adoption as a viable and honorable alternative for pregnant teens.

That is the direction I would like to see our Federal funds expended for.

With respect to the totals, Congress, the House is again living in a dream world. When we look at these totals, the last fiscal year, $183 billion plus, this fiscal year $204 million plus. That is an increase of 11.8 percent in 1 year. The increase in the national debt this year is $480 billion.

The increased interest expense this Nation will have to pay is roughly 8 percent on that total. We cannot continue down a course whereby we are permitting any program to be expanded to the tune of 11.8 percent.

It is fiction. The money is not here. We are just digging the hole deeper all the time.

These are the reasons, as I said, I have mixed feelings about the bill. I congratulate the resolution that we adopted on the funds that were going to go to Planned Parenthood, but I am very much concerned about the level, the irresponsible level of spending in this bill. No appropriations bill should be getting out of this House that spends 1992 over 1991 more than 2.4 percent.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] so much for understanding what the issue in this bill was all about. It was about free speech. It was about the very heart of the bill of rights, the first amendment.

It was about whether or not we are going to treat citizens as adults. To me on this 200th anniversary of the bill of rights, this is a shameful day.

I will vote for this bill because every program I really care about is in this bill, and the gentleman from Kentucky has helped us make so much progress on other issues. But it is with a very, very heavy heart.

For anyone who has tried to say abortions are inhumane, they are absolutely wrong.

Mr. Speaker, I think it is very important to point out that there is not one penny in here for abortions, not one penny, not even in the case of rape and incest. The issue is whether the "A" word can even be muttered in a family planning clinic that receives any Federal funding. That is why it is an issue of speech.

Will the "A" word be able to be muttered in any college that gets any Federal funding? Can the "A" word be muttered in any hospital that gets Medicare and Medicaid funds?

This can go on and on and on. And beyond the "A" word, we can move on everything else.

With Federal funds comes a gag, comes a gag. How tragic.

But let me tell my colleagues what many American women hear. What they hear is that this body thinks that if a woman even hears the "A" word, they will run right out to get an abortion. No. No. What an awful view of women.

I think the other thing that we hear is everyone seems to think that pregnancies are like a 9-month cruise. No. They can be very difficult for women. And what we are saying is the medical profession cannot even look at the woman's condition.

Mr. Speaker, this is a sad day. I am sorry that free speech is dying in front of our very eyes.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, yesterday, in an Associated Press story and in a front page Washington Times story we were informed that an attempted dismemberment abortion in New York—most likely a D&E abortion—ripped the arm off an unborn baby girl—who then, miraculously, survived the abortion.

The little 3-pound girl—Ana Rosa Rodriguez—absent her right arm, is now finally getting the compassion and health care that no abortionist ever gives. In their goodness, people are rushing forward to help her. Even a fund has just been established to assist with the medical bills.

I would just note parenthetically, Mr. Speaker, can you imagine her mother or anyone trying to explain to Ana how she came to be without her right arm? Can we imagine anyone saying to that little girl: "The abortionist messed up. His primary intention was to kill you, but he failed and there was a botched abortion. You are an abortion survivor." It makes you think—or at least it should.

Mr. Speaker, interestingly, the press labeled the abortion attempt a "botched abortion" yet we all know that had the abortion been successful and her life snuffed out, little Ana Rosa Rodriguez would have been just another nameless, faceless abortion statistic. Another life down the drain. There are over 1.5 million Ana Rosa Rodriguez who lose their lives each year to abortion, Mr. Speaker. The number of deaths from abortion is staggering—over 4,000 a day.

Sadly, Mr. Speaker, one title X recipient—and this is only one of many—Planned Parenthood—performs or refers for over 200,000 abortions. That is 200,000 kids who lost their lives, and continue to lose their lives to the abortionist's knife or poison as a result of this organization. That is 200,000 little people like Ana Rosa Rodriguez. All of these kids had a face, two arms, fingers and toes, and a beating heart. Yet, now they are dead.

Mr. Speaker, on previous occasions I've taken to the well of this House to suggest that in the not too distant future, I truly believe that historians will regard America's present day abortion culture—replete with tragedies like that inflicted upon little Ana Rosa Rodriguez—with a mix of curiosity, sorrow, incredulity, and contempt.

They will wonder how a society that paid so much attention to civil rights at home and human rights abroad could have allowed—even promoted through taxpayer subsidies—the violent destruction of over 26 million children, and the number is growing, under the guise of women's rights and preserving a right to privacy.

They will wonder how the shallow, skin deep rhetoric of choice could have provided cover to so many, for so long—as if an unborn child were merely an object or property or a thing or a consumer good—rather than a baby.

They will weigh the fashionable cliches, slogans, and euphemisms proffered today by the abortion crowd against the brutal reality of aborton—dismemberment of the baby, poison shots that chemically kill the baby—and wonder how an ostensibly sane, compassionate society could have been so thoroughly fooled and deceived.

Mr. Speaker, the issue of abortion counseling and referral in the Nation's federally funded family planning clinics is yet another chapter in the larger drama of a national abortion debate.

The title X issue turns on whether or not you believe an unborn child's life to be of sufficient importance that you are willing to end the taxpayer subsidies that treat the baby with no more respect than a diseased kidney or tumor. The issue is about abortion counseling and referral—the issue is about abortion advocacy. On the positive side, the Bush title X regulations require that pregnant women be referred for prenatal care. Prenatal care nurtures life—abortion destroys it.

Thus, Mr. Speaker, the President showed genuine compassion and moral courage of the rarest kind—even at the risk of being misperceived and ridiculed—in vetoing the Labor-HHS appropriations conference report because it reversed the title X regulations.

I would note that in his challenging commencement address at Harvard in 1978, Alexander Solzhenitzyn said, "The Western world has lost its civil courage, both as a whole and separately, in each country, each government, each political party . . ."

While this sad commentary has broad application in and out of government, it certainly does not apply to the President and the pro-life Members of the House who stood by their prolife convictions. Now the legislation, chock-full of vitally important funding, can be passed and signed into law.

Mr. Speaker, as in every abortion debate that has occurred on this floor, it's interesting to observe that the pro-abortion Members insist that the issue at hand isn't abortion. There's always at least one big diversion and a string of mitigating issues. This time it's free speech.

This diversion of attention on title X was predictable. This basic strategy has been used in every debate I've seen in my 11 years here.

For example, when the Hyde amendment is debated, we are told that the issue is one of providing health care to the poor that is readily available to the rich—it's rich versus poor, class warfare—not whether the children of the poor should be victimized by lethal injection or dismemberment.

When the abortion funding restriction, in the D.C. appropriations bill is debated, we are told that this is a home rule issue.

When the abortion funding restriction in the DOD bill is debated, we are told that it is an equal access to health care issue.

When the abortion restrictions in the foreign aid bill are debated, we are told that the issue is family planning—not abortion—even though not one penny in family planning moneys are reduced by the pro-life amendments.

And on and on.

In like manner, for months the abortion industry has marketed the notion that the salient issue at hand in the title X regs—is an issue of free speech, not abortion advocacy promotion—which simply isn't true. The common thread, of course, in all these debates is the obvious attempt to divert your attention and mine from the heart-wrenching reality of abortion.

But reality—the truth about abortion has a stubborn way of re-emerging. The truth won't be denied its day. Abortion survivor Ana Rosa Rodriguez is a fresh reminder of this.

Mr. Speaker and Members, please, wake up and take a long hard look at abortion methods—dismemberment and poison shots—and join us in helping protect, preserve, and enhance both the mothers and babies of our society.

□ 1320

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 3839.

Mr. Speaker, I rise today to clarify a small, but important, issue raised in this appropriations bill.

This bill includes report language denying the request of the Department of Labor for additional funds for the Wage and Hour Division to implement and administer regulations allowing the use of semiskilled helpers on Federal and federally assisted construction subject to Davis-Bacon. The report language asserts that the prohibition rider included in section 303, Public Law 102–27, the dire emergency supplemental appropriations of 1991 which forbid the Secretary of Labor from expending any funds for the implementation of the helper regulations was permanent.

Although the report language implies that the permanence of the prohibition is a settled question, there has been considerable disagreement on this point. In an effort to resolve this question, I asked the Congressional Research Service to review this issue and advise me of its opinion. I am inserting the memorandum that CRS sent in response to my request. Briefly, the memorandum stated that there were no "words of futurity" to overcome the presumption against permanence in appropriations acts. Therefore, in the opinion of the American Law Division of CRS, the prohibition on the regulation would likely be held to be temporary.

The appropriations bill includes $1,341,274,000 in funding for the Employment Standards Administration. Among the responsibilities of the Employment Standards Administration is to make prevailing wage determinations. The Federal district court in Washington has determined that the helper regulations are consistent with the Secretary of Labor's authority to make prevailing wage determinations. Accordingly, there is no statutory restraint preventing the Department of Labor from reissuing the regulations.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 18, 1991.

To: The Honorable Charles Stenholm, attention: Ed Lorenzen.
From: American Law Division.
Subject: Expiration Date of Prohibition on Funds to Implement Davis-Bacon Regulations in Appropriations Act.

This memorandum is in response to your letter of June 10, 1991, concerning section 303 of Public Law 102–27, the Dire Emergency Supplemental Appropriations Act of 1991, 105 Stat. 151. This section prohibits the expenditure of funds to administer or implement certain regulations relating to the Davis-Bacon Act and to apprenticeship programs:

Sec. 303. Notwithstanding any other provision of law, no funds shall be expended by the Secretary of Labor to implement or administer the regulations published at 54 Federal Register 4234–44 (January 27, 1989) to be codified at 1.7(d), 5.2(n)(4), 5.5(a)(1)(A) and 5.5(a)(4)(iv) of title 29 of the Code of Federal Regulations or to implement or administer any other regulation that would have the same or similar effect. No funds shall be expended by the Secretary of Labor to implement or administer revisions to part 29 of title 29 of the Code of Federal Regulations published at 55 Federal Register 34868–34876 (August 24, 1990) to the extent such revisions affect apprenticeship programs in the construction industry.

Your question is whether the prohibition is permanent or will expire at the end of the fiscal year covered by the Appropriation Act.

It should be noted at the outset that the rulings of the Comptroller General are final and binding on officers of the Executive Branch with respect to the legality of expenditures from the United States Treasury. Accordingly, this memorandum is in the nature of an advisory opinion setting forth the factors to be considered, and the principles to be applied, by the Comptroller General in determining the scope and extent of a limitation or restriction on the use of appropriated funds.

In general, "it is well settled that Congress can amend substantive legislation by a provision in an appropriations act." 62 Comp. Gen. 54, 57 (1982). On the other hand, "[t]here is a presumption that any provision in an annual appropriation act is effective only for the covered fiscal year. . . . This is because appropriation acts are by their nature nonpermanent legislation. Thus, unless otherwise specified, the provisions of an appropriations act for a given fiscal year expire at the end of that fiscal year." 65 Comp. Gen. 588, 589 (1986). Accordingly," a provision contained in an appropriation act may not be construed as permanent legislation unless the language or nature of the provision makes it clear that such was the intent of Congress. 62 Comp. Gen. 54, 56 (1982); 10 Comp. Gen. 120, 121 (1930)." 65 Comp. Gen. 588, 589 (1986).

The Dire Emergency Supplemental Appropriations Act of 1991 makes supplemental appropriations for the "fiscal year ending September 30, 1991." Public Law 102–27, enacting clause, 105 Stat. 130, Apr. 10, 1991. The provision in question would therefore be presumed to expire on September 30, 1991.

"Permanency is indicated most clearly when the provision in question includes 'words of futurity' such as 'hereafter' or 'after the date of approval of this act.'" 65 Comp. Gen. 588, 589 (1986). The words "none of the funds appropriated by this Act or any other Act may be obligated or expended" do not constitute words of futurity in the view of the Comptroller General, but merely extend the effect to the provision to other appropriations available in that fiscal year. 65 Comp. Gen. 588, 589 (1986).

The provision in question contains no words of futurity to overcome the presumption of against permanence in appropriations acts.

The use of words of futurity is not essential where "the permanent character of the legislation is otherwise indicated." 9 Comp. Gen. 248, 249 (1929). "One indication of permanence is when the provision is of a general nature, bearing no relation to the objects of the appropriation act," 65 Comp. Gen. 588, 590 (1986). For example, if the provision restricts funding for a program which has been funded by the appropriations act itself, then it is presumed to be a nonpermanent nature.

The provision in question limits the expenditure of funds by the Secretary of Labor to implement or administer regulations pertaining to the Davis-Bacon Act. The Appropriations Act makes appropriations for the Department of Labor relating to state unemployment insurance and employment service operations, amends appropriation language pertaining to Pension Benefit Guaranty Corporation Fund, and makes available funds for veterans employment and training. The Act, however, does not appear to appropriate funds for the Davis-Bacon Act or for the offices which implement and administer that law in the Department of Labor.

This consideration is therefore ambiguous, since the provision "bears some relation to" the objects of the Act by making appropriations for the Department of Labor, but not for purposes of implementing or administering the Davis-Bacon Act. On balance, this aspect does not appear to be sufficient to overcome the presumption against permanence.

"Permanency of an appropriation act provision may also be indicated when the provision would be rendered or meaningless were it not interpreted to be permanent legislation. 62 Comp. Gen. 54, 56 (1982). This is a corollary of the rule of statutory construction that a statute should not be construed in a way which renders it wholly ineffective." 65 Comp. Gen. 588, 590 (1986). A provision will be held to be permanent where an interpretation that it is not permanent would "strip the section of any legal effect." 62 Comp. Gen. 54, 56 (1982).

The provision in question would not be rendered ineffective if it were held to be nonpermanent. It would still bar the expenditure of any funds until September 30, 1991.

The Comptroller General usually looks to the legislative history to confirm the interpretation of an appropriation act provision, but does not rely on legislative history alone to overcome the statutory presumption that provisions in appropriation acts do not constitute permanent legislation unless expressly provided otherwise. 56 Com. Gen. 588, 590 (1986). Where there are ambiguities and conflicting statements in the legislative history, that history is not conclusive in determining the intent of Congress with regard to the permanence of the provision. 56 Comp. Gen. 588, 593 (1986). Under principles of statutory construction, statements of the sponsor of a bill during deliberations on the bill are given consideration by the courts since other legislators look to the sponsor to be particularly well informed about the bill's purpose, meaning, and intended effect. 65 Comp. Gen. 352, 355 (1986).

The provision was added to the appropriations bill in committee. An amendment was offered on the floor to delete the provision from the bill, and debate ensued. 137 Cong. Rec. H1526 (Mar. 7, 1989). The sponsor of the provision, Representative Murtha, did not speak, but supporters were led by Representative Ford. Mr. Ford stated that changes in Davis-Bacon authorization legislation." He noted that legislation addressing the same issue had been adopted by the House, but that no amendments had been finally agreed upon by the Conference Committee, and that "authorizing legislation is the only appropriate vehicle for dealing with fundamental changes in the operation of the Davis-Bacon Act. I support the Murtha amendment because it protects the legislative prerogative in this important area." 137 Cong. Rec. H1528 (Mar. 7, 1989).

Mr. Ford also stated that the "Murtha amendment would simply prohibit the implementation of the proposed apprenticeship regulations as they affect the construction industry. . . . it would assure that these Davis-Bacon and apprenticeship regulations will not be permitted to take or remain in effect, in the absence of the proper approval in the course of legislative consideration." 137 Cong. Rec. H1528 (Mar. 7, 1989).

There appears to be nothing in these statements to indicate that the provision was intended to be permanent. There is no express statement that the provision was intended to be permanent, and the remarks are not inconsistent with position that the provision was a temporary measure designed to preserve the status quo until further legislative consideration could be given to the issue in the authorizing process.

During the debate, some of the statements by opponents of the provision implied that it might be more than a merely temporary measure. It was stated that if the provision were allowed to stand, "it will cost us $600 million a year every year for the next umpteen years, as it has been costing us in the past," and that it "will save $600 million a year for the next however many years until we bring this up." 137 Cong. Rec. H1526 (Mar. 7, 1989) (Statement of Mr. Stenholm).

Other statements by opponents appeared to question the provisions relationship to the underlying appropriations bill. Members were asked "to strike out a portion of this supplemental appropriation that ought not to have been inserted in the first place. It has no business here . . . This ban on Davis-Bacon helpers is no emergency, has no place in an appropriation . . ." 137 Cong. Rec. H1527 (Mar. 7, 1989) (statement of Mr. Dickinson). In a letter urging disapproval of the provision, the Secretary of Labor opposed "legislating substantive labor policy in an appropriations bill. An appropriations bill is not the appropriate vehicle for introducing significant reversals in established governmental policies." Letter from Lynn Martin, Secretary of Labor, to Joseph Moakley, Chairman, House Rules Committee, Mar. 6, 1991, reprinted at 137 Cong. Rec. H1527–28 (Mar. 7, 1989) (Statement of Mr. Pursell).

While the statements of the opponents to the provision express some concern that its effect may be permanent, the general principle of statutory construction is that views of the opponents of a bill usually are discounted; a bill opponent's disagreement with the sponsors, floor manager, or the committee report ordinarily will not be given interpretational weight. *NLRB* v. *Fruit & Vegetable Packers*, 377 U.S. 58, 66 (1964); *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–95 (1951); Costello, *Average Voting Members and Other "Benign Fictions,"* 1990 Duke Law Journal 39, 54 (1990).

The legislative history of the provision in question does not appear to be clear and unambiguous enough to overcome the statutory presumption that provisions in appropriations acts are not permanent legislation unless it is clearly provided otherwise.

In summary, the Comptroller General has ruled that a provision contained in an annual appropriations act may *not* be construed to be permanent legislation unless the language and the nature of the provision make it clear that such was the intent of the Congress. Both the language (words of futurity) and the nature of the provision (no direct relation to the object of the appropriations act) should indicate the intent by the Congress to make the provision permanent legislation, and that intent should be supported by the legislative history. 65 Comp. Gen. 352, 354 (1986). Moreover, a provision will be construed to be permanent if construing it as nonpermanent would strip it of meaning. 62 Comp. Gen. 54, 56 (1982).

Applying these principles to the provision in question, it appears on balance that the Comptroller General would be likely to find that the provision relating to Davis-Bacon and apprenticeships will expire at the end of the fiscal year ending September 30, 1991. This conclusion is based on (1) the absence of words of futurity and (2) the fact that the provision, which limits expenditures by the Labor Department, does not appear to be unrelated to the purpose of the Appropriations Act, which provides funds for that Department. Further, (3) the legislative history, read in accordance with conventional standards of statutory construction, is not inconsistent with this conclusion. Finally, (4) it is not necessary to construe the provision as a permanent law in order to give it legal effect.

VINCENT E. TREACY,
Legislative Attorney.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is one of the most important pieces of legislation this body considers every year, the funding bill for the Departments of Labor, Health and Human Services, and Education. It is, as the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] refer to it, the people's bill in the people's House. H.R. 2707, however, was a better bill. At least 276 Members of this House and arguably 353 Members of this House thought that to be the case. I believe the overwhelming majority of Americans believe that the previous bill was a better bill. I think perhaps even that the President, in his heart, believes that it was a better bill.

I am disappointed that the President remains unconvinced that government-mandated restrictions on a health care facility's responsibility to provide information, not to perform abortions but to provide information, to women on legally available options is unfair, discriminatory, and pernicious. The medical community believes that and the polls reflect that Americans believe that. Seventy-four percent of Americans opposed the gag rule upheld in Rust versus Sullivan. Sixty-three percent believe government interference in this area can seriously damage the quality of medical care in America. Seventy-eight percent favor passage of a bill permitting full discussion of options in federally financed clinics; not a procedure, but a discussion.

Yes, H.R. 2707 was a better bill, but this is a good bill. I want, if I may, Mr. speaker, to speak about one facet of this bill, our concern and the bill's protections for children.

Immunizing our children against preventable childhood diseases has for too long been too low a priority. This bill, like its predecessor, H.R. 2707, includes $298 million, or a 37 percent increase over the total appropriated last year.

Mr. Speaker, these funds will improve America's ability to take care of those children who have been left out. The United States nonwhite vaccination rate for polio is 56th in the world. This bill seeks to overcome that and similar deficits.

In 1979, Mr. Speaker, the Surgeon General set the goal of immunizing 90 percent of the nation's 2-year-olds by 1990. But by 1990, there are still 30 percent of the 2-year-olds in the richest Nation on the face of the Earth who are not immunized against diseases that we can defeat.

This is a good bill. Mr. Speaker, there are so many facets of this bill that call out for our strong support. I have said often that there are some bills which have been subjected to across-the-board cuts. This bill, I believe, should be subjected to an across-the-board increase for every program.

Mr. Speaker, the Labor-Health Committee is as bipartisan a committee as we have in the Congress. We are all advocates. Do we have our differences? yes. Are they reflected to some degree on the floor of this House? Yes.

But in providing for the education and the health care of the American people, or to quote the chairman of this committee who so eloquently states, "if you take care of the education of our people and the health of our people, we will continue to live in the strongest Nation on the face of the Earth," we all agree. That is what this bill seeks to do, and I rise proudly as a member of this committee to support this bill, notwithstanding my disappointment that we have omitted a provision that I thought was critically important, a provision allowing women to receive the same kind of medical advice that all of us who are males in this body are able to receive in terms of full disclosure and discussion of all our options in health care.

This is a good bill. let us pass it overwhelmingly.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I was going to speak on the bill from another perspective but I cannot help but come back to the old debate based on the title X free speech between doctor and patient argument just made.

It amazes me that the proponents of abortion constantly try to cloud the free-speech issue. This is not a free-speech argument. If it were a free-speech argument, advocates of abortion would not be pushing for restrictions on abortion alternatives.

I will give the Members two court cases, for instance. One is *Akron* v. *Akron Center for Reproductive Health, Inc.*, 462 U.S. at 446–49, where advocates of abortion have vigorously sought to have laws that would require physicians to counsel their patients about the risk of abortion declared unconstitutional.

In the case, *Bowen* v. *Kendrick*, 487 U.S. 589 (1988), where advocates of abortion sought to restrict recipients of Federal funds from counseling teenagers about alternatives to abortion. Where is their free-speech argument on these two cases? To illustrate my point, let me quote women who regret the counseling received from title X clinics in the public comment period for the regulation.

This is what one woman asserted: "Please indulge me a little longer to say this, they lied to me * * * I asked and she lied to me * * *."

Another woman declared:

> Since Planned Parenthood is the foremost abortion provider in the United States, they have a responsibility to tell women the truth about fetal development and subsequent risks involved in pursuing abortion as an option. I know for a fact that they do not. The baby is dehumanized as much as possible by being termed a "blob," "products of conception," or "uterine contents." Not even the term fetus is used by the counselors. The very risky surgery is then passed over as safe and harmless and there is no mention of emotional or physical aftereffects. The counselors are told that any information on fetal development is distasteful (and) should not be used to avoid making the woman feel guilty.

This is an argument over using Federal funds for Planned Parenthood to continue their abortion practices, and if the Members do not believe me, they ought to see and read one of the clinic's brochures. I happen to have one from Planned Parenthood of Houston and southeast Texas.

□ 1330

This brochure is heavily weighted with advocacy for abortion, not just abortion, unrestricted abortion.

I quote from their own brochure:

> No consent should be required from a spouse, a court, a parent or any other person or institution in order for a woman to have an abortion.

They want unrestricted abortion. This is out of Planned Parenthood's own brochure.

What they want to do is to make contraceptives easily available and establish family life education programs in schools. You ought to see these programs, and I urge, Mr. Speaker, for parents to look at these programs to go in and have girls put condoms on the fingers of boys to demonstrate how to use condoms in front of each other. It becomes even worse than that: showing films on how to accurately perform foreplay, using an adult man and an adult woman to show foreplay.

The issue has nothing to do with free speech. What it has to do with is the opportunity to continue abortion practices and have the American taxpayer pay for those abortion practices. That is the real issue, because if it was free speech, they would not try to stop people from giving the alternative view of the horrors of abortion.

Mr. Speaker, I include the following material:

[From the Federal Register, Feb. 2, 1988]

PUBLIC COMMENTS

Public comments received by the Department on the proposed regulations further demonstrate the problems inherent in "nondirective counseling" and lend weight to concerns raised by the OIG audit and GAO report. Many comments argued that the practice or nondirective counseling has been the subject of widespread abuse, with many providers foregoing any balanced discussion of options in favor of pressuring women, particularly teenagers, into obtaining abortions. Numerous comments were received from women who said that they were never presented with any favorable or neutral information on any other option. Many of these commenters specifically mentioned experiences with particular Title X grantees or projects. A typical complaint was that the counseling that they had received was one-sided, with the fetus dehumanized as a "lump of tissue," "fetal tissue," or "uterine contents," and with no information presented as to gestational characteristics and stage of development, so that they were not given adequate information on which to make an informed choice regarding abortion. These commenters typically stated that they had experienced severe and long-lasting regret over the decision to abort, and also stated that they were given no counseling at the time they made their decision to abort as to the remorse and guilt they might later feel:

I have experienced the one-sidedness of * * *'s "counseling" and have seen the consciences of friend's (sic) shattered by what they now know was the wrong choice. Too many people are literally encouraged to use abortion as a birth control device because of its availability * * * has never discussed the alternative side with anyone I know. I don't feel guilty or presumptive calling their efforts exploitive.

"These clinics do not provide adequate information to pregnant women. There is no 'choice' involved in regard to abortion. It is the only solution offered. I know this from experience and have spoken to many women who have shared that experience.

"Please indulge me a little longer to say this, they lied to me. My third abortion required hospitalization and this was not done for the others. So I pointedly asked why? Her response. 'No—well, it's the same.' Now I have learned I submitted to a dilitation (sic) and evacuation—second trimester abortion. I never knew this until three years ago. But I asked and she lied to me. * * * The family planners holler about (and I quote from their Action Alert here in * * * N.Y.) 'Medical professionals have an obligation to give patients information and referrals on all options, and patients have a right to make an informed decision (fully informed). Where was mine?

"Since Planned Parenthood is the foremost abortion provider in the U.S., they have a responsibility to tell women the truth about fetal development and subsequent risks involved in pursuing abortion as an option. I know for a fact that they do not. The baby is dehumanized as much as possible by being termed a 'blob,' 'products of conception,' or 'uterine contents.' Not even the term fetus is used by the counselors. The very risky surgery is then passed over as safe [and] harmless [and] there is no mention of emotional or physical after affects. The counselors are told that any information on fetal development is distasteful [and] should not be used to avoid making the woman feel guilty. * * * Since my abortion, I have had 2 miscarriages.

"If I had been given proper information as to the development of my 12 week old child and if I had been presented with options to abortion rather than just abortion (given by the F.P. clinic) I would have had my baby.

"I had an abortion at the age of 16 years with the full encouragement of * * * in * * *, CA. They even called and made my first appt. to see the Dr. who would perform my abortion. There was no encouragement to consider adoption or to keep my baby. They helped me to get rid of my baby as quickly as possible.

"I was not given a complete picture of my situation. Therefore the decision I made for abortion was no decision at all. It was a coercion. Sixteen year old girls do not have the wherewithal to make such a life threatening, life changing decision especially when the choices given are so deceitfully incomplete. If I had known the reality of what I chose I would not have chosen an abortion. I killed my baby! How would you feel/react if someday several years after abortion you saw pictures of a 12 week old fetus and learned this was the picture of a perfectly formed human being. Hmmm—* * * [they] told me it was a 'blob!' I was devastated beyond all description.

"I was a seventeen year old who had just found out I was pregnant. * * * I couldn't get out of school to visit * * *, so they sent a nurse to see me. She blew my spirit down so much. * * * I expected her to help me and she wanted to destroy a little, innocent baby for convenience. She said, 'There's no way you can bring a child into this world and take care of it on your own. It isn't fair to the baby. People will speak badly of you. How can you let a baby be born with no father and no name? What about school? You can't finish 12th grade walking around pregnant. What kind of life would that be? * * *' Then she suggested an abortion. I started crying. All I could feel was why would anyone want to kill * * * her own flesh and blood * * * and why was she urging me to do this?"

FAMILY LIFE (SEXUALITY AND AIDS) EDUCATION

THE ISSUE

In Texas, 14 of every 100 females ages 15–19 will get pregnant, compared with the national rate of 11 of every 100. The average teen pregnancy rate in other developed countries is 5 of every 100 families.

U.S. girls under age 15 are at least five times more likely to give birth than young adolescents in any other developed country. Texas has the highest incidence of birth to girls 14 and under of any of the United States.

Nearly one-third of all teenagers who give birth will have another baby within the next two years.

About half the adolescents who become pregnant each year have their babies. 38% of teenage pregnancies end in abortion.*

The social, economic, and health costs associated with teenage pregnancy—greater with welfare dependency, limited educational and employment opportunities for teenage parents, school dropout, increased health risk for teenage parents and their infants—have long-term implications for state budgets and policy. Sexually transmitted diseases (STDs) take an awesome toll on the health and fertility of our young people. Added to these problems, we now have what may be the most devastating epidemic of all times—AIDS.

65% of all sexually transmitted diseases occur in people younger than 25. STDs cause severe health consequences and serious damage to the female reproductive system.

Today the AIDS virus has infected an estimated one to three million Americans. By 1991, as many as five to ten million Americans may be infected—a truly shattering number if even half of those people later develop the disease and die.

Education is a necessary first step and an essential element in any comprehensive effort directed at primary prevention of adolescent pregnancy, sexually transmitted diseases, and AIDS. Our young people not only need to know the "facts of life." They also need to learn about family life and human relationships. Our young people need self-esteem. They must learn to be competent decision-makers. They need "social resistance" to the risk-taking behaviors associated with high rates of unwanted pregnancy and disease. They need our help.

Sexuality education courses do not increase the level of sexual activity among teenagers. In fact, participation in family life education may help kids postpone sexual activity or may prevent students from becoming more liberal in their attitudes toward premarital sex.

PUBLIC OPINION

76 percent of adults surveyed in Houston favor having birth control advice and supplies distributed in schools according to a Houston Post-Rice University Survey conducted by Stephen Klineburg in 1988.

In 1986, a poll for Time by Yankelovich et al. found that 86 percent favored sexuality education in the schools.

In a Louis Harris poll in 1986, 85 percent agreed that sexuality education should be taught in public schools.

In 1986, a survey conducted by the LBJ School of Public Affairs and the University of Texas-Austin School of Social Work found that 78 percent of Texas voters believed that sexuality education should be in schools.

A Texas poll in 1987 found that 74 percent favored more education in grade school about sexually transmitted diseases, including the use of condoms.

PLANNED PARENTHOOD'S POSITION

Texas needs sexuality/family life education as a part of every young person's basic core of knowledge.

We believe that a developmentally appropriate, required program of sexuality/family life education, as an essential element beginning in kindergarten and continuing through all the years of public school education, can help reverse these tragic trends—trends affecting not only the quality of our young people's future, but in many cases the possibility of any future at all.

NOTES

*Statistics from the Texas Family Planning Association.

ABORTION

THE ISSUE

Abortion has been legal since the *Roe* v. *Wade* Supreme Court Decision in 1973. Since this decision, the Supreme Court has consistently upheld a woman's constitutional right to have an abortion in a number of other cases. More recently, the U.S. Supreme Court's *Webster* decision (1989) has given states some opportunity to restrict access to abortion.

History has shown us that women everywhere, in many circumstance of family income and education, have sought abortions—even when doing so meant risking their lives. It is crucial that abortion remain a constitutionally guaranteed right, and that services be available to all women.

Poor women do not have the same access to abortion services as more wealthy women. The Hyde Amendment denies federal funds for abortions for poor women except to save the life of the mother.

TEXAS LAW ON ABORTION

Under current Texas law regulating abortion:

Abortions must be performed by licensed physicians.

All abortions done in Texas are reported to the Texas Department of Health.

Texas Department of Health sets clinical standards for abortion providers to insure safe medical care.

Abortions are prohibited in the third trimester of pregnancy except to save the physical or mental health of the mother or in cases of severe fetal abnormality.

THE FACTS

Today, a legal abortion is five times safer than childbirth.

There were 79,213 abortions performed in Texas in 1988. The average Texas woman seeking an abortion is single, in her early twenties and pregnant for the first time. (T.D.H. statistics)

Since 1973, women have been obtaining abortions earlier in their pregnancies, when health risks are minimal. In Texas in 1988, 87% of abortions were performed in the first trimester, and .01% were performed in the third trimester.

There is no provider of abortions to poor women in Harris County. Although abortion is legal, thousands of poor women are currently denied access to them, because the Hyde Amendment denies federal funds for abortions, unless the woman's life is in danger. The Harris County Hospital District only provides abortion to save the life of the mother.

PLANNED PARENTHOOD'S POSITION

Provision of family planning services is the best way to prevent the need for abortions. In Texas in 1981, approximately 56,000 pregnancies were averted as a result of federal and state funding for contraceptive services.

The decision to have an abortion is an intensely personal decision which is best made by the woman involved, without government restrictions.

No woman should be denied abortion services solely because of her age or her economic circumstances.

Public funds should be made available to subsidize abortion services for poor women.

No consent should be required from a spouse, a court, a parent or any other person or institution, in order for a woman to have an abortion.

PUBLIC OPINION

90 percent of Americans think abortion should be available under some or all circumstances (1).

By a margin of more than two to one, Americans think that a woman who is three months or less pregnant should have the right to decide, with her doctor's advice, whether or not to have an abortion (1).

A 59 percent majority of Texans believe most women should retain the right to choose an abortion. (Houston Chronicle poll, 1989)

A 56 percent majority of Houstonians polled believe Texas lawmakers should make no changes in current Texas abortion law. (Houston Chronicle poll, 1989)

NOTES

"Public Attitudes About Sex Education, Family Planning, and Abortion in the United States," conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Aug.-Sept. 1985.

TEENAGE PREGNANCY

THE ISSUE

Approximately 1.1 million American teenagers become pregnant every year, more than 80 percent unintentionally (1). This situation represents a tragedy for the young people themselves and for all Americans. For the teens involved it often means having to decide between abortion or dropping out of school, leaving home, or becoming dependent on welfare. For society, it means a staggering amount of money—more than $18 billion spent in 1986 (2). In Texas the same year, $51 million was spent on deliveries, 38% of which were to teenagers, and $19 million was spent on AFDC payments to teen mothers (12). Worst of all, it presents an almost insurmountable obstacle to the creative and productive potential of our greatest asset, our youth.

THE CRITICAL FACTS

Texas leads the nation in number of births to girls 14 years of age and younger (1) (13).

Texas claims 1/10th of all of the pregnancies in the U.S. to girls 14 and under (1) (13).

Texas ranks fourth in the United States in the pregnancy rate for girls between the ages of 15 and 19 (1) (13).

83 percent of males and 74 percent of females in the United States will have had sexual intercourse by age 19 (3).

Only 33 percent of sexually active teens aged 12-17 use contraceptives every time they have sex. Over one-fourth never use them (5).

Many teens never visit family planning clinics; and of those who do, only 12 percent do so before they initiate intercourse. Most wait more than a year after first intercourse (6).

One in eight births in the United States occurs to a teenager. Teens account for 27.5 percent of all abortions annually (7).

Adolescent childbearing is one of the leading causes of welfare dependency in the U.S. (1).

U.S. TEEN PREGNANCY RATE HIGHEST IN DEVELOPED WORLD

A 1985 study found that the rate of teen pregnancy in the United States is two to seven times higher than that in other comparable industrialized nations—despite similar rates of sexual activity (8). Several factors were found to influence lower pregnancy rates in other developed countries:

rational and unambivalent societal attitudes toward sexuality and sexual development,

frank discussion of sexual issues in the family and in the media,

comprehensive, government-sanctioned school sexuality education,

widely available, confidential, low- or no-cost contraceptives.

The findings of this study provide a virtual blueprint for solutions to the adolescent pregnancy problem in America and in Texas.

PRACTICAL SOLUTIONS

Fund comprehensive sexuality education in every school district in the nation.

Help Americans accept and become comfortable with sexuality. Teens suffer from our society's dangerous hypocrisy of hyping sex through advertising and the media while repressing frankness and realism about sexuality.

Eliminate all barriers to confidential, inexpensive or free contraceptive services for teenagers who are sexually active.

Increase funding to develop new, more effective, more acceptable birth control methods.

Promote a balanced and realistic treatment of sexual topics in the media, rather than the overly romanticized sex and too frequent sexual imagery used to sell products.

PUBLIC OPINION

76 percent of Houstonians favor having birth control advice and supplies distributed in schools (14).

84 percent of American adults agree that teenage pregnancy is a serious problem (9).

Houstonians have, for years, favored sex education in schools (14).

70 percent of parents agree that their teens should be able to buy contraceptives without their knowledge (10).

82 percent of American adults believe that contraceptive advertising on television would encourage sexually active teens to use contraception (11).

NOTES

(1) The Alan Guttmacher Institute.

(2) The Center for Population Options.

(3) "Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing." National Research Council. Washington, DC: National Academy Press, 1987.

(4) Hofferth, Sandra L., et al., "Premarital Sexual Activity Among U.S. Teenage Women Over the Past Three Decades," "Family Planning Perspective," Vol. 19, No. 2, March/April 1987.

(5) "American Teens Speak: Sex, Myths, TV, and Birth Control." Conducted for Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Sept.-Oct. 1986.

(6) Kisker, Ellen E., "The Effectiveness of Family Planning Clinics in Serving Adolescents," "Family Planning Perspectives," Vol. 16, No. 5, Sept./Oct. 1984.

(7) Henshaw, Stanley K., "Characteristic of U.S. Women Having Abortions, 1982-1983," "Family Planning Perspectives," Vol. 19, No. 1, Jan./Feb. 1987.

(8) The Alan Guttmacher Institute, "Teenage Pregnancy in Developed Countries: Determinants and Policy Implications," New York, 1985.

(9) "Public Attitudes About Sex Education, Family Planning, and Abortion in the United States." Conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Aug.-Sept. 1985.

(10) People magazine poll, April 1987.

(11) "Attitudes About Television, Sex and Contraceptive Advertising." Conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Feb. 1987.

(12) Texas Department of Human Services.

(13) National Center for Health Statistics.

TITLE XX

It has been said that the dollar spent for family planning is the most cost-effective dollar a community or government can spend. The subsequent reduction in unwanted pregnancy reduces demands on most health and human service agencies and the criminal justice system as well.

Title XX represents the Texas state commitment to insure that voluntary family planning services are available to all who seek them. The program is administered through the Texas Department of Human Services. Medical services provided include complete contraceptive care, including sterilization (except for teenagers). Across the state, women and men who qualify can receive family planning and reproductive health care from agencies which have Title XX contracts with T.D.H.S.

TITLE XX SAVES TAXPAYERS MONEY

Preventing unwanted pregnancies helps to reduce infant and maternal mortality and morbidity rates, as well as saving the taxpayer the enormous cost of supporting the woman and her child.

The taxpayers of Texas must pay approximately $8,200 to a mother and child who go on AFDC as the result of an out of wedlock birth in the first year alone. This estimate includes birth-related costs, AFDC and Medicaid payments, and Food Stamp allotments (1). In fact, in 1988, Texas taxpayers spent almost $21 million in AFDC payments for teenage mothers age 19 and younger (2).

By contrast, the average per client cost for Title XX family planning services to teens was only $78 (3).

TITLE XX FUTURE

Within the past year, long-overdue increases to some Title XX contracts have enabled agencies to serve more women and families in need of family planning services.

NOTES

(1), (2), (3) Texas Department of Human Resources.

(4) Texas Department of Health.

TITLE X

Title X of the Public Health Service Act, the federal family planning program, was enacted by Congress and signed into law by President Nixon in 1970. Title X is the major source of funding for 4,500 family planning clinics nationwide that served nearly five million poor women and teenagers in 1983, the last year for which figures are available. (In 1978, in recognition of the growing problem of adolescent pregnancy, Congress amended Title X to specifically require the provision of services to teens.) Funding for Title X services for fiscal 1988 is $136 million, decreased 15 percent from fiscal 1981.

TITLE X SERVES THE NEEDIEST

About 80 percent of clients who use Title X-funded clinics have incomes below 150 percent of the poverty level, and one-third are teens.

Title X has been crucial to the establishment and maintenance of clinics in geographical areas that are medically underserved.

TITLE X PREVENTS UNPLANNED PREGNANCIES AND THE NEED FOR ABORTION

A federally supported study found that Title X-funded services averted more than 800,000 unplanned pregnancies in a single typical year (1981)—425,000 among teens, for whom Title X is the single major source of family planning funding. If these unplanned pregnancies had occurred, they would have resulted in an estimated additional 282,000 births and 433,000 abortions. (The remaining pregnancies would have ended in miscarriages.)

TITLE X SAVES TAXPAYERS MONEY

The same study showed that, during the 1970s, each government dollar invested in family planning in any one year yielded savings of at least two dollars in health and welfare costs associated with unintended births in the following year. This cost-benefit ratio is even greater for services to teenagers—$2.90 saved for every dollar spent—since teen's pregnancies and births are more likely to be medically problematic and costly, and teen parents more likely to need public assistance.

FAMILY PLANNING PROGRAM THREAT

Until 1981, Title X enjoyed strong bipartisan support in Congress. However, the Reagan administration has launched increasingly vehement attacks on the program—including efforts to cut funding, impose crippling restrictions (such as the "squeal rule"), and even repeal title X outright. Most of the maneuvers have been blocked by Congress or the courts.

But on February 2, 1988, the Reagan administration published new restrictions that, unless overturned, will devastate the family planning program:

(1) The regulations eliminate the Title X requirement that grantees provide information on all options for dealing with an unplanned pregnancy. Instead, clinics are required to provide a pregnant woman with information on prenatal health care, as well as a list of prenatal and social service providers which "promote the welfare of the mother and unborn child." However, clinics are strictly forbidden from counseling here on the option or availability of abortion—even if the woman specifically requests such information, and even if withholding the information would endanger her health.

This "gag rule" is the most extreme anti-family planning proposal yet. It grossly contradicts not only medical ethics, but also the well-established principle of informed consent by the patient. In so doing, it violates the voluntary participation stipulated by Title X. Moreover, the proposal would violate a woman's right to choose abortion and to receive unimpeded information from her physician about abortion. A federal judge in Missouri upheld these constitutional principles in striking down a similar state law in 1987.

The regulations are clearly designed to benefit agencies that were formerly ineligible for Title X funds because they do not provide information on all options available to pregnant women. In fact, the regulations require that the list of providers furnished to pregnant women include facilities that do not offer abortion information, referrals, or services. The regulations do not acknowledge that most such agencies are ideologically biased, sometimes coercive, anti-abortion centers.

(2) The regulations require the Title X family planning services by "physically and financially separate" from privately funded abortion services offered by the same agency. The President's stated purpose of erecting a "wall of separation" between these services is baseless.

In a 1986 U.S. Supreme Court case (*Babbitt v. Planned Parenthood of Central and Northern Arizona*, 107 S.Ct. 391), the state of Arizona conceded that it could not prove that physical separation was necessary for ensuring separation of privately and governmentally funded activities. Since its inception, Title X has focused on preventive services to avert unintended pregnancies, and has barred the use of federal funds for abortion services. Repeated government audits have found no violation of this law.

INTERNATIONAL FAMILY PLANNING

THE ISSUE

Half the women in the developing world do not have access to family planning services. Where such services are offered, they are being used to capacity. Where they are not yet available, millions of women and their families suffer indescribable hardship as a result of too-early and too-frequent childbearing. Illegal, often self-induced, abortion is a leading killer of women of childbearing age in the developing world. Conservative estimates indicate that as many as 200,000 women die each year from complications of illegal abortions.

Although federal funds have not been used for abortion since the passage of the Helms Amendment in 1973, the administration has recently attempted to withhold funds from any foreign agency that spends its own money on abortion activities. The administration's "Mexico City policy" (named after the city where it was announced at the 1984 United Nations International Conference on Population), bars most non-governmental foreign recipients of U.S. government family planning funds from underwriting any program that performs, advocates, refers, or counsels for abortions—even when those activities are paid for entirely with non-U.S. government funds, and are performed in countries where such activities are legal.

The policy is embodied as a clause in all new grants and cooperative agreements that the Agency for International Development (AID) signs with private domestic agencies which support foreign family planning projects.

The Mexico City policy endangers contraceptive programs that drastically reduce the need for abortion; poses additional health risks by denying women information on the availability of abortion, even in countries where abortion is legal; cuts off access to abortion where it is safe and legal; and prevents efforts to reform restrictive laws that make abortion illegal and dangerous in the developing world. The policy also violates the First Amendment rights of American citizens overseas to free speech and association.

Each year, Family Planning International Assistance (FPIA), Planned Parenthood's international program, provides contraceptive services and supplies to nearly four million individuals in 41 developing nations. Funded primarily by a cooperative agreement with AID, FPIA supports projects designed and implemented by indigenous agencies to increase access to voluntary contraception, train family planning personnel, and educate women and men about sexuality and contraception. FPIA has been rated by federally sponsored evaluators as one of the most effective, efficient, and creative of all international family planning agencies.

Despite this glowing appraisal, the administration is threatening to defund FPIA through the Mexico City policy. Planned Parenthood, whose agreement with AID was due to expire on December 31, 1987, negotiated an extension of the agreement through December 1988. Withdrawal of funds from FPIA would result in 380,000 additional unintentional pregnancies, 69,000 additional abortions, and 1,200 deaths from complications of childbirth, miscarriage, and septic abortion according to a recent study by the University of Michigan School of Public Health.

PUBLIC OPINION

Most Americans recognize the critical need for increased family planning services in developing nations and support U.S. aid for such programs. Recent polls show that:

81 percent of Americans think health service programs carried out by developing countries should include family planning (1)

78 percent of American adults favor U.S. aid for birth control in developing nations (2); by a margin of almost three to one, Americans favor aid to countries where abortion is legal (1)

In fact, a third of the American people think the U.S. should fund both family planning and abortion projects in developing nations (1)

91.5 percent of Americans polled in 1984 either did not know or incorrectly guessed the percentage of total U.S. foreign assistance allocated to family planning. When informed that the correct figure was approximately five percent, 40 percent of those who voiced an opinion thought this was too little; less than ten percent of those polled thought the allocation should be reduced (1). Yet the Reagan administration continually cut this allocation, which now stands at 1.8 percent of total foreign assistance appropriations.

By a two-to-one margin, Americans disapprove of the U.S. providing foreign assistance to developing countries to strengthen their military defense capabilities (1); yet in 1987, the U.S. government allocated 64.2 percent of its total foreign assistance budget of $13.4 billion to military and security assistance, but only 1.8 percent to family planning.

NOTES

(1) "U.S. Population Assistance to Developing Countries." Conducted for the Rockefeller Foundation by The Gallup Organization, Inc., Princeton, N.J., July 1984.

(2) "Public Attitudes About Sex Education, Family Planning, and Abortion in the United States." Conducted for The Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, N.Y., Aug.-Sept. 1985.

HEALTH CARE PROVIDERS

According to a study by the Boston University Schools of Medicine and Public Health, the regulations subject patients to serious health risks and providers to substantial legal liability risks. While presented by the Reagan administration as an antiabortion initiative, the regulations could in fact increase the number of abortions in the U.S. by drastically reducing access to contraceptives. Many health care providers, unwilling to compromise their medical ethics or to risk liability for negligence, may be forced to give up a major portion of their funding and to cut back on services accordingly. The brunt of such a cutback would fall heaviest on the low-income women and teens served by Title X. These clients may lose what is for most of them their only source of contraceptive information and services—treatment that will remain readily available to women who can afford private consultations.

Even without the new restrictions, Title X has not yet fully met the needs of millions of low-income women and teens: 56 percent of the nation's 9.5 million low-income women and 69 percent of the five million sexually active teens did not receive medically supervised contraceptive care in 1983. That more than half of the six million pregnancies occurring each year are unintended is clear testimony to the need for expanded services and the disastrous effects threatened by the new restrictions.

Although in October 1987 the U.S. Senate passed an amendment that would have blocked the regulations, the Conference Committee of the House and Senate later deleted the amendment in response to the threat of a presidential veto of the entire spending bill. Instead, in the report accompanying the bill, the conferees stressed the importance of making changes in the Title X program legislatively.

Lawsuits in three jurisdictions have been brought challenging the legality and constitutionality of the regulations. A federal district court judge in Denver has granted a preliminary injunction in a suit brought by Planned Parenthood, ruling that the regulations violate the intent of Congress and the constitutional rights of women and providers. Federal courts in New York City and Boston have also enjoined the regulations.

PLANNED PARENTHOOD'S POSITION

Congress and the courts should block the administration's new assault on Title X, as they have others in the past, and preserve the original intent of Title X mandated by Congress in 1970: to reduce abortions by expanding access to contraception for those who need it most.

Planned Parenthood will vigorously oppose the new regulations through all legal avenues, to ensure that comprehensive, confidential family planning services are available to all who want them, regardless of their ability to pay.

To fulfill the promise of Title X—extending services to those still unserved, particularly teens—the current funding level of $136 million must be increased at least to the 1981 level of $161 million. In addition, $10 million is needed to speed the development of new, more effective contraceptive methods, and $10 million to fund education and information programs directed at vulnerable teens to reduce their rates of unintended pregnancy and sexually transmitted diseases, including AIDS.

PUBLIC OPINION

Opposition to the new Title X regulations has been expressed by at least 36 state governments, the deans of all 25 of the nations' schools of public health, and more than 80 national medical, religious, legal, and civil rights organizations, including: the American Medical Association, the American College of Obstetricians and Gynecologists, the National Education Association, the National Council of Churches, the League of Women Voters, the American Civil Liberties Union, the National Urban League, and the Young Women's Christian Association.

TITLE X

Title X was signed into law in 1970. It is the only federal program specifically earmarked for family planning. It has been effective and scandal-free for over 20 years. Unfortunately, Title X has been attacked by groups and individuals opposed to federal support for contraception as well as abortion.

Title X authorizes grants to non-profit agencies for the provision of preventive services to include natural family planning and infertility services, excluding abortion.

Five million women a year receive family planning services from Title X funding.

69% of these women are white, and 8 in 10 have incomes below 150% of the poverty level.

There are 5,000 family planning sites across the country.

More than 800,000 unintended pregnancies a year are averted as a direct result of the federally funded family planning program, more than one half of them among teenagers.

More than half of these 800,000 would end in abortion.

Each dollar invested in family planning by the government yields a saving of $4.40 in health and welfare costs in the following year alone.

Sexual activity among teenagers has been increasing in the U.S. and elsewhere in the developed world for several decades. However, the availability of contraception has not caused this increase: 88% of teenagers come to family planning clinics after they have been sexually active, often for more than a year.

Western European countries with teenager sexual activity levels as high as those in the U.S. have far lower teen pregnancy rates.

Title X legislation has been used as the political trial balloon in the abortion controversy. Although Federal audits continually support the fact that Title X money has not been and is not being used for abortion, misinformation and debilitating proposed amendments draw attention to abortion and force family planning providers to spend a great deal of energy fighting the amendments.

THE TITLE X GAG RULE

The Title X "gag rule" was promulgated under President Reagan and continued by the Bush administration. The government is withholding information about abortion from title X clients. A pregnant client in a Title X program must be denied information about abortion and referral to abortion services, and can only be given referral for prenatal care. Failure to comply with this resolution will result in program defunding.

Currently, some Title X programs are protected from the "gag rule" by federal injunction as appeals make their way toward the Supreme Court.

New legislation—the Title X Pregnancy Counseling Act—would restore poor women's right to receive information about all pregnancy options.

CHOICE

Planned Parenthood is committed to a prochoice position. We believe that a woman must have access to all reproductive health options—contraception, prenatal care, abortion, adoption. We believe that it is a woman's right to make reproductive choices for herself as guaranteed by the constitutional right to privacy.

We are also committed to reducing the number of abortions, recognizing that abortion is a last resort.

Family planning is the best way to reduce the number of abortions. Prevention of unintended pregnancy is the primary service offered by family planning providers. Quality reproductive health care, education and contraception are consistent services that can directly impact the abortion rate.

In 1981, more than 800,000 unintended pregnancies, 425,000 among teenagers, were averted nationally as a result of family planning providers. In Texas, an estimated 56,000 pregnancies were averted in 1981 as a result of federal and state funding for contraceptive services.

It is estimated that before legalization of abortion, 720,000 illegal abortions were performed each year. (Fam. Plann. Persp., 1976)

Poor women who would choose abortion are denied access to those services. During the year before and after the Hyde Amendment eliminated federal funding of abortion, the fertility rate among Medicaid-eligible Texas women increased 4.2% and 12% respectively. Birth rates for non-Medicaid-eligible Texas women those same years increased 1.6% and .6%.

In Texas, of reported women obtaining abortions in 1988, 55% were Anglo, 75% were single, 86% were in the first 12 weeks of pregnancy.

Those who sincerely seek to reduce the number of abortions might work actively and more effectively to:

Make contraceptives easily available.

Establish family life education programs in schools.

Increase involvement of men in family planning issues.

Support research for new and better birth control methods.

Create a better environment for our children.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, we are back again to debate the most important bill that comes before this House every year, a bill that takes into consideration the real needs of individuals in our society and families, the elderly, the sick, and the young who are so vulnerable today in this age in which economic advance has come to a dead standstill.

It is tragic that this President has made a decision to put all of the important programs at risk because of his inability to compromise just one iota on the whole question of letting people know what their reproductive rights are in the traditional manner in which every health provider and every patient have always been able to operate under.

We have heard a lot of talk from the other side today about abortion, but there is not one dime for public-funded abortions in this bill. In fact, in all the vetoes that have been cast by this President in the last year and others he has threatened have not been on publicly funded abortions.

The other folks are afraid just to even talk about sexuality and to deal with the reality that sometimes women's lives are seriously endangered by pregnancy. It is not always a successful event in the life of a woman. It is big Government. It is nannyism in the *n*th degree, an insult to those in our society who are women and deserve an equal chance, an equal opportunity to have a say about their lives.

I think what is really tragic is that we have not really effectively put a coalition together even now to fight for change. This fight that comes appropriately in this bill to an end today will continue in many other venues and on other legislation still to come.

The gentleman from Kentucky [Mr. NATCHER] is doing the right thing. We are not holding anybody hostage today because we differ with the President, that almost two-thirds of us here in the House and over 70 percent of us in this country, but we are letting the word go forth today that the issue will be fought in every home, in every town and village and city in this country, every State in America.

We are putting together a coalition, not just health professional groups, the people you might expect to be involved—like the American Medical Association, the American Nurses Association, the American Psychiatric Association, the American College of Obstetrics and Gynecology—but we are going to be getting the PTA's involved. We are going to be getting the other community-based groups that are sensitive to the needs of women, and we are going to put Members of Congress from both sides of the aisle in this organization. We are going to be bipartisan. We are going to be committed. We are going to fight for the principles that this effort to repeal the gag rule embodies and when we come back to title X, when we come back to this bill again, we will have the two-thirds majority to make sure the American people have their way in the House of Representatives.

Mr. Speaker, I rise in support of H.R. 2707, the revised Labor, Health and Human Services and Related Agencies conference report.

It is indeed tragic that this President, who governs by veto, has rejected our largest domestic bill—the bill that funds basic benefits and services for American families. At the height of this Republican recession, he has put in jeopardy 205 billion dollars' worth of funding for education, from Head Start to college loans. He has risked funding for childhood immunization, the foster care and adoption assistance program, child care, Aid to Families with Dependent Children, and infant mortality initiatives. He has threatened funding for cancer research and women's health programs.

He has placed these—and more—vital programs at risk all because on the issue of choice he is wedded to the extreme position, one that is at odds with the vast majority of the American people. He has done this all because he is incontrovertibly committed to his oppressive gag rule policy, which prevents doctors in federally funded family planning clinics from even discussing abortion with their patients. This is an affront against all women. It not only denies women dependent on Federal funding the right to know all of their options but implies that they are unable, if so informed, to make sound, responsible decisions.

Even if a woman's health is seriously endangered by her pregnancy, this gag rule prevents her doctor from telling her the truth about her choices.

This restraint is even more alarming because it goes beyond interference with a woman's reproductive health care. This onerous regulation is a direct assault on our first amendment right to freedom of speech. The gag rule is unprecedented Government interference with the confidential doctor-patient relationship and has been denounced by every major medical group, including the American Medical Association and the American Nurses Association. The gag rule dictates to our Nation's medical community what they can and cannot talk about with their own patients. The gag rule blocks women knowing about their legal medical options.

For this reason, those of us here in Congress who believe in the confidentiality of the doctor-patient relationship are going to form a coalition with the medical profession in a campaign to overturn this heinous regulation. We have the support of the majority of the medical community, including the American Medical Association, the American Nurses Association, the American Psychiatric Association, the National Medical Association, and the American College of Obstetrics and Gynecology.

The President has struck a devastating blow aimed directly at American families and American women just to appease a single interest group. This is one of the worst examples of governing by special interest politics.

And now, in order to protect this crucial investment in our health care system and our families provided in this bill, Chairman NATCHER has appropriately stripped the gag rule language from his bill and brought it back to the floor of the House.

We cannot buy into the President's political game. We must have our priorities straight—even if he does not. I urge my colleagues on both sides of the aisle to support passage of the revised Labor, Health and Human Services and Related Agencies conference report. A vote for H.R. 2707 is a vote for American families and for the quality of our lives.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to my friend and top gun and leader from California, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank my friend and colleague for yielding me this time.

Mr. Speaker, one of the Presidential candidates in our country in two different Presidential races, who is a leader in this Nation, a liberal leader, he misread the polls, I mean that sincerely, misread loaded biased polling and switched on this life issue. I am convinced that someday he will return to the truth, because he is a Protestant Minister.

Here are his words from January 1977, before a thousand people at a pro-life gathering 4 years after Roe versus Wade. Listen to the burning truth of these words. I will jump four paragraphs ahead and then come back to the opening.

> Life is the highest human good not on its own naturalistic merits, but because life is supernatural, a gift from God. Therefore, life is the highest human good because life is sacred.

Here is his opening:

> The question of 'life' is The Question of the 20th century.

And by the way, as a footnote, that is why this issue keeps coming back in appropriations bills where it should not be fought. It should be in the authorization process, and why it is going to be with us whoever among us is longest in his career, with or without term limits, 12, 15, 25, 30 years from today, this issue will not go away because it is the question of the 20th and probably the 21st century.

Back to this Reverend, a great leader and political Presidential candidate, maybe again, probably not this year:

> Race and poverty are dimensions of the life question, but discussions about abortion have brought the issue into focus in a much sharper way. How will we respect and understand the nature of life itself is the overriding moral issue, not of the Black race, but of the human race.
>
> The question of abortion confronts me in several different ways. First, although I do not profess to be a biologist, I have studied biology and know something about life from the point of view of the natural scientist. Second, I am a minister of the gospel and, therefore, feel that abortion has a religious and moral dimension that I must consider. Third, I was born out of wedlock—

And so was his mother, by the way—

> and against the advice that my mother received from her doctor—

Early-planned parenthood types—

> and therefore abortion is a personal issue for me.
>
> From my perspective, human life is the highest good, the summum bonum. Human life itself is the highest human good and God is the Supreme good because, He is the giver

of life. That is my philosophy. Everything I do proceeds from that religious and philosophical premise. Life is the highest good and therefore you fight for life, using every means consistent with that end.

And I repeat that paragraph I opened with:

Life is the highest human good, not on its own naturalist merits, but because life is supernatural, a gift from God. Therefore, life is sacred.

That is the Reverend Jesse Jackson, January, 1977, and I know, Reverend Jackson, someday you will come back to the ringing truth of those burning and eternal words.

Here is yesterday's headline in one of the papers in town, "Failed Abortion Leaves Baby Without An Arm." That is the front page. That is a conservative newspaper.

Here is the New York Times, deep in the B section, and it is a New York issue: "Abortion Doctor Held As Baby Loses Arm."

The flesh wound was consistent with the arm being severed. The arm was not found in the mother's womb.

It is interesting that this abortionist is also up on sex abuse charges for harassing a woman at her first checkup after an abortion.

We are discussing life issues in this bill and it is because the majority still misreads the polls. Most Americans are against most abortions. Try to contradict that. You cannot, that is a fact. That is modern history.

Mr. Speaker, I include the articles above referred to, as follows:

FAILED ABORTION LEAVES BABY WITHOUT AN ARM

(By Joyce Price)

A New York doctor has been charged with performing an illegal and unsuccessful eighth-month abortion in which, police say, the baby's right arm was sheared off just below the shoulder.

The infant, a 3½-pound girl, was born alive the day after the botched abortion. Now 4 weeks old, she is in good health except for the injury.

Dr. Abu Hayat, 61, an obstetrician-gynecologist licensed in New York since 1973, "categorically denies having performed or having attempted to perform an abortion" on the baby's mother, Rosa Rodriguez, his attorney, Jeffrey M. Rubin, said yesterday.

Dr. Hayat was charged with "second-degree abortion." He was charged last month with sexually abusing a female patient during a follow-up examination after she had an abortion at his office, police said.

Miss Rodriguez, 20, told Dr. Hayat she believed she was three or four months pregnant, said her attorney, Jeffrey Lichtman. Rather than do a sonogram, the standard method to determine gestation, Mr. Lichtman said, Dr. Hayat merely "performed a routine pelvic examination" on Miss Rodriguez and gave her "a pat on the tummy."

New York state law prohibits abortions after 24 weeks of pregnancy except in cases where the life of the mother is endangered. Mr. Lichtman said Miss Rodriguez was in her 32nd week of pregnancy and in "good health."

The abortion clinic was described as "filthy" in a report in yesterday's New York Post.

Both pro-life and pro-choice advocates expressed horror at the report.

Pro-choicers acknowledged "mistakes are made" in some abortions but said cases like this are "extremely rare," less than 1 percent.

Pro-lifers agreed that nightmare situations like the Rodriguez case are probably not common. But some charged that abortion-related deaths and serious injuries occur more frequently than most people are aware.

For example, Tim Alexander of the American Rights Coalition cited two cases this month—one in Las Vegas and one in Houston—in which young women died shortly after undergoing legal abortions.

According to a report in the Houston Post, the 17-year-old victim there was 22 weeks pregnant and started bleeding after an abortion she had in the morning. By 6:30 p.m. she was dead.

In the Las Vegas case, a 21-year-old woman who underwent an abortion died after blood collected in her stomach as a result of a perforated ulcer, according to the Las Vegas Review-Journal.

Complications are greatest in third-trimester abortions. Barbara Radford, executive director of the National Abortion Federation, said they constitute "significantly less than 1 percent" of all the nearly 1.4 million abortions performed in this country annually.

Such abortions are "performed primarily for serious health reasons and serious fetal anomalies," according to Stanley Henshaw, deputy director of research for the Alan Guttmacher Institute, a family planning research organization.

But he acknowledged that "a lot of mistakes are made about gestational age," which undoubtedly results in some third-trimester abortions performed for non-medical reasons.

Both Mr. Henshaw and Ms. Radford said they'd never heard of anyone performing an eighth-month abortion and had to believe it was not intentional. "If he'd used sonography, he would have been pretty aware of gestational age," Mr. Henshaw said.

Carol Everett of Dallas, a former participant in second- and third-trimester abortions who is now an avid pro-lifer, said Miss Rodriguez's baby undoubtedly was injured during an abortion procedure known as dilation and evacuation.

She said cases of infants surviving such abortions with missing limbs are "pretty uncommon." But she insists a lot of third-trimester abortions are being performed secretly. The average price of late-term abortions, she and others said, is about $1,500—three to five times more than the fee for abortions in the first trimester.

The American Rights Coalition has a toll-free number people can call to report abortion-related deaths and injuries. Mr. Alexander said that in the past month, he has received calls from 8 women who suffered perforated uteruses, 5 who required hysterectomies and 25 who developed infections as a result of fetal tissue left behind in an incomplete abortion.

From those reports and from newspaper stories and medical journals, Mr. Alexander estimates 200 to 300 abortion-related deaths in the United States this year, with injuries "in the thousands."

HOW WE RESPECT LIFE IS OVERRIDING MORAL ISSUE

(By the Rev. Jesse L. Jackson)

The question of "life" is The Question of the 20th century. Race and poverty are dimensions of the life question, but discussions about abortion have brought the issue into focus in a much sharper way. How we will respect and understand the nature of life itself is the over-riding moral issue, not of the Black race, but of the human race.

The question of abortion confronts me in several different ways. First, although I do not profess to be a biologist, I have studied biology and know something about life from the point of view of the natural sciences. Second, I am a minister of the Gospel and therefore, feel that abortion has a religious and moral dimension that I must consider. Third, I was born out of wedlock (and against the advice that my mother received from her doctor) and therefore abortion is a personal issue for me.

From my perspective, human life is the highest good, the summun bonun. Human life itself is the highest human good and God is the supreme good because He is the giver of life. That is my philosophy. Everything I do proceeds from that religious and philosophical premise. Life is the highest good and therefore you fight for life, using means consistent with that end.

Life is the highest human good not on its own naturalistic merits, but because life is supernatural, a gift from God. Therefore, life is the highest human good because life is sacred. Biologically speaking, thousands of male sperms are ejaculated into the female reproductive tract during sexual intercourse but only once in a while do the egg and sperm bring about fertilization. Some call that connection accidental but I choose to call it providential. It takes three to make a baby: a man, a woman and the Holy Spirit.

I believe in family planning. I do not believe that families ought to have children, as some people did where I was growing up, by the dozens. I believe in methods of contraception—prophylactics, pills, rhythm, etc. I believe in sex education. We ought to teach it in the home, the school, the church, and on the television. I think that if people are properly educated sexually they will appreciate the act and know its ultimate function, purpose and significance.

Only the name has changed.

In the abortion debate one of the crucial questions is when does life begin. Anything growing is living. Therefore human life begins when the sperm and egg join and drop into the fallopian tube and the pulsation of life take place. From that point, life may be described differently (as an egg, embryo, fetus, baby, child, teenager, adult), but the essence is the same. The name has changed but the game remains the same.

Human beings cannot give or create life by themselves, it is really a gift from God. Therefore, one does not have the right to take away (through abortion) that which he does not have the ability to give.

Some argue, suppose the woman does not want to have the baby. They say the very fact that she does not want the baby means that the psychological damage to the child is reason enough to abort the baby. I disagree. The solution to that problem is not to kill the innocent baby, but to deal with her values and her attitude toward life—that which has allowed her not to want the baby. Deal with the attitude that would allow her to take away that which she cannot give.

Some women argue that the man does not have the baby and will not be responsible for the baby after it is born, therefore it is all right to kill the baby. Again the logic is off. The premise is that the man is irresponsible. If that is the problem, then deal with making him responsible. Deal with what you are dealing with, not with the weak, innocent and unprotected baby. The essence of Jesus' message dealt with this very problem—the problem of the inner attitude and motivation of a person. "If in your heart . . ." was his central message. The actual abortion (effect) is merely the logical conclusion of a prior attitude (cause) that one has toward life itself. Deal with the cause not merely the effect when abortion is the issue.

PLEASURE, PAIN AND SUFFERING

Some of the most dangerous arguments for abortion stem from popular judgments about life's ultimate meaning, but the logical conclusion of their position is never pursued. Some people may, unconsciously, operate their lives as if pleasure is life's highest good, and pain and suffering man's greatest enemy. That position, if followed to its logical conclusion, means that that which prohibits pleasure should be done away with by whatever means are necessary. By the same rationale, whatever means are necessary should be used to prevent suffering and pain. My position is not to negate pleasure nor elevate suffering, but merely in argue against their being elevated to an ultimate end of life. Because if they are so elevated, anything, including murder and genocide, can be carried out in their name.

Often people who analyze and operate in the public sphere (some sociologists, doctors, politicians, etc.) are especially prone to argue in these ways. Sociologists argue for population control on the basis of a shortage of housing, food, space, etc. I raise two issues at this point: (1) It is strange that they choose to start talking about population control at the same time that Black people in America and people of color around the world are demanding their rightful place as human citizens and their rightful share of the material wealth in the world. (2) People of color are for the most part powerless with regard to decisions made about population control. Given the history of people of color in the modern world we have no reason to assume that whites are going to look out for our best interests.

Politicians argue for abortion largely because they do not want to spend the necessary money to feed, clothe and educate more people. Here arguments for inconvenience and economic savings take precedence over arguments for human value and human life. I read recently where a politician from New York was justifying abortion because they had prevented 10,000 welfare babies from being born and saved the state $15 million. In my mind serious moral questions arise when politicians are willing to pay welfare mothers between $300 to $1000 to have an abortion, but will not pay $30 for a hot school lunch program to the already born children of these same mothers.

I think the economic objections are not valid today because we are confronted with a whole new economic problem. The basic and historic economic problem has been the inability to feed everyone in the world even if the will were there to do so. They could not produce enough to do the job even if they wanted to. An agrarian and disconnected world did not possess the ability to solve the basic economic problem. That was tragic, but hardly morally reprehensible. Today, however, we do not have the same economic problem. Our world is basically urban, industrial, interconnected, and technological so that we now, generally speaking, have the ability to feed the peoples of the world but lack the political and economic will to do so. That would require basic shifts of economic and political power in the world and we are not willing to pay that price—the price of justice. The problem now is not the ability to produce but the ability to distribute justly.

Psychiatrists, social workers and doctors often argue for abortion on the basis that the child will grow up mentally and emotionally scared. But who of us is complete? If incompleteness were the criteria for taking life we would all be dead. If you can justify abortion on the basis of emotional incompleteness, then your logic could also lead you that killing for other forms of incompleteness—blindness, crippleness, old age.

Life is public and universal.

There are those who argue that the right to privacy is of higher order than the right to life. I do not share that view. I believe that life is not private, but rather it is public and universal. If one accepts the position that life is private, and therefore you have the right to do with it as you please, one must also accept the conclusion of that logic. That was the premise of slavery. You could not protest the existence or treatment of slaves on the plantation because that was private and therefore outside of your right to be concerned.

Another area that concerns me greatly, namely because I know how it has been used with regard to race, is the psycholinguistics involved in this whole issue of abortion. If something can be dehumanized through the rhetoric used to describe it, then the major battle has been won. So when American soldiers can drop bombs on Vietnam and melt the faces and hands of children into a hunk of rolling protoplasm and in their minds say they have not maimed or killed a fellow human being, something terribly wrong and sick has gone on in that mind. That is why the Constitution called us three-fifths human and then whites further dehumanized us by calling us "niggers." It was part of the dehumanizing process. The first step was to distort the image of us as human beings in order to justify that which they wanted to do and not even feel like they had done anything wrong. These advocates of taking life prior to birth do not call it killing or murder, they call it abortion. They further never talk about aborting a baby because that would imply something human. Rather they talk about aborting the fetus. Fetus sounds less than human and therefore can be justified.

In conclusion, even if one does take life by aborting the baby, as a minister of Jesus Christ I must also inform and/or remind you that there is a doctrine of forgiveness. The God I serve is a forgiving God. The men who killed President John F. Kennedy and Dr. Martin Luther King, Jr. can be forgiven. Everyone can come to the mercy seat and find forgiveness and acceptance. But, and this may be the essence of my argument, suppose one is so hard-hearted and so indifferent to life until he assumes that there is nothing for which to be forgiven. What happens to the mind of a person, and the moral fabric of a nation, that accepts the aborting of the life of a baby without a pang of conscience? What kind of a person, and what kind of a society will we have 20 years hence if life can be taken so casually?

It is that question, the question of our attitude, our value system, and our mind-set with regard to the nature and worth of life itself that is the central question confronting mankind. Failure to answer that question affirmatively may leave us with a hell right here on earth.

ABORTION DOCTOR HELD AS BABY LOSES ARM

(By the Associated Press)

A Manhattan doctor was arrested yesterday in connection with an attempted abortion that resulted in severing the arm of a child who was born alive, the police said.

Dr. Abu Hayat of 9 Avenue A, was arrested at his clinic in the Lower East Side at 12:30 P.M., said a police spokesman, Detective Joseph Gallagher.

The arrest followed an investigation that began Oct. 27, when Rosa Rodriquez, 20 years old, gave birth at Jamaica Hospital in Queens to a girl whose right arm was missing, Detective Gallagher said.

The premature child, who was between 30 and 32 weeks old at birth, was transferred to the New York Hospital, where she was in stable condition.

The flesh wound was consistent with the arm being severed," Detective Gallagher said. "The arm was not found in the mother's womb."

The mother told the police she had gone to an abortion clinic, where "someone attempted an abortion and the arm was severed," he said.

Dr. Hayat was charged with an act of abortion, attempting an abortion in the third trimester, said Officer Andrew McInnis, police spokesman. As a result of the investigation Dr. Hayat was also charged with third-degree sexual abuse as a result of a separate incident, the police said.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, this bill deserves our vote, but it was so much better before the President and a minority of this House removed freedom from it.

What does freedom mean? Freedom means all Americans are created equal under the law. Freedom means that all of us have the right to freedom of speech and freedom of religion.

The policy of this administration on health care does violence to our freedoms. This veto was a totalitarian veto. This President has ordered the gagging of our health care workers. They can no longer tell a woman that abortion is legal in our country.

□ 1340

Mr. Speaker, I listened to my good friend from California. I want to point out that physicians are now gagged in health care clinics, and even if a woman has been raped, that physician cannot tell her that abortion is legal in this country. The President says he is not gagging physicians. He has put out a policy that says he has not.

Ask the physicians. They say they are gagged. Who do you believe? The physicians are gagged.

Who is next? Teachers, writers, reporters, Members of Congress?

Women in health care clinics will not get equal treatment from their doctors, because their doctors are gagged. We need to stand up in this House as men and women, Republicans and Democrats, and give voice to those gagged professionals and the thousands of American women who are forced into ignorance.

This issue will not go away, because it is about the heart and soul of America. Our freedoms, our rights, our country.

We will keep it before the American people so that they understand that the party that says it wanted to get Government off the backs of the people has put itself smack in the middle of our lives.

What gives the President the right to do this? One-third of this Congress and a very cruel veto pen.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER], the chairman of the Subcommittee on Appropriations, for yielding this time to me.

I too intend to vote for this bill despite my deep disappointment that it has been gutted of a very important principle.

Mr. Speaker, I serve on the Committee on Education and Labor, and I know how important the funds are to the educational community. I have worked very hard to get special provisions in this bill with reference to women's health issues. I am concerned about labor issues and about children.

So there is no question that I must vote for this bill despite my disappointment.

But in all the years that I have practiced law and I have participated in politics, I believe there were two cardinal principles that could never be violated, and that was the right of privileged communication between a doctor and the patient and between lawyers and their clients.

We are, by yielding to the pressures that exist in our society, small minded, unthinking, unbelieving in the basic principles of our Bill of Rights, by cutting out and diminishing the protections of our law, of our common law, of our customs, of all the things that are part of our society, we are now destroying this very basic belief that what a doctor and a patient communicate to each other is privileged, is sacred, is private.

Henceforth, merely because Federal funds are going into a Planned Parent clinic, a doctor cannot exercise this freedom of having this relationship with their clients and being able to feel free that he or she, as a physician, can give the full benefit of his or her knowledge to this particular patient.

I wonder what is next. I think that all the women in this society need to think about what is next. Are they going to tell our schools, our colleges, all our other public health services that they too will be gagged next?

This is the caution that we have to carry to our constituents.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would have preferred the original bill, and I want to compliment Chairman NATCHER; he was very courageous in offering that bill.

I want to say that I am proud of the fact that every Democratic woman in the House supported the original bill and supported the repeal.

But I do want to point out that there are some things in this bill some of us have worked very, very hard on, and I am very pleased that the chairman and others saw fit to put it in.

I had asked for $50 million for research for breast cancer, and the committee put in—it is confirmed—$42 million for more research for breast cancer. That may seem like a lot of money, but I have to tell you that in the last decade when we lost 100,000 people to AIDS—and I am a big supporter of AIDS research—we lost 400,000 women to breast cancer.

Well, we know 45,000 women are going to die of breast cancer this year. We know approximately 175,000 women in the United States will be diagnosed with breast cancer. It is an epidemic, and we do not treat it as an epidemic.

We were able to get mammography coverage in Medicare, and we think we may save 4,000 lives because of that early detection.

But we do not have mammography coverage in every public and private hospital plan in this country, and that is reprehensible to me. And I believe very strongly that until we see equity toward women's health issues, we will not stop in our pursuit of getting more money for ovarian cancer, osteoporosis, cervical cancer, and other female-dominated diseases and, yes, prostate cancer, which occurs more often in men.

So, Mr. Speaker, I say thank you to the chairman, I thank him for his good effort and for the bill that we have at hand.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, the reason I interrupted the gentleman from Texas [Mr. DELAY]—and I am sorry he did not have more time—but I wanted to ask him if he would, with respect to the letter that he was reading from and the materials from Planned Parenthood, that he was quoting, if he would put those in the RECORD. I think sometimes we have the feeling that there is some misconstruction being put upon such documentation, and I wonder if the gentleman would just put it in the RECORD and share that for all those who may read the RECORD.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding to me.

Mr. Speaker, I would be glad to do that.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DELAY. Mr. Speaker, may I insert in the RECORD this material under the general rules during the period of my speech?

The SPEAKER pro tempore. Not with illustrations, but text may be included.

Mr. DELAY. I have no illustrations, just the text for the RECORD during my speech.

The SPEAKER pro tempore. Without objection the gentleman from Texas may insert the material in the RECORD.

There was no objection.

Mr. EMERSON. Mr. Speaker, I rise to support the passage of the Labor/HHS/Education appropriations bill. We finally have a bill that the President will sign—and it's high time. This bill is the culmination of many months of hard work by Chairman NATCHER, ranking member PURSELL, and the rest of the Appropriations Subcommittee. This is a good bill, and I commend my colleagues who worked so long and so well.

I am pleased to be able to support this bill which funds cancer and Alzheimer's research, Head Start, and impact aid; which directs the National Cancer Institute to prioritize on prostate, ovarian, breast, and cervical cancer; and which funds vocational education, chapter 1 programs, immunization programs, and energy assistance for low-income folks. It's a shame that such a good bill was held hostage for so long by abortion supporters. If abortion supporters in Congress had not insisted on using taxpayer dollars to refer women to abortion mills, this bill would have been law long ago.

□ 1350

Let us pass the bill today, send it to the President for his signature. We have waited too long for cancer funding, for health, and for education.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of the Labor-HHS conference report.

They don't call this America's bill for nothing.

As usual, Chairman NATCHER has crafted a bill on which our entire Nation relies for improving education for quality health care and for programs that will aid our families and spur our economy at this time of recession.

Every single taxpaying citizen in our Nation will be touched by this bill, and they all owe a debt of gratitude to Mr. NATCHER and the entire subcommittee for the fine work that they have done.

It was tragic when the President ignored the pleas of American citizens who are desperately in need of assistance and vetoed this bill, which contains antirecession tonic and healing relief for our families.

But it was even more tragic when the President insisted on a policy that is illegal, immoral, and insulting to every woman in America.

That policy is the gag rule—a rule which gags free speech, deprives women and doctors of their fundamental rights, and even worse, threatens the health and the very lives of women across this Nation.

The women of America are not simply disappointed that the President continues to insist on this policy, we are enraged.

And today, as Congress approves much-needed health and education legislation, absent the antigag rule provisions, we are here to say: We are not going to forget, we are not going to forgive, and we are going to prevail.

When the President wielded his veto pen for the 24th time, it was his own doing, and it was his own undoing. He abandoned the women of America and the women of America will not stand for it.

We will fight unceasingly for our fundamental freedoms, for quality medical care, and for new leadership that does not ignore the needs of America's women.

Mr. Speaker, this bill is excellent and much needed. But it is also a milestone, a milestone by which we will mark our slow but certain progress toward overturning the President's veto and overturning the gag rule.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I rise today in reluctant support of the Labor-HHS-Education appropriation bill. I thank the committee for their hard work to bring this bill to the floor. But I am dismayed that the bill we will approve later today limits the first amendment rights of American women and their doctors. This bill prohibits health care providers from telling the truth. And that is unconscionable.

For more than 200 years, American men and women have lost their lives defending their right to tell the truth, to speak out—as guaranteed in our Nation's Constitution.

Yet, last week, a minority of the Members of this body joined our President to tell competent, professional health care providers that they cannot tell their patients the truth. Or, they can tell their patients only a part of the truth, and then they must be silent—gagged by the very body that has sworn to "support and defend" our Constitution against all enemies, foreign and domestic. I am saddened that last week we failed to protect our Constitution from such a domestic enemy.

Mr. Speaker, many of my colleagues have tried to frame this debate as an abortion issue. But it is not. It is a free speech issue. It is about the Constitution. It is about the laws that govern our Nation. But, last week, the President and a minority of the Members of the House of Representatives severely restricted the rights of health care professionals in 4,000 title X funded clinics across the country. We told these doctors and nurses that they cannot tell the truth, they cannot give their patients all the medical options available.

But, Mr. Speaker, everyone is this Chamber knows that if a woman has money, has the funds available to pay for a private doctor, she will get all the information that affects her body. She can buy her choices. But the 4 million lower income women who depend on federally funded clinics for their health care cannot afford to buy their information, to buy the luxury of having a doctor tell them the truth. These 4 million women look to the staffs of their local health clinics for medical treatment and guidance—and what will they see? Doctors and nurses in white coats, with stethoscopes around their necks and zippers over their lips.

Mr. Speaker, this bill is the best this Congress can approve this year. But, Mr. Speaker, next year my colleagues and I will continue to work to ensure that lower income women have access to the same medical information and choices that upper income women enjoy. And we will work so that doctors and nurses can once again enjoy the freedom of speech, the freedom to tell the truth that our Constitution guarantees. And I promise that we will work to remove the gags that limits that speech and keep these professionals from telling the truth to their patients.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for yielding, and I thank him for his leadership in bringing this legislation to the floor. The chairman of the subcommittee has served this issue very well in helping us come out of the Committee on Appropriations to the committee with the bill that was the right bill for us to pass.

Unfortunately, Mr. Speaker, the President of the United States chose to veto that bill, and from our high school Latin we know what "veto" means.

"Veto" means "I forbid," and in vetoing the bill the President of the United States said, "I forbid women to have their medical options be known to them. I forbid poor women to have the same doctor-patient relationship that women of means have. I forbid women to be able to be treated with respect by receiving information that is necessary for their personal health. I forbid women to be told the truth."

Mr. Speaker, I will support this legislation, as I have said in the beginning, but I do so with the statement that we must in next year's bill make it very clear to the American people that women have the same constitutional rights as others.

Mr. Speaker, on this floor I cannot ever recall a time when we discussed or debated men's health issues, but, when it comes to women's health issues, the women of America want their word and their thinking to be respected on it. So, let it be very clear to the women of America that, while we support this bill and all of the great things it does for our country in terms of education and health, that we will not let this matter rest, that we must rectify this situation, and we must not let any President of the United States forbid the women of America to the rights they are entitled to under the Constitution of the United States.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in support of this very important bill, and I commend the chairman, the minority ranking member of the committee, particularly the chairman, for what he is bringing to the American public in this bill. After all, this bill handles the medical research, college loans and grants for students, so much that is important to every American man, woman, child, and family, and I commend the chairman particularly for his attempt to override the President's veto.

But while we celebrate what is in this bill, we also must lament what has been omitted because of that veto by the President. Women throughout the centuries have been held in bondage in one form or another. They have been sold off as wives or prostitutes, they have been cremated live on their husbands' funeral pyres, they have been prohibited from driving. In our own country women are no strangers to the bondage. They were denied the right to vote for too long, they were not allowed to own property or borrow money without their husbands' signature. This President wants to continue this history of bondage by keeping some women in ignorance.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Michigan [Mr. PURSELL] for yielding this time to me.

Mr. Speaker, I am filled with mixed emotions about this bill. The health of the Nation is something that we all should be concerned about. We have a lot of problems to deal with, and this bill certainly deals with a lot of them in a very positive way.

But one of the things I have been harping on this whole past year has been the budget deficit and what that is going to do to the economy of this country, and this particular bill goes $22 billion over last year. That is an increase of 11.8 percent, and, not only are we spending $22 billion more than last year, almost a 12-percent increase, but we are also, in addition, forward-funding into the next fiscal year about $4.3 billion.

□ 1400

That means that we are going beyond the budget agreement, that we are circumventing the budget agreement. This year we are going to have a 400-billion dollar deficit. At least that is what I have said time and time again, but it has been brought to my attention today that it is really going to be a 480-billion dollar deficit if we look at the true figures.

We have a $4 trillion national debt, and yet we are going $4.3 billion over this year's budget agreement into next year to make a hole we are going to have to fill later on. We cannot continue to do business like that.

Obviously, the health of the Nation is very important, but if we continue to spend beyond our means, as we have this year and in the past, if we continue to do that into the future, we are not going to have a health system and we are going to bankrupt the whole country.

So I just say to my colleagues, let us take a hard look and make priorities in spending. Let us prioritize the programs, not only in the area of health but in every area of Government. If we do not start prioritizing, if we continue throwing money at every single issue that we think is important, we will never get control of spending and the budget deficit will continue to escalate.

In 2 years we are going to have close to a 5-trillion dollar national debt. The interest on that will be $400 billion, just the interest alone, and we are not going to be able to deal with these astronomical figures. We are digging a tremendous hole for our children. They are going to have to deal with that, and I do not think the economy we are going to leave them is something they are going to be proud of, and they will certainly hold us accountable.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, we come here today to act on the Labor-HHS-Education appropriations bill. This is legislation that should be law. We have here $204 billion in vital programs for education, child support enforcement, foster care, and child care.

I really feel that we should say that the whole Nation knows that this vote was taken 2 days ago, on Tuesday, and, therefore, the record has to keep straight and we have to say that for 7 years family planning counselors were required to give their clients full information about pregnancy options, but in 1988, the Reagan administration barred health care providers in federally funded clinics from telling women what the law is in the United States of America.

This became known as the gag rule. Physicians and counselors may not tell a woman all her medical options. The ethical dilemma for health providers who have a professional responsibility to give their patients sound advice is staggering.

Mr. Speaker, I regret that we have stripped the language to overturn the gag rule from the legislation before us, but I also commend the many Members who understood that the gag rule debate was not about abortion but about the sanctity of the patient-provider relationship and freedom of speech.

Today, Mr. Speaker, we must act responsibly and pass this appropriation legislation. We all thank the gentleman from Kentucky [Mr. NATCHER] for his constant willingness to let us say what we have to say, and like the administration, we will not play games with the domestic programs of our Nation. Too many lives, too many jobs, and too many futures are at stake.

But we will be back, Mr. Speaker, because underprivileged American women deserve equal access to information.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in strong support of H.R. 3839, the fiscal year 1992 Labor-HHS-Education appropriations bill. I commend my colleague, the esteemed chairman of the subcommittee, Mr. NATCHER, for his efforts on behalf of cancer victims.

As many of you know, there are some 44,000 deaths a year attributed to breast cancer alone. My colleagues, what makes this more tragic is that some of these deaths could be prevented with early detection and monitoring. We have already approved limited Medicare coverage for mammography screening, but more needs to be done.

This bill urges the National Cancer Institute to make breast, prostate, ovarian, and cervical cancer one of its top priorities and treat these diseases with the utmost urgency. We have added about $133 million for breast cancer research in this bill, an increase of 46 percent.

Mr. Speaker, I believe this bill represents a major commitment on the part of the Government to improve the health care needs and prevention programs for all women. This bill provides an overall increase of approximately a quarter of a billion dollars for the National Cancer Institute. However, we must continue to do more so we will hopefully reduce the number of cancer victims and improve the quality of their lives.

Mr. Speaker, it is also important to note that H.R. 3839 has wide support from those in the education community, and there is good reason for their blessing. This bill ensures that millions of disadvantaged children will be rendered vital services by providing a $1.8 billion increase in educational funding.

This bill will provide access for an additional 600,000 children who will be eligible for reading and math instruction.

Furthermore, a $171 million increase in student aid and a $52 million boost to the TRIO programs will permit more students to receive financial aid and increase access to a college education.

Mr. Speaker, the future prosperity of our country depends heavily on an educated public. This bill goes a long way in our effort toward restoring America as the world leader in all fields of education.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. FORD], who is chairman of the Committee on Education and Labor. Let me say to the gentleman that we appreciate his help, and every day during the year he does help us.

Mr. FORD of Michigan. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me, and I thank him for those kind words. It is a real pleasure to work with a Member like the gentleman from Kentucky, someone who is so strongly committed to education.

I said last week when we voted on the veto override that the President was making it difficult for me to keep my pledge to do everything I could as chairman of the Committee on Education and Labor to help him become the education President that he wants to be. I have moved education legislation out of my committee, to the dismay of a majority of my Democratic members, I might say, in a way that has left me in some difficulty over there, trying to cooperate with the President.

The gentleman from Kentucky, in his anxiety to be cooperative with the President, has put in this bill money that will be available, when we get the other body to act, to get money started out there to fund the President's education initiatives early next year.

All of that went down the tubes with the veto the other day, and it is very sad.

I agree with the Members who have been talking here about how outrageous it is to have a gag rule applied to young women of any kind any place in this country who are being denied essential information, and I pledge to join with them when we get separate legislation out here to take that issue on head-on and let people go home and explain their votes on that issue. The President used that as his excuse to veto this bill.

Whatever his excuse, the plain facts of life are that this bill increases expenditures for education for the next fiscal year by 9 percent. The President recommended 3.5 percent, which effectively, because of the CPI being higher than that, was a cut in the education commitment, and I cannot make him the education President by cutting funding for education.

If Members want to help him, they should vote for this bill and give him a chance to sign it and take some credit that he will have coming to him and let him take his lumps for the reason he vetoed the bill the last time.

As for the new money that is in here, I heard a Member from Indiana, I believe it was, talking about busting the budget. We amended the budget, as Members may remember, on this floor very early in this year to make room for new money in education. The Appropriations Committee came through and appropriated within the budget numbers that this House voted overwhelmingly to adopt. This money is all within the budget.

□ 1410

There will be 600,000 disadvantaged children who will not get training in reading and writing if this bill is not passed. If we go to a continuing resolution, we will not reach 600,000 people with reading and writing at a time when everybody tells us that is what we ought to be doing.

Over 3 million young people who are already seeking a college education will be placed in jeopardy with Pell grants. As many as 66,000 children that would otherwise be prepared to start school in Head Start would be denied that opportunity, because that is the difference we make. That is where the chairman put the new money that we got in the budget. I think he spent it for us wisely, and we should support the committee and support this resolution.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I intend to support the appropriations bill that provides essential funding for critical education and health care programs. I certainly join in all the commendations that have been extended to our chairman for crafting a very significant piece of legislation. But I must express my profound disappointment that it has been necessary to strip out the language that would have blocked the implementation of the gag rule.

In his insistence on preserving the gag rule, President Bush is playing with women's lives. Let us be clear: the gag rule does not present a test of one's position on abortion. What is at issue is whether a pregnant woman will be able to receive the medical information she requires in order to make an informed choice. What is at issue is whether health care providers will be required to violate the ethics of their own profession.

Mr. Speaker, under the gag rule even if a woman has been raped or is a victim of incest or finds her health seriously threatened by her pregnancy, she would not be able to hear the truth about her options. The President, in imposing this gag rule, is engaging in an act of remarkable callousness and insensitivity.

Mr. Speaker, the fight to lift the gag rule can and must continue.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. WEBER], a member of the subcommittee.

Mr. WEBER. Mr. Speaker, I rise in strong support of H.R. 2707, the Labor-Health and Human Services-Education appropriations conference report for fiscal year 1992. This is a fiscally responsible measure providing much-needed funding for programs meeting the basic needs of the American people.

I would like to take this opportunity to again thank our subcommittee chairman, BILL NATCHER, and our ranking Republican member, CARL PURSELL, for their excellent work in developing this appropriations measure. We faced an extraordinarily tough funding situation in our subcommittee this year, necessitating hard choices among worthy, competing programs and needs. With the leadership of Congressmen NATCHER and PURSELL, I believe we are bringing a balanced measure to the floor today, one that serves the American people well and makes wise use of taxpayers' dollars.

This measure puts our Nation's children first. We have provided $65 million to fund Secretary Sullivan's Healthy Start initiative to attack the serious problem of infant mortality in our inner-city and rural areas. For every dollar we invest in prenatal care, we save 3 dollars in health care costs for low-birthweight babies. We have also included an increase of $66.8 million for childhood immunization programs, realizing that for every dollar we spend on immunizations, we save 10 dollars in health care costs.

Mr. Speaker, we do a lot for education. The first of the education goals announced at the education summit is that every child starts school ready to learn. To help realize this goal, we have provided a $250 million increase for the Head Start Program.

One of the major concerns of rural Americans is access to health care. In Minnesota and many other rural areas, severe and growing shortages of physicians, nurses, physician assistants, and allied health professionals are seriously eroding access to primary care and forcing hospitals to close. I wish to particularly express my appreciation to our chairman and ranking member and to my colleagues on the subcommittee for agreeing to increase funding for the National Health Service Corps scholarship and loan forgiveness programs by $10 million—an almost 20-percent increase. That is a big increase, but it will go to good use. These programs provide highly effective, immediate, and long-term relief to our rural communities most severely affected by health professions shortages and will help us achieve our goal of eliminating shortage areas by the year 2000.

In addition, the measure before us restores funding for other programs important to maintaining and improving access to care in rural areas, including the rural health care transition grant program, health professions education programs, and nursing education.

I am very pleased that we were able to restore funding for the Low-Income Home Energy Assistance Program and provide $1.5 billion to ensure that individuals and families will not be faced with the choice of putting food on their tables or heating their homes.

Another national priority, I have worked with my colleagues on the subcommittee and Congressman TOM COLEMAN to meet, is math and science education. The number of our talented college graduates choosing graduate studies in math and science and careers as researchers and educators is sharply declining, placing the quality of math and science education in our elementary, secondary, and postsecondary schools and our Nation's progress and international competitiveness at grave risk.

The measure before us provides a $3 million increase for the Coleman Fellowships, which provide assistance to graduate students in the sciences and math who are needy and who are planning careers in research and education.

I urge my colleagues to join me in voting for this appropriations measure. This measure merits your support. It is a fair and balanced bill which meets pressing domestic needs and makes wise use of taxpayers' dollars.

Mr. Speaker, I rise in strong support of H.R. 2707. That is a statement that I have wanted to make at other times in this process and been unable to because of my disagreement with what the subcommittee and the conference committee ultimately did on the issue of title X.

But I am pleased to be able to rise today and say that it is a continuing pleasure, really one of the hallmarks when I think of my service in this body, to be able to work with Chairman NATCHER and my good friend, the gentleman from Michigan [Mr. PURSELL], our ranking member.

This is a good bill. It is a fiscally responsible bill. I am proud of the programs that are in it. I do not intend to make mention of all of them, but I want to mention a few of them.

I think it is important to note that this measure does put our Nation's children first. We provided $65 million to fund Secretary Sullivan's Healthy Start initiative, and an increase of $66.8 million for childhood immunization programs. We are making good on the promise to put kids first.

Mr. Speaker, we also do a lot in this bill for education. The first of the education goals announced at the education summit is that every child start school ready to learn. To help realize this goal we have provided a $250 million increase for the Head Start Program, something we can all be proud of.

Speaking on behalf of a rural constituency, this bill is good for rural health care. We fund programs for rural physicians and for allied health professionals through the National Health Service Corps to try to address some of the health profession shortages that we feel—certainly across the country—but especially in rural areas.

I would also like to specifically thank the chairman and the ranking member for funding the Rural Health Transition Grant Program and the Low-Income Energy Assistance Program, important to my part of the country.

Mr. Speaker, it is a good bill. It deserves the support of the body.

I had not intended to speak one more time on the issue of the title X regulations, but as I sat and listened to the debate, the magnitude of the disinformation and misinformation spewing out on this issue has made it impossible for me not to once more address that issue.

First of all, I would like to say I must compliment the majority. In just a few days they managed to have worked magic. A few days ago we were all on this floor, and Member after Member said if we sustain the President's veto, there will be no funding for cancer research, no funding for education, the funding will be all gone.

Voila! Within hours, the majority has worked its magic. All those programs, with the snap of a finger, are back before us again. I do not know how they did it, but it was magic.

Mr. Speaker, I want to compliment the majority.

Indeed, not one nickel in any of those programs was at risk. We all knew it that day and now we can see it.

One of the finest Members of this body, the gentlewoman from Connecticut, made some reference to the history of the title X regulations. It is important when we consider this issue to remember that, but to remember a little more than that. The reason the Reagan administration suggested the title X regulation was because analysis of the implementation of these programs showed, clearly, that the title X clinics were becoming a funnel for pregnant women into abortion clinics. Up to 90 percent of the pregnant women that were walking into title X clinics were ending up in abortion clinics. That was the rationale for the title X regulations, the reason we had to put something into law, to establish a wall between the family planning programs—which we all support—which, after all, deal with women who are not yet pregnant, and the practice of abortion, which this body does not want to subsidize.

Mr. Speaker, let me also say that Member after Member has talked about the fact that doctors are gagged. I do not know how often we can come to this floor and again state the facts. The President has made clear, the Secretary of Health and Human Services has made clear, doctors are not gagged. Doctors have full freedom to discuss a woman's medical condition with her if she walks into a title X clinic.

Mr. Speaker, what we are simply doing today is the right thing. We are funding programs for women. We are funding family planning programs. We are keeping the wall of separation between family planning and abortion, and we are preventing the establishment of a nationwide taxpayer-subsidized abortion-referral system.

Mr. Speaker, I am proud to vote for the bill today.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I am envious of my colleagues who see the issue of abortion in absolute and unequivocal terms. I have struggled with this issue personally for 20 years. I am sure I will continue to struggle with it so long as I am in public life.

But the Bush gag rule goes far beyond the challenging issue of abortion. The Bush gag rule inhibits one of the most sacred ethical relationships, the relationship between a doctor and patient.

Seldom in recorded history has a government been so despotic as to stand between a patient and his doctor. Seldom has any government forced its political philosophy into a doctor's office or surgical theater.

Mr. Speaker, this debate also goes beyond the issue of abortion. If we ever should decide as a Nation or as a Congress to have national health insurance program, we must make certain that the architects of this gag rule do not dictate or inhibit the relationship between doctors and patients across the United States.

Today the Bush administration gags doctors with poor patients. Will this political victory embolden the President to extend this rule to every American?

No health reform is worth that loss of freedom or the loss of our right to a confidential and professional relationship with our doctor.

President Bush may win today, but his gag rule is a shameful display of the brutal power of Government over poor women seeking all the information they need to make an informed consent to critical medical care.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would announce that the gentleman from Michigan [Mr. PURSELL] has 7½ minutes remaining, and the gentleman from Kentucky [Mr. NATCHER] has 7 minutes remaining.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member on the Committee of Education and Labor.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I had hoped that we would all come to the floor today and hoped the press gallery would be full, and somehow or another we would be able to get the message across to the American people that we are voting on $205 billion of the most important programs we have in this country, the most important programs that are ever funded.

Mr. Speaker, do you realize what they are going to get from what they hear again today is nothing about the fact that this is $205 billion for every program I have ever fought for as far as education is concerned, and as far as nutrition is concerned. They will know nothing about medical research. They will know nothing about cancer research. They will not know any of those things, because we are falling right into the trap they seem to want us to fall in.

Mr. Speaker, I am here to congratulate the two Members sitting out here, the ranking member from Michigan [Mr. PURSELL] and the wonderful chairman from Kentucky [Mr. NATCHER], for all of the effort they have put forth, not only this year, but over the years, to make sure that we have proper funding for education, proper funding for nutrition, proper funding for health research, and proper funding for health entities.

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I just came back from a White House luncheon where the private foundation was funding all sorts of intergenerational programs dealing with illiteracy. I thought, as I sat there, when I think of what this subcommittee does in relationship to illiteracy and what they are doing as the private sector, joining the two together, we can beat all the problems that there are in this country if we just understand that intergenerational illiteracy is the problem that is preventing us from becoming a greater Nation than we have ever been in the past.

I just thank the ranking Member and I thank the chairman for their efforts and for standing tall to bring to Americans the kinds of things that we need in education and we need in health.

Again, I thank both of them very much.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise in very strong support of this Labor, Health and Human Services appropriations bill because of what it does include. The members of the Committee on Appropriations should certainly be commended for the work that they have done. In particular, it reflects the big heart and the strong character of the gentleman from Kentucky [Mr. NATCHER].

The bill includes $2.2 billion for the Head Start Program and extends the program to more than 39,000 additional children. It contains $1.9 billion in funding for AIDS education and research to help fight a deadly disease which we have seen can strike anyone at any time.

It contains $1.4 billion in vocational and adult education programs, which will help unemployed Americans become more productive citizens. Finally, it reflects a recognition that women's health research, particularly in the area of breast cancer research, has been too long neglected.

We need this legislation right now more then ever before.

What I and many of my colleagues regret about this legislation is what it cannot include because of the President's opposition. This May, the Supreme Court upheld an unfair and discriminatory gag rule that the administration placed on women receiving medical counseling through family planning clinics. The Congress acted swiftly to overturn this gag rule, using this bill as a vehicle.

The President vetoed this legislation, though, solely because it would have given pregnant women dependent upon public health care providers the same professional advice and care that they would get if they could pay for private care.

We may have lost this first battle, but we will not lose the war. We rose up against this gag rule because it set separate standards of medical treatment and counseling based solely on a woman's economic status; in the other words, on her dependency upon a publicly financed health care provider.

Frankly, I agree that the passage of this legislation is, and should be, of the utmost concern of every Member of this body. But I, and over 270 of our colleagues, will not let this issue die. I plan to introduce legislation that will ensure that an individual is not prohibited from receiving all of the information about her conditions, treatment, and options, regardless of her means of payment.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I am going to vote for this bill today. I am voting for it because our economic future depends on providing our children a better education; because the hundreds of thousands of people now out of work need job training; because our seniors need better health care; and because biomedical research will save many, many lives.

Each of the provisions in this bill have a personal, human dimension; without funding for medical research, I would not be here today. With that help I was able to fight ovarian cancer and prevail.

But I cannot vote for this bill without warning this body that what we are doing today sets a dangerous precedent. In order to pass this bill we have stripped it of a provision that would protect the free speech of people who counsel women about a difficult and painful choice.

In allowing the gag rule to stand, we have abridged the freedom of speech. We have abandoned American women. We have curtailed a principle that is fundamental to what this country represents. The gag rule sets a dangerous precedent, and we should be well aware that we have purchased victory for this bill at the cost of defeat for free speech.

I stand here today to urge the silence imposed by the President be broken and this House act soon. Until then, what good we have done today will be tainted by the precedent that we have set.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in support of H.R. 3839.

Mr. Speaker, I rise today in support of the H.R. 3839, the Labor-HHS-Education appropriations for fiscal year 1991. This will benefit those Americans who need assistance the most. It will assist the elderly, the poor, America's children and the unemployed. It will help those that are unable, or in need of some assistance, to help themselves. The gentleman from Kentucky [Mr. NATCHER] calls the bill the people's bill. He is correct. But more specifically, it is the family and the children's bill. We assist the elderly through programs for the aging. We save lives with NIH funding. We protect small children with prevention block grants and childhood immunizations. We are making America stronger by giving the children an opportunity for Head Start, student loans for those students that are continuing their education ongoing to college and will provide funding for adult and handicapped education. We are focusing our attention on women's health issues by appropriating funds for breast cancer screening and including funding for increased research through the National Institutes of Health for breast and cervical cancer. There will be funds for increased research efforts to find a cure for Alzheimer's disease and other diseases. Mr. Speaker, I believe this bill is the people's bill, and strongly urge my colleagues to join with me in support of this very important legislation that is for the People.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, 2½ weeks ago the voters of Pennsylvania went to the polls to tell this Nation that adequate health care is a basic right for everyone. By supporting this Labor-HHS-Education appropriation bill, we are letting the voters of Pennsylvania and the Nation know that we have heard you loud and clear. This bill will provide funding to give dislocated workers help in putting their lives back together. It will give youths job training and summer employment opportunities, and it will offer older Americans a real chance to continue working. This bill even gives babies and children a better chance for a full, productive and healthy life. Mr. Speaker, it is time for Congress to tell the unemployed, the young and old, women and children that we care. It is time to commit to taking care of our own first and foremost.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I wish I had more time to praise the gentleman from Michigan [Mr. PURSELL] and the gentleman from Kentucky [Mr. NATCHER] for the incredibly fine job they have done on this complicated legislation. But I really do not have adequate time but I certainly honor them.

I am embarrassed by hearing some of my colleagues talk about this legislation. They know so many things that just are not so. There is no gag rule on doctors. The doctor-patient relationship is unimpaired. Repeat, the doctor-patient relationship is unimpaired.

A doctor can give any advice he wants to a pregnant woman, medical advice. There is no gag rule on the doctor.

Have my colleagues not read the President's letter, the directive to Secretary Sullivan? There is no gag rule.

Health Care professionals, that is something else. Those are the receptionist, the counselors, who are largely untrained volunteers. Do my colleagues want them giving medical advice to a woman about her most sensitive condition? Do they want them practicing medicine without a license? I dare say not.

So the problem is, there is no gag rule on the doctor, the M.D., the only person qualified by education and training to give medical advice. The so called gag rule is only on nondoctors giving medical advice, where it ought to be. So please understand that.

Now, lets talk about free speech. The U.S. Supreme Court handed down a decision, Rust versus Sullivan, that said these regulations are not an abridgment of free speech. Do we care not what the Supreme Court says? Why do we come in the well and talk about the abridgment of free speech when the Supreme Court has said it is not an abridgment of free speech? So much for that.

The difficulty is, you all are fighting for the autonomy of the woman to do whatever she wants with her unborn child, her sovereignty, and that is an important issue. Yes, it is. A woman should have autonomy and sovereignty over her body.

The problem comes when we talk about an unborn child, which may be of a different gender, a different blood type, and that is not her body, it is merely attached to her body.

That pre-born child is another tiny member of the human family getting nourishment and shelter from the mother.

What about the unborn? We on this side want to protect that tiny member of the human family. I am going to let my colleagues in on something. I have debated with myself about this, but I must tell my colleagues, the other day a Member on the Democratic side who voted to support the President the other day, and I knew what pressure he was under and I went up to him and I will not tell my colleagues his name.

I said, "Thank you very much for supporting the President. I know the pressure you were under."

And he leaned over to me and he said, "Listen, when I die and Almighty God says to me, 'Why didn't you defend the unborn,' what do I tell him? I got a call from the Speaker?"

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I want to revive a word that is rather old-fashioned. It is called conscience, conscience. Now you have to understand as we understand. It is a matter of conscience with you, the sovereignty of the woman, and I understand that. Try to understand our consciences which say that the human life of the unborn deserves respect, respect. It is not a nothing. It is not a tumor. It is not an abscessed appendix. It is a tiny member of the human family, and it ought not to be thrown away like a beer can. We respect your point of view; try to understand our point of view.

The language of civil liberties gets debased. You hide behind phrases like "choice, choice." The man that shot the woman in the car in Anacostia the other night exercised choice. He decided to shoot somebody in a car and he did. That was choice. What you mean or what you ought to mean is responsible choice, and exterminating an unborn child is irresponsible.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I just want to make clear that there are Members on this side of the aisle also that believe that a fetus is a human being and should be protected. I want to make that clear.

Mr. HYDE. I know that, and I know the gentleman is one of them, and I see several of them within my vision, and they are brave Members because they had to put up with a lot of political pressure, which is very unfortunate. Edmund Burke said a Parliamentarian owes his constituency total fidelity, but he owes his conscience to nobody, and I salute the gentleman and gentleladies on either side of the aisle for exercising their conscience.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding me the time. As a former Kentuckian I express my pride in Mr. NATCHER, for his understanding and his extraordinary good work on this bill. I shall support it because there are wonderful things in this bill, and some of them I have fought for, such as the education of homeless children.

But December 15, will be the 200th anniversary of the first amendment to the Bill of Rights of the Constitution and a lot of us may be home and we may well mark it or maybe we will not. But if Members do celebrate I want them to remember that we are also the Congress that took great liberties with the first amendment and decided that it really did not matter so much. The first President in history has violated the amendment.

There is a supreme irony here to me in that within this legislation, we for the first time acknowledge that women's health has been grossly ignored, and we have included for the first time some money for breast cancer research and for ovarian cancer research, for osteoporosis, and yet in this very same bill we say, women may not be told what all of their medical rights are because, after all, they are a protected class who do not really know what is good for them.

I want all Members to recall one other thing too, and that is that the major debate this year has been over national health. I do not know about your districts, but in mine the calls are coming in. "Does this mean that now my doctor cannot tell me everything?"

I am hearing from universities, "are we going to be told if we take any Federal money what we can teach and what we can say?"

And what about museums, what about research? This has opened a Pandora's box ladies and gentlemen, make no mistake about it.

Are our poor people now on Medicaid not to be told there is a possibility of open heart transplant because the Government has decided it is too expensive and they do not want them to know about it? Or will there be people in Congress, as there are now, who decide that they alone know what is best for their fellow woman, not their fellow man, but their fellow woman, because again, once again; as it has been in the lack of research money for women, just as it has been in family and medical leave, it is the women of the United States who have been determined to be second class. We will fight another day because their injustice can not stand.

Mr. NATCHER. Mr. Speaker, I yield the balance of my time, 1 minute, to the gentleman from North Carolina [Mr. HEFNER].

The SPEAKER pro tempore (Mr. MCNULTY). The Chair advises the gentleman from Kentucky [Mr. NATCHER] that he does have the right to close debate. The gentleman from Michigan [Mr. PURSELL] still has 30 seconds remaining if he wishes to use them.

Mr. PURSELL. Mr. Speaker, I am happy to yield those 30 seconds to the gentleman from North Carolina [Mr. HEFNER].

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] is recognized for 1½ minutes.

Mr. HEFNER. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, this bill has been one which has had extensive debate. I am one of those who voted to override the President's veto, and I saw this as freedom of speech, and as the gentleman from Illinois made the statement that someone said to him that God would engage him in conversation, I would maintain that when we all stand before the judgment bar of God, God may take us all to task and may ask some questions about how did we vote for children, how did we vote for aid for dependent children if we are talking about the political arena. God might also ask did we support the poor, and the homeless, and those who were helpless among us other than children. God might have a lot of questions to ask us when we stand before the judgment bar of God on judgment day.

So to make a joke of this I think is absolutely beneath this debate at this particular time.

Mr. MCDADE. Mr. Speaker, I rise in support of H.R. 3839, making appropriations for the Departments of Labor, Health and Human Services and Education for fiscal year 1992, and congratulate the subcommittee chairman, BILL NATCHER, the ranking Republican, CARL PURSELL, and all the subcommittee members in bringing this bill to the floor.

We now have a bill that will be signed into law and will provide a total of $205 billion to assist America's poor, its infirm, its students, its homeless, and its elderly. Among the highlights are: $9.7 billion for college tuition assistance; $9 billion for research on cancer, heart disease, AIDS and other crippling diseases, including new emphasis on breast ovarian, and prostate cancer; $6.7 billion, an increase of 9 percent, for needy students in elementary schools; $3.5 billion, a 9 percent increase, for unemployment compensation administration, including enough funds for the new extended benefits program that Congress just passed; $2.2 billion for Head Start, an increase of 11 percent; $1.5 billion for low income energy assistance, a program that we had to fight very hard to preserve; and $900 million for black lung payments.

From Older Americans Act programs, to significant increases in lead poisoning prevention, immunizations, and prenatal care, to job training, mine safety and veterans training, and a new program for trauma care, this bill meets many, many needs, and ought to be approved overwhelmingly.

I wanted to shed some light on one objection that has been raised against this bill, the $4.5 billion in new delayed obligations that has been added to this bill. The effect of this is to allow about $1.7 billion that would otherwise be spent this year to be delayed until next year. What is needed most is context.

Spending in appropriations bills in general, and this bill in particular, does not all occur in the year in which the funding is provided. In this bill, only 43 percent of the total discretionary spending of $59 billion gets spent in the current fiscal year. This is due to a number of reasons—but in large part due to the face that program authorizations allow money to be spent out over a period that extends beyond the current fiscal year. For instance, funding for many education programs, totaling some $12 billion, by statute does not become available until July 1 of the current fiscal year and extends until June 30 of the next fiscal year.

In that context, delaying an additional $1.7 billion on top of the more than $30 billion that already will get spent in future years is a relatively small amount.

Many of the delays have programmatic justifications. For instance, rather than rescind $1 billion in State legalization grants as proposed by the administration, the committee delays making those funds available until next year, which is when States will be in need of reimbursement for their expenses. The $825 million for the Child Care Program that is delayed until September 19 carries forward a program cycle that was created last year, when first year funding was made available on the same date. The delay of $80 million in the Social Security Administration was requested by the administration because the computer modernization program is behind schedule. In this light, delayed obligations can be seen as a management tool, to match the expenditure of funds to the time frame in which they are needed.

Delaying $400 million in low income energy funds until the last day of the fiscal year was the only way the conferees could find to keep the program from suffering drastic and devastating cuts this year. In this light, the use of delayed obligations is a means to provide urgently needed funds in lieu of declaring the program a budget emergency.

Other programs, to be sure, are given increases in funding that cannot be spent until later because they are high priority programs, and there wasn't room under the tight spending caps to pay for them this year. Some of these were requested by the administration.

The impact of these delayed obligations is that there will be a small increase in the amount of discretionary funds spent in a given year that result from commitments made in previous years. A slightly lesser amount of funding in a given year will be available for those programs funded on a current year basis than would otherwise be the case, and puts those programs at greater risk. How much of a problem this will be depends on how tight the overall budget caps and the allocations for a particular subcommittee are.

Over the long term, this probably creates an incentive to continue and perhaps increase the amount of funds that are provided in the future through delayed obligations. As a trend, this does raise cautionary flags, although it probably pales in comparison to the rate at which uncontrollable mandatory and entitlement spending is increasing.

But I do not believe that the actions taken by the subcommittee in this bill are so out of line as to cause Members to oppose this bill on that basis. I intend to support the bill, and I urge my colleagues to support it as well.

Mr. GREEN. Mr. Speaker, I rise today to voice my support for the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. I shall vote for the bill because in addition to providing necessary funding for programs such as elementary and secondary education, student loans, breast and cervical cancer research, low-income energy assistance, child care, and job training, it contains significantly increased funding for my No. 1 priority, the Ryan White programs that provide targeted assistance to those communities most affected by the AIDS crisis. However, despite the satisfaction that I feel from the $1.9 billion that is included for AIDS programs, $280 million of which is designated for Ryan White programs, I must say that my enthusiasm for the bill will be diminished because it does not contain the provision delaying implementation of the gag rule.

The gag rule, which refers to regulations that were issued by the administration in 1988, prevents health care personnel in federally funded family planning clinics from advising a woman on all of her legal options in the event of an unplanned pregnancy. The President vetoed the original Labor-HHS appropriations bill because it included a provision overturning the gag rule and, despite the best efforts of prochoice Members, the House was unable to muster the two-thirds majority needed to override the President's veto. This is a dangerous precedent for the Government to set and I shall remain committed to the fight to ensure that women who are dependent on the Federal Government for their health care will receive the same information from their doctors as do women who can afford private health care.

But now I wish to return to the issue of AIDS funding. Approximately 10 years ago a group of constituents brought the AIDS problem to my attention. It was clear to me, from their descriptions of the then-mysterious disease that was killing gay men, that research was needed to find out what was happening. I joined with the gentleman from California [Mr. ROYBAL], who was also beginning to see the epidemic in his community, and approached the gentleman from Kentucky [Mr. NATCHER], the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, and the gentleman from Massachusetts, the late Mr. Conte, its ranking minority member, to tell them of the AIDS epidemic and the need for research funds.

The positive response of that subcommittee resulted in the first appropriations to investigate this epidemic and how to deal with it. We now know how the disease is transmitted and we also know some treatments for it. Unfortunately, we do not yet have a preventative vaccine or a cure, although we hope that further research will yield those results. As that research continues, we struggle to provide prevention services to slow and, I hope stop, the transmission of HIV, early intervention services for people who are HIV-positive but are not yet afflicted by the disease, and treatment for those who have full-blown AIDS. The Ryan White Act authorizes the funding for those necessary programs, and ever since its enactment I have been a strong advocate of full funding. Fiscal constraints have not allowed for full funding but with this bill we are heading in the right direction.

Once again, the gentleman from Kentucky [Mr. NATCHER] has been tremendously responsive to the call for more funding for AIDS research, education, and prevention efforts and I thank him.

Because the AIDS crisis in our urban areas is a harbinger of things to come in suburban and rural areas unless we remain committed to education, prevention and treatment efforts, I should also like to express my gratitude to the gentleman from Michigan [Mr. PURSELL] who back in June of this year accepted my invitation to visit Beth Israel Hospital in New York's 15th Congressional District to see first hand the extent of the AIDS problem in New York City. The gentleman from Michigan [Mr. PURSELL] does not have a serious AIDS problem in his district, but I believe the visit to Beth Israel had an impact on him and is reflected in the higher level of AIDS funding in this bill.

I shall vote for the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1992 because it moves us further down the road in our struggle to address effectively the AIDS problem, and I urge my colleagues to do likewise.

Ms. SNOWE. Mr. Speaker, it is with mixed feelings I vote today in favor of the Labor, Health and Human Services, Education appropriations bill.

On the one hand, this bill makes significant headway in women's health research. For decades, research has been lacking on diseases specific to women, and women have been shamelessly omitted from clinical research trials. Finally, Congress has recognized and is working to eliminate the gender inequities in medical data and services.

In this vein, the bill contains significant increases in funding for the National Cancer Institute with a directive to make research on breast, prostate, cervical, and ovarian cancer top priorities. Additionally, the bill provides $10.3 million for the National Institutes of Health Office for Research on Women's Health. And, the women's health initiative, a long-term study on women's health, received $25 million for the first year of study.

But as Congress gives with one hand, it takes away with the other. By stripping the provision that repeals the gag rule from this bill, Congress also says to women, and women only, that they are undeserving of complete and accurate medical information. While men maintain a private doctor-patient relationship, women have the Government's morality invading their medical privacy.

I will not accept regulations gagging medical information for any American woman. The fight is not over to remove these derogatory, misguided regulations. The women of this country will not tolerate second rate health care nor second-class citizenship.

Mr. SMITH of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 3839, the Department of Labor, Health and Human Services, Education and Related Agencies appropriations bill. The bill has many extremely important provisions which will provide millions of Americans with improved health care, education, and job opportunities.

One of the most important aspects of the bill is the appropriation of funds to the Department of Health and Human Services to carry out medical research, maternal and child care programs, child immunizations, alcohol and drug abuse programs, mental health programs, programs for the aged, foster care, and adoption services—to name a few.

The 1992 appropriations bill contains funding increases for the majority of these services and most importantly, focuses new money on the research of breast, ovarian, and cervical cancer. Through an increase of $275,519,000 for the National Cancer Institute [NCI], H.R. 3839 directs the National Institute of Health to devote greater resources to the study of these life-threatening diseases. The NCI funding level allows for a 67-percent increase in ovarian cancer research and a 37-percent increase for cervical cancer research.

The need for increased research in these areas is overwhelming. As you may know, in recent years the incidence and rate of new breast cancer diagnoses has risen dramatically. Over 175,000 women will be diagnosed with the disease and over 45,000 women will die this year. The 1992 appropriation for the National Cancer Institute is approximately $1.989 billion. This provides for a $42 million increase for breast cancer research—a 46-percent increase over the 1991 level. Though we have a long way to go in this area, and additional funds could be effectively used, this 46 percent increase in 1992 funding is encouraging and finally begins to address the seriousness of breast cancer in our country.

This legislation, Mr. Speaker, is also vitally important to the children of America. It provides $825 million for child care, more than $2 billion for Head Start programs, close to $32 billion for education, $650 million for maternal and child health care grants, and $298 million for childhood immunizations.

I might say parenthetically that I have participated in and seen first hand the success of childhood immunization programs. In Trenton, NJ, a new program at the Henry J. Austin Health Center—Kids Night Out—was initiated this summer as a means of expanding the availability of immunizations for preschool children and children entering school. With the use of State and Federal funds, the center was able to expand its hours to increase access to the center and enable more working parents to bring their children to the health facility for immunizations and examinations.

In the area of AIDS, H.R. 3839 provides $1,921,000,000 in funding for health personnel training, renovation grants, and pediatric demonstration projects. Also funded by the bill, the Ryan White AIDS Program directs grants to areas with a high incidence of AIDS, provides community-based services, insurance coverage, and early AIDS intervention services.

In addition, H.R. 3839 appropriates $141 million over 1991 levels to conduct research on mental illness and substance addictions. The funds will be used to develop treatment and prevention programs as well as in providing direct therapy for affected individuals.

The legislation also provides an additional $17 million over the 1991 level for health care for the homeless and $193.3 million over last year's level for the Center for Disease Control [CDC]. The CDC conducts important research, training, and disease control programs, in addition to collecting important health statistics for the Nation.

Under the bill, the Department of Education receives $2.31 billion over the administration's request for compensatory education for the disadvantaged, school improvement programs, rehabilitation and education for the handicapped, vocational and adult education, student financial assistance, and guaranteed student loans.

The Department of Labor receives $7.5 billion plus $3.5 in trust funds for labor management services, training and employment services, occupational safety programs, data collection, and unemployment compensation. The unemployment compensation appropriation is $114 million more than 1991 levels.

Also very important in this bill is a 2.5 percent increase in funding for ACTION. As most of you know, ACTION is responsible for the administration of numerous volunteer programs throughout the country. Among these programs is the very successful Retired Senior Volunteer Program, Foster Grandparents, and Senior Companions. These programs draw senior citizens into the volunteer network and in turn provide essential services to individuals in need.

H.R. 3839 goes further in addressing the needs of senior citizens by appropriating $17,000,000 for a health care campaign directed at seniors using the Meals-on-Wheels programs, senior centers, and congregate meal sites.

Mr. Speaker, H.R. 3839 no longer contains abortion-related funding and instead channels our Federal funds to life-affirming programs—some of the most important programs in the nation. I support the bill and urge my colleagues to vote in support of the legislation.

Mr. LAGOMARSINO. Mr. Speaker, I rise to express my continued opposition to the Labor/HHS appropriations bill because it's devastating to the State of California. This bill denies California over $400 million in State legalization impact assistance grants [SLIAG] during fiscal year 1992.

However, I should mention that several important programs such as Heat Start, the alcohol, drug abuse, and mental health, especially mental health research, which I believe to be the key to curing this disease, and the Office of Research on Women's Health were adequately funded by the bill. I support these programs, am pleased the committee fully funded them and want to express my appreciation to the chairman and ranking member.

Unfortunately, increases in other less essential programs raised overall spending and forced the Appropriations Committee cut $1.2 billion in SLIAG money from the bill. Although the committee agreed to allocate SLIAG funds in fiscal year 1993, there is no guarantee that it will be included in the fiscal year 1993 appropriations bill. As we all know, it will be even more difficult next year to bring spending in line with the budget agreement. I am not willing to risk California's $400 million on the chance that it may be available next year.

Governor Wilson and the California Legislature planned on having the $400 million when they battled over the 1992 State budget. Because H.R. 2707 does not include SLIAG funds, this bill will automatically put California's budget $400 million in the red. California needs the money now in order to continue essential medical and education services.

There are those who believe I voted against H.R. 2707 solely because of the Porter amendment overturning the President's abortion counseling regulations. It's clear that many special interest groups would like the American public to believe this bill was only a referendum on the gag rule. That was never the case. While I opposed the Porter amendment, a vote for H.R. 2707 last week was also a vote to take $400 million from the State of California. Even though the Porter amendment has been removed from H.R. 2707 I am still going to vote against the bill. Thousands of needy Californians depend on the services provided by SLIAG funds, and I am not going to vote to take it away from them.

Mr. WEISS. Mr. Speaker, I rise in support of H.R. 3839, the Labor-HHS-Education appropriations for 1992, but I do so with a sad heart. This measure provides important funding, within the constraints of the budget agreement, for federally supported education, job assistance, and health programs. Unfortunately, due to a Presidential veto, the bill does nothing to rectify the callous and draconian gag-rule.

We are witnessing the slow death of our most cherished Bill of Rights protection, the right to speak freely. Frankly, I am disgusted that an American President, who has so consistently attacked the despotic control over acceptable speech in former Communist bloc countries, could so blithely proscribe speech here in the United States.

Whether we are talking about doctors providing critical information relating to the health of their patients, or the freedom of artists to express themselves creatively, the Bush administration and other right wing Members of Congress have staked their ground: Some speech is more protected than others. I would argue that this is a fundamentally repugnant stance that is absolutely antithetical to the principles upon which our Nation was founded.

The President claims that he was elected with a mandate to oppose abortion. In fact, the same electorate that voted in George Bush also has supported a women's right to choose by a majority. Mr. Bush's disingenuous fallback on mandates obscures the threat posed by abridging freedom of speech. The title X restrictions will have the immediate effect of placing the health of thousands of poor women in jeopardy.

For economically vulnerable women, federally funded clinics are the only affordable option when it comes to reproductive health counselling. Lest we forget, abortion is still a legal medical procedure, one that thousands of women continue to choose every year. But the gag rule further illustrates the discriminatory policies of this administration. If you have the money to afford private health care, you can be informed of your constitutionally guaranteed options. If you unfortunately rely on Government assistance for health services, your access to information is severely curtailed. By forbidding the candid discussion of abortion as an option, the President's restrictions attempt to deny the legal reality of this procedure.

The proscription of speech to achieve political ends is, quite simply, a hallmark of totalitarian government. It is one thing to deny reality—as the President has sought to do with the current recession, for example; it is quite another thing indeed to forbid the mention of reality—in this case that abortion is a safe and legal choice for women. I can only say that we acquiesce in this Comstockery at great peril, both to the health of our people, and to the health of our domestic principles.

Due to the very tight domestic budget and last year's ill-conceived budget summit agreement, this bill does not adequately satisfy all of our very pressing domestic needs. Nevertheless, we must support the measure before us today because it does provide monies for a broad array of essential social programs—including $9 billion for NIH, a $733 million increase which will enable expanded research for breast cancer and prostate cancer, Alzheimer's, cystic fibrosis, heart, and other diseases.

The bill also provides $825 million for the child care block grant which will add 40,000 slots for working families, a $141 million increase over fiscal year 1991 for drug abuse and mental health programs, and a $577 million increase over last year's funding for chapter 1 grants to local education agencies. I urge my colleagues to support this vital funding by overwhelmingly approving H.R. 3839.

Mr. SERRANO. Mr. Speaker, maybe to some who are more fortunate, it helps not to see the faces and identify with those who are less fortunate and downtrodden. Maybe it is easier to walk by a homeless mother and child on our streets without making eye contact with them and ignore their condition. The President vetoed this bill that would give $56 million for health care for the homeless, and $650 million for maternal and child health care.

Mr. Speaker, the President has held hostage an additional 40,000 preschoolers who would be served by added funds to the Head Start Program under this appropriation bill. The same President will not fully fund the successful Head Start Program, but claims he is the Education President. Today, the Head Start Program still serves less than half the eligible children in this Nation.

The President says he is concerned about the plight of people with AIDS, yet he continues to throw a little money at the problem while failing to take a leadership role in educating Americans about the plight of over 1 million persons infected with the AIDS virus. Mr. Speaker, maybe it is easier for the President to draft a national sports celebrity as the Nation's new leader in the battle against the deadly AIDS virus, than for the President to assume the role of a statesman.

There are those who are arrogant enough to believe that they have the right to govern what are life-giving decisions for another human being. I do not as such, and instead believe that I should respond to the needs of my constituents.

Mr. Speaker, we must look beyond this contemptible veto of such vital legislation and today pass this bill to help educate and heal the people of our Nation.

Mr. LEVINE of California. Mr. Speaker, I rise today in reluctant support of the fiscal year 1992 authorization bill for the Departments of Labor and Health and Human Services. While this legislation contains desperately needed funding for a number of important programs, it does not contain language to halt the implementation of the administration's gag rule on doctors.

It might be most useful to review at this point exactly what the regulations actually say. So let me read them to you. "In cases in which emergency care is required, the title X project shall be required only to refer the client immediately to an appropriate provider of medical emergency services." They do not say that a patient with terminal cancer will get information about abortion. They do not say that any patient will be referred to another clinic that will discuss the option of abortion with her. They leave far too much up to the whims of the administration and however, it feels about abortion on a given day.

The administration's effort to put a less onerous face on this legislation is nothing more than a smoke screen. It does not change the content or meaning of the gag rule one iota. Women still cannot be informed of their options by a title X clinic, regardless of their health condition.

The administration and its allies are asking women to rely on their compassion and understanding in the implementation of these guidelines. It is hard to believe that an administration which has refused to show any compassion even to women who have become pregnant as the result of such violent crimes as rape and incest can suddenly be trusted to do the right thing.

What these regulations have done is to force doctors and clinics to choose between receiving Federal funds and serving their clients. As a result, clinics across the country are announcing that they will no longer accept Federal funding. They are not willing to succumb to the Orwellian notions of the supporters of the gag rule. I find it among the most repugnant regulations ever promulgated by the Federal Government.

The vast majority of the public and my colleagues share that view. The administration knows that the public opposes the gag rule. That is why the supporters of the gag rule have sought to minimize its impact and to characterize it as something other than a blatant effort to stifle the ability of doctors to provide their patients with the medical advice they believe to be appropriate. The public is perceptive enough to recognize this rule as extremist and dangerous.

That is why I have cosponsored legislation to repeal the gag rule. These bills, H.R. 392 and H.R. 3090, must be passed by Congress if women are to regain the rights which they lost in the Supreme Court's ruling in the Rust versus Sullivan.

It is my hope that repeal of the gag rule will be one of the first items on Congress' agenda when we reconvene next year.

That said, there are a number of reasons to vote for this bill. Namely, it increases funding for Head Start and vocational education. Increasing the participation of young people in Head Start is vital if we are to make significant progress in improving the education of our disadvantaged children.

Similarly, in the fast changing and dynamic world of the 1990's and the 21st century, vocational education must receive greater emphasis. The $1.1 billion contained in this bill will provide critical support for these programs. We have given vocational education short shrift for too long in this country. It is my hope that the increased funding for such programs in this bill signals a long overdue change in that attitude.

Finally, this legislation contains crucial funding to fight the AIDs epidemic in this country. It is currently estimated that more than 1 million people in this country are infected with the AIDS virus. The $1.9 billion in this bill is desperately needed. My only regret is that more money could not have been included.

These are just a few of the important programs funded by this bill. They all deserve the support of the House.

The battle over the gag rule is far from over. It will resume next year. I am confident that those of us who believe in free speech and who are committed to protecting the health of women will ultimately succeed in killing this outrageous regulation.

Mr. POSHARD. Mr. Speaker, I rise in strong support of H.R. 3839, the Labor-HHS-Education appropriations bill for fiscal year 1992.

I started my career in public service as a schoolteacher. There's probably no finer profession in America, and no finer mission for this institution than to provide educational opportunities for our people. This bill addresses those needs in a meaningful way, and our investment will in return improve the quality of life for all Americans.

This bill means job training for youth and adults who need skills and a chance to make it on their own. And it obligates hundreds of millions of dollars for people who suffer from black lung, an insidious condition which is known all too well in the coal mining region of southern Illinois.

It provides financial assistance for community health centers, child care programs, vital research into the killing diseases that threaten our people, and a host of other health care programs. In southern Illinois we have a tremendous need for quality, affordable health care, and this bill meets a portion of that need.

To try and list all of the excellent programs in this bill puts me at risk of omitting one of them, for this is broad and much needed investment in our most important domestic needs. So allow me to say simply that I am proud to support this legislation because it accurately reflects my priorities and the priorities of this Nation. Providing essential health, educational and working opportunities for the American people is what we are all about. It is where we should focus our priorities. And I am pleased to say this bill rises to that challenge.

The SPEAKER pro tempore. All time has expired.

Pursuant to the order of the House of Thursday, November 21, 1991, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

MOTION TO COMMIT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KOLBE. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. KOLBE moves to commit the bill H.R. 3839 to the Committee on Appropriations with instructions that the Committee report the bill promptly back to the House with amendments reducing the excessive use of delayed obligations.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes in support of his motion to commit.

Mr. KOLBE. Mr. Speaker, let me begin by adding to the words of praise that I have heard here today earlier from members of the committee and others for the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], and for the ranking Republican, the gentleman from Michigan [Mr. PURSELL]. They have labored under very difficult circumstances as I think all of us know on this bill, and I think they have done very good work.

However, I rise today to oppose this bill in its present form and to urge us to commit it because I do not think in our rush to adjourn, we should adjourn leaving bad public policy in our wake, and the Labor and Health and Human Services bill, while funding vital programs, does make bad public policy. Mr. Speaker, I am not talking today about the gag rule. We have talked enough about that. My position on that is well known, and I am on the other side of the position of many of the Members on this side of the aisle.

I am talking rather, as my motion to commit suggests, about the excessive delayed obligations, the excessive forward funding that is in this bill. My motion to commit protects those delayed obligations that are necessary, and there are some in this bill that are necessary. Education is a good example of that where school districts have to know when they set their budgets next June or July, how much Federal dollars they are going to have in the coming school year, and that is why we have that forward funding in the legislation that exists. Those were in the bill. Some of those were asked for by the administration. Some of those were added by the committee. Some of them many might not have agreed with, but some of them are legitimate and needed.

But Mr. Speaker, the bill as it came out of the conference committee goes far beyond that, and it breaks the intent of the budget summit agreement that we had last year. These delayed obligations offered a political sense of false hope to those in this Nation who are suffering from a variety of social ailments. The bill seeks to offer a healing hand to those who are sick, those who seek nourishment for the hungry and those who need to help the neglected. But these delayed obligations are going to have to be paid for, and the bill for those is going to come due in fiscal year 1993. We are going to end up by hurting the people that we are trying to help, and at the same time we will deceive all Americans by ignoring the intent of last year's budget agreement and increasing the deficit.

The bill we are considering today, even under the constraints of the budget deal, received an allocation that was 14 percent higher than fiscal year 1991. Surely, surely the appropriators ought to be able to live with a 14 percent increase over even more spending. I hope so, because I do not think the American people want to do that.

My motion to commit brings some sense and some sanity back into this process. It preserves the budget agreement, an agreement we had last year. As poor as that discipline was, we ought to at least have the honesty to stick by that.

□ 1440

We ought to have the honesty to make some of the tough choices that the gentleman from Illinois [Mr. PORTER] suggested earlier that this body needs to make.

My motion would do that, by sending it back to the committee and suggesting they take out those which are unneeded, which are unnecessary, the extensive use of these forward-funding delayed obligations, we will preserve those programs that are vital, but we will get rid of those for which we are only playing a charade. A charade is being played out on the American people by telling the Appropriations Committee, let us tell them to strike the delayed obligations, the pure and simple ignore the budget discipline, and pay lipservice to the sincerity, the promises made by Congress by our body last year to reduce the deficit.

Mr. Speaker, I urge your support for this motion to recommit.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding to me.

I think the gentleman makes an excellent point and I would like to associate myself with the gentleman's remarks.

This is a wonderful bill. There is no question about it, but the only problem with it is the funding.

We, my colleagues, are running out of accounting gimmicks. I do not know what we plan to do next year when we come back here, because we are just flatly spending money well into the future. We are violating the spirit of the budget agreement, and I think we have to at some point say "no."

Mr. Speaker, I support the gentleman on his motion to commit.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I think he has put his finger right on the point that this body has got to someday say "no" to the kind of budget gimmicks that we use now.

Mr. MCMILLAN of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from North Carolina.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I would like to rise in support also of the motion to commit. None of us argues with the extreme importance of the vital programs in this $212 billion bill; but the fact is that most of it, a lot of it has to fall within the discretionary spending caps, which in this year are $212 billion according to the budget enforcement agreement and $224 billion in 1993, under the budget enforcement agreement, which is going to have to be adjusted for inflation at the end of 1991, and for economic forecasts in 1993.

Those adjustments, which total possibly $9 billion, mean that without this incremental delayed spending we virtually have to live within the discipline of a freeze.

Mr. Speaker, now is the time to face up to it, not next year.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I urge support for the motion to commit.

Mr. GRADISON. Mr. Speaker, I rise in support of the motion to commit offered by my colleague on the Budget Committee, Mr. KOLBE.

There has been a great deal of debate on the issue of delayed obligational authority in this bill. There is no question the continued use of budgetary gimmicks like this violates the spirit, if not the letter, of the budget agreement.

Some in this House have approached this issue from the wrong perspective, arguing that the administration requested $1.3 billion in delayed obligations in this bill. But that request, which I think was ill-advised and poor budget policy, does not absolve the Congress of its responsibility. The House increased delayed obligations to $2.9 billion. The Senate raised the ante to $3.9 billion. The conference split the difference at over $4.2 billion. The conferees cannot have it both ways, blaming the administration while taking advantage of the opening.

At some point, Mr. Speaker, the fun and games must end. The continual tinkering with the budget agreement is a precursor to its collapse after the next election, if not before. We should not be jockeying for position on the budget, promising what we cannot deliver, and continuing to point the finger at each other while the deficit grows.

The Kolbe motion to commit is reasonable and I urge my colleagues to support it.

The SPEAKER pro tempore (Mr. MCNULTY). Is there a Member in opposition to the motion to commit?

Mr. NATCHER. Mr. Speaker, I rise in opposition to the motion to commit.

Mr. Speaker, during the time that I have been a Member of Congress, I have had the opportunity to serve with eight Presidents of the United States. At all times, I have made every effort to get along with each of these men. President Bush sent us a budget for fiscal year 1992 containing $1,442 million in delayed obligations.

You know, during the debate on this matter several days ago, one of the best friends that I have in the House who sits on the other side of the aisle made the statement that delayed obligations might be a shell game. After that statement was made, I went over and sat with him. I like him so well, Mr. Speaker, that I decided that maybe at that particular time I should not get up and answer him.

I might say something to him that I would not like to have said next week or something he might not like that day. I showed him the amounts the President has sent us in his budget for 1992, delayed obligations of $1,442 million: health resources and services, $86 million; the Centers for Disease Control, $94 million; National Institutes of Health, $400 million; Social Security administrative costs, $80 million; low-income fuel legislation, $50 million, and child care state grants, $732 million.

That is a total of $1,442 million.

The author of this motion to commit is one of the able Members of the House. The gentleman from Arizona [Mr. KOBLE] is one of the able members of our committee. In his motion to commit, he says, that the excessive use of delayed obligations should be reduced—just reduce them a little bit.

Now, I will ask the gentleman from Arizona [Mr. KOLBE], where does the gentleman want to reduce them? Does the gentleman want to take it out of elementary and secondary education?

Does the gentleman want to take it out of higher education?

Does the gentleman want to take it out, I ask the gentleman from Arizona [Mr. KOBLE], out of the National Institutes of Health?

What about drug abuse, does the gentleman want to take it out of there?

Does the gentleman want to take it out of AIDS?

Does the gentleman want to take it out of the feeding program for the elderly?

You know, these people come in, they walk into these places where they have food. These are our people, Mr. Speaker, not foreign aid money that you send all around the world. These people are our people. They are hungry. They need help. They go in at noon to get something to eat.

I say to you, Mr. Speaker, we love them and we take care of them. Do you want to take some of it out of their program?

You know, when they talked the other day, and I am glad I did not get up and answer my friend. He is one of the ablest Members of this House, talking about delayed obligations. The President in his budget sent us $1,442 million in delayed obligations. We started our hearings with that before the subcommittee.

Mr. Speaker, I say this, I do not know where the gentleman would take it out, but I am not in favor of taking out one dollar of it, not a dollar that the President sent us, not a dollar that we added. Mr. Speaker, I respectfully request the Members of this House to turn this motion to commit down.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOLBE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the final passage of the bill, following the vote on the motion to commit.

The vote was taken by electronic device, and there were—yeas 148, nays 276, not voting 10, as follows:

[Roll No. 416]

YEAS—148

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Bliley
Boehner
Bunning
Burton
Camp
Campbell (CA)
Carper
Chandler
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Cunningham
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
English
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goss
Gradison
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kennedy
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Luken
Marlenee
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Petri
Porter
Pursell
Ramstad
Regula
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Zeliff
Zimmer

NAYS—276

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hyde
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Parker
Payne (NJ)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Rinaldo
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams

Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—10

Boucher
Brooks
Crane
Doolittle
Edwards (OK)
Mrazek
Myers
Neal (NC)
Roe
Towns

□ 1511

Mr. JENKINS changed his vote from "yea" to "nay."

Messrs. WEBER, RAMSTAD, KOSTMAYER, CONDIT, KENNEDY, PASTOR, and HUCKABY changed their vote from "nay" to "yea."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent Mr. MICHEL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time to again inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] how he envisions the program unfolding for the balance of this day and possibly the weekend. Obviously we will have a vote on final passage after our exchange.

□ 1510

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, after the consideration of this legislation on the Labor appropriation, we will have the California desert bill, which we intend to take up, and that could take 5 hours after it starts. We should be finished at about 8 or 8:30.

On tomorrow, the House will meet at noon to consider suspensions. There will be a vote on the rule, if ordered. We can try to roll the suspension votes until Monday.

On Monday, we will meet at noon. There will be no 1-minutes, and we will be taking up campaign finance. There is the possibility of a bill on Medicaid. This is the bill which we considered before. That may come back.

Then we will have the RTC legislation. We would like to take that up as well. Then, of course, we have the FDIC conference report, if necessary, the highway bill conference report, and the crime bill conference report to complete before we can leave on Tuesday night or Wednesday morning.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from new York.

Mr. FISH. Mr. Speaker, I would address a question to the distinguished majority leader.

Yesterday the crime bill conferees were appointed by the Speaker, and the minority conferees have been asking me as to when they can expect to meet. There has been no evidence yet, as I understand it, of an attempt to call the conference committee members together for the crime bill.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, it is my understanding there may be a meeting of the crime bill conference on tomorrow morning, and I am sure the chairman of the committee will be contacting the conferees or the staff will be contacting them, hopefully later today, to give them information about that.

Mr. FISH. I think it is only fair that those conferees be told before the close of legislative business today so they would know whether they have to be here tomorrow or not.

Mr. GEPHARDT. We will try to get that information to the Members.

Mr. FISH. Mr. Speaker, I thank the gentleman.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just want to make sure I understand this. The gentleman said that tomorrow there is a good possibility the only vote will be on the rule, and that votes on all the suspensions can be or will be rolled over until Monday?

Mr. GEPHARDT. Yes,

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, could we have some assurance that the foreign aid bill will not come on the calendar at any point tomorrow?

Mr. GEPHARDT. The foreign aid bill?

Mr. WALKER. Yes.

Mr. GEPHARDT. Yes.

Mr. WALKER. It would not come up at any point tomorrow?

Mr. GEPHARDT. Yes.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I might also say to the gentleman that we had a previous conversation with the majority leader and we talked about the concern Members might have of any significant piece of legislation beyond suspensions, and I agreed that I thought we ought to do as many suspensions as we possibly could. They take up a lot of time, some of them are very noncontroversial, and some Members have got to make their pitch or whatever, but then that frees up Monday and Tuesday for us to do what we have to do in order to get out of here Tuesday night.

We are going to have a meeting with the Speaker, I think, about 4 o'clock, and hopefully we will get some of the principals together on the bank legislation. Then we will get some sense of feel as to how quickly we can make that move. So there are a number of things that have to fall in place in a very limited timeframe, and we hope that the Members will be cooperative in that effort.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I apologize for asking this question again. I asked the majority leader if the votes would be rolled over until Monday. Let me ask a clearer question, because a number of my colleagues have been asking me this.

Will the votes on suspensions be rolled over until Monday?

Mr. GEPHARDT. Yes.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I did not understand this. Which is the rule that we will be voting on before Monday?

Mr. GEPHARDT. We have to have a rule for the suspensions.

Mr. WEBER. I see. And that vote cannot be rolled over; is that what the gentleman is saying?

Mr. GEPHARDT. That is correct.

Mr. WEBER. Mr. Speaker, I thank the distinguished majority leader.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I thank the minority leader for yielding.

Could we on our side have a complete list of the suspensions so we know that there will not be anything that comes up that is not on that list prior to adjourning this evening?

Mr. GEPHARDT. Yes.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, would it be possible to ask unanimous consent to take up the rule tonight so that we will vote on the rule tonight and not have to miss any votes tomorrow?

Mr. GEPHARDT. We will check on that possibility. I do not know the answer to that question at this point.

Mr. MICHEL. Actually it requires a rule for taking up suspensions, as we would be doing tomorrow. I think quite frankly there is pretty much agreement around here to do what we have just outlined. That may be a possibility. I have not talked to the gentleman about it, and that is his call.

Mr. RUSSO. Mr. Speaker, if the gentleman will yield, it would seem to me that there is not much controversy about a rule to take up suspensions on votes which we are going to roll until Monday. So if the overwhelming majority of Members on both sides of the aisle feel that we ought to do that, even if we had to move it, we would only need two-thirds to do it, so why should we not do it tonight? If we are going to stay until 8:30, let us stay another half hour and make it 9 o'clock, and then we can roll everything tomorrow?

Mr. MICHEL. Mr. Speaker, let me before responding yield to the distinguished gentleman from New York [Mr. SOLOMON], who is our ranking member on the Rules. There may be some special technicality involved.

Mr. SOLOMON. Mr. Speaker, if this is a rule that is being proposed to simply set up additional suspension days, of course, that would not be controversial. However, it is my understanding that the rule may go further and give the majority the right to bring any bill to the floor at any time.

Can some Member enlighten us as to what that rule might be, or what may be possible?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we will try to revisit this question later today when we have better information.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me again?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I would ask the distinguished majority leader, is it not true that if we were just going to take up the suspensions apropos of the question of the gentleman from Illinois, we really do not need a rule; we could simply ask unanimous consent to consider those suspensions tomorrow without a rule?

Mr. GEPHARDT. We would have to have assurances on that. We will visit that question with the minority leader.

Mr. WEBER. But procedurally, am I not correct that that procedure could work?

Mr. GEPHARDT. It might.

Mr. MICHEL. I think there is no question about that in my mind, and it is my understanding that if we were only going to be getting the kind of rule that would permit what we wanted to do tomorrow, maybe there would be another step we would want to take beyond that. The majority leader and I had a talk about that.

Then might I also inquire, what will be the convening time tomorrow?

Mr. GEPHARDT. Noon.

Mr. MICHEL. Mr. Speaker, I thank the majority leader, and I yield back the balance of my time.

□ 1520

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PURSELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 364, noes 58, not voting 12, as follows:

[Roll No. 417]

AYES—364

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—58

Allard
Archer
Armey
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Coble
Combest
Cox (CA)
Dannemeyer
DeLay
Dornan (CA)
Dreier
Fawell
Fields
Gallegly
Hancock
Hansen
Hefley
Herger
Holloway
Inhofe
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
McCandless
McCollum
McEwen
McMillan (NC)
Miller (OH)
Moorhead
Nichols
Nussle
Oxley
Packard
Pallone
Petri
Quillen
Rhodes
Riggs
Roberts
Rohrabacher
Santorum
Schaefer
Sensenbrenner
Shaw
Shuster
Solomon
Stump
Thomas (WY)
Walker
Zimmer

NOT VOTING—12

Boucher
Brooks
Crane
Doolittle
Edwards (OK)
Edwards (TX)
Johnson (CT)
Mrazek
Myers
Neal (NC)
Roe
Towns

□ 1532

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, due to a meeting away from the Capitol, I was unable to be present during roll call votes No. 416, motion to commit with instructions H.R. 3839 and No. 417, final passage of H.R. 3839, Labor-HHS-Education appropriations for 1992. Had I been present I would have recorded my strong support of this legislation by voting "nay" on roll call No. 416, the motion to recommit and by voting "yes" on roll call No. 417 final passage.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS TO FILE REPORT ON H.R. 3435, RESOLUTION TRUST CORPORATION RESTRUCTURING ACT OF 1991

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs have until midnight tonight to file a report on the bill, H.R. 3435, the Resolution Trust Corporation Refinance and Restructuring and Improvement Act of 1991.

The SPEAKER pro tempore. (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3604) to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. MORRISON. Mr. Speaker, reserving the right to object, I yield to the chairman of the subcommittee to explain the bill.

Mr. VOLKMER. Mr. Speaker, H.R. 3604, authorizing the acquisition of the Greer Spring Area in Missouri, was introduced by our colleague, Mr. EMERSON, and is cosponsored by the entire Missouri House delegation. The bill represents the culmination of years of effort to acquire and protect this valuable resource, and I am pleased to bring this legislation forward at this time.

H.R. 3604 authorizes and directs the Secretary of Agriculture to acquire, on a willing-seller basis, with funds that have already been appropriated, a certain tract of land in and adjacent to the Mark Twain National Forest in Missouri. The land, encompassing nearly 7,000 acres, includes outstanding natural resources, the most significant of which is Greer Spring, the second largest spring in the State and a primary source for the Eleven Point River, a designated component of the National Wild and Scenic Rivers System.

That portion of the tract that lies within the wild and scenic river corridor will be managed by the Forest Service under the Wild and Scenic River Act. The remainder of the tract is designated as a special management area, and will be managed to protect the area's natural and scenic resources and provide public recreation, including fishing and hunting.

The bill was introduced by Mr. EMERSON on October 22 and referred jointly to the Committee on Agriculture and the Committee on Interior and Insular Affairs. Our subcommittee on Forests, Family Farms, and Energy conducted a public hearing and business meeting on November 5, and the Agriculture Committee ordered the bill reported, as amended, on November 6.

The bill has also been reported by the Interior and Insular Affairs Committee, and I appreciate the cooperation we have received from Chairman VENTO, Chairman MILLER, and the ranking members, Mr. LAGOMARSINO and Mr. YOUNG of Alaska, in getting this bill to the floor in an expedited fashion.

This acquisition and designation is supported by the administration and conservation organizations, and will contribute significantly to the protection of this invaluable resource. I have visited the site, at the invitation of Representative EMERSON, and agree that this will be an appropriate addition to the Eleven Point Wild and Scenic River and the Mark Twain National Forest.

I have worked for several years with Congressman EMERSON, who has proven tireless in this effort, in attempting to arrive at an agreeable piece of legislation. The compromise that has been struck is a workable solution, and I commend those who were involved in these lengthy negotiations for their cooperative spirit and diligent efforts.

In addition to Representative EMERSON and his staff and the current landowner, Mr. Leo Drey, a number of people have played key roles in this matter: The previous landowners, the Denning family, who preserved the area most of this century; Missouri environmental organizations; former Senator Thomas Eagleton, who played a prominent role in obtaining the necessary appropriations; and most recently river network, which has been crucial in finalizing the negotiation of this agreement.

Through the hard work of those involved, and the generosity of Mr. Drey and the Anheuser-Busch Co., who each plan significant contributions toward the purchase of this tract, the American people stand to gain a truly remarkable natural gem.

I again wish to commend my colleague from Missouri, Mr. EMERSON, for taking a leading role in bringing this legislation to fruition.

Mr. MORRISON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. EMERSON], the sponsor of the bill, and would mention that this is the culmination of a 4-year effort on the part of the gentleman from Missouri, and he introduces this with the full support of the Missouri delegation.

Mr. EMERSON. Mr. Speaker, I thank the gentleman from Washington [Mr. MORRISON] for yielding to me.

Mr. Speaker, I want to thank in particular the gentleman from Missouri [Mr. VOLKMER], chairman of the subcommittee, and the gentleman from Washington [Mr. MORRISON] for the outstanding cooperation that they and their outstanding staffs have provided throughout the extensive deliberations on this bill; also, the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, for seeing this bill through that subcommittee expeditiously after it was reported from the House Committee on Agriculture.

I want also to pay tribute to the entire Missouri delegation and to all of the disparate elements who participated in the negotiations leading to culmination of this bill. I think this is a very good bill. I think it is a bill that is, while not the way everyone individually might have written it, I think it is a bill that is one that everyone is going to find quite amenable to live with.

Once again, I want to thank the gentleman from Missouri and the gentleman from Washington for their outstanding assistance in this matter. It is deeply appreciated by my constituency and by all Missourians.

This legislation is the culmination of more than 4 years of work among the Missouri delegation and what we have is a carefully crafted compromise before us today, strongly supported by the entire Missouri delegation, the Forest Service, the Agriculture Committee, the Interior Committee, the environmental community, and many other diverse individuals and organizations.

This issue is most important to my congressional district in southern Missouri and to Missouri as a whole. The Greer Spring tract, which includes the second largest spring in the State—is finally on its way to its rightful Federal designation as a component of the National Wild and Scenic River System and as a special management area.

Greer Spring is one of the most spectacular areas in all of Missouri and perhaps all of the Nation—indeed it is one of the crown jewels of the Ozarks. There is strong agreement among people with divergent interests about our common goals of protecting the unique beauty of this simple and untouched spring and surrounding properties. There has been a great deal of misinformation about my concerns about the shape of this legislation, and I want to make clear once and for all that my foremost concern has always been access to the river and the adjoining land by local residents. Through tireless hours, we have finally satisfactorily addressed that concern in this bill, and I now hope that the other body of this Congress will speedily take up consideration of this bill and pass it along to the President without delay.

This has been a long and arduous process for all who have been involved. I want to say once again a hearty thank you to my good friend and colleague, HAROLD VOLKMER, as well as his very capable staff for their diligent work in helping to craft this long-awaited compromise. Also, we are fortunate that several private entities have agreed to donate a total of $1 million toward the purchase of the Greer Spring property, to reduce the cost to the Federal Government.

I am hopeful that we can keep the momentum moving forward on this legislation through the congressional process and see this legislation enacted in the very near future.

Mr. MORRISON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 3604.

This bill would direct acquisition of certain lands within the Eleven Point Wild and Scenic River, and would establish the Greer Spring Special Management Area, in Missouri, to be managed by the Forest Service.

H.R. 3604 was introduced by my former Interior Committee colleague, Mr. EMERSON, and is cosponsored and supported strongly by the entire Missouri delegation. It would provide for the acquisition of a tract of land amounting to nearly 7,000 acres that is partly within the Mark Twain National Forest and also partly within the boundaries of a segment of the Eleven Point River that is a component of the National Wild and Scenic Rivers System.

This tract, known as the Denning or Greer Spring tract, is in single ownership. The owner desires to convey it intact to the United States, with the part within the river corridor to be managed under the Wild and Scenic Rivers Act and the rest to be managed by the Forest Service in a way that restricts timber harvesting and other activities that could adversely affect the natural, scenic, and environmental values of the lands.

The bill is intended to make possible this acquisition, and the sebsequent management of the lands in this manner.

At the hearing before the Subcommittee on National Parks and Public Lands, which I chair, the administration testified in support of the bill. They did suggest some technical amendments which have been included in the bill as it is now before the House.

Mr. Speaker, this is a noncontroversial measure that would assure that a special area will be managed so that future generations can enjoy its scenic and natural characteristics. I urge its approval by the House.

Mr. MORRISON. Mr. Speaker, this measure is also endorsed by the administration.

Continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise in support of this measure. This truly is a Missouri effort. I commend the gentleman from northeast Missouri for his leadership as chairman, and I commend the gentleman from southeast Missouri.

What we see on the floor of the House is really the culmination of a great deal of effort, work, not weeks, but months, of the gentleman from Cape Girardeau, MO, Mr. EMERSON.

I think this is a very valid, very well-put-together piece of legislation. He is to be commended.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today in strong support of H.R. 3604, the Greer Spring Acquisition and Protection Act of 1991. I am an original cosponsor of the bill, along with all other members of the Missouri delegation. The bill provides for the Secretary of Agriculture to acquire a 6,900-acre tract of land, known as the Dennig tract, which shall become a part of the Mark Twain National Forest. The Mark Twain National Forest already is one of Missouri's most popular and valuable natural areas, and the addition of the Dennig tract will only add to that value.

Part of the Dennig tract will be managed in accordance with the Wild and Scenic Rivers Act. The remaining land is designated as a special management area, which may be used for various recreational purposes such as fishing and hunting. In addition, the Secretary may permit appropriate timber harvests in this area. In essence, the special management area is intended to provide for various uses of the land, while at the same time maintaining the area's natural, archeological, and scenic resources.

Once again, I strongly support H.R. 3604, and I urge my colleagues also to support the bill. I commend the gentleman from Missouri [Mr. EMERSON] for sponsoring this bill and for his extensive work on it. I also commend Mr. VOLKMER, chairman of the Agriculture Committee's Forests, Family Farms and Energy Subcommittee for providing for quick consideration of the bill. Finally, I want to thank Mr. Leo Drey, who currently owns the Dennig tract, and Anheuser Busch for their financial support of the acquisition of the Dennig tract.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 3604, the Greer Spring Acquisition and Protection Act.

H.R. 3604 was introduced by my Agriculture Committee colleagues, Mr. EMERSON, Mr. VOLKMER, and Mr. COLEMAN, as well as by other members of the Missouri delegation, including the distinguished majority leader, Mr. GEPHARDT. As presented to the Members of the House today, this bill represents an excellent example of compromise and consensus building to protect a truly unique natural resource in the State of Missouri. I commend the authors for their leadership in bringing this measure to the floor.

Specifically, H.R. 3604 provides for the acquisition, subject to appropriations, of lands adjacent to the Mark Twain National Forest for the purpose of protecting the natural beauty of the area for present and future generations.

A portion of these newly acquired lands would be made part of the Eleven Point Wild and Scenic River Corridor. The remaining lands would be designated as the Greer Spring Special Management Area. All these lands are to be managed under the guidance of the USDA Forest Service in conjunction with the Mark Twain National Forest.

Mr. Speaker, the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture conducted a hearing and business meeting on November 5, 1991, and ordered H.R. 3604, as amended, favorably reported to the full committee. The Committee on Agriculture considered the bill on November 6, 1991, and approved the bill by voice vote.

It is my understanding that the administration has no objections to the bill and that H.R. 3604 would not be subject to pay-as-you-go scoring, nor would it require significant additional appropriations. Funds for the authorized land acquisition were previously appropriated.

Mr. Speaker, I recommend adoption of H.R. 3604.

Mr. MORRISON. Mr. Speaker, I encourage the House to approve this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF THE DENNIG TRACT.

The Secretary of Agriculture (hereinafter referred to as "Secretary") is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled "Dennig Tract", dated, numbered (hereafter referred to as "the map"). The map shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. Lands acquired pursuant to this Act shall become part of the Mark Twain National Forest. The Secretary is authorized to make any minor boundary adjustments to the Mark Twain National Forest necessitated by this acquisition.

SEC. 2. ELEVEN POINT WILD AND SCENIC RIVER.

The Secretary shall manage the lands, waters and interests therein within the area referred to on the map as "The Eleven Point Wild and Scenic Corridor", (hereinafter referred to as "the corridor") pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). Lands acquired pursuant to section 1 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act, nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

SEC. 3. GREER SPRING SPECIAL MANAGEMENT AREA.

(a) OBJECTIVES AND ESTABLISHMENTS.—In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as "the special management area."). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) AREA INCLUDED.—The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as "The Greer Spring Special Management Area". The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) TIMBER HARVESTING.—The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a). To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) MINING AND MINERAL LEASING.—Subject to valid, existing rights, lands within the special management areas are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) VEHICULAR ACCESS.—The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: *Provided*, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c), in such a manner as to minimize environmental impact.

SEC. 4. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON SATURDAY, NOVEMBER 23, 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Saturday, November 23, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

MR. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. VOLKMER: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greer Spring Acquisition and Protection Act of 1991".

SEC. 2. ACQUISITION OF THE DENNIG TRACT.

(a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled "Dennig Tract", dated November 5, 1991 (hereinafter referred to as "the map"). The map, together with a legal description of such lands, shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. The boundaries of the Mark Twain National Forest are hereby modified to include the area denoted "Dennig Property Outside of National Forest Boundary" on the map. Such map and legal description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such map and legal description may be made by the Secretary.

(b) Such modified boundaries shall be considered as the boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act (16 U.S.C. 4601-9).

SEC. 3. ELEVEN POINT WILD AND SCENIC RIVER.

The Secretary shall manage the lands, waters, and interests therein within the area referred to on the map as "The Eleven Point Wild and Scenic Corridor" (hereinafter referred to as "the corridor"), pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287). Lands acquired pursuant to section 2 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act, nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

SEC. 4. GREER SPRING SPECIAL MANAGEMENT AREA.

(a) OBJECTIVES AND ESTABLISHMENTS.—In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as "the special management area"). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) AREA INCLUDED.—The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as "The Greer Spring Special Management Area". The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) TIMBER HARVESTING.—The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a). To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) MINING AND MINERAL LEASING.—Subject to valid, existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) VEHICULAR ACCESS.—The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: *Provided*, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c), in such a manner as to minimize environmental impact.

SEC. 5. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. VOLKMER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1540

PROVIDING FOR CONSIDERATION OF H.R. 2929, CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 279 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 279

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except that pro forma amendments for the purpose of debate shall be in order if offered by the chairman or ranking minority member of the Committee on Interior and Insular Affairs. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Interior and Insular Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments in the report of the Committee on Rules are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of House Resolution 279, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 279 is the rule providing for consideration of H.R. 2929, the California Desert Protection Act of 1991.

The rule provides 1 hour of general debate, which shall be confined to the bill, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. After general debate, the bill shall be considered for amendment under the 5-minute rule.

The rule makes in order the Interior Committee amendment in the nature of a substitute now printed in the bill as the original text for the purpose of amendment. All points of order against the substitute are waived.

Mr. Speaker, H.R. 2929 is a controversial bill and its provisions are very complex. For that reason, and to facilitate consideration of the measure, the rule makes in order the 12 amendments printed in the report to accompany the rule, including the Lewis substitute. The rule allows for consideration of all the amendments that were presented to the Rules Committee.

The amendments will be considered in the order and manner and for the amount of time specified in the report. Sixty minutes of debate time is provided for the Lewis amendment in the nature of a substitute and 10 minutes for all other amendments. Time for debate on each amendment is to be equally divided and controlled by the proponent and a Member in opposition.

The amendments are not subject to amendment except that, should the Interior Committee chairman and ranking minority member determine that more debate time is desirable, each may offer one pro forma amendment to each amendment to extend debate. Where the report specifies, amendments will be offered en bloc and are not subject to a demand for a division of the question in the House or in the Committee of the Whole.

Mr. Speaker, the rule also provides that the chairman of the Interior Committee may, at any time, offer amendments en bloc consisting of the text of any of the amendments printed in the report and germane modifications to those amendments.

The chairman's en bloc amendments, except for any modifications, shall be considered as having been read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Interior Committee.

The rule waives all points of order against the amendments en bloc and provides that they shall not be subject to amendment, or to a demand for a division of the question in the House or the Committee of the Whole. In addition, the rule provides that the original proponents of the en bloc amendments shall be permitted to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the en bloc amendments.

All points of order against the amendments in the report of the Committee on Rules are waived.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2929, the California Desert Protection act, seeks to protect and preserve some of the loveliest spots in the fragile California desert. I must say, Mr. Speaker, the California desert is one of the truly rich and scenic areas not only of my State, but of our entire country. Far from being a vast and useless wasteland, the rugged desert mountains and adjacent lowland terrain provide the habitat for some of this country's most unusual species of plants and wildlife.

The area is also a museum of human history—perhaps the most valuable in North America because much of it has, up until recent years, been untouched for thousands of years. Unfortunately, the desert's historical and natural treasures are now being threatened and we are seeing irreversible damage and deterioration there.

Mr. Speaker, I commend Mr. LEHMAN, the chairman of the subcommittee that developed this bill, and Mr. MILLER, the chairman of the Interior Committee, for working so diligently to seek a compromise on this legislation. We must protect and help preserve these valuable natural and historical resources for future generations.

Mr. Speaker, H.R. 2929, the result of over 15 years of active consideration, designates 76 wilderness areas on Bureau of Land Management lands in the California desert; expands the existing Death Valley and Joshua Tree National Monuments and redesignates them as national parks; establishes a new Mojave National Monument; and designates wilderness areas within the national parks and monument.

Mr. Speaker, the Rules Committee carefully crafted this rule to give the House a chance to consider all the controversies surrounding this bill, including the President's own legislative proposal for the area. I urge my colleagues to adopt the resolution so that we may proceed to the consideration of this important legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very reluctant support of this rule which provides for the consideration of the California Desert Protection Act of 1991. It is not an open rule, but it does make in order all of the amendments that were submitted to the Rules Committee by November 12, which leads to the logical question, Mr. Speaker: "Why not an open rule?" As Chairman MOAKLEY explained in the Rules Committee last Thursday, we are constrained for time because the leadership would like to meet our target adjournment date, and an open rule could undermine a very tight schedule. I have no argument with the chairman on that. In fact, I think he did the best he could under the circumstances.

What troubles me is the leadership is trying to quickly ram down our throats an extremely controversial bill that lacks even a minimum of consensus. As the gentleman from California [Mr. LEHMAN] explained so eloquently in the Rules Committee when we met last week, this is the largest, most contentious land use issue in California, and it is the top environmental issue in the State.

Mr. Speaker, the issue of wilderness designation has been under consideration for 15 years, and the Committee on Interior and Insular Affairs has been considering this specific bill since January. I agree, we need a desert protection bill, but there is no reason why we cannot consider this legislation when this Congress reconvenes early next year.

The gentleman from California [Mr. LEHMAN] admitted that a very thoughtful and comprehensive alternative introduced by our respected colleague from Redlands, Mr. LEWIS, was not even considered by the subcommittee.

Mr. Speaker, we do not even know the budget implications of this legislation. The bill circumvents the pay-as-you-go provisions of the budget agreement by setting up a mechanism to ensure that any outlays resulting from the acquisition of California State lands do not occur until after the budget agreement expires.

□ 1505

In its present form, Mr. Speaker, this bill would be vetoed by the President of the United States. It is not a serious attempt to address the myriad substantive and competing land use issues affecting the California Desert; instead, the authors propose the largest Federal Government land grab in history to occur in the contiguous 48 States. It would significantly alter military training activities, water rights, hunting, and mineral exploration activities.

There is no reason why consideration of this bill cannot be postponed for a couple months. This would give the subcommittee and the full committee chairmen an opportunity to do what they acknowledge they have not done; that is to negotiate with those of us on this side of the aisle who support protecting the ecology of the desert, but have legitimate multiple land use concerns.

However, Mr. Speaker, since the leadership insists on moving forward with this bill at this time, I do reluctantly support adoption of the rule and urge my colleagues to support the more reasonable alternative embodied in the Lewis-Thomas-McCandless-Hunter substitute.

Mr. BEILENSON. Mr. Speaker, for purpose of debate only, I yield 1 minute to the distinguished gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am only going to speak to the rule now, since the rule does allow plenty of time for me and others to refute the assertions of the gentleman from California [Mr. DREIER] and others, and I will do so at the appropriate time.

I am standing up now, though, to support this rule.

Although I was originally prepared along with the chairman, the gentleman from California [Mr. MILLER] to support an open rule in committee, I fully understand the concerns of the leadership with trying to get a handlle on the schedule as we move into the final days.

The rule provides that all amendments that were on file when the Rules Committee met on this issue are in order. All of the amendments of the minority have been completed protected by this procedure. Therefore, I support the rule.

I would only bring the attention of the Members to two amendments that are allowed here, the en bloc amendment that the gentleman from California [Mr. MILLER] will offer which will delete 160,000 acres around Fort Irwen, to meet the concerns of the military in that regard, and another amendment by the delegate from Guam [Mr. BLAZ] and the gentleman from Minnestoa [Mr. VENTO] will also take care of the concerns of the military with respect to overflights. All those concerns are met with those two technical amendments.

Mr. Speaker, I urge adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEWIS], who is from Redlands, CA, who has tried diligently to bring about a compromise on this very important bill and will be offering a most important substitute.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate my colleague yielding me this time, and I appreciate the patience of the Members of the House, for we will be spending a number of hours this evening going through this relatively complicated, but very important subject.

I will be speaking on this podium from the Democratic side of the aisle simply because I want it to be clearly understood that this is not a partisan issue, but rather a very, very important public policy consideration.

There are four Members of Congress whose districts are dramatically impacted by H.R. 2929. It is very important that our colleagues in the House understand that all four of us have a great deal of interest in and are concerned about the California desert and its future. We care deeply about the desert, and especially for those who live in the desert and love it.

H.R. 2929 is described as some form of a compromise. Indeed, if it is a compromise, the parties who drew up the bill, I am not sure behind what closed doors, drafted that bill without consulting any of us who represent these desert lands.

I might mention for the RECORD, for you will hear it more than once, that the four of us represent over 3,250,000 Californians. Combined, that is a population greater than the separate populations of 23 States. If our territory were put together, the geography itself would be approximately 29th in size among the States.

The bill before us, in a very basic way, violates all those tenets that relate to effective public policy development in public affairs.

The Congress in 1976, mandated a process whereby desert wilderness in California could be permanently designated.

Under what is known as FLPMA, the Federal Land Policy and Management Act, the Congress directed that there be created a public commission. That public commission was instructed to hold public hearings over a period of years. They held 4 years of public hearings with over 40,000 individual citizen comments.

At the end of the process the public commission and the BLM reviewed all that material and come forth with a plan that would make sense for all Californians who care about the desert. That was to be before the Congress by the end of this year. It came up about 3 months ago. That plan has been largely ignored by the committee. The committee has chosen to put a bill on the floor today that fundamentally violates those of us who represent the people of the desert.

Beyond the fact that this is so wildly violative of fundamental public policy and the processes that make up excellent public affairs, the bill reflects the interests of a very small and elite group of people who describe themselves as environmentalists. In my own judgment, this group has little understanding of the real environmental concerns of the people who live and work in the desert.

I do not know about you, my colleagues, but I try to pay very, very careful attention to the problems and challenges faced by my other colleagues in their districts, individuals elected to represent half a million and in some cases a million of our citizens. Those individuals know their districts best, so I focus carefully upon their concerns.

In this case, the authors of this bill have chosen, with malice aforethought, to roll right over the four of us who represent the California desert.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. LEWIS].

Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to my colleague, the gentleman from California.

Mr. DREIER of California. Mr. Speaker, the gentleman makes a very good point in stating that he and most Members of this House like to have a pattern of looking to those individuals who represent a particular area and get some input from them on what we are going to do here as it relates to that. I think it is an important point to underscore. I appreciate the gentleman pointing that out.

Mr. LEWIS of California. Mr. Speaker, I thank my colleague.

I must say, Mr. Speaker, in the dozen years that it has been my privilege to serve in the House. I have never seen a circumstance where a committee or its members would so basically violate that tenet of comity whereby a member is given a chance at least in the negotiating process to present the interests of their districts. In this case, California is being violated in a fundamental way.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from California [Mr. LEVINE], the original author of this bill.

Mr. LEVINE of California. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, as the author of the California Desert Protection Act, I rise in strong support of the rule and of the underlying legislation.

This bill is extremely important to the people of California. It is not nearly as complicated as is being presented.

There is one essential question that is before us when we deal with this legislation. That question is whether we wish or whether we do not wish to protect the fragile resources of the California desert. That is the question before us. It is a simple question. It is a clear question. It is a straightforward question. Do we protect this resource or do we not.

The California desert is a very special place. I know that any number of us who are familiar with it and who have spent quite a bit of time in it have strong feelings about it. In its 25 million acres are found an enormous diversity of wildlife and of plants, rich archaeological collections, dozens of mountain ranges, and all kinds of human activity.

Our legislation seeks to protect a portion of this for generations to come.

Mr. Speaker, the wild desert is being destroyed. Mismanagement, fly-by-night mining operations, reckless individual abuse, and poorly planned development are taking their toll.

□ 1600

Californians want this legislation. Polls instate have consistently shown that Californians want more, not less, protection.

The State's major newspapers have editorialized in favor of the bill; 49 California cities and counties have endorsed the bill. Yet, despite this, the charges that continue to be raised against this bill, while made in good faith, are truly remarkable. And I believe in the context of this debate on the rule it is appropriate at the outset to set the record straight.

First and most importantly, this process has not occurred behind closed doors. There have been seven public hearings on this bill, three in California. The desert plan of 1980, to which my friend from California referred, has failed. There were some 40,000 comments with regard to that desert plan, the majority of which were critical of the plan.

For 5 years we have been pursuing this legislation. It was initially introduced in 1986, and we have urged our colleagues on the other side of the aisle, and a range of the interest groups who have been concerned with this legislation, to come to the table, to negotiate with us, to talk with us, to work with us. And when that has failed, we have held public hearing after public hearing.

Mr. Speaker, I was at a public hearing at my friend, Mr. LEWIS' district, that we both attended. Over 1,000 people were at that hearing.

I chaired a hearing in southern California that some 2,000 people have attended. There have been public hearings.

Mr. Speaker, I would be happy to yield, but I would like to finish my statement and then I would be happy to get into a colloquy either now or at a subsequent time. I am sure we will have numerous opportunities to discuss this.

Mr. Speaker, I let the gentleman proceed with his opening remarks, and I want to just try to set the record straight with my own.

There are several other misrepresentations that have been offered by some of the bill's opponents, and I would like to set the record straight at the outset on those because a number of people have asked me about them.

First, if one actually read the bill, they would find that with regard to military overflights, that there is no mention of any military overflights in this bill. I know my friend, the gentleman from Massachusetts, [Mr. MAVROULES] and the chairman of the Committee on Armed Services will be speaking to that later. Indeed there is nothing in this bill which would restrict overflights, and just to clarify, the administration's own overflight language will be offered in an amendment today with my support and that of Mr. LEHMAN and that of Mr. MILLER.

An amendment will be offered to this bill so that the bill will not in any way affect the proposed expansion at Fort Irwin. That will be totally eliminated by a Vento-Blaz amendment.

Third, this bill does not require the Federal Government to spend one thin dime on land purchases. While there may turn out to be some purchases subsequently, the two landowners who own the vast majority of all the inholdings have made it clear that they would prefer to exchange, not sell, their lands.

And to this end, the bill also would extend the Department of the Interior's normal authority to purchase any inholdings which are placed in a new land bank, which is then to be used to exchange these inholdings for Federal lands.

Next, only Congress can designate wilderness. The BLM's desert plan will remain in place, but they cannot designate wilderness. Congress reserved that decision for itself.

Based on the BLM's proposal, for good reason, the administration's proposal is completely inadequate. And finally, hunting is allowed in BLM wilderness, which represents over half the acreage of the bill. While hunting in the Mojave will be prohibited, the Mojave accounts for only a minute portion of hunting statewide.

Californians want what is still pristine and truly wild in the desert to remain that way. For that reason, passage of this bill will strike a major victory for environmental protection in America.

Unfortunately, up to now the BLM's record is paltry, at best. They have not been able adequately to protect the wildlife; regulations go unenforced; incompatible uses are permited.

This bill would give the Department the tools it needs to protect the desert and at the same time protect all of its historical uses.

I strongly urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, my friend from west Los Angeles said he was going to correct the record. To really correct the record now, I yield 4 minutes to my very good friend, the gentleman from California [Mr. THOMAS], the hardworking member of the Committee on Ways and Means.

Mr. THOMAS of California. Mr. Speaker, we are going to have a long discussion. I want to focus my comments principally on the rule.

Why is it that somehow the debate must always turn on the fact that you guys are the good guys and we are the bad guys. You say H.R. 2929 saves the desert. And no other option is available.

It just get humorous when you watch the procession down to the microphone, with individuals indicating that the policy that led to H.R. 2929 was the one that was initiated 15 years ago.

If anyone will read that legislation, they will find that the route H.R. 2929 took was not the route that was designated in 1976. It was, in fact, a branch created by those who would not compromise. And what you have in front of you is a bill that still is not truly compromised. What evidence do I have of that? Take a look at the rule under which we are considering this legislation. Twelve amendments to the rule. Mr. LEVINE laid out the laborious process of consulting with various groups to make sure that his bill was broadly represented.

Then why are all of the amendments in the rule to H.R. 2929? Obviously he did not do a very good job of making sure that all of those groups were consulted prior to today.

Take a look at H.R. 3066, the substitute; not one amendment to that bill. Why? Because that is the bill that followed the process asked for and created in 1976; that is the bill that went through the public hearings; that is the bill that was examined by the administration; that is the bill that was presented to the subcommittee and the Comittee of Interior to follow the process that this Congress asked for. And that subcommittee did not even give that bill a full hearing.

People ask me, "Why do you go through this process? It is kind of like the guy who plays at a crooked roulette wheel, and they say don't you know it's crooked, and he says, yes. They say, well, why do you do it? He says, well, it's the only wheel in town."

Take a look at this rule. All of the amendments are to H.R. 2929. What is the first amendment that is made in order? It is a substitute.

Is someone telling me I do not understand the game around here, that in fact maybe the substitute is not going to pass? And that all of the amendments apply to H.R. 2929 because you are playing a game? What would happen under this rule if H.R. 3066 passed? You would have a pretty messy situation parliamentarily, would you not, because all of the amendments apply to H.R. 2929?

Do not tell me this place is not rigged; do not tell me it is not gimmicked. We are going to get into the substance of the bill, of course, but when you take a look at the way in which the rule was written and the strong appeal that there is only one choice to save the desert, please. I represent the desert. I want to save the desert, too. I do save the desert in H.R. 3066.

To stand there and tell people there is only one choice, one choice that saves the desert and the other does not in my estimation is hypocritical because either you have never been out there, you do not understand the process, or you simply want your own way.

And, of course, I understand the author, and others, of H.R. 2929 wanting their own way—a number of reasons why you would want to be out front, a number of reasons why you would not want a bill which is a true compromise from those people who work and live in the desert and who want to enjoy it scenically.

Obviously, I can understand why some of my colleagues do not want a bill that went through the process of scrutiny by the administration and the public.

I can understand why they want a bill which was written by them and which has a rule created which tells you that before we even begin, this game is fixed.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have a little feeling that I am walking into a buzzsaw here among the California delegation.

Let me make it very clear that I am speaking as a member of the Committee on Armed Services.

Mr. Speaker, as a member of the Armed Services Committee, I would also ask that my colleagues support the adoption of amendments being offered today by Mr. VENTO and Mr. BLAZ that address the concerns of the Department of Defense regarding low-level overflights, the possible expansion of Fort Irwin, and the reauthorization of the withdrawals of China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range.

With these two amendments, I am confident that the California Desert Protection Act will not infringe on the training and research mission of our Armed Forces in the California Desert.

Mr. Speaker, I request my colleagues to support this rule, the two amendments that provide for the military's concerns, and to vote for H.R. 2929.

□ 1610

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for yielding.

Although I think the Blaz amendment has some merit; it addresses some of the issues; for 21 years I operated in the military in those specific areas, and neither one of the Vento or the Blaz amendments addresses the buffer zones around Chocolate Mountains. We have had people killed in the Chocolate Mountains, and I will tell the gentleman why it is the only area in which the Navy and Air Force have to train with live ordnance.

Could the gentleman tell me what a pop-up maneuver is? These are all exercises in different things that happen in those particular areas. Neither one of these amendments addresses it.

Mr. Speaker, I will be happy to give the gentleman a piece of paper from the Secretary of Defense and all the Secretaries that show how in these areas these amendments do not help the military.

Mr. MAVROULES. Mr. Speaker, I would be delighted to have the information which the gentleman has, but I am very sure, when the amendments are offered, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Guam [Mr. BLAZ], who are indeed the experts on that issue, will articulate and clarify that.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think that we will debate that.

The SPEAKER pro tempore (Mr. MCCURDY). The time of the gentleman from Massachusetts [Mr. MAVROULES] has expired.

Mr. BEILENSON. Mr. Speaker, I yield the gentleman from Massachusetts 2 additional minutes.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for yielding and for his cooperation and representation of the armed services concerns and the Committee on Armed Services' concerns in this matter.

Mr. Speaker, what we are dealing with in Chocolate Mountain, and the channel 8 and, as well, El Centro, are withdrawals, military withdrawals. As far as I know, these are exactly the withdrawals that the military has sought in terms of land. They are renewal of withdrawal. In the absence of the withdrawals and the option of the Blaz-Vento type of amendments, they would revert, and the military would have legal status that would be uncertain under the Engel Act, and so that is the purpose of this.

Obviously there are arguments over air space and other matters, but I want to point out that the amendments that the gentleman referred to with regard to these three parcels are military withdrawal areas. Obviously there are compatible, incompatible uses, but this is what the military asked for when they came before our committee. We passed these amendments without objection under the sponsorship of the gentlewoman from Maryland [Mrs. BYRON]; in 1987 sent to the Senate. The Senate did not engage and take those amendments up at that time, and the reason being that the Senators from California decided to make it a part of the overall land bill, the desert bill, in California, and I thank the gentleman for yielding.

Mr. MAVROULES. Mr. Speaker, it is also my understanding that the gentleman from Maryland [Mrs. Byron] will address the issue when we get to the amendments.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. Mavroules] for yielding.

As a matter of fact, I am submitting to the gentlewoman from Maryland [Mrs. Byron] the same requirements that the military, not only the Navy, but the Air Force and the Marine Corps, has as well. Mrs. Byron has never strapped herself into it yet and knows that all of the facilities that are required——

Mr. MAVROULES. Mr. Speaker, I realize that, but I might mention to the gentleman that gentlewoman from Maryland [Mrs. Byron] had this under consideration since 1987. So, she does have some background on that.

Mr. CUNNINGHAM. But not the background she needs.

Mr. MAVROULES. I thank gentleman from California [Mr. Cunningham].

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to my very good friend, the gentleman from California [Mr. McCandless], who represents the magnificent desert empire.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman from California [Mr. Dreier] for yielding this time to me.

Mr. Speaker, those of us who have been involved in the other bill, 3066 and what it represents, have been characterized erroneously as people who do not care about the desert. My colleagues briefly commented about the way this all started originally, with a piece of legislation coming out of this body and from that process.

I would like to read to the House the names and professions of the 15 members of the Desert Advisory Committee appointed in February 1977 by the Secretary of the Interior. These are the gentlemen and gentleladies who spent endless hours utilizing, not only their professions, but traveling extensively in the desert and holding a multitude of hearings.

Let me start with Dr. Richard Vogl, professor of botany at California State University, Los Angeles, a specialist in vegetation. Next, Dr. Wilbur Mayhew, professor of biology at the University of California, Riverside, who represented the field of wildlife. Then, Supervisor Clayton Record of Riverside County who represented local government, Dr. Richard Jahns, professor of geology and earth science at Stanford University who represented the earth sciences, and Dean Lemon, vice president of U.S. Borax, who represented mining and mineral assets. Next, Mr. Willie Pink, a member of the Cauhilla Tribal affiliation, represented native Americans. James Burns, member of the staff of the State of California Resources Agency, represented State government. Genny Smith, an author of several books about the desert, represented Outdoor Recreation. Ron Sloan represented Outdoor Recreation in the form of off road vehicle use. Dr. Harvey Perloff represented professional land use as professor of architecture and design at the University of California at Los Angeles. Erna Schulling represented the League of Women Voters in San Bernardino County. Next, Leon Hunter, head of science and environmental education for the Barstow School System and Mr. Frank DeVore, vice president, of San Diego Gas & Electric, representing the public utilities. Then, Mr. William Lane who represented the general public as publisher of Sunset magazine.

These people met in 1980, discussed their final product in great detail, and the final product represented that 4 years of development from February of 1977 to January of 1981. They presented that project to the public as a final result. It was a consensus. The group passed on the final result and recommendation which went to the director of BLM and the Secretary of the Interior, by a vote of 13 to 0.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Hunter], my very able colleague and classmate from San Diego who is chairman of the Republic Research Committee and a member of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from California [Mr. Dreier], my distinguish colleague, for yielding this time to me.

Mr. Speaker, and my colleagues, this bill, the so-called desert protection bill, has been described over and over as a bill that protects, and I think it is appropriate to ask the question: Protects from whom? The South Agadones Dunes, which is a big sand dune area in my district, and again I was not consulted, the gentleman from San Bernardino, CA [Mr. Lewis] was not consulted, the gentleman from California [Mr. McCandless] was not consulted, the gentleman from California [Mr. Thomas] was not consulted, nor were we asked to give leadership in any of the determinations that were made as to what areas went into wilderness.

However, Mr. Speaker, I want to tell my colleagues a little bit about the dunes that are utilized by so many Americans, so many San Diegans, so many people who live in Los Angeles.

□ 1620

Who are we protecting the desert from? We are protecting it from blue-collar Californians. We are protecting it from men and women who average about 29 years of age, with an average family income of about $29,000 a year.

What do these people want to do that is so threatening to the desert? They want to be able to get up on Saturday morning or Sunday morning and go out to the desert. Some of us may have seen the film "On Any Sunday." It is about average Americans who want to take their motorbikes or their four-wheelers or their off-road vehicles, and they want to go out and get away from the boss for a while. They want to be able to talk with their wives for 20 or 30 minutes while the kids are riding motor scooters around the dunes. They want to set their campers up, and they want to barbeque. Those are the people we are protecting the desert against.

Let us call this bill by its real name. This is the desert lockout bill, because it locks average Americans, blue-collar Americans, out, 160,000 of them who used our dunes last year for family outings. It locks them out.

Well, people can always strap a backpack on and they can go backpacking in the desert, can they not? That is the response that I have received from the Sierra Club and other organizations. I say to the Members I would like to see them strap a backpack on in 97-degree heat, not only on themselves but on their wives and on their kids, and have them trudge through the sand for 15 or 20 miles to get to that old camp site. And remember, when they get there, they have got to have water, so they have to carry water on their back, so maybe they need 20 or 30 gallons of water, weighing several hundred pounds. Well, you can put that on a 10-year-old or a 12-year-old and march out there.

I would suggest, I say to the Members, that the same arrogance and insensitivity that groups like the Sierra Club were formed to oppose has not manifested itself in many of the policy declarations and many of the decisions they have offered that they have mandated that their Members of the U.S. Congress put forth on this floor.

Let me go over the list of Americans we are locking out in this bill. Of the people who use the sand dunes in my area, about 17 percent of them are laborers, about 10 percent are professional or technical people, about 8.3 percent are mechanics or craftsmen, about 6.3 percent are farm workers, about 5 percent are service workers, and about 1 percent are the military. We are taking blue-collar Americans and locking them out of the desert, and the decisions are being made by people who can afford to fly off to New Zealand to go fly-fishing if they want to recreate, if they want to exercise, if they want to be with their families.

Mr. Speaker, this is a desert lockout bill, and this is a bill that should be soundly rejected by this House.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I am happy to yield to a gentleman who actually has flown aircraft over the Chocolate Mountains Gunnery Range, the top gun pilot in the U.S. Navy, who can tell us from a commonsense point of view why we should not be inhibiting the Chocolates.

The SPEAKER pro tempore. (Mr. McNULTY). The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would just like to comment further on the comments of my friend, the gentleman from California.

I have ridden motorcycles, I have ridden three-wheelers—I have gotten rid of my three-wheeler since because it is dangerous—and I have a four-wheeler that I ride on those dunes, and literally one day after you ride over those dunes, with any kind of activity, those dunes are natural. There is half of the highway that is split, that is protected, and half that is allowed for recreational vehicles. During a wind storm of any magnitude, you can literally go back and you cannot tell the protected side from the other side. The shifting sands go back naturally, and it takes free-flowing sand to rise these recreational vehicles. So the desert is not damaged. It is protected, and it looks like it is in its natural state.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I would like to ask the gentleman a few questions about how he thinks the Chocolate Mountain Gunnery Range will be affected by the committee bill.

Mr. CUNNINGHAM. One of the things a lot of us agree on is that maybe we need a smaller military in some areas, and that we need a well-equipped and well-trained military. What H.R. 2929 does is, it takes away that last aspect, well-trained.

Although well-intentioned and with some afterthought, the Vento amendment only addresses overflights. When you overfly a specific area, you are doing it for a reason, just like in Desert Storm. Those routes are designated to simulate routes which you would use actually on a target. Those targets are the only ones in which the military, the Navy and the Air Force and the Marine Corps, can drop live ordnance, and those routes need to be changed. That does not take place under the Vento amendment.

The Blaz amendment comes close, but it still leaves us short in many areas. The Army, the Navy, and the Marine Corps, in pop-up maneuvers or any maneuver delivering live ordnance, is not protected by a buffer zone in either the Blaz or the Vento amendment, and it could get people killed. If Members support H.R. 2929, they are going to be supporting something where men and women could be losing their lives in future conflicts, and we cannot sustain that. I swore in Vietnam that I had people that caused those same—

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's yielding.

It is my understanding that we held an oversight hearing on the actual language, and the language that will be presented in the Blaz-Vento amendment is the language requested by the Department of Defense.

Mr. CUNNINGHAM. Then why do I have a letter here from all the Secretaries of all the services stating that they do not want H.R. 2929 or this language?

Mr. VENTO. It is understood that the amendment will take care of it.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of H.R. 2929, the California Desert Protection Act.

This bill is one of the most significant pieces of environmental legislation to come before the 102d Congress. I am proud to be a cosponsor.

H.R. 2929, which will expand protection of 8.3 million acres of the California desert, carefully balances scenic, geologic, and wildlife preservations with mining, ranching, and recreational needs. It is the product of 5 years of refinement and negotiation.

I think it would be inappropriate to go any further without mentioning the names of two of my colleagues who are most responsible for bringing this bill to the point where it is now. One is my longstanding friend, the gentleman from California [Mr. LEVINE, who for a number of years has been pushing this effort, building up grass roots support, and fighting to air this critical issue in public arenas, and he has now taken a major step forward after years and years of effort.

The other Member, of course, is my friend, the gentleman from California [Mr. LEHMAN], who combines his zeal to protect this valuable area with his very talented legislative and negotiating skills.

Mr. McCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. Before I finish my kind words about Mr. LEHMAN or in the middle of them?

Mr. McCANDLESS. Whenever the gentleman would like to.

Mr. BERMAN. Let me not interrupt this peak experience.

The gentleman from California has negotiated through the obstacles of this legislation to bring this bill out of subcommittee and out of the full committee and to the full House today, once again demonstrating his skills.

Mr. Speaker, I now yield to my friend, the gentleman from California.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman very much.

I was quite taken aback by the fact that we were comparing authorships of the two bills that are before us by the way of a rule. I took a lot of the time of my colleagues to read what I consider to be a rather impressive list of advisers and their backgrounds and disciplines who are actually authors of our bill through the Bureau of Land Management staff, and with the approval of the Secretary of the Interior, and I must say in all candor that I had to say that in response to the gentleman's comments relative to the authorship of H.R. 2929.

Mr. BERMAN. Mr. Speaker, to reclaim my time, I think it is only fair to point out that numerous scientists and academicians from universities and museums around the country have provided their professional backing to H.R. 2929, the product of this excellent negotiated proposal that is on the House floor today.

Let me conclude my remarks by making two points, simply to urge all my colleagues to support this comprehensive proenvironment bill so all Americans can enjoy and pass on for generations to come the splendor of the California desert.

Let me urge my colleagues to oppose any weakening amendments. I would like to make one comment also about my friend, the gentleman from California [Mr. LEWIS].

□ 1630

I want to say that this excellent legislator has a somewhat flawed alternative proposal. His amendment, by failing to establish a national monument in the Mojave, leaves park quality resources subject to further disruption from mining and other such activities. It designates less than 50 percent of the qualifying BLM desert wilderness and thus protects only isolated blocks and parcels. This will further fragment the desert ecosystem and cause a tremendous loss of biological diversity.

Mr. Speaker, the amendment of the gentleman from California [Mr. LEHMAN] and the gentleman from Minnesota [Mr. VENTO] adequately addresses the concerns raised by the Department of Defense.

Mr. Speaker, I again urge Members to oppose this substitute amendment and support H.R. 2929.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I understand the continued need to repeat that H.R. 2929 has been the process of a number of years of negotiations and that it certainly is a seasoned bill in which all people have had adequate access to make sure they have had their impact.

Why in the world 30 seconds ago was there a discussion over here by the gentleman from Minnesota and the gentleman from California and the gentleman from Guam regarding trying to work out the problems in terms of the various amendments if this bill has had such an adequate hearing?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the reason is that we are talking about the withdrawals of these key areas for military use which have to be extended. We are trying to accommodate the concern of the gentleman from Guam, and I am pleased that I think we are able to do that so that we can work harmoniously together.

These withdrawals I am talking about should not be an issue. There are issues beyond that in terms of the designation here that are frankly differences with regard to designation. But Members have to remember all of these areas are under study. A greater area is being managed as wilderness today than will be managed under the bill that is going to be the product of 2929.

So if one does not have problems today, I do not know why one would think they were going to have problems with less of it being designated as wilderness and some as park. I think some of the arguments are falling under their own weight.

Mr. BERMAN. Mr. Speaker, reclaiming my time, if I may, I would just suggest that I think this debate is important. I understand there is time under the rule to continue this debate. The only thing I would like to suggest is that the gentleman from California [Mr. LEVINE], the gentleman from Minnesota [Mr. VENTO], and the gentleman from California [Mr. LEHMAN], are people far more qualified to engage the worthy opponents in this discussion, to take over the mantle.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, since my name was used in the discussion of the gentleman from California [Mr. BERMAN], and since we are such good friends, I think the gentleman would want to make it clear for those who are listening that the substitute that we will be presenting later is the substitute that reflects the work of that very, very fine commission that met for over 4 years in public hearing and received some 40,000 inputs regarding the variety of mix of compromise that might make up an adequate bill.

Mr. Speaker, that substitute is not any small environmental package. It would create the largest wilderness area on the continental United States, some 2.3 million acres of wilderness as a matter of fact. It would address itself to 62 areas covering vast regions of the desert that for many, many years we have been looking to provide protection for.

But this process has held back that movement toward adequately protecting the desert regions that need protection. So clearly we will have that discussion during the general debate.

Mr. Speaker, I did not want to leave anybody with the impression that our substitute was not a highly adequate piece of legislation relative to what a commission that has significant talent and expertise thought was required for wilderness additions to the California desert.

Mr. BERMAN. Mr. Speaker, I am going to conclude my remarks by simply saying that the comments of the gentleman may reflect a product that is better than nothing, but every leading major environmentalist organization in the country believes that those amendments will gut the thrust and protection of H.R. 2929.

Mr. DREIER of California. Mr. Speaker, this has been a fascinating exchange and time has flown by. I was wondering if the Speaker could tell us how much time is left on each side?

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 6½ minutes remaining, and the gentleman from California [Mr. BEILENSON] has 7 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Fullerton, CA, Mr. DANNEMEYER, not quite the desert, but very close.

Mr. DANNEMEYER. Mr. Speaker, one of the most interesting books that I have read in recent times was written by the former Governor of the State of Washington and former Chairman of the Nuclear Regulatory Commission, Democrat Dixy Lee Ray. It came out a couple of years ago. She titled it "Trashing the Planet."

In it she says there are a number of, the great majority, in fact, of the environmental groups, and she names them, Audubon Society, Sierra Club, National Wildlife Federation, Wilderness Society, Nature Conservancy, and countless other groups, that are fine, decent citizens.

Then she goes on to say there are some leaders of other organizations, such as the Natural Resources Defense Council, Friends of the Earth, Earth First!, Greenpeace, Government Accountability Project, Institute for Policy Studies, and many others, that are determinedly leftist, radical, dedicated to blocking industrial progress and unraveling industrial society.

Mr. Speaker, I think it is important for us to understand, these radical organizations are behind what the House is now considering, mainly this lockout bill that is currently on the docket of the House. Miss Lee says, "They also tend to believe that nature is sacred and that technology is a sacrilege. Some environmentalists appear to be in favor of taking mankind back to pantheism or animism."

Thomas Lovejoy, tropical biologist and Assistant Secretary of the Smithsonian Institution, is quoted as saying, "The planet is about to break out with fever, indeed it may already have, and we human beings are the disease. We should be at war with ourselves and our lifestyles."

Here is Helen Caldicott, an Australian pediatrician, speaking for the Union of Concerned Scientists. She says, "Capitalism is destroying the Earth. Cuba is a wonderful country. What Castro's done is superb."

Paul Ehrlich, a Stanford University biologist, says, "We've already had too much economic growth in the United States. Economic growth in rich countries like ours is the disease, not the cure."

David Brower of Friends of the Earth is quoted as having said, "Childbearing should be a punishable crime against society, unless the parents hold a government license. All potential parents should be required to use contraceptive chemicals, the Government issuing antidotes to citizens chosen for childbearing."

Mr. Speaker, these are some of the statements of leaders of the environmental terrorists that seek to lock out the vast majority of people in my State of California.

Mr. Speaker, I support the alternative plan, the BLM plan, that would put into wilderness 2.3 million acres in the State of California. I am opposed to this plan of 4.5 million acres.

Mr. Speaker, I would like to thank the Committee on Rules for making in order two amendments that I offered. But they limited debate to 10 minutes each, clearly not sufficient to discuss the major issues involved in these amendments. For this reason I oppose the rule.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. BEILENSON. Mr. Speaker, if I may say to my friend from California, I spoke to the gentleman about the possibility of yielding some time, but I do not think the comments of the gentleman have been very helpful to the rule before us. I do not want to give the gentleman any time to speak along the same line he has been speaking.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I filed two proposed amendments with the Rules Committee. One was that we would require the preparation and filing of an economic impact report. I think before we lock up this quantity of land in our State we should analyze the adverse economic impact on jobs, on private property, and on businesses.

The reality is there are about 20,000 miners working on mineral claims in a portion of this land that are going to be out of a job. The unemployment rate in my State is now 7.3 percent. That is one-half a percent higher than the country.

The other amendment that I will offer will delete from this plan that is now before the House the east Mojave area, about 1.5 million acres.

This is the area that is currently being developed in mineral development that this Nation badly needs for the functioning of our economy.

Mr. Speaker, unfortunately only 10 minutes was given to each amendment. That is hardly sufficient time. For these reasons I oppose the bill.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise today in enthusiastic support of H.R. 2929, the California Desert Protection Act. I am a cosponsor of the bill, and as a member of the Interior Committee, I voted to report H.R. 2929 to the floor today. I share with my California colleagues their love for the untamed desert country of the American West. With much the same motivation, I have also offered legislation in the House, H.R. 1500, which would protect much of the remainder of Utah's wild desert canyons. Fittingly, on this day of such great importance to wilderness in California, the Utah BKM wilderness bill picked up its 100th cosponsor. I hope that sometime in the not too distant future, we will be able to see that issue resolved as well, through informed debate and a rational compromise.

The California Desert Protection Act is a testament to the overwhelming popularity of the preservation of our natural lands. It is a recognition that wilderness, whether or not one ever sets foot in it, is vitally important to the American soul. This bill is also an example of the power of compromise, as issue after issue has been rationally resolved. This wilderness bill demonstrates once again that preservation and economic growth are not mutually exclusive. One of America's greatest assets is its natural beauty. We are wise to recognize that and we are wise to preserve it for generations to come.

I am particularly interested in the creative solution offered to address an issue which we also face in Utah, that of the scattered State school trust lands which would be incorporated in the newly designated wilderness and park lands. Clearly, the interests of the school trust will be best served if the management of trust lands is not restricted by the requirements of wilderness management and protection. Having pockets of State-owned school lands permanently within wilderness is an obviously awkward arrangement which should be resolved. To this end, H.R. 2929 requires the Secretary of the Interior to identify those federally owned public lands which are available for exchange within California. Then the California State Lands Commission can exchange scattered State school lands within the wilderness and parks for consolidated pieces of land which could be managed trust lands in a manner which achieves maximum benefit for the school trust. This provision will afford school trust beneficiaries the opportunity to enhance the value and manageability of the trust lands by transforming scattered, disconnected sections into consolidated blocks. Likewise, Federal land management efficiency will also be greatly improved through the consolidation of public lands.

The solution to the State school lands question developed in this bill provides a model that we can look to as we resolve similar management conflicts on Utah's public lands. I commend the drafters of the legislation and the Interior Committee for working out this artful compromise.

We in the West know firsthand of the fragility of the desert landscape. This bill preserves a unique and irreplaceable ecosystem which is too easily disrupted and scarred. It preserves beautiful scenic treasures, recreational opportunities, archeological resources, unique habitat and at-risk-species.

California cannot afford to lose any more of its wilderness. Nor does it need to, for the economic potential of these lands for meaningful resource development is limited. As the population of California and America continues to grow, so will the need for areas of wilderness, for recreation, habitat protection, and solitude. The sad fact of life in late 20th century America is that wilderness, if not protected will be irredeemably lost.

The noted author, Wallace Stegner, recently graciously provided a forward for "Wilderness at the Edge," a book devoted to the Utah BLM wilderness proposal. What he wrote in that book seems apt today.

> We were born of wilderness and we respond to it more than we sometimes realize. We depend upon it increasingly for relief from the termite life we have created. Factories, powerplants, resorts, we can make anywhere. Wilderness, once we have given it up, is beyond our reconstruction.

Mr. Speaker, we have an opportunity with this bill to guarantee the integrity of the California desert wilderness for generations to come. We cannot accomplish the impossible task of reconstructing wilderness, as Mr. Stegner pointed out. So I urge my colleagues to join with me today in supporting this far-sighted effort to save a vestige of the original America by casting a vote in favor of H.R. 2929.

□ 1640

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I guess it is pleasing to see that there is no ban on fiction on this floor. We are discussing the rule, and I do want to focus on the rule.

We will have plenty of time to debate the bill in terms of its substance and those of us who represent the areas that are being affected by this legislation will have ample time to illustrate over and over again the fact that not only were we not consulted but that the degree of arrogance on the side of those individuals who are now offering what they indicate to be a compromise can once again simply be shown not to be true by an examination of this bill.

When I discussed in my earlier testimony that this bill is a sham in terms of any serious consideration of the substitute that is the true son of the 15-year process, I heard some snickers over on that side of the aisle.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind Members not to characterize the motivation of other Members of the body.

PARLIAMENT INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS of California. Mr. Speaker, under the rule, if it were to pass, and the first amendment in order under the rule, if it were to pass, are the other amendments, all of which apply to H.R. 2929, in order?

The SPEAKER pro tempore. If offered, those subsequent perfecting amendments could still be considered, since all points of order against them would have been waived under the pending resolution.

Mr. THOMAS of Californa. If offered, they could be considered. In other words, this rule was written with the idea that there was supposed to be a substitute bill for the underlying bill passed by the Committee on Interior and Insular Affairs, but if in fact that substitute is passed, all the amendments applying to the underlying bill, the bill that came out of the Committee in Interior and Insular Affairs, are considered as though they are in order anyway. And that is what I am talking about in terms of the word characterized as perhaps inappropriate in explaining behavior.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Let me respond to the gentleman from California to tell him that the situation, as he just properly described, has been told to us by the Parliamentarian and was the result of inartful drafting of the rule by the Committee on Rules, if my colleagues on the Committee on Rules do not mind my saying that.

We had not intended that to take place. We had believed and intended if the substitute of the gentleman from California [Mr. LEWIS] were to be adopted, that that would be the end of it.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, does the gentleman have any characterization of the underlying bill in terms of its artful or inartful drafting as well?

Mr. BEILENSON. Mr. Speaker, of course not.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I am proud to rise in support of the California Desert Protection Act.

I support the California Desert Protection Act, H.R. 2929 before us today. As one who went to college in California and who has spent considerable time exploring the deserts and rivers of the West, I am very enthusiastic about this bill. And one of the reasons I intend to vote for the California Desert Protection Act is that it addresses the protection of threatened and endangered species.

This bill calls for the designation of a new national monument in an area where threatened desert tortoise habitat is located, to be called the Mojave National Monument. The desert tortoise is threatened with extinction and may become extinct unless we act now to preserve and protect its habitat in the California desert. In just 50 years, the desert tortoise population has declined so dramatically that where there used to be 1,000 tortoises per square mile, there are now as few as 20 to 50 per square mile.

Why this drastic decline? The pressures from civilization have brought the tortoise to a perilous point in its existence: predation on young tortoises from ravens who flock to trash dumps and road kills for carrion; off-road vehicles that compact the desert soil, and crush the animal's burrow, affording the tortoise no respite during the day from the brutal desert sun; or vehicles that crush the eggs in the burrow.

Another animal fighting to survive in the harsh California desert is the desert bighorn sheep. This animal requires vast areas of wilderness land over which to roam. It cannot survive if it is confined to isolated islands surrounded by seas of development. The gene pool of any species cannot be confined to only a few individuals or the species will suffer grave consequences over time.

The desert bighorn has also suffered from cattle who forage for the same grasses and who carry diseases to which the bighorn have developed no tolerance. Mining activities have taken a toll because huge amounts of water are necessary for heap-leach mining, water that is also vital to bighorn survival.

Opponents of H.R. 2929 argue that the Bureau of Land Management plan for the California desert is enough to protect the resources while allowing multiple use of the land. In my opinion, this is simply not the case.

The fact that the desert tortoise is listed by the Department of the Interior as a threatened species is evidence that the BLM's plan is inadequate. Indeed, in 1980, when the BLM first issued its plan, the Council on Environmental Quality praised the BLM for its superlative inventory of the resources of the desert, but CEQ also criticized the plan. Quoting portions of the BLM's own environmental impact statement, the Council said, "Eight officially listed species would receive substantial impacts to their habitats, contributing to extirpations in some cases and possible extinction in others." CEQ also pointed out that the EIS found, "Of 70 special wildlife habitat areas, 71.4 percent would receive either negative or severely negative impacts."

These are just two of the creatures who have found an ecological niche in the California desert. There are many others as well. The desert offers a home to more than 750 species of wildlife alone, but of these, nearly 100 are on the brink of extinction.

We must act now to keep these and other animals from extinction and to provide protection for the unique ecosystems that still flourish in the California desert. I urge my colleagues to vote for H.R. 2929.

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. HOAGLAND. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I thank the gentleman for his excellent comments here and would only say in support of them that 40 percent of the endangered desert tortoises that we find dead in the East Mojave have bullet holes in them.

PARLIAMENTARY INQUIRIES

Mr. DREIER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DREIER of California. Mr. Speaker, I would like to ask what the procedure would be if we were to ask unanimous consent to have the Committee on Rules correct the problem that was acknowledged by the gentleman from California [Mr. BEILENSON].

The SPEAKER pro tempore. The manager of the rule could offer an amendment to the rule. No one else can.

Mr. BEILENSON. Mr. Speaker, the manager of the rule is advised to advise his friend, the gentleman from California, that he has not been authorized by the Committee on Rules to offer such an amendment.

Mr. DREIER of California. Mr. Speaker, what would be the procedure then if we would like to proceed and have the Committee on Rules take that action?

□ 1650

The SPEAKER pro tempore. (Mr. MCNULTY). That could be the prerogative of the manager of the rule or by a vote on the rule.

Mr. WALKER. I have a further preliminary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Would it not be possible to defeat the previous question on the rule and offer an amendment at that point to clean up the rule that the manager of the rule himself has admitted is flawed?

The SPEAKER pro tempore. If the previous question is defeated, a germane amendment to the rule would be in order.

Mr. WALKER. So, therefore, the way the House can correct it, if the gentleman from California is not permitted to do so because he does not have instructions from the Committee on Rules, the way for the House to correct a rule that we have now had an admission of a flaw is to defeat the previous question and thereby be able to offer a correction?

The SPEAKER pro tempore. An amendment to the rule would be in order if the House does not order the previous question.

Mr. WALKER. I thank the Chair.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Bakersfield, CA, Mr. THOMAS.

Mr. THOMAS of California. Mr. Speaker, I request the attention of the gentleman from California [Mr. BEILENSON]. I want to tell my friend that I apologize for the statement that I made in terms of characterizing the behavior. Clearly, by his admission that there was a mistake and there was a misunderstanding in the drafting of the rule and Members were not aware of what they were doing, that clearly explains the way in which the rule was written.

I hope the gentleman can understand my feeling in terms of an interpretation, when we are supposed to have been given a fair shot at something, but clearly the way it is structured it did not indicate that there was an opportunity at all because all of the other amendments were going to apply to the underlying bill anyway.

I want to apologize to the gentleman in terms of my characterization of the motivation, since he has indicated that it was in fact a mistake.

Mr. BEILENSON. Mr. Speaker, if the gentleman will yield, I appreciate what the gentleman says but this gentleman had not been offended, and I think my colleagues had not been offended by the gentleman's remarks.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Redlands, CA, Mr. LEWIS.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding this 1 minute.

Mr. Speaker, I rise for two purposes. First, I want to address myself to the comments of the gentleman from Nebraska. I want very much to associate myself with his remarks about the need for protecting the environment of the desert. Indeed, it is a very complex ecosystem, a tremendous challenge for all of us.

That is precisely why we reviewed all the elements of the desert and why there were 4 years of public hearings. Those elements have been taken carefully into consideration under the substitute that will be before us shortly.

Beyond that, Mr. Speaker, I want to express my appreciation to the Members of the Committee on Rules, both the presiding member from the majority side as well as my colleague, the gentleman from California [Mr. DREIER], for the cooperation they have extended to us during the process of trying to develop this rule. Indeed, they have been more than helpful as far as my interests are concerned.

The SPEAKER pro tempore. All time of the gentleman from California [Mr. DREIER] has expired. The gentleman from California [Mr. BEILENSON] is recognized for 30 seconds to close debate.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 160, not voting 18, as follows:

[Roll No. 418]

YEAS—256

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—160

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Brooks
Carr
Crane
de la Garza
Doolittle
Gaydos
Hayes (IL)
Lloyd
Morrison
Mrazek
Myers
Quillen
Sharp
Slattery
Smith (IA)
Torricelli
Towns
Yatron

☐ 1716

The Clerk announced the following pair:

On this vote:

Mr. Torricelli for, with Mr. Doolittle against.

Messrs. PORTER, BARTON of Texas, and IRELAND changed their vote from "yea" to "nay."

Messrs. MARTINEZ, DWYER of New Jersey, HUTTO, and ORTON changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to speak out of order.)

Mr. MICHEL. Mr. Speaker, I asked for this opportunity to proceed so that I might inquire of the distinguished majority leader the program for the balance of the day and the week, as he sees it now unfolding.

Mr GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, I appreciate this opportunity to give Members more complete information about tomorrow. Again, there is the possibility of the vote on the rule for the suspensions. This rule will not only include the procedure for the suspensions but it is what we call the martial law rule that allows us to go through the rest of what we are going to do in this period before we leave.

It is a rule that I am told by members of the minority that is always opposed by the minority and I assume there will be a vote on it. There is also the possibility, although I do not know that, that there could be a vote on going to conference on the banking bill. The Senate has finished the supplemental appropriation, and we may try to go to conference on the supplemental appropriation bill tomorrow.

So we will try to get those votes, and if there are votes on the other two, and certainly the vote on the rule as soon as we can, around 12 or 1, so that if Members want to be here for those votes, they can get them out of the way.

We will roll the votes on the suspensions until Monday.

Mr. MICHEL. One further inquiry: Would the Committee on Rules be meeting on any measure that might come before it, requiring a rule in the next couple of days? For example, RTC, or something of that nature?

Mr. GEPHARDT. The Committee on Rules may well be meeting tomorrow on campaign finance or RTC.

Mr. MICHEL. Any other?

Mr. GEPHARDT. Perhaps October surprise, but I do not know that.

Mr. MICHEL. So that Members wanting to present their case before the Committee on Rules, on either one of those three, I suspect would have to be prepared to make that tomorrow.

Mr. GEPHARDT. Correct.

Mr. MICHEL. Could the gentleman tell me if that is a distinct possibility? I see the chairman of the Committee on Rules is here, and he may be able to enlighten us a little bit more on that because I think it would affect some Members if they knew they definitely were not going to be considering a rule on such-and-such that they did not have to stay the entire day to make a case before the committee, and it might help.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Massachusetts [Mr. MOAKLEY].

□ 1720

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules at the present time does not have any idea of taking up October surprise tomorrow.

Mr. MICHEL. OK; how about RTC?

Mr. MOAKLEY. Very possible, RTC.

Mr. MICHEL. And any other?

Mr. MOAKLEY. Campaign finance reform absolutely. That is all that we have on our agenda at this present time.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, is there some reason why we cannot come in earlier than noon tomorrow?

Mr. GEPHARDT. There is no particular reason. We felt that noon would be the normal time that we would meet, and we would try to get this rule out of the way, and Members would probably be free at that point.

Mr. ROSTENKOWSKI. Well, we have nothing to do at 9 o'clock in the morning.

Mr. MCEWEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL] for yielding.

Mr. Speaker, just a further inquiry. As I understand it, the Committee on Rules has already voted out the martial law, martial rule law. Is there anything that would prevent us from considering it tonight and then have no votes tomorrow at all?

Mr. GEPHARDT. If the gentleman will yield, it would require a two-thirds vote.

I would also remind Members of what we are trying to do. Most Members have said over and over again that we want to try to get us out of here by next Tuesday night. We have a number of conferences going on, we have a number of activities that need to take place here tomorrow, and we are trying our best to get it done.

Mr. Speaker, I know Members want to be home over the weekend. I know Members want to go home on Tuesday night. I beg their patience so that we can get all of the things done that we have to get done in order to be able to get out of here on Tuesday night.

Mr. MCEWEN. Mr. Speaker, if the gentleman would yield further, as I understand it, the only vote tomorrow then is on this particular rule.

Mr. GEPHARDT. There could be a vote going to conference on the banking bill. There could be a vote going to conference on the supplemental appropriation.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, let me say to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], that on our side, as the gentleman knows, earlier today the entire conference met and adopted an economic growth package. In fact we want to come to the Committee on Rules to ask them to make it in order as a possible amendment to the RTC. It would be frankly easier on the staff if we could have that particular item considered on Monday morning, or sometime on Monday, under the martial law rule they intend to pass.

Mr. Speaker, I ask the gentleman, "You don't have any problem with bringing up the rule the same day it's reported out?" It would be more convenient on our side if it is possible to do that. If we have to, we can get it prepared by tomorrow, but, just as a practical matter, unless there is some overriding reason, it would be easier to take up the RTC from our standpoint on Monday so then we can bring in all the full details on the economic growth package.

Mr. GEPHARDT. We will take that into consideration.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague, the gentleman from Illinois [Mr. MICHEL] yielding.

Mr. Speaker, I certainly do not rise to suggest that it would be likely to have votes tomorrow, but, if we are going to have votes in the middle of the day tomorrow, it does occur to me that Members might like to know, in order not to stay here all night in the process. Once we get through an hour's general debate on the bill, I frankly would like to have the hour in which we are going to spend time on the substitute that reflects the interest of the four Members who have not had a chance to really effectively be heard on this bill whose districts are directly affected. I think that opportunity would come much better in the morning when the Members have had a chance to reasonably rest, et cetera.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, I would like to respond to what the gentleman said.

It is our intent to go forward this evening, but if it is acceptable to the minority, we can start at 10 o'clock in the morning to try to get the rule done and to get other matters done as quickly as possible.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DREIER of California. Are we going to be in session on Sunday?

Mr. GEPHARDT. No.

Mr. DREIER of California. Not even pro forma session?

Mr. GEPHARDT. Might be a pro forma session, but we will not have votes on Sunday.

Mr. MICHEL. Mr. Speaker, if there are no further questions, I yield back the balance of my time.

(By unanimous consent, Mr. ROE was allowed to speak out of order.)

REQUEST FOR HELP

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, I would like to amplify this for the benefit of the Members. I have been speaking with my colleagues over here. We have to ask the Members to help us.

Now what we mean is that we know there is a great deal of work, as the majority leader and our distinguished ranking minority leader said. But if we call 50 million votes tomorrow, our conferees will not be able to finish our work. The Transportation Bill is of humongous magnitude, as my colleagues will appreciate, and tomorrow we are going to be meeting on the Senate side. We have been moving back and forth.

So, I just ask the Members, if I may, to give us a break tomorrow, and I say, "If you want to get out of here Tuesday, we can finish that conference report, but we need your help."

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

POINT OF ORDER

Mr. THOMAS of California. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman will state his point of order.

Mr. THOMAS of California. Did the Speaker pro tempore rule that the request for a vote was timely?

The SPEAKER pro tempore. Yes, the gentleman from Massachusetts [Mr. FRANK] was on his feet.

Mr. THOMAS of California. Mr. Speaker, the whole House was on its feet for 5 minutes.

The SPEAKER pro tempore. The gentleman was on his feet requesting recognition, and the House was not in order.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 269, nays 135, not voting 30, as follows:

[Roll No. 419]

YEAS—269

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaugther
Smith (FL)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (FL)
Zimmer

NAYS—135

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Ros-Lehtinen
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Zeliff

NOT VOTING—30

Andrews (NJ)
Brooks
Carr
Clay
Crane
de la Garza
Doolittle
Gaydos
Hopkins
Huckaby
Johnston
Lloyd
Manton
Marlenee
Martin
McDade
Morrison
Mrazek
Myers
Nagle
Quillen
Rohrabacher
Sharp
Smith (IA)
Solomon
Tauzin
Torricelli
Towns
Weldon
Yatron

☐ 1744

The Clerk announced the following pair:

On this vote:

Mr. Torricelli for, with Mr. Doolittle against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO MODIFY BLAZ AMENDMENTS EN BLOC NO. 10 TO H.R. 2929, THE CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BLAZ. Mr. Speaker, in order to save time later on, I ask unanimous consent that when the bill (H.R. 2929) is considered in the Committee of the Whole, in lieu of amendment No. 10 as printed, I be permitted to offer a modified amendment in the form of an amendment at the desk.

The SPEAKER pro tempore. The Clerk will report the modified amendment.

The Clerk read as follows:

Modified amendment offered by Mr. Blaz: Instead of the matter proposed to be inserted, insert the following: Page 65, after line 15, add the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) Short Title.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) Findings.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) While changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) China Lake.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragarph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) Chocolate Mountain.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) Publication and Filing Requirement.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) Technical Corrections.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Availability for Public Inspection.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) Reimbursement.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management by the Secretary of the Interior.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) Additional Military Uses.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management of public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

Mr. BLAZ (during the reading). Mr. Speaker, I ask unanimous consent that the modified amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

Mr. VENTO. Mr. Speaker, I reserve the right to object, so that I may ask the gentleman from Guam whether the modification he is proposing is the same one that he and I have discussed and agreed upon earlier.

Mr. BLAZ. Mr. Speaker, will the gentleman from Minnesota yield under this reservation?

Mr. VENTO. I am glad to yield to the gentleman from Guam.

Mr. BLAZ. Mr. Speaker, I thank the gentleman for yielding, and I can assure him that this is the same modification to my amendment that he and I have worked out together. If my unanimous consent request is agreed to, my amendment would omit any provisions related to the lands around Fort Irwin, because the military's concerns about those areas have already been addressed in a previous amendment. It would have the same provisions relating to China Lake, Chocolate Mountain, and the El Centro range areas as I Mr. VENTO's amendment. And it would have the overflight language, based on the administration's testimony on Mr. VENTO's military withdrawal and overflight bill, that was worked out and agreed to in discussions between Mr. VENTO and myself earlier this week.

Mr. VENTO. Mr. Speaker, I appreciate the explanation that the gentleman has provided. I want to thank the gentleman from Guam for his cooperation with regard to this important matter. I believe that the Vento-Blaz form of the Blaz amendment fully and properly addresses both the genuinely necessary renewal of the military withdrawals of the China Lake and Chocolate Mountain areas, and the perceived need of the military for a disclaimer concerning continued overflights by military aircraft of the lands dealt with in this bill. With this modification, I can fully support the amendment, and so, Mr. Speaker, I withdraw my reservation of objection to the modification.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

Mr. WALKER. Mr. Speaker, reserving the right to object, might I inquire, under the modification that is being contemplated with this motion or with this action, who will control the amendment?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, it is the intention that the gentleman from Guam [Mr. BLAZ] will control and offer this amendment. It is a modification to his amendment which is in order by the rule.

If the gentleman would continue to yield, in the event that amendment which we have agreed to is offered and accepted, I would not offer the amendment that I am listed to offer.

Mr. WALKER. Mr. Speaker, further reserving the right to object, my concern here is that we went through an exercise just a couple of minutes ago with regard to the rule where we asked unanimous consent that the rule be corrected to correct the flaw that was obvious in the rule, that the manager of the rule said was there, and we could not get unanimous consent to do that. I see no reason for the House to give unanimous consent for something which is outside the rules process and, therefore, I object.

The SPEAKER pro tempore. Objection is heard.

MODIFICATION OF APPOINTMENT OF CONFEREES TO H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

The SPEAKER pro tempore. Without objection, the Chair announces the following appointment of conferees to H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991: Pursuant to the previous order of the House of November 6, 1991, the appointment of conferees on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, is modified by adding at the end thereof the following new paragraph:

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference: Mr. CONYERS and Mr. HORTON.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-351) on the resolution (H. Res. 294) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1750

CALIFORNIA DESERT PROTECTION ACT OF 1991

The SPEAKER pro tempore. (Mr. MCNULTY). Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2929.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposed, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Guam [Mr. BLAZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN.]

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an important day for the State of California, the culmination of years of work toward enacting sweeping legislation for the protection of the California desert. I want to at the outset acknowledge the tremendous cooperation of the Members who have been involved directly in this process over the past year:

The gentleman from California [Mr. LEVINE], my wonderful colleague and friend who has been indefatigable in pursuit of this legislation for the past few years and who has worked closely with me over the course of this year to bring this legislation to the point; the gentleman from California [Mr. MILLER], our chairman on the Committee on Interior and Insular Affairs, who worked closely with us at all times and successfully steered this bill through the full committee; the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands, who had this jurisdiction for several years, who has been a friend of the desert during that time and who has visited the area on several occasions and whose great work is also embodied in this legislation.

And I want to thank the gentleman from Guam [Mr. BLAZ], my good friend whom I have had the pleasure of working with and for whom I have great respect and with whom we both share a love of this area. He has certainly contributed an awful lot to this legislation. I know we find ourselves still with some differences, but that is not because we have both not honestly tried to work together to get a good result here. I want to commend him and thank him for his participation.

As members are aware, legislation similar to what we are considering today was first introduced in 1986. There have been six public hearings on this matter, three in California and two in the desert itself. Numerous field inspections have been undertaken by Members of this House and by staff. Over 500 witnesses have been heard in connection with this legislation. Indeed, no other land-use issue since the Alaska Lands Act has found this kind of intense congressional scrutiny.

Mr. Speaker, business as usual for the California desert is not an option any longer. Protection of the desert is imperative and this protection must begin with legislation followed by tough administrative guidelines. The California desert plan was the beginning, not the end, of a management process which continues to evolve.

The great California desert encompasses 25 million acres. The American people clearly want land use decisions concerning this property to reflect their values. They want exploitation carefully balanced with protection. They want recreation that does not unduly harm the landscape. They want the most precious and primitive and pristine areas left intact, untouched, insofar as possible, for future generations to appreciate. And they want the cruel and senseless extermination of fragile species to end now.

Contrary to what we have heard, this bill does not eliminate man's presence in the desert. It does not prohibit human activity: mining, grazing, hunting, motoring. Indeed, the desert is vast and there is room for all things in some measure. It does, however, place reasonable limits and restrictions on activities in some areas where the use at existing levels is contrary to the public interest.

We can plant new trees in the forest and hope that they may grow, but we cannot do the same in the desert. A perfect illustration of this type of problem is the scaring left by General Patton's troops 50 years ago can still be seen. The loss of habitat is irreversible. Five years is long enough for the bill to be debated. And we should not procrastinate further.

This bill designates 4.3 million acres of BLM managed land as wilderness. It redesignates the Death Valley and Joshua Tree National Monuments as national parks, enlarges them and designates areas within these expanded parks as wilderness. The bill also establishes the Mojave National Monument, designates it as a unit of the National Park System, and designates certain lands within it as wilderness. This is not the same bill that has been around for 5 years.

A total of 271,000 acres was deleted in H.R. 2929 from past desert proposals and in the en bloc amendment today, the gentleman from California [Mr. MILLER] will propose to release, to take out another 160,000 acres. Most off-road vehicles have been carefully excluded from the legislation with another 75,000 more acres of recreation trails added to the proposal which is the equivalent of 114 miles. No active mines are within any of the wilderness boundaries. Valid existing mining claims are protected in wilderness and parks. However, we have eliminated 73,400 more acres for certain mining interests.

Grazing is allowed in wilderness areas, although not generally in national parks. However, we have made an exception. We have provided that grazing in the Mojave and in the additions to Death Valley can continue for 25 years or lifetime of the permittee holder.

Hunting is, of course, allowed in the wilderness. This bill does not eliminate hunting on wilderness. It is allowed there.

It is, of course, not allowed in national parks and monuments, which is a longstanding park policy. But there is not hunting today in the Joshua Tree, and there is not hunting today in the Mojave. And this does not change that one bit.

We have provided for an exchange system here to consolidate Federal lands in many of these designated areas, while allowing private landholders in the State of California to trade out their property on a value-for-value basis.

Finally, we have solved all of the concerns that the various utilities have had with this bill by removing 27,000 acres from it.

These are just a few of the many problems we have solved and the compromises we have made from past desert bills.

My colleagues, the easy environmental issues have been solved. This decade we in Congress and the citizens of this Nation will be faced with the toughest questions yet. Can we blindly continue to use every last resource and destroy crucial habitat as if there is no tomorrow? Or, do we take the challenge that is presented to a truly advanced society which accepts the long-term benefit over the short-term gain. Do we continue to tell other countries to stop unwise resource use, when we cannot protect our own public land? Or, do we stand before the international community, proudly and boldly as an example to all countries of the world as a nation which decided, before it was to late, to lead by example not by words.

Today you are faced with the opportunity to cast a vote that will genuinely make a difference. I ask for you to vote in favor of H.R. 2929 and against any weakening amendments. Time is running out for one of the world's great ecosystems. Let us act now to preserve indelibly this important part of our natural heritage.

Mr. Chairman, I reserve the balance of my time.

Mr. BLAZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG], the ranking member of the committee.

Mr. YOUNG of Alaska. Mr. Chairman, first let me compliment the individuals who have worked on this legislation: the gentleman from Guam [Mr. BLAZ], ranking member, and the gentleman from California [Mr. LEHMAN].

I do rise in strong opposition to this legislation. That is no surprise.

I rise not necessarily about the California desert bill. I rise in opposition to what this Congress has been doing for the last 15, 20 years.

□ 1800

This Congress has taken land that is productive and that provides jobs for the American workingman out of production; 676 million acres of land that does not produce one nickel or dime, it produces zero. California has a terrible job climate today. This bill is going to cost jobs regardless of what the gentleman says. It is going to cost jobs, it is going to cost money, it is going to cost taxpayers money to run this.

Everytime I stand on the floor and bring this to the Congress, the people's ideas that we can have both, the Irish wilderness was brought to the floor, it cost approximately 2,000 jobs and it was not even a wilderness but it was a fine mineral deposit. It would have used about 150 acres.

The concept that we keep placating the so-called environmental movement by taking land and setting it aside is wrong, because this Nation was built on natural resources and only can continue to grow on natural resources. The fiber, the minerals, the fossil fuels, and yes, the wind power and the nuclear power, all the other powers, do not come from the sky. It means development of resources that God has given this country.

Now, the gentleman from California mentioned a while ago that we have a responsibility to the environment, and that is true. But we also have a responsibility to the people, the working men and women of this country. We are losing that responsibility. We are not providing the jobs.

It is ironic to me, as the gentleman just previously spoke, if this same Congress had been sitting when they developed the central valley project there would still be a desert there, not the ability to provide the food for the State of California and for the people of this United States.

If we had this same Congress back in the 1800's we would not have the Transcontinental Railroad. If we had the same Congress in 1933, when Franklin Delano Roosevelt was here, we would not have the Boulder Dam, the Tennessee Valley project that provides us the power and the jobs for the people.

This Congress has got its head buried in the sand. We hear a lot of presidential bashing about the economy of this Nation and about the lack of jobs. I heard these 1-minutes all from this side today talking about the lack of jobs and how the people are not employed, and yet this Congress, every day it brings a bill to the floor of the House and the Committee on Interior and Insular Affairs and takes jobs away from the people.

The spotted owl is going to cost us 35,000 jobs. This bill alone will cost more than 500 jobs, and no future jobs, regardless of what the gentleman says. I can go on with the California wilderness, the Oregon wilderness, the Idaho wilderness bill, the Washington State wilderness benefits bill, and yes, the Alaska wilderness bill, 147 million acres, and it all takes jobs from the American people.

This side cannot have it both ways. You are talking about the economy and you keep putting bills on this floor to take away the opportunity of the American people. You do not provide us with the energy that this country needs. And then they say we must do it to protect the environment. If you do not have a strong economy, your environment is destroyed.

Go to India. Go to these Third World countries and find out, because the people are underfed, unemployed, because they do not in fact have any money. They have terrible environmental damage being incurred.

We must get some balance in this Congress, get some ideas in this Congress that we can have our environment but we must not continue to put this vast amount of land aside without understanding the effect upon the economy and the people directly affected by the loss of their jobs.

I am going to support the Lewis amendment. I think that is probably more realistic. I am not excited about that as much as I should be, but this so-called compromise is a bill that creates chaos in the economy of this Nation because it takes out the opportunity for future advancement and opportunity for the working men and women.

Mr. LEHMAN of California. Mr. Chairman, I yield 5 minutes to the gentleman from California, [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, for 5 years, despite a great deal of urging by the gentlemen from California, my good friends, Mr. LEHMAN and Mr. LEVINE as well, and a great deal of input in support of this legislation from my constituents, I have withheld my cosponsorship from desert protection legislation out of respect for my colleagues who represent the affected area.

Now, Mr. Chairman, I rise in strong support of H.R. 2929. Today I am proud to list myself as a cosponsor of this important bill, introduced by my friends from California. Mr. LEHMAN and Mr. LEVINE, and of course by the gentleman from California, [Mr. MILLER], the chairman of the full committee.

The bill is really a product of more than 5 years of work by the bill's sponsors. During this period the sponsors have made every effort to reach out to the many groups affected by it, to forge compromises and to address legitimate concerns. The sponsors have in my estimation done an admirable job.

Let me briefly highlight some of the compromises reflected in the bill. Earlier proposals seeking desert protection, Mr. Chairman, called for a 10-year phaseout of grazing to accommodate existing grazing interests in the area that will become the Mojave National Monument and in a small portion of Death Valley. As brought to this floor, the measure would extend grazing phaseout periods more than twofold, to 25 years. In addition, the desert protection bill gives priority to the acquisition of livestock owner's base property on a willing seller basis only.

We have already heard questions about limited access to these lands, that access is somehow being denied to the vast majority of working Americans and their families. The Governor of my own State has argued that in this bill we are locking up the desert and that only those hardy enough to backpack will be able to enjoy it.

Mr. Chairman, I find nothing in this measure to support that contention. The bill leaves open a network of more than 33,000 miles of roads and jeep trails. Of the lands that the bill designates as wilderness, fully 85 percent are within three miles of vehicular access. Nonetheless, the sponsors have made additional compromises on this front as well. The proposal before us opens an extra 107 jeep miles in addition to those already provided in earlier versions of the bill.

The sponsors also made concessions to the concerns of the utility industry. The industry, which previously opposed the bill, now testifies that it has no objection to the measure. In addition, accommodations have been made to the mining interests in the area. The original boundaries in the desert proposal were drawn to avoid known mining claims. These boundaries were taken form information supplied by the Bureau of Mines, the Bureau of Land Management, the U.S. Geological Survey, and the State of California.

Since the introduction of the original desert proposal many additional modifications have been made. H.R. 2929 has deleted an additional 71,000 acres from wilderness and park boundaries to accommodate the concerns of the mining industry.

Finally, Mr. Chairman, of particular importance to me, the bill includes a provision that protects the financial interest of California's retired teachers fund. There are approximately 340,000 acres of California school lands scattered within the proposed desert wilderness and park areas. This represents almost 50 percent of the surface ownership of the State school lands.

Unlike other earlier versions of the bill, H.R. 2929 directs the Secretary of the Interior to enter into land exchanges with the California State Lands Commission as a means to compensate California retired teachers on a value-for-value basis for the Federal acquisition of school land assets.

So, Mr. Chairman, I think the opposition's argument that the bill is not a compromise is not accurate. Time and again the sponsors have made every effort to address the many conflicting concerns about the protection of the California desert.

I am sure tonight we will be able to work out the concerns of the Pentagon as well. So I strongly support H.R. 2929. I urge my colleagues to vote for this much needed statutory protection which has been properly compromised. It is vital and unique, a natural resource that is irreplaceable.

I know our colleagues on the Republican side mean well. I know they have gained quite a bit in their negotiating.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California [Mr. LEWIS], my friend from the Redlands area.

Mr. LEWIS of California. Mr. Chairman, my colleague, the gentleman from California [Mr. FAZIO] and I have worked together for years, as the Members know. But I would say to my colleague that that last comment may have been communicated to him as a matter of the record, but the fact is there has not been any negotiation entered into on the part of the authors on this bill, not one moment of negotiation, even though we have heard serious requests for that negotiation.

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Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had hoped to speak at length on this subject, but out of respect to those particularly affected, I shall be brief.

Let me respond to the comments of the chairman, the gentleman from California [Mr. LEHMAN] earlier and say also that I really enjoyed working with the gentleman from California [Mr. LEHMAN]. I enjoyed working with the gentleman from California [Mr. PANETTA]. I enjoyed working with the gentleman from California [Mr. LEWIS], and I am particularly grateful to the gentleman from Alaska [Mr. YOUNG] for permitting me, a delegate, to manage a bill. I am grateful to the leadership on my side.

Reluctantly, Mr. Chairman, I rise in opposition to the bill. It pains me, for I was stationed in that desert, ironically at Twentynine Palms. I thought maybe the bill was named after that base, but it really was not.

Later on I shall yield to the four people from the desert who are immediately affected. I should like at this time, however, to say that I have every intention of introducing an amendment that affects the military.

The spectacular success that we enjoyed in the Persian Gulf was not due to the experience in the Arabian Peninsula, but because of the training that we had in the Mohave Desert. I have an obligation to those with whom I have served to make sure that I introduce that amendment. Whether it fails or wins, it makes no difference. I must fulfill that obligation.

Rather than take up too much time, Mr. Chairman, I shall end with this. I was somewhat disappointed and surprised that the people who are most immediately affected were apparently not consulted in the authorship of this bill. To me that oversight, intended or perhaps unintended, strikes at the very core of representation, and it would seem to me that it would displease me no end personally if I thought that someone in this body would have a bill that would literally change my district, my 8-mile wide district, without giving me the courtesy of a phone call.

So that to me is my contribution to this debate. We must ask you to give weight to those elected to represent the districts that are being considered this afternoon.

Mr. LEHMAN of California. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. LEVINE], the original sponsor of the bill.

Mr. LEVINE of California. Mr. Chairman, I thank my friend for yielding me this time.

Mr. Chairman, before I address the merits of this legislation, I want to just take a moment to thank and recognize those without whose help we would not be here on the floor today. As others have mentioned, we have worked for 5 years to craft legislation that protects California's desert and also addresses the legitimate conflicts posed by businesses and other interests who have been concerned about this legislation. H.R. 2929 is the fruit of these labors.

All of the parties involved in this debate owe the subcommittee chairman, the gentleman from California [Mr. LEHMAN] a great debt of gratitude for his thoughtful leadership and commitment, and I personally want to thank my close friend and colleague, the gentleman from California [Mr. LEHMAN] for the leadership that he has shown with regard to this issue and in particular other environmental issues as well.

I also want to thank the chairman of the full committee, the gentleman from California [Mr. MILLER] for helping to bring this bill to the floor.

I also want to thank the chairman of the Subcommittee on National Parks and Public Lands of the Committee on the Interior, the gentleman from Minnesota [Mr. VENTO] who has worked long and hard for years in terms of helping to ensure that this legislation achieved these objectives.

I want to join the gentleman from California [Mr. LEHMAN] and the ranking member, the delegate from Guam [Mr. BLAZ] for his thoughtful consideration as well.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 2929, the California Desert Protection Act of 1991. I am pleased that after years of hearings and debate on this issue, the House has the opportunity to enact legislation that will provide prudent and appropriate protection to areas of the California desert.

I commend Congressman LEVINE and Congressman LEHMAN for their leadership on this issue and also recognize Chairman MILLER for his role in facilitating the House's consideration of this important legislation. As my colleagues know, I represent a large portion of the California coastline and have worked very hard to provide adequate protection to our nation's significant and sensitive natural treasures.

The California desert is one of those national treasures. Areas protected under this bill, such as the Joshua Tree Forest, Death Valley, and portions of the Mojave Desert, are unique, fragile resources warranting strong protection from development. I am particularly pleased that Congressman LEVINE and Congressman LEHMAN were able to craft a compromise bill that will allow multiple use of the desert's resources to continue, while providing an adequate level of protection for the desert's most sensitive resources.

As chairman of the House Budget Committee, I would also like to commend the Interior Committee for the fact that the Congressional Budget Office has estimated the pay-as-you-go effects of this bill as zero for each year through 1995, for purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act. I also appreciate the committee's willingness to address a Budget Act issue related to the State school lands credit language in the bill, as part of Mr. LEHMAN's en bloc amendment.

Mr. Speaker, the authors of H.R. 2929 have labored hard to address the concerns of the desert's multiple use community and have devised a responsible compromise bill. H.R. 2929 manages to strike the often elusive balance between providing adequate protection of the desert's most sensitive resources with serving the multiple use needs of desert users. I urge my colleagues to help in this effort by offering their strong support to H.R. 2929.

Mr. LEVINE of California. Mr. Chairman, there have been a number of staff people also, and one in particular I want to pay tribute to is Betsy Ford on my staff who has labored in the vineyards for 5 years on this bill.

Mr. Chairman, the vote that we will cast today in all likelihood will be one of the most important environmental votes cast by this Congress. It is certainly one of the most important environmental votes ever taken with regard to California. That is why passage of this bill, and defeat of the weakening amendments are a top priority for 118 environmental organizations.

Passage of H.R. 2929 will create a living legacy to future generations, and it will be a vote that all of us will have been proud to cast.

I am often asked by people from other parts of the country why protecting this desert is so important. Some actually believe the desert is a wasteland, essentially devoid of life. Nothing could be further from the truth. The California desert is one of this Nation's crown jewels.

I have seen firsthand the incredible variety of wildlife that makes its home in the desert. I have sat under the desert's night sky with my own son, Adam, and seen a panorama of stars and mountain silhouettes as I had never seen before. I have seen the breathtaking wild flower blooms that cover the desert floor in the spring.

The history of the desert is extraordinary. Within the lands protected by this bill, you can find real ghost towns dating back to the 1800's, prehistoric paintings and native American village sites.

H.R. 2929 protects the very best parts of the desert. Unless Congress acts, however, this amazing landscape will be lost to developers, miners, and the mismanagement of our own government. Congress must act, and act quickly, if we are to protect the integrity of the desert and its unique character. If we fail to pass this legislation, future generations will be denied this treasure.

This bill, Mr. Chairman, represents precisely what both desert residents and all Californians want, an end to the reckless abuse of the desert.

Local endorsements speak for themselves. Forty-nine California cities and counties have endorsed the bill, far outnumbering the populations of those who have opposed it. Seven desert cities and a number of other cities support the bill, and polls consistently have shown support for this legislation.

Mr. Chairman, we have made numerous compromises in this bill, as the gentleman from California [Mr. LEHMAN] and the gentleman from California [Mr. FAZIO] have already outlined, many of which have been described earlier regarding utility concerns, mining concerns, and military concerns.

I want to emphasize for the record, Mr. Chairman, that while we have had numerous public hearings, we, and I personally have beseeched my good friends on the other side of the aisle to come to the table and negotiate with regard to this legislation; but the fact is, I do believe and the record should be clear and I refer to my very good friend for whom I have very high regard, I talked to him privately. I have written to him. I have urged him to meet and urged him to negotiate and urged him to sit down. We have sat down with numerous interests. We have had significant compromises.

What we did not compromise, Mr. Chairman, however, and what we are committed to fight are the efforts of those who simply just oppose wilderness, those who believe every last acre must be exploited and those who do not understand why we must act now to protect what is left of the desert.

The face of the desert is changing. To my colleagues from the East who have never had the chance to see it, come visit it. It is an extraordinary place. The ecological diversity and historical sites protected by my bill are second to none. The passage of this bill will strike a major victory for environmental protection in the country.

Mr. Chairman, I strongly urge an aye vote on the bill and a no vote on weakening amendments.

Mr. Chairman, I include the following correspondence and material:

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
San Francisco, CA, January 30, 1987.

Memorandum to: Director, National Park Service.
From: Regional Director, Western Region.
Subject: California Desert Protection Act.

We have completed our analysis of the proposals contained in the California Desert Protection Act per your memorandum of May 5, 1986. Our recommendations are enclosed, along with the objective resource assessment on the various provisions. Nine additional copies of the assessment are enroute under separate cover. We are making copies of the resource assessment available to BLM's California State and Desert District Office.

Let us know if any additional information is needed on these legislative proposals.

HOWARD H. CHAPMAN.

WESTERN REGION RECOMMENDATIONS ON THE CALIFORNIA DESERT PROTECTION ACT

MOJAVE NATIONAL PARK

The NPS' Management Policies require that potential new units be evaluated in terms of the following three criteria: 1. Significance, 2. Suitability/Feasibility, and 3. Management Alternatives. The Policies state that potential new areas will normally not be recommended for authorization by the Service unless all three criteria are met.

1. As indicated in the resource assessment, this unit does not fill a major natural systems gap in the System based on the National Park System Plan: Natural History. The natural region in which the proposed unit is located, the Mojave-Sonoran Desert, is an extremely large and diverse region already containing a number of parks and monuments. Mojave Desert phenomena are protected and represented in the National Park System in Joshua Tree and Death Valley National Monuments.

The proposed unit contains a rich array of highly significant natural and cultural resources. It would be difficult to find an area of similar size with as many outstanding sites. Notwithstanding the fact that the area does not fill a natural systems void in the System, we believe that the overall quality of the area and the multiple resource attractions are sufficient to meet the significance standards for new units.

2. The proposed Mojave National Park is of sufficient size and character to permit administration, protection and preservation. Although the area would be relatively difficult and expensive to administer, given its history of ranching, mining, and ORV use, it does clearly meet the suitability/feasibility criterion.

3. The NPS Management Policies state that the Service will not ordinarily recommend the addition of an area to the System if other means are available to provide for resource preservation and visitor appreciation and use.

The question of whether suitable management alternatives exist depends largely on the level of protection considered to be necessary. In the case of Mojave, BLM has indicated its intent to accomplish protection and visitor use functions through the area's management as the East Mojave National Scenic Area. While management is not nearly as preservation-oriented as some park proponents might wish, BLM has authority to protect important natural and cultural resources, and has taken steps to protect key areas. Given adequate financial and personnel resources (which it does not currently have), and a commitment to preservation and visitor use, BLM could make this an outstanding national area.

However, BLM is presently committed to management of the area on a multiple-use basis. While controls on economic uses can preserve the essential integrity of the area, at least at the current level of demands for the area's potential products, protection is not absolute and compromises must be made between resource preservation and economic activities such as mining and grazing. The extent to which BLM could protect the area in the event of major mineral discoveries is questionable.

On balance, the proposed Mojave National Park meets the three new unit criteria specified in NPS Management Policies and would be a worthy and valuable addition to the National Park System. The boundary proposed in the legislation is appropriate for the unit.

We recommend its addition to the National Park System.

JOSHUA TREE NATIONAL MONUMENT

Proposed Additions: None of the proposed additions have highly significant natural or cultural resources justifying national park status on their own merits. Nevertheless, based on management considerations, we believe that addition of the Coxcomb Mountains and Eagle Mountain areas to Joshua Tree National Monument would be appropriate and desirable. (See Option 2 in the resource assessment for Joshua Tree.) These additions display high resource quality, are continuations of mountain systems already within the monument, and would create more easily identifiable and patrollable boundaries than now exist. The incremental management costs of these additions would be modest, but necessary to provide for adequate management.

We do not recommend the other proposed additions. They neither offer high quality resources nor would they improve the monument's manageability. Rather, because of mining and ORV activities, they could increase management problems for the monument.

National Park Status: The legislation designates Joshua Tree as a national park rather than a national monument. We believe such designation is appropriate.

Mineral Studies: As indicated in the assessment there are a substantial number of mining claims in the proposed additions. We believe the legislation's requirement for completion of a validity study within two years would be difficult to meet at a reasonable cost. We recommend that the timetable be increased to five years.

DEATH VALLEY NATIONAL MONUMENT

Proposed Additions: We believe most of the proposed additions to Death Valley would be desirable increments. As discussed in the assessment, the proposed additions include the Eureka and Saline Valleys. These areas have inherent natural qualities of nationwide significance and would add to the range of phenomena already present in the monument.

Although not considered to be as significant in resource value, the Panamint and Greenwater areas do include important natural and cultural resources worthy of protection and having significant interpretive value. The addition of these areas would also enhance the monument's manageability through better definition of the boundary.

The remainder of the proposed additions have value to the monument primarily in better defining the boundary and thereby enhancing the monument's capability for resource protection. The Owlshead Mountains addition also provides an added buffer to incompatible military uses.

We recommend minor deletions to the proposals in three areas to eliminate potential management problems. These deletions are discussed in the assessment under Options for Boundary Revision.

The additions represent a significant increase in the scope of the unit and would add considerably to the cost of managing the monument. Increased operational funding for Death Valley National Monument would be essential.

Wilderness Designation: The proposal for designation of wilderness within the existing boundary of the monument appears to be consistent with our long-standing recommendations. A revised map reflecting minor corrections is currently being prepared and will be forwarded to you shortly. This map should be transmitted to Congress and referenced in any legislation.

National Park Status: The proposed legislation designates Death Valley as a national park rather than as a monument. We recommend this change in designation.

Mineral Studies: There are thousands of mining claims in the proposed additions. We believe the legislation's requirement for completion of a validity study within two years would be difficult to meet at a reasonable cost. We recommend that the timetable be increased to five years.

A PRELIMINARY STUDY OF THE EAST MOJAVE AREA TO DETERMINE ITS SUITABILITY FOR INCLUSION IN THE NATIONAL PARK SYSTEM

(By Desert Plan Staff, Bureau of Land Management)

GENERAL DESCRIPTION

The Eastern Mojave study area covers 1.4 million acres in what is geographically part of the Mojave Desert, yet displays many features and biota of the Sonoran Desert to the south and the Great Basin Desert to the north and east. The study area contains 16 mountain ranges, 4 dry lakes a perennial stream, innumerable washes, mesas, buttes, badlands, cinder cones, lava beds, caves, California's most complex sand dune system, alluvial fans, bajadas, and many other expressions of geologic and geographic interest. Elevations in the study area range from about 900 feet near Baker in the Mojave River sink to 7,929 feet atop Clark Mountain.

In all of the California Desert there is no finer grouping of different wildlife habitats. Over 300 species of vertebrate forms have been observed here, including some whose California breeding grounds are limited to the East Mojave.

The Eastern Mojave is also rich floristically, with over 700 species of higher plants found in the region, including 25 rare or endangered species. Many species reach their extreme range limits here.

The Eastern Mojave contains many fascinating and unique cultural resources: petroglyphs, pictographs, Indian village occupation sites and trails, the historic Mojave (Old Government) Road, abandoned U.S. Army forts and posts, abandoned mines, railroads, ghost towns, and the Kelso Depot, a magnificent two-story railroad depot built in 1904, which is still in use.

CONCLUSIONS

It is the conclusion of the Desert Plan Staff that cultural and natural resource values of the East Mojave Study Area are so diverse and outstanding that the area readily qualifies for National Park or Monument status.

LOCAL GOVERNMENTS WHICH HAVE ENDORSED THE CALIFORNIA DESERT PROTECTION ACT

15 County governments have endorsed the California Desert Protection Act.

34 City governments have endorsed the California Desert Protection Act, including the 8 largest.

COUNTY GOVERNMENTS ENDORSING THE CDPA

Santa Barbara County, Sacramento County, San Francisco County, Santa Cruz County, Santa Clara County, Napa County, San Diego County, Los Angeles County, Marin County, Alameda County, Contra Costa County, San Mateo County, Placer County, San Joaquin County, and Monterey County.

CITY GOVERNMENTS ENDORSING THE CDPA

San Francisco, Riverside, Rancho Mirage, Escondido, Santa Monica, Del Mar, Palm Desert, West Hollywood, Coronado, San Diego, Poway, La Quinta, Ventura, Ontario, Fresno, Sacramento, Redlands, Long Beach, Upland, Davis, Irvine, Desert Hot Springs, Palm Springs, Visalia, Laguna Beach, Vallejo, Fairfield, Hemet, Los Angeles, San Jose, Oakland, Salinas, Berkeley, and Yucaipa.

CANYON RESOURCES CORP.,
Golden, CO, October 1, 1991.

Hon. MEL LEVINE,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE LEVINE: We sincerely appreciate the responsiveness of you and your staff in addressing the issues we raised concerning our proposed Briggs gold mine and adjacent gold deposits in the southern Panamint Range and the possible effects on our projects of H.R. 2929, the California Desert Protection Act of 1991. Your willingness to sponsor an amendment to the legislation which alters the boundaries of the proposed Manly Peak and Surprise Canyon Wilderness areas and deletes the Middle Park Wilderness area removes a potentially critical impediment to our projects. When the Briggs mine is opened in later 1993 or early 1994, we believe it will contribute each year $20 million in wages and purchases of goods and services to the local communities and $5.5 million in direct and indirect federal, state, and local taxes. The adjacent properties freed by the amendment offer the possibility of an adjacent $600 million in payroll and purchases and $160 million in taxes.

Your willingness to listen to our specific concerns and to craft an amendment that both permits productive economic enterprise and protests extraordinarily environmental values is laudatory. You certainly have resolved favorably our company's specific concerns with the legislation. Accordingly, we are pleased to withdraw our opposition to the bill, as amended.

Sincerely yours,

RICHARD H. DEVOTO,
President.

KERR-MCGEE CORP.,
Oklahoma City, OK, October 3, 1991.

Hon. RICHARD H. LEHMAN,
Subcommittee on General Oversight and California Desert Lands, House Interior and Insular Affairs Committee, House Annex 1, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to express Kerr-McGee Corporation's appreciation to your staff for the able assistance they provided to us regarding certain provisions of the California Desert Protection Act (H.R. 2929).

In light of the amendment you and Congressman Levine offered to H.R. 2929 on October 1, 1991, Kerr-McGee will now be able to continue development of the Ratcliff Mine gold deposit located in the southern Panamint Range, Inyo County, California. As we discussed with Ms. Beller of your staff and Ms. Ford of Congressman Levine's staff, your amendment has met Kerr-McGee's specific concerns about H.R. 2929 in the southern Panamint Range. We would hope, however, that those individuals and companies who have mining interests within the areas impacted by H.R. 2929 will also avail themselves of the opportunity to work with your staff to modify the current boundaries of H.R. 2929 in order to continue with the development of such interests and their ensuing economic benefits.

Again, we thank you for your assistance in this matter.

Sincerely,

G.D. CHRISTIANSEN,
Vice President-Exploration.

CHICAGO MINING CORP.,
Chicago, IL, October 21, 1991.

Hon. MEL LEVINE,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE LEVINE: I am writing to sincerely thank you for your valuable effort in crafting H.R. 2929, the California Desert Protection Act. of 1991, into a document that fully protects the rights and interests of all concerned citizens. This nation is truly well served when fair and equitable legislation can be realized by mutually beneficial compromise. H.R. 2929, with the addition of the Lehman-Levine Amendment, can only enhance economic and environmental circumstance in the California Desert. Chicago Mining Corporation hereby withdraws all opposition to H.R. 2929, as amended.

Very truly yours,

CHARLES R. LEE,
President.

SOUTHERN CALIFORNIA EDISON CO.
Rosemead, CA, September 30, 1991.

Hon. GEORGE MILLER, RICK LEHMAN, and MEL LEVINE,
Interior Committee, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES MILLER, LEHMAN, AND LEVINE: Southern California Edison Company has worked closely with your respective offices to resolve our concerns with HR 2929. On September 26, 1991, we presented to these offices our proposed statutory language (Attachment A hereto) that would resolve our remaining concerns with this bill, providing that acceptable report language is subsequently developed.

Attachment B is a much longer, and more specific version of statutory language as developed by Betsy Ford, staff person to Representative Levine. While we have reservations about putting Attachment B into the bill as statutory language, because we believe such detail properly belongs in report language, it nevertheless adequately addresses our concern with Title IV of H.R. 2929. If either Attachment A or B, as written, is incorporated into HR 2929, and as long as neither the bill in its entirety, as it affects Edison, nor Attachment A or B are changed, Edison removes its objections to HR 2929 as introduced.

Sincerely,

ROBERT DIETCH,
Vice President.

WILL & MUYS, P.C.,
ATTORNEYS AT LAW,
Washington, DC, October 1, 1991.

Hon. MEL LEVINE,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LEVINE: I am authorized to advise you that the Metropolitan Water District will not object to H.R. 2929, the California Desert Protection Act, if Section 306 is amended to include the language furnished to us on September 29 by your office. I am attaching a copy of those amendments.

Sincerely,

ROBERT P. WILL,
(For the Metropolitan Water District of Southern California).

SOUTHERN CALIFORNIA GAS CO.
Los Angeles, CA, July 2, 1991.

Re California Desert Protection Act

Hon. MEL LEVINE,
Cannon House Office Building,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN LEVINE: After extensive review and discussion with Ms. Betsy Ford of your staff regarding the proposed California Desert Protection legislation, the Southern California Gas Company (SoCalGas) agrees with the proposed changes which directly affects SoCalGas facilities and if these changes are incorporated into the bill SoCalGas will remove its opposition.

The changes that were discussed and agreed upon are outlined below:

Category A—Notations on Wilderness Maps indicating pipeline right-of-ways to protect our existing pipelines and support facilities:

Notations denoting pipeline locations relative to wilderness boundaries, indicating a minimum fifty foot buffer between the central line of the pipeline and the boundaries of the wilderness:

Map Plate No. and Name

24—Clipper Mountains.
87—Providence Mountains.

While the above map corrections and amendments have been agreed upon with your staff we have not seen the official maps that will accompany the bill.

Category B—Clarifications and modification of Title IV Section 411 Utility Right-of-Way to remove ambiguities in that section and to allow for the continued ongoing operation, maintenance and upgrading of our existing pipelines and support facilities.

Title VI Section 411(b) as originally considered in draft form has been modified and it is our understanding that the following text changes have been inserted (please note that these changes to the text have been underlined):

411(b) deals with Southern California Gas Company and reads as follows: "Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way; issued, granted, or permitted to the Southern California Gas Company, which is located on lands included in the Majave National Park created under this Title, but outside lands designated as wilderness under Section 501 (3).".

Category C—Proposed Legislative Report Language defining portions of Title IV Section 411(b)

At the request of Ms. Ford, SoCalGas is submitting the following language to be included in the Legislative Committee report to assist in the definition of the term "upgrade" as used in Title IV section 411(b): "Allows for improving the capacity of an individual pipeline by looping, but not the improvement of the entire pipeline system by the installation of a new pipeline parallel to an existing pipeline. Pipeline loops are tied into the existing pipeline, so by definition construction takes place very close to the existing pipeline in the right-of-way. Disruption from such construction is confined to areas that have already been disturbed by previous pipeline construction. While a new pipeline may promote growth in areas that were previously without service, a pipeline loop only increases the carrying capacity of the existing line, thereby increasing service only to existing customers.".

OTHER SOCALGAS CONCERNS

(1) The following Wilderness Area maps boundaries were modified in the previous Congress to remove SoCalGas pipelines 235 and 6000 from the designated Wilderness Areas.

Boundaries Amended:

Map Plate No. and Name

28—Dead Mountains.
36—Granite Mountains-East.
37—Granite Mountains-West.
50—Kelso Dunes S.W.
51—Kelso Dunes—East and South Providence Mountains.
67—Newberry and Rodman Mountains.
85—Piute Mountains.
87—Providence Mountains.

(2) It is our understanding that your bill will not include Title VII Military Withdrawals. If that section is included I would like to suggest the following language allowing our continued operation and maintenance be added to Title VII Section 705 (a)(2): "(G) renewal of existing right-of-way and operation, maintenance, repair, replacement and upgrading of existing utilities located therein.".

Thank you for the opportunity you gave SoCalGas to work with your staff in order to provide input on this important legislation. If we can be of further assistance on this or other legislative matters please contact David Freer in SoCalGas' Washington office. David's phone number is 202-822-3713.

Sincerely,

LEE M. STEWART,
Vice President.

CITY HALL,
Los Angeles, CA, June 28, 1991.

Hon. MEL LEVINE,
House of Representatives,
Washington, DC.

CITY OF LOS ANGELES SUPPORT FOR THE CALIFORNIA DESERT PROTECTION ACT

DEAR MR. LEVINE: The City of Los Angeles supports your efforts to introduce legislation to protect the beauty and resources of the California Desert and appreciates your efforts to accommodate the City's concerns in your development of this bill. These concerns have been discussed over the last several years with various representatives of environmental groups and other interested parties and agreements have been essentially reached. The City has supported the bill based on assurances that the legislation would address the City's concerns pertaining to the protection of utility corridors and the Los Angeles Aqueduct system through the lands affected by the bill.

In discussing the City's concerns with your staff, we understand that the following issues will be resolved in your bill as described below. With these issues resolved, the City fully supports the bill without reservation.

Red Rock Canyon State Park Transfer: In recognition of a pending administrative land transfer between the State of California and the Federal government, the bill only transfers Federal land east of Highway 14 to the Red Rock Canyon State Park.

Buffer Zone: In order to not preclude nonwilderness activities, such as standard utility practices, up to the boundary of the wilderness area, the following language will be added to the bill:

SEC. . The Congress does not intend for the designation of wilderness areas in Section of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Boundary Adjustments: A review of the official maps which are to accompany the bill show that all conflicts between wilderness area and Mojave National Park boundaries, including the Clark Mountain Wilderness Area (WA), and utility corridors and City water and power facilities have been resolved.

Map Notations: Due to the scale of the maps, notations are to be added on the maps to indicate the minimum distances of the wilderness area boundaries to particular features. Maps which have these notations added include Owens Peak WA and Sacatar Trail WA (Map Nos. 12, 92)—distance to Los Angeles Aqueduct System; Mojave National Park (Map No. M)—reference to Clark Mountain WA; Clark Mountain WA (Map No. 22) distance to transmission line; Hollow Hills WA (Map No. 41)—distance to transmission line; Kingston Mountains WA (Map No. 55)—distance to Kingston Mountains Road; Mesquite WA (Map No. 63)—distance to Winters Pass Road and Kingston Mountain Road; Soda Mountains WA (Map No. 106)—distance to transmission line and distance to Highway 127; and Piper Mountain (Map No. 86)—distance to road.

Further, we understand that the bill will not include any provisions regarding military withdrawals of China Lake Naval Weapons Center (NWC) or Chocolate Mountains. Should the bill be amended to include with withdrawal of China Lake NWC, we request that language be added, as was done in S21 in Section 705(g), clarifying that the Secretary of the Interior be responsible for the administration of geothermal leases and for the issuance of associated permits, rights-of-way, other authorizations and approval of required environmental impact mitigation measures within the leasehold.

The adjustments made to the WA and National Park boundaries to address the City's concerns did not consider the potential expansion of the NTC. Should the NTC be expanded to engulf the existing transmission lines and utility corridors, the presently agreed to WA and National Park boundary adjustments will need to be reevaluated. We have appreciated your attention to our concerns and are optimistic that your bill to protect the California Desert will be enacted.

Sincerely,

TOM BRADLEY,
Mayor, City of Los Angeles,
JOHN FERRARO,
President, Los Angeles City Council.

CATELLUS DEVELOPMENT CORP.,
November 13, 1991.

Hon. GEORGE MILLER,
Chairman, House Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, Catellus Development Corporation's concerns with H.R. 2929 have focused on the impact that the bill's wilderness and park designations would have on the value of some 410,000 acres of Catellus's landholdings included within those designations. The amendment which you are proposing to add to the bill goes a long way toward providing Catellus with assurance that it will be compensated for the loss of use of lands placed in the bill's park units and wilderness areas. With the addition of your amendment, we hope to be able to accommodate the public interest in having the Federal government acquire our inholdings first by attempting in good faith to reach agreement on exchanges and then if necessary, by using the property account mechanism for exchanges. We fully support the amendment and would no longer oppose H.R. 2929 if the amendment is adopted.

You and the other cosponsors of H.R. 2929 have attempted to be accommodating, and we appreciate the hard work staff has done to address Catellus's concerns.

Sincerely,

WILLIAM C. MATHESON,
Vice President,
Sales and Land Management.

STATE LANDS COMMISSION,
Sacramento, CA, October 15, 1991.

Hon. MEL LEVINE,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LEVINE: We have reviewed the Interior Committee amendments to Section 607 of your H.R. 2929. We support the amendment and will support the bill, if amended as proposed. We appreciate the time and effort Ms. Betsy Ford has devoted to this matter, as well as, the efforts of Ms. Melanie Beller of the subcommittee and Ms. Lori Sonken of the full committee.

Cordially,

CHARLES WARREN,
Executive Officer.

CALIFORNIA RETIRED
TEACHERS ASSOCIATION,
Sacramento, CA, October 25, 1991.

Hon. GEORGE MILLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MILLER: Thank you for your letter on the recent amendments to the California Desert Protection Act (H.R. 2929) to include Section 610 of the Act. This section replaces the provisions of Section 607 which had been deleted from the bill during subcommittee action.

I am writing to provide you with a formal letter that the California Retired Teachers Association (CRTA) will support H.R. 2929 with the inclusion of Section 610. We also will request Senators Cranston and Seymour to support Section 610 when the bill is considered in the Senate.

Once again, thank you for your support of our concern and assistance in reintroducing language to protect the interests of retired teachers in state school land exchanges.

Thank you for your consideration.

Sincerely,

DAVID WALRATH.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mr. LEVINE of California. I am happy to yield to my friend, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I believe my colleague will recall a very private meeting we had in my office in which we were discussing differences that may occur on this bill. I suggested that the very small clique of elitists that I referred to earlier who now are opposed to this bill and who initiated the process the gentleman has been involved in should sit down with me and tell me why they walked away from the table that was a public process in the first place. I asked the gentleman to get them to sit down. They refused to sit down.

Mr. BLAZ. Mr. Chairman, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

☐ 1820

Mrs. VUCANOVICH. Mr. Chairman, I am pleased that the Rules Committee made in order the amendment offered by my friends from California, Mr. LEWIS, Mr. MCCANDLESS, Mr. THOMAS. This amendment in the nature of a substitute would designate about 2.4 million acres of wilderness, compared with more than 8 million acres under the reported bill.

Mr. Chairman, H.R. 2929, as reported by the House Interior and Insular Affairs Committee, would blindly designate 50 of the 76 wilderness study areas as part of the Wilderness Preservation System without the benefit of complete U.S. Geological Survey and U.S. Bureau of Mines studies.

These studies are required by section 603 of the Federal Land Policy and Management Act for areas recommended for inclusion in the Wilderness Preservation System. But, these studies were not completed on these 50 areas because the administration does not recommend them for inclusion as wilderness.

Therefore, millions of acres for which we have no properly prepared mineral assessment will be withdrawn from mining activity despite the strong potential for strategic and valuable minerals.

Mr. Chairman, the process which generated this bill is greatly flawed. The administration's proposal, which Mr. LEWIS will offer as a substitute, represents years of effort and compromise.

Because the environmental lobby did not win on every single point within the compromise, these special interest groups now insist upon H.R. 2929. They want it all.

When this body, by way of the Interior Committee, embarks on one of the largest land-protection measures in history with incomplete knowledge of the mineral content of these lands, we cannot fully understand the broad and far-reaching ramifications of our actions.

Does this body believe that we should lock out multiple-use activities from 8 million acres of land without knowing what is under the ground? Apparently so. Any other approach might be wise.

Mr. Chairman, I urge my colleagues' opposition to H.R. 2929 and to the process which begat it. Let us send a message to the Interior Committee and demand a bill that is fully understood.

Mr. Chairman, at this time I would like to engage the gentleman from California [Mr. LEWIS] in a colloquy.

Mr. Chairman, we have been hearing a great deal these days about the economy from our majority colleagues here in the House. Has any analysis been done regarding the potential employment impact of H.R. 2929?

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentlewoman for yielding.

To my colleague from Nevada I say first I appreciate not only her remarks about the bill, and want to associate myself with those remarks, but the question she is asking is a very important question. The answer is simply "yes". In September 1990, the Bureau of Mines released an extensive mineral study of the 1.5 million acre east Mojave area. That report discussed the various public land options under the park or monument alternative incorporated into H.R. 2929, the local economies stand to lose $90 million in tax revenues and 1,900 jobs—all of this as unemployment is on the rise and as State and local governments in California are increasing taxes to cover their shortfalls for the most basic of services.

Mrs. VUCANOVICH. I would ask the gentleman whether other options for balancing exist in mining with wilderness in the east Mojave.

Mr. LEWIS of California. That is the whole point of the public and open planning process created by the passage of FLPMA in 1976 and reflected in my substitute. The substitute minimizes conflicts even as it preserves unique areas. In the east Mojave, seven permanent wilderness areas totaling nearly 300,000 acres would be designated. These lines were drawn to minimize conflicts with existing mines as well as deposits that had been claimed and would likely be developed.

Tax losses in this scenario, according to the Bureau, are more likely to be somewhere around $3 million versus $90 million, and perhaps 200 jobs versus roughly 2,000 jobs.

Mrs. VUCANOVICH. I thought that the gentleman from California who chairs the subcommittee announced that all active mines had been deleted from the bill at the press conference announcing the introduction of H.R. 2929?

Is that the gentleman's understanding?

Mr. LEWIS of California. I heard the gentleman repeat that statement as well here in his testimony on the floor. That was my understanding of the announcement, but that is not what the bill does.

In fact, the east Mojave has seven active mines which would all be within the New East Mojave Monument if H.R. 2929 is adopted. During the markup of this bill, the gentleman from West Virginia, who chairs the Subcommittee on Mining and Natural Resources, referred to the proposed Mojave monument as the "Mining National Park" and congratulated the committee for its efforts to preserve large open pit mines such as the gold mine in the Castle Mountains within this area.

Mrs. VUCANOVICH. So what is the problem? The Park Service does have statutory authority to manage mines and the experience to minimize these conflicts.

Mr. LEWIS of California. The gentlewoman from Nevada, one more time, has made a very important point.

We have checked with the mining industry and the Interior Department. We have been unable to find a single instance of an open-pit heap-leach mine in the lower 48 States on lands administered by the Park Service. Moreover, it would be highly unusual to find any individual park with seven active mines. In fact, the Congress typically tries to avoid these conflicts when parks are created. That was the gentleman from California's intention but that is not what the bill does.

I must say it is these kinds of complications that require the public process that we are trying to implement with the process we will be discussing later.

Mr. Chairman, I thank the gentlewoman for yielding.

Mrs. VUCANOVICH. I thank my colleague. I urge my colleagues to oppose H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 30 seconds.

I do so for the purpose of stating a clarification. The facts are as I have stated them. There are no active mines in wilderness areas in this bill. The mine which the gentleman referred to is in the park but not in wilderness area even within the park and can continue current operation.

There are none. I would further point out that, according to the U.S. Department of Commerce, there were 1,199 mining jobs in all of San Bernardino County in 1987. With the protection we have in this bill, we feel they will be protected.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman for yielding.

Let me say that I rise today in support of the amendment that will be offered by Mr. VENTO and Mr. BLAZ and also along with the amendment offered by my friend, the gentleman from California [Mr. LEHMAN], as well as support of H.R. 2929, the California Desert Protection Act.

To my colleague, the gentleman from California [Mr. CUNNINGHAM], whom I am glad to see is here in the Chamber, who questioned whether had this lady been strapped into a jet, that she might understand things a little bit better. Let me assure him that I have indeed been strapped into a jet. I have my copy of trail hook here to prove for him that that is the case.

I need not say that I have 11 trap shots and 11 cattle shots from the U.S.S. *Kennedy* on A-6's and F-14's. I also happen to be the only female who has ever flown in an SR-71 over Mach 3.2.

Having said that, I will not question his credentials, because I am well aware that he is indeed top gun.

But some, even women, have had jet fighter experience. And, yes, I have been over China Lake and I have been over Chocolate Mountain and I have been to Fort Irwin.

Having said that, we will now talk about the legislation that is before us. This bill is not perfect, but I feel it represents a sincere attempt at solving some of the ongoing differences that the committee has faced between the Department of Defense, environmental organizations and hunting groups.

For example, the amendment offered by Mr. LEHMAN would, in my opinion, improve the bill by deleting the wilderness designation for 3 years of BLM lands around Fort Irwin, something the military has requested, and allow them to remain as wilderness study areas.

As we all know, Fort Irwin is perhaps this Nation's most important and effective desert training center, as illustrated by our troops' performance in Desert Storm.

Therefore, it must be able to be maintained at this level of training without a constant concern over the future of its surrounding lands.

In addition, Mr. Chairman, during the subcommittee's consideration of H.R. 2929, the subcommittee found itself once again facing strong disagreement over the overflight language and land withdrawals. In fact, back in 1987, I introduced legislation that attempted to address this very issue with respect to Chocolate Mountain and China Lake.

I am pleased to see that my good friend and subcommittee chairman, the gentleman from Minnesota [Mr. VENTO], as well as the gentleman from Guam [Mr. BLAZ], have included some of my language into a compromise that has addressed the concerns from the Defense Department.

These issues were brought up at our hearings on November 5.

□ 1830

Mr. BLAZ. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate the gentleman from Guam [Mr. BLAZ], my friend, yielding this time to me. I appreciate the work that he has been doing on this bill.

Mr. Chairman, I first became aware of a wilderness problem shortly after I arrived as a Member of the Congress in 1979. Our former colleague and my friend, Philip Burton, came up to me, and looked me in the eye and said, "JERRY, you should know what wilderness is." Upon learning what wilderness is, I learned quickly that much of this issue we are discussing today crystallized some years before. My predecessor, Shirley Pettis, came to the Congress as a result of her husband's tragic death in a plane crash. Shortly after she arrived Philip Burton wandered up to Shirley on the floor, put his arm around her and said, "Shirley, your husband was carrying a measure when he was here having to do with desert wilderness in California, and it seems to me that we ought to see that that legislation is passed, and we ought to mark it in his memory." They went about their work and eventually that became the bill that has been referred to several times already, the Federal Land Plan and Management Act, FLPMA. It was passed in 1976, and within that act all of the parties, liberals and conservatives, moderates and otherwise, environmentalists and people who are concerned about mining and grazing came together in a very complex process. FLPMA established a means whereby those conflicts could be handled. It created a public commission, the names of which were outlined earlier, reflecting a whole mix of interests in the desert, as high a quality commission as my colleagues can imagine. They had 4 years of public hearings, 40,000 individual inputs, and the BLM was instructed to come forth with a plan by the end of this year.

Mr. Chairman, they came forth about 3 months ago, and that plan has been totally ignored. It will not be ignored later as we discuss the substitute on behalf of the four Members who represent the desert. That substitute, if adopted, will create the largest wilderness area ever established in the continental United States, some 2.3 million acres of wilderness.

It is not like we are ignoring the need to protect those delicate areas of the desert. The reality is that the desert needs multiple use.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS], my colleague, for yielding. I think he has made a very important point that needs to be absorbed by my colleagues on both sides.

Mr. Chairman, the Lewis substitute provides for an unprecedented wilderness apportionment. It is 2.4 million acres. This is a wilderness plan that has been, I think, labeled a plan that exploits the wilderness, that exploits our resources, that somehow allows modern commerce to run roughshod over the environment.

Am I right in understanding the gentleman's statement, that this is the biggest new introduction of wilderness lands, should the Lewis substitute pass, of all time?

Mr. LEWIS of California. Ever created in the Continental United States; that is correct.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I must mention that I appreciate the comment of the gentleman from California [Mr. HUNTER]. It is a vast area, this desert, and my own portion of the desert will hold four eastern States. Within that desert, however, my portion has Fort Irwin, the national training center for the Army, as well as the Twentynine Palms Marine Base. Those bases provided the fundamental training that allowed our troops to be so successful during the recent battle in Desert Storm.

Mr. Chairman, I think it is very important for us to note that Fort Irwin was critical in our recent success in the Middle East. General Schwarzkopf said this about this installation: "It is the best investment the Army has made in 35 years, that I have been in the Army. The reason why we did so well in Desert Storm was because every commander we had over there had some kind of involvement in NTC."

It is going to be suggested that there will be amendments later that will solve the problems that might relate to that training process. That is not the case. We will submit for the record a recent study that was done by our own Congressional Research Service. It will outline the need for coordination between Twentynine Palms and the National Training Center for the Army. If we are going to continue to be successful, we must have this capacity to train and retrain our troops, and there is room to have lots of wilderness territory and still maintain appropriate this vital facility.

Mr. MCCANDLESS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. BLAZ. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. MCCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. MCCANDLESS. Mr. Chairman, I have a lot of respect for our colleagues on the other side of the aisle and what they are attempting to do, however, I think some of the information that has come forward has somewhat been misplaced and lost in the analysis. Let us go back to the 1976 bill which the gentleman referred to and the origin of that bill.

The fact is, Mr. Chairman, that this committee, that we have talked about earlier, did its work and did it well. There is an impression that nothing has happened since that committee completed its basic work. It is something that is my understanding, I say to the gentleman from California, that we had to have the staff completion of that work, the review of the wilderness areas.

Is that the gentleman's understanding?

Mr. LEWIS of California. Mr. Chairman, that is my understanding. The gentleman from California [Mr. MCCANDLESS is correct.

Mr. MCCANDLESS. And that there had to be numerous types of maps, and detailed drawings, and research projects done after the general format of the committee had been completed.

Is that the gentleman's understanding?

Mr. LEWIS of California. The gentleman is correct.

Mr. MCCANDLESS. And that all of that takes a little while, but the most important part of all of this is that the plan, and the wilderness aspect of it, was to be completed by 1991, and since the Congress is the only one who can designate wilderness, that is why we have reached this point.

Is that correct?

Mr. LEWIS of California. The plan was being submitted by the end of this year, and it was submitted about 3 months ago, and the plan very much reflects the original intent of the Congress.

Mr. MCCANDLESS. So, this plan, as originally conceived by the legislation created in this House and then passed into law, is on schedule and has moved on in the manner in which it was intended by the original legislative act.

Mr. Chairman, is that the gentleman's understanding?

Mr. LEWIS of California. That is my understanding.

Mr. MCCANDLESS. So, we have not dilly-dallied along, nor have we modified this or modified that because of some personal gain on the part of individuals or corporations that have a direct interest in the area.

Mr. LEWIS of California. I must say that all the constituents who have an interest in the desert had a chance for input in that process, including the gentleman and I. In the process by the authors of 2929, we have had no opportunity for input.

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, I yield 1½ minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I am proud to be a cosponsor of this bill. I sincerely believe that it will provide the California desert the protection that only this Congress can give and that these lands desperately cry for.

Mr. Chairman, one of our great Presidents, early on, had the foresight to understand the need to protect our precious, unique, natural resources. His name was Teddy Roosevelt. He believed that wilderness and wild places are sources of renewal for the soul. It is because of his efforts that we now enjoy many of the natural and splendid wonders that our Nation has to offer.

In South Carolina we have such places that offer this renewal, this refreshment of spirit, that have received protection from Congress. Among them the Congaree Swamp National Monument stands out in my mind.

Mr. Chairman, in the tradition of Teddy Roosevelt, this far-reaching legislation for the California desert would set aside large tracts of our western lands as part of wilderness areas for future generations to enjoy. Our opportunities for such action as this bill provides, grow increasingly limited, so I am very pleased that we have it under active consideration tonight.

Mr. Chairman, the time to protect the California desert has come, right now, before it is too late. I thus enthusiastically support this legislation and urge my colleagues to vote for it.

□ 1840

Mr. BLAZ. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. THOMAS], who is the Member most affected by this bill.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Interestingly enough, I believe that I do have more acres affected by this bill than anyone else in California. I would have liked to have said that I was a vital participant in what was done with the district that I have and do represent.

I represent Edwards Air Force Base and the Naval Weapons Center at China Lake, all in Inyo County, which contains all of the California portion of the Death Valley National Monument and a number of other areas.

I am not going to go into any kind of a dialog about process. I think it has been abundantly clear here that the Members who are offering this bill have as their primary clients people who certainly are not interested in consulting with the four Members who represent the desert. It has been proven time and again that the Members who actually represent the constituents are a byproduct of this process, that the people who elected a Member from Minnesota or another Member from a different portion of California have had far more input in this process.

There is no question that the committee process we operate under here in large part dictates that, but at some point those who represent the areas would have linked to have been considered willing partners, or even unwilling partners, or partners defined in any way you want to define it.

In a discussion away from the microphone, I reminded the gentleman from California, the principal author of this bill, that we really had not talked much about it. He reminded me that in fact he did call me. When he introduced the bill, he called me to apologize that he had not let me know that the bill was going to be introduced.

Briefly, in terms of the so-called amendments to solve the defense problems, I have a letter from the Acting Secretary of Defense dated November 21 which says this pretty unequivocally about H.R. 2929:

> Adoption of amendments to H.R. 2929 expected to be offered by Congressmen Vento and Blaz would address defense concerns related to military overflight, the National Training Center, and land withdrawals, but H.R. 2929 would not address the following defense needs.

And he outlines the areas in which H.R. 2929 would still be deficient, including the Naval Weapons Center at China Lake, and he says that these defense needs would be addressed in H.R. 3066.

He goes on to say this:

> Effective training of the U.S. armed forces today depends on military facilities in California. Enactment of H.R. 3066 would assist in ensuring effective training at military facilities in California. Enactment of H.R. 2929 would degrade the effectiveness of military training.

Even with the amendments, and they urge the House of Representatives to oppose H.R. 2929. It is signed by the Secretary of the Army, Acting Secretary of Defense.

Do not let anyone have you think that these amendments, even those by the proponents of the bill at the last minute, on a bill supposedly that had been compromised over a couple of years and looked at for some time, are going to solve the problem, because they do not. H.R. 3066 does solve the problem.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, did I understand the gentleman correctly? I heard earlier that this was a great compromise on the part of the majority. Is the gentleman telling me that even though he had the most acreage, they never discussed a compromise with him or negotiated with him as a Member who represents that huge area of the desert?

Mr. THOMAS of California. The one phone call I received that I was reminded of was to apologize for not letting me know it was introduced. Then they somehow, even though I represent this area and they are my constituents, assumed that I am supposed to trail along behind these people as they make negotiations and decisions. They do not think they should discuss with us the territory.

Let me give one example.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. This is one example of how H.R. 2929 has come along. The Death Valley National Monument in H.R. 2929 places a number of BLM acres within what is now a national park.

I would yield to the gentleman from California if he wants me to yield to him, and I would ask him a question. Is he familiar with the Cottonwood Mountains?

Mr. LEWIS of California. It appears we are moving right along.

Mr. THOMAS of California. Yes, moving right along.

Is the gentleman, from his memory and experiences in the desert, familiar with the Cottonwood Mountains?

The CHAIRMAN. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. BLAZ. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I ask again, is the gentleman familiar with the Cottonwood Mountains?

Mr. LEVINE of California. I am generally familiar with the Cottonwood Mountains.

Mr. THOMAS of California. Where are they?

Mr. LEVINE of California. They are within the confines of this legislation.

Mr. THOMAS of California. They happen to be in the confines of the Death Valley National Monument. They were one of the primary reasons the northwest boundary of the national monument was placed there. They are mountains that are 9,000 feet high, with no roads across them.

The gentleman wants to put thousands of acres on the northwest portion of that mountain in the national park. They are currently under BLM. He does not want them in wilderness until BLM. BLM manages those lands out of Big Pine, 40 miles away, at an enormous savings to the taxpayers. He wants to put them in this new park, the national park, at 10 times the amount to manage that acreage, and those Park Service rangers are going to have to drive 150 miles around the base of those mountains to try to negotiate a management of lands that should be in BLM territory.

That is the kind of decision made by people who either do not know the territory or do not care about it.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. What I am trying to say is that one simple consultation with a Member who represents the area would have said, "Sure, let's work it out."

I have had that experience with Mr. Burton, from California, on wilderness when I was consulted and worked with him. We had an agreement on a map as to how we handled wilderness.

There was no consultation whatsoever here. You have created enormous drains on the taxpayer, and you should take a look at what you have done in your own bill.

Mr. LEHMAN of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I appreciate the gentleman's yielding time.

Mr. Chairman, we can get into this in as much detail as the gentleman wants. On the issue of process, I have two letters in my hand here. I will submit them for the record. Both of them were sent to one of the gentlemen on the other side. Both were sent to the gentleman from California [Mr. LEWIS], urging him to discuss this.

Mr. THOMAS of California. Does the gentleman have in his record a letter sent to me?

Mr. LEVINE of California. If I could have my 30 seconds, I would say to the gentleman from California——

Mr. THOMAS of California. Does the gentleman have a record that he sent a letter to me?

Mr. LEVINE of California. I would say that the gentleman from California knew about this.

Mr. THOMAS of California. Does the gentleman have in his record a letter to me?

The CHAIRMAN. The time of the gentleman form California [Mr. LEVINE] has expired.

Mr. THOMAS of California. Does the gentleman have a letter sent to me? I have a million acres in this bill. Does he have a letter to me?

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of H.R. 2929, designating 7.5 million acres for national parks and national wilderness areas.

This is a marvelous benefit to the American people. I can see that there are some bruised noses around here. There have been questions of turf, but our real constituents are the American people, and they value these parks. They value these wilderness areas.

I was in Yosemite last year and spent several days with a wonderful Park Service officer who managed it, and he told me with great pride how in a sense that park was overutilized and overstressed and strained. Such was the popularity of our national parks and wilderness areas with the American people. He told me with great pride that a significant percentage of the visitors to Yosemite come from abroad. They come from Japan and from all over Europe, and he stressed what an attraction these national parks and national wilderness areas are to people all over the world who yearn for the richness and the inspiration of these wide open spaces that are so brilliantly maintained by the National Park Service.

As this country proceeds down the road to further growth and further process, we need to set aside these special places for the benefit of future generations so that we may preserve our Earth in its natural and unaltered state and provide parks where people can enjoy nature's beauty and wilderness areas where wildlife can run free, and where we can preserve not only flora and fauna but ecosystems.

□ 1850

There are getting to be fewer and fewer of these places. We must act to preserve those that are left, to ensure that future generations of Americans can enjoy California's rich array of natural wonders.

These bruised feelings we have heard about may be bruised tonight, but the American people will enjoy the benefits of these parks for generations to come. I am proud to be a Member of Congress and to vote for this wonderful measure.

Mr. BLAZ. Mr. Chairman, might I inquire the time remaining for both sides?

The CHAIRMAN. The Chair would like to report that the gentleman from Guam [Mr. BLAZ] has 4 minutes remaining, and the gentleman from California [Mr. LEHMAN] has 4½ minutes remaining.

Mr. BLAZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, the great conservationist Aldo Leopold said one of the greatest gifts you can have is the ability to perceive and appreciate that which is wild.

The point which we are missing here, and my friend, the gentleman from California [Mr. LEVINE] talked about having the great campfire under the stars with his children, is that in passing this desert lockout bill we are taking away the experience in the future for literally hundreds of thousands of Californians, working Californians, to drive to the desert areas where they have been in the past and have that wildlife experience.

Mr. Chairman, if you go to the South Algondones Dunes that are visited by 160,000 people, mostly off-road enthusiasts who average about $30,000 income a year, who want a place to be able to take their kids, to have a campfire, who want to return to the same place they were at last year, those people will be locked out.

Nobody on that side of that aisle can get up and explain to me how these families are now going to be able to backpack in heat that averages 97 degrees in the summertime through heavy sand dunes to get to that same little wash, that same palo verde tree, that same little niche of the wild that they have been enjoying for years and years.

This is a lockout bill. It does not lock out wealthy Californians who can fly to New Zealand to do fly fishing. My friend, the gentleman from California [Mr. LEVINE], has been extremely successful on the fundraising circuit. I wish him well, and I know he has raised millions. None of these blue collar people have been to these fundraisers, but they still count. They are Americans who need to have a place to go and recreate, and they are going to be locked out of these massive areas in my district, at least, in very large numbers; 160,000 of them will be closed off in the 45th Congressional District.

Mr. Chairman, I ask Members of this House to vote against the desert lockout bill and vote for the Lewis substitute.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise today in support of H.R. 2929, the California Desert Protection Act, and I urge my colleagues to support it.

I would like to commend the gentlemen from California, Mr. LEHMAN and Mr. LEVINE, for their diligent work in trying to forge a consensus among this measure.

We have heard statements that Government Representatives from California that represent the desert are all opposed to this. Well, I am a Congressman from California that does have significant acreage in this bill that does support this measure.

For a number of years I have had serious concerns about earlier desert bills, whether or not they afforded the protection to people that made their living on it, ranchers that grazed cattle on it, mining operations there, and I refused to come out in support of those. But we have a bill today that provides that protection for mining. It provides for a phaseout of cattle ranchers. It gives consideration to the people that are making their living off of this land that we have to consider.

Mr. Chairman, I also would like to respond to some comments of the earlier speaker, one thing this is a lockout bill. There are 5,000 acres provided for overland off-road vehicle access. There is 20,000 miles of roads for jeeps that they can partake in. That does not constitute a lockout.

Mr. Chairman, I urge Members to support this bill. This bill deserves to become law. It promises to preserve for all Californians, for all Americans, a legacy of recreational opportunity, wildlife habitat, and cultural resources of the great California desert.

Mr. Chairman, once again I commend the gentlemen from California, Mr. LEHMAN and Mr. LEVINE, and I urge all Members to support H.R. 2929.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield for just a moment about his district?

Mr. DOOLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman from California [Mr. DOOLEY] may know that we called him to discuss the fact that my substitute has two wilderness areas in his district that are not affected by 2929, and we did show the gentleman the courtesy to talk to him about it at least.

Does the gentleman recall that?

Mr. DOOLEY. Mr. Chairman, reclaiming my time, I do not recall at this time.

Mr. LEWIS of California. It may have been with the staff of the gentleman.

Mr. DOOLEY. I do not have a record of this in my file either.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I had to take on the only gentlewoman from Maryland [Mrs. BYRON] that had served time in a jet. The gentlewoman also tells me that she had attended Tailhook. I would like to find out the words of the gentlewoman from Maryland [Mrs. BYRON] on the Tailhook reunion.

Mr. Chairman, I step forward in strong opposition to H.R. 2929. I have a letter here which is a side-by-side account of what the costs are. I have got all the differences in the amendments of the military bills. I have letters from all the Secretaries of Defense that are opposed to 2929, from Dick Cheney, and the military will be hurt by 2929.

When I spoke about the gentlewoman from Maryland [Mrs. BYRON], I spent 21 years in the Navy as a professional. As a matter of fact, I devised some of the routes over those areas myself, I used them in 300 combat missions over Vietnam, and over the Middle East in Israel.

If 2929 goes into effect the military will be adversely affected.

The Blaz amendment, although it does try to alleviate some of these things, does not cover all the areas.

The Vento amendment is smoke and mirrors. It only addresses overflights and has no perception of what and how it will affect the military.

Mr. LEHMAN of California. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, who has contributed so much to this legislation.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, Last week Time magazine had a cover article that talked about the vanishing California dream. I hope that the Members will think about that in what they are talking, about, the natural environment, what was happening to California.

What is happening to this California desert I think is a pretty good example. There are 25 million acres in the California desert. It is within about a 1-hour drive to 15 million people.

What is happening to it is it is getting loved to death. Everybody likes it. They want to do everything they want to do, and that is what has been happening, to a great extent.

We have put away outside some outstanding areas and parks in Death Valley and Joshua Monument, but that is what the 1976 FLPMA Act was about in terms of bringing to this Congress and forcing us to make a decision.

It is a painful decision. It is not an easy one. We have to take some discipline upon ourselves in order to, in fact, prevent this from being loved to death, and that is what this legislation is all about.

I know my colleague has a substitute that goes all over California looking for a focus and looking to solve problems in terms of wilderness. But this issue is about the California desert. It is not about a statewide bill that he professes to endorse.

So I want to commend my colleagues from California, Mr. LEHMAN, and Mr. MILLER, and Mr. LEVINE, for taking on this issue. It is a tough issue, and it is a tough one for the local people that have to effect it.

But we went out there and talked to those people. We had hearings. We heard from hundreds of witnesses in the last Congress.

The gentlemen from California, the gentlemen that are here, all joined us at many of those hearings. We gave an opportunity for input and had that feedback so we knew what the impact was. And there was still disagreement. There is still disagreement here.

Someone I think takes the opinion that somehow if we have committee meetings, we are going to be able to resolve all of this and come up with something called truth that we can all support. Well, that is not the legislative process. It is a process of consensus, it is a process of argument.

But these areas, no one can argue that they do not deserve the wilderness designation that they receive under this bill. Two-thirds of the land in the desert remains open for a multiple of other uses. There are nine military bases and installations in these areas and hundreds of communities. Yet we still have the opportunity to take this fragment in these pristine areas, part of the Mojave Desert, part of the Sonoran Desert, and save them and try to retain the beauty of that great State and the dream that has been California, and something that I think all Americans can benefit from.

So I hope in this debate that we will keep that foremost in mind as we move forward.

Mr. Chairman, I rise in strong support of the California Desert Protection Act as reported by the Committee on Interior and Insular Affairs.

Others have noted, this is a very important and farreaching measure. It would make the largest additions to the National Park System and National Wilderness Preservation System of any bill since President Carter signed into law the Alaska Lands Act in 1980.

The lands that the bill would place into national park and wilderness status include a great diversity of priceless resources and values that eminently deserve the protection that the bill would provide. At the same time, the bill leaves open to multiple uses more than two-thirds of the public lands within the California desert.

Mr. Chairman, the two gentlemen from California, Mr. MILLER chairman of the full committee, and Mr. LEHMAN, chairman of the subcommittee with prime responsibility for this bill, deserve the thanks of the House for bringing to the floor this sound, balanced, and worthwhile bill. It deserves the approval of the House.

I have a particular interest in this bill because in past years the subcommittee on National Parks and Public Lands, which I chair, had the responsibility for conducting the hearings that laid the groundwork for the Interior Committee's actions on California desert legislation this year. We had very extensive hearings, both here and in California, and heard from literally hundreds and hundreds of witnesses concerning all the issues that are addressed in this bill and in alternative approaches.

In addition, for many years some of us have been involved with proposals to renew the authorization for military use of millions of acres of public lands in California used for many years for very important testing and training activities.

In fact, in 1987 the House passed a bill, introduced by the gentlewoman from Maryland, [Mrs. BYRON], a member of both the Interior and Armed Services Committees, that would have authorized continued military uses on these lands, but the Senate did not act on that bill.

Because this is a matter that needs to be resolved, last month I introduced a bill—cosponsored by Chairmen MILLER and LEHMAN and the gentleman from California, [Mr. LEVINE—to again authorize military use of the China Lake Naval Testing Center, the Chocolate Mountain Aerial Gunnery Range, and the El Centro Range Areas. I have also prepared an amendment, which is made in order under the rule, to add similar provisions to H.R. 2929 and to also add to this bill language clarifying the ability of the Armed Forces to continue existing low-level overflights of the lands dealt with in the bill.

The gentleman from Guam, [Mr. BLAZ], also has an interest in this matter and has filed a similar amendment. Therefore, I have worked with him to develop a Vento-Blaz amendment which could be offered on a bipartisan basis. I am glad to be able to say that we have reached an agreement and that at the appropriate point Mr. BLAZ will ask unanimous consent to modify his amendment so that the bipartisan Vento-Blaz provisions can be offered.

Even without the provisions that would be added by the Vento-Blaz amendment, this is a good bill deserving of our support. If the gentleman from Guam is permitted by unanimous consent to modify his amendment and the Vento-Blaz amendment is adopted, it will be an even better bill, and I urge the House to add such provisions, and to give overwhelming approval to H.R. 2929, the California Desert Protection Act of 1991.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, the environmental party in American politics, the unelected leaders who work in the beltway here in Washington, DC, is the influence that will cause how this Congress resolves this issue. The reality is that the political pain of Members of Congress in crossing the interests of the environmental party is far more profound than the political pain that any of us experiences in crossing the interests of the development, of the business, and of the energy segment of America.

□ 1900

That is why this bill that seeks to lock up so much of California is probably going to pass.

I have served on the Committee on Energy and Commerce for my 13 years here, and I have dealt with these Members. This environmental party has to be explained to the American public.

They have got another agenda for the country. They want to change America into a society that worships the creation, not the creator.

At a time when we need to be establishing energy independence in this country, the possibility of the Bush energy plan is being stymied because of the environmental party's obsession in obstructing the energy independence of this country.

Mr. ASPIN. Mr. Chairman, I rise in support of H.R. 2929, the California Desert Protection Act.

I believe this bill accomplishes two important goals—protecting our Nation's natural resources, while maintaining significant military activities.

As chairman of the Armed Services Committee, I recognize that our military forces must train as they will fight. The success in Operation Desert Storm demonstrated the vital importance of our facilities in the southern California desert. We clearly need to maintain adequate training and testing facilities to meet the military's needs—both today and in the future.

While the public is showing a high level of support for our military, there has been increasing awareness of our responsibilities, and a greater demand, to protect and improve our environment, and particularly our great natural resources.

H.R. 2929 and the amendments offered today to address the military needs will fulfill both goals. These amendments will withdraw 1.3 million acres of land, allowing for its continued use for military purposes. The amendments will address the issue of overflight as well.

I want to commend my colleagues on the Interior Committee, Congressmen LEVINE, LEHMAN, and VENTO for their willingness to address the military's concerns.

Therefore, I will support their amendments, and H.R. 2929.

Mr. BROWN. Mr. Chairman, as a representative for both Riverside and San Bernardino Counties, both of which have vast amounts of land included in the California desert protection proposal, I can assure you that there is a need to protect the desert of California during this session of Congress. Prolonging the process will mean one thing—further degradation of the once-pristine area.

The proposals that have been submitted provided us with an opportunity to break the deadlock and preserve for future generations our California desert. While recent efforts to preserve a greater portion of the California desert have been unsuccessful, I am hopeful that we will be able to work with the Senate and the administration to reach a compromise—to accommodate the competing interests and various users of the California desert. I urge all Members who have devoted time and energy to this effort to continue working so that we can enact a California Desert Protection Act. It has been a longtime coming, and the need to preserve this area becomes greater each year Congress fails to act.

In 1978, I introduced a bill to establish the Mojave National Park. Although this legislation was not passed, it did place pressure on the Bureau of Land Management to protect this area. It also resulted in the designation of the East Mojave National Scenic Area—the first of its kind in the country. In addition, the discussion that took place helped increase public awareness of the need for desert protection.

Over 10 years have passed, and I can assure you that today there is a much greater need to preserve our California desert than there was in the 1970's.

I can assure you that there are very real and present dangers that threaten our California desert. It is up to Congress to take the lead. It is our responsibility to offer long term protection for our California desert.

In so doing, however, we must strike a balance that will allow for the multiple use of the desert. As the Los Angeles Times recently commented, "Too much of the desert, which is remarkably fragile and takes generations to recover from human abuse, already has been exploited on the premise that it is not good for much else." It is good for much else. It is a treasure that demands protection.

The question before us is whether or not we want to move forward and act progressively. While we wait, however, the plans for making the desert a dumping ground are moving forward. Let's break the stalemate and pass a Desert Protection Act. All groups interested in protecting the desert must join together, break the impasse that has evolved over the years, and provide protection for this most precious natural resource.

Mr. DOOLITTLE. Mr. Chairman, no single issue is more volatile in California than the issue of water. Yet water is one issue in this debate of H.R. 2929 that has been largely ignored. That oversight could have a devastating impact, not just on southern California, but on the entire Western United States, where water is the key to growth and economic survival.

The sponsors of this bill have tried to lull opponents into a false sense of security by telling us not to be concerned about the water rights language in this legislation. They tell us, "it simply reserves a quantity of water to the Federal Government sufficient to fulfill the purposes of the act."

Additionally, we are told this is not the Colorado Rocky Mountains where downstream water users could be impacted, this is the California desert, and the only thing at issue are a few springs, seeps, and other surface waters that do not really matter to anyone except a few bighorn sheep, palm trees, migratory birds, and tiny fish.

Let us not be fooled. The precedent of a Federal reserved water right for millions of acres of the California desert should not be taken lightly. It is clear the purpose of this legislation is to stop growth and to stop development in and around public lands in the West. The California desert is only the first stop on a train that is barreling down the tracks toward other States and, in fact, aimed at the entire western United States.

I pose a hypothetical question: If there are so few surface water rights at issue and there are no downstream users impacted, why did the sponsors, including the chairman of the Interior Committee, the chief water rights expert in this Congress, include the language?

The answer is simple and can be stated in three words: Subsurface water rights. Picture this scenario: A few years hence, after millions of acres of wilderness are designated in the California desert, the Federal Government notices that some of its springs and seeps are drying up in a wilderness area, near Palm Springs. The language in this bill, giving the Federal Government a priority reserved water right could be used to prevent Palm Springs' landowners from drilling any new wells for water.

My colleagues could respond by saying, "So What? Palm Springs does not get to water its golf courses quite as much?" But the same legal contest of water rights could face the dozens of water districts that service the thirsty needs of millions of urban dwellers. The same threat of Federal intervention could threaten any jobs, growth and development of small towns and large cities in the entire southern California region, home to a majority of Californians. It could even affect future agricultural uses of the desert using subsurface water sources.

And if my colleagues are tempted to say again, "So what?," I would remind them that this wilderness proposal for the California desert is the first of a series of bills covering the entire Western United States that this Congress will be considering over the next several years. The precedent set here will either strengthen the hand of extremists who want to assert Federal water rights westwide as a backhanded means to stop growth, or by defeating this measure, it will reassert the historical and wise policy of States rights in this lifeblood issue.

The apparition of a westwide Federal reserved water right is real and its genesis is H.R. 2929. To ensure State control of our water and wise use of our natural resources, I urge my colleagues to support H.R. 3066 instead.

Mrs. BOXER. Mr. Chairman, I rise today in support of this important legislation. H.R. 2909, the California Desert Protection Act, will provide critical protection for this truly unique desert wilderness. It is also essential to protecting a priceless legacy of archeological, cultural, and ecological values.

The California desert, covering over 25 million acres, is a fragile ecosystem increasingly under siege. Large areas have long been extensively used for mining, grazing, and various forms of development. Without this act, further destruction of this precious resource is inevitable. Access roads, helicopter pads, quarries, and grazing animals—all have a destructive impact on the desert that time will not erase.

Further delay can only lead to continued, irrevocable degradation. I urge my colleagues to support H.R. 2909 and oppose any weakening amendments.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Lewis substitute. It is balanced. It will allow the continued training of our armed services that proved so valuable in reducing casualties in the gulf war, and which will be even more valuable in future conflicts as the size of our forces is reduced.

The amendment is based on 10 years of public involvement with all affected interests. And it is based on the professional expertise of all land management agencies.

And, Mr. Chairman it can become law.

Mr. ATKINS. Mr. Chairman, I rise today in support of the California desert protection bill, legislation that would designate over 4 million acres as wilderness, create a new national monument in the Mojave, and expand and redesignate Death Valley and Joshua Tree as national parks. What could be more appropriate during this 75th anniversary of the National Park Service than to add these environmentally and biologically significant units to the park system? For 75 years, the Park Service has preserved mountains, forests, rivers and streams, but never before has the Park Service protected the unique and fragile ecosystems that make up the California desert.

This environment is so fragile that the tracks left by the wagon wheels of the settlers remain an indelible mark in the landscape over 100 years later. It is home to many rare, threatened and endangered plant and animal species. It also contains many archeological treasures.

But by and large the agency with responsibility for managing the desert has failed to do so adequately. Despite the lessons learned from the remaining wagon wheel tracks, each year the desert is being destroyed at an increasingly alarming rate by the tracks created by off road vehicles. For example, a recent Department of the Interior inspector general's report calculated that an additional 600 miles of unintended new roads are carved out by rec-reationalists each year. But the inspector general also found that the BLM took few steps to protect the desert from these vehicles.

Mr. Chairman, California's burgeoning population places increasing pressures on the desert: Pressures for development, recreation, mining, and other activities, none of which the desert can sustain. The California desert protection bill is a well-crafted compromise that has been 6 years in the making. I hope my colleagues will join with me in supporting the bill and in opposing any amendments to weaken it.

One comment about the amendment proposed by Mr. MARLENEE which would allow hunting in the Mojave. What are we going to hunt there? One animal would be the rare desert bighorn sheep. Let me just say this, last month the Congress passed the Interior appropriations bill which included about $500,000 specifically for the reintroduction and restoration of the desert bighorn sheep. These funds will primarily be used in the California desert area. Under the Marlenee amendment, we would blow away this Federal investment with a few individual hunters' shotguns. I urge my colleagues to oppose this amendment and any others that weaken the protection provided in the bill.

Mr. RAHALL. Mr. Chairman, I rise as a member of the Interior Committee, and as the chairman of its Subcommittee on Mining and Natural Resources, in support of H.R. 2929.

The mining industry has made extensive claims that this legislation would bring mineral production in the California desert to a grinding halt, and that it would lockup valuable mineral resources.

The fact of the matter is that none of the active mines in the California desert conservation area would be placed within wilderness boundaries under this bill.

And, the fact of the matter is that the vast majority of mineral production in the CDCA is not for some type of critical or strategic mineral. It is for sand, gravel and stone.

Accommodations have been made. The largest gold producer, the Mesquite mine, is wholly outside of the proposal. The Mountain Pass Mine, which produces 97 percent of U.S. output of rare earths, was excluded from the boundary of the proposed Mojave National Park. There are numerous other examples.

Finally, it is true that this bill would place some mines within the boundary of the proposed Mojave National Monument.

And, as I stated during committee consideration of this measure, it is about time we recognize that we should be preserving big open pit mines for the benefit of present and future generations.

I would submit to my colleagues that mining, too, deserves the same degree of protection in our National Park System as do these other values.

I would say that the American people are clamoring, indeed, are eager, for the opportunity to load the kids into the station wagon and travel to southern California to visit the Mojave Mining Park.

Here, they will see firsthand, the machinery that is employed to move massive amounts of earth to uncover the ore body. They will hear the roar and rumble of D9's. They will inhale the rich aroma of diesel fumes on the desert air.

They will thrill at the site of cyanide drip dripping onto a leach pile. And, they will be astounded by the tailings piles soaring into the sky.

I say this, Mr. Chairman, partly in jest. The point is, though, that this legislation would not stop these mines from operating. All valid existing rights would be fully protected.

I urge my colleagues to vote for this measure.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Desert Protection Act of 1991".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the federally owned desert lands of Southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—WILDERNESS ADDITIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

DESIGNATION OF WILDERNESS

SEC. 102. In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90

Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps, referenced herein, dated February 1986 (except as otherwise dated), are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps entitled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand three hundred and twenty acres, as generally depicted on map entitled "Avawatz Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Avawatz Mountains Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand seven hundred and thirty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", dated October 1991, and which shall be known as the Bigelow Cholla Garden Wilderness.

(4) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand two hundred acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Bighorn Mountain Wilderness.

(5) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", and which shall be known as the Big Maria Mountains Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", and which shall be known as the Black Mountain Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated May 1991, and which shall be known as the Bright Star Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-two thousand six hundred and forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-five thousand nine hundred and seventy acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Cady Mountains Wilderness.

(10) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", and which shall be known as the Carrizo Gorge Wilderness.

(11) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand six hundred and forty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Chemehuevi Mountains Wilderness.

(12) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Peak Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred fifty-eight thousand nine hundred and fifty acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated January 1989, and which shall be known as the Chuckwalla Mountains Wilderness.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-four thousand three hundred and eighty acres, as generally depicted on a map entitled "Cleg-horn Lakes Wilderness—Proposed", dated September 1991, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "non-wilderness road corridor" on such map.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as Clipper Mountain Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighteen thousand six hundred acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Coyote Mountains Wilderness.

(18) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(19) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(20) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93-632 and 98-425.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", and which shall be known as the El Paso Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand three hundred acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Fish Creek Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", and which shall be known as Golden Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand seven hundred and twenty acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", and which shall be known as the Grass Valley Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", and which shall be known as the Great Falls Basin Wilderness.

(28) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(29) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(30) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-five thousand and fifteen acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated October 1991, and which shall be known as the Indian Pass Wilderness.

(31) Certain lands in the California Desert Conservation Area and the Bakersfield District,

of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed", numbered in the title one through three, and dated May 1991, and which shall be known as the Inyo Mountains Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-four thousand five hundred and fifty acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated October 1991, and which shall be known as the Jacumba Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-eight thousand eight hundred and twenty acres, as generally depicted on two maps entitled "Kelso Dunes Wilderness—Proposed 1" and "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kelso Dunes Wilderness.

(34) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kiavah Wilderness.

(35) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred forty-nine thousand and forty-eight acres, as generally depicted on two maps entitled "Kingston Range Wilderness—Proposed 2", dated October 1991, and "Kingston Range Wilderness—Proposed 4", dated January 1989, and two maps entitled "Kingston Range Wilderness—Proposed 1" and "Kingston Range Wilderness—Proposed 3", dated May 1991, and which shall be known as the Kingston Range Wilderness.

(36) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-five thousand six hundred and eighty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(37) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred and forty acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", dated October 1991, and which shall be known as the Little Picacho Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and twenty-five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be known as the Manly Peak Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred and eighty acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated October 1991, and which shall be known as the Mecca Hills Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", and which shall be known as the Newberry Mountains Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and eighty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated May 1991, and which shall be known as the Nopah Range Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand five hundred and eighty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be known as the North Algodones Dunes Wilderness.

(45) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(46) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and seventy acres, as generally depicted on two maps entitled "Old Woman Mountains Wilderness—Proposed 1" and "Old Woman Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Old Woman Mountains Wilderness.

(47) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-seven thousand five hundred acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Orocopia Mountains Wilderness.

(48) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand six hundred and forty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, and two maps entitled "Owens Peak Wilderness—Proposed 2" and "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", and which shall be known as the Pahrump Valley Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred fourteen thousand one hundred and forty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated May 1991, and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated February 1986, and which shall be known as the Palen/McCoy Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and twenty acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Palo Verde Mountains Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand six hundred acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as the Piper Mountain Wilderness.

(54) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand eight hundred acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Piute Mountains Wilderness.

(55) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(56) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(57) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(58) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand seven hundred acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Rodman Mountains Wilderness.

(59) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacatar Trail Wilderness.

(60) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand eight hundred acres, as generally de-

picted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Saddle Peak Hills Wilderness.

(61) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88-577 and 98-425.

(62) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-three thousand two hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated May 1991, and which are hereby incorporated in, and which shall be deemed to be a part of, the Santa Rosa Wilderness designated by Public Law 98-425.

(63) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand four hundred acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", and which shall be known as the Sawtooth Mountains Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand five hundred and forty acres, as generally depicted on two maps entitled "Sheephole Valley Wilderness—Proposed 1", dated May 1991, and "Sheephole Valley Wilderness—Proposed 2", dated February 1986, and which shall be known as the Sheephole Valley Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-four thousand four hundred and ten acres, as generally depicted on a map entitled "Slate Range Wilderness—Proposed", dated October 1991, and which shall be known as the Slate Range Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand four hundred and thirty acres, as generally depicted on two maps entitled "Soda Mountains Wilderness—Proposed 1" dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989, and which shall be known as the Soda Mountains Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand six hundred and thirty acres, as generally depicted on a map entitled "South Algodones Dunes Wilderness—Proposed", dated January 1989, and which shall be known as the South Algodones Dunes Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-three thousand two hundred and fifty acres, as generally depicted on a map entitled "South Avawatz Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the South Avawatz Mountains Wilderness.

(69) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", and which shall be known as the South Nopah Range Wilderness.

(70) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(71) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", and which shall be known as the Stepladder Mountains Wilderness.

(72) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(73) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", and which shall be known as the Sylvania Mountains Wilderness.

(74) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand seven hundred and twenty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated May 1991, and which shall be known as the Trilobite Wilderness.

(75) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(76) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-five thousand three hundred acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Whipple Mountains Wilderness.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

GRAZING

SEC. 104. Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 133 note).

BUFFER ZONES

SEC. 105. The Congress does not intend for the designation of wilderness areas in section 102 of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINING CLAIM VALIDITY REVIEW

SEC. 106. The Secretary of the Interior and the Secretary of Agriculture shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within any wilderness area designated under section 102.

FILING OF MAPS AND DESCRIPTIONS

SEC. 107. As soon as practicable after enactment of section 102, a map and a legal description on each wilderness area designated under this title shall be filed by the Secretary concerned with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as is appropriate.

WILDERNESS REVIEW

SEC. 108. The Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

DESIGNATION OF WILDERNESS STUDY AREA

SEC. 109. In furtherance of the provisions of the Wilderness Act, certain lands in the California Desert Conservation Area of the Bureau of Land Management which comprise eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated the White Mountains Wilderness Study Area and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976.

SUITABILITY REPORT

SEC. 110. The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

WILDERNESS DESIGNATION AND MANAGEMENT IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 111. (a) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, California, which comprise ap-

proximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness" and dated October 1991, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on a map entitled "Imperial Refuge Wilderness" and dated October 1991, and which shall be known as the Imperial Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) As soon as practicable after enactment of this section, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

TITLE II—DEATH VALLEY NATIONAL PARK

FINDINGS

SEC. 201. The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical and wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a national park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK

SEC. 202. There is hereby established the Death Valley National Park, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated September 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 203. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 202 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 204. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 202. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 205. Subject to valid existing rights, the Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 206. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the additions to the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

GRAZING

SEC. 207. The privilege of grazing domestic livestock on lands within the park may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

SEC. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK

SEC. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated May 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file maps and legal description of the park designated by this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the

National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 305. Subject to valid existing rights, Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

UTILITY RIGHTS-OF-WAY

SEC. 306. Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 307. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

TITLE IV—MOJAVE NATIONAL MONUMENT

FINDINGS

SEC. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national park;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop service, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

ESTABLISHMENT OF THE MOJAVE NATIONAL MONUMENT

SEC. 402. There is hereby established the Mojave National Monument, comprising approximately one million four hundred and ninety-one thousand acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 1991, and ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated September 1991 or prior, which shall be on file and available for inspection in the offices of the Director of the National Park Service, Department of the Interior.

TRANSFER OF LANDS

SEC. 403. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

SEC. 404. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the monument designated under this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 402. The maps and legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

ABOLISHMENT OF SCENIC AREA

SEC. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), as hereby abolished.

ADMINISTRATION OF LANDS

SEC. 406. The Secretary shall administer the monument in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

DISPOSITION UNDER MINING LAWS

SEC. 407. Subject to valid existing rights, Federal lands within the monument, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 408. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the monument and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

REGULATION OF MINING

SEC. 409. Subject to valid existing rights, all mining claims located within the monument shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with the protection of the scenic, scientific, cultural and other resources of the monument, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

GRAZING

SEC. 410. The privilege of grazing domestic livestock on lands within the monument may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the monument, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the monument and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

UTILITY RIGHTS OF WAY

SEC. 411. (a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, which is located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in a right-of-way identified in paragraph (1), or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than 3 electrical transmission lines,

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the replacement transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way,

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed,

(D) in the Eldorado rights-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to monument resources,

(E) in the Mojave right-of-way no more than 350 feet of additional land shall be issued,

granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to monument resources, and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on monument resources.

(3) The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way; issued, granted, or permitted to the Southern California Gas Company, which is located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

PREPARATION OF MANAGEMENT PLAN

SEC. 412. Within three years of the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives a detailed and comprehensive management plan for the monument. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the monument. Any development, including road improvements, proposed by such plan shall be strictly limited to that which is essential and appropriate for the administration of the monument and shall be designed and located so as to maintain its primitive nature of the area and to minimize the impairment of monument resources or ecological values. To the extent practicable, administrative facilities, employee housing, commercial visitor services, accommodations, and other monument-related development shall be located or provided for outside of the boundaries of the monument. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the monument. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

GRANITE MOUNTAINS NATURAL RESERVE

SEC. 413. (a) There is hereby designated the Granite Mountains Natural Reserve within the monument comprising approximately 9,000 acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

SEC. 414. The Secretary is authorized to construct a visitor center in the monument for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the monument.

ACQUISITION OF LANDS

SEC. 415. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the monument by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the monument which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by California State Lands Commission; and

(2) lands or interests therein within the boundary of the monument which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the monument or which is otherwise incompatible with the purposes of this title.

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred eighty-three thousand four hundred and thirty-eight acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated September 1991 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated May 1991 or prior, and which shall be known as the Death Valley Wilderness;

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand six hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567; and

(3) Mojave National Monument Wilderness, comprising approximately six hundred ninety-four thousand five hundred acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated September 1991 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated September 1991 or prior, and which shall be known as the Mojave Wilderness.

(4) Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, and which shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 503. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States,

from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

INDIAN CANYONS NATIONAL HISTORIC SITE

SEC. 603.

LAND TENURE ADJUSTMENTS

SEC. 604. In preparing land tenure adjustment decisions with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

LAND DISPOSAL

SEC. 605. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the wilderness, park, or monument designated under this Act or grant a right-of-way in any lands within the boundaries of the wilderness designated under this Act. Further, none of the lands within the boundaries of the wilderness, park, or monument designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS

SEC. 606. Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

NATIVE AMERICAN USES

SEC. 607. In recognition of the past use of the parks, monument, and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such parks, monument, and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park, monument, or wilderness areas in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

WATER RIGHTS

SEC. 608. (a) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 44 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

STATE SCHOOL LANDS

SEC. 610. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than $5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal land or interests therein, or Federal land valued at more than $5,000,000, the agreement shall be submitted to the Committees, together with a report containing—

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 1995, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2000, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2000.

(g) As used in this section, the term "Committees" means the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES

SEC. 611.

TITLE VII—DEFINITION

DEFINITION

SEC. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102-314. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment, except that pro forma amendments for the purpose of debate shall be in order if offered by the chairman or ranking minority member of the Committee on Interior and Insular Affairs.

Where House Report 102-314 specifies consideration of amendments en bloc, said amendments shall be so considered, and shall not be subject to a demand for a division of the question.

It is in order at any time for the Chairman of the Committee on Interior and Insular Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in House Report 102-314. The amendments en bloc, except for any modifications, shall be considered as read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

The Chair will announce the number of the amendment made in order by the rule in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in House Report 102-314.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LEWIS of California: Strike all after the enacting clause and insert the following:

This Act may be cited as the "California Public Lands Wilderness Act".

SEC. 2. The Congress finds that—

(1) many areas of undeveloped public land in California and one parcel in Washoe County, Nevada, administered by the Bureau of Land Management have outstanding natural characteristics that give them high value as wilderness and that can, if properly managed, serve as an enduring resource of wilderness for the benefit of the American people;

(2) it is in the national interest that these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve and maintain them as an enduring resource of wilderness to be managed to promote and perpetuate their wilderness character and their specific multiple values for natural systems biodiversity, watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of present and future generations of the American people; and

(3) certain areas of public lands located in Inyo and Riverside Counties, California are appropriate for transfer from the Bureau of Land Management to the National Park Service as additions to the Death Valley and Joshua Tree National Monuments.

SEC. 3. As used in this Act—

(1) the term "public lands" shall have the same meaning as defined in section 103(e) of the Federal Land Policy and Management Act of 1976; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately fifteen thousand eight hundred and ninety-seven acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CA-010-026), and which shall be known as the Owens Peak Wilderness;

(2) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately ten thousand seven hundred and twenty-one acres, as generally depicted on a map entitled "Sacatar Meadows Proposal", dated June 1988 (CA-010-027), and which shall be known as the Sacatar Meadows Wilderness;

(3) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately twenty eight thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Southern Inyo Proposal", dated June 1988 (CA-010-056), and which shall be known as the Southern Inyo Wilderness;

(4) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately one thousand nine hundred and eighty-three acres, as generally depicted on a map entitled "Pinnacles Proposal", dated June 1988 (CA-040-303), and which shall be known as the Pinnacles Wilderness;

(5) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand four hundred and forty-three acres, as generally depicted on a map entitled "Pit River Canyon Proposal", dated June 1988 (CA-020-103), and which shall be known as the Pit River Canyon Wilderness;

(6) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand eight hundred and eighty-nine acres, as generally depicted on a map entitled "Tunnison Mountain Proposal", dated June 1988 (CA-020-311), and which shall be known as the Tunnison Mountain Wilderness;

(7) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately thirty seven thousand and fifty-five acres located in Lassen County, California, and five hundred and eighty-nine acres located in Washoe County, Nevada, as generally depicted on a map entitled "Skedaddle Proposal", dated June 1988 (CA-020-612), and which shall be known as the Skedaddle Wilderness;

(8) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately one thousand one hundred and sixty-one acres, as generally depicted on a map entitled "South Warner Proposal", dated June 1988 (CA-020-708), and which shall be known as the South Warner Wilderness;

(9) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately four thousand one hundred and forty-three acres, as generally depicted on a map entitled "Chemise Mountain Proposal", dated June 1988 (CA-050-111), and which shall be known as the Chemise Mountain Wilderness;

(10) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and forty-eight acres, as generally depicted on a map entitled "King Range Proposal", dated June 1988 (CA-050-112), and which shall be known as the Sacatar Meadows Wilderness;

(11) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred and forty-four acres, as generally depicted on a map entitled "Agua Tibia Proposal", dated June 1988 (CA-060-002), and which shall be known as the Agua Tibia Wilderness;

(12) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-two thousand eight hundred and seventy-five acres, as generally depicted on a map entitled "Sawtooth Mountains Proposal", dated June 1988 (CA-060-024B), and which shall be known as the Sawtooth Mountains Wilderness;

(13) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand four hundred and eight acres, as generally depicted on a map entitled "Carrizo Gorge Proposal", dated June 1988 (CA-060-025A), and which shall be known as the Carrizo Gorge Wilderness;

(14) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately four thousand three hundred and twenty-three acres, as generally depicted on a map entitled "Western Otay Mountain Proposal", dated June 1988 (CA-060-028), and which shall be known as the Western Otay Mountain Wilderness;

(15) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand seven hundred and eighty-three acres, as generally depicted on a map entitled "Southern Otay Mountain Proposal", dated June 1988 (CA-060-029), and which shall be known as the Southern Otay Mountain Wilderness;

(16) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred ninety-two thousand six hundred forty-three acres, as generally depicted on a map entitled "Saline Valley Proposal", dated June 1988 (CDCA-117), and which shall be known as the Saline Valley Wilderness;

(17) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately two thousand one hundred and fifty-four acres, as generally depicted on a map entitled "Lower Saline Valley Proposal", dated June 1988 (CDCA-117A), and which shall be known as the Lower Saline Valley Wilderness;

(18) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty five thousand seven hundred and ninety-two acres, as generally depicted on a map entitled "Little Sand Spring Proposal", dated June 1988 (CDCA-119), and which shall be known as the Little Sand Spring Wilderness;

(19) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty eight thousand three hundred and ninety-two acres, as generally depicted on a map entitled "Inyo Mountains Proposal", dated June 1988 (CDCA-122), and which shall be known as the Inyo Mountains Wilderness;

(20) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand and thirty acres, as generally depicted on a map entitled "Hunter Mountain Proposal", dated June 1988 (CDCA-123), and which shall be known as the Hunter Mountain Wilderness;

(21) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately ninety thousand six hundred and twenty-six acres, as generally depicted on a map entitled "Panamint Dunes Proposal", dated June 1988 (CDCA-127), and which shall be known as the Panamint Dunes Wilderness;

(22) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fourteen thousand and seventy-

nine acres, as generally depicted on a map entitled "Wild Rose Canyon Proposal", dated June 1988 (CDCA-134), and which shall be known as the Wild Rose Canyon Wilderness;

(23) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty four thousand five hundred and thirty-six acres, as generally depicted on a map entitled "Slate Range Proposal", dated June 1988 (CDCA-142), and which shall be known as the Slate Range Wilderness;

(24) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty three thousand four acres, as generally depicted on a map entitled "Funeral Mountains Proposal", dated June 1988 (CDCA-143), and which shall be known as the Funeral Mountains Wilderness;

(25) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty two thousand eight hundred and eleven acres, as generally depicted on a map entitled "Greenwater Valley Proposal", dated June 1988 (CDCA-148), and which shall be known as the Greenwater Valley Wilderness;

(26) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy nine thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Nopah Range Proposal", dated June 1988 (CDCA-150), and which shall be known as the Nopah Range Wilderness;

(27) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred twenty one thousand nine hundred and twelve acres, as generally depicted on a map entitled "Owlshead Mountains Proposal", dated June 1988 (CDCA-156), and which shall be known as the Owlshead Mountains Wilderness;

(28) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty two thousand hundred and twenty-five acres, as generally depicted on a map entitled "Little Lake Canyon Proposal", dated June 1988 (CDCA-157), and which shall be known as the Little Lake Canyon Wilderness;

(29) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty six thousand one hundred and thirteen acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CDCA-158), and which shall be known as the Owens Peak Wilderness;

(30) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirteen thousand nine hundred and eight-six acres, as generally depicted on a map entitled "El Paso Mountains Proposal", dated June 1988 (CDCA-164), and which shall be known as the El Paso Mountains Wilderness;

(31) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-nine thousand one hundred and thirteen acres, as generally depicted on a map entitled "Golden Valley Proposal", dated June 1988 (CDCA-170), and which shall be known as the Golden Valley Wilderness;

(32) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Newberry Mountains Proposal", dated June 1988 (CDCA-206), and which shall be known as the Newberry Mountains Wilderness;

(33) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventeen thousand six hundred and thirty acres, as generally depicted on a map entitled "Rodman Mountains Proposal", dated June 1988 (CDCA-207), and which shall be known as the Rodman Mountains Wilderness;

(34) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand sixty-eight acres, as generally depicted on a map entitled "Bighorn Mountains Proposal", dated June 1988 (CDCA-217), and which shall be known as the Bighorn Mountains Wilderness;

(35) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand four hundred and ten acres, as generally depicted on a map entitled "Morongo Proposal", dated June 1988 (CDCA-218), and which shall be known as the Morongo Wilderness;

(36) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand one hundred and sixty-nine acres, as generally depicted on a map entitled "Whitewater Proposal", dated June 1988 (CDCA-218A), and which shall be known as the Whitewater Wilderness;

(37) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand three hundred and sixty-nine acres, as generally depicted on a map entitled "Kingston Range Proposal", dated June 1988 (CDCA-222), and which shall be known as the Kingston Range Wilderness;

(38) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-one thousand seven hundred and one acres, as generally depicted on a map entitled "Cinder Cones Proposal", dated June 1988 (CDCA-239), and which shall be known as the Cinder Cones Wilderness;

(39) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-six thousand four hundred and five acres, as generally depicted on a map entitled "Kelso Dunes Proposal", dated June 1988 (CDCA-250), and which shall be known as the Kelso Dunes Wilderness;

(40) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand two hundred and thirty-two acres, as generally depicted on a map entitled "Bristol/Granite Mountains Proposal", dated June 1988 (CDCA-256), and which shall be known as the Bristol/Granite Mountains Wilderness;

(41) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-four thousand two hundred and thirty-eight acres, as generally depicted on a map entitled "South Providence Mountains Proposal", dated June 1988 (CDCA-262), and which shall be known as the South Providence Mountains Wilderness;

(42) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-nine thousand six hundred and eighty-one acres, as generally depicted on a map entitled "Providence Mountains Proposal", dated June 1988 (CDCA-263), and which shall be known as the Providence Mountains Wilderness;

(43) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand five hundred and nineteen acres, as generally depicted on a map entitled "Castle Peaks Proposal", dated June 1988 (CDCA-266), and which shall be known as the Castle Peaks Wilderness;

(44) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand eight hundred and fifty-four acres, as generally depicted on a map entitled "Fort Piute Proposal", dated June 1988 (CDCA-267), and which shall be known as the Fort Piute Wilderness;

(45) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred sixteen thousand four hundred and eighty acres, as generally depicted on a map entitled "Turtle Mountains Proposal", dated June 1988 (CDCA-307), and which shall be known as the Turtle Mountains Wilderness;

(46) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately sixty-one thousand eight hundred and fifty-three acres, as generally depicted on a map entitled "Chemehuevi Mountains Proposal", dated June 1988 (CDCA-310), and which shall be known as the Chemehuevi Mountains Wilderness;

(47) certain public lands in the Yuma, Arizona District of the Bureau of Land Management, located in California, which comprise approximately nine hundred and thirty-eight acres, as generally depicted on a map entitled "Chemehuevi/Needles Addition Proposal", dated June 1988 (AZ-050-004), and which shall be known as the Chemehuevi/Needles Addition Wilderness;

(48) certain public lands in the Yuma, Arizona, District of the Bureau of Land Management, located in California, which comprise approximately seventy-two thousand sixty-three acres, as generally depicted on a map entitled "Whipple Mountains Proposal", dated June 1988 (CDCA-312), and which shall be known as the Whipple Mountains Wilderness;

(49) certain public lands in the Yuma, Arizona, District of the Bureau of Land Management, located in California, which comprise approximately one thousand three hundred and forty-three acres, as generally depicted on a map entitled "Whipple Mountains Addition Proposal", dated June 1988 (AZ-050-010), and which shall be known as the Whipple Mountains Addition Wilderness;

(50) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy-five thousand six hundred and sixty-five acres, as generally depicted on a map entitled "Palen/McCoy Proposal", dated June 1988 (CDCA-325), and which shall be known as the Palen/McCoy Wilderness;

(51) certain public lands in the California Desert District of the Bureau of Land Man-

agement, California, which comprise approximately fifty-two thousand seven hundred and eighty-two acres, as generally depicted on a map entitled "Coxcomb Mountains Proposal", dated June 1988 (CDCA-328), and which shall be known as the Coxcomb Mountains Wilderness;

(52) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-one thousand four hundred and thirty-four acres, as generally depicted on a map entitled "Eagle Mountains Proposal", dated June 1988 (CDCA-334), and which shall be known as the Eagle Mountains Wilderness;

(53) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-seven thousand one hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Mountains Proposal", dated June 1988 (CDCA-341), and which shall be known as the Santa Rosa Mountains Wilderness;

(54) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seven thousand one hundred and ninety-nine acres, as generally depicted on a map entitled "Mecca Hills Proposal", dated June 1988 (CDCA-343), and which shall be known as the Mecca Hills Wilderness;

(55) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-eight thousand two hundred and seven acres, as generally depicted on a map entitled "Orocopia Mountains Proposal", dated June 1988 (CDCA-344), and which shall be known as the Orocopia Mountains Wilderness;

(56) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-seven thousand thirty acres, as generally depicted on a map entitled "Chuckwalla Mountains Proposal", dated June 1988 (CDCA-348), and which shall be known as the Chuckwalla Mountains Wilderness;

(57) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-one thousand four hundred and ninety-three acres, including eight hundred and ninety-one acres adjacent to the Wilderness Study Area, as generally depicted on a map entitled "Julian Wash (formerly Indian Pass) Proposal", dated June 1988 (CDCA-355), and which shall be known as the Julian Wash Wilderness;

(58) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately five thousand four hundred and fifty-five acres, as generally depicted on a map entitled "Gavilan (formerly Picacho Peak) Proposal", dated June 1988 (CDCA-355A), and which shall be known as the Gavilan Wilderness;

(59) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-five thousand seven hundred and sixteen acres, as generally depicted on a map entitled "North Algodones Dunes Proposal", dated June 1988 (CDCA-360), and which shall be known as the North Algodones Dunes Wilderness;

(60) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-six thousand one hundred and twenty-eight acres, as generally depicted on a map entitled "Jacumba Proposal", dated June 1988 (CDCA-368), and which shall be known as the Jacumba Wilderness;

(61) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand three hundred and fifty-nine acres, as generally depicted on a map entitled "Fish Creek Mountains Proposal", dated June 1988 (CDCA-372), and which shall be known as the Fish Creek Mountains Wilderness; and

(62) certain public lands in the Carson City, Nevada, District of the Bureau of Land Management, located in California, which comprise approximately five hundred and fifty acres, as generally depicted on a map entitled "Carson Iceberg Proposal", dated June 1988 (NV-030-532), and which shall be known as the Carson Iceberg Wilderness.

(b) The acreages cited in this Act are approximate. In the event of discrepancies between acreages cited in this Act and the acreages depicted on the referenced maps, the maps shall control.

(c) The designation of the Skedaddle Wilderness Area by subsection (b)(7) shall not be construed or used to restrain current or future activities associated with the adjacent Sierra Army Depot.

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description for each designated wilderness area and area added to the National Park System shall be filed by the Secretary with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical, and cartographic errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

SEC. 6. (a) Subject to valid existing rights, each wilderness area designated by section 4(a) of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) and pursuant to the rules and regulations promulgated in implementation thereof.

(b) The following lands are hereby added to the National Park System:

(1) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred and three thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on maps entitled "Proposed Additions to National Park System Death Valley National Monument, 1989", are hereby incorporated in, and shall be deemed to be a part of Death Valley National Monument; and

(2) certain public lands which comprise approximately four thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on a map entitled "Proposed Addition to National Park System Joshua Tree National Monument, 1989", are hereby incorporated in, and shall be deemed to be a part of Joshua Tree National Monument.

(c) Upon enactment of this Act, the lands described in subsection (b) of this section, are, by operation of law and without consideration, transferred to the administrative jurisdiction of the National Park Service. The boundaries of the California Desert District; Death Valley National Monument and Joshua Tree National Monument are adjusted accordingly. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

(d) The Secretary shall, within a reasonable period of time, prepare plans to manage each designated wilderness area.

(e) For purposes of this Act, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 7. Any lands within the boundaries of a wilderness area established by this Act that are acquired by the United States after the date of enactment of this Act shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 8. Except as otherwise provided in this Act, and subject to valid exiting rights, all Federal lands established as wilderness by this Act and all lands within wilderness areas designated by this Act which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public lands laws, including the mining, mineral leasing, geothermal leasing, and material sales laws.

SEC. 9. (a) Nothing in this Act designating lands as wilderness shall constitute or be construed to constitute either an express or implied reservation of water or water rights for wilderness purposes. The United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness pursuant to the substantive and procedural requirements of the laws of the States of California and Nevada as appropriate.

(b) Nothing in this Act shall be construed to limit the exercise of water rights as provided under California and Nevada State laws as appropriate.

SEC. 10. (a) Military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system.

(b) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities and the overflight of military aircraft over areas designated in this Act as the components of the National Wilderness Preservation System.

(c) The designation by this Act of wilderness areas in the State of California shall not restrict military overflights of wilderness areas for the purposes of military testing and training.

(d) The fact that military overflights can be seen or heard shall not preclude such activities over the wilderness areas designated by this Act.

(e) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities at Sierra Army Depot which is located adjacent to areas designated in this Act as components of the National Wilderness Preservation System and the fact that such demilitarization activities can be detected from within the adjacent wilderness areas shall not preclude such activities.

SEC. 11. In recognition of the past use of portions of the wilderness areas designated by this Act by Indian people for traditional cultural and religious purposes, the Secretary shall assure access to the wilderness areas by Indian people for traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an appropriate Indian tribe or Indian religious community, may from time to time temporarily close to general public use one or more specific portions of wilderness areas in order to protect the privacy of religious cultural activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

SEC. 12. The Congress finds and directs that all public lands in the State of California administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 and those lands not designated as wilderness by this Act are no longer subject to the requirements contained in section 603 of the Federal Land Policy and Management Act of 1976 for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness and shall be managed for their other resource values in accordance with land management plans development pursuant to the Federal Land Policy and Management Act; or as part of the National Park System pursuant to section 6 of this Act.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. Under the rule, the gentlemen from California [Mr. LEWIS] will be recognized for 30 minutes, and the gentleman from California [Mr. LEHMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we have suggested on several occasions, this amendment by way of a substitute, which has been approved, is a direct reflection of that public process whereby a major cross-section of interests who are concerned about the California desert held public hearings over a period of years, spent $8 million of the taxpayers' money to analyze and resolve the conflicts involved in a controversy such as this. They were ordered by the Congress to come forth with a bill. They have come forth with a bill.

The committee has not chosen to take up the bill or consider its passage from the subcommittee or the full committee process. Because of that, we have had to essentially put that measure in a substitute, in an attempt to first make some sense out of the desert-planning process and make certain that whatever bill was passed had a chance at least to reflect the truly critical interests that lie in the California desert.

The bill that we have by way of this substitute involves 62 wilderness areas covering 2.3 million acres. As I have said several times this evening and on other occasions, this would be the largest wilderness area to be established in the continental United States, if it were to pass into law. And it reflects the need to protect many a delicate area in the California desert.

I mentioned to my colleagues that the reason that we are most intently opposed to H.R. 2929 is because it is a bill that reflects the excess of a very few in the environmental movement. They walked away from the public process and essentially took their original proposal of over a decade ago and introduced it by way of legislation in the other body.

Over the last several years, that measure has not been successful. The author of this bill, 2929, announced early in the year that he had a grand compromise that would solve some of those problems. The grand compromise makes almost no difference from that original bill and, indeed, it reflects none of the public input that we have been discussing.

As a practical fact, it is important to point up some of the difficulties of that bill in terms of excess.

In my judgment, H.R. 2929 is an ill-timed and underfunded expansion of the National Park System. H.R. 2929 creates a new 1.5-million acre national monument in the East Mojave at a time when the National Parks and Conservation Association has identified a $2 billion operations and maintenance backlog within the existing park structure as their most critical, their most critical priority.

By their own estimate, in East Mojave alone the Park Service would have to spend $16 million to acquire 116,000 acres of private land. The $16 million does not improve the properties. It merely compensates the existing owners for loss of their property interest.

It also adds 1.3 million acres to the Death Valley National Monument and 2,000 acres to the Joshua Tree National Monument, when the Park Service supports a more manageable and quality addition of 108,600 acres.

The alternative is to leave the East Mojave as a BLM management national scenic area, a designation which preserves its traditional character and heritage while creating seven permanent wilderness areas totaling 293,000 acres. That is what the Park Service wants; that is what the Department of Defense supports. They oppose H.R. 2929.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman for yielding time to me.

Permit me a little latitude here. I was born, raised, except for my time in school and the service, in the desert. I live in the desert and, if everything goes right, I will die in the desert.

My roots go back to 1900 when my grandfather homesteaded in this general area. I went to school in a one-room schoolhouse while living with my grandparents. I rode a horse, did not ride a bus to school. And we ate rattlesnake and rabbits and other things because things were kind of tough in those days.

I mention this to my colleagues because with all due respect to those who live in New York or some other distant place, the desert means much more to me because of what I have related than it can possibly mean to those type of people who have not had these kinds of experiences.

So when we talk about the rape of the desert or we talk about wilderness areas, I relate to those things.

I would like to share with my colleagues an experience I had with the Bureau of Land Management, when I spent 2 days going through in detail each of the wilderness areas that were being proposed by our bill and being proposed by our opponents' bill.

We looked at many of these areas. We said, yes, the study on this area says we need to have this as a wilderness area. We would fly on and here is another area and they said, well, we do not feel that this area is justified, even though it is in the other person's bill, because a road goes right through it. And if we notice down there there is a little shack, and there happened to be at that point two cars next to the shack.

My interpretation is that wilderness area is pristine, something that has not been inhabited by man, something that is as near perfect as possible, not something that has been inhabited and used and continued to be used by the public over a period of time.

Many of the areas in question in my opponents' bill meet this definition. I personally saw these on a map and looking out of the window of a helicopter. So these are some of the things I take into consideration when I think in terms of what people say about us, on that side of the aisle, do not have a sensitivity to these areas.

Let me talk a little bit about that portion of the desert that I represent, roughly in this wilderness study area about 50 miles by 200 miles. Right through the middle of that going in an east-western direction is the old Butterfield stage route, one of the main routes during the westward movement of our country. And later, as the name implies, a stagecoach route.

The wilderness area in question that is being proposed for that area is not wilderness at all. It is the part of the Butterfield stage route of great age and prominence used to a large degree by four-wheel-drive people as an outing on weekends, and many of these four-wheel-drive clubs are clubs that utilize the family unit as a means of recreation, as my colleague has said. They are working people, and this is their way of recreating.

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So when we talk about the naval gunnery range, we are talking about adjacent to the naval gunnery range putting in some wilderness areas that have no concept as I understand wilderness areas of meeting the necessary criteria. They have been utilized ever since the westward movement by people coming in covered wagons and later in other ways.

That is one of the problems that I have with the study and the basis upon which this particular plan is designated.

Let us talk a little bit about the Joshua Tree National Monument as it currently exists. There is a proposal to expand this monument and make it a national park. It would be certainly fine to make it a national park. The gentleman from California [Mr. LEWIS] has talked about the shortage of problems relative to that. The proposed expansion of Joshua Tree National Monument is very impractical, because a great deal of that being proposed for expansion is either currently being lived in or has been lived in at some time, and has no bearing or relationship to what is a national park or a Joshua Tree National Monument expansion is intended to try to accomplish for the benefit for the public.

We have talked about all of the land use and the attitudes and ideas and thoughts of people relative to the desert, and I must say in all candidness, this all seems to focus down to one big picture and one major magazine, motorcycles going across the desert in herds.

I beg Members to take this into consideration, that there are nuts and bolts to this that have not been considered, that are not proper with respect to the land use. And it is currently a part of this desert that all of us have enjoyed, not at the expense of the desert.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I must say I am very much interested in this recreation of history that seems to be taking place here on the floor during the last hour. I will begin my remarks by talking about the process.

I have heard from the other side that the Lewis substitute was not given a chance, the Lewis substitute was not heard, that the Lewis substitute never had an opportunity. The fact is my committee held a hearing on the Lewis substitute and on H.R. 2929. It did that at the request of the minority. Both bills were heard at the same time in committee, in September, and both had ample testimony. In fact, the Lewis substitute was in order as an amendment in the subcommittee when the subcommittee met. It was sitting at the desk, but no member of the minority sought to introduce the substitute either as an amendment or as a substitute at that time.

At the Rules Committee, the gentleman from California stated that the reason he did not do that was because he did not have the votes. Sometimes around here you do not have the votes. But that is not saying that there was not due process. Every possible opportunity was given, not just for this proposal, but over the course of the past 6 years that this bill has been around. That is right, 6 years. My colleague from California, Mr. LEVINE, and I did not have a conversation 2 months ago and decide to have a desert bill. It has been here for 6 years, and it has been examined from every possible angle. There have been six hearings, three of those hearings having been in California and 500 people have testified.

Earlier this year when I was designated by our committee to be the person on our committee in charge of this legislation I decided not to just take that proposal that had been around and run with it, but I decided as a matter of fairness and as a matter of building on the record to go ahead and question everything in the bill, and to try and find out if there were ways we could modify it that would meet specific objections. We did that, I talked to every interest in California involved in the desert. The door was always open, and the results of that process are reflected in this bill.

Last year this bill was opposed by every utility in California. Now not one single utility, major utility is in opposition to this bill. In fact, Southern California Gas expressly supports the bill. Why? Because we have gone in, and we have taken care of their problems. We have opened up the corridors. We gave them an opportunity to be heard, and we responded.

The same thing goes for the mining interests. In case after case we have accommodated mining interests in this bill, and those have gone away.

Of course we have not been able to accommodate everybody 100 percent, all of the time. That is the nature of the process. But the process has been followed meticulously.

A year ago the State teachers were opposed to this bill. Now the State teachers retirement system is in support of this bill. Why? Because we opened the door. We talked to them. We made the necessary changes and we moved forward.

We removed 271,000 acres, and in the en bloc amendment we will take another 160,000 out of that proposal. We have removed 75,000 acres for off-road vehicle use that was not included in the other bill, 114 miles. And yes, as I stated earlier and will state again now, no active mines are within any wilderness boundaries. Valid existing mining claims are protected in wilderness and parks. However, we have eliminated 73,400 more acres for certain mining interests. We have gone out of our way, whether it was with the grazing issue and the cattlemen, whether it was with the State teachers, with the utilities, the mining interests, the off-road people. I could go on and on, we have met their objections, accommodated their interests where it was in the interest of moving this bill forward, where it was in the interest of solving the problem and moving the bill forward, and that is the issue here.

The other side claims that what they want is a dialog. This bill has been around for 6 years. It has had all of those hearings. It is not dialog that the other side wants, it is delay, delay, delay.

Delay is disaster for the desert and delay stops today. Delay stops in 1 hour when we have the opportunity to vote on the Lewis amendment.

I have a great deal of respect for JERRY LEWIS. He has been a friend of mine for many years.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I have a great deal of respect for the gentleman, and that is one of the reasons I am going to keep my time.

I want to say that the gentleman genuinely believes in protecting the desert. I have no questions at all as to his motives, and I know that on these issues he knows whereof he speaks. And I certainly hope that as this process unfolds itself beyond this day, and in the final end, JERRY LEWIS and I can be standing together and supporting this bill. I hope that, but I am not going to give away everything in the meantime to get that.

Very soon, in less than an hour on this floor is the moment of truth for the desert. We are going to have to decide whether we want a plan that provides real protection, a plan that has been worked out over the years, and intensely in the last few months, or whether we want a sham, business as usual, that only protects those areas that need protection the least, and leaves unprotected the most fragile parts of the ecosystem.

Reject the Lewis amendment. Support the committee bill. It is the right thing to do for California and for our natural heritage.

Mr. LEWIS of California. Mr. Chairman, I might mention that the gentleman excluded radio and TV cameras from the district in those hearings we are talking about and did not allow the local supervisor from the district to testify. It was an open process, of course.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr.

THOMAS], who represents the California Desert.

Mr. THOMAS of California. Mr. Chairman, I guess we have inflated things around here so much that putting 2.3 million acres into wilderness is a sham, that it does not mean anything, that it is not worth anything, that H.R. 3066 represents delay.

What H.R. 3066 represents was the mandate of this Congress in 1976. What H.R. 3066 represents is the process the American people participated in.

I was at those hearings. Boy, I would have loved to have had a TV camera in there. In fact, you folks probably still have scars on your body, some of them which could be shown in places where people do look, but given the people who were there, and their resentment over what you were doing to the process, I am sure it left some scars in places that you would not allow people to look.

☐ 1920

Those were the hearings that we had in California. I was there. I know what the people who live and work in the desert said to you people in public hearings, but what I heard was the fact that the gentleman from Minnesota said that no one can argue with their bill.

Is that not the way it is around here? No one can argue with their definition of what is right. No one can argue with what we do with lands in your district, including not consulting you. This is not the first time it has happened to me.

I represent a district that goes from the Pacific Ocean to the Nevada border. Every time there is a wilderness bill in California, almost every time, I am involved in terms of my district and not involved in terms of an active participant. It happened just a few months ago. They said, "Well, we didn't know you represented that portion of that particular county."

There have been bills come through here where people who represent the area have not participated. But let me tell you, somebody can argue with H.R. 2929.

As I said, the Secretary of Defense said that H.R. 2929 is unacceptable. Even if you take the amendments, it is unacceptable.

In that same letter, the Secretary of the Army, the Acting Secretary of Defense, said they support H.R. 3066.

In fact, he said the reason for the extraordinary success of the U.S. Armed Forces in the desert of Iraq and Kuwait was a direct result of the extensive training in the desert of California. Victory in combat depends upon effective training. The effective training of the U.S. Armed Forces today depends upon military facilities in California.

Enactment of H.R. 3066 would assist in ensuring effective training at military facilities in California. Enactment of H.R. 2929, even with the amendments, would degrade the effectiveness of military training at those facilities, and they urge the Members to oppose, even with the amendments, H.R. 2929.

Somebody argues with it. Those people who use it for national defense argue with it. They do not argue with H.R. 3066. We put away 2.3 million acres. We did it intelligently. We did not say take a portion of wilderness represented by BLM and put it in the National Park Service, even though there is a 9,000-foot mountain range separating those two areas and no roads to traverse it.

We do not care, they say, that the National Park Service has to drive 150 miles around it to police the area, and that on average the National Park Service takes about $10.50 to police an acre, but BLM and wilderness takes about $2.50, and BLM has a station at Big Pine 40 miles away.

Now, at some point there is supposed to be a compromise. The proponents of H.R. 2929 have said they entered into that compromise, yet we are going to see a whole series of amendments that ask to make fundamental changes, and the military has said after you make those changes that you are willing to offer, H.R. 2929 is still unacceptable. H.R. 3066 is acceptable.

There are no amendments available for H.R. 3066. It went through the process. The public had input. It is just that what I heard from the chairman of this new committee was that we allowed the bill to be heard. The bill that came from the administration, that went through the process that Congress authorized, you allowed it to be heard.

I want to tell you, a couple years ago we were over on the Senate side in opposition to the Senate bill at that time, of which H.R. 2929 is a model, and before the committee we pleaded with the chairman of that committee. We said, "Senator, we don't have an alternative bill. We are waiting for the process to be completed."

That Senator said, "I have a bill in front of me, and if there isn't an opposing bill, we are going to move this bill."

You folks jumped the tracks, and I understand why you jumped the tracks.

The gentleman attended the hearings there. The gentleman from California [Mr. LEHMAN] was in Inyo County. The gentleman heard what those people had to say. A number of them were upset about what was going on. A number of them supported it, but there was a give and a take to the process, the process of give and take, everybody is culminated in H.R. 3066.

The only reason it does not stay on the same plane as H.R. 2929 is in large part because of who represents the area itself, who runs the committees in this place, and the attitude some of you have about what representation is supposed to be about.

It is the old saying, "What is mine is mine, and what is yours is mine." That is where we are going with H.R. 2929.

Please take a look at H.R. 3066, 2.3 million acres, the culmination of a public process. The military is happy, everybody is happy.

In fact, the only people who are not happy with H.R. 3066 are the people whose names are on H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I rise to oppose the amendment and in favor of the California Desert Protection Act.

I would like to put a human dimension, if you will, on all this. I hope that the Members will recognize that there are people in California who very much favor this act. There are people like my mother who has lived in the desert, lived in Palm Springs, loves the desert as much as anybody else who comes from that area does, and for people on the floor to characterize that those who are in favor of this bill are somehow less committed to the desert and the mountains and the people and the animals and the species that are there is simply unfair and untrue.

My father rode in those mountains and in that desert for more than 20 years. He loved it, and I am rising today in support of that in memory of my father and my mother today. She stands there in Palm Springs and expects me and expects this Congress to look to the future. She is in her eighties. Her time on this Earth is coming to an end and she expects us in the U.S. Congress to be looking out for our children and our children's future and her nephew who is in northern California, who comes to southern California to the desert, to the mountains, to camp out, to take photographs, to hike, and reveres that area. Whether it is someone in their twenties, my nephew, whether it is someone in their eighties like my mother, they love this area and they want this area protected and they want to see that the future is preserved, not for exploitation, not for those who want to take something out of the desert to make a profit out of it, but to profit all the people in terms of what is best in this country, best for the desert, best for California, best for the United States, that respects what this Congress is all about and what it should be doing.

Let us see what it does not do. It does not stop military overflights or prevent any military activities necessary to the security of the United States.

I sit on the Armed Services Committee and I can say that is true.

It does not require a large appropriation or purchase of any land or adversely impacts hunting or existing water rights. That happens to be the fact of the matter. If you want to disagree with the judgment, disagree with the judgment, but to characterize those of us who support it as in any way endangering the national security is a base canard.

What it will do is protect California's magnificent desert. It will create the Mojave National Monument. It will upgrade the national park status of the Joshua Tree and Death Valley Monuments. It will create 76 wilderness areas and protect 2,500 species of plant and animal life.

The plain fact of the matter is that support for this bill is to support what is best about preservation in national parks, what is best about environmental preservation for the future and does not endanger in any way, shape or form, nor offer the opportunity in any way, shape or, form, for anything less.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. Yes, of course, I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, the gentleman knows that the establishment of the buffer zones around Chino Lake and Chocolate Mountains are affected by H.R. 2929 and prevents the bombing and the use of the Chocolate Mountains.

Mr. ABERCROMBIE. No national security is involved in any way, shape, or form.

Mr. CUNNINGHAM. I rise today because I was able to use those routes.

Mr. ABERCROMBIE. If the gentleman has a different opinion, he is entitled to it.

Mr. CUNNINGHAM. Because I was able to use those routes.

Mr. ABERCROMBIE. If the gentleman has a different opinion, he is entitled to it.

Mr. LEWIS of California. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HUNTER].

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Mr. HUNTER. Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM], my friend, the distinguished Member from San Diego and Navy top gun, to give his opinion with respect the efficiency and effectiveness of the bombing ranges that are in question under the Lehman bill.

Mr. CUNNINGHAM. Mr. Chairman, I flew 21 years using those ranges. I provided and drew up some of the training routes, know exactly how they are affected and how they are not affected.

There is not a buffer range around China Lake or Chocolate Mountain. That actually endangers people's lives.

We have lost people to Mark-82's, that is a 500-pound bomb, and Mark-83's, which is a 1,000-pound bomb. That not only affects the military, it affects civilians who want to use the camping areas around it. If that is not important to my colleague from Hawaii, saving human lives, I do not know what is.

There is an unpaved movement corridor from Fort Irwin to the Marine Corps Base at Twenty-nine Palms. This is where we test all of our latest weapons and missiles that are used out of Point Magoo and the training range. That is critical to these areas.

Mr. HUNTER. I thank the gentleman, and I will yield very briefly to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I simply want to ask the gentleman if he is aware of a letter submitted to me by the chairman of the Committee on Armed Services, who unfortunately was unable to stay. I will ask unanimous consent to include this letter in the RECORD.

In a nutshell, the letter emphasizes the importance of training in the California desert.

The CHAIRMAN. That particular request has to be made in the House.

Mr. LEVINE of California. Fine. Without submitting the letter, let me ask if the gentleman from California [Mr. HUNTER] is aware of this and if the gentleman is aware that the chairman of the Committee on Armed Services, having reviewed this bill, supports it and believes it does not compromise national security?

Mr. HUNTER. Let me reclaim my time and simply say to the gentleman, the gentleman who is talking right now is the gentleman who has flown Navy aircraft over the Chocolate Mountains, he is a top fighter pilot in the U.S. Navy, he knows what it is to have accidents with heavy ordnance. He has reviewed the proposed new wilderness areas that are adjacent to the Chocolate Mountain gunnery range, and I would rely on that gentleman before I would rely on a staff recommendation made in the House of Representatives.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield further?

Mr. HUNTER. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I also say to my colleague, remind him that this is the same chairman of the Committee on Armed Services, by the way, my chairman, who wants to give $1 billion to the Soviet Union out of the defense area. And this is also a Democrat-controlled committee.

Mr. HUNTER. I thank the gentleman.

Let me simply say to my colleagues we are talking once again about a lockout of middle America, middle-class people from the desert.

The gentleman from Hawaii talked about his mother being able to enjoy the desert, and he made a good point. I would like to mention a lady named Ida Little, from Imperial Valley, who is 84 years old, who gives wildflower tours in the desert. There is a difference between her and other people, young people who can carry backpacks and hoof it. She has to ride in a Jeep.

People like Ida Little are going to be locked out of the massive enclosures of wilderness. There is no way that you can go into the south Algondones dunes and enjoy that territory. People like Ida Little and literally thousands of families who have recreation in the desert cannot go fly fishing in New Zealand, cannot go surfing in Australia, but who on a Sunday or a Saturday will drive into the California desert for a little time away from their bosses, they are going to find themselves locked out by a policy that is essentially an elitist policy, a policy that is driven by people who live in condominiums in New York, San Francisco, and other places in this country who do not realize that blue-collar America needs areas to go and re-create.

They can do that now in the California desert. The Lewis alternative that reserves 2.5 million acres for wilderness certainly is a balanced alternative.

In my case, the north Algondones dunes are going to be preserved under the Lewis alternative as wilderness. All of the species will be preserved under that particular plan.

Once again, this is a lockout bill, it locks out blue-collar America, it is elitist. And at a time when we have lost 114,000 blue-collar jobs, throwing those families out of work in California, the last thing we should be doing is closing up their places where they have a little chance for recreation.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, recent hearings before Representative SIKORSKI'S subcommittee have exposed the fact that our professional land management agencies have been politicized under Reagan and Bush more so than at any time since we adopted civil service reforms earlier in this century.

Professional land managers have been silent for fear of their jobs. Instead of dispassionate, professional, evenhanded opinions, we get political documents rewritten by higher-ups, people on Vice President QUAYLE'S Competitive Council.

The administration now claims that the National Park Service does not believe the East Mojave qualifies for inclusion in the park system. It is a ridiculous and unfounded claim that flies in the face of recommendations by professional staff of both the Park Service and BLM, whose reports state unequivocally that the Mojave fully qualifies for park or monument status.

In 1979 the BLM report says:

> It is the conclusion of the desert plan staff that cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualifies for national park or monument status.

When the California Desert Protection Act was first introduced in 1986, the Park Service conducted a study to determine if the Mojave met the criteria for inclusion in the National Park System. Based on this study, the western regional director of the Park Service submitted a detailed report to the Park Service Director, which is summarized by this statement:

> The proposed Mojave National Park meets the criteria and would be a worthy and valuable addition to the National Park System. We recommend its addition to the National Park System.

Recommend, I repeat.

Just 2 months ago that same western regional director, now retired, testified that the Park Service support of the Mojave was being misrepresented to the public and the Congress by the current administration.

Reject the substitute, reject the politicization and this warping of the views of the professional agencies.

Let us listen to the professionals and adopt the base bill.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Mr. BENNETT. Mr. Chairman, will the gentlewoman yield to me?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I rise in support of this much needed legislation. I would like to share some paragraphs from a manuscript book I wrote while in the hospital at the end of World War II. These paragraphs describe the Mojave Desert where I trained in 1943 for combat in the deserts of Africa. However, we actually fought in New Guinea and the Philippines. The paragraphs I share with you are as follows:

> We arrived in the desert as the sun was setting behind the deep blue mountains in the distance. The chaplain spread the altar cloth over the hood of a jeep and we had a brief service before turning in under the stars for our first night in this once empty sea of sand, now peopled by thousands of soldiers sleeping more or less quietly side by side.
>
> Before leaving the desert I was assigned to Anti Tank Company and with them I went through the infiltration course and fired the 37 mm guns. This was in addition to the endless work in the PX's—clerking and cleaning up, purchasing and bookkeeping.
>
> One Sunday I took the greater part of the day off and went on a prospecting hunt in the mountains, looking for semiprecious stones. I borrowed the entrenching pick with which we cracked ice at the PX, and slung a desert water bag over my shoulder for drinking water. I came back with a lot of blisters, a dulled pick and no valuable stones. Anyway it was a change from the mercantile business.
>
> I was surprised to find how many things live in the desert. There were a great many different kinds of flowering cacti. One was particularly attractive with crisp yellow-green petals and bright yellow centers. There were plenty of greasewood bushes and every hundred or so acres there would be a smoke tree suggesting a short stationary column of smoke until you came up close.
>
> There were coyotes, too, and some of the boys got coyote pups for pets as well as horned toads, many other types of lizards and some snakes. There were furry gophers and pack rats. One morning I found a little kangaroo mouse that had trapped himself in a pop bottle. We had to break the bottle to get him out.
>
> On my hike to the mountains I saw several jack rabbits. They would bound ahead of me and then pause to look back at me, repeating the process over and over.
>
> The heat was terrific in the day but it was quite cold at night. When you sat down on your cot a huge cloud of dust would get up to let you have the seat. Water was scarce but we got along somehow. Of course bathing in helmets was the usual procedure for settling the dust on your body. That is about all it did.
>
> Women scarcely ever came near our camp but once I did see one under unusual circumstances. The wind had blown down the canvas from around our box latrine. A young lady came by looking for her husband's tent and she carried on quite a conversation with a soldier enthroned on the latrine, which apparently she did not recognize as such.
>
> There was majesty in the beauty of our desert—the brilliant purple of encircling mountains on a clear, early morning; full daylight's pastel colors in the distance, mostly azure-grey pink, lavender, orange and light brown; the intense blue of the peaks at dusk like something done by Maxfield Parrish; midnight's deep and sparkling sky, steel blue ranges and soft grey carpets of sand, stretching easily and endlessly in starlit and moonlit swells and shallows. What I saw reminded me of the face of an oldster who has lived fully and well through tribulations—strength, grandeur and dignified handsomeness spoke from every line, every ridge and every hollow.
>
> Our 3 months in the desert came to a close and we chugged off to a California port of embarkation. There I became a platoon leader in reality instead of mostly on paper. I was assigned the third platoon of Anti Tank Company. With the exception of guerrilla activity in the Philippines I stayed with this platoon throughout the war. They were in every way extraordinary and wonderful men.

Ms. PELOSI. Mr. Chairman, I am pleased to rise in support of the California Desert Protection Act which is before us today.

H.R. 2929 is a compromise bill that maintains the sanctity of wilderness, protects park land, and allows diverse multiple-use activities in other areas of the desert.

Legislation to protect the California desert has been proposed during the last three Congresses and we can hail its consideration on the floor today as a major success for all those who have worked to forge this unique compromise. Chairman GEORGE MILLER, Subcommittee Chairman LEHMAN, and Congressman LEVINE have accomplished what many believed to be the impossible. Their efforts to accommodate the many interests and activities in the desert, such as grazing, mining, offroad vehicle use, has resulted in a fair compromise that addresses these diverse interests.

A recent statewide poll by the Field Institute confirmed that 75 percent of Californians support greater protection of the desert environment. The public overwhelmingly supports this public land protection measure.

H.R. 2929 will preserve, as open space, park, and wilderness areas in approximately one-third of the 25-million-acre desert region of southern California.

The California desert is an incomparable landscape that is home to hundreds of species of wildlife, plant life, the world's largest Joshua tree forest and mammoth sand dunes. H.R. 2929 will create 76 new wilderness areas and add 3 million acres of desert as national park lands.

Our actions today will determine the future of the unique California desert ecosystem. By voting for H.R. 2929, we can preserve a public treasure for all time. Future generations deserve nothing less.

Mr. Chairman, I urge my colleagues to join me in voting for H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of the California bill.

I think it is a good bill. It protects the fragile ecology of the desert. I live in the southern desert myself.

Mr. Chairman, I note that the substitute bill also includes part of Nevada. I was not really consulted on this. I really think we should have been consulted on this, that they should have talked to a person from Nevada before including Nevada as part of the bill.

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Mr. Chairman, I was just wondering if the Representative of southern California would tell me why Nevada, the Representative from Nevada, this was not discussed with him.

Mr. LEWIS of California. Mr. Chairman, I must respond to my colleague, the gentleman from Nevada [Mr. BILBRAY], by saying, "You may not recall, but, when we were discussing your problems relative to the San Bernardino highway system, I discussed the desert bill with you as well. It just may have been that the highway package was much more important to you. We did discuss it. I'm sorry if I didn't make the item clear at the time, but we have discussed the matter."

Mr. BILBRAY. Mr. Chairman, would the gentleman describe the areas that are included in Nevada because I do not know this area very well? Could he give me a little explanation of it?

Mr. LEWIS of California. Mr. Chairman, I would be happy to describe the area in detail, but we do not have much time. I ask the gentleman, "Why don't you just come over here, and we'll talk about it?"

Mr. LEHMAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Lewis amendment in the nature of a substitute.

This substitute has many shortcomings, both in what it would do and in what it would leave undone.

In the desert, it would not provide sufficient protection for important wilderness areas that would be protected under the bill as reported from the Interior Committee. It also would not give national monument status to the very special and unique East Mojave area.

Over the last 4 years, the Interior Committee has very thoroughly considered and analyzed many varied proposals for future management of the public lands in the California desert area, including the administration proposals as embodied in the Lewis amendment. A particular focus in our deliberations has been what management should be provided for the East Mojave. We took account of a 1979 report by BLM that concluded that the "cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualified for national park or monument status." We took account of a 1987 conclusion by the professional staff of the National Park Service that the areas met the required criteria specified in the Park Service's management policies, and that the area would be a worthy and valuable addition to the National Park System.

On the basis of such studies and conclusions, and on the basis of very extensive hearings, including three hearings in California where we heard from hundreds and hundreds of witnesses, the Interior Committee voted for designation of the East Mojave as a national monument.

National monument status for the East Mojave is a very important part of the committee's decisions about future management of the California desert. The House should reject the Lewis amendment, which in this and other ways does not do what needs to be done for the desert.

The Lewis substitute is not just a desert bill. It is inadequate to the subject before the House. Ironically, not satisfied with the breadth of this task the Lewis substitute which would designate at least 10 wilderness areas that are not even within the California desert, and in fact are many, many miles away from it—600 acres are even in Nevada. These are areas about which regrettably there have been no hearings at all. Because the focus was the California desert. The Interior Committee should and will consider proposals for BLM wilderness areas in other parts of California, but we have not yet done so.

The House should not today rush to judgment concerning wilderness on BLM lands in California outside the desert. This substitute is misdirected. We should do all that is necessary in the desert, but we should not try to decide how to manage areas outside the desert, about which we do not yet know enough to make sound decisions.

The Lewis substitute fails both those tests. It should be rejected by the House.

Mr. LEWIS of California. Mr. Chairman, with great pleasure and delight, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I come to the well as a Representative of a Democrat district, a blue-collar, working person's district where one can drive up and down every street and see the trailers, the recreational vehicles, the Broncos, the Sierras, the off-road vehicles, the motorcross bikes, the desert dirt bikes. Every type of recreational vehicle under the Sun is in my district, the working heart of Orange County, and we love those deserts.

I have four; count them, four, off-road vehicles: two Broncos and two that are made on those islands up in the Northwest Pacific because unfortunately Harley does not make them, but I love my Honda Odysseys, and I am looking to buy a Honda Pilot. I love to go out in the desert, and I swear to my colleagues that I would not run over a California poppy, and I would suggest public thrashing for any man that would hit a Joshua tree, even dent it, out there in that beautiful Mojave Desert. I have landed a dead stick F-100 on Bicycle Dry Lake; I love that lake. I trained to be combat-ready on Cuttyback Dry Lake. I have landed emergency out at Edwards on Rogers Dry Lake. I love that area.

Mr. Chairman, I lived out there for over 2 years with my wife. Two of my children out of five are born out there, and I say to the other party quite seriously, "I'm reaching out to you. Look at this as a protection to what we're going to pass on to our prosperity, but also look at it as a family issue."

The gentleman from California [Mr. LEWIS] loves the district. He loves his district in the desert. He would not be doing something to hurt this area and doing something against the majority viewpoint.

These polls which are quoted about Americans wanting to lock up areas of north Alaska or the California desert, look at how the question is phrased. If one did not answer the way some of them are quoting, they would look like they did hate this beautiful planet that God has given us, but families enjoy these deserts.

I say to my Democratic colleagues, You're not the cheese and brie set. We don't call you country club Democrats. You are blue-collar, off-road people, not autobahn, high speed, Beemer/Mercedes types, most of you. You come with your families to California, not to climb Mt. Whitney, but to enjoy the deserts, and to go Disneyland, and to use those places where you combine family and love of the countryside.

Mr. Chairman, I submit my statement for the RECORD.

Mr. Chairman, I rise today in opposition to H.R. 2929, the California Desert Protection Act of 1991. This bill simply does not address the concerns of those who actually live, work, and recreate in the California desert, which covers about 25 million acres in the southeast quarter of the State. In fact, Mr. Chairman, the bill may not be boondoggle, but it is a dune-boggle.

This bill, in its current form, would create 3 million acres of new park land and designate millions of additional acres as wilderness. These large tracts of land are beyond even what the radical environmentalists claim is necessary. But more importantly, in laying aside these enormous amounts of land, H.R. 2929 does not take into account any of the vital issues relating to military operations in the California deserts. Indeed, H.R. 2929 directly impacts the military's ability to function in the area. As the Assistant Secretary of the Department of Defense has stated;

> H.R. 2929 is clearly a step backward when compared to previous legislative initiatives. It totally ignores the vital interests of the Department of Defense and it compromises our future, putting at risk the lives of our servicemen and women.

The following examples indicate the extent to which the California Desert Protection Act [CDPA] would affect the future military use of the area, the importance of which was most recently reflected in Operation Desert Storm and Operation Desert Shield.

In effect, the CDPA negates the proposed expansion of the National Training Center at Fort Irwin through the imposition of new park and wilderness boundaries surrounding the training center. It also would probably proscribe continued military overflights of wilderness areas. Historically, Americans have not accepted military overflights of their national parks, and public pressure has imposed limits on military overflights of wilderness areas. Thus, based on past experiences, the Department of Defense fears that H.R. 2929 could eventually preclude overflights below 3,000 feet. Such restrictions would significantly impact testing at Edwards and China Lake Air Force Bases. They would also compress needed low-level flights into smaller, more populated areas, thereby increasing risk, noise, and discomfort for residents and greater risk for pilots as a larger number of planes would be directed into a smaller flying area.

Furthermore, the California Desert Protection Act reserves for the Federal Government quantities of water in the region to fulfill the purposes of the act. Under California law, the United States, just as any other landowner, is entitled to riparian water rights and a reasonable share of the water in the groundwater basins underlying the Federal lands. The State law is more than sufficient to fulfill any and all needs which the Federal Government may deem appropriate for Federal lands in California. Yet, the proponents of H.R. 2929, for some unexplained reason, do not think this is enough. They want the Federal Government to have a paramount right to control all the ground water in the desert. The language of the bill is further ambiguous as to whether the rights to ground or surface water, or both, are being reserved. California, not the Federal Government, must maintain control over water management and administration. Water sources are too scarce and States' rights are too important.

Finally, the California Desert Protection Act will eliminate, within 25 years, almost half of all livestock grazing in the new parks created in the desert. This runs counter to the long tradition, dating back to the 1860's in some cases, which permitted grazing in the region.

California is blessed with a wide variety of wilderness areas that are a treasure to the State. As long as these areas are treated with respect and reverence, and the needs of all sectors are taken into consideration, they should be open to all to enjoy. Surely, the best way we can give today's Californians, and all other Americans and their children, an opportunity to enjoy and benefit from this unique and remarkable resource requires that we pass truly balanced legislation.

For this reason, I will vote in favor of H.R. 3066, the Lewis California desert wilderness amendment, which is a comprehensive substitute to the California Desert Protection Act. This better desert bill, which creates 2.3 million acres of new wilderness, takes into account the interests and needs of the hundreds and thousands of other desert people along with those of the environmental organizations.

The development of this bill involved the kind of public input that should be employed when major land use decisions are made. It represents the culmination of 15 years' effort to identify areas suitable for wilderness designation in accordance with a congressionally mandated plan, and considers the concerns of all factions interested in the desert's future.

The Lewis amendment is the result of public meetings and hearings, 16 environmental impact statements, mineral surveys, and 40,000 comments reflecting the views of all who use the desert. Apparently the drafters of H.R. 2929, the California Desert Protection Act, felt no need to consider the multitude of available studies and information when creating their legislation. It is obvious that their legislation falls short of a balanced approach. For this reason, H.R. 2929 should be defeated.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, as a member of the Mining Subcommittee, I know that one of the differences between these two measures, the substitute and the committee bill, is the issue of mining, and I want to take a moment to address the body on that issue because I think there should be no misunderstanding about this matter.

In general debate it was represented by the gentlewoman from Nevada [Mrs. VUCANOVICH] that we should not pass the committee bill because the U.S. Geological Survey had not done surveys of different areas with regard to minerals, implying that there was valuable minerals there that in some way would be locked up by the committee bill.

I suggest that is not true at all. In fact, the USGS has had lots of time to do surveys of these areas. They have had years, and years, and years to do surveys, and they have not done them, and I think the reason they have not done them is that there is no reason to do them, and the suggestion that we would be taking some hasty action by passing the committee bill that would have adverse consequences for mineral resources in my opinion is ill-founded. In fact, the USGS could take years, and years and years more to get around to doing those surveys, and it would be very unfortunate.

So, Mr. Chairman, it would be very unfortunate for us to believe that we are having an adverse impact on mineral resources and to vote for the substitute for that reason.

Mr. Chairman, the California desert is very valuable. There are lots of places to run on RV's. There are lots of places to graze. There are lots of places in this country that have mineral resources. There is only one California desert, and I dare say there are a lot of families all across our country who will enjoy the desert as a park and as a monument, families who, in fact, are owners of this because it is public land, and these families all across our country have a right to see that this very valuable resource is passed on to the next generation and the generations to follow unimpaired.

That is what the committee bill would do, and I urge the Members to reject the substitute and to support the committee bill.

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Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to one of my colleagues, a member of our newest class of experts, the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in the strongest opposition to H.R. 2929, and I urge my colleagues to do the right thing and the fair thing by supporting the LEWIS substitute. A few weeks back, when we were busy rolling over the constituents of the gentleman from Kansas [Mr. NICHOLS], a situation that I know all too well, I wondered how long it would be before we would be hanging a sign on the Golden Gate Bridge or perhaps the Statue of Liberty reading, "Now entering North American National Park." It could be sooner than I expected.

At the rate we are going, by this time next year we may not have an election reform bill or a crime bill. The budget certainly is not going to be balanced, but I dare say that with very little effort we could very easily double or triple the size of our parks. At the very least, we could easily have the last piece of Alaska roped off and perhaps print some more money and then buy the gentleman from Alaska [Mr. YOUNG] a ranger's hat.

Mr. Chairman, each day we open business with a series of 1-minute speeches in which we rail about the decline of American productivity or the threat from foreign competition, and we attack deficit spending that sets new records every day, and we decry the encroachment of the Federal Government into the lives of our citizens. Yet we follow those speeches with consideration of legislation that takes more and more land out of production and puts more and more people out of work. We pass legislation that authorizes "such sums as are necessary," and we further erode States' rights. Today is no exception.

Mr. Chairman, the proponents of this legislation contend that America needs this act. They say that this is more than a California bill, but what about the needs of California's 20th District, 35th District, 37th District, and 45th District? Do we doubt the able Representatives of those districts that much? Let them represent their constituents and let us tend to the business of representing our constituents.

Mr. Chairman, If we insist on passing something, let us pass the substitute offered by the gentleman from California [Mr. LEWIS], but better yet, let us pass legislation that America does need and then go home for the year before we do any more damage.

Mr. LEHMAN of California. Mr. Chairman, I yield 9 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Interior and Insular Affairs, who will be making his first appearance in the well this evening.

Mr. MILLER of California. Mr. Chairman, this has been a spirited and heated debate before this Chamber, as are most of the debates that take place over legislation that is reported from the Committee on Interior and Insular Affairs, because very little that this committee does is action of an abstract nature.

Very often we consider legislation on the floor of this Congress from different committees where we do not know the impact of it for years to come. We speculate about that impact, and we are not sure what constituencies are affected or what areas are affected. That is not usually true with the Committee on Interior and Insular Affairs because, as we are tonight, we are designating lands for different uses, in many instances for uses different than they were prior to the passage of this legislation, some new, some old, some precluded, some limited, some expanded, but we affect somebody with almost everything we do.

I tried as the chairman of this committee to treat this bill differently. I tried to treat it differently to make sure that what we did not accomplish was what was talked about in our State for many years, and that was what was called an attempt to lock up the desert.

I am a backpacker, but I do not think all people who want to enjoy our natural resources should have to backpack. I am a dirt biker, but all people who enjoy our natural resources should not have to travel by dirt bike. I ride all-terrain vehicles, but all people should not have to ride all-terrain vehicles. I choose not to ride around in a Winnebago, but people who do should have access to our parks, should have access to our monuments, and should be able to see the great assets and the great jewels of this Nation.

That is why this bill was treated differently. I did not believe that an effort to preserve the great California desert, to preserve part of our environment—and I mean our total environment—should be done in a way that we would throw people out of work or shut down going concerns, be they extracting minerals or other businesses.

I felt that we should make every effort to preserve them. We should understand that this park comes after them, and in fact, as the chairman of this subcommittee said, we did that. But for two sand and gravel mines, the rest of them were allowed to continue. For those who have perfected rights in mining, they will be allowed to continue. For those who were in the wilderness areas, they will be allowed to continue.

That is not by accident; that is by direction, because we have got to understand what the real debate is about. We have heard a great deal over the last years about the multiple use, and our friends on the Republican side of the aisle very often refer to their support of the multiple use. Multiple use means multiple use, not my use, not your use, and in this bill there is essentially no use of the land that is allowable today that is precluded.

Some are different. Some of those people who enjoy the 568,000 acres for off-the-road vehicles, those who enjoy that hobby of theirs and indulge in that family activity, as I do, will now only have 500,000 acres to enjoy. Those who want to race along the 35,000 road miles on their dirt bikes and other vehicles will now only have 33,000 miles to race along. For those who want the quiet and the peace and the opportunity to take photographs and enjoy the wonderful wilderness areas, this bill addresses their desires. And if there are problems—and believe me, the problems were not there until it was understood that this bill was going to come on the floor—with overflights and with our capabilities to train, those too will be addressed in this process.

Finally, Mr. Chairman, let me say this about this committee. I am new to the chairmanship of this committee, but those who spoke so outrageously about the process never once called my office and complained, never once asked me to intercede, never once asked me to get a witness on who was denied, if there were any, never once asked if I could help. They asked me to delay twice, and we did. We delayed those hearings at the request of the minority.

So everybody in this bill has been treated fairly. Those voices have been heard, and that is the way it is going to be in this committee. An opportunity was made for the gentleman from California [Mr. LEWIS] to offer his amendment, and he chose apparently not to do that because they believed they did not have the votes.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield for one quick question?

Mr. MILLER of California. Mr. Chairman, let me finish first, and then I will yield to the gentleman.

Before we went to the Rules committee, I talked to the gentleman from California]Mr. LEWIS], and I said, "I will request a rule, and I want you to know in advance it is moving rather quickly, so, JERRY, make up your mind what amendments you wanted now so you will have all your amendments ready in case they say they have to be put in the RECORD, because I will ask for an open rule, but because of the time they may say they have to be printed or what-have-you."

We had that discussion. In my committee I do not cut off debate. In my committee I do not ask for closed rules because I believe, with the work of my subcommittees, my chairmen, and the members of my committee, we can stand the scrutiny of this House. And this bill does that. It is not what the gentleman from California [Mr. LEWIS] would want, and I understand that. I appreciate that. It is not what many other Members would want, those who were supporting the earlier Cranston-Levine bill.

But we have worked those differences, and we will continue when we get to the amendments, to shape and modify this bill.

□ 2000

Mr. Chairman, this is a terribly important bill, a terribly contentious bill, but a bill that should be passed to preserve the California desert.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just wanted to ask a question. I would like to ask the question on the mining. With the problems we have with oil and in the future, does this exclude geothermal drilling for future energy sources? When you say existing mining and look into the desert, I know in our particular area we are doing geothermal drilling. That would preclude it, as I understand it.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, in the last several weeks, I have been meeting with representatives of the utilities that have a great interest in that, and they have raised no objection about that to this legislation. As late as last night they told me of their support, as have the members of the mining industry.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield further, will this prevent future exploration for geothermal? It is an important energy source.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, in putting this bill together we have excluded geothermal areas in the bill. As part of the process, we have gone over it in the past year. I am sure there may be some included, but, there again, we have tried to balance it out.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would point out in China Lake, where the substantial geothermal resources are, that is withdrawn. I might also add to the gentleman's comment, we had a hearing on the military withdrawals. No Members requested to appear before it. It was clear and evident at that time, with the sponsorship of myself and the gentlemen from California, Messrs. MILLER, LEHMAN, and LEVINE, that that amendment was going to be offered in that hearing.

I might repeat the testimony from the Department of Defense. We had a lot of other people claiming they are experts here today about things, but they said, "I am delighted to be here and have the opportunity to testify in favor of this bill. The Department of Defense is delighted with the withdrawal provisions. We have been wanting to get this settled for some time, as you know."

Mr. Chairman, he did not ask for an expansion or any additional withdrawals. I am not aware of any additional withdrawals that the Department of Defense sought.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, I use this time just to simply pay my compliments to the gentleman from Guam [Mr. BLAZ] and to the gentleman from California [Mr. LEHMAN] for the work, the hours, and time that they have put in on this legislation in the committee, as well as to the gentleman from California [Mr. LEVINE] who has struggled for a number of years now to get this matter to the floor of this Congress and to have it become the law, and all of the other members of the committee that have toiled with this difficult, emotional, contentious issue. I believe they have a work product that we can all be very proud of that has been developed through a fair process.

Mr. Chairman, H.R. 2929, the California Desert Protection Act, deserves our support.

The Congress has held a longstanding interest in protecting the resources of the California desert. In 1976, we passed the Federal Land Management and Policy Act [FLMPA] which recognized the unique environmental, scenic, and economic resources of the California desert. FLMPA directed the Secretary of the Interior to prepare and implement a comprehensive long-range plan for the California Desert Conservation Area. In response, the Bureau of Land Management [BLM] released the California desert plan first in 1980, and after some revision, again in 1982.

Mr. Chairman, many people were unhappy with the BLM's final California desert plan. Many believed the plan was skewed toward mining, grazing and other consumptive uses.

Recognizing that something had to be done to protect the area's natural resources without eliminating development, Senator CRANSTON introduced the first California desert bill in 1986. Since then, companion bills in each successive Congress have been introduced by Senator CRANSTON and my colleague from California, Congressman MEL LEVINE.

Rather than prolong the debate at the expense of the natural and economic resources in the California desert area, the Committee on Interior and Insular this year created a new subcommittee specifically to address the California desert. Chaired by Congressman RICHARD LEHMAN, the Subcommittee on General Oversight and California Desert Lands has worked with Congressman LEVINE and other members of the Interior Committee to craft the bill we are considering today.

After more than 15 years of questioning, what is the best approach to managing the desert, H.R. 2929, the California Desert Protection Act answers those who said we need to achieve a balance. At the same time, as H.R. 2929 preserves natural and scenic areas for the enjoyment and education of future generations, H.R. 2929 also provides recreational opportunities, and allows mining, grazing, and other activities to continue in specific areas.

Subcommittee Chairman LEHMAN and Congressman LEVINE, the sponsor of H.R. 29292, devoted a great deal of time and effort to this legislation. There have been six hearings, including three in California, on the California desert since 1986, when Senator ALAN CRANSTON first introduced his desert protection bill. Most recently, the House Interior Subcommittee on General Oversight and California Desert Lands held a hearing September 16, 1991 on H.R. 2929 and H.R. 3066, introduced by Congressman JERRY LEWIS.

Mr. Chairman, H.R. 2929, as reported, creates a new 1.5-million-acre Mojave National Monument, and designates 4.3 million acres of Federal land in California as wilderness. In addition, H.R. 2929 adds about 1.5 million acres of land currently managed by the Bureau of Land Management to the existing Death Valley and Joshua Tree National Monuments, and the monuments are redesignated as national parks.

Many cities and counties in California, including Los Angeles, San Francisco, San Diego, Riverside, and Fresno have passed resolutions supporting the passage of H.R. 2929. In addition, the California AFL–CIO, California State Lands Commission, Sierra Club, Wilderness Society, Natural Resources Defense Council, National Audubon Society, and other environmental organizations also endorse the bill. Southern California Edison, the Los Angeles Department of Water and Power, and Southern California Gas Co. have all either expressed their support for the bill or have said they do not object to this legislation.

Mr. Chairman, I'd like to highlight a few provisions of the bill, including section 610 which is important to the retired teachers in California, and the California State Lands Commission. This provision is an innovative approach to address a serious concern raised by the California State Lands Commission.

As my colleagues may know, 3 years after California became a State, the Federal Government in 1853, gave sections 16 and 36 out of every township to California as a revenue source for public education. Today, the California State Lands Commission owns approximately 270,000 acres of land, and 53,000 acres of mineral interests within the California desert. The California State Lands Commission manages these lands for the benefit of the retired teachers in California. Once H.R. 2929 is enacted, the commission's lands will become inholdings within the park units and wilderness areas designated in the California Desert Protection Act.

When the Interior Committee considered H.R. 2929, we included section 610 to protect the investment of the retired teachers in California and address the concerns of the California State Lands Commission. Section 610 directs the Interior Secretary to negotiate a land exchange agreement with the commission. The agreement would provide for the exchange of State school lands for nonrevenue-producing Federal lands.

The Congress would be required to approve any land exchange consisting of more than 5,000 acres of Federal land or involving Federal lands valued at more than $5 million. The provision will give the Congress the opportunity to review large land exchanges to make sure taxpayers receive fair market value for their Federal lands. In addition, the provision is consistent with the BLM's objective in the management plan for the East Majove National Scenic Area to acquire 149,210 acres of inholdings, many of which are owned by the California Sate Lands Commission.

If the State continues to own inholdings as of October 1, 1996, H.R. 2929 provides the California State Lands Commission with a monetary credit account equivalent to the value of the State's inholdings. The commission may use the credits in this account to bid as any other bidder for surplus Federal property sold in California.

Mr. Chairman, I understand the Bureau of Land Management is circulating a document that suggests that the lands owned by the California State Lands Commission are worth as much as $93.2 million—more than 250 percent higher than the $35 million price tag estimated by the California State Lands Commission. Someone's wrong. I seriously doubt the California State Lands Commission's own report would deflate the price of the State's lands. I question the accuracy of BLM's numbers which I understand were prepared overnight.

Mr. Chairman, I also suggest that the BLM's report, "Inholding Acquisition Costs," is a political document being circulated by the BLM in an effort to kill H.R. 2929. If it isn't, then why weren't all members of the Interior Committee, including myself, provided a copy of the report?

As for the private inholdings, BLM's recent report says they are worth from $142.8 million to $408.1 million. In contrast, CBO's cost estimate dated January 29, 1990 says the Interior Department has estimated that the total surface value of the 550,000 acres is $70 to $80 million. Even the major private landowner in the California desert believes the BLM's numbers are high.

If we are to believe BLM's recent estimates, this means the price of real estate in the California desert increased as much as 500 percent from January 1990 to today. Mr. Chairman, I suspect the BLM is inflating the cost of the lands to support the faulty argument that we can't afford H.R. 2929. In reality, we can't afford not to pass H.R. 2929.

H.R. 2929 is a compromise in the best sense of the word. While not everyone agrees with H.R. 2929, the support we've received from environmental organizations, as well as some mining companies and people from desert communities leads us to believe that we should support H.R. 2929.

Mr. Chairman, after more than a decade of controversy, balance has become the watchword. H.R. 2929 achieves the balance we sought to find. The legislation preserves millions of acres of lands at the same time as it allows those who use the land for mining, grazing, and recreational activities to continue their pursuits in specific areas.

I encourage my colleagues to join me in supporting H.R. 2929.

Mr. PACKARD. Mr. Chairman, I appreciate the opportunity to support the amendment offered by my colleagues from California, Mr. LEWIS Mr. MCCANDLESS, Mr. THOMAS, and Mr. HUNTER.

H.R. 3066 refines some of the more troublesome aspects of H.R. 2929. Each bill addresses the challenge of preserving the desert, however, this amendment provides a balanced, viable solution. This amendment substitutes language which provides a sound environmental and economic approach to protecting and preserving our desert wilderness.

This amendment is a public oriented protection plan informed by an exhaustive study conducted by the Desert Advisory Committee. There have been 70 official meetings and public hearings, hundreds of informal meetings with a variety of interested groups and in excess of 40,000 individual public comments for the record spanning the committees' 15-year study. In other words, testimony has been heard from nearly every segment of California society.

This amendment mandates a balanced, environmentally sensitive land-use policy as opposed to arbitrary restrictions against multiple uses of the California desert.

Supporters of H.R. 2929 have claimed that if you oppose their bill you are against the desert, the wilderness, and the environment.

This is not true, my opposition to H.R. 2929 lies in the manner in which the legislation was drafted. Sufficient public comment was not ordered and not sought. The public must be a participant in the process that decides how wilderness areas are chosen. As a Californian who cares deeply about our deserts, I believe this amendment is more effective in achieving a wise and safe land-use policy for our desert.

I ask that democracy be allowed to flourish in the desert. That the process of give and take between the people and the Government, which is inherent in this amendment, be allowed to take place.

I thank the Speaker and ask my colleagues to support the Lewis amendment.

The CHAIRMAN. The Chair would state that the gentleman from California [Mr. LEWIS] has 4½ minutes remaining, and the gentleman from California [Mr. LEHMAN] has 3 minutes remaining.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of the substitute offered by the gentlemen from California, the same gentlemen who represent the desert area that we seek to protect today.

The desert of California is a stunning place. I grew up there, went to elementary school there, and still love to visit when I can. The desert's scenic beauty, its ecological significance—the desert's very importance as a natural and pristine ecosystem—is not in question today. Instead, the question is the extent of protection this desert area needs. I want to compliment my two Democratic colleagues, Mr. LEVINE and Mr. LEHMAN, for their work on behalf of the desert. They have worked to accommodate the needs and of many competing concerns. I will likely vote to support their bill, their compromise, should this substitute not pass. But I urge this body to respect the position of the four men who represent the desert area being discussed on this floor. The matter before us is about the extent of protection we give the California desert, not protection itself.

H.R. 2929 would create millions more acres of protected land than this substitute would. I'm not sure representatives from other, non-Western States quite understand how large a million acres is. We are shutting off vast areas of desert today over the objections of the men who were elected to represent the people who live there. Please, vote to support the Lewis substitute.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume for closing on this side.

Mr. Chairman, it seems to me it is important that we make a couple of fundamental points, one of which was just alluded to very effectively by my colleague from California [Mr. ANDERSON].

First I would like to indicate a very important area of support from a gentleman from California who has a long record as a very, very significant contributor to our environmental concerns in our State. Though a staunch environmentalist, California Gov. Pete Wilson thinks locking up the desert will limit access to only those hardy enough to backpack in. He noted last year that only 300 miles of trails would be retained in the proposal before us and access to over 7,000 miles would be lost.

"Some groups want to save the desert from the people," he said. "I think we should save the desert for the people."

It is very, very important that we recognize the significance of the contribution that this desert adds to our military strength, so I would read aspects of a letter that we received dated November 21, 1991:

> DEAR MR. CHAIRMAN: We oppose the California Desert Protection Act of 1991 (H.R. 2929) and support the California Public Land Wilderness Act (H.R. 3066). Adoption of amendments to H.R. 2929 expected to be offered by Congressman Vento and Blaz would address defense concerns related to military overflight, the National Training Center, and land withdrawals, but H.R. 2929 still would not address the following defense needs addressed in H.R. 3066: (1) the establishment of buffer zones around China Lake and the Chocolate Mountains; (2) an unpaved movement corridor from Fort Irwin to Marine Corps Base Twentynine Palms through the Cady Mountains; and (3) utilities through the Cleghorn Lakes required to develop the intended electronic ranges in the southeastern section of Marine Corps Base Twentynine Palms.

Mr. Chairman, I would remind Members that in its present form H.R. 2929 is very definitely on the veto list of the President of the United States. Indeed, we are long past the point where we ought to be solving the problem of the California desert. Unless we see significant compromise, that goal of all of us is not going to be attained.

Mr. Chairman, as I close, most importantly I would urge Members to recognize the fact that this is a most unusual debate we have had. Never since have been in the Congress have I seen us in a circumstance where four Members of the House who represent the people of the desert suddenly are being run over by a committee that absolutely had precommitted themselves to pass the legislation introduced and cosponsored by the chairman of the subcommittee.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I take this time to agree with my colleague from California, this has been a contentious debate, worthy of the diversity of our State, and I think it has been a good and fair fight under the rule here on the floor.

Again I want to express my appreciation to the gentleman from Guam [Mr. BLAZ] for his cooperation, to the gentleman from Minnesota [Mr. VENTO], and to the full committee chairman.

Mr. Chairman, I yield the remainder of my time to the original sponsor of this bill, the gentleman from California [Mr. LEVINE].

The CHAIRMAN. The gentleman from California [Mr. LEVINE] is recognized for 2½ minutes.

Mr. LEHMAN of California. Mr. Chairman, this debate has focused on both process and substance, and I would like to close the debate briefly by focusing on each.

On process I think the chairman of the full committee and the chairman of the subcommittee have done an excellent job of spelling out just how open this process is. Generally private communications between Members do not become a part of the discussion on the House floor, but in light of some of the misunderstandings, I do think it is important to understand and underscore that there have been extensive efforts by those of us on this side of the aisle, those of us working to see that the California desert is preserved for future generations, not only to work with a number of the interests involved, but efforts to try to work with the Members on the other side of the aisle.

Mr. Chairman, this has been done repeatedly. They have been involved in hearings. They have been involved in the process. It has been an open process.

The gentleman from California earlier raised a question about the Cottonwood Mountains. The reason I was surprised he raised it is that this has been an area that has been recommended by the National Park Service and by the BLM for inclusion in the National Park Service. I have that recommendation here.

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On the merits, Mr. Chairman, there have been three issues mentioned repeatedly by the opposition.

First, the issue of the military. And I would simply conclude this side's debate by referring to a statement that was going to be made by the chairman of the Committee on Armed Services. He gave me the statement. He was not able to stay here for the conclusion of this debate, but I simply want to quote two aspects of it.

> As chairman of the Armed Services Committee, I recognize that our military forces must train as they will fight. The success in Operation Desert Storm demonstrated the vital importance of our facilities in the Southern California desert.

And he concludes by saying he supports the bill, he believes that it is consistent with training and with our national security.

Second, the East Mojave, the gentleman on the other side of the aisle opposed East Mojave inclusion as a national monument.

Mr. Chairman, both the National Park Service staff director and the BLM staff director have proposed that the East Mojave be included in the National Park System. The Park Service

Director suggested that it "would be a worthy and valuable addition to the Park System," and the BLM Director concluded that the area readily qualifies for Park Service or monument status.

In conclusion, Mr. Chairman, I strongly urge a "no" vote on the Lewis amendment, to preserve the California desert for the people of California and the people of America. I strongly urge a "no" vote on the Lewis amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. LEWIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 150, noes 241, not voting 43, as follows:

[Roll No. 420]

AYES—150

Allard
Allen
Anderson
Anthony
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Bunning
Burton
Bustamante
Callahan
Camp
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dingell
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Espy
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Johnson (CT)
Johnson (TX)
Jones (NC)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
Martinez
McCandless
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Molinari
Montgomery
Moorhead
Nichols
Nussle
Olin
Oxley
Packard
Parker
Paxon
Penny
Peterson (FL)
Pickett
Ray
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Santorum
Sarpalius
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Zeliff

NOES—241

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Browder
Brown
Bruce
Bryant
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Thomas (GA)
Thornton
Torres
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Zimmer

NOT VOTING—43

Alexander
Andrews (NJ)
Aspin
Baker
Brooks
Broomfield
Clay
Clement
Crane
de la Garza
Dixon
Doolittle
Dorgan (ND)
Gaydos
Ireland
Johnston
Kolter
Laughlin
Lipinski
Lloyd
McDade
Michel
Morrison
Mrazek
Murphy
Myers
Neal (MA)
Pursell
Quillen
Roe
Roth
Russo
Scheuer
Smith (IA)
Solomon
Torricelli
Towns
Traxler
Waxman
Wylie
Yates
Yatron
Young (FL)

☐ 2036

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Torricelli against.

Mr. ORTIZ, Mrs. ROUKEMA, and Mr. HERTEL changed their vote from "aye" to "no."

Mr. ESPY changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. LEHMAN of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BROWDER] having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley Joshua Tree, and Mojave National Parks, and for other purposes had come to no resolution thereon.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 212) to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I would like to acknowledge the work of the gentlewoman from Ohio [Ms. OAKAR], the chief sponsor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 212

Whereas visiting nurse associations have served homebound Americans since 1885;

Whereas such associations annually provide home care and support services to more than 1,500,000, men, women, children, and infants;

Whereas such associations serve 422 urban and rural communities in 45 States;

Whereas such associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such associations are voluntary in nature, independently owned, and community based;

Whereas such associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such associations, thousands of patients with mental or physical handicaps or chronically disabling illness would have to be institutionalized;

Whereas such associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, friendly visiting services, social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas, in each community serviced by such an association, local volunteers support the association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning February 16, 1992, is designated as "National Visiting Nurse Association Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Ms. OAKAR. Mr. Speaker, I would like to thank Chairman SAWYER of the Census and Population Subcommittee, as well as Mr. RIDGE, the ranking minority member, for their fine leadership and efforts on that subcommittee. I would also like to thank Chairman CLAY for his distinguished leadership on the full committee of which I am proud to be a member. Gratitude is also due to Senator BRADLEY and Senator HATCH for their companion bill, Senate Joint Resolution 124, which is under consideration by the other body. This legislation will, for the fourth year in a row, honor the truly samaritan efforts of visiting nurse associations all across our land.

My colleague, Mr. BURTON of Indiana, and I introduced House Joint Resolution 212 to designate February 16 through 23, 1992, as "National Visiting Nurse Associations Week." The VNA movement in the United States is as diverse as the Nation which it serves. Indeed, in every community in America, from inner city areas to sprawling farms, these vibrant associations involve registered nurses, nurses aides, medical specialists, counselors, therapists, and volunteers to provide quality, professional homecare to nearly 1 million of our Nation's neediest citizens—regardless of the patient's ability to pay.

Mr. Speaker, last year I had the honor of serving on the Pepper Commission, and I know well the crisis facing our citizens not only in affordability of access to health care in the United States, but also with respect to long-term care. The VNA movement is over 100 years old in America, and as health care services have evolved in our Nation over that time, so has the mission and importance of VNA's. For those with the greatest need of home care, those who can least afford it, visiting nurse associations nurse the sick back to health, administer physical or occupational therapy to those who require it, or allow the terminally ill to die quietly with dignity and compassion. Visiting nurse associations increase access to home health services for millions of Americans who might not otherwise get them. Whether it is health care, nutritional counseling, personal care, physical therapy, or social services, VNA's assume the role of care giver that once fell upon another family member. The support that VNA's provide for families suffering with a loved one's illness is immeasurable. People of all ages, races, and cultures truly benefit from the continued success of VNA's in America.

To add to the skills of talented and dedicated health care professionals, visiting nurse associations have successfully incorporated the spirit of voluntarism into their good work. Community volunteers assist VNA's wherever they can help by running errands, fundraising, delivering meals, and in general serving as an extension of the spirit that surrounds VNA's in our Nation. It is essential that Congress recognize the efforts of volunteer and not-for-profit organizations that help to reduce health costs. As a compassionate, unique method of health care delivery, VNA's certainly merit such distinction.

Today, visiting nurse associations carry on a tradition of innovation in health care. It is important to note, Mr. Speaker, that VNA's were one of the first groups to recognize the home care needs of AIDS victims. VNA's, as they have throughout their existence, remain at the forefront in many other areas as well: Maternal child care, home intravenous therapy, and respiratory care. In many cities, VNA's have developed special shelters where the homeless can receive attention they would not get otherwise. Virtually every time circumstances have conspired to create a health care need, VNA's have been the first to identify and respond to that need.

I thank my colleague Mr. BURTON for his efforts in this bipartisan legislation. By naming February 16 through 23, 1992, as "National Visiting Nurse Association Week," we extol the endeavors of these modern day samaritans to ensure that they get the appreciation and recognition they justly deserve. This resolution recognizes all the medical professionals and volunteers in each community who enable visiting nurse associations to advance their innovative and essential role in America's health care system.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD AIDS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 376) designating December 1, 1991, as "World AIDS Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Washington [Mr. McDERMOTT] who is the chief sponsor of the resolution.

☐ 2040

Mr. McDERMOTT. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for bringing House Joint Resolution 376, declaring December 1st, 1991 "World AIDS Day," to the floor today. Because we are adjourning before December 1—we hope—it is important to have House Joint Resolution 376 enacted before we adjourn to properly commemorate this day. I thank you for expediting this process.

December 1 will be a special day in the effort to combat the international AIDS epidemic. Around the world, there will be ceremonies and activities designed to increase awareness about the worldwide HIV/AIDS epidemic.

"World AIDS Day" has been commemorated since 1988, when the World Summit of Ministers of Health on AIDS Prevention designated December 1 to be a day to recognize the devastating impact of HIV and AIDS.

I have examined the state of the AIDS epidemic in countries in Africa and Asia, and its impact is truly frightening. This disease will be a human disaster of unprecedented proportions in some parts of the world. Most countries lack the health care resources, the educational resources, and the economic resources necessary to halt the spread of HIV.

Tragically, entire families are being destroyed by AIDS. Thousands of children have been orphaned by this disease, and are now living in poverty as street children. AIDS is threatening the social and economic structures of countries all over the world.

The theme of "World AIDS Day, 1991" is "Sharing the Challenge." I hope in the United States we will heed this message and recognize that all of us must work together to meet the many challenges AIDS poses. Many governments and organizations are dedicating resources and energy to combating the global AIDS epidemic, and it is important to acknowledge their heroic efforts.

And we must recognize all the tens of millions of people around the world whose lives have been affected by HIV and AIDS. On December 1, let us commemorate "World AIDS Day," and let us realize that the global AIDS epidemic affects us all.

Mr. Speaker, again I thank the chairman for recognizing the importance of commemorating "World AIDS Day" by bringing House Resolution 376 to the floor today.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I would like to say to the sponsor of the resolution that I appreciate his workmanship in drafting this resolution. I support it wholeheartedly.

I would like to say, however, that this kind of resolution, while focusing attention on the issue, is certainly not going to solve the problem. We in this body need to come to grips with this problem in a very aggressive way. We need a comprehensive program to deal with the AIDS virus.

I showed the gentleman who sponsored this resolution the other day some statistical data that I received from a leading scientist in New York.

It showed that if we were to identify the people with AIDS, those infected with the AIDS/HIV, and get them on AZT in a relatively short period of time, by the years 1995 and 1996, we can cut in half the number of new infections that are anticipated.

But you cannot do that unless you know who has the virus.

You cannot get people on AZT unless they know they are infected. So the first step in a comprehensive program, I submit to my colleagues, is identifying those who are infected. I believe we have 4 million to 6 million infected. Nobody knows for sure. But one sure thing we do know is that 95 percent of the people who are infected do not know they are infected and thus they continue to infect others.

That infectivity, their contagiousness, could be cut dramatically if they got on AZT, and their lives could be extended for a longer period of time.

So we need to have a comprehensive program which consists of testing, contact tracing, psychological health, education, scientific research; we need to have also in there protecting their civil rights, their housing, their jobs, their health benefits. It has to be comprehensive program, including penalties for those who know they have the virus and continue to spread it. There are lot of those people out there.

I say to my colleague I commend him for this awareness resolution; it is very, very important. But we as a body, if we really care about the people of this country and the world, we have to come to grips with this very quickly and have a comprehensive program to deal with it. Otherwise, millions more Americans are going to be condemned to die.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his contribution.

Continuing my reservation of objection, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 376, legislation to designate December 1, 1991, as "World AIDS Day."

I commend the gentlemen from Washington [Mr. MCDERMOTT] for introducing this important legislation.

Mr. Speaker, the World Health Organization has designated December 1, 1991, as "World AIDS Day," a day for the exchange of information, education, and caring for the victims of AIDS.

The number of persons infected with the human immunodeficiency virus and likely to develop AIDS has reached between 5 and 10 million persons. It is estimated that in 1991 54,000 people will die from AIDS.

Recently, pediatric AIDS cases have added to this growing tragedy. Unfortunately, the majority of the cases are through maternal transmission.

Many AIDS cases occur simply because individuals did not know how to take simple steps to prevent this tragic affliction.

However, education, increased research and greater dissemination of information, and understanding will help to combat this epidemic. While these concepts are no panacea for the vast problems of AIDS, they are a step in the right direction.

Accordingly, Mr. Speaker, I urge my colleagues to join in adopting this resolution and to commit ourselves to provide substantial support for expanded medical research and education to combat this scourge on our society.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BROWDER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 376

Whereas infection with the Human Immunodeficiency Virus (HIV) and the incidence of Acquired Immunodeficiency Syndrome (AIDS) have become a global problem of urgent proportions, with an estimated 1,000,000 AIDS cases worldwide and another 10,000,000 HIV infections;

Whereas as many as 5,000 individuals worldwide are infected with HIV every day and an estimated 40,000,000 men, women, and children will be infected with HIV by the year 2000;

Whereas 1,000,000 children have been born infected with HIV and as many as 15,000,000 children around the world will be orphaned by AIDS by the year 2000;

Whereas AIDS worldwide is primarily transmitted sexually, with 75 percent of all infections transmitted through heterosexual contact, and education and increased public awareness are the cornerstones of an effective AIDS prevention activity;

Whereas the World Health Organization, in concert with intergovernmental and nongovernmental organizations around the world, has accepted the responsibility to safeguard the health of all individuals and control the spread of HIV infection through national policies and programs;

Whereas the worldwide action necessary to stop this global epidemic must continue without compromising the medical, ethical, socioeconomic, cultural and psychological well-being of HIV-infected individuals and individuals with AIDS or slowing the momentum that has allowed those engaged in the struggle to close in on the challenges posed by HIV and AIDS;

Whereas the World Summit of Ministers of Health on AIDS Prevention, meeting in London in 1988, recognized that the widest possible dissemination and exchange of information and educational messages is vital to the success of AIDS prevention programs and thus pledged to open fully channels of communication in each society by creating the basis for the declaration of a World AIDS Day as a day of information, education, action, and commission on AIDS;

Whereas the first World AIDS Day on December 1, 1988, brought messages about the need for action, compassion, and understanding about AIDS to every country in the world; and

Whereas the theme of the 1991 World AIDS day, "Sharing the Challenge", underlines the global nature of the AIDS epidemic and recognizes that awareness can be achieved only by pooling the efforts, resources, and imagination of all individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1, 1991, is designated as "World AIDS Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities, with a special focus on world-wide cooperation and understanding.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEOGRAPHY AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 201) designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to our friend from California [Mr. PANETTA], who is the chief sponsor of this resolution.

□ 2050

Mr. PANETTA. Mr. Speaker, I rise today in support of the adoption of the resolution to designate December 1–7, 1991, and November 15–21, 1992, as "Geography Awareness Week." The resolution commemorates Geography Awareness Week for the fifth and sixth consecutive years. With the approval of this resolution, the Congress will again be reaffirming its commitment for recognizing the importance of elevating geography education in our Nation's schools.

I want to thank my distinguished colleagues, Representatives BILL GREEN and DALE KILDEE, for once again joining me in introducing the resolution this year and working to ensure its consideration and passage. They have shown consistent and tireless support since Congress first designated Geography Awareness Week in 1987. At this time, I would also like to thank the chairman of the Subcommittee on Census and Population, Representative SAWYER for his interest, and without whose help we could not adopt the resolution.

During the observation of this week, States, cities, schools, and organizations such as the National Geographic Society, participate in numerous education activities designed to focus national attention on the importance of a solid geographic education. Although these efforts are helpful, our children still have a long way to go.

Past studies have clearly illustrated our students' lack of knowledge in this area. Geographic illiteracy puts our country at a disadvantage and weakens our ability to remain a nation with worldwide aspirations, and hinders us from competing effectively in the international marketplace. As we look toward the movement of a common market in 1992 and the discussions of open trade negotiations around the world, we have a responsibility to possess an understanding of other cultures and lands. In only this way can this country remain a leader in the international, political, and economic spheres.

Knowledge of geography offers perspectives and information necessary to understand ourselves, our relationship to the earth, and our interdependence with other peoples of the world. Let us continue to help our students, who are our future leaders, become aware of the world around them.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from California [Mr. PANETTA].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore [Mr. BROWDER]. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 201

Whereas geography is the study of people and their planet, offering a framework for understanding ourselves, our interdependence with other peoples, our relationship to the Earth, and world events;

Whereas the United States has both worldwide involvements and influence that demand an understanding of geography, different cultures, and foreign languages;

Whereas the credibility of our Nation's foreign policy largely depends on the support of a geographically informed public, a public which understands both the locations and the significance of historic changes occurring around the globe and their impact on the United States;

Whereas an ignorance of geography, different cultures, and foreign languages places the United States at a disadvantage with respect to other nations in matters of business, politics, the environment, and global events;

Whereas, although geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other nations, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas our Nation's governors, in their National Goals for Education, explicitly identified geography as one of five subjects in which American students should demonstrate competency;

Whereas a perspective in geography offers a critically needed understanding of the relationship between human activity and the condition of our planet in this time of increasing environmental problems;

Whereas the first federally funded National Assessment of Educational Progress revealed a "disturbing geography knowledge gap" among 12th graders: 58 percent could locate Jerusalem on a regional map, but only 36 percent knew that Saudi Arabia is bounded by the Red Sea and the Persian Gulf;

Whereas in a 1988 Gallup Poll, 75 percent of those surveyed could not locate the Persian Gulf on a map, and fewer than half of those surveyed could name Asia as the place that Christopher Columbus was hoping to reach when he discovered the New World;

Whereas that 1988 Gallup poll also projected that 24,000,000 Americans could not identify the United States on a map of the world, 58,000,000 Americans could not tell direction on a map, and 105,000,000 Americans did not know the population of the United States;

Whereas geography is more than the study of map identification, State capitals, and country names, but geography also gives meaning to location and establishes a context for understanding the connections among peoples, places, and events;

Whereas the success of a democracy relies heavily upon an educated citizenry whose members are aware of both their influence on and connection with the rest of the world; and

Whereas national attention must be focused on the integral role that a knowledge of world geography plays in preparing citizens of the United States to assume a responsible role in the future of an increasingly interconnected and interdependent world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning December 1, 1991, and the week beginning November 15, 1992, are each designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADOPTION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 207) to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I acknowledge the chief sponsor of this resolution, the gentleman from Ohio [Mr. SAWYER].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 207

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 13 years;

Whereas the Congress recognizes that belonging to a secure, loving, and permanent family is every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a federal program to encourage Federal employees to consider adoption;

Whereas approximately 36,000 children who may be characterized as having special needs such as being of school age, being members of a sibling group, being members of a minority group, or having physical, mental, and emotional disabilities are now in foster care or in institutions financed at public expense and are legally free for adoption;

Whereas public and private barriers inhibiting the placement of special needs children must be reviewed and removed where possible to assure their adoption;

Whereas the adoption of institutionalized or foster care children by capable parents into permanent homes would ensure an opportunity for their continued happiness and long-range well-being;

Whereas the public and prospective parents must be informed that there are children available for adoption;

Whereas media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will provide publicity and information to heighten community awareness of the crucial needs of children available for adoption; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and in the best interest of the public generally: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe each week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF THE AMERICAN INDIAN

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 217) to authorize and request the President to proclaim 1992 as the "Year of the American Indian," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 217

Whereas American Indians are the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indian governments developed the fundamental principles of freedom of speech and the separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies exhibited a respect for the finite quality of natural resources through deep respect for the Earth, and such values continue to be widely held today;

Whereas American Indian people have served with valor in all wars that the United States has engaged in, from the Revolutionary War to the conflict in the Persian Gulf, often serving in greater numbers, proportionately, than the population of the nation as a whole;

Whereas American Indians have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas it is fitting that American Indians be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas the five hundredth anniversary of the arrival of Christopher Columbus to the Western Hemisphere is an especially appropriate occasion for the people of the United States to reflect on the long history of the original inhabitants of this continent and appreciate that the "discoverees" should have as much recognition as the "discoverer";

Whereas the peoples of the world will be refocusing with special interest on the significant contributions that American Indians have made to society;

Whereas the Congress believes that such recognition of their contributions will promote self-esteem, pride, and self-awareness in American Indians young and old; and

Whereas 1992 represents the first time that American Indians will have been recognized through the commemoration of a year in their honor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of the American Indian". The President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the year with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ACCESSIBLE HOUSING MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 184) designating the month of November 1991, as "National Accessible Housing Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I would first acknowledge our colleague, the gentleman from Illinois [Mr. MICHEL], as the chief sponsor of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MICHEL. Mr. Speaker, I rise in strong support of Senate Joint Resolution 184 a joint resolution designating the month of November, "National Accessible Housing Month."

As the original sponsor of House Joint Resolution 326, I am proud to see this resolution come to the floor.

I want to commend my colleague, STENY HOYER, for his help in getting this legislation to this point in the process.

Senate Joint Resolution 184 focuses on the many public and private efforts in raising the public's awareness of obstacles faced by Americans with disabilities in their own homes. It highlights, in particular, the campaign now being conducted by the National Easter Seal Society and Century 21 Real Estate Corp.

Their program, entitled "Easy Access Housing for Easier Living," answers questions on how to design homes to accommodate those with disabilities.

Designing barrier-free homes from the outset can be cost-effective and is in the interest of all Americans.

Did you know that 70 percent of our citizens will suffer a permanent or temporary disability during their lifetime?

Wouldn't it be nice to know that if you do suffer such a disability, your home will still be your home, and not become an obstacle course?

Since enactment of the Americans with Disabilities Act last year, there have been many efforts to heighten the public's awareness of these problems.

This resolution recognizes not only the work of Century 21 and the National Easter Seal Society, but all who are committed to this important issue.

It is worthy bill, and I urge all my colleagues, of which 230 are already cosponsors, to support it.

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to our friend the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 184, legislation to designate the month of November 1991 as "National Accessible Housing Month."

And I would like to commend our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL] for introducing this legislation.

Mr. Speaker, the need for accessible single family housing for our temporarily or permanently disabled Americans continues to grow at a rapid rate.

There are approximately 43 million individuals with disabilities in our Nation.

In the future it is projected that 1 out of every 3 Americans will need some form of accessible housing to compensate for a disability.

Accordingly, Mr. Speaker, I urge our colleagues to join the many private sector organizations which have launched public information programs in an effort to increase awareness of the need for accessible housing for our disabled Americans.

Mr. HOYER. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 184. I would like to thank Chairman SAWYER and the ranking member, Congressman RIDGE, for bringing this bill to the floor tonight. It has been my privilege to work with the minority leader on this resolution which designates the month of November as "National Accessible Housing Month."

In 1988 the Congress passed the Fair Housing Act amendments which clearly stated in law the policy that people with disabilities should not be discriminated against in housing. However, as we all know, in order for a law to be effective, it must be enforced, and the American people must be committed to its success. I am therefore, pleased that in this instance, the National Easter Seal Society and Century 21 Real Estate Corp. have joined together to promote accessible housing for people with disabilities.

As the lead House cosponsor of the Americans With Disabilities Act, I spoke often of the need for business and people with disabilities to work together to make the ADA work. The partnership between Easter Seals and Century 21 is exactly the type of commitment and cooperation that I hoped would happen throughout the Nation.

There are 43 million Americans with disabilities. And, at some time in their lives, 70 percent of all Americans will have a temporary or permanent disability that will prevent them from climbing stairs. Furthermore, many Americans are forced to leave their homes because a disability has made that home no longer accessible to them. In fact, 1 out of every 3 Americans will need housing that is accessible to them at some point in their lives.

Therefore, this resolution is of extreme importance to help spread the word regarding the need for accessible housing and to educate the American public that accessible housing is available. I am hopeful that this resolution will also inform community leaders across the Nation about the need for accessible housing and encourage them to promote its construction in their communities. In fact, I hope that communities across this Nation will take the opportunity provided by this month to promote accessible housing for all Americans.

The American people are clearly committed to the full integration of Americans with disabilities into all aspects of our Nation. It is an essential piece of the whole that accessible housing must be available. I would like to again commend Easter Seals and Century 21 for their efforts in this regard. I hope all my colleagues will support this resolution and join with me in continuing to promote partnerships which will ensure that equality for Americans with disabilities becomes a reality. For, it is only when the strengths and contributions of all Americans are utilized, that the true greatness of our Nation is realized.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 184

Whereas the Congress in the Americans with Disabilities Act of 1990 found that there are 43,000,000 individuals with disabilities in this Nation;

Whereas 70 percent of all Americans will, at some time in their lives, have a temporary or permanent disability that will prevent them from climbing stairs;

Whereas 32,000,000 Americans are currently over age 65 and many older citizens acquire vision, hearing, and physical disabilities as part of the aging process;

Whereas many older Americans who acquire a disability are forced to leave their homes because the homes are no longer accessible to them;

Whereas 1 out of every 3 persons in the United States will need housing that is accessible to the disabled at some point in their lives;

Whereas the need for accessible single-family homes is growing;

Whereas the need for public information and education in the area of accessible single-family homes is increasing;

Whereas this Nation has placed a high priority on integrating Americans with disabilities into our towns and communities;

Whereas the private sector has helped increase public awareness of the need for accessible housing, as exemplified by the national public education campaign conducted by the National Easter Seal Society and Century 21 Real Estate Corporation, entitled "Easy Access Housing for Easier Living"; and

Whereas increased public awareness of the need for accessible housing should prompt the participation of civic leaders, and representatives and officials of State and local governments, in the drive to meet this need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1991, is designated as "National Accessible Housing Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TRAUMA AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution H.J. Res. 300) designating the month of May 1992 as "National Trauma Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I would like to acknowledge the work of the gentleman from Florida [Mr. LEHMAN] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 300

Whereas more than 9,000,000 individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than 44 years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury often occurs without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $148,500,000,000 on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the month of May 1992 is designated as "National Trauma Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 2100

NATIONAL WASTE REDUCTION, RECYCLING AND MANAGEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. SWIFT] is recognized for 5 minutes.

Mr. SWIFT. Mr. Speaker, last year in this country we generated 180 million tons of municipal solid waste, and that number is expected to rise to 216 million tons by the year 2000. Today, I am introducing legislation designed to address the serious problems confronting our cities and States as they search for better ways to manage the waste we have created.

This bill, the National Waste Reduction, Recycling and Management Act, will encourage reduction in the amount of waste generated in the first place, and will promote recovery and recycling of waste materials into useful products. The bill will provide a much-needed Federal leadership role in this effort, building on the expertise and responsibilities of State and local governments in solid waste management, without supplanting their traditional authorities in this area.

Today's proposal is only the first half of comprehensive legislation I intend to move this Congress to reauthorize our Nation's basic law governing solid waste. That law, the Resource Conservation and Recovery Act, better known as RCRA, was last reauthorized in 1984 and is in need of significant revision. The second half of the reauthorization bill will be ready early next year. It is my intent then to consolidate these separate pieces into one bill, which I will introduce at the beginning of the next session and then will move to markup next spring. That second part will address the following issues: Industrial nonhazardous waste, oil and gas exploration and production waste, mining waste, waste minimization, and recycling of used oil and hazardous materials.

When I became chairman of the Subcommittee on Transportation and Hazardous Materials in February of this year, I made passage of RCRA reauthorization one of my top legislative priorities for this Congress. I remain committed to that goal, and have pursued a somewhat nontraditional approach toward its achievement.

Instead of following the common practice of immediately introducing a bill, I decided to take the unusual step of convening numerous informal meetings of the subcommittee to discuss the issues, ascertain the Members' priorities, and determine whether and where consensus could be reached. In addition, my subcommittee staff arranged and attended countless briefings on a multitude of issues. Finally, we held a series of hearings, including one field hearing, to consider some of the more important RCRA issues and to seek the advice of State and local officials on solid waste policies and their views on the role the Federal Government should play in assisting them.

When these meetings and hearings concluded in August, I directed the staff to prepare a discussion draft of a bill on the municipal solid waste issues. I circulated this staff draft late in September to all interested parties and requested general comments as well as responses to specific questions that I had. To date, we have received some 200 detailed responses to my request. Although some of the comments required more analysis on our part than we had time to complete prior to introduction—work we are continuing to do—all the comments have been extremely helpful in putting this bill together and will no doubt be of great assistance as we move forward in the legislative process. The second part of the RCRA reauthorization bill mentioned above will also be circulated for comment when the draft is ready early next year.

This bipartisan educational and information-gathering process the subcommittee has followed has been very time consuming for all concerned. However, I believe that ultimately it will greatly facilitate the legislative process, and in the long run, will save us time.

I want to especially commend my subcommittee colleagues for their hard work during this entire process. They demonstrated great patience, stamina, and perseverance. They have provided me with valuable input on both substantive issues and on our process over the past 9 months. We have worked together in a spirit of bipartisan cooperation and I want to acknowledge the invaluable help provided by the ranking minority member of the subcommittee, Congressman DON RITTER. The subcommittee's vice chairman, DENNIS ECKART, has been particularly helpful, offering guidance on important policy issues, as well as moral support. It also should be mentioned that several members of the subcommittee are currently working together to develop compromise solutions to some very difficult and controversial issues, which will be covered in the second part of our RCRA bill. I refer particularly to their work on the issues of oil and gas and mining wastes.

While some subcommittee members will not share all the conclusions that are embodied in the bill I am introducing today, I do hope they all share my view that the process we engaged in was fair and useful. Several members have separate legislative approaches on some issues addressed by my bill. In fact, I have included some of their specific proposals in my legislation. Congressman GERRY SIKORSKI has been a very active member in this process. He is currently drafting a bill that will approach some of the RCRA issues in different ways. He has contributed to my product and his other ideas will be considered in the rest of the legislative process.

I would now like to turn to the background and objectives of this bill. As I said at the outset, States and localities are attempting to respond to the current solid waste crisis—and it certainly is a crisis. In doing so, they confront a variety of problems: Landfill capacity is dwindling, some States are trying to close their borders to out-of-State waste, permitting of new landfills and incinerators and even recycling facilities is extremely difficult, and financial resources are severely strained or simply unavailable. Despite these problems, our State and local governments are doing their best to manage their garbage and they are doing it with little help from the Federal Government. Forty States have passed recycling laws and some 3,000 communities have developed recycling programs. The city of Seattle in my own home State of Washington is implementing a very progressive program. These governments are responding to a grassroots recycling movement taking place across this country. It is time for Congress, the administration, business, and industry to wake up and listen to the message the American public is sending and to join in the effort to resolve these serious problems. We cannot expect States and municipalities to go it alone and each of us has a direct responsibility to contribute to a solution.

One of the downsides of States moving ahead on their own is the proliferation of different State laws on packaging, labeling, and recycling. In my view, it is essential that the Federal Government play a constructive leadership role by providing some degree of national uniformity on these issues and expanding markets for recyclables. As the Congressional Budget Office observed in a report issued last week, "Federal Options for Reducing Waste Disposal:"

> The fact that markets for recycled materials and for trash disposal extend beyond State boundaries may warrant consideration of a Federal role in solving the Nation's trash disposal problems.

To that end, my bill includes a variety of provisions to clarify the Federal-State relationship in waste management, assist States in stimulating markets, promote source reduction in packaging, and encourage recycling.

First, to compensate States which bear the burden of managing another State's municipal solid waste, the bill authorizes States to impose differential fees on out-of-State municipal solid waste and links such authority to the approval of State solid waste management plans. One member of the subcommittee, Congressman RICK BOUCHER, is working on an alternative approach which provides some degree of local authority on the interstate transport issue. It is an innovative and very interesting proposal and he has worked very diligently on it. It will be given serious consideration by the subcommittee.

Second, the bill establishes new requirements for State solid waste management plans—capacity estimates, waste inventories, source reduction, and recycling goals, et cetera—but provides sufficient flexibility to enable States to devise plans that meet their unique needs.

Third, to clear up uncertainties regarding the standards for MSW ash management, it sets forth minimum Federal requirements for the handling and disposal of municipal solid waste incinerator ash.

Fourth, it establishes a national policy to encourage the recycling of municipal solid waste by establishing industry-wide recovery rates and creating a multiple options strategy to reduce packaging. In the staff draft, we originally included provisions on diversion and minimum content to stimulate both the supply and demand sides of the recycling equation.

States objected to the inflexible diversion requirements.

Also, we did not feel we could be assured that the application of minimum content requirements to imports could be enforced, since the technology does not exist to identify recycled fiber. This could put domestic manufacturers at a competitive disadvantage with imports. We could not rely on certification procedures or reporting requirements for foreign manufacturers.

Because of concerns voiced by States and localities on the diversion requirements and implementation problems on recycled content, this bill adopts an alternative and more flexible approach to recycling.

To address the concerns of manufacturers who need assurances of a steady supply of recyclable materials, I have included diversion targets as part of the State solid waste management planning process, requiring States to establish materials diversion and recycling rates as well as real programs to achieve these rates. To create markets for the recyclables collected by States and municipalities, I have developed a multifaceted approach. This approach features a multiple option packaging strategy along the lines of a similar proposal being considered by the Massachusetts Legislature, requires a specific recovery rate of 40 percent for the paper industry, in recognition of the significant percentage of the municipal solid waste stream that paper represents, and authorizes EPA to establish recovery rates for other appropriate materials and industries. Minimum content standards are authorized if these recovery goals are not met. Together, these recovery rates and packaging reduction options should go a long way in promoting both source reduction and recycling. In the event industry fails to take advantage of the flexibility provided in the bill to meet the requirements, stringent enforcement will result in the form of minimum content hammers, penalties, and, ultimately, product bans.

Fifth, to take advantage of the substantial purchasing power of the public sector, the bill expands and strengthens the current program for the procurement of recycled goods by the Federal Government. The environmental Protection Agency is required to issue additional procurement guidelines and price preferences are established for procured items containing recovered materials. The bill also clarifies and reinforces the role of the Secretary of Commerce in the development of markets for recycled products, and requires the Secretary to provide technical assistance to State and local governments in the development of markets.

Sixth, the bill establishes specific requirements to reduce toxic metals in packaging. The provisions are modeled on the proposal advanced by the Coalition of Northeastern Governors [Goneg], which has already been adopted in several States.

Seventh, the bill creates specific programs to encourage the recycling of used tires and lead acid batteries, wastes that pose particular problems. The approach we adopted regarding the collection and reuse of used tires borrowed heavily from Congressman JIM SLATTERY's bill on this subject, H.R. 3058.

Finally, to help environmentally conscious consumers get the information they need and prevent fraudulent green claims, the bill requires the establishment of standards and criteria for environmental marketing claims and sets forth the respective roles of the Environmental Protection Agency and the Federal Trade Commission in that process.

As I mentioned, the process we followed in developing this bill was unusual. Now, with introduction of the bill, we begin the normal legislative process. We will introduce a combined bill at the start of the second session, hold hearings to receive formal comment and additional suggestions on the bill, and then proceed to markup soon thereafter. Hopefully, we will be able then to take the bill to the floor in late spring or early summer. I realize this is an ambitious schedule. However, it is one we must follow in order to complete consideration of RCRA reauthorization legislation this Congress, a goal that I am convinced can be achieved with the cooperation and assistance of my colleagues.

For the benefit of my colleagues, I am inserting at this point in the RECORD a section-by-section analysis of the legislation:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title. The National Waste Reduction, Recyling, and Management Act.

Section 2. Amendments to Solid Waste Disposal Act. Technical Amendments.

Section 3. Authorization. Authorizes appropriations for the fiscal years 1993 through 1998 for the purposes of carrying out the provisions of this Act.

TITLE I—STATE SOLID WASTE MANAGEMENT PLANS

Section 101. Federal Guidelines for Plans. This section makes additions to the guidelines EPA is required to issue under existing section 4002 of RCRA for the purpose of assisting states with development of solid waste management plans, including standard methodologies for measurement and economic analysis of waste management options. New guidelines will be required to be published within 6 months after date of enactment.

Section 102. Minimum Requirements for State Plans. This section amends existing section 4003 of RCRA to expand the minimum required elements for state solid waste management plans. These new requirements include: solid waste management capacity estimates and planning; waste inventory; source reduction and recycling programs; diversion programs; public education and personal training; scrap tire management; provisions for the management of specific wastes, such as household hazardous waste and yard wastes; and procurement of recycled products.

Section 103. Submission, Approval, and Implementation of State Plan. This section requires each state to develop a solid waste management plan, based on the solid waste inventory required by section 4011 and the guidelines and methodologies published by the Administrator pursuant to section 4002, that complies with the requirements of section 4003. The state must provide notice and opportunity for public comment on the plan, and must submit the plan to EPA for approval within 30 months of the date of enactment. A certification of completeness by the governor must accompany each plan submitted to EPA for approval.

EPA is required to approve or disapprove all state solid waste management plans within 6 months after plan submission. If EPA disapproves a state plan, the state may revise and resubmit the plan. EPA must then take final action on all state solid waste management plans within 42 months after the date of enactment.

EPA is required to review each approved state solid waste management plan three years after approval to determine whether the plan is being fully implemented. If the Adminstrator determines that a state is not implementing its plan, the plan is deemed disapproved. The state then loses its authority under section 4013 and any incinerator or landfill permitted after the date the plan is disapproved will be considered out of compliance with its permit.

Section 104. Waste Inventory. This section requres each state, within 18 months after the date of enactment, to identify the types and amounts of solid waste expected to be generated in the state, or transported into the state, during the planning period (ten years).

Section 105. Scrap Tire Management and Recovery. This section requires each State to include in its solid waste management plan a scrap tire management program. The state scrap tire program must address the reduction of existing scrap tires piles, with a goal of eliminating the piles by January 1, 2005, and the current and future disposal and recycling, recovery and reuse of scrap tires. The plan must include, at a minimum: a survey of existing scrap tire piles, a prohibition of permanent disposal in landfills, tire monocells, tire monofills (unless no reasonably available recycling alternative exists and the tires are shredded); a sufficient number of tire collection sites; a prohibition of operation of a collection site unless it is in compliance with regulations promulgated by EPA; a prohibition of storage of more than 3,000 tires for more than 60 days, with exceptions; and a prohibition of the commingling of new scrap tires with existing piles.

The section also requires the federal agencies, within 30 months after enactment, to develop and implement a plan for abatement of scrap tire piles on Federal lands.

Section 106. Interstate Transportation of Solid Waste. This section authorizes states, effective 6 months after date of enactment, to charge a differential fee on the disposal of out-of-state waste in the importing state. Initially, the fee may not exceed 4 times either the importing state's or the exporting state's surcharge on waste disposal, whichever is greater. Upon approval of a state's solid waste management plan, the cap rises to 8 times the applicable surcharge. After 42 months, a state may levy a fee which is up to 10 times the applicable surcharge against an exporting state which does not have an approved state solid waste management plan.

This differential fee authority expires if a state does not submit a solid waste management plan to the Adminstrator for approval within 30 months of the date of enactment or if, upon the review required 3 years after plan approval, the Administrator finds the state is not fully implementing its plan.

The section further provides that funds collected by the state under this differential fee authority must be distributed in the following manner: one-half to the local governments in whose jurisdiction the facilities accepting out-of-state waste are located; and one-half to the local governments in the state for purposes of carrying out solid waste management plan activities.

Finally, this section authorizes states, which do not choose to exercise differential fee authority, to freeze future imports of out-of-state waste. The amount of out-of-state waste to be imported may be limited to the amount currently being imported on an annual basis, or to a percentage of the total amount of waste being managed in the importing state on an annual basis.

TITLE II—FEDERAL SOLID WASTE MANAGEMENT REQUIREMENTS

Section 201. General Requirements for Solid Waste Management Regulations. This section establishes, after section 4014 of RCRA, "Part II—Federal Solid Waste Management Requirements," and requires all regulations promulgated by the Administrator under this part to provide for protection of human health and the environment.

Section 202. Municipal Solid Waste Combustor Ash Regulations. This section requires the Administrator to establish through regulation minimum federal requirements for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of municipal solid waste incinerator ash and provides generally that these activities shall not be subject to the provisions of Subtitle C.

Subsection (a) requires promulgation of the regulations within 24 months after the date of enactment of this Act and defines certain terms.

Subsection (b) establishes design requirements for the disposal of ash in landfills and monofills, but allows alternative designs if the state or Administrator determines that such alternative design will prevent contamination of groundwater at least as effectively as the design requirements set out in the subsection.

Subsection (c) would allow disposal of ash in landfills meeting an alternative design requirement to that established under subsection (b)(1), so long as the ash has been treated and is routinely tested for hazardous constituents.

Subsection (d) prohibits the disposal of ash into any landfill unit created as a result of vertical expansion, except in certain circumstances; and in any landfill from which there is a release into ground or surface water.

This subsection further provides that, effective five years after the date of enactment of this Act, unless the Administrator determines that leachate from ash disposed in landfills presents no greater threat to human health and the environment than leachate from ash monofills, municipal incinerator ash may no longer be disposed of in landfills.

Subsection (e) requires the Administrator to establish by regulation requirements for the reuse and recycling of municipal incinerator ash, including regulations requiring treatment of the ash prior to reuse and recycling, and specifying levels of treatment necessary to protect human health and the environment.

Until regulations are promulgated, reuse or recycling of municipal incinerator ash is prohibited unless the ash is treated and tests as non-hazardous, the reuse or recycling is approved by a state system of prior approval or permitting, and the reuse or recycling minimizes release of ash to the ambient air. However, any demonstration projects which existed on or before December 31, 1991 and is operating under a state system of prior approval or a judicial consent decree will be allowed to continue.

Subsection (f) requires the Administrator, within 18 months after the date of enactment, to promulgate criteria and testing procedures for identifying potential hazardous characteristics of municipal incinerator ash, and establishes a maximum level constituting test failure. Any ash which fails in any characteristic under the criteria and testing procedure may only be disposed of in a landfill or monofill meeting the minimum requirements of subsection (b), or must be treated.

Subsections (g) and (h) establish corrective action and closure requirements for facilities regulated under this section. Subsection (i) provides for EPA approval of state programs to implement and enforce the requirements of this section.

Subsection (j) establishes effective dates and variance procedures for the regulations promulgated under this section.

Section 203. Solid Waste Storage Requirements. This section requires the Administrator, within one year after the date of enactment, to promulgate regulations for the safe storage of solid waste, including materials destined for recycling.

Section 204. Scrap Tire Management and Recovery Regulations. This section prohibits, effective 24 months after the date of enactment, disposal of whole scrap tires in landfills or monofills; operation of tire collection sites except in compliance with regulations promulgated by the Administrator; storage of more than 3000 tires for more than 60 days, except if necessary for a specific recycling, recovery or reuse project; and commingling of new scrap tires with existing tire piles. This section provides certain exemptions to the prohibitions.

States may apply to EPA for financial assistance to carry out the requirements of this section. EPA must publish guidelines for application for, and the equitable distribution of, this assistance.

The Administrator is required to report to Congress no later than 5 years after the date of enactment on the implementation of this section.

Section 205. Composting Regulations. This section requires the Administrator to establish, within 18 months of the date of enactment, product standards for compost made from source-separated organic materials and compost made from mixed municipal solid waste.

This section also requires that, no later than 24 months from the date of enactment, the Administrator establish regulations for mixed municipal solid waste composting facilities.

Section 206. Permits for Management of Solid Waste. This section requires each state to establish a permit program, for the purposes of assuring compliance with the requirements of the state solid waste management plan and that Act, within 24 months of the date of enactment.

Effective 48 months after the date of enactment, the operation of the following facilities are prohibited except in accordance with a permit: incineration units, landfills, ashfills, mixed MSW composting facilities, and materials recovery facilities.

As a condition of the permit, each MSW incinerator and mixed MSW composting facility must establish programs to divert wastes unsuitable for treatment by the facility, including glass, metals, household hazardous waste and other waste designated by the Administrator.

This section establishes a permit term of ten years, a permit fee requirement, and provisions for permits by rule.

Section 207. Reorganization of Subtitle D. Technical and conforming amendments.

TITLE III—RECYCLING

Section 301. Minimum Content Standards. This section requires that, effective in 1995, all packaging must meet one of the following requirements:

(1) Be made of a material which is recycled at a rate of 25% annually (except in the case of paper, which is governed by different provisions), increasing to 35% in 1998 and 50% in 2001; (2) be made of a material containing at least 25% post-consumer material, increasing to 35% in 1998 and 50% in 2001; (3) be designed to be refilled or reused at least 5 times and at least 50% of such packages are actually refilled or reused; (4) be reduced in weight or volume by 15 percent when compared to packaging used for the same purpose of product 5 years earlier (20 percent in the case of material substitution).

Exempted from the requirements are packaging used to provide tamper-resistant of tamper-evident seal, packages required by federal health and safety laws or regulations, flexible film which is in direct contact with food and is necessary to prevent spoilage; packages used for drugs, drug products, or medical devices; packaging which the Administrator determines to be de minimis.

This section also requires the Administrator to conduct a study to determine at what levels minimum content standards should be set for paper and other materials. This study, which should consider information submitted by manufacturers in compliance with other requirements of this section, is to be completed by December 31, 1995. The Administrator is to examine whether a credit trading system is an appropriate method of implementing a minimum content standard.

The section further establishes an industry-wide recovery rate for paper of 40% in 1995. The industry must report annually to EPA on its progress in reaching this goal. Should the industry fail to meet the recovery rate in 1995, the Administrator is required to establish minimum content standards, to be effective after 1998 for newsprint, corrugating medium tissue products, bleached packaging paper, solid unbleached kraft, and printing and writing paper. Statutorily established standards become effective in the event the Administrator fails to set minimum content standards by December 31, 1996.

The Administrator is required to set a further goal for paper recovery to be met in 2000, and may set recovery rates for other materials. Failure to meet these recovery rates will also result in the imposition of minimum content standards.

This section establishes record-keeping and reporting requirements to measure compliance, and establishes fines for violations of the minimumn content requirements. Monies collected through the levying of such fines are required to be used to fund technical assistance for state and local government solid waste management plan activities.

Section 302. Toxic Metals in Packaging. This section establishes requirements for the reduction of toxic metals in packaging.

Subsection (a) defines terms used in the section.

Subsection (b) prohibits, effective 24 months after the date of enactment, the intentional use of certain heavy metals in packaging components, and sets maximum concentration levels for those metals in packaging, based on a phased-in schedule. Subsection (c) outlines certain permissible exemptions to these requirements, sets a 6-year time limit for such exemptions, and establishes a petition procedure which may be used by those seeking an exemption.

Subsection (d) requires packaging components, as well as distributors thereof, to maintain on file certificates of compliance with the requirements of this section, and to make such certificates available to the public upon request.

Subsection (e) requires the Administrator, within 18 months after the date of enactment, to promulgate regulations implementing the requirements of this section, and to periodically review the effectiveness of these requirements.

Section 303. Batteries. This section adds a new Part IV to Subtitle D. Battery incineration and disposal, except as provided for in this section, are prohibited 6 months after enactment. EPA must promulgate the regulations required by this part as promptly as practicable; however, the failure of EPA to promulgate regulations shall not delay the effective date of these prohibitions.

Owners and operators of MSW landfills and operators of collection programs are exempt from the discard and disposal requirements under certain conditions related to inadvertent acceptance. The discard and disposal prohibitions do not apply to small sealed consumer lead-acid batteries, except if such prohibitions are made applicable pursuant to rules promulgated by EPA.

The section contains general recycling requirements, along with recycling requirements for retailers, wholesalers, auto dismantlers, curbside collection programs, and battery manufacturers; it also contains collection requirements for retailers, wholesalers, and manufacturers. Retailers must display written notices within 6 months after enactment.

The section establishes labeling requirements for lead acid batteries; eighteen months after enactment (for manufacturers) and 24 months after enactment (for any other person), the sale of a lead-acid battery not labeled in accordance with this section is prohibited. Eighteen months after enactment, States and their political subdivisions are prohibited from adopting or enforcing labeling requirements that are not identical to those described in this section; however, nothing prohibits a State or its political subdivisions from adopting or enforceing labeling or other requirements in addition to, but not inconsistent with, the requirements of this section, if compliance with these State or local requirements would not result in a violation of this section.

EPA must conduct separate studies and reports on the collection, storage, recycling, and disposal of small sealed consumer lead-acid batteries and other small sealed consumer batteries. Any person may export used lead-acid batteries for the purpose of recycling.

Section 304. Federal Procurement of Recycled Goods. This section affirms, updates and clarifies the provisions of existing Section 6002 of RCRA, relating to the procurement of recycled goods by the federal government, as well as adding new requirements to that section.

The section establishes a 10 percent price preference for procured items containing recovered materials, and requires all paper purchases by the federal government to meet the guidelines for recycled paper after 1997.

This section also requires that source reduction be a consideration when issuing guidelines. It further requires EPA to revise its paper guideline within 12 months and issue nine additional guidelines for specific products within 5 years of enactment.

Finally, this section establishes within EPA a clearinghouse to provide information to the public and procuring agencies about recycled products.

Section 305. Duties of the Secretary of Commerce. This section updates existing Sections 5002 and 5003 of RCRA, to reaffirm the duties of the Secretary of Commerce with respect to the development of markets for recycled products. The Secretary is further directed to provide assistance to state and local governments for developing expertise in marketing of recovered materials.

TITLE IV—UNDERGROUND STORAGE TANKS

Section 401. Financial Assistance for Technical Requirements. This section expands the authorized use of the LUST Trust Fund to enable states to establish financial assistance programs for the purpose of helping financially distressed small business gasoline marketers (and other non-marketers covered by 40 CFR 280.91(d)) comply with the technical requirements of the UST program.

TITLE V—OTHER PROVISIONS

Section 501. Environmental Marketing Claims. This section establishes the terms and conditions under which manufacturers and other advertisers may make environmental claims concerning products for the purpose of marketing such products.

Subsection (a) requires the Administrator to promulgate, within 24 months of the date of enactment, regulations containing standards and criteria for environmental marketing claims. Subsection (b) prohibits any person, after the effective date of such regulations, from making an environmental marketing claim except in accordance with such regulations. Subsection (c) provides that any environmental marketing claim made in violation of the regulations promulgated by the Administrator shall be subject to enforcement by the Federal Trade Commission as an unfair and deceptive trade practice.

Subsection (d) establishes an independent advisory board to make recommendations to the Administrator concerning environmental marketing claims for the Administrator to consider in promulgating the regulations.

Subsection (e) sets out specific requirements on which the environmental marketing claims regulations shall be based.

Subsections (f), (g), and (h) are miscellaneous provisions relating to the regulations and recommendations of the advisory board. Subsection (i) requires the Administrator to conduct a public information campaign for consumers.

Subsection (j) describes the relationship of state standards and requirements to the new federal environmental marketing claims regulations.

Section 502. Plastics Recycling Codes. This section requires the Administrator, within 12 months after date of enactment, to promulgate regulations requiring manufacturers of plastic containers to use codes identifying the principal plastic resin of which the containers are composed. The manufacturers' codes are required to consist of symbols and numbers specified in this section. States are prohibited from requiring different codes.

Section 503. Technical Assistance. This section requires the Administrator to provide to state and local governments technical assistance in solid waste management and resource recovery, including state solid waste management plan activities.

Section 504. Retention of State Authority. This section provides generally that nothing in this subtitle shall not be construed to prohibit states from imposing more stringent requirements than those imposed by this subtitle.

Section 505. Definitions. This section adds new definitions to Subtitle D.

Section 506. Enforcement. In general, this section gives EPA inspection and enforcement authority over solid waste management facilities subject to federal requirements, and requires EPA to give 60 days' notice to states before taking certain enforcement actions. It authorizes civil and criminal penalties of up to $25,000 a day for violations of requirements applicable to landfills and ash disposal and $5000 for other violations.

Section 507. Authority to Grant State Status to Indian Tribes for Enforcement of Solid Waste Disposal Act. This section authorizes the Administrator to treat Indian tribes as states for purposes of this Act, including the delegation of primary enforcement authority.

This section also requires the Administrator to submit a report to Congress containing recommendations for addressing solid and hazardous wastes and underground storage tanks on tribal lands; establish an inventory of hazardous waste sites and open dumps on tribal lands; and assist the Indian tribes to upgrade open dumps to comply with this Act.

CONGRESS MUST ACT FOR PEACE IN EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon, Mr. AUCOIN, is recognized for 5 minutes.

Mr. AUCOIN. Mr. Speaker, this year has seen dramatic strides toward peace in El Salvador. Negotiators for the Government and the FMLN have agreed on a large number of issues, and a cease-fire agreement may be reached by the end of the year. The Jesuit murder trial, despite its serious flaws, resulted in unprecedented guilty verdicts against two military officers.

Much remains to be done. To encourage peace and democracy, we must impose strict conditions on aid and ensure that aid can only be released with congressional approval. This will send a crystal clear message to the Salvadoran Armed Forces that our nation supports a peace agreement that includes full civilian control of the military. We must not allow our Nation to be a stumbling block to peace.

Today, we can dare to hope for an end to the reign of terror that has caused more than 75,000 deaths and oppressed the poorest and least powerful Salvadorans. It will take many years' hard work to establish democratic institutions and fully protect human rights, but El Salvador is on the right road.

Why did this happen? Only because Salvadorans from many groups and backgrounds recognize that their civil war cannot end with a military victory for either side. Painstaking mediation efforts by the United Nations helped. So did congressionally mandated restrictions on United States military aid. But progress resulted because Salvadorans from the Government, the FMLN, and all walks of life decided that it was time to negotiate.

This progress toward national reconciliation has occurred in spite of the Bush administration, not because of it. For more than a decade, U.S. policy has rested on the hopes of a military victory for the armed forces. There has been lip service to democracy and human rights. But, two successive administrations have failed to grasp that civilian control of the military is crucial for democracy and human rights in El Salvador.

If there is any doubt about this issue's importance, just look at the breakthrough New York Agreement that government and FMLN negotiators signed on September 25. The agreement calls for a drastic change in the armed forces' role in Salvadoran society and government. Civilian control of the armed forces is to be implemented by redefining the military mission to exclude maintenance of internal order, reducing the size of the armed forces, and establishing an ad-hoc commission to dismiss unsuitable members of the armed forces. The National Guard and Treasury Police, now a part of the armed forces, are to be abolished and replaced with a National Civilian Police [NCP] force that is not a branch of the military.

THE JESUIT MURDER TRIAL

If there was any doubt that the military has yet to be curbed, it should be erased by the trial of the soldiers accused of murdering the six Jesuit fathers, their housekeeper, and her daughter at the University of Central America [UCA]. This horrible crime took place on November 16, 1989. Thanks to the heroic efforts of many human rights advocates, the case went to trial in September of this year. On September 28, the jury found Col. Guillermo Alfredo Benavides guilty of murder and Lt. Yeshi Mendoza guilty of killing the housekeeper's daughter. Two other officers and five enlisted men were acquitted.

As important as the guilty verdict for two officers is, the trial was not a model of fairness. At the end of these remarks I would like to include an article by Father Vincent O'Keefe, S.J., who observed the trial on behalf of the Jesuit Conference of the United States. This account, published in the October 19, 1991 issue of America, demonstrates that the Salvadoran judicial system cannot truthfully be considered independent. The jury members' identities had to be concealed to protect them from reprisals. At one point, a noisy pro-military demonstration just outside the court featured the playing of taps. The attorney for the accused seized the chance to intimidate the jury, reminding them that "so many people have been killed because of this case * * * How do we know what could happen to us when we go out of this room?"

In a recent letter to me, Salvadoran Ambassador Miguel Salaverria stated that:

> The outcome of the Jesuit case means that the old days of "business as usual" are over in El Salvador. No one is immune from criminal liability. Crimes and human rights violations are no longer being ignored or swept under the rug. The Jesuit trial showed that our criminal justice system works.

I cannot agree with the Ambassador's optimistic conclusion. As Father O'Keefe's article shows, the trial is at best a fragile beginning in the attempt to establish an effective, independent judicial system. Some privileged Salvadorans are still free to violate the law without suffering the consequences.

In a November 18 statement, Representative JOE MOAKLEY, who chairs the Speaker's Task Force on El Salvador, presented a range of evidence which strongly suggests that the Jesuit murders were ordered by high-ranking officers, including the Defense Minister, Gen. Rene Emilio Ponce. Their involvement has been concealed by a cover-up that continues to this day.

These conclusions cannot be proven in a court of law because they are based on information from anonymous witnesses who fear for their lives. Nonetheless, this theory is far more credible than the claim that Colonel Benavides acted on his own initiative.

Predictably, Representative MOAKLEY'S statement has been denounced by the Salvadoran Government and armed forces. A Government communique urged people with evidence to step forward. General Ponce issued a similar challenge and attacked "meddling in our country's domestic affairs, and to disregard for national dignity."

Does anyone believe that these witnesses could safely go public? It's no wonder they don't trust the mercy of Salvadoran justice. General Ponce and his colleagues don't understand that the real threat to El Salvador's national dignity lies in a military force that is above the law.

THE ROLE OF CONGRESS

These events confirm my belief that next year Congress must act on legislation encouraging a cease-fire and peace agreement. This legislation should:

First, state that the goals of U.S. policy are to promote a cease-fire and permanent settlement of the conflict based on the New York Agreement, to protect basic human rights and the rule of law, and to promote democracy and demilitarization in El Salvador;

Second, withdraw some $80 million in military aid that is in the pipeline waiting for delivery and return these funds to the U.S. Treasury;

Third, prohibit military aid until all those responsible for the Jesuit murders have been brought to justice, internationally recognized human rights have been extended to all Salvadorans, and civilian control over the military has been firmly established; and

Fourth, permit the transfer of future aid to the demobilization and transition fund for El Salvador to pay for demobilization and job training for ex-combatants. Funds transferred to the fund should only be disbursed after a permanent settlement is reached, and only with the approval of Congress.

By passing this legislation, Congress can ensure that the Salvadoran Armed Forces hear our message loud and clear. At stake is the chance for millions of Salvadorans to live in dignity and security. For their sake, we must not let this opportunity go by.

THE EL SALVADOR TRIAL IN THE JESUIT CASE

(By Vincent T. O'Keefe)

Three Jesuits from the United States went to El Salvador for the trial of the nine accused in the killings at the Universidad Centroamericana (UCA), Nov. 16, 1989. They were Vincent O'Keefe, S.J., former General Assistant to the Jesuit Superior General; Charles Currie, S.J., rector of the Jesuit Community at St. Joseph's University, Philadelphia; and Donald Monan, S.J., president of Boston College University. Father O'Keefe represented the Jesuit Conference (central organ of United States Jesuits); Father Currie, the Association of Jesuit Colleges and Universities; Father Monan, his own university. Father O'Keefe narrated the events to James S. Torrens of America:

The trial in the Jesuit case started once the notices got to the jurors, that is, on Thursday, Sept. 26. It was held in the Supreme Court building, San Salvador, for lack of any other adequate court facility. The Supreme Court chose its venue according to the place of the crime, the Fourth Penal District, under Judge Ricardo A. Zamora. We give Judge Zamora high marks for pressing on against delays, stonewalling and noncompliance by government, military and even the United States.

The courtroom was divided, as you can see, with ourselves in Public A, a section for "The Offended Party." José Maria (or "Chema") Tojeira, S.J., the Jesuit provincial, was at left front and Maria Julia Hernández of Tutela Legal (the human rights office of the San Salvador archdiocese) at right front. Near me was the brother of Julia Elba (Ramos), who looks just like her, a nice man.

In the middle were "The Observers," national and international. This included embassy people—for example, the French Ambassador, the Spanish; our man, Mr. William Walker, came only briefly. Also in evidence was James McGovern, aide to Congressman Joe Moakley, who kept pushing for the trial. We met some wonderful people from Amnesty International, Americas Watch and a few Uruguayans and Argentinians with experience of military terror. Two groups deserve special praise, the Lawyers Committee for Human Rights, based here in New York, which has pressed the Jesuit case and publicized it, and the Institute for the Defense of Human Rights at the UCA, once headed by Segundo Montes, S.J., and now, after his death, by a Canadian Jesuit, Michael Czerny, S.J. The Institute was a fountainhead of documents.

Section Public D was for relatives of the accused. The mother of Lieut. José Ricardo Espinoza, a graduate of the Jesuit secondary school, led family members in prayer, with their heads bowed, at the trial. At the end, catching Mr. McGovern's eye, she held up her Bible and pointed to it in token of vindication. Her husband declared afterward that the verdict was a judgment of God, not a human judgment at all.

Behind us was the press. The televised the entire trial nationally, which infuriated the military, for the soldiers, in uniform, were seen hour by hour seated in a line and looking out at the courtroom. I will never forget it, sitting eyeball to eyeball with them. The room was very hot, in the glare of television lights.

Against the front wall sat the judge, his secretary, aides for reading the documentation, and the Attorney General's people at a table. At right angles to this table you have the two prosecutors for the Jesuits, Henry Campos and Sidney Blanco. Campos and Blanco had originally led the prosecution for the Attorney General, until finding themselves forbidden to issue statements, bring perjury charges against any more of the soldiers or attend the interrogations by the Special Investigative Unit of the army. Two days after the murder, then-Attorney General Colorado had attacked the bishops of San Salvador for "this questionable ideology of the Church of the Poor," urging them to leave the country, writing to their fellow bishops and even to the Pope against them, so you can see the bias.

As for the chief defense attorney, Carlos Méndez Flores, imaging this: On the last morning, Saturday, a group in favor of the accused and led by a colonel came marching outside the court, with chants and speeches broadcast by loudspeakers. At one awful moment, when you could hear the national anthem and then taps in the background, Flores reminded the jurors, "So many people have been killed because of this case," and he named six names. "How do we know what could happen to us when we go out of this room?" Most found that to be an open threat. Flores also kept accusing Chema, Francisco Estrada, S.J., (president of UCA) and Maria Julia of "tampering with evidence."

The jury, called the Tribunal of Conscience, were five in number, three men and two women, plus a woman alternate, chosen on the spot from a dozen persons listed and available. The judge gave them 80 questions, to be answered "Si" or "No." "Interior conviction" was the key phrase in each question; for instance, "Do you have the interior conviction that Colonel Benavides was guilty of the murder of Father Ellacuría?

They took great care to mask the jurors' identity. A wooden partition screened them from the observers and defendants. But many people had access to them, for example, a medical team and those who brought them food. The attorneys had the list of names and, while making their case, came right over to face them. Both the prosecutor and defense lawyer pressed them, "Please do your duty and answer 'Si' or 'No' to all these questions. "We were far from feeling that this whole trail took place in an objective atmosphere.

The trial finally started at noon on Thursday, Sept. 26. From then until midnight, and from 8:30 to noon the next day, the judge's aides read from the official documentation, 6,000 pages of it in 28 volumes. In monotone, at top speed, they covered about 200 pages selected by the judge. The jury did not get a look at this material, but did have a hotline to ask the judge for clarification. They also could question the accused but never did.

In view of the jurors, and the whole courtroom, was a big white board with the names of the accused and the accusations. The first item was "murders," with the number of the penal code and the lists of victims. Then there was "acts of terrorism." All were accused on the two above scores, but some excluded on the third, "preparatory acts of terrorism." The documents often referred to the accused by their nicknames. A call came on the hotline asking the judge to write these in, so the jurors could keep straight who was who.

On the left was "Samson," "Tomás Zarpate Castillo, with his head tilted back, his eyes hooded. He confessed to killing the two women. Actually Ascensio, the soldier who deserted and is probably in Guatemala, had to finish them off. The second man, Pérez Vasquez, killed Joaquín López y López, S.J., the oldest Jesuit, when Father López grabbed his foot. We had some sympathy for him. He never changed expression, did not seem to know exactly where he was.

Next was Lieut. Yushi Mendoza, convicted of the murder of Celina (Ramos). He saw the women there, and either gave orders to finish them off, or did not intervene. Why hold him guilty of killing the daughter and not the mother, who was trying to protect the girl with her body? Something strange about that. The fourth was the famous "Hangman," or in the Indian language *Pilijay*, Amaya Grimaldi, who handled the A.K. automatic rifle, a Soviet rifle difficult to manage. He confessed to killing Fathers Ellacuría, Martín-Baró and Montes. He is the one everybody was sure would be convicted.

Then came Lieutenant Cerritos, or "Lynx." Next Vargas, "Satan" or "Toad," who confessed to killing Juan Moreno, S.J., and Amando López, S.J. Then Colonel Guillermo Benavides. Finally, Lieut. José Espinoza, called *Toro*, "Bull," the alumnus of our Jesuits' school San Jose. He came over at a break in the proceedings to say to Father Tojeira, "Inside this uniform there's a human being who is innocent, believe me."

All but Colonel Benavides had made extrajudicial confessions to the Special Investigative Unit of the armed forces, an entity financed by the United States to correct problems in human rights. Two witnesses signed each confession, attesting to freedom from coercion. They were then accepted by Judge Zamora, confirmed by the appellate court and once more by the supreme court. When the proceedings began, those confessions were held valid, and were the key piece in the trial. Later the seven men denied them, saying they did not know what they were signing. Matter from the confessions emerged in the documentation read.

The trial, or *vista publica* ("public viewing"!), concluded about a quarter to five on Saturday evening, at which time we had to leave the courtroom. The judge was alone with the jury then, and presumably gave an instruction. Then they went into a private room. They had elected a president—we would call him a foreman—and a secretary, and in this case answered their 80 questions. A simple majority would be enough to convict, which to me is strange. By general opinion the evidence was strong that the soldiers who had confessed to the actual killing would be judged guilty. The big question then was, would the jury reach up and even get the colonel?

At 10:30 p.m. the judge called us back to hear him read out the jury's answers on each charge, without mentioning who voted how. The verdicts, reversing expectations, condemned two men, the only non-members of the Atlacatl Battalion, Lieutenant Mendoza and Colonel Benavides. Benavides had not in fact been present but as the person in charge of the area was held ultimately responsible. (At least that is what we think; we got no reasoning supporting the verdict.) They convicted the one they think gave the order, but those who carried it out were found innocent.

The jury seems to have thought, "Go for those who gave the command. Keep this under the heading of obedience." Actually they superimposed military law on Salvadoran law, which says that one is not to obey an illegal command. We spent a lot of time afterward discussing commands in wartime. Those from a background of U.S. city politics also had to ask, "Was the fix in?" The conviction of Mendoza seems hard to explain otherwise.

I asked some Salvadorans afterward, "How do you feel about this? They said, "Listen, we're very happy. Finally, there's been a breach in that impunity." I asked, "Do you think the soldiers were guilty?" And they said, "Oh, yes." Doesn't that bother you?" Oh, yes, but at least we made a dent." We were talking in this Jesuit Case, really, about tens of thousands of lives lost and people on the street who are morally afraid. So a positive first step has just been taken.

On Sunday, after the trial, many observers asked to go up to the UCA to the site of the killings. It was like a pilgrimage—they were so touched. Father Tojeira was interviewed on television this next Monday morning. He said, "We have to be happy that the Salvadoran institutions did function. This doesn't happen every day." In discussing a possible amnesty by President Cristiani, Father Tojeira chose to speak rather of pardon. Amnesty, he said, wipes out the whole thing; pardon does not. "If pardon is instituted by legal means, we would support it. After all, we are Christians."

One of the observers from the United States, an investigator into crimes against humanity who had lived a long time in Latin America, advised Father Tojeira not to jump too soon to pardon. He answered, "I'm speaking from a Salvadoran and a priest's perspective." But he also said of the trial, "This is just a step. We want to get to the complete truth." A lot of evidence still reveals that these executions were not commanded by this colonel but from higher up. The trial was forced into narrow limits by delays, lies, minimal responses, the destruction of the log in the military academy, blockage on letters rogatory by the United States.

A final note. The coincidence of a truce between the rebels and the Government should not be read to mean that now the United States should feel free to continue its military aid. By no means.

WITH ONE MORE, WE COULD HAVE A BASKETBALL TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in 1960, Bill Mazeroski, a second baseman for the Pittsburgh Pirates, hit a home run in the seventh and final game to win the World Series for the Pirates over the New York Yankees.

Shortly after the game, Mazeroski was approached by a fan outside the locker room and handed a baseball. The fan told Mazeroski that he had caught the game winning home run and he wanted the Pirate All-Star to have the ball. Mazeroski was elated. He had a souvenir of his World Series heroics. By the time Mazeroski reached his car in the parking lot, 20 other fans had approached him and handed him a baseball claiming that they had caught the game winning home run and here was their ball to prove it.

Just as many Pittsburgh fans claimed to have caught the game winning home run of Mazeroski, a large number of Members of the House are not claiming that they did not support deregulation of financial institutions in 1980, and that they voted against raising the current Federal insurance on bank accounts from $40,000 to $100,000. In recent months, I have seen interviews on television, in the newspaper, and even at testimony in committee hearings where Members have boasted proudly that they voted against the legislation that raised deposit insurance in 1980, and also deregulated financial industries.

This rush to disavow the 1980 bill was brought about because many people, including leading economists, have claimed that the increase in deposit insurance is the main cause for today's banking troubles.

Mr. Speaker, the record needs to be set straight with regard to that 1980 vote.

The increase in the deposit insurance maximum was not voted on directly by either body, but rather was offered as a part of the conference committee on the legislation. I was a member of that conference, in fact, I am one of three Members still serving in the House who were on that conference committee. I was so incensed with what was done in the conference committee to raise the insurance amounts and to deregulate financial institutions, that I refused to sign the conference report, the ultimate rejection of a work product by a conferee.

When the conference report reached the House floor, only 13 Members of this body voted against the conference report, which included raising the ceiling open deposit insurance. There are only four Members currently serving in this body who were courageous enough to join nine other Members in opposing the conference report. That is a total of 13 House Members who opposed the conference report.

In addition to myself, the other three Members of this Chamber who voted with me on that historic day, or perhaps I should say infamous day, were the gentleman from Texas [Mr. PICKLE], the gentleman from Georgia, [Mr. JENKINS], and the gentleman from Indiana [Mr. MYERS].

Had all of the Members, who now claim to have voted against the conference report, done so in fact, we might well have defeated that bill, and we might well have avoided both the savings and loan scandal, and the bank bailout. But only 13 of us stood shoulder to shoulder, Mr. Speaker, and only four of us still remain in the House—ANNUNZIO, PICKLE, JENKINS, and MYERS.

It is a closed club, Mr. Speaker, We will not allow any new Members, particularly, imaginary ones.

SALMON MARKET PRODUCTION AND STABILIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA], is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation prompted by the erratic sockeye salmon market. Every summer, fishermen from my district and many others go to Alaska to fish for sockeye salmon in Bristol Bay—a different species from the Snake River sockeye salmon, recently designated as an endangered species. For many of these fishermen, this is their primary or sole source of income. In the last 3 years the price received for sockeye salmon has been on a roller coaster ride from as high as $2.30 per pound; to a low of 70 cents per pound. This past summer the market was extraordinarily bad. The fishermen were offered the ridiculous price of 45 cents per pound; as a result they went on strike. Because the season for sockeye salmon is so short the fishermen had little bargaining power and finally settled for 70 cents per pound. At this price they were lucky to break even. The legislation I am introducing is designed to ensure a more stable market for sockeye salmon. The legislation provides for sanctions against any country that does not prohibit large-scale drift net fishing by its nationals and vessels of that country, enhances fisheries conservation programs, extends the Fish and Seafood Promotion Act of 1986, urges the processors and harvesters to negotiate a price prior to the season's commencement and consequently stabilizes the price received by harvesters of sockeye salmon.

We have previously taken measures to promote various commodities and to ensure that international trade agreements are not violated. International trade is necessary for a healthy economy. At the same time, however, we must ensure that international trade is fair. Additionally, I believe that both the fishermen and the Nation as a whole stand to benefit from a promotional program. Our economy is weak and we are having trouble competing on the international level in certain areas. American salmon is a commodity suffering from not being low competitiveness in the world market.

HIGH SEAS VIOLATIONS

High-seas violations have a substantial impact on the sockeye salmon market. When salmon is caught on the high seas and subsequently sold on the black market the price of our fishermen's salmon inevitably decreases. Currently, we are not doing enough to ensure that high seas large-scale drift net fishing does not occur. The plight of the salmon fishermen is too great to turn our heads to these blatant violations. This legislation denies entry of large-scale drift net fishing vessels to any place in the United States for any nation that fails to prohibit their nationals from conducting large-scale drift net fishing beyond the exclusive economic zone of any country.

My second concern is that high seas violations also have a devastating effect on the environment. Tens of thousands of marine animals and sea birds are caught in large drift nets. The legislation provides that fish and fish products of said nations will be prohibited import into the United States in order to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States. The legislation also requires the President to direct the U.S. Trade Representative to seek actively to take into consideration the national environmental laws of contracting parties and international environmental treaties.

SOCKEYE SALMON PROMOTION

The Fish and Seafood Promotion Act expires this year. At a time when our economy is weak and the sockeye salmon industry needs its product promoted more than ever before, it is vital that this act be extended. Competition in the salmon market is becoming more and more fierce. Both the advent of farmed fishing and the recent increased number of wild salmon has caused a glut in the salmon market. Therefore, promoting consumption of this product is crucial if the industry is to thrive. This legislation extends the Act for a much needed 2 years.

SENSE OF CONGRESS—NEGOTIATION PROCESS

My final concern is that current bargaining practices in the sockeye salmon industry put the fishermen at a significant disadvantage due to the brevity of the season. The sockeye salmon fishing season is a mere 3 to 6 weeks. This is not sufficient time for the fisherman to obtain a fair price. Fishermen are essentially forced to accept whatever price is offered if they wish to participate in the market. Processors and fishermen should be encouraged to negotiate a price prior to the season so that fishermen are not disadvantaged. Included in this legislation is a sense of Congress provision recommending that the harvesters and processors of sockeye salmon begin negotiations well in advance of the fishing season.

Mr. Speaker, these provisions are desperately needed. I invite my colleagues' review and cosponsorship of this important legislation and urge its timely adoption by the full House. For the convenience of my colleagues the text of the bill is printed below.

H.R. 3868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(A) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 10 days after the date of the enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of countries that conduct, or do not prohibit their nationals from conducting, large-scale drifnet fishing beyond the exclusive economic zone of any country.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for; and

(B) deny entry to any place in the United States and to the navigable waters of the United States to;

any large-scale driftnet fishing vessel that is registered under the laws of a country included in a list published under paragraph (1).

(3) NOTIFICATION OF COUNTRY.—Before the publication of a list of countries under paragraph (1), the Secretary of State shall notify each country included in that list regarding—

(A) the effect of that publication on port privileges of vessels of the country under paragraph (2); and

(B) any sanctions that may be imposed on that country if nationals or vessels of that country continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any country after July 1, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATION.—Not later than July 1, 1992, and periodically thereafter, the Secretary of Commerce shall—

(A) identify each country whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any country; and

(B) notify the President and that country of that identification.

(2) PROHIBITION OF IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—Upon receipt of notification of the identification of a country under paragraph (1), the President shall direct the Secretary of the Treasury to immediately prohibit the importation into the United States of shellfish, fish and fish products, and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that country.

(B) NOTIFICATION.—Not later than 15 days after the date of receipt of notification of the identification of a country under paragraph (1), the President shall notify the Secretary of Commerce and the Congress of any action taken by the President under this paragraph with respect to that country.

(3) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date of the Secretary of Commerce identifies a country under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (2) is insufficient to cause that country to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any country; or

(ii) that country has retaliated against the United States as a result of that prohibition.

((B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative finding under subparagraph (A) with respect to a country.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under this subsection is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges of sanction established under section 101 with respect to a country shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that the country has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any country.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a country, whether or not taken by fishing vessels of that country or packed, processed, or otherwise prepared for export in that country or the jurisdiction thereof.

(1) LARGE-SCALE DRIFTNET FISHING.—The term "large-scale driftnet fishing" means a

method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(2) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is used for, equipped to be used for, or of a type which is normally used for—

(A) large-scale driftnet fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting "products";

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting "Products"; and

(5) in subsection (h)—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.";

(B) in paragraph (3) by inserting ", including marine mammals" after "protect the living resources of the sea";

(C) by striking paragraph (4);

(D) by redesignating paragraph (5) as paragraph (4);

(E) by striking paragraphs (6) and (7); and

(F) by adding at the end the following new paragraphs:.

"(5) The term 'International fishery conservation program' means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

"(6) The term 'taking' as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) in order to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS OF AGREEMENT.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing potential locations of vessels that are in violation of domestic laws and international agreements designed to conserve and manage the living marine resources of the United States;

(2) requirements for the use of surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. ENVIRONMENTAL TRADE NEGOTIATIONS.

(a) POLICY.—It is declared to be the policy of the Congress that the United States shall address environmental issues during multilateral, bilateral, and regional trade negotiations.

(b) NEGOTIATIONS.—In implementing the policy declared in subsection (a), the President shall direct the United States Trade Representative to actively seek to—

(1) reform articles of the General Agreement on Tariffs and Trade (referred to in this subsection as "GATT") to take into consideration the national environmental laws of contracting parties and international environmental treaties;

(2) secure a working party on trade and the environment within GATT as soon as possible;

(3) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(4) include other Federal agencies with environmental expertise during multilateral, bilateral, and regional trade negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(5) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—EXTENSION OF FISH AND SEAFOOD PROMOTION ACT AND OTHER MATTERS

SEC. 301. EXTENSION OF THE FISH AND SEAFOOD PROMOTION ACT.

(a) EXTENSION OF TERMINATION DATE OF NATIONAL COUNCIL.—Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "December 31, 1991" and inserting "December 31, 1993".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 209(d) of such Act (16 U.S.C. 4008(d)) is amended by striking "fiscal year 1991" and inserting "fiscal year 1993".

(e) SPECIAL PROGRAM FOR SOCKEYE SALMON.—Section 206(c) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(c)) is amended—

(1) by inserting "(1)" after "REFERENCES.—"; and

(2) by adding at the end of the following new paragraph:

"(2) PROGRAM FOR SOCKEYE SALMON.—Notwithstanding the prohibition contained in paragraph (1), the National Council shall carry out a consumer education and marketing and promotion program to encourage the consumption of sockeye salmon.".

(d) TRANSFER OF SALTONSTALL-KENNEDY FUNDS.—Section 2(b)(2) of the Act of August 11, 1939, commonly known as the Saltonstall-Kennedy Act (15 U.S.C. 713c-3(b)(2)) is amended by striking "fiscal years 1990 and 1991" and inserting "the fiscal years 1990 through 1993".

SEC. 302. SENSE OF CONGRESS REGARDING NEGOTIATIONS BETWEEN HARVESTERS OF SOCKEYE SALMON AND PROCESSORS.

Because of the erratic market for sockeye salmon and the short fishing season for sockeye salmon, it is the sense of Congress that harvesters and processors of sockeye salmon should begin negotiations well in advance of the fishing season for sockeye salmon regarding the price to be paid to those harvesters during that season.

IN SUPPORT OF AMENDING THE TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker as a cosponsor of H.R. 1414, I rise in support of the enactment of this important legislation which would correct an inequity in the Tax Reform Act of 1986.

Under the passive loss rules adopted in the 1986 Tax Reform Act, equal treatment does not exist for real estate businesses. The ownership and operation of rental real estate was deemed to be inherently passive even if the management, ownership, and operation of rental real estate were an integral part of a taxpayer's real estate business. The effect of this is to tax income from real estate operations, including sales, development, rental property, and appraisal, more heavily than is the case for business people in other industries. This occurs as a result of the fact that a real estate business with rental real estate income and loss from its rental real estate income and loss.

H.R. 1414 would allow the real estate business to deduct its losses from rental real estate against its other income. Real estate is the only industry in which the various aspects of a business, including sales, development and rental management, are not treated as one for tax purposes. Real estate should be entitled to similar treatment in order to attain a level economic playing field, which was one of the original tenets of the 1986 Tax Reform Act.

Mr. Speaker, this bill does not ask for any preferential treatment for anyone, but equal treatment for everyone. It has 322 co-sponsors. I urge my colleagues to support H.R. 1414 and thus return balance to this section of the business world.

UPON INTRODUCTION OF A RESOLUTION EXPRESSING THE SENSE OF THE HOUSE REGARDING THE EFFECTIVE DATE OF LEGISLATION REGARDING THE TAX TREATMENT OF INTANGIBLE ASSETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on July 25 of this year, I introduced H.R. 3035, a bill to simplify the tax treatment of intangible assets. The bill is an important part of series of tax simplification initiatives I have advanced this year. H.R. 3035 is intended to eliminate much of the controversy that has long been associated with the tax treatment of intangible assets by providing a more uniform, predictable set of rules for amortizing such assets.

The Committee on Ways and Means has held 2 days of hearings on this important initiative. While some problems remain to be worked out, I have been encouraged by the public response to the bill, which has been overwhelmingly favorable. I am also gratified by the Treasury Department's position in support of the bill.

As introduced, H.R. 3035 would become effective on the date of enactment of the bill. Concern has recently been expressed to me that business transactions are being held up because of uncertainty as to when this legislation might be enacted.

To alleviate these concerns, I am today introducing a sense-of-the-House resolution, providing that in the event that intangibles legislation is enacted into law, taxpayers should be allowed to elect to apply the legislation to all acquisitions of intangible assets taking place after the date of introduction of H.R. 3035—July 25, 1991—and before its enactment.

Because it is an election at the taxpayer's choice, this sense-of-the-House resolution would not harm any taxpayer, but would instead ensure that normal business transactions are not held up while the intangibles legislation works its way through the legislative process.

Mr. Speaker, I am scheduling a markup of this resolution by the Committee on Ways and Means on Monday, November 24, 1991. I hope that it is approved by the Ways and Means Committee and passed by the House of Representatives prior to adjournment next week.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the gentleman from Georgia [Mr. GINGRICH] be allowed to proceed with my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ECONOMIC GROWTH, INVESTMENT AND JOB CREATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak tonight about the Economic Growth, Investment, and Job Creation Act, which is a proposal that the House Republican Conference adopted today and which I believe gives us a tremendous opportunity in the next 4 days to be able to pass a bill which would dramatically increase jobs, have a tremendous impact on housing, increase savings, and increase the opportunity for Americans to work and to save and to develop a better future.

Congressman BOB MICHEL, The Republican leader, asked Congressman MICKEY EDWARDS, the chairman of the policy committee, to develop a deficit neutral package for jobs, savings, investment, and home ownership. This was a leader's task force in jobs and economic growth.

Mr. Speaker, we took a couple of key rules. First, that we would stick by the budget agreement. That while many of us voted against it, we recognized that the President had signed it, we recognized it was important in keeping down the deficit and in keeping down interest rates, and so our first step was to say that we will only adopt a proposal which pays for itself. That is a very key principle we have fought on all year here in the House.

So I am very proud to say to my colleagues that the Economic Growth, Investment, and Job Creation Act in fact does pay for itself.

The economic growth that it creates, the opportunities that it creates, will in fact lead to sufficient increased revenue that it will enable us to say flatly that we are going to pay for what we are doing to stimulate the economy.

Our second principle was that it had to create jobs. This recession is very worrisome. We have been very concerned all summer and all fall about creating jobs.

Senator PHIL GRAMM and I introduced a bill back in July, the Gramm-Gingrich Economic Growth Act, which would have helped create jobs. We could not get our friends in the Democratic Party to bring it up. We tried on several occasions.

So we decided to work with the leader's task force on jobs and economic growth. I am very pleased to say they have developed a very powerful package, which I believe will create 1,500,000 new jobs over the next few years.

Our third goal was to have a job creation tax package that had the right kind of long-term policies, that increased savings, that increased work, that increased investment, that helped small business, that helped senior citizens, that was designed to encourage the real estate market, and that in fact would help us with the Resolution Trust Corporation's financing and make it less expensive to the taxpayer to be able to bail out the savings and loans. And we met that standard.

Lastly, we insisted on a program that would have very powerful incentives for the American family and for working Americans.

Now I want to suggest that what we have put together, the House Republican proposal, is a very important opportunity, an opportunity that I hope every one of my colleagues and every person who listens to this will take seriously.

If enough people look at this program in the next 96 hours, if enough people look seriously at what is happening in our economy and look at this opportunity to create jobs and to get us out of a recession, if enough people look at the cost of the Resolution Trust Corporation and at the real estate collapse and decide that this program will help us and will help with real estate and with housing and home building, then I believe on Tuesday we have a real opportunity to bring up and to pass the Economic Growth, Investment, and Job Creation Act.

That is the real crisis. Can we in the House in the next 4 days find the will to insist that before we adjourn and go home, that we are going to pass an economic growth proposal that will help people?

Just think of it. We are going to be voting 2 days before Thanksgiving. We are going to be voting at a time when there are 8.5 million Americans looking for work. We are going to be voting at a time when people are frightened about the economy.

Is this House really going to vote "no"? Is this House going to turn down jobs, turn down savings, turn down investment, turn down small business, turn down senior citizens, turn down home ownership, and then go home for Thanksgiving and spend Christmas break telling people, "Oh, I am so worried about unemployment I could not even stay in Congress and pass a growth package"?

I don't think so. I think if enough Americans called their Congressmen and Senators, if enough people show up and talk at congressional offices, if enough people send telegrams and faxes, I think it is just possible that the American people can force a dramatic change.

Now, we cannot get there with business as usual. We all know what business as usual is. The liberal Democrats who control the House will write a rule that will not make this in order. It will be passed through by partisan vote. We will never have a chance to get to the floor. We will never have a chance to do anything.

But when I watched Boris Yeltsin this summer, in less than 4 days he saved the entire Soviet Union from dictatorship because he reached out and aroused the Russian people. I just want to say that I believe that this proposal is important enough that every American who is worried about the economy, every American who is worried about home ownership, every senior citizen who is angry about being punished by Social Security if they work, every person who wants to have a savings account without having to pay taxes on the interest, and every person in real estate and home building who knows that the 1986 Tax Act helped put them out of business or helped weaken their business, and every small business person who wants to have expensing for their small business to create jobs by investing in better equipment and better opportunities, I think if all of those folks on Saturday and Sunday and Monday and Tuesday call their Congressmen and Senators, I believe it is possible that we could on Tuesday have a dramatic impact on stopping this recession and reestablishing economic growth.

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Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Is the gentleman aware that tomorrow when we come into session that we are going to have 25 pieces of legislation before the House on a Saturday, none of which deal with economic growth, but the point that I am making is that the House is finding a way to put massive amounts of legislation on the calendar as we close out the session. And there is certainly no reason why the House could not find a reason to put the legislation that the gentleman is mentioning on the calendar as well.

The fact is that none of these ideas are particularly new and unique. The package is a culmination of a number of ideas that have been around. They have been roundly discussed. These are not concepts which are alien to most Members of Congress.

It would be entirely possible under the rules of the House in the last days to have such a package considered.

Mr. GINGRICH. If I might comment, as I understand, the Democrats will be bringing to the floor tomorrow a rule which in effect gives the Speaker the power to bring anything to this floor he wants to. So literally from the time that rule is passed on, we would be in a position at any time for the Speaker to bring to the floor this or an alternative, a Democratic economic growth package, or both of them, and allow the House to choose. Is that not correct? At any point from that time on for the rest of this session, the Speaker would be able, if he wanted to, to bring that kind of a package to the floor.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, assuming that that very bad rule passes, the gentleman is absolutely correct. As I understand the rule, the Speaker could, for example, put anything he wants on a Suspension of the Rules Calendar with only an hour's notice to the Membership. And so virtually any time during the days that followed, the Speaker could put that on the Suspension Calendar. That would require a two-thirds vote, but that is something which is possible.

There are also other techniques for going to the Committee on Rules, and they waive some of the waiting periods and things of that type for many of these issues. So there is no reason why some of these matters could not come to the floor by a more traditional means.

Mr. GINGRICH. If I also understand the gentleman, it would be possible under the House rules tomorrow to ask by unanimous consent in between, say, two of the suspensions that the next item of business might be an economic growth package?

Mr. WALKER. Mr. Speaker, I do not think it would work exactly that way. I think what the gentleman would have to do is the Speaker would declare a suspension day, which tomorrow is, and then he would have to give the House 1 hour of notice that a bill was being added to that Suspension Calendar.

Mr. GINGRICH. He could do that under the rule. But is it also true, under the rules of the House, that if the House was willing to, if the House decided that economic growth and stopping the recession was as important as one of these 25 suspensions, that in fact the House could by unanimous consent bring up the bill?

Mr. WALKER. The problem would be that, that the Speaker's clearances are still in operation, I think on the House rule.

Mr. GINGRICH. The Speaker would have to be willing to clear it?

Mr. WALKER. There would have to be the indulgence of the majority leadership and the Chair in order for that to happen.

That is not to say that it cannot happen. There is a pattern of clearance here that would permit it to take place. If those clearances were granted, then, yes, it is true that it could be brought up by unanimous consent.

Mr. GINGRICH. Just so the people understand, if they can appreciate the rules, if the Democratic leadership truly meant the speeches about unemployment and the speeches about concern for those who are out of work, they could, if they wanted to, grant unanimous consent to bring up a bill and someone can then ask that.

Mr. WALKER. Precisely. What we are seeing on the calendar for the next few days are many items that the Democratic leadership have decided that they want to bring to the floor. They are perfectly willing to bring their agenda to the floor. Their agenda includes a lot of things that would not necessarily be on my agenda, but it is what they have determined they want to bring out.

Interestingly enough, after all of the talk about unemployment, there is not an item there that is aimed at economic growth.

They say the highway bill promotes some economic growth. Indeed, getting a highway bill is important. And it will help spur the economy a little bit. But it is an add-on program to what is already going on in the country. It is not a true economic growth package.

They are not engaged in doing something to change taxes or to do the things that would provide underlying stimulus to the economy. It seems to me that what would be fair, we talk a lot about fairness around this body, would be to give the minority party an opportunity to maybe just put one item of its agenda in the waning hours of the Congress, not a whole host of them, just one item that the minority party had agreed was a part of its agenda.

It seems to me that fairness might dictate that when we are operating without rules that the minority might be given an opportunity to have some impact on the national agenda as Congress closes its doors.

Mr. GINGRICH. Let me say to my friend, I want people to understand that even though we will bring up 25 different bills on Saturday, none of them are going to relate directly to economic growth and jobs and getting out of the recession.

Mr. WALKER. I am sorry I do not have a schedule with me right now of the bills. I saw them a little earlier, the 25 bills. But a couple of them are fairly substantial bills. For example, there is a drug-testing-quality act, which is in fact a very controversial piece of legislation and is one in which the Democrats are specifically attempting to undermine the ability to do drug testing in this country. And they have decided that they are going to put that on the Suspension Calendar.

Mr. GINGRICH. If they wanted to put, say, on Monday, the Economic Growth, Investment and Job Creation Act could be put on the Suspension Calendar on Monday without any trouble. Or if they wanted to go to the Committee on Rules at any time, they could bring a rule out and bring it up, as the gentleman said, with a Republican proposal for economic growth and jobs and a Democratic proposal.

Mr. WALKER. Mr. Speaker, maybe the gentleman would be interested in some of the things we are going to take up that the Democrats regard as high-priority items.

Mr. GINGRICH. If the gentleman does not mind, I have been reminded—before we go to that, let me first outline what is in the bill because I think people have a right to know why the gentleman and I think it is so important to bring out the Economic Growth, Investment and Job Creation Act.

First of all, it directly affects senior citizens by increasing over the next 5 years the income amount an individual can earn before there is an earnings limit penalty. Right now if you earn about $9,000 and you are a senior citizen, 65 to 68, you get punished. They take money away from you if you continue to work. And every citizen knows about this.

They are all angry about it; they all know that it is unfair. This bill will increase the amount that a person can earn before Social Security stops them. I personally believe that we ought to abolish that limit. I think it is a terrible idea to stop people from working.

This is a country that ought to discourage welfare and encourage work and instead, all too often, we discourage work and we encourage welfare.

The very first item that I want to point to in the Economic Growth, Investment and Job Creation Act is that we do raise the Social Security earning limitation so it does directly help every person over 65 who wants to stay active and wants to stay busy.

Mr. WALKER. It is not true that some senior citizens, as a result of this particular tax penalty, are in about 70-percent tax bracket?

Mr. GINGRICH. The highest taxation in America is for senior citizens who continue to work. It is absolutely ridiculous. We punish our grandparents and our parents for staying busy and staying active.

Mr. WALKER. So what we are doing here is lowering the tax rate substantially for senior citizens who have decided they want to remain active?

Mr. GINGRICH. That is correct. Probably the most accurate way to describe this is a tax cut for senior citizens to encourage them to stay active, which we all know also means they are healthier. Second, we reform the passive loss rule.

This is important to anybody who is concerned about real estate. In the 1986 Tax Act, we changed the law to, in effect, be anti-real estate.

For individuals engaged in the real property business—that is individuals who spend at least 50 percent of their working time and at least 500 hours a year on real property activities—we make rental property, rental real property operation and undertakings, and activities treated just like any other business. What would we have done, when we look out there and say, "Why is real estate so sick. One of the reasons real estate is so sick is that the 1986 Tax Act actually discriminates against real estate. It makes it harder to be in business for real estate than in any other kind of business.

□ 2120

We changed the passive-loss rule, and I would hope that every person who is a home builder, and every person who is in the real estate business would call their Congressman or call their Senator and insist that they vote for the Economic Growth Investment and Job Creation Act so that we could have real reform of the passive-loss rule.

Mr. WALKER. Will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Does this not relate directly to the RTC and the whole savings and loan business as well? As I understand it, if we can recapitalize real estate in this country and increase the value of real estate, one of the advantages of doing that is that savings and loans that are sick will become healthy again because a large portion of their portfolio is in real estate investments. And so if real estate goes up in value, so does the volume of the assets held by the savings and loans, which means they get healthy again, which means that we do not have to give them additional taxpayer bailout money.

The solution Congress is about to propose is to give them massive billions of dollars more in bailout money without taking care of the underlying problem of the recapitalization of real estate. It seems to me that the package that the gentleman is referring to speaks to that in the ways that it should be spoken to, by recapitalizing real estate, and thereby making the savings and loans well again.

Mr. GINGRICH. The gentleman is exactly right.

Let me just summarize very simply. We have been in a long depression in real estate values so prices are coming down. A bank or a savings and loan makes a loan to somebody, and they made it based on, let us say, a $100,000 house. Now that house is only worth $70,000 because prices are dropping. So all of a sudden there is a credit crunch, and the bank calls and says we cannot loan you any more money because your price is going down. By changing the passive-loss rules to encourage people to be in real estate, we dramatically increase the value of property. Every homeowner in America who is considering selling their house has an interest in passive-loss rules. Every taxpayer who does not want to have to bail out another S&L has an interest in passive-loss rules, and the Treasury has told us that if you pass combine passive-loss rules and a capital gains tax cut, you clearly save over $1 billion in Resolution Trust Corporation funding over the next year, and that is just the beginning. I believe there is a more dynamic effect. I believe you may well save, as much as $12 billion by combining a capital gains cut with changes in the passive-loss rules.

Mr. WALKER. Another factor is as a result of decapitalization of real estate, people who were going to use home equity loans as a way of financing major purchases have now seen their real estate value drop and so, therefore, the equity in their homes has dropped and prevented them from being able to use that device as a way of taking essentially consumer loans, which they can write off against their taxes. And so, therefore, we have decreased the capital in the consumer markets as real estate has dropped in price, and so this recapitalization of real estate would also permit more people to get home equity loans in the future, and allow them to participate more in buying largely major goods within the consumer market.

Mr. GINGRICH. Let me just summarize again. Every person who owns a house and wants to sell it, every person who is currently in real estate, every home builder, every person who works for a savings and loan or a bank and is involved in the real estate business, all of those folks, and every taxpayer who is going to get hit for the Resolution Trust Corporation bailout, all of those folks have an interest in this provision.

Mr. WALKER. And everybody who wants a home equity loan.

Mr. GINGRICH. And everybody who wants a home equity loan, that is right. All of those folks have an interest in the passive-loss provisions of the Economic Growth Investment and Job Creation Act.

The next step is we set up an apprenticeship program. It is called a LEAP program, Leading Employers Into Apprenticeship, and it is a very simple idea. We want to encourage American businesses to work directly with young people, to train them, to give them a change to learn, to develop something which has worked very, very well in Germany, and that is a direct business apprenticeship so young people get the king of education which makes it possible for them to go out in the job market and be solid enough workers and well enough trained that they are in a position to have a job that competes in the world market, so American factories can stay open, and American workers can earn a good income. And the apprenticeship program we have contained in here we believe will have a tremendous impact for young people. And I think every person who is concerned about education, and concerned about making sure that our young people have the kind of jobs in the future that lets them earn a decent living, ought to be interested in contacting their Senator or their Congressman about the Economic Growth Investment and Job Creation Act.

In addition, we have an individual retirement account with no tax on the principal and with the buildup, on the principal and the buildup when you withdraw it. It is basically called an IRA Plus. An IRA Plus is a brand new idea. It is an idea which says you put your own money into a savings account, and you will be allowed to build up all of the interest tax free.

The reason it is important is that senior citizens, as BOB WALKER said, senior citizens pay the highest marginal tax rate in America today. And it is better for people to go ahead and pay the tax early, and then have all of the interest save up and be available without taxes.

The Treasury estimates that this idea of an IRA Plus would be so exciting and so positive that people would basically pay $13 billion to be allowed to participate, and that over the next 5 years literally millions of people would establish an IRA Plus account, and there would actually be an enormous revenue gain for the Government to have people doing that. So this allows every American to have their own individual retirement accounts, and it is a tremendous concept of an IRA, and we are very, very much committed to it, and I think that would be very, very helpful.

In addition, we allow you to take any loss you might have on the sale of your principal home as a capital loss. Current law taxes any gain you might make on your house, so if you buy a house for $20,000, and that would probably be a long time ago, but if you bought a house at $20,000 and kept it for 20 years, and now you sold it for say $90,000 because of inflation and changes in property values, you have to pay a tax on that. But let us reverse it. What if, as happened to millions of Americans in the last 10 years, what if you bought a house for $100,000 and now you are trying to sell it and it is only worth $70,000. I know somebody quite well who bought a house for $78,000, and when she sold it she sold it for $70,000. She lost $8,000. Under the current Tax Code she could not take that loss as a capital loss.

What we are saying is in a period where we have had a decline in real estate values that every American family that is forced to sell a house because they move to a new job, or they find themselves in a situation where for some reason, let us say the children have left and they no longer need a four-bedroom home, and they want to sell the house, if they are caught in the situation where they have to take a loss, under our bill, the Economic Growth Investment and Job Creation Act, we would allow them to take that as a loss, as a part of a capital loss, and that would save tax money, and would be better for them and let them keep at least a little bit of the money in their pockets that otherwise was going to go to the Federal Government.

In addition, we have a tremendous new concept called the middle income savings plan. If you earn $50,000 or less in adjusted gross income, you are going to be able, under this plan, to get $350 a year in interest tax free. It is a very important concept, and I say that DEAN GALLO of New Jersey who came up with this is exactly on target, and it is a tremendous point. You are going to be in a position, everybody who might be listening who is earning $50,000 or less has a real interest in this, and actually about $65,000 or less in gross income ought to be interested in this because what we are trying to do here, for the very first time, is reestablish the principle that if you will save we want to reward that habit, because savings is good for you, savings is good for your family, and savings is good for America. If you are a couple, you can earn $700 a year in interest tax free.

Why is that important? It is important first of all just to reestablish that basic, old-fashioned American virtue of the habit of saving. It is important to send a signal in the Tax Code every year to every young couple that you ought to save some because you get to keep the money. It is important because that savings goes into your savings and loan, or goes into your bank, and it goes into some mutual fund, and all of a sudden you are helping build America's future. You are investing in America to create new jobs to help build new houses, and you are getting wealthier, but your country is getting wealthier too. It is important to save a little nest egg, and if you have $6,000, or a couple has $12,000, that is about the amount that we are talking about, and that couple has $12,000 sitting there for a rainy day, and something bad happens, you get unemployed, you have an illness, somebody has to go to school all of a sudden, then you have the money.

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So what the gentleman from New Jersey [Mr. GALLO] has done with this terrific concept of the American savings plan is that he has created for the middle class, people who are earning $50,000, $60,000, or less, an opportunity to save while excluding their savings interest from taxation up to $700 a couple or $350 apiece.

Let me just say, it tells you a lot about the difference between the liberal Democrats and the rest of us. They have an idea they are going to give everybody 200 bucks. The gentleman from New Jersey [Mr. GALLO] has a better idea. His idea is to reward the people who do the right thing. Reward the people who save.

Frankly, giving away $200 sounds like Jimmy Carter's economics. In the long run it just disappears; but teaching people how to save, getting them to put a little bit of money away every week and every month and create that opportunity for savings and let them keep the interest on that savings without taxing, that changes a lot.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, it is also a very different concept than we have heard from the Democratic leadership that has been out on the floor talking about their economic programs over the last several nights here, because if you listen to them, what their real economic program consisted of was having Americans send money to Washington and then Washington would spend money on good things, and they talked about all these programs they have in mind that they are going to spend money for.

The fact is the program we are talking about is one where the people get to keep the money in their own pockets and if they earn money on interest, they get to keep it and we give them a tax break for having done, as the gentleman points out, the right thing. That is a much different concept than the idea that any money you make is subject to the Government grabbing it and bringing it to Washington so that we can distribute it to do good things: so it is a very, very different kind of concept than what we are hearing out of the Democratic leadership.

Mr. GINGRICH. Let me just say further, we repeal the excise tax. Repealing the excise tax, we have had heart-rending speeches made out here by the gentleman from Kansas [Mr. NICHOLS], who represents Beechcraft. Beechcraft estimated that the excise tax increase killed one job for every $264 collected in taxes, literally killed a job, put a family without a breadwinner for $264 in taxes.

I believe this step alone, repealing the excise tax on boats, on aircraft, on cars and other things, that alone I believe is going to be worth over 100,000 new jobs. We do not count that in our calculation. We do not have that fit in here, but I honestly believe, based on everything we have heard, all the testimony we have been given, that that has killed a lot of jobs, and we began to discover when you talk about laying off in the boat business, you are talking about laying off the refrigerator makers who put refrigerators in the boats. You are talking about laying off the fiberglass maker. You are talking about laying off the glassmaker, the radio maker, and all of a sudden we have a good Member here who had 800 workers unemployed in Ohio because they made refrigerators that were very small that were designed for boats.

We have people in the timber industry laid off because the wood goes into boats.

All of a sudden we realized that if you do not have economic growth, if you do not have a final product to sell, you lay people off all the way up the chain through manufacturing and raw materials and transportation, and all of a sudden you may have laid off 100 people in what looked like just a simple sale at the very end.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, does the gentleman mean to say, in my district last year where the gentleman to the left forced through that tax the gentleman mentioned a moment ago, it caused the outboard marine plants, one closed, the other two dropped their employment by 50 pecent.

Now, is the gentleman telling me that we may be able to get some of those people back to work, over 1,000 people without jobs in high-unemployed areas might be able to come back to work, rather than wondering whether or not they are going to get unemployment benefits?

Mr. GINGRICH. Let me say to my friend, the gentleman from North Carolina, if we can get enough people excited in the next 4 days, on Saturday, Sunday, Monday, and Tuesday, to contact their Congressman and their Senator, if we can get enough people to understand that we are trying to put America back to work and we could pass this on Tuesday and attach it to the Resolution Trust Corporation funding and get it through the Senate, I believe by January or February you would have people being called back to work in those plants. That is how real this opportunity is.

There are real families in western North Carolina who are going to have a tough Thanksgiving and a tough Christmas because we raised the tax last year that killed jobs.

We have an opportunity in the Economic Growth Investment and Job Creation Act, we have an opportunity right now to repeal that tax increase, to lower those taxes and to put those families back to work.

If you went home Tuedsay night and you could say to them, it is not going to turn around by Thanksgiving on Thursday, but it is going to start turning around in the next few weeks, you would have small towns in your district that would for the first time in a year see the beginning of a hopeful future.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, I would say to the gentleman that would be the best Christmas present we could give the people in western North Carolina, because those three plants, one closed, the other two reduced employment by 50 percent because of the tax of the gentleman to the left, that news that they might be able to come back to work would be worth more than any of the crocodile tears I have heard on the floor talking about blaming the President and others for employment or any of the efforts to create unemployment benefits, giving those people back their jobs, and these are modern plants, these are hard-working people, and giving those jobs back would mean more than anything else we could do.

Mr. GINGRICH. Let me just say, I think the gentleman has put his finger right on it, we are going to have a chance Tuesday night to vote to give the American people a Thanksgiving present and a Christmas present of new jobs, new opportunities, new savings incentives, new chance to buy a house, new chance to go out and save and invest, or we are going to give them a pretty bleak Christmas by failing to do our job, leaving town without having done a single thing to turn around this economy and get us out of this recession.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, let me give the gentleman one other example, because I think it helps make the same point that the gentleman from North Carolina has just made.

One of the most distinguished names in boating is headquartered in my district, Trojan Yacht. Trojan builds boats that have been known worldwide. They are considered some of the finest boats in the world. They have had an export market which is unbelievable. Just 2 years ago that plant employed 450 people. As a result of both the recession and this excise tax, employment in the plant is off 90 percent, only 43 people are still employed at that plant.

Mr. GINGRICH. Let me make sure I understand. Over 400 people in that one plant alone have been forced into unemployment because of the recession and this tax increase that we are trying to repeal?

Mr. WALKER. That is precisely right, and they are not rich people. They are blue-collar workers and so on, good, hard-working folks who because of policy stupidity in Washington find themselves in the unemployment lines.

The solution that Congress has had for that is to provide additional unemployment compensation, not to put them back to work, but provide them with additional unemployment compensation.

I have talked to a lot of those folks. They want to go back to work. They want to go back to building the finest boats in the world. They want to begin to export that product again. They want to begin to do all the things that they had done up until then to be so successful and they cannot do it because of the kinds of policies that have driven them out.

We are hoping in this bill to correct those problems. Obviously, as the gentleman says, it could be done within a few days if Congress gets a wakeup call.

Mr. GINGRICH. Let me go on. Not only do we repeal the excise tax, but we also have a brandnew idea that the gentleman from Washington [Mr. CHANDLER] has developed, which is a 50-percent capital gains exclusion if you invest in new entrepreneurial activities.

This is a tremendous idea that says we are going to give you a better tax break if you will go out and invest it in a new company, a new venture, or a new approach. We are going to encourage new startups.

Now, why is that important? It is important because the fact is big corporations shrink the total number of jobs. Little bitty companies create new jobs. If you are going to have a dynamic economy, if those 8½ million unemployed people are going to have a chance to go to work, they have to be in a position to know that somebody out there is starting a small business, a baby business, that is going to grow, the Apple Computer, the IBM, the Ford Motor Co. of the future.

What this new idea does is it gives a tremendous incentive to go out and invest to find that new entrepreneurial exciting idea, the next generation's McDonald's, the next generation's cable television, all those growth industries that we take for granted once they get big, but somebody had got to go out there early on and have the vision and the dream and the courage to get them off the ground.

In addition to that, we allow businesses, small businesses to take a larger deduction, called expensing, for machinery and other equipment.

Now, why is this important? In a very small business, you very often do not make a profit, you do not make a big enough profit to need some kind of after-tax, like a tax credit. If you are not making a big profit, you are not paying any taxes. If you are not paying any taxes, the tax credit does not help you; but you need to buy that new computer. You need to buy that new machine tool, or you need to buy that new refrigerator, something that is going to make your little business more successful, more profitable, help you grow, help you hire additional people.

What we do is increase the amount of money that you can write off in one year as an investment. We let you treat investing in new technology and investing in new machinery just like you treat other costs. When you do them, you get to write them off.

□ 2140

For small businesses there is a tremendous incentive to modernize, to be competitive, to create new jobs and to be successful. In addition to that, if you already have an individual retirement account, we allow you to take your money out without penalty in order to buy your first home. And we allow your parents or grandparents to withdraw money and use them, loan them to their children or grandchildren to buy their first home.

We have, I think the number is, $150 billion or $180 billion in individual retirement accounts locked up in the United States right now, waiting for people to retire.

What we are saying here is we are going to let you, if you have an IRA, we are going to allow you to take that money out either for yourself if you want to buy a home or to loan to your children or grandchildren if they want to buy a home.

We think this is very profamily, it rebonds economically parents, grandparents and grandchildren, very prohomebuying also, which we think is good for a stable, secure America. Homes are one of the ways that we come out of recession. Every recession since World War II has been ended because the housing industry and the auto industry led us to prosperity. This is one more step towards that prosperity.

Mr. Speaker, I yield to my friend, the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The information that the gentleman gave us on small business, I would tell the gentleman that I communicate with 20,000 small businesses in my district. Small business creates 95 percent of the jobs. I can tell you, in the communications I have had with them they are scared to death not because of any lack of courage for investing but they are concerned about what they see coming from this Congress, mandated leave that many of them say will destroy them, the play-or-pay plan that the gentlemen to the left have been offering, and health insurance which does not consider small business, it says to them, "We are going to tax you and tax you and tax you even if you do not have the ability to play." More and more regulations they see coming from this body.

Now, the gentleman is saying that the plan he is offering is an incentive, something that would encourage, give these small businesses faith to get out and get jobs created and moving again.

Mr. GINGRICH. The gentleman is exactly right. Let me give you an example of why a lot of people should be interested in it. If you own a small business, you ought to be interested in this because it is going to be a tremendous help to you in being competitive and to make a profit. If you work for a small business, you ought to be interested in this because it is going to make your job more secure, give you a chance to get a better paycheck, and it will mean that you are going to be part of a growing company.

If you are a manufacturer, you ought to be in favor of this, or if you work for a manufacturer, because this is going to increase the amount that is bought, which is going to increase jobs.

So as you go all the way around, this concept which NANCY JOHNSON of Connecticut introduced and really developed for us is really going to help a lot of people create a lot of jobs all over America.

I yield to the gentleman.

Mr. TAYLOR of North Carolina. I would say to the gentleman, too, that whenever you create a job in manufacturing or with a small business, you generate other jobs around. If you pay that employee unemployment insurance, you help him for a short period of time, but you do not create the jobs you do when you have a manufacturing operation that is turning out other jobs and creating other materials.

Mr. GINGRICH. I say to my friend—we recently had a big fight here over 6 weeks versus 13 weeks versus 20 weeks. The gentleman and I want to create a lifetime of jobs. We would like someone in a job for 10 years; that is 520 weeks. We want to encourage somebody to have a job for 20 years; that is 1,040 weeks. Even our most liberal friends have not suggested that we have 1,000 weeks of unemployment insurance.

So what we are trying to do is give people a permanent lifetime opportunity to hold down a job, to earn a living, to buy a home, to have a savings account and an individual retirement account to do all the things that an American ought to want them to do and reward them for doing it. That is why I think that the Economic Growth, Investment and Job Creation Act is so important and why I hope people will call their Congressmen and Senators in the next 3 or 4 days, because I think Tuesday night we are going to have a chance on the floor of this House to see whether or not those people, who tell us how worried they are about the unemployed, are willing to vote to end unemployment now by creating jobs and creating growth.

Let me mention two other large parts of what we are doing. We do two things to capital gains: First, we cut it. We cut it based on how long you hold it. We encourage stability because we tell folks that if you will be in a position to hold the capital gain, to invest and to save it for at least a year, we are going to give you a little bit of a tax break. In other words, if you will take the risk of investing in a new company, if you will take the risk of having a farm or having a small business or having some timber, we are going to give you a tax incentive to do the right thing. If you hold it for 2 years, we are going to encourage you even more; if you hold it for 3 years, we are going to encourage you even more.

So all those folks who have been saying:

> You know, Americans are too shortsighted, we need the long-term vision of the Japanese, we are not patient, we are not willing to invest in the long run.

We are going to create a tax incentive to invest and to be patient, and that runs up to 3 years.

We are going to do a second thing: We are going to index capital gains for the future, so if you go out and buy a farm and 20 years from now you decide to sell that farm, you are not going to be paying tax on inflation, you are not going to be paying tax on paper money. We are going to protect you against inflation. And I think that is going to turn out over the long run to be one of the most powerful things we are doing in this bill because over the long run for farmers, for timber owners, small businesses, people are patient investors, indexing capital gains, indexing investments so you do not have to pay for inflation, that is going to turn out to be a tremendous incentive to get Americans back into the business of saving and investing and creating jobs.

I yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

You know, the argument that has been made very often on the House floor against this kind of proposal is the fact that it is a tax break for the rich. And I think the gentleman has described what is going on here very well.

What this particular provision means is that this will not be a tax break for the rich. This will not be capital gains for people who are rolling over stocks every couple of weeks.

What this is is something which helps the small businessman, the farmer and others who have a long-term investment but who at some point in their career or in their life want to sell off that investment, in many cases to retire.

The farmers in my district, for example, regard that as an important part of the whole interest in farming, that at some point you build a farm and you sell it and use the money that you make from selling the farm for your retirement.

You pay a tremendous capital gains tax under the present law.

Under the proposal we have here, first of all you would not have to pay on the inflation cost over that period of time, second, because you have held it for a long period of time the break you get on your capital gains taxes would be substantially more. So this is something that would be a real advantage to middle-class America as they seek money to retire and is not something that would simply be some kind of tax break for the rich.

This is a true incentive for savings and investment by all Americans.

Mr. GINGRICH. Let me emphasize your point for a second: For those folks who have seen the movie "The Bonfire of the Vanities" or who have read the novel, those kind of traders who make their money every day, swap stocks, swap bonds, swap the marketable securities, who are really in the hustle and bustle of Wall Street in that kind of a short kind of trader business where they do not create value really, they just create paper, those folks do not gain a dime, not a penny out of this proposal.

Now, if you are a serious investor and you go out and you invest your capital and 5 years from now you create a new company, if you go out and you invest and buy stock in a company that is a sound company and 2 or 3 years from now you decide to sell that stock, then you make some money. But the fact is, and this may be one of our major differences with our liberal Democratic friends, in a free enterprise society, if you do not encourage somebody to do something, nothing happens.

We do not have a socialist state-owned government economy.

So one of the points is we are trying to encourage folks to go out to create new jobs and we are willing to say to them, "Yes, we are going to let you keep a little bit, and we are going to reward you if you create enough jobs."

Let me make one other point before I yield. It is estimated by very respectable economists that this one provision is worth over 1 million new jobs, 1 million new jobs.

Now, that million new jobs, I am guessing the average job now is $26,000, that million new jobs is a $26 billion increase in the gross national product in terms of money earned by people who would not have a job, if it were not for this kind of excitement, this investment and this enthusiasm to go out and create jobs.

Mr. WALKER. That is 2,000 jobs for every congressional district in the country.

Mr. GINGRICH. Exactly, 2,000 jobs for every single district.

Would that not be a tremendous Thanksgiving gift to have voted to create 2,000 jobs in every congressional district before going home?

Let me go a step further: You will see all sorts of tables in here that say what helps the rich and what helps the poor. There will not be a single table brought in by our friends of the liberal Democratic Party, not a single table which will show you the effect of those million jobs.

So they will never count $26 billion in additional income earned by Americans, by working Americans, by average everyday folks who are today unemployed but who would have a chance to earn a living.

I yield to my friend from North Carolina.

□ 2150

Mr. TAYLOR of North Carolina. Mr. Speaker, the gentleman knows I am in a district with a registration about two to one Democrat to Republican with small business, small farms. Our per capita income is about 60 percent of the Piedmont area in North Carolina. One could not say that is a district of the rich or that I represent the rich in that district, and yet in the overwhelming communication I have with those small business people, they are for the capital gains. They want that opportunity that the capital gains will pass on to them, and these are not rich people, these are not wealthy people. These are average workers, average small farmers and small business owners who recognize that benefit.

I do not know where the gentlemen to the left are getting the idea that this tax is just for the rich. They have not been out talking to the average small business person in the street, and, if they did, they would find out very quickly those are the people that want that particular gain. They recognize that the wealthy people do not need this gain. As the gentleman pointed out, these folks have adequate wealth. The ones that want it are the small business people and the people who want to build a business.

Mr. GINGRICH. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, understand there is a reason for that as well, and that is that, if people do not have an incentive to invest in risk kinds of enterprises with something like fair capital gains treatment, where they put their money is into sheltered kinds of tax breaks; government bonds, for example, government bonds that finance all the spending that goes on in Washington. And so they have almost a vested interest in keeping people from putting their money into risk enterprise because, if the money goes into risk enterprise, it is less money that goes into the government bonds that helps pay for the spending here in Washington, DC.

Mr. Speaker, it is a very, very dangerous philosophy because it is the kind of philosophy again, emphasizing the fact that what the liberal Democratic establishment wants to do is pull money into Washington so that they can spend it rather than having people make determinations on their own about what is good for themselves and what is good for the country.

Mr. GINGRICH. Mr. Speaker, let me, if I might; I know my good friend from Pennsylvania has some time in a minute, and what I would like to do is summarize three things to wrap up this hour.

Mr. Speaker, I would like to first point out the key provisions; second, point out what they will do; and, third, suggest that what we desperately need is action by the people of America, because the only hope we have, the only hope we have, of passing this economic growth investment and job creation act on Tuesday is to have a tremendous outpouring of phone calls, and faxes, and telegrams, and even personal visits by people who care about America's future and want to end the recession, and they have got to do it in the next 4 days.

First, the 12 key provisions: it increases the earning limit on Social Security so that senior citizens can work without being penalized by their Government. It sets up apprenticeship programs so young people can work directly with businesses to learn faster, to learn better, to have a better job. It repeals the excise tax on boats, and aircraft, and automobiles and other things so that we can create jobs in industries that have been crippled by tax increases. It has a million-dollar income savings plan so that people whose growth income is under $50,000 can save and earn up to $350 apiece or $700 a family, tax free, from their savings interest. It sets up an IRA plus so that every American can have an individual retirement account so everyone has an incentive for savings. It allows small business to take as a direct expense, additional amounts of investment so that we are encouraging small business to be able to go out and to buy new equipment. It has a capital gains differential so that we encourage people to save, to invest, to create new jobs. It has a 50 percent capital gains exclusion, if it is a venture, if it is a new business, if it is a new undertaking, so encouraging the investment of the big companies of the future. It has perspective indexing of capital gains so, when one invests, they will know we are not going to tax them on inflation. We are only going to attach them on their real gain, and it is a tremendous incentive for people to invest. It repeals the key mistakes that were made on passive loss rules for real estate and for home building so we can encourage people to be back in the real estate industry, so we can raise the value of homes, so we can encourage people to be back increasing property values and saving us from an even bigger Resolution Trust Corp. bailout. It has no penalty on IRA withdrawal for a first-time home buyer or for a parent or grandparent who wants to take the money out to loan it to their children or grandchildren so they can buy a home. And finally it allows them, if they lose money on the sale of their home, to treat that as a capital loss so that they actually get to save a little bit of money they have lost, and they are not punished for having lost the money.

Now what do these 12 provisions of the Economic Growth Investment and Job Creations Act do? They create over a million new jobs; I believe over a 1,500,000 new jobs. They generate a tremendous amount of additional revenue for the Government that offsets any cost of doing these things. They increase home ownership, they increase savings, they increase investment, they increase the capacity of our parents and grandparents to work after 65, and they will help every person to have IRA's

How can we get it passed? I believe, given the bias of the liberal Democrats which is keeping us in a recession, which is increasing unemployment, which is weakening the economy, the only way the American people can take an action step this fall to help us end the recession, to help increase economic growth, is to call their Congressman or their Senator to get actively involved to do it in the next 4 days, to recognize that Tuesday, probably Tuesday evening, we are going to be asked to vote in this House on whether to slink out of town having done nothing, to go back home, to have a nice Thanksgiving while people around us are unemployed and desperately want a chance to get a job, or whether we are going to have the courage to stand up, to insist on passing a growth package, and to insist that we are going to jump start this economy and increase the number of jobs and increase the value of real estate.

Mr. Speaker, I firmly hope that every American who become acquainted with the Economic Growth Investment and Job Creation Act, every American who is worried about the economy, every American who wants to see us get ahead in this country, will call their Congressman or their Senator in the next 4 days.

THE ECONOMIC GROWTH PACKAGE: A PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier in the evening I had made mention of the fact that there are going to be 23 bills on the calendar tomorrow under suspension. That gives some idea, maybe, of the priorities that the Democratic leadership have put in place other than taking up an economic growth package. They are a group of interesting bills.

Mr. Speaker, the first bill is the U.S.-Flag Cruise Ship Competitiveness Act of 1991. My guess is that there are lots of unemployed Americans who will not see that as being something that directly affects them, since they cannot afford to take a cruise at the present time, and probably would prefer us to be dealing with something on economic growth.

But a few of the other bills: the technical amendments to Alaska Maritime National Wildlife Refuge boundary law is the second bill, the Flower Garden Banks National Marine Sanctuary, the Federal Debt Management Responsibility Act of 1991, the Drug Testing Quality Act, the Technical Correction in Public Law 101-549, the NTIA Organization and Authorization Act, the Pelican Island Texas Act, the Wappinger Creek in New York Act, the Tourism Policy and Export Promotion Act, a bill to permit the Secretary of Health and Human Service to waive certain recovery requirements with respect to facilities, another bill that designates the Lamprey River as a Wild and Scenic River, the Lower Merced River, the Snake River Birds of Prey National Conservation Area, Jemez National Recreation Area of New Mexico, a bill relating to White Clay Creek, a bill relating to the Chattahoochee Wilderness, the Big Thicket National Preserve in Texas, the San Carlos Indian Irrigation Project, the Oklahoma Native American Cultural Center Study, the technical amendments to Indian laws, a bill to expand the boundaries of the Stones River National Battlefield in Tennessee, and, finally, a bill regarding human rights in East Timor.

Those are a few of the items that we will be taking up tomorrow. Many of them may be matters of intense local importance or maybe even national importance, but I would suggest that certainly economic recovery is at least as important as anything which has been committed to the calendar by the Democratic leadership at this point.

Mr. Speaker, what I really wanted to talk about this evening, though, relates to conversations I have heard among Democratic leaders on the House floor over the last couple of weeks and the last several nights as they discuss their view of where the country is and what needs to be done, because I have been struck, as I have sat and listened to those discourses, that they do not seem to have any vision at all; that it strikes me that it is the same old patterns of behavior and the same old ideas, wrapped somewhat in new packages, but as ideas go they are not very imaginative or very innovative.

The reason why I think it is important to understand that they are suggesting is not good enough is to understand the nature of the times in which we live. Too often in this body we become so wrapped up in the details of what is going on that we fail to see the macroeconomic and macropolitical picture and fail to understand what is happening around us.

I admit to being guilty of that. I often get wrapped up in the rules that we are considering on the floor or some technical details or so on. I do a lot of that on the House floor in my role as an enforcer out here. But I hope that we can from time to time step back and understand something about the times in which we live, so that we can respond to the needs of the times in which we live.

I would suggest that we live in absolutely revolutionary times. I regard this time as being the most exciting period in the history of humankind to be alive. I say that because literally there are revolutions happening around us that are changing the world as we know it and the world as future generations will know it. This is a fantastic time in which to see change taking place. I would submit that mankind has not had a similar period in history since the end of the 18th century.

At the end of the 18th century we saw revolutions taking place that changed the world as men knew it then and as we have to come to understand it. There was a political revolution that took place, characterized by the American revolution, that changed for all time the way men governed themselves and the way women participated in society.

We had an economic revolution that changed us from an agrarian economy to an industrial economy. We had a cultural revolution that changed the way that men and women interacted, largely because they moved off the farms into the cities, and we built huge new cities and we developed an urban culture. We developed the middle class, a major economic and cultural revolution.

There was a technological revolution as we moved away from the idea that muscle power of human beings would drive the economy and we went to machines, and thereby created a technological revolution.

That is a time that was very, very challenging for the people that lived in it. In fact, there were two men of letters writing at that time, both of whom looked at the world a little bit differently. One of the people writing at that time was Thomas Malthus. Thomas Malthus saw the agrarian society around him, the feudal society, if you will, deteriorating, and he came to the conclusion that everybody was going to starve to death; that there was no way, with the population increasing and the feudal society deteriorating, that we were going to be able to feed the population of the future, so therefore, everyone was going to starve to death.

Thomas Malthus turned out to be wrong, because the fact is that what arose was an industrial society that permitted agriculture to be more productive, and in fact today we have agricultural surpluses in the industrial nations of the world, not people that are starving to death as the result of a lack of food.

We had another writer at that time, Adam Smith. Adam Smith saw something entirely different. Adam Smith saw the rise of a pin factory, and he wrote about it and he talked about the fact that there were going to be ways of developing new wealth, that there was going to be the rise of the middle class, that men and women would no longer derive their wealth only from the land, they would derive it from the production of goods, from the sale of goods; that we would end up having the merchant class that ultimately became the middle class that we have known.

Adam Smith turned out to be exactly right in his analysis. Thomas Malthus turned out to be wrong in his, and yet the interesting thing is that Thomas Malthus would have been regarded as the person most attuned to the history, because Thomas Malthus based his analysis on everything that we had known up until that time. He looked back through history and saw historic patterns and suggested that if historic patterns continued to play their way out, we were in deep trouble.

Adam Smith saw something new happening. Adam Smith saw the revolution. Well, the fact is that we have many of the same kinds of analyses taking place today.

What I hear from the Democratic leadership when they come to the floor in these evenings too often is a Malthusian kind of analysis: that everything is deteriorating, that we have no chance for growth, that everything is coming apart, that jobs cannot be created, that there is no hope for growth, so therefore the only hope we have is to take the wealth that exists and try to redistribute it in ways which they regard as fair. That is probably a conclusion that one can draw if one thinks that the world of the 1990's is like the world of the 1930's, or like the world of the 1940's, or the 1950's, or even the 1960's. But it is not.

I would submit as my thesis that we live in revolutionary times not unlike those of Adam Smith and Thomas Malthus; that what we see happening around us today is revolutionary in the same sense that the revolution at the end of the 18th century took place.

We see today a political revolution taking place that has to be understood. If you look around the world, you have to know that there is a political revolution taking place. In just the last few months we have seen not only the dissolution of the Soviet empire, we have seen the dissolution of the Soviet Union itself. That is a major political revolution, but it is not the only political revolution. There are political revolutions happening in Latin America, in Africa, in Europe, in the Far East, and in the Middle East, political revolutions that largely center around a decentralization of power.

More and more we are finding that the institutions of government that have tried to become entire economies or entire ways of doing things out of one central model fail. It is much what happened in the Soviet Union. The central government, the central authority, the party became so corrupt it could no longer stand; in part it was corrupt in a personal sense, but corrupt in an overall sense. It was just deteriorating from within.

That decentralization of power that is taking place in the Soviet Union is a part of a worldwide phenomenon, a major political revolution, one that in all honesty we in this country need to be aware of, because too often the reforms that we hear discussed by some of our friends in the Democratic Party call not for decentralization of power, not for being a part of the revolution of the future, but for centralization of power. They are calling on the United States to move precisely in the same direction that has failed in other parts of the world.

For example, when they talk to us about health care these days, the most important concepts that come forward from Democratic leaderships tend to be more and more centralization of power in the health care regime, rather than finding ways to allow individuals more access and more quality in their own lives in the health care system.

I do not know that I have all the answers to health care, but I am sure that the answers given to us by the liberal Democrats are precisely opposite from where the revolution is going that is driving the world. We live in revolutionary times. They are at least two or three steps behind the political revolution.

Just as important as the political revolution is the economic revolution. The economic revolution is twofold in nature, and just as important as the change that took place at the end of the 18th century, when we moved from a feudal society, with lords of the manor who controlled the economies of their local area, and we moved from that to national economies.

□ 2210

At the same time in that period of time we moved, as I stated before, from an agrarian society, an agriculturally based society, to an industrially based society.

Two similar kinds of revolutions are taking place economically today. We are moving from national economics to a world economy. We are moving away from the idea that all national structures in the economy are the only thing that works to the idea that the world is the basis for the economy.

That is seen in many ways. The small businessman in a small town in the United States can no longer think of his competition as just being down the street or in the next town or in the next county or in the next State. He has to think about the fact that his competition may be halfway around the world. He has to begin to think in terms of the kinds of products that he has, the kind of quality in those products, the kind of productivity in his workplace. He has to make certain that he can compete not only just down the street, but halfway around the world.

That is the advent of the world economy. You have to be awfully good to participate in that kind of an economy.

In addition to moving from a national economy to a world economy we are also moving to some kind of a post-industrial economy. I do not know exactly the nature of it. I do know that it is one that is going to be very much information based. I do know that it is going to depend upon the mind as being the principle ingredient of driving the economy.

Remember I said the muscle power of human beings used to drive the economy? Then we moved to machines to replace the muscle power of human beings. Now in the new economy we are going to depend upon the mind of the human being.

That is something which has to be very scary, because you are talking about a whole new way of thinking about how wealth is created. But it is going to be a fantastic opportunity for growth of unimaginable kinds in the years just ahead.

We no longer are tied to the old business cycles that have driven us over the last several years. I hear again my colleagues who are way behind the times in the liberal Democratic ranks who keep talking about the fact that of course we are going to have a recession, and so on, and they talk about the old business cycles.

The old business cycles no longer apply. Because of the revolution of both our world economy and moving to a grand new kind of post-industrial economy, the potential is there for virtually unlimited growth into the future.

The problem is that we in Washington are perfectly capable of messing it up. We are perfectly capable of developing policies that, instead of helping people to grow and invest in new opportunities, keep them from doing so.

We have just finished discussing on the floor some of the ways in the past we did that. We are seeking in the bill that the gentleman from Georgia [Mr. GINGRICH] was describing to correct some of those things, but we have to go much further than that bill does. That is just one step.

What we have to do is rethink our policies so that everything that we are doing in Washington helps drive people toward investing in new ideas, in new concepts, in innovative kinds of technologies.

We are nowhere close to that right now. What we have done is encouraged people to put their money away and shelter it away somewhere so the Government cannot get at it. That is precisely the wrong prescription in an economy which is undergoing literally revolutionary change.

I would also submit that at the very same time the political revolution is going on and an economic revolution is going on, we also have a cultural revolution taking place, a fantastically complicated cultural revolution that is impacting on the lives of all Americans, and, in fact, all people throughout the world.

How is it manifesting itself? It is manifesting itself in part in a rise of fundamentalist religion around the world, fundamentalist religion in America, fundamentalist religion around the world.

Why is that? People see around them all this change. They are struggling with the change that is taking place and they want some kind of stability in their lives. So many of them are reaching out to religion, and even very fundamentalist kinds of religions, to give them the sense of values they need to struggle with all the change that is around them.

That is manifesting itself in the rise of religion in this country, but also in the rise of fundamentalist Islamic religion in some parts of the world. The thing is it will cause some political feedback.

See, all these revolutions interrelate. At some point some of those basic deeply held views in religion come into clash with each other and cause political problems. They cause economic problems.

But the fact is real, that one of the cultural phenomena of our time is to see a change in the religious patterns of human beings around the world as they seek to cling to values.

There is also another kind of cultural change that is taking place. In my mind it is a rise of environmentalism. Not environmentalism in the sense that we often discuss it on the floor as a political agenda, but environmentalism from the standpoint that mankind and humankind have seen themselves now a little differently than they ever saw themselves before.

We have had the chance as a result of our adventures into space to look back at this planet and understand it is a very fragile spaceship. What you have among young people and old people alike is a growing understanding there is some need on their own individual part to do something to preserve that planet for future generations.

So it is not an environmentalism manifested in all of the kinds of crazy details we sometimes see in bills that come up on the floor, it is an environmentalism based in the everyday lives of people who have made changes in the way they behave themselves in order to do some little part in order to preserve the globe around them.

That, too, ought to be encouraged. That is something where we really will get real benefits for the future, and it is a cultural change. It is an understanding that has changed in my lifetime.

We also see an intuitive understanding within culture that if the world is changing so much around us, and if we are going to have to depend upon our thought processes in order to drive the economy of the future, we need better education. So what you are seeing happen in the cultures around the world is an emphasis on education.

Sadly, in this country some of that emphasis has been simply to pour good money after bad, rather than doing a reform of the educational system that will really drive that economy of the future.

In my mind what is really needed in our educational system is more individualized education instruction. I think where the education system is failing us at the moment is the fact that we are still educating people to take part in an industrial economy.

Let us face it, we formed schools at the beginning of this century. The public school system largely arose during this century. We formed the schools at the beginning of this century to teach young people how to work in industrial factories, how to work on production lines. So we mass produced education.

We mass produced children coming out of the schools. That model no longer exists. It is invalid to the times that are changing.

What we need right now is people who are able to think for themselves, people who are able to take the knowledge base that they come with and grow from it.

What you could have in schools right now, if you wanted to do real educational reform, is individualize instructional programs. We already have them for handicapped students. Already if you are a handicapped student, you can go and get a program that is designed specifically for you, and you progress based upon your own talents and upon your own abilities.

We could do the same thing for every child in the classroom. How do you do it if you have 25 or 30 kids in the classroom? You use technology. You can use computers to help guide the child along, to give them the ability to move at their own pace. You can use interaction between students, using that same technology. You can use interactive technology that draws upon the finest minds in the world and brings them into the classroom.

You now have the ability with the information systems that we are developing to bring the top experts in every field into the classroom and utilize them. You now have the ability to tap into libraries. When you are studying World War II, you can give the young people in the classroom the real battle footage of a battle that was fought during that war, or hear the leaders of the world at that time actually talking to the students. You can bring that right to the desk in front of them. So you can tailor individual instructional programs.

Let me tell you, I am someone who is an automobile enthusiast. I was one when I was a student in school. You could have taught me many, many things in education had you tied them all to the automobile.

You could have taught me physics, you could have taught me history, you could have taught me English, you could have taught me all kinds of things if the device in front of me was telling me that it was all related to the automobile.

□ 2220

I would have spent hours poring over that and so on in order to learn that information because it was directly related to something I was interested in. We can do that for every child. And we will end up with an educational system which is more vibrant, more useful and ultimately graduate a much better class of students prepared for the world that is coming. That is a cultural revolution.

Fourthly, I would submit to my colleagues that just like at the end of the 18th century, there is a technological revolution taking place, and the technological revolution is unbelievable. I serve as the ranking Republican, the Republican chairman of the Committee on Science, Space, and Technology. I here all about these new technologies all the time. The scientists who come before us tell us that we are likely to see in the next quarter of a century five times the level of technological change that we have seen in the last century.

Think back to what the world was like in 1890 and then think how much change has taken place in that 100-year period. And then think about the fact that we are going to see five times that level of technical change in just the next 25 years. We get some idea as to how bit the change is going to be.

What kind of changes am I talking about? Well, we are in the process of designing to be built right now something called the national aerospace plane. It is an experimental airplane, the other name for it is the X-30. The interesting thing about that aircraft will be it will have new materials in it, new engines, new ways of integrating the technologies incumbent in the airplane. And the interesting thing is, it is capable of flying across the country in 15 minutes. It is capable of flying anywhere in the world in 2 hours. We are going to have to approve a technology of an airplane capable of taking off from a runway and going anywhere in the world in 2 hours and landing on another runway.

Now, what does that mean for our future? In my view what that means for our future is that it changes the world as we have known it. It means that you can have a businessman who gets up in Washington, DC in the morning and says to his wife, "Honey, I have got business in Tokyo, but do not worry about me. I will be home in time for dinner."

You might say, well, it does not sound very likely to me. Think about it. I think about my own lifetime. When I was a high school kid, we still were flying propeller-driven airplanes. We had not gone to jet airplanes yet.

If you wanted to go to Chicago from Washington, DC, it took you the better part of a day to get the flights, get out there and so on. You were not having very many people that were making a lot of trips in one day from Washington to Chicago and back.

And yet with the advent of the jet airplane, within my lifetime, I, personally, have had the experience on a couple of occasions of getting up in the morning in Washington, DC, flying to Chicago, making a speech, and flying back to Washington, DC and being back here in time for the House of Representatives to go into session at noon.

That kind of change has taken place in my lifetime. This technology will mean a similar kind of change can take place in the lifetime of others.

A few weeks ago we had a fairly heated debate on the House floor with regard to building the space station. There were a lot of things said about the merits of this and the demerits of it, but it is one of those new technologies that will change things in my belief very heavily. Within the last few days there has been an article in the New York Times about a new medical device that could be flown aboard that space station.

What the medical device will be able to do is replicate cells.

In other words, you can take one cell from a human being and have it replicated aboard this on this machine aboard the space station in weightlessness.

You might say, what does that mean? Well, what it means is we can create a new human organ. If someone has liver cancer, we could literally be able to take one cell from that liver, take it to space, create a new liver for that person, bring it back and be able to transplant it for that person. Or a kidney or perhaps an optic nerve for a blind person or they have even already worked with brain cells so that if you had brain cancer, we might be able to replace damaged parts of the brain.

Think about what that means for mankind if you are capable of doing that. But you see it takes a manned space station in order to do it. You have to have human beings there to work the machines. So you have to have a space station. You have to have a livable environment in space in order to make that work.

And that is the kind of new technology that will change the world in ways that you cannot even imagine.

Or communications. We are going to see a revolution in communications. This information-driven economy that I am talking about will be largely technologically created because it is the information flow that will make it possible. With fiber-optic cable, we will be able to have massive amounts of information moving throughout the world. And what that will mean is that people in their homes and in their schools and in their workplaces will be able to have access to information in amounts we have never known before. And the important thing is they are going to be able to process that information.

Because in addition to the communications, we are going to have a revolution in computers. Already we are microminiaturing computers to the point that in the not-too-distant future we will be able to have a computer with the processing capacity of a supercomputer, but it will be the size of a credit card that we can put in our wallets.

And think what that means then in our ability to create artificial intelligence that can be used in robots, robots that will then help improve the livelihood of people and will help make our industries more productive.

What I am saying is that not only do you have all these things happening but that also they are interacting with each other. Each of these revolutions is not a separate compartment, as I have described them here. Each of them is truly taking place, but they are interacting.

I will give a couple of examples. The technological revolution, the communications, we have already seen that impact on the political revolutions taking place. One of the reasons why many men and women around the world were able to rise up against tyrants and oppressors is because they had information, because they had fax machines that were showing them what the rest of the world was seeing.

Even when they could not get information from their own government, they found out in the midst of their revolution what was being said about them in the United States because someone faxed them the information.

The young people in Tianamen Square were understanding what the world was talking about in their revolution because there were literally faxes flowing back and forth. That level of transmission of information makes it almost impossible for tyrannical societies to continue to succeed.

And it is one reason why we see a decentralization of power. The robotic revolution that is just around the corner will certainly have a positive impact on the economies of the future.

One thing that needs to be understood and one thing which is often challenging people, and they do not understand, is how this new economy ends up creating more jobs and better jobs than those that were in the industrial economy.

As a matter of fact, many people see the industrial economy as being in trouble and think that that means that there is no hope ahead. That is the anlaysis too often we get from liberal Democrats right here in the Congress.

Nothing could be further from the truth. Just as agriculture was benefited by industry when we got machines on the farm, it made the farm more productive; information in industry will make the industries more productive.

I will give you an example. If you go to a racetrack around the country and watch automobile racing, you will see hosts of people there with computers measuring tires and looking at the tires and the tire compounds. What are they doing?

They are trying to figure out how to make better automative tires, based upon this very, very tough experience of being at high speed on a racetrack. And the information that they gather there is creating new compounds and new kinds of tires, and they are creating a much better product. It is information-driven technology that is improving industrial performance.

And we are going to see far more of that in the future. That is just one example of many, there are millions of examples of the same kind.

But that is where the technological revolution interacts with the economic revolution and the cultural revolution interacts with the technological revolution because, if, in fact, we are seeing things from space and it is changing our view of the world, that is technology having an impact on culture. And the fact is that as we become more and more interested in things like the environment, we will find that there are technological solutions to some of our environmental problems.

□ 2230

We will find that there are ways of utilizing information that will improve the environment, and also those new technologies will drive us toward a better standard of living.

Here is the problem for America in these revolutionary times: In Congress you have the single most reactionary institution in the country. And I do not say that lightly. Congress is the single most reactionary institution in the country. I assume that that is in part because Congress is so tied to special interests these days that it has to tie itself to the status quo. So when you hear leaders come to the floor and suggest that there is not much we can do, or the only thing we can do is play at the edges, or the only thing that we can do is repackage old ideas, they are really reflecting the fact that they are people incapable of dealing with revolutionary times, because what they are really saying to you is we cannot break out of the status quo because all of the special interests who finance our campaigns, all of the special interests that come out and vote are special interests that we feel tied to. And we can in no way betray them.

The fact is that the special interests tend to be those institutions that have welded themselves to the past, that they do not want real change, and they do not accept the change around them. In fact, what they want to do in most cases is black the change out, they want to erect walls to stop the change from taking place, and every time you erect one of those walls you in fact endanger our ability to be competitive in revolutionary times. And that is what you are hearing from the Democrats in the Congress. They are people wedded to the status quo and incapable of changing enough to meet the times in which we live.

I am afraid that in many cases I see that within my own party as well. Too often I see it in the leadership that we get from the White House. Too often I see it in the proposals that we bring forward as so-called Republican alternatives on the floor. Too often we are not visionary enough to recognize the times. The only identity we have being the minority party in the House is the fact that we do not have to be as responsive to special interest power as the Democrats do.

Some of the Republicans are. I mean some of them are very much tied to special interest too. But the fact is, as a party we are not as closed to new ideas as a party that has literally been in power in the House for 40 years and thinks that it knows how to maintain that power by keeping things pretty much as they are. We are not as tied to that on the Republican side of the aisle.

So we have a duty, it seems to me, to be somewhat more revolutionary in our thinking. We have to take this reactionary institution and try to change it. And that is what some of us do here on a regular basis. Sometimes it gets a little sticky, sometimes it gets a little tough. We sometimes probably make mistakes doing it. But one of the things I think we have an obligation to do is to try to bring about changes, because if we do not change here, if Government does not change, if institutions do not change in revolutionary times, we will become like the monarchs at the end of the 18th century and the beginning of the 19th century who failed to see the revolution around them, failed to change and were consumed by the revolution.

This country has too much to give. It is too great to allow revolution to sweep it away. Instead, we have a Constitution, a Bill of Rights, a capability not to be consumed by revolution, but to lead the revolution. That is what we ought to be doing. The vision that we have ought to understand that all of these things that are happening around us can in fact be positive, that they can create more jobs, that they can create more hope, that they can give more people the capacity to rise above their station, that people do not have to be poor any more, people do not have to be uneducated. We do not have to have deteriorating cities. We do not have to have all of these ills around us if we will simply tie ourselves to the revolution.

We can do it. There are many days I become discouraged in the Congress because what I see us doing is simply trying to protect ourselves from the winds of change rather than trying to figure out a way to ride those winds of change.

I hope there is a change in the Congress. I hope that maybe in the next session of Congress we will do better than we have done in this session, we will begin to realize that the revolution is here and that we must be a part of it.

Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE, for 5 minutes each day, on November 25 and 26.

Mr. RIGGS, for 5 minutes, today.

Mr. RIGGS, for 60 minutes, on November 23.

Mrs. BENTLEY, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on November 23.

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. KOLTER, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Ms. OAKAR, for 60 minutes, on November 25 and 26.

Mr. LIPINSKI, for 60 minutes, on November 25.

Mr. PEASE, for 5 minutes, on November 25 and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include exraneous matter:)

Mr. SENSENBRENNER.

Mr. PORTER.

Mr. GALLO.

Mr. MACHTLEY.

Mr. GILMAN in three instances.

Mr. GOODLING.

Mr. BAKER.

Mr. BLILEY.

Mr. GRADISON.

Mr. HORTON.

Mr. GREEN of New York in two instances.

Mr. GEKAS.

Mr. SOLOMON.

Ms. ROS-LEHTINEN.

Mrs. BENTLEY in three instances.

Mr. BURTON of Indiana.

Mr. MCGRATH in two instances.

Mr. COBLE.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. BILBRAY in two instances.

Mr. BROWN.

Mr. LANTOS in two instances.

Mr. ACKERMAN.

Mr. KOSTMAYER.

Mr. VISCLOSKY.

Mr. STARK in two instances.

Mr. ENGLISH.

Ms. OAKAR.

Mr. OWENS of New York.

Mr. BENNETT.

Mr. STALLINGS.

Mr. PETERSON of Minnesota.

Mr. LEHMAN of California.

Mr. HOYER.

Mr. FAZIO.

Mr. ASPIN.

Mr. SERRANO.

Ms. SLAUGHTER of New York.

Mr. RAY.

Mr. BRUCE.

Mr. MILLER of California in two instances.

Mr. MCHUGH in two instances.

Mr. LAUGHLIN.

Mr. RICHARDSON in two instances.

Mr. TOWNS.

Mr. DIXON.

Mr. SWETT in two instances.

Mr. LEVINE of California.

Mrs. SCHROEDER.

Mr. JOHNSON of South Dakota.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 36 minutes p.m.) under its previous order, the House adjourned until tomorrow, Saturday, November 23, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2393. A letter from the comptroller of the Department of Defense, transmitting one report of violation that occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(B); to the Committee on Appropriations.

2394. A letter from the Deputy Secretary, Department of Defense, transmitting the report of the Commission on the Consolidation and Conversion of Defense Research and Development Laboratories, pursuant to Public Law 101-510, section 246(g) (104 Stat. 1521); to the Committee on Armed Services.

2395. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President intends to exercise his authority under section 506(a) of the Foreign Assistance Act in order to authorize the furnishing of $10 million to support Senegal's deployment of peacekeeping forces in Liberia, pursuant to 22 U.S.C. 2348(c)(2); to the Committee on Foreign Affairs.

2396. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from August through the first part of October 1991, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2397. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Richard B. Stone, of the District of Columbia, to be Ambassador to Denmark, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2398. A letter from Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112B(a); to the Committee on Foreign Affairs.

2399. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Agency's annual report on the Program Fraud Civil Remedies Act for the year ending September 30, 1991, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2400. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1991 through September 30, 1991, pursuant to 2 U.S.C. 104a (H. Doc. No. 102–168); to the Committee on House Administration and ordered to be printed.

2401. A letter from the Secretary of Commerce, transmitting notice of designation for the Flower Garden Banks National Marine Sanctuary, from the National Oceanic and Atmospheric Administration, National Ocean Service, and the Department of Commerce, pursuant to 16 U.S.C. 1431 et seq.; to the Committee on Merchant Marine and Fisheries.

2402. A letter from the Secretary of Transportation, transmitting the Department's report on the potential benefits of a shipper responsibility law; to the Committee on Public Works and Transportation.

2403. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 70th National Convention, including their annual audit report of receipts and expenditures as of December 31, 1990, pursuant to 44 U.S.C. 1332, and section 3 of Public Law 88–504 (H. Doc. No. 102–167); to the Committee on Veterans' Affairs and ordered to be printed.

2404. A letter from the Secretary, Department of Health and Human Services, transmitting the fifth report on tier III Federal agency drug-free workplace programs, pursuant to Public Law 100–71, section 503(a)(1)(A) (101 Stat. 468); jointly, to the Committees on Appropriations and Post Office and Civil Service.

2405. A letter from the Secretary of Labor, transmitting a draft of proposed legislation entitled, "Pension Protection in Bankruptcy Act of 1991"; jointly, to the Committees on Ways and Means, Education and Labor, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3604. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes; with amendments (Rept. 102–346, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3327. A bill to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department (Rept. 102–347). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1099. A bill to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. 102–348). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2431. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; with amendments (Rept. 102–349). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 294. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 102–351). Referred to the House Calendar.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1592. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; with an amendment (Report. 102–352). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3370. A bill to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, OK; with amendments (Rept. 102–353). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interim and Insular Affairs. H.R. 2141. A bill to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; with an amendment (Rept. 102–354, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3645. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes. (Rept. 102–355). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2263. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; with amendments (Rept. 102–356). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3282. A bill to provide for the equity of revenue availability on American and foreign cruise vessels, the regulation of gaming on vessels, penalties for gambling violations, and for other purposes; with amendments (Rept. 102–357). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3435. A bill to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; with amendments (Rept. 102–358). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3638. A bill making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; without amendment. Committee of the Whole House on the state of the Union discharged. Referred to the Committee on Interior and Insular Affairs for a period ending not later than November 25, 1991, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l) of rule X. (Rept. 102–350, Part, 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT;

H.R. 3865. A bill to amend the Solid Waste Disposal Act to authorize appropriations for fiscal years 1993 through 1998, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ORTIZ (for himself, Mr. JONES of North Carolina, and Mr. STUDDS):

H.R. 3866. A bill to provide for the designation of the Flower Garden Banks National Marine Sanctuary; to the Committee on Merchant Marine and Fisheries.

By Mr. BARNARD (for himself, Mr. WYLIE, Mr. MCCANDLESS, and Mr. BAKER):

H.R. 3867. A bill to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PANETTA;

H.R. 3868. A bill to provide sanctions against any country that does not prohibit large-scale drift net fishing by nationals and vessels of that country, to enhance fisheries conservation programs, to extend the Fish and Seafood Promotion Act of 1986, and to stabilize the price received by harvesters of sockeye salmon; jointly, to the Committee on Merchant Marine and Fisheries and Ways and Means.

By Mr. INHOFE;

H.R. 3869. A bill to provide a uniform benefit structure for purposes of the Emergency

Unemployment Compensation Act of 1991; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. GEPHARDT, and Mr. HAMILTON):

H.R. 3870. A bill to provide for the furnishing of emergency humanitarian assistance to the people of the Soviet Union and to assist in the conversion of the military industrial complex of the Soviet Union to civilian uses; jointly, to the Committee on Armed Services and Foreign Affairs.

By Mr. BARTON of Texas (for himself, Ms. PELOSI, Mr. MILLER of Washington, Mr. JONES of Georgia, and Mr. HOBSON):

H.R. 3871. A bill to provide for adjustment to permanent resident status of certain Chinese nationals; to the Committee on the Judiciary.

By Mr. BENNETT:

H.R. 3872. A bill to establish a commission to assist the Soviet Republics and nations of Eastern Europe during their transition to a market economy, democracy, and stable governments; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H.R. 3873. A bill to express United States policy regarding the restoration of democratic constitutional government in Haiti, to grant temporary protected status to Haitians until such a government is restored, and to terminate the migrant interdiction agreement between the United States and Haiti; jointly, to the Committees on Foreign Affairs, Ways and Means, Merchant Marine and Fisheries, and the Judiciary.

By Mr. DIXON (for himself, Mr. APPLEGATE, Mr. BUSTAMANTE, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. DWYER of New Jersey, Mr. ESPY, Mr. FRANK of Massachusetts, Mr. FUSTER, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. MFUME, Mr. MRAZEK, Mr. MURPHY, Ms. NORTON, Mr. OBERSTAR, Mr. OWENS of New York, Mr. PERKINS, Mr. RANGEL, Mr. SAVAGE, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. WOLPE, Mr. WASHINGTON, Mr. FORD of Tennessee, Ms. KAPTUR, Mr. EVANS, Mr. FROST, and Mr. CONYERS):

H.R. 3874. A bill to amend the Internal Revenue Code of 1986 to promote the development and preservation of rental housing for low- and moderate-income families; to the Committee on Ways and Means.

By Mr. DONNELLY (for himself, Mr. NEAL of Massachusetts, and Mr. MAVROULES):

H.R. 3875. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for capital gains for middle-income taxpayers and to provide for revenue increases to fund such relief; to the Committee on Ways and Means.

By Mr. DOOLEY (for himself, Mr. LEHMAN of California, Mr. HERGER, Mr. CONDIT, and Mr. DOOLITTLE):

H.R. 3876. A bill to protect, restore, and enhance fish and wildlife habitat within the Central Valley of California, mitigate Central Valley Project impacts in order to maintain the continued orderly operation on the Central Valley Project, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries and Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 3877. A bill to provide equal access to Presidential, congressional, and judicial records; to the Committee on Government Operations.

By Mr. FORD of Michigan (for himself, Mr. GAYDOS, Mr. CLAY, Mr. MURPHY, Mr. KILDEE, Mr. PERKINS, Mr. ANNUNZIO, Ms. COLLINS of Michigan, Mr. DEFAZIO, Mr. DELLUMS, Mr. ECKART, Mr. EVANS, Mr. GLICKMAN, Mr. GONZALEZ, Mr. HEFNER, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KLECZKA, Mr. KOLTER, Mr. MCNULTY, Mr. MURTHA, Mr. POSHARD, Mr. STARK, Mr. TOWNS, and Mr. TRAXLER):

H.R. 3878. A bill to provide assistance to employees who are subject to a plant closing or mass layoff because their work is transferred to another country which has low wages or unhealthy working conditions; to the Committee on Education and Labor.

By Mr. GEKAS:

H.R. 3879. A bill to apply to administrative judges of the Merit Systems Protection Board certain protections afforded to administrative law judges appointed under section 3105 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GILLMOR:

H.R. 3880. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; jointly, to the Committees on Education and Labor, House Administration, and Government Operations.

By Mr. GORDON:

H.R. 3881. A bill to expand the boundaries of Stones River National Battlefield, TN, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON (for himself and Mr. ROBERTS):

H.R. 3882. A bill to amend section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act to coordinate and synchronize pesticide data requirements; to the Committee on Agriculture.

By Mr. HUNTER:

H.R. 3383. A bill to amend chapter 73 of title 10, United States Code, to provide a minimum monthly annuity under such chapter; to the Committee on Armed Services.

By Mr. JACOBS:

H.R. 3884. A bill to suspend through December 31, 1994, the duty on ioxilan; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 3885. A bill to amend the Toxic Substance Control Act to increase the criminal penalties, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. LEVINE of California:

H.R. 3886. A bill to increase the achievement levels of elementary and secondary students by using high quality curricular-based learning resources; to the Committee on Education and Labor.

By Mr. MCEWEN:

H.R. 3887. A bill to amend the Agricultural Act of 1949 to eliminate the loan origination fee charged a producer of oilseed crops; to the Committee on Agriculture.

By Mr. MCGRATH:

H.R. 3888. A bill to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations; to the Committee on Ways and Means.

H.R. 3889. A bill to amend the Tariff Act of 1930 to increase the allowance for bona fide gifts sent from persons in foreign countries to persons in the United States; to the Committee on Ways and Means.

By Mr. MOODY:

H.R. 3890. A bill to direct the Administration of the Federal Aviation Administration to issue regulations to require individuals conducting weapon screenings of passengers in air transportation to notify law enforcement officers of discoveries of controlled substances and/or sums of money in excess of $10,000 in accordance with applicable Federal guidelines; to the Committee on Public Works and Transportation.

By Mr. RAMSTAD (for himself, Mr. FISH, Mr. GALLEGLY, Mr. COMBEST, Mr. WEBER, Mr. CUNNINGHAM, Mr. CAMPBELL of California, Mr. SENSENBRENNER, Mr. EMERSON, Mr. HERGER, Mr. OXLEY, Mr. MAZZOLI, Mr. LEWIS of California, Mr. SCHIFF, Mr. FIELDS, Mr. CAMP, Mr. SANTORUM, Mr. PAXON, Mr. STUMP, Mr. COBLE, Mr. MILLER of Ohio, Mr. FRANKS of Connecticut, Mr. ARMEY, Mr. PARKER Mr. SOLOMON, Mr. KYL, and Mr. HANCOCK):

H.R. 3891. A bill to provide life imprisonment without releases for certain criminals convicted a third time; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. RINALDO (for himself, Mr. HOBSON, and Mr. SMITH of New Jersey):

H.R. 3890. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for expenses paid by an employer for a group health plan if the plan discriminates against adopted children; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 3893. A bill to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically abusing a child; to the Committee on Post Office and Civil Service.

By Mr. STALLINGS (for himself and Mr. LAROCCO):

H.R. 3894. A bill to prohibit the transportation of certain nuclear waste to the Idaho National Engineering Laboratory; to the Committee on Armed Services.

By Mr. STARK:

H.R. 3895. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the production or importation of asbestos; to the Committee on Ways and Means.

By Mr. VISCLOSKY:

H.R. 3896. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in Lake County or Porter County, IN; to the Committee on Veterans' Affairs.

By Mrs. VUCANOVICH (for herself, Mr. DOOLITTLE, Mr. STALLINGS, and Mr. HANSEN):

H.R. 3897. A bill to provide for the apportionment and distribution of the award in Indian Claims Commission docket numbered 326–k, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHEAT:

H.R. 3898. A bill to provide for the addition of the Truman farm house to the Harry S. Truman National Historic Site in the State of Missouri; to the Committee on Interior and Insular Affairs.

By Mr. ANDREWS of Maine:

H.J. Res. 380. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; to the Committee on Post Office and Civil Service.

By Mr. BLILEY:

H.J. Res. 381. Joint Resolution designating January 16, 1992, as "Religious Freedom Day"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Res. 292. Resolution expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mr. BLAZ, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. LEACH, Mr. LAGOMARSINO, Mr. FALEOMAVAEGA, Mr. SMITH of New Jersey, Ms. SNOWE, Mr. BOEHLERT, Mr. MCHUGH, Mr. MCCANDLESS, Ms. OAKAR, Mr. LEVIN of Michigan, Mr. THOMAS of California, Mr. LAFALCE, Mr. GREEN of New York, Mr. HORTON, Mr. REGULA, Mr. SAXTON, Mr. BLILEY, Mr. BAKER, Mr. SPENCE, Mr. WEBER, Mr. BURTON of Indiana, Mrs. JOHNSON of Connecticut, Mr. MCEWEN, Mr. BALLENGER, Mr. COBLE, Mr. HANCOCK, Mr. EDWARDS of Oklahoma, Mr. MONTGOMERY, Mr. DUNCAN, Mr. DANNEMEYER, Mr. CUNNINGHAM, Mr. HUCKABY, Mr. HOLLOWAY, Mr. BROOMFIELD, Mr. CAMP, Mr. RANGEL, Ms. SLAUGHTER of New York, Mr. MCGRATH, Mr. RAMSTAD, Mr. DELAY, Mr. CALLAHAN, Mr. DREIER of California, and Mr. ASPIN):

H. Res. 293. Resolution commending the people of Guam and Hawaii for the sacrifices and contributions they made during World War II; to the Committee on Interior and Insular Affairs.

By Mrs. BENTLEY (for herself, Mr. CUNNINGHAM, Mr. PACKARD, Ms. KAPTUR, Mr. TRAFICANT, and Mr. BLACKWELL):

H. Res. 295. Resolution requesting that Japan should apologize; to the Committee on Foreign Affairs.

By Mr. GALLEGLY (for himself, Mr. GILMAN, Mr. UPTON, Mr. PURSELL, Mr. VANDER JAGT, Mr. BROOMFIELD, Mr. SENSENBRENNER, Mr. CAMPBELL of California, Mr. COX of California, Mr. RAVENEL, Mr. HALL of Texas, Mr. LIPINSKI, Mr. TRAFICANT, Mr. ANDREWS of Texas, Mr. MILLER of Washington, Mr. ECKART, Mr. ROHRABACHER, Mr. TORRICELLI, Mr. DOOLITTLE, Mr. TAUZIN, Mr. DANNEMEYER, Mr. KYL, Mr. DREIER of California, Mr. HYDE, Mr. RHODES, Mr. EDWARDS of Oklahoma, Mr. LANTOS, Mr. ACKERMAN, Mr. LAFALCE, Mr. MOORHEAD, Mr. DORNAN of California, Mr. SMITH of New Jersey, Mr. KASICH, Mr. RITTER, Ms. MOLINARI, Mr. RIGGS, Mr. FAWELL, Mr. ANDERSON, and Mr. LIVINGSTON):

H. Res. 296. Resolution expressing the sense of the House of Representatives regarding United States policy toward Yugoslavia; to the Committee on Foreign Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SPRATT, Mr. HYDE, Mr. PEASE, Mrs. KENNELLY, Mr. DINGELL, Mr. MOAKLEY, Mr. ASPIN, Mr. MURTHA, Mr. CHANDLER, Mr. BROOMFIELD, Mr. FORD of Michigan, Mr. FRANKS of Connecticut, Mr. CARDIN, Mr. CONYERS, Mr. COYNE, Mrs. BENTLEY, Mr. RUSSO, Mr. APPLEGATE, Mr. SAWYER, Mr. BUSTAMANTE, Mr. FAWELL, Mr. MURPHY, Mr. ABERCROMBIE, Mr. COX of California, Mr. DURBIN, Mr. GOODLING, Mr. LUKEN, Mr. RIDGE, Mr. RITTER, Mrs. PATTERSON, Mr. STOKES, Mr. OWENS of Utah, Mr. HORTON, Mr. ECKART, Mr. YATRON, Mr. WALSH, Mr. MCNULTY, Mr. HENRY, Mr. MCGRATH, Mr. COX of Illinois, Mr. CAMP, Mrs. MEYERS of Kansas, Mr. DAVIS, Mr. ATKINS, Mr. CARR, Mr. PAXON, Mr. TOWNS, Mr. BUNNING, Mr. SANGMEISTER, Mrs. BYRON, Mr. MCDADE, Mr. HALL of Ohio, Mr. KENNEDY, Mr. FOGLIETTA, Mr. NEAL of Massachusetts, Mr. WOLPE, Mr. HUNTER, Mr. GEKAS, Mr. HERTEL, Mr. SUNDQUIST, Mr. GILCHREST, Mr. GAYDOS, Mr. MCMILLEN of Maryland, Mrs. MORELLA, Mr. SANTORUM, Mr. OLIN, Mr. SIKORSKI, Mr. HAYES of Illinois, Mr. BALLENGER, Mr. NOWAK, Mr. PORTER, Mr. SENSENBRENNER, Mr. KILDEE, and Mr. SHAYS):

H. Res. 297. Resolution to urge the President to renew the voluntary restraint arrangements with Japan and Taiwan for an additional 5 years; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BROWDER introduced a bill (H.R. 3899) for the relief of Merrill L. Johnson-Lannen; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. BEREUTER.

H.R. 47: Mr. ABERCROMBIE.

H.R. 81: Ms. NORTON.

H.R. 144: Mr. ROTH.

H.R. 187: Mr. FLAKE, Mr. TRAXLER, and Mr. FROST.

H.R. 191: Mr. PACKARD, Mr. WALKER, Mr. ROHRABACHER, and Mr. RITTER.

H.R. 194: Mr. DWYER of New Jersey and Mr. KILDEE.

H.R. 252: Mr. SWETT and Mr. WASHINGTON.

H.R. 413: Mr. LAGOMARSINO, Mrs. COLLINS of Illinois, Mr. RICHARDSON, Mr. PACKARD, Mr. ROYBAL, Mr. GILCHREST, and Mr. MCMILLAN of North Carolina.

H.R. 461: Mr. KOPETSKI, Mr. BROWN, Mr. SPRATT, and Mr. JOHNSON of South Dakota.

H.R. 519: Mr. PACKARD.

H.R. 565: Mrs. UNSOELD, Mr. SMITH of Texas, Mr. ANDREWS of Maine, and Mr. MONTGOMERY.

H.R. 606: Mr. ARMEY.

H.R. 643: Mr. AUCOIN.

H.R. 842: Mr. SERRANO, Mr. FISH, Mr. REED, Ms. NORTON, Mr. SYNAR, and Mr. DONNELLY.

H.R. 911: Mr. UPTON.

H.R. 1021: Ms. NORTON.

H.R. 1048: Mr. MARKEY.

H.R. 1124: Mrs. BOXER and Mr. KLECZKA.

H.R. 1147: Mr. APPLEGATE, Mr. ECKART, and Mr. ALLEN.

H.R. 1200: Mr. WALSH, Mr. BEVILL, Mr. KOLTER, Mr. AUCOIN, Mrs. SCHROEDER, Mr. SABO, and Mr. DE LUGO.

H.R. 1240: Mr. CLAY.

H.R. 1300: Mr. FEIGHAN.

H.R. 1502: Mr. DICKS and Mr. MACHTLEY.

H.R. 1509: Mr. MINETA, Ms. SNOWE, Mr. PANETTA, Mr. HAYES of Louisiana, Mr. SPENCE, Mr. ERDREICH, Mr. MCNULTY, Mr. BLAZ, Mr. PERKINS, Mr. OWENS of Utah, Mr. SANTORUM, Mr. COSTELLO, Mr. GEREN of Texas, Mr. HOLLOWAY, Mr. HAYES of Illinois, Mr. BROWN, Mr. DUNCAN, Mr. LIVINGSTON, Mr. MCCRERY, Mr. MCDADE, Mr. MCGRATH, Mr. MARLENEE, Mr. MFUME, Mr. MURTHA, Mr. SAVAGE, Mr. OXLEY, Mr. SPRATT, Mr. TRAFICANT, Ms. SLAUGHTER of New York, Ms. NORTON, Mr. STENHOLM, Mr. MCMILLEN of Maryland, Mr. MORAN, Mr. CALLAHAN, Mr. GINGRICH, Mrs. BENTLEY, Mr. KASICH, Mr. MCCLOSKEY, Mr. MURPHY, Mr. ROWLAND, Mr. FOGLIETTA, Mr. LOWERY of California, Mr. TALLON, Mr. BEVILL, Mr. DREIER of California, Mr. SAXTON, Mr. COBLE, Mr. JONES of North Carolina, Mr. CLEMENT, Mr. MYERS of Indiana, Mr. DEFAZIO, Mrs. MORELLA, Mr. ORTIZ, Mr. DE LA GARZA, Mr. SISISKY, Mr. FRANKS of Connecticut, Mr. MATSUI, and Mr. MARTINEZ.

H.R. 1633: Mr. RAHALL and Mr. BOUCHER.

H.R. 1665: Mr. WEISS.

H.R. 1703: Mr. FOGLIETTA.

H.R. 1730: Mr. SANTORUM, Mr. JOHNSON of Texas, Mr. GINGRICH, Mr. LIVINGSTON, Mr. YOUNG of Alaska, Mr. LAFALCE, Mr. BLAZ, and Mrs. LLOYD.

H.R. 1736: Mr. GILLMOR.

H.R. 1752: Mrs. LOWEY of New York.

H.R. 1898: Ms. PELOSI, Mr. JACOBS, Mrs. UNSOELD, Mr. LIGHTFOOT, Mr. DELLUMS, Mr. LEWIS of Florida, Mr. HORTON, Mr. JEFFERSON, Ms. KAPTUR, Mr. BEREUTER, Mr. RANGEL, and Ms. NORTON.

H.R. 2008: Mr. HEFLEY.

H.R. 2089: Mr. LANTOS and Ms. KAPTUR.

H.R. 2286: Mr. ARMEY and Mr. WALSH.

H.R. 2363: Mr. KASICH, Mr. LEVIN of Michigan, Mr. MCNULTY, Mr. NUSSLE, Mr. DELLUMS, Mr. DE LUGO, Mr. HERGER, and Mr. DIXON.

H.R. 2500: Mr. BROWN.

H.R. 2501: Mr. LIPINSKI.

H.R. 2540: Mr. SMITH of Florida.

H.R. 2541: Mr. BLAZ.

H.R. 2598: Mr. NUSSLE, Mr. ANDREWS of New Jersey, Mr. SCHIFF, Mr. ACKERMAN, and Mr. COLEMAN of Texas.

H.R. 2755: Mr. SLATTERY.

H.R. 2811: Mr. HASTERT.

H.R. 2862: Mr. UPTON.

H.R. 2881: Mr. BEILENSON.

H.R. 2936: Mrs. BOXER and Mr. SCHIFF.

H.R. 2964: Mr. MCCANDLESS, Mr. MARTIN, and Mr. BEILENSON.

H.R. 3058: Mr. JOHNSON of South Dakota, Mr. DWYER of New Jersey, Mr. RAVENEL, Mr. HUGHES, Mr. POSHARD, Mr. NOWAK, Mr. MACHTLEY, Mr. CONDIT, and Mr. PAYNE of Virginia.

H.R. 3059: Mr. JOHNSON of South Dakota, Mr. DWYER of New Jersey, Mr. RAVENEL, Mr. HUGHES, Mr. POSHARD, Mr. NOWAK, and Mr. MACHTLEY.

H.R. 3061: Mr. SOLOMON.

H.R. 3070: Mr. RAY, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. BEVILL, Mr. SHARP, and Mr. TRAFICANT.

H.R. 3084: Mr. DOOLITTLE and Mr. STEARNS.

H.R. 3102: Mr. AUCOIN, Mr. DIXON, and Mr. FOGLIETTA.

H.R. 3142: Mr. YOUNG of Alaska.

H.R. 3236: Mr. RANGEL and Mr. BONIOR.

H.R. 3253: Mr. DEFAZIO, Mr. TORRICELLI, Mr. RUSSO, and Mr. SMITH of Florida.

H.R. 3277: Mr. STUDDS, Mr. SYNAR, Mr. ENGLISH, Mr. SAXTON, Mr. CHAPMAN, Mr. BOUCHER, Mr. PALLONE, Mr. BREWSTER, and Mr. MOODY.

H.R. 3282: Mr. FRANKS of Connecticut and Mr. CLEMENT.

H.R. 3337: Mr. COLEMAN of Missouri, Mr. DINGELL, Mr. PICKLE, Mr. SUNDQUIST, Mr. RIDGE, Mr. MCMILLAN of North Carolina, Mr. LENT, Mr. SHAW, Mr. RHODES, Mr. THOMAS of California, Mr. BROOMFIELD, Mr. TRAXLER, Mr. HYDE, Mr. HOLLOWAY, Mr. DORNAN of California, Mr. WEBER, Mr. COMBEST, Mr. HANSEN, Mr. QUILLEN, Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. GOODLING, Mr. GRANDY, Mr. TAYLOR of Mississippi, Mr. DARDEN, Mr. JONES of Georgia, Mr. RAHALL, Mr. MCGRATH, Mr. ASPIN, Mr. SPENCE, Mr. HOAGLAND, Mr. PERKINS, Mr. SMITH of Iowa, Mr. SCHAEFER, Mr. ANTHONY, Mr. YOUNG of Florida, Mr. ERDREICH, Mr. MONTGOMERY, Mr. DELLUMS, Mr. SENSENBRENNER, Mr. HASTERT, Mr. GEKAS, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. LIVINGSTON, Mr. GALLEGLY, Mr. BERMAN, Mr. HERGER, Mr. CALLAHAN, Mr. THOMAS of Wyoming, and Mr. SLATTERY.

H.R. 3373: Ms. HORN, Mr. BRYANT, and Mr. MARKEY.

H.R. 3407: Mr. DYMALLY and Mr. SLATTERY.

H.R. 3420: Mr. BARNARD, Mr. BRUCE, Ms. LONG, Mr. TALLON, Mr. CAMP, Mr. QUILLEN, Mr. NAGLE, Mr. HENRY, Mr. WILLIAMS, Mr. DICKINSON, Mr. VALENTINE, Mr. VANDER JAGT, Mr. JOHNSON of South Dakota, Mr. STENHOLM, and Mr. LANCASTER.

H.R. 3452: Mr. BILIRAKIS.

H.R. 3464: Mr. MARKEY.

H.R. 3473: Mr. DWYER of New Jersey, Mr. STALLINGS, and Mr. SWIFT.

H.R. 3540: Mr. RANGEL.

H.R. 3553: Mr. SWIFT.

H.R. 3555: Mr. PALLONE.

H.R. 3561: Mr. HYDE, Mr. KLUG, Mr. HERGER, Mr. MOORHEAD, Mr. PAXON, and Mr. FRANKS of Connecticut.

H.R. 3616: Mr. DANNEMEYER.

H.R. 3627: Mr. BUNNING, Mr. ROGERS, Mr. CHANDLER, Mr. EWING, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. NEAL of North Carolina, Mr. KILDEE, Mr. SWIFT, Mr. RAY, Mr. STUMP, Mr. CRANE, Mr. NICHOLS, Mr. TAYLOR of North Carolina, Mr. PORTER, Mr. MARLENEE, Mr. RIDGE, Mr. HUNTER, Mr. DANNEMEYER, Mr. MAZZOLI, Mr. HYDE, Mr. AuCOIN, and Mr. GALLO.

H.R. 3649: Mr. TOWNS and Mr. JONTZ.

H.R. 3675: Mr. RANGEL, Mr. JONTZ, Mr. SCHUMER, Mr. WAXMAN, and Mr. DWYER of New Jersey.

H.R. 3706: Mr. TORRICELLI, Mr. DORGAN of North Dakota, Mr. KLECZKA, Mr. ENGEL, Mr. FROST, and Mr. PAXON.

H.R. 3748: Mr. BONIOR, Mr. EVANS, Mr. BRYANT, Mr. DIXON, Mr. FAZIO, Mr. PANETTA, Mr. McCLOSKEY, Mr. DELLUMS, Mr. CLAY, Mr. FORD of Tennessee, Mr. ESPY, Mr. FROST, Mr. SERRANO, Mr. LEWIS of Georgia, Mr. DE LUGO, Mr. GREEN of New York, Mrs. MORELLA, Mr. PRICE, and Mrs. KENNELLY.

H.R. 3816: Mr. FISH, Mr. GRANDY, Mr. KLUG, Ms. MOLINARI, Mr. WELDON, Mr. KOLTER, Mr. McCOLLUM, Mr. SARPALIUS, Mr. GILCHREST, Mr. BEVILL, Mr. JOHNSON of Texas, Mr. SHUSTER, Mr. ATKINS, Mr. BEREUTER, Mr. GOODLING, Mr. JAMES, Mr. MARLENEE, Mr. SMITH of Texas, Mr. NICHOLS, Mr. STEARNS, Mr. TAYLOR of North Carolina, Mr. RIDGE, Mr. BLAZ, and Mr. NEAL of Massachusetts.

H.R. 3820: Mr. GLICKMAN and Mr. SCHUMER.

H.R. 3822: Mr. LOWERY of California and Mr. LAGOMARSINO.

H.R. 3824: Mr. COMBEST, Mr. DOOLITTLE, and Mr. HANCOCK.

H.R. 3825: Mr. SCHIFF, Mr. COSTELLO, Mr. IRELAND, Mr. POSHARD, and Mr. COLEMAN of Texas.

H.R. 3864: Mr. CHAPMAN and Mr. GEKAS.

H.J. Res. 212: Mr. GOODLING, Mrs. VUCANOVICH, Mr. YOUNG of Alaska, Mr. TORRES, and Mr. DURBIN.

H.J. Res. 244: Mrs. BENTLEY, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BORSKI, Mr. DELLUMS, Mr. FAZIO, Mr. FORD of Tennessee, Mr. GILMAN, Mr. LIPINSKI, Ms. LONG, Mr. McHUGH, Mr. MACHTLEY, Mr. MILLER of Ohio, Mr. MRAZEK, Mr. ORTON, Ms. WATERS, Mr. WILSON, Mr. JONES of Georgia, Mrs. BOXER, and Mr. PASTOR.

H.J. Res. 248: Mr. SUNDQUIST, Mr. McMILLAN of North Carolina, and Mr. ALLEN.

H.J. Res. 272: Mr. HAYES of Louisiana, Mr. NEAL of Massachusetts, Mr. VALENTINE, Ms. LONG, Mr. BREWSTER, Mr. GUNDERSON, Mr. McMILLEN of Maryland, Mr. HALL of Texas, Mr. McNULTY, Mr. TRAXLER, Mr. SAXTON, Mr. ESPY, Mr. BEVILL, Mr. JOHNSON of South Dakota, Mr. LEACH, Mr. EMERSON, Mr. BUSTAMANTE, Mr. STENHOLM, Mr. STALLINGS, Mr. ZIMMER, Mr. SARPALIUS, Mr. NEAL of North Carolina, Mr. DURBIN, Mr. SKEEN, Mr. WILSON, Mr. EWING, Mr. ERDREICH, Mr. TANNER, Mr. JONTZ, Mr. DORGAN of North Dakota, Mr. KOLTER, Mr. DeFAZIO, Mr. LaROCCO, Mr. PAYNE of Virginia, Mr. McHUGH, Mr. HOYER, Mr. BROWDER, Mr. FASCELL, Mr. COLEMAN of Missouri, Mr. GRANDY, Mr. HASTERT, Mr. LAUGHLIN, Mr. BARRETT, Mr. LIGHTFOOT, Mr. BEREUTER, Mr. LEVIN of Michigan, Mr. CHAPMAN, Mr. KASICH, Mr. WALSH, Mr. POSHARD, Ms. KAPTUR, Mr. ROE, Mr. MARTINEZ, Mr. THOMAS of Georgia, Mr. LEHMAN of California, Mr. PANETTA, Mr. FROST, Ms. SLAUGHTER of New York, Mr. SANGMEISTER, Mr. HUGHES, Ms. NORTON, Mr. COSTELLO, Mr. TRAFICANT, Mr. ROEMER, Mr. BRUCE, Mr. WISE, Mr. CONYERS, Mr. PETERSON of Florida, Mr. GEKAS, Mr. GILLMOR, and Mr. EVANS.

H.J. Res. 290: Mr. KENNEDY and Mr. ALLEN.

H.J. Res. 342: Mr. McMILLEN of Maryland.

H.J. Res. 348: Mr. HOBSON, Mr. WYLIE, Mr. ALEXANDER, Mr. OXLEY, Mr. KASICH, Mr. FAWELL, Mr. RAMSTAD, Mr. ROTH, and Mr. GUNDERSON.

H.J. Res. 352: Mr. TAUZIN, Mr. HAYES of Louisiana, Mr. FISH, Mr. McCRERY, Mr. ROEMER, Mr. FIELDS, Mr. PAYNE of Virginia, Mr. DE LUGO, Mr. McCLOSKEY, Mr. RITTER, Mr. POSHARD, Mr. LAFALCE, Mr. SAVAGE, and Mr. EDWARDS of California.

H.J. Res. 353: Mr. ALEXANDER, Mr. BERMAN, Mr. BILBRAY, Mr. CHANDLER, Mr. CRAMER, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DIXON, Mr. DORNAN of California, Mr. DYMALLY, Mr. EMERSON, Mr. FASCELL, Mr. FORD of Tennessee, Mr. GEKAS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HUCKABY, Mr. JENKINS, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. LAFALCE, Mr. LENT, Mr. LIVINGSTON, Ms. LONG, Mr. McDADE, Mr. McDERMOTT, Mr. McGRATH, Mr. MATSUI, Mr. NEAL of Massachusetts, Mr. PAXON, Mr. QUILLEN, Mr. RANGEL, Mr. RHODES, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. STARK, Mr. TOWNS, and Mr. WELDON.

H.J. Res. 358: Mr. DERRICK, Mr. JONTZ, Mr. RANGEL, Mr. LAGOMARSINO, Mr. GALLEGLY, Ms. SLAUGHTER of New York, Mr. FROST, Mr. SMITH of Texas, Ms. LONG, Mr. POSHARD, and Mr. DONNELLY.

H.J. Res. 364: Mr. COUGHLIN, Mr. FOGLIETTA, and Mr. FORD of Tennessee.

H.J. Res. 375: Mr. MARTINEZ, Mr. WALSH, Mr. POSHARD, and Mr. PAXON.

H. Con. Res. 8: Mr. PURSELL.

H. Con. Res. 58: Mr. SMITH of Florida.

H. Con. Res. 119: Mr. ENGEL.

H. Con. Res. 194: Mr. INHOFE and Mr. SOLOMON.

H. Con. Res. 210: Mr. OWENS of New York.

H. Con. Res. 224: Mr. ACKERMAN, Mr. CAMP, and Mr. FROST.

H. Con. Res. 225: Mr. PAXON.

H. Con. Res. 232: Mr. LAGOMARSINO, Mr. COYNE, Mr. HUGHES, Mrs. MEYERS of Kansas, Mr. DELLUMS, Mr. SHAW, and Mrs. UNSOELD.

H. Con. Res. 233: Mr. TORRICELLI, Mr. HORTON, Mr. ANNUNZIO, Mr. LENT, Mr. RITTER, Mrs. MEYERS of Kansas, Mr. PAYNE of Virginia, Mr. FISH, and Mr. BEREUTER.

H. Con. Res. 236: Mr. HAMMERSCHMIDT, Mr. MURPHY, Mr. MFUME, Mr. MARLENEE, Mr. BURTON of Indiana, Mr. HUGHES, and Mr. LENT.

H. Con. Res. 240: Mr. FROST, Mr. HUGHES, Mrs. SCHROEDER, Mr. WHEAT, and Mr. PORTER.

H. Res. 215: Mr. HEFLEY, MR. SOLOMON, and Mr. SANTORUM.

H. Res. 271: Mr. SOLARZ, Mr. STARK, Mr. RANGEL, Mr. SHAYS, Mr. SCHUMER, Mr. ROYBAL, Mr. MATSUI, Mr. FOGLIETTA, and Mr. FEIGHAN.

H. Res. 284: Mr. BARNARD, Mr. MINETA, and Mr. SCHEUER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 201: Mr. BOEHNER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

132. The SPEAKER presented a petition of Lithuanian American Council, Inc., relative to the Republic of Lithuania; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

LET'S END ASBESTOS SLAUGHTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STARK. Mr. Speaker, I was outraged by the recent Federal appeals court ruling overturning the Environmental Protection Agency ban on asbestos. Asbestos is a known killer. This cancer causing substance is responsible for between 3,000 and 12,000 deaths every year. Its use must end.

I am introducing an excise tax on the production or importation of asbestos. The tax is $150 per metric ton of asbestos. Most asbestos is valued at between $140 to $260 per ton. The size of the tax is high relative to the value of asbestos. This is intentional. The tax is meant to be punitive.

It is important to note here, that virtually all asbestos is imported from Canacda. Less than 100 U.S. jobs are tied directly to mining asbestos. This tax would have no real negative effect on U.S. jobs or the economy.

The asbestos industry is incredibly destructive. More than 21,000,000 Americans have been exposed to asbestos on the job. Estimates are that at a minimum 200,000 people will die from asbestos-related cancer before the end of the decade.

The monetary cost of asbestos is equally significant. More than a billion dollars had been spent prior 1982 by industry on asbestos-related lawsuit expenses and damages. Estimates are for asbestos-related industries to spend an additional $8 to $87 billion in the future on expenses and damages.

EPA after a decade of assessing the risks of asbestos found that asbestos poses an unreasonable risk to health. EPA rightly moved to ban asbestos. There is no use for asbestos that doesn't have a safer substitute. The National Resources Defense Council strongly supports using an excise tax on asbestos.

Asbestos is an axiom for cancer and death. It is time to end the misery caused by this industry.

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INDONESIAN VIOLATION OF HUMAN RIGHTS IN EAST TIMOR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, on November 12th, Indonesian security forces killed approximately 60 and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor.

I am outraged and deeply concerned that unarmed mourners were attacked. Equally as disturbing are credible reports filtering out of the country that families of the dead and wounded are not being given access to their relatives. In most cases they do not know if they are dead or being tortured by the Indonesian Army.

Asia Watch informs us that, "the Indonesian Army has its own grim repertoire of torture techniques, ranging from a primitive electric shock machine—with a crank-up generator and wires which are attached around the victim's toes, fingers, ears or genitals—to the method of putting the legs of a table over the foot of a suspect and having the interrogator then sit on the table."

Mr. Speaker, Senators PELL and WALLOP and Congressman TONY HALL very recently introduced a resolution expressing the sense of the Congress that the President should suspend international military educational training [IMET] funds to the Indonesian Government. These funds total $1.9 million out of the overall aid package to Indonesia of $50 million. I believe the cut off of these funds is the very least we can do to a government that appears to lack the slightest respect for the basic human rights of its citizens.

* * *

RECOGNITION OF SANDY MILLER NEVADA'S FIRST LADY AMERICAN CANCER SOCIETY COURAGE AWARD RECIPIENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to honor Sandy Miller, a woman who has devoted much of her life to helping those with disabilities, and the recipient of the 1991 American Cancer Society Courage Award.

As a resident of Nevada since 1951, Sandy received her Bachelors of Science and Education at the University of Nevada, Las Vegas in 1971. Since then she has been working to improve the lives of everyone around her, especially for children and the disabled.

After graduation, Sandy immediately began her charitable career at Ruby Thomas School as a teacher of the aurally handicapped and worked on the design committee for the deaf education wing. Also early in her career, she prepared legislation in support of the Advocate for Children with Learning Disabilities, and was a representative for Teachers in Politics.

Her marriage to current Governor Bob Miller in 1973 continued her pursuit of political and charitable work. For over 15 years, Sandy Miller has dedicated her valuable time to improving the Las Vegas community and the State of Nevada through service on numerous organizations: she served on the March of Dimes Board of Directors and as honorary chairwoman; was cochairman of Mothers March; worked with the PTA and Junior League and was Brownie Troop leader; and Sandy served on the Board of the Young Volunteers of Nevada, the Ben Franklin Club, the Children's Museum of Carson City, and the University of Nevada Advisory Board.

Now Sandy Miller is being honored as the recipient of the American Cancer Society Courage Award for her works towards promoting breast cancer awareness among women in the State of Nevada. Sandy was thrown a curve during her campaign to educate women about breast cancer and the importance of mammography. To make women feel more comfortable about breast cancer screenings, she publicly announced that she would voluntarily take a mammography exam. She had not taken one previously because of her family's historically low prevalence of cancer. To her surprise, the mammography discovered a lump in one of her breasts. Thankfully, however, it was later found to be benigh,

Throughout this scare, Sandy made public what she was going through. To her credit, she disregarded the possible effects of publicizing this information to make an example of herself so that the women of Nevada could learn of the vital importance of breast cancer screenings. To be sure, because of Sandy's efforts Nevada women are more knowledgeable about mammographies, more comfortable with the exam, and more enlightened than ever about the value of prevention and early detection.

Mr. Speaker, Sandy Miller's concern for the health of women and her accomplishments in educating women about breast cancer exemplifies her fortitude which makes her this year's recipient of the American Cancer Society Courage Award.

* * *

THE $70 BILLION ROBBERY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. OWENS of New York. Mr. Speaker, yesterday the House voted to give $70 billion to the Federal Deposit Insurance Corporation which is responsible for guaranteeing the money of persons who have deposits in commercial banks. The big collective official lie in Washington is that this $70 billion is merely a loan from the Treasury Department. The reality is that every sane person in Washington knows that this $70 billion will never be repaid to the U.S. Treasury.

This $70 billion is not a loan to the commercial banks. This $70 billion is a bailout of the banks. We are doing for the commercial banks exactly what has already been done for the savings and loan associations. Money that has

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

been squandered as a result of corruption or mismanagement is now being replaced.

First we had the S&L robbery of the taxpayers. And now we have the commercial bank robbery. The S&L swindle has already cost more than $200 billion in cash and tax giveaways and within a few days will be returning to Congress to demand another $20 billion. The commercial banks are starting at the level of $70 billion but they will be back to demand more.

After many months of former FDIC Chairman William Seidman insisting that the commercial banks were in good shape, the public is suddenly being told to authorize $70 billion right away or another tidal shock wave will hit the economy. Public blackmail is the rule of the day. Members of Congress are told that they have no choice. The money is gone and it must be replaced. Taxpayers must cover the losses of the private banking industry. Taxpayers must cover the deposits of all depositors in the banks that are too big to fail.

The $70 billion is being surrendered to the FDIC without requiring that any new responsibilities be assumed by the bankers. Community reinvestment is still a joke among bankers. Redlining is still a standard practice. Misusing the money of big city depositors to finance the schemes of Sun Belt swindlers is still normal practice. An institution demanding public funds to cover its losses is unwilling to assume any significant public responsibilities.

Until there is a reasonable trade; until the banks assume public responsibilities commensurate with their demands on the Public Treasury, authorizing bailout funds is the same as submitting to robbery.

The following rap poem summarizes the tragedy of this latest holdup:

THE SEVENTY BILLION DOLLAR ROBBERY

The FDIC gang
Hit Congress with a bang:
"We demand
Seventy billion chumps
Let taxpayers take their lumps
Old Seidman is our boss
You wimps will take a loss
To hell with reform
That phony smokescreen storm
Just open up the mint
Give us back
What we already spent
Stop this legislative lag
Drop the money in our bag
Keep your hands up
With a presidential smile
Vote this robbery
In patriotic style
Or our PAC's will
Whip your tail
You fools know
We are too big to fail
We demand
Seventy billion chumps
Let taxpayers take their lumps."
The FDIC gang
Hit Congress with a bang.

ADMIRAL PAUL HODDINOTT SPEAKS AT THE KING'S DAY REGATTA, NOVEMBER 17, 1991

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BENNETT. Mr. Speaker, last weekend, there was held the 14th annual King's Day Regatta, and this was in Jacksonville, FL, my hometown. This regatta is intended to be an enjoyment by the participants, which it is; and it also commemorates the King's Day Regatta held in the same location on the St. Johns River in 1775 during the English ownership of Florida. Very importantly, this event is one with emphasis on the good relations which the United States and the United Kingdom now enjoy.

At the banquet at the Florida Yacht Club on the evening prior to the race, Rear Admiral Paul Hoddinott ably spoke in behalf of his country. He is currently Commander of the British Navy Staff, British Naval Attache and the U.K. National Liaison Representative to SACLANT.

He said:

When Congressman Bennett proposed the Kings Day Regatta, I know that he intended it to fulfill a two-fold purpose: first, to provide a day of splendid competition and recreation; and second, a reminder of the enduring nature of the links between the people of the St. Johns River and the Old Country. The British ruled here for a short time before what we knew then as the War of Colonial Insurrection and since then, apart from some unruly behavior on our part in 1812–14, relations have been strong and mutually supporting.

This has been especially so in the last 50 years, which have twice seen the U.S. government go well beyond the normal bounds of conduct for a non-belligerant nation to help out the U.K. in a tight spot.

I refer first to 1941: 50 years ago convoys of ships laden with much needed food and war material sailed from North America towards the British Isles escorted by the U.S. Navy. Although not yet at war, your President sent ships "in harms way", to use John Paul Jones memorable phrase, to provide succor to a beleaguered Britain. One ship paid the price—the USS REUBEN JAMES—torpedoed and sunk on 31 Oct. 1941, with great loss of life, six weeks before the USA entered the war. My wife and I had the great privilege a few weeks ago to meet some of the survivors of the REUBEN JAMES—and some of the widows—at a reunion in Washington. Again, in 1982, the USA provided considerable logistic, communications and intelligence support to the U.K. during the battle for the Falklands—I was there, I know how valuable that American assistance was.

But, this is not a one sided relationship: over the past decade alone, the British government was supportive in the Libyan raid, over Panama and, most recently, the Gulf.

Last year I spoke about the maritime dimension of the Gulf situation and suggested that, if and when the deciding tank and air battles were fought, we should remind ourselves that all, or nearly all, of the tanks, equipment, ammunition, and so on, were taken to Saudi Arabia by sea; that our forces would be sustained in Saudi Arabia by sea and, indeed, nearly all, have now been brought back by sea. Sea power enabled the Gulf War to be fought and won—and how well the land, sea, and air forces under the superb leadership of General Schwartzkopf conducted themselves.

But it is not out of sentiment, or even a fine sense of history that the U.K. stands shoulder to shoulder with the USA in so many international crises, but out of hard self-interest. The fact is that when the chips are down, the self-interest of the USA and the U.K. nearly always coincide.

For our part, we do not take this relationship for granted—particularly not at the present when events on the other side of the Atlantic are drawing European nations much closer together. The British government is determined that this process should not lead to any lessening of our commitment to transatlantic interests; this will not be made easy and, in the run up to the European Inter-Governmental Conference at Maastricht in December, you will see quite a lot in the papers and news programs of wrangling between the Europeans; often Britain may seem to be the odd one out, but one of the main things for which Prime Minister John Major is fighting is to retain enough sovereignty and freedom of action that we can continue to act as a truly Atlantic Nation, which, on occasion, may mean acting in ways which will not always commend themselves to all our European partners—one only has to recall the spectrum of European reaction to those crises I mentioned, Libya, Panama, the Gulf.

While shared self-interest is what motivates the UK to be with the USA in many crises, our shared heritage is, of course, an important factor; that heritage is essentially maritime in nature, and I can think of no better way of nurturing an instinct for the maritime side of life than sailing. I wish all competitors success and fun tomorrow and look forward to seeing the winners at the prize giving.

LEBANESE INDEPENDENCE DAY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. OAKAR. Mr. Speaker, I rise to commemorate Lebanese Independence Day. Forty-eight years ago today Lebanon gained her independence.

In 1941, Great Britain and the free French occupied Lebanon. In 1943, the Lebanese national pact coalition gained control of the national assembly; and Bishara al-Khoury was elected President of the Republic of Lebanon. On November 9, 1943, he and other independence leaders deleted all references to France from Lebanon's constitution and declared Lebanon's independence. On November 11, France deposed and arrested President al-Khoury and other national leaders and imprisoned them in Rashayya. The Lebanese people rose up and on November 22, 1943, France released President al-Khoury and recognized Lebanon.

Mr. Speaker, this year the 15-year civil war in Lebanon came to an end and her people started down the road to reconciliation. This summer I visited Lebanon. It was remarkable to see people travelling freely, walking around the streets, swimming in the Mediterranean, and beginning to be able to enjoy many of the things we often take for granted. While there are areas of tremendous devastation, there is also hope and optimism. The resilient Lebanese people will rebuild their nation out of the ashes and anarchy of civil war occupation. The rest of the world will see what we who know Lebanon have always known that Lebanon is a beautiful country and a pearl of the Middle East.

H.R. 1724, PROVIDING FOR AN EXTENSION OF UNEMPLOYMENT BENEFITS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, I rise today in support of H.R. 1724, which will extend unemployment benefits more equitably than the legislation extending benefits which was recently enacted. While the previous law provided much-needed help to those unemployed workers whose benefits have expired, it did not extend benefits equally. The previous law would have provided only 6 weeks of benefits extension for New Hampshire, while unemployed workers in other States in similar circumstances would have received 13 or 20 weeks.

Mr. Speaker, this legislation is vital to people in New Hampshire and throughout our country who would not receive 13 weeks of benefits without its passage. In New Hampshire alone, there are over 55,000 unemployed people, and thousands of people whose unemployment benefits have already expired. They are looking to Washington for help.

The extension of unemployment benefits is not a luxury to those workers who depend upon these benefits for their very existence. It is necessary to provide relief to the thousands of people in New Hampshire and the millions nationwide who are victims of the prolonged recession. These additional benefits will allow them to save their homes and keep their children fed.

Mr. Speaker, I ask my colleagues to lend a helping hand to all hard-working jobless Americans and join me in supporting this legislation.

LANCIT MEDIA PRODUCTIONS RECEIVES PRODUCTION GRANT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GREEN of New York. Mr. Speaker, Lancit Media Productions, Ltd., of Manhattan has received a $4.5 million production grant from the Corporation for Public Broadcasting [CPB] Representative BILL GREEN announced Friday. The grant, one of the largest in production history, will fund the production of the first new daily preschool series on public television since "Sesame Street" premiered 23 years ago. The series is expected to air on public television in late 1993.

The half-hour program entitled, "The Puzzle Factory," will feature a group of multicultural puppets representing the diversity of American culture and the fun and foibles of all human beings. The series is designed to encourage children to make choices, take risks, and experiment. The senior creative consultant and puppeteer will be Kevin Clash, who recently won an Emmy for his work on "Sesame Street" as Elmo, Hoots, and Natasha.

In conjunction with the series, Lancit Media Productions will join forces with CPB and KCET of Los Angeles, another recipient of a CPG grant, to create a major educational outreach component including ancillary educational materials for use by preschool day care centers, and parents. Off-air recording rights will extend the educational use of the series.

CPB is a private, nonprofit corporation that was authorized by the Public Broadcasting Act of 1967 to develop noncommercial radio and television services for the American public.

TRIBUTE TO A SONY BROADCAST UNIT IN MIAMI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the Sony Broadcast Export Corp. unit, for the amount of jobs they have created in south Florida. In a Miami Herald article entitled, "Sony Production Units Starring in South Florida With Help of Free Zone," Larry Birger reports on the company's move from Panama to Miami. I commend the following article to my colleagues:

Japan's giant Sony Corp. Is growing in strength in South Florida, but not only because of its consumer televisions, stereos and Walkmans.

While the consumer side of the Tokyo-based electronic company attracts the public's attention, a lesser-known Sony unit based in West Dade is quietly carving out a niche for itself by exporting professional video equipment to Latin America.

Using the Miami Free Zone to avoid duties on items brought into this country, Sony Broadcast Export Corp. ships color-camera systems, betacams, microphones and color monitors manufactured in the United States and in Japan. These are sold to broadcasting stations and production houses in the Caribbean and Central and South America.

"In fewer than four years—since moving our operations from Panama to Miami—we've doubled our business," say Glenn Adamo, president of Sony Broadcast Export Corp.

Meanwhile, another Sony unit, based in Boca Raton, is gathering a head of steam. From a 170,000-square-foot plant, Sony Professional Product Co.'s 225 employees manufacture and assemble professional videotape recorders, camera accessories and those huge mixer consoles that are used in recording studios to produce the latest in popular and classical music

About 20 percent of Sony Professional's production is exported to Latin and Caribbean countries by Sony Broadcast; the remainder is sold in the United States, Europe and even in Japan.

The two south Florida units are part of Sony's vast and growing network of U.S. based operations.

THE LINEUP

Sony Broadcast is a division of Sony Corp. of America, a $5 billion sales and marketing group stretching from New Jersey to California; Sony Professional is allied with Sony Engineering and Manufacturing of America, a parallel organization that makes products that are marketed by Sony of America.

Charles Steinberg, president of Sony's engineering and manufacturing group, based in New Jersey, points out that that while about 65 percent of Sony's revenue come from consumer products, a major part—35 percent—is generated in the professional products sector.

"And our two south Florida operations are strong contributors," Steinberg says. "The Boca plant is one of our key manufacturing installations worldwide while we get tremendous mileage from exports shipped from Miami to Latin America.

Adamo, who became Sony Broadcast's president in 1989, credits a fortuitous decision by previous management to transfer operations to Miami for the turn in his company's fortunes.

"Panama's fine for consumer business which the company is still doing today." Adamo says. "But as a lot of other companies have found out, Miami is the place from which to do business if you want to export to Latio America."

He cites these reasons:

Logistical support. All the elements that are needed to export Sony products are in Miami—ease of transportation, communications, knowledge of the Latin American market by personnel.

Cost. Sony discovered that freight rates are comparable—and sometimes less—for shipments out of Miami International Airport than from other locations in the United States. Frequency and regularity of these flights also is important because they guarantee quicker and more reliable delivery.

Availability of a free zone. Sony can store its items manufactured here and in Japan. The goods, which range in price from $20,000 to $200,000, remain these duty-free until they are shipped. This saves the company millions of dollars in import and export duties each year.

Training facilities. Sony technicians stationed in other countries are brought here for training. Two weeks ago, for example. Sony brought 20 technicians to Miami for two weeks of training.

THE PANAMA MOVE

"Combining all these things makes the business of doing business with Latin America the great growth industry of the future for Miami," Adamo says.

When Sony decided to pull its exports unit out of Panama, it was employing only four people. Too small to warrant separate status, the unit was attached to the consumer products group. Now, it is a full-fledged subsidiary that employs 53 and could grow larger if demand for Sony products continues to climb.

While Adamo declines to be specific, he says Sony Broadcast exports range "in the many millions of dollars." Adamo credits the recent business revival in a number of Latin American countries for his company's ability to double sales since 1987. He again declined to give figures.

Take Mexico. Three years ago, Mexico was a basket case. Today, business is so brisk that the Miami company recently established a unit—Sony Professional Broadcasting de Mexico—in Miami to handle it. By April, the unit will employ 20 people.

Because Mexico has grown in importance—and there is a need to be there in person from time to time—Adamo recently decided to see if he could conduct all his business in one day by flying there in the morning and returning that night.

"No sweat at all, he says.

In Boca Raton, meanwhile, President Clint Michaelis says, demand for audio recording equipment and camera accessories hasn't lit up the charts during this recession-plagued year. But he says sales are on a par with 1990. Employment has held steady as well, at a time when plant layoffs are commonplace.

PRUNING PROCESS

Sony got into the manufacture of camera accessories and other equipment in the early 1980s, when it acquired MCI, a Fort Lauderdale-based company. Other product lines not deemed profitable were pruned. Video recording equipment was added some years later, and in April, the entire operation was moved to Boca Raton.

"We didn't move to accommodate expansion. It was done because we needed a different kind of manufacturing facility," says Michaelis.

Still, when business takes a turn for the better, he anticipates that volume will grow—and so will his product lines. But Michaelis doesn't anticipate a larger growth in employment.

In keeping with Sony's avowed goal of "local globalization"—building and distributing products for the local market with local employees—the Japanese presence is minimal in both South Florida operations.

Of the four Japanese who came to Miami when the transfer was made from Panama, only one remains. He is Hiro Matsumoto, director of marketing. A second, Kyoichi Takashiro, was transferred to the Boca company, where he is comptroller. A third now works in Europe, and the fourth returned to Tokyo.

Besides Takashiro, a handful of Japanese are on the job in Boca—all of them on the technical side of manufacturing.

"This is an American company," Adamo stresses.

I am pleased to recognize the Sony Broadcast Export Corp. and wish them much success as they grow in South Florida.

REPRESENTATIVE MILLER HONORS LEE HOWARD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MILLER of California. Mr. Speaker, it is with great sadness that I announce that Lee Howard passed away last week. I would like to take this opportunity to pay tribute to this great man whose contributions to the people of Richmond and Contra Costa County are invaluable.

As president of the Richmond chapter of the NAACP, Mr. Howard devoted his life to the fight against racism and discrimination. At 77 years old, he was still waging a battle that he began in 1938.

Prior to World War II, Mr. Howard moved from his native Mississippi to Richmond, CA where he worked as a welder at the naval shipyard. It was there that Mr. Howard witnessed discrimination in this California city firsthand as the war ended and minorities found themselves at the bottom of the list for job reassignments.

From that point on, Mr. Howard represented the NAACP in campaigns against job and housing discrimination and in movements to empower young people and initiate antidrug programs. Mr. Howard's involvement in the community included his efforts to help the Richmond unified school district's work and as a negotiator between the Richmond police force and the black community during a tense period of police brutality charges.

Whether in his capacity as a Richmond businessman, NAACP president, or fellow citizen, Lee Howard was well-known for his strong voice of reason and his endless commitment to resolution of conflict. He had a wise and sophisticated outlook illustrated by his saying, "Instead of marches and sit-ins, I think it is time for some high-level communication and persuasion. It's my belief that you can lead people easier and further and more effectively than you can push them."

The passing of Lee Howard is a great loss to our community and to the civil rights movement. We are lucky to have had such a powerful leader for so long, and he will last in our memory even longer.

INTRODUCTION OF THE ZUNI RIVER WATERSHED ACT OF 1991

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RICHARDSON. Mr. Speaker, extensive runoff of water from the Zuni River in my district in New Mexico continues to erode the tribal lands of the Zuni Pueblo Indians, the Ramah Navajo Tribe, and the Navajo Nation. Severe damage to trust lands in this area have occurred for decades, destroying natural resources and significant archaeological sites.

Today, I am introducing legislation to address this longstanding problem. This legislation would institute an effective plan for the proper management of the Zuni watershed. The plan is based on a cooperative collaboration of the Zuni Tribe, the Ramah Band of the Navajo Tribe, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, private landholders, and other residents living within the Zuni watershed.

The plan takes a comprehensive approach to rehabilitating and managing the watershed and is comprised of several components, including a study of the portion of the Zuni River which is upstream from the Zuni Indian Reservation; recommendations for watershed protection and rehabilitation on both public and private lands; management guidelines for maintaining and improving the natural and cultural resource base on public and private lands; a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Tribe; and proposals for voluntary cooperative programs to implement and administer the plan.

This legislation also requires that the Secretaries of Agriculture and Interior and the tribes submit a report on the study and plan to Congress within 4 years after enactment.

Mr. Speaker, this legislation is a positive step toward helping all of the people living in the Zuni watershed. I urge my colleagues to join me in support.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101–486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) Private landowners; and

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices; and

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni Indian Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the task.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

NEW JERSEY PRIDE HONOR ROLL: THE MEN AND WOMEN OF PICATINNY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GALLO. Mr. Speaker, during 1991, I fought hard in Congress to keep Picatinny Arsenal in Morris County, NJ off the list of bases slated for closure. I did so because the base, with its staff of dedicated professionals who do quality work, is good for the Nation and good for the community.

Picatinny's value to the Nation is well documented, with the great success of its many high technology systems in the Persian Gulf.

The arsenal's value to the community will be highlighted on Monday, November 25, as more than 300 Picatinny employees are honored for their unselfish efforts as volunteers as part of the President's Points of Light Program.

It is a great disappointment for me to have to miss this important event at the base because of the rush to finish work in Congress before the Thanksgiving holiday.

I believe that this recognition ceremony is a very important reminder that we each can make a real difference if we are willing to volunteer our time and talents to make our communities better places in which to live.

It is also very important for the people of northern New Jersey to fully appreciate the value of this important military research and development facility to the area.

The dedicated men and women of Picatinny performed more than 72,955 hours of public service over the past year. More than one-third of those hours were devoted to local civic duties and another one-quarter of this time was specifically dedicated to emergency response activities, including volunteer firefighters and medical assistants.

Eleven representatives were chosen to participate in a special video tribute to all of the more than 300 dedicated volunteers.

Being showcased are these New Jersey residents:

Steven R. Suttles, from Wharton, who is a management analysis branch chief. His volunteer activities span 25 years and include director of education and president of the board of trustees in his church, a telephone counselor at a crisis intervention center, a scoutmaster for mentally handicapped boys, copresident of the Roxbury American Field Service Chapter, chairman of the activities committee at the Hope House AIDS Center and as a "buddy," providing companionship and counseling to PWA's—persons with AIDS.

Martin Kane, Dover, an arsenal attorney, is president of the Lake Hopatcong Historical Society. For the past 4 years he has operated its museum and conducts programs on local history for individuals, special interest groups, and elementary schoolchildren.

John Feneck, Landing, a development project officer, is the fire chief of Roxbury Fire Company No. 2 and First Aid Squad. He has been an active member of this fire company for the past 25 years.

Valerie Morgan, Lake Hopatcong, a program analyst, has been affiliated with the Literacy Volunteers of America for the past 2 years. She currently tutors basic reading on a weekly basis to a single mother of two children.

Ken Hagedorn, Sparta, a technical exhibits specialist, has been involved in a variety of activities which includes teaching basic art to children at the post child development center and counseling with his wife at a retreat center in Northern Ireland for troubled Catholic and Protestant children. He's also a member of several civil organizations and designed Desert Shield/Desert Storm label pins for fundraising in support of deployed soldiers.

Patrick Traynor, Stanhope, a safety and occupational health specialist, volunteered more than 400 hours this past year in support of deployed Persian Gulf soldiers. As a result of his volunteer work in Stanhope's American Legion Post 278, more than 11,000 letters and packages were mailed. He also assisted in establishing an arsenal "mail call" letter writing campaign.

John Howell, Hackettstown, a physical science technician, has been involved with the Big Brothers/Big Sisters Program for the past 10 years. His favorite activity with his little brothers is building model rockets. He has had a 5-year relationship with one child.

Dennis Dawley, Hackettstown, a program analyst, and his fiancee serve as a Big Couple for the Big Brothers/Big Sisters Program of Warren County. They selected a 13-year-old boy who's been abandoned by his mother at birth and is now in an institution.

Timothy M. Carey, Jr., Hopatcong, a foreign intelligence division chief, began volunteer work as a coach for his daughter's soccer team. He has served as president of the soccer club, member of the Hopatcong Planning Board, chairman of the Recreation Commission, and quartermaster of the Hopatcong VFW and Knights of Columbus.

Mark Melis, Cliffside Park, an employee relations specialist, has worked over the past 25 years to support his church in various capacities; as president of the St. Demetrios Church's Board of Trustees, chairman of various fundraising activities and sponsor of many youth activities within his parish. He also served as chairman of an art exhibit for senior citizens.

Lucinda Shumanow, Milburn, a computer programmer analyst, recently was presented with the Picatinny Handicapped Employee of the Year Award for the significant contributions she has made to improving the quality of life of the hearing impaired at Picatinny.

Although these 11 individuals were more highly visible participants in the honors presentation, they truly represent the spirit of selfless giving shown by all of the men and women honored at Picatinny.

It was very fitting that my good friend Mary Mulholland and sports great Phil McConkey were on hand to address this group of dedicated volunteers.

Mary is the 1991 Volunteer of the Year in New Jersey and has worked tirelessly for 23 years in the cause of drug rehabilitation and education.

Phil has been very active in an impressive list of volunteer organizations since he retired from football.

I am very proud of all of these fine men and women because they represent the best in New Jersey and the highest values of the American spirit.

TRIBUTE TO MRS. BEATRICE B. TREVINO

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LAUGHLIN. Mr. Speaker, it gives me great pleasure to call your attention to the accomplishments and countless hours of community service Mrs. Beatrice B. Trevino has volunteered in the city of Victoria, the county of Victoria, the State of Texas.

Bea has devoted the better part of her life to serving her community. Our Lady of Sorrows Catholic Church, the Hopkins School Parent Teacher Association, the Private Industry Council, the Victoria City-County Child Welfare Services Board, the Victoria Mexican American Chamber of Commerce, and the Auxiliary to the Veterans of Foreign Wars all have at one time or another directly benefited from Bea's generosity. Bea has also successfully managed her own restaurant, the Siesta. If there were indeed a congressional medal honoring the volunteer effort of Americans worldwide it could do no better than to be named the "Beatrice B. Trevino Distinguished Medal of Service."

I do not stand here today, Mr. Speaker, Members, to simply sing the praises of a fine human being, though she undoubtedly is an incredible woman. Bea Trevino is having a birthday. And due to time constraints, I could not possibly list all her accomplishments, projects, and activities. But trust me when I say, had I listed all her charitable endeavors, you would say to me: "She cannot be as young as you say she is."

Beatrice B. Trevino was born to Octabiano Baza and Victoria Trevino on November 29, 1931. Though her husband F.C. "Kiko" Trevino passed away in 1980, Bea's 7 children and 13 grandchildren manage to occupy whatever time she has for herself. Bea's family, and with reason, is undoubtedly very proud of her. It gives me great pleasure to rise today in proud recognition of Beatrice B. Trevino.

EDUCATIONAL AID FOR MIDDLE-INCOME FAMILIES

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, a tragedy is unfolding in our country. Our Nation's future is at risk due to the rising costs of higher education and the tremendous challenge that middle-income families face in attempting to send their children to college.

I recently received a moving letter from one of my constituents, Sherry MacKensie of Concord, NH. Sherry is a student at the University of New Hampshire who, like millions of students and their families all across America, is experiencing this serious problem. She wrote.

> Before I graduate, I must meet the ever-rising expenses at the university. I have worked full-time every summer since I was in seventh grade to save for college. Despite this, my single largest fear continues to be whether or not I will be able to pay the next tuition bill. I worked two part-time jobs while carrying a full course load including three classes in the honors program last semester. My parents are working-class people. My father has worked every day of his adult life and my mother nearly as much with the exception of caring for my brother and me.
>
> I am not unique. Most of the students I worked with at the university were in situations very similar to mine. Needless to say, middle class people like us can use as much additional assistance from the Federal Government as possible.

Sherry concluded her letter by asking my position on the Middle Income Student Assistance Act, which seeks to relieve part of the burden which the expense of a college education places on middle-income families. I need not remind you that in today's competitive world, a college education is the single most important determinant of a young person's future success.

Mr. Speaker, I told Sherry that I fully support the Middle Income Students Assistance Act, and I would hope that all of my colleagues would tell her that as well.

As you know, tuition has been rising rapidly over the past several years. In a recent study conducted by two economists in Williamstown, MA, it was shown that the enrollment of students from middle-income families has suffered a steep drop. The percentage of enrolled students from middle-income families dropped from 27 percent in 1982 to 18 percent in 1989. On the other hand, enrollment for students from wealthy families has sharply risen. The burden on middle-income families for financing a college education is enormous, and is exacerbated when families must support more than one student.

How many horror stories have we heard about families being put in the position of having to choose between providing education for their children or having to mortgage their homes? It is deplorable that families have been confronted with this most harsh choice. But, Mr. Speaker, the Middle Income Student Assistance Act can help to ensure that families will not be forced to face this choice.

This bill would increase the availability of aid for those wishing to pursue higher education, and it would reduce the hardship their families would endure. Our students and youth hold the future of this country in their hands, and every effort ought to be made to make sure that they are well-prepared to meet the challenges of tomorrow.

Mr. Speaker, in New Hampshire, middle-income families are getting squeezed out of higher education. New Hampshire needs help. New Hampshire needs this bill, and so does the rest of America. When we think about our Nation, when we think about the future, we must focus on education.

Mr. Speaker, I ask my colleagues to join me in supporting the Middle Income Student Assistance Act as an essential aid to our students—our country's future.

TAX BREAK FOR GAMES OF CHANCE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. McGRATH. Mr. Speaker, today I am introducing legislation to exempt certain nonprofit organizations and individuals acting on their behalf from the Federal occupational taxes and excise tax imposed on games of chance.

For many years, innumerable nonprofit charitable organizations have unknowingly violated two provisions of the Internal Revenue Code. One section I am trying to modify requires each person engaged in the business of accepting wagers to register with the IRS and to pay an excise tax equal to 0.25 percent of the amount of such wagers. The IRS has utilized this statute to impose taxes on religious and charitable institutions which raise money through bazaars, raffles, and sales of so-called pull-tab tickets. The second provision that I am attempting to change imposes an occupational tax of $50 a year on each person who accepts wagers on behalf of an organization. An annual tax of $500 must also be paid by the organization.

These taxes are aimed at commercial gambling entities, and they are very unfair when imposed on short-term fund raising activities of civic and charitable organizations. Most citizens are unaware of the existence of these Federal taxes and they are not widely enforced by the IRS. A recent surge in enforcement activity has caused charitable groups in several States to pay steep fines and penalties.

Hospitals, public and parochial schools, drug and pregnancy counseling centers, medical research, and innumerable other vital services are assisted through fundraising efforts that could be construed as wagering under the Internal Revenue Code. I do not think that we should discourage or limit this type of activity through our tax laws. I also think that full and fair enforcement of existing law would likely cost more than the income produced for the Federal Treasury.

A large body of tax law already applies to nonprofit corporations, and ample protection exists to prevent abusive fundraising practices. Various State laws also control gambling activity and ensure proper accounting of proceeds of fundraising activities.

I hope that we can address this issue in the next session of Congress, and I will be seeking cosponsors and support in the months ahead from my colleagues.

HONORING DR. WILLIAM BERCK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STARK. Mr. Speaker, I would like to join the Alameda County Office of Education in honoring Dr. William F. Berck, Alameda County Superintendent of Schools. Dr. Berck is retiring after 7 years as county superintendent and a total of 39 years in education.

Dr. Berck is being recognized for his many accomplishments and for the important leadership role he has played in education. During his outstanding career, Dr. Berck has had a tremendous impact within the field of education, where he diligently worked to improve its services and opportunities as a teacher, teaching principal, elementary principal, assistant superintendent of curriculum, and superintendent of elementary, high school, and unified school districts. In his last position, he succeeded in moving the Alameda County Office of Education from a position of financial difficulty to a financially sound organization.

One of Dr. Berck's many professional commitments included his use of humanism as a perspective and operating philosophy in interpersonal relations. There is no doubt that his implementing this philosophy led him to successfully work toward his many accomplishments. For example, by chairing a community panel and hearings, he helped resolve a local youth/city police conflict following a riot.

During Dr. Berck's professional career, he produced a five-program educational series on innovations in education while serving on the KVIE Curriculum Advisory Committee. He developed innovative and constructive procedures such as an evaluation to enhance board/superintendent communication and nonadversarial collective bargaining techniques. It is his dedication to activities such as these that has earned him admiration as a leader, an innovator, and a humanitarian.

Although more than half of Dr. Berck's career was spent as a superintendent where he served as a leader within the field of education, he also became a leader within many community associations. A few of Dr. Berck's community involvement activities include being on the board of directors of the center, Drug and Alcohol Abuse Counseling Program, a member of the Alameda County United Way Leadership Council, and chairman of the advisory board for Prison Match, Children's Center.

I am proud to honor Dr. Berck for his extraordinary service to education in California. He is to be commended for his dedication and professionalism in guiding the Alameda County Office of Education and working to improve the quality of education throughout the State. I join his many friends and colleagues in wishing him the best of luck in his retirement.

WEE DELIVER PROGRAM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, this past Monday, I attended the grand opening of the Pine Tree Elementary School Post Office in Monroe, NY, I was accompanied by Principal Klahn, Assistant Principal Diglio, Postmaster Burke, Mrs. Elkins, teacher coordinator Janice Condello, student postmaster Jessica Mascia, assistant superintendent Dr. Louis Ciota, superintendent Terrence Olivo, assistant superintendent of personnel Frank Moschati, school board members Eileen Monahan, Barbara Moynihan and students of Pine Tree Elementary School.

I want to commend the Pine Tree School staff and especially Janice Condello for her efforts in working with Postmaster Burke in getting the Wee Deliver Program off the ground. I know all the work that went into making this important occasion a reality will have been well worth it.

As everybody at Pine Tree Elementary School assists Postmasters Mascia and Burke in the operation of their post office, the benefits will be felt far and wide. Our students will gain even greater reading and writing skills. Their sense of community will take on new meaning. I am certain that other schools and communities will soon turn to them for advice on how to set up their own Wee Deliver Post Offices.

Modeled after an in-school postal service program developed by teachers in a Florida elementary school, Wee Deliver has become the centerpiece in U.S. Postal Services' literacy programs.

The program revolves around the creation of an in-school postal service that provides mail service between classrooms. Students learn correct addressing, spelling, and grammar in an environment that encourages increased reading and writing.

First reported in the September–October 1990 issue of Postal Life, the Wee Deliver Program generated more than 1,200 requests for information from the U.S. Postal Service.

I am very proud that our 22d District of New York, now has a Wee Deliver Program. As I travel throughout our communities the students of Pine Tree can be certain that every school I step into will soon hear of it.

My colleagues are invited to join with me in commending the Pine Tree School students and faculty for undertaking this significant learning experience.

TRIBUTE TO ELINOR GUGGENHEIMER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday November 22, 1991

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize my constituent and friend, Elinor Guggenheimer, who recently retired as president of the Child Care Action Campaign, a New York-based national organization focusing on child care services.

For the past 40 years, Mrs. Guggenheimer has advocated better child care and has devoted her energy by serving on many committees including the Manhattan Advisory Committee on Day Care, the New York State Advisory Committee on Day Care and the National Association for the Education of Young Children. In addition to having founded the Child Care Action Campaign, Mrs. Guggenheimer created the Day Care Council of New York, a result of her original commitment in the 1940's.

Mrs. Guggenheimer's activities have not been limited to child care, to which her other associations and honors attest. She is also a member of the Community Service Society and the International Women's Forum, honorary chairperson of the Council of Senior Centers and Services, and a former commissioner of New York City's Department of Consumer Affairs and New York City's Planning Commission. Furthermore, Mrs. Guggenheimer has been a teacher at the New School for Social Research, York College of the City University of New York, and the Columbia University Teacher's College New York City Department.

As a result of her unlimited devotion to public service, Mrs. Guggenheimer has earned national recognition. She has received awards from a great number of organizations and academic institutions, including New York League of Business and Professional Women's Woman of the Year award (1978), Ladies' Home Journal's 100 Most Important Women in the United States (1983), and honors from Vassar College, Yeshiva University, City College of New York, and Hofstra University.

At this time, I should like to join my colleagues in commending my constituent, Mrs. Elinor Guggenheimer, who has dedicated her career to public service.

BENITO ALONSO ARTIGAS, COLUMBUS HISTORIAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, we are privileged in south Florida to have an outstanding historian and writer, Benito Alonso Artigas, who has dedicated himself to questions related to the history of the discovery of America and has published two outstanding magazine articles on this very issue in the "Projecto" publication of the Latin Builders Association and in the September 1990 issue of "Miami Mensual."

I am pleased to discuss these articles here because, although they are written in Spanish, I believe they are worthy of discussion in this body.

Certainly, as we approach the 500th anniversary of the discovery of the new world, it is important to highlight the interplay between many countries and how this discovery has forever influenced countries like Cuba, which was called the most beautiful land that human eyes have seen.

We are fortunate to have Benito Alonso Artigas to interpret how historical events shaped Cuba and also answer the question which has long puzzled historians: Where are Christopher Columbus' remains?

The Miami Mensual article is entitled "Los Restos de Colon: En Santo Domingo o Sevilla?" Dr. Benito Alonso Artigas explains that the remains of Columbus were in Santo Domingo and then taken to Cuba, in the Havana Cathedral, until 1898 when, once Spain no longer ruled Cuba, they were taken to Seville, where they are now.

Dr. Benito Alonso Artigas states that other historians affirm that Columbus' remains are in a marble and bronze tomb which the Dominican Republic erected in memory of this great navigator.

Dr. Alonso Artigas asserts that with the new age of computers and other high technology at hand and with the important anniversary coming up, perhaps now is the proper time to do the necessary investigations to finally conclude this intriguing historical question: Where are Columbus' remains?

TRIBUTE TO CONCORD CITY COUNCIL MEMBER RONALD K. MULLIN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MILLER of California. Mr. Speaker, on December 11, 1991, the citizens of Concord, CA, will pay tribute to Ronald K. Mullin on the occasion of his retirement as a member of the city council. It gives me great pleasure to offer this special recognition of his contributions to Contra Costa County, CA.

Ron Mullin has had a distinguished career in public service which as spanned a decade. Mr. Mullin has served on various city and country committees, and has been active in promoting intergovernmental relations, transportation, and growth management—to name just a few of the areas of his expertise. Mr. Mullin is particularly well known for his many accomplishments in the area of transportation policy on the local, State, and national levels.

Ron Mullin began his public service when he was elected to the Concord City Council in 1982. In addition to this new position he also became a member of the League of California Cities and the National League of Cities, and was later elected to the board of directors of both organizations. Mr. Mullin served as mayor for the city of Concord from 1985 to 1987, and chaired the Contra Costa Mayors Conference, 1986.

With a special concentration on transportation issues, Mr. Mullin was active in the formation of the Contra Costa Transportation Partnership, organized with five other cities and the county board of supervisors. In 1987, through Mullin's guidance, this committee evolved into the Contra Costa Transportation Partnership Commission, later renamed the Contra Costa Transportation Authority, which he chaired from 1988 to 1991.

Mr. Speaker, I am proud to join his family and colleagues in honoring the many achievements that dominate his public service career. Ron Mullin has earned our deepest respect and admiration for his service to the city of Concord.

A TRIBUTE TO HON. ROBERT A. PASTRICK

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. VISCLOSKY. Mr. Speaker, this evening, northwest Indiana will celebrate a great man, the Honorable Robert A. Pastrick, mayor of the city of East Chicago. Tonight, at the third annual East Chicago of the year awards banquet, the Twin City Community Services will honor Mayor Pastrick as East Chicagoan of the Year.

Tonight's awards banquet is a tribute to a great individual who has dedicated over 35 years of his life to serving his community, his region, his State and his Nation. The Honorable Robert Pastrick, through his diligent work and lifelong commitment to public service, has had a direct impact on the lives of countless citizens, not only in East Chicago, but throughout all of northwest Indiana.

The illustrious Mayor Pastrick began his career in public service in 1955, when he was elected for his first term as an East Chicago City councilman. The natural chemistry that existed between Mayor Pastrick and public service was truly unique. The experience he gained as a councilman served as the catalyst propelling him to bigger and greater achievements. Mayor Pastrick effectively represented his constituents as a councilman until 1964, when he embarked upon his new role as the East Chicago City controller. He faithfully executed these duties until 1971, when he was elected to his first term as mayor. A few weeks ago, this distinguished individual was elected to an unprecedented sixth term, an outstanding achievement in and of itself.

Mayor Pastrick's resume reads like a novel. Some of his other achievements include being a member of the Democratic National Committee; a member of the executive board of the National Democratic Mayors Caucus; the Lake County Democratic Chairman; former chairman of the East Chicago Democratic Central Committee; a member-at-large of the Indiana State Democratic Central Committee; executive committee member of the Indiana Association of Cities and Towns; a member of the United States Conference of Mayors; a member of Elks, Moose, Knights of Columbus, American Legion, Kiwanis and numerous other civic and fraternal organizations; and most notably, his being married to the lovely former Ruth Ann Stolle, and the proud father of seven children and seven grandchildren.

Mr. Speaker, it is with the utmost respect for Bob Pastrick that I urge my colleagues in the House, to recognize the remarkable lifelong achievements of this selfless, dedicated and truly unique man. His achievements are a shining example that should serve as the guiding light for the future generations of Northwest Indiana.

PEARL HARBOR VETERANS HONORED

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ROHRABACHER. Mr. Speaker, on Wednesday, November 27, 1991, 600 southern California veterans will receive the congressional Pearl Harbor commemorative medal in honor of their military service in Hawaii on December 7, 1941.

This special ceremony will bring together over 1,000 people—Pearl Harbor veterans, next of kin and proud families—in a World War II hangar at the Armed Forces Reserve Center Airfield in my district. Central to the organizing of this event is Airfield Commander, Lt. Col. James Ghormley III, California Army National Guard. His cooperation and leadership has made it possible for me to stage a great event in an environment familiar to our Pearl Harbor heroes.

The story of the American service men and women who defended Hawaii against the Japanese attack on Pearl Harbor is written with the ink of bravery, courage, and sacrifice. These defenders of freedom have earned their place in history. They deserve our recognition and we owe them our thanks. In the same tradition of commitment and shared honor, Colonel Ghormley and his service men and women have made possible this special recognition event for our Pearl Harbor veterans, and a great opportunity for us to express our thanks to them.

RECOGNITION OF NICHOLAS J. (NICK) HORN AMERICAN CANCER SOCIETY COURAGE AWARD RECIPIENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to honor a good friend and a valuable servant to the public interest of the State of Nevada, Nicholas J. Horn, recipient of the American Cancer Award. Nick Horn has been serving the people of Nevada and the city of Las Vegas for over 14 years in various capacities and for a variety of causes. He has truly devoted himself to the betterment of the community in Las Vegas and the State.

A true westerner, Nick Horn was born on July 25, 1945 in Salt Lake City, UT and obtained his bachelor degree at the University of Utah, Ricks College and Brigham Young University. He stayed at Brigham Young to complete a masters degree in Public Administration, and then moved on to the University of Nevada, Las Vegas to graduate with a doctorate in education.

Nick began his career in public service as an Assemblyman for the Nevada legislature in 1977, earning the recognition of the "Outstanding Freshman Legislator." He has now served in the legislature for 14 years. As an Assemblyman until 1982, Nick held leadership roles as vice-chairman of the Assembly Committee on Education, chairman of the Assembly Committee on Elections, and assist majority floor leader. Nick Horn was elected to the Nevada State Senate in 1983 and continued in his role as one of the leaders of Nevada politics through various chairmanships and vice-chairmanships, and now is assistant majority leader of the Senate.

Throughout his public career Nick Horn has also dedicated his time to organizations outside of the Nevada legislature. He teaches and is a tenured professor of Business Management at the Community College of Southern Nevada, and participates in intensive weekend programs at Army and Air Force bases in California and Arizona. Nick is also executive director of the Clark County Medical

Society, overseeing over 600 physicians and health care workers. And if that is not enough, he finds time to be on the board of directors for numerous cultural and charity organizations such as the Nevada Opera Theater, United Way, Girls Club of Southern Nevada and the Boy Scouts and Explorer Exposition.

While fighting unselfishly for a better life for all Nevadans, Nick himself has been courageously fighting a battle of his own—cancer. Since the time Nick was diagnosed with cancer, he has challenged this disease with a continuous, successful and public battle. Nick has fought cancer like the only way he knows how—meeting it head-on, and educating others along the way.

Through his battle with cancer, Nick made it public knowledge that cancer can be beaten, that the battle can be won. His story provides inspiration to all others who must struggle with this disease. Mr. Speaker, I want Nevada and the Nation to know of Nick Horn, his devotion to others, his service to his State, and his courageous fight against cancer.

COMMENDING THE PEOPLE OF GUAM AND HAWAII FOR THEIR SACRIFICES AND CONTRIBUTIONS DURING WORLD WAR II

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to a resolution I have introduced today, House Resolution 293.

Along with the gentleman from Guam [Mr. BLAZ], the gentleman from Hawaii [Mr. ABERCOMBIE], the gentleman from American Samoa, [Mr. FALEOMAVAEGA], the gentleman from Iowa [Mr. LEACH], the gentleman from California [Mr. LAGOMARSINO], I have introduced this important resolution to recognize the enormous contributions made by the peoples of Guam and Hawaii during World War II.

December 7, 1941 is a day that will live in infamy forever in the minds of Americans. However, December 8, 1941 also represents a terrible day for Americans and freedom. On that day the imperial Japanese forces attacked the territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin*, and the U.S.S.R.L. *Barnes*. On December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by Japanese forces.

However, one unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognized the patriotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States. The resolution specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service.

Finally, the resolution recognizes the efforts of the Navy insular force, and the United States Navy and Marine Corps for their efforts and sacrifices on behalf of United States.

Mr. Speaker, I insert the full text of House Resolution 293. At this point in the CONGRESSIONAL RECORD, and I invite my colleagues to cosponsor this measure.

H. RES. 293

Whereas on December 8, 1941, the Imperial Japanese Forces attacked the territory of Guam;

Whereas such forces bombed the marine barracks of the United States in the village of Sumay, the Piti Navy Yard, the U.S.S. Penguin, and the U.S.S.R.L. Barnes;

Whereas on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by such forces;

Whereas the residents of Guam, particularly the resident forces of the United States Navy and Marine Corps and the local force known as the Navy Insular Force, valiantly defended the territory in the face of overwhelming opposition;

Whereas the Navy Insular Force was singled out by its commander for its defense of the Governor's Palace at the Plaza de Espana;

Whereas Guam was occupied by the enemy for 32 months, until the armed forces of the United States liberated the territory in July 1944;

Whereas, throughout the occupation, individuals on Guam were beaten or executed for remaining loyal to the United States, for aiding and providing food to imprisoned members of the armed forces of the United States, and for hiding members of the armed forces of the United States from the enemy;

Whereas the people of Guam were denied basic civil liberties and were forced to construct airstrips, dig caves, install anti-landing barriers, grow food, and raise livestock for the Imperial Japanese Forces;

Whereas the people of Guam were deprived of sufficient food, clothing, and medical care by such forces;

Whereas a number of Chamorro men were executed for refusing to reveal the whereabouts of a sailor from the United States who was hiding on Guam;

Whereas the people of Guam were forced to live in a concentration camp under inhuman conditions;

Whereas in Tinta on July 15, 1944, and again in Faha on July 16, 1944, 30 residents of Merizo, Guam, were taken into a cave and executed by members of the Imperial Japanese Forces;

Whereas on December 7, 1941, military installations of the United States in the territory of Hawaii, including Pearl Harbor, were attacked by armed forces of Japan;

Whereas among the defenders of Hawaii were the 298th and 299th Infantry Regiments, which included large numbers of Hawaii National Guardsmen who had been mobilized previously and residents of Hawaii who had been drafted in 1940 and 1941;

Whereas the 2,403 Americans killed in that attack included 68 civilian residents of Hawaii;

Whereas residents of Hawaii employed in civilian jobs at Pearl Harbor and other military installations responded courageously by manning anti-aircraft guns, fighting fires, tending to the wounded, and performing rescue operations;

Whereas individuals at Pearl Harbor Naval Ship Yard performed heroic work in raising and repairing the ships of the Pacific fleet of the United States which had sunk or sustained damage during the December 7th attack, which work resulted in the return to active service of 18 out of 21 such ships;

Whereas such individuals played a vital role in making the Pacific fleet fit to fight in subsequent battles of World War II;

Whereas the University of Hawaii Reserve Officers' Training Corps was mobilized to defend Hawaii against the threat of imminent enemy invasion, making such corps the only unit of the Reserve Officers' Training Corps to be mobilized for active duty;

Whereas the members of the such corps and other residents of Hawaii were activated into the Hawaii Territorial Guard for the purpose of defending the Hawaiian Islands;

Whereas the loyalty of Americans of Japanese Ancestry came under unjustified suspicion in the aftermath of the attack on Pearl Harbor even though many of the residents of Hawaii who assisted courageously in the defense of Pearl Harbor and other military installations on December 7, 1941, as well as many of those in uniform poised in defense of Hawaii, were Americans of Japanese Ancestry;

Whereas such unjustified suspicion resulted in the wrongful internment of some 110,000 Americans of Japanese Ancestry;

Whereas Hawaii was placed under martial law from 1941 to 1944 and its people were denied a number of fundamental constitutional rights, such as the right to petition for habeas corpus;

Whereas the imposition of martial law suspended the constitutional provisions which protected minorities, compounding the difficult situation of Americans of Japanese Ancestry;

Whereas Americans of Japanese Ancestry in the territory of Hawaii were unjustly discharged from the Hawaii Territorial Guard and removed from combat units;

Whereas such individuals, who resolved to demonstrate their loyalty, engaged in volunteer defense work by enlisting in the Varsity Victory Volunteers and similar organizations;

Whereas such individuals, when they were permitted to serve in combat units, demonstrated beyond question their loyalty by volunteering to serve in the Armed Forces of the United States in record numbers; and

Whereas such individuals compiled extraordinarily distinguished records in the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the people of Guam for their patriotism, bravery, loyalty to the United States, and many sacrifices during World War II, particularly during the invasion and occupation of the territory of Guam;

(2) the members of the Navy Insular Force and United States Navy and Marine Corps for the efforts and sacrifices they made in defense of the United States;

(3) the people of Hawaii for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941; and

(4) the members of the Hawaii Territorial Guard, the Varsity Victory Volunteers, the civilian workers at Pearl Harbor Naval Ship Yard and other military installations in Hawaii, the 100th Infantry Battalion, the Military Intelligence Service, and the 442nd Regimental Combat Team for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941.

ENVIRONMENTALISTS BACK POLLUTION PREVENTION AND INCINERATOR CONTROL ACT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. KOSTMAYER. Mr. Speaker, as we near the end of the calendar year, I want to remind my colleagues of some startling facts about the amount of solid waste Americans produce annually. In 1991 experts estimate that we will produce over 160 million tons of municipal solid waste and 500 million tons of hazardous waste.

We need to change the way we deal with the inevitable byproducts of modern life. Reduce, recycle, and reuse is a newly popular slogan. It also needs to become a part of our everyday lives.

Earlier this year I introduced H.R. 3253, The Pollution Prevention, Community Recycling and Incinerator Control Act. This legislation would fundamentally change the way that we deal with the mountains of waste we produce every year. The environmental community has lined up solidly in support of this bill, and I am happy to have included in the RECORD their letter in support of H.R. 3253.

COSPONSOR THE KOSTMAYER POLLUTION PREVENTION INCINERATOR CONTROL ACT

July 31, 1991.

DEAR REPRESENTATIVE: The undersigned organizations urge you to co-sponsor a bill to be introduced this week by Representative Peter Kostmayer, The bill is entitled "The Pollution Prevention, Community Recycling, Incinerator Control Act of 1991." The bill would establish minimum recycling requirements for glass, metal, paper and other recyclable and compostable materials and would establish goals for serious reductions of hazardous wastes through toxics use reduction (TUR) as conditions to any use of incineration. The bill also begins a moratorium on the permitting of all new municipal solid waste (MSW) incinerators through 1999 and set strict conditions for the permitting of any new hazardous waste incinerators. It will also require that the toxic ash produced by MSW incinerators be regulated and disposed of as a hazardous waste.

As communities across our nation suffer the effects of disposing of 180 million tons of garbage and approximately 500 million tons of hazardous waste each year, it is clear that strong national pollution prevention policies are urgently needed as part of the reauthorization of the Resource Conservation and Recovery Act (RCRA). To date the implementation of RCRA by the Environmental Protection Agency (EPA) has focused almost exclusively on an ultimately flawed "waste management" program rather than a pollution prevention program.

Although there are currently about 168 MSW and 1,100 hazardous waste incinerators, boilers and kilns now operating, hundreds more are proposed or under construction, making this technology the latest growing method of waste disposal. This rush to burn not only poses serious environmental and public health threats to hundreds of neighborhoods across the country, it also seriously undermines national and local recycling and TUR programs.

NSW incinerators are sold as "energy recovery" facilities, but the truth is, that even current recycling programs (representing only about 13 percent of the municipal solid waste stream) save six times the energy of incineration. The Bush Administration's National Energy Strategy, calling for a 7-fold increase in MSW incineration by 2010 would actually waste more energy than it would recover. Moreover, recycling programs are far less costly to the taxpayer than incineration. The capital costs for MSW incinerators now routinely run $100,000 for every ton of daily capacity. Detroit's new incinerator, with a capacity of 4,000 tons a day, had a capital cost of over $400 million.

Incinerators also produce highly toxic emissions and contribute to global warming. Because incinerators fail to completely destroy wastes they receive, heavy metals such as lead, cadmium and mercury are either emitted in incinerator stack gases or concentrated in ash residues. These releases also contain hundreds of other well known toxic substances such as dioxins, furans and PCBs which are also released into the environment during incineration. These emissions are not fully tested for their health effects or regularly monitored.

Incinerators also create a continued demand for more landfills because they produce tons of toxic ash which pose additional transportation, air and groundwater contamination risks. Incinerators do not entirely eliminate wastes, they merely transform wastes into toxic gases and ash which are then released into the air and groundwater.

Violations are also a serious problem with incinerators. After being fined over $3 million last year, the Chemical Waste Management, Inc.'s (CWM) Chicago facility was shut down by an explosion on February 13 due to unanticipated hazardous wastes entering the unit. In May, a joint EPA-OSHA report on 29 hazardous waste incinerators, including the CWM Chicago facility, listed 75 violations found by EPA and 320 violations found by OSHA.

Until the requirements in the Kostmayer bill are met we do not believe additional incineration capacity is warranted. By calling for a limited "time out" on the construction of new incinerators we will allow our nation to get back on track toward preventing and reducing wastes instead of continuing the hazards of managing wastes. We therefore, strongly encourage you to co-sponsor and support the Kostmayer "Pollution Prevention, Community Recycling, Incinerator Control Act of 1991."

Sincerely,

Ken Brown/Phil Clapp, Clean Water Action.
Joe Schwartz, Environmental Action.
Karen Florini, Environmental Defense Fund.
Velma Smith, Friends of the Earth.
Rick Hind, Greenpeace Action.
Carl J. Casebolt, National Council of Churches.
David Wood, National Toxics Campaign.
Linda Greer/Allen Hershkowitz, Natural Resources Defense Council.
Daniel Weiss, Sierra Club.
Richard Regan, Southwest Research & Information Center.
Jay Dee Hanson, United Methodist Church, Board of Church and Society.
Carolyn Hartmann, U.S. PIRG.

COURAGEOUS EVA FEIG BATTLES CANCER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, late September of this year Ms. Eva Feig's fears were confirmed: she was diagnosed with ovarian cancer. Ms. Feig of my congressional district is just 1 of 20,700 new cases of ovarian cancer which will be diagnosed this year. Many people are unaware of just how prevalent this disease is. But the cancer is beatable. With early detection and decisive treatment, those afflicted can regain full health.

Eva recently began her chemotherapy treatment on October 23, and it is off to a good start. She will bravely receive five more treatments, one each month. Eva's doctor is very pleased with her response to the therapy. We are confident that the treatment, as difficult as it is, will bring about recovery.

The overwhelming support of friends and family have been a great source of strength and encouragement for Eva. It is truly inspirational to see such an outpouring of compassion. Strengthened by a successful first treatment and with loving support all around, I am sure Eva will return to a long, active life.

Mr. Speaker, all women are potential ovarian cancer victims. The National Cancer Institute estimates that no less than 1 out every 70 women will be diagnosed with ovarian cancer in their lifetime. Chances of full recovery are much greater when the condition is discovered early. Many research groups are working to improve the use of ultrasound for early detection of the cancer. It is important that women avail themselves of this important test.

Mr. Speaker, the truth is that early detection is our best weapon against all forms of cancer. For women, ovarian cancer is the fifth most common form of cancer, behind lung, breast, colon, and rectal. Regular check ups which include: pap smears, mammograms, and other diagnostic tests is an important preventative medicine.

Eva Feig will beat this cancer and with early detection and treatment, many other women will, as well.

ALLOWANCE FOR DUTY-FREE GIFTS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. McGRATH. Mr. Speaker, today I am introducing legislation to increase the allowance for bona fide duty-free gifts sent from persons in foreign countries to individuals in the United States. Current law limits such gifts to the aggregate fair retail value of $50 per recipient each day with the costs of shipping included. My bill would increase the limit to $125. Gifts of alcohol, tobacco, and perfume containing alcohol, tobacco, and perfume containing alcohol are not eligible for this special treatment under present law, and my bill makes no change in this prohibition.

The present $50 level was established in 1983. Inflation has substantially reduced the value of that exclusion. At the same time, the volume of merchandise has markedly increased. The purpose of my bill is to set a more realistic level for gifts of relatively small value, and to relieve the Customs Service of collection responsibilities, the cost of which may exceed the revenue received by the Federal Government. Customs would, of course, continue its inspection activities to prevent importation of illegal goods.

I look forward to discussion of this legislation in the next session of Congress.

THE CHILD ABUSE ACCOUNTABILITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Child Abuse Accountability Act of 1991.

This bill holds child abusers accountable for their actions by allowing victims access to a convicted abuser's Federal pension.

If a court awards a victim monetary damages for child abuse, an abuser often avoids payment by liquidating and skipping town. Under those circumstances, the victim is almost guaranteed he or she will not collect a penny.

To make matters worse, the Federal Government protects a child abuser's pension. Victims, who often go through hell in order to hold their abuser accountable, are shocked to find that the Federal Government refuses to pay court-ordered awards. When it comes to paying for child abuse, Uncle Sam blocks the way. Federal pensions are untouchable. This is obstruction of justice.

We are just beginning to learn the extent of child abuse and the affects it is having on individuals, families, and the Nation. For too long, abused children were afraid to speak up about this terrible crime. The pain and stigma associated with child abuse make it tough to address. But a nation that does not protect its children is a nation without a future. And a federal government that protects abusers is abetting that tragedy.

That is why we should take the lead—not stand in the way—in combating child abuse. I hope my colleagues will join me in supporting the Child Abuse Accountability Act.

INDIAN HOUSING DEMONSTRATION PROJECT ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RICHARDSON. Mr. Speaker, recently, tribal leaders from New Mexico and across the country and officials from the Department of Housing and Urban Development [HUD] held a conference in Santa Fe, NM, to brainstorm on new approaches to address the severe shortage of housing in Indian country.

One of the main topics discussed at the conference was legislation I have been working on with the Jicarilla Apache Tribe that would give tribes more control over their own housing situation. This approach was greeted with great enthusiasm.

Today, I am introducing the Indian Housing Demonstration Project Act, which will provide Indian tribes an opportunity to more directly meet the housing needs of their members. This legislation directs the Secretary of Interior and the Secretary of Housing and Urban Development to jointly select between 5 and 10 tribes to participate in a housing demonstration project that will allow the tribes to administer their own housing programs.

Tribes would be selected on the basis of creative and innovative activities and methods they plan to use in developing, providing, and promoting housing for their people. Selected tribes must submit plans that include agreements to maintain safe housing, give preference to low-income Indian families, and carry out a program to promote alternative methods of financing.

Once a tribe's plan is approved, the tribe would be authorized to consolidate Federal housing assistance funds that the tribe currently receives from Department of Housing and Urban Development and Department of Interior Indian housing programs. Using these funds, the tribe would administer its own housing program. Grants would be provided to be used for administrative expenses incurred in carrying out the demonstration project.

This legislation is consistent with Congressional efforts to increase self governance initiatives in Indian country. Members with large Indian constituencies know it is not only important that we meet the increasing demand for additional housing on Indian reservations, but that Indian housing be managed in a way that meets the true needs of the Indian people.

The following is a letter I received from the Jicarilla Apache Tribe which outlines issues raised at the Indian Housing conference and expresses support for this legislation. Also included is the text of the Indian Housing Demonstration Project Act of 1991. I urge my colleagues to support this important legislation.

THE JICARILLA APACHE TRIBE,
Dulce, NM, November 4, 1991.

Hon. BILL RICHARDSON,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN RICHARDSON: Thank you for the insightful and encouraging remarks that you provided to the Tribal Leaders' Workshop on New Approaches to Indian Housing, co-sponsored by the Jicarilla Apache Tribe and HUD. It set the tone for what proved to be an extremely productive and exciting conference.

The importance of the issue was demonstrated by the presence of some of the most respected tribal leaders, including President Peterson Zah of the Navajo Nation, Chief Wilma Mankiller of the Cherokee Nation, Chief Phillip Martin of the Mississippi Band of Choctaw Indians, Governor Harry D. Early of the Laguna Pueblo, and President Ivan Makil of Salt River Pima-Maricopa. (A complete list of tribal officials is attached.)

There was animated discussion on the need for new approaches to address the severe housing shortages that exist on all of our reservations. The most important outcome of the conference was the strong support from the tribal leaders for the principles underlying the Tribal Self-Governance Housing Demonstration legislation you are intending to introduce. These principles included:

1. The need for greater flexibility in the existing HUD Indian Low Income Housing program so it can be more responsive to the unique cultural, economic, and geographic factors that are found on each reservation.

2. The need for tribes to tap the vast range of other federal, state, private and non-profit housing programs, rather than relying solely on the HUD Low-Income Housing program.

3. The need for tribal governments to develop a comprehensive approach to housing on reservations so there will be housing for all segments of the population—low-income, the elderly, the young Indian professionals who want to return home to help their tribes, the teachers, doctors and other skilled persons, etc. so that tribes and the Federal government can achieve their shared goal of making reservations socially and economically self-sufficient. On reservations, unlike cities, there is no private housing sector, so tribal governments must focus on all segments.

4. The need to eliminate the barriers that have been placed between tribal governments and Indian housing authorities so that tribal governments can establish offices to carry out the various tasks listed above.

The tribal leaders expressed their appreciation to you and to the Jicarilla Apache Tribe for jointly developing the proposed legislation. They urged that it be introduced as soon as possible and they promised their full support to help it become enacted into law.

On behalf of the Jicarilla Apache Tribe, and as co-chairman of the Tribal Leaders Workshop, I wish to express my appreciation to you for your ongoing commitment to Indian housing and to the principles of tribal self-governance. I look forward with great anticipation to the introduction and then enactment of the new Tribal Self-Governance Housing Demonstration Act legislation.

Sincerely yours,

LEVI PESATA,
President.

JICARILLA APACHE TRIBE AND HUD HOUSING CONFERENCE, OCTOBER 29 AND 30, 1991

TRIBAL OFFICIALS

Peterson Zah, President, The Navajo Nation, P.O. Box 308, Window Rock, Arizona 86515.

Wilma Mankiller, Principal Chief, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74456.

Phillip Martin, Tribal Chief, Mississippi Band of Choctaw Indians, P.O. Box 6010—Choctaw Branch, Philadelphia, Mississippi 39350.

Ivan Makil, President, Salt River Pima-Maricopa Indian Community Council, Route 1, Box 216, Scottsdale, Arizona 85256.

Harry D. Early, Governor, Pueblo of Laguna, P.O. Box 194, Laguna, New Mexico 87026.

Lawrence Kenmille, Vice Chairman, Confederated Salish & Kootenai, Tribal Council, Box 278, Pablo, Montana 59855.

Vernon Mestes, Vice Chairman, Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, South Dakota 57625.

George Nolan, Vice President, Sault Saint Marie Chippewa Tribal Council, 206 Greenough Street, Sault Saint Marie, Michigan 49783.

James Frances, Councilman, Pueblo of Laguna, P.O. Box 194, Laguna, New Mexico 87026.

Ronald Julian, Councilman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Hubert Velarde, Councilman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Loretta Vicenti, Councilwoman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Troy Wayne Poteete, Councilman, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74456.

Elveda Martinez, Tribal Administrator, Walker River Paiute Tribe, P.O. Box 220, Schurz, Nevada 89427.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Indian Housing Demonstration Project Act of 1991.

SEC. 2. AUTHORITY FOR INDIAN HOUSING SELF-GOVERNANCE DEMONSTRATION PROGRAM.

The Secretary of Interior and the Secretary of Housing and Urban Development shall jointly carry out a program under this Act to demonstrate the effectiveness of permitting Indian tribes (through the tribal government) to determine the housing needs of tribal members and the appropriate use of Federal housing assistance provided to the Indian tribe.

SEC. 3. CONSOLIDATION OF HOUSING ASSISTANCE.

(a) IN GENERAL.—Upon the selection of an Indian tribe for participation in the demonstration program under this Act—

(1) the Secretary of Interior and the Secretary of Housing and Urban Development shall authorize the Indian tribal government to consolidate assistance received by the Indian tribe under the programs under subsection (b) for use under the demonstration program; and

(2) the Secretary of Housing and Urban Development shall authorize the Indian tribal government to receive any assistance under such programs that otherwise would be provided under the programs to the Indian housing authority of the Indian tribe.

(b) INCLUDED PROGRAMS.—The programs referred to in subsection (a) shall be the following programs:

(1) The housing improvement program of the Bureau of Indian Affairs, Department of the Interior, established under part 256 of title 25, Code of Federal Regulations, pursuant to the Act of November 2, 1921 (Chapter 115; 42 Stat. 208; commonly referred to as the Snyder Act).

(2) The program for development and acquisition of public housing for Indian families under titles I and II of the United States Housing Act of 1937.

(3) The program for rental housing assistance payments for low-income Indian families under section 8 of the United States Housing Act of 1937.

(4) The mutual help homeownership opportunity program under section 202 of the United States Housing Act of 1937.

(5) The Indian housing modernization program under section 14 of the United States Housing Act of 1937.

(6) The operating subsidies program for public housing for Indian families under section 9 of the United States Housing Act of 1937.

SEC. 4. TRANSFER OF TITLE.

(a) IN GENERAL.—Subject to subsection (b), under the demonstration program the Secretary of Housing and Urban Development shall transfer to each participating Indian tribe all of the rights, titles, and interests of the United States and any Indian housing authority of the Indian tribe in any housing projects and housing units for Indian families located on Indian reservations and other Indian areas of the Indian tribe.

(b) REQUIRED REVERSION AGREEMENT.—No transfer may be made under this section unless the Secretary of Housing and Urban Development and the transferee Indian tribe have entered into an agreement providing that all of the rights, titles, and interests in housing transferred under this section to the tribe shall revert to the United States and the relevant Indian housing authorities upon—

(1) the Indian tribe terminating participation in the demonstration program under this Act (as provided in section 11); and

(2) the occurrence of such other circumstances, as the Secretary and the Indian tribe provide in the agreement.

SEC. 5. TRIBAL PLAN.

(a) REQUIREMENT.—An Indian tribe may not be selected to participate in the demonstration program under this Act unless the Indian tribe has submitted a plan in compliance with subsection (b).

(b) CONTENTS.—A plan under this section shall—

(1) contain agreements by the Indian tribe submitting the plan that the Indian tribe will—

(A) maintain any housing projects and housing units transferred under section 4 in a safe and reasonable condition;

(B) give priority in occupancy of housing assisted under the demonstration program to low-income Indian families;

(C) carry out a program to develop and promote alternative methods for financing and developing housing located on Indian reservations and other Indian areas of the Indian tribe, which shall include assisting tribal members to identify and obtain mortgage financing and other housing assistance from private and public sources; and

(D) use assistance referred to in section 3(b) that is received by the Indian tribe to provide housing located on Indian reservations and other Indian areas of the Indian tribe for Indian families in accordance with the housing strategy under paragraph (2) of this subsection;

(2) set foth a strategy describing how the Indian tribe will use assistance referred to in section 3(b) that is received by the Indian tribe, except that such use shall comply with any requirements for use of assistance received by Indian tribes under section 217(a)(2) of the Cranston-Gonzalez National Affordable Housing Act; and

(3) describe—

(A) the standards and requirements to be used by the Indian tribe for affording priority in housing assisted under the demonstration program to low-income Indian families;

(B) the standards and methods to be used by the Indian tribe to establish rent charges for rental units owned by the Indian tribe;

(C) any financial and other resources to be contributed by the Indian tribe or other entities for use in conjunction with assistance referred to in section 3(b) that is received by the Indian tribe; and

(D) the activities to be conducted by the Indian tribe in carrying out the program of the Indian tribe under the agreement pursuant to paragraph (1)(C).

SEC. 6. OPERATING SUBSIDIES.

(a) IN GENERAL.—Notwithstanding section 9 of the United States Housing Act of 1937, a participating Indian tribe shall receive annual contributions under such section 9 (to the extent amounts are provided in appropriations Acts) for each fiscal year beginning after the Indian tribe is slated to participate in the demonstration program in an amount equal to the amount of such assistance received by the Indian housing authority of the Indian tribe in the last fiscal year beginning before the Indian tribe was selected for participation, as adjusted according to subsection (b).

(b) INFLATIONARY ADJUSTMENT.—The Secretary of Housing and Urban Development shall adjust the amount received by each participating Indian tribe pursuant to subsection (a) to adjust for inflation, as the Secretary determines appropriate.

SEC. 7. WAIVER OF OTHER FEDERAL REQUIREMENTS.

Upon the selection of an Indian tribe under section 9 to participate in the demonstration program under this Act, the Secretary of the Interior and the Secretary of Housing and Urban Development shall, in consultation with each other and the participating Indian tribe, identify any provisions of Federal law, and any Federal regulations, policies, and procedures for which a waiver is necessary to enable the participating Indian tribe to implement its plan under section 5. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Housing and Urban Development may waive any provisions of Federal law, and any Federal regulations, policies, or procedures identified, unless such Secretaries determine that the waiver will result in harm to any tenants or owners of housing units that are located on Indian reservations and other Indian areas of the Indian tribe and assisted under the programs referred to in section 3(b).

SEC. 8. APPLICATIONS.

The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly establish procedures and deadlines for Indian tribes to submit applications for participation in the demonstration program under this Act. The procedures shall require each application to include a plan under section 5. The deadline for submission of applications shall not be later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 9. SELECTION.

(a) IN GENERAL.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Act, the Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly select (from among Indian tribes submitting applications in compliance with section 8) not less than 5 and not more than 10 Indian tribes to participate in the demonstration program under this Act, which shall include the Jicarilla Apache tribe in the State of New Mexico (but only if such tribe submits an application in compliance with section 8). No Indian tribes may be selected for participation before the deadline for submission of applications established under section 8.

(b) CRITERIA.—The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly establish criteria for the selection of Indian tribes to participate in the demonstration program under this Act, which shall include—

(1) the extent of creative and innovative activities and methods to be employed by the Indian tribe in developing, providing, and promoting housing for Indian families that is located on Indian reservations and other Indian areas of the Indian tribe; and

(2) the extent to which the Indian tribe has made or received commitments for any financial or other resources to be used in conjunction with assistance referred to in section 3(b) that is received by the Indian tribe.

SEC. 10. GRANTS FOR ADMINISTRATIVE COSTS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, to the extent amounts are provided in appropriations Acts pursuant to subsection (c), provide a grant to each participating Indian tribe in each of fiscal years 1993, 1994, 1995, 1996, and 1997. All of the grants made under this section in any single fiscal year shall be equal in amount.

(b) USE.—Amounts from any grant made under this section shall be used by the participating Indian tribe for administrative expenses incurred in carrying out the demonstration program under this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section $1,000,000 in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

SEC. 11. TERMINATION OF PARTICIPATION.

(a) IN GENERAL.—After the expiration of the 5-year period beginning on the date that an Indian tribe is selected to participate in the demonstration program under this Act, the Indian tribe may terminate such participation by notifying the Secretary of the Interior and the Secretary of Housing and Urban Development in writing of such termination.

(b) EFFECT.—Any waivers provided for the Indian tribe under section 7 shall cease to be effective upon termination of participation. The participation of an Indian tribe in the demonstration under this Act shall not affect the eligibility of the Indian tribe for assistance or the amount of assistance provided under the programs referred to in section 3(b) after termination of participation under this section.

(c) RECAPTURE.—The Secretary of Housing and Urban Development shall recapture, from any Indian tribe terminating participation in the demonstration program under this Act, any grant amounts received under section 10 by the Indian tribe that remain unobligated upon the termination of participation.

SEC. 12. REPORT.

The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly submit to the Congress, not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, a report describing the activities carried out under this Act by participating Indian tribes and evaluating the effectiveness of such activities.

SEC. 13. DEFINITIONS.

For purposes of the Act:

(1) INDIAN AREA.—The term "Indian area." means, with respect to an Indian tribe, the area within which the Indian housing authority of the Indian tribe is authorized to provide low-income housing.

(2) INDIAN HOUSING AUTHORITY.—The term "Indian housing authority of the Indian tribe" means, with respect to an Indian tribe, the Indian housing authority (as such term is defined in section 3(b) of the United States Housing Act of 1937) that is—

(A) established by exercise of the power of self-government of the Indian tribe independent of State law; or

(B) established by operation of State law and operates to provide housing for the Indian tribe, except that such term means the Indian housing authority only to the extent such Indian housing authority acts for the Indian tribe.

(3) INDIAN TRIBE.—The terms "Indian tribe" shall have the same meaning given the term, in section 4 of the Indian Self-Determination and Education Assistance Act.

(4) PARTICIPATING INDIAN TRIBE.—The term "participating Indian tribe" means an Indian tribe that has been selected under section 9 to participate in the demonstration program under this Act.

NATIONAL EDUCATION WEEK

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, many of us remember that day in October 1957 when we were startled by the news that the Soviet Union had sent the first spacecraft into outer space. Sputnik woke this Nation up and reminded us that we couldn't sit on our laurels—that if we were to remain players in the international arena, we had to excel in the realm of education. We had to work, not only with our hands, but with our minds. Looking back, we now recognize that Sputnik was a blessing in disguise, for it created the political will necessary to do what we needed to do to make up lost ground in the race for the moon. And it brought home to us that the quality of our educational system is a critical component of our national security.

Twentieth century civilization with its modern economy is a complex and delicately balanced mechanism. And the fuel that powers it is education. Education yields innovation, and innovation makes for competitiveness. Competitiveness sustains a dynamic economy. Without education there is no innovation, and the result is a weak economy.

Today's economic anemia directly affects working people. My State presently suffers from an unemployment rate of 7.1 percent. This 7.1 percent translates into over 55,000 men and women without a means of livelihood. In contemplating how we got into our current economic hole, and how we can climb out, we are driven inexorably back to the issue of education.

Mr. Speaker, this is National Education Week, but I believe that education is so important that every week should be National Education Week, that every year should be National Education Year. Education should be addressed effectively with actions and not just words. Our teachers should be treated with the importance they deserve.

One of the most serious problems our Nation faces as we strive for an educational system that can restore America's competitive edge is the skyrocketing costs of education. People need access to this system, and unfortunately, these high costs are becoming a deterrent to some of our best and brightest. This is not right. People should not be forced to make a choice between mortgaging their homes or providing an education for their children. It is disheartening to receive a letter from a constituent that tells you that her "single largest fear continues to be whether or not (she) will be able to pay the next tuition bill."

Mr. Speaker, just where are we heading? In 1990, 347,000 of our Nation's young adults aged 15 to 24 dropped out of school. The morale of our teachers is down. Support for them, whether in resources or in compensation, is wavering.

Shirley Rau, an educator from Idaho wrote, "There has been a lot of talk lately about education and educational reform. We have education candidates for the legislature. We have an education President. Unfortunately good intentions haven't been translated into action. American education has harbored dinosaurs for too long—digging up fossils of failed methods and breathing life into the bones of dead issues again and again.

"Classrooms of today are not much different from classrooms of yesterday. Students sit in rows facing a chalkboard at the front of the room. While technology has shaped office efficiency with computers, fax machines, and laser printers—the only indication of technological advancement in my classroom is an overhead projector.

"Educational reforms at the national level center on a national standardized test of a national curriculum. They center on choice and merit pay for meritorious teachers. What they don't address are the growing problems facing society that are reflected in our classrooms every day: Dysfunctional families, poverty, drug and alcohol abuse, unemployment, and illiteracy. Five hundred thousand children in the United States are 'displaced,' living in institutions or in group homes. This number is expected to climb to nine hundred thousand by 1992."

I am sure that Ms. Rau would agree with me that families must come together as families to ensure that our teachers can concentrate on teaching. It is our families that must foster a sense of discipline, responsibility and consideration in our youth. Teachers are being forced to fix a structure with a crumbling foundation. They are having to deal with the result of unstable home lives. I was recently in the north country of New Hampshire when a kindergarten teacher informed me that 11 students of her class of 18 are from broken homes. We must turn our attention to fixing our families. Our teachers should not have to act as pseudo-parent or guidance counselors, but rather should be able to do what they were originally intended to do * * * teach. We must enable teachers to teach.

It is thanks to teachers that progress has been, and will continue to be possible. Ms. Rau stated, "There was a time in our Nation's history when a sense of the past was important to the spirit of a community, but a commitment to the future was essential. The schools provided the one concrete link that a community had to future lives; it was the significant legacy that one generation left to another."

I salute our teachers, our public servants in educational institutions, our students and our parents that struggle to ensure that their young offspring remain students. I also salute my colleagues who strive to make education our number one priority. But as Ms. Rau stated, "We don't need education presidents or education advocates. We need education activists."

Education is not solely in the hands of lawmakers and teachers. All of us are in this together. Not only because of the obvious gains, but also because of the obvious losses resulting from its failure.

Helen Keller said, "We can't have education without revolution. We have tried peace education for one thousand and nine hundred years * * * Let us try revolution and see what it will do now * * * this is not a time of gentleness * * * it is a time for open speech and fearless thinking * * * a time that is robust and vehement and bold."

Mr. Speaker, this week enables us to refocus on our most important investment, our children and their educational future. Together we must once again make education our No. 1 national priority. The Nation that was first to the Moon cannot afford to be late for the 21st century.

IN HONOR OF ROMAN KALININ

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. PELOSI. Mr. Speaker, the attempted Soviet coup in August 1991 was the backdrop for a remarkable demonstration of courage and dedication to the cause of freedom. Roman Kalinin, publisher of Russia's first gay and lesbian newspaper, together with a group of gay men and lesbians worked to fight the coup by printing and distributing President Boris Yeltsin's decrees.

Roman Kalinin first learned of the coup through friends in San Francisco. From late in the evening of August 18, until the coup was defeated on August 21, Kalinin established a telephone link through Finland to San Francisco. A plan was developed to communicate with people in the Soviet Union who would have immediately become targets for intimidation and possibly death because of their sexual preference and work in the democratic movement. Fear and panic were rampant as reports surfaced of the possibility of waves of arrests. On August 20, an official demand was made for lists of people with AIDS and HIV from the Moscow AIDS clinic.

Kalinin is the publisher of TEMA, the first lesbian/gay newspaper in the Soviet Union. His publishing system and copy machine became virtually the only method available to print and distribute information against the coup leaders. For almost 60 hours, gay men and lesbians in Moscow marshaled their forces in an incredible display of courage.

Russian President Boris Yeltsin issued a list of decrees which became the document of resistance against the forces of oppression. Gay men and lesbians at the TEMA offices processed the information on the computer. Around the clock the copy machine printed the Yeltsin decrees with the logo of the well known gay newspaper on the bottom. Kalinin wanted the public to know that the gay community was working to fight the coup, even though he risked his own arrest by publicly claiming the work.

These heroes then took the printed decrees into the streets of Moscow, working with other leaders of the prodemocracy movement. The decrees were distributed throughout the city and appeared at every metro stop for confused Moscovites to read. The decrees were even handed to soldiers in the tanks aimed at the Russian Parliament building. This heroism represents an ongoing commitment to fight oppression and discrimination in the Soviet Union. They have for several years, led the fight to reduce the discrimination which is faced by gay men and lesbians throughout the Soviet Union.

They have also joined with others from around the world to provide information and educational material for the Russian people to fight the ever increasing threat of AIDS and infection from the HIV virus. Their efforts have been supported through the International Gay and Lesbian Human Rights Commission, an organization has become in just 1 year, an international gay consulate to the world. Victory in the Soviet Union provided the opportunity to open doors for lesbian/gay freedom never before dreamed of in that country.

The courage and commitment to freedom and democracy of Roman Kalinin is being honored in December 1991 when he will be named the "Man of the Year" by the Advocate, the largest national publication in America serving lesbians and gay men.

BURMA'S BRUTAL MILITARY CONTINUES TO KILL

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ROHRABACHER. Mr. Speaker, there are places in the world where the level of human suffering is beyond our ability to comprehend. Burma is one of those places. While military dictatorship has beaten the Burmese people into a temporary state of submission, I am hopeful that the gangsters in power will not be able to hold off for much longer the tide of freedom waiting to sweep over the country.

Americans are a compassionate and generous people who have always responded to help others in need. The destruction and suffering of earthquakes, volcanoes, floods, droughts, and other disasters around the world have been mitigated by the compassion of Americans. But the suffering in Burma is the result of callous and evil State policies which have killed tens of thousands and terrorized the entire nation. The suffering in Burma is man made. To better grasp this inferno on pain I commend to the attention of my colleagues the following news items.

[From the New York Times, July 10, 1991]

BURMA'S FEAR, BURMA'S CORRUPTION

(By Aung San Suu Kyi)

(Aung San Suu Kyi, the leading dissident and most popular political figure in Myanmar (formerly Burma), today will be awarded the Sakharov Prize for Freedom of Thought by the European Parliament. She will not be in Strasbourg for the ceremony because for two years she has been under house arrest in Rangoon. The previous winners were Nelson Mandela, new president of the African National Congress; Alexander Dubcek, Czechoslovakia's leader during the Prague Spring in 1968, and Anatoly Marchenko, a dissident who died in a Soviet labor camp.

What follows, excerpted, is an unpublished essay she intended to include in a volume honoring her father, U Aung San, the architect of modern Burma, who was assassinated in 1947 when she was 2 years old. Despite her party's overwhelming electoral victory in May 1990, Aung San Suu Kyi and many supporters remain in political detention. The military authorities have refused to transfer power to a civilian government despite their promise to do so.)

It is not power that corrupts but fear. Fear of losing power corrupts those who wield it, and fear of the scourge of power corrupts those who are subject to it. With so close a relationship between fear and corruption it is small wonder that in any society where fear is rife, corruption in all forms becomes deeply entrenched.

Public dissatisfaction with economic hardship has been seen as the chief cause of the movement for democracy in Burma, sparked by the student demonstrations of 1988. It is true that years of incoherent polices, burgeoning inflation and falling real income had turned the country into an economic shambles.

But it was more than the difficulties of eking out a barely acceptable standard of living that had eroded the patience of a traditionally good-natured, quiescent people; it was also the humiliation of a way of life disfigured by corruption and fear.

The students were protesting not just the death of their comrades but the denial of their right to life by a totalitarian regime that deprived the present of meaningfulness and held out no hope for the future. And because the students articulated the frustrations of the people at large, the demonstrations quickly grew into a nationwide movement.

The people of Burma had wearied of a precarious state of passive apprehension in which they were "as water in the cupped hands" of the powers that be.

Emerald cool we may be
As water in cupped hands
But oh that we might be
As splinters of glass
In cupped hands.

Glass splinters, the smallest with its sharp, glinting power to defend itself against hands that try to crush, could be seen as a vivid symbol of the spark of courage that is an essential attribute of those who would free themselves from the grip of oppression.

My father, Bogyoke Aung San, regarded himself as a revolutionary and searched tirelessly for answers to the problems that beset Burma during its times of trial.

He exhorted the people to develop courage: "Don't just depend on the courage and intrepidity of others. Each and every one of you must make sacrifices to become a hero possessed of courage and intrepidity. Then only shall we all be able to enjoy true freedom."

A revolution that aims merely at changing official policies and institutions with a view to an improvement in material conditions has little chance of genuine success. Without a revolution of the spirit, the forces that had produced the inequities of the old order would continue to pose a constant threat to the process of reform and regeneration.

It is not enough merely to call for freedom, democracy and human rights. There has to be a united determination to persevere in the struggle, to make sacrifices in the name of enduring truths, to resist the corrupting influences of desire, ill will, ignorance and fear.

Saints, it has been said, are the sinners who go on trying. So free men are the oppressed who go on trying and who in the process make themselves fit to bear the responsibilities and to uphold the disciplines that will maintain a free society.

Among the basic freedoms to which men aspire that their lives might be full and uncramped, freedom from fear stands out as both a means and an end.

A people who would build a nation in which strong, democratic institutions are firmly established as a guarantee against state-induced power must first learn to liberate their own minds from apathy and fear.

[From the Christian Science Monitor, Oct. 16, 1991]

BURMA'S PROFILE IN COURAGE

Burma's military regime, which calls itself the "State Law and Order Restoration Council," jails anyone who dares speak out against it. Thousands of Burmese are imprisoned and threatened with torture.

These practices spring from the benighted, xenophobic philosophy of former dictator Ne Win, who stepped down in 1988 at a time of extraordinary popular turmoil, but is widely believed to maintain a firm grip on power behind the scenes.

The chief detractor of Ne Win's legacy—and Burma's chief hope for a better day—is Aung San Suu Kyi. Daughter of a founder of modern Burma, she has been under house arrest in Rangoon for more than two years. This week she received the Nobel Peace Prize—an honor that should bring Burma into the spotlight of international concern.

Though much of her life has been spent in the West, Aung San Suu Kyi's commitment to progress in her homeland has been unstinting. She returned to Burma in 1988 to care for her mother and became involved in the country's yearning for change. A new movement, the National League for Democracy, coalesced around her leadership.

But the "opening" that followed Ne Win's resignation and his legalization of parties other than his own soon closed. The military attempted to quiet Aung San Suu Kyi through house arrest in the summer of 1989. Struggling to accommodate popular opinion, the generals said they would allow a national election the following May. When May arrived, the democratic movement won 82 percent of the parliamentary seats.

The generals ignored the election results. They seemed to be betting that economic improvement would quiet the democratic urge and validate their emphasis on "discipline"—i.e., stern repression. Foreign investment is being courted; the government talks of a "free-market economy."

It won't work. On the occasion of her receiving the European Parliament's Sakharov Prize for Freedom of Thought earlier this year, a speech by Aung San Suu Kyi was published. It called for a "revolution of the spirit" to shuck off the fear bred by tyranny. The Burmese people have heard her. Their desire for freedom deserves universal support.

[From the Los Angeles Times, Feb. 28, 1991]

BURMA IS ON THE WRONG ROAD

Aung San Suu Kyi. She is a symbol of both the hope and despair of Myanmar, the Asian country formerly known as Burma. Nine months after a stunning election victory, Suu Kyi, leader of the victorious National League for Democracy, remains under house arrest. The country's iron-fisted military refuses to relinquish power and figures that by keeping her out of sight, she will slip into oblivion. The world cannot let Suu Kyi be forgotten.

Her sad story illustrates that unrelenting repression of the Burmese people and the denial of their human rights. The military is contemplating putting her on trial as the world takes note of her plight: The European Community recently awarded her the Sakharov Prize. Czechoslovakia's President Vaclav Havel has nominated her for a Nobel Peace Prize. Norway as awarded her its Rafto Human Rights Prize.

Myanmar, meanwhile, has become an increasingly dismal and hopeless place. Not only has the State Law and Order Restoration Council refused to yield to those elected last May, but it also has jailed more than 50 of them. Others have fled. Even the country's revered Buddhist monks have not escaped the military crackdown. Meanwhile, Myanmar's so-called "beautification" program to clean up cities was conducted less for aesthetics than to make it hard for antigovernment protesters to assemble.

Still the spirit of democracy endures. Other elected officials who managed to escape recently formed a rival government, the National Coalition Government of the Union of Burma, with Sein Win, Suu Kyi's cousin, as prime minister. They are backed by the Democratic Alliance of Burma, an organization of 21 groups fighting the military.

The U.N. Human Rights Commission received a confidential report this week in Geneva on human rights conditions in Myanmar. The international community should insist the report, which reportedly is highly critical, be made public. It would provide the basis for world sanctions against the military regime.

[From the New York Times, Oct. 30, 1991]

BURMESE, IN A DESPERATE SITUATION, SEEK HELP

TO THE EDITOR: The All Burma Students' Democratic Front of the Ye Kyaw Camp inside Burma has issued an urgent international SOS for 15,000 civilians trapped in the Burma war zone and for widespread human rights abuses. Civilian casualties among those caught in the war zone are mounting, and all face a grave danger of being killed by Burma's military government, the State Law and Order Restoration Council, in its annual dry-season offensive in a few weeks.

This SOS comes in close proximity to the third anniversary of the bloody military coup in Rangoon, Burma, on Sept. 18, 1988, in which thousands of unarmed Burmese, mostly students, were killed, and thousands more who were peacefully demonstrating for democracy were jailed. Following this coup the military government changed the name of the country from Burma to Myanmar.

I have just returned from the Burmese war zone after spending time with the Students Democratic Front. It is an armed student army fighting the State Law and Order Restoration Council in Burma.

By many accounts, the Burmese are suffering considerably more than people in Yugoslavia or South Africa, and have received far less attention and consideration.

The Burmese need help from the international community to place pressure on Burma's military government to abide by the results of the May 27, 1990, democratic elections in Burma. Despite an overwhelming election defeat, the military government has refused to relinquish power to the democratically elected National League for Democracy.

Daw Aung San Suu Kyi, the elected leader and Nobel Peace Prize winner has been under house arrest for two years, and numerous opponents of the Government have been jailed and executed without an opportunity to defend themselves. Having been to the war zone inside Burma, I am compelled to speak as loudly as I can for the 15,000 Burmese people trapped in the war zone and for those ruthlessly silenced.

The Burmese people are in a desperate situation and seek help. As individuals and governments, we have an imperative moral obligation to oppose the military government and thus avoid any appearance of its acceptance by the international community.

[From the New York Times, Oct. 15, 1991]

MESSAGE TO MYANMAR

By awarding the 1991 Peace Prize to Daw Aung San Suu Kyi, the inspirational leader of Myanmar's democracy movement, the Norwegian Nobel Committee gives fresh hope to a people oppressed by one of the world's ugliest remaining tyrannies.

This recognition may shame Asian nations like China and Thailand into withdrawing economic and political support from Mrs. Aung San Suu Kyi's jailers, the State Law and Order Restoration Council, or Slorc. Even if these neighboring regimes remain unmoved, Myanmar's democrats can be heartened by the examples of previous Peace Prize winners like Lech Walesa and Archbishop Desmond Tutu, whose causes passed from hopelessness toward splendid triumph.

To be heartened, Myanmar's people have to learn the news. The Slorc, which holds Mrs. Aung San Suu Kyi under house arrest, will make that as difficult as possible. So tight is its grip that her husband, now residing in the U.S., cannot be certain that his wife is even alive.

Her prestige has probably spared her. She is the daughter of the man who led the country then called Burma to independence, and she carried her party to overwhelming victory in last year's parliamentary elections. Yet thousands of others have been killed in Myanmar's struggle for democracy. And the Slorc still brazenly refuses to honor these decisive election results.

Fortunately, the world is now too small for tyrants to feel protected by the old conventions of absolute national sovereignty. The U.S., thanks in large measure to Senator Daniel Patrick Moynihan of New York, now pressures the Slorc with economic sanctions. The European Parliament, which awarded Mrs. Aung San Suu Kyi its Sakharov Prize, and now the Nobel Committee exert another kind of useful pressure.

This faith that Myanmar's people are as entitled as any other to share in the emerging new world of democracy and basic human rights will eventually be vindicated. If China and Thailand believe that too, they have it in their power to accelerate democratic change. How long will they choose to hold themselves apart from the conscience of the world?

[From the New York Times, Apr. 6, 1991]

STATE DEPT. CAN ACT AGAINST BURMESE REGIME

To the Editor:

As the United States debated what to do about Saddam Hussein, a frequently asked question was, "Are we to become the world's policeman? Of course, we cannot take it upon ourselves to confront every dictatorial and inhuman regime in the world, especially if they do not harm our nationals or our national interests. But some regimes are more outrageous than others, like the military mafia that rules Burma and has sought to change its sports by changing the country's name to Myanmar.

Burma's military regime made a miscalculation as egregious as any of Saddam Hussein's when it permitted national elections last May for a new parliament. Government candidates suffered a humiliating defeat. The chief democratic party won more than 80 percent of the seats. But the military regime then prevented the elected parliament from convening and forming a new government. It has kept Aung San Suu Kyi, who headed the party, under house arrest and has also arrested most of her party's leadership.

We could bring down the military regime without spending a dollar or voicing a single threat. All we need do is withdraw our diplomatic recognition from the illegitimate "government" and recognize the provisional government that a group of Suu Kyi's elected colleagues have established in Burma's northern border region.

Deaccreditation by the United States would in all likelihood be followed swiftly by Canada, Australia, Britain, India and other democracies who view the military regime with repugnance, and perhaps also by the United Nations. The Burmese students and people of all classes who demonstrated for freedom and democracy by the hundreds of thousands in September 1988, only to be shot down by the thousands, would surely take to the streets again, given such a show of outside support.

The many honorable military officers who have been sickened by the brutality, corruption and mismanagement of the Ne Win clique for nearly three decades would repudiate their leadership and give their allegiance to Suu Kyi's provisional government. The provisional government has already won the support of the rebel minorities who comprise one-third of the country's population, control the strategic border regions and desire a federal republic in which they would enjoy autonomy.

Can our State Department close its eyes to this situation? Can it fail to strike this riskless and costless blow for the freedom of 40 million people?

LOUIS J. WALINSKY.

WASHINGTON, *March 22, 1991.*

(The writer, who served as chief resident economic adviser to Burma, 1953-58, is the author of "Economic Development in Burma 1951-60.")

[From the Washington Post, Oct. 20, 1991]

WHAT THE BURMESE SUFFER IN MYANMAR

The awarding of the 1991 Nobel Peace Prize to jailed Burmese opposition leader Aung San Suu Kyi is a well-deserved recognition of her fight for democracy and civil rights. She is under house arrest and may not even know she has won this prize.

However, I wonder why the free press of this country keeps changing the name of Burma to "Myanmar." This name has not been freely choosen by the Burmese people, but imposed on them by the same military junta that, according William Branigan ["Burmese Opposition Leader Wins Nobel," news story, Oct. 15], "has killed, imprisoned and tortured thousand of its citizens."

Using "Myanmar" is not a mark of respect for the people of Burma, it is a kowtow to the bloody dictators of Rangoon.

MARJORIE WADLER CELEBRATES HER 80TH BIRTHDAY

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LAUGHLIN. Mr. Speaker, on November 7, 1991, my constituent and friend, Marjorie Wadler, celebrated her 80th birthday in Wharton, TX. This weekend her friends and family gathered there to celebrate this special occasion with her.

Mrs. Wadler is a remarkable woman. In 1950, her husband passed away, and she became a single parent to three children, the youngest being only 18 months old. Six months later, she opened Margie and Lees Youth Center, a children's clothing store, which she successfully operated for over 30 years.

Mrs. Wadler was the first women in Wharton County to serve on the grand jury and the first woman to serve on the board of the Wharton Chamber of Commerce. She was also a founding member of the first chapter of Hadassah in the State of Texas.

Mr. Speaker, with your permission on behalf of the entire House, I would like to wish Mrs. Wadler a happy birthday.

SECOND ANNIVERSARY OF THE MURDERS OF SIX JESUIT PRIESTS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LEVINE of California. Mr. Speaker, last Saturday marked the second anniversary of the murders of six Jesuit priests, their housekeeper and her daughter on the campus of the University of Central America in San Salvador. Two years after these murders, the Salvadoran Government has yet to mete out justice. While two convictions were handed down by the court, the trial itself was a travesty, and strong evidence suggests that higher ranking officials were involved.

The Jesuit case highlights the substantial shortcomings of the Salvadoran judicial system. Six of the eight soldiers implicated in the murders were acquitted even though they admitted their involvement. Testimony was perjured, withheld, and destroyed; the military employed intimidation tactics on the judge and jury, and questions about other participants remain unresolved. Everything that is wrong with the Salvadoran judicial system was manifest at this trial.

Despite this travesty of justice, there may be one bright spot to the Jesuit trial. The guilty verdict fell upon the man most responsible and upon a major participant, Col. Guillermo Benavides and Lt. Yushi Mendoza. These convictions begin to lift the veil of immunity protecting military officers involved in gross human rights violations, and are a welcome sign. While Congress must demonstrate its dissatisfaction with the conduct of the trial, we must also preserve and encourage the progress that was achieved.

I want to commend Mr. MOAKLEY, Mr. MURTHA, Mr. BONIOR, Mr. TORRICELLI, Mr. MCHUGH, and the other Members who have worked so diligently to craft H.R. 3782. I am proud to be an original cosponsor of this legislation and urge consideration of this measure as expeditiously as possible.

In addition to my support for this important bill, I have authored legislation of my own. This bill complements H.R. 3782 and attempts to reconcile two divergent policy objectives: Expressing severe congressional disappointment with the conduct of the Jesuit trial and keeping the parties to the conflict negotiating in good faith.

My bill, H.R. 3669, has two components. First, it transfers $10 million from Salvador's military assistance account into the peace fund which was created to finance transition costs in the civil war's aftermath. Such a transfer was mandated by law if a thorough and professional investigation into the murders of the Jesuit priests was not conducted. Notwithstanding the ludicrous nature of the trial's outcome, all fiscal year 1991 military assistance to El Salvador was delivered.

Second, it requires that 50 percent of what is left of this year's military assistance be transferred into the peace fund if the two army officers convicted at the Jesuit trial are granted a specialized pardon of amnesty. Specialized in this context means a pardon or amnesty that is not the result of a negotiated peace argument between the Government and the rebels.

For the first time in over a decade, the parties to the conflict in El Salvador are trying to resolve their differences by direct talks and not warfare. At this critical juncture, United States policy toward El Salvador must encourage the parties to remain engaged in the peace process, support the mediating role of the United Nations, and promote absolute respect for the human rights of all Salvadorans.

Mr. Speaker, the second anniversary of the Jesuit murders would be a symbolic moment for a decisive change in United States policy toward El Salvador. Human rights observances must be a central tenet of United States policy toward El Salvador and all other countries with whom we have relations.

TRIBUTE TO STANLEY J. GREEN ON THE OCCASION OF HIS RETIREMENT FROM GENERAL AVIATION MANUFACTURERS ASSOCIATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mrs. MORELLA. Mr. Speaker, I rise today to honor Stanley J. Green, a distinguished resident of Maryland's Eighth Congressional District, which I represent, on the occasion of his retirement next month as vice president and general counsel of the General Aviation Manufacturers Association [GAMA] located in Washington, DC. Stan was one of the founding members of GAMA, which was chartered in January 1970. Throughout the past 22 years, Stan has been a major force in the growth and development of General Aviation both here in the United States and abroad. In his capacity as vice president and general counsel, Stan has been responsible for all legal, technical, safety, airport, airways, and operations affairs for the association. One of Stan's most notable contributions to the industry has been in leading the fight to reform the product liability system which governs General Aviation accidents cases. Throughout his time at GAMA, Stan has advocated a continuing airworthiness program to improve the safety and operations of America's aging general aviation fleet.

Over the past 20 years, Stan has been extremely active in FAA rulemaking, especially in the area of aircraft certification. He is a bona fide authority on Federal Aviation Regulation [FAR] part 23 which deals with small aircraft weighing less than 12,500 pounds, and FAR part 25 for transport aircraft. Many sections of these regulations were written singlehandedly by Stan when he was at the FAA.

When Congress passed the Clean Air Act Amendments in 1990, two of the provisions caused great alarm in the general aviation industry. One mandated terminating the production of all new lead-burning nonroad engines after 1992. Another banned the production and sale of leaded motor fuels after 1995. Since aviation fuel contains a small amount of lead to boost performance and safety, there was concern that the industry would be hurried to find a no-lead alternative. Stan began a nearly year-long campaign to organize airframe and engine manufacturers, fuel companies, the FAA, the Environmental Protection Agency, and the other aviation associations. The result of Stan's extensive efforts was a ruling by EPA that aircraft engines were already regulated under other sections of the Clean Air Act and thus not subject to the nonroad vehicle ban. Stan also helped forge a cooperative spirit between fuel producers and the aviation industry to develop and test a suitable nonlead fuel that will provide adequate power and safety for the existing fleet and for aircraft engines of the future.

Stan is married to the former Nancy Gardner of Brooklyn, NY. They reside in Silver Spring, MD, and have a daughter, Dina, and a son, Allen.

Please join me in saying thank you to Stan Green for a dedicated career of service to his country and to the general aviation community. His efforts have contributed greatly to the much improved safety record enjoyed by general aviation today. I wish Stan and his family well as he concludes an illustrious career in aviation.

BEWARE THE IDES OF DECEMBER

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ASPIN. Mr. Speaker, today more voices join the chorus warning of the potential for chaos and unrest in the Soviet Union this winter. A Washington Post editorial notes the former Soviet Union is in dreadful political and economic disarray. It endorses immediate aid to address the small things essential to getting through the winter so large things can be done later. A Washington Times article describes a Soviet newspaper report on the possibility of a second coup in December. Newly reappointed Foreign Minister Eduard Shevardnadze comments that social tension is running high.

Mr. Speaker, it is clearly in our best interest to forestall chaos. Social unrest surely would weaken command and control of the nearly 30,000 nuclear weapons in the country, raising the possibility that they could fall into the wrong hands.

Mr. Speaker, I would ask that both the Washington Post editorial and the Washington Times article be placed in the RECORD.

[From the Washington Times, Nov. 22, 1991]

BEWARE THE IDES OF DECEMBER

(By Gerald Nadler)

MOSCOW—One batch of coup plotters are in jail, but fears of a new putsch are mounting daily—fueled by the dire warnings of Soviet officials and endless speculation in an unshackled press.

The newspaper Nezavisimaya yesterday reported that a coup was set for December and could emanate from Soviet military units still in the newly independent Baltics.

The fears of a new coup come against a backdrop of joblessness and rising prices. To help alleviate the squeeze the world's leading industrial powers yesterday put off for a year payments of principal of the Soviet Union's massive debt.

Many observers believe that army colonels, faced with dismissal as part of the Defense Ministry's planned 80 percent reduction in officer ranks, will lead the charge.

"Their hands won't tremble" at shooting at the people, the newspaper warned.

The failed August coup was led by KGB and army generals and grew directly out of their fears that a new union treaty with republics and a decree to remove the Communist Party from workplaces would disintegrate the Soviet Union.

Growing unemployment and the higher prices now being posted as part of Russian President Boris Yeltsin's economic reforms are creating worker unrest that is helping foster the coup fears.

Yesterday's debt postponement involved $3.6 billion in loan payments.

The so-called Group of Seven economically advanced states also promised to lend the Soviets $1 billion to tide them over. The Soviet foreign debt stands at $70 billion.

But the first winter in the newly decentralized Soviet Union could spawn discontent that could spill into the streets. Those who fear another coup say such unrest is likely to be met by a fascist reaction or by colonels who would seize power in the name of law and order.

One day after being reappointed foreign minister, Eduard Shevardnadze warned that the danger of a new coup indeed lurks. He forewarned of the earlier putsch back in December.

"People may take to the streets with new slogans," Mr. Shevardnadze told the newspaper Komsomolskaya Pravda. "Social tension is running high in the country. The economic situation is dismal. I am afraid that disillusioned people may take to the streets, and there is no telling who will lead the crowds."

The agreement yesterday by the Group of Seven to defer loan payments came a day after the Bush administration, undoubtedly spurred by advice from its new Moscow ambassador, Robert Strauss, offered Moscow $1.2 billion in food credits. In the spring, Washington indicated, Moscow could come back for more.

"I would rather risk a couple of billion bucks out here for our country than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation," Mr. Strauss told American reporters Monday.

The envoy, 73, and only three months on the job, explained in his straight-talking style how a fascist power grab could evolve.

"I think if we get too tough a winter . . . it's very easy to understand people being in the streets," Mr. Strauss said. "That's the threat out there, and there's a lot of latent animosity.

"There's an awful lot of people who'd like to swap what they have now and go back to the security of knowing what 2 rubles would buy—knowing all they have to give up would be a little freedom of speech," he said. "Out of that kind of climate demagogues are made."

The newspaper Nezavisimaya's chilling forecast of a new coup was written by Eduard Topol, a Soviet emigre author of spy thrillers. The scenario, he said, was based on what he claimed were his sources in the Baltics.

"The main actor and force of the coup will be the middle layer of the officers and professional army men who are now being demobilized in large numbers," Mr. Topol said.

"In Estonia there are more than 80,000 unemployed army officers. Deprived of their residence permits and having received six months' termination pay, they have also been informed by the Estonian leadership that they must leave the republic in six months.

"These officers—left without homes, without the possibility of eating in affordable officers' messes, unable to shop in army stores and having no prospects in Russia to where they are about to be kicked out—in December will become the main force of the coup."

Coup preparations by this officer class, whom he called the "Decembrists," were no longer relegated to the Baltics but have spread across the entire country, he said.

"The Decembrists have already established their own communications system, codes and operational plans," he said. He said the officers and professional soldiers now have nothing more to lose and are "filled with destructive energy."

"In December behind the controls of the tanks will sit not the soldiers, who in August were afraid to shoot at the people even with blanks, but a cadre of officers and Afghan veterans," he said. "They will stop at nothing."

Pyotr Filipov, a Russian republic lawmaker, told The Washington Times that the middle-class officers should be retrained with foreign help to ward off the possibility of their staging a coup.

Mr. Yeltsin and Soviet President Mikhail Gorbachev have relentlessly used the specter of a new coup to spur reforms since the collapse of the Aug. 19–21 power grab.

Almost daily, newspapers carry accounts of the treatment in jail of the 14 arrested alleged plotters. Pravda yesterday had a picture of Anatoly Lukyanov, former parliament speaker, eating at his prison table. The report said the food was better than average Soviet fare.

Another recent report in the newspaper Izvestia said former KGB Chairman Vladimir Kryuchkov has his slippers in his cell, avariciously reads newspapers and drinks his sugarless tea without complaint because those are "the rules."

No date for what will be a sensational trial has been set, but the attorneys for the accused are slated to receive the evidence assembled by the prosecutors in December so they can start plotting their defense.

[From the Washington Post, Nov. 22, 1991]

SOVIET AID: FIRST AND NOW

The matter of aid for the Soviet Union badly needs to be hauled down to earth. Earlier this year, many Westerners were pleased to contemplate the idea of cooperating in a great plan to build a market economy. Then the focus tended to shift to the political question of whether the United States should address itself to the fading central union or the emerging new republics. Both issues are important, but they do not get to the nitty-gritty. Many large things need to be done, but the former Soviet Union is in dreadful political and economic disarray and can do them only in its own time and way. First and now, it needs to address the "small things" essential to getting through the winter. Americans too ought to be considering what needs to be done and what can be done first and now.

Of the worthy projects that informed Soviets and Americans identify, two stand out: ensuring adequate medical supplies and helping collect and destroy nuclear weapons. This doesn't mean nothing else is worth doing. The food being sent can improve thin diets. Much can be done in technical assistance and reform consultations across the board. But provision of drugs, medicines and basic medical equipment would help plug a dangerous service gap at a moment when the need is immense and the public is on the edge of panic. Helping Soviet authorities get rid of nuclear and chemical weapons—two senators analyze the proposal on the opposite page—would impart valuable momentum to a vital and lagging nonproliferation effort. These projects are urgent, feasible and important. They could make a visible difference and help reverse the alarming tendency to regard the Soviet Union as slipping beyond rescue.

Washington has had trouble addressing the Soviet scene. The pace and novelty of change there, the recession-induced focus here on domestic strains and the onset of a political season have balked formation of a reasonable program. The main thing the administration has done so far is to offer agricultural-loan guarantees that may not put food on Soviet tables for a long time and that it justifies as a bailout for American farmers. Congress failed in its recent attempt to find a political formula that would sustain transferring some Pentagon loose change to Soviet aid purposes.

Fortunately, there are signs that the urgency in Moscow is breaking through. Projects are beging sorted out with an eye both to their practical utility and their political support. In this climate it becomes possible to hope that medical supplies and nuclear weapons will gain the absolute priority they deserve.

MOROCCO IS FULLY COOPERATING WITH MINURSO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SOLOMON. Mr. Speaker, on November 19, 1991, during debate on House Concurrent Resolution 214, which expresses the sense of the Congress on the United Nations peace plan for the Western Sahara, I spoke in opposition to the resolution. I did not have sufficient time on that occasion, however, to respond to all of the statements of my colleagues. Because some were so severe, I feel it necessary to take this opportunity to do so. I would like to address some of the inaccurate allegations made at that same time by my colleagues on the other side of the aisle. While I realize my colleagues and I approach the conflict in the Sahara from opposing points of view, and while I respect the sincerity of their opinions, I feel it is necessary to take issue with some of the statements they made for the official record of the House of Representatives.

Frankly, Mr. Speaker, I wish my colleagues had taken the time to talk to representatives of the United Nations before making their statements, rather than just talking to supporters of the Polisario. If they had, many inaccuracies in their statements could have been avoided. For example, my colleagues assert that Morocco is obstructing the United Nation's efforts to implement the peace plan, and even go so far as to assert that "it is obvious that King Hassan has no intention of allowing the election to take place under the guidelines proposed by the United Nations." The fact is, however, that the King has continued to pledge his support for the referendum, in speeches he has made to the Moroccan people and in private conversations with the Secretary General of the United Nations. In his televised speech of August 20, the King declared, "We agree to this plan and we are adhering to this plan in its depth and philosophy," adding, "We are saying this and we are stressing it: We are not against the U.N. peace plan." Indeed, as he wisely points out in the conclusion of that same speech, "There should be no reneging on this. This is not a game. One does not play with the fate of a country and the lives of people." A careful reading of this speech reveals that the King's concerns about the peace plan focused exclusively on the fact that the work of the U.N. Voter Identification Commission was behind schedule, a concern the Secretary General has since conceded was justified.

United Nations Secretary General Javier Peres de Cueller was also quoted by the French weekly Le Figaro as affirming that "Morocco has never requested a suspension or delay of the process undertaken by the United Nations." The Secretary General assured the Paris-based weekly Jeune Afrique that the ceasefire has been implemented smoothly and was holding. He affirmed that he had spoken to the King by telephone on August 26, and "the King told me what he has always said, that is, that he supported the referendum and that he expected it to be just and impartial."

Mr. Speaker, my colleagues also claim that Morocco is impeding the efforts of the United Nations Mission, or MINURSO as it is known, to install itself in the territory. As an example, they cite reports that supplies were purposely being held at Moroccan ports in order to thwart the peace plan. These delays at customs did occur, Mr. Speaker, but only at the very beginning of the U.N. deployment. They were resolved weeks ago and were purely administrative. Indeed, I would argue that it is perfectly natural for there to be logistical difficulties in establishing a facility to organize and conduct a referendum of self-determination.

Our esteemed colleague from California and author of this House resolution has himself stated for the record that the Secretary General's Special Representative for the Western Sahara, Johannes Manz, has assured him that he has seen no evidence that Morocco is obstructing the peace process.

My colleagues accuse Morocco of refusing to withdraw its troops according to the United Nations' timetable. Under the agreement, however, if Morocco's troops are withdrawn, U.N. peacekeeping forces will have to be deployed in their place. The Government of Morocco and the United Nations have agreed that until acceptable criteria for voter eligibility have been established and the actual organization of the referendum is underway, it would be a serious waste of money to deploy all the United Nations troops. In light of our own budget deficit and efforts to limit additional expenses—and let's remember here that the United States will assume approximately one-third of the costs of the referendum—and the already considerable sum budgeted for this operation, I most heartily agree with Morocco and the United Nations. Moreover, we should be grateful for this careful attention to budgetary considerations. Likewise, the personnel of the U.N. High Commissioner for Refugees and the International Committee of the Red Cross do not have a role to play in the territory until the task of identifying and registering voters begins.

Mr. Speaker, the United Nations has been aware ever since the beginning of negotiations that Morocco's position was to accept the Spanish census of 1974 only as a starting point for establishing voter eligibility for the referendum. Everyone, including the Polisario, agrees that this census was flawed, and objective observers further agree that the request to expand eligibility beyond this list is a legitimate one. The United Nations is working assiduously to come up with the definitive criteria for eligibility, hopefully by the end of this month, and both Morocco and the Polisario have their own positions on who should vote. Mr. Speaker, where I come from we call this politics. I would urge my colleagues to look at the jockeying for position going on in redistricting battles in States like New Jersey, California and Michigan, and compare that to what Morocco and the Polisario are doing, before they criticize Morocco.

Besides, rather than criticize Morocco for an alleged delay, we should be praising Morocco for allowing MINURSO troops to be deployed even though the most critical issue—who will vote—was unresolved. Surely this was a sign of extreme good faith on the part of Morocco. With regard to the accusations that Moroccan settlers are being moved into the territory to pad the voting polls in Morocco's favor, I would point out that it is my understanding that these people are all Saharaouis who originally came from this territory, and fled when Spanish troops were fighting the Moroccan resistance. These people believe with good reason that they will be eligible to vote in the referendum. Although it is impossible to say with certainty how many of these prospective voters have entered the region, most observers agree that the claims of 170,000 are certainly exaggerated. Let us bear in mind that the United Nations has responsibility for determining voter eligibility and for organizing the voting, and has neither rejected the 120,000 candidates that Morocco has proposed for consideration nor raised an alarm about people moving into the area.

My colleagues have leveled serious accusations against Morocco but have said nothing about reports of mistreatment by the Polisario of the innocent Saharaouis in the refugee camps in Tindouf. Mr. President, I am aware of articles in the international press describing the severe conditions of these camps and efforts of the Polisario to prevent the residents from fleeing the deprivation for greater opportunities in Morocco.

Finally, I must respond to two allegations that were most upsetting to me. First, the amazing statement that napalm was used by the Moroccan army against innocent Saharaoui civilians is absolutely ludicrous and without foundation. I would caution my colleagues against making such serious charges without reliable evidence beyond the hearsay and propaganda of the Polisario. Neither the State nor the Defense Department has any evidence of this. Second, any comparison of the conflict in the Sahara to Iraq's invasion of Kuwait is a gross distortion of reality and an egregious insult of a true and trusted friend of the United States. Not only does it cheapen the savagery of Saddam Hussein's invasion, but it is an insult to the American men and women who gave their lives to defend the cause of freedom in the gulf. It is also deeply ironic, since Morocco's early commitment of troops to the defense of Saudi Arabia was one of the most important elements of the coalition against Iraqi aggression.

Mr. Speaker, as I stated on the floor of this House when House Concurrent Resolution 214 was debated, Morocco is a close and valued friend, helping us understand and advance the complicated path toward peace in the Middle East and helping us defend United States strategic interests in Africa and beyond. Allegations such as those made against Morocco the other day cannot go unanswered. I hope that my colleagues will be more careful in similar debates in the future.

THE SECOND ANNIVERSARY OF THE MURDER OF THE JESUITS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MOODY. Mr. Speaker, on the 2-year anniversary of the murder of the Jesuits, I wanted to join many of the colleagues in the House to remember their life work and recognize that, once again, El Salvador has suffered losses it will never regain.

The murders of the Jesuits, their housekeeper and her daughter were not the first senseless, violent killings in El Salvador. They will not be the last. But in November 1989, we faced an event so callous, so violent, and cruel that we were shocked, when we thought that nothing in that tragic country could shock us again.

These six men killed were religious men—not men of war. They were intellectuals. And they were killed for the ideas they held—the idea that Salvadorans needed to come together and resolve their differences.

These were courageous individuals. Their residences had been burned or bombed before. They had received death threats. They knew their lives were in peril. But they stayed in San Salvador. They continued their religious work and they continued to speak honestly about the situation there.

I am saddened and very disappointed by the verdict in the Jesuit case. Despite 2 years of international and internal pressure, justice has not been served in this case.

We know what happened 2 years ago today. We know that members of the Salvadoran Army's elite Atlacatl battalion entered the campus, dragged the six priests from their beds, and killed them. They then killed Ms. Ramos and her daughter because they had witnessed these barbaric murders.

We know that all of this is true but we don't know who ordered these killings. Those individuals continue to hide behind the protection of their fellow officers.

We know that a large number of soldiers carried out the killings yet all but two individuals were found not guilty under the recent verdict.

We know that one man actually admitted pulling the trigger and killing Ms. Ramos and her daughter but he too was found not guilty.

We know that despite 2 years of outcry from the world community, there is no justice in El Salvador.

If the full weight of the world community cannot bring justice to the Jesuits, we can only imagine what most Salvadorans face.

I am furious that the State Department has been silent on the verdict in the Jesuit case. I am deeply disappointed that Congress has failed to act in response.

Congressman JOE MOAKLEY said it best:

> A terrible injustice has been done. The people who actually carried out the murders, who made these six respected and courageous men of God lie down in the dirt and shot them in the back of the head, the men who ordered that two women be riddled with bullets while they lay, moaning and wounded, in each others arms, have escaped justice. Where is the outrage? Where is the leadership?

By far the strongest leadership I have seen comes from Congressman MOAKLEY. He has personally invested a tremendous amount of time and energy. For him, this has been a long road. I salute his untiring efforts on behalf of El Salvador. His leadership and moral suasion was largely responsible for the landmark Moakley-Murtha legislation that helped to move the peace negotiations forward.

We all welcome the progress that has been made in the United Nations-sponsored peace talks. I am hopeful that the Government and FMLN will reach agreement in the coming months. I welcome the cease-fire announced by the FMLN and the Government's decision, in response, to stop aerial bombing and use of heavy artillery.

Our Government has a key role to play in those talks. We must consistently push both sides to make real concessions and end this war. We in Congress must demonstrate that we will not continue to fund it. I will work with Congressman MOAKLEY and other leaders in the House to take strong action on this issue when we return early next year.

LOW-INCOME HOUSING MODERNIZATION AND REVITALIZATION ACT OF 1991

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. DIXON. Mr. Speaker, today I and 29 of my colleagues in the House are introducing the Low- and Moderate-Income Housing Modernization and Revitalization Act of 1991 which is designed to make housing decent and safe and more available for low- and moderate-income families and individuals.

This legislation, modeled after the successful California program, makes permanent the low-income housing tax credit while encouraging the development of affordable, decent, safe and sanitary housing for low- and moderate-income families and individuals.

To ensure that housing for these families and individuals is available, the bill provides investment incentives to private developers to rehabilitate and construct low-cost rental housing units through a shortening of the depreciation recovery period from 27.5 years to 20 years. It also exempts from the passive loss limitation certain deductions relating to low-income housing.

To ensure that low- and moderate-income housing is decent and safe, the bill would deny the housing tax credits and deductions claimed by unscrupulous owners of low-income rental housing units who consistently violate State and local health, safety and building codes by maintaining substandard rental housing units.

Mr. Speaker, there is evidence that slumlording is still a widespread and pervasive problem in this country. A 1989 Census Bureau study reports that the Nation's housing stock occupied by persons living in poverty is 12.4 million units, of which 2.2 million units or 18 percent are substandard.

Last year was the first time that Congress made any major revisions to our housing programs since 1974 with the passage of the Cranston-Gonzales National Affordable Housing Act. I am pleased to have been part of that effort. But Mr. Speaker, despite this bipartisan effort to end the housing crunch, there remains much more to be done to ensure that every American family and individual will have a decent place to live.

New construction of housing for low- and moderate-income families and individuals is at a virtual standstill. And, scores of existing low-income housing units will continue to disappear as older buildings are destroyed and replaced with higher priced rental units and condominiums.

The city of Los Angeles continues to provide financial incentives to developers to construct new low-cost housing rental units, and to private property owners to rehabilitate existing housing. However, the shortage of decent housing remains, and it is projected to grow considerably in just a few short years. Los Angeles currently has an estimated shortage of 23,195 dwelling units and this gap is expected to expand to 48,722 housing units by July 1994.

Providing incentives to private developers to construct new or rehabilitate existing housing units for low- and moderate-income families and individuals has worked well in California. In 1974, California changed the State income tax code to disallow business-related tax deductions claimed by slumlords who consistently maintain substandard rental housing units. The last decade has shown that the California program has been effective and could serve as a Federal model for the rest of the Nation.

I invite each of you to join with me and the 29 original cosponsors to support this initiative. It is a positive step in promoting the development of affordable and decent housing for all Americans.

THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT OF 1991

HON. CALVIN DOOLEY

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Friday, November 22, 1991

Mr. DOOLEY. Mr. Speaker, today I have introduced, along with other Members of the California delegation, the Central Valley Project Fish and Wildlife Act of 1991. This far-reaching water legislation would restore and enhance the California environment while also ensuring an adequate water supply for use by California farmers and cities.

It is the first step toward providing a solution to the competing demands for Central Valley Project [CVP] water by California agriculture, the environment, and the cities. It is the product of months of unprecedented, intense negotiations involving legislators, farmers, and rural and urban water users of CVP water throughout the State.

It represents a consensus opinion among Californians not often allied but nonetheless concerned about the environmental and economical future of our State. Under the surface of this consensus lurks concession and sacrifice. Only through much hard work can I introduce this bill today as a united effort of agricultural and urban water users.

To date, the focus of the CVP debate has been directed at reallocation of water for fish and wildlife purposes and for urban uses—at the expense of the large agricultural segment of California's economy.

This bill recognizes that California's limited water resources are increasingly taxed by a growing State population, the need for further environmental protection, the needs of the State's world leading agricultural economy, and the ongoing drought. With those needs in mind, this bill proposes specific, targeted, balanced, and realistic solutions.

On Monday, November 18, in a debate on CVP contracts, my colleagues in the House of Representatives got a glimpse of the intensity and passion represented by matters affecting the CVP. There is much at stake.

The people immediately impacted by any reworking of the CVP are my constituents—San Joaquin Valley farm families that rely on CVP water for their crops, valley families that do business with farmers, and the agriculturally dependent economy of hundreds of valley communities.

But the consensus agreement represented by this bill extends well beyond valley farmers and communities. indeed, the entire State is affected by any reworking of the CVP, and this bill addresses those concerns.

The Central Valley Project Fish and Wildlife Act of 1991 includes provisions to:

Develop and implement immediate and long-term programs and mechanisms that provide cost-effective protection, restoration, and enhancement of fish and wildlife habitat and resources in California's Central Valley.

Create a joint Federal and State fish and wildlife advisory committee to identify and implement additional environmental measures deemed necessary to achieve these goals.

Require CVP farm contractors to develop water use management and conservation practices.

Establish guidelines and put into operation environmentally responsible and economically feasible water transfers.

Language allowing for the limited, orderly transfers of water between rural and urban users is a particular breakthrough of this legislation. The State's lengthy drought and its rapidly growing urban population have made the issue of water transfers critical to its healthy future.

This water transfer language is supported by the Association of California Water Associations, which represents farm water users throughout the State, and the massive Metropolitan Water District of Southern California.

I'm pleased that we've been able to build a consensus of support for this bill representing a wide cross section of water users in California.

This bill will not please everyone. Some Californians favor a much different approach. But this bill is a serious, thoughtful attempt to address the water issues that are of concern to all Californians.

Negotiations have begun in Washington, and I hope the introduction of this bill will clear the way for more substantive discussion over the next several weeks in California.

We still have a long way to go, and I expect that the negotiations will be tough. But the stakes for California agriculture, the environment, and cities are much too high not to make the effort.

SOUTH FLORIDA REALTORS FIGHT FOR ACCESSIBLE HOUSING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Century 21 Corp. and the Easter Seals Foundation, along with many other concerned citizens, have joined to form a public education campaign to promote accessible housing. With the passage of the Americans with Disabilities Act last year, the issue of accessibility in public facilities, businesses and homes has been brought to the fore. Many south Florida realtors have graciously lent their support to this public interest program entitled "Easy Access Housing for Easier Living."

Mr. Speaker, the Americans with Disabilities Act of 1990 highlighted the fact that there are 43 million individuals with disabilities in the United States. Many more will be affected by inaccessible housing. No less than 70 percent of all Americans at some time in their lives, will have a temporary or permanent disability. With such an impairment, even the most basic day to day activities like climbing stairs will not be possible.

Older Americans, numbering 32 million over the age of 65, also may develop age related disabilities which require some special accommodations in housing. Accessible housing is essential to facilitate the independence many disabled Americans are capable of. The need for such housing is great.

The easy access housing for easier living plan is an effort to encourage home designs which accommodate persons with disabilities. Designing barrier free homes from the groundbreaking is an important cost saving approach. Stairs, narrow doorways and tight spaces can render a home completely inaccessible to a mildly disabled person. The easy access plan identifies many structural features which can be modestly adapted to allow free entry and mobility.

Mr. Speaker, although I do not cosponsor commemorative legislation such as "National Accessible Housing Month," I enthusiastically support the effort to promote accessible housing. This is a noble effort and many should be commended for their contributions to this public education campaign. These include: Richard C. Ritchey, south Florida Century 21 regional director; Ms. Myrna Pavilack, the vice president of the north Miami mayor's task force; and Patrick Killen of Century 21, Allstate Realty and Investments. I am confident that this effort to promote barrier-free living, will prove to be of great benefit to millions of disabled Americans.

DR. MAX VORSPAN'S 40 YEARS OF COMMUNITY SERVICE

HON. MEL LEVINE

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Friday, November 22, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Dr. Max Vorspan. On January 15, 1992, Dr. Vorspan will receive the Abraham Joshua Heschel Award from the University of Judaism for 40 years of distinguished community service.

A beloved rabbi and educator, Dr. Max Vorspan has been a pioneer in many fields, especially the arts in Jewish life. Through his efforts the University of Judaism has become a renowned showplace for Jewish art, music, and theater in the community.

Now beginning his 40th year with the university, he has played a major role in the institution's growth and direction. Among the programs he helped establish are Camp Ramah in California, the University of Judaism's Department of Continuing Education, the Platt Gallery, Smally Sculpture Garden, Earl Warren Institute of Ethics, University Women, and the Performing Arts Festival. Perhaps he is best known throughout the community as the host of the long-lived "Commitment" television show which ran on KCBS for nearly two decades.

Dr. Vorspan is also the coauthor of "History of the Jews in Los Angeles," a copy of which was presented to Pope John Paul II on his visit to the city in 1990. He has also written numerous articles on California Jewish history for the Encyclopedia Judaica.

Beyond his interests in the arts, Dr. Vorspan has been deeply involved in the community and active in the Jewish Federation. He was the first recipient of the Federation's Annual Ezra Award for his outstanding contribution to Jewish education and knowledge.

Dr. Vorspan was ordained by the Jewish Theological Seminary from which he also received an honorary doctorate of divinity and a doctor of Hebrew literature from the University of Judaism. In 1991, he received an honorary doctorate from Hebrew Union College. Throughout his illustrious career, Dr. Vorspan has enjoyed the caring support of his wife, Sandy, and his two children, Dr. Rachel Vorspan and Rabbi David Vorspan.

It is a pleasure to share the accomplishments of Dr. Max Vorspan with my colleagues in the U.S. House of Representatives. I ask that they join me in extending to Dr. Vorspan best wishes for continued success in all of his future endeavors.

"IGNORE THE NOISE" OF THE PEACE PROCESS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. McHUGH. Mr. Speaker, the November 14, 1991, edition of The Reporter, published weekly by the Jewish Federation of Broome County, NY, contained a thoughtful editorial by editor Marc S. Goldberg. It reminds all of us who yearn for a lasting peace in the Middle East that such a peace is more likely to be a process rather than an event, and that its achievement will undoubtedly require the ability of the parties involved to engage in some selective overlooking of each other's rhetoric. I am pleased to share the editorial with my colleagues:

IGNORE THE NOISE

(By Marcs S. Goldberg)

Now that phase one of the Middle East Peace Conference is concluded, the parties involved are busy playing to their respective hard liners.

Witness, for example, the Palestinian list of 25 demands for Israel. (See page 7.) They cannot seriously expect that Israel will agree to them before negotiations proceed. At best, the document is a negotiating tool, spelling out what the Palestinians would like to see as part of an autonomy agreement. In all likelihood, however, the demands were not written for Israeli consumption, but to convince the Palestinian right-wing that the peace conference delegates had not sold out.

It is important to realize that such posturing is part of the process. What should not be lost among all the rhetoric is that the Palestinians made fundamental changes in their position at the peace conference. They expressed an openness to a five-year autonomy plan and to confederation with Jordan. One, or both, of these ideas has been at the heart of every serious peace plan considered by the Israelis.

Israel has always maintained that the main obstacle to peace with the Palestinians was that there was no credible Palestinian leadership to talk to. Before the peace conference, that claim was valid. Now, however, there has emerged a Palestinian leadership which asserts that it is open to the very formulas that Israel has insisted upon.

An opening for peace exists. If, in fact, the Israelis and Palestinians can agree on autonomy as the next step towards peace, there is now a path to follow. Expect long and hard negotiations concerning a thousand details, but there is reasonable hope that a deal can be worked out.

One of the pitfalls along the way will be the rhetoric both sides engage in for domestic consumption—particularly among their respective hardliners. Neither side should be naive enough to be completely taken in by such posturing.

SUGAR AND GATT—A CONTRADICTION

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PETERSON of Minnesota. Mr. Speaker, the Comite European Des Fabricants De Sucre is an organization of the sugar beet processors in the 15 countries of Western Europe. Created in 1954, it has been based in Brussels since 1989.

The president of the organization, Oswald Adriaesen, and Daniel Gueguen, the group's director general have coauthored a communication regarding the involvement of international sugar trade and the ongoing Uruguay round of negotiations under the General Agreement on Tariffs and Trade. The title, "Sugar and GATT—A Contradiction," indicates their conclusion, but they offer and recommend an alternative in the form of an International Sugar Agreement.

Without endorsing all the views expressed, or necessarily agreeing to every premise advanced, I insert this communication in the CONGRESSIONAL RECORD at this point for edification and interest on my colleagues who share my concerns about the future of our domestic sugar producing industry.

SUGAR AND GATT—A CONTRADICTION

The GATT negotiations are also a question of communication. And in this, as in other matters, there are masters * * *

To attempt, like the United States, to win credence for the idea that their deficiency payments, the main basis of the American farm support system, should be free of any form of discipline is quite remarkable. To claim, like Japan, that when it comes to agriculture everything is negotiable * * * apart from rice * * * is no less so.

The highest level of professionalism has been deployed through the media—from the United States to Australia—to relegate the EEC to the rank of the "trouble-maker in world agriculture". Read the press, look at the studies, listen to the experts, the CAP is the cause of everything: surpluses, low prices, subsidies, pollution, etc.

All this whilst conveniently forgetting US oilseed exports to the EEC and their trail of deleterious consequences for our agriculture (meat surpluses, milk lakes, butter mountains, etc.). 4,000 million dollars a year at a zero customs duty * * * Also disregarding the fact that the Community is the world's biggest importer of agricultural products. The myth of "Fortress Europe" certainly lives on * * *

So why be surprised at so many attacks on European sugar? The GATT negotiations are a soulless battlefield, a permanent power struggle.

But what is the point in being strong if the basic concepts are false, the solutions inappropriate, if nobody is sure of winning this particular battle?

THE BASIC PREMISE: A FALSE CONCEPT

To base the agricultural negotiations as a whole on the concept of world prices is an aberration.

The "GATT philosophy" regards "subsidies" as any difference between world prices and domestic prices. These "subsidies"—obstacles to trade—must be dismantled so as to bring selling prices to the ultimate consumer as close as possible to the international prices.

A fine theory overlooking the realities.

The world sugar market—residual (1/6th of the production), speculative, subject to exchange rate variations and sensitive to world geopolitical events—is detached from any link with production costs.

If proof be needed, let us remember that in 1974 a pound of raw sugar was worth about 80 cents, i.e. much higher than the production costs of the least efficient producers. Less than 10 years later—at the beginning of the eighties—the market was bumping along at 3 cents, i.e. less than the price of fuel oil, very expensive at the time yet necessary for the manufacture of sugar * * *

NO IDEA OF THE CONSEQUENCES

Is it conceivable that, five years after the definition and statistical evaluation of these "subsidies" by the OECD and over four years after the Punta del Este Conference which launched the Uruguay Round, nobody has any idea of the effects that the GATT negotiations will have on the world sugar market?

What will be the impact of a reduction in internal support and external support (export refunds) on production and world prices? Nobody knows. Nobody has the slightest idea.

No specific macroeconomic model has ever been developed. What is the point, in any case? Experience shows that no macroeconomic model—and God knows there have been enough of them in the past—can predict, even in the short term, the trend in the sugar-supply balance and world prices.

To claim, like Australia, that a reduction of one million tons in the Community quota would push up world prices by 15% is not serious.

The trend in prices—and there is arithmetical proof of this—depends exclusively on the respective levels of WORLD production and WORLD consumption, with the EEC being only one of the many players involved.

EMPTY SEATS AROUND THE TABLE

As we have said, the balance on the world market depends on all the different players concerned—producers, importers, exporters, etc.

But there are three notable absentees from the GATT negotiations:

The USSR: the world's largest consumer and largest importer of sugar;

Cuba: the world's biggest sugar exporter;

China, whose production and consumption levels are comparable to those of the United States.

How can anyone look to liberalize world trade in sugar when three countries of such importance are absent from the small circle of dominant countries on which everything essentially depends?

Three key countries absent, the developing countries absent! Only a quarter of production and trade would be subjected to the disciplines currently under negotiation in Geneva * * *

SUGAR: IN CONTRAPOSITION TO THE "FREE MARKET" CONCEPT

There is no free market system for sugar anywhere in the world.

The sugar regimes constitute an impressive catalogue of regulations and various forms of protection and support (over 70 different mechanisms have been identified * * *).

These mechanisms are finely adapted to each country's particular situation:

Direct or indirect subsidies for agriculture and production (Japan being the typical example with a retail selling price of 1,714 dollars a tonne * * *);

Imports prohibited by law or in practice (Australia, Mauritius, Thailand, etc.);

Export subsidies (India, etc.);

Consumption subsidies (Cuba, Mauritius, etc.);

Loans with interest-rate subsidies (Korea, USA, etc.);

Exchange rate advantages (Australia, Korea, India, Mauritius, Thailand, etc.);

Domestic prices much higher than world prices (everywhere * * *);

Finally—for Korea, the USSR, and India—sugar constitutes an ideal "fiscal foodstuff", by levying heavy taxes on consumption.

Consequently, the liberalization of world trade in sugar is nothing but a myth, especially as no study on the respective competitiveness of producers incorporates the essential parameter of per capita GNP (how can wages in the Untied States be compared with those in China? * * *).

EVERYONE HAS HIS OWN LOGIC

As we have seen, there is no one model that is valid for the sugar community as a whole. Throughout the world, every country defends its own logic. Everywhere, this individual logic is based on considerations of national interest.

Sugar is a strategic foodstuff that is strictly regulated by the authorities everywhere in the world:

Indeed, sugar is a major economic factor: 27 million hectares under cultivation around the world (i.e., half the area of France * * *), 18 million farmers, 3,400 sugar factories, 2 million workers, 70,000 million dollars turnover before tax;

Sugar provides agricultural and industrial jobs (China, India, Mauritius, Mexico). A small sugar factory—small by Western standards—of 2,000 tonnes/day in China can employ up to 100,000 beet-growers, * * *

Sugar is a "crisis product" justifying a minimum level of self-sufficiency (Japan, * * *);

It is an ideal basis for preferential exports at high prices (ACP countries such as Mauritius, Cuba, the Philippines, the Dominican Republic, etc.);

Finally, sugar brings in substantial earnings in hard currencies for cruelly destitute countries such as Brazil, Cuba, Thailand, etc.

THE FOUR PILLARS OF THE GATT

The four pillars of the GATT negotiations bear no relation at all to the realities of the sugar sector.

1. The reduction of "internal support", in other words the lowering of domestic prices, overlooks three fundamental considerations:

Can anyone explain the logic behind compensating for the substantial price reductions envisaged at the GATT by means of public subsidies paid directly to farmers to maintain their income? Who would gain what? Farmers? No. Economic efficiency? No again. Consumers? Yes, provided that we forget that they are also tax-payers and therefore, in the final analysis, pay for this direct aid.

Lowering the price of beet or cane would also detach the agricultural side from the industrial side, with no benefit for either.

Available in abundance today, sugar is not expensive in the light of the agricultural infrastructures and the industrial investments involved.

2. The reduction of external support (corresponding to export refunds) also raises enormous problems:

Lowering domestic prices whilst reducing external support leads us once again to the question of who will pay?

Failing to answer this question would come down to regarding the world sugar economy as excessively profitable—which is not the case—or agreeing to whole sections of the sugar economy in Europe and elsewhere being destroyed;

Reforming the international sugar economy on the basis of the sole criterion of maximum economic efficiency is a heresy totally disregarding the national needs and constraints that have been mentioned previously and overlooking regional disparities in the EEC and elsewhere;

Basing any reflections—and, if the negotiations succeed, any action—on the argument of "export refunds = subsidies":

Is to totally disregard the logic of the Community self-financing system which will be defended further on,

Gives world prices a reference value that they can never have in any circumstances.

3. The same applies to access to the markets. Does the 3% minimum import level that is often mentioned constitute a minimum level in itself or is it to be added to the traditional import pattern? Nobody knows. Four years after the negotiations began * * *

4. As for tarification, there are so many different countries, so many different models. And no consultation whatsoever with the professional circles. How can a tarification system—right by its very nature—adapt to the fluctuations in world exchange rates which we all know to be so substantial?

It is true that for four years and more everyone at the GATT has been reasoning in theoretical term, all the different agricultural sectors combined, without any sectoral approach or reflection. So why should we be surprised?

DEFENCE OF THE SELF-FINANCING SYSTEM

What is not heared about the self-financing system for Community sugar? Broadly speaking, that it is paid for by the consumer and not by the producer, via a policy of high internal prices.

This is not incorrect, but:

In economic terms, there are only two methods to ensure the existence and growth of the economic operators: the fiscal (the tax-payer pays) or the prices approach (the market pays) * * *

Community self-financing is fully justified by the extremely rigorous pricing policy pursued by the Community authorities; in other circumstances, it could have been criticized.

The production levies charged to European beet-growers and sugar manufacturers (between 500 million ECU and 1,000 million ECU depending on the year, i.e. a vast amount of money * * *) have been paid within the framework of a price-freeze policy that has been in force for 7 years now * * *

1 EDU = 7 FF, 42 BF, 1.2 US $.

Using its cash flow to pay such enormous contributions with frozen prices has led the European sugar industry to follow the path of growing economic efficiency, productivity gains and restructuring.

Thanks to self-financing, the European sugar industry is now, without any doubt, the most vital, most dynamic and most creative in the world * * *

PLANETARY ISSUES

Let us not be naive about it, the GATT negotiations go beyond—far beyond—the cause of sugar and even the cause of agriculture.

To be perfectly frank, it is a question of power relationships between the United States, Japan and the EEC. And the EEC is certainly not in the best position in these negotiations, which are not only difficult but of capital importance.

For sugar, we have every reason to fear the worst:

The inappropriate mechanisms that exist and the total uncertainty of any decisions on world prices rule out any certainty on the key question: "Who is going to gain, who is going to lose?"

For the EEC, the cause is being heard if the current trends are confirmed, but even Australia, the great defender of GATT, is not assured of a long-term advantage, so uncertain are the movements in world prices.

In our world, which must be internationalized, the GATT negotiations for liberalization of world trade paradoxically carry within them all the seeds of renationalization of European agriculture and over-nationalization of agriculture in other countries.

For the other agricultural sectors, the EEC has everything to fear too. Why?

The GATT concepts, initiated by the OECD, with which the EEC, totally isolated, has had to fall in line, are the very antithesis of the Community regulations, built on another logic altogether. The planned reform of the Common Agricultural Policy is the best illustration.

The work carried out by the OECD on the environment, aimed at extensive agriculture of the American, Australian or Canadian type and therefore very unfavourable for the EEC, is beginning to spread at the level of the GATT.

The programme of the next International Conference on Nutrition, to be organized in 1992 by the FAO and the World Health Organization, also contains sections on agriculture (agri-foodstuffs balances, subsidies for producers, budgetary repercussions, etc.).

These approaches are not innocent. The EEC is surrounded. Its case history is good, however. Certainly no worse than most of the others.

Our cause is suffering cruelly from a severe lack of communication. Whilst Australia publishes study after study, whilst the United States rely on armies of lobbyists, Europe remains passive, on the defensive. Who is aware of the simple fact that American agricultural expenditure is greater than that of the EEC? Who knows about the devastating effects on the Common Agricultural Policy of American oilseed imports at zero customs duty?

This lack of communication is attributable to everyone: the national and Community authorities but also the profession as a whole, at national and community level. This situation must be remedied as a matter of urgency.

WHAT ALTERNATIVES

As we have seen, there are a number of reasons leading us to believe that sugar and GATT are diametrically opposed.

It is high time to think about other possible solutions, with one sole objective in mind: stabilizing world prices at a reasonable level through a lasting alignment of global supply with global demand.

In other words, relaunching the International Agreements procedure, knowing full well that the United States, Australia and Canada are hostile to this. Then it would be up to everyone to plead his own case, to defend his own logic. To put forward a convincing argument.

A new sugar geopolitics

It must be acknowledged that for reasons connected with their very structure, the International Sugar Agreements, and especially that in force between 1978 and 1984, have failed.

The geopolitical situation prevailing at the time has been radically transformed since then: disappearance of COMECON, opening up of Eastern Europe, uncertainty as to the future of the supply agreement between Cuba and the Soviet Union.

These fundamental developments mean that we must examine the whole situation afresh.

A new International Sugar Agreement

As we have seen, the GATT negotiations take no account of any of the specificities of sugar:

They concern only a quarter of production and trade;

They ignore the extreme sensitivity of world prices and their volatility;

They disregard the essential regional, industrial and social requirements of producers;

And they maintain a dramatic silence as to their impact. What will the consequence be for world production, for stocks, for prices? Nobody knows * * *

The only realistic solution would be to convene an International Sugar Conference with the task of examining the means likely to stabilize world prices at a balanced level for producers and consumers.

This idea has come a long way over the last year and almost all the members of the world sugar community, farmers and manufacturers alike, have gradually come to support it.

SO MANY DIFFERENT COUNTRIES, SO MANY DIFFERENT SYSTEMS BUT THERE IS COHERENCE

Despite the large number of players involved (over 100 producing countries), the world sugar balance has been globally stable for several years. Sugar is in a situation of virtual equilibrium.

The statistics reveal only very slight differences (of around 1%) between production and consumption. And more often than not these differences tend to cancel out over a succession of marketing years.

None of the major producers has ever destabilized the world market: national production and export patterns having reached their state of equilibrium * * *

Consumers enjoy reasonable prices and guaranteed supplies, sometimes threatened in the past, which it is essential to ensure for the future.

So many different countries and so many different systems. Yet today the world sugar economy is coherent.

So why change everything? why destroy everything? On whose behalf? For whose benefit?

All things considered, it is sometimes important to remain what you are. Evolution? Definitely. Revolution? Certainly not!

A TRIBUTE TO RAFAEL HERNANDEZ

HON. JOSE E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great composer, Rafael Hernandez, on the occasion of the centennial of his birth. Rafael Hernandez, a native Puerto Rican, passed away nearly 26 years ago, but he is still very much alive to all of those people who have experienced the pleasure of listening to his music.

From the time he was a little boy, Rafael Hernandez knew that he wanted to dedicate his life to music. He learned to play the trombone, the violin, the guitar, the cornet, and the banjo, as well as studying the composition of music. By the time he was 18, Rafael Hernandez had composed a waltz entitled "Miprovisa," a piece which was later to become very popular. For a time, he lived in San Juan and played the trombone in various orchestras or bands.

Rafael Hernandez then decided to move to New York and it is there that his career as a composer began. In the mid–1920's, he began to produce his own songs, writing both the music and the lyrics. Many of his songs, such as "Lamento Borincano" and "Preciosa"—perhaps the most famous of his pieces, were patriotic in nature. They protested against the sufferings of the Puerto Rican people as a result of colonialism and extolled the great beauty of the island and its people. Rafael Hernandez also wrote many other songs; for example, "El Cumbanchero," that were not of patriotic intent but romantic, humoristic, and so forth, and grew to be extremely popular among people of all nationalities.

But Rafael Hernandez was not only a composer of songs. He also wrote musical plays as well as pieces for the piano, orchestra and chamber music. Although this aspect of his work is not as well known as his popular songs, it is just as rich in color and beauty. Rafael Hernandez also founded two musical groups, Trio Borinquen and Cuarteto Victoria, with which he traveled to South America during the late 1920's and 1930's. In 1947, he founded a symphonic orchestra for light and classical music with which he toured Puerto Rico for several years. When this orchestra had to be disbanded due to lack of Government support, Rafael Hernandez was appointed musical adviser to the government radio station.

Throughout his life, Rafael Hernandez brought much joy to many people. His compositions were not only music to which people could dance, but expressions of sentiments to which they could relate and this is still true today. Nearly 26 years after his death, Rafael Hernandez's music continues to be widely popular and a great source of inspiration. Mr. Speaker, please join me today in paying tribute to this highly talented musician who fulfilled his dream of becoming a musician and in doing so filled the lives of others with a music so beautiful it will endure forever.

TRIBUTE TO COL. TERRENCE T. HENDRICKS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILLMOR. Mr. Speaker, space shuttle Atlantis will begin a 10-day journey on Sunday that will write another chapter in America's history of exploring the final frontier. One of the astronauts on that mission will be Air Force Col. Terrence T. Hendricks, who is a native of Woodville, OH, in my congressional district.

Terrence Hendricks has gone from growing up on a northwest Ohio farm to traveling beyond the horizon to meet the wonder of space. He is an example of the determination, skill, and patriotism, that makes my district a special place. He deserves our most enthusiastic commendation and applause for his bravery, talent, and pioneering spirit.

In 1961, when President Kennedy committed our country to landing a man on the Moon he said:

> There is no sense in agreeing or desiring that the United States should take an affirmative position in outer space, unless we are prepared to do the work and bear the burdens to make it successful.

Terrence Hendricks is one of those special people willing to bear that burden and make that sacrifice for the good of the space program.

Mr. Speaker, as a neighbor, as an Ohioan, and as a U.S. Congressman, I wish Col. Terrence Hendricks a safe journey and godspeed.

AFRICAN DEBT: A PLAN OF ACTION

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. TOWNS. Mr. Speaker, today, Africa is a source of great hope. Widespread reforms are leading to the recovery of many stalled economies and giving new confidence to the emerging private sector in Africa. Across the continent, calls for democracy have led to more open, accountable, and transparent governments. These developments have created new incentives for the African and international business communities to reexamine investment prospects throughout the continent.

At the same time, Africa's external debt stands at over $270 billion. This is nearly twice the level of a decade earlier. Scheduled service for that debt exceeds 100 percent of the continent's GDP. Many African countries are not able to pay this debt, and this burden threatens to strangle African economic and political reforms in their infancy.

The U.S. Government can act as a catalyst in this reform process by taking immediate steps to reduce Africa's external debt. The administration can follow their own example of forgiving Polish and Egyptian debt to forgive significant portions of Africa debt. The highly touted "Trinidad Terms"—the British proposal which allow for forgiveness of two-thirds of official debt—provides just one example of comprehensive debt relief. Congress should also play a role by authorizing a budget that makes debt relief possible and inevitable.

Mr. Speaker, I would like to submit for the RECORD a recent article from the Economist that spells out the moral and intellectual arguments for African debt relief, and challenges us to do the rest.

[From the Economist, Nov. 2, 1991]

AFRICA'S UNPAYABLE DEBTS: THE CASE FOR FORGIVENESS IS TOO STRONG TO IGNORE

In April America persuaded the world's rich governments to write off half Poland's official debt. In May it did the same for Egypt. Meanwhile Britain proposes debt reduction for a group of mainly African countries, whose ability to repay is even weaker than Poland's or Egypt's. Sounds reasonable? Not to some American politicians. Unlike Poland, Africa's economic difficulties exercise few voters. Unlike Egypt, Africa played no role in resisting Iraq's dictator.

America's Treasury pleads that, under a new credit-reform law, Congress must make a special appropriation to cover further debt relief, and that this is time-consuming. Lame, for three reasons. The "appropriation" would be largely fictitious. Second, the poorest countries are not servicing their debts anyway, so the British proposal to cancel two-thirds of what they owe would cost creditors precious little. Indeed it might bring America extra money, since the deal would require that the remaining third of the debt should actually be serviced. Third, the British proposal dates back to September 1990. It has been aired frequently since then, including at July's G7 summit in London. The credit-reform law came into force only last month. Relief for the poorest has been nobody's priority.

This is understandable, if hardly defensible. Poland's huge debt threatened to wreck the hopes aroused by communism's collapse; Arab allies were essential to the anti-Saddam coalition. But giving favours to friends threatens a central principle of economic aid: if help is not tied to sensible economic policies, it is likely to be useless. Relief for Poland and Egypt was made formally conditional upon market reform, but both countries knew that its real impetus was political. Countries in this position usually break their economic promises. Zaire's rulers simply banked much of the aid they received during their years as cold-war asset. In 1988 Argentina squandered the first tranche of a World Bank loan of $1 billion, granted after American arm-twisting. Poland has failed to meet the conditions set for its debt-relief package.

FOLLOW BRADY, MR. BRADY

Intellectually, the case for debt reduction in Africa is water-tight. In Latin America there were once respectable reasons for doubting it. In the mid-1980s the Latin countries that first threatened to default seemed capable, granted economic reform, of increasing their exports fast enough to catch up with repayments. Debt reduction therefore seemed unnecessary. It also looked damaging. It would create a moral hazard, encouraging other countries to default, and putoff the time when the beneficiary had to live within its financial means. Lastly, debt reduction would hurt the banks, so they would be reluctant to lend to developing countries in the future.

Today none of these arguments is so convincing, least of all for Africa. Growth in the third world recovered only slowly in the 1980s, so debt burdens grew ever harder to support. Moral hazard became irrelevant as more countries fell behind with their repayments—and as it became clear that debt reduction could be successfully tied to economic reform. In recent months banks have proved willing once again to lend to Latin America's boldest economic reformers.

The weakening of the case against debt-reduction has already spawned the Brady plan, named after America's treasury secretary. In 1989 this scheme enabled Mexico to reduce its debt by $15 billion, helping to spur the economy to its present recovery. Given the will, other Latin American countries could follow. Black Africa's prospects are far grimmer. The region is hobbled by debts much heavier, in relation to economic strength, than Latin America's. Yet the Brady plan offers no help at all. It is designed to reduce commercial-bank debt, and Africa is in hock to development banks and governments.

The world's rich countries know that Africa cannot repay its debt. That is why their aid ministries have all but given up new lending in favour of straight grants. Yet they have chosen not to put their weight behind a debt-reduction scheme for the poorest countries that would match the Brady plan for the less desperate. The British proposal would fill this gap. By setting strictly economic criteria for eligibility, it would avoid the danger of political favouritism. Your shoulder please, Mr. Brady.

ADOPTION OF SURFACE TRANSPORTATION ACT STRONGLY URGED

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, it is absolutely imperative that the Congress conclude work on the Surface Transportation Act prior to adjourning, and I am pleased that the conferees are working through the weekend in order to resolve the differences between House and Senate versions of this vital legislation.

There are four points, however, which I wish to stress to the conferees. While no State is likely to be 100 percent satisfied with the compromises which are necessary in order to finalize this legislation, I encourage the conferees to:

Adopt the House proposal for a minimum allocation of transit funds to each State. There should be at least a one-third of 1 percent minimum allocated to each State from the transit account. I urge that flexibility be continued in order to allow these funds to be used at the greatest possible discretion of the States.

I urge conferees to reinstate the level of support program which was contained in the Senate legislation or, at the very least, eliminate the bonus from the minimum allocation and add the total funds from the bonus minimum allocation to the Core Program.

I urge that the demonstration funding for South Dakota projects be retained and that demonstration funding be equitably divided among the States on the basis of merit.

Indian and Forest Service highway funds should not be counted against any State's highway funding apportionment. Federal funds should be allocated for the public lands program to individual States which have public lands, and this should be in place of a discretionary program for this category.

CONFERENCE REPORT ON H.R. 2100

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LANCASTER. Mr. Speaker, this conference report represents the culmination of a lot of hard work and effort to grasp the implications of the remarkable events which have taken place over the last year and to fashion an appropriate response to those changes by producing a bill which reflects those events and makes sense for the future. I congratulate Chairman ASPIN for his leadership in crafting this important legislation.

As chairman of the Morale, Welfare and Recreation [MWR] Panel of the House Armed Services Committee, I am very pleased that the bill fully supports the President's request for quality of life funding, including $1.31 billion for MWR programs and $980 million for military commissaries.

I am particularly pleased that the bill included provisions which demonstrate a sense of the Congress that strategic mission shifts which result in base closures or realignments should not be a liability to the nonappropriated fund system. In this respect the bill added to the President's package the establishment of a "nonappropriated fund facility investment base closure recovery account," of which ranking minority panel member Congressmen DAVE MARTIN and I have long been supportive. Into this fund will be deposited the proceeds from the transfer or disposal of commissary store facilities and property purchased with nonappropriated funds. Taxpayer dollars did not build those facilities: Soldier, airman, sailor, and marine dollars did. This newly established account will return those soldier, airman, sailor and marine dollars to soldiers, airmen, sailors and marines. That is an accomplishment of which we can all be proud.

Similarly, the relocation of the Army and Air Force Exchange Service Headquarters in Europe is occurring as the Munich military community closes its doors. The bill included $8 million to support that effort rather than have soldier and airman dollars pay the cost of a relocation caused by strategic decisions.

Five million dollars was added to the bill to improve quality of life for military personnel in Naples, Italy. I visited Naples last March and was appalled at the deplorable conditions under which our military personnel were living. This $5 million will go a long way to improve those conditions, and it also sends a strong message to the Navy that Congress is concerned about Naples, and we will continue to watch that region with the expectation that the quality of life there undergoes rapid improvement. Adm. Mike Boorda has recently been selected as the Commander in Chief, Allied Force Southern Europe, and I know that he is personally interested in working toward this end upon his arrival in Naples. He will certainly have our support in this effort.

Another provision of importance to the panel is the authorization of $1 million for the Fenwick Pier demonstration project, which is designed to improve conditions for military personnel visiting Hong Kong.

I am proud of these accomplishments, as I know are the other members of the MWR panel.

As one of the four House observers to the ongoing chemical weapons negotiations in Geneva, I am also pleased that the bill includes $20 million for the procurement of long lead items for a cryofracture demonstration plant. That authorization is conditioned upon the Army's certification of its desire to build such a plant, and I urge the Army to consider the following as they consider granting that certification.

As we move closer to reaching agreement on a multilateral chemical arms control accord, the viability of our CW disposal program becomes increasingly important—specifically its ability to dispose of our stockpile within the anticipated destruction schedule. I do not believe that the Army's baseline technology alone will afford us that capability. I do believe that cryofracture has the potential to contribute much to a program composed of both baseline and cryofracture technology.

While the Army's baseline destruction technology is impressive, testing at the JACADS facility has been plagued by equipment problems and schedule slippages, and the life-cycle cost estimate has doubled from a 1988 estimate of $3.2 billion to a 1991 estimate of a whopping $6.5 billion. Cryofracture, which is also undergoing validation testing, has merit of its own and may even surpass baseline in terms of cost and efficiency.

The $20 million authorized in the conference report will provide for the acquisition and testing of the rotary kiln incinerator system for the cryofracture demonstration plant. Procurement of this kiln will allow for its thorough testing and will reduce the risk of schedule slippage during plant systemization. In this regard it behooves us to consider that by investing in this kiln in the early stages of development of a cryofracture plant, we can avoid many of the technical difficulties which have befallen the JACADS plant, difficulties which may well set back the entire chemical demilitarization program to an unacceptable degree. Congress has taken the right step in authorizing the $20 million in long lead procurement for cryofracture.

I appreciate the opportunity to speak to these important programs, and once again I commend the chairman for his leadership. I urge my colleagues to support the conference report.

TRIBUTE TO CHRISTOPHER SEAN KEENER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Christopher Sean Keener, of Montoursville, PA, as he attains the rank of Eagle Scout. Chris is the son of David and Nancy Keener.

Chris has been involved in Scouting since 1980, earning several honors and badges throughout that period of time. For his Eagle Scout project, Chris worked on a blind nature trail located at Indian Park in Montoursville. He worked under the direction of the Montoursville Lions Club and received the assistance of several fellow Scouts in his project. Chris and his coworkers designed, constructed, and mounted 25 wooden frames on poles throughout the nature trail. Visually impaired individuals will be able to utilize metal Braille plaques within the frames that explain the different points of interest on the trail. The plaques contain both the Braille and typed translations beneath the inscriptions. Because of Chris' wonderful work, the visually impaired will be able to enjoy the wonders of nature the same as other members of the community.

Chris, a graduate of Montoursville High School, currently attends Widener University in Chester, PA, majoring in electrical engineering and minoring in music. Chris has been very active in school and in his local community, and participated in his high school band and choral groups.

Mr. Speaker, I ask all of my colleagues to join me in honoring Christopher Keener on becoming an Eagle Scout, and in wishing him well on a future that I am sure will be very bright.

REQUEST FOR ECONOMIC GROWTH LEGISLATION

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to disagree with the leadership of the House of Representatives who believes that this Congress should adjourn without passing an economic growth plan. I strongly ask that this Congress not adjourn until a plan that will adequately benefit working Americans is passed.

Adjourning this Congress before such legislation is approved is irresponsible. The President cannot decide whether the economy is strong or sluggish, so it is incumbent on the majority to take the lead.

George Bush has been in the White House 3 years, and during that time the recession has worsened and the economy has grown more slowly than under any President since the Depression.

During the recent debates on the extension of unemployment benefits, President Bush said "all is well" in the economy. That sentiment was reversed when he signed the third extension bill last month. Earlier this week he said the American economy was sound and he would not introduce any new programs this year, and he called the problem one of public relations. He placed the blame for the recession on Democratic administrations and Congresses more than 20 years ago and admitted he would wait until after Congress adjourns before he announces any new programs.

The President believes the economies of other countries around the globe require assistance from the United States, but he has proved that he is unwilling to provide such assistance to the working people here at home.

I am disappointed the leadership of the House of Representatives is unwilling to reject the President's claims and has refused to bring any of the numerous economic stimulation programs to the floor.

Mr. Speaker, the people of America need our support. Last month, in my district alone, nearly 3,000 working people lost their jobs. The unemployment rate has increased from an 8-year average of 10.1 percent to 11.2 percent. This cannot lead any sane person to the conclusion we have a strong economy.

Four months after it was first introduced, an unemployment benefits extension package was finally approved, but even then it was difficult. Hopefully this stopgap measure will offer some relief to the thousands of out-of-work Americans. By passing this legislation, we are indeed acknowledging that a problem exists. Since the Administration is not taking charge, nor is the House leadership, I am calling for action. We must focus our attention on the engine that drives our economy, middle-income Americans, many of whom are living paycheck to paycheck.

These Americans cannot wait until next year, nor can we. We must debate and pass the many legislative proposals that will benefit these working Americans. Again, I request that the House of Representatives remain in session until we place before President Bush our bills that will get America moving again.

TRIBUTE TO LILLIE JACKSON VANLANDINGHAM

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. NORTON. Mr. Speaker, I would like to ask my colleagues to join me in commending Ms. Lillie Jackson VanLandingham upon the occasion of her retirement after 34 years of outstanding service to the people of the District of Columbia in their public school system.

Ms. VanLandingham has been an inspiration to thousands of young people and others in our community. Especially as a counselor, she has made an indelible contribution to guidance programs. Many students have benefited from her resourcefulness and professionalism.

The city itself has been the recipient of her concern for others. She has worked untiringly for civic, religious, and community-related causes. Her good works are an indication of her character, courage, and caring.

Mr. Speaker, I ask that this body join me in congratulating this extraordinary Washingtonian, and, in wishing her the joyous and productive retirement she so richly deserves.

TRIBUTE TO G. BEN HUBER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor my constituent and friend, G. Ben Huber, for his distinguished leadership in the business and civic affairs of Solano County.

Ben serves as the president of ET, Inc., one of Solano County's largest employers. He helped found the Fairfield, CA company and has been affiliated with it since 1961. ET is a recognized leader in the design, development, and production of explosive devices and systems for the aerospace industry. Some of the company's products were used in this year's Operation Desert Storm. Ben has served as a director of ET's parent company, OEA, Inc., since 1980.

Prior to his work with ET, Ben was employed as a research engineer and project leader with the Stanford Research Institute in Menlo Park, CA. He worked in the high-explosive laboratory of the Institute's Poulter Laboratories. From 1953 to 1957, he worked as a contract miner for the Anaconda Co. in Butte, MT. Ben's professional affiliations include the American Defense Preparedness Association and American Institute of Mining Engineers. He holds a bachelor of science in mining engineering from the Montana College of Mineral Science and a master of science degree in mineral engineering from Stanford University. Ben is also a 1977 graduate of Stanford's Executive Program for Smaller Companies.

Ben's leadership in the civic affairs of Solano County has been equally impressive as his work in the business arena. He was recently appointed to the San Francisco-based Bay Area Council, a public policy group whose members represent all nine Bay Area counties as well as some of the largest public and private businesses and groups in the Bay Area. Since 1986, Ben has served as a member of the Fairfield Public Improvement Corporation. A past member of the Fairfield City Council, Fairfield-Suisun Sewer District, and the Fairfield Planning Commission. Ben's tenure in these positions have coincided with the development of Fairfield as a regional retail center and the modernization of the Fairfield-Suisun waste-water treatment plant.

It would be impossible to single out the most noteworthy accomplishment during Ben's distinguished career and his involvement in civic affairs, but I know that I will always be grateful for his chairmanship of an advisory committee I established to review the closure and cleanup of a toxic waste dump in my congressional district. I organized the committee several years ago in order to bring together the various regulatory agencies overseeing the closure and cleanup process for the dump. I personally asked Ben to serve as the committee's chairman and he served with distinction for more than 3 years and recently left the committee to join the Bay Area Council. Ben endured a number of early committee meetings that were marked by heated exchanges, but he played a key role in facilitating the discussion of important issues in a nonacrimonious atmosphere. Ben took on an unglamorous, difficult position with his chairmanship of the advisory committee. I am grateful for his friendship, and his willingness to give so much of himself to his community.

CONGRESSMAN KILDEE HONORS NEW MIDWESTERN REGIONAL DIRECTOR OF PHI DELTA KAPPA, INC.

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mrs. Jessie Muldrew, mother, role model, educator, and the newly selected midwestern regional director of the National Sorority of Phi Delta Kappa, Inc. Jessie Muldrew's selection is a source of tremendous pride for me, as her entire life has been focused on nurturing our Nation's most precious resource, our young people. As a former teacher, I know the best influence upon impressionable young minds are those that truly love young people and are willing to commit fully to their development. Mrs. Jessie Muldrew is such a person.

As midwestern regional director, Mrs. Muldrew will supervise 23 chapters in Michigan, Indiana, Ohio, Illinois, Missouri, Kansas, and Kentucky. Prior to her selection for this position, Mrs. Muldrew's record of distinguished service to the National Sorority of Phi Delta Kappa extends back over 17 years and several offices including: 2 years as dean of pledges, 2 years as first ante-basileus, 4 years as basileus, 2 years as executive advisor, 4 years as xinos advisor, 4 years as member-at-large for the Midwestern region, national constitution and by-laws chairperson and chairperson of several regional committees.

Jessie Muldrew has served as an educator for over 21 years and currently serves as principal of Garfield Elementary School. She has served as elementary representative to the Flint Congress of School Administrators and is a member of the First Association of Elementary Principals.

An active member of the Flint community, Mrs. Muldrew belongs to several civic and community organizations including the Alpha Kappa Alpha Sorority, Inc., Zeta Beta Omega Chapter of Flint and Dozier Memorial Christian Methodist Episcopal Church where she serves as director of the board of Christian education.

Mr. Speaker, it is a privilege for me to ask you and my fellow members of the U.S. Congress to join with me in honoring Ms. Jessie Muldrew. She has set the example for those seeking to guide our Nation's youth. Citizens such as Jessie Muldrew are the reasons that the United States of America is a leader among nations.

TRIBUTE TO DAVID EDWARD O'LEARY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SMITH of Texas. Mr. Speaker, Scouting provides outstanding opportunities for young adults to accept a wide range of challenges and gain invaluable experience in meeting those challenges under the careful guidance of dedicated Scout leaders.

There is no higher award in the Boy Scouts than that of Eagle.

One of my privileges as the Representative of Texas' 21st Congressional District is to be able to join in the recognition of a Scout who has attained such an honor.

He is David Edward O'Leary, the son of Joseph E. and Linda S. O'Leary of San Antonio, TX.

This award to David says that he is capable of much and thus much can be expected from him. The lessons in commitment, persistence and hard work that he has learned in Scouting will serve him well.

In addition to Scouting, David is an honor student and an accomplished musician, having been a member of the McArthur High School marching band, the district and regional bands, and the Orchestra of San Antonio.

Currently, he is majoring in environmental sciences at Concordia Lutheran College in Austin, TX.

HUMAN RIGHTS ABUSES IN TURKEY MUST STOP

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PORTER. Mr. Speaker, in Turkey, physical and psychological torture is common while a prisoner is in custody, and unfair trials of political prisoners occur regularly. The Congressional Human Rights Caucus has repeatedly highlighted these types of abuses. But recent occurrences have been even more troubling.

This summer, four members of the Turkish Human Rights Association in southeastern Turkey were attacked. Several were injured and the attack ended in the brutal death of the president of the People's Labour Party, Mr. Vedat Aydin. The next day at his funeral, at least 3 more people were killed and 60 injured when police shot into the funeral procession.

Mr. Speaker, I am outraged that human rights activists are being targeted by police forces in Turkey. In the face of these types of derelictions, I urged President Bush to raise human rights issues with President Ozal when they met this summer.

Independent and thorough investigations into all accounts of torture and harassment perpetrated against the human rights community and others in Turkey must be held, and these abuses must end.

LEGISLATION PROHIBITS NUCLEAR WASTE SHIPMENTS TO IDAHO

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STALLINGS. Mr. Speaker, I am introducing today a bill that addressed a serious question facing Idahoans: Do they want the Idaho National Engineering Laboratory [INEL] to continue to be one of the Nation's premier nuclear research facilities, or do they want it to become a dumping ground for nuclear waste no one else wants?

The answer I have received from the people of Idaho is clear. Idaho will no longer be the Nation's nuclear waste safety valve. Governor Cecil Andrus is continuing his fight to keep the borders closed. I fully support his efforts and believe it was a necessary step to force the Department of Energy [DOE] to meet its responsibilities in addressing this growing nuclear waste crisis.

INEL already houses tons of nuclear waste from facilities around the country and overseas. The Energy Department recently proposed to bring in another 200-plus tons of spent nuclear fuel from Colorado's Fort St. Vrain without first complying with the State of Idaho's Environmental Protection and Health Act. A Federal judge thankfully enjoined DOE.

However, it is not altogether clear that the parade of waste into Idaho will stop. The Energy Department, sometime ago, decided that it would ship to INEL high-level radioactive waste and spent nuclear fuel from the West Valley, NY Demonstration Project. Those shipments could take place any time between today and 1994. DOE also has strongly hinted that it sees INEL as a dumping ground for nuclear waste from its own facility at Fernald, OH.

When confronted with this information, the Secretary of Energy recently assured Idaho's two Senators that DOE has no intention of shipping to INEL any waste from the West Valley Demonstration Project. Likewise, the Under Secretary of Energy similarly has pledged that DOE has no plans to ship to INEL nuclear waste from its facilities at Fernald, OH.

The administration's promises are set out in the form of letters. But with the simple stroke of a pen, the promises could someday be broken.

State officials and Idaho citizens have been very patient. Until October, 1988, we have honored each new request from DOE for increased waste storage. With each commitment for several more years of temporary storage has come a repeated promise that the waste could soon be transferred to a new Federal facility. But delay followed delay. Promises were made, but were not kept. History has taught us that there are no guarantees from the Department of Energy.

To guard against that possibility, the legislation I am introducing holds the Energy Department to its word. It ratifies the administration's promise that there will be no shipments to INEL of any nuclear waste from either the West Valley Demonstration Project or DOE's facilities at Fernald, OH.

Specifically, the bill prohibits the Secretary of Energy from transporting, or permitting to be transported, to INEL any nuclear waste from either West Valley or Fernald. The legislation also provides a mechanism to ensure that its ban is respected. It authorizes any citizen, including the Governor, to bring a civil action in Federal district court for any violation of the legislation.

The bill also mandates that an injunction shall immediately be issued for any violation. In this way, the courts need not concern themselves with legal maneuvering about where the equities lie if DOE should violate the ban—injunctive relief would be automatic and certain under this measure.

Added up, this is a bill whose purposes are simple and straightforward. I strongly urge my colleagues to support this effort that is so critical to Idahoans.

EQUAL ACCESS TO PRESIDENTIAL, CONGRESSIONAL, AND JUDICIAL RECORDS ACT

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ENGLISH. Mr. Speaker, I am introducing the Equal Access to Presidential, Congressional, and Judicial Records Act today. For 8 years I was Chairman of the Government Operations Subcommittee on Government Information, Justice, and Agriculture, and this bill addresses laws in which I have some expertise because of this chairmanship. Specifically, this bill would extend the coverage of the Freedom of Information Act and the Privacy Act of 1974 to include records not now subject to these acts from all three branches of government.

On October 24, 1991, President Bush proposed six specific reforms to enhance the public's confidence in the appointment and confirmation process. Today, I am addressing President Bush's sixth recommendation—congressional exemption from the Privacy Act of 1974. President Bush called for the repeal of the congressional exemption from the Privacy Act of 1974. My approach addresses the Freedom of Information Act as well because the Privacy Act and FOIA laws work in tandem.

However, my approach modifies the President's request. The legislation I am introducing would apply the Freedom of Information Act and the Privacy Act not only to Congress but to the Office of the President and Vice President and the Administrative Office of the United States Courts as well.

The reason for this modification is because President Bush was correct when he stated that the practice of exemption from laws "creates the appearance and reality of a privileged class of rulers who stand above the law." I agree with the President on that point. And this is the very reason I am including the Office of the President and Vice President and the Administrative Office of the United States Courts—because they too are exempt from these laws and they too should not be part of this apparent privileged class. In fact, Congress, the Federal judiciary, and the Office of the President are exempt from the Freedom of Information Act, the Privacy Act of 1974, and other labor and discrimination laws. As President Bush stated, "I would wager that the American people do not know that Congress has exempted itself from the laws private employers and the executive branch must obey." I would up the ante to wager that the American people do not know that the President and Vice President and the Federal judiciary are exempt as well.

The discussion of this issue has not been played out on a balanced playing field. This debate has been considered in a vacuum in only examining elected officials in Congress. However, the exemption's purpose was to include all elected officials. We should all be fair in this call for reform. If we are to alter the FOIA's exemption for all elected officials, then we should apply the law equally and across the board to all elected officials who are exempt. I support changing this matter now to include Congress, the President, and the courts as well.

I invite all of my colleagues, both Republicans and Democrats—and the President—to join me in this fair and evenhanded approach to Privacy Act and FOIA reform.

EXPLANATION OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 272, THE HIGH-PERFORMANCE COMPUTING ACT OF 1991

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BROWN. Mr. Speaker, the High-Performance Computing Act of 1991 was introduced in the House as H.R. 656 and in the Senate as S. 272. The major differences between H.R. 656, as passed by the House on July 11, 1991, and the proposed amendment in the nature of a substitute to S. 272 are as follows:

NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM

The principal features of the National High-Performance Computing Program as contained in H.R. 656 are unchanged by the amendment. The description of the contents of the program in section 101(a)(2) of the amendment is enlarged to make clear that the program is intended to address shortcomings in software development and use, to improve dissemination of data and electronic information produced by Federal agencies, to accelerate development of all aspects of high-performance computing, to support research efforts addressing grand challenge problems in science and engineering, and to expand the human resource base for high-performance computing.

In the specification of responsibilities of the Director of the Office of Science and Technology Policy [OSTP] in section 101(a)(3), the amendment eliminates the explicit requirement that the Director review the budget estimates of the agencies participating in the program and provide the results of the review to the Office of Management and Budget [OMB]. Since OMB is a participant in the planning of the program, OMB will be able to determine whether the budget requests of the agencies are consistent with the goals of the program. The OSTP is given general responsibility to assist OMB in the preparation of R&D budgets under the OSTP organic act.

In the statement of the characteristics of the National Research and Education Network in section 102(c), the amendment emphasizes the role of the computer, telecommunications, and information industries in development and deployment of the network. The committee intends that there be minimal Federal investment in network hardware and that the network be developed to the maximum extent by purchasing standard commercial transmission and network services. The requirement for accounting mechanisms to allow users to be charged for use of copyrighted materials available over the network is not intended to require monitoring of the contents of information transmitted over the network. The committee expects that the providers of copyrighted materials accessible via the network would be responsible for ensuring that users are charged, as appropriate, for use of such materials.

FEDERAL AGENCY RESPONSIBILITIES

No agency is designated to manage the National Research and Education Network in the amendment. All Federal agencies involved in supporting the establishment of the network under the program are expected jointly to develop appropriate mechanisms and procedures to ensure that the characteristics of the network, as defined in the amendment—section 102(c)—are achieved.

The amendment adds the following additional responsibilities to the National Science Foundation [NSF]: First, be primarily responsible for assisting colleges, universities, and libraries to connect to the network to the extent that these entities cannot connect to the network with the assistance of the private sector; second, serve as the primary source of information on access to and use of the network; third, upgrade the NSF funded network; fourth, assist regional networks to upgrade their capabilities; and fifth, provide Federal agencies the opportunity to connect to the NSF funded network. The intention of the committee in the first item in the preceding sentence is to emphasize the central role of the private sector in providing network connections for institutions of higher education and libraries. NSF is expected to assist as necessary and in a supplementary role.

The amendment adds an authorization to the Department of Energy [DOE] to establish High-Performance Computing Research and Development Collaborative Consortia, each led by a DOE national laboratory with participation from other Federal agencies and the private sector. The amendment also requires the results of research and development activities to be transferred to the private sector in accordance with applicable law and requires an annual report to Congress on DOE activities taken to carry out this act.

The amendment requires the Defense Advanced Research Projects Agency, in accordance with the program, to support research and development of advanced fiber optics technology, switches, and protocols needed to develop the network.

BUY AMERICAN PROVISION

The amendment replaces the Buy American provisions, section 13 of H.R. 656 as passed by the House, with a new set of provisions, section 208. The amendment expends the findings to make clear that the intent of the act is to strengthen U.S. leadership in high-performance computers and associated technologies and that reciprocal competitive procurement treatment by foreign governments for these technologies ought to be vigorously pursued by the Federal Government.

The amendment requires the Director of OSTP to submit an annual report to Congress identifying any R&D contracts with non-American owned companies or with universities or nonprofit research institutions located outside the United States. The report must also identify any procurement under the act exceeding $1 million for materials of foreign origin.

The amendment requires the Under Secretary for Technology Administration in the Department of Commerce to submit to Congress a comprehensive study of the superconducter agreement between the United States and Japan. The purpose of the study is to determine whether the goals and objectives of the agreement have been met and to analyze the effects of the agreement on United States and Japanese supercomputer manufacturers.

Finally, the amendment reaffirms that the High-Performance Computing Act does not affect the applicability of the Buy American Act to procurements by Federal agencies under the program.

AUTHORIZATION OF APPROPRIATIONS

The amendment increases by a total of $5 million the authorizations for the National Institute of Standards and Technology [NIST] over the last 4 years of the 5 years authorized. The amendment provides an authorization for NIST of $4 million for fiscal year 1993, $5 million for fiscal year 1994, $6 million for fiscal year 1995, and $7 million for fiscal year 1996.

In addition to the sums authorized to DOE for purposes of the program, the amendment authorizes such sums as necessary for fiscal year 1992 to fiscal year 1996 to carry out high-performance computing activities under the act which are not part of the program but are in accordance with the program.

REPORT TO CONGRESS

The amendment includes the requirement that the Director of OSTP provide a report to Congress regarding establishment of the network. The subjects to be addressed by the report include mechanisms for meeting the operation costs of the network, the future operation and evolution of the network, mechanisms for charging commercial entities for access to the network and for billing network users for commercial services provided through the network, protection of copyrighted materials distributed over the network, and security of resources available on the network and privacy protection for users of the network.

ELEVATE EPA BEFORE ADJOURNMENT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. HORTON. Mr. Speaker, yesterday, I joined with Congressmen BOEHLERT and SIKORSKI and officials representing four of the most respected and influential environmental organizations in the country in urging the creation for the United States what already exists for every other industrial nation in the world: an environmental protection department at the highest level of Government. The goal, articulated by each of us, is a Cabinet-level Department of the Environment. Our purpose yesterday, and mine today, is to urge the House leadership to move on legislation in place to accomplish that elevation.

The U.S. Senate, with the very capable leadership of Senate Governmental Affairs Committee Chairman JOHN GLENN and ranking minority member BILL ROTH, as approved legislation—S. 533—to elevate the Environmental Protection Agency to the Cabinet-level Department of the Environment. And President Bush, in a Rose Garden ceremony 2 years ago, in continued correspondence and efforts with both the House and Senate, has been steadfast in his support for legislation to elevate EPA.

S. 533 can be passed before Congress adjourns this year. Administrator Reilly will be Secretary Reilly. He will sit with the Cabinet and make sure environmental concerns are voiced, debated, and considered at the highest levels of our Government. More importantly, he will participate as a Cabinet-level officer of the U.S. Government in international efforts to ensure careful and considered management of our planet's land, air, and water resources. Surely the quality of our environment deserves the dignity of this elevation.

Why has S. 533 not moved in the House? Why has progress stalled on this important legislative effort? Are the issues involved really that complex? Of course they are not. The excuses are many and we know them all. Some legislators see an EPA Cabinet-elevation bill as an opportunity to address a plethora of environmental problems. Others try to cloud it in procedural concerns, as though moving a bill from the desk would violate longstanding rules of parliamentary order. Others simply do not want a Cabinet-level Department of the Environment to exist.

The House leadership has the power to create this year, this month, the U.S. Department of the Environment. It has the power. It does not require much time. The issues are clear, simple, and have been debated over the years. All that is required is for the leadership to take S. 533 from the desk, amend it to exclude extraneous provisions, and put it to a vote. It can be done today. It can be done tomorrow. It can be done in 1 or a few hours. And I would submit that our environment, our quality of life—and hence—the quality of life of our families and our families' families, would be the better for it.

Let there be no mistake where the environmental community stands on this issue. The

Sierra Club, the National Wildlife Federation, the World Wildlife Fund, the Natural Resources Defense Council, the Environmental Defense Fund, and the Wilderness Society have issued public statements calling for immediate action to elevate EPA to Cabinet status. These organizations, representing hundreds of thousands of environmentally conscious Americans, want to see a clean EPA bill enacted today, tomorrow, or next week. They are not calling for additional environmental provisions as part of this bill. They are not insisting that action be delayed so EPA can be reorganized or restructured. These organizations heard the promises about enacting legislation in time for Earth Day. 1990 has come and gone. Earth Day has come and gone. Let's not let 1991 come and go without a Department of the Environment.

I was very proud to stand yesterday, with my congressional colleagues and the leaders of the most significant environmental organizations in our country, in making this simple request to the House leadership. it is not too late for that request to be heard and acted upon. Thank you.

PESTICIDE DATA COORDINATION AND SYNCHRONIZATION ACT OF 1991

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GUNDERSON. Mr. Speaker, consumers who use home and garden pesticides, including household disinfectants, share a common problem with farmers who use agricultural insecticides and herbicides, that is, the rising cost of these products.

We cannot directly control the cost of pesticide manufacturing, but we can help the farmer and consumer by reducing the increased pricing associated with the cost of unnecessary and redundant testing. That is why I am introducing today, the Pesticide Data Coordination and Synchronization Act of 1991.

This bill requires that when data are required by one or more State or Federal agencies, the Administration of the Environmental Protection Agency shall coordinate and synchronize such data requests to avoid unnecessary repetition and redundancy. The legislation calls for communication and consultation concerning requirements for generation and review of specific data between State and Federal regulatory agencies, and will foster but not require uniformity.

Under this bill, States are not precluded from establishing data requirements of standards because the EPA has done so. In fact, the bill has effect only when both State and Federal governments have exercised their discretion and the result is the data requirement which, because of some variation, requires duplicative testing. Neither the State nor the Federal position is designated to prevail over the other. This bill in no way affects the authority of States to regulate pesticides.

To illustrate the need for this legislation, it is important to note that States have been adopting laws to establish programs for filling health and safety data gaps on pesticides registered within its borders. In some cases that in implementing these State laws by defining what constitutes a data gap, by establishing a list of required studies, and by creating a timetable for filling these gaps, the States will disregard the efforts of EPA to establish reregistration timetables and data call-ins to fill some of these very same gaps.

In essence, in attempting to establish their own expedited reregistration programs to fill data gaps, the States may establish their own data requirements, and those requirements can be at odds with EPA's and cause hardship for both active ingredient manufacturers and formulators of pesticides. Additionally, standards of review of existing or newly generated data may differ.

I recognize the need to fill data gaps at both the State and Federal levels. However, it is critical that data requirements among the States and EPA be coordinated and synchronized so that only one set of data needs to be generated within the same time frame. There may be a need to fill data gaps at both the State and Federal level; however it should be possible to better coordinate and synchronize data requirements so that in most cases, only one set of data and uniform tests need be generated, and the standards of review of that data are consistent.

Unnecessary repetitive and redundant testing not only consumes valuable time and resources, but also delays the closing of data gaps. Valuable time and resources which could be used to develop new data are wasted in refocusing on gaps that have already been or are in the process of being filled.

Many low-volume, low-profit specialty products, including antimicrobial products, may be discontinued because neither the registrant, the formulator, nor the State will pay for additional tests required on active ingredients. Many nonagricultural, minor use products also could disappear. Unrealistic timetables for implementing and generating these needed studies could cause some of these products to be dropped from the market.

Recently, Linda Fisher, assistance administrator for pesticides and toxic substances with the Environmental Protection Agency, issued a paper stating that review schedules for particular pesticide chemicals regulated by the EPA could be changed if such an effort was needed to further the goal of international coordination of pesticide regulation. Fisher urged participants in an international conference to seek agreement on strategies and mechanisms for coordination the national data review schedules.

If EPA is interested in gaining coordination and harmonization of international pesticide review data, it should also be supportive of coordinating and synchronizing review data among our States and the Federal Government.

With adoption of this provision, pesticide manufactures can make well-reasoned decisions as to the generation of additional data. The entire process of filling data gaps will be greatly enhanced through the exchange of information between State and Federal toxicologists and other regulatory officials.

The Pesticide Data Coordination and Synchronization Act of 1991 will help to provide less expensive agricultural and home/garden pesticides for farmers and consumers and will aid in insuring that low volume, low profit specialty products, including antimicrobial products, as well as agricultural and nonagricultural minor use pesticides, will be available wherever needed.

A TRIBUTE TO J. DOUG WELBORN AS HE ASSUMES THE RESPONSIBILITY OF THE OFFICE OF EAST BATON ROUGE PARISH CLERK OF THE COURT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BAKER. Mr. Speaker, I rise today to pay special tribute to J. Doug Welborn, the newly elected clerk of the court of East Baton Rouge Parish. Mr. Welborn was elected on November 16, 1991, and sworn into office only 4 days after he was elected. He is the only Republican to be elected to this position in over 150 years.

As clerk of court, Mr. Welborn will continue an active career of community service in the Baton Rouge area. He has served as a council member for the East Baton Rouge Metro Council for the past 11 years, dedicating his time to the revitalization of our community's economy, tourism, education, and environment. In 1982, he was appointed by the Governor to head the Amite River Drainage and Conservation Commission. He is a member of the Greater Baton Rouge Airport Authority and a member of the Capital Region Planning Commission, an organization designed to promote growth and industry.

But Mr. Welborn's service does not end there. He is also a member of the Greater Baton Rouge Chamber of Commerce, a member of the Central Area Business Association, the Fraternal Order of Police, and a board member of the Central and Eastside Fire Departments.

Mr. Welborn's involvement in community education has remained outstanding over the years. He was recognized by the East Baton Rouge Parish School Board for outstanding service as a volunteer in public schools. He is actively involved in such philanthropic programs as Read Aloud Please, Council on Youth Opportunity, the Children's Coalition, and serves as a chairmember of the Louisiana State Special Olympics.

Doug Welborn is a bright, talented young man. He faces a great challenge in breaking from the past problems that have beleaguered the clerk's office for several years, but I have the fullest confidence that Doug Welborn will restore to this office and to the people the honesty and integrity it requires.

THE AMERICAN FRIENDSHIP LIBRARY PROJECT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PRICE. Mr. Speaker, I rise today to call my colleagues' attention to a worthwhile project in which the citizens of North Carolina have been participating—the American Friendship Library project. The project, sponsored by the North Carolina Writers' Network, the Georgian Writers' Union, and US–USSR Bridges for Peace, formed in July 1991 when the Georgians requested American books so that they might learn more about the West. The purpose of the project is to promote peace, friendship, and understanding between the United States and the Soviet Union; by donating books. Americans can take an active role in the events which are shaping our world into a more peaceful one. The library, which is located in Tbilisi, Georgia in the Soviet Union, will enable Soviet citizens to have free access to American works of literature, incuding novels, textbooks, reference materials, and nonfiction books.

The first campaign for books has reached completion, thanks to the work of Jeffrey Gallagher of the North Carolina Writers' Network, who took on the challenge to get donations from North Carolinians for the inaugural library. I know about his efforts first-hand, for he encouraged me to donate historical and reference works on the U.S. Congress, and I was happy to do so. In 6 weeks, the excitement for the exchange yielded over 20,000 books from universities, businesses, book stores, and individuals. Because of the huge success of the initial book drive and the dramatic need for American books in the Soviet Union, the American Friendship Library project plans to establish libraries in other major cities throughout all of the Republics of the Soviet Union. As well as providing access to Western literature and texts to individuals, these libraries will establish a clearinghouse where Soviet institutions can request special collections from the West.

The North Carolina Writers' Network, the Georgian Writers' Union Bridges for Peace, and the citizens from North Carolina who have generously donated their books and their time to this project are to be commended for their contributions to world peace and understanding.

CRISIS IN HAITI

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to express my outrage at the administration's policy to resume forcible repatriation of Haitian refugees. The State Department argues that most of the Haitians are economic refugees and thus not eligible for political asylum in the United States. However, our own Government has recognized in various executive orders and official statements the brutality of the military in power, and has repeatedly condemned the coup and called for the return of President Aristide to power.

The Haitian people are fleeing for their lives. Violence and repression are now part of everyday life in Haiti since the military coup. The military forces are engaged in a campaign of terror, especially against the poorer sectors of Haitian society. Returning the refugees to the island would be sending them back to an intolerable situation of human rights abuses by the military and possible death.

Mr. Speaker, I find it unconscionable that the U.S. Government would implement such a policy with regard to refugees. I would think that our Government would have learned from history. Back in June, 1939, the ship St. Louis, packed with Jewish refugees from Europe, circled in Florida waters and eventually was denied entry into the United States. As a result of this abhorrent United States immigration policy, the ship was forced to return to Europe. We all know the tragic fate that awaited those refugees. It is incomprehensible to me why we would once again contemplate turning back any refugees, whether economic or political, fleeing any kind of persecution, and this is exactly what we are doing with the Haitian refugees.

Mr. Speaker, the United States strongly condemned the British Government when it began forcing Vietnamese boat people home from Hong Kong. I am hard pressed to find a reason for our double standard. The President maintains that there is a legal difference between the two cases. I find this argument weak and irrelevant. The fact remains that these are desperate refugees fleeing an unbearable situation and we should not deny these people safe haven in the United States. I urge the President to reinstate a reasonable immigration policy and to show humanitarian concern for the Haitian refugees.

RELIGIOUS FREEDOM DAY

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BLILEY. Mr. Speaker, today I am introducing a joint resolution designating January 16, 1992 as "Religious Freedom Day."

January 16, 1786, was the day on which the Virginia General Assembly passed "An Act Establishing Religious Freedom in Virginia." Written by Thomas Jefferson in 1777, this act marked an end to legal conflicts surrounding the quest for religious freedom; a quest that began early in the 17 century as Europeans fled their native countries in search of a life free from religious persecution.

The Statute of Virginia for Religious Freedom is an extremely innovative piece of legislation. Up until this time, the idea of a secular State was unheard of, an extreme concept that even our newly formed democracy, radical in the eyes of the world, had trouble accepting. By giving natural rights precedence over the interests of the State, the Virginia Statute for Religious Freedom not only endowed each individual with the inherent right to express their own conscience, but also drew a definite line between church and state, a line which had never been so bold in the course of prior history.

"An Act Establishing Religious Freedom in Virginia" was the "first legislature" in the words of Thomas Jefferson "with the courage to declare that the reason of man may be trusted with the formation of his own opinion." Scholars across the United States have recognized this document, not only for its invaluable assertion of the right of an individual to religious freedom, but also for its immeasurable influence on the Bill of Rights, and more specifically, the first amendment. Freedom of religion is the cornerstone from which all our other freedoms grow; the government, by establishing confidence in each individual in matters of religion establishes confidence in each individual in matters of expression. Thus, the concept of religious freedom is both fundamental and basic to the concept of freedom of speech, freedom of press, and freedom of assembly.

Along with being the author of the Declaration of Independence and the father of the University of Virginia, Thomas Jefferson specifically asked to be remembered for the Virginia Statute of Religious Freedom. He felt the act was one of his three greatest and most important contributions. Although such a basic and seemingly obvious right today, freedom of religion is fundamental to our republic, and must be recognized.

It is fitting and proper that all Americans celebrate the religious freedom which they enjoy and exercise everyday. By designating January 16, 1992, as "Religious Freedom Day," we will recall with pride the work of Thomas Jefferson which states:

> No man shall be compelled to frequent or support any religious worship, place, or ministry * * * but that all men shall be free to profess * * * their opinion in matters of religion.

TRIBUTE TO JAMES C. ROBERTSON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual in mid-Michigan, Mr. James C. Robertson of the city of Gladwin.

Mr. Robertson is married to Evelyn Robertson, they have three children: Sharon, James Jr., and Joel.

Originally from West Virginia, Mr. Robertson began his service to the city of Gladwin when he was elected to the city council in 1955. He served in that capacity for 2 years. His next duty came as the treasurer of the board of education. He served there from 1961 until 1968.

In 1967 Mr. Robertson was elected as mayor of Gladwin. He has served in that capacity for 25 years, and has continued to contribute in other ways to the city and the State of Michigan.

Not only has he served the people of Gladwin well, but he has also well served the people of the State of Michigan. As a member of the League's Special Task Force of Small Cities and Villages and a member of the Governor's Small Cities Program State Advisory Committee, Mr. Robertson has assisted villages and cities statewide by advising the Governor on many issues of concern to those cities and villages.

Mr. Speaker, Mr. Robertson will be retiring from his position as mayor on November 23, 1991. I know you will join me in thanking and commending this outstanding community leader for his accomplishments and commitment to the city of Gladwin and the State of Michigan.

AMERICA WON'T WIN TILL IT READS MORE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GOODLING. Mr. Speaker, with apologies to Fortune magazine for stealing its headline, I would like to return to a topic that I addressed several weeks ago; namely, the importance of educational achievement to the ability of this Nation to compete in the global marketplace. In those earlier remarks, I discussed my belief that the task of educational reform was really one to be borne by all Americans, as we are all stakeholders in the economic future of this country. We all need our children to achieve academically because they are our tomorrow in terms of manufacturing productivity, business leadership, and technological advances.

As we move into the information age of the 21st century, the ability to communicate one's thoughts and ideas will remain perhaps the most critical skill in both educational and professional achievement. As the economy becomes more and more international in scope, well-developed communications skills will become even a greater necessity. Thus, I am troubled by the increasing disinterest on the part of American youth and adults in the art of reading. I strongly believe, and I think the academic research would back me up, that reading exponentially improves one's ability to think logically, and creatively, to express oneself orally and in written form, and to broaden one's intellectual skills in a wide variety of subjects.

Although recent statistics indicate that some 30 million Americans have serious deficiencies in their ability to read, write, speak, and solve problems effectively, I am not referring merely to the problem of illiteracy. With the passage of the National Literacy Act of 1991, we took steps in the Congress to improve the literacy and basic skills of adults and families. I am equally troubled by the even greater number of Americans who, although by definition are literate, do not read and write well enough to be active, fully employed participants in the increasingly technical work force of the future. If we are going to sustain the preeminence we enjoy today, in the global economy of the next century, America simply must do better.

Increasing the time we, and our children, spend reading is one simple, yet effective, strategy for improving our collective ability to communicate effectively and, down the road, to compete effectively in an increasingly information driven economy. Many educators have indicated that time spent reading is one of the single greatest predictors of academic success. Just as every American has a role in school reform, every American can play a part in encouraging this Nation's youth, and its adults, to spend more time reading. Turn off the television, pick up a book, encourage the kids you know to pick up a book, read to your kids, donate your time and read to somebody else's kids, donate some new or used books to a local school or library.

This Nation cannot rely on only the best and the brightest to be economically competitive in tomorrow's world. We must be able to count on each and every citizen to be a productive participant in this country's economy in order to be a productive participant in this world's economy. Every American must turn his or her attention to providing our young people with the skills that enable them to be productive participants.

On the macro level, that may involve all Americans participating in education reform efforts. On the micro level, it may involve something as simple as talking to the youth you encounter about the value of reading. The future is now: "America won't win till it reads more."

TRIBUTE TO FRANK H. KUEHN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. VISCLOSKY. Mr. Speaker, I rise to pay tribute to Frank H. Kuehn for his many years of distinguished service with the U.S. Government. Mr. Kuehn will retire on November 30, 1991, after 37 years of service with the Veterans Administration.

Frank was born on August 31, 1924, and served in the U.S. Air Force from October 1942 to August 1945, and again from August 1950 to May 1952. In September 1954, Frank began working as an appraiser in the Loan Guaranty Division of the Veterans Division in Chicago. In October 1961, he was promoted for his outstanding performance and transferred to Detroit, MI, where he assumed the position of assistant loan guaranty officer for the Veterans Administration. He left the fine city of Detroit in 1970, for Indianapolis, where he began a 21-year reign as the loan guaranty officer.

Frank Kuehn, as a veteran with two terms of service, understands the difficulties our Nation's veterans experience in establishing a stable home life. Drawing upon his own experiences, he has served the veterans of Indiana with the utmost pride and respect. He has gone the extra mile to enable our veterans to stand with pride and dignity for being able to own their own homes. I wish that every State could have a person like Frank to serve their veterans with his undying enthusiasm.

On November 26, 1991, the friends of Frank Kuehn, together with the staff of the VA Regional Office in Indianapolis, IN, will meet at the Primo Hall in Indianapolis for a retirement testimonial and roast. I join all the friends and colleagues of Frank Kuehn, in wishing him all the pleasures of an enjoyable retirement and hope that he will be able to fulfill his dream of playing at every golf course in the State of Indiana.

Mr. Speaker, I wish Frank the best of luck in the future. He will definitely be missed by all of us.

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Brig. Gen. Theodore (Ted) R. Verdi of the Rhode Island Air National Guard on his retirement. He has dedicated his career to the preservation of freedom and has proven to be a fine leader.

Ted was born in Providence, RI, on December 14, 1931. After graduating from Mount Pleasant High School in 1949, he studied business administration at Boston University. He furthered his military education at the Squadron Officer's School in 1961, the Command and Staff College Professional Development Program in 1970, and the Industrial College of the Armed Forces in 1977. He had also completed an Air National Guard aircraft accident prevention course at the University of California in 1970 and national security management courses in 1977.

On January 8, 1951, Ted began his military career with the Rhode Island Air National Guard. He was commissioned a second lieutenant on June 24, 1954, after attending Air Force pilot training. Later that year, Ted concluded his active duty with flying proficiency in the T–6, T–28, T–33, and F–84 D/E jets. In 1968, he became a full-time civil service technician and has served continuously in the Air National Guard since that time. He flew the C–54, U–10, C–119, and HU–16 aircraft as squadron operations officer and the C–130 aircraft as deputy commander for operations. With more than 7,200 hours of flying time, he was appointed on December 5, 1980, to the positions of full-time air command and group commander, 143d Tactical Airlift Group. After serving as a command pilot, his next appointment was chief of staff, Rhode Island Air National Guard, where he remained until his promotion to Assistant Adjutant General. Concurrent with this appointment, he automatically assumed the position of Deputy Commanding General-Air, Rhode Island Air National Guard.

Ted was promoted to brigadier general and federally recognized on September 29, 1987. He was also the recipient of several prestigious decorations and awards including: the Air Force Meritorious Service Medal, 1st Oak Leaf Cluster; Air Force Commendation Medal; Aircrew Combat Ready Ribbon, 4th Device; Armed Forces Reserve Medal; Small Arms Expert Marksmanship Ribbon; Rhode Island National Guard Ribbon, Eagle and V; National Guard Ribbon.

He has also been involved with the National Guard Association of the United States, the Air Force Association, and the Kiwanis Club of Rhode Island., the East Providence and Warwick Chapters. Ted was also the president of the National Guard Association of Rhode Island.

Ted is married to Diana Pellegrino Verdi, formerly of Johnston, RI. They have two daughters, Dorie and Alicia, and a son, Theodore. Ted and Diana currently reside in Cranston, RI.

Brig. Gen. Theodore Verdi has honored his State and country in his service with the Rhode Island Air National Guard. I ask that my colleagues please join me in wishing Ted and his family continued health and happiness.

TENNESSEE DEPARTMENT OF SAFETY PROMOTES ORGAN DONOR AWARENESS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. CLEMENT. Mr. Speaker, I want to take this opportunity to commend the Tennessee Department of Safety and Commissioner Robert Lawson for the outstanding work they have done during the past few years in the area of organ donation awareness in the State of Tennessee.

The back of every Tennessee driver's license includes an organ- and tissue-donor card. The efforts of Commissioner Robert Lawson and his department to promote organ- and tissue-donor awareness have been outstanding. Under his leadership, the department has:

Distributed educational brochures and orange organ-donor decals;

Instituted a 24-hour, 7-day-a-week help desk to assist organ-procurement professionals in their work;

Developed an organ-donor section in the Tennessee driver's license manual;

Included an organ- and tissue-donor card on change-of-address forms;

And provided donation information on renewal forms.

The department is currently bidding on the purchase of plastic pouches to hold an organ- and tissue-donor card.

Dr. Edward Brown, executive director of the Lions Eye Bank of middle Tennessee, helped bring to my attention the outstanding record of Commissioner Lawson and the Tennessee Department of Safety and their work on behalf of organ-donor awareness.

I want to take this opportunity to salute the commissioner and his department and ask my colleagues from throughout our Nation to take notice of these efforts. If your State does not have an organ-donation procedure, I ask that you contact my office so I can put you in touch with the Tennessee Department of Safety. Their program can serve as a model for a similar effort in your State.

ROCHESTER FAMILY SENT 8 SONS TO WORLD WAR II

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, it has been almost 50 years since the bombing of Pearl Harbor on December 7, 1941, and as we approach the commemoration of this important milestone in American history, I know many veterans will be recalling their efforts during World War II and the impact the war had on their lives.

For many communities across America, in fact, World War II was all-consuming. Consider Monroe County, which I represent in upstate New York. During World War II, 40,000 residents served in the military, and 1,276 died, out of a total population of 438,000. As an editorial writer for the Gannett papers back home recently wrote: "Imagine the impact today if the same proportion (in Monroe County)—70,000 men and women—went away to war, not for a few months, but for years. Imagine the anguish, the tension, the burden of coping and worrying and waiting."

Mr. Speaker, millions of American families 50 years ago underwent such hardships. While there is no way to put a measure on such sacrifices, I believe the experience of one family in my congressional district speaks volumes for many others.

I am talking of the Fedele family, whom I represent in Rochester, NY, a family that saw eight sons serve in World War II. The brothers served in the Army, Navy, Marines and the Army Air Corps and fought in Europe, the Pacific and Africa.

Anthony Fedele enlisted in the Marines in 1939 while still a teenager and was at Pearl Harbor when war broke out. Seven of his ten brothers soon followed him into service as a result of the draft. August and Nunzio joined the Army; Sam and Joseph went into the Navy; Vincent and Patrick signed up with the Army Air Corp; and Gerald joined the Marines. Two other brothers, William and Michael, received military deferments because they were employed by defense plants. Victor, the family's youngest son, was too young for World War II, but he served in Korea. Toward war's end all eight brothers were serving in the military, and, thankfully, all survived the war.

Miraculously, only one Fedele brother, Joseph, was injured in action. He received the Purple Heart after he was hit by machine gun fire in Okinawa. Patrick suffered injuries in a plane crash during training exercises in the United States.

A reporter for the Democrat and Chronicle of Rochester recently interviewed several of the Fedele brothers about their efforts during World War II. "Don't make it sound like we were war heroes," said Sam with humility characteristic of so many veterans. "We're just common people," he added.

Mr. Speaker, as we approach the 50th anniversary of Pearl Harbor, I submit that it was the courage and conviction of soldiers like the Fedele brothers that enabled us to overcome the surprise attack and preserve the basic freedoms we so cherish—our freedom to vote, to speak our minds, to debate our Government actions, to move freely and to worship as we choose. As a child of World War II, I have tremendous respect for those who have served their country. As we remember Pearl Harbor, we must also remember the many veterans who risked their lives to make victory possible.

TRIBUTE TO THE HONORABLE D. FRENCH SLAUGHTER, JR.

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SENSENBRENNER. Mr. Speaker, on July 1, my colleagues in the House of Representatives and I learned of the unfortunate retirement of the gentleman who has honorably represented Virginia's Seventh District and the people of America the past 7 years, D. French Slaughter, Jr.

I was fortunate to have served alongside French during this tenure in the House on both standing committees on which I serve, the Judiciary Committee, and the Committee on Science, Space, and Technology. I had ample opportunity to witness the dedicated service by French to his constituents during committee markups and hearings. Many times there were others who expounded at greater length on one issue or another, but the Congress gained valuable insight from the gentleman from the Seventh District who was a student of the issues and the people affected by them. The committees on which he served are indebted to his faithful service.

Mr. Speaker, I am also confident that if on any day the constituents of Virginia's Seventh District unexpectedly appeared at a committee hearing, they would have seen the same Congressman Slaughter they saw back in their district. A gentleman. A dedicated public servant.

Mr. Speaker, French's support was critical in many of the battles waged on controversial public policy issues. My colleague steadfastly pursued legislative solutions, enduring many long hours of behind-the-scenes effort to represent and serve his constituents. They were well served.

On Tuesday, November 5, the citizens of the Seventh Congressional District made an overwhelming decision to continue the tradition of excellent representation by electing GEORGE ALLEN to fill French Slaughter's shoes. I will be happy to welcome Mr. ALLEN to the Judiciary and Science, Space, and Technology Committees and honor the position as did Mr. Slaughter with outstanding service.

Mr. Speaker, I wish my friend D. French Slaughter, Jr., the very best as he departs this institution for other pursuits. My colleagues and I will miss the congenial nature and dedicated service which French gave selflessly to this institution.

THE EMERGENCY UNEMPLOYMENT BENEFITS EQUITY ACT OF 1991

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. INHOFE. Mr. Speaker, today I have introduced the Emergency Unemployment Benefits Equity Act of 1991 to provide for a more equitable assistance to this Nation's unemployed.

My bill would amend the recently passed Federal Supplemental Compensation Act of 1991 which became Public Law 102–164. It would provide for 15 weeks of unemployment benefits for every State across the Nation regardless of unemployment rates. It would also make the Act retroactive to February 28, 1991, for every State and extend those benefits to all States through June 13, 1992.

The Emergency Unemployment Benefits Equity Act of 1991 is intended to cost the same amount or less than the legislation just passed and I would amend the bill to bring it within the guidelines of the Budget Enforcement Act of 1990, should budget projections call for additional spending.

I am pleased that the House of Representatives decided to bring those states who previously qualified for 6 additional weeks of unemployment benefits to the 13 week tier in H.R. 1724, but even that is not sufficient. My contention is that while this is much better than the original legislation, which has now become law, we need to completely eliminate the tier system.

First of all, the method by which the Department of Labor calculates State unemployment figures depends in part on the amount of benefits the State has distributed. Since the Southwest has been in a recession for 3 years longer than the rest of the Nation, Labor's calculations do not reflect the employment and economic conditions of the region.

Second, I believe that an unemployed family should receive the same amount of benefits as other families in the same situation, regardless of the region or State that they reside. An unemployed person in California, Florida or Oklahoma is in the same desperate situation as anyone else in the United States, regardless of the economic situation in the rest of the community.

Also, the extra 7 weeks of benefits that Massachusetts, New Jersey, Connecticut, Rhode Island and others receive are being paid for in part by the employers in all States. In essence, the employers in my district will be paying for the extra 7 weeks that the unemployed in Massachusetts will be receiving. That creates an inequity that employers in my district should not have to bare.

This distribution in the Emergency Unemployment Benefits Equity Act of 1991 is not only more just, but also eliminates the penalization of those States that do not qualify for the maximum number of weeks under the recent legislation.

Mr. Speaker, I invite my colleagues in this body to join me in cosponsoring this important legislation that would provide equity to all of America's unemployed.

IF ONLY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BURTON of Indiana. Mr. Speaker, last weekend, when I was presenting an American flag at a Masonic lodge, I had the opportunity to hear a very moving speech by a high school student from my district. Tanya Zion of Markleville, IN, spoke about our rights under the first amendment, and what a tragedy it is that some people choose to use those rights to burn the American flag.

Mr. Speaker, it was refreshing to hear a young person, probably one of our future leaders, speak so eloquently about her love of our country and the rights and responsibilities we all share. I insert Tanya's speech into the RECORD for the benefit of all of my colleagues.

IF ONLY

(By Tanya Zion)

If only, if only the First Amendment didn't exist. No personal expression would be openly present in the United States. You wouldn't be able to choose the profession of your choice, there would be one main religion, or no religion at all, there would be absolutely no protesting the government, and I wouldn't be standing here speaking to you today. Luckily for all Americans we do have all of these privileges, and yes, they are privileges but with all privileges comes responsibility.

The responsibility and how people treat it is what I am going to speak about today. The First Amendment states that congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof of abridging the freedom of speech or of the press or of the people to peacefully assemble and protest the government for a redress of grievances. Now, think about this the country you and I live in is the only country ruled by the people for the people, but yet the people take advantage of everything we have. From a walk through the park, to being an active part in this nation's government and to the extreme of burning our flag. Yes, to many this seems odd, but yes, it is guaranteed to them by the First Amendment. I'm not sure what person, what citizen of this beautiful country, why they would want to burn everything this country stands for. But they do, people burn the flag to protest against the government or a certain law. But they are not burning the government or the laws, they are burning this great country you and I live in, they are burning all of the rights that guarantee them that they are not going to be executed for doing so, and they are burning the colors of the flag. The red standing for the wars fought and the blood shed to keep this country free, free forever. If only the red was to become charred. The white symbolic of purity. If only the white was to turn to gray. And the blue symbolic of the blue free sky, the sky you wake up every morning and see, you see this sky through the eyes of a free citizen not through the eyes of communism or dictatorship, you will wake up every morning and have the opportunity to see this beautiful, free sky. If only the blue was to turn to ashes.

So I ask, why do people burn this great flag? If only Congress didn't have to make the decision of whether or not it was guaranteed under the First Amendment. And to all of those flag burners I'd like to personally take the time to say if you don't like it, get out! Try burning another country's flag, try protesting another country's government and see if you don't end up six feet under and dead. They should be thankful that they have the opportunity to do so, and not press the issue. It really makes me wonder what is going through their minds while doing this. If only they were to be repeating the words that John F. Kennedy once spoke "Ask not what your country can do for you, but what you can do for your country."

But, on the other hand many people say that it is guaranteed to them by their constitutional rights, they are expressing themselves and that is guaranteed by the First Amendment. See, this is what is so unique about the country we live in. Its citizens have the right and opportunity to burn such a symbolic piece of our nation's history. If only the founders of our country were here to see everything they fought for going up in flames.

Freedom is a very wonderful thing and should be cherished by every citizen of the United States. If you value your freedom of personal expression then don't burn your freedoms. And don't burn the colors of our flag.

THE WINDSOR HOTEL IN AMERICUS, GA

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RAY. Mr. Speaker, I rise to announce tomorrow's re-opening of the newly renovated Windsor Hotel in Americus, GA. The management of the hotel and the city of Americus have many special events planned for this historic day.

The Windsor was originally opened on June 16, 1892. An open-house allowed all of the residents of Sumter County to tour throughout the hotel. A grand ball was held that evening in the fifth floor ballroom that ran from 9 until well after midnight.

The Windsor continued to serve central and south Georgia until the early 1970's. Its victorian style and attention to detail made it known throughout the east coast as an elegant hotel and wonderful place to stay.

Tomorrow, after a 5-million-dollar renovation, the Windsor regains its elegance. Americus and Sumter County will again have this jewel of a hotel in their crown.

Mr. Speaker, I applaud everyone who has been instrumental in this historic renovation. Such a commitment and dedication to quality is admirable. In today's hustle-and-bustle world, it is events such as the grand re-opening of the Windsor Hotel that are truly appreciated.

REPEAL OF THE SOCIAL SECURITY EARNINGS TEST

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RHODES. Mr. Speaker, the Social Security earnings test has been in existence since the payment of the first Social Security benefit. It has been changed since 1940, but it is no less onerous to those persons affected by it.

Social Security, when it was created in 1935, sought to achieve two goals—moving older workers out of the work force to make way for younger workers, and to partially replace lost income due to retirement. Those goals were applicable in 1935, but are not in 1991.

The original earnings test affected retired persons earning over $15. They suffered the loss of their entire Social Security benefit. Since then, the test has undergone a variety of changes. It became an annual test as opposed to monthly; the amount of earnings allowed has increased, currently it is $9,720; the amount of benefits lost has been decreased from $1 for every $2 earned over the limit, to the current loss of $1 for every $3 earned over the limit, and finally, Congress has established an exempt age of 70 years. Recently, the Older Americans Act Reauthorization was amended in the Senate to include a total repeal of the onerous earnings test. This amendment, offered by Senator JOHN MCCAIN, is identical to H.R. 967, of which I am an original cosponsor. H.R. 967 currently has 267 cosponsors.

The overwhelming support of Members, and the history of the test itself, leave many of us with the belief that the test is antiquated, inefficient, draconian, and ripe for elimination. There are currently at least 20 different proposals pending before Congress that would significantly alter or entirely eliminate the test.

Consider the current labor market in today's society. By the year 2030, there will be only two workers for every elderly citizen. The Nation's labor market lacks skilled laborers because they are forced from the work force by the artificial penalties they could face if they continued to work. The Wall Street Journal reports that 83 percent of all men and 92 percent of all women over 65 are completely out of the work force. Three out of five of these do not have any disability that would preclude them from working. If these persons have retired voluntarily and do not wish to work, that is their right; but it is also the right of those persons who wish to continue working to do so without penalty.

We take pride in pointing out the lower numbers of impoverished elderly in America, but today's seniors are facing marginal tax rates that can be as high as 122 percent. We seem to set out to punish two groups of seniors, those who have been able to keep themselves out of poverty and those whose financial situation dictate that they continue to work.

Some argue that only the rich benefit from eliminating the earnings test. I question the legitimacy of that argument. Is it right for any individual to face tax rates of 65 percent? Is it fair to preclude any individual from continuing to earn their wages, without penalization, because it does not benefit his neighbor? In fact, since investment monies are not counted as income, the earnings test hits a higher percentage of seniors who are forced to stay in the labor market. Elimination of the earnings test would benefit many more working class seniors than well-off seniors. Well-off is a relative term now, when a spouse's illness could easily cost $25,000 a year for nursing home care.

The complexity of the current system must also come into question. It costs the Social Security Administration [SSA] over $200 million, and 2,500 employees, a year simply to administer the earnings test. The elderly must determine what their earnings will be for the upcoming year and report that figure to the SSA which then makes any adjustment to the Social Security benefit. If any underestimation or overestimation occurs, a lump sum payment or refund is made.

Finally, the argument is made that this constitutes a raid on the Social Security trust fund, that it costs too much and should not be tampered with in any way. I disagree. In fact, no one can agree on what the actual revenue impacts would be. Some claim the elimination of the earnings test for those of retirement age and above will result in outlays of $5 billion a year. This figure does not take into account the savings that can be estimated from decreased administrative expenses, and increased old age survivors and disability insurance revenue as a result of taxation of benefits, and the increase work effort. Even this recoupment figure is subject to dispute. Depending upon the estimator and the methods that can be used to lessen the budgetary impact, such as the delayed retirement credit, recoupment figures have been judged to be as little as 10 percent and as much as 50 percent.

In closing, the question is not whether repeal is in keeping with the original intent of the Social Security system, it is not whether repeal only benefits the rich; it is not what number of elderly will reenter the work force. The crucial question is whether the Federal Government should tell a Social Security recipient he or she cannot continue to be a productive wage earning citizen without being penalized for that initiative. My answer to that question is "No." I urge the Older American Act reauthorization conferees adopt the Senate language repealing this needless and unfair earnings test.

THE FAILURE TO OVERRIDE THE LABOR-HHS-EDUCATION VETO: ANOTHER BLOW AGAINST WOMEN

HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SANDERS. Mr. Speaker, the failure to override the President's veto on the Labor-HHS-Education appropriations bill on November 19 is a blow against the fundamental rights of every woman in this country. It is a tragedy, and I deeply regret that we failed in our override effort.

President Bush has told working and poor women that they are second class citizens—not entitled to knowing the full range of health care options available to every woman in this country. If you are a wealthy woman, you can get all the advice that you need with regard to your pregnancy. But if you are poor, and you go to a federally funded clinic, you do not have that right. Furthermore, the President has told physicians and other health care providers that they cannot practice medicine to the best of their abilities. They must limit what they can say to certain patients. This veto by the President, therefore, is an insult not only to the women involved, but to all serious health care providers. In actuality, however, it is really an insult to all Americans.

One of the implications of the President's veto is that it may force hard-pressed State governments all over this country to make up for the cutbacks that they will experience from the Federal Government if they choose not to follow this ruling. Planned Parenthood of Northern New England, for example, has made the difficult decision to forego Federal funds rather than accept restrictions on counseling at title X facilities. For my State, the gag rule means that the legislature has to choose between family planning and other essential services for low-income women and teenagers. This is a choice which should not have had to be made. In Vermont, 22,000 patients who visit Planned Parenthood's 15 Vermont community-based clinics, and 12,000 teens, parents, and professionals who are served through Planned Parenthood's educational programs, will all suffer as a result of the President's veto.

Mr. Speaker, I wish that I could say that the President's veto was simply an aberration in an overall policy which showed respect for women. Unfortunately, that is not the case. On issue after issue, the President has developed policy which is not only harmful to the needs of working people in general, but is even more harmful to the needs of working women.

Mr. Speaker, every industrialized nation, except the United States and South Africa, offers parental leave to their workers. In Europe, maternity leave is taken for granted; in America, women are taken for granted. President Bush has repeatedly blocked the attempts of Congress to provide women and their families with humane leave policies. We know that women are the primary overseers for their family's health care and the primary caretaker—both paid and unpaid—of the old, the young, the ill, and the incapacitated. We also know that nearly 56 percent of women are working today, many as single mothers. So how can the President continue to veto family leave bills? In virtually every country in Europe, women and all workers receive paid family leave benefits. Why is it, therefore, that in our country the President opposes unpaid leave?

Mr. Speaker, every industrialized nation, with the exception of the United States and South Africa, provides universal health care to its citizens. And while women make up 75 percent of heath care provided, many struggle to survive with little or no health insurance. The President has failed to present the Nation with any serious proposal to replace our broken health care delivery system. In fact, it is quite clear that he would veto any serious national health care legislation which would threaten the profits of the insurance industry, the pharmaceutical companies, and the wealthy physicians who are prospering under our current deteriorating system. Without a national health care system guaranteeing health care to all, women will be most impacted, as they are the largest population of health care providers and health care consumers.

Mr. Speaker, let us not forget that on the economic level, women are also suffering. Even the Department of Labor has been forced to recognize the existence of a glass ceiling for women and minorities in the corporate sector. Yet the administration fails to offer any new initiatives to eliminate admitted discriminatory and artificial barriers. Women continue to earn an average of 68 cents for every dollar earned by men. Men, whatever level of education they have attained, earn more than women at comparable levels. Of the 6.3 million hourly and salaried workers who earned minimum wage or less in 1987, nearly two-thirds, 63 percent, were women.

Mr. Speaker, while the entire economy continues to stumble along in a deep recession, we must not forget that women as workers, and as mothers, are suffering a much higher level of poverty in this country than men. There are 19.4 million, or 1 in 7, women in poverty in this country. There are 3.8 million female heads of families below the poverty level, or 33.4 percent of all femal-headed families. Over half of all poor families are headed by females. In fact, single women with young children constitute the most rapidly growing segment of homeless people. In the meantime, shelters are closing their doors, nutrition programs are underfunded, and food stamps are wholly inadequate because the Bush administration has turned its back on these desperate needs.

On the global front, the President sits idly by, failing to take action on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. This convention not only defines equality between men and women, but mandates a global agenda for how this equality can be achieved. Let's face it: This President has no agenda for the advancement of women—globally or domestically. Instead, he is packing the Supreme Court with conservative hardliners who want to return to dark and grisly days of backstreet abortions.

Mr. Speaker, the President's veto of the Labor-HHS-Education appropriations bill was very wrong, just as his veto of other important legislation which represents the needs of American men and women was wrong. My hope is that millions of Americans will learn something from this experience. And that is, that we need someone in the White House who is concerned about the needs of all the people and not just wealthy businessmen.

ROCHESTER MEDICAL PATIENTS PUBLISH POETRY, PROSE

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, Rochester, NY has long been known for its innovative, and highly skilled medical research and health care. And again, Rochester, especially Strong Memorial Hospital, is in the forefront with a creative new project entitled "Strong Writers' Program."

On November 25, 1991, at a reception in the Medical Center, patients, their families and staff plan to celebrate the publications of Waiting Room, an anthology of poetry and prose written by patients ranging from 7 years of age to 85.

This unique project is the result of many working together including The Friends of Strong, a volunteer organization within the hospital, Writers and Books, a local literary group, and two businesses, the Rochester Community Savings Bank and the Genesee Cellular One Company. The project enables patients to express their fears, hopes and concerns through the creative words they are encouraged to write. Mentors from Writers and Books work with the patients and the results have been remarkable.

As children deal with their own illnesses, or experience the death of a new friend made within the hospital, or as older men and women cope with their frailty, they have found a way to express their deepest feelings.

Let me offer one brief poem from the book. Forrest Corwin, age 9, expresses his feelings in this poem entitled "Here".

"I'm a child
in a circle
going through space
I walk through water
with my shoes off.
The Earth is clean,
but the Moon is fun
to sit on.
When I grow up
I want to be the Sun."

We can only imagine the feeling within his heart, but certainly this experience has begun tapping into the many gifts he possesses. I commend this unique program.

CALIFORNIA DESERT PROTECTION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ANDERSON. Mr. Speaker, I rise in support of the substitute offered by Congressmen LEWIS of California, MCCANDLESS, THOMAS, and HUNTER; the same gentlemen who represent the desert area that we seek to protect today.

The desert of California is a stunning and immense place. I grew up there, went to elementary school there, and still love to visit when I can. The desert's scenic beauty, its ecological significance as habitat for unique flora and fauna—the desert's very importance as a natural and pristine ecosystem with important and irreplaceable geographic features—is not in question today. Instead, the question is the extent of protection this desert area needs.

We are confronted with an ideological debate with this bill; with the opponents of human use of the desert confronting those who want full access and unlimited use of the desert. H.R. 2929 is supported by environmentalists simply because it sets the largest amount of land possible aside that then can't be touched by human use. Supporting their arguments is the fact that desert species, some endangered like the desert tortoise and the bighorn sheep, are seeing their habitats degraded by too extensive use by such activities as off-road vehicle use. Supporting their arguments is the fact that the steward of most of this land, the Bureau of Land Management, has dragged its feet too long in designating certain desert areas as wilderness. Supporting their arguments is the fact that dune buggies and motorbikes can scar the landscape beyond repair. I want to compliment my two Democratic colleagues, Mr. LEVINE of California and Mr. LEHMAN, for their work on behalf of the desert. They have worked to accommodate the needs and concerns of many competing concerns. I will vote to support their bill, their compromise, should this substitute not pass.

However, I strongly urge this body to respect the position of the four men who represent the desert area being discussed on this floor. We seem to have entered an era of massive land set-asides, when the representatives of the people who live on the land are being ignored. We are talking about setting aside 4.3 million acres as wilderness, while transferring another 3 million acres of the California Desert Conservation Area into the National Park and Monument system. Before representatives from the east coast vote on this, I want them to consider just how big a million acres is. The many users of the desert: The Issak Walton League of California, sportsmen, recreational vehicle users, rockhounds, ranchers, private landowners, miners, businesses and towns who make their money off tourism and other economic activities all oppose the too extensive set-aside of land. The National Park Service, the BLM, and the full Interior Department opposes H.R. 2929. The National Park Service doesn't have enough money to manage the national parks they already have. I am not opposed to making Joshua Tree and Death Valley national parks. In fact, I find that designation an attractive idea. I simply believe we should be considering costs and actually consider whether they can be managed as national parks before we go ahead and mandate such a designation.

My greatest problem with H.R. 2929 is how the legislation treats private property. The bill would mandate the transfer of 825,000 acres of private lands to public ownership. It does so by promising to make land exchanges with the owners of the private land holdings. However, the likelihood that there is sufficient government land to complete the extent of land exchanges being discussed is small indeed. There are only 550,000 acres out there that are suitable for exchange, and many of them are either unsuitable for exchange or already committed to other purposes. Realizing this predicament, the authors of the bill inserted a provision to allow access to surplus government property in exchange for the land. I am dubious about how much surplus property the State Land Commission and a real estate holding company are willing or able to take. Finally, the bill says that if the land exchanges and the surplus equipment provisions are insufficient, the private landholders will be paid off by the Federal Government. Some estimate the cost of this provision to be in the neighborhood of $500 million. When will this Government understand that we can't continually pass bills with unknown fiscal consequences?

The desert of California needs a higher level of protection than it is afforded today. This is why I will vote for both the substitute and the product that results from the amendment process on final passage. I am far from happy with some of the extremes of this issue. We can find a level of protection which allows reasonable access to the desert for mining companies, the military, nature lovers, desert residents, and recreational vehicle users without degrading its most important features. We can set aside critical areas for sore-pressed desert animals and plant species which need additional levels of protection. Hopefully, we will find a good compromise when this bill goes to the Senate. My vote today is to push the process along.

HOUSE OF REPRESENTATIVES—*Saturday, November 23, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that the good gifts of life that You have made available to us, be received by all people with joy and gladness. May we grasp every opportunity to see life in its fullness, to observe the eternal and not the transient, to touch the substance and the purpose of living and not only the bare definitions of life. Teach us, gracious God, to use our days to fill our minds with insight and our hearts with wisdom. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. MURTHA], please come forward and lead the House in the Pledge of Allegiance.

Mr. MURTHA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes, and

H. Con. Res. 216. Concurrent resolution concerning the use of forced labor in Chinese prisons.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 848. An act to establish the Little Bighorn National Monument;

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard Budget; and

H.J. Res. 157. Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the resolution (H.J. Res. 157) "Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 543. An act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II; and

S. Con. Res. 77. Concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) "An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1988) "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House of Representatives to the bill (S. 272) "An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House of Representatives to the bill (S. 1284) "An act to make certain technical corrections in the Judicial Improvements Act of 1990."

THE WAIVING REQUIREMENT AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 294 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 294

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before the calendar day of November 27, 1991, to provide for the consideration or disposition of any bill, amendment thereto, or conference report thereon, on the following measures:

(A) a bill to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes;

(B) a bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

(C) a bill to control and prevent crime;

(D) a bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

(E) a joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes;

(F) a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and provider-specific taxes by states as a source of a State's expenditures for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source; and

(G) a bill to provide funding for the Resolution Trust Corporation, and for other purposes.

SEC. 2. The Speaker is authorized through the calendar day of November 27, 1991 to declare recesses at any time, subject to the call of the Chair.

SEC. 3. The Speaker is authorized to entertain motions to suspend the rules through the calendar day of November 27, 1991, subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least one hour before the consideration of any motion to suspend the rules.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 294 is a rule to expedite the business of the Congress in the waning days of the session. The rule waives clause 4(b) of Rule XI against any rule which is reported from the Rules Committee on or before the calendar day of November 27, 1991 if the rule provides for consideration or disposition of a bill, conference report, or amendment on: Highways, banking, crime, unemployment, supplemental appropriations, Medicaid moratorium, or RTC funding.

The rule also authorizes the Speaker to declare recesses at any time through the calendar day of November 27, 1991 and permits the Speaker to entertain motions to suspend the rules through November 27, 1991 subject to 1 hour notification of the House by the Speaker or his designee.

Mr. Speaker, as we near the close of the session, this rule will enable us to expedite consideration of the important business of the Congress. I urge all Members to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday the distinguished majority leader aptly described this as the martial law resolution. According to my dictionary, martial law is a temporary rule imposed by military authorities on the civilian population in time of war or when civil authority has broken down.

Mr. Speaker, I do not know exactly whether the majority leader is saying by this resolution that it considers the House to be in a state of war or simply that the leadership's civil authority has been destroyed. But in either case, I strongly oppose this military edict from on high.

This is no time to suspend the civil rights and liberties of House Members for the sake of rushing to adjournment. Just because we are in the waning hours of the session is no reason to convert our parliamentary democracy into a banana republic.

When the majority leader was first describing this little resolution yesterday, he made it seem as if all we were talking about was making it possible to consider a few bills under suspension of the rules today. That did not seem all that objectionable since we were assured that we would not consider any bill which had not been noticed by last evening.

But this resolution does a whole lot more, and I hope Members will listen closely to what damage it does do to our deliberative process.

First, it waives the requirement of clause 4(b) of rule XI that now requires a two-thirds vote of the House to consider a rule from the Committee on Rules on the same day it is reported with respect to seven specific pieces of legislation.

These include the highway bill, the banking bill, the MFN/unemployment compensation fix, the crime bill, the dire supplemental appropriations bill, the Medicaid moratorium bill, and the RTC bill.

Now, this special rule applies on any day through next Wednesday, November 27.

□ 1010

I know the argument is made that the two-thirds consideration requirement for a same-day rule does not apply anyway during the last 3 days of a session, and for all intents and purposes this might be what we are talking about. But since we are not adopting an adjournment resolution, we do not know if these are the final 3 days.

That is more than a technicality, Mr. Speaker. We may well be here after Thanksgiving, regardless of whether we adopt this special martial law rule. I would submit we should come back after Thanksgiving if we have not enacted an economic growth package for our country by next Wednesday.

What especially concerns me as a member of the Committee on Rules who has begun to appreciate its creative potential is what kind of legislative chicanery can be performed by the use of a clever rule. We have the power of the Committee on Rules to self execute the passage of entire legislative substitutes, to completely change the work of our committees or of their conferees.

Is this the kind of thing we want to allow in this rush to adjournment without the benefit of even knowing what it is we intend to vote on? I certainly hope not, yet that is exactly what this resolution does and will do to the House.

It is just this kind of martial law and fast-track rule that has produced the all-time embarrassments that are slipped into legislation in the last minute of the sessions, only to be discovered later by the media and much to the discredit of us all and especially to the institution of the Congress.

The fact is that under House rule XXVIII, clause 2(a), we can consider a rule for a conference report on the same day as reported if it only waives the 3-day layover and the 2-hour availability requirements.

But this special rule would permit such a same-day rule that would do much more. It would permit waiving the scope and the germaneness rules for conference reports. Let me emphasize again. We understand how whole packages can be slipped into conference reports with the explanation of the same title. This is the bill we voted on 6 weeks ago, this is the conference committee reporting back, this rule does this. It would permit waiving the scope and the germaneness rules for conference reports.

That is where the House is most exposed to possible embarrassment, because it is when conferees slip work into their reports, provisions which may never have been considered by either House or in any committee.

Mr. Speaker, that is not all this special rule does. It also permits the Speaker to entertain motions to suspend the rules on any day from now through next Wednesday subject to just 1 hour notification. I would point out, Mr. Speaker, that I have no problem with this authority for today's suspensions. That is because they were noticed a day in advance and we were given the opportunity to discuss, I believe, except rumor has it in the last 5 minutes that an additional bill has been added that was not noticed to us last evening.

Moreover, next Monday and Tuesday are suspension days anyway under the House rules, so why does this special rule not confine itself to today? What is it intending to do Monday and Tuesday that it does not want us to know about? Could it be that Sunday's pro forma session will turn into a secret suspension day? I hope not. But this resolution does permit it.

Do we need this for next Wednesday? Not really. If the leadership intends to continue Tuesday's session into Wednesday morning, if necessary, that would still be a legislative day of Tuesday and suspensions would still be allowed under the regular House rules.

So one can only conclude, Mr. Speaker, that this provision is either not necessary beyond today or that the leadership is planning to bring up suspensions tomorrow or to hold a special new session on Wednesday after the promised departure time of sunrise.

Mr. Speaker, this makes us all very concerned. I attempted in the Committee on Rules to amend the provision to require 1-day notice of suspension instead of just 1 hour, but of course that was rejected on a party line vote. Mr. Speaker, I will give the majority leader credit for accurately describing this martial-law rule and also for observing that the minority traditionally opposes such broad and arbitrary blanket authority to the Speaker.

But this is not just a majority versus minority issue. We are talking here about whether we will continue to afford all House Members of both parties protections of House rules against legislative abuse and chicanery, or whether we will accede to this request to suspend all our rules and our better judgment and trust that nothing we will be asked to blindly vote on later on will come back to bite us and our sacred institution.

I urge rejection of this martial-law rule so we may continue to operate under deliberative and democratic rules of the House that have served us for two centuries. This rule is not only unnecessary, it is downright dangerous. It could be damaging. If we are wise, we will vote "no."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I am pleased to yield to the gentleman from New York [Mr. SOLOMON], the ranking minority member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I do not have much voice left. I am not going to take my own time, but I do want to commend the gentleman from Ohio. This is a terrible rule. This waives all scope and all germaneness considerations on conference reports from here on out. We have no idea what here on out is.

We have been debating for the last several days the bailout of the banks, and we will be debating the bailout of the RTC. We know what happened back in 1980. We passed a rule just like this one. We waived all scope and all germaneness near the end of the session. That is when we raised the deposit insurance guarantee from $40,000 up to $100,000 and let it be effectively unlimited. That is the kind of mistake we are liable to be making right here today.

This is a terrible rule. When we talk about the other body, we know they do not have any rules, nothing is germane and anything can go. But in the other body at least the Republicans are treated the same as Democrats. They can all offer nongermane amendments. Over here only the Democrats can do it, and that is exactly what we are allowing if we vote for this rule.

We ought to vote it down and let us employ the regular order of business.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman. Under the rules of the House under ordinary procedures this rule is not necessary. The only reason it is being done is for an unknown desire, and this is what causes great concern. We need not expose ourselves by passing this rule. I urge my colleagues to vote "no."

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. MCEWEN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I would like to ask the member of the Committee on Rules on the majority side, the gentleman from South Carolina [Mr. DERRICK], what is the origin of this term martial law? The majority leader introduced it into our dictionary last night, and I do not find it in the House rules. I do not find it in the rule itself. Maybe the gentleman from South Carolina can shed some light. What does the majority party mean by martial law?

Mr. DERRICK. Mr. Speaker, would the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from South Carolina.

Mr. DERRICK. That we want to get out of here.

Mr. DANNEMEYER. Mr. Speaker, I interpret that to mean that it is the sense of the majority that they will do anything to get out of here.

Mr. DERRICK. No. I do not know where the term came from, I would say to the gentleman from California. It is just an off-the-cuff remark, I suppose. This is something that we have done time and time and time and time again at this point in the session. Last year we had similar resolutions, and it is just a matter to try to expedite getting out of here.

Mr. DANNEMEYER. There is another item the gentleman might want to put on this list that would be considered under this martial-law rule. How about the balanced budget amendment to the Constitution? Does the gentleman think he could find it in his heart to put that on there?

Mr. DERRICK. Everything in its proper time.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is an interesting rule and an interesting debate. We have just had the majority party tell us that the highest single value of this Congress is to get out and go home. Regardless of what else may be needed by the national agenda, the highest single value is to get out and go home. In order to do that they are willing to impose, as they have used the term, "martial law." Martial law means military law. It means dictatorship. They are willing to impose dictatorial control in the House of Representatives in order to get their highest value, and that is to get out and go home.

That is a little frightening. As the majority has also admitted, we have done it year after year. It is something that is consistently done. It is consistently done for one reason, the majority at the end of these sessions tries to force through things that they know the House would otherwise be reluctant to pass. It is simply a majority prerogative. There is no chance for the minority to even discuss some of these matters.

☐ 1020

I am wondering, since we often hear the majority party talk about fairness and we hear it discussed all the time, whether or not in this one instance—since we are going to impose martial law on the body anyway—whether or not we might allow some minority participation in setting the agenda.

Would it be possible if the minority was willing, say to vote for this particular rule, that the majority would be willing to give the minority leader of the House, the gentleman from Illinois [Mr. MICHEL], the ability to call up one bill under the regular processes of the House in the next 4 days? Could we get some agreement that the minority leader would be able to call up one bill?

The majority so far in this Congress, according to the resume of congressional activity on November 1, has so far called up 426 bills. They will call up many more in the next couple days. We will probably have close to 500 bills that will have been called up by the majority.

Could we get maybe the understanding that the minority leader could call up one bill of his choosing in the next 3 or 4 days?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, we are working with the administration to try to get their bills, such as RTC passed, and bank legislation, and those sort of things.

The administration does not want us around here to try to pass their growth package or anything like that.

Mr. WALKER. No, I say to the gentleman from South Carolina [Mr. DERRICK], the Democrats are not working with the administration.

As a matter of fact, there are quotes and publications in the last couple days indicating that you are going to do everything possible to try to embarrass the President on issues like economic growth, on the October surprise, and a whole series of other matters that are coming before the Congress.

As a matter of fact, in your caucus the other day I am told that the Democratic leadership in that caucus said, and this is according to Members of the gentleman's own party——

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Pennsylvania has expired.

Mr. MCEWEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. WALKER. Members of the gentleman's own party in that caucus said, and I am quoting here.

The legislators said the House leaders made it clear at the caucus that they are preparing to run some legislation to the President. Let him veto it and then let his veto record be an albatross around his neck.

That is the plan of the Democratic Party in the House. You are not working with the administration. You are attempting to do anything possible to embarrass the administration, but all we are asking is a little fairness. All I am suggesting is that perhaps in the next 3 or 4 days the minority leader of the House, the person that you are supposed to work with collegially, be permitted to call one bill of his choosing to the House floor. Would that be possible?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I say to the gentleman from Pennsylvania [Mr. WALKER], we are not trying to embarrass the administration. We cannot find them. Where are they? Are they in town today? Are they overseas? We cannot find them. We cannot find them to embarrass them.

Mr. WALKER. The gentleman just told me a minute ago, if I can reclaim my time, the gentleman just told me a minute ago and he began naming officials that he was working with.

Now, it is one way or the other. What is the gentleman telling us? He is either working with these officials or he is not.

The point is that while they are claiming to be working with them, the fact is they are telling their people within their own caucus that what they are seeking to do is, at every corner, is to embarrass this administration.

It is not a fact that you cannot find them. They are here. The gentleman knows that and he named some of the people that he is working with.

The fact is that this is a political exercise. This rule, this particular exercise, is aimed at giving the majority party an opportunity to push their agenda, and I think in the course of the day today we will find out what that agenda is.

Your domestic agenda will become clear to America during the course of today and I think we may have some interesting tidbits there to tell what you regard as being more important than, for instance, economic growth, which I suspect the minority leader might call up if he had the opportunity to do so.

Obviously, fairness does not prevail in the House of Representatives. It is, I think, very interesting.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. MCEWEN. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. WALKER. Do I understand the gentleman that the answer is no, you will not permit the minority leader to call up a bill?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I have a great deal of respect for your minority leader. I know that he is in constant contact with our leadership. I am just not privy to some of those conversations, but we always accord him the greatest respect. We have been working with the administration and will try to do everything that we can to accommodate them.

There is nothing in this rule——

Mr. WALKER. You are not working with the administration. I gather the anawer to my question——

Mr. DERRICK. The gentleman asked me a question. I am trying to answer it.

Mr. WALKER. Well, I asked the gentleman for a yes or no and what I am getting is a long rambling discourse that one can only describe as obfuscation.

So I assume the answer of the gentleman is no, and that is a disappointment.

Mr. MCEWEN. Mr. Speaker, I yield myself 1 minute, simply to say for those who watch how the Congress operates, many believe that because you are elected to Congress by taxpaying Americans, somehow or other you are allowed to play a part. The truth of the matter is that the Rules Committee decides what bills come to the floor, under what circumstances, how long the debate is and who can make the amendments.

What we are doing here is giving carte blanche to the Speaker so that he can call up anything at anytime and he will set the rules of debate.

What we are asking is that out of the 476 bills considered by this Congress thus far this year that the Republicans of the House of Representatives, the minority Members, the Republican Members of the House of Representatives as an act of fairness be permitted to raise one bill. Out of 476 to 1, that would be our definition of fairness, but the majority says 476 to 0 is the only definition of fairness. We feel that we are obligated, since we bear the burden of the actions of this Congress; we bear the burden for the $380 billion deficit; we bear the burden for the attempt to investigate 1979 activities of campaign candidates, at the cost of millions of dollars; we bear the burden for their political agenda, that refuses to face the fact that we need a growth package to be brought to the floor of the House in the next 72 hours. They refuse to allow it to happen.

People are unemployed in this country seeking for hope. We are not permitted to bring it to the floor, and therefore if they run the ship and they blow the whistle, we cannot support it.

Mr. Speaker, vote no on this rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule does not deny anyone the opportunity to debate on the floor. What it is merely trying to do is to bring this session to some orderly close.

The highway bill is included in the bill, which is a must that we need to do to get a couple million people to work with our infrastructure.

The banking bill, which of course the administration as well as I assume the minority are very interested in seeing concluded, as well as a crime bill which the majority and the minority, and I assume the administration, are interested in doing; the unemployment bill which the administration has agreed that we need after some few vetoes; the supplemental appropriations, the Medicare moratorium, and of course the RTC funding; so these are must bills that we hope to get through by the time we get out of here.

This is not restricting anyone on anything. It is a common practice that I am sure was done when the present minority was the majority and it certainly has been done at the end of every session since I have been here, and I think in a very orderly fashion.

Mr. MCEWEN. Mr. Speaker, I regret to say that I have received two additional requests.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, it is becoming increasingly obvious that everything we are doing here is to enable us to slink out of town without having acted on major elements of the President's package.

Now, I just cannot believe this Congress is going to do that. I cannot believe that with the economy the way it is today, I cannot believe with major elements of the President's package, whether it is economic growth, whether it is capital gains, whether it is aid to the middle income, whether it is education, that we are going to try to slink out of town for 2 months and not act on the President's package. That is just not right. We should not do that. I urge my colleagues not to do that. That is what it looks like we are trying to do now, and I object to it strongly.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to commend the gentleman for his statement. If you want to see some real slinking, come up to the Rules Committee in about 25 minutes and you will see our economic growth package turned down. That is slinking.

Mr. COUGHLIN. Well, Mr. Speaker, I have never been a bomb thrower in this outfit, but I really feel like it is time we threw some.

Mr. MCEWEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I would like to just ask my very good friend, the gentleman from South Carolina, if he could tell me really the aegis of this term, "martial law."

The gentleman from Pennsylvania has very correctly said that here we are taking this kind of action, moving ahead with martial law in this House and not acting on the President's proposals; so it seems to me to be a very, very interesting and rather tragic irony that the term martial law is being used in this House and, frankly, some of the American people would probably like to see martial law imposed on certain Members of this House, probably the majority party; but I would like to ask my friend from South Carolina if he could tell me exactly how this term came about, and I am happy to yield to my friend, the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I have absolutely no idea.

□ 1030

Mr. Speaker, it seems to me that this is a very, very sad state of affairs when we, as we are going toward the waning days of this Congress, are imposing martial law and that imposition is preventing us from being able to implement the will of the American people.

Mr. McEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. DREIER of California. Mr. Speaker, will the gentleman from Indiana [Mr. BURTON] yield to the gentleman from Pennsylvania [Mr. WALKER]?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to know was it not the majority leader himself who used the term "martial law"?

Mr. DREIER of California. If the gentleman will yield, I understand that. I would like an explanation from someone on the majority side as to why we are imposing this martial law.

Mr. WALKER. So this is not just a term we are making up on this side in order to talk about this rule? This is a term that the majority leader used to describe what was coming to the floor today?

Mr. DREIER of California. Actually I heard the term first used yesterday at lunch from the Speaker when he talked about this. I was really taken aback. I just told my friend from Texas, Mr. PICKLE, about this, and he said, "martial law rule? What is that?"

Mr. WALKER. So they are conscious that they are bringing a dictatorial rule to the House floor?

Mr. DREIER of California. Exactly.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, last night I could not sleep, and I turned on my television set to watch C-SPAN. Lo and behold, my good friend BUTLER DERRICK, was on television with the Democratic leadership, talking about the inadequacies of this administration and the inadequacies as far as coming up with a growth package is concerned. He was talking about things I have been talking about here on the floor. In fact, he said we have a $400 billion deficit, a $4 trillion national debt. In fact, he sounded like me last night. I was applauding him in my living room because I thought he was addressing issues that I though were relevant.

But one of the things I say to the gentleman, Mr. DERRICK, that he and his colleagues were talking about last night was the President and the Republicans had not come up with a growth package to get this economy back on an even keel, moving forward, progressive, something that was going to stimulate a lot of new jobs. I just heard from my colleague, Mr. SOLOMON, who said that in a few minutes up in the Committee on Rules there is going to be a growth package proposed, and the Democrats want to get out of town.

I mean, you tell the American people, I say to the gentleman from South Carolina [Mr. DERRICK], you tell the American people on television last night how concerned you are about the problems, the deficit, about the economy, about the jobs, how you are concerned about the problems. Here we are going to propose a growth package that will create 1.5 million new jobs, that will bring us out of what is called the recession, head us upwards, and you want to get out of town.

Now, I would like to go home and be with my family at Christmas and New Year's like anybody else. But the problems facing the American people should be the No. 1 concern of those of us who are elected to represent them. And you folks go on television and tell everybody you are really concerned, but when there is a growth package you will not do anything about it in the Committee on Rules.

Now I challenge you and the Rules Committee, when we go up there in a little bit, to send that growth package back here to the floor so that the American people can have an up or down vote on something that will get us on an upward mode in the next few months. I challenge you and the Democrats to do that.

Now, if you do not do that, do not tell the American people that you care, because all you want to do is go home.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, back in 1969 I was serving in the Oklahoma State Legislature, and my younger son, who is now an orthopedic surgeon, was visiting. You know how little kids are, they are fascinated. We had a brandnew system of voting, where you press this thing and it is either a red light or a green light. So all the bills that were coming up the day before the session was over, all conference committee reports, my little boy, who was in the 4th grade, said, "Now, how do you vote on this, daddy?" And I said, "Put a red light on."

That went on all day, and that night I went back to Tulsa for back-to-school night, and the teacher said, "Your son gave us a very interesting accounting of what life is like and what goes on in the Oklahoma State Senate and about his daddy." And I said, "Oh, yeah? What did he say?" He said, "My daddy always votes 'no' because he doesn't know what's in the bill."

I went back the next day on the last day of the session and told that story on the floor of the Oklahoma State Senate, where we did not get a chance to read any of the conference bills that came along. And do you know what the answer was? They said the majority party at that time, they said, that is all right if we do it in the Oklahoma State Senate because that is what they do in the U.S. Congress.

What we do here today may be setting the pattern for the continuance throughout the Nation of really a bad system.

The SPEAKER (Mr. MURTHA). The Chair recognize the gentleman from Ohio [Mr. McEWEN].

Mr. McEWEN. Mr. Speaker, does the gentleman have any speakers?

Mr. DERRICK. The gentleman from Ohio had advised me sometime ago he had no more speakers. I have none. I am ready; just tell me when you are through.

Mr. McEWEN. Mr. Speaker, I do not recall saying that, and that is why I reserved the balance of my time.

Mr. Speaker, I yield 4 minutes to the minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Let me say that while I think this is not a good rule and I think as a general principle giving this kind of power to the Speaker is probably not a good idea, I am prepared to vote for this rule. But in order to vote for this rule, I would ask the Democratic leadership to simply give us, out of all the bills we are going to make in order, out of all the things we are going to do in the next 4 days, to simply give us their public commitment that the Republican leader could bring up one bill.

That is, we will give the Speaker, we will vote to give the Speaker total power for 4 days to bring up anything he needs to bring up, as long as we can bring up one bill. If you will give us the commitment to bring up one bill, then we are prepared to help.

But if what you are saying is that none of the people over here, who represent millions of voters, none of the folks in America who want to bring up an economic growth package, nobody who is worried about the recession, nobody who cares about getting this economy started, nobody who wants to get the unemployed back to work, no one will be allowed to have even one clear, straight vote; but we have to give the Speaker a dictatorship for 4 days? Nonsense, we are not going to do it.

Now, there is already, and I understand this has been reported to the House, that there is an article, which I would certainly hope the Democratic leadership would repudiate, in National Journal Congress Daily yesterday, which says:

> One House Democrat said Wednesday that Gephardt, the majority leader, had made a statement to the closed meeting of the House Democratic Caucus and talked about letting Bush write his antigrowth veto record. The legislator said that House leaders made it clear at the Caucus that they are preparing to run some legislation to the President, let him veto it, and let his veto record be an albatross around his neck.

Let me just say I have members of my family who are unemployed—I will yield in one second—I have people whose factories have been closed. If we are being told that we are going to play the unemployment game for 3, 4, or 5 months next year, you are going to get no cooperation on this side of the House. If we cannot get one decent up or down vote on unemployment and growth and the recession before we leave here, why should we vote to give your side anything? What we are being told is you are going to stick it to us on October surprise as the last thing, you are going to run this place like a dictatorship, and we ought to engage in comity.

Mr. Speaker, I would be glad to yield to the gentleman from Missouri.

Mr. GEPHARDT. I would say to the gentleman I thank him for yielding, since he quoted me it might be useful to find out where the quote came from.

Mr. GINGRICH. Well, the quote is from National Journal, which is probably the most respected single publication in this building—that covers this building.

Mr. GEPHARDT. Well——

Mr. GINGRICH. It says, "One House Democrat." I will let you go second.

I would be perfectly happy if you wanted to assure us that there is going to be an effort. Let me just give you an example. You and I have had good conversations out here. I believe we can maybe get somewhere. I am told we will almost certainly not be able to get a clear commitment about ever getting a fair rule because it is not possible to get that kind of thing. We will be told, "You will have a rule, it will come to the floor, it will probably be king of the hill." If your side's strategy for the first 6 months of 1992 is to guarantee a recession, then I think we have an obligation every day to take you on.

Mr. GEPHARDT. Will the gentleman yield?

Mr. GINGRICH. Glad to.

Mr. GEPHARDT. Is the package that was announced yesterday the President's package?

Mr. GINGRICH. I have been told, it is in the paper this morning. I have talked with the Budget Director, they will sign the package, they will support it.

Mr. GEPHARDT. Will the gentleman yield?

Mr. GINGRICH. Glad to yield.

Mr. GEPHARDT. Is the President prepared to say that that package is his package and he wants that package to be passed before the Congress leaves?

Mr. GINGRICH. The Director of the Budget said yesterday they are supportive, the administration is supportive of our package.

Mr. GEPHARDT. You did not answer my question. My question was——

Mr. GINGRICH. I said the Bush administration is willing to——

Mr. GEPHARDT. Are they willing to sign that package, is that the President's package?

Mr. GINGRICH. They are willing to sign that package, yes.

Mr. GEPHARDT. Does the gentleman know how much the package costs?

The SPEAKER pro tempore. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

Mr. MCEWEN. Mr. Speaker, I yield myself 2 additional minutes and yield to the gentleman from Georgia.

Mr. GINGRICH. Let me just say the bill is scored by Treasury precisely as the unemployment bill was scored by Treasury when it was accepted by the Committee on Ways and Means. According to Treasury the bill is revenue neutral, it meets the budget agreement and under exactly the same rules with which we dealt with the unemployment bill, this is a budget agreement neutral bill which will create over a million new jobs. It is totally available. It includes, for example, a passive loss provision that has 322 Members of this House cosponsoring it. It includes lifting, raising the amount a senior citizen can earn, which is a bill which I believe has over 300 Members who have cosponsored it; it includes a capital gains cut, which got 264 votes in this House.

□ 1040

I believe that the package that we have produced meets every single requirement, and we have 147 Members on our side who have signed a letter that they will sustain a veto of any effort to put a tax increase in this package. So, I believe in the next 4 days they have an opportunity to help us pass a package which meets the budget agreement, helps end the recession and creates a million jobs, and all we are saying is, "We will vote for your rule. We will vote to establish a legislative dictatorship under the Speaker, if you will commit to giving us one bill in the next 4 days—one, only one."

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from Missouri.

Mr. GEPHARDT. With respect, Mr. Speaker, it sounds to me like a package that would cost the budget billions of dollars, but that may be what the Congress and the President wants to do. The President may be willing to declare an emergency——

Mr. GINGRICH. Reclaiming my time——

Mr. GEPHARDT. Let me just say one other thing. Let me just say to my friend that there is no question in my mind that this package can be voted on early next year. No doubt in my mind whatsoever. And if the President wants to make a package in his State of the Union speech, that would be a good thing to do.

Mr. MCEWEN. Mr. Speaker, reclaiming my time, allow me to read from the front page of the business section today in which it says, "Director Richard Darman told reporters that President Bush would support the effort by GINGRICH and other House Republicans." That is in today's paper.

Mr. Speaker, I say to the gentleman from Missouri [Mr. GEPHARDT], In 20 minutes we are going to the Rules Committee, Mr. Majority Leader. In 20 minutes we are going to the Rules Committee to ask permission to consider this growth package to create over a million new jobs, and we ask your permission to allow us to vote on that package some time in the next 4 days.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I just want to make two quick points, and I say to my friend, the gentleman from Missouri [Mr. GEPHARDT], "First of all, 3 months from now is an eternity if you're unemployed and in danger of losing your house. Three months from now is an eternity if you're a business trying not to go bankrupt. Three months from now is an eternity if you are being told by this Congress, 'Have a terrible Thanksgiving, have a bad Christmas; we'll come back in January, we might bring up a bill in February or March, and then we'll probably send something to the President to be vetoed.'"

Mr. Speaker, we have a chance this week to give the people of the United States a Thanksgiving present and a Christmas present that is real, and I beg the Democratic leadership to just give us one vote, just one vote out of the next 4 days.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

The gentleman from Ohio [Mr. MCEWEN] has 30 seconds remaining, and the gentleman from South Carolina

[Mr. DERRICK] has 26 minutes remaining.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for yielding this time to me.

Mr. Speaker, 3 months is an eternity to someone about to lose their home? Well, 5 months is an eternity to unemployed Americans who sat through two vetoes by President Bush of an effort to extend unemployment benefits. Five months is an eternity to those families, and the fact of the matter is—regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] makes a point of order that the House is not in order, and he is absolutely right. If the Members would allow——

Mr. THOMAS of California. Let the historian continue. Tell us about yesterday.

The SPEAKER pro tempore. Order in the House. The time of the gentleman from Ohio [Mr. MCEWEN] has expired, except for one-half minute.

To the gentleman from Ohio [Mr. MCEWEN] the Chair will say the gentleman from Illinois [Mr. DURBIN] has the floor, and he has 30 seconds remaining.

Mr. DURBIN. Mr. Speaker, 5 months is an eternity to unemployed Americans, millions of them, waiting through President Bush's vetoes. I do not know what is in this Republican growth package that was unveiled yesterday, November 22. My guess is it will contain the same Republican formula: cut taxes on the wealthy, let it trickle down to help working families. That is not what America needs.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Of course he will not yield because he cannot debate.

Mr. MCEWEN. Mr. Speaker, is the gentleman from South Carolina [Mr. DERRICK] prepared to yield back the balance of his time?

Mr. DERRICK. No, Mr. President, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I think the pressure has gotten to some of my friends. They have got the holidays confused. Instead of Thanksgiving, they are celebrating Independence Day. Namely, they are trying to cut themselves loose politically from the Bush administration.

What we have got is a degree of frustration on the other side.

POINT OF ORDER

Mr. FRANK of Massachusetts. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask that the Members on the other side be instructed in minimum civility.

The SPEAKER pro tempore. The gentleman will suspend.

At the end of the session we have tempers, and we have people that get excited. The Members on the minority side had their opportunity to speak. They have used their time.

The majority now has time remaining, the Chair would say to the gentleman from New York [Mr. SOLOMON] that Members would like to be heard.

PARLIAMENTARY INQUIRY

Mr. GUNDERSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GUNDERSON. Mr. Speaker, is it not proper decorum in the House of Representatives that, if we yield to them, then they ought to return the favor and yield to us when we request?

The SPEAKER pro tempore. That is not a parliamentary inquiry, and it certainly is up to the individual whether he yields, as each Member knows.

The gentleman from Massachusetts [Mr. FRANK] is recognized.

Mr. FRANK of Massachusetts. Mr. Speaker, I would note that I got 15 seconds into my remarks and no one asked me to yield. All I heard was a lot of screaming.

But I will say to my friends——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind the Members on the floor that they should address the Chair, which is the appropriate procedure if they are requesting to be yielded to.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not yield for a second because I want to get something clear.

Perhaps, Mr. Speaker, some of the Members there are asking me to yield since the other Members simply were in an unparliamentary fashion simply yelling. However, if the gentleman from Ohio [Mr. MCEWEN] gives me more time later, I will be glad to, but I got about 15 seconds out.

Mr. Speaker, I thank my colleagues for the favor they paid me of being quite so disruptive because they do not want to hear it, but this is what we are talking about:

After all this frustration and inability to get the administration to do something, they look at what is going on, and they want to cut themselves loose.

Now the gentleman from Georgia [Mr. GINGRICH] said the budget director said the President would support it, but the press secretary said the President would——

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. DERRICK. Mr. Speaker, I yield 30 additional seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the press secretary said the President would look at it, the head of the RTC appointed by the President said he was against it, and the Treasury Secretary cannot be found.

Now we have had this problem. Maybe what we ought to do is ask Boyden Gray because, when we get all this disruption and confusion, maybe we will ask him.

I say to my colleagues, "You will have to forgive us for being a little skeptical. The half-life of the administration's statements has gotten weaker and weaker, but the key is the same. I don't think it's a serious legislative proposal when at the very end of the session Members come forward with a tax package which is clearly aimed at cutting them loose from the President's failing political ship."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Let the Chair clear up the procedure.

When Members ask somebody to yield, they should ask the Speaker: Mr. Speaker, would the gentleman yield? That is the appropriate procedure.

Mr. GUNDERSON. Mr. Speaker, would the gentleman yield?

The SPEAKER pro tempore. Would the gentleman from South Carolina [Mr. DERRICK] yield to the gentleman from Wisconsin?

Mr. DERRICK. No.

Mr. WALKER. Mr. Speaker, would the gentleman from South Carolina yield to me since I yielded to him?

The SPEAKER pro tempore. Will the gentleman from South Carolina yield to the gentleman from Pennsylvania?

Mr. DERRICK. No, not at this time.

Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I would like to ask whoever on the other side, perhaps the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH], if he could explain to us, and I am sure it will be explained at the Committee on Rules today, what the growth package contains, and the reason I ask that is because, as I read one of our respected publications, the New York Times, and I quote, "The measure would go far beyond what President Bush has proposed, but before he had seen the initiatives, Richard Darman, the Budget Director, said the White House would support them so long as they did not cost the Treasury a net loss of revenue."

Mr. Speaker, obviously we need to be able to see the provisions so we know whether it costs revenue.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, if I might, let me say, first of all, to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], that I am delighted to have a chance to tell him what is in the package. Let me say, first of all, that most of it started with a bill that Senator GRAMM and I initially worked on directly with the Treasury which had been scored, every aspect of the package had been scored by Treasury, and it contains the following things:

□ 1050

First, it increases the Social Security earnings limit because, as the gentleman pointed out, we will be putting all this in more detail in the Rules Committee. We did this in the CONGRESSIONAL RECORD last night, and while I am personally chagrined that the gentleman did not take the opportunity to watch BOB WALKER and me, I can appreciate, with the gentleman's schedule, that it might not have been possible. Anyhow, we explained it at some length.

Mr. GEPHARDT. I am sorry that I missed it as well.

Mr. GINGRICH. First, we increase the Social Security earnings limit to allow senior citizens to earn approximately $8,000 more over the next 5 years than they do now without penalty. I believe that plan in the Hastert bill has 280 cosponsors.

Second, we have an apprenticeship provision which is H.R. 2550, which has already been developed by Congressman FRED GRANDY in the Ways and Means Committee.

Third, we repeal the excise tax on boats, aircraft, et cetera, and we have been told that there will be in fact a study released in the near future indicating that that has actually cost income, that it has cost income to the Government.

Fourth, we have a middle-income savings plan offered by Congressman DEAN GALLO which allows people who save and who are under $50,000 income to get $350 of interest income tax-free per person, or as a tax credit. So in fact we are offering more money for people who are willing to save than the Democratic plans we have heard about for the middle class.

Fifth, we have the IRA-plus which, as the gentleman knows, Senator BENTSEN and Senator ROTH introduced in the other body, which allows tax-free withdrawal at maturity and which Treasury estimates would generate $13 billion in revenue because so many people would take the exclusion.

Sixth, we allow expensing from capital investment for small business, something that Congresswoman NANCY JOHNSON of Connecticut has developed in the Ways and Means Committee.

We also have a capital rate differential, as advanced by the President, which clearly he will sign and which has already been costed.

We have a proposal to provide a 50-percent capital gains exclusion on venture capital investments, which was developed by Congressman ROD CHANDLER from Washington State of the Ways and Means Committee, which is a direct new venture, new business incentive.

We have prospective indexing of capital gains, which has already been scored by Treasury and which would mean no farmer, no small businessman, or no timber owner would pay tax on inflation.

We have a partial repeal of the passive loss rules, which is a bill Congressman MIKE ANDREWS and Congressman BILL THOMAS introduced and which has, I believe, 322 cosponsors.

We have a nonpenalty on IRA withdrawal for first-time home buyers, which the administration has signed off on and which has been scored by Treasury.

Finally, we treat a loss on the sale of a home as a capital loss. Right now, with the declining real estate values, if you sell your home and you lose money on it, you cannot take that as a capital loss, and we think that, given the current real estate environment, people who are losing money as they sell their homes should be allowed to take that off.

Those are the 12 points. We would be glad to share them with you. We would even be willing to work on a bipartisan package if you wanted to. We think it is possible in the next 4 days to pass this.

Mr. Speaker, I appreciate the gentleman's yielding, and let me just say this: I just say to the gentleman that you cannot on the one hand tell us you are going to ram through a rule on a partisan vote to have a legislative dictatorship and, on the other hand, tell us to behave. You have either got to decide you want comity, in which case you have to be willing to have comity on your side, too, or you have got to say you will try to impose a legislative dictatorship and we will try to create a rebellion, and we will see who will win. I think it will be chaos. I think that is madness.

Mr. Speaker, I appreciate the majority leader's yielding.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will allow me to continue, let me say that I appreciate the explanation, and I would simply say to the gentleman that it sounds like a plan that has many parts that many people could support.

The problem with the plan is that it does not from our viewpoint include real middle income tax relief. If we are going to be declaring an emergency, which I am sure this plan would require under the budget, an emergency of that nature, we could give each individual in the middle class a $1,000 or even $2,000 tax cut. That is something that Democrats might even get excited about.

I would simply say to the gentleman that the problem with this last-minute type of plan, one that does not bear the endorsement of the President and one that in my view would never be consistent with the Budget Act, is that it does not advance the cause to actually do something about the economy.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I will not yield at this time.

Mr. Speaker, if the President is willing and wants to have a tax cut package, an economic stimulus package, and wants to declare an emergency to do that, then I am sure the Congress can stay here and do that. I have not heard that from the President. In fact, we have heard that the President wants to do this in January in the State of the Union speech.

If that is what he wants to do, we will be more than happy to hear him. We will listen respectfully, and I will say to my friend that we will cooperate with the President and we will cooperate with Members of the minority to develop that package that will stimulate the economy and move us in the right direction. We will be happy to meet day and night in January, February, and early March in order to do that.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, let me just make two points.

First of all, I believe we can certainly get the President to sign this package or a similar package improved by our friends on the Democratic side. I believe it is possible in the next 4 or 5 days to develop a package which will be signed, and I will be glad to pursue that.

Second, I would just say to my good friend that I listened to him very intently in a series of very powerful and impassioned debates on unemployment. I would simply point out to you that to say in November to the unemployed of America that maybe in February or March, we will do something is not at all consistent with the fabulous speeches in which you correctly communicated the passion and concern you have for those who are suffering.

I would simply say that if we could in the next 4 or 5 days on a bipartisan basis reach out and do something for the country before we leave, I cannot imagine a better Christmas present for the American people, and we on our side would be very willing to work with you over the weekend to try to produce such a bipartisan package.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman. The only missing link in this is the President of the United States, the President's desire to pass this package.

Mr. THOMAS of California. Will the gentleman yield?

The SPEAKER pro tempore (Mr. MURTHA). When you wish the gentleman to yield, address the Chair as follows: "Mr. Speaker, will the gentleman yield?"

Mr. THOMAS of California. Mr. Speaker, would the gentleman yield?

The SPEAKER pro tempore. The gentleman has yielded back the balance of his time.

The Chair recognizes the gentleman from Ohio.

Mr. MCEWEN. Mr. Speaker, did the Chair say that the gentleman from South Carolina has yielded back his time?

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

Mr. MCEWEN. Mr. Speaker, does the gentleman have additional speakers at this point?

Mr. DERRICK. I have one additional speaker.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] reserves the right to close.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I say to the Members of the House that I have been following this debate, and as I listened to it go on and on, it has become clear to me that what the gentlemen from the other side of the aisle are proposing is almost a matter of desperation, that they have seen this economy continue to erode, and we have had a President with this head in the sand saying that there was no recession.,

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. He has been saying that we are out of the recession.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Missouri [Mr. VOLKMER] yield?

Mr. VOLKMER. No, the gentleman is not going to yield. I am going to finish my statement, and then I will yield.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. VOLKMER. Mr. Speaker, we now see at the last minute of this session, when everybody knew for months that we were going to try to get out by Tuesday or Wednesday before Thanksgiving, because we did not want to have to drag this session on into Christmas, that all of a sudden we now have a proposal that is supposedly going to stimulate this economy and get everybody working tomorrow.

Well, look at this proposal. What do I see in that proposal? I think I see what many of our people have said and what the floor leader has already pointed out. There is nothing in this proposal for all of America. There is not anything in here for middle income America. It is for big, wealthy people and trickle-down economics has come down to this House. Trickle-down economics is right back again. All they want to do is give it to the wealthy and then let it trickle down to us. I say, "You don't want that, folks, because that is not going to get jobs."

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. There is a little bit in this proposal for the elderly. They throw a little bit there, but there is a whole lot in here for the wealthy.

The SPEAKER pro tempore. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. VOLKMER. Mr. Speaker, may I ask for 1 additional minute.

Mr. DERRICK. Mr. Speaker, I yield 30 additional seconds to the gentleman from Missouri [Mr. VOLKMER].

□ 1100

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. MURTHA). The gentleman has indicated he will not yield at this time.

Mr. VOLKMER. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman calls of regular order. The gentleman controls the time.

Mr. VOLKMER. Mr. Speaker, we should pass the highway bill. That is going to do more jobs for America, for middle America, for the construction workers and everybody out there, than this proposal will every do for middle income America. One highway bill.

So let us go on and get it done.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman yields back the balance of his time.

Mr. THOMAS of California. Mr. Speaker, will the gentleman who controls the time yield a portion of the time that was yielded back?

The SPEAKER pro tempore. Will the gentleman from South Carolina [Mr. DERRICK] yield to the gentleman from California [Mr. THOMAS]?

Mr. THOMAS of California. Mr. Speaker, only the portion of time that was yielded back.

The SPEAKER pro tempore. The request is for the time that was yielded back, that he may use that time.

Mr. DERRICK. Mr. Speaker, I have not yielded any time.

Mr. Speaker, what is the time situation?

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] has 13 minutes remaining.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is very interesting to see all of a sudden an economic package, when the President has vetoed every bread and butter issue to the American people, parental leave, minimum wage, unemployment, you name it.

Mr. Speaker, I would be willing to come back and talk about a package, if it really dealt with the needs of the American people—Mr. Speaker, the House is not in order. This is a very serious point I want to make.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] makes a point of order that the House is not in order. The Chair requests that Members, if they wish to have loud conversations, go to the Cloakroom.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, instead of having a tax break for the rich, which is apparently one of the proposals, if we want to help the people in this country, let us pass national health insurance. That is what the people want. And I do not see one word about the needs of the people in this country who are suffering from a lack of access to health.

Every single issue that affects the quality of life of the American people, the President has vetoed. There is very little in this package that effects the real issues affecting the American people.

Mr. GUNDERSON. Mr. Speaker, will the gentlewoman yield?

The SPEAKER pro tempore. The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

Mr. DERRICK. Mr. Speaker, I have no further requests for time. I reserve the right to close.

Mr. MCEWEN. Mr. Speaker, I will consume the final 30 seconds of my time with the understanding that the gentleman from South Carolina [Mr. DERRICK] will conclude debate.

Mr. Speaker, very simply, the Committee on Rules, controlled 9 to 4 in this House by Democrats, decides every bill that comes to the floor. Throughout this entire year they have controlled every bill that came to the floor. Now in the final 4 days they ask for martial law so the Speaker will not have to use the Committee on Rules, but can voluntarily on 1 hour's notice throw any bill up at any time he feels like it. This rule permits him to do that.

Mr. Speaker, in an act of fairness we ask for one thing: We ask for permission in the Committee on Rules 20 minutes from now for the Republican Members of the House of Representatives, on behalf of the President and the American people, to be given permission to consider one bill, a growth package for America. The majority leader has the capacity to give us that authority.

Mr. Speaker, short of that, I urge a "no" vote.

Mr. THOMAS of California. Mr. Speaker, will the Speaker inquire if the gentleman from South Carolina [Mr. DERRICK] will yield 30 seconds?

The SPEAKER pro tempore. Will the gentleman from South Carolina [Mr. DERRICK] yield to the gentleman from California [Mr. THOMAS]?

Mr. DERRICK. Mr. Speaker, I cannot do that at this time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, it has been a very interesting debate.

Mr. Speaker, in 1980, the budget deficit was $60 billion. Today it has grown to $350 billion, almost 12 years of two administrations.

In 1980, our Nation was the largest creditor nation in the world. Today we are the largest debtor nation in the world.

In 1980, our national debt was $1 trillion. It had taken us 200 years to accumulate that. Today it is around $4 trillion, in a matter of 10 years.

The average American in this country is making less in real buying power today than they were in 1980.

What I would do is ask the public, the American people, the citizens of this country, do you consider that you are better off today than you were in 1980? Do you consider that the prospects for your children and your grandchildren are better today than they were in 1980?

Here we are asked today, with some scheme that has been developed in the last day or two, to solve all these problems.

The ox is in the ditch, but you do not get the same person who put the ox in the ditch to get it out. You get somebody new.

Mr. Speaker, I move the previous question on the resolution.

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS of California. Mr. Speaker, is it my understanding the gentleman from South Carolina [Mr. DERRICK] yielded back the balance of his time when he said that he would not yield at this time and we requested him to yield?

The SPEAKER pro tempore. The gentleman yielded back the balance of his time.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 127, not voting 93, as follows:

[Roll No. 421]

YEAS—214

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
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Derrick
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Engel
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Evans
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Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
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Kopetski
Kostmayer
LaFalce
Lancaster
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Lehman (CA)
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Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Manton
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Sangmeister
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Savage
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Schroeder
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Slaughter
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Stallings
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Studds
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Tanner
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Santorum
Saxton
Schaefer
Schiff

Shays
Shuster
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Stearns
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Gaydos
Goodling

Harris
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Jefferson
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Murphy
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Synar
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Torricelli
Towns
Unsoeld
Upton
Waxman
Wise
Wolpe
Wylie
Yatron
Zeliff

□ 1124

Mr. HEFLEY and Mr. LIGHTFOOT changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER S. 543, FEDERAL DEPOSIT INSURANCE REFORM

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes, be considered to have been taken from the Speaker's table and amended by striking out all after the enacting clause and inserting in lieu thereof the provisions of H.R. 3768, as passed by the House, the Senate bill passed as amended, that the House be considered to have insisted on its amendment to S. 543 and request a conference with the Senate thereon and that the motion to instruct conferees otherwise in order at that point shall instead be in order only if offered by the minority leader or his designee on the legislative day of Monday, November 25, 1991.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

Mr. SANTORUM. Reserving the right to object, Mr. Speaker, as a new Member here in the House, this is quite foreign to me that we could ramrod things down our throats with any input from the minority or from anybody else in this House, and as long as that kind of process is going to continue and as long as we are going to be run roughshod over, as long as we are not going to get the opportunity to vote on what the American people would like to see, and that is opportunity and jobs, I object.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman realizes, of course, that this would expedite the procedures of the House and it will take an hour and a half to go to the Rules Committee and it will come back and the Members will be inconvenienced for a couple of hours because of the gentleman's objection and it will not accomplish anything from that standpoint.

Mr. SANTORUM. Mr. Speaker, I realize that this will cause some inconvenience to the majority, but what I am concerned about is the inconvenience that the majority is causing to the American public in their search for jobs.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time simply to inform the Members that we will be going to the Rules Committee and there will be a vote on that rule, I would say, in 1½ or 2 hours.

We will now go forward with the bills under suspension.

□ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces he will postpone futher proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken on Monday, November 25, 1991.

UNITED STATES-FLAG CRUISE SHIP COMPETITIVE ACT OF 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3282) to provide the equity of revenue availability on American and foreign cruise vessels, the regulation of gaming on vessels, penalties for gambling violations and for other purposes, as amended.

The Clerk read as follows:

H.R. 3282

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Flag Cruise Ship Competitiveness Act of 1991".

SEC. 2. CLARIFICATION OF, AND LIMITATION ON, GAMBLING DEVICES RESTRICTION.

Section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), commonly referred to as the Johnson Act, is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(3) by adding at the end of the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in pararaph (2), this section does not prohibit the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or a segment of a voyage on waters that are—

"(A) not in the jurisdiction of any State, possession of the United States or foreign country; or

"(B) otherwise in the admiralty and maritime jurisdiction of the United States and not in the jurisdiction of any State or possession of the United States.

"(2) APPLICATION TO CERTAIN VOYAGES AND SEGMENTS.—

"(A) GENERAL RULE.—Paragraph (1) applies to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) only if the State or possession of the United States in which the voyage or segment begins and ends has not enacted a statute that prohibits that repair, transportation, possession, or use.

"(B) VOYAGES AND SEGMENTS DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) in a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country.".

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3282, as amended, is the United States-Flag Cruise Ship Competitiveness Act of 1991. It was introduced by the gentleman from Mississippi, Mr. TAYLOR, and has been cosponsored by over 125 Members of the House.

This bill will eliminate an unfair situation in current law. At present, foreign-flag cruise ships can legally offer gambling, but U.S.-flag passenger ships are prohibited from doing so by law.

As reported by the Committee on Merchant Marine and Fisheries, this bill would legalize the repair, use, possession, and transportation of gambling devices on U.S.- and foreign-flag vessels so long as the gambling occurs beyond the jurisdiction of a State. Voyages to nowhere could occur only if the gambling activities have not been prohibited under the laws of the State from which the vessel is operating.

However, the bill does not legalize the operation of a vessel if its principal use is as a gambling establishment.

Therefore, under H.R. 3282, as amended, a dinner cruise could have gambling on board since the principal purpose of the vessel is not the operation of a gambling establishment. But it would not legalize the voyage of a vessel which is nothing more than a floating crap game.

We have a letter from the Justice Department saying that it has no objection to this type of legislation.

This bill treats all vessels, both United States and foreign flag, the same. It will help the U.S.-flag cruise industry, and it will cost the Government nothing.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3282 the U.S.-flag Cruise Ship Competitiveness Act. This legislation will permit U.S.-flag cruise vessels to offer gambling to their passengers when embarked on cruises on the high seas. Currently, foreign-flag cruise ships departing from U.S. ports are entitled to offer gambling and virtually all of them do. However, if a U.S.-flag ship departs from the same port as one of these foreign ships, it is against the law for that U.S. ship to offer gambling. This is an archaic prohibition that has limited the opportunities for growth by American interests in the profitable cruise ship trade.

H.R. 3282 changes the law so that both American and foreign-flag cruise ships will operate under the same rules regarding gambling devices on board.

By allowing U.S.-flag vessels to have gambling devices on board we will provide a major incentive to the acquisition of new vessels to the U.S.-flag fleet. The revenues received from legal gambling operations will make U.S. cruise ships more financially viable. We should see American interests proceed to design and construct new cruise ships in American shipyards to begin competing with the foreign-flag operations.

In addition to providing increased ship construction opportunities for American shipyards, new U.S.-flag cruise ships will mean additional sealift capacity for carrying military troops and it will create jobs for American seafarers who are sorely needed as a result of the recent decline in our merchant marine. All of these benefits will accrue without any cost to the Federal Government as a result of the enactment of H.R. 3282.

Mr. Speaker, the Merchant Marine and Fisheries Committee has held several hearings on this matter and very carefully crafted this legislation as an amendment to the so-called Gambling Devices Act. It will allow the possession and operation of gambling equipment on U.S.-flag vessels to the same extent that gambling is currently allowed on foreign-flag vessels as one of the forms of entertainment for the passengers. This bill does not affect in any way the current prohibitions in the Gambling Ship Act, which make it illegal to operate a vessel that is principally engaged in gambling as a floating casino.

I would also like to point out to my colleagues that we have preserved in this bill the right of a coastal State to enact legislation that would prohibit gambling on a vessel that operates from a port of that State even if the vessel sails from that port out into international waters and then returns to the same port. The committee was aware that a number of coastal States have elected not to allow gambling on vessels in their waters and this legislation retains the right of States to continue to prohibit gambling.

Mr. Speaker, the prohibitions contained in the Gambling Devices Act have represented an economic barrier to the growth of the U.S.-flag cruise ship industry. The legislation we are considering today will remove that economic barrier and provide an incentive for American businesses to build ships and begin operating in this extremely lucrative cruise ship trade.

The Department of Justice supports this bill.

I urge my colleagues to join me in supporting this important piece of legislation.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, the United States-Flag Cruise Ship Competitiveness Act of 1991 would allow citizens of our country to participate in the fastest growing industry in our country; that is, the lucative cruise ship market. This year about $8 billion to $10 billion will be spent on cruise ships worldwide. Eighty percent of all people who get on a cruise ship any place in the world will be Americans.

Unfortunately, about 98 percent of that money will be spent on foreign-flag vessels because a foreign-flag vessel, foreign-owned, foreign-crewed, built in a foreign shipyard, can operate out of our shores and do something that an American-flag vessel cannot. That is, offer gaming on board as another attraction on that cruise ship. This seeks to address that inequity.

The Johnson Act was passed in about 1950, and prohibited Americans from having gaming devices on board. Unfortunately, it did not prohibit our foreign-flag competitors. Mr. Speaker, this is an effort to even the playing field, give our vessels a chance to compete.

I must confess I am disappointed that my initial efforts to change the cabotage laws, which are some of the oldest laws in the Republic, that reserve all coastwise commerce solely for American-flag vessels, is not included in this measure. But this at least lets Americans compete at a time when we are going from what was to have been a 600-ship Navy down to what is probably going to be a 400-ship Navy. This will give our American shipyards an opportunity to build cruise ships, our American merchant marine seamen an opportunity to make a living and above all allow American tourists the opportunity to sail on American-flag vessels, which are Coast Guard-inspected, which is the highest level of safety inspection in the world. So, Mr. Speaker, I want to thank the almost 140 Members of this House who have cosponsored the measure. I thank the Justice Department for their cooperation, and the gentleman from North Carolina [Mr. JONES] and the gentleman from New York [Mr. LENT], for handling the bill today.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and colleagues, take a moment and consider what we are doing: yesterday they announced that 439,000 people filed their initial requests for unemployment compensation because they had lost their job, and here the Congress of the United States, on the Saturday as we rush to adjournment, is considering legislation under suspension of the rules which, in effect, grants the same gambling operation privileges to American ships currently provided to foreign-flag ships.

Now, I have absolutely no concern about the gentleman's bill, the merits or the demerits of it; I am not up here to in any way suggest that we ought to defeat this legislation. But I am here to suggest that the reason the American public is fed up with the Congress of the United States is because this and 20 other bills like it are more important for the Congress of the United States than some kind of an economic growth package that will give people jobs, that will give people income, that will allow them to get on the cruise ships with or without gambling.

□ 1140

That is the issue. On the Saturday before Thanksgiving are we in the House of Representatives going to try to be the people's House with the people's concerns and do something about economic growth, or are we going to pass this kind of legislation? As my colleagues know, it was suggested earlier that we ought to do something.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield for a question?

Mr. GUNDERSON. Mr. Speaker, I do not want to continue the trend of my Democratic colleagues, which is refusing to yield, but let me make one statement, and then I will be happy to yield, and that statement is in response to the discussion earlier.

People say, "Now we've discovered economic growth." Oh, my colleagues, that is not true. In 1989, in his first budget submitted in this Congress, the President asked for economic growth. He did it again in 1990. He did it again in January 1991. The problem is this Congress will not pass economic growth, which means we then have to pass unemployment compensation.

The question is: "Would you rather give a person economic growth or unemployment compensation?" I will give his unemployment comp only if we have not given him the opportunity to have a job, but that is first preference.

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. GUNDERSON] for yielding.

I listened to the debate earlier between our majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the minority whip, the gentleman from Georgia [Mr. GINGRICH]. I went back to the Joint Committee on Taxation, and I asked to have the spread sheet on those portions of the bill that they had had an opportunity to look at.

In the first year of 1992, the Joint Committee on Taxation estimated that there would be a——

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

Mr. LENT. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. Mr. Speaker, I yield 15 seconds to the gentleman from Arkansas so that I may have 45 seconds to respond.

Mr. ANTHONY. Mr. Speaker, I went and looked. The Joint Committee on Taxation estimated that in 1992, it was not revenue-neutral. In fact, it cost money, and over the 5-year period it cost $20 billion. There was a statement made that it would be revenue-neutral. The Joint Committee on Taxation has estimated that it is a $20 billion shortfall.

Mr. GUNDERSON. Mr. Speaker, reclaiming my time, I am delighted that the gentleman from Arkansas [Mr. ANTHONY] brings up that point because we are only using the same Treasury cost accounting for our economic growth package that the Democratic leadership chose to use for the unemployment compensation bill.

POINT OF ORDER

Mr. AUCOIN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman will state his point of order.

Mr. AUCOIN. I make a point of order, Mr. Speaker, and I call for regular order. I understand the regular order to be the bill which is being managed by the gentleman from North Carolina [Mr. JONES].

The SPEAKER pro tempore. The gentleman from New York [Mr. LENT] had the time, and the gentleman from Wisconsin [Mr. GUNDERSON] was speaking.

Mr. AUCOIN. What is the business before the House at this moment, Mr. Speaker? Is it the bill from the Committee on Merchant Marine and Fisheries?

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct. The debate has to be related to the bill that is under consideration.

Mr. AUCOIN. What is the bill before us?

The SPEAKER pro tempore. The bill under consideration is the U.S. Flag Cruise Ship Competitiveness Act of 1991, matters related to the issues of development of a cruise ship industry.

Mr. AUCOIN. Mr. Speaker, I would make the point of order then that this debate now is not in order.

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct. The debate should relate to the issue before the body.

PARLIAMENTARY INQUIRY

Mr. GUNDERSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GUNDERSON. Mr. Speaker, is it not in order for a Member of Congress to discuss the relevance of a bill being before us at the time it is before us?

The SPEAKER pro tempore. The debate must relate to the issue before the body.

Mr. GUNDERSON. Is not discussing the relevance of scheduling this bill at this time relevant to the debate about this bill?

The SPEAKER pro tempore. The scheduling of this bill is relevant, and that can be discussed.

Mr. GUNDERSON. Mr. Speaker, that is exactly my point, that whether my colleagues like or dislike this legislation, the fact is that we are discussing a bill that allows gambling on American cruise ships instead of a whole host of far more important pieces of legislation. It is absolutely relevant to what we are doing here on the Saturday before Thanksgiving in the midst of a recession.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I certainly want to thank the gentleman from Wisconsin [Mr. GUNDERSON] for asking about the relevance of this bill at this time. When people are looking to go to work, I can think of nothing more relevant.

The gentleman from Wisconsin; I do not know if he served here then, but he might remember that during the first year of the Reagan administration the subsidy for U.S.-built merchant ships was eliminated. At that time our Nation went from building about 60 merchant ships a year to zero. First year of the Bush administration, zero; second year of the Bush administration, zero.

Mr. Speaker, this year our Nation and in our lifetime has gone from the world's greatest maritime power to where it will build one merchant ship. There is nothing more relevant to the people of south Mississippi where the biggest industry is shipbuilding and building ships, and this gives the American cruise ship industry the opportunity, the American shipbuilders the opportunity, to build cruise ships that will fly the American flag, that will employ Americans, that will pay taxes and be——

Mr. GUNDERSON. Mr. Speaker, would the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman from Mississippi [Mr. TAYLOR] yielding to me because I agree with everything he just said. But I say to the gentleman, "If you want to restore the American shipbuilding industry, don't we need to repeal the luxury tax that is putting the boat construction industry in this country out of business?"

Mr. TAYLOR of Mississippi. Mr. Speaker, this is the measure that helps the American shipbuilders compete.

Mr. GUNDERSON. I ask the gentleman, "Wouldn't eliminating the luxury tax on boats that has cost jobs all over this country in the boating industry be equally, if not more, important?"

Mr. TAYLOR of Mississippi. Mr. Speaker, I say to the gentleman, "I'm not so sure you understand the difference between a boat and a ship. This is shipbuilders."

My colleagues in the House, again I think a horrible mistake was made in 1950. We did not stop gambling on the shores of America. We just stopped Americans from participating. Since that time, 48 States have legalized gambling in one form or another. This is not a gambling bill, for or against. This is a bill to give American shipbuilders, American shipowners, and American merchant seamen an opportunity to compete.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, the bill that we are debating presently on suspension has been brought to the floor without the developed views of the administration, and I understand that we need to bring some bills to the floor now under a suspension, but we are not just operating under suspension. We are operating under martial law. Martial law means that the Speaker and the majority votes here are dictating precisely what comes to the floor, what amendments are permitted, and they are waiving the rules that permit us time to look at these things and decide whether we are for or against them. I cannot tell from looking at this bill whether it really does enhance competitiveness as alleged, but I know that what we are not debating as a result of having this bill on the floor is our growth package.

Mr. Speaker, we are taking this time on a Saturday to make sure that the Republican growth package that would repeal the Social Security earnings test and permit seniors to go to work which is sponsored by 280 Members of this House does not come to a vote. Under martial law, when the Speaker could bring this to the floor, we are getting this bill. We are not going to have a vote on cutting the penalty tax on savings and investment because we are talking about this bill that would amend the Johnson Act. The penalty tax on savings and investment is otherwise known as capital gains. This high rate of tax is costing American jobs, and this——

POINT OF ORDER

Mr. AUCOIN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman will state his point of order.

Mr. AUCOIN. Mr. Speaker, I make a point of order that regular order of business is the bill from the Committee on Merchant Marine and Fisheries, and, as the Chair has just earlier ruled, Members must confine their remarks to the substance of the bill before them. The gentleman currently speaking is not, so I make a point of order against it on that basis.

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct.

☐ 1150

The gentleman has raised a point of order that the discussion has departed from the issue.

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair is making a statement. The gentleman is out of order until the Chair has finished. After the Chair has finished, the Chair will then recognize the gentleman.

The gentleman has made a point of order that the discussion has wandered from the subject of the bill to other extraneous matters. When that point of order is raised by a Member on the floor, the Chair will rule on it. The Chair will not initiate it, but when it is raised, the Chair will rule that debate must return to the issue under consideration.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will raise his point of parliamentary inquiry.

Mr. DELAY. Mr. Speaker, I ask, is there not debate allowed on the point of order?

The SPEAKER pro tempore. The Chair will hear the gentleman.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. First, Mr. Speaker, I wish to speak on the point of order. Will the Chair advise whether the scheduling of the bill is germane?

The SPEAKER pro tempore. The scheduling of the bill is relevant debate, but debate on the merits of other bills not before the House is not relevant debate.

The gentleman may proceed.

Mr. COX of California. I thank the Chair.

Mr. Speaker, I will read from the bill: "This section does not prohibit the repair, transportation, or use of a gambling device on a vessel."

Now, one of the reasons I am not sure whether to vote for this bill is because I have not had time to look at it and review it. We have not had the administration's views, and yet this bill is coming to the floor under martial law, the same martial law which would permit——

The SPEAKER pro tempore. For what purpose does the gentleman from North Carolina [Mr. JONES] rise?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. COX of California. Mr. Speaker, I understand I am being recognized by the Chair.

The SPEAKER pro tempore. The gentleman from North Carolina has asked whether the gentleman will yield.

Mr. COX of California. I yield briefly, Mr. Speaker.

Mr. JONES of North Carolina. Mr. Speaker, I have in my possession a letter from the Department of Justice completely endorsing this bill in every respect. This is dated November 19, which is ample time for anybody to discover what is in the bill if they saw fit.

Mr. COX of California. Mr. Speaker, I appreciate the comments of the gentleman, and I will reclaim my time.

Mr. Speaker, this bill which amends the Johnson Act may or may not have things to commend it. I have just learned that it may or may not be endorsed by the President or objected to by the administration, but it strikes me as passing strange that in order to create jobs, particularly in this industry, in the shipbuilding industry, we are passing up an opportunity.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. COX] has expired.

Mr. LENT. Mr. Speaker, I yield an additional 30 seconds to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, to continue, I would say that we are passing up the opportunity by debating this very bill to debate instead the economic growth package approved by the entire Republican conference of this House at a time when instead martial law of this House is being used to send everybody home for 1 month or 2 months until January. The American people want this economy jump-started. They want to be able to have IRA withdrawals in order to buy a home. They want to expand IRA's with super-IRA's. They want to repeal these penalty taxes on workers who make these boats.

Let us do it, let us act now, and let us not go home.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. COX] has expired.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, so here we are in the middle of a recession. There are Members here who want to talk about issues of jobs, incentives, and growth. They want to talk about relief for our senior citizens. But what are we talking about? Gambling on ships. I say, "Isn't that wonderful?"

These are the kinds of issues we are going to be talking about all day, gambling on ships, as compared to tax relief for our senior citizens, as compared to offering IRA's for home buying, for first time homebuyers. Gambling on ships, that is what we are talking about now. We are talking about gambling on ships rather than jobs for our people, rather than action on the economy. We are talking about gambling on ships.

POINT OF ORDER

Mr. WEISS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WEISS. Mr. Speaker, the gentleman again is engaging in debate which is not germane to the legislation.

Mr. ROHRABACHER. I thought the debate was about gambling on ships. I thought that was what is important to the Democrats.

Mr. WEISS. Mr. Speaker, the gentleman is using the gambling aboard ships as a counterpoint to legislation which is not before the body.

Mr. ROHRABACHER. Mr. Speaker, I thought we were talking about gambling on ships.

The SPEAKER pro tempore. The gentleman may proceed in order.

Mr. DELAY. Mr. Speaker, I would like to speak.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] may proceed in order.

Mr. ROHRABACHER. Mr. Speaker, am I permitted to talk about this bill and its relevance to the issues of the day? We are here to talk about gambling on ships, as compared to jobs for the American people.

Mr. WEISS. A point of order, Mr. Speaker.

Mr. ROHRABACHER. Mr. Speaker, we want jobs for the American people, and they want to talk about gambling on ships.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair recognizes the point of order and has acknowledged that as long as the debate is on the issue of gambling on ships and maritime competitiveness, we are within relevant debate.

Mr. ROHRABACHER. Then, Mr. Speaker, I will proceed with my thought, which is the importance of gambling on ships as compared to the importance of creating an IRA exemption so that young couples can buy their first homes. That is something that I think we need to discuss in terms of relevant importance to different Members of this body.

Gambling on ships also seems to be more important as an issue of discussion for today than, for example, tax relief for our senior citizens who are now being taxed at a higher rate than Donald Trump. I happen to believe that gambling on ships is important to some Members of this body, and in fact it might be an important issue, but the fact that gambling on ships now has such a high priority that we can discuss that because there is martial law that insists we talk about gambling on ships rather than jobs for the American people, tax relief for senior citizens, and new homes——

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. Mr. Speaker, I would be happy to let the gentleman use his time for questions.

The SPEAKER pro tempore. The gentleman from Mississippi asks if the gentleman will yield.

Mr. ROHRABACHER. No, I will not yield.

The SPEAKER pro tempore. The gentleman will proceed in order.

Mr. ROHRABACHER. Mr. Speaker, I think that we will be discussing many issues as important as gambling on ships, and we will be discussing those issues because gambling on ships and those other items are more important to Democrats who control this body than job creation and new homes to people who cannot afford homes and tax relief for senior citizens and creating a competitive economy for America. Yes, gambling on ships and other issues that we will talk about today because we are not permitted to talk about these other issues are more important in value to this side of the aisle than to those Members on this side of the aisle.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I, of course, support this legislation, which is supported by the Justice Department, a part of the administration, the Bush Presidency.

I must say that I find it mighty strange that that kind of legislation would be opposed because certain Members have concocted a plan on a Friday and suddenly they care about matters other than gambling on ships, like economic matters, and then expect that between Friday and Tuesday that legislation—never mind committees—has to be enacted into law. What positive gall that is. I cannot believe that serious legislators would, in fact, follow that kind of a course. It is an insult to the body.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. LENT].

□ 1200

Mr. LENT. Mr. Speaker, I would just point out to the gentleman from New York [Mr. WEISS] that none of the speakers on this side of the aisle has spoken against this legislation.

Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. DELAY]

Mr. DELAY. Mr. Speaker, in fact I am for this legislation. In fact it is entitled "United States-Flag Cruise Ship Competitiveness Act of 1991." I cannot believe that I would be against competitiveness. I am not against competitiveness.

Mr. Speaker, it is amazing to me that the previous speaker said we have gall to want to pass legislation and not go home. Mr. Speaker, that boggles my mind. I hope the American people are watching this. Not only are we not allowed to bring substantive progrowth packages to the floor, like the bill we are discussing today, although this bill pales in comparison to the growth packages that we were trying to bring to the floor of the House, they are now trying to gag us, have a gag rule by raising points of order to limit the way we speak on this floor.

Mr. Speaker, that galls me. That galls me.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DELAY. Mr. Speaker, I do not have the time right now. I do want to finish my point.

Mr. WEISS. Who has the time?

Mr. DELAY. Mr. Speaker, regular order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Texas [Mr. DELAY] is recognized.

Mr. DELAY. Mr. Speaker, this is a projobs bill. I can read this bill and see that jobs are going to be created by this bill. That is why I am going to be for it.

But I will tell you something, Mr. Speaker. I do not want to diminish the significance of this bill and the significance of this bill to shipbuilders and people that would work on these ships, because it is significant to those people. But I am talking about the entire United States, the economy of this country.

Mr. Speaker, this Congress and its Democrat leadership has led us into the worst morass that I have witnessed in my life on this Earth. We have the highest deficit we have ever had. We are at 25 percent of GNP in spending in this country. Mr. Speaker, we now have the highest percentage of taxes, Federal taxes, that we have ever had. Twenty percent of GNP in taxes in this country.

Mr. Speaker, not only is it 20 percent of GNP in Federal taxes, but it will be 20 percent of GNP every year. Then on top of all that, this House continues to pass spending programs. It continues to pass regulations that are piled on top of businesses.

Mr. Speaker, all we are asking is we want a growth package that we have been working on all year, not these last few days.

Mr. WEISS. Mr. Speaker, when was it introduced?

Mr. DELAY. Mr. Speaker, I introduced my bill in February. So I support this, Mr. Speaker, but I support a larger growth package, if the Democrats would just let us have a vote on it.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, might I inquire how much time remains on each side?

The SPEAKER pro tempore. The gentleman from New York [Mr. LENT] has 5 minutes remaining, and the gentleman from North Carolina [Mr. JONES] has 13 minutes remaining.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, first of all I rise in support of this bill. It is a good bill. It would allow gambling on board U.S. cruise ships, no doubt about it.

But the shipbuilding industry, and I say this with due respect to the interests of the gentleman from Mississippi, the shipbuilding interests in this country are hurting, and people in southern Mississippi are out of work. That is only tangentially related to gambling on ships. It is very much related to the state of the American economy. It is very much related to the ability of Americans to invest in shipbuilding in America.

Mr. Speaker, you can have all the gambling on ships you want, but I ask the gentleman from Mississippi, are the ships going to be built in Korea? Are they going to be built in Japan? Or are they going to be built in America?

Now, if you want them built in America, let us lend some sanity to investment. Let us look at an economic growth package that stimulates investment in American jobs. Let us create American jobs, and let us create American wealth. Because the very rich will get out there and gamble on ships, but the ships will be built in Japan, in Korea, in Germany, or in Holland.

Why? because there is very little incentive in this country to invest in anything beyond gambling casinos in Las Vegas or on ships. That is what our economic growth package is all about: creating jobs, creating incentives to investment, and creating the means for this economy to get off the ground.

The Democrats are interested in running the economy into the ground. That is the bottom line. That is the way they get elected. They give away expensive gifts without regard for who will pay for them, or for what they will do to American jobs and the American economy.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I stand here, too, in support of this bill, in support of jobs and job creation.

Mr. Speaker, the gentleman from Mississippi [Mr. TAYLOR] is exactly right. We need to come here and do things about making America competitive and creating jobs. That is why you have been seeing discussions talking about the jobs that we will create under this bill, versus the jobs that will be created under an economic growth package.

Mr. Speaker, I would like to inquire of the gentleman from Mississippi [Mr. TAYLOR], the claims have been made here on this side of the aisle that our economic growth package would create somewhere around one million new jobs. How many new jobs will be created by this package?

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am glad the gentleman from Pennsylvania [Mr. SANTORUM] has asked this question. The gentleman is probably aware that during the recent Desert Shield/Desert Storm, our Nation had to go out for lack of a merchant marine and charter 80 foreign flagships to resupply our troops, because 95 percent of what went to the desert went by sea.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, I am yielding to the gentleman from Mississippi [Mr. TAYLOR] to ask a simple question: How many new jobs are created?

Mr. TAYLOR of Mississippi. Mr. Speaker, if the gentleman will yield further, the gentleman is talking about growth, sir. The gentleman is probably aware that this Committee on Merchant Marine and Fisheries and the Committee on Armed Services for 3 years straight allocated $1.2 billion for the building of fast sealift ships, but it was blocked by the administration. Our committees said they must be built in America. The administration balked at that. They did not want the ships built in America.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, I asked a simple question and I, obviously, cannot get an answer from the gentleman. Maybe the gentleman does not know how many new jobs are created. We have numbers in our package that tell us how many new jobs are going to be created versus a package that we are requesting to be considering today, which obviously the gentleman does not know how many new jobs are created.

Mr. Speaker, I think it is important to talk about jobs here in the U.S. Congress, and that is why I rise today in support of this. Hopefully it will create some.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 1 minute.

Mr. GINGRICH. Mr. Speaker, I could not help but comment as a former history teacher that under Czar Nicholas there were very strict rules. At one point in time they decided to fire a professor of philosophy and they told him he could not teach philosophy because it was dangerous. So he was assigned the job of being a math teacher, which was considered educational.

So he began each math class by saying,

In order to understand mathematics, one has to understand the philosophical framework of that class.

Mr. Speaker, I am going to try to discourage my friends from asking for purely procedural votes. Obviously some suspensions are controversial and should be voted on.

As long as we can have reasonable freedom to have a reasonable debate on the floor within the framework of the legislative dictatorship which the Democrats established an hour ago, we are prepared to not have procedural efforts and to simply go ahead with the debate.

All of these bills do relate to the American economy. Therefore, talking about the American economy within the framework of these bills strikes me as reasonable. All of these bills have some impact on jobs, and I would hope we could proceed in that cheerful, positive framework.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the house suspend the rules and pass the bill, H.R. 3282, as amended.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended was passed.

The title of the bill was amended so as to read: "A bill to amend the Act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is given to that activity on foreign-flag vessels.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3282, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1210

KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3638) making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

The Clerk read as follows:

H.R. 3638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Koniag Lands Conveyance Amendments of 1991".

SEC. 2. DEFINITIONS.

Section 1 of the Act entitled "An Act to authorize modification of the boundaries of the Alaska National Wildlife Refuge (Public Law 101–622; hereinafter in this Act referred to as the 'Boundary Act')" is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'Identified lands' means lands (including improvements, surface rights, and subsurface rights) designated as Tracts 1, 2, and 3 upon the map entitled 'Koniag Land Exchange,' dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service;";

(3) by inserting after paragraph (2), as redesignated, the following:

"(3) 'Koniag Lands' means approximately 209 acres of lands (including improvements, surface rights, and subsurface rights to land) on Kodiak Island, Alaska, designated as 'Koniag Lands' on the maps referred to in paragraph (1),".

SEC. 3. LANDS TO BE EXCHANGED.

(a) LANDS EXCHANGED TO THE UNITED STATES.—Section 2(a) of the Boundary Act is amended to read as follows:

"(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) If after a final value is assigned to the Identified lands and to the Koniag Lands, Koniag expresses to the Secretary in writing the intent of Koniag to enter into a land exchange with the United States, then the Secretary shall accept from Koniag a conveyance by limited general warranty deed of the Koniag Lands.

"(2) A value shall be a final value for purposes of paragraph (1) if—

"(A) the Secretary has assigned a value to the Identified lands and the Koniag Lands in accordance with section 3; and

"(B) either—

"(i) Koniag has expressed in writing its intent to forego judicial review under chapter 7 of title 5, United States Code, of the value assigned by the Secretary;

"(ii) the time limit for filing a petition for judicial review under that chapter has expired and no petition has been filed; or

"(iii) a final determination on any such petition is issued.

"(3) For purposes of this subsection, a determination is final only if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

"(4) The Koniag Lands shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance of those lands from Koniag.".

(b) LANDS EXCHANGED TO KONIAG.—Section 2(b) of the Boundary Act is amended to read as follows:

"(b) LANDS EXCHANGED TO KONIAG.—In exchange for the Koniag Lands conveyed under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag from within the Identified lands, land selected by Koniag with a total assigned value, as determined in accordance with section 3, equal to the sum of the value of the Koniag Lands, plus one-half of the cost of all appraisals performed under section 3. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.".

SEC. 4. ASSIGNMENT OF VALUES.

(a) APPRAISALS.—Section 3(a) of the Boundary Act is amended to read as follows:

"(a) APPRAISALS.—(1) Not later than 60 days after the date of the enactment of the Koniag Lands Conveyance Amendments of 1991, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair market value of the Koniag Lands and of the Identified lands.

"(2) Each appraiser selected under paragraph (1)—

"(A) shall be a member of or certified by the Appraisal Foundation, and

"(B) shall have a professional designation compatible with the valuation to be performed.

"(3) Appraisals under this subsection shall be performed in conformity with the standards of the Appraisal Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of Koniag and the Secretary.

"(4)(A) Koniag shall bear the cost of all such appraisals, but shall be reimbursed by the United States for one-half of such costs—

"(i) in land, in accordance with subsection (b)(2), or

"(ii) in accordance with subparagraph (B).

"(B) The Secretary shall pay to Koniag an amount equal to one-half of the costs of appraisals performed pursuant to this section, if—

"(i) the values assigned by the Secretary pursuant to subsection (c) are different than—

"(I) the values determined by the review appraiser pursuant to subsection (b)(2), or

"(II) the average of the values assigned to the respective lands by the appraisers if no review appraiser is required to be selected, and

"(ii) Koniag elects not to consummate the exchange.".

(b) DIFFERENCES IN APPRAISALS.—Section 3(b) of the Boundary Act is amended to read as follows:

"(b) DIFFERENCES IN APPRAISALS.—(1) If the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the identified lands differ by less than 20 percent in their assignment of values to particular tracts of those lands, then both appraisals for those particular tracts shall be submitted to the Secretary.

"(2)(A) In the event that the appraisals conducted under subsection (a) for tracts of the Koniag Islands or of the Identified lands differ by more than 20 percent in their assignment of values to particular tracts of those lands, then the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of section 3(a)(2).

"(B) Such appraiser shall review the previously conducted appraisals for those tracts of land with appraisals differing by more than 20 percent, and shall assign values to those tracts, giving due consideration to the values set by the other 2 appraisers.

"(C) Such appraiser shall then submit all 3 appraisals for those tracts to the Secretary.".

(c) TECHNICAL AMENDMENTS.—The heading for section 3 of the Boundary Act is amended to read as follows:

"SEC. 3. ASSIGNMENT OF LAND VALUES.".

(d) ASSIGNMENT OF VALUE BY SECRETARY.—Section 3 of the Boundary Act is amended by adding at the end the following:

"(c) After considering the appraisals submitted to the Secretary, the Secretary shall assign values, as appropriate, to tracts of the Koniag Lands and to the Identified lands. This assignment of value shall be considered a final agency action for purposes of judicial review under chapter 7 of title 5, United States Code.".

SEC. 5. TIMING.

(a) CONVEYANCE OF KONIAG.—Section 4(c) of the Boundary Act is amended to read as follows:

"(c) CONVEYANCE BY KONIAG.—Koniag shall have 180 days after the date the values are final under section 2(a)(2) in order to notify the Secretary of its intent to enter into the exchange and convey to the Secretary the Koniag Lands and to deliver to the Secretary a technically correct description of the lands to be conveyed to Koniag under section 2(b). The Secretary may extend such time for good cause.".

(b) TECHNICAL AMENDMENT.—Section 4(d) of the Boundary Act is amended by striking "them" in the first sentence and inserting "Koniag".

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES.]

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3638 is a bill to make technical corrections to the law which authorizes changes to the boundaries of the Alaska Maritime National Wildlife Refuge.

After the enactment of H.R. 5264, introduced by Mr. YOUNG of our committee in the 101st Congress, the administration raised a constitutional question about the law.

That law provides that appraisers valuing exchange lands within Alaska are not to be appointed by the President. This may violate the appointments clause of the Constitution.

H.R. 3638 includes the administration's recommendations for technical changes that will correct any constitutional defects in the public law. The Justice Department and the State of Alaska concur with these technical changes.

If Congress approves these technical changes, the Koniag Native Corp. can get on with its land appraisals.

I urge support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3638 and urge its adoption.

Mr. Speaker, this bill is completely noncontroversial and is supported by the administration and those parties affected by its provisions. In brief, this bill makes technical corrections to Public Law 101-622, which was passed by the Congress last year. That law authorized a land exchange between Koniag, Inc., an Alaskan Native corporation, and the Secretary of the Interior. Unfortunately, the exchange has not been carried out because of alleged constitutional defeats in the public law. The bill we are considering today corrects those defects.

I do want to emphasize one section of the bill as it relates to current law. Section 4(d) of H.R. 3638 requires the Secretary of the Interior to assign values to the lands being exchanged. It was the clear intent of the Congress in enacting Public Law 101-622 that values be based on the information provided by the land appraisers selected by Koniag and the Secretary. That intent is not changed by this amendment. We expect the Secretary to use the appraisal information, and not assign a value higher or lower than the range of values provided by the appraisers.

Mr. Speaker, I want to thank the chairman of the Merchant Marine and Fisheries Committee, and the chairman of the Interior Committee, who also has a jurisdictional interest in this bill, for their cooperation in having this bill brought to the floor so quickly. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3638.

The question was taken.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

The Clerk read as follows:

H.R. 3866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) The Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991; and

(2) that designation shall take effect on January 17, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for the designation of the Flower Garden Banks National Marine Sanctuary. On November 20, 1991, the Department of Commerce submitted to my committee a notice of designation for the Flower Garden Banks Sanctuary. Under the normal statutory process, this designation would need to lay before the Congress for 45 legislative days.

However, in this instance, the administration has requested that we expedite the designation of this sanctuary. This request has been made in order that NOAA may proceed with a planned designation ceremony on January 17, 1992.

Mr. Speaker, this designation has been nearly 20 years in the making.

The Flower Garden Banks represents the northern most coal reefs in the Gulf of Mexico. It is a spectacular environment. It is used extensively by recreational fishing and diving interests. This designation is not controversial. It is supported by the oil and gas industries, the fishing industries, and the environmental community.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is really more about a matter of convenience than necessity. However, I still urge my colleagues to support the bill with the understanding that this does not set a precedent. In the future, I hope NOAA will do a better job in scheduling its ceremonies celebrating new national marine sanctuaries. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, H.R. 3866 provides for congressional approval of the Department of Commerce designation of the Flower Garden Banks National Marine Sanctuary.

The Flower Garden Banks are two coral reef banks 12 miles apart, located 120 miles off of the Texas coast in the Gulf of Mexico.

They are the northernmost coral reefs on the North American Continental Shelf, situated nearly 500 miles from the nearest major reef system at Tampico, Mexico.

At my request, the Flower Garden Banks were originally activated for sanctuary designation by congressional mandate as part of the 1988 amendments to the Marine Protection, Research, and Sanctuaries Act of 1972.

On Wednesday, November 20, the National Oceanic and Atmospheric Administration submitted their notice designating the Flower Garden Banks as this country's 10th national marine sanctuary.

Ordinarily, once NOAA has notified Congress of the designation, 45 days must lapse before final designation may be published in the Federal Register.

This bill will expedite the period of congressional review by approving the Department of Commerce designation as of January 17, 1992.

The administration has scheduled a designation ceremony on this date in Houston, TX, which a number of Members of Congress and administration officials are planning to attend.

NOAA has requested that Congress approve the Flower Garden Banks designation as of January 17, 1992, so that these ceremonies can go on as planned.

Expeditious passage of H.R. 3866 before adjournment will allow this to happen.

I would like to thank Chairman JONES for his leadership on this matter, and for working to ensure H.R. 3866's prompt consideration today.

In addition, I would like to express my thanks to the chairmen of the subcommittees of jurisdiction on this matter, Mr. HERTEL and Mr. STUDDS, and also to the honorable gentleman from Louisiana [Mr. TAUZIN] for their support and leadership on this matter.

All interested parties have expressed their support for this expedited designation. It has been cleared by the minority, and I know of no opposition to the bill.

I urge all of my colleagues to join me in supporting this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I very much appreciate the gentleman yielding because I think that there is no question this is the kind of legislation that everybody in this body wants to work together on a bipartisan, cooperative basis to pass. The only question is, should this have priority in terms of what is in front of the body at 12:20 on the Saturday before Thanksgiving as opposed to a number of other pieces of legislation that frankly are much more important.

Mr. ORTIZ. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Texas.

Mr. ORTIZ. Mr. Speaker, we are doing this at the request of the administration because they have a specific date, which is January 17, to make a dedication. This is why we are introducing this bill, and I think it is not only important to us, because we care for the environment, but for the administration as well.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman making those remarks because, honestly, I think most Members on our side know, I try to conduct myself in a very bipartisan manner, at least 90 percent of the time. We want that cooperation.

Part of the frustration on this side of the aisle is that for 3 years the President has also asked for some kind of a bipartisan cooperation on an economic growth package.

Now, we are not even asking that the gentleman consider an economic growth package today or before we recess for the President. We are asking that we do it for the American people. And that is the issue.

Here we have before us today a list of something like 20 different suspensions that we are going to be here on on a Saturday. I am happy to work on a Saturday, like most of my colleagues. If we were not working here we would be back in our districts. So I am happy to be here, and I am happy to discuss these issues. And I am happy to be cooperative and try to make it pass.

All we are asking from the majority is that they share with us that same cooperation in trying to produce something for jobs. I think there are some 439,000 people who last month filed their first request for an unemployment compensation check.

Mr. ORTIZ. Mr. Speaker, if the gentleman would continue to yield, I would just like to add that this committee, we have worked very closely on this bill. It protects the environment, and everybody supports it. We do not have anybody against this bill.

Mr. GUNDERSON. Mr. Speaker, I do not think anybody on this side will even ask for a vote. As long as we have cooperation, we are not going to ask for votes. And we are going to discuss the relevancy of the priorities in the schedule. That is what is really the big issue, I think, on Saturday, November 23, is this more important than dealing with jobs? That is the only question.

Mr. HERTEL. Mr. Speaker, I support the final approval of the Flower Garden Banks National Marine Sanctuary. The bill before us, H.R. 3866, provides the final designation deadline for establishing the sanctuary boundaries. The Flower Garden Banks are located south of the Texas-Louisiana border at the edge of our Nation's Outer Continental Shelf, where some of our Nation's most interesting living coral reefs can be found. The East Flower Garden Bank is about 120 nautical miles southwest of Cameron, LA; and the West Bank is 110 nautical miles southeast of Galveston, TX.

With enactment of this legislation, the Flower Garden Banks National Marine Sanctuary will be formally established on January 17, 1992. This legislation will allow the National Oceanic and Atmospheric Administration to coordinate activities related to resource protection, research, and management in a fragile marine habitat for generations to enjoy.

I congratulate Mr. ORTIZ on this legislation; I am pleased to be a cosponsor of H.R. 3866; and I urge passage of this legislation by the House.

Mr. TAUZIN. Mr. Speaker, today I rise in support of H.R. 3866, the designation of the Flower Garden Banks as a national marine sanctuary.

This will be the first national marine sanctuary in the Gulf of Mexico and the 10th in the country. The Flower Garden Banks are two coral reefs located on top of two salt domes. These reefs attract many species of marine life like sea turtles, manta rays, sharks, and dolphins. This sanctuary is close enough to the Louisiana and Texas coasts to provide an excellent experience for recreational divers.

For 12 years the National Oceanic and Atmospheric Administration, the Minerals Management Service, private organizations, and the oil and gas industry have worked together in acquiring the designation of these reefs as a national marine sanctuary.

Today, I am here along with Mr. ORTIZ, the sponsor of the legislation, and other members of the House to support the bill which will exempt the 45-legislative day waiting period prior to its official designation. With this exemption, a ceremony scheduled for January 17, 1992, can be held.

I want to thank all who have been involved in this process and urge support for H.R. 3866 by this body.

□ 1220

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3866.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3866, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL DEBT MANAGEMENT RESPONSIBILITY ACT OF 1991

Mr. PICKLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3365) to amend title 31, United States Code, to restrict the authority of newly established Government-related corporations to borrow from the Treasury and to require an annual evaluation of the impact of public borrowing by such corporations on the public debt, as amended.

The Clerk read as follows:

H.R. 3365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Debt Management Responsibility Act of 1991".

SEC. 2. RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS.

(a) IN GENERAL.—Chapter 31 of title 31, United States Code (relating to the public debt), is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"§ 3141. Limitation on use of proceeds of Treasury obligations to lead amounts to certain newly established Government related corporations

"(a) IN GENERAL.—None of the proceeds of any obligation issued under subchapter I may be used to lend any amount to a newly established Government-related corporation under any authority of such corporation to borrow from the Treasury, unless—

"(1) such corporation is a qualified corporation, or

"(2) such borrowing is approved in advance in an appropriations Act.

"(b) NEWLY ESTABLISHED GOVERNMENT-RELATED CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'newly established Government-related corporation' means any Government-related corporation which is established pursuant to any law enacted after September 19, 1991.

"(2) GOVERNMENT-RELATED CORPORATION.—The term 'Government-related corporation' means—

"(A) any corporation owned in whole or part by the Federal Government, and

"(B) any privately owned Government-sponsored enterprise.

"(c) QUALIFIED CORPORATION.—For purposes of this section, the term 'qualified corporation' means any newly established Government-related corporation which is hereafter designated in this subsection as a qualified corporation.

"§ 3142. Annual report on impact of borrowing by Government-related corporations on public debt

"(a) GENERAL REQUIREMENT.—The Secretary of the Treasury shall annually prepare and submit to the Congress a report setting forth the impact of the issuance or guarantee of securities by Government-related corporations (as definded in section 3141(b)(2)) on—

"(1) the rate of interest and amount of discount offered on obligations issued by the Secretary under subchapter I, and

"(2) the marketability of such obligations.

"(b) DEADLINE.—The report required by subsection (a) shall be submitted to the Congress by October 1 of the 1st calendar year beginning after the date of the enactment of this section, and by each October 1 thereafter.".

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"3141. Limitation on use of proceeds of Treasury obligations to lend amounts to certain newly established Government-related corporations.

"3142. Annual report on impact of borrowing by Government-related corporations on public debt.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. PICKLE] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GRADISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. PICKLE].

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3365, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3365, the Federal Debt Management Responsibility Act of 1991. This legislation is needed to ensure that the potential impact on the Federal debt resulting from any authority granted to a newly established Government-related corporation to borrow from the Federal Government is carefully reviewed in light of the corporation's financial viability.

Since 1917, a number of Government-sponsored enterprises and corporations owned in whole or in part by the Federal Government have been chartered in order to carry out certain credit or program activities. By virtue of their Federal charters these Government-related corporations enjoy a variety of special advantages, including the authority to borrow billions of dollars directly from the Federal Government.

Mr. Speaker, these entities and the risks they pose to the Treasury have, until recently, been given little or no attention. They have operated in the twilight zone between the Government and private sectors. Their activities are almost unchecked by either the disciplines of the free market or of government regulation. Neither the Federal budget nor private financial statements have accounted for the risks associated with these entities.

This lack of analysis is extraordinary. Since 1970, the outstanding obligations of Government-sponsored enterprises alone have grown from less than $40 billion to nearly $1 trillion. These institutions have obligations exceeding the total deposits in all 2,000 federally insured savings and loan institutions. They represent some of the fastest growing financial institutions in the country, and are, at the same time among the most thinly capitalized. In addition, the number of these entities has increased in recent years. There is continuous pressure and temptation to charter more of these off-budget, quasi-governmental corporations in a manner which escapes the budget discipline that Congress has imposed on direct Federal spending programs.

The growth in the size and number of these entities represents a real risk to the U.S. Treasury and the taxpayer. It is true that the repayment of obligations of Government-related corporations typically is not legally or explicitly backed by the full faith and credit of the United States. However, because of the Federal Government's sponsorship of, and the special benefits granted to these entities, the credit markets rely on the moral obligation of the Federal Government to back the obligations of these entities. This creates an implicit Federal guarantee, which the obligations of these entities do in fact enjoy in the public securities markets. In addition, the obligations issued by these entities compete in the credit markets with the bonded debt of the United States issued by the Treasury Department.

Mr. Speaker, in recognition of the growing potential Federal liability posed by these Government-related corporations, Congress and the administration have recently conducted several studies relating to the credit, interest, management, and operations risks associated with these entities. The required report provisions of the Omnibus Budget Reconciliation Act of 1990 serve as the basis for House consideration of this legislation improving the operations and creditworthiness of these entities, and minimizing the possibility that such entities might require future Federal financial assistance.

Other committees have already reported, or are in the process of reporting, legislation to the House which would affect existing Government-sponsored enterprises. This bill would not limit the authority of any existing Government-sponsored enterprise to borrow from the Treasury. Instead, the bill would ensure that prior to granting any newly established Government-related corporation the authority to borrow from the Federal Government, the creditworthiness of such an entity, and any potential effect its operations might have on Federal debt operations, would be reviewed. If the U.S. Government is to be required to borrow such amounts as public debt, and lend such amounts to a Government-related corporation, then the Congress has both the right and the responsibility to consider the ability of that corporation to repay such borrowing before such authority is granted.

Technically, H.R. 3365 provides that bonded indebtedness of the United States cannot be issued and the proceeds lent to a Government-related corporation unless: The entity is listed in title 31, chapter 31 of the United States Code relating to issuances and uses of bonded indebtedness of the United States; or, the amounts borrowed are approved in advance in an appropriations act. This provision of the legislation would affect only newly established Government-related corporations created by Congress after the date of introduction of this bill.

The bill also requires the Treasury Department to submit a report to Congress on an annual basis regarding the impact of the issuance or guarantee of securities by Government-related corporations on the rate of interest and amount of discount offered by the Treasury on Federal bonded debt, and on the marketability of such bonded indebtedness. The purpose of this report is to provide the Congress with an annual analysis of the impact of the borrowing of Government-related corporations on the market costs of Government securities.

Mr. Speaker, I also believe that the Members should be aware that the Congressional Budget Office has reviewed this legislation and has determined that it is not expected to have an impact on the Federal budget.

Mr. GRADISON and I, with the full support of Chairman ROSTENKOWSKI and Mr. ARCHER, have worked for over 3 years to make certain that the Congress and the public have the information needed to make informed decisions about the risks and rewards associated with the operations of Government-sponsored enterprises. As our experiences in the areas of farm credit, banks, and savings and loans have shown all too clearly, it is extraordinarily costly to wait until the system is broken before trying to fix the problems. My interest in this area is based on my belief that vigilant oversight and sound regulation can prevent the need for the kind of multibillion-dollar bailouts that we have recently been forced to undertake as the result of past failures of financial institutions. It is my sincere hope that this legislation, along with other legislative proposals being advanced by other committees relating to currently existing Government-related corporations, will provide the basis for more responsible fiscal decisions with respect to these entities, and will reduce the potential risks these entities represent to the Federal Government and the American taxpayer. I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GRADISON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 years ago, Chairman PICKLE and I won approval of a Treasury study provision that gave the Nation its first comprehensive analysis of our Government sponsored enterprises, or GSE's as they are known.

Since that time, the Ways and Means Committee has taken an increasing interest in all forms of government and quasi-government debt. We have been particularly concerned about debt that the United States may have to stand behind even though it is not designated as full faith and credit borrowing.

The House has passed and has pending legislation to bolster the financial soundness of our current GSE's.

H.R. 3365, lays down some modest guidelines for future GSE's or Government related corporations that the Congress might create.

Most of these organizations are given a line of credit with the U.S. Treasury as part of their charter—along with other privileges that allow them to issue debt that has the appearance of Government backing.

These operations can affect both the cost and the size of our public debt on which this country already pays over $200 billion in annual interest. The committee felt new entities entitled to Treasury funds should be integrated into the debt management sections of the United States Code.

Under this bill, any new GSE or Government related corporation will not be able to draw on its Treasury credit line unless it meets one of two conditions: First it is listed in title 31 or second, it has the borrowing amounts funded in advance by appropriations. This will give the Congress an opportunity to determine the financial strength of the entity before it receives any money from the taxpayers. That is a very small requirement to ask of entities receiving billions in potential benefits.

The requirements of H.R. 3365 are quite appropriate as we determine who should have the privilege of having the Treasury and the taxpayer stand behind their corporate operations. I urge its adoption here today.

Mr. Speaker, I reserve the balance of my time.

Mr. PICKLE. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, rise in support of the Federal Debt Management Responsibility Act of 1991.

Mr. Speaker, in summation I would just remind the Members that:

First, this bill addresses issues raised by the very rapid expansion in the size and number of Government-related corporations, which currently have about $1 trillion in outstanding obligations, up from less than $40 billion in 1970.

Second, this bill does not affect any existing GSE, such as Fannie Mae, Freddie Mac, or Sallie Mae.

Third, this bill applies only to newly created entities, and only requires that prior to their being allowed to borrow from the Treasury, they either be approved in title 31, chapter 31 of the United States Code, or the borrowing is approved in advance in an appropriations act.

Fourth, that with regard to existing GSE's, we have already made some progress this year as the result of the hard work of other committees of the House which are in the process of enacting important reform legislation, some of which has already been approved by the House.

Fifth, the Congressional Budget Office has reviewed this legislation and indicated that it will not have an impact on the budget.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased this morning to rise in support of H.R. 3365, the Federal Debt Management Responsibility Act of 1991. The Committee on Ways and Means has approved this important legislation that would provide for the review of the financial viability of a newly created Government related corporation prior to granting such entity the authority to borrow from the Federal Government.

Mr. Speaker, this legislation is an important step in providing Congress with the ability to manage the public debt. I want to congratulate Congressman PICKLE, chairman of the Subcommittee on Oversight of the Committee on Ways and Means, who has taken a very active role in this legislation, Congressman GRADISON, and other members of the Committee on Ways and Means who are concerned with the growth of potential liabilities to the United States resulting from the activities of Government-sponsored enterprises.

Mr. GRADISON. Mr. Speaker, I yield back the balance of my time.

Mr. PICKLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. PICKLE] that the House suspend the rules and pass the bill, H.R. 3365, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPEDITING CONFERENCE WITH THE SENATE ON A BANKING BILL

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 102–362) on the following resolution (H. Res. 298) to expedite a conference with the Senate on a banking bill, which was referred to the House Calendar and ordered to be printed:

H. RES. 298

Resolved, That upon adoption of this resolution the House shall be considered to have taken the bill S. 543 from the Speaker's table and to have amended the Senate bill by striking out all after the enacting clause and inserting in lieu thereof the provisions of H.R. 3768 as passed by the House. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to commit. After passage of the Senate bill, the House shall then be considered to have insisted on its amendment to S. 543 and to have requested a conference with the Senate thereon. The motion to instruct conferees otherwise in order at that point shall instead be in order only if offered by the Minority Leader or his designee on the legislative day of Monday, November 25, 1991. The Speaker is authorized to appoint conferees and to make additional appointments of conferees.

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 298 and ask for its immediate consideration.

The Clerk reported the resolution.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this House resolution merely facilitates the ability to go to conference on Senate bill 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

The resolution provides that upon its adoption the House is considered to have taken S. 543 from the Speaker's table, stricken all after the enacting clause and inserted the provisions of H.R. 3768 as passed by the House. The resolution provides that the previous question is ordered to final passage on the bill except for one motion to commit.

Finally, the resolution provides that the motion to instruct conferees, which would otherwise be in order at that point, shall only be in order on Monday, November 25, 1991, and only if offered by Mr. MICHEL or his designee. The Speaker is authorized to appoint conferees and to make additional appointment of conferees.

Mr. Speaker, this action is necessary to get us to conference over the weekend if we are to have any chance of completing action on the banking reform conference report in time to adjourn next week. I urge my colleagues to adopt the resolution so that we may proceed to the consideration of this legislation.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, unlike many of the rules we will have considered this weekend, this rule is not controversial. It simply permits the House to go to conference with the Senate on H.R. 3768 and allows the process to continue to move forward.

We have debated the merits of the banking bill, and it was overwhelmingly adopted by this body on a vote of 344 to 84.

We cannot adjourn until additional borrowing authority is provided to the Federal Deposit Insurance Corporation, loans that will be paid back by the industry. If we do not provide this authority, Mr. Speaker, 110 million bank depositors, widows, pensioners, and working Americans, and their life savings will be unprotected. Let us keep the process moving.

I will urge adoption of this rule, but I would like to ask, Mr. Speaker, while this rule is necessary, if we are going to appoint conferees and go to conference today, we want to make clear that we will not consider the provision regarding a motion to instruct conferees as a precedent. That motion is ordinarily in order before conferees are appointed. This rule prohibits such a motion until Monday.

It is conceivable that the conferees could be discharged before the motion to instruct conferees is even brought up, can even be brought up. I just want to make sure that this is not going to establish a precedent.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Texas.

Mr. FROST. Mr. Speaker, I do not think anyone is suggesting that this would be a precedent. This is a remarkable, unusual situation. It is not anticipated on our side that it will be possible for the conferees to reach agreement by Monday.

Mr. DREIER of California. I thank my friend. I just wanted to be assured of that.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, since I called for the consideration of the Committee on Rules of this banking bill, I thought it was important to let everyone know that one of the reasons I did so was because I think that it is important to talk about the banking bill in the context of economic growth and how banks could benefit from that we would like to see done here on the floor of the House between now and Thanksgiving, which is the passage of a growth package which will help strengthen American banks.

What we have before us in the President's proposal—which Members of the other side are free to look at, and agree to review—is a package that will strengthen American banks by strengthening American industry, and strengthening the business community and the economic climate out there, and creating more jobs.

There are such things as capital gains and indexing of capital gains which will help and elevate the quality of the assets that are being held by banks. And, another thing, this is not just a probusiness and get-the-jobs-going kind of bill, it also does something for banks that I think is very interesting.

Point 12 of the plan is a middle-income savings plan. Now, what that does is it excludes up to $225 of income, of interest income, for individuals, and up to 450 dollars' worth of income exclusion for interest paid on savings accounts for married people. That is only for those people who earn up to $50,000, so this is not a tax break for the rich. This is a tax break for the low and middle class. This is a tax break for working men and women in America, and this is also a benefit to the banks, because this is an exclusion for interest savings.

Mr. Speaker, this is an exclusion for low- and middle-income people. This is an exclusion that encourages people to put money in savings accounts, in banks, which will help with the recapitalization efforts.

This is expected tomorrow, if we pass this thing, tomorrow 80 million middle income and lower income Americans will benefit from this proposal, and it is expected that once this proposal is put into effect, 138 million Americans will benefit from this proposal.

This is not a tax break for the rich. This is a tax break for the low- and middle-income people of America.

This is also a proposal that will help America's banks. This is a proposal that will tell people to start saving their money in America's banks and help with their recapitalization efforts to put them back on sound footing which will again save American taxpayers, because they will not have to be bailing out another set of financial institutions in this country.

This is a positive step for America's banking industry. It is a positive step. Economic growth is a positive step for Americans. It is something that needs to be done before we leave here for Thanksgiving so we really can say to the American public: "Thanks giving."

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, it is true that the ills of the banking industry are causing many of the economic problems that this country faces, but the ills of the banking industry are more a symptom than a cause of our economic hardship. It is a symptom of slow economic growth which results in borrowers being unable to pay back their investment. It results in the depreciation of the assets of the banks and their borrowers. It results in the depreciation of the collateral for the loans. It makes it more difficult to issue those loans with proper collateral.

What we are doing is treating a symptom. Certainly, the millions of people whose deposits are insured by the FDIC should and must be made whole.

But the question is: Are we going to do that ultimately at the expense of the American taxpayer? Because the economy will grow so slowy that it will not generate enough profits, will not generate enough loan repayments, it will not generate enough growth in capital and assets to provide for the repayment through the private sector, so that the taxpayers will have to pick up the difference.

Or will we inject some vitality in the economy so that this tremendous burden can be borne by the profits of revigorated industries, by the loan repayments of solvent individuals at all levels of income?

I think the answer is quite clear. There is no greater and easier and quicker way that we can save and restore to health the banking industry as well as the S&L industry than to adopt an economic growth package.

We have a tax system that penalizes people who wish to save. It penalizes people who wish to invest. It penalizes people who want to increase the productivity and competitiveness of American industry.

What we need is an economic growth package.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to my very able California colleague, the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule, but I guess the point that Members on our side are trying to make today is that this bill, this narrowed down bank bill, bank-bill version No. 3, does not do nearly enough to protect Americans' banks and those people who are depositors and shareholders of those banks.

We know that the bank bill will improve the safety and soundness of America's banks by increasing capital standards, requiring early intervention on the part of Federal bank regulators, doing away once and forever with this notion of forbearance. It will also improve oversight and regulation of foreign banks.

□ 1240

We know it recapitalizes the bank insurance fund by improving borrowing authority from the Federal Reserve to the FDIC to the tune of $70 billion.

The question that has come up over and over, though, is do we ultimately run the risk of a taxpayer bailout if that loan is not repaid by the banks? The idea is that the loans will be repaid by the banks through higher premiums assessed on those banks.

The answer is quite possibly yes, if we do not do something to shore up our economy and to improve the real estate market. Our financial institutions in America, the banks, the remaining thrifts, and major insurance companies are heavily invested in the real estate market.

So therefore we need to take action on our Economic Growth, Investment and Job Creation Act of 1991, which includes within that package a number of real estate incentives.

Expanding powers for banks are not really necessary. We can postpone that debate into next year anyway.

What we need to do is pass the Economic Growth, Investment and Job Creation Act, because it will free up a tremendous amount of capital which will be infused into the American economy and into American banks.

I would point out again that the most important thing in terms of economic growth is to stimulate capital formation. Our package, the Economic Growth, Investment and Job Creation Act, does just that. Our feeling is that the problems confronting America's banks and the American economy are too severe for us simply to postpone action on those problems until next year. Our philosophy on this side of the aisle is let us deal with this issue now. Let us deal with it as this Congress in the last few days of the first session of the 102d Congress takes up the issue of both bank reform and a supplemental bailout bill for the Resolution Trust Corporation to make whole the depositors in those failed thrifts, the thrifts that are insolvent or marginally solvent.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to my very good jogging friend, the Lehigh Valley Representative, the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I know a lot of people would like to jog right out of this place as soon as they can. But we do have a problem out there that the Congress is not addressing.

I just want to say that the motion to instruct conferees on this banking bill is woefully inadequate. It is woefully inadequate because the banking bill itself is woefully inadequate. The Democrats have given us a banking bill designed for failure. It corrects neither the internal weaknesses of banking in a wholly changed economy, nor the external weaknesses of the economy.

What do banks need? Banks need people who are saving. Banks need people who are investing. Banks need people who are buying homes. Banks need people who are creating new jobs by constructing new plants. Banks need people who are buying and selling. Banks need—now listen to this—banks need economic growth.

Considering all the weaknesses the Democrats built into this banking bill, and the external weaknesses of the economy, this motion to instruct amounts to fiddling while Rome burns.

I would like to see the Democrats give us a chance to bring to the floor a series of incentives, a series of changes in our economic policy designed to create savers, investors, workers, builders, and homebuyers. If they do that, they will give banks a far better chance to survive. If they do not, they will create the kind of climate which I am beginning more and more to think is purposeful; the kind of climate in which they can criticize the President, win in 1992 on the backs of the American people, on unemployed workers, on downtrodden communities.

No; Democrats do not want economic growth at this stage. They do not want a package that brings health back to banks. They do not even want a decent banking bill. They want a corpse of an American economy with unemployed workers and downtrodden communities, so they can come along and say we will help you all with new big government programs designed for welfare instead of work.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I support the rule.

I must say, having listened to a fair dose, a generous dose of this discussion about economic growth, I think there are a lot of folks in this Chamber who over-inflate their sense of importance about what kind of growth this country might or might not have. We have a business cycle, have always had a business cycle with an expansion base and a contraction base. They have some notion that if they can just get into the engine room and grab all the dials and levers and start pulling and adjusting, they will put this country back on track.

Do you know what this country's economy rides on? The confidence of the American people.

Do you know why the American people do not have a good feeling about the future? Because of the incredible deficit that is injuring the economy of this country.

Now where does this deficit come from? Do we have a responsibility? Yes, but it comes from budgets that are reckless and dangerous that have come to us for 11 years from the White House.

He says, "Let's spend more than we take in."

For 11 years we have had deficits come down here that say let us spend over a trillion dollars more than we have in money.

Now you say, but we have an economic growth package. You know what the economic growth package is.

First, it is let us increase the deficit, and you know it.

The second is, while we increase the deficit, let us give the rich another big tax cut. You want to give people who earn over $200,000 a year an average $25,000 a year tax cut, increase the Federal deficit, and somehow you think that is going to give confidence to the American people that our economy is going to grow?

What a bunch of nonsense this is. Is this not the most tired old economic argument any of us have ever heard?

Now at the 11th hour, you have a new plan and it turns out to be old Republican economics.

Would you give this country a break, for God's sake? If you believe in something new, tell us, not just this same old nonsense that says let us give the rich another tax break.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I just want the gentleman to know the package we are talking about has been costed out. It comes out at plus $400 million, so it is not a deficit tax.

Mr. DORGAN of North Dakota. Reclaiming my time, Mr. Speaker, that is the biggest bunch of nonsense in the world, and the gentleman knows it.

Mr. WALKER. Has the gentleman costed it out?

Mr. DORGAN of North Dakota. The Treasury Department will tell you anything you want to hear. Get it scored by the Joint Tax Committee and you will find out this costs $20 billion in additional deficit.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. President, the gentleman from North Dakota has just given us a lesson in static economics and how the Democrats cannot do anything except pass $25 billion bailouts for banks, but at the same time is only willing to submit to the Joint Tax Committee, controlled exclusively by the Democrats, in order to get the analysis that the gentleman wants.

The point here is that the Treasury Department now has looked through this at length and has come to the conclusion at the Treasury Department that this is a $400 million-plus bill.

The gentleman may not like that as a conclusion, but that is the conclusion. This is the U.S. Treasury Department that has analyzed this whole thing.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield.

Mr. WALKER. Surely, I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, the gentleman has the greatest imagination in the world if he believes this is not going to cost an enormous amount of deficits for the American people.

Mr. WALKER. Well, I would tell the gentleman that he was making the same arguments in the early 1980's. The fact is that the tax cuts we produced then did in fact generate additional revenue to the Government. The problem is Congress spent every dime of it away, plus some.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, in the final hours of this session, we have voodoo economics, too, and then we are going back and we are trying to rewrite history. We did have economic growth in the last 10 years. The only problem is voodoo economics won and gave us $3 trillion of new debt.

And for God's sake, let us not in the final hour try to come up with voodoo economics, too, to rescue the Republican Party.

The country has figured out that phony tax cuts for rich people do not stimulate the economy. American workers have been left behind in the decade of the 1980's.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, the gentleman from Pennsylvania says, well, the Joint Tax Committee, that is controlled by Democrats. The fact is the Joint Tax Committee was headed by somebody from the Reagan administration until we got the new head of the Joint Tax Committee.

But the interesting thing is, the gentleman stands up and suggests that the numbers he has gotten from the Treasury Department are such wonderful sympathetic numbers.

Who runs the Treasury Department? Does the Republican administration not run the Department that has given you these convenient numbers?

Is the gentleman kidding me? Does he not understand that we are talking about increasing the Federal deficit by $20 billion to $30 billion? How are you going to put this country back on track toward economic growth by increasing the deficit so that you can give a tax cut to the rich? Is that a new economic plan? It is old Republicanism. That is what it is.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, earlier today a debate was taking place about the revenue neutrality of the growth package that is being presented.

□ 1250

I went back to the Joint Tax Committee, and I found it was $20 billion short over 5 years. In the meantime I have gone back and found out they are now recalculating because it is a moving number, they keep adding and subtracting provisions. The new number is now $89 billion.

Mr. GEJDENSON. We are talking about $89 billion, is that correct, $89 billion short in revenue once again?

Mr. ANTHONY. That is correct, $89 billion.

Mr. GEJDENSON. There is $89 billion increase on the deficit. That is their answer once again.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am really thrown by this debate in which people are constantly trying to level this concern for the rich on our side of the aisle. When we look at the economic package which we are trying desperately to offer, I cannot help but recognize the fact that people who earn $50,000 or less are not rich as far as I can tell.

People who are seeking the opportunity to be first-time home buyers are not the rich. People who want to establish individual retirement accounts so they can plan for their retirement are not necessarily rich. And I think that is something that we need to underscore here.

Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

The gentleman makes an excellent point. The Democrats are perfectly willing to add to the deficit when it is providing welfare; they do not want to provide jobs.

When it comes to the big banks, they are perfectly willing to give, in the bill that we are considering right now, $25 billion of bailout money to the biggest banks in the country, the very richest people in the country. Yet when we talk about economic growth and jobs for people, they all of a sudden feel as though there is a deficit problem.

There is no deficit problem, this is a bill which is a plus-$400 million, plus it would give the American people the jobs they want.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania.

Mr. SANTORUM. I thank the gentleman for yielding.

Mr. Speaker, the gentleman who just came down, the gentleman from Connecticut who said this is voodoo economics, is now up in the Rules Committee trying to pass a bill that puts more money on the Federal deficit by financing our campaigns.

Mr. GEJDENSON. The gentleman is incorrect. Will the gentleman yield?

Mr. SANTORUM. I will not.

The gentleman from Connecticut talks about voodoo economics, and he wants to have the taxpayers pay for our elections. That is wrong. And do not stand there and talk about voodoo economics and make the taxpayers pay for our elections.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Connecticut, [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I guess this is the standard problem on the other side of the aisle: They just do not get the facts straight. The facts are there are no taxpayer funds in that bill.

Mr. DREIER of California. Mr. Speaker, I just sat up in the Rules Committee and listened to the testimony that came from members of the administration committee on this proposal. We asked that Mr. ROSTENKOWSKI, chairman of the Committee on Ways and Means, be made aware of the fact that many of the provisions in this will create a tremendous cost to the taxpayers, and I think we should recognize that.

Mr. Speaker. I yield 1 minute to my friend, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Speaker, if anyone will read the bill as recently amended in the Committee on Rules, there is an obligation to subsidize postage under the volunteer structure; there is an obligation for matching funds, and there has been a newly created incentive, whatever that may be—and the word around here is tax credits—and the only source left in the bill to fund it is voluntary contributions.

Yet the provision that it be under the Budget Act-neutral for 1994 and 1995 clearly creates the situation that the gentleman from Illinois' committee, and the one that I am proud to serve on, is once again going to have to be the cash cow for the project around here.

There is no question this bill requires tax dollars. Cleverly written? Of course. Fundamental requirement for new revenue? Of course.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have had an interesting discussion for the last few minutes about everything except the score of the Michigan-Ohio State game.

Mr. DREIER of California. Would the gentleman tell us what that is at this point?

Mr. FROST. I would remind the House on both sides of the aisle that what is before us is a motion that would permit the House to go to conference with the Senate on the banking bill.

I would inquire of the Chair how much time remains on both sides.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Texas [Mr. FROST] has 22 minutes remaining, and the gentleman from California [Mr. DREIER] has 13½ minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let us talk about the motion that is in front of us under this rule. Do you know what the title of this resolution is? To expedite a conference with the Senate on the banking bill.

The whole goal around here right now is: How fast can we get out of here?

If you want to look at a dumb rule, do you know what it does? It says we are going to appoint conferees today, we are going to go to conference over the weekend, and then, oh, by the way, on Monday we will bring up a motion to instruct conferees, on Monday.

Now, you want to talk about voodoo economics? I will tell you what voodoo economics is. Voodoo economics is the bill that says we will provide $70 billion in recapitalization of the FDIC but we will not do anything about the economy. So, as a result, if the banks cannot pay back to FDIC $70 billion, we will take it out of the taxpayers' pockets.

This bill is going to end up being the new S&L bailout for the banks.

Seventy billion dollars out of taxpayer dollars, because this Congress wants to run home rather than do something about the economy.

You wonder why the American people are frustrated with the Congress? Why shouldn't they be? Economics 101 says you do not do it this way.

We ought not go to conference on this bill. We ought not be doing a conference report on the banking bill unless we are going to do something about the real problem, which is the economy.

The FDIC is only a symptom of the problem.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. FRANK of Massachusetts. Mr. Speaker, I know Members are not supposed to address the President, but if they were, the previous speaker presumably would have been saying to President Bush, "Do do that voodoo that you do so well," because the voodoo bill that he is talking about is the Bush administration bill.

So the question is: Will we do the Bush administration's voodoo? Because Secretary Brady says, and I have been on the Banking Committee, "Pass the banking bill." They never raised the tax question. I have been on the Banking Committee all the time. We have heard the administration witnesses, we heard from the Secretary of the Treasury and his aides. They have never suggested that we should add tax breaks of various sorts to the bank bill. So if it is voodoo to do the FDIC replenishment without the banks, President Bush has apparently had a voodoo relapse, which makes me feel that what we are doing here again is this is declaration of independence day, from George, in this case, George Bush, not George III, and I guess that is why we have to listen to the Republicans today, when in the course of political events a group of people on one side want to cut the ties with the President, they got to explain it.

So here the poor President sends us a bill that says the banks are out of money, you got to pay off the depositors. So what happens? The deputy whip says it is voodoo.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. RIGGS. I thank my Banking Committee colleague for yielding to me.

I would simply point out to him this is not the administration's bank reform bill. As the gentleman well knows, the version that the administration sent us was the version that we first passed out.

Mr. FRANK of Massachusetts. I will take my time back, and I will tell the gentleman I understand that; this is not exactly what they passed.

But on the point at issue, it is exactly the same. Nothing in that bill ever suggested that we do tax breaks. The difference between the bill that we are being asked to vote on and the points that are being raised now are not those where the administration has been on that side. The administration has never said it would be voodoo to do this.

Now, maybe, maybe President Bush ad libbed that one day when John Sununu and I were not listening, maybe that slipped in, I do not know. But I do know, as far as the official administration position is concerned, at no point have they said it would be irresponsible to pass this bill without a tax break. It took some very bad poll results to get the people on the other side to think that.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, my guess is we are hearing more doo-doo on the floor than we are voodoo, anyway.

But the fact is that this is a terrible rule, and the Members ought to focus on the fact that this is a rule being brought to us under martial law. This is exactly what you get when you declare martial law in the House because, under this particular rule, what we are trying to do is we are going to appoint conferees and then not give instructions to the conferees maybe until after the conference is over.

Now, that really does impinge upon the rights not only of the minority, folks, of the majority too. And I will tell you this is very bad practice, very bad precedent, and we are in a very dangerous situation when we decide that we are going to run, supposedly, the greatest deliberative body in the world in this way

A number of us have said over a period of months that more and more the House is turning toward dictatorial practices in order to enforce its will rather than the will of the country.

□ 1300

Mr. Speaker, this is precisely a rule in that regard. This is a rule which is truly a martial law rule, and it is——

PARLIAMENTARY INQUIRY

Mr. COLEMAN of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McDERMOTT). The gentleman will state his parliamentary inquiry.

Mr. DREIER of California. Mr. Speaker, has the time of the gentleman from Pennsylvania [Mr. WALKER] expired?

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has not expired.

Mr. WALKER. Mr. Speaker, the gentleman is making an improper parliamentary inquiry on my time. The gentleman ought to learn the rules. Maybe the gentleman is comfortable operating under martial law rule where he does not have to worry about——

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield then for a parliamentary inquiry?

Mr. WALKER. I say to the gentleman, "You're supposed to request that through the Chair."

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, I would ask a parliamentary inquiry as to whether or not motions to instruct are binding. Are motions to instruct binding? I ask the Chair that question.

Mr. Speaker, it has been inferred by the gentleman from Pennsylvania [Mr. WALKER]——

Mr. WALKER. Mr. Speaker, I reclaim my time. The gentleman does not even know what he is talking about.

The problem here is that the rule that we have before us——

Mr. COLEMAN of Texas. Mr. Speaker, can I get a response to my parliamentary inquiry? The gentleman yielded to me.

Mr. WALKER. Mr. Speaker, I reclaimed my time. I have that right under the rules of the House. If the gentleman would learn the rules, maybe he would understand how to do this.

Mr. Speaker, the fact is that what we have here is a rule which is indeed a martial law rule which is impinging upon all Members of the House to have appropriate time and appropriate debate on issues of merit before this Congress. I think that this is a terrible travesty. It has nothing to do with the whole business of bringing up economic growth except that, if we are going to operate this way, there is no reason why we could not bring economic growth to the floor, and that is what the majority is refusing to do. The majority is refusing to have an economic growth package on the floor.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding this time to me.

Mr. Speaker, the problem of the gentleman's statement was that he was inferring to this House that they would be precluded from offering motions to instruct, which he well knows is not binding on the conference at all. This is a procedure, I would like to point out to my colleagues in the House, that is oftentimes utilized by those on the other side to attempt to delay. It is called a delaying tactic by some of them. Others of them in the minority also use this procedure simply to, quote, make a point, unquote, but as he well knows, it is not binding on the conferees. So, these motions to instruct are often, many times, nothing more than mere delaying tactics to try to slow down the process and the procedure of the House to do the people's business. It is totally irrelevant.

So, for the gentleman from Pennsylvania [Mr. WALKER] to stand in the well of this House and suggest to the membership and to those who might be listening that in some way, motions to instruct would be precluded by this rule, first of all, is not true; second of all, second of all, so what?

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas [Mr. COLEMAN] for his point. I thank him for his point because he just has made it clear that the gentleman from Texas cares absolutely nothing about the rights of the minority. We have known that all along, but the gentleman from Texas has now made that absolutely clear.

Mr. Speaker, I am afraid his view is shared by most of the people on the other side of the aisle, so, when we on this side of the aisle react somewhat vehemently to it, understand it is well deserved.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong support of the rule, and during the debate on the rule there has been an allegation made that somehow the tax break bill for the wealthy being proposed by Members of the other side, especially the gentleman from Georgia [Mr. GINGRICH] would help the middle class. I have a study here made by the Tax Foundation, and it says that the proposal of the gentleman from Georgia [Mr. GINGRICH], the study there for family income of $30,000 would receive no tax break, for family incomes of $53,265, would receive no tax break. That means it has to be for the wealthy. That is all we know. It is the good old trickle down theory.

Mr. Speaker, I think soundly that we should not even consider it.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the distinguished gentleman from Missouri [Mr. VOLKMER] for yielding.

Mr. Speaker, I wonder if the gentleman would be audacious enough to say that as a key leader of the House Committee on Agriculture that a capital gains tax reduction for American farmers would not represent a significant tax break for those people?

The SPEAKER pro tempore. (Mr. McDERMOTT). The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. LaFALCE].

Mr. LaFALCE. Mr. Speaker, I have been debating in my own mind what form of government we have. For a while I thought we had anarchy, no government. But then it seemed to me that what was being exhibited today was mob-ocracy. That is when a small mob attempts to take over and rule things, and that is what we have going on right now. We have a small mob of Republicans who have come up with a political ploy, and they are attempting to use that ploy before the American people.

My colleagues, let us explain exactly what ordinary rules and processes are in this House and how what they are attempting to do is totally circumvent those. If a group of individuals have an idea, a bill, they do not have the right to automatically bring it to the floor of the House of Representatives, not when we have 435 Members. What they must first do is introduce the bill. The second thing they must do is get hearings on the bill. Then they go before a subcommittee, a subcommittee votes on it. It then goes before a full committee, a full committee votes on it. After the full committee reports it out, then it comes to the floor of the House of Representatives for a vote.

Mr. Speaker, none of that has happened. What has happened? What has happened is that this body took three separate votes on a banking bill. We passed a banking bill. On that banking bill we received two-thirds of the votes of the Republicans and two-thirds of the votes of the Democrats. After we passed our bill, the Senate passed their banking bill. On their banking bill they added virtually every possible ornamentation they possibly could to it. Some called it a Christmas tree. It does not happen to provide what the mobocracy would have it provide.

Mr. Speaker, we are simply saying, "Let us go to conference on what the House has voted on. Let us go to conference on what the Senate has voted upon." We never have instructions to go to conference on something that neither the House, nor the Senate, have voted on. Never.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to the gentleman from New York [Mr. LaFALCE], my very good friend, that I agree with exactly what it is that he is trying to do, but he was wrong when he talked about some sort of regular procedure here.

Mr. Speaker, the fact of the matter is we are under martial law at this moment, and that is the real tragedy.

The problem was we created a situation. I do not want to be standing here doing this, but the fact that we are under martial law has created so much anger. That is what is delaying the process of going to conference.

Mr. LaFALCE. Mr. Speaker, the only thing we are voting on now is whether to go to conference.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, this resolution I am opposed to will lead to $70 billion of more taxpayer funds that we do not even have. Talk about voodoo economics. That is voodoo Democratic economics. Instead of dealing with this pie that is static, let us make the pie bigger. Let us get a growth package. Let us help the men and women of America who are unemployed.

By the way, if my colleagues think what Ronald Reagan did was bad, then blame a good liberal Democrat because he did it first, and he did it well: John F. Kennedy who said that a rising tide lifts all boats. I say to my colleagues, "If you want to help the men and women of America, you give them help across the board, and everybody benefits. That's the action we ought to be taking."

Mr. Speaker, we ought to reject this resolution, we ought not to make the debt worse, and, as my colleagues know, we have done in the savings and loan industry, the banks are tottering on the brink, and next are pension funds and insurance companies. I urge the defeat of this rule.

□ 1310

Mr. DREIER of California. Mr. Speaker, may I ask how much time is remaining on both sides?

The SPEAKER pro tempore. (Mr. McDERMOTT). The gentleman from California [Mr. DREIER] has 7½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 16 minutes remaining.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I only want to ask one question, and I want to continue to ask it as we continue discussing the growth package. But before I do that, let me suggest that the previous speaker, my friend, the gentleman from California, mistakenly assumes, as many of those Members do, that everyone in this country has a vote. This rising tide stuff is interesting discussion, but the fact is that a lot of folks in this country are left behind by all tides.

Let me ask this question: I would like any Member there who knows the answer to answer it, and, if not, they might get their friends at Treasury who conveniently provide answers that are usually supportive of their position to get me the answer. I want to know, if this growth package is implemented, how much of a tax cut it will provide the average American family whose earnings are over $200,000 a year.

The reason I ask the question is that the country has $3.6 trillion in debt and a $400 billion deficit this year, and you are proposing very large tax cuts for the richest families in the country. I want to continue to ask the question: How much of a tax cut will this proposal offer to families whose earnings are over $200,000 a year? Does someone have the answer to that?

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding. I cannot answer his specific question, as he well knows, but I want to ask the gentleman in exchange, is the gentleman honestly proposing that it is better to do nothing at this point in time with regard to the economy? I am not making that argument. I want to know what his——

Mr. DORGAN. of North Dakota. Mr. Speaker, I reclaim my time.

I yielded to the gentleman because I expected an answer and, of course, he did not have one. I do not expect to get an answer in the next couple of days because I do not suppose they would like to give the American people the answer as to what kind of tax cuts they are proposing for the richest families of America. If you want to give us the answer, I think you ought to go and get it so we will have it for this debate.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield four minutes to the gentleman from Georgia [Mr. BARNARD], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. BARNARD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to use this time if for no other reason than to calm down the rhetoric of the House. It is very obvious that the purpose of this debate is for the consideration of this very necessary rule, and I think it is very unfortunate on both sides that we have distorted the issue at hand. I think this is no place at this time to debate the growth package.

There is much that has been said that I agree with, but more than what I agree with, I am wondering why this important legislation should be held hostage to this political debate. It is not necessary, and this is certainly not the finest hour of the finest day that we represent ourselves to the American people. I hate to think what the people are doing back home watching this debate on the floor.

Let us get back to what is at hand. It is very important, I say to my friends on the other side, that we acknowledge what has to be done. We have a serious issue. The bank insurance fund of this country which guarantees the deposits of some 80 million people is in serious distress. We need to replenish the bank insurance fund. We have a plan to do that. It is not a taxpayer's plan, but we have two things that need to be done. We have two bills before us. We have a very convoluted bill that has come before us from the Senate. All we are asking the Members of this House to do is to permit us to go to conference on a bill over which only the Banking Committee has jurisdiction. We will not consider any of the other stuff that is in the bill except what is in the exclusive jurisdiction of the Banking Committee of the House.

So all we are asking the Members to do in the midst of all this debate is to permit the chairman of the Committee on Banking, Finance and Urban Affairs to have conferees appointed so that we can get on with the very necessary issue of finding out where our differences are so we can bring a good bill back to this House floor.

We have passed a narrow banking bill by a vote of 344 to 84. After we had climbed that hill two other times and failed, we finally reached that pinnacle and we agreed on a narrow bank bill that would replenish the bank insurance fund and bring meaningful changes in the banking laws controlling banks. That is all we are asking the Members to do. Please do not burden us down with any more of this debate. Let us go to conference, reconcile this thing, and do what we are here to do, and that is to legislate and not have a political debate.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield just briefly.

Mr. BARNARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, as I have heard from the debate here and I have heard from the media reports on this bill earlier, the allegation is made that there is $70 billion of taxpayers' money to replenish the banks. I have heard the gentleman say here that there is no taxpayers' money.

Could the gentleman just clarify that for me?

Mr. BARNARD. Mr. Speaker, it is very simple. What we are permitting in this bill is to let the FDIC borrow money from the Treasury. The repayment of that money will come from the increased premiums of bank insurance assessed to the banks.

Mr. VOLKMER. Therefore, there is no taxpayer money given to the banks?

Mr. BARNARD. Not at this time.

Mr. RIGGS. Mr. Speaker, will the gentleman yield on that point?

Mr. BARNARD. I am glad to yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding. He is a very distinguished member of the Committee on Banking, Finance and Urban Affairs and has made many contributions. I understand and support the gentleman's point, but I think the concern on this side of the aisle is frankly that unless we address the underlying conditions, it is possible that America's banks could default on that loan.

Mr. BARNARD. Mr. Speaker, if I may reclaim my time, the gentleman has made that point. The gentleman has made that point time and time again this morning. I am tried of it, and I think the people are tried of it. Let us get on with the business at hand.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that the gentleman is right. The best way for us to ensure that we do not get to the point where there is a bailout is, No. 1, to pass this economic growth package and, number two, ensure that we bring about the kind of banking reform that H.R. 6 offered.

Mr. Speaker, I yield 1 minute to the gentleman form California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, when we are looking at the banking mess, let us look at why we are in a banking mess. We are in a banking mess because liberal Democrats have controlled this House and passed tax policies that tipped this country into a recession.

We want to try to get this country out of recession. When people take a look at this debate, they might wonder if this is a Third World country. What is a Third World country? That is where you have high tax rates and an inefficient government, so you have a miserable economy. Do you know what also happens in a Third World country? They usually declare martial law so that the democratic processes cannot take place to get the country out of the miserable condition it is in.

Yes, let us handle this banking mess. Let us make sure that we do not have a mess in the real estate business, in the banking business, or any other business by making sure that we have a growth package that gives people jobs and produces the wealth so this country does not have to continue shoveling our people's money into the banks as a subsidy. We talk about helping the rich. Who is talking about that now?

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, out of deference to the gentleman from Texas who earlier was stating that Members of the House were not getting all of the scores, I think our colleagues should know that right now Michigan is over Ohio State 14 to 3.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I think the best politics for 1992 for both parties would be for us to address today in 1991 the real problem with the financial services industry, the real problem with banks, and the real problem with thrifts. The best policy for 1992 would be dealing in November 1991, with a stagnant economy and with a depressed real estate market.

The best politics in 1992 would be in November 1991 not borrowing $70 billion from the Treasury to help out the banks or not borrowing—and I might add that we will not pay it back—$80 billion from our taxpayers to bail out the RTC.

☐ 1320

The best politics for 1992 would be for us to stay here and deal with an economic growth package, to deal with the causes of the problems in the banks and the thrifts, rather than the symptoms. I recommend it to my colleagues. We have got four or five more weeks. We ought to stick around and do the job. That is the best politics for both parties.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I have to change my statement because it is obvious I am closing out the debate on this resolution. I have to change my thoughts very quickly.

Mr. Speaker, what we see going on here is that the Republicans are upset that they have been put under martial law, which is very dictatorial; that we have for more than a year been telling the American people that the economy was going to be in recession, a deeper and longer recession than people were telling us; that the economy in 1992 will be stagnant and flat.

Mr. Speaker, we have introduced time and time again bills for a growth package, and we are outraged that we are trying to get through this Congress without a growth package. What you have seen in the debate in this last hour is that the Democrats do not want a growth package. They would rather have nothing and borrow $70 billion for the bank bailout and $80 billion for the RTC bailout, than to address the problem of growth in our economy.

Mr. Speaker, we are outraged by it.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. McDERMOTT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announce that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 91, answered "present" 1, not voting 127, as follows:

[Roll No. 422]

YEAS—215

Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Carper
Carr
Clement
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cox (IL)
Cramer
Darden
DeLauro
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dymally
Eckart
Emerson
Engel
English
Espy
Evans
Ewing
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hubbard
Huckaby
Hughes
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
LaRocco
Lehman (FL)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McGrath
McHugh
McMillan (NC)
McNulty
Meyers
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oberstar
Obey
Olin
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Studds
Swift
Tanner
Taylor (MS)
Thomas (GA)
Torres
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Waters
Weiss
Wheat
Whitten
Wilson
Wyden
Yates
Young (AK)

NAYS—91

Allard
Allen
Armey
Barrett
Bentley
Bliley
Boehner
Bunning
Burton
Camp
Campbell (CA)
Clinger
Coughlin
Cox (CA)
Dannemeyer
Davis
DeLay
Doolittle
Edwards (OK)
Fields
Ford (TN)
Franks (CT)
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Herger
Hobson
Hyde
Inhofe
James
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Livingston
Martin
McCollum
McDade
McEwen
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Santorum
Saxton
Shuster
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—127

Abercrombie
Ackerman
Alexander
Archer
Aspin
Atkins
Baker
Ballenger
Barton
Berman
Boxer
Brewster
Broomfield
Callahan
Cardin
Chandler
Chapman
Clay
Coble
Coleman (MO)
Collins (IL)
Costello
Coyne
Crane
Cunningham
de la Garza
DeFazio
Dellums
Dickinson
Dixon
Donnelly
Dornan (CA)
Duncan
Dwyer
Early
Edwards (CA)
Edwards (TX)
Erdreich
Fawell
Feighan
Fish
Gallegly
Gaydos
Geren
Goodling
Harris
Hefley
Henry
Holloway
Hopkins
Houghton
Hoyer
Hunter
Hutto
Ireland
Jacobs
Jefferson
Johnson (TX)
Johnston
Kennedy
Lantos
Laughlin
Leach
Lehman (CA)
Levine (CA)
Lewis (FL)
Lipinski
Lowery (CA)
Luken
Marlenee
Mavroules
McCrery
McCurdy
McMillen (MD)
Mfume
Morrison
Mrazek
Murphy
Myers
Neal (MA)
Oakar
Olver
Owens (NY)
Payne (VA)
Pickett
Porter
Price
Pursell
Quillen
Rogers
Ros-Lehtinen
Roth
Roukema
Russo
Savage
Schaefer
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Slattery
Smith (FL)
Smith (IA)
Solomon
Stenholm
Stokes
Sundquist
Swett
Synar
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thornton
Torricelli
Towns
Unsoeld
Upton
Washington
Waxman
Williams
Wise
Wolpe
Wylie
Yatron
Zeliff

☐ 1342

Mr. RAY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 298, the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, is considered to have been taken from the Speaker's table and amended by substituting the text of the bill (H.R. 3768) to require the lease-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, as passed by the House.

(For text of S. 543 see proceedings of the Senate of today, Saturday November 23, 1991).

(For text of H.R. 3768 see Proceedings of the House of Thursday, November, 21, 1991 at page 33372).

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 543

The SPEAKER. Under the rule, the House is considered to have insisted on its amendment to the Senate bill, S. 543, and requested a conference with the Senate thereon.

The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on Banking, Finance and Urban Affairs: Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, HUBBARD, and LAFALCE, Ms. OAKAR, Messrs. VENTO, BARNARD, SCHUMER, FRANK of Massachusetts, ERDREICH, CARPER, TORRES, KLECZKA, WYLIE, LEACH, and MCCOLLUM, Mrs. ROUKEMA, and Messrs. BEREUTER, RIDGE, ROTH, MCCANDLESS, and BAKER.

There was no objection.

PERSONAL EXPLANATION

Mr. SYNAR. Mr. Speaker, because of a previously scheduled event in my district to dedicate the Toppers Fire Station in Wagoner County, Oklahoma, I missed two votes. Had I been present, I would have voted "AYE" on House Resolution 294 (rollcall No. 421) and "AYE" on House Resolution 298 (rollcall No. 422).

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, constituent business in my district forced me to miss rollcall vote No. 422. Had I been present, I would have voted "nay."

NTIA ORGANIZATION AND AUTHORIZATION ACT

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3031) to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NTIA Organization and Authorization Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States.

(2) Rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.

(3) Telecommunications and information policies and recommendations advancing the strategic interests and the international competitiveness of the United States are essential aspects of the Nation's involvement in international commerce.

(4) There is a critical need for competent and effective telecommunications and information research and analysis and national and international policy development, advice, and advocacy by the Executive Branch of the Federal Government.

(5) As one of the largest users of the Nation's telecommunications facilities and resources, the Federal Government must manage its radio spectrum use and other internal communications operations in the most efficient and effective manner possible.

(6) It is in the national interest to codify the authority of the National Telecommunications and Information Administration, an agency in the Department of Commerce, as the Executive Branch agency principally responsible for advising the President on telecommunications and information policies, and for carrying out the related functions it currently performs, as reflected in Executive Order 12046.

(b) POLICY.—The NTIA shall seek to advance the following policies:

(1) promoting the benefits of technological development in the United States for all users of telecommunications and information facilities;

(2) fostering national safety and security, economic prosperity, and the delivery of critical social services through telecommunications;

(3) facilitating and contributing to the full development of competition, efficiency, and free flow of commerce in domestic and international telecommunications markets;

(4) fostering full and efficient use of telecommunications resources, including effective use of the radio spectrum by the Federal Government, in a manner which encourages the most beneficial uses thereof in the public interest; and

(5) furthering scientific knowledge about telecommunications and information.

SEC. 3. ORGANIZATION.

(a) ADMINISTRATION.—There shall be within the Department of Commerce an administration to be known as the "National Telecommunications and Information Administration".

(b) HEAD OF ADMINISTRATION.—The head of the NTIA shall be an Assistant Secretary for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 4. FUNCTIONS.

(a) IN GENERAL.—Subject to section 5, the Secretary shall assign to the Assistant Secretary and the NTIA responsibility for the performance of the Secretary's communications and information functions.

(b) COMMUNICATIONS AND INFORMATION FUNCTIONS.—Subject to section 5, the functions which the Secretary shall assign under subsection (a) include (but are not limited to) the following functions transferred to the Secretary by Reorganization Plan Number 1 of 1977 and Executive Order 12046:

(1) The authority delegated by the President to the Secretary to assign frequencies to radio stations or classes or radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, but not including the authority to make final disposition of appeals from frequency assignments.

(2) The authority to authorize a foreign government to construct and operate a radio station at the seat of Government of the United States, but only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Commission.

(3) Functions relating to the communications satellite system, including authority vested in the President by section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)) and delegated to the Secretary of Commerce under Executive Order 12046, as follows:

(A) Aid in the planning and development of the commercial communications satellite system and the execution of a national program for the operation of such a system.

(B) Conduct a continuous review of all phases of the development and operation of such system, including the activities of the communications satellite corporation authorized in section 301 of the Communications Satellite Act of 1962 (47 U.S.C. 731).

(C) Coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to ensure that there is full and effective compliance at all times with the policies set forth in the Communications Satellite Act of 1962.

(D) Make recommendations to the President and others as appropriate, with respect to steps necessary to ensure the availability and appropriate utilization of the communications satellite system for general government purposes in consonance with section 201(a)(6) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)(6)).

(E) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.

(F) Assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)), make necessary recommendations to the President in connection therewith, and keep the President informed with respect to the carrying out of the Communications Satellite Act of 1962.

(G) Serve as the chief point of liaison between the President and the corporation.

(4) Serving as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(5) Advising the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

(6) Conducting studies and evaluations concerning telecommunications research and development and concerning the initiation, improvement, expansion, testing, operation and use of Federal telecommunications systems and advising agencies of the results of such studies and evaluations.

(7)(A) Developing and setting forth, in coordination with the Secretary of State and other interested agencies, plans, policies and programs which relate to international telecommunications issues, conferences, and negotiations.

(B) Coordinating economic, technical, operational, and related preparations for United States participation in international telecommunications conferences and negotiations.

(C) Providing advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States in support of the Secretary of State's responsibility for the conduct of foreign affairs.

(8) Providing for the coordination of the telecommunications activities of the Executive Branch and assisting in the formulation of policies and standards for those activities, including (but not limited to) considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

(9) Developing and setting forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(10) Ensuring that the views of the Executive Branch on telecommunications matters are effectively presented to the Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

(11) Establishing policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States.

(12) Developing, in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources and—

(A) performing analysis, engineering, and administrative functions, including the maintenance of necessary files and databases, as necessary for the performance of assigned functions for the management of electromagnetic spectrum;

(B) conducting research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility; and

(C) conducting research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(13) Conducting studies and making recommendations concerning the impact of the convergence of computer and communications technology.

(14) Coordinating Federal telecommunications assistance to State and local governments.

(15) Conducting and coordinating economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned functions.

(16) Contracting for studies and reports relating to any aspect of assigned functions.

(17) Participating, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

(18) Participating with the National Security Council and the Director of the Office of Science and Technology Policy in carrying out their responsibilities under sections 4-1, 4-2, and 4-3 of Executive Order 12046.

(19) The authority to establish coordinating committees pursuant to section 10 of Executive Order 11556.

(20) As permitted by law, establishing such interagency committees and working groups composed of representatives of interested agencies and consulting with such departments and agencies as may be necessary for the effective performance of assigned functions.

(c) ADDITIONAL COMMUNICATIONS AND INFORMATION FUNCTIONS.—In addition to the functions assigned to the NTIA by the Secretary under subsection (a), the Secretary—

(1) may assign to the NTIA the performance of functions under section 504 of the Communications Satellite Act of 1962 (47 U.S.C. 753(a)); and

(2) shall assign to the NTIA the administration of the Public Telecommunications Facilities Program (47 U.S.C. 390-393), and the National Endowment for Children's Educational Television (47 U.S.C. 394).

(d) INTERAGENCY FUNCTIONS.—

(1) AGENCY CONSULTATION.—Federal agencies shall consult with the Secretary to ensure that their conduct of telecommunications activities is consistent with the policies developed under subsection (b)(11).

(2) REPORT TO THE PRESIDENT.—The Secretary shall timely submit to the President each year the report (including evaluations and recommendations) provided for in 404(a) of the Communications Satellite Act of 1962 (47 U.S.C. 744(a)).

(3) COORDINATION WITH SECRETARY OF STATE.—The Secretary shall coordinate the performance of the functions described in subsection (b)(3) with the Secretary of State. The corporation and other concerned Executive agencies shall provide the Secretary with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

(e) ADVISORY COMMITTEES AND INFORMAL CONSULTATIONS WITH INDUSTRY.—To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government. The NTIA may also informally consult with industry as appropriate to carry out the most effective performance of its functions.

(f) GENERAL PROVISIONS.—(1) The Secretary shall issue such rules and regulations as may be necessary to carry out the functions assigned under this Act.

(2) All Executive agencies are authorized and directed to cooperate with the Secretary and to furnish the Secretary with such information, support and assistance, not inconsistent with law, as it may require in the performance of its functions.

(3) Nothing in this Act reassigns any function that is, on the date of enactment of this Act, vested by law or executive order in the Federal Communications Commission or the Department of State, or any officer thereof.

SEC. 5. REORGANIZATION.

(a) AUTHORITY TO REORGANIZE.—Subject to subsection (b), the Secretary may reassign to another unit of the Department of Commerce a function (or portion thereof) required to be assigned to the NTIA by section 4 of this Act.

(b) LIMITATION ON AUTHORITY.—The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 4 of this Act unless the Secretary submits to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits to such Committees the statement required by this subsection with respect to such reassignment. For purposes of this subsection, the term 'legislative days' includes only days on which both Houses of Congress are in session.

SEC. 6. SPECTRUM MANAGEMENT ACTIVITIES.

(a) REVISION OF REGULATIONS.—Within 180 days after the date of the enactment of this Act, the NTIA shall amend its regulations to improve its spectrum management activities.

(b) REQUIREMENTS FOR REVISIONS.—The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice;

(2) include provisions that will require major policy proposals that are not classified and that involve spectrum management to be published in the Federal Register, and that the public be permitted adequate opportunity for review and comment;

(3) include provisions that will require that major policy decisions that are not classified and that involve spectrum management be published in the Federal Register;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic data bases;

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) CERTIFICATION TO CONGRESS.—Not later than 180 days following the date of the enactment of this Act, the NTIA shall certify to the Congress that it has complied with the provisions of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the administration of the NTIA $18,719,000 for fiscal year 1992 and $25,000,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "NTIA" means the National Telecommunications and Information Administration;

(2) the term "Assistant Secretary" means the Assistant Secretary for Communications and Information of the Department of Commerce;

(3) the term "Secretary" means the Secretary of Commerce;

(4) the term "Commission" means the Federal Communications Commission; and

(5) the term "corporation" means the communications satellite corporation authorized in title III of the Communications Satellite Act of 1962 (47 U.S.C. 731-735).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers H.R. 3031, the NTIA Organization and Authorization Act of 1991, which was introduced by the gentleman from New Jersey [Mr. RINALDO], my good friend and colleague, the ranking minority member of the subcommittee.

This legislation would authorize $18.7 million for fiscal year 1992 and $25 million for fiscal year 1993, for the administration of the National Telecommunications and Information Agency.

The development of the telecommunications and information industry is essential to revitalizing the American economy. In Japan right now, they are targeting 20 to 24 percent of their gross national product to come from the telecommunications hardware and software sector by the year 2000. Similarly, in Japan, in Korea, in other countries around the world, there are concerted public-private sector programs which are in place and are working toward the goal of becoming the dominant world forces in telecommunications.

This is going to be a huge chunk of the gross national product, not only of our country but of the world. Unfortunately, we have not been as advanced in terms of our ability to coordinate and to ensure that there is a coherent vision of what we want to extract from this very important telecommunications sector.

The NTIA, as a part of the Department of Commerce, is at the cutting edge of our Government's, our Nation's attempt to give us a voice, to give us a plan as to what we are going to do. It was created in 1978. It has responsibility in international communications and information policy.

However, the NTIA was never given statutory authority by Congress, and has historically been subject to attempts at reorganization or even, believe it or not, elimination. To address this problem, this legislation would provide clear statutory authority for the NTIA, ensuring a permanent footing with other advisory agencies of the executive branch. The statutory organization provided through this legislation would not grant any new authority to NTIA, but it would guarantee its existence. Rather, as I said, we are just codifying existing structure.

In crafting the bill we have worked with the administration to answer some of the concerns which they raised about earlier versions. I think that we have addressed these questions. I feel confident that this legislation serves well the interests of this House in maintaining the NTIA as a critical voice in areas of telecommunications policy.

As the telecommunications industry increasingly becomes one of the core industries in our country, it is critical that we have at least one organization whose full-time mandate is the planning for where our country should be going in this very, very critical long-term industrial objective, and that is why I recommend this legislation to the House today.

I cannot at this point end my opening comments without praising the gentleman from New Jersey [Mr. RINALDO], whose long and hard work on this legislation has made it possible for us to bring a bipartisan piece of legislation to the floor today. We have worked with him, as well as with the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from New York [Mr. LENT], the ranking minority member, and I think we have put together a package here, working with all the other members of our committee, which will serve our country in the long term.

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Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support H.R. 3031, the NTIA organization and authorization bill. The bill provides authorizations of $18.7 million and $25 million for fiscal years 1992 and 1993, respectively.

The NTIA plays a crucial role in advising the administration on matters affecting telecommunications policy. For example, the NITA uses its expertise to issue recommendations for regulatory change. In addition, the NTIA conducts comprehensive studies of changes in the telecommunications marketplace. One such study, titled "Telecommunications in the Age of Information," was recently released. This NTIA study has been and will be an invaluable source to the Subcommittee on Telecommunications and Finance as it proceeds with consideration of important infrastructure-related issues. Overall, the study is a very useful tool. In reauthorizing the NTIA, Congress can ensure that it will have the benefits of other studies in the future.

The NTIA also plays an important role in the international telecommunications arena. Along with the FCC and the State Department, the NTIA is a member of a tripartite delegation that represents U.S. interests in international telecommunications negotiations.

In addition to reauthorizing the NTIA, H.R. 3031 would provide the NTIA with statutory authority. Prior to 1978, telecommunications policy in the executive branch was spearheaded by two agencies: the White House Office of Telecommunications Policy and the Department of Commerce's Office of Telecommunications.

In 1978, the Carter administration issued an Executive order that combined the functions of both of those agencies into one agency, the NTIA. Recently, the NTIA has been subject to an internal attempt to reorganize it. Had that attempt succeeded, the importance of the NTIA might have ultimately been downgraded within the Commerce Department.

The NTIA has been an effective voice within the executive branch for formulating and advancing U.S. telecommunications policy. This amendment will guarantee that it remains that way.

Mr. Speaker, I would like to commend Messrs. DINGELL, LENT, and MARKEY for their leadership on this issue. I, again, urge my colleagues to support the legislation that I am offering today.

Mr. MARKEY. Mr. Speaker, I presently have no further requests for time, and I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking minority member of the full committee.

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3031, the NTIA organization and authorization bill, and urge my colleagues to do the same. The bill provides for authorization of $18.7 million and $25 million in fiscal years 1992 and 1993, respectively.

The authorization levels are reasonable increases for an agency that has been an important voice within the executive branch for formulating telecommunications policy.

I also strongly support the language which codifies the 1978 Executive order which created the NTIA. The NTIA has existed since its creation without statutory authority. In fact, there have been efforts in the past to reorganize the agency in a manner that would have seriously downgraded it.

For example, under one reorganization plan, the NTIA would have lost its direct access to the Secretary and instead would have reported through the Under Secretary for Technology. This amendment will give the NTIA the statutory authority it needs and deserves.

Once again, I urge my colleagues to join me in supporting H.R. 3031.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I want to commend the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking member, the gentleman from New Jersey [Mr. RINALDO].

This is a good bill. It deserves our support. It basically deals with an agency that is doing an excellent job in trying to bring some cohesion and coordination to the very fragmented telecommunications segments all over this country that are growing by leaps and bounds, but that are also extremely dependent on investment.

I am speaking as someone who has sponsored a bill to stimulate the formulation of telecommunications infrastructure I am talking about the possibilities of a telecommunications highway of the future, fiber-optic in nature, connecting the satellites and other non-wire-line systems. The potential is enormous.

NTIA, the National Telecommunications Administration, gives us some ability to coordinate our efforts.

Now, all of this is for naught unless we can supply this industry, unless we can supply the community out there, the business people and employers, with investment, with capital. I mean, we are talking about the industries I mentioned, and we are talking about computers, talking about the new personal communications networks, we are talking about cable, and we are talking about investment.

Our bill, the Republican bill to promote economic growth, has a series of investment incentives in startup, in capital formation—incentives to save, so that small business and medium-size business can really get some of these new technologies off the ground.

This is where the jobs are going to come from. You can have, and I will close, you can have all the telecommunications policy you want, but if you do not have investment capital out there, you do not have growth; you do not have jobs.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF.]

Mr. SCHIFF. Mr. Speaker, I rise also in support of H.R. 3031.

I have the privilege of serving on the Telecommunications Oversight Committee of the Committee on Government Operations, and I know the difficulties we have still after the breakup of AT&T, having a coordinated telecommunications policy.

I think the NTIA can add greatly to resolving their problems. However, I would also add, like the previous speaker did, that telecommunications is part of a strong economy, but if we are going to develop a telecommunications industry in this country, a stronger telecommunications industry, they must have the purchasers of their equipment. That means taking measures to develop small business and medium-size business and large business that will use the equipment and use the services which is why, I believe, we should also be considering further growth legislation on the House floor.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to come to the well and commend the efforts of the chairman and the ranking member on bringing this bill to the floor and seeing that it is swiftly acted upon.

I wish we could be doing the same thing today, as we have mentioned before, with an economic growth package.

What we are talking about here is high technology, venture capitalism at its finest, in the area of high-technology industries. These are usually very small companies that start out with seed capital and venture capital, and then which need some investment capital to start these industries and take them and grow with them.

This is an important, vital part of not only increasing communications capabilities within this country but it is an important part of just a whole small-business growth related here in this country.

□ 1400

It is crucial that we look at these small businesses, these venture capitalists and do something to help their industry.

There is, oddly enough, in this economic growth package that we have been talking about today something specifically targeted for these very small, very important industries in our country, the venture capitalists. There is a 50-percent capital gains startup reduction for the sale of a startup venture held for 5 years.

Now, that is a very important part of this proposal which gets directly at the heart of an industry which is going to make us competitive with the rest of the world. In fact, we are far out in front in the area of this type of technology with most countries around the world, and we need to do something here on the House floor today or sometime before we leave for Thanksgiving to encourage that kind of capitalism, to give our competitive edge back to American industry so we can compete with Japan, so we can compete with Germany. This economic growth package not only, as I have spoken before, does it do things for the middle class in the area of giving them a deduction for interest on their savings accounts——

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield 30 additional seconds to the gentleman.

Mr. SANTORUM. Not only, Mr. Speaker, does it do something for the middle class which is absolutely important, in fact I would not be here supporting this package if this did not do substantive tax relief for middle income Americans, but it also directly pinpoints targets, specific targets, industries in this country which will make us competitive with the rest of the world.

If there is anything I am hearing from the people back home is that they are sick and tired of losing the economic battle to Japan and Germany.

This proposal, this growth package, will help our competitiveness, and I urge its adoption before we leave here for Thanksgiving.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

As I understand what we are doing here is trying to make our information systems in this country more competitive with the rest of the world and have a coordinated policy that will assure that.

I think that is probably a very, very wise investment for our future. There is no doubt that the rising economy of the future is going to be some kind of postindustrial economy and it is going to be at least partially information based, if not wholly information based. This is something which should contribute to that in a policy sense.

So I hope that this is the kind of action that we will continue to take that focuses on what the real economic drivers of the future are, where jobs are going to be created in the future; but it seems to me that you need more than creating an agency to coordinate policy. You need to have fundamental values within society that move us in the appropriate direction, and since the gentlemen here on the floor are people who are really the experts in this field, I just have a couple questions.

For example, in the economic growth package that has been talked about earlier today, one of the things which is in there is expensing of capital investments. This is an idea, for instance, that would allow up to $10,000 of expensing of certain depreciable business assets, such as machinery and other equipment for small- and medium-sized businesses.

Now, when you are talking about information technology, would that not indeed add to the ability of a business to be created and to be sustained that is in the information field?

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. RINALDO. My initial reaction, Mr. Speaker, would be that it certainly would be very helpful.

Mr. WALKER. Mr. Speaker, I thank the gentleman, because it is important to recognize that while we may do this component of an information society, it does not do us any good if we do not provide the capital in society in order to move forward. This particular part of the growth package would assure that those businesses that are getting into the information field can in effect purchase capital, expense it against their taxes, and thereby create jobs. It seems to me that is an appropriate kind of step to take, one that evidently we are going to be prevented from taking in this session of Congress.

What about this particular provision. We would encourage entrepreneurial investments by excluding by taxation 50 percent of the profit from any sale of investment held for more than 5 years. Does it not strike the gentleman that if in fact you get small entrepreneurial firms out there that grow to the point that entrepreneurs want to get out and allow them to create, allow them to grow, that this would also help people get interested in going into this brandnew field?

Mr. RINALDO. Mr. Speaker, if the gentleman will yield, I think the gentleman is absolutely correct; but I think the gentleman has to bear in mind that while it would help and it would help in the telecommunications field, the responsibility for the recession, for what is taking place and for the downturn, really in my view rests with this Congress.

When we passed the Tax Reform Act in 1986, which I can say without any hesitation I am proud that I did not vote for, we based that legislation on the faculty premise that every deduction was a loophole.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. RINALDO. We built it on the faulty premise that every deduction was a loophole. I was in favor of getting rid of loopholes. We got rid of the loopholes. But when we got rid of every single deduction, we also got rid of all the incentives for growth, for job creation, and for moving this economy forward again. I think that is what we really should address, putting some of those incentives back into the Tax Code where they belong so that the entrepreneurial spirit in this country can again rev up the engines of our economy.

Mr. WALKER. Mr. Speaker, as the gentleman knows, we do that in this particular economic growth package by the reform of passive loss rules that was one of the major things that we did wrong in 1986, and with things like the 50-percent capital gains exclusion on venture capital.

So it seems to me this is precisely going in the direction that would improve our ability to continue to move ahead in this very, very important economy of the future; namely, the information economy.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to my colleague, the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to add that when the Democrats couch the investment debate in terms of tax breaks for the rich, and couch this whole debate in a rich versus poor, class warfare context, they create more poor. They do not allow people to get rich. They stem the tide of economic growth and they create exactly the kind of stagnant economy that this economic growth package seeks to emerge from.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his observations.

Mr. Speaker, one of our colleagues a little while ago, the gentlewoman from Kansas [Mrs. MEYERS] heard one of the Democrats on the floor say, "What is in your package for the middle class?"

She said, "I have an answer for that. A job."

She said that what is in this package is 1½ million jobs for Americans, which means that what they get is really almost like winning the lottery out of this package. They get a $25,000 a year job, which means they can sustain their families. That is something very important to get out of the package and that is something of which we ought to be well aware.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. RINALDO. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, for the middle class, there is the IRA plus.

For the middle class, there is no penalty for IRA withdrawal for first-time home buyers. I mean, that is what we need to help get this real estate market off its back.

For the middle class, there are interest and dividend exemptions on their taxes up to a certain level. These exemptions are available to the middle class only, not the rich.

I just wanted to make very clear that there are a whole host of pro-middle-class aspects to this; but the gentleman is absolutely right. If the economy as a whole does not improve, you could have all the little Federal program giveaways that the Democrats are interested in, and they will do nothing. If people are unemployed, they are really in trouble, and the Government programs only provide subsistence at that point. We need jobs.

Mr. WALKER. Welfare for people who are unemployed and deficit spending is not exactly what is going to get this economy going.

Mr. RINALDO. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I just want to say that when I took the floor I knew this was an important bill, but its significance, as evidenced by the debate, transcends even my fondest imagination.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman may state his parliamentary inquiry.

Mr. MARKEY. Mr. Speaker, can the Chair remind me again which bill is before the House at this point?

The SPEAKER pro tempore. The subject of the bill is the NTIA Organization and Authorization Act.

Mr. MARKEY. Mr. Speaker, I thank the Chair. I forgot.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, since I have been a cosponsor and a prime sponsor of some of the legislation that is included in your growth package, I think it is only fair that I speak today so that we do not rewrite history.

There has been a great deal of criticism in this body about the actions we have taken back in 1986.

Well, some of the Members I know were not there in 1986, so I want to explain to you so that you will not be saying that is the people on this side of the aisle that did something to you in the 1986 tax package.

In 1986, the Ways and Means Committee brought to this floor, which was supported by this side of the aisle and that side of the aisle, a tax bill that reduced the top rate from 50 percent to 37 percent, if I recall correctly.

□ 1410

But it left the differential in capital gains, it left the differential in capital gains in the bill. It did not do anything with passive losses. This side of the aisle did not do anything with it. We left it just like it was.

We left the IRA's in. Now, these are the three things that are in your growth package.

When we passed the bill, we sent it over to the other body, and the chairman of the committee of the other body was a Republican. And the Republican President supported a Republican chairman of the Committee on Finance to change what? To do what? To lower the rate below the 37 down to 33 and do away with capital gains differential. And that is what they did in the other body. And the chairman of the other committee, who was a Republican, from the other side of the aisle, brought the passive loss rules that the gentleman is complaining about. They put them in the bill. And they did away with the IRA's.

Now let us not rewrite history. I just want to tell you, if we are going to debate the growth package, where it started. It is not the fault of this institution here. It came from the other body.

So you ought to commence your complaints with the Republican leadership that was in power at that time, with a Republican President that insisted that we do the things that you now complain about.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I think the gentleman from Georgia [Mr. JENKINS], a very distinguished member of the Committee on Ways and Means, makes a compelling argument for immediately enacting our economic growth package. Without laying blame at the feet of anyone as to what happened in the past—and there were plenty of votes on both sides of the aisle to do away with loopholes, and Democrats were just as enthusiastic as Republicans—let us admit we may have made a bit of a mistake. Let us take what we have on the table here on this side of the aisle and correct some of the problems that the gentleman from Georgia so eloquently described, and then go forward and start creating jobs and incentives so that the NTIA, this very able agency in the Department of Commerce, with jurisdiction over telecommunications, headed very ably by Mrs. Janice Obuchowski, has some business and industry and jobs to deal with when they are making policy.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume just to again praise the gentleman from New Jersey [Mr. RINALDO].

Telecommunications is absolutely the cutting edge issue of the next generation. The Japanese are working with their secretary of posttelecommunications, as are the Germans, the Koreans, and others. In many ways this issue is raised in the context of a tragedy which has come across our country in the 1980's, which is that the total private debt in our country has risen from $4.4 trillion in 1981 of $9.6 trillion today.

That $9.6 trillion of private debt, which unfortunately is directly related to tax policies which were on the books, to banking policies which did not properly monitor the dispensing of credit in our economy throughout the 1980's, has left our economy without the discretionary income today or the willingness on the part of the private sector to further indebt themselves, which has given the Japanese, given the Germans and given others a real competitive advantage.

The microcosmic, although I would have to say that is probably not the right word, but the best example is probably the RTC, which we are going to be voting on in the next couple of days. The RTC is really another word for a funeral home. It is a funeral home for every failed commercial real estate tower, every condo, every hostile takeover that went awry, every junk bond that the unwilling taxpayer unknowingly became a cosignator to.

So the money instead of going into telecommunications, instead of going into biotech, went into these seductive deals, that big-time bankers, working with their Federal regulators, were able to pass by and, now, through to the taxpayers.

So this terrible, terrible debt definitely is a burden; $9.6 trillion debt, as you know, dwarfs the $3 trillion worth of public debt which we have run up. It is the hidden story in our economy.

The tax policies drove it; the regulators turned a blind eye, and we now will reap the whirlwind through the next decade.

NTIA is an agency, small agency, a glimmer of hope that we can work with to perhaps give a new direction to our country to invest in the kinds of industry that will produce the jobs in the next generation because otherwise we are going to be looking over our shoulders at the Japanese, at the Germans and others as they come up to us and pass us by.

We are still first, no question about it. But with the debt we have saddled the private sector with in the 1980's, without getting any new productivity out of it, we are facing the prospects of them becoming first, second and by the year 2000, third.

I am afraid that without some serious addressing of the private sector debt, represented by the RTC and the BIF fund that we vote here today and over the weekend that we will never see the full blooming of the telecommunications industry to the extend I would have hoped possible.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Kansas.

Mr. SLATTERY. I thank the gentleman for yielding.

I, too, would like to join in commending the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] for bringing this legislation before us today.

I would also like to draw my colleagues' attention to another piece of legislation which, in my judgment, is very important. For those who are concerned about creating jobs in this country, I think it will go a long way toward helping create jobs in the telecommunications manufacturing industry, and that is House Resolution 1527, which will empower the regional Bell operating companies in this country to get involved in the business of manufacturing telephone equipment.

Under existing law, as the gentleman knows, the telephone companies are barred from such activity. The legislation that I have introduced has been joined by nearly 100 other colleagues in cosponsoring, and it would change that, it would make clear that our telecommunications giants can in fact compete against the global giants in the manufacturing of telephone equipment.

I hope that before this session of the Congress ends, we will be able to advance that legislation. I know the gentleman from Massachusetts and the gentleman from New Jersey are interested in this. I look forward to working with them.

Beyond that, if the gentleman would yield further, there has been a lot of talk today about economic growth incentives for the economy and that sort of thing. One of the things that has not been discussed very thoroughly out on the floor in this regard is what has happened to interest rates in the last year or 18 months.

I would submit to my colleagues that the dramatic drop in interest rates is going to provide this economy more economic growth stimulus, which is desperately needed, than all of the economic growth legislative changes that have been talked about here on the floor.

Just so my colleagues understand, you know when you drop the interest rates 2 percentage points, on $10,000, that is $200 a year. On $100,000 that is $2,000 a year. On $1 million, a 2 percentage point drop in the interest rate amounts to a $20,000 incentive, or a reduction in the cost of money.

It is an enormous stimulus. I think when you look at what effect it has on just a $50,000 home mortgage, a 2-point drop in the interest rate is $1,000 in the pockets of all of those home buyers every year. I submit to my colleagues that that kind of economic stimulus is going to provide more encouragement for growth in our economy than all of the proposals that have been discussed on the floor of the House today.

So I happen to be optimistic about next year's economy, with these lower interest rates, and they have been the lowest in a decade. I hope the entrepreneurs of this country are going to, hopefully, take advantage of these lower interest rates, make the investments that we desperately need to create the jobs that are needed in this economy to get our country moving again.

So I do not think we can overlook the cost of capital when we talk about stimulating this economy. The cost of capital today is at the lowest point it has been in more than a decade. Hopefully, it will really stimulate the economy after the first of the year.

I think we have to take that in consideration as we talk about economic growth policy changes.

I again thank my friend from Massachusetts for his leadership, and my friend from New Jersey for bringing this legislation to the floor today, and I look forward to working with both of them in advancing 1527 and similar legislation after the first of the year.

Mr. MARKEY. Mr. Speaker, reclaiming my time, just to make this point on the banking bill, which is constantly referred to here, perhaps the vehicle to deal with this economic growth package: We are meeting with the Secretary of the Treasury, and were, until 10 or 10:30 last night. He is often times referred to as the chief economic representatives of the President of the United States, in this instance, George Bush. I can tell you that in a day long negotiation with the Secretary of the Treasury, he never raised this economic growth package.

I do not know whether that means that the President does not know anything about it or that he does not support it, but just for the record, it was never mentioned as part of the banking bill negotiation all late last night or today. And in fact, we find it quite curious that it is raised on the final weekend, if it is such an important message, and that the Secretary of the Treasury would not mention it.

□ 1420

So, Mr. Speaker, we appreciate very much the unrelated subjects that were raised by many of the Members here today. But they have nothing to do with the NTIA, and, as far as we can tell on negotiations or conversations with high ranking administration officials, they are meant to in any way impinge upon other business which the Committee on Energy and Commerce is working on.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding to me.

First of all, I want to commend him. He is an excellent leader of the Subcommittee on Telecommunications and Finance, and I truly enjoy working with him, and we have a lot of interests in common, one of which though is not the way the banking bill came out of this Democratic controlled House.

The Democratic-controlled House, for all America to hear, has absolutely gutted a decent banking bill that was sent up by the administration. It has gutted banking reform. It has brought to—

Mr. MARKEY. Mr. Speaker, I want to reclaim my time. I thank the gentleman from Pennsylvania [Mr. RITTER]. I appreciate that very much.

Again these are unrelated subjects. The banking bill will be brought out here on the floor. We can have a debate on the banking bill. The Democrat position is that, without safeguards, without firewalls, without protections for investors, for the depositors, for taxpayers, we are going to see 1 trillion dollars' worth of taxpayer money bailing out hostile takeover, junk bond deals, all the rest of the crazy financial chicanery that went on in the 1980's when credit became a narcotic in the hands of the Federal regulators and bankers of this country's S&L presidents.

So, Mr. Speaker, that is a subject for another day. That day is coming up in another 48 hours.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3011, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3645) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 and following).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States,

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product,

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly,

(5) 39 million international visitors spent approximately $52.8 million in the United States last year,

(6) travel and tourism services ranked as the largest United States export in 1989,

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade,

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors,

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border,

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States,

(11) exporting those goods and services which United States industry can produce at a comparative cost-advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest, and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe provides new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. POLICY CLARIFICATIONS.

(a) NATIONAL TOURISM POLICY.—

(1) Section 101(b)(1) (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;".

(2) Section 101(b) (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively, and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;".

(b) DUTIES OF SECRETARY OF COMMERCE.—

(1) Section 201 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(B) in paragraph (3), as so redesignated, by striking out "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;",

(C) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;", and

(D) by striking out "and" at the end of paragraph (6) (as so redesignated), by striking out the period at the end of paragraph (7) (as so redesignated) and inserting "; and", and by adding after such paragraph (7) the following:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and compile statistics regarding such travel.".

(2) Section 202(a)(9) (22 U.S.C. 2123(a)(9)) is amended by striking out "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 (22 U.S.C. 2123) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) Repeal.—Section 203 (22 U.S.C. 2123a) is repealed.

(e) Tourism Policy Council.—

(1) Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P), and

(B) by inserting immediately after subparagraph (G) the following:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the President of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(2) Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to 3 Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 4. TOURISM TRADE DEVELOPMENT.

(a) Annual Plan.—

(1) Section 202(a)(15) (22 U.S.C. 2123(a)(15)) is amended by striking out "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 (22 U.S.C. 2123), as amended by section 3(c), is amended by adding at the end the following:

"(f)(1) The Secretary's tourism trade development efforts shall focus on markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) The Secretary shall carry out a generic promotion program which shall be the only direct marketing activity in which the Secretary shall be engaged under this Act. In addition to generic promotion, the Secretary shall carry out tourism trade development efforts pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 6 months after the notice is published.

"(C) Within 3 months after the notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions of States, cooperative tourism marketing programs, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall award grants to carry out proposals submitted under this subparagraph. Such grants shall be awarded no later than 6 months after the notice is published under subparagraph (B).

"(ii) The total amount of grants awarded under clause (i) by the Secretary shall—

"(I) in fiscal year 1993, be not less than 35 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(II) in subsequent fiscal years, be not less than 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C).

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than one year after the end of the 12-month period described in subparagraph (B), shall report to Congress on the results of the evaluation.".

(b) Advisory Board.—

(1) Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking out "and",

(B) in subparagraph (B), by striking out "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking out the period at the end and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking out "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years in the aggregate".

(3) The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "and" and inserting in lieu thereof a comma, and

(B) by inserting immediately before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) Conforming Amendments.—

(1) Section 204 (22 U.S.C. 2123b) is amended by striking out "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "Marketing" and inserting in lieu thereof "Trade Development", and

(B) by striking out "marketing" and inserting in lieu thereof "tourism trade development".

SEC. 5. TOURISM TRADE BARRIERS.

Title II is amended by adding at the end the following:

"Sec. 205. (a) For calendar year 1991 and each succeeding calendar year, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports,

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1), and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

"(b) On or before March 31, 1992, and March 31 of each succeeding calendar year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).".

SEC. 6. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II, as amended by section 5, is amended by adding at the end the following:

"Sec. 206. (a) The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

"(b) The Secretary shall, within one year of the date of the enactment of this section, report to the Congress on efforts undertaken under subsection (a) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.".

SEC. 7. GRANTS FOR LOCAL, STATE, AND REGIONAL TOURISM.

Title II, as amended by section 6, is amended by adding at the end the following:

"Sec. 207. (a)(1) The Secretary may make grants to cooperative tourism marketing programs under the authority of section 202(f) and this subsection.

"(2) To be eligible for a grant under paragraph (1) a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States, or

"(ii) one or more States and one or more local governments,

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located, and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(b) A grant made under subsection (a) may be used for the purpose of—

"(1) promoting or marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such grant is sought,

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region, or

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing.

"(c) A grant may be made under subsection (a) if the applicant for the grant demonstrates to the satisfaction of the Secretary that the grant will be used for a purpose described in subsection (b) and that—

"(1) such cooperative tourism marketing program for which the grant will be made will increase the travel of foreign visitors to the region for which the grant is sought,

"(2) such program will contribute to the economic well-being of such region,

"(3) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region, and

"(4) such program will focus its efforts on those countries identified by the Secretary under section 202(f) as having the greatest potential for increasing travel and tourism export revenues in the applicable fiscal year.

"(d) In connection with a grant under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such grant is made. Such an agreement shall be disclosed in any application for a grant under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) The Secretary may issue such rules and guidelines as may be necessary to carry out subsections (a) through (d).

"(f)(1) In fiscal years 1993 and 1994, the Secretary shall undertake on an annual basis at least 5 demonstration projects in geographically distinct regions of the United States with underutilized tourism potential to help develop tourism marketing programs in such region.

"(2) Demonstration projects under paragraph (1) shall use such resources as the Secretary shall make available to help identify and develop potential tourism attractions that the Secretary determines may be of interest to foreign tourists. In connection with such a project, the Secretary shall work with local units of government and other public and private entities to develop specific plans of action to—

"(A) identify local opportunities for inducing foreign tourism,

"(B) identify those foreign countries where there may be a significant interest in potential tourism attractions, and

"(C) develop and promote specific tourism marketing programs directed at likely foreign tourist groups using such resources both in this country and abroad as the Secretary may have available.

"(3) The expenditures for demonstration projects under paragraph (1) year shall in fiscal years 1993 and 1994 be not less than 3 percent of the amount appropriated in such fiscal year to the Secretary to carry out this Act.".

SEC. 8. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II, as amended by section 7, is amended by adding at the end the following:

"SEC. 208. (a) Beginning with the tourism trade development plan for fiscal year 1992 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall set forth in such plan the goals of the United States Travel and Tourism Administration, established under section 301, for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. At a minimum, such goals shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States expected to be generated by the efforts of the Secretary and of other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) expected to visit the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(b) Beginning with the tourism trade development plan for fiscal year 1993 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall report in such plan the degree to which the goals set forth in the plan for the prior fiscal year have been attained. At a minimum such report shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) that actually visited the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(c) The Secretary shall collect from persons receiving grants under this title such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the making of any such grant on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate.

"(d) The Secretary shall, from time to time, conduct—

"(1) surveys of foreign tourists visiting the United States from countries identified under section 202(f), and

"(2) advertising effectiveness studies in such countries,

to evaluate the effectiveness of the program described in section 201(1).".

SEC. 9. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 10. ADMINISTRATION.

(a) DEPUTY UNDER SECRETARY.—Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking out the third and fourth sentences,

(2) by inserting "(1)" and "(a)", and

(3) by adding at the end the following:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development,

"(B) directing and managing field operations,

"(C) directing program evaluation research and industry statistical research,

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade,

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(f), and

"(F) perform such other functions as the Under Secretary may assign.".

(b) REGIONAL OFFICES.—Section 301(b) (22 U.S.C. 2124(b)) is amended to read as follows:

"(b)(1) There shall be 3 regional offices of the United States Travel and Tourism Administration which shall be based in, and responsible for, the following respective geographical areas:

"(A) Europe and Africa.

"(B) Asia and the Pacific Region.

"(C) North America, South America, and the Caribbean region.

"(2) Each such regional office shall monitor and direct the activities of—

"(A) the tourism trade development offices within the region as established under section 202(f), and

"(B) the country offices within the region that are responsible for mature markets.

For purposes of this paragraph, the term 'mature market' means a market in which the United States receives either more of the long-haul, outbound tourism traffic than any other country or as much of such traffic as reasonably can be expected under the circumstances.".

(c) LIMITATION ON CERTAIN EXPENDITURES.—Section 301 (22 U.S.C. 2124), as amended by section 9, is amended by adding at the end the following:

"(d) The expenditures for administrative expenses, including salaries and other overhead expenses, and for demonstration programs authorized under section 207, shall not exceed—

"(1) in fiscal year 1993, 45 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(2) in subsequent fiscal years, 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.".

SEC. 11. TOURISM DEVELOPMENT STUDY.

(a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic travel as a tourist attraction,

(2) techniques for incorporating scenic travel into tourism development programs,

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

SEC. 12. MONTHLY STATISTICAL REPORT.

Not later than January 1, 1992, the Secretary of Commerce shall publish on a monthly basis the statistical report on United States international travel receipts and payments published in the document known as "The Survey of Current Business", prepared by the Bureau of Economic Analysis within the Department of Commerce.

SEC. 13. TRAVEL BY DISABLED PERSONS.

The Secretary of Commerce shall, within 18 months of the date of the enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

SEC. 14. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) Findings; Establishment of Foundation.—

(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) Functions.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors,

(2) development of educational resources to assist in private and public rural tourism development, and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) Board of Directors.—

(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of 9 voting members, and

(ii) thereafter shall consist of those 9 members plus up to 6 additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial 9 voting members of the Board and thereafter shall appoint the successors of each of 3 such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least 1 shall have experience in resource conservation, at least 1 shall have experience and expertise in financial administration in a fiduciary capacity, at least 1 shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least 1 shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least 1 shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration,

(ii) if a person is appointed to fill a vacancy occurring before the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term, and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) Compensation and Expenses.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) Acceptance of Gifts, Devises, and Bequests.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditures other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) Investments.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) Perpetual Succession; Liability of Board Members.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) Contractual Power.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) Administration.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) Exemption From Taxes; Contributions.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)),

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)),

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code, and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

SEC. 15. STATISTICAL REPORTS.

(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the Secretary's efforts under section 201(8) of the International Travel Act of 1961, including statistics regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe. Such statistics shall include the number of inbound and outbound tourists, receipts from, and expenditures by, such tourists and number of tourists traveling into and out of Eastern Europe on American carriers.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $18,000,000 for fiscal year 1993, not to exceed $19,000,000 for fiscal year 1994, and not to exceed $20,000,000 for fiscal year 1995", and

(2) by striking out the last two sentences.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the list I have before me indicates that this particular issue is being taken up out of order that was given to the minority. Does that mean that we are now moving the bills around?

The SPEAKER pro tempore. These next several bills are all within the jurisdiction of the same committee. The committee has made this change in the order with the concurrence of the leadership.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Further, Mr. Speaker, I would suggest this was cleared with the minority of the committee prior to bringing up the legislation.

Mr. WALKER. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, we were assured that we were going to be given notice, not only within the committees, but on the House floor, of these kinds of changes and of these kinds of situations. I was not familiar with that.

Mr. Speaker, I do not see a particular problem with it, but it would be helpful if we could take things up in the order that they were put on the calendar.

The SPEAKER pro tempore. The Chair would state to the gentleman from Pennsylvania for his information that, as far as the Chair is aware, this is the only change that has been made.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I would say again that it was expressly discussed and cleared with the ranking Republican of the full committee and the ranking Republican of the subcommittee. The other side was informed.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I would just like to affirm that. The gentleman from Washington [Mr. SWIFT] is absolutely correct. The chairman of the subcommittee did inquire of me if I had any objection to taking this bill from No. 10 and considering it as No. 8 for whatever reason, and I indicated I had no problem with that. We have a number of other bills on the calendar that we will be handling, so I did want to say to my colleague, the gentleman from Pennsylvania [Mr. WALKER], that perhaps I should have advised him, but I did make that modification.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I would echo the comments of the ranking member, the gentleman from New York [Mr. LENT]. I think we both neglected to advise our colleague, the gentleman from Pennsylvania [Mr. WALKER], on this matter.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3645, the Tourism Policy and Export Promotion Act reauthorizes the U.S. Travel and Tourism Administration and attempts to focus the agency's efforts more on helping areas of the country with underutilized tourism potential promote themselves more effectively.

The Committee on Energy and Commerce reported this legislation on November 7 by voice vote.

Travel and tourism is one of our country's most significant export products, and is also one of the Nation's largest employers. However, there is much more to the United States than New York or Walt Disney World. Every State has a host of cultural and recreational events that reveal the rich variety of American culture. Many of these areas want to develop their tourism base, but lack the financial or technical wherewithal to promote themselves effectively to foreign visitors. USTTA has the technical knowledge to assist these areas. Through its foreign contacts, USTTA can then serve as a conduit through which promotional materials can be distributed to foreign tour vendors.

H.R. 3645 contains a number of initiatives developed in response to criticisms voiced about USTTA. These include reorganizing the foreign offices by establishing three regional offices, creating a career civil servant Deputy Under Secretary, limiting the amount of money that USTTA can spend on overhead expenses, creating a Rural Tourism Development Foundation, and establishing a financial assistance program for States and localities. I believe that these initiatives will enable USTTA to better utilize its limited resources to assist areas of the United States that want to promote tourism, and urge that the House pass this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3645, legislation to reauthorize the U.S. Travel and Tourism Administration, part of the Department of Commerce.

I would like to commend my chairman, the gentleman from Washington [Mr. SWIFT], for his leadership in bringing this bill out and his leadership on this whole subject.

Mr. Speaker, the legislation is aimed at ending the lengthy lapse in the statutory authorization of USTTA. It represents a great deal of effort on a bipartisan basis in the Committee on Energy and Commerce, particularly by our chairman, the gentleman from Michigan [Mr. DINGELL], our subcommittee chairman, the gentleman from Washington [Mr. SWIFT], and the committee's ranking member, the gentleman from New York [Mr. LENT].

Helping to promote foreign tourism in the United States is a major factor in our international trade balance and plays an important role in our domestic economy. Last year, foreign tourism in the United States produced a $5 billion surplus in favor of the United States. There are not many industries these days that can make that claim. USTTA gives us some coordination, some cohesion on a national level and an international level, in a marketplace that is increasingly national and global.

As a cosponsor of the legislation, I am particularly encouraged by its emphasis on the development of regional tourism. It is the thematic or historical unity of a region, not the artificial constraints of State lines, that attracts foreign visitors. They want to experience the history and culture of a whole area.

In my own region, the Lehigh Valley of Pennsylvania, this regional approach has resulted in the successful creation of an internationally acclaimed, world-class musical event known as Musikfest. When dealing with a festival like Musikfest, or Mayfair and the Celtic Classic which are also in my district, the market is regional, it is national, it is international, and the cohesion given by USTTA can be very helpful.

As we try to foster growth, productivity, and prosperity in our economy, Mr. Speaker, we need to remember that the very same attractions that add to the tourist appeal also improve the quality of life and the economic development potential of a region.

□ 1430

This legislation, we hope, encourages and assists other regions to adopt broad, cooperative marketing, and to develop strategies to attract additional foreign visitors. The U.S. Tourism Administration can make a very important contribution to the effective marketing of the United States as an international tourist destination.

In this field as in so many others, we are competing in a global marketplace where the quality of the product and the effective marketing of that product are essential. H.R. 3645 is an important step toward the effective marketing of the United States as a first-class international vacation site. It is an effective tool to bring States together in regional focus, and to give individual tourist attractions national exposure.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in support of H.R. 3645, legislation to reauthorize the U.S. Travel and Tourism Administration. This is the part of the Department of Commerce that is responsible for promoting foreign tourism to the United States in overseas markets.

The task of USTTA is an important one: Foreign tourism not only gives this country a $5 billion trade surplus each year; it also creates thousands of jobs. In fact, on average the foreign tourist spends seven times as much in the United States as a domestic tourist.

Tapping the vast potential market for tourist visits to the United States is USTTA's central mission. This legislation is intended to focus the agency on emerging markets, and to give additional emphasis to efforts to promote regional tourism development in the United States. Although there are some issues yet to be worked out with the other body and with the administration, I believe that we have an excellent chance, for the first time in almost a decade of reauthorizing USTTA.

Finally, Mr. Speaker, I want to acknowledge the diligent efforts of our Chairman, Mr. DINGELL, our transportation subcommittee chairman, Mr. SWIFT, and our subcommittee ranking member, Mr. RITTER, in fashioning this legislation and moving it promptly through the Energy and Commerce Committee. Those of us from the New York area are especially conscious of the tremendous economic value of foreign tourism, and I urge the prompt approval of this legislation as a way to generate even more such prosperity.

Mr. RITTER. Mr. Speaker, will the gentleman yield to me?

Mr. LENT. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, the gentleman mentioned foreign tourism, and I would like to have my colleagues and the American people know that the overall expenditures of foreign tourists in the United States amounts to some $23 billion. It is an enormous market, and, of course, New York is one of the major beneficiaries.

Mr. Speaker, I yield 8 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would ask the Members to excuse me for raising the questions I did about the scheduling before. However, when we are operating under dictatorial powers here, those of us who are not part of the tyrranny would like to at least know where we stand along the way.

I do have a couple of things, though, that are included in this bill that I think we need to focus on here. I see by the bill that travel and tourism receipts make up over 6.7 percent of the U.S. gross national product. That is a fairly substantial amount of gross national product that is in this area.

My guess is that this is an area of the economy that would be very susceptible to the need for economic growth, and that if in fact we could produce these kinds of growth incentives in society, there is the potential in this particular area to increase the amount of money that is flowing in this part of the economy.

It is also interesting to note in the committee bill that the travel and tourism industry is the second largest retail and service industry in the United States. The one thing we know about retail and service industries is that they tend to be very individualized kinds of operations. They tend to depend upon entrepreneurial activity. They tend to have single proprietorships in many instances. So we have the kind of economy here which does need a number of the things that are in the economic growth package that has been discussed fairly widely on this floor.

For example, it seems to me that some of those sole proprietorships in this business would be very interested in the capital gains tax structure because it would in fact provide them with the financial base that they need in order to be far more active in the economy. It seems to me that there are a couple of other things that would also fit with this.

For example, I look at our growth bill and I see that we have a social security earnings limitation provision that allows older people to continue to work and continue to earn without being faced with up to a 70 percent marginal tax rate. What would it mean to cut it back? A lot of those people are also people who have the wherewithal to travel and an interest in travel. They are people who, if you give them a little bit of additional resources, are likely to use that in travel and tourism, and all of a sudden we provide some incentives in the bill that spread way beyond the direct application to those individuals.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, the gentleman is absolutely correct. Taking the earnings limit off our senior citizens would provide them with some very direct income, very important middle class levels of income, I might add to my colleagues on the other side, and, of course, senior citizens are wont to travel not just as tourists, but visiting their children who may live across the country, and visiting their grandchildren.

I just want to add one other thing. The single most climatological factor, so to speak, to this industry of travel and tourism is the state of the economy. If the economy is stagnant, the first thing people cut back on is travel and tourism.

I might add that this is a $327 billion chunk of the American economy. I misspoke before. When international visitors come and spend here, they do not spend $23 billion, they spend nearly $50 billion.

The state of the economy is crucial, and economic growth is crucial. If we do not get the economy flat off its back, Lord knows where this $327 billion industry and all those jobs at all income levels is going to be next year.

Mr. WALKER. Mr. Speaker, if the gentleman will allow me to reclaim my time, the fact is that I have heard a number of reports recently that one of the industries hardest hit by the present economic downturn has been the hotel industry and the restaurant industry, that the restaurant industry in most of our major urban areas is struggling at the present time, and that they are really in need of some economic stimulus out there. So this economic stimulus package that we would like to see voted on before Congress goes home would in fact provide them with some chance that relief would be just over the horizon, that relief would begin for that industry early next year.

I noticed another thing in our economic package that seems to apply also. We repeal the excise tax on boats, aircraft, passenger vehicles, and so on. This is another area where people are in fact willing to spend money that then gets multiplied. For example, people who buy a boat very often use it to travel. They use it to travel up and down the Chesapeake Bay and visit ports of call on the Chesapeake Bay. They become tourists with it. They move boats to other parts of the country in the winter and in the summer, and this helps increase the flow of travel. People who have aircraft tend to move around on weekends. They spend long weekends, and that increases the travel industry. When those industries are flat on their backs, what it means is that people are not buying the vehicles that ultimately allow them to become tourists and thereby expand that economy.

So the fact is that the multiplier effect is very much a part of what we are talking about here, and while this bill we have before us is an important contribution, the fact is that a real economic growth package would be an even better contribution to tourism.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. LENT. Mr. Speaker, the gentleman has made some excellent points about this so-called 10 percent luxury tax. I remember when we passed this tax some time ago in this body, we were told that it was going to be "let's tax the rich," that it was going to be a tax on wealthy people who pay $50,000 and $100,000 for automobiles and boats.

□ 1440

Well, the people that are complaining to me about the 10 percent luxury tax are not the millionaires who would ordinarily buy those boats and buy those expensive automobiles. They are the people who were in the service industry for those boats and for those cars. I am talking about the people that work on boats, that are mechanics, that pump fuel, that do work around boat yards on Long Island where I represent and other areas.

Mr. Speaker, this is a tax that has not really affected the wealthy, which was the concept, but we have basically broken the back in this country of the boat building industry and the automobile industry, particularly at the high end of the line, because of this tax. We are hurting not the wealthy. They simply keep their Mercedes Benzs' another year or two. We are hurting the salespeople and the mechanics.

Mr. WALKER. Mr. Speaker, reclaiming my time, the gentleman is absolutely right. The Trojan Boat Co. is in my district. It used to employ 450 people. Now they employ 43 people. Most of those people are blue collar people. I guarantee you they are not traveling, are not tourists, at the present time. They are not spending their money. They cannot afford to, because the stupid policy of the Congress has forced them out of work. We have a chance in the economic growth package to end that stupid policy, and that is another reason we ought to vote on it before we leave town.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his excellent contribution.

I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I think it is fascinating that we are permitted to talk about tourism here today. Indeed, tourism is an important part of our economy. Those of us who live in California certainly would not deny that.

But what is even more fantastic and astounding is we are unable then to talk about other fundamentals of the American industry. We can single out tourism and some of the other single-out issues we are going to be doing here in the next few hours, but we are not able to pay attention to the fundamentals of the general economy.

Yes, tourism is important. But what are we going to do, attract a bunch of tourists from overseas so they can come over and look at our unemployed people? The fact is we can talk about tourism, but we cannot talk about a package that includes some sort of means for young people to buy their first home. We can talk about tourism, but we cannot talk about tax relief for our senior citizens, who, if they go back to work, are being taxed at a rate higher than Donald Trump.

Yes, we can talk about tourism, but we cannot talk about incentives for job creation and the building of new businesses in our general economy.

Yes, we can talk about tourism, but we cannot talk about a general stimulus to economic growth and American competitiveness that will see to it we just do not have a bunch of Japanese tourists coming out to California to take a look at our unemployed aerospace workers.

What we need to do is tackle the serious problems that are fundamental to our economy, rather than hitting at these periphery issues. We are not able to do that because the liberal Democrats who control this body want to go on vacation. They would rather go on vacation, talk about periphery issues, than get down to some of the hard core issues that are going to make the lives of our people better and are going to make sure that those people who are being put out of work have hope for a new job and maybe hope to keep their old job.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his contribution. There is no doubt the gentleman is making some excellent points.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might just say that this very large industry, this U.S. travel and tourism industry, which is one of the major employers in the United States and one of the major revenue producers, is flat on its back because of a stagnant economy.

Until we deal with the economic growth issues, even staunch support of the reauthorization of USTTA will not make our tourism industry healthy. Economic growth will. People going back to work will.

Until such time, the tourism industry in this country is going to have a lot of the same troubles that other industries and other worker have.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman just recently said that they were unable to talk about the growth package. It seems to me we have done nothing but talk about it all day long.

The process that we are involved in here with the Suspension Calendar is to take up bills of something less than earth-shattering importance, though they have importance in themselves. They are what we do while the important legislation that this Congress must deal with before we can adjourn is being dealt with in conference.

It has been said on this floor today we are doing this instead of important things. I would call to the body's attention something said by Woodrow Wilson, who before he was President was a political scientist, particularly an expert in the workings of the House.

He said, "The House in session is the House on display. The House in committee is the House at work."

I would suggest to a very large measure what we are witnessing here on the floor today is the House on display. The real vital business of the House of Representatives, in fact the entire Congress this weekend, is going on in committee, and that will ultimately work its way to the floor.

The legislation we are dealing with now is legislation that is being done simultaneous with the legislation that must be passed before we can recess.

The argument of some of my colleagues is that they have not been permitted to bring up a package they say will solve the economic problems, a package whose details were revealed last night. It is a package that apparently the Secretary of the Treasury was unaware of when he was discussing these very issues with members of our committee last week. It is a package that we do not have clear—in fact, we have heard no word whatever from the President of the United States.

It is a package deemed to have such high importance here that they say it must be dealt with this weekend, but it is a package that was not brought up in time to go through the normal legislative process that all legislation goes through. It is a package, in fact, the likes of which I have seen at the end of most sessions of Congress that I have served in, something that arrives at the very last minute so that partisan debate can be made and positions can be achieved that can be debated then for the next 2 or 3 months when we are out of session.

Mr. Speaker, one of the things that I think is greatly disturbing the American people, I hear it all the time, is they say, "You people don't ever attend to the public's business. All you do is sit there and squabble with each other."

Well, I sometimes will tell people in town meetings and so forth that some of that squabbling is absolutely legitimate. There are honest differences between the two parties and honest debate about those differences which is appropriate and should not be dismissed as merely squabbling.

Then I point out there is some that is just squabbling, and I think we have seen a good share of that today.

But what the public does not see is the enormous amount of cooperation that goes on within this body between Republicans and Democrats. I would suggest that in the subcommittee that brings this legislation before you you can see that kind of bipartisan cooperation.

I have nothing but the highest regard for the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from New York [Mr. LENT] in terms of the cooperation they have given to me as chairman of the committee in the issues that have come before us, some of which are controversial.

I do not suggest we always agree, but I have found working with these two gentlemen that they are never disagreeable, and we have never had to be disagreeable about any of those legitimate differences.

I think it is important for the American public to know that a great proportion, the vast majority of the work of this House, goes on with Republicans and Democrats like the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from New York [Mr. LENT] and myself, and others, in trying to accommodate each other's genuine concerns, being sure that everyone is treated fairly, and that the issues are dealt with in a fashion so that the legislation we ultimately pass will work.

☐ 1450

That, too, goes on in this institution all of the time. And that, too, I think the American public too rarely sees because it is not so dramatic when we are sitting here working together as it is when someone is shouting and waving their arms on the floor.

I think we, too, need to say that we do work together, the majority of the work we do here we try to accommodate legitimate differences. We try to find compromises that will work for both of us, and most of the time we are successful.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I hope the gentleman does understand that there is some resentment on our side of the aisle when literally, even according to the majority leader, martial law is declared in the last few days of the session. That is when comity does break down. There are a lot of us who do work together. I do so on my committee as well.

I think we produce good legislation. The gentleman is absolutely correct. When we get down to the final days here and martial law is declared, then there is some view on at least this side of the aisle that the membership is not being treated as fairly as the gentleman had indicated.

Mr. SWIFT. Mr. Speaker, reclaiming my time, I thank the gentleman for the remarks.

It seems to me that there comes certain times of the year in which someone is always upset about how they are being treated. They will find one reason or another.

I suggest that the term martial law was one that the majority leader used in jest. And it simply goes to prove again that politicians should be very careful about ever trying to be humorous. What we have here is not martial law. It is not dictatorial powers.

What we have is a standard rule that is adopted at the end of every session of Congress, which gives the majority standard authority to deal with suspensions, recess authority. It allows the Committee on Rules to bring rules not on everything but on five specific bills. There is nothing unusual about this at all.

A great deal of the rhetoric that we have heard today is simply end-of-session nonsense and nothing more.

Mr. Speaker, I yield back the balance of my time.

Mr. RITTER. Mr. Speaker, I ask unanimous consent to reclaim the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

I would like to say that I have the greatest respect for the gentleman from Washington [Mr. SWIFT]. He is a gentleman in the truest sense of the word. We in the Congress call each other gentlemen all the time. Sometimes we do not believe it. But with the gentleman from Washington, it is believable. It is real, and we do work together with comity in the committee.

I simply would like to comment on a few of the remarks he made. He said that the Secretary of the Treasury was unaware of the package as of last night. That is simply not true. It did not come up because the Secretary of the Treasury is so immersed in trying to get some kind of minimalist banking bill passed.

The President is very much aware of the economic growth package. The President has said that he would support this economic growth package, that he would sign it if it came before him.

The gentleman from Washington made some very good points, and it is true that a lot of the work in this House is conducted in committee. Of course, the public rarely sees the work in committee, although with C-SPAN it gets to see a lot more than it once did.

I am going to say that some very serious anti-economic growth initiatives have come out of committee on the way to the floor, or in the committee and without getting to the floor, in this session. One of these is the banking bill, which was emasculated in my own committee, the Committee on Energy and Commerce, on its way to the floor.

The Senate Committee on Education rejected the President's education goals and a program to achieve those goals. The Senate in committee essentially has abandoned the President's energy package.

Both in the full House and in committee, the President's economic growth initiatives have been rejected time and again.

It is with some frustration that we in the minority take to the floor trying to come up with something to put people back to work.

Yes, it is the end of the session. But just because it is the end of the session and people want to go home, we can't abandon unemployed workers in our community.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion tom reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3029. An act to make technical corrections to agricultural laws.

The message also announced that, pursuant to Public Law 101-628, as amended by Public Law 102-166, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, appoints Howard Coffin, of Vermont, to the Civil War Sites Advisory Commission.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to find out what it is we are doing.

I assume that what we are doing here is substituting the language of the House bill for the Senate bill; is that correct?

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) 39 million international visitors spent approximately $52.8 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1990, with a United States travel trade balance of more than $5.2 billion;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

STATISTICAL REPORT

SEC. 3. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 4. (a) ANALYSIS AND ESTIMATES.—For calendar year 1992 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1993 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 5. (a) FINDING.—The Congress finds that foreign tourists entering the United

States are frequently faced with unnecessary delays at points of entry at the United States border.

(b) ACTION BY SECRETARY.—The Secretary of Commerce shall, in coordination with other Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.

(c) REPORT.—The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress on efforts under this section to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

TOURISM TRADE DEVELOPMENT

SEC. 6. (a) ANNUAL PLAN.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15).

(b) TOURISM TRADE DEVELOPMENT EFFORTS.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) Generic advertising and other tourism trade development efforts carried out by the Secretary in any calendar year after calendar year 1993 shall be planned and implemented pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 2 years after the notice is published.

"(C) Within 1 year after a notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary is authorized to provide financial assistance to carry out proposals submitted under this subparagraph, and such assistance shall be provided no later than two years after the notice is published under subparagraph (B). In addition to financial assistance, the Secretary may provide technical assistance.

"(ii) The expenditures in a fiscal year to issue requests for proposals and provide financial assistance under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C). The Secretary may reassign personnel from existing foreign offices to such tourism trade development offices.

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than 1 year after those efforts are completed, shall report to Congress on the results of the evaluation.

"(4) The Secretary may make adjustments to the deadlines and time limitations imposed in this subsection if necessary to ensure the effectiveness of tourism trade development efforts.".

(c) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) by amending subparagraph (B) to read as follows:

"(B) at least two shall be representatives of the States who are knowledgeable of tourism promotion; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows except the period at the end.

(d) TECHNICAL AMENDMENTS.—(1) Section 201(6) of the International Travel Act of 1961 (22 U.S.C. 2122(6)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the period at the end.

(2) Section 202(a)(12) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(12)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the semicolon at the end.

(e) CONFORMING AMENDMENTS.—(1) Section 202(A)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) May provide financial assistance under subsection (e) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(2) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence—

(i) by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)"; and

(ii) by striking "under this clause";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

(3) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

COORDINATION

SEC. 7. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 8. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Secretary of Commerce may, on request and without requiring reimbursement, make available services and facilities of the Department for the use of the Foundation.

(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contribution, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) DEFINITIONS.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)), as amended by section 6(a) of this Act, is further amended by adding at the end the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

POLICY CLARIFICATIONS

SEC. 9. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201(2) of the International Travel Act of 1961 (22 U.S.C. 2122(2)) is amended by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;''.

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking ''United States travel and tourism interests'' and inserting in lieu thereof ''the United States national tourism interest''.

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 6(b) of this Act, is further amended by adding at the end the following new subsection:

''(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.''.

(d) REPEALS.—Sections 203 and 204 of the International Travel Act of 1961 (22 U.S.C. 2123a and 2123b) are repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) by redesignating subparagraphs (H) and (I) as subparagraphs (M) and (N); and

(D) by inserting immediately after subparagraph (F), as so redesignated, the following new subparagraphs:

''(G) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

''(H) the Chairman of the Tennessee Valley Authority;

''(I) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

''(J) the Administrator of the Small Business Administration;

''(K) the Commissioner of Customs;

''(L) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;''.

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

''(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

''(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.''.

ADMINISTRATION

SEC. 10. Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by designating the remainder of the existing text as paragraph (1); and

(3) by adding at the end the following new paragraph:

''(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development, who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

''(A) facilitating the interaction between industry and government concerning tourism trade development;

''(B) directing and managing field operations;

''(C) directing program evaluation research and industry statistical research;

''(D) developing an outreach program to those communities with underutilized tourism potential to assist them in the development of strategies for expansion of tourism trade;

''(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(e); and

''(F) performing such other functions as the Under Secretary may assign.''.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

''SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $21,000,000 for the fiscal year ending September 30, 1993, not to exceed $24,000,000 for the fiscal year ending September 30, 1994, and not to exceed $27,000,000 for the fiscal year ending September 30, 1995.''.

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1993, 1994, and 1995 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

TOURISM HEALTH STUDY

SEC. 12. (a) STUDY.—The Secretary of Commerce shall undertake to enter into arrangements with the Institute of Medicine of the National Academy of Sciences to conduct a study of the current knowledge of the health benefits of travel for domestic and international tourists.

(b) REPORT.—In entering into any arrangement with the Institute of Medicine for conducting the study described under subsection (a), the Secretary of Commerce shall request the Institute of Medicine to submit, not later than 18 months after the date of enactment of this Act, to the Secretary a report on the results of the study. The report, immediately upon its receipt, shall be transmitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

TRAVEL BY DISABLED PERSONS

SEC. 13. The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

MOTION OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SWIFT moves to strike all after the enacting clause of S. 680 and to insert the text of H.R. 3645 as passed by the House.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I simply want to point out to the House that when the minority is put under the kind of restrictions that the rule earlier today put us under, it is then assumed that the minority will sit still for a whole series of these kinds of unanimous-consent requests in order to facilitate the work of the House and that we are supposed to just roll over and allow these things to take place, despite the fact that we are given no rights in the process whatsoever.

I am not going to object to this, but I think the majority is on very thin ice when they suggest to us that we have no rights but, of course, they can go ahead and do anything they want with regard to efficiency in the House of Representatives.

We had a statement out here earlier today that the single highest priority of the House at the present time is to get out of here and go home. I would suggest that if in fact that is the single highest priority, and I would hope that that is not the case, but if that is the single highest priority, they jeopardize, it seems to me, their ability to do those things when in fact what they do is make the minority into legislative eunuchs.

I am not going to object, as I said, at this point, but this is a good example of the kind of place where the minority could, in fact, exercise its rights and cause a great deal of mischief in the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT].

The motion was agreed to.

The Senator bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: ''A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.''

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3645) was laid on the table.

PELICAN ISLAND, TX

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1104) to declare certain portions of Pelican Island, TX, nonnavigable, as amended.

The Clerk read as follows:

H.R. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Area To Be Declared Nonnavigable.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet pass the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) Areas Excluded From Declaration of Nonnavigability.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this sub-

section, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c) then the declaration of nonnavigability for such area or part thereof shall expire.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

□ 1500

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1104, the bill presently under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1104 would preserve the rights of property owners on Pelican Island by preventing the U.S. Government from seizing portions of the island to use as dumping sites for dredging spoils from Galveston Bay. Currently, the Government could take such actions on Pelican Island without being required to compensate the landowners for their losses. By declaring the affected portions of the island nonnavigable, this bill would prevent these takings from occurring, and would dispel a cloud that has been hanging over the titles to the land in question.

This bill will help preserve property values on Pelican Island, promote economic development, and bolster Galveston's tax base. It has a large number of supporters in Galveston, including the city and Port of Galveston, Texas A&M University, the local State representative and senator, and owners of property on Pelican Island.

The Subcommittee on Transportation and Hazardous Materials adopted a series of technical amendments that corrected drafting inaccuracies in the original text. The Committee on Energy and Commerce ordered H.R. 1104 reported on November 7, by voice vote. I urge the House to pass this legislation. Mr. Speaker, I will insert letters of support for this legislation in the RECORD.

Mr. Speaker, I insert the following correspondence for the RECORD:

CBI INDUSTRIES, INC.,
Oak Brook, IL, October 15, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that your Subcommittee will soon be conducting mark-ups on H.R. 1104, a bill to declare certain portions of Pelican Island, Texas, nonnavigable. This bill was introduced by Mr. Brooks of Texas.

CBI Industries, Inc., through its subsidiary, Chicago Bridge and Iron Company, is an owner of a tract on Pelican Island that would be affected by the bill. We strongly support this bill as being in the best interest of the City and County of Galveston, and of their citizens.

You should know that we have participated in discussions with the Corps of Engineers over the past year or so concerning this bill and have offered them reasonable options to meet all of their concerns regarding the effects of this bill.

I commend you for scheduling this legislation for your Subcommittee's consideration and urge your support for this important bill.

Very truly yours,
BUEL T. ADAMS,
Vice President and Treasurer.

PORT OF GALVESTON,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Board of Trustees of the Galveston Wharves owns considerable acreage in three separate tracts on Pelican Island. One of these tracts has improvements and is engaged in the movement of cargo in waterborne commerce. The remaining two tracts of approximately 100 and 185 acres is being held for future development and port use.

H.R. 1104 will not lead to any obstruction of navigation nor will it hinder the government's dredging operations. Each of these points have been discussed by the port with the U.S. Corps of Engineers.

We strongly support H.R. 1104 and believe that its passage is vital to the economic development of the port, the city and the citizens of Galveston.

Very truly yours,
DOUG J. MARCHAND,
General Manager,
Port Director, Port of Galveston.

CITY OF GALVESTON,
OFFICE OF THE MAYOR,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: In my capacity as Mayor for the City of Galveston, I write this letter of support for the legislation introduced by Congressman Jack Brooks that will relinquish the federal Government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston.

I would like to emphasize the following key points:

(1) Extinguishing the government's navigational servitude is vital to the economic health and development of the City of Galveston and its citizens.

(2) There has been an overwhelming show of support for Congressman Brooks and this legislation, with resolutions from the County, the City, the GEDC and the Wharves Board have been active participants in the negotiation and drafting process.

(3) The City, County and School District have limited tax bases because of all the government operations in the Galveston area that do not pay property taxes.

(4) H.B. 1104 will absolve or free all non-federally owned real property on Pelican Island from potential claims by the Corps of Engineers, making it easier to develop and expand the kind of industrial tax base upon which our local governments rely.

(5) H.R. 1104 will not lead to any obstruction of navigation because the property we are talking about is all "fast lands," which means the land is high and dry.

(6) H.R. 1104 will not hinder the government's dredging operations because more than one-half of the acreage of Pelican Island is owned by the federal government and is an active dredge spoils dump now. In addition, the language of the bill provides the key rights-of way and easements that the Corps of Engineers have requested in order to maintain their dumping operations on the government owned land.

(7) The owners of the private property, the City and the Wharves Board have been in active negotiations with the Corps of Engineers on this issue for more than two years. We have granted every request the local Corps office has made. We have satisfied every requirement that they have insisted upon.

In closing, let me emphasize that we feel that passage of H.R. 1104 is in the public interest of Galveston, and that it is important to future economic development in our area. We solicit your support for this legislation.

Sincerely,
BARBARA K. CREWS,
Mayor.

SENATE CHAMBER,
Austin, Texas 78711, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand the Navigational Servitude Bill (H. 1104) by Congressman Jack Brooks is to be considered for mark-up by the Subcommittee on Transportation and Hazardous Substances during the week of October 28. The bill will relinquish the federal government's claim of navigational servitude to portions of Pelican Island in Galveston County, Texas, that are privately held or owned by the City of Galveston.

Approval of this legislation will enhance economic development of Galveston County and broaden the property tax base for local governments and school districts, but will not obstruct navigation or disrupt federal dredging operations. Also, the bill provides for rights-of-way and easements requested by the U.S. Corps of Engineers.

H. 1104 is supported by the leaders of Galveston County, the City of Galveston and the Galveston Chamber of Commerce, and I would join them in urging favorable consideration by the subcommittee.

Respectfully,

CHET BROOKS.

CAPITOL OFFICE
Austin, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington DC.

DEAR CONGRESSMAN SWIFT: I am writing to express my strong support for H.R. 1104, by Congressman Brooks, which will relinquish the federal government's claim of navigational servitude to those portions of Pelican Island, Galveston, Texas that are privately owned.

This legislation is critical to the economic growth of Galveston County, Texas because it will allow for the development of Pelican Island for industrial purposes. This proposal is essential to expanding the sluggish economy of Southeast Texas.

Likewise, under Congressman Brook's bill, the right-of-way and easements which the Corps of Engineers requires to maintain dredging operations will be preserved. Consequently, the Corps dredging activities are unaffected by the bill.

Pelican Island is an ideal location for many marine related activities along the coast. Furthermore, easy access to the Gulf of Mexico makes such projects environmentally responsible while minimizing the impact on Corps activities.

As State Representative for Galveston County, I strongly urge you to support this legislation.

Sincerely yours,

MIKE MARTIN.
State Representative.

GALVESTON CHAMBER OF COMMERCE,
October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: I am writing to let you know of our support for H.R. 1104 by Congressman Brooks. This bill would relinquish the federal government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston. Pelican Island is in the Galveston city limits and passage of this legislation is extremely important to our community.

Galveston is proud to be the home of the University of Texas Medical Branch, Texas A&M University at Galveston, Galveston College, the U.S. Army Corps of Engineers and many other government operations. However, we are also the home of one of the largest concentrations of public housing in the country. Roughly ten per cent of the population of Galveston resides in public housing. This large concentration of government owned property leaves a great deal of land in Galveston off of the tax rolls. In addition, the lack of an industrial tax base is causing an ever increasing burden upon the small businesses and individual homeowners in this community.

H.R. 1104 will free all non-federally owned land on Pelican Island from potential claims by the Corps of Engineers, making it easier to develop and expand our industrial tax base. The land in question is near the Galveston ship channel and is an area that would be appropriate for such development.

Galveston is an island and as such, we have a very limited land mass upon which to grow. This release of land from navigational servitude is supported by the City, the Chamber and our Economic Development Corporation. I hope you will be able to support our efforts on this critically important issue.

Sincerely,

ARMIN M. CANTINI,
Chairman of the Board.

TEXAS A&M UNIVERSITY AT GALVESTON,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Texas A&M University at Galveston owns and occupies over 100 acres on Pelican Island. H.R. 1104 would relinquish the Federal government's claim of navigational servitude to those portions of Pelican Island that are held by non-federal entities. We strongly support H.R. 1104 and believe that its passage is critical to the future development of Texas A&M University at Galveston as well as to future positive economic development in the area surrounding our university.

Sincerely,

WILLIAM J. MERRELL,
President.

GALVESTON CHAMBER OF COMMERCE,
October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT, This letter is being in support of H.R. 1104 introduced by Congressman Jack Brooks (D-TX). Essentially, H.R. 1104 will relinquish the federal government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston.

The City of Galveston, the Galveston Chamber of Commerce, the Galveston Economic Development Corporation (GEDC), and the Port of Galveston have all actively participated in the process facilitating this amendment. Galveston has a disproportionately high number of government operations which do not pay property taxes, therefore, limiting the tax base supporting the City, County, and School District. The release of all non-federally owned real property from potential claims by the U.S. Army Corps of Engineers will foster development and expand the city's industrial tax base.

The repercussions of H.R. 1104 to the Corps will not be detrimental to their efforts. The resolution will not obstruct navigation because the property in question is all "fast lands", nor will it hinder dredging operations. The federal government currently owns more than one-half of the acreage of Pelican Island, some of which is already being used as dredge spoils dump.

Local government entities, as well as owners of private property, have been actively negotiating this measure for over two years and to date, every request of the local Corps office has been satisfied. Congressman Swift, this ruling is critical to the economic health and development of the City of Galveston and your support on this issue is deeply appreciated.

Yours very truly,

J. WILLIAM LAUDERBACK,
President.

THE WOODLANDS CORPORATION,
The Woodlands, TX, October 28, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your consideration of H.R. 1104 by Congressman Jack Brooks (D-Tx.) H.R. 1104 is a very important piece of legislation for the City of Galveston, Texas and the surrounding area.

Since 1988 the City of Galveston, the Galveston Wharves Board, the Galveston Economic Development Council (GEDC) and the owners of private property on Pelican Island have been negotiating with the U.S. Army Corps of Engineers about the Corps' claim of a right of navigational servitude over the non-federally owned property on Pelican Island. H.R. 1104 is the result of those negotiations.

In fact, it was the Corps' suggestion that we pursue a legislative solution to this situation. Later, the Corps told community leaders that they could never support such legislation. However, the Corps told those same leaders that if our situation satisfied certain general criteria and if certain specific details were worked out, that the Corps would not raise an objection to a declaration of non-navigability.

As a private property owner on Pelican Island, we have participated in these discussions with the Corps. We strongly believe that we have met all of the Corps' general policy criteria, and that we have satisfied all of the Corps' demands regarding issues specifically related to Pelican Island.

With regard to the Corps' general policy, the declaration of non-navigability does not obstruct either the current or any anticipated navigation channel. The property described in H.R. 1104 is all fast land. No navigational channel would be impacted. The project would not interfere with current or projected needs of navigation, since the only need involved is for a place to dump dredge spoil material that is generated by the Corps' continuing operations in the Galveston Ship Channel. The northern portion of Pelican Island is an active spoils disposal area. Federally owned property on Pelican Island comprises the majority of the acreage on the island. In addition, local governments and the Corps are working together to devise a plan to use spoil material to replenish the beaches along the Gulf side of Galveston Island. Therefore, it is obvious that there are a number of reasonable and perhaps less expensive alternatives available to the Corps besides exercising any right of navigational servitude that they may claim.

The declaration of non-navigability in H.R. 1104 is limited to non-federally owned fast lands that have been created by lawful means. If H.R. 1104 is passed, all non-federally owned property covered by the declaration would still be subject to all applicable federal laws before further development could occur.

Development of the non-federally owned property on Pelican Island would serve a substantial public purpose because it represents a substantial majority of the developable property in the tax bases of local governments that rely on property taxes. The City of Galveston is the site of a large concentration of Federal and State institutions and operations. As a consequence, a significant portion of the real property in the Galveston area is not subject to local property taxes. Therefore, those who attempt to expand the tax base by attracting new businesses or residents to the Galveston area are operating at a significant disadvantage. That disadvantage becomes almost insurmountable should the Corps claim a right to repossess all developed and developable private property on Pelican Island. We believe that preserving and enhancing the economic health of the City of Galveston is a useful public purpose.

In addition to meeting the Corps' policy criteria, the groups negotiating with the Corps have conceded to each one of the Corps' operational demands. The Corps demanded that dredge pipeline easements be expanded from 20 feet to 100 feet. They got it. The Corps demanded some assurance they could continue to use certain private property as a disposal area. A six-year extension of that agreement is available to the Corps, despite the fact that the Corps is currently in violation of the contract under which they currently use in the area. The Corps demanded for assurances that an offshore easement would be available to them for their assembly and disassembly operations. They got that as well.

H.R. 1104 represents the result of two years of good faith negotiations by the City, the Wharves Board, the GEDC and the owners of private property on Pelican Island. We embarked on this legislative mission at the suggestion of the Corps. We have satisfied their general policy guidelines, and granted them all of the operational concessions that they have requested.

We believe that H.R. 1104 is vital to the economic health and development of the city of Galveston. There has been overwhelming support for Congressman Brooks and his efforts in this regard. We strongly urge you and the Subcommittee on Transportation and Hazardous Materials to support H.R. 1104. We strongly urge the full Energy and Commerce Committee to support its passage, and to send it to the floor of the House of Representatives with an unanimous endorsement.

Again, thank you for your consideration of H.R. 1104. Your support of this legislation and your continuing efforts to enact it into law will be greatly appreciated by the people of Galveston.

Sincerely,

JOHN E. WATSON.

COUNTY OF GALVESTON,
October 31, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: Galveston County is an urban coastal community. Most such communities have more than their share of economic, environmental, and ecological concerns.

Our concern for the environment cannot be sustained in an atmosphere of declining economic capacity. Part of my responsibility as County Judge of Galveston County is to express these concerns. Another part of my job is to work to ensure that the local economy is strong enough to support a high level of environmental consciousness.

I feel that Galveston County needs H.B. 1104 to free up the constraints on Pelican Island.

Pelican Island has long been identified as a potential industrial area in the midst of extremely sensitive ecological environments. Economic development in Galveston County and in the City of Galveston must be allowed the opportunity to utilize Pelican Island.

I have been made familiar with all of the elements of H.B. 1104 through conversations with George Mitchell's people and the correspondence of Galveston's Mayor Barbara Crews.

The development of Pelican Island economically is at least partially dependent on Congressional approval of H.B. 1104 and I urge you to join with the citizens of Galveston County in supporting this important legislation.

Sincerely,

RAY HOLBROOK.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to acknowledge the bipartisan efforts of our committee leadership, our chairman, Mr. DINGELL, our Transportation Subcommittee chairman, Mr. SWIFT, and our ranking subcommittee member, Mr. RITTER, in moving this legislation expeditiously. I support this measure to clear up the land title ambiguity on Pelican Island due to its current technical status as navigable waters, and I urge its prompt approval.

Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, this is a good piece of legislation and it talks about economic development and freedom of titles and clarification of who owns what land. But I was listening to debate in the previous suspensions and I happened to think the gentleman from Washington [Mr. SWIFT] is a great Congressman and does an excellent job. I would suggest, though, that this body has a responsibility to stop the bickering on both sides. We are in the minority and they are in the majority. There is frustration on our side, but I have suggested publicly and in other forums that it is time that this House takes the responsibility of leading this Nation by sitting down and developing a package of production of growth and opportunity.

I serve on the Committee on Interior and Insular Affairs, and I work well with my chairman, but I have sat on that committee for 19 years and in that 19 years they have passed one bill out of that committee that provides jobs. That was the Alaskan pipeline bill. They have not had any hearings on the development of oil in Alaska other than what has already been developed, and in fact I hope that the audience today and my colleagues realize one-half of our national trade deficit is the importation of oil. Every barrel of oil, every gallon that we spend money from our Treasury, from our taxpayers to buy that oil deprives us of economic opportunity.

The energy bill that was discussed in the other body and which we hope we will discuss in this body will create very quickly 750,000 new jobs. We talk about jobs bills and the highway bill, a growth bill. If we have an energy bill, an energy policy that the President has brought down to us, we will help create those jobs that the working people of this Nation need. The Members have heard me suggest before that energy is that secret to economic growth.

The gentleman from Washington [Mr. SWIFT] is very fortunate that he has the Columbia River Dam and he is provided with power and growth for this area. Some of the Members in the South with the TVA projects, and yes, some in California with the Hoover Dam, those are projects that were created and built when a crisis of recession occurred under FDR, and the Democrat Party did that.

Yet I do not see any legislation that creates true jobs. I see, yes, the desire for compensation which I voted for, unemployment. But we must start thinking, as the House of the people to lead this Nation, about a growth package. The cornerstone of a growth package is the development and widest use of our natural resources. There are no other real dollars, no other real dollars in our society. Services that consume and distribute do not create new dollars. The Federal Government does not create new dollars.

As I have said, as I have sat on that committee, one bill has passed out that created jobs. That is not the way this body should be operating. We operate at the will and whim of the environment community that cares less about the working people of America.

It is time we get our act together, Mr. Speaker, and start thinking of where the real dollars are coming from. It is from that public land that is available to the public itself for their well-being as well as their environmental well-being.

Mr. LENT. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time to me.

Mr. Speaker, I endorse what the gentleman from Alaska has just said. It is why some of us were very disappointed to hear a statement attributed to the House majority leader on the whole business of growth that appeared in the National Journal's Congressional Daily. It was said in that particular publication that the majority leader indicated that the only thing they were going to do on growth next year was to come up with packages that the President would have to veto.

I quote from what National Journal said:

> The legislator said that the House leaders made it clear at the caucus that they were preparing to run some legislation to the President, let him veto it and then let his veto record be an albatross around his neck.

Talking about growth packages.

That is the reason why we are concerned that if we allow this issue to go over until next year, we may well find that we will have the same kind of scenario as we have had on the unemployment bill; namely, that we were more interested in playing politics and having the President veto bills than we were in actually getting a bill that the President would sign and get the checks flowing.

I think it is interesting to look at this particular bill as well. If I understood the gentleman from Washington [Mr. SWIFT] in introducing this bill, what he suggested was that this bill is principally concerned with assuring that the property values in Galveston and Pelican Island are increased by declaring certain portions of the island nonnavigable.

I am certain that will be very important to the people of that area, but the fact is that if we look around the country, not just in Galveston and on Pelican Island but around the country, people are suffering massive real estate losses at the present time. They find their properties depreciating in value rather than appreciating in value. We need to do something about that as a country. We need to be doing something not just at Pelican Island, we need to be doing something in all 50 States.

So Congress in the last day or the last days of the session comes here to help the people on Pelican Island. What about the people that do not live on Pelican Island? What about the people in the rest of the country, outside of Galveston, who are also suffering real estate losses?

In the economic growth package that we have forward we have a couple of things that would help them. For example, we are going to help the real estate industry with the reform of the passive loss rules. That will allow the real estate industry to begin to recover. It will allow the savings and loan industry to get back on its feet. It will allow the banking industry to get back on its feet, and allow people once again to see appreciation in their property rather than depreciation.

Beyond that, we seek to help some of those people who have seen their property values depreciate by allowing the loss on the sale of a principal residence to be treated as a capital loss. Right now if you bought a home for $75,000 and have to sell it for $70,000 the fact is that you get a $5,000 loss that you cannot write off against your taxes. You take the loss yourself.

Now, under the bill that we would bring forward people would be allowed to write that loss off against their taxes. We would protect middle-class America in this way, and it seems to me that if we are going to discuss losses for Pelican Island we ought to also be discussing the losses around the rest of the country, and we ought to be doing something to assure that all of America gets the appropriate treatment with regard to their property concerns.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, the gentleman made some very good points on this question of the impact of gains and losses when one sells one's house. What I am running into up on Long Island is constituents who bought their homes many years ago, perhaps bought a house let us say 15 or 20 years ago for $50,000 and that house is today worth $150,000.

□ 1510

That is pure capital gain. If that person sells the house because they have lost the job and are unable to maintain the payments on that house and they are going to sell that house and move down to, say, an apartment where their rent is maybe $600 or $700 a month, they face the prospect of paying a $30,000 or $40,000 tax on that gain between $50,000 and $150,000.

The tax in New York is roughly 40 percent. You pay 30 percent Federal and 10 percent New York State income tax at the marginal level. So that provision in there ought to even be expanded so that anyone, and I believe it is in the Republican tax package, so expanded as to permit or to alleviate the impact of capital gains taxes on a homeowner who is selling a home, sometimes something that is only done once or twice in a lifetime, and it is in order to step down and live perhaps in a smaller house, a bungalow or an apartment, perhaps leave New York State, as most of my constituents do the minute they get a chance to retire, because the real estate taxes, the income taxes, the sales taxes are so high, and they move to Florida.

Mr. WALKER. One thing we do to deal with that in the bill is that we allow prospective indexing on capital gains, so that as value is added to the property that you may have, you end up at the close of the sale not having to pay taxes on the inflation that took place, and that would certainly help the kinds of people the gentleman is talking about who are now paying tremendous taxes on inflationary gains during the previous time of owning the home.

Mr. LENT. Mr. Speaker, I yield myself 1 minutes.

Mr. Speaker, I thank the gentleman.

Mr. Speaker, I am always offended when I read the efforts on the part of our Republican party to reduce our tax breaks for the rich. That is baloney.

The average person who is selling a stock, a bond, turning in a pension fund on leaving one job or taking another, or selling a home is very often impacted with very high capital gains taxes, and they really ought to be taxed at a much lower level than ordinary income, and they are presently taxes as if they were ordinary income. So if that person who realizes a $100,000 gain on the sale of a home, in order to move to Florida, in order to retire, in order to move into a little one-bedroom apartment, that person has to pay a capital gains tax which is exactly the same as ordinary income tax, and that can amount to $30,000 or $40,000.

A lot of people, particularly young people who are perhaps, you know, buying a little too high, are very much surprised when they discover to their chagrin that they owe $30,000 or $40,000 to the State of New York and to Uncle Sam when all they did was sell their home to move into cheaper quarters.

Mr. SWIFT. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in strong support of H.R. 1104, legislation, I introduced to waive the Federal Government's right of navigation servitude over portions of Pelican Island in Galveston, TX.

This bill is vital to the economic future of Galveston, as it will protect the city's property tax based, help attract development necessary and essential to produce new jobs for area residents.

The bill is strongly supported by the city of Galveston and a broad coalition of election State representatives, Pelican Island property owners, local organizations, seeking and dedicated to spur economic growth.

Over the past few years, the Galveston district office of the Corps of Engineers has been analyzing various options for a future site for depositing the spoils from its dredging operations in Galveston Channel. In a preliminary report issued in 1988, the corps indicated that one likely option would involve acquiring the site by asserting the right of navigational servitude over privately owned properties on Pelican Island. Derived from the commerce clause of the Constitution by the courts, the right of navigation servitude permits the Federal Government to use, regulate, or compel the removal of obstructions in navigable waters without liability under the fifth amendment for taking.

The right might even be asserted to permit the uncompensated taking of lands, such as portions of Pelican Island, that are now fast lands due to the deliberate filing and natural accretion, but which were once the site of navigable waters.

The prospect of a Federal assertion of navigation servitude created a number of serious problems for both the city of Galveston and property owners on Pelican Island. In effect, a dark cloud now hangs over the title to the lands on that island. This cloud erodes the value of pelican Island properties for ad valorem tax purposed, hampers efforts to attract sorely needed economic development. Under these conditions, any current owner of property on Pelican Island would think twice before investing a dime in improvements, and any prospective owner would most likely seek a safer investment elsewhere.

Passage of the bill will provide clear title to properties on Pelican island, open the way for further economic development. However, while the bill waives the right of navigation servitude, it does not waive the important Federal environmental requirements, such as the Federal Water Pollution Control Act and the National Environmental Policy Act.

The bill specifically states, where applicable, that these and other important statutes and regulations remain in place.

Mr. Speaker, this legislation is not unique. On over 60 separate occasions, dating back to 1894, the Federal Government has waived its right of navigation servitude over certain specific waterways and lands.

The bill is carefully balanced and a prudent proposal to provide the certainty needed for beneficial development of Pelican Island while protecting important Federal interests.

I would urge my colleagues to support this bill.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER]

Mr. ROHRABACHER. Mr. Speaker, so we have heard today that actually this work is just pro forma; it is just taking place. It does not mean anything. This is just what always happens at the end of the session, and that the Republicans have no reason to complain that their growth package is not able to get to the floor.

Well, I think there is some reason for concern that we can have a bill on the floor concerning Pelican Island, and we cannot have a bill on the floor giving tax relief to our senior citizens. There is something wrong with that.

Now, how many of you know someone from Pelican Island? Well, I know a lot of senior citizens who need tax relief. The people on Pelican Island, yes, they need to have something done to cure their property values. Well, I will tell you, there are a lot of American young people out there who are going to buy their first home, and they are concerned about trying to come up with that downpayment.

We have a growth package that will let them use their IRA's to buy their first home. I think a lot more people know couples in that situation than know people who live on Pelican Island.

The fact is that we cannot get a vote on those things. We cannot get them here.

We are now told that that is because all the work is being done in the committee. Well, let me note that almost everything that is in our growth package has been an item that has been blocked in committee by the very same liberal Democrats who control this House, who will not let it come to the floor.

We have had proposals about the IRA, and we have had proposals for tax relief for senior citizens. We have had these tax incentives for the creation of new jobs and businesses. But these things get blocked in committee.

The fact is that the liberal Democrats who control this body cover these issues on the floor.

Instead, what do they do? They declare martial law. Martial law for what purpose? So that we can get these important items done and get them voted on and get them talked about and debated and done and passed to help create jobs, to save our people who are unemployed? No. They declare martial law so they can go on vacation. Is that not great?

I am sure that really makes the American people feel good that right now that we have declared martial law so that we can get these things through, but we cannot talk about a general job-creating, economy-expanding proposal that the Republicans would like to talk about right now.

□ 1520

This is not nit-picking. This is fundamentals.

You know, I have been here for 3 years. The first 2 years I was here, all I saw was the liberal Democrats who control this body doing everything they could to box in the President of the United States in order to force him to accept a tax increase; so finally he did. He accepted the tax increase in exchange for having spending limits on the other side.

Now we hear things on the other side, little scams like forward funding to get around the agreements that were made by this side in order to get the President to agree on a tax increase, when all that gave us was a recession. It gave our people joblessness, and it is about time we do something about it rather than talking about Pelican Island.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Little did I know when I woke up this morning that I would be here in the well of the House of Representatives talking about Pelican Island, TX. I have never been to Pelican Island, TX. I have never heard of Pelican Island, TX.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the gentleman would love it.

Mr. SANTORUM. I am sure I would, I say to the distinguished chairman, I am sure I would love it; but I am concerned about the people on Pelican Island, too. The people on Pelican Island I am sure are here through the vehicle of television who would love to see an economic growth package passed to improve their property values, to eliminate that boat tax that would allow them to use their marinas more. They would like to see America starting to get back on track, it is good politics.

As the gentleman from Pennsylvania [Mr. RIDGE] said earlier, it is good politics.

I have been in the well a few times today, and I do not do so lightly. It is good politics. It is good policy to bring up this growth package. It is a balanced package. This is not the tired old Republican growth package as it has been described that was trotted out here at the last minute. This is a package that reaches out to the people across the aisle and says, listen, we have heard the message. We understand that there is a need for middle-class tax relief. It is in here. We understand the need for looking after senior citizens. It is in here.

We understand the need for getting the economy back on track and creating jobs. It is in here.

This is an honest attempt to reach out and say, please, before we give up this year, before we say that it is more important to go home for Thanksgiving and have a nice month off, before we do that, let us consider the plight of the people in America. Let us consider the plight of the people who want jobs, of the senior citizen who wants to go back to work but because of the high tax of Social Security cannot.

Let us consider the plight of someone who would love to open up a savings account and get some money back from the Federal Government to encourage him to do that.

This is not a savings account for everybody. This is for low- and middle-income people.

This is an attempt to reach out. Please give us the opportunity to at least let it be heard. Let the American public, the people in the galleries and watching on C-SPAN, let them hear what is in here. Let them have a chance to find out whether the people's body is going to do what the people of this country want, which is to get this country back moving and growing again.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is in the motion offered by the gentleman from Washington [Mr. SWIFT] that the house suspend the rules and pass the bill, H.R. 1104, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WAPPINGER CREEK, NEW YORK

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3495) to declare certain portions of Wappinger Creek in Dutchess County, NY, as nonnavigable waters, as amended.

The Clerk read as follows:

H.R. 3495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR WAPPINGER CREEK, DUTCHESS COUNTY, NEW YORK.

Wappinger Creek, in Dutchess County, New York, is declared to be nonnavigable waters of the United States from mile 0.0 at the mouth of Wappinger Creek at the Hudson River to the dam located approximately 2.1 miles upstream.

SEC. 2. APPLICATION OF FEDERAL LAW.

Any bulkheading, filling, or other physical development, including permanent structures and marina facilities, in the area described in section 1 is subject to all applicable Federal law and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the Rivers and Harbors Appropriation Act of 1899)(33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3495, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, this bill will permit Metro-North Commuter Railroad to maintain the Wappinger Creek Bridge as a permanently closed structure. At one time this drawbridge needed to be in operating condition to allow barge traffic to pass through it; however, that need no longer exists.

The bridge has not been opened since the last 1970's. Its operating mechanism has been severely damaged and would require a major financial investment on the part of Metro-North to put it in proper operating shape. Requiring the bridge to be opened could severely disrupt commuter train schedules, and could also have a negative impact on a wildlife sanctuary located upstream.

We have received letters of support for H.R. 3495 from the New York State Department of Transportation, Dutchess County, Amtrak, Metro-North, the Audubon Society, and the Nature Conservancy.

The Subcommittee on Transportation and Hazardous Materials adopted a bipartisan amendment that permits the Federal Government to enforce all applicable laws in the area declared nonnavigable. The Committee on Energy and Commerce ordered this bill reported on November 7, by voice vote. I urge that the House adopt this legislation. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the author of this bill, I want to pay my respects to the gentleman from New York [Mr. FISH] for bringing this matter to our attention and to acknowledge his able and helpful assistance in moving this bill expeditiously through the Energy and Commerce Committee, as well as the assistance that I received from our chairman, the gentleman from Michigan, our Transportation Subcommittee Chairman, the gentleman from Washington, and our subcommittee ranking member, the gentleman from Pennsylvania.

I introduced this bill to avoid possible disruption of rail service and financial hardship for the rail passenger carriers who operate along the bank of the Hudson River. Every day, over 30,000 commuters and hundreds of Amtrak passengers cross the Wappinger Creek Bridge on their way in or out of New York City from the Hudson Valley. Some 70 trains a day, run by Amtrak, Metro-North, and Conrail, use the bridge daily.

This bridge, built as a drawbridge just after the turn of the century, is no longer mechanically functional. No commercial facilities exist upstream from it anymore, and no one has sought to have it raised in more than a decade. Yet technically, because the creek is legally classified as navigable waters, the legal requirement for a functioning drawbridge remains in effect.

Unless the railroads are relieved of this requirement, at least $6 million of scarce transportation funds must come from New York or Federal taxpayers to rebuild a drawbridge capacity that no one needs. And that does not count the continuing cost of manning and maintaining the bridge, and the horrendous disruption of rail travel that opening the bridge would cause.

That is why I introduced this bill to reclassify Wappinger Creek as non-navigable waters. The bill has the strong support of Amtrak, of the New York State Transportation Department, and of the New York Metropolitan Transportation Authority, the operator of the Metro-North Commuter Railroad. This bill was considered and approved by the Energy and Commerce Committee pursuant to its jurisdiction over inland waterways, as set out in House rule X, clause 1(h)(10). However, because this bill affects the status of the bridge for purposes of Coast Guard regulation and safety measures, we also consulted the Committee on Merchant Marine and Fisheries, where I serve as ranking member of its Merchant Marine Subcommittee. Through the cooperative efforts of that committee's chairman, Mr. JONES, the ranking member, Mr. DAVIS, the subcommittee chairman, Mr. TAUZIN, and the subcommittee ranking member, Mr. FIELDS, we were able to fashion a technically improved version of the bill.

Even after the legal status of the bridge has been changed by this legislation, the Department of Transportation's Federal Railroad Administration will continue to have complete safety jursidiction over the bridge as a railroad structure, including the condition of its track. Thus, there will be no gap in Federal safety authority over the bridge.

Mr. Speaker, I urge the prompt approval of this legislation.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

As I understand this bill, what we are really attempting to do here is maintain a railroad commuting line into New York City for essentially middle-income people who are out in the suburbs and have to commute in to New York City every day. The bill certainly seems to have merit, if that is what we are attempting to do.

□ 1530

Those people are obviously folks who have a great deal of interest in some of the other things that we have been discussing here. For example, I would guess that there are a number of people who are in the city, for example, right now who are thinking someday about maybe buying a nice, small home out in the suburbs so that they can commute into the city each day, who would be appreciative of a way of getting the money to buy their home.

For example, in the economic growth package that we are attempting to bring to the floor before the end of the session, suggests that individuals should be able to draw down their IRA funds so that they can use that money to buy that first home and do so without withdrawal penalty.

It seems to me an awful lot of those folks who are riding that rail back and forth each day across the Wappinger Creek would like that opportunity, if not for themselves, for their children, or there are people who are not now commuting who would maybe prefer to be commuting from their own home somewhere out in the suburbs, who would prefer to have that kind of a piece of the Tax Code.

I would hope that we would think not only of the people that ride across the Wappinger Creek but all across America who are in similar circumstances who would also appreciate the opportunity to get into the home market for the first time, something that is being denied to them right now.

There is another thing in here that it seems to me those people might want to reflect upon while they are riding that commuter rail across Wappinger Creek into New York City; an awful lot of them would love to have an opportunity to save more money for their families. These are not people probably for the most part who are high-income people. They are probably people who are making salaries that are very middle income oriented.

In the economic growth plan that we seek to bring before the House, we look at taxpayers with adjusted gross incomes of up to $50,000 as people who ought to be given additional incentives to save.

What we say in the package is that we will exclude from taxation a limited amount of interest income over the next couple of years.

Specifically, for single taxpayers we would give them $350, or for a dual-income family they can get up to $700 of tax-free interest on their savings. That would also provide them with some incentives to be more economically active and would obviously benefit the economy as a whole.

So, while doing something of this kind absolutely—and I am talking about the bill now before us—absolutely helps those middle-income people continue to have the train to ride back and forth to New York for their job, we think it is important to take up a bill that first of all will allow them to keep the job by keeping the economy growing again and, second, assure that they have some ability to save and some ability to buy homes.

My guess is as they ride across the Wappinger Creek, they would prefer the Congress to do that rather than spending its time on issues that are not quite as essential.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3495, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMITTING SECRETARY OF HEALTH AND HUMAN SERVICES TO WAIVE CERTAIN RECOVERY REQUIREMENTS WITH RESPECT TO FACILITIES

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1891) to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes, as amended.

The Clerk read as follows:

S. 1891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 2. USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS ON RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1891 is to permit the Secretary of Health and Human Services to waive, for good cause, the recovery rights of the United States to funds provided entities under the Community Mental Health Centers Act for remodeling, construction or expansion of facilities. The legislation was passed unanimously by the Senate. The amendment approved by the committee includes a provision authored by the gentleman from Georgia [Mr. ROWLAND] which provides limited authority to the Attorney General to permit the transfer and use of forfeited real property for scenic or historic preservation.

There is special urgency to the consideration of this legislation. The passage of S. 1891 in the Senate was intended to assist efforts in Beaufort, SC, to improve the delivery of community mental health services. The Coastal Empire Mental Health Center proposed to construct a new community mental health center on donated land and with funds obtained through the sale of their existing facility to a local hospital desiring to expand. For construction of the hospital expansion to proceed, it is necessary for the community mental health center to receive a good cause waiver of U.S. recovery rights from the Department of Health and Human Services. The Department has expressed sympathy with the South Carolina proposal but is not permitted under existing law to grant the waiver.

Mr. Speaker, under current law, community mental health centers which received Federal construction funding are obligated to provide services within their community for a 20-year period. In the event the center fails to provide services for the specified period, the Federal Government is entitled to recover Federal construction funds plus interest. The Public Health Service Act authorizes a good-cause waiver at the discretion of the Secretary when the facility "ceases to be used by a community mental health center in the provision of comprehensive mental health services." The act (42 U.S.C. 300aaa–12) does not authorize a waiver of Federal recovery when a community mental health center's [CMHC] facility is sold or transferred to an entity that does not plan to use it as a CMHC. This is the case even when the proceeds of a proposed sale are to be used to construct a new facility that will improve the quality and availability of community mental health services.

S. 1891 will provide the Secretary of Health and Human Services authority similar to that which governs recovery for hospitals under the Hill-Burton Program (42 U.S.C. 291i(d)). The committee expects that waivers will only be granted when the proceeds from a sale or transfer of a facility are to be used to construct or acquire a new mental health facility. Furthermore, the granting of a waiver is limited to a case-by-case review by the Secretary and should not be granted unless the Secretary determines that the waiver would result in an improved level of care to the mentally ill.

In addition, the legislation grants the Attorney General limited authority to transfer to States the title of forfeited real property which is of historic or recreational value. The legislation amends the Controlled Substances Act to authorize the Attorney General to grant the request of a Governor that forfeited real property be deeded to States desiring to preserve such land for public use. States would be required to maintain the property for this purpose in perpetuity. Title would revert back to the United States in the event the property was used otherwise.

The legislation is critically important to permit the preservation of a 36-acre, heavily forested track of land located in Cobb County, GA. Title to the land is currently held by the Department of Justice and a public sale for development has been postponed pending action by Congress. Georgia Gov. Zell Miller has written the Attorney General citing the property as unique and expressing the State's desire to preserve the land as a park or nature preserve. Passage of the legislation is necessary to preserve the property for public use.

Current law is inflexible on this subject. When real property is determined to be of no value to the Federal Government, the Attorney General is required to put the property up for sale. While this may be appropriate action for the disposition of forfeited cars, speedboats or houses, in those limited circumstances when a natural area is suitable for use as a State park or wildlife preserve, Federal law should possess the flexibility to deter to a greater public interest. The interests of a State in preserving natural areas for public benefit—particularly the benefit of young people seeking recreational alternatives to the streets—should take priority over whatever temporary monetary advantage might be achieved by selling such property to private interests.

Mr. Speaker, the amendment is a modest but vitally important proposal that will assist Georgia and other States to preserve their natural heritage.

I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to the consideration of this bill. It addresses two very narrow situations that require legislation.

The first grants a waiver that would permit the Coastal Empire Mental Health Center in Beaufort, SC to expand its services.

The second provision authorizes the Attorney General, upon request, to transfer to a Governor real property that has been forfeited under the Controlled Substances Act so that such land can be preserved for public use. States would be required to maintain the property for this purpose in perpetuity. Title to the land would revert back to the United States in the event the property was used otherwise.

This section is designed to facilitate the transfer of title of certain lands in Cobb County, GA, to the Governor of that State to create a county nature park.

I know of no objection to this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my good friend who has been enormously interested in this legislation the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, S. 1891 contains legislation which I introduced in October with my colleague from Georgia, BUDDY DARDEN. This legislation will amend the Controlled Substances Act with regard to the purchase of seized property which is suitable for use as public land.

A tract of land was recently seized by the Drug Enforcement Agency during a drug arrest in Cobb County, GA, by the Drug Enforcement Agency. This land is heavily forested with old growth trees and native azaleas and has outstanding springs, waterfalls, and other natural resources.

Gov. Zell Miller of Georgia has requested that Cobb County be given the opportunity to acquire this land for use as a county park. The Governor has undertaken an initiative called Preservation 2000, a plan to acquire land for public use in the State. He also has encouraged county governments to acquire lands for public use.

This legislation is required to allow transfer of the land to Cobb County. The bill would provide that, in cases in which a chief executive officer of a State submits a request to the Attorney General regarding criminally forfeited land which is appropriate for use as a public area, the Attorney General may transfer title of the property to the State. This language was accepted as an amendment to the crime bill on the floor of the House last month, but swift action is needed to ensure that the property will be preserved. I appreciate the cooperation of the chairman of the full Energy and Commerce Committee, JOHN DINGELL, and the Subcommittee on Health in the Environment, HENRY WAXMAN, in helping us to bring this legislation to the floor.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, again what we are proving with this bill is that we can act on behalf of public land. In a narrow instance, we can take actions with regard to public property. What is not clear is that Congress is not willing to act on issues relating to the property value decline that many Americans are suffering all over the country. We have a crisis in this country that has led to multimillion-dollar taxpayer bailouts.

The reason we are having to bail out savings-and-loans is that we have had a rapid depreciation in real estate values. The assets held by savings and loans are largely real estate, and they have been badly abused as agencies and as institutions because of the lack of property values.

□ 1540

Mr. Speaker, the same thing with our banks. Their real estate assets in decline have led to a major financial problem to our banks, and the taxpayers are being asked, to the tune of billions, and billions and billions of dollars, to bail out those institutions.

Now we have an opportunity to do something about, not only that, but also the declining property values that people find themselves faced with. We do have an opportunity to pass legislation that, with a capital gains tax cut, with a revision in passive loss rules, with first-time home buyers incentives, with middle income savings plans and with properly treating losses on principal residences, that we can begin the job of improving property values in this country.

Mr. Speaker, we ought not just think in narrow terms of what we have to do about property being traded between the State governments and the Federal Government. We ought to be thinking about the properties of all Americans. If we could bring to the floor a real economic growth bill in the next few days, what we could get is some help for property owners all across the country who find themselves in desperate straits. We could help those people who may have to sell their properties at a loss by giving them a chance to write that loss off. We could give those people who are going to sell their properties in order to go into retirement a chance to get appropriate capital gains tax treatment. We can help those young home owners or young couples who want to become homeowners to get the money that they need in order to invest in that home by cashing in their IRA's with penalty.

Mr. Speaker, we can do a number of things to help, and we could reform the passive loss problems in real estate that would help recapitalize the industry. Those are the kinds of programs that ought to be considered here.

This very narrow bill is certainly something that is appropriate for Congress to do. The question is whether or not it is the highest priority item for Congress to do. The highest priority before we go home should be to create a climate for economic growth. I hope we can do so.

Mr. DARDEN. Mr. Speaker, I rise in strong support of S. 1891. This bill has bipartisan support and is essential in assuring the continued operation of certain medical facilities. However, not only does this bill address certain inequities in medical facilities regulation, but an amendment to this bill approved by the Committee on Energy and Commerce enhances our Drug Enforcement and Environmental Protection Program.

This amendment, which my colleague Representative ROWLAND and I also were able to include in the crime bill, would allow the Attorney General to give States authority over property confiscated as the result of criminal activity if that property is suitable for recreational or historic preservation purposes.

While this provision may seem insignificant in comparison to the major issues to be decided this week, it is crucial to States such as Georgia, where rapid growth has resulted in both an increase in criminal activity and the elimination of much of our open spaces. The Justice Department's Asset Forfeiture Program has as its primary goal the enhancement of cooperation between Federal, State and local officials. I can think of no better encouragement than the use of property confiscated from criminals in the insidious drug trade than for the benefit of communities plagued by this type of activity.

This proposal does not seek the wholesale confiscation of private property. This is property already owned by the Federal Government as the result of criminal activity and subject to appropriate disposition. Allowing this land to be used for parks would be of lasting benefit both to the environment and to the public. This bill, which includes the asset forfeiture language, is reasonable and responsible, and I urge my colleagues' support.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the Senate bill, S. 1891, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1891, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WHITE CLAY CREEK STUDY ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3012) to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

The Clerk read as follows:

H.R. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "White Clay Creek Study Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the White Clay Creek watershed is one of only a few relatively undisturbed areas remaining within one of the most densely populated areas in the country;

(2) the Creek and several of its tributaries were placed on the Nationwide Rivers Inventory List by the National Park Service for initially meeting the criteria of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(3) the concerns and interests of those people who live, work, and recreate within the watershed will be reflected in the development of a study and management plan by the Secretary of the Interior pursuant to this Act; and

(4) the conservation of the watershed, and its outstanding natural, cultural, and recreational values, is important to the residents within the watershed and to the residents within the surrounding suburban and urban areas of Delaware and Pennsylvania.

SEC. 3. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"(112) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The headwaters of the river in Pennsylvania to its confluence with the Christina River in Delaware, including the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries as determined by the Secretary of the Interior (herein after referred to as the White Clay Creek).".

SEC. 4. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"(11)(A) The study of the White Clay Creek in Delaware and Pennsylvania shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.

"(B) In carrying out the study, the Secretary of the Interior shall prepare a map of the White Clay Creek watershed in Delaware and Pennsylvania, and shall develop a recommended management plan for the White Clay Creek. The plan shall provide recommendations as to the protection and management of the White Clay Creek, including the role the State and local governments, and affected landowners, should play in the management of the White Clay Creek if it is designated as a component of the National Wild and Scenic Rivers System.

"(C) The Secretary shall prepare the study, including the recommended management plan, in cooperation and consultation with appropriate State and local governments, and affected landowners.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3012 is a bill introduced by the gentleman from Delaware [Mr. CARPER] and my Interior Committee colleague from Pennsylvania [Mr. SCHULZE]. It would amend the Wild and Scenic Rivers Act to require a study of White Clay Creek, in Pennsylvania and Delaware, for possible inclusion in the National Wild and Scenic Rivers System.

White Clay Creek rises in Chester County, Pennsylvania, and joins the Christiana River in Delaware. Its watershed is unusual because it is relatively undisturbed, even though it is in one of the Nation's most heavily populated areas. White Clay Creek and several of its tributaries were identified as suitable for further study in the National Park Service's 1982 nationwide rivers inventory.

Under the bill, the National Park Service would study the entire watershed, including some tributaries not included in the 1982 inventory. At our hearing, the administration testified that they had no objection to studying these additional stream segments.

So far as I am aware, H.R. 3012 is not controversial. At our hearing, the administration testified in support of the bill. They did note that they believed some of its language was redundant, because it reiterates some of the provisions of the Wild and Scenic Rivers Act related to coordination with State and local governments and others. However, I believe that it does no harm to have these provisions included in the bill, since they merely reiterate the study process that the National Park Service will follow in any event.

The Interior Committee approved H.R. 3012 bill without amendment. I know of no opposition to it, and I urge its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are about to consider a number of bills that have come out of the Committee on Interior and Insular Affairs, and I think I should point out to those who are listening and watching that I agree very strongly with the remarks that have been made by my colleagues on this side of the aisle about the importance of having an economic development package of legislation, and I would hope that we will be allowed to vote on that before we go home. I think that certainly is more important than getting out of here for Thanksgiving.

On a personal note, I would remind those who do not know, and that is probably almost everybody that is listening, that one of the items in that package is the allowance of use of IRA funds for first-time home buyers. I introduced that legislation about 10 years ago. We are still waiting for the House to take it up, and I think it would be very helpful, not only to those who are waiting and who would like to buy a home and are unable to come up with the funds for a down payment, but it would be very helpful to the economy as well by promoting construction of homes and all that goes with that.

But, Mr. Speaker, as I say, we do have a number of bills before us today. They are important bills, they should be considered, and I hope that we will get on with doing that.

Mr. Speaker, I rise in support of H.R. 3012, a bill to designate about 100 miles of streams in the White Clay Creek watershed for study under the Wild and Scenic Rivers Act. During our hearing on this measure, we learned that the National Park Service has determined that about 23 miles of White Clay Creek was potentially suitable for designation under the Wild and Scenic Rivers Act. It is my understanding that the balance of the river miles included in this study are largely small tributaries which probably do not have the outstanding resource values to qualify for designation under the Wild and Scenic Rivers Act.

A major issue associated with White Clay Creek protection is enhancement of water quality, since this stream and its tributaries serve as a water source for large metropolitan areas. While I believe that designation of an entire watershed for study under the Wild and Scenic Rivers Act is unprecedented, I do not object to this study bill because absent a study of this scope, the needs of the proponents of this measure are unlikely to be met.

However, I would have to review any future designation of White Clay Creek under the Wild and Scenic Rivers Act very carefully to ensure that any such designation is fully consistent with the requirements under the act.

I urge my colleagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER] who is the sponsor of this measure.

Mr. CARPER. Mr. Speaker, today I rise in strong support of H.R. 3012, the White Clay Creek Study Act of 1991. Let me express to both the gentleman from Minnesota [Mr. VENTO] and to the gentleman from California [Mr. LAGOMARSINO] my deep appreciation for their support in, not only this legislation today, but also for expediting its consideration. I also want to thank the gentleman from Pennsylvania [Mr. SCHULZE] for joining me as a principal cosponsor of this bill and for helping us to guide it through the Committee on Interior and Insular Affairs.

The White Clay Creek Study Act, as has been indicated earlier, would authorize the National Park Service to evaluate the eligibility of the White Clay Creek for designation as part of the National Wild and Scenic Rivers System. In addition to a study, the bill would authorize the National Park Service to prepare a management plan for the creek and several of its tributaries.

The White Clay Creek watershed is roughly equidistant between the cities of Philadelphia and Baltimore, and is approximately 20 miles from the city of Wilmington. The headwaters of the creek are in Chester County, PA. They drain a watershed of pastures, cultivated croplands, and forest land. The creek flows south through an 1,800-acre bi-State preserve to Carpenter State Park and then east through the city of Newark to Churchman's Marsh, where it and the Red Clay Creek meet the Christina River, a tributary of the Delaware River.

During the late 1960's, a dam and reservoir were proposed for the White Clay Creek to meet projected water demands for New Castle County. The Dam was to be 1 mile upstream from the city of Newark and expected to flood 1,400 acres. To facilitate the reservoir's construction, more than 2,000 acres of White Clay Creek land were purchased by the Du Pont Co. during the 1970's.

The reservoir proposal, however, ran into stiff opposition from local residents in both Delaware and Pennsylvania. Organizations like the Coalition for Natural Stream valleys, the White Clay Watershed Association, and Citizens for White Clay Creek arose to oppose the reservoir in an effort to protect the natural, recreational, and cultural values within the watershed. Their efforts combined with revised water-use projections resulted in the termination of the project in the early 1980's.

In 1984, the Du Pont Co. announced that it would donate 1,700 acres to the State of Delaware and to the Commonwealth of Pennsylvania "to be developed, operated, and maintained as a bi-State park." Since that donation, both Delaware and Pennsylvania have increased their acquisition of land within the watershed. Today, I believe that the White Clay Creek watershed represents one of only a few large relatively undisturbed natural areas still remaining between Philadelphia and Baltimore.

The watershed provides relief from the pressures of urban living through an extensive network of trails on which to bike or walk. It also provides some of the best trout fishing in the area and contains a rich diversity of plant and animal life, including several State and federally recognized threatened and endangered species.

In January 1981, the area's outstanding natural, recreational, and cultural values were officially recognized by the National Park Service when several segments of the White Clay Creek were identified as potential candidates for wild and scenic river designation in the nationwide rivers inventory.

The White Clay Creek has already benefited from a number of studies, including one by the National Park Service in 1984, on what is now the White Clay Creek preserve. The 1984 report described this section of the watershed as "a unique area that should not be lost."

I believe that the comprehensive study that we call for in our legislation would complement the 1984 park service study and build on what has been discovered by the various organizations involved with protecting and understanding the White Clay Creek watershed.

Passage of the White Clay Creek Study Act will not only allow the park service to conduct a comprehensive study of the creek and several of its tributaries, but it will also provide the States and local communities with the expertise and resources necessary to effectively guide future growth.

Mr. Speaker, I believe that the White Clay Creek watershed is a resource worth protecting, not only for the constituents of my State but also for the constituents of other Middle Atlantic States as well.

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Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, today we have had a lot of discussion on important items, like gambling on boats, property values on Pelican Island, and now White Clay Creek. Later we will hear about the Big Thickets National Preserve in Texas and about other very important items.

I am not saying that I oppose any one of these particular items being proposed here today. I am not. What I am suggesting and what the Republicans are suggesting is that it speaks volumes of us, of this institution, that we are here discussing gambling, boats, property values on Pelican Island, White Clay Creek, and Big Thicket National Preserve at a time when investment funds around this country are drying up, at a time when job creation is already like a dry river bed, and when the jobless people of this country are thirsting for employment and are in desperate circumstances and there is an alternative to speaking about Pelican Island and gambling boats, when we could be speaking about job creation, we could be speaking about an economy-expanding package that the Republicans would like to talk about.

Instead of talking about property values on Pelican Island, we could be talking about tax relief for senior citizens, we could be talking about a means of providing our young people with buying their first home, we could be talking about incentives for job creation, we could be talking about a stimulus to economic growth.

But instead we are talking about these items, these items which in and of themselves are fine, but at a time when our people are struggling to find a way to make ends meet, at a time when people are worried that their jobs will not be around tomorrow, we keep talking about these nonsensical items which would not be important that much in terms of jobs and economic growth to our overall economy.

Mr. Speaker, we have a growth package that has been proposed to this body. Instead of having any serious consideration of it, we are told that we have to talk about gambling boats, property values on Pelican Island, et cetera. We have proposed a growth package which will help people provide jobs and stimulate the economy. Instead, what we have from the other side, from the liberal Democrats who control this body, is a declaration of martial law so that they can go on vacation. At a time when more and more American citizens are facing unemployment benefits, it is time for this body to go on vacation.

Mr. Speaker, I think that this shows the priorities and the values on this side of the aisle, on that side of the aisle, and that the American people should take that into consideration.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3012.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LOWER MERCED RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2431) to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 2431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(62)) is amended—

(1) by striking "The main stem" and inserting in lieu thereof "(A) The main stem";

(2) by striking "paragraph" wherever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following at the end thereof:

"(B) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum normal water surface elevation of Lake McClure (elevation 867 feet mean sea level), consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April 1990. The Secretary of the Interior shall administer the segment designated under this subparagraph as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the point of maximum normal water surface elevation of Lake McClure. With respect to the segment designated by this subparagraph, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), is amended by adding the following new paragraph at the end thereof.

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River.".

SEC. 3. WITHDRAWAL FROM MINERAL ENTRY.

In the case of those segments on the main stem of the Merced River and on the South Fork Merced River which are designated as components of the wild and scenic river system pursuant to the Wild and Scenic Rivers Act and administered under that Act as recreational or scenic, all public lands within the authorized boundaries of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

SEC. 4. SAXON CREEK PROJECT.

To the extent permitted by, and in a manner consistent with, section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in Bureau of Land Management right of way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the "Saxon Creek Project" to assure an adequate supply of water from the Merced River to Mariposa County.

SEC. 4. EXCHEQUER PROJECT.

Nothing in this Act shall be construed as affecting the authority of the Federal Energy Regulatory Commission to relicense Project No. 2179 (the New Exchequer Project) within the boundaries of such project set forth in the license for such project in effect on the date of enactment of this Act, or as precluding the holder of such license from operating Lake McClure reservoir at a maximum normal water surface elevation of 867 feet above mean sea level before or after any such relicensing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 2431.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3431 is a bill introduced by the gentleman from California [Mr. CONDIT] that would designate a portion of the Merced River for inclusion in the National Wild and Scenic Rivers System, and require a study of the north fork of the Merced River for possible similar designation in the future.

The river segments covered by the bill have many outstanding characteristics that have led the Bureau of Land Management and the Forest Service to recommend adoption of this bill.

This bill is not a new proposal, Mr. Speaker, but rather a matter on which the House acted during the last Congress. In fact, the Senate passed a Merced River bill as well, but unfortunately they added some unrelated matters and acted too late in the session for a resolution of the differences.

As was brought out at the hearing of the Subcommittee on National Parks and Public Lands on H.R. 2431 this fall, the only thing that has changed is that a question has been raised about the possible effects, someday in the future, on relicensing of an existing project located at the end of the river segments covered by the bill. The bill as introduced included language, in section 5, addressing that question.

Mr. Speaker, I believe that such language is unnecessary. However, recognizing that there is disagreement about some of the specific facts involved, I reluctantly agreed to inclusion of such a provision in the bill this year. Accordingly, while the bill was being considered in subcommittee, I worked with the bill's sponsor, Mr. CONDIT, and other interested parties to develop an amendment that was later adopted by the Interior Committee and is included in the bill now before the House.

That amendment revised section 5 of H.R. 2431, to specify what, in any event, would be the case—namely, that the designation of the river segment involved will not preclude future relicensing of the new exchequer project or the continued operation of Lake McClure with a maximum normal-surface elevation of 867 feet above mean sea level, as is now the case.

It is my understanding that as so amended, the bill is satisfactory to all parties. Designation of the river segments involved here was recommended by the Bureau of Land Management and is supported by the administration. I urge that the House approve H.R. 2431.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2431. This bill, which Mr. CONDIT has brought before this body, represents an excellent example of cooperation among diverse interest groups. It is all too often that our subcommittee is forced to make a black or white choice between development and preservation. These choices are usually forced upon our committee because one party to a dispute adopts an all-or-nothing strategy, and succeeds in elevating the issue to a congressional level.

Unfortunately, the committees of Congress are rarely the best place to make such decisions. Rarely do congressional committees have adequate time or knowledge to devote to a single topic, as in the case of the Lower Merced River designation where local people have been working on the issue for about 5 years. In this particular case, a diverse group of local interest have come together and developed a solution which meets all of their needs and I commend Mr. CONDIT for providing the opportunity for this locally based initiative to succeed. This measure is also significant in that it illustrates the flexibility inherent in the Wild and Scenic Rivers Act. This act was never intended by its authors to be an absolute preservation statute, but only designed to protect certain outstanding remarkable resource values of certain river segments.

I recognize that on some issues of national importance or intense polarization, our subcommittee will have to step in. I hope that we in Congress can learn from this measure that micromanagement of Federal lands from Capitol Hill should be the avenue of last resort, not the place where the issue should be first heard.

This bill, which designates 8 miles of the Merced River, is very similar to a measure which passed both Houses last year and I strongly urge my colleagues to join the administration in supporting this measure.

Mr. VENTO. Mr. Speaker, I want to thank the gentleman from California [Mr. LAGOMARSINO] for his cooperation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. CONDIT], the sponsor of this measure.

Mr. CONDIT. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, for his assistance in bringing this bill to the floor. He has been quite understanding and helpful with me and some of the constituency groups in my district, and I certainly appreciate that.

I would also like to thank my colleague from California [Mr. LAGOMARSINO] for his help, and also the subcommittee staff.

Mr. Speaker, I am pleased that the 102d Congress is taking action today on H.R. 2431, legislation that I introduced to designate 8 miles of the Merced River as wild and scenic. The House passed similar legislation last year. Unfortunately, in the last hours of the 101st Congress we were unable to have the Senate pass identical legislation.

This bill will complete the action taken by the 100th Congress. At that time, 71 miles of the Merced River were designated as wild and scenic and a study was authorized to be conducted on 8 remaining miles from Briceburg to the Lake McClure reservoir.

These 8 miles were not initially included in the designation in order to allow Mariposa County to complete a proposal for a water system that would be compatible with the requirements of the Wild and Scenic Rivers Act. The county has designed a project that will be compatible and the county board of supervisors unanimously supports my legislation.

This bill also addresses the concerns of the Merced Irrigation District. The district was concerned about the effect of this bill on their FERC license. The language included in the H.R. 2431 clearly states that the designation of the river does not in any way interfere with the operation of the new exchequer project as currently licensed and the operation of Lake McClure Reservoir at an elevation of 867 feet.

I am pleased that the committee report to accompany the bill addresses the issue of alternative transportation in Yosemite National Park. There is an effort underway in Mariposa County to rebuild the railroad within Yosemite National Park. The proposed railroad would run along the Merced River. I believe that alternative modes of transportation in the park are necessary and hope that Congress will work with local and State organizations to facilitate these changes.

I believe that the unique beauty of the Merced makes it a prime choice for inclusion in the Wild and Scenic Rivers System. The action we are taking today will ensure that the beauty of the river will be preserved for generations to enjoy.

I urge my colleagues to support passage of H.R. 2431.

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Mr. VENTO. Mr. Speaker, I thank the gentleman for his excellent statement and work on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2431, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2141) to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The public lands managed by the Bureau of Land Management in the State of Idaho within the Snake River Birds of Prey Area contain one of the densest known nesting populations of eagles, falcons, owls, hawks, and other birds of prey (raptors) in North America.

(2) These public lands constitute a valuable national biological and educational resource since birds of prey are important components of the ecosystem and indicators of environmental quality, and contribute significantly to the quality of wildlife and human communities.

(3) These public lands also contain important historic and cultural resources (including significant archeological resources) as well as other resources and values, all of which should be protected and appropriately managed.

(4) A military training area within the Snake River Birds of Prey Area, known as the Orchard Training Area, has been used since 1953 by reserve components of the Armed Forces. Military use of this area is

currently governed by a Memorandum of Understanding between the Bureau of Land Management and the State of Idaho Military Division, dated May 1985. Operating under this Memorandum of Understanding, the Idaho National Guard has provided valuable assistance to the Bureau of Land Management with respect to fire control and other aspects of management of the Orchard Training Area and the other lands in the Snake River Birds of Prey Area. Military use of the lands within the Orchard Training Area should continue in accordance with such Memorandum of Understand (or extension or renewal thereof), the to extent consistent with section 4(e) of this Act, because this would be in the best interest of training of the reserve components (an important aspect of national security) and of the local economy.

(5) Continued management and protection of the area should be accomplished by the Secretary of the Interior, acting through the Bureau of Land Management, under a management regime that—

(A) emphasizes management, protection, and enhancement of raptor habitat and protection of the other resources and values of the area;

(B) provides for continued military use, consistent with the requirements of section 4(e) of this Act, of the Orchard Training Area by reserve components of the Armed Forces;

(C) addresses the need for public educational and interpretive opportunities;

(D) allows for diverse appropriate uses of lands in the area to the extent compatible with the maintenance and enhancement of raptor populations and habitats and protection and sound management of other resources and values of the area; and

(E) demonstrates management practices and techniques that may be useful to other areas of the public lands and elsewhere.

(6) There is established near the conservation area a facility, the World Center for Birds of Prey operated by The Peregrine Fund, Inc., where research, public education, recovery, and re-establishment operations exist for endangered raptor species. There is also established at Boise State University a raptor study program which attracts national and international graduate and undergraduate students.

(7) Bureau of Land Management and Boise State University, together with other State, Federal, and private entities, have formed the Raptor Research and Technical Assistance Center to be housed at Boise State University, which provides a unique adjunct to the conservation area for raptor management, recovery, research, and public visitation, interpretation, and education.

(8) Consistent with requirements of sections 202 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1732), the Secretary has developed a comprehensive management plan and, based on such plan, has implemented a management program for the public lands included in the conservation area established by this Act.

(9) Additional authority and guidance must be provided to assure that essential raptor habitat remains in public ownership, to facilitate sound and effective planning and management, to provide for effective public interpretation and education, to ensure continued study of the relationship of humans and these raptors, to preserve the unique and irreplaceable habitat of the conservation area, and to conserve and properly manage the other natural resources of the area in concert with maintenance of this habitat.

(10) An ongoing research program funded by the Bureau of Land Management and the National Guard is intended to provide information to be used in connection with future decisionmaking concerning management of all uses, including continued military use, of public lands within the Snake River Birds of Prey Area.

(11) The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management of ratpor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "conservation area" means the Snake River Birds of Prey National Conservation Area established by section 3.

(3) The term "raptor" or "raptors" means individuals or populations of eagles, falcons, owls, hawks, and other birds of prey.

(4) The term "raptor habitat" includes the habitat of the raptor prey base within the conservation area as well as the nesting and hunting habitat of raptors.

(5) The term "Memorandum of Understanding" means the Memorandum of Understanding #ID-237, dated May 1985, between the State of Idaho Military Division and the Bureau of Land Management.

(6) The term "Orchard Training Area" means that area generally so depicted on the map referred to in section 3(b), and as described in the Memorandum of Understanding.

(7) The term "Impact Area" means that area which was used for the firing of live artillery projectiles and is used for live fire ranges of all types and, therefore, poses a danger to public safety and which is generally so depicted on the map referred to in section 3(b).

(8) The term "Artillery Impact Area" means that area within the Impact Area into which live artillery projectiles are fired, which is generally described as that area labeled as such on the map referred to in section 3(b).

(9) The term "the plan" means the comprehensive management plan developed for the conservation area, dated August 30, 1985, together with such revisions thereto as may be required in order to implement this Act.

SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) PURPOSES AND ESTABLISHMENT.—In order to provide for the conservation, protection, and enhancement of raptor populations and habitats, and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area, there is hereby established the Snake River Birds of Prey National Conservation Area.

(b) AREA INCLUDED.—The conservation area shall consist of approximately 482,457 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "Snake River Birds of Prey National Conservation Area", dated November 1991.

(c) MAP AND LEGAL DESCRIPTION.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map shall have the same force and effect as if included in this Act; except that the Secretary may correct clerical and typographical errors in such map and legal description. Such map shall be on file and available for public inspection in the office of the Director and the Idaho State Director of the Bureau of Land Management of the Department of the Interior.

(d) WITHDRAWALS.—(1) Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal (except as provided in paragraph (3)) under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), the Act of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred to as the "State of Idaho Admissions Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes, as amended (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action.

(2) Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from location, entry, and patent under the mining laws of the United States and from operation of the mineral and geothermal leasing laws.

(3) If the Secretary determines that it would further the purposes for which the conservation area is established, the Secretary, pursuant to section 206 of the Federal Land Policy and Management Act of 1976, may exchange public lands either within or outside the boundaries of the conservation area for non-Federal lands within such boundaries.

SEC. 4. MANAGEMENT AND USE.

(a) IN GENERAL.—(1)(A) As soon as possible after the date of enactment of this Act, the Secretary shall make such revisions in the plan as required in order to implement this Act.

(B) Thereafter, the Secretary shall review the plan at least once every four years and shall make such revisions as may be necessary or appropriate.

(C) In reviewing and revising the plan, the Secretary shall provide for appropriate public participation.

(2) Except as otherwise specifically provided in subsections (d), (e), and (f) of this section, the Secretary shall allow only such uses of lands in the conservation area as the Secretary determines will further the purposes for which the conservation area is established.

(b) MANAGEMENT GUIDANCE.—After each review pursuant to subsection (a), the Secretary shall make such revisions as may be needed so that the plan and management program to implement the plan include, in addition to any other necessary or appropriate provisions, provisions for—

(1) protection for the raptor populations and habitats and the natural and environmental resources and values associated therewith, and for the scientific, cultural, and educational resources and values of the public lands in the conservation area;

(2) identifying levels of continued military use of the Orchard Training Area compatible with paragraph (1) of this subsection;

(3) interpretive and educational opportunities for the public;

(4) a program for continued scientific investigation and study to provide information

to support sound management in accordance with this Act, to advance knowledge of raptor species and the resources and values of the conservation area, and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience;

(5) such vegetative enhancement and other measures as may be necessary to enhance prey habitat;

(6) the identification of levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be consistent with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established; and

(7) assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed, to be used to further the purposes for which the conservation area is established.

(c) VISITORS CENTER.—The Secretary, acting through the Director of the Bureau of Land Management, is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area as well as the management of the conservation area and the biology of the raptors and their relationships to man.

(d) VISITORS USE OF AREA.—The Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the protection of raptors and raptor habitat, public safety, and the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) NATIONAL GUARD USE OF THE AREA.—(1) Pending completion of the ongoing research concerning military use of lands in the conservation area, or until the date five years after the date of enactment of this Act, whichever is the shorter period, the Secretary shall permit continued military use of those portions of the conservation area known as the Orchard Training Area in accordance with the Memorandum of Understanding, to the extent consistent with the use levels identified pursuant to subsection (b)(2) of this section.

(2) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall review the management plan and make such additional revisions therein as may be required to assure that it meets the requirements of this Act.

(3) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall submit to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of the results of such research.

(4) Nothing in this Act shall preclude minor adjustment of the boundaries of the Orchard Training Area in accordance with provisions of the Memorandum of Understanding.

(5) After completion of the ongoing research concerning military use of lands in the Orchard Training Area or after the date five years after the date of enactment of this Act, whichever first occurs, the Secretary may continue to permit military use of such lands, but only to the extent the Secretary, on the basis of such research, determines such use is compatible with the purposes set forth in section 3(a). Any such use thereafter shall be permitted only in accordance with the Memorandum of Understanding and the requirements of subsection (b)(2) of this section.

(6) The Secretary shall require that military units involved maintain a program of decontamination in accordance with the memorandum of Understanding.

(7) Nothing in this Act shall be construed as by itself precluding the extension or renewal of the Memorandum of Understanding, or the construction of any improvements or buildings in the Orchard Training Area so long as the requirements of this subsection are met.

(f) LIVESTOCK GRAZING.—The Secretary may permit continued use of lands in the conservation area for domestic livestock grazing in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), and other laws applicable to such use of the public lands, but only to the extent that the Secretary determines such use is compatible with the purposes for which the conservation area is established.

(g) COOPERATIVE AGREEMENTS.—The Secretary is authorized to provide technical assistance to, and to enter into such cooperative agreements and contracts with, the State of Idaho and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this Act.

SEC. 5. ADDITIONS.

(a) ACQUISITIONS.—(1) The Secretary is authorized to acquire lands and interests therein within the boundaries of the conservation area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Idaho or a political subdivision thereof may be acquired only by donation or exchange.

(2) Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this Act.

(b) PURCHASE OF LANDS.—In addition to the authority in section 318(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748) and notwithstanding section 7(a) of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601–9(a)), monies appropriated from the Land and Water Conservation Fund may be used as authorized in section 5(b) of the Endangered Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes of acquiring lands, waters, or interests therein within the conservation area for administration as public lands as a part of the conservation area.

(c) STUDY.—The Secretary shall evaluate the desirability of adding to the conservation area public lands adjacent to the area, and shall report to the Congress concerning the results of such study at the same time a report is submitted pursuant to section 4(e)(3).

SEC. 6. OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) OTHER LAWS.—(1) Nothing in this Act shall be construed to supersede, limit, or otherwise affect administration and enforcement of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicability of the National Trails System Act to any lands within the conservation area.

(2) Except as otherwise specifically provided in this Act, nothing in this Act shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, or the Native American Graves Protection and Repatriation Act.

(3) Nothing in this Act shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

(4) Nothing in this Act shall be construed as prohibiting the Secretary from engaging qualified persons to use public lands within the conservation area for the propagation of plants (including seeds) to be used for vegetative enhancement of the conservation area in accordance with the plan and in furtherance of the purposes for which the conservation area is established.

(b) RELEASE.—The Congress finds and directs that the public lands within the Snake River Birds of Prey Natural Area established as a natural area in October 1971 by Public Land Order 5133 have been adequately studied and found unsuitable for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976. Such lands are hereby released from further management pursuant to section 603(c) of such Act and shall be managed in accordance with other applicable provisions of law, including this Act.

(c) EXISTING ADMINISTRATIVE WITHDRAWAL TERMINATED.—Public Land Orders 5133 dated October 12, 1971, and 5777 dated November 21, 1980, issued by the Secretary are hereby terminated.

(d) WATER.—The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife, and that consequently there is no need for this Act to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect all water rights claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under the McCarran Amendment (section 208 of the Act of July 10, 1952; 66 Stat. 560; 43 U.S.C. 666).

(3) Nothing in this Act shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

(e) ENFORCEMENT.—Any person who violates any regulation promulgated by the Secretary to implement the provisions of this Act shall be subject to a fine in accordance with applicable provisions of title 18, United States Code, imprisonment of not more than 1 year, or both.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important bill that the gentleman from Idaho [Mr. LAROCCO], an able and new member of the Committee on Interior and Insular Affairs has sponsored, and it has a large number of cosponsors on the bill, including the gentleman from Idaho [Mr. STALLINGS], his colleague.

It would designate about one-half million acres of public land in Idaho, the Snake River Birds of Prey National Conservation Area, to be managed by the BLM. And the gentleman from Idaho [Mr. LAROCCO] has done a masterful job crafting this measure for the House, worked closely with the staff.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. LAROCCO] to explain the bill.

Mr. LAROCCO. Mr. Speaker, the legislation before the House today—the Snake River Birds of Prey National Conservation Area—creates a national conservation area in Idaho which is truly unique to our Nation. H.R. 2141 grants statutory protection to an area which has been the focus of administrative withdrawal since 1971.

The break of the ice dam on Lake Bonneville some 12,000 to 15,000 years ago, cut deep channels through the basalt rock creating sheer cliffs along the Snake River. These cliffs tower nearly 400 feet providing excellent nesting areas for golden eagles, red-tailed hawks, northern harriers, and many other species of raptors.

In fact, there are over 600 pairs of raptors, making it the largest nesting concentration of raptors in North America. The site is so spectacular that in 1984, the World Center for Birds of Prey was built nearby to take full advantage of the resource.

In addition to the magnificent raptor resource, the Snake River Canyon, within the area, contains some of the oldest native American archeological sites in Idaho. Over 200 sites have been recorded, including numerous outstanding petroglyphs.

During our field hearing in Idaho, and inspection of the area, the gentleman from Minnesota and the Interior Committee staff were able to see these resources firsthand. We also heard from interests ranging from ranchers and farmers to scientists and conservationists.

To provide for protection of raptors and their habitat while at the same time guaranteeing continued historic land uses posed a significant challenge. I believe that the legislation before the House today has met that challenge, just as Idaho Gov. Cecil Andrus did when he first designated protection for the area in 1980 as Secretary of the Interior.

We have worked with everyone from conservationists and biologists, to the Idaho National Guard, to the water users, to the cattlemen and Idaho Farm Bureau to make this a balanced, thoughtful piece of legislation. We have designated grazing, National Guard training, and visitor access as specific uses provided in the legislation. Furthermore, the administration supports this legislation.

To demonstrate the dialog that I have had with the Idaho Cattle Association, and Owyhee Cattlemen's Association, as well as the Idaho Farm Bureau, I will insert correspondence with these groups into the RECORD.

To further assure some of my constituents about the effects of this bill on agriculture, I ask the gentleman from Minnesota to engage in a colloquy.

Some of my constituents have raised a question about the possible effects of this bill on agricultural or other uses of non-Federal lands in this part of Idaho. Does the chairman share my understanding that there is nothing in this bill that would impose any new or additional restrictions or requirements on such uses of lands that are not owned by the United States?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAROCCO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman from Idaho is absolutely correct. The bill speaks only to the management of the public lands located within the boundaries of the new national conservation area. The bill does not impose any new or additional restrictions of any lands not owned by the United States, other than whatever restrictions may apply under other State or Federal law or the orders that have been issued in terms of the preservation of these areas by the former Secretaries Morton and Andrus.

Mr. LAROCCO. In closing, I want to offer my deep appreciation for the work the gentleman from Minnesota [Mr. VENTO] has undertaken as a personal interest in this fine legislation.

I would also like to thank the gentleman from California [Mr. LAGOMARSINO] for his support through this legislative process as well as the gentleman from California [Mr. MILLER], chairman of the full Committee on Interior and Insular Affairs, to these gentlemen for all their help and assistance in this endeavor. I am glad to see that this area will have permanent protection.

Mr. Speaker, I include for the RECORD the correspondence to which I referred.

HOUSE OF REPRESENTATIVES
Washington, DC, November 19, 1991.

BILL MCBRIDE,
President, Owyhee Cattlemen's Association, Marsing, Idaho.

DEAR BILL: In the letter that was faxed to my office on November 18, the Owyhee Cattlemen's Association listed 14 concerns with H.R. 2141, my legislation designating the Snake River Birds of Prey Area. I will attempt to address your concerns with the bill, which was reported favorably by the House Subcommittee on National Parks and Public lands on November 14.

1. Section 1,1: Page 1, Line 12. The wording "and indicators of environmental quality" must be stricken. This statement is not valid on a site specific basis (with regard to SRBOPA) by any scientific measure and it is not within the scope of this bill to establish such a precedent. This language must be removed.

Response: This is included in the findings section. It is not intended to set policy, but states a broadly accepted fact that predators, at the top of the food chain, can be indicators of environmental quality.

2. Section 1,3: Page 1, Line 15. Delete this section. These resource values are properly managed under existing Federal Law. They are not of such significance that they should be specifically addressed by additional law.

Response: There are currently laws that provide for protection of cultural resources, just like there are laws in place to provide for grazing, such as FLPMA and the Taylor Grazing Act. At the field hearing in Idaho, Dr. Tom Green of the Idaho State Historical Society stated, "We think the proposed legislation should acknowledge that significant archaeological and historic sites occur within the Birds of Prey area." He pointed out that there are 114 archaeological and historic sites, representing 10,000 years of "historical use."

3. Section 1,5 (D): Page 3, Line 11. The finding should be changed to reflect that multiple uses consistent with the original purpose of the act will be allowed. As written it allows for arbitrary interpretation of "appropriate" use. On page 3, line 11 change "appropriate" to "multiple" and on line 14 place a period after habitats and drop the remainder of the sentence.

Response: The bill provides for a management plan for a specific area. While it is true that not every use that is consistent with "multiple use" language is allowed under "appropriate use" language. i.e. mining, this change was made to allow us to define specific uses. Those specific statutorily defined permitted uses include visitor use, National Guard use, and grazing.

4. Section 1,9: Page 5, Line 2. "Use" has been changed to "properly manage" which completely changes the meaning. We suggest "properly manage use of" which restores the original meaning and intent of your bill and includes the new language.

Response: See response to #3 above.

5. Section 1,11: Page 5, Line 18. Since this is a finding section, the addition of "subject to appropriate terms and conditions" is redundant. the fact that grazing and raptors have very successfully co-existed for such a long time is evidence of appropriate terms and conditions. This statement adds nothing to the bill of this finding. To avoid any future mis-interpretation of this finding it should read as follows: "The federal lands of the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century. Such use has and does contribute significantly to the local and state economy. Grazing use of the area, governed by applicable Federal law and grazing regulations, has demonstrated it's compatibility with the Birds of Prey. Grazing of the SRBOPA should continue to the extent compatible with the purpose of this Act."

Response: No finding on grazing was included in the original bill. The finding was requested during the field hearing in Boise. It reads: " The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management or raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

This statement accomplishes essentially the same thing as your proposed language. Furthermore, the language included in the finding establishes an explicit recognition of historic grazing activity, which is unique for a National Conservation Area.

6. Section 2, 4: Page 6, Line 9. Add "within the SRBOPA." Since "raptor habitat" is used in different context throughout this document, there should be no doubt that the term does not apply to adjacent private, state, and federal lands.

Response: In full Interior Committee mark-up on Wednesday, November 20, I will offer an amendment to include the language that you offered. On page 6, line 8, after the words "raptor prey base" I will amend the legislation by inserting "within the conservation area."

7. Section 3 (a): Page 7, Line 17 & 18. Need to be removed. We are confident that grazing use of the area is and will remain compatible with the original purpose. We do not know how future administrators may interpret compatibility with the original purpose. We do not know how future administrators may interpret compatibility of use with regard to scientific, cultural, and educational resources. Again we feel that there are numerous laws which already direct adequate protection and management of these other resources. Removal of these two lines would restore the original purpose of the legislation which we support.

Response: You state above, "we are confident that grazing use of the area is and will remain compatible with the original purpose." You are correct. The language pertaining to scientific, cultural, and educational resources is one of the fundamental reasons why this legislation is established.

8. Section 4, 2: Page 10, Line 6. Any use of the area which is consistent with the original purpose of the act should be allowed. Not just those uses which further the original purpose of the Act. Unknown and unforeseen compatible future uses should not be excluded simply because they do not further the original purpose of the Act. This limitation is in conflict with the intent of section 1,5 (D) which was intended to provide for diverse multiple use of the area.

Response: Subsection (b) requires reviews by the Secretary be pursuant to subsection (a). Subsection (a) specifically provides for exceptions of "subsections (d), (e), and (f)." As you know, subsection (f) is the grazing finding. Additionally, the language that is in the current legislation is the general standard language for National Conservation Areas.

9. Section 4, (b), 1: Page 10, Lines 16–18; Section 4, (b), 1: Page, 11, Lines 13–16. Language contained in these sections expand the purpose of the act beyond to original intent and should be changed to maintain the focus on Birds of Prey and their Habitat rather than other unidentified and undocumented values. There are numerous laws which provide for appropriate protection and management of all resource values on the Federal lands. These references to such other values should be stricken.

Response: Again, as in point #7, there are scientific, cultural, and educational resources within the boundary of the SRBOPA that deserve protection.

10. Section 4, 2, (b), 7. The statement "in addition to any fees currently required" indicates that the secretary has the discretion to increase grazing fees or any other fee without regard to the laws currently governing assessment of those fees. We understand that this concern has been addressed with a language change, however we have not seen that change.

Response: The language does not concern grazing fees which are completely unaffected by this legislation. It refers to the possibility of fees for certain recreational uses such as bike or boat races. The Management Framework Plan would have to be amended to charge such a fee. I have made it absolutely clear at every step of the way, that my legislation cannot, and does not, affect grazing fees.

In the bill reported by the Subcommittee, I changed the language to address this concern. The new language now reads: "assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed to be used to further the purposes for which the conservation area is established."

11. Section 4 (f): Page 14, Line 7. Change "may" to "shall" and after grazing on line 9 insert "and related management actions including but not limited to Animal Damage Control and all activities necessary for carrying out proper and practical grazing management programs." On line 14 strike "but only" and "that the secretary determines." On line 15 change "purposes" to "purpose." Again accpetance of this language is dependent upon restoring the original purpose of the legislation.

Response: It is not in the interest of grazers to overly define the term "grazing." Under current language, grazing implies a broad definition that already covers the suggested changes. Concerns such as animal damage control activities may be more appropriately addressed in the Committee Report.

12. Section 5(c): Page 15, Line 22. The bill provides for study of additional land for inclusion in the SRBOPA. Your letter of October 4, 1991 indicated that definitive studies had established the current area as adequate. Again there are management alternatives in place such as ACEC designation which could extend special management to adjacent Federal Lands without including them in the SRBOPA. This paragraph must be removed.

Response: This legislation provides no authority to either the Congress or the Secretary that either party did not previously have.

13. Section 6(d): Page 17, Line 17. The Sovereignty of the State of Idaho with regard to water law and water rights must be protected. Any establishment of Federally Reserved water rights is not acceptable and must not be included in the bill. We understand that new suitable language has been drafted, however we have not seen such language at this time.

Response: I couldn't agree more. After much negotiation carefully worded water rights language has been included to protect Idaho's water. The language has been approved by the Office of the Idaho Attorney General, the Idaho Department of Water Resources, and the Idaho Power Company.

The issue of water rights was resolved by the following language: Section 6, subsection (d) Water.

(1) The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife, and that consequently there is no need for this Act to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect all water right claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under the McCarran Amendment (section 208 of the Act of July 10, 1952; 66 Stat. 560; 43 U.S.C. 666).

(3) Nothing in this Act shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

14. Advisory Groups. We believe the advisory group provided for in your original draft of this bill should be restored and it should provide for both farming and livestock interest participation.

Response: The original language included an advisory committee, but it has been dropped at the request of the drafting committee as adding another layer of bureaucracy. However, I understand grazing interests are currently well-represented in the management of the Birds of Prey Area. The grazing advisory board has eight members. Also, the current Advisory Council for the Birds of Prey Area includes members representing livestock interests.

In sum, while this response may not answer each and every concern, I have tried to reply as completely and promptly as possible. If you have additional concerns, I will try to respond to them.

Throughout this entire legislative process, from the drafting, to the hearings, to the mark-up, I have tried diligently to provide all possible assurances for current uses of the area, while at the same time requiring accountability for proper management of raptors and raptor habitat.

It is my firm belief that my substitute bill accomplishes these twin goals. However, I will continue to refine it at the full Committee mark-up scheduled for November 20. In this effort, I look forward to working with you on this and other legislation of mutual interest.

You can be assured that the issue of grazing fees will be revisited next year, and that I will be in your corner, fighting hard, just as I did this year.

With best wishes,

Sincerely,

LARRY LAROCCO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 1991.

Mr. JIM YOST,
Director, Public Affairs, Idaho Farm Bureau Federation, Boise, ID

DEAR JIM: In response to you letter of November 18, 1991, I want to clarify some misunderstanding about H.R. 2141, legislation designating the Snake River Birds of Prey National Conservation Area.

In your letter, you state you will support the legislation provided the following two conditions are met:

"1. Recognized agricultural practices, such as grazing, dryland and irrigated farming with integrated pest management controls (which may include spraying) are protected with specific language.

"2. That all beneficial uses of water for the Birds of Prey Area adhere to the State of Idaho Water Doctrine. That the water rights be applied for from the Department of Water Resources and that the Snake River Adjudication Process be followed. This must be explicitly written into the legislation."

As you are aware, "agricultural practices" are not permitted on Bureau of Land Management lands, and this legislation will do nothing to change that. Furthermore, H.R. 2141 in no way affects the agricultural practices on in-holdings or on surrounding lands. According to the Idaho BLM, pest management controls on BLM lands will not change because of this legislation.

However, to further clarify that nothing in H.R. 2141 would impact agricultural practices, I plan to offer the following colloquy on the floor of the House of Representatives during consideration of this bill:

Mr. LAROCCO: Mr. Speaker, some of my constituents have raised a question about the possible effects of this bill on agricultural or other uses of non-Federal lands in this part of Idaho. Does the chairman share my understanding that there is nothing in this bill that would impose any new or additional restrictions or requirements on such uses of lands that are not owned by the United States?

Mr. VENTO: The gentleman from Idaho is absolutely correct. This bill speaks only to the management of the public lands located within the boundaries of the new national conservation area. The bill does not impose any new or additional restrictions on the use of any lands not owned by the United States, other than whatever restrictions may apply under other State or Federal law.

In addition to agricultural practices, grazing is protected as well. The three uses of the area which were specifically protected by the legislation are National Guard use, visitor use, and livestock grazing. The legislation (Secs. 1, 11) makes the following specific finding:

"The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management of raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

While H.R. 2141 does not extend grazing rights beyond those currently authorized under current law such as FLPMA, the Taylor Grazing Act, and the Public Rangelands Improvement Act, it also does not limit the rights of grazers.

As to the second issue of water rights, I worked closely with the Idaho Water Users Association, the Deputy Attorney General for Natural Resources, and the Idaho Water Resources Board to protect Idaho's water. You can be assured that I would never jeopardize Idaho's water. In fact, I have fought all attempts in Congress to even consider the possibility.

With these clarifications, I hope that the Idaho Farm bureau can support this legislation which was reported unanimously by the House Interior Committee.

Sincerely,

LARRY LAROCCO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 1991.

Mr. M. DAN HAMMOND,
President, Idaho Cattle Association,
Boise, Idaho

DEAR DAN: As promised, this letter responds further to your letter of November 13 regarding H.R. 2141 to make permanent the Snake River Birds of Prey Area.

The concerns which you raise are among a number of issues which I and my staff have been discussing with Betty Munis during the past few months since my bill was introduced. They include the following:

1. Ecosystem and indicators of environmental quality. Concern: Does this set a new system for removing cattle from an area? Could it be used as a test for health of the ecosystem?

Response: This is included in the findings section. It is not intended to set policy, but states a broadly accepted fact that predators, at the top of the food chain, can be indicators of environmental quality. The request for this language came from the raptor experts—one of the few language changes made for them.

2. Protection of cultural resources. Concern: There are already current laws providing for protection of cultural resources. This implies additional protection.

Response: There are currently laws that provide for protection of cultural resources—just like there are laws in place to provide for grazing, such as FLPMA and the Taylor Grazing Act. At the field hearing in Idaho, Dr. Tom Green of the Idaho State Historical Society stated, "We think the proposed legislation should acknowledge that significant archaeological and historic sites occur in the Birds of Prey area." He pointed out that there are 114 archaeological and historic sites, representing 10,000 years of "historical use."

3. Recognize BLM as "best and appropriate manager." Concern: It would help to have assurance that management of this area will continue under BLM, and it won't become a "wildlife refuge" managed by the U.S. Fish and Wildlife Service—or worse yet, a National Park.

Response: The language appropriately states, "Continued management and protection of the area should be accomplished by the Secretary of Interior, acting through the Bureau of Land Management * * *."

4. The extent consistent with the maintenance and enhancement of raptor populations and habitats * * *. Concern: Environmental groups will use this "consistent" test to remove cattle from the area.

Response: At the request of the Idaho Cattle Association, the term "consistent" has been changed to "compatible." To provide clarity and assurance to all user groups, including grazing interests and the Idaho National Guard, "compatible" will be clearly defined in report language. Grazing is one of three uses that only have to be "compatible," and does not have to pass the harder test of "furthering the purpose." All NCAs in the past years have had a purpose for establishment, and it is important to be compatible with that purpose—the reason for designation.

Further, the term "multiple use" has not been used in an NCA designation for some time, but the term "diverse appropriate uses" was added to help alleviate concerns of the Idaho Cattle Association

5. Need to "define" prey base and habitat. Concern: It would be helpful to list those species that make up the prey base and be more specific.

Response: It may be possible to add language defining "habitat" and "prey base."

6. The finding on "grazing" is unacceptable. Concern: The language gives no certainty.

Response: No finding on "grazing" was included in the original bill. The finding was requested during the field hearing: It reads: "The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management or raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

Additionally, the bill references the Taylor Grazing Act as well as FLPMA which is what provides the basis for grazing management on the Birds of Prey Area. This bill continues the present level of grazing without change. This is the intent of the bill, and I have made certain that the legislative history reflects this intention.

7. Purposes. Concern: The purposes are too broad.

Response: The language is similar to that in other NCAs. The focus has been narrowed by consolidating "historical" into "cultural" and making the "natural and environmental resources" only those that relate directly to "raptor populations and habitats."

8. No need for a special section on public participation. Concern: This provides just another chance for the public to be involved.

Response: The BLM always provides for public participation in their planning process. This just reaffirms that the process exists.

9. Further the purpose. Concern: Would be too hard of a standard to meet.

Response: Grazing is one of three uses that does not have to further the purposes for the area. According to the BLM, the language does not pose a threat to grazing.

10. Archaeological resources: not necessary.

Response: See number two above.

11. Language "hints on expansion" of the area. Concern: Language states, "a program for continued scientific investigation and study to provide information * * * and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience."

Response: This language has nothing to do with expansion. It concerns the transfer of technology.

12. Vegetative management. Concern: There needs to be an opportunity to manage vegetation for livestock grazing not just birds.

Response: BLM is now evaluating seedings to determine if they are the kind needed to promote the prey base. BLM now plants crested wheatgrass to protect the soil from wind erosion, as well as the seeding of grass to feed livestock. This is a good example of how "compatible with enhancement of the purposes" is designed to work. BLM can plant seed for livestock forage in one area while enhancing another area for the prey base. It is beneficial to the livestock interests.

13. Ignores different plans that are currently in place. Concern: Don't duplicate or override the current plans.

Response: BLM has assured us the language does not duplicate or override any current plans. The "Management Framework Plan" (MFP) covers the entire resource area of about 2.5 million acres. The next tier is the "Activity Plan," which covers the Birds of Prey Area—an area of about 480,000 acres. The "Allotment Management Plans" which cover grazing under the Activity Plan, are developed in consultation with the permittees. Livestock grazing will continue to be authorized within limits described in the Management Framework Plan.

14. Need to set optimal raptor population levels. Concern: The optimal level will always be raised so more prey base will be needed and, consequently, more land will be unavailable for grazing and the BOP area will have to be expanded.

Response: When the BLM measures the health of the ecosystem relative to the raptors the 1975 raptor inventory is used as a standard. If the agency finds it is consistent with that inventory, then they are managing the habitat to the benefit of raptors.

Further, most of the nest sites on the area are occupied. Managers have tried to introduce peregrine falcons, but the birds' territories provide a natural limit to raptor populations.

If there is a need to identify "optimal levels," it would be appropriate to do this in the plan. I understand the 1985 version of the plan identifies the 1975 levels as optimal. A goal of the plan states, "Perpetuate the nesting raptor populations at or above the minimum population levels determined for each species between 1975 and 1981." Because the research project ended in 1981, there is no additional information on which to base population levels.

15. Assessing desirability to impose appropriate fees. Concern: This appears to be a device that could be used to remove livestock grazing by increasing required fees to an unjustifiable level.

Response: The language does not concern grazing fees which are completely unaffected by this legislation. It refers to the possibility of fees for certain recreational uses such as bike or boat races. The Management Framework Plan would have to be amended to charge such a fee. I have made it absolutely clear at every step of the way, that my legislation cannot, and does not, affect grazing fees.

In the bill reported by the Subcommittee, I changed the language to address this concern. The new language now reads: "assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed to be used to further the purposes for which the conservation area is established."

16. Only to extent consistent. Concern: Not enough assurance.

Response: The term, "may continue" is the language from the Taylor Grazing Act. It allows for grazing on public land, which is currently a discretionary action. With this bill, grazing interests will have the same security and certainty as now. The bill is not designed to take away any assurance. Because it can be argued that grazing is both compatible and beneficial, then there should be little discomfort with this language.

17. We don't want a fence around the impact area.

Response: The language referring to a fence has been removed at the request of the Idaho Cattle Association and the Idaho National Guard.

18. The Secretary is authorized to acquire land * * *. Concern: "Appears to mandate acquisition."

Response: This is commonly used language is such legislation. It plainly states the Secretary can use his authority to acquire land. It does not require purchase, just authorizes it. As Idaho BLM Director, Del Vail, stated at the field hearing, it is BLM's policy not to condemn lands for natural resource management.

19. Want a list of all birds listed as endangered.

Response: I will obtain this list, but because it changes, it cannot be written into legislation. There are no endangered raptor species that nest in the Birds of Prey Area. The bald eagle is an occasional user in the winter.

20. Requiring a study to add the area.

Response: Idaho's BLM representatives have stated that expansion of the area would be very low priority, but they agree to the study authority.

21. Reconfigure the advisory committee.

Response: The original language included an advisory committee, but it has been dropped at the request of the drafting committee as adding another layer of bureaucracy. However, I understand grazing interests are currently, well-represented in the management of the Birds of Prey Area. The grazing advisory board has eight members. Also, the current Advisory Council for the Birds of Prey Area includes members representing livestock interests.

22. Recognize state land management laws.

Response: I have been assured that when the BLM develops plans for the district and resource area, it follows both State and county ordinances.

23. Water rights language.

Response: After much negotiation, carefully worded water rights language has been included in the bill to protect Idaho's water. The language, located in section 6 of the bill, has been approved by the Office of the Idaho Attorney General, the Idaho Department of Water Resources, and the Idaho Power Company. You can be assured that I would never jeopardize Idaho's water. In fact, I have fought all attempts in Congress to even consider the possibility.

In sum, while this response may not answer each and every concern, I have tried to reply as completely and promptly as possible. If you have additional concerns, I will try to respond to them.

Throughout this entire legislative process, from the drafting, to the hearings, to the mark-up, I have tried diligently to provide all possible assurances for current uses in the area, While at the same time requiring accountability for proper management of raptors and raptor habitat.

It is my firm belief that my substitute bill accomplishes these twin goals. However, I will continue to refine it at the full Committee mark-up scheduled for November 20. In this effort, I welcome and appreciate your constructive criticism, and I look forward to working with you and Betty Munis on this and other legislation of mutual interest.

You can be assured that the issue of grazing fees will be revisited next year, and that I will be in your corner, fighting hard, just as I did this year.

With best wishes,

Sincerely,

LARRY LAROCCO
Member of Congress.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2141, introduced by Mr. LAROCCO, which would provide permanent protection to the 480,000-acre Snake River Birds of Prey National Conservation Area.

Because this area is shared by many diverse users including cattlemen, the military and recreationists, it has been a great challenge to strike a legislative compromise that is acceptable to these users yet still protects the area's resources.

Although there were originally concerns at the subcommittee markup on this legislation, a thorough examination of many Members lead us to the conclusion that the gentlemen from Idaho had done a good job of trying to accommodate most of these concerns by the time the bill reached full committee.

I understand there are still concerns in Idaho among the livestock industry about the bill before us today. I am certain those folks will work with Idaho's two Senators to get their concerns addressed.

The water rights language is reasonable and adequate to protect the legitimate interests of the Federal Government. It should be a good precedent.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I also rise in support of this legislation. I am familiar with the endangered species in the Snake River area, having lived there for a brief time after my tour in Vietnam.

I just spent some time with some of the constituents of the gentleman from Idaho and friends who are mutual friends. Let me just take this opportunity to say that I think we should be working at this hour for another endangered species, and that is the working men and women of America whose jobs are on the line right now, who are looking to Congress to pass an economic growth and jobs package before we leave for our Thanksgiving/Christmas vacation.

I just want to say to my colleagues that the Republicans of this House have passed an economic growth and jobs package that will accrue to every blue-collar working family in America. It pains me to say that we have enough time to work, although they are substantial measures and they do deserve consideration, before we can pass an economic growth package. And instead of passing that package, we can work on technical amendments to the Alaska maritime; national wildlife refuge boundary law. We can work on the Flower Garden Banks National Marine Sanctuary. We can do the Drug Testing Quality Act. We can do the technical corrections in public law.

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We can do Pelican Island of Texas, Wappinger Creek of New York, but we cannot seem to reach out to that American family that is sitting at the table right now in their home trying to figure out whether or not those of us in Congress are going to work for an economy that is going to give them an opportunity to send their kids to school, to buy that car that they need, and to continue to make their mortgage payments.

So let me just ask the Democrat majority one last time to go to work on an economic growth and jobs package, to swallow their pride, work with the President, work with the Republicans, but let us not leave home without doing that. This is our home. This is where we should be during this vacation working on that package.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennslvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the gentleman from California has made an excellent point. It is not so much the question of whether or not this particular bill has merit but what the priority of our opportunities should be in the House to deal with legislation.

In this particular case it is my understanding that the priority here is kind of self-defined, rather than real. For example, it is my understanding that there are about 480,000 acres that are involved in this particular bill, all of which are presently protected under an agreement signed by the Secretary of the Interior back in 1980, so therefore, there is absolutely no urgency for this bill whatsoever. Beyond that it is my understanding, having just checked with the Senate, that there is absolutely no companion bill to this in the Senate, so this is not something which has to be urgently moved at the end of this legislative session.

It is certainly not as urgent as the plight of American working families who find themselves out of a job. It is certainly not as desperate as the person who finds himself with a home he has just sold and lost money on and cannot write off the losses on their taxes. It is certainly not as desperate as the plight of American savings and loans, that as real estate has collapsed, so has the savings and loans, and the taxpayers are being forced to bail them out. It is certainly not as desperate a plight as we find in American communities where main streets are beginning to shut down because people cannot afford to go to the retail store and buy their Christmas gifts.

We have a desperate economic situation in America that needs to have some corrective action taken by Congress and instead we are doing bills that do not have necessarily the same amount of urgency connected with them. I would certainly hope that before we leave town, whether it be 2 days from now or 2 weeks from now, that we will deal with the desperate economic straits of America, deal with those people out there who are suffering, and do something to get economic growth started again.

Mr. JONES of North Carolina. Mr. Speaker, I support H.R. 2141, a bill to establish the Snake River Birds of Prey National Conservation Area within the State of Idaho.

The bill deals primarily with an area under the control of the Bureau of Land Management. As amended, it more clearly addresses the historic and cultural values of the lands, military use, domestic livestock grazing, and mining concerns. It also requires that all appropriate committees within Congress be provided a report about ongoing research efforts that take a look at how military activities within the conservation area affect the birds of prey, the lands they live on, and the smaller animals they hunt.

Within H.R. 2141, section 5(c) discusses a study area related to the proposed BLM lands. Because it is not within nor adjacent to the proposed BLM conservation area, it is my understanding that the Deer Flats National Wildlife Refuge, which lies along the Snake River in the State of Idaho, will continue to be managed by the U.S. Fish and Wildlife Service under the National Wildlife Refuge Administration Act.

The Merchant Marine and Fisheries Committee shares joint jurisdiction over this bill. We ordered the bill reported on November 23. We have been pleased to act swiftly together with the Committee on Interior and Insular Affairs to accommodate our colleague, Mr. LAROCCO of Idaho.

Mr. VENTO. Mr. Speaker, H.R. 2141, a bill introduced by the gentleman from Idaho [Mr. LAROCCO] has a large number of cosponsors including the other gentleman from Idaho [Mr. STALLINGS]. It would designate about 482,450 acres of public lands in Idaho as the Snake River Birds of Prey National Conservation Area, to be managed by the Bureau of Land Management [BLM].

The lands dealt with in H.R. 2141 have been recognized for many years as a unique and outstanding area with special characteristics that have made it a nesting area for a great number and diversity of raptors.

To protect these characteristics from adverse impacts, in 1971 Secretary of the Interior Rogers C.B. Morton set aside some of the lands covered by the bill as the Snake River Birds of Prey Natural Area. In 1976, the Federal Land Policy and Management Act of 1976 required that this and the other existing natural areas managed by the Bureau of Land Management be studied for possible wilderness designation.

Further research demonstrated that it was necessary to take additional steps to more fully protect the special values of the area. Therefore, in 1980 Secretary of the Interior Cecil Andrus enlarged the protected area by withdrawing additional lands that are the habitat of the various species that are the prey of the raptors.

H.R. 2141 would put a statutory capstone on this structure of protection. While the bill was being considered in committee, Mr. LAROCCO worked very diligently, with the Interior Committee and with all the affected parties, to address the concerns and questions that had arisen, so that today we are able to bring before the House a sound bill that provides for proper and balanced management of the lands involved.

In committee, the bill was revised to make it similar to previously-enacted bills designating national conservation areas, but with differences that reflect the particular history of this area.

All the public lands within the conservation area boundaries established by the bill were included in the withdrawals by Secretaries Morton and Andrus. Under the bill, they would be withdrawn from all forms of mineral and geothermal exploration and development.

The bills's provisions for management of these lands specifically include provisions for protection of the cultural and other resources, in addition to the resources directly associated with the populations and habitat of the birds of prey and the various species which provide a source of food for the birds.

This is in keeping with other national conservation area legislation, and also reflects the fact that the area possesses notable historic, archeological, and other resources, as was made evident at the hearings and field inspection held by the Subcommittee on National Parks and Public Lands.

The general standard for management would be similar to that applied to other national conservation area—protection, conservation, and enhancement of the area's resources and values.

As in other NCA legislation, for the most part the only uses of the birds of prey area that would be permitted would be those that further those purposes. However, in recognition of some unique factors involved here, the bill specifically exempts from that requirement three particular uses—military activities, grazing, and visitor use.

Grazing and visitor use could continue, so long as those uses are compatible with the purposes for which the conservation area is established, which of course is a less-demanding standard than a requirement that they actually further those purposes.

Concerning military use, the bill recognizes that a part of the lands involved, known as the orchard training area, have been used by National Guard units for more than 35 years for training and other activities, and that there have been substantial investments made in recent years in terms of facilities to support these activities.

Military use of these public lands is being carried out under a memorandum of understanding between the Idaho National Guard and the BLM. This memorandum of understanding—or MOU—was signed in 1985, and by its own terms remains in effect until the year 2015—but either party may terminate it before then by providing 1 year's notice to the other party.

If the military use was by the National Armed Forces, FLPMA would preclude BLM from authorizing this use through such a MOU. However, the administration takes the position that because the National Guard is a State agency, not an agency of the National Government, a MOU is sufficient. This distinction is something that the House has considered before, in connection with a BLM reauthorization bill passed by the House in the last Congress. (Unfortunately, the Senate did not complete action on that measure.)

In my opinion, however sound it may be as a strict legal matter (and I have my doubts), in terms of land management the distinction between military uses by the Federal Armed Forces and the National Guard is not a sound one.

I have recently introduced a bill that—among other things—would close this loophole in the public land laws. However, that is a matter to be addressed on another occasion, and I think that we should recognize the situation that exists on the lands covered by this bill and address it in a way that strikes a sound balance between the importance of this area for conservation and for military activities.

I believe that the bill does strike such a balance, and that its provisions fully address most concerns about military use of this area. Whatever may be decided about the larger question of the policies that should generally apply to National Guard use of public lands, I believe that as far as can now be known, the provisions of this bill should be adequate to govern future military use of the lands covered by this bill.

Mr. Speaker, there is currently underway a research program, funded by both the BLM and the National Guard, that is intended to develop information concerning the impacts of continued military use of the Orchard Training Area, and to provide data for use in connection with future management of the lands within the conservation area.

The expectation is that this research program will be finished in time for BLM to use its results in decisionmaking in early 1996.

The bill would require the Secretary to permit continued military use of the Orchard Training Area, under the existing memorandum of understanding, until the research program is completed, or for 5 years after the enactment of the bill, whichever comes first. This actually gives the National Guard greater certainty than they have now, because during this period the National Government could not exercise its right to terminate the memorandum of understanding on a year's notice.

After this period, military use could continue, but only if the Secretary of the Interior, on the basis of the results of the research program, determines that this use is compatible with the purposes of the conservation area.

At all times, military use will occur only at levels that are compatible with protection for raptor populations and habitat and other resources and values of the conservation area.

I believe that this is a very responsible approach, and I think that Mr. LAROCCO is to be commended for striking this very sound balance, which was worked out in discussions among the gentleman from Idaho, the Interior Committee, the BLM, and the Idaho military division.

The Interior Committee hearings have shown that both BLM and the National Guard anticipate that the research program probably will produce information that will support a determination that under proper regulation continued military use of the training area will be compatible with the purposes of the national conservation area, and I know of no reason to conlude otherwise.

One other area in which this bill differs from previous bills designating national conservation areas is concerning water. Here again, the difference reflects different facts.

This bill recognizes that we are dealing with a situation in which the lands concerned have been previously withdrawn, within a watershed in which the United States has not already asserted claims for water rights. In fact, the United States has already become a party, in accordance with the McCarran amendment, in an adjudication of rights to the waters of the Snake River.

This bill, therefore, does not include a reservation of water rights for the national conservation area. Instead, in section 6(d), it has a finding stating the current situation, a directive that the executive branch protect the rights to Snake River water the National Government is claiming, and language to make it clear that nothing in the bill is to be read as reducing any water rights in Idaho the United States now holds or claims.

I think that these provisions are appropriate in view of the particular, possibly even unique facts involved here.

Mr. Speaker, I believe H.R. 2141 does an excellent job of addressing the various policy questions that were raised during the National Parks and Public Lands Subcommittee's consideration of this important bill. Again, I congratulate the gentleman from Idaho [Mr. LAROCCO] for his persistence and his hard work on this bill, and I urge the House to give it overwhelming approval.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2141, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JEMEZ NATIONAL RECREATION AREA IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2502) to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) PURPOSE AND ESTABLISHMENT.—In order to conserve, protect, and restore the recreational, ecological, cultural, religious, and wildlife resource values of the Jemez Mountains, there is hereby established the Jemez National Recreation Area (hereinafter in this Act referred to as the "recreation area"), to be administered by the Secretary of Agriculture (hereinafter the Secretary).

(b) AREA INCLUDED.—The recreation area shall be comprised of approximately 100,000 acres of lands and interests in lands within the Santa Fe National Forest as generally depicted on the map entitled "Jemez National Recreation Area-Proposed" and dated October, 1991. The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, Washington, D.C. The Secretary may from time to time make minor revisions in the boundary of the recreation area to promote management effectiveness and efficiency in furtherance of the purposes of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and legal description of the recreation area with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the recreation area in accordance with this Act and the laws, rules, and regulations applicable to National Forest System lands in manner that will further the purposes of the recreation area. Management of the natural resources within the recreation area shall be permitted only to the extent that such management is compatible with and does not impair the purposes for which the recreation area is established. Recreational activities within the recreation area shall include (but not be limited to) hiking, camping, hunting, fishing, skiing, backpacking, rock climbing, and swimming.

(b) MANAGEMENT PLAN.—The Secretary shall, no later than five years after the enactment of this Act, develop a management plan for the recreation area as an amendment to the Santa Fe National Forest Land and Resource Management Plan to reflect the establishment of the recreation area and to conform to the provisions of this Act; provided, that nothing in this Act shall require the Secretary to revise the Santa Fe National Forest Land and Resource Management Plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974.

(c) CULTURAL RESOURCES.—In administering the recreation area, the Secretary shall give particular emphasis to the preservation, stabilization, and protection of cultural resources located within the recreation area in furtherance of the Archaeological Resources Protection Act of 1979 and the National Historic Preservation Act.

(d) Native Americans.—In recognition of the past use of portions of the recreation area by Indian peoples for traditional cultural and religious purposes, the Secretary shall protect religious and cultural sites and provide access from time-to-time to those sites by Indian peoples for traditional cultural and religious purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1991) (commonly referred to as the "American Indian Religious Freedom Act"). The Secretary, in accordance with such Act, upon request of an Indian tribe or pueblo, may from time to time temporarily close to general public use one or more specific portions of the recreational area in order to protect the privacy of religious activities and cultural uses in such portion by Indian peoples. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

(2) In preparing and implementing management plans for the recreation area, the Secretary shall request that the Governor of the Pueblo of Jemez and the chief executive officers of other appropriate Indian tribes and pueblos make recommendations on methods of—

(A) assuring access to religious and cultural sites;

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the recreation area; and

(C) protecting traditional cultural and religious sites in the recreation area.

(e) Wildlife Resources.—In administering the recreation area, the Secretary shall give particular emphasis to the conservation and protection of wildlife resources, including species listed as sensitive by the United States Forest Service, within the recreation area and shall comply with applicable Federal and State laws relating to wildlife, including the Endangered Species Act of 1973.

(f) Hunting.—The Secretary shall permit hunting and fishing on lands and waters under the jurisdiction of the Secretary within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies such designation by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(g) Timber Harvesting.—The Secretary may permit timber harvesting in the recreation area for commercial purposes, including (but not limited to) vigas, latillas, the gathering of fuelwood, and for purposes of public safety, recreation, wildlife, and administration, insofar as the harvesting is compatible with the purposes of the recreation area. Nothing in this Act shall be construed to affect the timber sales under contract on the date of enactment of this Act. Nothing in this Act shall be construed to effect the Los Griegos timber sale in the Los Griegos Diversity Unit number 0322 as shown on the West Half Diversity Unit map of the Santa Fe National Forest dated November 1991; except that the Secretary shall manage such sale using uneven aged management including the individual tree selection method.

(h) Grazing.—The Secretary may permit grazing within the recreation area in accordance with regulations prescribed by the Secretary. Riparian areas will be managed in such a manner as to protect their important resource values.

(i) Transportation Plan.—(1) Within 1 year after the date of enactment of this Act, the Secretary shall prepare a transportation plan that provides for the most efficient use of existing roads and trails to accomplish the purposes of this Act. The plan shall provide for a comprehensive trails system that provides for dispersed recreation while minimizing impact on significant archaeological and religious sites.

(2) The Secretary shall construct, and close roads within the recreation area only in accordance with such plan.

(j) Recreational Facilities.—The Secretary shall provide for recreational facilities within the recreation area. Such facilities shall be constructed so as to minimize impacts on scenic beauty and the natural character of the recreation area.

(k) Visitor Facilities.—The Secretary shall establish establish a visitor center and interpretive facilities in or near the recreation area for the purpose of providing for education relating to the interpretation of cultural and natural resources of the recreation area.

(l) Power Transmission Lines.—In accordance with Federal and State laws and regulations, the Secretary may permit a utility corridor for high power electric transmission lines only when the Secretary determines that—

(1) there is not a feasible alternative for the location of such corridor;

(2) damage to the recreational and scenic quality of the recreation area will not be significant;

(3) it is in the public interest that such corridor be located in the recreation area; and

(4) a plan to minimize harm to the resources of the recreation area has been developed.

(m) Scientific Investigations.—The Secretary may permit scientific investigations within the recreation area upon the Secretary's determination that such investigations are in the public interest and are compatible with the purposes of this Act.

SEC. 3. ACQUISITION OF LAND.

(a) State Lands.—Lands, and interests in lands, within the boundaries of the recreation area which are owned by the State of New Mexico, or any political subdivision thereof, may be acquired only by donation or exchange.

(b) Offers to Sell.—In exercising the authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by any person owning property within the boundaries of the recreation area established under this Act to sell such property.

SEC. 4. MINERALS AND MINING.

(a) Limitation on Patent Issuance.—(1) Notwithstanding any other provision of law, no patents shall be issued after the date of May 30, 1991 for any location or claim made in the recreation area under the mining laws of the United States.

(2) Notwithstanding any statute of limitations or similar restriction otherwise applicable, any party claiming to have been deprived of any property right by enactment of paragraph (1) may file in the United States Claims Court a claim against the United States within 1 year after the date of enactment of this Act seeking compensation for such property right. The United States Claims Court shall have jurisdiction to render judgment upon any such claim in accordance with section 1491 of title 28, United States Code.

(b) Withdrawal.—Subject to valid existing rights, after the date of enactment of this Act, lands within the recreation area are withdrawn from location under the general mining laws and from the operation of the mineral leasing, geothermal leasing and mineral material disposal laws.

(c) Reclamation.—No mining activity involving any surface disturbance of lands or waters within such area, including disturbance through subsidence, shall be permitted except in accordance with requirements imposed by the Secretary, including requirements for reasonable reclamation of disturbed lands to a visual and hydrological condition as close as practical to their premining condition.

(d) Mining Claim Validity Review.—The Secretary of Agriculture shall undertake and complete within 3 years after the date of enactment of this Act an expedited program to examine all unpatented mining claims, including those for which a patent application has been filed, within the recreation area. Upon determination by the Secretary of Agriculture that the elements of a contest are present, the Secretary of the Interior shall immediately determine the validity of such claims. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(e) Public Purpose.—The Secretary may utilize mineral materials from within the recreation area for public purposes such as maintenance and construction of roads, trails, and facilities as long as such use is compatible with the purposes of the recreation area.

SEC. 5. ADJOINING LANDS.

The Secretary may from time to time evaluate lands adjoining the recreation area for possible inclusion in the recreation area and make recommendations to Congress, including but not limited to, that area authorized for study by Section 5 of Public Law 101-556, known as the Baca Location Number 1.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2502, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2502 was introduced by my colleague on the Interior Committee from New Mexico, Mr. RICHARDSON, and would establish the Jemez National Recreation Area within the Santa Fe National Forest in New Mexico. The national recreation area would encompass 100,000 acres of the Jemez Mountains that include steep canyons with brilliantly colored rimrocks and rich biological diversity. The largest elk herd in New Mexico migrates through the area and the mountains are home to many Federal and State-listed threatened, endangered, and sensitive species.

The Jemez also contains one of the highest densities of archeological and cultural sites in North America, estimated at approximately 15 sites per square mile and totaling approximately 30,000 sites. Large, ancient Pueblo Indian village sites are particularly abundant with the largest of the sites containing over 1,800 rooms. Many of these sites have been nominated and placed on the National Register of Historic Places.

Easy access and scenic surroundings make the Jemez a popular public recreational area. National forest figures show that almost 300,000 people a year visit the Jemez Mountains. Within the area is the east fork of the Jemez River, 11 miles of which have been designated as a National Wild and Scenic River.

Without this legislation, many of the impressive resources of the Jemez Mountains could be lost. A pumice mining company has applied to patent its mining claims. If the patents are approved, national forest lands in the very heart of the proposed national recreational area could be mined and subdivided with little regard for the priceless wildlife, cultural, scenic, and recreational values of the Jemez. Some may wish to make a fashion statement with their pumice-stone-washed jeans, Mr. Speaker, but I don't think any civil libertarian would claim a first amendment right to do so based on the ripoff of the American people's public land heritage. The American people's only compensation for the loss would be the mere $2.50 per acre that the company would be required to pay. While the bill does protect valid existing rights, it also protects the area from activities such as patenting that could significantly degrade the resources for which the area is being designated.

Mr. Speaker, because there is overwhelming popular support by the people who live in the area for this designation, because the area has resources of national significance, and because these resources face an immediate threat, I urge my colleagues to support this bill.

Mr. Speaker, to explain the bill in more detail and to speak for it, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, H.R. 2502 is the culmination of a long process that began at the grassroots level in northern New Mexico. This legislation establishes the Jemez National Recreation Area in the Jemez Mountains of the Santa Fe National Forest. I would like to thank my colleagues, Mr. VENTO, the chairman of the National Parks and Public Lands Subcommittee, and Mr. MILLER, the chairman of the Interior Committee, for their hard work and assistance in bringing this bill to the floor.

The protection of the Jemez Mountains has long been one of my top environmental priorities. In 1989, as a result of concerns expressed by local citizens who were alarmed about the impact of pumice mining on the east fork of the Jemez River, I introduced and successfully passed legislation designating the east fork of the river as wild and scenic. However, many New Mexicans continued to express apprehension about the threat of extensive pumice mining activity throughout the Jemez Mountains, with good reason. As you may know, pumice is used to stone wash blue jeans.

The volcanically formed Jemez Mountains is a combination of mountains and valleys, mixed conifer and deciduous trees, streams, small ponds, and steep canyons with brilliantly colored rimrocks. The Jemez are one of the richest areas of biological diversity in the Southwest. The largest elk herd in New Mexico migrates through the area and the mountains are home to many Federal and State listed threatened, endangered, and sensitive species including the peregrine falcon, goshawk, Jemez Mountain salamander, meadow jumping mouse, Mexican spotted owl, and the wood lily.

Santa Fe National Forest lands in the Jemez contain one of the highest densities of archeological and cultural sites in North America, estimated at approximately 15 sites per square mile and totaling approximately 30,000 sites. Large, ancient Pueblo Indian village sites are particularly abundant with the largest of the sites containing over 1,800 rooms. Many of these sites have been nominated and placed on the National Register of Historic Places. The Towa speaking Indians were the first inhabitants of the Jemez Mountains, and their descendants, the Jemez Pueblo Indians, regard these mountains as the breath of life of their existence. Today, the Pueblo actively uses numerous religious sites in the Jemez.

Easy access and scenic surroundings make the Jemez a very popular public recreation area. National forest figures show that over 300,000 people a year visit the Jemez Mountains for camping, hiking, fishing, hunting, backpacking, rock climbing, and cross country skiing.

Support for protecting the Jemez continued to build among local citizens. In March 1990, I appointed a citizens committee to develop a proposal to create a national recreation area [NRA] in the Jemez. Representatives from environmental organizations, timber companies, and concerned citizens held several meetings and worked diligently to produce a viable NRA proposal.

In August 1990, the Interior and Insular Affairs Subcommittee on Oversight and Investigations held a field hearing in La Cueva, NM, to discuss management alternatives on the Santa Fe National Forest, including the NRA proposal. The testimony reflected widespread support in the community for this effort, and included a petition with over 12,000 signatures in favor of establishing an NRA in the Jemez. The Jemez Pueblo also testified in support of NRA legislation.

In May 1991, I introduced H.R. 2502 to establish the Jemez National Recreation Area. The response from a majority of New Mexican's was very positive. On July 25, 1991, in a hearing before the Interior Subcommittee on National Parks and Public Lands, compelling testimony was given by New Mexicans including Henry Oat of the East Fork Preservation Coalition, Sam Hitt of Forest Guardians, and local resident Tom Lyttle on the genuine threat that exists to the Jemez. In addition, the Forest Service testified in support of designating a national recreation area in the general area proposed by this bill. The Jemez Indian Pueblo, through many of its elected representatives, voiced strong support for this legislation. As a result of this testimony and extensive consultation with local citizens, the Jemez Pueblo, and the Forest Service, many positive changes were made to the bill throughout the subcommittee and full Interior Committee markup process, resulting in the legislation we have before us today. The Forest Service played an active role in developing this legislation.

H.R. 2502 will provide protection for approximately 100,000 acres of some of the most beautiful land in the country. The boundaries were expanded to include the Virgin Mesa area, which include the most impressive cultural resource sites in the Jemez mountains. The expansion also encompasses the Jemez River corridor, including the popular and scenic Canon de San Diego. By including the corridor in the recreation area, we have added seven additional Forest Service recreation sites.

The legislation directs the Forest Service to develop a comprehensive management plan for the recreation area that addresses issues relating to native Americans, cultural resources, wildlife, recreation, mining, and visitors. Because the Jemez mountains are considered sacred by the Jemez Pueblo, I included language in the bill that protects the Pueblo's right to access to the area for religious and cultural activities.

At the request of many members of the citizens committee, traditional practices such as grazing, hunting, and timber harvesting will be allowed to continue. With the exception of the Los Griegos timber sale, timber harvesting must be consistent with the purposes of the recreation area. Los Griegos is a fiscal year 1993 sale, and local mills are operating in expectation of having this timber available. However, the sale can only be harvested through the selective logging method.

This legislation withdraws the lands within the recreation area from mining, but protects the rights of those with existing mining operations. They will be allowed to continue. However, under the bill they will be required to reclaim the land to a condition as close as possible to its hydrological and visual premining condition. Mining provisions in the bill also provide for a more efficient, expedient process for the Secretary of Agriculture to review mining claims in the area. In addition, no patents shall be issued after May 30, 1991. This will protect access and availability of public lands in the Jemez to the over 300,000 citizens who visit there annually. Finally, the bill will provide much needed recreational and interpretive facilities, as well as a visitors center.

Mr. Speaker, it is critical that we look to the future and protect areas like the Jemez for our children and our children's children. This legislation will do just that. I urge my colleagues to join me in this effort.

Mr. Speaker, I insert the attached documents in the RECORD.

NEW MEXICO MINING ASSOCIATION,
Albuquerque, NM, November 19, 1991.

Hon. BILL RICHARDSON,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: This letter confirms that Copar Pumice Mining Company is not a member of the New Mexico Mining Association. This question was raised at the hearings held in Santa Fe, NM, on Congressman Rahall's H.R. 918. We testified at that time that Copar was not a member. There has been no change in status since the May 3, 1991, hearing.

If Copar Pumice Mining Company were ever to approach the NMMA regarding membership, we hope that it would signal a desire to work in a cooperative manner with you and your office. This cooperative and positive relationship is clearly the policy and intent of the NMMA.

Sincerely,

CHARLES E. ROYBAL,
Executive Director.

[From the Albuquerque Journal, July 26, 1991]

HOUSE PANEL WEIGHS JEMEZ PROTECTION BILL

(By Richard Parker)

WASHINGTON.—A 2-year-old feud between New Mexico's sole Democrat in the U.S. House and an Espanola mining executive continued Thursday as a House panel considered a bill that would create a national recreation area in the Jemez Mountains.

The measure, sponsored by Rep. Bill Richardson, D-N.M., would establish a 70,000-acre federal recreation area in the mountains. Richardson told the House Public Lands Subcommittee the bill is aimed at preserving the mountains' unique forests and wildlife.

But he also said it is aimed at foreclosing any future mining claims in the mountains and prohibiting existing claims from being patented. The measure also would impose new legal burdens on miners to return land they've mined to its original state.

Richardson said, "There is significant mining activity throughout the area that threatens the prestigious Jemez Mountains. As a result, there is overwhelming public sentiment to establish a comprehensive policy to protect the Jemez."

No vote was taken on the bill Thursday.

Richardson's bill is the second he has introduced to block the mining activities of Copar Pumice Co., headed by Espanola executive Richard Cook. In 1989, Congress passed the other measure, which barred Copar's mining along the East Fork of the Jemez River.

Cook, whose company has applied for patents to get ownership of 1,700 acres of federal land, told the panel the legislation "is fundamentally unfair" because it would impose new burdens on him to restore mined land. He said the bill would require such extensive restoration that mining would be unprofitable.

The company currently restores land that it mines under an agreement with the U.S. Forest Service, but not to the extent that the bill would demand, Cook said.

Cook also charged that a coalition of New Mexico environmentalists is behind the bill and isn't representative of the 50 workers he employs at his pumice mines in the mountains. He said that while Anglo environmentalists are fighting his mining operation, predominantly Hispanic families are dependent on the jobs.

"And they are not represented here because they could not afford to come," he said. "They are tired of all the rules and regulations."

The bill, Cook said, could "mark the end of all mining and logging in the Jemez Mountains, not just Copar's."

Three environments testified on behalf of the bill, saying the U.S. Forest Service is allowing companies such as Copar to exploit the mountains.

"Unfortunately, not all is well in paradise," said Henry Oat, director of the East Fork Preservation Coalition. "In recent times, mining, logging and grazing have taken a heavy toll on the Jemez Mountains."

Oat singled out Cook's company as the single largest threat to the mountains.

In an interview, Cook said environmentalists have tied up his company's patent applications for the next two years through court action that has cost him more than $200,000.

"The only solution a miner has today is to buy the land," Cook said.

Panel Chairman Rep. Bruce Vento, D-Minn., said the only major stumbling blocks to passing the legislation are the new requirements the bill would impose on miners to restore land. The requirements are based on restoration law for coal miners.

Richardson plans to try to get the House to pass the bill before Congress' scheduled adjournment in October.

[From the Albuquerque Journal, Nov. 21, 1991]

JEMEZ RECREATION AREA GIVEN PANEL APPROVAL

A U.S. congressional committee Wednesday approved legislation to designate almost 100,000 acres in the Jemez Mountains as a national recreation area—a move that would prohibit mining interests from getting ownership of any land in the area if it becomes law.

Rep. Bill Richardson, D-N.M., has pushed the legislation to create the area primarily to keep Española businessman Richard Cook and members of his family from getting ownership of thousands of acres of federal land they have applied to get under provisions of federal mining law.

Attempts to reach Cook for comment after business hours on Wednesday were unsuccessful. He has stated in the past he opposes removing that much federal land in the area from public use.

The House Interior and Insular Affairs Committee approved legislation to set aside a recreation area on Wednesday. The legislation will now head to the floor of the House for a vote, and must still gain Senate approval and the president's signature before it becomes law.

According to a news release from Richardson's office, the bill withdraws about 100,000 acres in the Jemez from any future mining claims and prohibits anyone holding current claims from converting them to outright ownership under federal mining law after May 30, 1991.

The bill would also require that any land mined must be returned to its premining condition, the release states. The bill also calls for the federal government to take a hard look at any pending mining claims and states that if any claim is determined to be invalid, it will be declared null and void.

Current federal mining law allows people with valid mining claims to convert them to ownership under certain conditions for as little as $2.50 an acre.

"This legislation accomplishes my goal of maintaining the integrity of the Jemez Mountains for all New Mexicans," Richardson said. "Congress must act to protect the interests of the over 300,000 people that visit the Jemez each year for fishing, hiking, hunting and other recreational purposes."

Richardson's legislation would not affect traditional uses of the Jemez Mountains, according to a news release. Timber harvesting, grazing, hunting and fishing would continue in the area: The bill also includes provisions that respect and preserve the rights of Native Americans, he said

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[From the Santa Fe New Mexican, Nov. 21, 1991]

THE JEMEZ BILL: MINING CLAIMS OR THE CONDOS?

(By Beth Schwinn)

WASHINGTON.—A bill that would create a 100,000-acre recreation area in the Jemez Mountains and bar further mining claims in the region was approved Wednesday by the House Interior and Insular Affairs Committee.

Under the bill, existing mining claims in the Jemez National Recreation Area would be honored but no new patents could be issued, said Rep. Bill Richardson, D-N.M., who sponsored the bill.

The legislation would effectively halt operations at an existing 1,520 acre pumice mine above the Jemez River. The mine excavates pumice, the mineral used for making stonewashed jeans. If the bill doesn't become law and the controversial pumice claim were awarded a federal patent, the land parcel would become privately owned.

Espanola-based Copar Pumice Co. applied two years ago for the patent under an 1872 federal mining law. The company has been mining the site for the past two and a half years.

Copar's owner, Richard Cook of Espanola, said that if he isn't awarded a patent because of the bill, he will file suit against the federal government for $300 million.

"This pumice site is good for 100 years," said Cook.

Richardson's bill stops the federal government from issuing mining patents on the National Recreation Area land, retroactive to May 30 of this year. The bill does contain a provision allowing injured parties to file suit in the U.S. Claims Court within a year after the legislation's enactment.

"Bill Richardson has said time and again we've got to bring industry and jobs into northern New Mexico," said Cook, who noted that he employs 50 people at the pumice mine. Cook said he will have to fire those people if he doesn't get the patent.

But Richardson said the land itself is more important.

"I hope we don't view this as a mining versus a non-mining issue," Richardson said "because it isn't. We have one person (Cook) who has enraged people because he persists in wanting to claim patent."

Richardson said he has sought a consensus form timber interests, recreational users, American Indians and others, who say that if Cook is allowed to mine his claim it would detract from other uses of the land. Limited timber harvesting, grazing and hunting would be allowed to continue under the bill.

The area to be protected would include the East Fork of the Jemez River in the Santa Fe National Forest. It would encompass land which Indians consider sacred and culturally significant sites such as an ancient Indian pueblo with 1,800 rooms.

On average, there are 15 significant archaeological and cultural research sites per square mile within the proposed area, said Rep. Bruce Vento, D-Minn.

"What this individual (Cook) is trying to do is proceed with a land grab of 1,500 acres to the consternation of 300,000 people," Richardson said.

The General Accounting Office last year reported that some miners in the West have used the 1872 law to get cheap land for condominiums.

Cook has denied that he has plans to develop the Jemez area for real estate.

The measure must pass the House and the Senate and be signed by President Bush before it becomes law. There is no Senate version of the bill.

[From the Sun-News, Las Cruces (NM), Nov. 12, 1991]

ESPANOLA MAN'S CLAIM WORRIES RICHARDSON

SANTA FE.—An Espanola businessman's effort to gain title to a tract of public land in the Jemez Mountains has run into opposition from critics who say he has disregarded the environment in the past.

Rep. Bill Richardson, D-N.M., has sponsored a measure that could thwart Richard Cook's attempt to buy 1,520 acres in the Santa Fe National Forest for millions of dollars under estimated market value.

Cook in 1988 staked mining claims on more than 10,000 acres of the Jemez range and opened a pumice mine over the opposition of environmentalists.

He now is trying to convert 1,520 acres worth of claims into private property under a legal procedure called "patenting."

"I find that very troublesome," Richardson said.

Under the General Mining Law of 1872, public land on which a mining claim is located can be patented for $2.50 an acre—the going price 100 years ago but criticized as unrealistically low today.

Cook's patent application is pending before the U.S. Bureau of Land Management. If it's approved, Cook would be able to buy the land for $3,800. The acreage's fair-market value has been estimated at $20 million to $30 million.

Richardson and others say they are troubled by the prospect that Cook, who has a record of run-ins with the government, could so cheaply become sole owner of a large chunk of land in the heart of a popular and environmentally sensitive area.

Richardson is trying to push a bill through Congress that would create a 70,000-acre national recreation area in the Jemez Mountains. The bill would ban the issuance of new patents on mining claims in the recreation area, which surrounds the land Cook wants to patent.

Henry Oat of the East Fork Preservation Coalition, a group opposed to Cook's pumice mine, said, "Everywhere he goes he leaves a legacy of destruction and devastation. The bottom line for him is profit."

Cook has said he will go to court to protect his patenting right.

"I haven't done anything illegal," he said recently, defending his environmental record.

"Anyone who does business today will be cited by the EPA and other regulatory agencies," he said. "It's unfair and unnecessary to single me out."

The U.S. Environmental Protection Agency fined Cook $2,500 in 1988 for violations of the federal Clean Water Act in dredging operations connected with an asphalt, sand and gravel and concrete plant called Espanola Transit Mix.

Cook agreed in an out-of-court settlement this summer to pay the New Mexico Environment Department $50,000 after he was charged with air quality permit violations at the same plant.

Cook also ran into trouble with state environmental regulators who said he dumped debris in arroyos from two road construction projects in 1989—one near Pilar and the other near Abiquiu.

John Geddie, state Environment Department spokesman, said the dumping constituted a public nuisance and violated state water quality regulations and possibly state solid waste regulations.

Cook agreed to clean up the material.

He was cited by the EPA in August 1989 for violating the Clean Water Act after a settling pond near the Espanola Transit Mix plant overflowed and discharged pollutants into the Rio Grande, killing a sizeable number of fish.

Cook contended the discharge contained no pollutants, which he said came from nitrate-laden fertilizers used by farmers upstream of the pond.

The EPA backed off when the discharge stopped.

Cook, 65, is involved in mining, housing, road construction and other ventures.

His numerous businesses provide about 200 jobs in the economically depressed region, making him one of the largest private employers in northern New Mexico.

"He's a businessman, and his interest is in making money," said James Wood of the Army Corps of Engineers, which has had several run-ins with Cook over gravel-dredging operations. "He just hasn't considered the environmental laws very much in the course of his work."

Cook critized the government regulators he's come up against.

"A lot of inspectors write citations just to justify their jobs," he said. "They've gone way overboard with regulations. You can't run a business and keep up with this crap."

SAVE THE JEMEZ

Rep. Bill Richardson plans to sponsor a bill to dedicate land in the Jemez Mountains as a National Recreation Area to protect it from mining. People concerned abut the area's future should lobby the congressman to make sure his measure protects a large enough area.

The immediate cause for concern is Espanola businessman Richard Cook's application for ownership of 1,700 acres of federal land near the Valle Grande, land now administered by the Forest Service. If that application goes through, the federal Mining Act of 1872 will allow Cook and members of his immediate family to pay $2.50 an acre for outright ownership, removing that land from the public domain. Cook's company, Copar Pumice, already operates a mine on the Forest Service land, which he has applied to buy.

The proposal to create a National Recreation Area of any size, which would include land suitable for mining, has drawn the expected opposition of Copar.

After some initial public meetings, a citizens' committee Richardson appointed suggested setting aside 9,000 acres surrounding the site Copar is mining. While this would solve the immediate problem—destruction of beautiful public land by mining and patent claims for 1,700 acres—it won't keep the mountains safe for other pumice mining operations. Because 20,000 acres have been claimed for pumice mining in the Jemez, legislation intended to stop the mining or patent applications should encompass at least this much. Rather than gerrymandering parcels, it makes sense to create a large, usable section of national recreation land. The government will still allow timber harvesting and livestock grazing.

Discussions of possibilities for the Jemez National Recreation Area are still preliminary. Now is the time for residents concerned about the damage mining will do to this area to talk to Richarson's office—or the rest of New Mexico's congressional delegation, about the National Recreation Area. The final legislation—or lack of any change—will shape the Jemez for years to come. Those who don't make their preference known have no right to complain.

ESPANOLA MAN'S PROBLEMS OVER ENVIRONMENT NOT NEW

(By Keith Easthouse)

Richard Cook, a wealthy Espanola businessman who is trying to gain title to 1,520 acres of public land in the Jemez Mountains inside Santa Fe National Forest, has a history of charges accusing him of violating environmental laws.

Cook's problems with government regulators stretch back to 1977, but it is only in recent years that regulators actually have imposed financial penalties on Cook.

In 1988, the U.S. Environmental Protection Agency fined him $2,500 for violations of the federal Clean Water Act in dredging operations connected with an asphalt, sand and gravel and concrete plant called Espanola Transmit Mix.

This summer, in an out-of-court settlement, Cook agreed to pay the New Mexico Environment Department $50,000 after he was charged with air quality permit violations at the same plant.

Cook, a 65-year-old silver-haired Espanola native, is involved in mining, housing, road construction and other ventures; has extensive commercial holdings in the Espanola area; and is perhaps the richest man in Rio Arriba County.

Among his commercial holdings are the office buildings of the U.S. Forest Service in Espanola and Taos; the Espanola Magistrate

Court building; the Espanola Police Department office; and the building housing the Gas Company of New Mexico. He also is part owner of Valley National Bank.

This past summer, he applied for a permit with Santa Fe County that would have let him mine gravel on a 100-acre tract of land in La Cienega over 10-year period. But the proposed mine met with fierce opposition from La Cienega residents who feared that it would bring traffic congestion and dust pollution to the area.

Cook has backed off on the project at least for the time being, and says he may use 500 acres he owns in the area for housing instead.

The Espanola businessman has drawn the ire of environmentalists and government regulators over the years for what they say is his unwillingness to abide by government regulations, particularly environmental standards.

"He's a businessman, and his interest is in making money," said James Wood of the U.S. Army Corps of Engineers, which has had several run-ins with Cook over gravel-dredging operations. "He just hasn't considered the environmental laws very much in the course of his work."

Attention has focused sharply on Cook since 1988, when he staked mining claims on more than 10,000 acres of the Jemez range, and opened a pumice mine over the opposition of environmentalists.

He now is trying to convert 1,520 acres worth of claims—all in the Santa Fe National Forest—into private property under an entirely legal procedure called "patenting."

Under the General Mining Law of 1872, public land on which a mining claim is located can be patented for $2.50 an acre—the going price 100 years ago but criticized as unrealistically low today.

Cook's patent application is pending with the U.S. Bureau of Land Management. If it is approved, he would be able to buy the 1,520 acres for $3,800. The acreage's fair-market value has been estimated at $20 million to $30 million.

The prospect that Cook, with his record of run-ins with government regulators, could so cheaply become sole owner of a large chunk of land in the heart of a popular and environmentally sensitive recreation area has alarmed several people, most notably Rep. Bill Richardson.

"I find that very troublesome," Richardson said in a recent telephone interview from his Washington office. "I feel that he's defying environmental law (with his patent application) and has hurt the mining industry."

Richardson is trying to push a bill through Congress that would create a 70,000-acre national recreation area in the Jemez Mountains. If the bill passes, it would ban the issuance of new patents on mining claims in the recreation area, which surrounds the land Cook wants to patent, and thus would thwart his attempt.

Cook has said he will go to court to protect his patenting right. "I haven't done anything illegal," he said in a recent telephone interview from his Espanola home.

Cook defended his environmental record, saying that "Anyone who does business today will be cited by the EPA and other regulatory agencies. It's unfair and unnecessary to single me out," he added, referring to this article.

Cook also attacked the government regulators who have been his nemesis.

"A lot of inspectors write citations just to justify their jobs, to keep the bureaucracy going," he said. "They've gone way overboard with regulations. You can't run a business and keep up with this crap."

There is no disputing that Cook has done much good for the Espanola area. His numerous businesses provide approximately 200 jobs in an economically depressed region, making him one of the largest private employers in the northern half of the state.

Richardson said he had mixed feelings about Cook, "I personally don't dislike Cook, and he has supported some good community efforts in the Espanola area," Richardson said. "But what has concerned me is that he's very lax when it comes to thinking about the environment. He needs to assess quality of life issues better."

Environmentalists had stronger words for Cook.

"Everywhere he goes he leaves a legacy of destruction and devastation," said Henry Oat of the East Fork Preservation Coalition, a group opposed to Cook's pumice mine, which is operated by the Copar Pumice Co. of Cuyamungue. "The bottom line for him is profit. The cost of continuing the way he does business is cheaper than abiding by environmental laws."

Environmentalists believe Cook's record suggests that he avoids regulation for as long as he can get away with it.

A possible case in point is his long history of problems with the Corps of Engineers, which regulates dredging operations in waterways—operations Cook frequently uses to supply sand and gravel to his Espanola Transit Mix plant.

According to Wood, a biologist based in Albuquerque who works in the corps' regulatory branch, the corps discovered in 1977 that while conducting such a dredging operation, Cook was stockpiling fill material—dirt, sand and gravel—in a wetland near the Rio Grande to let it drain before trucking it away.

Though there is nothing illegal about stockpiling fill material, a permit from the corps is needed—which Cook didn't have. That placed him in violation of the Federal Clean Water Act.

The pollution concern, according to Wood, was that the fill material, over time, could leach into the river, reducing water clarity and possibly smothering fish.

But when Cook applied for the permit the Corps told him he needed, it was not approved because of problems with the way the project was being conducted, Wood said. Nonetheless, Cook continued to stockpile fill material in the wetland, Wood added, and, while personally courteous, was slow in responding to questions and requests from the Corps about the project.

At one point, Wood said, the Corps consulted with the U.S. Attorney's Office in Albuquerque about taking legal action against Cook. But it was decided to continue using persuasion instead.

Eventually, Cook was given what Wood called an "after the fact" permit in 1981.

Since then, according to Wood, Cook was found in violation of the Clean Water Act in similar dredging operations in the Rio Grande in 1980, 1986 and 1987.

Wood said Cook took so long to remove the fill material in 1986—despite repeated warnings from the corps—that by the time of the 1987 violation, the corps simply told Cook he was out of compliance and forwarded the matter to the EPA.

In 1988, the EPA fined Cook $2,500 for repeated violations of the Clean Water Act. According to EPA records, Cook paid the fine in January 1989. Cook said he does not remember the fine or the violations Wood cites. "I don't know what he's referring to," Cook said.

Cook said he did recall the first violation in 1977. "We didn't know we were supposed to have a permit, but when we were notified about it, we got one," he said.

The corps vs. Cook battle may not be over. Wood said the corps has recently received complaints about another Cook dredging operation in the Rio Grande but has yet to investigate.

"If it turns out it's another violation, we won't spend time working with Mr. Cook again," Wood said. "We'll send it directly to the EPA, which has told us informally that if Mr. Cook is in violation again, the financial penalty this time will be a lot more serious."

Last summer, Cook agreed to pay a very serious fine indeed—$50,000 to the state Environment Department after it accused him of violating the conditions of a state air quality permit issued to Espanola Transit Mix in 1989. The settlement is the largest ever collected in New Mexico for such a violation.

Cook's settlement agreement to pay the state did not admit the charge. Instead, he said, he agreed to pay "because it is cheaper than going to trial."

In several notices of violation in 1989, state inspectors said the plant failed to send emission samples to a laboratory as required by state law. Cook said accurate samples could not be taken because of moisture in the smokestacks. There have been no charges of lack of compliance by the plant since pollution-control and monitoring equipment was installed in 1989 and 1990.

Cook also has run into trouble with state environmental regulators who said he dumped debris in arroyos from two road construction projects in 1989—one near Pilar, the other near Abiquiu.

According to John Geddie, a state Environment Department spokesman, the dumping violated state water quality regulations and possibly state solid waste regulations, and constituted a public nuisance.

Under pressure from the state, Cook agreed to clean up the material.

He maintains that in the case of the Pilar project, somebody else trucked off the debris. "I didn't have anything to do with where that was dumped," Cook said. "But it was our road project, so we cleaned it up because we didn't want to get cited."

As for the Abiquiu project, Cook said a contractor dumped the material in an excavation pit on land Cook owned. "It was my ground," Cook said. "I didn't think I needed anything to dump there."

Cook had yet another run-in with the EPA in August 1989, when he was cited for violating the Clean Water Act after a settling pond near the Espanola Transit Mix plant overflowed and discharged pollutants into the Rio Grande, killing a sizable number of fish.

Cook said the water from the pond is sprayed on gravel to keep dust down, and contains no pollutants. He said the pollutants came from nitrate-laden fertilizers used by farmers upstream of the pond, which is fed by an irrigation ditch. "The nitrates caused algae to grow rapidly and turned them bright green," Cook said. "The nitrates cut off oxygen to the fish."

The EPA backed off when the illegal discharge stopped.

Environmental attorney Grove Burnett of Glorieta for a time represented the owners of homes in a Cook subdivision in Abiquiu who were angry because, they said, Cook had unilaterally amended covenants and built a gravel pit in the middle of the subdivision.

Burnett said the action was "flagrantly and totally illegal" but that his clients decided against bringing the matter to court. Cook said there was nothing wrong with what he did.

"Not as long as I owned over 50 percent of it," he said.

[From the Santa Fe Reporter, Nov. 13–19, 1991]

THE SILVER FOX: RICHARD COOK—SAVVY BUSINESSMAN OR "ENVIRONMENTAL OUTLAW"?

(By Glenn Hunter)

Over the years, Española businessman Richard Cook has made many thousands of dollars building roads in northern New Mexico. The owner of several enterprises providing the likes of dirt, gravel, asphalt and concrete—the raw material of the road-building trade—Cook has served both as a subcontractor working for other firms and as a "prime" contractor dealing directly with the state Highway Department. His most recent project in the latter capacity involves a $1.2 million realignment of state Route 399, just south of Española in northernmost Santa Fe County.

Little wonder, then, that Cook jumped at the chance this year to become involved in construction of the Santa Fe Bypass—a series of projects that eventually will let traffic flow around the capital city's western perimeter, relieving congestion along St. Francis Drive and Cerrillos Road. Once it is completed, the bypass also will serve as a route for trucks taking radioactive waste from Los Alamos National Laboratory to the Waste Isolation Pilot Plant near Carlsbad.

In June, Cook asked Santa Fe County for permission to mine dirt and gravel for this new roadway on 100 acres of land he owns near the little village of La Cienega, close by The Downs at Santa Fe. Shortly afterward, however, his plans ran into strong opposition spearheaded by La Ceinega resident Stuart Stein. When Stein, a lawyer, and other La Cienega residents argued that such a mine would generate dust, noise and increased traffic in a traditionally rural area, county Land Use Administrator Gilbert Chavez effectively blocked Cook's application, at least temporarily.

Then, last week, Cook's Santa Fe planning consultant, former City Councilor David Schutz, said he was preparing a revised request to mine gravel for the bypass on the La Cienega land—an application that he expected to submit to Chavez soon.

"As far as I'm concerned, Richard Cook is an environmental outlaw," Stein said angrily, steering his Range Rover along an arroyo near the proposed mine site not long ago. "He's using his ability to get a contract from the state to blackmail the county into letting him dig stone here.

"The whole valley would be able to see the smoke and dust, and everybody living here would have to dodge his 60-ton trucks," Stein went on. "What Cook does may technically be legal. But he has no respect for the land, the air and the water—or for the people."

By now, such talk should come as little surprise to Cook, an opportunistic, hard-charging merchant/developer whose activities have drawn criticism from several New Mexico communities—and from state and federal regulators—particularly since the mid-1980s. Building over the years on a lumber and hardware business started by his parents in the early part of this century, Cook has parlayed interests in real estate, banking, mining and construction into a personal empire estimated at $50 million to $150 million in Rio Arriba County alone.

Among his many enterprises are Cook's True Value Home Center, Española Transit Mix, and Copar Pumice Co., all headquartered in Española, and Associated Asphalt and Materials here in Santa Fe. Cook also owns at least part of more than 540 undeveloped acres near The Downs, as well as industrial property with an assessed value of at least $3.2 million at Agua Fria Street and Siler Road. Other of his many real estate properties are leased to various offices of the city of Española and to the U.S. Forest Service, which pays him at least $200,000 annually in rent.

"He has so many companies, I don't think he knows himself how many he has," said Española Mayor Richard Lucero. "I believe he's one of the wealthiest men in New Mexico, but he's so darned private you'd never know it."

Contacted by phone about an interview for this article, Cook seemed to fulfill Lucero's characterization in declining the request. "I try to keep a low profile, but that's been difficult lately because of the kinds of projects I've become involved in," he said. "I don't know if I need any more advertising."

By far the most controversial of Cook's projects involves his claim to some 10,000 acres in the heart of the Jemez Mountains, east of Bandelier National Monument. In 1988 and 1989, Cook filed an operating plan with the Forest Service under provisions of the 1872 General Mining Law to begin mining for pumice on 33 of these acres, and for a "patent" on a total of 1,700 acres. The 1872 law allows private companies to patent public land—in other words, to obtain clear title ownership—after paying just $2.50 per acre, the going price when the law was written 119 years ago. This means that Cook could pay just $4,200 or so for the private use of public land in the Jemez with an estimated market value of $25 million to $35 million.

Mindful of this possibility, Rep. Bill Richardson introduced legislation in May that would establish a national recreation area in the Jemez, withdrawing the area from any future mining claims, including Cook's, in the process. The businessman has sharply criticized Richardson's bill, claiming it is "fundamentally unfair" to more than 50, primarily Hispanic families who depend on his Jemez mining operation. "We have done nothing wrong and are in compliance with all state and federal law and regulations," Cook said last summer.

While that may be true, a Santa Fe environmentalist contends the Jemez legislation is needed to prevent the despoiling of an area with one of the richest habitats in the Southwest. "Though Cook is definitely within his legal rights, there are certain ethics that I think a businessman should have," said Henry Oat, the president of a two-year-old group called the East Fork Preservation Coalition, which filed suit in district court challenging Forest Service approval of Cook's mining plan. "Clearly, Cook doesn't have any ethics or conscience as a businessman. He's taking advantage of a loophole in the Mining Law, and we contend that he shouldn't."

If Oat, Stein and other critics believe that such actions denote a lack of ethics, it's clear that Richard Cook's defenders consider them merely to be the aggressive tactics of a smart, risk-taking businessman. According to childhood acquaintances, Cook learned business at an early age by working in the mercantile store begun by his father—who'd arrived in Española in a covered wagon with $10 in his pocket—and his mother, who was also a schoolteacher.

One of those acquaintances, former state Land Commissioner Phil R. Lucero, recalled that, "As a youngster, Dick would always be working at the store while the rest of us were out playing. He and his brother were very serious-minded people, and they both were taught to work by their father. So they became good businessmen."

After attending Santa Fe High School and college in Colorado, Cook returned to Rio Arriba County, where he helped to start the Valley National Bank, providing the Española State Bank with competition for the first time. He also took over operation of the family lumber and hardware operation, eventually becoming the sole source in Española for both commodities, and for cement as well.

"That heavy stuff can make quite a few bucks," Lucero said. "Today, Dick is in big business."

In fact, Cook's business acumen and enormous wealth have made him "very powerful" in Northern New Mexico, Mayor Richard Lucero said. "He's very private, very rich, very conservative—and a tough, shrewd businessman," Lucero observed. "If you can't deal with a tough shrewed businessman, you don't want to deal with Richard Cook. And I admire that.

"At the same time, I can't say that Cook has really been a community-minded individual, because that's not his nature," the mayor went on. "His motivation seems to have been to produce more for Richard Cook. I think that is what thrills him."

But other of Cook's associates, like Valley National board Chairman W.H. Sultemeier and Pat Perraglio, the owner of Española's Chamisa Realty, point to Cook's activities on behalf of the city's volunteer fire department, the local 4-H club and the Española Plaza project. Referring to Cook as "the Silver Fox," Sultemeier said the businessman works 15 hours a day and does "all his own thinking," right down to figuring the computations on bids for state road-building projects.

Such hard work and self-discipline have made Cook "a winner" in business, Perraglio said. "By staying extremely well-informed, Richard has the ability to buy property that other people don't recognize as valuable, at a very reasonable price. Then he develops it and makes a great deal of money," added Perraglio, who serves as a broker for many of Cook's real estate transactions. "Even so, he approaches business as a game, not necessarily to make money. And he knows better than most of us what's good for our community. Without people like him, we'd still be a little hick town."

Despite such plaudits, Cook and his associates have consistently run into opposition over their various enterprises, and—occasionally—into trouble with the law:

In June, Cook avoided a trial in district court by agreeing to pay $50,000 to the state Environment Department for violating air-quality laws at his Española Transit Mix Co. It was the largest settlement the department's Air Quality Bureau has even made. According to a memo from the bureau's Gian Bacigalupa, Cook's company discharged unacceptable levels of air contaminants, including lime used in its asphalt processing, in 1988 and 1989. Lime and gravel dust, which also was discharged, can aggravate lung and heart disease. Since 1990, the company has apparently complied with the state regulations.

Last year, the state Environmental Improvement Division cited the businessman and his Española Mercantile firm for dumping construction and demolition waste on his property near the Santa Fe River's San Isidro crossing, off lower Agua Fria Street. A letter to Cook from the divisions's Solid Waste Section said the violation appeared to have occurred "on a watercourse or a 100-year floodplain." According to a state spokesman, Cook agree to stop the dumping and to restrict access to the site in the future.

In 1988, the U.S. Environmental Protection Agency fined Española Transit Mix $2,500 for violating a federal law that prohibits putting fill materials into waterways without a permit. The EPA charged that Cook's firm had dredged gravel from the Rio Grande, then stockpiled it in a channel of the river near San Juan Pueblo. Cook later restored the site, avoiding a larger fine.

A lawsuit filed in 1987 by the state Attorney General's Office charged Perraglio, Cook's realty associate, and a company called El Llano in connection with an allegedly illegal subdivision in the La Mesilla area, near Española. A lawyer with the Attorney General's Office said a contempt hearing in the case has been scheduled for Dec. 13 in district court here.

During the 1980s, Cook sold land in Española's La Vista del Rio subdivision, whose soil was so unsettled that several of the houses that subsequently were built began to crack and even to split in half, forcing the low- and moderate-income inhabitants to evacuate. While explanations for the fiasco ranged from an excess of septic tanks in the area to inadequate compaction of the sandy, unstable soil, Cook denied any responsibility, saying he had advised the builder, E.W. Freeman, to construct the homes on a sturdier foundation. Freeman later disappeared.

At least twice during the last decade, northern New Mexicans successfully organized to stop Cook from pursuing gravel-mine operations in the midst of their largely rural communities. The first protest occurred in Lamy, where environmental lawyer Gove Burnett helped thwart Cook's plan to mine the historic Lamy Hill area on the settlement's south side.

The second successful challenge came in Abiquio. There, residents of Cook's Plaza Blanca subdivision say, he illegally altered the subdivision covenants to mine gravel for a job in connection with a highway project. "We finally shut him down, but it was quite a thing," said Santa Fe art dealer Frank Croft, who owns property in the subdivision. "There was machine oil dropped, lots of raw asphalt, and the operation was very noisy—it ran 24 hours a day. Cook had no respect for the landowners up there. He's totally ignorant about the landscape."

Back in La Cienega, meanwhile, the county's Gilbert Chavez said he raised the issue of Cook's $50,000 air-quality fine with Schutz, Cook's local agent, in discussing their June application for the bypass gravel mine. "I told Schutz, 'Hey, this doesn't look good,'" Chavez reclled, "I said, 'I'm going to look at that case in Española, and make sure that whatever happened there doesn't happen here.'"

Not long afterward, Cook's people came back to Chavez with yet another request—this time to subdivide a 176-acre tract of land in the same area, most likely for a residential development.

Cook also has offered to donate some of his La Cienega property to the city of Sante Fe for a new municipal golf course, reportedly asking the city to install utilities for the area in return.

The offer outraged Stein, the La Cienega activist-attorney. "When Cook met with some of us on the mining issue over the summer, we asked him, 'Mr. Cook, what will you do for our community?' and he said, 'Nothing.' Then we learned that he was willing to donate land to the city for a golf course.

"All he had to say was, 'I'll donate 30 acres of my property to La Cienega for a ball field or a swimming pool.' That would have been neighborly. Instead, Cook proposes to crush rocks while people tee off," Stein said with disgust. "It's an insult."

More than likely, Richard Cook would call it smart business.

PUEBLO OF JEMEZ

Mr. Chairman and members of the subcommittee, my name is Jose R. Toledo, Governor of the Pueblo of Jemez. Our Pueblo is located in north central New Mexico, Sandoval County. We have a population of approximately 2,800 members who reside on the Pueblo. The Pueblo is located in the Jemez River Valley, 30 miles away from the Copar Pumice Company's mining activity in the Jemez Mountains which this legislation H.R. 2502 addresses. Our ancestors once occupied the vast Jemez mountains. The Jemez mountains are filled with archeological ruins and religious sites of the Jemez Pueblo which after hundreds of years hold great religious significance and plays a vital part in the religious practices and beliefs of my Pueblo members.

The Pueblo of Jemez supports H.R. 2502, introduced by the Honorable Congressman Bill Richardson, in its entirety and more specifically Section (2) of the bill which addresses the preservation and protection of cultural resources located within the recreation area. This legislation is intended to protect the archeological and religious area. This legislation is intended to protect the archeological and religious sites which is foremost in the cultural beliefs of my Pueblo people. The Pueblo for years has used this area for religious practices but has continuously been fighting to preserve these sites from destruction by developers such as Copar Mining Company. This legislation will afford the Pueblo the guaranteed protection of the area and it assures them the continued and exclusive use of it's cultural and religious sites.

The Pueblo supports the consultation requirements in Section 2(C)(2) because it mandates the federal agencies such as the U.S. Forest Service—Department of Agriculture, consult with Indian tribes in preparing and implementing management plans for the recreation area. Such interaction between an Indian tribe and a federal agency in the past years has been practically nonexistent. This interaction or results therefrom would create a better environment in the Jemez mountain, preserving the cultural and religious sites for the Pueblo while affording the general public to enjoy the Jemez mountains in it's pristine state.

Thank you for your time and consideration.

TESTIMONY OF HENRY OAT, PRESIDENT AND DIRECTOR OF THE EAST FORK PRESERVATION COALITION

Mr. Chairman and Members of the Subcommittee: I am Henry Oat, President and Director of the East Fork Preservation Coalition (EFPC). The EFPC is a non-profit corporation based in Santa Fe, New Mexico, whose purpose is to preserve and protect the recreational, wildlife, scenic, and cultural resource values of the Jemez Mountains in New Mexico. Members and supporters of the coalition include: The Sierra Club, the Audubon Society, the Wilderness Society, Lighthawk, New Mexico Citizens for Clean Air and Water and Save the Jemez. I am here today to speak on all of their behalf.

I am here today to speak in support of H.R. 2502, a Bill to establish the Jemez National Recreation Area in the State of New Mexico. The EFPC has been instrumental in helping create and gain support for this proposed legislation. The EFPC was formed in November, 1989 out of a growing concern over the management of the Jemez Mountains on the Santa Fe National Forest. A marked increase in extractive-commodities based uses over the last 10 years has alarmed the thousands of people who use this area for recreation. The EFPC and Save the Jemez have currently received over 16,000 signatures on a petition supporting the following actions: (1) Permanent designation of the eat Fork region as a National Recreation and Wild and Scenic River Area; (2) Cessation of strip-mining, clear-cutting, and other destructive development of this Area; (3) Withdrawal of the East Fork region from current and future mining claims and patents; (4) Immediate restoration and reclamation of strip-mined land within this Area; (5) Repeal of the obsolete patenting provisions of the 1872 Mining Act; (6) Revision of New Mexico's State mining laws to require reclamation of all mines on private and public lands. The EFPC has received hundreds of letters of concern and support for the protection of the Jemez from all over the Southwest and as far away Austria and Tasmania.

During the last year and a half, the EFPC has worked with numerous citizens' groups, local area residents, and citizens committee appointed by Congressman Richardson to prepare a draft for the proposed Jemez National Recreation Area. We feel that the current Bill, H.R. 2502, has more than adequately taken into account all of the uses of the national forest lands in the proposed 70,000 acre NRA, economic and non-economic. Our goal for this legislation is to continue to provide for the sustained local economic uses of the forests resources, while at the same time, protecting the recreational, wildlife, Ancient Forest, and cultural resource values of this area, recognizing that the vast majority of people use the Jemez Mountains for recreation.

The Jemez Mountains have long been prized by the citizens of Albuquerque, Santa Fe, Los Alamos, Espanola and surrounding communities for their exceptional recreational opportunities, their wildlife values, and their scenic beauty. Residents and tourists alike are drawn to the Jemez Mountains due to their spectacular scenery, abundant wildlife, plentiful waters, numerous hot springs, and ancient archeological ruins. Congress has recently recognized the national importance of the natural resources of this area by including the East Fork of the Jemez River in the Wild and Scenic River System. According to the National Forest Service, the East Fork is the most popular recreation area in the Jemez Mountains. National Forest Service figures show that almost 300,000 people a year stop and use the Jemez Mountains for camping, hiking, fishing, hunting, backpacking, rock climbing, and cross country skiing. At Bandelier National Monument, which adjoins the proposed NRA, the National Park Service expects the number of visitors to approach 400,000 people this year. With the rapid growth of populations in Albuquerque and Santa Fe, an even greater demand will be placed on the Jemez Mountains for recreational opportunities.

Human habitation of the Jemez Mountains is believed to date back almost 4,000 years. Many archaeologists consider the Jemez Mountains as one of the most prolific areas in the Southwest for ancient Indian cultural resource sites. This is evidenced by the major archaeological finds at nearby Bandelier National Monument, Jemez Monument, and Puye Cliffs. The proposed NRA contains thousands of ancient cultural resource sites, identified yet unexcavated. Peoples of the Jemez Pueblo consider this region to be sacred. The proposed NAR contains many of their significant religious shrines and sites.

The Jemez Mountains encompass one of the richest diversities of wildlife habitats in the Southwest. The largest elk herd in New Mexico migrates through this area. The proposed NRA is important wildlife habitat for a number of Federal and State listed Endangered and Threatened Species: Peregrine Falcon, Goshawk, Jemez Mountain Salamander, Meadow Jumping Mouse, Mexican Spotted Owl, and the Wood Lily.

The crown jewel of the Jemez Mountains is the valles caldera or Valle Grande. This is one of the largest caulderas in the world and is "recognized as the most significant example locality of the valle-type resurgent cauldron and ash-flow tuff cooling unit of its kind in the entire world." (Draft EIS, Proposed Ojo Line Extension Project, Bureau of Indian Affairs, 1985, DOI 84-48, Page III-14.) With its broad expanses of valle meadows and montane grasslands surrounded by forested cauldera rim peaks and secondary domes, the Valle Grande is truly one of the most breathtaking vistas in the entire Southwest.

Unfortunately, not all is well in paradise. In recent times, mining, logging, and grazing have taken a heavy toll on the Jemez Mountains. We believe that under the current Santa Fe National Forest service management, the "Multiple Use" mandate is not being met, and that an inordinate emphasis is being placed on these extractive and commodity-based interests. Recreational, wildlife, Ancient Forest, and cultural resource values have increasingly taken a back seat to unsustainable economic demands placed on the forest.

Recent timber sales have violated the Santa Fe National Forest Plan and NEPA, resulting in erosion on steep slopes, logging through stream courses, and a mysterious doubling of the harvest size. Logging practices in the Jemez have also resulted in widespread ruination and destruction of numerous cultural resource sites.

The most notable example of abusive timber harvesting occurred in 1989, on the Los Utes Timber sale. This is substantiated in "The Final Report of Los Utes Timber Sale Assistance Trip and Review" by the Southwestern Regional Office of the National Forest Service. The Report noted, among other things, that 1) The project was not in compliance with the forest plan; 2) The Forest Service failed to incorporate NEPA requirements into the sale contract and comply with them on the ground; 3) Inadequate sale administration and failure to comply with those requirements that did exist in the contract and/or the EA; 4) Inadequate oversight and management throughout the life of the project.

In 1989, timber harvesting on the Santa Fe National Forest resulted in a deficit of $1.5 million.

Due to the extremely large appropriations the Forest Service budget receives for road building to facilitate timber harvesting, the road density in some areas of the proposed NRA has become higher than in the nearby city of Los Alamos.

Grazing along the East Fork of the Jemez River has resulted in extreme degradation of water quality. This was noted three years ago when the Environmental Improvement Division found elevated ammonia levels and phosphate levels 400 times above the allowable limit. This is further evidenced by high concentrations of algae in this otherwise unpolluted high mountain river. Although the main source of pollution occurs on private land, any grazing on National Forest Lands along the river corridor can only worsen the problem.

Grazing is often incompatible with recreational uses. Trails are often littered with cow pies and cows detract from the wild like nature of many areas. Cattle can also pose a threat to humans. Last summer while hiking on the East Fork trail, my passage was blocked by two bulls fighting in the middle of the trail. Many families with small children use this area for hiking and picnicking. This type of bovine behavior poses a threat to their safety.

Last year, the East Fork of the Jemez River was designated by Congress as a Wild and Scenic River. We find the degradation of the East Fork and its corridor due to grazing to be inconsistent with the purposes for which this area was designated. We would ask that H.R. 2502 be amended to eliminate grazing from the Wild and Scenic river corridor of the East Fork. This action would only affect two permittees who use this area rotationally. One of the permittees is a wealthy real estate developer whose main source of income is clearly not ranching.

The most glaring abuse and destruction of the Jemez Mountains is occurring under the 1872 Mining Law. For the past two years, citizens groups and area residents have become increasingly alarmed at the vast number of pumice mining claims filed for in the Jemez. These claims now cover between 15,000 to 20,000 acres on National Forest Land.

Since 1987, Richard Cook, President of Copar Pumice Co. and his family have claimed over 10,000 acres in the heart of the Jemez Mountains for pumice mining under the 1872 Mining Law. In August 1988, Copar Pumice Co. filed an Operating Plan with the U.S. Forest Service to begin mining on 33 acres along the East Fork of the Jemez River. Although the claimants consistently assured the public and the Forest Service that they had no intention of patenting their claims, the threat of patenting was used to insure a speedy approval of their Operating Plan. On September 29, 1989 the claimants subsequently filed for patent on 1,700 acres in the East Fork area. Many of these claims adjoin or fall within the Wild and Scenic corridor for the East Fork of the Jemez River.

The Operating Plan was unsuccessfully administratively appealed by many environmental groups through the Forest Service. We are now seeking to overturn the Forest Service's approval of the Operating Plan in a suit pending in US District Court. Recently US District Court Judge, Harold Bratton, remanded the Environmental Analysis for the Copar Operating Plan back to the Forest Service. We are currently waiting for the judge's decision.

Under the 1872 Mining Law, pumice that is 2" in size or larger and possesses "special and unique" properties that are reflected by a higher market value may be considered a "locatable" mineral and therefore claimable. Pumice that is 2" in size or smaller is considered a "common variety" material and is not claimable under the 1872 Mining Law, yet the U.S. Forest Service has found it within their power to lower the figure for locatable pumice to ¾."

Over the last 6 to 7 years, the demand for "locatable" or "block" pumice, as it is called, has been fueled by the garment industry. It uses the pumice to soften fabric and impart bleach which results in the "stonewashed" look in denim clothing and which has become a clothing fad. We are not willing to give up the most popular recreation area in the Jemez to a short lived clothing fad. During a trip to El Paso, Texas, two weeks ago I visited a number of garment finishers who process stone-washed jeans. All of the companies I contacted said that they refuse to buy pumice from Copar Pumice Co. The reason for this is that they are extremely sensitive to the environmental impacts of pumice mining in New Mexico. This is a result of a nationwide "boycott stonewashed jeans" movement that was instituted by a number of environmental groups.

There is serious question as to the validity of the claimants' mining claims. In an interview with the Associated Press, Mr. Cook stated that only 10% of the pumice being mined at the Jemez site was going for a "locatable" use that reflects a higher market value, i.e., stone-washed jeans. The majority of the pumice, 90%, is being sold for "common variety" purposes such as building materials. Common variety pumice is not claimable under the 1872 Mining Law but is being sold to Copar by the Forest Service. Under the Santa Fe National Forest Plan, the sale of common variety pumice would not be allowed in this area.

Many claims for land have been made under the 1872 Mining Law, but Mr. Cook's claim for patent on 1680 acres of National Forest Land for pumice mining has to be one of the most outrageous and unconscionable land grabs ever attempted in the history of the law. We find it appalling that under the 1872 Mining Law, the economic gain of four individuals takes precedence over the recreational use of this area by literally hundreds of thousands of people and that public land valued at approximately $25,000,000 could be given away for the nominal sum of $4,250. This is a sham that flies in the face of democracy.

The proposed legislation before us today would not prohibit Copars' ability to mine on their valid mining claims within the NRA. What it does seek to do is retain this immensely valued 1680 acres of high quality recreation land within the public domain.

In his testimony before the House Interior and Insular Affairs Subcommittee on Oversight and Investigations, Mr. Cook stated that "the proposed NRA threatens to further retard the economic advancement for the citizens of this region and in fact, threatens to raise the specter of increased unemployment." This statement is totally without merit. U.S. Bureau of Mines' figures show that employment in pumice mines and mills for the entire U.S. was 55 persons in 1989, with 20 people employed in New Mexico. Only a handful of people are employed by Copar on a fulltime basis, none of whose jobs would be threatened by the proposed NRA. Pumice mining in New Mexico is not a major industry, in fact it has been in decline for the past 10 years. Direct taxes on pumice production in New Mexico for 1988 was only $8,228. (these figures and information on the pumice industry are available in the letter of Protest—Cook Mineral Patent Application, written by Donna Smith PhD in Mineral Economics, entered for the record)

Mr. Cook's claim that the present proposal "threatens to take property interest from us" is also unwarranted, as there is serious question as to the validity of these mining claims and that property interest does not occur until the patent is issued.

The claimant states in his testimony that "the proposal (the NRA) operates on the assumption that Copar and other mining companies are not responsible citizens who would operate their businesses in conformance with reasonable enlightened business policies." and further states "I believe I reflect the general practice of modern day mining operations and I can assure this Committee and citizens that Copar will continue to act as a responsible citizen taking proper steps to safeguard this area and its particular value commensurate with the utilization of the multiple resources in this area." Mr. Cook's actions, through his businesses, prove contrary to these statements. EPA, (Region VI, 214/655-2260) filed Administrative Order (Docket No. VI-88-002) on January 26, 1988 against the Espanola Transit Mix Co., Richard Cook, President, for Clean Water Act Section (404) repeated violations of unpermitted discharge of pollutants into the waters of the U.S., and Rio Grande, Rio Arriba County. Previous Cease and Desist Orders by the U.S. Army Corps of Engineers on unauthorized fill in Rio Grande and wetlands near Espanola occurred on April 27, 1977; November 17, 1977; February 17, 1981; June 3, 1986; October 26, 1987. As reported on December 24, 1989, the EPA fined Mr. Cook and Espanola Transit Mix $2,500 and was informed that further violations would incur greater penalties. On August 25, 1989, EPA second Administrative Order Docket No. VI-89-623 citing Espanola Transit Mix for violation of Federal Clean Water Act for discharge of pollutants. This discharge resulted in a large fish kill. As reported on June 29, 1991, Espanola Mercantile Co., owner Richard Cook, was fined $50,000 for violating air-quality laws and regulations at the company's plant in 1988 and 1989. This is the largest settlement the Air Quality Bureau of the state Environment Department has made (see article submitted for the record).

Mr. Cook is not presently a member of the New Mexico Mining Association. In a conversation with an officer of the association, he stated that they would not want him as a member.

I present these facts and statements not to attack Mr. Cook or his businesses, but to point out the potential threat that exists to our National Forest Lands in the Jemez Mountains. We believe that this highly valued recreation area is in danger of becoming a pumice mining district. Given the current foreseeable future market for pumice, the 1,680 acres claimed for patent represent more pumice than could be mined and sold in two lifetimes. It is our belief that it is possible that the claimants plan residential or resort development for this area.

We respectfully petition Congress to designate this 70,000 acre area of the Jemez Mountains as a National Recreation Area. For far too long the recreational, cultural resource and wildlife values have been neglected. It has taken many long hours and the work of hundreds of individuals to bring this legislation before Congress. It saddens and angers me that citizens have to go to such great lengths to protect and preserve an area of our public lands, of which, the highest, best, and vast majority use is clearly not for commodity based-extractive purposes.

We believe that National Recreation Area status is warranted for this area in order to provide specific management directives to the U.S. Forest Service to protect and preserve all of the forest values for present and future generations.

I would like to thank you for the opportunity to appear before you today. This concludes my testimony, Mr. Chairman, and I would be happy to answer any questions that you or other members of the Subcommittee might have.

STATEMENT OF SAMUEL M. HITT, DIRECTOR FOREST GUARDIANS

We are pleased that this subcommittee has focused its attention on the Jemez mountains of north central New Mexico. We join the many that have long been concerned that the unique values of this special area have gone unrecognized.

The special scenic and cultural significance of this area has prompted at least five unsuccessful attempts since the turn of the century to create a National Park in the Jemez mountains. The concern for nearly one hundred years has been the protection of the abundant cultural resources on the Pajarito Plateau which in some areas are more numerous than those found in many well-known in some areas are more numerous than those found in many well-known southwestern National Parks, (see Rothman, H. 1988. Bandelier National Monument: An Administrative History. Southwest Cultural Resource Professional Paper #14, Santa Fe, N.M.)

We are not here today to propose that a National Park be established in the Jemez mountains. Instead, we are seeking minimum protection for a very special area that many Congressmen and Senators in the past have recognized as worthy of preservation.

Today the area being proposed for a national recreation area contains three developed campgrounds, a Wild and Scenic River, a proposed National Scenic Highway and is bordered on the east by the heavily used Bandelier National Monument as well as the Dome Wilderness.

The proposed recreation area is already one of the most heavily used recreation areas in the southwest and its use is increasing. The Forest Service estimates that 300,000 people camp, hike, fish, hunt, backpack, rock climb and cross-country ski in this area every year.

Nearby Bandelier National Monument is overwhelmed with visitors. According to Park Service figures use has more than doubled over the past ten years with a record breaking 400,000 visitors expected this year alone.

In addition to being a high use recreation area, the Jemez mountains rival any area in the nation for providing refuge for rare and sensitive species of wildlife.

The Jemez mountains support the largest population in the northern part of its range of the extremely rare Mexican spotted owl (Strix occidentilis lucida). The total population of Mexican spotted owls is only one quarter that of the better known northern spotted owl which has been listed as threatened by the U.S. Fish and Wildlife Service.

Forest Service sponsored research has documented the recent disappearance of half the spotted owl population in the Jemez mountains. It is thought that the loss of its highly diverse habitat through logging and fire are responsible for this precipitous decline. Researches warn that local extinction is likely. (see Johnson and Johnson. 1990. Status of the Spotted Owl in the Jemez Mountains Santa Fe National Forest, contract #43-8379-0-0443.)

The northern goshawk (Accipiter gentilis) is another top of the food web indicator species at serious risk of local extinction. Today there are only about a dozen goshawks pairs known to exist in the entire Jemez with two of those in the proposed recreation area. The new Forest Service goshawk protection standards have been roundly criticized by New Mexico and Arizona wildlife agencies, independent scientists as well as the Forest Service's own goshawk expert because they allow habitat destruction to continue at historical levels.

The Jemez mountain salamander is found no where else on the planet but a few scattered pockets ringing the unique Valley Grand caldera. Its center of origin is thought to be within the proposed recreation area. This salamander has been described as the most critically endangered vertebrate species in the southwestern mountains by state biologists.

There are only two known populations of spotted bat (Euderma maculatum) in New Mexico according to the U.S. Fish and Wildlife Service and one of these populations is found within the proposed recreation area. Little is known about the needs of the spotted bat but old growth forests may provide essential foraging habitat.

Several rare plants also occur in the area proposed for a national recreation area including the southern most extension ever recorded of Canadian dogwood.

Large sections of the area being considered for national recreation area status are also within the feeding zone of the peregrine falcon listed as endangered under the federal Endangered Species Act.

Despite these recreational and wildlife values, much of this unique area is scheduled for large scale commercial logging. Logging over the past fifty years in the Jemez has blanketed a nearly roadless area with a spider web of logging roads and skid trails.

The Santa Fe National Forest Plan calls for nine timber sales that will log 33 million board feet of lumber and construct or reconstruct 68 miles of road in this proposed recreation area. At least one logging activity is planned to be initiated in the area every year through 1997. Such intensive logging promises to degrade the environmental attributes which make this area special.

The first and largest of these logging operations is the controversial Bonito timber sale which calls for logging on steep slopes. The introduction of steep slope logging, where the last large trees remain in the Jemez, has been the most controversial forest management issue in the northern part of the state for over ten years. The Bonito provides habitat for all the rare species discussed above.

There are other threats to the area. A high-voltage powerline with ten story tall towers will cross the Jemez just east of the proposed recreation area. This will fragment wildlife habitat and impair scenic quality.

Most significantly, 1700 acres of public land in the heart of this proposed recreation area are about to be transferred to private ownership under the antiquated 1872 Mining Act. The bill before you today would halt this plunder and recognize that the loss of these special lands does not serve the public interest.

This bill, however, does not stop large-scale commercial logging, ban powerlines or restrict grazing. We propose at a minimum that livestock be kept from the East Fork of the Jemez Wild and Scenic River corridor, that high voltage powerlines not be permitted to cross the recreation area and that logging be restricted to small timber sales that benefit local communities.

Mr. Chairman, we pledge our strong support and cooperation in efforts to create a truly meaningful national recreation area in the Jemez mountains. Thank you for the opportunity to testify on behalf of this proposal today.

TESTIMONY OF THOMAS W. LYTTLE

Mr. Chairman, and members of the committee, my name is Thomas Lyttle and I would like to thank you for the opportunity to testify today in support of H.R. 2502, and the establishment of the Jemez National Recreation Area. I hold a Masters degree in Geology/Geochemistry, currently reside in the Jemez Mountains within the borders of the proposed recreation area, and I strongly support its establishment.

The Jemez Mountains represent a unique resource for both New Mexico and the nation. Those fortunate enough to live in the Jemez enjoy what I believe to be some of the most spectacular scenery and pleasant living conditions that can be found anywhere. We enjoy clean air and water, diverse species of wildlife, and an abundance of places to hike, ski, and generally enjoy the outdoors. I feel it to be of utmost importance that this area be managed with an emphasis on preservation and protection, for the enjoyment of and use by the public at large.

The Jemez already represent an important recreation area both for in-state residents and out-of-state visitors. I suspect, there is not a single guide book to New Mexico that does not list the Jemez as a scenic area for recreation. In addition, the Jemez Mountains represent a spectacular volcanologic feature which provides an invaluable "field laboratory" for geology students from around the country.

I cannot emphasize strongly enough that residents of the Jemez do not support land use restrictions that deny judicious use to either those who make their living in the area, or to those who intend to visit. I believe this attitude is evidenced by the recommendations of the Citizens' Committee chartered by Congressman Richardson, which form the basis for the points you see before you in H.R. 2502. We attempted to structure a compromise that would allow residents of the mountains continued enjoyment of their way of life, people who make a living in the mountains a continued income, and those who wish recreation continued access to places for hiking, swimming, snowmobiling, cross-country skiing, and fishing.

I personally became concerned for the future of the area when significant tracts of land were claimed and patent applications filed for pumice mining. The land in question is some of the most scenic and accessible in the mountains. Furthermore, I do not believe that mining of pumice in this area is justifiable in order to meet any demonstrable economic demands. A protest to this effect, and against the mining claims, has been filed with the Bureau of Land Management, explaining our concerns, given the current economics of the pumice market. A copy of that protest is being filed as part of my testimony here today. Pumice mining denies access to the land to all other users, changes the character of the areas mined, and in my opinion is not a judicious use of the land.

As a result of even the existing limited mining activities, we have observed a disturbing increase in the heavy truck traffic in the area. Area residents originally moved to these mountains and people currently visit the area for its scenic and pristine nature. Unfortunately, everyone must now concern themselves with avoiding tractor-trailer rigs on narrow two lane mountain roads rather than enjoying the scenery.

Finally, I am deeply concerned with preservation of the quality of the environment in the Jemez. In our area, the water derived from wells currently requires minimal to no treatment in order to meet safe drinking water standards. That level of water quality is an indication of the pristine character of the area which is at risk should significant mining activity be allowed. The Jemez River, a portion of which has been declared a Wild and Scenic River, attracts fishermen and hikers all season long. One can only anticipate continuing deleterious impacts should escalation of destructive land use be allowed.

In conclusion, I believe the Jemez Mountains are an example of a uniquely beautiful and, so far relatively undeveloped area, that is in need of protection and preservation: The area is historically significant to the local Native Americans, the local residents, those who make their living logging and grazing, and to those people who currently use the area for recreation. I must believe an increase in the number and severity of competing uses for the land is inevitable. I, therefore, urge you to pass H.R. 2502 to establish the Jemez National Recreation Area in order to provide the appropriate level of protection to this unique and beautiful area.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today because of concerns I have with one section of H.R. 2502. Let me make myself clear, I am not opposed to the establishment of the Jemez National Recreation Area in New Mexico. I respect the judgment of the Member representing the district in which the NRA would be created. Mr. RICHARDSON has made a persuasive case for setting aside these public lands because of their special values.

Mr. Speaker, I am the ranking member of the Mining and Natural Resources Subcommittee of the Interior Committee. In my view, section 4 of the amendment in the nature of a substitute adopted by the committee, prejudices the private property rights of unpatented mining claimants. In committee, I offered a simple amendment to cure this problem, but as is often the case in the Interior Committee, Mr. Speaker, the minority position was rebuffed.

My amendment would have made changes to the text of the original bill introduced by Mr. RICHARDSON, by replacing the offending section with language suggested by the Secretary of Agriculture in a letter to the subcommittee chairman Mr. VENTO. Now, because the committee refused to listen to the administration's concerns we are about to pass yet another Public Lands Subcommittee bill that is dead on arrival in the Senate. Perhaps H.R. 2502 can be resuscitated in the other body, but I am sure that the lifesaving measures necessary to do so will include removal of the provisions denying vested property rights under the mining law.

Mr. Speaker, I won't go into the details of my criticism. I think the minority views to the committee report on this bill will suffice to alert Members. The majority tries to paint this issue as the simple trade-off of giving up the fashion statement of stonewashed jeans in order to protect the environment. That makes for a clever sound bite, but it completely begs the question of why property rights granted under the mining law are being taken without compensation.

Mr. Speaker, I will not ask for a recorded vote on this bill, but I cannot support it until the provisions of section 4 are revised to recognize the legitimate interests of mining claimants.

Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, my colleagues, I certainly rise in very, very strong support of this particular piece of legislation.

However, it saddens me that once it is passed, in spite of our activity with regard to this piece of legislation and our concern for national recreation areas in New Mexico, because of our inability to bring an economic recovery and growth package to the floor, we have got too many people out there who are going to have too much free time on their hands because they are unemployed, and too poor to enjoy the beauty and the bounty of the recreational areas around this country.

I know that during the course of the debate in this Chamber, both publicly and privately during the past couple of months, it has become pretty clear that our friends on the other side of the aisle have been beseeching the President to ignore his constitutional responsibilities overseas, to come back home to America, to return to this country and to take care of business here. I think back on the 9 years or plus that I have served in this Chamber and am reminded that there are many of my colleagues on the other side of the aisle who probably never once have cast a vote for a single defense dollar, who never once have supported either this President or his predecessor in building up the defense posture that enabled us to preside over the dismantling of the Soviet Union.

This is the same party that has had many of its Members never once supporting the defense buildup of this President or his predecessor, that want that President to ignore the very unstable situation over in the Soviet Union and come home. This is the same President who is trying to deal with a very unstable Eastern Europe, as he is constitutionally mandated to, and our colleagues on the other side of the aisle want the President to come home.

Our colleagues on the other side for the past couple of months have said:

> Mr. President, we understand that you and this country and the leaders of the world and

the peoples of the world expended billions of dollars in the Middle East, we defused a potentially very dangerous situation not only to that part of the world but to the entire world, to the entire globe, we spent billions of dollars, we lost hundreds of American lives, thousands were killed in that effort, and now you have an opportunity to do something to utilize what little leverage we have in that region of the world.

But my colleagues on the other side want him to ignore his constitutional responsibilities and come home.

We have had some very interesting 1-minute speeches the past couple of days in response to the President's announced trip to the Pacific Rim. Clearly it is an area of great concern to this country. But for export-led growth, there would be no GNP growth in this country. It certainly was appropriate for the President to consider going to the Pacific Rim.

Our economy is in trouble. We want people to go back to work, to enjoy these recreational areas that we are spending so much time on here on the floor here in Washington, DC, but our colleagues on the other side of the aisle want the President to ignore his constitutional responsibilities to promote economic growth, to deal with our allies across the seas and come home.

Ladies and gentlemen, the President is home. He has been back in this country for months and weeks. He is here today. He is going to be here for most of November. He is going to be here for most of December. That is where we should be.

If we are truly interested in taking care of the people in this country, if we are truly interested in giving them more than the half a loaf of bread that we gave them when we passed the unemployment compensation measure, then we ought to stay here and entertain the ideas that my colleagues on this side of the aisle have in their economic recovery and growth package and entertain whatever other ideas my colleagues on the other side of the aisle have with regard to economic growth.

I think it is a rather cruel hoax during the past couple of months for this Chamber to be fostering its concern for the unemployed. It is one thing to extend them unemployment compensation benefits, and I certainly supported it. A lot of my colleagues on this side of the aisle did, and I am grateful for the support of my colleagues on the other side of the aisle.

But you did not give them a loaf of bread. You gave them a doughnut. There is a big hole in the middle of that doughnut, because the bottom line is next getting an extension of unemployment benefits; those men and women who everybody professes to care so very much about who are unemployed, and they have been unemployed, and if they are getting an extension of unemployment benefits, they have been unemployed for a long time.

□ 1630

How convenient and how nice and how thoughtful and how compassionate it is for the Congress of the United States to extend unemployment compensation benefits for the unemployed that will tide them over during our recess. What a magnanimous gesture on our part. How wonderful we are, how compassionate and caring and concerned and considerate we are.

I do not think that is enough, because these men and women want to go back to work.

The SPEAKER pro tempore (Mr. McDERMOTT). The time of the gentleman from Pennsylvania has expired.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. RIDGE. We know full well, Mr. Speaker, that the only way they are going to get back to work is if we address the problems in the economy as reflected by the increasing unemployment rate, reflected in the trouble with our banks, reflected in the trouble with our thrifts, if we deal with that problem today in November 1991.

Mr. Speaker and my colleagues, I think that many people in this Chamber who have been disturbed and unhappy with what is going on in the White House, and I guess the White House can look up to this end of the street and be very disturbed with what Congress is doing, and frankly I think the American people are a little disappointed in both institutions.

I clearly think that we have an opportunity, more important than an opportunity, a responsibility to stay around this town a little longer.

My Democratic colleagues have wanted the President to stay home. He is here. We are here and you are here. We extended unemployment compensation benefits until after the first of the year. That is not enough. We have got to jump-start this economy. It is our responsibility to do so.

We have two measures here on the floor that we have debated in the past couple days. One is to let the bank insurance fund borrow money from the Treasury up to $70 billion, and the other is to borrow another $80 billion from the taxpayers to let the RTC close some more thrifts. We know we are just treating symptoms. We are not treating causes. We are not dealing with banks or thrifts that are mismanaged or being operated fraudulently. We are dealing with institutions that are crippled because of the economy.

It will be a lot easier, a lot cheaper and a lot better, not only for those institutions, but for the people of this country if instead of just milking the cash cow, the taxpayers, actually we claim we are going to borrow the money, but everybody in this Chamber knows we are not paying it back, we deal with $150 billion today, but we know for the next 30 years it will be close to half a trillion dollars, that is just too expensive to ignore.

We have but to stay here. We have got to do something about this economy.

My Democratic colleagues across the other side of the aisle, the President is home. He is here in this country. Yes, he is right here. We are here, too. Let us stay here and send him down the economic growth and recovery package.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2502, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LAMPREY RIVER STUDY ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1099) to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers Systems, and for other purposes as amended.

The Clerk read as follows:

H.R. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lamprey River Study Act of 1991".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"( ) LAMPREY, NEW HAMPSHIRE.—The segment from the southern Lee town line downstream to the confluence with Woodman's Brook at the base of Sullivan Falls in Durham.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"(11) The study of the Lamprey River, New Hampshire, shall be completed by the Secretary of the Interior and the report thereon submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1099, a bill introduced by the gentleman from New Hampshire [Mr. ZELIFF] would amend the Wild and Scenic Rivers Act to require a study by the National Park Service of a segment of the Lamprey River, in New Hampshire, for possible inclusion in the National Wild and Scenic Rivers System.

At the hearing before the Subcommittee on National Parks and Public Lands on the bill, there was strong support for this proposal. The administration did not oppose the bill, but the National Park Service said they would like to study more of the river than the segment specified in the bill.

Of course, nothing prevents the National Park Service from studying additional portions of the river. But meanwhile, the Federal Energy Regulatory Commission has issued a decision—now under appeal—approving the application for a small hydroelectric project on the part of the river covered by the bill. Legislation mandating a study of the relevant segment would have the effect of staying a final decision on the project pending the completion of the study and a period for congressional decisionmaking. Therefore, the Interior Committee decided to go ahead and approve the bill as introduced.

Again, this would not stop the National Park Service from studying more of the river. In fact, enactment of the bill would facilitate a larger study by holding off a FERC decision that could preclude designation of at least part of the river, and remove some of the rationale for the study of the rest.

The Interior Committee has approved H.R. 1099 without controversy or amendment, and I urge its approval by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure which would designate 9.5 miles of the Lamprey River for study under the Wild and Scenic River Act. As you have heard, this river does contain outstanding characteristics which have been previously identified by the National Park Service when they placed portions of this river on their nationwide river inventory in 1982.

During testimony on this measure, the administration indicated they would not be likely to support designation of an isolated 9.5-mile section of river and therefore encouraged the scope of the congressional study to be expanded. I certainly agree with their conclusion that we should not designate short, unmanageable sections of river. Therefore, it seems logical that the administration consider studying a longer stretch of stream; especially since the administration has stated that a study of additional stream miles would cost no additional funds. We should not be using the Wild and Scenic River Act simply to preclude dams, but rather to designate segments of river which fully meet the criteria under the act.

I know that the gentleman from New Hampshire [Mr. ZELIFF] has worked very closely with local persons in the development of this proposal, and I commend him for his efforts in that regard. I urge my colleagues to join me in support of this proposal and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1099, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1099, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CHATTAHOOCHEE NATIONAL FOREST PROTECTION ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3245) to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chattahoochee National Forest Protection Act of 1991".

SEC. 2. WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), the following lands in the State of Georgia are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,800 acres, as generally depicted on a map entitled "Blood Mountain Wilderness—Proposed", dated October 1991, and which shall be known as Blood Mountain Wilderness.

(2) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 16,880 acres, as generally depicted on a map entitled "Chattahoochee Headwaters Wilderness—Proposed", dated July 1991, and which shall be known as Mark Trail Wilderness.

(3) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 1,160 acres, as generally depicted on a map entitled "Brasstown Wilderness Addition—Proposed", dated July 1991, and which is hereby incorporated in and shall be part of the Brasstown Wilderness as designated by section 2(2) of the Georgia Wilderness Act of 1986 (100 Stat. 3129).

(b) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 3. NATIONAL SCENIC AREA.

(a) DESIGNATION AND PURPOSES.—For the purposes of protecting and enhancing the natural beauty, special ecological features, watershed integrity, mature-forest habitat, scenic recreation opportunities and other distinctive values of certain lands in Georgia, the lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,100 acres, as generally depicted on a map entitled "Coosa Bald Scenic Area—Proposed", dated July 1991, are designated as a national scenic area and shall be known as the Coosa Bald National Scenic Area (hereafter in this section referred to as the "scenic area").

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the Secretary shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the National Forest System in such a way as to further the purposes of this section.

(2) The Secretary may permit additional road construction in the scenic area in furtherance of the purposes for which the scenic area is established. Except as provided in this section, the Secretary may not conduct timber harvesting in the scenic area. The Secretary may remove timber in the scenic area in furtherance of this section, but only in a manner which does not impair the purposes for which the scenic area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(3) By virtue of this designation alone, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads for public use for reasons of sound resource management.

(4) Nothing in this section shall prevent the completion of existing timber sales under contract.

(5) The scenic area is hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(6) The Secretary may also permit, in his discretion, the continued maintenance of existing wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the scenic area is established.

(7) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive public's opportunities for primitive and semiprimitive experience in the scenic area.

SEC. 4. RECREATION AREA.

(a) DESIGNATION AND PURPOSES.—For the purposes of ensuring the protection of certain natural, scenic, fish and wildlife, historic and archaeological, wildland and watershed values, and providing for the enhancement of the recreation opportunities associated with these values, certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 23,330 acres, as generally depicted on a map entitled "Springer Mountain National Recreation Area—Proposed", dated October 1991, are hereby designated as a national recreation area and shall be known as Springer Mountain National Recreation Area (hereafter in this section referred to as the "recreation area").

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forest in such a way as to further the purposes of this section. Except as provided in this section, the Secretary may not conduct timber harvesting in the recreation area. The Secretary may remove timber in the recreation area in furtherance of this section, but only in a manner which does not impair the purposes for which the recreation area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(2) Nothing in this section shall prevent the completion of existing timber sales under contract. The Secretary may permit additional road construction in the area in furtherance of the purposes for which the recreation area is established.

(3) By virtue of the designation under this section, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads for public use for reasons of sound resource management.

(4) Lands within the recreation area are hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(5) The Secretary may permit, in his discretion, the continued maintenance of existing wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the scenic area is established.

(6) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive recreation in the recreation area.

(7) Designation by this section shall not interfere with rights of access to privately held lands.

SEC. 5. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 6. SAVINGS CLAUSE.

Privately held lands within the areas designated by this Act will not be administered as wilderness, a national scenic area, or a national recreation area, as appropriate, unless such lands are acquired by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3245, the Chattahoochee National Forest Protection Act was introduced by Mr. JENKINS with the bipartisan cosponsorship of all the members of the Georgia delegation. The bill designates 26,000 acres of wilderness in two new areas as well as an addition to an existing wilderness area. It also designates a 7,000-acre national scenic area and a 23,000-acre national recreation area. All designations are within the Chattahoochee National Forest in northern Georgia.

The proposed wilderness lands contain some of the highest peaks in Georgia, stretches of the Appalachian National Trail, rare plant species and streams with quality trout fishing. The proposed Coosa Bald National Scenic Area has outstanding scenic quality. The Forest Service has recognized the uniqueness of the Coosa Bald area and within the proposed boundaries has administratively designated a scenic area, a botanical area, and a zoological area.

The proposed Springer Mountain National Recreation Area is already very popular with recreationists, and includes Springer Mountain, which is the southern terminus of the Appalachian Trail.

Included in the bill is language which we worked out with the Agriculture Committee which would prohibit large commercial timber sales in the national recreation area and national scenic area. Some limited timber harvesting would be allowed for public safety, salvage and sanitation, and wildlife openings. The bill also includes provisions for both the scenic area and recreation area that states that the Secretary may remove timber in the scenic or recreation area "in furtherance of this section, but in a manner which does not impair the purposes for which the scenic area—or recreation area—is established." It is our intent that these provisions allow the Forest Service to do a limited amount of timber harvesting to enhance the scenic area or recreation area such as cutting trees for campgrounds, trails, facilities and scenic vistas, but that they do not allow large commercial timber sales such as those that occur on general national forest lands.

This legislation is the result of efforts on the part of conservation and business interests, local government officials, and other interested citizens of the area. I wish to commend Representative JENKINS for his longstanding interest and work on this matter. I also wish to commend my colleague, Representative DARDEN, for all his help in enabling the Subcommittee on National Parks and Public Lands to hear this legislation on October 17, 1991. Mr. VOLKMER, chairman of the Subcommittee on Forests, Family Farms and Energy, has worked hard on this legislation as well and I appreciate his efforts and cooperation.

I urge my colleagues to support this bill and protect the natural beauty and unique natural resources of the mountains of northern Georgia.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3245 which has been described in detail, would designate approximately 26,000 acres of new wilderness and create another 30,000 acres of scenic and recreational areas on the Chattahoochee National Forest.

Although H.R. 3245 is supported by all 10 members of the Georgia House delegation, our hearing on this bill indicated opposition from the forest products industry and even the Atlanta Journal has editorialized against it.

At the subcommittee hearing on the bill, we learned that a vast amount of hardwood timber from the Chattahoochee Forests ends up in North Carolina because of that State's excellent manufacturing facilities. As a result, North Carolina would be greatly affected by any timber supply problems caused by this legislation.

Consequently, Mr. TAYLOR of North Carolina offered an amendment at full committee to reduce the bill's impact on the hardwood timber supply in his State. At a time when some rural counties in western North Carolina have unemployment rates exceeding 30 percent, one would have expected the Taylor amendment to prevail. Unfortunately, it was defeated on a straight party line vote.

However, I am cautiously optimistic that the other body will be more successful in amending this bill to bring the sort of sensible balance between employment and environmental protection that Mr. TAYLOR sought.

I thank Mr. JENKINS and the entire Georgia delegation for their hard work on this bill.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

□ 1640

Mr. JENKINS. Mr. Speaker, I appreciate the opportunity, as the sponsor of the Chattahoochee National Forest Protection Act, to speak to the House today and ask that the House suspend the rules and pass this bill, H.R. 3245.

I would like to point out that the entire Georgia delegation in the House, both Republican and Democrat, cosponsored this bill. Full hearings were held in the House in the Committee on Interior and Insular Affairs and the Committee on Agriculture.

Located on the lower end of the Appalachian Mountains chain, the lands of north Georgia and the Chattahoochee National Forest are those on which the Cherokee Indians lived and hunted. Within the areas I have included in this bill are some of the highest peaks in Georgia, the headwaters of the Chattahoochee River, more than 30 miles of the Appalachian Trail and its rugged approaches and numerous other trails, and some of the most scenic and outdoor recreationally attractive mountainous lands in the state.

The uniqueness of the area, however, creates somewhat of a paradox.

The Chattahoochee National Forest in north Georgia and the urbanization of the metropolitan Atlanta area are meeting quickly. Major transportation corridors access the mountains and their flora and fauna. As development has moved closer, the demands on the forest have increased. It is imperative that we have the foresight to act now, not 10 years from now, to plan for the use and prevention of the abuse on this forest.

What attracts those seeking recreation or those looking for a new home are the scenic beauty and the natural resources which sustain that beauty and provide life forces for much of the State. We are not looking just or protect the natural resources here. We are looking at a balance to protect these resources and the economic stability of the area. They do not have to oppose each other. In fact, they can exist in tandem, one working with and for the other.

The President's 1992 budget initiative for our Nation's forests emphasized three areas:

First, improving recreation, recreational fisheries, and wildlife-watching facilities;

Second, Managing National Recreation Areas and other Congressionally designated special areas; and

Third, providing forest interpretation and education.

The bill I have before you will fit into the plan proposed for the national forest—America's great outdoors—particularly where it emphasizes recreation management on lands adjacent to urban areas and on specially designated areas such as the national recreation areas and where it addresses high demand areas such as urban forest, scenic byways and specially designated recreation areas.

Tourism is the second largest industry in Georgia—$9.6 billion in 1990. The northeast Georgia mountains' cut of that tourism pie was $848 million. Even with the worldwide decline in travel last year, the northeast Georgia mountains attracted an increase of 3 million tourism dollars over 1989.

Aside from the obvious sightseeing activities associated with the mountains across several seasons, the region has promoted and provided multiple uses and options for a wide range of the tourism market. Continued hunting, fishing, hiking on the numerous trails, camping, swimming, canoeing, and exploration and interpretation of local history depend on the maintenance of this area.

The five areas and the designations selected in this bill would provide protection and focus on the multiple attractions necessary in the forest for the tourism market.

The national recreation area created in this bill would be the first in Georgia to be managed by the National Forest Service. The land proposed for designation of the Springer Mountain National Recreation Area is located adjacent to a wildlife management area and a park managed by the State of Georgia. The State also plans to build a walk-in lodge accessible by connector hiking trails adjacent to this area. The Forest Service has indicated its wishes to build a developed campsite within the proposed area.

The area includes part of the Toccoa River over which a natural bridge passes and Rock Creek Lake. Also within its boundaries are portions of the Benton MacKaye Trail and the beginning of the Appalachian Trail which traverses approximately 2,140 miles from Georgia to Maine.

The Springer Mountain area already is being heavily used but needs a recreational-oriented management plan. The qualities of the area, the adjoining State-managed lands, and its proximity to metropolitan Atlanta lend it toward a premier Forest Service managed recreation area.

In addition to the 23,330 acres proposed for the Springer Mountain National Recreation Area within Dawson, Fannin, Gilmer, and Lumpkin Counties, the bill designates a national scenic area and three areas totaling 25,840 acres to be set aside as wilderness. These areas include:

Coosa Bald Scenic Area—7,100 acres, located in Union County with 4,287 feet of the high point of Coosa Bald as its centerpiece, it contains trails, rare tree stands, and the headwaters for a native brook trout stream, and is located adjacent to the Blood Mountain Wilderness Area;

Blood Mountain Wilderness Area—7,800 acres, located in Lumpkin and Union Counties, the area includes Blood Mountain, one of the highest peaks in Georgia at 4,467 feet, which cannot be reached by road and also includes wild trout streams and 11 miles of the Appalachian Trail;

Addition to Brasstown Wilderness Area—1,160 acres, it also lies completely in Union County and boasts three wild trout streams and the scenic slopes of Brasstown Bald; and

Mark Trail Wilderness Area—16,880 acres, located in White, Union, and Towns Counties, it contains 15 miles of the Appalachian Trail and the crest of the Blue Ridge with 16 peaks rising more than 3,500 feet. The headwaters of the Chattahoochee River are in this proposed wilderness area.

The proposed scenic area, the two wilderness areas, and an addition to an existing wilderness all fit into the multipurpose plan for the tourism market and existing forest management.

Several groups representing that tourism market and three chambers of commerce in the area have voted to endorse the bill because of the protection it will provide and the economic impact on the area. Several groups testified or submitted remarks for the record in the hearings held in the House.

During the 2 years prior to the introduction of this bill, I met with many groups of people and agencies who have interests in the Chattahoochee National Forest and its uses. Those who have had input into this legislation have had different opinions on what lands should and should not be included and how they should be treated.

I would like to point out here that I appreciate the cooperation of the Forest Service and various governmental agencies and other groups in developing this plan.

Earlier this year, I sent out a postal patron mailing to the residents of my district seeking their opinions on a proposal for protection of the five areas included in this bill. Of the more than 4,000 who returned the questionnaires, an overwhelming 75 percent either favored the plan as proposed or more lands and stricter designations.

Opposition to this bill has come mostly from timber interests. However, I worked closely with the forest supervisor of the Chattahoochee and his staff in determining what effect the designations in this bill would have on timber harvesting quotas in the Chattahoochee National Forest.

No private lands are included in this bill; therefore, timber harvesting on private lands in north Georgia will not be affected. Of the some 750,000 acres in the Chattahoochee National Forest, the Forest Service classifies 556,710 acres as suitable timber land. However, the Forest Service does not open all those acres for timber harvesting nor does it think commercial harvesting on all those acres is feasible.

Of the 38,057 acres classified as suitable for timber production in this proposal, the Forest Service considers most of the 14,185 acres to be disignated as wilderness as "too steep or rough to be economically harvested." As a matter of fact, over the past 5 years, timber harvesting has occurred on only 841 acres within all five areas included in this bill. And the Forest Service has indicated that it can meet the volume it offers for sale annually with the timber base it has classified outside these areas.

For those of you not familiar with the Northeast Georgia mountains and the effect this region's natural resources has on Georgia and the States below it, I would like to emphasize that the headwaters of the Chattahoochee River are located in the proposed Mark Trail Wilderness Area. The path of the Chattahoochee River flows from here through Atlanta and west Georgia, joining two other rivers feeding into the Apalachicola Bay and its famous oyster beds.

Management on the upper end of the Chattahoochee can affect the drinking water of three-fourths of the population of Georgia and impact the economies of three States—Georgia, Alabama, and Florida—in the Apalachicola-Chattahoochee-Flint River Basin.

Protecting the natural resources in the northeast Georgia mountains, as you can see, is not just a regional issue. Nor is this just some environmental utopian dream. The issues involved are real economic ones affecting the majority of the population in northeast Georgia and the adjoining regions.

I would like for you to keep in mind three points while considering this legislation:

First, the rapidly changing urban areas around our national forest, and in this case, the Chattahoochee National Forest;

Second, the economic impact now and for the future on the loss of the tourism industry to this region if the national forests are not properly managed; and

Third, the economic and ecological impact this region has on adjoining areas and what effect mismanagement of the national forests will have.

I thank Members for consideration of this bill, and I urge them to give their vote for H.R. 3245.

Mr. VOLKMER. Mr. Speaker, I rise in support of H.R. 3245. This bill provides for the protection of about 56,000 acres of land in the Chattahoochee National Forest in Georgia, through designations as wilderness, a national scenic area, and a national recreation area.

The Agriculture Committee's subcommittee on Forests, Family Farms and Energy conducted a hearing on this bill on November 5, 1991. The information we received indicates the designations are appropriate for the areas, particularly in light of the important role recreation and tourism play in the economy of the region. The numerous mountain streams, rock outcroppings and rich wildlife habitat, and the miles of forest trails—including significant stretches of the popular Appalachian trail—are certainly deserving of the protection they will receive under this legislation.

Our subcommittee approved H.R. 3245 on November 5, and the Agriculture Committee ordered the bill favorably reported on November 6.

I commend the leadership of the bill's sponsor, the gentleman from Georgia [Mr. JENKINS], in putting together this package. The gentleman has shown a high level of concern, both for the views of the people of the region, and for the resources of the forest, and has worked for at least 2 years developing this proposal and considering public comments. It is clearly this thoughtful, reasoned approach that has resulted in a bill that the entire Georgia delegation, on both sides of the aisle, has been willing to cosponsor.

In approving these designations, the Committee on Agriculture has considered their impact on types of activities that would no longer be allowed in the areas, particularly commercial timber harvests. The committee believes these impacts will be minimal in the context of the 750,000-acre Chattahoochee National Forest, and are justified on the basis of the need for protection of resources and public recreation opportunities.

Tourism is an important facet of the economic structure of the area. H.R. 3245 provides direction for the Forest Service to aid in the continued viability of this industry through management of the forest resources that have proven popular to persons from outside the region as well as those who live in the immediate area.

The Committee on Agriculture supports this bill, and urges its approval by the House.

Mr. DARDEN. Mr. Speaker, I would like to express my strong support for the legislation under consideration H.R. 3245, and, I would like to take this opportunity to commend my friend and colleague, Representative ED JENKINS for his careful and thoughtful attention to this issue. For several years, Representative JENKINS has tried to develop legislation which reflects both a commitment to the preservation of these pristine natural resources and a realistic understanding of the needs and capabilities of the communities affected by this type of designation. The result, I believe, is a well-crafted, thoughtful, and effective bill which provides for the designation of certain areas in the north Georgia mountains as wilderness, a scenic area and a recreation area.

North Georgia has been the target of greatly increased development over the last decade, and the mountains especially are threatened with encroachment. As elsewhere in the Southeast, Georgia's population has increased significantly, and many have chosen to settle in the metro Atlanta and north Georgia areas. While we in Georgia welcome these new residents, we remain concerned about the effects on our natural and scenic resources. Already we have seen the development of water problems similar to those experienced in the west. The metro Atlanta area has developed air quality problems, and previously forested lands have been sacrificed for housing and office space. Without careful planning and management, our most precious lands could be lost to future generations.

North Georgia's mountains possess a unique and natural beauty unparalleled, I believe, elsewhere in the country; their heavy use testifies to their importance both in providing recreational opportunities and in assuring economic security for this area through the tourist industry. Without the effort to assure their protection, I am afraid their pristine qualities would be destroyed, and perhaps our quality of life and financial security along with them.

Again, I commend my friend and colleague, ED JENKINS, for his leadership in introducing this legislation, and I note that H.R. 3256 has the strong support of the entire Georgia delegation. Every effort was made to assure that residents of the areas to be protected were consulted, and every indication is that this legislation enjoys wholehearted support among those who live in the affected areas.

I was fortunate in being able to chair the hearings on this bill on Chairman VENTO's behalf, and I believe the committee has fully addressed all concerns. I appreciate Chairman VENTO's and Chairman MILLER's timely consideration of H.R. 3245, and I look forward to its enactment by the full House today.

Mr. MILLER of California. Mr. Speaker, again I commend the gentleman from Georgia [Mr. JENKINS] and the Georgia delegation on their leadership and their work on this legislation.

Mr. GINGRICH. Mr. Speaker, I rise in support of H.R. 3245, the Chattahoochee Forest Protection Act.

As my colleagues know, before being elected to Congress, I was a professor at West Georgia College in Carrollton, GA. One of the courses I taught was environmental studies. So, I have a deep concern and understanding for the protection of our natural resources.

Protecting the resources of the mountains of Georgia also has a direct influence on the people of my district. The mountains of North Georgia are the headwaters for the Chattahoochee River that flows through the city of Atlanta, through my district and all the way to the Gulf of Mexico. So, protecting the natural resources in the Chattahoochee National Forest directly affects millions of people in Georgia, Alabama, and Florida.

The State of Georgia has been very fortunate over the past 10 years. The influx of new people to the State has been astounding, but growth does not come without disadvantages. One is the continued expansion of our urban areas into our rural countryside. We need to work now to protect these valuable areas, and H.R. 3245 is an important step for us to take. That is why I urge my colleagues to join me in supporting H.R. 3245.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today in support of H.R. 3245, the Chattahoochee Forest Protection Act of 1991. The Committee on Agriculture approved this bill on November 6, 1991.

This bill provides that approximately 26,000 acres of the Chattahoochee National Forest will be designated as wilderness. These lands are to be treated in accordance with the purposes of the Wilderness Act, and will become part of the National Wilderness Preservation System. All of the lands are to be managed in accordance with the Wilderness Act, and will become part of the National Wilderness Preservation System.

The bill also provides for the designation of about 7,100 acres of the Chattahoochee National Forest as the Coosa Bald Scenic Area, and about 23,330 acres as the Springer Mountain Recreation Area. Both of these designations should enhance the protection given these valuable natural resources, while at the same time allowing recreational and other uses in these areas.

The entire Georgia delegation, both Republicans and Democrats, cosponsored this bill. I commend it to my colleagues, as well.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3245, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3245, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BIG THICKET NATIONAL PRESERVE ADDITION ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1592) to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit, as amended.

The Clerk read as follows:

H.R. 1592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Big Thicket National Preserve Addition Act of 1991".

SEC. 2. ADDITIONS TO THE BIG THICKET NATIONAL PRESERVE.

(a) ADDITIONS.—Subsection (b) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698), hereafter referred to as the "Act", is amended as follows:

(1) Strike out "map entitled 'Big Thicket National Preserve'" and all that follows through "Secretary of the Interior (hereafter referred to as the 'Secretary')" and insert in lieu thereof "map entitled 'Big Thicket National Preserve', dated October 19, 1990, and numbered 20031 C, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and offices of the Superintendent of the preserve. After advising the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary of the Interior (hereafter referred to as the 'Secretary') may make minor revisions of the boundaries of the preserve when necessary by publication of a revised drawing or other boundary description in the Federal Register. The Secretary".

(2) Strike out "and" at the end of the penultimate undesignated paragraph relating to Little Pine Island-Pine Island Bayou corridor unit.

(3) Strike out the period in the ultimate undesignated paragraph relating to Lance Rosier unit and insert in lieu thereof a semicolon.

(4) Add at the end thereof the following:

"Village Creek Corridor unit, Hardin County, Texas, comprising approximately 5,309 acres;

"Big Sandy Corridor unit, Hardin, Polk, and Tyler Counties, Texas, comprising approximately 4,818 acres;

"Canyonlands unit, Tyler County, Texas, comprising approximately 1,476 acres;

"Sabine River Blue Elbow unit, Orange County, Texas, comprising approximately 3,592 acres; and

"Addition to the Lower Neches River Corridor unit, Orange and Jasper Counties, Texas, comprising approximately 750 acress.".

(b) ACQUISITION.—(1) Subsection (c) of the first section of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That the Secretary may acquire scenic easements on privately owned undeveloped lands located within the boundaries of the Village Creek Corridor, Big Sandy Corridor, Canyonlands, Blue Elbow, or Lower Neches River unit: *Provided further*, That privately owned undeveloped lands located within any such unit may be acquired only with the consent of the owner: *Provided further*, That the Secretary may acquire lands owned by commercial timber companies only by donation or exchange: *Provided further*, That any lands owned by the State of Texas, or any of its political subdivisions may be acquired by donation only.".

(2) Add at the end of the first section the following new subsections:

"(d) Within 60 days after enactment of this subsection, the Secretary and the Secretary of Agriculture shall identify lands within their jurisdictions located within the vicinity of the preserve which may be suitable for exchange for commercial timber lands within the preserve. In so doing, the Secretary of Agriculture shall seek to identify for exchange national forest lands that are near or adjacent to private lands that are already owned by the commercial timber companies and are of sufficient size and configuration for commercial timber use. Such national forest lands shall be located in the Sabine National Forest in Sabine County, Texas, in the Davy Crockett National Forest south of Texas State highway 7, or in other sites deemed mutually agreeable. In exercising this exchange authority, the Secretary of the Interior and the Secretary of Agriculture may utilize any authorities or procedures otherwise available to them in connection with land exchanges, and which are not inconsistent with the purposes of this Act. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the respective Secretary as circumstances require. Such exchanges shall be completed as soon as possible, but no later than two years after the date of enactment of this subsection.

"(e) With respect to the 37 acre area owned by the Louisiana-Pacific Corporation or its subsidiary, Kirby Forest Industries, Inc., on Big Sandy Creek in Hardin County, Texas, and now utilized as part of the Indian Springs Youth Camp (H.G/King Abstract 822), the Secretary shall not acquire such area without the consent of the owner so long as the area is used exclusively as a youth camp.".

(c) PUBLICATION OF BOUNDARY DESCRIPTION.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a detailed description of the boundary of the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and the addition to the Lower Neches River unit of the Big Thicket National Preserve.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of such Act is amended by inserting at the end thereof the following new sentence: "Effective upon date of enactment of this paragraph, there is authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections 1(c) and 1(d).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1592, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1592 is legislation introduced by Representative CHARLES

WILSON to expand the Big Thicket National Preserve in the State of Texas.

Often referred to as the biological crossroads of North America, the Big Thicket area of southeast Texas contains a diverse multitude of temperate, subtropical, prairie and woodland flora and fauna. The area includes more than 300 bird species, over 100 species of trees, a broad spectrum of mammals and reptiles, and distinct plant life including 40 species of wild orchids, some of them found nowhere else.

The Big Thicket National Preserve was established in 1974 to protect the remnants of this complex biological ecosystem. It consists of 12 distinct units and river corridors comprising approximately 85,000 acres. H.R. 1592 would add 5 new units totalling approximately 15,937 acres to the Big Thicket National Preserve. These additions are the Village Creek corridor unit, the Big Sandy corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and an addition to the Lower Neches corridor unit. These additions would link or expand existing units and add a new area to the preserve. Legislation similar to H.R. 1592 has passed the House in two previous sessions of Congress, but these measures were not acted on by the Senate.

The Interior Committee adopted an amendment in the nature of a substitute which made several modifications of the bill as introduced. It provides that the Secretary may acquire scenic easements on undeveloped lands within the boundaries of the preserve. Fee simple acquisition of lands within the boundaries of the preserve can only be acquired with the consent of the owner. Approximately 10,700 acres or two-thirds of the lands to be added to the preserve are to be acquired by an exchange between three commercial timber companies and the Forest Service. This is an unusual means of acquiring lands for a national park unit, but I believe it is justified because of the tremendous natural resource values of the lands to be included within the park and because it can substantially reduce the land acquisition costs associated with this expansion.

Mr. Speaker, H.R. 1592 as amended is an important natural resource initiative which is long overdue. It deserves the support of the Members of this body and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1592 which would expand the Big Thicket National Preserve in Texas. Since this bill has already been fully explained, I would just like to make a few comments.

I applaud Mr. WILSON and Mr. VENTO for the visionary approach in this bill whereby we expand a national park service unit through land exchanges rather than through purchase. At a time when over one-third of the Nation's land is owned by the Federal Government, those of us on this side of the aisle (and others who are concerned about private property) are delighted to use this approach which results in no net gain of Federal land ownership.

In fact, we hope that passage of this bill in its current form increases the likelihood that the Subcommittee on National Parks and Public Lands will hold a hearing early next year on bills by Mr. THOMAS of Wyoming and Mr. BREWSTER which would implement a policy of no net gain of Federal land ownership.

I am concerned that the Interior Committee passed version of H.R. 1592, unlike the version introduced by Mr. WILSON, allows certain scenic easements to be acquired without the consent of the owner. I understand this provision is objectionable to Senator GRAMM and could jeopardize the compromise he has reached with Mr. WILSON on this issue. However, I am cautiously optimistic that all interested parties can work out a legislative agreement in the second session of the 102d Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Speaker, I would like to engage the gentleman from California [Mr. MILLER] in a brief colloquy.

Before that I would like to make a short statement of principle here. As the gentleman from California says in his statement, by all environmental principles and by all environmental standards and certainly by all the leading environmental groups in the United States, this area has been chosen and has been designated as an area of ecological importance, vastly so, and has even been designated by the United Nations—I do not recall the exact designation—as an area worthy of study and worthy of preservation.

But, as the gentleman noted in the passage of the bill from his committee, as he particularly noted that this is an unusual way to establish a park by exchanging Federal land from the Forest Service to the Park Service, I would like to just relate a small amount of history of this.

First, what we have is something that needs preserving in the Big Thicket. But, secondly, there have been objections raised by the Forest Service. I just want the record to reflect that one reason that these objections were not taken more seriously by me and, I believe, by the committee, is the fact that if the land remains in the Forest Service, it will all be clear-cut anyway, as is the practice in Texas. So, by swapping this land from the Forest Service to the Park Service, we are preserving at least 14,000 acres of Federal land from being clear-cut.

Mr. Speaker, I would like to point out to the House that the timber companies have been most cooperative in this and have paid taxes for the 6 years that we have been on this endeavor. They have paid taxes on the land, have preserved it and have not cut it.

I do expect that the Forest Service is going to be somewhat difficult in arranging for these transfers. I would like to establish with the chairman that it is the intent of the committee and the intent of the legislation that the owner of the private land do receive full value for the land that they are swapping, from the Forest Service, no acre by acre, but the highest and best value.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, the gentleman correctly states the intent of the legislation. The bill does in fact state that. It is our expectation that these exchanges would be completed within 2 years, recognizing the urgency to protect this area and its unique qualities.

We think this is the right way to go about it.

Mr. WILSON. One other point is that, as the chairman probably knows—I am not sure how the national forest is in California, but I know how it is in the South—the national forests, as it appears on the map, appears as a solid entity, but in reality it is a spotted and checkered ownership. The land that the commercial timber companies are swapping here is contiguous land that is economically viable. So I think it is only fair that we can expect the Forest Service will trade similar lands that are economically viable and not try to trade off cats and dogs that are not part of any larger tract.

Mr. MILLER of California. Again, if I may respond to the gentleman from Texas, he again states that is the intent of this legislation, that is what the bill says. We recognize the cooperation we are receiving from the private owners in this swap, and we would expect, as the gentleman so eloquently put it, that they not end up with cats and dogs but that they do end up with economically viable tracts of forest land.

Mr. WILSON. I thank the chairman very much.

The Big Thicket National Preserve was authorized by Public Law 93–439 on October 11, 1974. The preserve consists of 12 units and totals approximately 86,000 acres.

At the time of passage in Congress, there were differences between the House and Senate versions of the legislation with the Senate supporting a bill containing 100,000 acres and the House supporting a smaller version. In order to obtain passage, a compromise was agreed upon consisting of approximately 85,000 acres.

I was a party to that compromise, but over the years a convincing case has been made for increasing the size of the preserve to the amount originally included in the Senate version, particularly with regard the Village Creek and Big Sandy Creek corridors. Village Creek is one of the most beautiful creeks in east Texas and the addition of these two creek corridors is very important to the protection of the three units they join.

In developing the legislation to add five units to the preserve, we have made every effort to protect the private landowners and at the same time provide the protection needed for the preserve. Key provisions of the legislation are as follows:

First, privately owned lands used for noncommercial residential purposes (homesteads) will not be affected.

Second, timber company lands may be acquired only by donation or exchange for U.S. Forest Service lands. The values of the land exchanges shall be approximately equal, based on the highest and best use value, with differences being made up through cash payments.

Third, lands owned by the State of Texas or any of its subdivisions may be acquired by donation only.

Fourth, privately owned undeveloped lands (inholdings) are those with no owner in residence. For the lands in this category located within the Village Creek corridor unit, Big Sandy corridor unit, Canyonlands unit, Sabine River Blue Elbow unit, or the addition to the Lower Neches River unit may be acquired only with the consent of the owner.

Fifth, scenic easements may be acquired by the Secretary of Interior within the Village Creek corridor unit and the Big Sandy corridor unit. The scenic easements will be provided from the center of the creek for a distance of 300 feet to protect that portion of the creek area from development detrimental to the values of the preserve, such as clearcutting, subdividing or construction. The easements may be obtained by donation or purchase, but the land will not be transferred to the Federal Government and remains the property of the private owner.

I believe this to be a good bill and one that is needed, and urge your support for its passage.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1592, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1650

STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3881) to expand the boundaries of Stones River National Battlefield, TN, and for other purposes.

The Clerk read as follows:

H.R. 3881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE.

The Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes", approved December 23, 1987 (101 Stat. 1433), is amended as follows:

(1) In the first sentence of section 1(a) strike "numbered 327/80,001, and dated March 1987" and insert "numbered 327/80,004B, and dated November 1991".

(2) In section 1(b), insert "(1)" after "LANDS.—", and add at the end thereof the following:

"(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

"(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

"(B) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"(C) This paragraph applies only to owners who have reached the age of majority.

"(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.".

(3) Section 2 is amended to read as follows:

"SEC. 2. AGREEMENT.

"The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

"(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

"(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

(4) Redesignate section 3 as section 4, and insert the following new section after section 2:

"SEC. 3. PLANNING.

"(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

"(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 31, 1993, update the General Management Plan for the Stones River National Battlefield.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

"(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United

States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.".

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Battle of Stones River, fought December 31, 1862 to January 2, 1863, near Murfreesboro, TN, was according to President Abraham Lincoln a "hard-won victory."

Congressman BART GORDON has introduced H.R. 3881 to provide additional protection to the existing Stones River National Battlefield by enlarging its boundaries. As introduced, H.R. 3881 includes all the provisions of H.R. 2370 which passed the House on September 24, 1991, as well as the amendments to H.R. 2370 that were reported to the Senate. This bill adds 322 acres to the Battlefield, provides for the National Park Service to enter into a cooperative agreement with the city of Murfreesboro concerning Fortress Rosecrans and makes several other minor changes. The bill uses a different map reference to delete 24 acres from the proposed park additions. The new bill also makes minor changes in the approach the National Park Service must take concerning potential hazardous substances located within the lands being added to Stones River National Battlefield. The Secretary is prohibited from acquiring any lands that have become contaminated with hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act.

H.R. 2370 is being held up in the Senate for reasons unrelated to Stones River National Battlefield. In the interest of expediting protection of this battlefield, I urge adoption of H.R. 3881.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3881, a bill to substantially expand the existing Stones River National Battlefield by over 300 acres. The gentleman from California [Mr. MILLER] has already explained the historic events which took place at this battlefield, as well as the bill before Members today. Mr. Speaker, the bill before us is identical to one passed by this body earlier this session, except for some perfecting amendments added in the other body.

I would just like to commend the bill's sponsor, Mr. GORDON, for bringing forward to this committee a comprehensive measure which attempts to fully address all of the boundary issues at this park. All the lands proposed for acquisition were directly related to action on the battlefield and most have been proposed for acquisition in the past by the National Park Service.

The administration has generally supported this measure except for transfer of responsibility for management of fortress Rosecrans and any requirements that contaminated or otherwise highly altered lands be acquired. It is not the intention of this measure to force the National Park Service to acquire any lands which are contaminated or unsuitable for park designation. The boundary as contained in this bill reflects only the maximum acquisition boundary and should not be construed to mean that the National Park Service must acquire all lands contained within it.

I would like to thank the chairman for advancing this important bill which will go a long way toward protecting one of the numerous civil war battlefield sites within the National Park Service which is threatened by urban development.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, as the gentleman from California [Mr. MILLER] pointed out, the battle at Stones River was fought between December 31, 1862, and January 2, 1863. There were approximately 83,000 people involved in this battle. Unfortunately there were 23,000 casualties, resulting in opening up a wide swath for the Union troops to invade further into the South. It also developed or resulted in Fortress Rosecrans, the largest earthen fort of the Civil War, being developed there in Murfreesboro.

As the gentleman from California [Mr. MILLER] and the gentleman from California [Mr. LAGOMARSINO] pointed out, this bill, H.R. 3881, is very similar to a bill that passed this House earlier in the year. For that reason I will not belabor the facts other than to say it is only a small, minor variation that is changed.

Mr. Speaker, I want to thank the gentleman from California [Mr. MILLER] and the gentleman from Minnesota [Mr. VENTO] for moving legislation forth on this, and certainly the ranking minority member, the gentleman from California [Mr. LAGOMARSINO]. Murfreesboro, TN, is located in one of the 50 fastest growing counties in the Nation, and for that reason the property around Stones River is threatened with encroachment daily. It is important to move forward, and those gentlemen have helped in expediting this, and I want to thank them once again.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3881.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

SAN CARLOS INDIAN IRRIGATION PROJECT DIVESTITURE ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1476) to provide for the divestiture of certain properties of the San Carlos Indian irrigation project in the State of Arizona, and for other purposes as amended.

The Clerk read as follows:

H.R. 1476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Indian Irrigation Project Divestiture Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) To provide water for irrigating, first, land allotted to Pima Indians on the Gila River Reservation and, second, other lands in public or private ownership which, in the opinion of the Secretary of the Interior, could be served without diminishing the supply necessary for the Indian lands, Congress, by the Act of June 7, 1924, authorized construction of Coolidge Dam and creation of San Carlos Reservoir on the Gila River in Arizona.

(2) The Secretary, through the San Carlos Irrigation Project administered by the Bureau of Indian Affairs, operates Coolidge Dam and approximately one hundred irrigation wells to provide water to SCIP lands on the Gila River Reservation and to the SCIP lands outside the reservation which is within the San Carlos Irrigation and Drainage District.

(3) A hydroelectric power system was developed at Coolidge Dam pursuant to the Act of March 7, 1928, as amended, to generate power incidental to the use of San Carlos Reservoir for storing irrigation water. The system's primary purpose was to provide

power for irrigation pumping on SCIP lands and for BIA agency and school purposes and for irrigation pumping by Apache Indians on the San Carlos Reservation.

(4) SCIP's transmission and distribution system, which has been extended to domestic and commercial users on SCIP lands and to other homes and businesses not on SCIP lands, currently provides service within portions of Pinal, Pima, Maricopa, Graham, and Gila Counties covering approximately 3,000 square miles.

(5) Unexpectedly low and erratic Gila River flows into San Carlos Reservoir since 1928 have limited power generation at Coolidge Dam, causing SCIP to secure additional power through contracts with the Western Area Power Administration, the Salt River Project, and Arizona Public Service Company to meet its customers' needs. Since October, 1983, when a flood damaged the switchyard at Coolidge Dam, no power has been generated at the dam.

(6) Much of SCIP's power system needs modernization, with some facilities over sixty years old, well past their design life. However, Federal budgetary and administrative policies have impaired long-range, consistent planning and construction necessary for efficient SCIP operation and maintenance and for timely replacement of obsolete or worn out facilities.

(7) Under current repayment terms, the shared obligation of the San Carlos Irrigation and Drainage District and the Gila River Indian Community to repay the United States for construction of SCIP's hydroelectric power system and certain improvements thereto will not be met until after the year 2010.

(8) The Gila River Indian Community, the San Carlos Apache Indian Tribe, and the San Carlos Irrigation and Drainage District have petitioned the Congress to authorize the Secretary to divest the United States of ownership and responsibility for SCIP's electric power transmission and distribution systems, to settle the outstanding debt owned by the United States in connection with the construction of those systems, to apportion equitably among them SCIP's allocation of Federal power resources, and to take such other actions as necessary to carry out divestiture.

(9) On September 15, 1989, the Gila River Indian Community and the Arizona Public Service Company, and the San Carlos Irrigation and Drainage District, the Arizona Public Service Company, Trico Electric Cooperative, Inc., and Electrical District No. 2 of Pinal County, Arizona, signed Statements of Principles by which divestiture would be implemented between and among them subsequent to enactment of Federal enabling authorities as provided in this Act. The same entities subsequently signed extensions of the Statements of Principles, as amended.

(b) PURPOSE.—The purpose of this Act are—

(1) to authorize the Secretary to divest the United States of ownership of the electric transmission and distribution system of the San Carlos Irrigation Project;

(2) to provide for the settlement of the debt obligations owed to the United States by the Gila River Indian Community and the San Carlos Irrigation and Drainage District in connection with the construction of the electric transmission and distribution system;

(3) to provide for the reallocation of power resources currently allocated to SCIP from Federal hydroelectric power sources;

(4) to provide funds for the disposal of hazardous waste materials associated with those areas and components of the SCIP electric system transferred to the Gila River Indian Community and the San Carlos Apache Tribe and with those areas and components retained by the Secretary;

(5) to facilitate the implementation of divestiture in an orderly and economic manner, consistent with the desire and intent of the parties to the Statements of Principles and with due regard for the rights and interests of current SCIP employees; and

(6) to assist the Gila River Indian Community and the San Carlos Apache Tribe in their efforts to achieve greater self-determination and economic self-sufficiency.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Arizona Public Service Company" means an electric utility corporation organized and existing under the laws of the State of Arizona;

(2) the term "Arizona Corporation Commission means the entity established by Article 15 of the Arizona Constitution to regulate and supervise public service corporations in the State of Arizona;

(3) the term "Arizona Power Authority" means the entity established under Arizona law to receive and market Arizona's allotted share of power generated at Hoover Dam;

(4) the terms "Electrical District No. 2" and "ED2" mean Electrical District Number 2, an electrical district organized under the laws of the State of Arizona;

(5) the terms "Gila River Indian Community" and "GRIC" mean the governing body of that community of Pima and Maricopa Indians organized pursuant to section 16 of the Act of June 18, 1934 (25 U.S.C. 476) and occupying the Gila River Reservation in Arizona;

(6) the term "preference power" means electric power provided to municipalities, other public corporations or agencies, cooperatives, and nonprofit organizations pursuant to this Act of June 17, 1902 (32 Stat. 388), and amendments and supplements thereto, commonly referred to as Reclamation Law;

(7) the term "present value" means the economic value of a present cash payment utilizing the discount rates and methodology established by the Secretary pursuant to section 5301 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-268);

(8) the term "San Carlos Apache Tribe" and "SCAT" mean the governing body of that tribe of Indians organized pursuant to section 16 of the Act of June 18, 1934 (25 U.S.C 476) and occupying the San Carlos Reservation in Arizona;

(9) the terms "San Carlos Irrigation Project" and "SCIP" mean the project authorized pursuant to the Act of June 7, 1924 (43 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs;

(10) the terms "San Carlos Irrigation and Drainage District" and "SCIDD" mean an irrigation and drainage district organized under the laws of Arizona;

(11) the term "SCIP electric system" means all electric transmission and distribution facilities, including existing associated easements, owned by the United States on behalf of SCIP and administered by SCIP's Power Division, except Coolidge Dam, the electric generating facilities within the dam's powerhouse, the lines connecting the powerhouse with the switchyard, together with such switchyard located on land withdrawn for Coolidge Dam;

(12) the term "Secretary" means the Secretary of the Interior;

(13) the term "Statements of Principles" means the document entered into by the Arizona Public Service Company, the San Carlos Irrigation and Drainage District, Trico Electric Cooperative, Inc., and Electrical District No. 2 on September 15, 1989, as amended and extended on January 14, 1991, and the document entered into by the Arizona Public Service Company and the Gila River Indian Community Utility Authority on September 15, 1989, as amended and extended on March 8, 1991, setting forth agreements among the respective parties concerning divestiture of SCIP assets both on and off reservation; and

(14) the terms "Trico Electrical Cooperative" and "TRICO" mean the Trico Electrical Cooperative, a corporation organized under the laws of the State of Arizona.

SEC. 4. DIVESTITURE.

(a) IN GENERAL.—Notwithstanding the Act of September 22, 1961 (25 U.S.C. 15), the Secretary is directed to transfer the SCIP electric system and associated assets in accordance with the provisions of this Act no later than December 31, 1992.

(b) TRANSFER TO GRIC.—The Secretary shall transfer to the GRIC all right, title, and interest of the United States in and to that portion of the SCIP electric system located on the Gila River Reservation, including the 5.6-mile section of 69-KV transmission line from Coolidge Substation to the reservation.

(c) TRANSFER TO SCAT.—The Secretary shall transfer to SCAT all right, title, and interest of the United States in and to that portion of the SCIP electric system located on the San Carlos Apache Reservation.

(d) TRANSFER TO SCIDD.—Subject to the requirements of section 5(d), the Secretary shall transfer, as is, to SCIDD all right, title, and interest of the United States in and to those portions of the SCIP electric system not transferred under subsection (b) or (c) or otherwise transferred or reserved under subsection (a), (e) or (f), expressly disclaiming all warranties, expressed or implied, including the implied warranties of merchantability and fitness for a particular purpose.

(e) TRANSFER OF ASSOCIATED ASSETS.—The Secretary shall negotiate an agreement with GRIC, SCAT, and SCIDD providing for the transfer to GRIC, SCAT, and SCIDD of all right, title, and interest of the United States in and to all associated assets of the SCIP electric system not transferred under subsections 4(b), 4(c), and 4(d) of this section, including but not limited to vehicles, tools, hardware, spare parts, poles, transformers, meters, conductors, and other electric system components. The Secretary shall distribute these assets in a manner that reflects the proportionate number of miles of distribution lines to be transferred to GRIC, SCAT, and SCIDD (including lines provided to SCAT under sections 5(a)(2) and 5(a)(3) of this Act) and retained in accordance with the implementation of the Statements of Principles.

(f) RETENTION OF FACILITIES BY THE UNITED STATES.—The Secretary shall retain ownership of the electric generating facilities located in the powerhouse and switchyard at Coolidge Dam, including lines from the powerhouse to the switchyard.

(g) OPERATION AND MAINTENANCE.—Upon completion of the transfer of the SCIP electric system and associated assets as provided in this Act, the Secretary shall have no responsibility for the operation, maintenance, and repair of such system and associated assets, or for the electric generating facilities within the Coolidge Dam powerhouse.

SEC. 5. ALLOCATION OF FUNDS.

(a) In General.—The Secretary shall allocate all funds credited to the SCIP Power Division as of September 30, 1991, as adjusted for activity between September 30, 1991, and the effective date of this Act, including cash and temporary investments managed by the Bureau of Indian Affairs, customer deposits and customer advances held by the Treasury of the United States, reservations for line extensions and installation services, reservations for replacement, funds obligated for future power purchases, unreserved and unrestricted funds, trade and other accounts receivable, and accrued interest income, as follows:

(1) to GRIC, SCAT, and SCIDD, all customer deposits and all customer advances held by the Treasury of the United States, in amounts corresponding to the actual deposits and advances made by the customers who shall be located within the respective areas to be served by GRIC, SCAT, and SCIDD as of the effective date of this Act, together with such information necessary to enable GRIC, SCAT, and SCIDD to credit such deposits and advances to the appropriate customer accounts.

(2) To SCAT, such sums as may be necessary (not to exceed $1,200,000) to be used for construction of a 21KV transmission line from Peridot, Arizona, to the community of Bylas on the San Carlos Apache Reservation.

(3) To SCAT, such sums as may be necessary (not to exceed $160,000) to purchase all right, title, and interest in the electric system presently owned by the Arizona Public Service Company within the exterior boundaries of the San Carlos Apache Reservation and extending from the western boundary of said reservation easterly to the town of Cutter, Arizona.

(4) To a SCIP employee severence fund, to be established by the Secretary, not to exceed $750,000, solely for the purpose of providing severance pay to SCIP Power Division employees eligible for such pay under applicable Federal law and regulations, except that within 180 days after the effective date of this Act, any funds remaining in the severance fund shall be transferred to GRIC.

(5) to a SCIP reserve account, to be established and administered by the Secretary, $4,000,000, to be retained by the Secretary until October 1, 1995, at which time the Secretary shall, first, deposit into the environmental Protection Account established pursuant to section 6 an amount equal to the present value of the SCIP electrical system debt obligation owed by GRIC and its allotted landowners as of September 30, 1991, and second, transfer the balance remaining in the account to GRIC. Prior to October 1, 1995, the Secretary may, in his discretion and pursuant to this authorities under Public Law 93-638 (25 U.S.C. 450 et seq.), make available to GRIC and SCAT the funds not retained for deposit into the Environmental Protection Account for use in electric system expansion and rehabilitation on their respective reservations and for expenses associated with providing electric service on such reservations.

(6) To GRIC, any funds remaining after the allocations set forth in the preceding paragraphs (1), (2), (3), (4), and (5) to be used for electric system expansion and rehabilitation on the Gila River Reservation and for expenses associated with providing electric utility services on such reservation.

(b) Accounting Pending Divestiture.—From the date of enactment of this Act through the date of allocation of funds as provided in this section and section 10, the Secretary shall ensure that on cash, temporary investments, or other funds are transferred from the SCIP Power Division to the SCIP Irrigation Division or to other Bureau of Indian Affairs managed projects, accounts, funds, or activities, and no Power Division funds shall be reserved or obligated for other than routine repairs and maintenance of the SCIP Power Division utility plant and for operation of the Power Division.

(c) GRIC Debt Resolution.—Deposit into the Environmental Protection Account of the amount specified in subsection (a)(5) shall constitute full satisfaction of the SCIP electric system debt owed by GRIC or its allotted landowners and shall be cause for the Secretary to cancel any liens against allotted lands of any member of GRIC or against tribal lands within SCIP in connection with such debt.

(d) SCIDD Debt Resolution; Agreement.—As a condition precedent to the transfer of the SCIP system and other assets as provided in section 4(d), the SCIDD shall enter into an agreement with the Secretary. Such agreement shall provide that—

(1) SCIDD will pay the Secretary an amount equal to the present value of the SCIP electric system debt obligation owed by SCIDD to the United States as of September 1, 1991; such amount to be paid from the proceeds of SCIDD's sale to the Arizona Public Service Company of various system assets as prescribed by the Statement of Principles entered into by SCIDD;

(2) the total amount to be paid by SCIDD under the agreement shall be paid to the Secretary in annual installments of not less than $479,000 for the fiscal years beginning with the fiscal year in which this Act takes effect (as provided in section 10) and ending with fiscal year 1995;

(3) SCIDD disclaims any right, title, or interest in SCIP Power Division funds to be allocated pursuant to subsection (a), except for such funds as may be credited to SCIDD pursuant to subsection (a)(1); and

(4) payment by SCIDD to the Secretary of the present value amount specified in paragraph (1) shall constitute full satisfaction of the SCIP electric system debt owed by SCIDD.

(e) Deposit into Environmental Protection Account.—The Secretary shall deposit the funds paid by SCIDD pursuant to subsection (d)(1) into the Environmental Protection Account established under section 6.

(f) SCAT Debt Resolution.—The Secretary shall waive any debt for electrical service (not to exceed $165,000) which SCIP claims is owed by the San Carlos Apache Tribal Utility Authority or SCAT as of September 1, 1991.

SEC. 6. ENVIRONMENTAL PROTECTION ACCOUNT.

The Secretary shall establish an account, to be administered by the Bureau of Indian Affairs, to fund such efforts as may be necessary and appropriate to dispose of hazardous waste materials associated with those areas and components of the SCIP electric system transferred to GRIC and SCAT and with those areas and components retained by the Secretary. Beginning on October 1, 1991, funds deposited into this account pursuant to section 5(a)(2) and 5(e) shall be used to carry out the purposes of this section until exhausted. Any funds remaining in the account after October 1, 2005, shall revert to the general fund of the United States Treasury. The Secretary shall be responsible for any hazardous waste disposal required by this section not covered by the funds deposited pursuant to sections 5(a)(5) and 5(e).

SEC. 7. FEDERAL POWER REALLOCATION.

(A) Reallocation of Resources.—Upon the request of the Secretary, the Secretary of Energy shall enter into such agreements as are necessary to reallocate SCIP's allocation of Federal power resources—capacity and energy—as provided in this section.

(b) Successors in Interest.—The Secretary of Energy shall treat GRIC, SCIDD, and SCAT as successors in interest to SCIP in reallocating SCIP's allocation of capacity and energy from the Parke Davis Project (the two projects consolidated by the Act of May 28, 1954 (Chapter 241; 68 Stat. 143)) and the Colorado River Storage Project (43 U.S.C. 620 et seq.), including capacity and energy available pursuant to the Memorandum of Understanding numbered 14-06-300-2632 and Memorandum of Understanding numbered DE-MS65-80WP 39041 between the Western Area Power Administration, Department of Energy, and the Bureau of Indian Affairs, Department of the Interior, and any other agreement to provide preference power to SCIP prior to December 31, 1992.

(c) Proportions Assigned.—The SCIP allocations of winter and summer capacity and energy shall be assigned to GRIC, SCIDD, and SCAT in accordance with the proportions set forth in the table included in the report of the Senate Select Committee on Indian Affairs on this Act.

(d) Rates.—Preference power—capacity and energy—shall be delivered to GRIC, SCAT, and SCIDD pursuant to the allocations provided for in this section at the rate established for preference power as determined in accordance with ratemaking procedures established by the Department of Energy.

(e) Boulder Canyon Project.—The Bureau of Indian Affairs shall assign its contract with the Arizona Power Authority for capacity and energy from the Boulder Canyon Project (43 U.S.C. 617 et seq.; 45 Stat. 1057) in accordance with the proportions referred to in subsection (c) and the Secretary shall request the Arizona Power Authority to take all necessary actions required to effectuate such assignment in accordance with the contract dated as of September 15, 1986, between the Arizona Power Authority and the SCIP.

(f) Long-Term Power Supply; Rates.—The Secretary shall enter into an agreement with GRIC and SCIDD to provide a long-term power supply to the irrigation wells and pumps installed by SCIP to provide water to SCIP lands on and off the lands of GRIC. The rate for the electricity supplied by GRIC and SCIDD shall be based on the average cost per kilowatt hour for power purchased by GRIC and SCIDD from the Parker-Davis Project and marketed by the Western Area Power Administration, plus an allowance for the cost of operating and maintaining the transmission and distribution systems of GRIC and SCIDD, including administrative costs and reserves, as long as such power is made available to GRIC and SCIDD in quantities sufficient to meet SCIP's pumping requirements. The rate shall be reviewed and adjusted annually to reflect any changes in the average cost of power purchased by the Parker-Davis Project and the actual costs incurred by GRIC and SCIDD to operate and maintain the transmission and distribution systems.

SEC. 8. FEDERAL EMPLOYEES.

(a) Election to Continue Certain Benefits.—Any Federal employee at SCIP whose position is terminated by reason of this Act who, within thirty days of such termination, is employed by the San Carlos Apache Tribal Utility Authority or the Gila River Indian

Community Utility Authority is entitled, if the employee and the respective authority so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 (relating to compensation for work injuries) of title 5, United States Code, and for this purpose employment with the tribal authority shall be deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the tribal authority any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the tribal authority, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefit payable under subchapter I of chapter 81 of title 5, United States Code, as follows:

(A) Payments on account of injury or disability shall be credited against disability compensation payable to the injured employee.

(B) Payments on account of death shall be credited against death compensation payable to dependents of the deceased employee.

(2) To retain coverage, rights, and benefits under chapter 83 (relating to retirement) or chapter 84 (relating to Federal employees' retirement system) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Civil Service Retirement and Disability Fund (pursuant to chapter 83 or chapter 84 of title 5, United State Code) and, if appropriate, the Thrift Savings Fund (pursuant to section 8432 of title 5, United States Code,) and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 or 8411 of title 5, United States Code. Days of unused sick leave to the credit of an employee under a formal leave system at the time the employee leaves Federal employment to be employed by a tribal authority remain to his credit for retirement purposes during covered service with the tribal authority.

(3) To retain coverage, rights, and benefits under chapter 89 (relating to health insurance) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Employee's Health Benefit Fund (pursuant to section 8909 of title 5, United States Code), and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5, United States Code.

(4) To retain coverage, rights, and benefits under chapter 87 (relating to life insurance) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Employee's Life Insurance Fund (pursuant to section 8714 of title 5, United States Code), and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5, United States Code.

(b) Agency Contributions.—During the period an employee is entitled to the coverage, rights, and benefits pursuant to subsection (a), the tribal authority employing such employee shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), an (4) of subsection (a).

(c) Priority Placement.—The Secretary shall establish and maintain a Departmental Priority Placement Program for SCIP employees serving in competitive positions under career or career-conditional appointments who have satisfactory levels of performance and who receive a notice of involuntary separation as a result of divestiture of the SCIP electric system pursuant to the provisions of this Act. Employees must apply in writing for placement into the program not later than thirty calendar days after receipt of notice of involuntary separation. Employees shall be entitled to be placed on a priority basis into vacant positions outside the competitive area from which they are separated, at the same grade or level they last held in the agency and for which they are qualified, based upon the availability of such positions.

(d) Definitions.—For the purposes of this section—

(1) the term "employee" means an employee as defined in section 2106 of title 5, United States Code;

(2) the term "agency" means the Bureau of Indian Affairs; and

(3) the term "involuntary separation" means any separation from agency employment against the will and without the consent of the employee.

(e) Regulations.—The Secretary may prescribe regulations necessary to carry out the provisions of this section and to protect and assure the compensation, retirement, insurance, leave, reemployment rights, and such other similar civil service employment rights as he finds appropriate.

SEC. 9. MISCELLANEOUS.

(a) Effect on Existing Rights.—Nothing in this Act shall—

(1) affect any right of the City of Mesa, Arizona, to deliver electric service to lands currently owned by the City of Mesa in Pinal County, Arizona; or

(2) be construed as having any effect on the right of any Arizona incorporated rural electric cooperative to seek to provide electric service pursuant to existing Federal or State law.

(b) Approval by Arizona Corporation Commission.—Approval by the Arizona Corporation Commission of the allocation of electric service areas and systems as set forth in the Statements of Principles shall constitute recognition and confirmation of the financial viability and territorial integrity of the signatories to the Statements of Principles within the meaning of the provisions of the Rural Electrification Act of May 20, 1936, as amended, (7 U.S.C. 901 et seq.; 49 Stat. 1363; 63 Stat. 948).

(c) Existing Obligation of the United States.—Nothing in this Act shall affect any obligation of the United States to SCAT to provide power at the rate of 2 mils per kilowatt hour for irrigation pumping and agency and school purposes pursuant to the Act of March 7, 1928 (45 Stat. 200, 210).

(d) SCIP Irrigation Division.—The Secretary is authorized to expend not more than $1,200,000 from funds credited to the SCIP Irrigation Division to acquire not more than ten acres of land and to acquire or construct such facilities as may be necessary and appropriate to provide for the efficient maintenance, operation, and administration of the SCIP Irrigation Division.

SEC. 10. EFFECTIVE DATE.

(a) In General.—Transfer of SCIP facilities and assets to GRIC, SCAT, and SCIDD under section 4 and allocation of funds under section 5 shall not take effect until such time as the Secretary issues a statement of findings that—

(1) the Arizona Corporation Commission has approved, pursuant to Arizona law, the allocation of electric service areas and systems as set forth in the Statements of Principles;

(2) the Secretary has entered into an agreement with GRIC, SCAT, and SCIDD providing for the division of assets as provided in section 4(e);

(3) the Secretary has entered into an agreement with GRIC and SCIDD providing for a long-term power supply to SCIP pumps as provided in section 7(f);

(4) all agreements necessary for the reallocation of preference power as required by section 7 have been executed and the Bureau of Indian Affairs has assigned its contract with the Arizona Power Authority to GRIC, SCAT and SCIDD in accordance with the terms of such contract and the proportions prescribed in section 7;

(5) the Arizona Public Service Company has terminated its existing wholesale power agreement with SCIP and released SCIP from paying any termination charges under such agreement; and

(6) SCIDD has entered into the agreement with the Secretary as required in section 5(d).

(b) Reversion if Requirements Not Met.—Unless all of the conditions and requirements set forth in subsection (a) have been met by December 31, 1992, all contracts entered into pursuant to this Act shall be null and void, the United States shall retain ownership and control of the SCIP electric system and all associated funds and assets as it did before the date of the enactment of this Act, and any preference power reallocation made pursuant to section 7 of this Act shall revert back to the SCIP under the same terms and conditions that existed prior to the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Miller] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Miller].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1476 reflects more than 4 years of negotiations between the Interior Department, the Gila River Indian Community, the San Carlos Irrigation and Drainage District, the San Carlos Apache Tribe, and other local parties to develop solutions to the many problems surrounding the divestiture of the San Carlos Indian Irrigation Project Electrical System.

H.R. 1476 is sponsored by the Congressman KOLBE and provides for the divestiture of Federal ownership and control of the electrical transmission and distribution system of the San Carlos Indian Irrigation project in central Arizona. H.R. 1476 authorizes the Secretary of the Interior to transfer the electric system to the Gila River Indian Community and the San Carlos Apache Tribe and several Arizona utilities, consistent with a series of agreements entered into between and among them.

It settles the debt owed to the United States in connection with construction of the electrical system and provides that the Secretary retains ownership of the electric generating facilities at Coolidge Dam. The bill reallocates the Federal power among the three entities.

The bill allocates the funds to enable the three entities to credit customer deposits and advances to the appropriate customer accounts. It provides funds to construct and acquire certain transmission lines to improve service on the San Carlos Apache Reservation. It provides funds to be used by the Gila River Tribe to rehabilitate the electric system on the Gila River Indian Reservation.

The bill addresses several concerns raised by the administration. First, it earmarks funds for the cleanup of hazardous waste on system lands for which the United States will retain responsibility. Second, it establishes an employee severance fund to provide severance pay to eligible electric system employees. Third, it earmarks funds for the relocation of the facilities of the irrigation division of the project. Finally, the bill provides for the accomplishment of these objectives without any new authorization of Federal appropriations.

I urge my colleagues to support this divestiture.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with everything the gentleman from California [Mr. MILLER] has said. I support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE], the author of the bill.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 1476, the San Carlos Indian Irrigation Project Divestiture Act of 1991.

The goal of this bill is simple: removal of the Federal Government from the electric utility business in southern Arizona. But achieving this goal has been anything but simple. In fact, no piece of legislation I have been associated with 7 years in Congress has been as complex or met as many roadblocks as this legislation. We set out to divest the Federal Government of SCIP's electric utility and transmission system 7 years ago. In 1985, discussions began in Congress about the significant problems encountered in the condition, reliability, and management of the San Carlos irrigation project electric system. These problems led the Gila River and San Carlos Apache Indian Tribes as well as the San Carlos Irrigation and Drainage District to request the assistance of Congress to transfer to them ownership and management responsibilities for the SCIP distribution and transmission system.

In April 1987, I introduced a bill to accomplish divestiture. Hearings were held and all parties supported the concept of divestiture. However, it was clear that a number of issues had to be resolved before divestiture could proceed. The hearing raised issues concerning the allocation of electric system assets, settlement of the power system debt and the reallocation of SCIP's Federal power allocations, among others.

Some 3 years later, in July 1990, another hearing was held on divestiture. The bill, H.R. 4117, satisfied each of the issues raised at the 1987 hearing. However, three new issues were raised by the BIA: First, the feasibility of electric generator repair at Coolidge Dam; second, the adequacy of funds for environmental cleanup of hazardous waste from SCIP operations; and third, the cost of constructing new irrigation facilities.

We agreed not to pursue divestiture legislation until BIA had time to study these issues. The BIA ordered studies on the three issues, which were completed earlier this year. These studies make clear the generator repair would not be feasible; that the cost of the environmental cleanup will be less than the funds available from debt payments; and the SCIP irrigation division administration and maintenance facilities could be found for less than $1 million. Accordingly, the final obstacles to divestiture have been removed.

The result is the bill before us today. A joint House-Senate hearing was held on H.R. 1476 and its Senate counterpart on October 29. And markups were held in the Senate November 15, and in the House on November 20.

For almost 7 years now, issues about divestiture have been raised and considered by Congress and the Executive, in Arizona and in Washington. Concerns have been expressed from several sources. Questions have been raised at every turn. And those involved have had countless opportunities to be heard. This is as it should be. But it is equally true that the parties to divestiture have responded by satisfying each and every issue.

As a result of their efforts, the legitimate questions have been answered, the genuine issues resolved, and the real concerns satisfied.

This process, although slow and tortuous at times, has worked. The result is a bill which I believe everyone can support with enthusiasm. Mr. Speaker, the result of years of refining, amending, and perfecting the divestiture are evident in this legislation.

The process has indeed worked. But in the zeal to satisfy the process, it is easy to lose sight of the merits of this important bill—merits that are self-evident and beyond question.

The system was begun nearly 70 years ago for the Gila River Indian Community and the San Carlos Irrigation and Drainage District. Together those two groups still owe about $9 million for the cost of constructing the system. Both system users, it should be noted, are completely dissatisfied with the management of the system by the Bureau of Indian Affairs.

The San Carlos Apache Tribe is similarly dissatisfied with the operation of the system. The tribe claims it has never received the benefits promised to them by Congress, and would like to operate that portion of the system that is on their reservation.

Federal Indian policy is abundantly clear that if the tribes desire to operate their own electrical systems—or any other program, for that matter—then, in the name of self determination, they should be allowed to do so.

It logically follows that if the tribes, rather than BIA, operate their own electrical systems, there is no reason for the BIA, whose very purpose is to serve native Americans, to operate an off-reservation electrical system to serve nonnative Americans.

In addition, the nonreservation residents of Pinal County served by the project have repeatedly complained about unreliable service and mismanagement to the SCIP system by the BIA.

Two recent audits of the project, the first in 65 years, confirm the claims of the tribes and non-Indians. The audits makes painfully clear that the system has labored under decades-long mismanagement and neglect.

H.R. 1476 will correct these problems. The central Arizona communities will enjoy a significantly more reliable and certain electrical system. The Department of Interior will be rid of a system that has outgrown its original purpose. The Gila River and San Carlos Apache tribes will have the opportunity to pursue their rights of self-determination and economic self-sufficiency.

Moreover, this bill will settle debt obligations of the two principal clients of the San Carlos project: the San Carlos Irrigation and Drainage District and the Gila River Indian Community. The money received from these debt settlements will be used to establish an environmental protection account. This account will be available to solve problems that may arise associated with the disposal of transformers or equipment which contain hazardous materials.

I would also like to say a few words about the project employees. Approximately 50 people whose jobs are related to the power system may be affected by divestiture. We pledge to make sure they are treated fairly.

Their services will continue to be a valuable resource and I am confident they will have opportunities to use their abilities. We have included in the bill language that will provide a variety of post-divestiture opportunities and benefits to them. This legislation is not intended to reflect on their work. The SCIP employees are dedicated and capable professionals.

In closing, I would like to thank the distinguished chairman of the Interior Committee, GEORGE MILLER, Congressman NEIL ABERCROMBIE, and my colleagues from the Arizona House and Senate delegation, especially Congressman JAY RHODES and Senator JOHN MCCAIN for their support and efforts on behalf of this legislation. I would also like to pay tribute to the many groups that have made this bill possible. Without the perseverance and hard work of the Gila River Indian Community, the San Carlos Apache Tribe, the San Carlos Irrigation and Drainage District, Arizona Public Service Co., electrical district two, TRICO Electrical Cooperative, and Pinal County there would be no divestiture.

Mr. Speaker and members of this body, I ask for your favorable consideration. And know that in so doing, the Indian population the project was designed to serve, the irrigation district, the electric consumers of eastern Pinal County, and the taxpayers of America will all be better off.

□ 1700

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me rise in strong support of this initiative. My colleague from Arizona [Mr. KOLBE] has been working on this for quite some time now. I would like to associate myself with his remarks, particularly with regard to his reminder that in a very small but very significant way this indicates a problem that we have with our economy today and points the way I think for us to deal with some of the problems we have with our economy.

There are some very important lessons in this piece of legislation. Right now we are not doing a very good job in the Congress of the United States vis-a-vis trying to deal with the men and women, large corporations, small corporations, businessmen and businesswomen everywhere in their effort to create products, to provide services, and, in the process of doing so, to provide employment to people of this country.

Mr. Speaker, let us face it: There is no question about it, the private sector does it much better, much more effectively, than government does.

This legislation would take an old, inefficient, bureaucratized system and turn it over to the private sector to do some good in the community, in a community that needs and deserves a service, and that is certainly something I think the Congress of the United States ought to be doing now, doing today.

Mr. Speaker, during the course of the debate and the discussion we have from time to time in terms of stimulating the economy it is very often said, particularly from our colleagues on the other side of the aisle, that any kind of catalyst, any kind of economic stimulus involving a change in the Tax Code or a tax break is just simply the Republicans on this side of the aisle trying to appease the rich, trying to cut the taxes, cutting marginal rates, in order to take care of people who already have too much money as far as our colleagues on the other side of the aisle are concerned and who should not be given any kind of tax breaks whatsoever.

I think that sadly, that rhetoric is as false as it is misleading and certainly is very unfortunate. It is pretty clear that most of the jobs created in this country today are created by small businessmen and small businesswomen.

It is also pretty clear that we have done very little or nothing in this Chamber during the past couple of years to encourage them to engage in the kind of activities that they do very well, and that is create products, offer services, and put men and women to work.

Mr. Speaker, I think it would be helpful as we have discussed the transfer of power from the Government to the private sector in this particular piece of legislation for the Congress of the United States to engage in a similar debate at least to the extent of dealing with the belief I hope we all share that this Congress, through concerted action, hopefully bipartisan action, could help ease the pain that exists out there today in the communities that we represent, in the homes and the families that we represent, because there is enormous pain out there.

Mr. Speaker, we have a lot of people who are struggling. We have a lot of people who are unemployed. I think it is incumbent upon us before we recess to accept the responsibility of trying to do something about that pain, to ease that pressure, to discuss, to debate, and, hopefully, to decide on some kind of stimulus to economic growth, to economic recovery.

More importantly, to those concepts of growth and recovery, let us just put people back to work. If you have ever driven by a welfare office or stopped at an unemployment line and talked to the people, you find out that many of them have had jobs for 10 or 15 or 20 years, and you know they do not want to be in either location. They are not comfortable there, they are not happy there. They took a look around their own community and still have some friends and relatives who are fully employed.

These people do not want benefits. They are grateful for the unemployment extension, but what they would like more than an extension of benefits is a job.

We went through that very difficult, very divisive, very controversial debate over unemployment compensation. It was a good debate, it was a healthy debate. We finally reconciled our differences and we extended unemployment benefits.

But how ironic that we are going to extend them probably long enough for us to take a recess and come back, and when we come back, in the intervening 8 to 10 weeks, we will have done nothing to give these people an opportunity perhaps to take a walk from the unemployment line back into the employment line, where they certainly want to go.

The economy is stagnant. We know that. I would like to think that at least we would agree that, depending on how Congress acts or fails to act, we have a positive or adverse influence on that economy.

We do have a Tax Code. You can point to both positive and adverse influences of the Tax Code. It generates all kinds of conduct.

I know that my colleagues on the other side of the aisle would prefer to move the debate and change the Tax Code in one direction. Clearly we have some ideas of how to move it in our direction.

But the point is not to avoid the responsibility, but to debate it, discuss it, and try to reach a consensus. Because, as I said before, giving these people unemployment compensation just is not enough.

□ 1710

We are accountable for our actions, and I am pleased that I supported the unemployment compensation from the outset, but in this case half a loaf is not better than none because ultimately these unemployment compensation benefits are going to run out.

We have a stagnant economy. It is on its knees. There are a lot of barometers for the problems that we have in the economy.

I think two of the measures that we have discussed during the past couple of days that we are going to discuss in the next couple of days are probably as good and strong evidence of the troubled economy as anything else.

We have already put $80 billion into the RTC or the Resolution Trust Corporation for the thrifts. We are looking to put $50 to $70 million more into the bank insurance fund. These institutions are in trouble in large measure not because of any mismanagement or because of any fraud, but in large measure because 50 or 60 percent of their assets are in real estate.

Real estate markets are undervalued. Real estate is underappreciated.

The economy is very, very sluggish. At no time has anybody ever discussed the possibility of Congress acting in a way to stabilize the real estate market, put value back into real estate and potentially avoid, avoid the necessity of going back to the taxpayers to the tune of $80 billion for the RTC and $50 billion for the bank insurance fund. This is in present dollar values. Consider what our children and grandchildren are going to be paying on the sums that will be borrowed over the next 30 years. We are talking a sum that is close to half a trillion dollars.

It seems to me just those two pieces of legislation alone, understanding that one of the root causes of those symptoms, one of the primary problems with those institutions is a weak economy and the cost of treating that symptom is several hundred billion dollars, would warrant our attention, our attention to stick around this town, at least for the next couple of weeks, to debate, to discuss and hopefully decide on a proper course of action to deal with economic recovery and growth.

There is a lot of jockeying for position these days around here, and we look to a Presidential primary season in the spring and an election campaign next fall.

I said it earlier today, but I truly believe it. The best politics for the White House, the best politics for Congress, the best politics for the Republican Party and the best politics for the Democratic Party for 1992, is dealing with the troubled economy. People are out of work and there is a need to stimulate growth and opportunity, not next year but right now.

The best politics for 1992, would be to put people back to work today or certainly as soon as possible. The best politics for 1992, would be to discuss, decide, debate, and then decide, hopefully we could reach a consensus as to the best way to jump-start this very sluggish economy.

Those men and women do not want to be in the welfare lines or the unemployment lines. They want to go back to work. I do not think they want to wait for us to come back to work in January or February before they have an opportunity to return to the kind of employment, the good employment, good benefits, health care insurance, and the like that so many other people in this economy enjoy.

I am going to encourage my colleagues to think twice before we recess on Tuesday; I encourage my colleagues to think twice before we pack up and head home.

A lot of us will be going home, celebrating Christmas, hopefully opening some presents with our friends and family. And a lot of people we represent will be opening one of their last unemployment checks.

We could have done something before we went home, and we did not. I think we will be held accountable for that. I think the best politics for next year is to take care of this year's problems today here and now.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I rise in support of the resolution. I think the resolution is just one symptom of the greater problem that we have in this country today, and that is the unadulterated nonsense that we have had to listen to from the other side through the course of the afternoon about the U.S. economy.

First of all, the reason why our Republican friends have pulled out this latest stunt is because their own President's Cabinet is in disarray. We do not even know who is governing our country, whether it is Boyden Gray, C. Boyden Gray, John Sununu, Jim Baker, or George Bush. So the President has retreated off to Camp David, and the Republicans in the House have shown up with their latest version of voodoo economics, a growth package.

Yesterday in the Wall Street Journal the National Institute of Business Economists said that the capital gains approach, the cut that the Republicans want to give, will not even spur the economy as they suggest. Of course, it did not even address the yawning deficit that their growth package would engender.

But when we listen to them, it is almost as though we hear a mantra over and over and over again. It is simple-minded nostrums to deal with complex problems.

The first thing is to blame the Democrats for everything. Forget the fact that they have controlled the White House for 11 years, the Senate of the United States for 6 years, the fact that every Presidential veto has been sustained. Ignore all of that, and if we cannot blame the Democrats in the House or Senate, resurrect Jimmy Carter.

So for mismanaging the economy, we now get the Republican Members of the House offering a growth package, and the latest gambit is to keep us in to enact the President's growth package, but we do not know a couple of things.

First of all, we do not know how much it is going to cost. We do not know whether it breaks the Budget Act, and we also do not know, and probably the most important thing, we do not know, we do not know whether the President of the United States supports their effort to keep us in to do this. We do not even know that. They do not know that. The President has not said.

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding to me.

I did not realize that the gentleman was that concerned or that interested in a package sent up from the President of the United States.

Mr. DOWNEY. Mr. Speaker, does the President support our staying in enacting the gentleman's package? Does he support it? And can the gentleman tell me how much it is going to cost?

Mr. RIDGE. Mr. Speaker, if the gentleman will continue to yield, I will tell him that it is not the function of the Republican Party, as it is looking to promote this particular economic package at this instance, to do anything other than promote what it thinks is proper as a group of legislators.

Mr. DOWNEY. Mr. Speaker, does the President support the growth package of the gentleman and the Republican minority? Yes or no? It is a simple question.

Mr. RIDGE. Mr. Speaker, I cannot speak for the President on this issue. I can speak for myself, and I can speak for my Republican colleagues.

The President cannot cast a vote in this Chamber, as the gentleman knows full well. And if the gentleman wanted to ask rhetorical questions, we have got several weeks now when he could ask as many questions as he cares to.

We can engage in the kind of debate he is trying to avoid now.

Mr. DOWNEY. Mr. Speaker, reclaiming my time, I would like to address the non-answer the gentleman gave me to the question.

He has courageously said that the Republican Members here of the House have come forward with their own plan and could care less about whether or not the President, the President of their own party, supports it.

Let me make a couple of points. The package that the gentleman has offered us, while George Bush was Vice President of the United States, passive losses, IRA, capital gain differentials, were eliminated by the other body when it was in the hands of the Republican Party. The Vice President of the United States, then George Bush, wanted that to happen. He wanted to see passive losses ended. He wanted to see IRA's eliminated. He wanted to see the capital gains rate differential eliminated.

We did those things. Now 5 years later, as President of the United

States, unbeknownst to him, as he sweats out the problems of his Cabinet, his cheerful minority here in the House has come up with a plan of its own to deal with the problems of the economy that the Wall Street Journal and others say will not even make a difference if we do enact it.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think it is interesting that after 3 years of George Bush as President, for the first time in modern history, perhaps ever, we see him dealing with this economy by offering people capital losses on the decline in the value of their personal residence, something unheard of in good portions of this country. But after 10 years of growth with the Republican administration, with these massive deficits, they now have to put a safety net underneath homeowners who are losing value at a rather record rate.

The fact of the matter is that it is a testimony to the kind of policies that they have, that they have followed.

□ 1720

The gentleman was speaking about unemployment insurance. After 13 weeks of unemployment, having tried that economic policy, they are going to try permanent tax cuts to the wealthy that will go on not for 13 weeks or 13 months but on into perpetuity, should they have their way. So we will start another decade with trickle-down economics.

Mr. DOWNEY. My good friend, the gentleman from Pennsylvania [Mr. RIDGE], who has been a supporter of the unemployment compensation plan all throughout that, I do not mean for this to apply to him. I had something to do with the crafting of all the pieces of legislation dealing with unemployment. They came before my subcommittee, which I am temporary chairman of. At every step of the way, from its earliest inception, other Members of the gentleman's side said, "This is unnecessary, we do not need to do it. We are coming out of the recession." Every single time it was offered up, and the gentleman was one of the exceptions, the majority of the Members of his side did not want to see even the extension of unemployment benefits go forward. The President vetoed the second bill that declared an emergency and would not even sign the first bill we sent to him. It was only after the grave nature of the American economy became clear to him and his advisers and more Members from the Republican side that we did that.

Mr. RIDGE. Mr. Speaker, this will be the last time I interrupt to ask the gentleman to yield one more time.

Mr. DOWNEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I very much appreciate the courtesies the gentleman is extending to me. I know the gentleman had worked on and had been a member of the Committee on Ways and Means for several terms.

Do we at least agree that depending upon what the Congress of the United States does or does not do to different elements of the Tax Code, that depending on where we choose to make modifications or changes, we can influence either positively or adversely different kinds of economic conduct? Does the gentleman agree that at some point in time if we are serious about moving the economy forward, jumpstarting the economy, if we agree that the economy is stagnant, that a debate on the best way to encourage savings, to encourage investment in capital goods, which will mean unalterably that we are going to have to make some changes to the Tax Code, we are going to have to be engaged in that kind of debate, unless you disagree that the Tax Code changes can stimulate that kind of economic activity? But I hope we do agree at least that that debate will occur, should occur, and if we do it right we can have a positive influence on the economy and hopefully put some of these people that the gentleman and I are both concerned about, who are unemployed, back to work.

Do we agree that the Tax Code can stimulate that kind of economic activity?

Mr. DOWNEY. I agree with the gentleman's basic premise that the Tax Code does those things.

Mr. RIDGE. Would the gentleman then agree that it would be better to start working on it now rather than later?

Mr. DOWNEY. Yes. And I would further agree that the only way it is going to get done is if we have at some point some interest on the part of the White House in a broad array of programs. If they be tax plans, so be it. He needs to say something about that. If he is not prepared to do that it puts us in the position of thinking, and forgive me if I am a little cynical in my thinking about that, that the day or two before we go out for Thanksgiving recess, unbeknownst to him, the minority Members here want to do something that appears frankly to be somewhat political.

I agree with the gentleman's basic point, that the Tax Code and other devices of Government can serve to stimulate the economy and hopefully create jobs. I hope we have the debate over GORE and DOWNEY providing a tax break to middle-income families, which is what I would do first before I would ever consider capital gains breaks or IRA's or other things like that.

If the gentleman wants to see people helped, and I do, and I want to use the Tax Code to do it, and I was one of the first ones to do it, but I want to see families who are hard pressed get the help first directly. The way to do that in my mind is to convert the personal exemption to a $800 refundable credit which would provide an enormous break for middle-income families.

That is what I would do first. After that if it were up to me and we have the money to pay for it, and I might add that I have raised taxes on the wealthier individuals to pay for that, I would want to see an investment tax credit of some sort targeted as an incremental investment tax credit to stimulate business investment. That is how I would do it.

I agree with the gentleman we should have the debate about that, but let us be fair. Let us at least let the White House get their act together and have a coordinated approach at least on your side before you then say to us, "Okay, now is the time to step forward, and if you were really interested in this we would be staying." The White House does not want us to stay, the gentleman knows that, because the White House does not have a plan. The gentleman may have a plan, but they do not have a plan. Before we enact one we have to get a Presidential signature.

Mr. RIDGE. Mr. Speaker, would the gentleman yield?

Mr. DOWNEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for the courtesy of yielding. Since we agree on the basic premise that alterations to the Tax Code can stimulate the kind of activity that we both want to see, and we may differ in part and we probably agree in part on what is the best way of doing that, doesn't the gentleman think it is incumbent upon us, however, in a bicameral legislature, this is one of the two Chambers in the legislative body, to at least try to air these differences, debate these matters now? Why do we not send our own package on down?

Mr. DOWNEY. I have no problem with debating this, and I hope, frankly, if we decide to stay, if the President indicates he wants us to do it, that we will come right back here after the Thanksgiving recess and do that. If he does, I am willing, more than willing, happy, frankly, to put together a tax package that is, first, within the boundaries of the 1990 Budget Act, and second, focuses its attention on the people who need the help the most; namely, the middle-income people.

If we can do that, then I am with the gentleman.

Mr. RIDGE. Mr. Speaker, I very much appreciate the courtesies the gentleman has extended to me. I guess I differ a little bit from his point of view in terms of trying to wait until somebody downtown nods.

I think quite frankly that is not normally the approach that my friend on the other side of the aisle takes. I do not think he spends too many moments in this Chamber or in his office waiting for the President to send up an initiative to discuss. I know he himself has been a very creative and aggressive legislator and does not normally wait for anybody when he has a good idea.

The point is that the gentleman has some ideas, we have some ideas, and maybe if we had the exchange now we can reach a consensus and send the ideas downturn.

Mr. DOWNEY. Conceivably. I would hope that the gentleman would be talking about the White House, because ultimately we need the President's signature on whatever we do to enact it into law. If he is not supportive of this from the beginning I think we will be spending a lot of time giving the people the impression of action without its reality. That I do not think we should do.

Mr. RIDGE. Mr. Speaker, I appreciate the courtesies the gentleman has extended to me, and I look forward to continuing the debate.

Mr. DOWNEY. Mr. Speaker, I always enjoy working with the gentleman.

Mr. MILLER of California. Mr. Speaker, as we return to the San Carlos Indian irrigation project bill, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OKLAHOMA NATIVE AMERICAN CULTURAL CENTER STUDY

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3370) to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, OK, as amended.

The Clerk read as follows:

H.R. 3370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall carry out a comprehensive study to—

(1) determine the feasibility of establishing a cultural center in Oklahoma City, Oklahoma, for the purpose of showcasing the historical culture of the Native American heritage that is a significant part of Oklahoma's history; and

(2) identify potential sites for such center in the Oklahoma City area.

(b) FACTORS CONSIDERED.—In identifying potential sites for the center under subsection (a)(2), the Secretary shall consider—

(1) the relevance of the site to the tribal history of the Native American tribes in Oklahoma; and

(2) the suitability of the site for attracting the greatest number of visitors.

(c) CONSULTATION.—The study shall be conducted in consultation with the Indian tribes and organizations of Oklahoma and appropriate agencies of the State of Oklahoma.

SEC. 2. REPORT.

Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing a detailed statement of the findings and conclusions of the study carried out under section 1. Such report shall include—

(1) recommendations regarding the establishment of such a center; and

(2) a site plan and preliminary design documents for each potential site identified by the study.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated not more than $200,000 for the purposes of carrying out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3370, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3370 sponsored by Representative ENGLISH authorizes the Secretary of the Interior to carry out a study to make recommendations to the Congress regarding the feasibility of establishing a Native American Cultural Center in Oklahoma City.

Oklahoma has 36 tribes and 252,000 Indian people making it the State with the largest Indian population.

Oklahoma City is the State capital and a city with the fourth largest Indian population in the United States.

The committee held a hearing on this matter on October 22, and at that time we heard from tribes and Indian organizations. The committee considered the bill on November 20, and amended it to broaden the scope of consultation to all tribes and Indian organizations in Oklahoma. The committee also reduced the authorization level to $200,000.

I urge my colleagues to support this bill.

□ 1730

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3370 is a bill to direct the Secretary of the Interior to carry out a study and make recommendations to Congress regarding the feasibility of establishing a Native American Cultural Center in Oklahoma City, OK. Although I do not rise in opposition to this bill, the bill raises a couple of concerns worth noting.

At the outset, I want to thank the chairman for the amendments to the bill that he offered, and that we supported, in committee. These amendments improved the bill significantly. The first amendment decreased the funding authority for the study from $450,000 to $200,000. The second amendment made it clear that the study would be conducted in consultation with affected Indian tribes and organizations in Oklahoma.

If this bill is enacted into law, I suggest that oversight for the study might be more appropriately done by the National Park Service rather than the Bureau of Indian Affairs. Studies of this sort do not fall squarely within the statutory missions of the Bureau of Indian Affairs, and do fall within the expertise of the Park Service.

Much concern was expressed by Members in the hearing on this bill about the door we are opening up by approving such a study. There are many States in this country with significant populations of American Indians and I am concerned about the policy implications associated with approving this bill. I do not believe Congress is prepared to approve studies for all similarly situated States and yet it hardly seems fair to approve one and not others. In addition, approval of a study phase misleads the affected constituencies into believing that Congress will be committed to carrying out the eventual study recommendations.

Finally, I note that the administration has issued a statement of administration policy opposing passage of H.R. 3370.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3370, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO VARIOUS INDIAN LAWS ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the Senate bill (S. 1193) to make technical amendments to various Indian laws, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

At the end of the Senate amendment, add the following:

SEC. 7. AMENDMENTS TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT.

The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Public Law 100-512) is amended in sections 7(a), 7(d), 10(a)(1)(A), 10(a)(1)(B), and 12(b), by striking out "December 31, 1991" and inserting in lieu thereof "June 30, 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1193, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1193 is the technical amendments to Various Indian Laws Act of 1991.

The bill contains two amendments to the Indian Gaming Regulatory Act. First, pursuant to requests from the tribes in Wisconsin and Montana and the governments of the two States, it allows for an extension of the grace period for the tribal operation of certain video games in Wisconsin and Montana.

This allows for additional time to negotiate tribal-state gaming compacts within those states.

Second, pursuant to a request from the administration, the bill provides for a reauthorization of the National Indian Gaming Commission through the end of fiscal year 1993.

The bill also amends the Indian Land Consolidation Act to allow the Cherokee Nation of Oklahoma to accept less than 10 percent of the appraised value for the sale of certain lands to mutual help home buyers.

The legislation amends the Crow Allotment Act of 1920 to clarify the Interior Secretary's responsibility to maintain sound conservation practices on certain leased lands.

The measure also provides a technical amendment to the National Affordable Housing Act which provides that the State of Hawaii can disburse certain HUD funds and allows the Department of Hawaiian Homelands to obtain community development block grant funds.

I am offering an amendment on behalf of my colleague from Arizona, Mr. RHODES, which allows for a 6-month extension to the Salt River water settlement. The committee supports the additional time and encourages this settlement to move forward.

Mr. Speaker, this measure is noncontroversial and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1193, a bill containing technical amendments to certain Indian statutes. I also concur in the Senate amendment and support the House amendment thereto.

The chairman has adequately explained S. 1193 and I would like to touch on just a couple of noteworthy provisions in the bill.

I am pleased that we have finally reached agreement on the extension of the funding authorization for the National Indian Gaming Commission through fiscal year 1993, and I would like to express my appreciation to the chairman of the committee for agreeing to the Senate amendment on this point. Stability in the commission's funding authority over the next 2 fiscal years is crucial to assure that the Commission is not hampered in its ability to enforce and implement the provisions of the Indian Gaming Regulatory Act as intended by Congress.

The House amendment would extend for 6 months the deadline for completing the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988. This 6-month extension is necessary because of recent and unexpected difficulties in completing by December 31, 1991, the acquisition by the United States of the rights to 22,000 acre-feet of annual consumptive use of water from the mainstream of the Colorado River in the State of Arizona, as provided for in section 7 of the 1988 Settlement Act.

The United States has contracted for the purchase of the subject lands within the Wellton-Mohawk irrigation and drainage district. However, potential litigation involving one of the parcels to be acquired has cast doubt within the past few days as to whether the purchase of this parcel can actually be completed by the end of this year as required by the act.

Although the parties to the Salt River Pima-Maricopa Indian community water rights settlement agreement are continuing their diligent efforts to complete this final purchase, it is likely that the purchase of this one parcel may not be completed by December 31. If an extension is not provided and if this last contingency to the settlement is not completed by December 31, 1991, the authority and approval of this settlement will expire.

The technical amendment extending this deadline will assure the integrity of the settlement efforts and satisfaction of Federal trust obligations to the Salf River Pima-Maricopa Indian community.

Finally, I note that the administration has issued a statement of administration policy that supports passage of S. 1193.

I urge my colleagues to support S. 1193, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment with an amendment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DOWNEY). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the House amendment to the Senate amendment, to the House amendment to the Senate bill, S. 1193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the House amendment to the Senate amendment to the House amendment was agreed to.

A motion to reconsider was laid on the table.

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS BY INDONESIAN MILITARY

Mr. HALL of Ohio. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 240) condemning the massacre of East Timorese civilians by the Indonesian military, as amended.

The Clerk read as follows:

H. CON. RES. 240

Whereas on November 12, 1991, Indonesian military forces in Dili, East Timor, opened fire on a funeral procession for a youth who had been killed by Indonesian troops on October 28, 1991, killing an estimated 75 to 100 civilians and injuring many more;

Whereas up to 300 members of the funeral procession were detained immediately after the incident and several dozen remain in detention;

Whereas Indonesian soldiers killed a New Zealand national and beat several foreign journalists who were observing the procession, including two Americans (one from The New Yorker and one from Pacifica Radio);

Whereas the commander of the Indonesian Armed Forces has expressed regret about the killings, and the Government of Indonesia has established a national commission of inquiry to conduct a thorough investigation of the killings;

Whereas since the Government of Indonesia invaded East Timor in 1975 tens of thousands of East Timorese have perished as a direct result of war-related killings, famine, and disease;

Whereas international human rights organizations and the Department of State's Country Reports on Human Rights Practices for 1990 report evidence of human rights violations in East Timor by Indonesian officials, including arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression; and

Whereas the United States and Indonesia have a close bilateral relationship, and United States economic and military assistance for Indonesia exceeded $50,000,000 for fiscal year 1991: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress—

(1) condemns the recent, indiscriminate killings of civilians by Indonesian military forces on East Timor; and

(2) urges the Government of Indonesia to bring to justice those members of the Indonesian military responsible for the killings.

(b) It is the sense of the Congress that—

(1) the provision of assistance for Indonesia under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of these killings and prosecuting those responsible for them;

(2) the President should seek the immediate introduction of a resolution in the United Nations General Assembly instructing the United Nations Commission on Human Rights to appoint a Human Rights Rapporteur on East Timor;

(3) the President should encourage the Government of Indonesia to facilitate the work of international human rights and humanitarian organizations seeking to monitor conditions in East Timor; and

(4) the United States should work with the United Nations and the Government of Indonesia, the Government of Portugal, and other involved parties, to develop policies to address the underlying causes of the conflict in East Timor.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from Ohio [Mr. HALL] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 240, the resolution condemning the massacre of East Timorese civilians by the Indonesian military. As the sponsor of the original version of this resolution, I want to thank the Foreign Affairs Committee, particularly the gentleman from New York [Mr. SOLARZ], the gentleman from Florida [Mr. FASCELL], and the gentleman from New York [Mr. WEISS], a member of the committee, for bringing this amended East Timor resolution to the floor. I also commend the committee's minority members for their cooperation.

Quite frankly, I would like us to take stronger action. I believe we should immediately cut aid to Indonesia, starting with the $1.9 million we are providing in international military education and training [IMET] aid.

But I am pleased this resolution at least says that IMET should be conditioned on Indonesia's prosecuting those who slaughtered unarmed civilians. It is a step in the right direction and an overdue message for the Indonesians: We will not look the other way while you butcher the people of East Timor.

During the 12 years I have been involved in this issue, the Indonesians have downplayed every one of their atrocities and human rights violations in East Timor that the world community discovered. They have no shame.

About the latest killings, the Indonesian military commander in East Timor is saying that machinegunning a crowd of mourners for 10 minutes is not excessive. It is time to say enough to such barbaric conduct—especially when we are paying for it with our tax dollars.

It is sad that it takes a massacre like this and the savage beating of two American reporters for East Timor to rate global outrage. Countless horror stories have been smuggled out of East Timor for years, but they've largely fallen on deaf ears.

But today we are in a changing world. The cold war is ending, the United Nations is taken more seriously, and impossible political changes are now possible.

So if Iraq cannot get away with invading Kuwait, why should Indonesia get away with invading East Timor? And if the Soviet Republics can be independent, why cannot East Timor?

Year after year, my colleagues and I call attention to Indonesian repression in East Timor. But these human rights violations are like the outer skin of an onion. After you peel away the layers of abuses, at the core you find the central injustice: The Timorese have never had a chance to determine their own future.

By passing this resolution, the House is telling the Indonesians and the world that we care about the Timorese. We want action that will finally end their suffering, which means self-determination for East Timor.

May this latest tragedy lead to justice for East Timor. And may passage of this resolution lead to our unqualified commitment to that justice.

☐ 1740

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on my behalf and that of the ranking Republican on the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD], I wish to express my strong support for this resolution and our commendation to the gentleman from Ohio [Mr. HALL]. This resolution will send a strong message to the Indonesian Government that the United States is very concerned about the recent events in East Timor.

The death of an estimated 75 to 100 civilians as a result of indiscriminate firing by Indonesian military forces cannot be ignored. It is imperative that the Indonesian Government investigate this incident thoroughly and bring to justice those responsible for the killings.

Ever since Indonesia annexed East Timor in 1975, the State Department and independent observers have reported serious human rights abuses. The United States has repeatedly urged the Indonesian Government to improve conditions there, and the overall situation has improved as the insurgency waned.

Nevertheless, serious violations of the rights of assembly and expression, as well as torture and extra-judicial killing, have continued. Indonesia's announcement that it is forming a commission headed by a supreme court justice to investigate this matter is a positive step. And I, hope that this commission will be allowed to proceed without hindrance from members of the armed forces or the Government. Any attempt to cover up the facts and/or protect the guilty will not go unnoticed or unanswered.

Once this tragedy is investigated and those responsible are brought to justice, I hope that the Government of Indonesia will make a concerted effort to respect and protect the rights of the people of East Timor. Without respect for human rights, economic and social development will not address the underlying causes of political conflict there.

I urge my colleagues to support this important resolution.

Mr. HALL of Ohio. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, first of all, I would like to thank the gentleman from California [Mr. LAGOMARSINO] for the work he has done and his patience in staying this afternoon, and especially the work of my friend and colleague, the gentleman from Ohio [Mr. HALL].

East Timor is literally and figuratively on the other side of the world, and since 1975, when this former Portuguese colony was annexed by the Indonesians, until the present time, the estimates are that some 600,000 people have died as a result of slaughter by the Indonesian security forces or forced starvation.

My sense of this is that given the atrocities on that side of the world and the fact that there are no great oil deposits at stake, there are not East-West confrontations that take place, the fact that Indonesia is a friend of the United States, it is as though this problem does not exist and that these people have died and the whole world has been silent.

The gentleman from Ohio [Mr. HALL] has for more than a decade tried to point out the tragedy of the Timorese people, without anyone paying attention.

I, among other Members of the Congress, and I have been in the Congress since 1975, have not paid much attention to Timor and what has happened there, until it personally struck home.

Amy Goodman, who was a producer for the Pacifica DAI radio network was, along with Allan Nairn, a reporter for the New Yorker magazine, two of the Western reporters who witnessed the massacre on November 12. What Ms. Goodman, who is not only a personal friend for more than 20 years and her family, a friend of my family as well, recounted to me was an unspeakable horror. Here was a funeral procession with men, women, and children, and the Indonesia security forces systematically moving in and shooting these people down.

Amy and Mr. Nairn were both there in a vain attempt to try to staunch the flow of blood. They felt by interposing themselves between the security forces and the people, with westerners witnessing this massacre, they might be able to prevent it. Both of them were knocked to the ground by soldiers wielding M-16's that had been given to them by the Government of the United States.

Ms. Goodman had the good sense to retain her American passport and as the soldier's aimed their guns at her, she waved and said, "American, American."

She and Mr. Nairn were spared, while the Indonesian security forces shot and killed the New Zealand press person that was lying next to her.

Both through cunning and guile, bloodtorn and weary, they managed to escape Indonesia, but not without witnessing this slaughter of some 120 individuals.

As the gentleman from Ohio [Mr. HALL] mentioned, the general on the scene subsequently stated that firing machine guns for 10 minutes into an unarmed funeral cortege was somehow not excessive violence.

Ms. Goodman has related to me that the people who witnessed the tragedy who had not been killed are being rounded up by the Indonesian security forces. I do not know what fate awaits them, but I would hope that the passage of this resolution will in some way indicate to the Indonesian Government that enough is enough.

I agree with the gentleman from Ohio [Mr. HALL]. This resolution does not go far enough. If it were up to me, all military and domestic aid to that country would be cut off forthwith until the Indonesian Government found within their hearts and heads the need to fulfill the U.N. resolutions that call for giving back the Timorese people their country and their Government and at least recognizing a modicum of human rights.

It is my hope that in the Ways and Means Committee and the Trade Committee on which I serve that we could also look at limiting the general system of preference on trade and tariffs to this country as well.

I would hope that my children, who are little, will not turn around to me someday and say, "While you were in Congress, Dad, Pol Pot killed 2 million Cambodians and the Indonesian Government killed several hundred thousand Timorese. What were you doing? What were you saying? What role did you play in attempting to stop this senseless and brutal slaughter?"

Mr. Speaker, I thank the gentleman for yielding to me; but most importantly, I thank him for his steadfastness and his courage and his conviction that these people, none of whom I have ever met, who inhabit a part of the world 12,000 miles from here, deserve a certain level of peace and security that they have not known for the last 17 years.

I hope that this resolution is the beginning of our great country exercising the necessary effective moral leadership to bring this slaughter to a halt.

Mr. Speaker, I urge my colleagues to strongly support the adoption of this concurrent resolution.

Mr. HALL of Ohio. Mr. Speaker, I just want to thank the gentleman from New York for an excellent statement and certainly for his tremendous support for this resolution.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. WEISS. Mr. Speaker, I would like to thank Chairman DANTE FASCELL and the other members of the Foreign Affairs Committee on both sides of the aisle for supporting this important resolution.

The bipartisan support that this resolution has received demonstrates a common belief that the gravity of the action taken by the Indonesian security forces warrants a strong response by the United States Government. Although the level of our response can never in any way make up for the loss of so many lives in East Timor, it can be strong enough to prevent the indiscriminate loss of more lives at the hands of the Indonesian military.

This violent episode, as you know, is not the sole act of aggression by the Jakarta government. Since Indonesia forcefully annexed the nation in 1975, over 100,000 East Timorese have died as result of war-related killings, famine, and disease. International human rights groups continue to report about Indonesia's sanctioned human rights abuses. And even the State Department has reported on Indonesia's repressive policies in East Timor.

But the United States response to Indonesia's human rights violations has historically been luke warm. It has been so tepid that United States assistance has continued to flow to Indonesia at an unfettered rate of over $50 million a year. That is more aid than is sent to any single African country and certainly more than most Asian countries receive.

The unfortunate incident of November 12, however, gives the United States an opportunity to reassess our policy toward Indonesia. It gives us the chance to raise the scrutiny of human rights in East Timor and to act swiftly and effectively to respond to the killings. But this opportunity can also be wasted if we continue to act slowly and deliberately, using only diplomatic language to convey our message. Because then we only rubberstamp the nefarious deeds of an already insulated Idonesian military.

The Hall resolution, on the other hand, is the vehicle by which the administration can express its outrage in concrete terms. It calls on the President to make the IMET Program contingent on an investigation into and prosecution of the individuals responsible for the killings. It urges him to seek an immediate appointment of a U.N. rapporteur on human rights for East Timor. And it encourages the President to arrange a multilateral solution to the conflict.

Mr. Speaker, these are but the minimum actions we should be taking against the Indonesian Government. And if the President is serious about his commitment to global security, democratization, and the fundamental rights of all, then he will listen to what we do here today and take a firm stand against Indonesia's abuses in East Timor as well. But if he is only paying lipservice to these noble ideals, then he will continue to watch Indonesia systematically destroy a once peaceful nation.

The Government of Indonesia has announced that it deeply regrets the incident. It has announced that it will pursue a thorough investigation of the killings through a national commission of inquiry. And I would consider this a big step forward. But I remain cautiously optimistic. The more recent statements by the Indonesian military command temper my optimism and lead me to believe that an impartial investigation and subsequent trial may never take place.

I hope therefore that the President will also remain cautiously optimistic. I hope that he will reassess United States policy toward Indonesia and keep the Government's feet to the fire on human rights. It is clear that a tough stand is needed on human rights in Indonesia, and it is obvious that a tough stand on East Timor is long overdue.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 240, condemning the massacre of East Timorese civilians by the Indonesian military, and I commend the gentleman from Ohio, the distinguished chairman of our Select Committee on Hunger, Mr. HALL, for his expeditious and outstanding work on this measure.

On November 12, 1991, Indonesian security forces killed 20 to 60 and injured as many as 100 people when they fired on a Roman Catholic funeral procession which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor.

As if that despicable and barbaric act was not enough, Indonesian soldiers also beat several foreign journalists, including two Americans who were observing the procession.

Mr. Speaker, in 1975, in clear contravention of international law, Indonesia illegally invaded East Timor and annexed the territory of that nation without any regard for the rights of self-determination enjoyed by the East Timorese. In addition, Indonesia's record of human rights violations in East Timor is enough to make one incensed: Torture, arbitrary arrest, as well as repression of freedom of expression, continue to be hallmarks of Indonesian rule over East Timor.

For the last 20 years, the Untied States and the Government of Indonesia have maintained close bilateral relations, including a program of economic and military assistance which totaled $50 million in fiscal year 1991.

This resolution expresses the sense of Congress that the President should suspend immediately all international military educational training programs [IMET] to the Indonesian Government, as well as order the United States Ambassador to immediately visit East Timor in order to investigate the atrocities being committed there by Indonesian authorities.

The resolution also calls upon the United Nations to take certain measures, including calling for the publication of a report by the U.N. Special Rapporteur on Torture to be made available to the General Assembly.

Mr. Speaker, hopefully, this resolution is a first step in putting an end to the despicable conditions in East Timor. I urge its full support by this body.

Mr. YATRON. Mr. Speaker, I am strongly in favor of House Concurrent Resolution 240, which condemns the November 12 shooting of civilians by Indonesian troops in Dili, East Timor. According to eyewitness accounts and international human rights organizations such as Asia Watch, Indonesian troops opened fire on a peaceful funeral procession for a Timorese youth who had been killed by security forces 2 weeks earlier. Seventy-five to 100 civilains were killed and many more were wounded. We have reports that about 300 people were detained immediately after the incident and that about 50 people are still in detention.

This incident is a serious step backward for the Indonesian Government that had made some positive gains in East Timor over the past 2 years. During this time incidents of violence on the island decreased, although some still occurred, and international organizations and journalists were allowed into the area. The November 12 killings demonstrate that the Indonesian Government has not broken its pattern of violence and abuse in East Timor which has existed since the island was annexed in 1975.

Mr. Speaker, it is important that the House send a message that the November 12 killings were indiscriminate and unprovoked. This resolution also sets forth that United States international military education and training assistance should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of the incident and that those who were responsible for the killings should be held accountable for their actions.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of House Concurrent Resolution 240 which condemns the Indonesian Government for the vicious massacre of civilians in East Timor on November 12. I also rise to commend the distinguished chairman of the Select Committee on Hunger who has been tirelessly working to bring world attention to the tragic human rights abuses which plague East Timor.

Since 1975, Indonesia has brutally enforced its illegal occupation of East Timor. This occupation flies in the face of international law. For years, Chairman HALL has worked to highlight Indonesia's abuse of East Timor. It has taken this terrible tragedy to make the world take notice.

Eyewitness accounts from American journalists Allan Nairn and Amy Goodman attest to the brutality of the Indonesian occupation. For 10 minutes, Indonesian soldiers bombarded a crowd of peaceful mourners who were attempting to place flowers on the grave of a youth who was killed by Indonesian troops on October 28. These soldiers would have killed Mr. Nairn and Ms. Goodman if the journalists had not waved their American passports above their heads. Perhaps the Indonesian soldiers realized that their weapons were made in America and that killing Americans would threaten the future of United States military aid to Indonesia.

Well, it is time for all of us to declare that we will not allow American generosity to be used to perpetuate human rights abuses. This resolution will put the United States Congress on record as forcefully condemning Indonesia's despicable record in East Timor. It is my firm belief that we should go further, that we should immediately suspend military aid to Indonesia. We must do everything possible to stop the massacres in East Timor from continuing. It is a travesty for U.S. tax dollars to be supporting these abuses. It should be brought to an end today.

Mr. Speaker, it is estimated that 200,000 people have been slaughtered as a result of the occupation of East Timor. Enough is enough. I urge my colleagues to pass House Concurrent Resolution 240, and I urge the administration to go one step further and suspend military aid to the perpetrators of this injustice.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Ohio [Mr. HALL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 240, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesian military, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That—

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in fiscal year 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, the American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Raporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

MOTION OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HALL of Ohio moves to strike all after resolving clause Senate Concurrent Resolution 77 and insert in lieu thereof the text of House Concurrent Resolution 240 as agreed to by the House and insert before the resolving clause the preamble contained in such House concurrent resolution.

The motion was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 240) was laid on the table.

GENERAL LEAVE

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No 102–365) on the resolution (H. Res. 299) providing for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns and for other purposes, which was referred to the House Calendar and was ordered to be printed.

□ 1750

MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LENT] is recognized for 5 minutes.

Mr. LENT. Mr. Speaker, today, the Republican leader and I are introducing H.R. 3900, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991.

The National Governors' Association and the administration have reached an agreement which culminates intensive negotiations for the past few weeks to resolve the problem of provider-specific taxes and donations in the Medicaid Program. This legislation represents their agreement. Currently, approximately 40 Governors are supporting the agreement. Mr. Speaker, this legislation provides the means for the long-awaited agreement to become law.

In terms of provider taxes, the legislation replaces the obra 90 provider-specific tax provisions with language stipulating that Federal money will be available only if the tax uniformly applies to all providers in a class, and to all the health-related business of the providers. A class of providers would be, for example, all hospitals, all physicians, or all nursing homes in the State. A tax on all business of providers would include taxes such as a gross revenues tax, a tax based on inpatient days, or a head tax on all patients.

And unlike the current financing scams, these taxes would in fact be bona fide taxes on all providers. These taxes would be truly redistributive. Tax revenues would flow from rich hospitals to public hospitals that serve the poor. And this legislation would forbid hold harmless arrangements in which States rebate the tax revenue directly back to the providers, after the State has received the Federal matching payments.

In addition to the requirement that these taxes be bona fide taxes, the legislation also provides a percentage limit on their use. For purposes of calculating Federal matching, total revenues from these broad-based providers taxes may not exceed 25 percent. This provision ensures the integrity of the Medicaid Program by guaranteeing financial participation of both the States and the Federal Government.

The legislation prohibits the States from receiving Federal payments for revenues obtained from donations by or on behalf of providers. An exception to this rule is created for donations for moneys related to personnel costs for workers in hospitals and clinics who determine Medicaid eligibility of beneficiaries. The total amount of donations permitted under this exception may not exceed 10 percent of the State's total Medicaid administrative expenses.

Several States have raised concerns about the impact of the Health Care Financing Administration [HCFA] regulation on intergovernmental transfers. This bill provides that States may continue to use funds transferred to the State from counties, cities, or other governmental entities as the State share of Medicaid expenditures. The use of such transfers would, however, be disallowed if the source of the funds was donations or taxes that would not otherwise be recognized as the non-Federal share under this legislation.

This bill also places an upper payment limit on Medicaid disproportionate share payments. The total of all such disproportionate share payments in fiscal year 1993 and in any future year would not exceed 12 percent of the total Medicaid expenditures in that year.

Finally, all States would have a transition period to October 1, 1992, to enact broad based provider-specific tax plans.

Mr. Speaker, this is a reasonable compromise which has been agreed to by the administration and the National Governors' Association. It restores the basic tenet of the Medicaid Program—which is shared financial responsibility between the Federal Government and the States. We urge its expedited consideration.

Mr. MICHEL. Mr. Speaker, I am pleased to introduce this legislation on behalf of Mr. LENT, the ranking Republican of the Energy and Commerce Committee, and myself. The administration and the National Governors' Association have reached an agreement on the use of provider-specific taxes and donations to fund the Medicaid Program. My own Governor, Jim Edgar of Illinois, supports this agreement. This legislation represents the administration/NGA agreement. It is now our duty in Congress to see that this agreement, which has required lengthy discussions and tremendous compromise, be enacted into law.

Mr. Speaker, during consideration of H.R. 3595, the Medicaid moratorium amendments, the minority attempted to offer as an amendment the tentative agreement between the NGA and the administration. While the amendment was ruled to be nongermane, much of the opposition to it was that a final agreement had not yet been reached and a significant portion of the Governors still had reservations. That is not the situation today. A final agreement has been reached and nearly every governor is supporting it. Given that this obstacle has been removed, Members should have no opposition to at least putting this legislation to a vote. I strongly urge consideration of this legislation.

At this point in the RECORD I am including a summary of the bill.

SUMMARY

PROVIDER-SPECIFIC TAXES

This bill replaces the OBRA 1990 provider-specific tax provisions with language which allows only bona fide broad-based provider-specific taxes. These taxes would have to be uniformly applied to all health care providers (such as hospitals or doctors) in a class.

Examples of board-based taxes include a gross receipts tax on all revenues, a tax on net operating revenues, a tax based on all inpatient days, a head tax on all patients, or a tax on all beds of a hospital. And only taxes that apply to all providers in a class at the same rate and on the same tax base would be considered to "uniformly" apply to all providers.

Furthermore, a state could not guarantee or otherwise agree with providers that all or a portion of the tax would be returned to them. These provisions, however, would not prevent use of the tax to reimburse providers for Medicaid services. But they would prevent states from holding providers harmless for the costs of the tax in any manner.

For purposes of calculating federal matching payments, total revenues from these broad-based provider taxes could not exceed 25 percent of the state share of Medicaid during fiscal years 1993–1995. Any state in which the revenues from provider donations and provider-specific taxes were in excess of 25 percent in state fiscal year 1992 based on the state's Medicaid program and state plan amendments submitted to HCFA by September 30, 1991, would be permitted to use broad-based provider-specific taxes up to that fiscal year 1992 percentage, instead of 25 percent. This would apply whether or not the donation and provider-specific taxes used in fiscal year 1992 met the standards of the proposal.

DONATIONS

Under this bill, states would not receive federal matching funds for revenues obtained from donations by or on behalf of providers. However, there would be an exception for donations for direct costs related to initial eligibility processing and outreach. For any state, the total amount of donations permitted under this provision may not exceed 10 percent of the total administrative expenditures for Medicaid in a state.

DISPROPORTIONATE SHARE PAYMENTS

With respect to disproportionate share payments, the prohibition in existing law on limiting federal payments for Medicaid disproportionate share payments would be repealed. A separate upper payment limit would be calculated for Medicaid disproportionate share payments. The total of all such payments in fiscal year 1993 and in any future year will not exceed 12 percent of total Medicaid expenditures in that year.

Any state whose disproportionate share payments in federal fiscal year 1992 exceeded 12 percent of total Medicaid expenditures in that year would be entitled in subsequent years to receive federal matching payments up to the total amount of such payments in federal fiscal year 1992 that were pursuant to plans in place on or submitted to HCFA by September 30, 1991. This limit would remain in effect until payments in that state fell below the specified percentage cap of 12 percent, at which time the state would be entitled to increase payments in proportion to total Medicaid program growth.

Any state whose percentage of disproportionate share payments is less than 12 percent in fiscal year 1992 will be entitled in subsequent years to federal matching payments for additional payments as follows:

(1) The level of federal fiscal 1992 disproportionate share payments would be increased by the same percentage as the increase in total Medicaid program expenditures in that state for the year in question; and

(2) The state will receive an allocated share of the disproportionate share growth factor derived from those states who disproportionate share payments remain above the 12 percent cap.

EFFECTIVE DATES

The effective date for the donation and provider-specific tax prohibitions would be October 1, 1992 for programs in effect or in state plan amendments as of September 30, 1991. For those states with a fiscal year ending between July 1 and October 1, 1992, the effective date would be January 1, 1993. For those states whose legislatures do not have a regularly scheduled session in 1992, the effective date would be July 1, 1993.

For the period of January 1, 1992, to the effective date, donations and provider-specific taxes not meeting the requirements of a broad-based tax covered are acceptable up to the amount included or specified in state budget documents, submissions to HCFA, or legislation in existence on September 30, 1991.

RHOBIA TAYLOR DEVOTED LIFE TO SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ], is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, Rhobia Taylor, whose personal and professional concerns encouraged working women for generations, epitomized the very best in public service. She was the first regional administrator of the southwest office of the Department of Labor's Women's Bureau at Dallas, a capacity in which she served for 27 years. Prior to this role which capped her outstanding career, Ms. Taylor was for 11 years a consultant in nursing service for the U.S. Public Health Service in New York, headed special events for the National Institute of Health at Bethesda for 5 years, did public relations and recruitment for the U.S. Cadet Nurse Corps, and held several other public service posts.

Washington journalist and fellow Texan Sarah McClendon called Ms. Taylor "the greatest public servant I ever knew." Ms. McClendon continued: "She wanted so much to serve and to make conditions better."

As the first Regional Administrator of the Southwest Women's Bureau, Ms. Taylor helped set the agency's direction. Under her leadership, the Bureau focused on upgrading the skills and improving the employability of thousands of women. She campaigned to put more women on the Private Industry Councils which determine the distribution of funds for the Job Training Partnership Act programs, and she championed the involvement of underskilled women in the programs established by this act. She helped launch a highly successful project in Brownsville, TX, aimed at improving the job skills of Hispanic women in border communities.

At the time of her death in the fall of 1990, Ms. Taylor was working on a project with Texas Woman's University to honor and trace the history of the Women's Bureau in the southwest. The agency works to upgrade women's skills and improve their chances of finding work.

During 1989 and 1990, Ms. Taylor interviewed 34 prominent women and men about the changing role of women over the past 25 years, said Elizabeth Snapp, director of Libraries for Texas Woman's University. The tapes and transcripts were completed in October 1990, and are a part of the Woman's collection at TWU.

Ms. Taylor was the first woman representative to the Federal Executive Board, and she received the Department's Distinguished Career Service Award.

A native of Texas, Ms. Taylor attended the Houston public schools and received an undergraduate degree from Mary Hardin-Baylor College, where she was named outstanding alumna. She did graduate studies at Columbia University, American University, and the University of New York.

Ms. Taylor was an accredited correspondent for the Dallas Morning News at the U.N. International Women's Conference in Mexico City in 1975, and was active in the Association of Women Entrepreneurs of Dallas, Inc., Federally Employed Women, Executive Women in Government, and Women in Communications, Inc., from which she received a Lifetime Achievement Award.

Sherrie Moran, Director of Public Affairs for the Dallas Regional Office of the Women's Bureau, wrote:

> Rhobia achieved recognition in her life for her many acts of public service, but she will be remembered most for her many private acts of friendship. Rhobia collected friends in the way others collect great works of art and she treasured them as one would Georgia O'Keeffe's magnificent flowers.

She continued:

> Many of her friends were women who, during their years of friendship, were breaking out of old, traditional patterns of what it was to be a woman. They valued Rhobia as someone who nurtured their bold new visions for themselves.

Rhobia Taylor, 1908–90, had no immediate survivors.

Mr. Speaker, let me add that I am one of those who is beholden and hold and cherish her memory and ever will because I am a witness to the great service she performed for her country.

AMERICA NEEDS AEROSPACE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, it is a sad day when both the European and American papers are running numerous stories that McDonnell Douglas, our largest military contractor, is so strapped for cash that it has to sell 40 percent of the company for $2 billion to a foreign company.

This is happening at a time when we are concluding GATT negotiations where it is reported that we are succeeding in backing down Government subsidies by all of our major trading partners for large segments of their economies.

But, Mr. Speaker, not for the Airbus, McDonnell Douglas' chief competitor, nor for the Government-backed and owned Thomson CSF defense contractor—nor for any of the other foreign government owned or subsidized and certainly protected aerospace and defense producers.

It was reported to me—just today—that when an officer of McDonnell Douglas was questioned about this sale, he shot back one word—"Airbus!"

He then complained bitterly about the U.S. Government's position on international competition: "It is our guys out there going it alone against government-backed targeted projects. Even their foreign embassies are working as sales agents and industrial espionage centers supporting every effort to get business.

"We're good, but we can't compete against whole nations. No American company can!"

The U.S. Government with its policy of free trade is in effect exposing American companies to impossible odds in doing business and competing for foreign markets—or for that matter in doing business right here in the United States.

The tragedy of this policy is our aerospace company, McDonnell Douglas went to Taiwan where the Government is eager to support a fledging aerospace industry. This industrial giant signed an agreement with a company, Taiwan Aerospace, which is only 7 weeks old on paper. Additionally, parts for the plane will be built in Taiwan, which means Americans will lose jobs.

Within the last few weeks, it was reported that McDonnell Douglas went to the Department of Defense and asked for a $1 billion loan to help it through a cash squeeze, and finally withdrew its request after a period of time. The company, faced with the termination of some fighter contracts and the possibility of cost overruns on the Air Force C–17, had to act quickly, but selling itself to foreign buyers is not a good answer for the American people.

The September 1991, report of the Aerospace Research Center entitled "The U.S. Aerospace Industry in the 1990's—A Global Perspective," states that "The U.S. aerospace industry is one of the fundamental sources of America's economic strength and world leadership." Today, the U.S. market share has fallen from a high of 79 percent in 1970, to 60 percent. The aerospace industry still left a trade surplus of $27.2 billion for the United States last year.

I know the aerospace industry is talking about global markets, but it seems the United States could do better for its leading exporter than it has.

When McDonnell Douglas goes to Taiwan, we will lose technology and hard working Americans who take pride in the aerospace industry will lose their jobs. Perhaps we could keep this industry if government policymakers had a strategy to foster technology instead of trumpeting the free market and no industrial policy.

The Aerospace Reports states, instead of a coherent approach to technology development and technology export issues as they impact on international competitiveness, the United States pursues a path that is an ad hoc blend of U.S. Government and private industry initiatives.

The end result of this policy is a private initiative of McDonnell Douglas selling 40 percent of its company to a foreign government-backed company so Taiwan can become competitive in the aerospace industry.

What is interesting to me is the story that McDonnell Douglas is continuing to search for other partners in the Asian countries. Remember, the first stories about the sale reported that Mitsui was buying 40 percent of the company for $10 billion. It seems to me that Taiwan is getting quite a bargain for $2 billion.

Taiwan Aerospace is 70 percent owned by the Government and the private backers are Taiwan's industrial conglomerates. According to the Financial Times they include:

> Evergreen Marine, which owns the world's largest container shipping fleet; Yueloong Motor, which has built Nissan cars in Taiwan for 30 years; Tatung, a machinery and consumer electronics maker; Pacific Electric Wire & Cable, the industrial group; the textiles-based Hualong Group; and Formosa Plastics, Taiwan's largest private enterprise. China Steel, which is being privatised, is to join the consortium next year.

I know that American Government policymakers tout free enterprise and no industrial policy, but it seems to me that the conglomerates involved in Taiwan Aerospace are certainly part of an industrial policy for Taiwan.

The reason for the sale was spelled out in the Financial Times, and it was most revealing of our flawed government policy which has thrown first one business then the other to foreign competition.

A security analyst, Mr. Ko explained,

> * * * that the mutual attraction with McDonnell Douglas was a matter of timing. If it were 10 years earlier I don't think we could get McDonnell Douglas to listen to us. If it were a decade later, maybe Taiwan Aerospace would be strong enough not to need to work with others. We are in infant and they are in need of financial assistance and low-cost production.

Mr. Ko explained that Taiwan Aerospace wants "technology and does not aim merely to turn out parts and subassemblies on an original equipment manufacture basis like thousands of other so-called high-technology Taiwanese companies."

Apparently the Taiwanese expect to extract every last bit of industrial information from us. Just what does it mean to transfer technology to another country?

Now how can we continue to be a leader in aerospace if we continue to sign away our technology and continue to help build foreign companies as we have done since World War II with memorandums of understanding. Through our MOU's we have built up a defense industry in Europe to compete with us, now we are doing it in our domestic industries as well.

We need to do everything possible to bring McDonnell Douglas home. As it continues to shop other Asian countries for more partners or contractors, we need to explore what can be done in the United States.

Right now McDonnell Douglas is holding talks in South Korea, Indonesia, and Singapore, and I believe Japan is still not counted out. In the last few years American aerospace companies have helped Japan, South Korea, and Taiwan to build military fighter planes.

We have now become dependent on foreign sources for many of our military parts. Remember that Japan boasted that America's Patriot missile was accurate because of chips from Japan and, that the United States was dependent on Japan for most of the chips used in military equipment in Operation Desert Storm? Now we are adding another chapter to the story of foreign dependence by losing the commercial sectors of our aerospace industry.

Boeing is already working with three Japanese partners in building its next airliner, the 777. Airbus, the European aerospace consortium, is talking to the Japanese about participating in building a superjumbo jet seating more than 600 passengers.

These plans and the international deals all sound attractive, but the American people are left out of the equation. What happens to our jobs and industries?

Just the names of the conglomerates and what they make in Taiwan Aerospace shows the industries affected by such a large loss in the aerospace industry. Planes are fabric, steel, electronics, plastics, glass, composites, rubber, and the list continues and spells jobs. American jobs.

All you need to do to understand what these industries mean to the United States is read the unemployment figures with 6.8 percent of the people unemployed nationally and some States have figures running higher than that.

How can we lose these jobs and more of the industries involved in aerospace when our States and counties are running deficits and having to cut back on services to their constituents?

How do we support our cities, some of whom are declaring bankruptcy. These companies will be paying reduced taxes, or in some cases no taxes, to the government nor will the people who are unemployed be paying a large tax bill to the government.

Today we have 1 out of every 10 Americans on food stamps—more than anytime in our history. Our economy is slumping and middle-class executives are increasingly standing in the unemployment line.

I agree with Senator BINGAMAN and the 28 other Senators signing a letter to the President that the McDonnell Douglas deal "may not be in the national interest." That is an understatement.

With the loss of the commercial aerospace the United States will ultimately lose whole industries. It is time for we in Congress and for every policymaker in government to get their act together and do whatever we can to make McDonnell Douglas competitive and keep jobs in the United States.

That is the least the American people should expect from us—for they are the ones receiving the raw deal when American companies, technology and jobs are lost overseas. Let's stand up for the American people, keep McDonnell Douglas and its technology for America, and stop this fire sale.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. LAGOMARSINO) to revise and extend his remarks and include extraneous material:)

Mr. LENT, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. KANJORSKI.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 10 minutes p.m.), the House adjourned until Monday, November 25, 1991, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various committees of the United States House of Representatives concerning the foreign currencies used by them during the third quarter of 1991, pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tom Bevill	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/8	United States		291.85						291.85
Military transportation							8,358.50				8,358.50
Hon. Joseph McDade	8/16	8/19	Sweden		909.00						909.00
	8/19	8/20	Norway		398.00						398.00
	8/21	8/23	Denmark		404.00						404.00
Commercial transportation							5,365.09				5,365.09
Hon. John Murtha	8/3	8/4	Panama		125.00						125.00
	8/4	8/5	Bolivia		151.00						151.00
	8/5	8/6	Peru		55.00						55.00
	8/6	8/7	Colombia		157.00						157.00
Military transportation							2,800.00				2,800.00
Hon. John Myers	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		226.70						226.70
Military transportation							8,358.50				8,358.50
Hon. Nancy Pelosi	8/31	9/2	Hong Kong		378.00						378.00
	9/2	9/5	China		583.00						583.00
	9/5	9/6	Hong Kong		252.00						252.00
Commercial transportation							4,636.00				4,636.00
Hon. Harold Rogers	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		195.48						195.48
Military transportation							8,358.50				8,358.50
Hon. David Skaggs	8/5	8/6	Thailand		126.00						126.00
	8/6	8/7	Laos		59.00						59.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	8/7	8/8	Cambodia		142.00						142.00
	8/8	8/10	Vietnam		284.00						284.00
Military Transportation							19,610.18				19,610.18
Hon. David Skaggs	9/4	9/5	Austria		211.00						211.00
	9/5	9/6	Estonia		255.00						255.00
	9/6	9/7	Lithuania		255.00						255.00
	9/7	9/8	Georgia		178.00						178.00
	9/8	9/10	Russia		574.00						574.00
Military Transportation							4,959.54				4,959.54
Hon. Lawrence Smith	10/18	10/24	Greece		800.00						800.00
Commercial transportation							7,308.10				7,308.10
Hon. Neal Smith	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		190.37						190.37
Military transportation							8,358.50				8,358.50
Sally Chadbourne	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		96.23						96.23
Military transportation							8,358.50				8,358.50
Elizabeth Dawson	8/11	8/13	Belgium		428.00		—		—		428.00
	8/13	8/17	Germany		636.00		—		—		636.00
Commercial transportation							5,419.00		46.00		5,465.00
Sandra A. Gilbert	8/3	8/4	Panama		125.00		—		—		125.00
	8/4	8/5	Bolivia		151.00		—		—		151.00
	8/5	8/6	Peru		133.00		—		—		133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00				2,800.00
Dennis M. Kedzior	8/16	8/19	Sweden		909.00		—		—		909.00
	8/19	8/20	Norway		398.00		—		—		398.00
	8/21	8/22	Denmark		404.00		—		—		404.00
	8/23	8/26	England		759.00		—		—		759.00
Commercial transportation							5,365.09				5,365.09
Frederick Mohrman	8/3	8/4	Panama		125.00		—		—		125.00
	8/4	8/5	Bolivia		151.00		—		—		151.00
	8/5	8/6	Peru		133.00		—		—		133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00		—		2,800.00
Mark W. Murray	8/10	8/16	Costa Rica		1,032.00		—		—		1,032.00
	8/16	8/21	Guatemala		840.00		—		—		840.00
Commercial transportation							678.00		—		678.00
John Osthaus	8/26	8/29	Japan		1,131.00		—		—		1,131.00
	8/29	9/1	China		404.00		—		—		404.00
	9/1	9/4	Singapore		639.00		—		—		639.00
	9/4	9/5	New Guinea		249.00		—		—		249.00
	9/5	9/8	Western Samoa		528.00		—		—		528.00
	9/8	9/9	United States		90.21						90.21
Military transportation							8,358.50				8,358.50
Juliet Pacquing	8/8	8/11	Florida		312.00		306.00				618.00
	8/12	8/14	Hawaii		378.00		—		—		378.00
	8/15	8/18	Korea		609.00		—		—		609.00
	8/18	8/22	Philippines		728.00		—		—		728.00
	8/22	8/25	Thailand		528.00		—		—		528.00
	8/25	8/28	Saudi Arabia		—		—		—		—
	8/28	8/30	United Arab Emirates		338.00		—		—		338.00
Commercial transportation							6,888.00		—		6,888.00
Terry Peel	8/29	9/5	China		2,000.00		—		—		2,000.00
	9/6	9/8	United Kingdom		520.00		—		—		520.00
Commercial transportation							7,557.00		—		7,557.00
John Plashal	8/3	8/4	Panama		125.00						125.00
	8/4	8/5	Bolivia		151.00						151.00
	8/5	8/6	Peru		133.00						133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00		—		2,800.00
Donald E. Richbourg	8/16	8/19	Sweden		909.00		—		—		909.00
	8/19	8/20	Norway		398.00		—		—		398.00
	8/21	8/22	Denmark		404.00		—		—		404.00
	8/23	8/26	England		759.00		—		—		759.00
Commercial transportation							5,365.09				5,365.09
Kevin Roper	8/16	8/19	Sweden		909.00						909.00
	8/19	8/20	Norway		398.00						398.00
	8/21	8/22	Denmark		404.00						404.00
	8/23	8/24	United Kingdom		506.00						506.00
Commercial transportation							5,365.09				5,365.09
William Schuerch	8/26	8/28	Romania		336.00						336.00
	8/28	8/29	Albania		113.00						113.00
	8/29	8/30	Switzerland		231.00						231.00
	8/30	9/4	Bulgaria		1,385.00						1,385.00
	9/4	9/6	England		520.00						520.00
Commercial transportation							7,058.00		146.40		7,204.40
C. William Smith	9/3	9/7	Panama		528.00						528.00
Commercial transportation							836.15				836.15
Deborah Weatherly	8/5	8/9	Canada		550.00						550.00
Commercial transportation							981.00				981.00
Robert V. Davis	9/6	9/8	United Kingdom		605.00				13.00		618.00
Commercial transportation							6,537.00				6,537.00
Committee total					46,564.84		155,585.33		205.40		202,355.57
Appropriations, Surveys and Investigation Staff:											
Richard H. Ash	9/7	9/13	Germany		1,121.75		3,970.00		564.26		6,627.01
	9/13	9/17	England		688.50						
	9/17	9/20	Scotland		125.00						
	9/20	9/25	England		157.50						
George Carter Baird	8/3	8/6	Spain		508.00		3,483,99		125.00		4,638.24
	8/6	8/9	France		521.25						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Carl F. Bogar	9/20	9/29	Korea		1,642.25		2,492.00		57.95		4,192.20
Charles T. Booth	9/20	9/29	Korea		1,642.25		2,492.00		19.80		4,154.05
Theodore J. Booth	9/7	9/11	Spain		645.00		4,340.00		91.00		6,642.50
	9/11	9/13	Italy		226.00						
	9/23	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Albert J. Boudreau	8/3	8/8	China		628.00		4,870.00		78.69		6,081.69
	8/8	8/10	Hong Kong		505.00						
Daniel J. Doherty	7/1	7/3	Puerto Rico		332.88				38.05		370.93
Ludovico R. Giordano	7/1	7/3	Puerto Rico		318.95				12.60		331.55
Charles V. Gorsey	8/17	8/24	Germany		882.25		3,829.49		9.60		4,721.34
Carroll L. Hauver	9/7	9/13	Germany		1,144.50		3,939.00		241.84		6,423.84
	9/13	9/17	England		688.50						
	9/17	9/19	Scotland		200.00						
	9/19	9/20	England		210.00						
William P. Haynes, Jr	9/7	9/11	Spain		645.00		4,574.00		142.50		6,928.00
	9/11	9/13	Italy		226.00						
	9/13	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Robert W. Lautrup	8/12	8/17	Norway		972.00		3,041.00		86.00		4,099.00
Susan E. Lloyd	8/3	8/7	Mexico		637.75		3,181.00		49.50		4,593.25
	8/7	8/13	Chile		725.00						
Dennis K. Lutz	8/3	8/6	Spain		557.50		3,762.00		102.80		5,128.55
	8/6	8/10	France		706.25						
Frank T. Lyons	9/7	9/11	Spain		645.00		4,574.00		179.00		6,964.50
	9/11	9/13	Italy		226.00						
	9/13	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Dale F. Martell	9/20	9/29	Korea		1,561.00		2,492.00		28.60		4,081.60
James J. O'Kane	9/20	9/29	Korea		1,561.00		2,492.00		45.67		4,098.67
Robert H. Pearre, Jr.	8/4	8/7	Mexico		508.75		3,144.00		53.10		4,443.35
	8/7	8/13	Chile		737.50						
Evan Reese	9/20	9/29	Korea		1,642.25		2,492.00		60.00		4,194.25
Robert J. Reitweisner	7/13	7/18	Panama		656.50		804.30		62.00		1,522.80
Terry H. Sullivan	7/13	7/18	Panama		669.00		804.30		32.60		1,505.90
R.W. Vandergrift, Jr.	8/3	8/8	China		616.00		4,870.00		1,114.20		7,105.20
	8/8	8/10	Hong Kong		505.00						
	9/5	9/8	England		522.00		6,320.00		348.12		7,780.62
	9/8	9/10	Germany		590.00						
Lawrence P. Walsh	8/17	8/24	Germany		882.25		3,829.49		55.40		4,767.14
Thomas F. Ward	9/20	9/29	Korea		1,561.00		2,270.00		34.00		3,865.00
B. Alan Weaver	8/12	8/16	Norway		799.00		3,760.19		127.23		5,697.17
	8/16	8/24	Germany		1,010.75						
L. Michael Welsh	8/12	8/16	Norway		799.00		3,248.99		138.18		4,698.92
	8/16	8/21	Germany		512.75						
	9/20	9/29	Korea		1,561.00		2,492.00		31.80		4,084.80
Vernon Westbrook	9/20	9/29	Korea		1,642.25		2,270.00		51.70		3,963.95
Kennedy L. Wilson	9/7	9/13	Germany		1,144.50		3,939.00		242.77		6,424.77
	9/13	9/17	England		688.50						
	9/17	9/19	Scotland		200.00						
	9/19	9/20	England		210.00						
Committee total					42,130.08		93,776.75		4,223.96		140,130.79

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Nov. 8, 1991.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Gerry Sikorski	8/23	8/30	Switzerland		1,141.00		3,752.00		35.89		4,928.89
	6/29	7/3	Japan		1,030.00		2,963.00				3,993.00
Roy J. Rowland	8/5	8/7	Great Britain		506.00						506.00
	8/7	8/9	France		470.00						470.00
	8/9	8/11	Italy		582.00						582.00
	8/11	8/12	Romania		218.00						218.00
	8/12	8/15	Germany		447.00						447.00
Returned per diem					− 153.87						− 153.87
Local transportation									132.96		132.96
Commercial air fare							7,925.80				7,925.80
Debra Jacobson	9/15	9/21	Poland		650.00		1,062.00		350.00		2,062.00
Jack Chesson	8/7	8/11	France		940.00						940.00
	8/11	8/20	United Kingdom		2,277.00						2,277.00
	8/20	8/22	Germany		430.00						430.00
Commercial air fare							3,971.80				3,971.80
John Shelk	8/7	8/11	France		940.00						940.00
	8/11	8/20	United Kingdom		2,277.00						2,277.00
	8/20	8/21	Germany		430.00						430.00
Commercial air fare							3,971.80				3,971.80
David Finnegan	8/26	8/30	Switzerland		852.00		3,271.90				4,123.90
Charles Ingebretson	8/26	8/30	Switzerland		852.00		3,271.90				4,123.90
David Finnegan	9/16	9/19	Africa		438.00		6,264.10				6,702.10
Jessica Laverty	9/16	9/19	Africa		438.00		6,264.10				6,702.10
Committee total					14,764.13		42,718.40		518.85		58,001.38

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2406. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Rural Health Care Transition Grant Program," pursuant to 42 U.S.C. 1395ww note; to the Committee on Energy and Commerce.

2407. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 25th 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

2408. A letter from the Chairman, Federal Maritime Commission, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3245. A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; with an amendment (Rept. 102-345, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2141. A bill to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; with an amendment (Rept. 102-354, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; with an amendment (Rept. 102-359). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1476. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; with an amendment (Rept. 102-360). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2502. A bill to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; with an amendment (Rept. 102-361). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H.R. 298. Resolution to expedite a conference with the Senate on a banking bill (Rept. 102-362). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2977. A bill to authorize appropriations for public broadcasting, and for other purposes; with an amendment (Rept. 102-363). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 3161. A bill to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes; with an amendment (Rept. 102-364). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H.R. 299. Resolution providing for the consideration of H.R. 3750, a bill to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes. (Rept. 102-365). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MICHEL (for himself and Mr. LENT):

H.R. 3900. A bill to amend title XIX of the Social Security Act to clarify the treatment of voluntary contributions and provider-specific taxes to obtain Federal financial participation under the Medicaid Program and to limit aggregate payment adjustments under the program for disproportionate share hospitals; to the Committee on Energy and Commerce.

By Mr. RHODES:

H.R. 3901. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR (for himself, Mr. ROE, Mr. HAMMERSCHMIDT, Mr. MINETA, and Mr. CLINGER):

H.R. 3902. A bill to provide for the appointment of Maj. Gen. Jerry Ralph Curry, U.S. Army, retired, as Administrator of the Federal Aviation Administration; to the Committee on Public Works and Transportation.

By Mr. SAXTON:

H.R. 3903. A bill to amend the Internal Revenue Code of 1986 to provide for a reduction in individual income tax rates; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mr. RANGEL, Mr. DINGELL, Ms. OAKAR, Mr. MATSUI, Mr. MCCLOSKEY, Mr. HAYES of Illinois, Ms. WATERS, Mr. SAVAGE, Mr. DURBIN, Ms. PELOSI, Mr. MILLER of California, Mr. BACCHUS, Mr. PETERSON of Florida, Mr. HUBBARD, Mr. TORRES, Mr. PASTOR, Mr. ENGEL, Mr. MANTON, Mr. ANNUNZIO, Mr. GORDON, Mr. FROST, Mr. FASCELL, Mr. DORGAN of North Dakota, Mr. GEJDENSON, Mr. FAZIO, Mr. NEAL of North Carolina, Mr. MARKEY, Mr. ROSE, Mr. PERKINS, Ms. LONG, Mr. ROYBAL, Mr. SKAGGS, Mr. GONZALEZ, Mr. CARPER, Mr. BILBRAY, Mr. SISISKY, Mr. LAFALCE, and Mr. VOLKMER):

H.R. 3904. A bill expressing the sense of the House of Representatives that the President should submit to the 102d Congress a proposal for reforming the health care system of the United States; to the Committee on Energy and Commerce.

By Mr. THOMAS of Wyoming:

H.R. 3905. A bill to amend the Historic Preservation Act to authorize appropriations for the Advisory Council on Historic Preservation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMAS of Wyoming (for himself, Mr. GUNDERSON, and Mr. ALLARD):

H.R. 3906. A bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture; to the Committee on Agriculture.

By Mr. PEASE:

H. Con. Res. 247. Concurrent resolution expressing the sense of the Congress that the United States should not enter into any international agreement, or approve any international report, that would impair the authority of the United States to enforce and strengthen environmental, labor, agricultural, and public health and safety standards; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 960: Mr. SOLOMON.

H.R. 1234: Mr. SMITH of Florida.

H.R. 1245: Ms. MOLINARI and Mr. ORTON.

H.R. 1565: Mr. STEARNS.

H.R. 2071: Mr. HERGER, Mr. APPLEGATE, and Mr. STEARNS.

H.R. 2126: Mr. WEISS.

H.R. 2229: Mr. OXLEY and Mr. ANTHONY.

H.R. 2230: Mr. OXLEY and Mr. ANTHONY.

H.R. 2385: Mr. SPENCE.

H.R. 2695: Mr. JONES of North Carolina and Mr. SWETT.

H.R. 2824: Mr. MACHTLEY.

H.R. 2838: Mr. WOLPE, Mr. MAZZOLI, Mr. BERMAN, and Mr. PICKETT.

H.R. 2872: Mr. MILLER of Ohio and Mr. DIXON.

H.R. 3030: Mrs. BENTLEY, Mr. MARLENEE, Mr. MONTGOMERY, Mr. TAYLOR of North Carolina, Mr. SHARP, and Mr. LIGHTFOOT.

H.R. 3417: Mr. TOWNS and Mrs. VUCANOVICH.

H.R. 3518: Mr. LEWIS of Florida and Mr. DINGELL.

H.R. 3569: Mr. SOLOMON:

H.R. 3639: Mr. JOHNSTON of Florida.

H.R. 3730: Mr. KOLTER, Mr. TOWNS, and Mr. PRICE.

H.R. 3770: Mr. CAMPBELL of California, Mr. BAKER, Mr. BALLENGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. GEKAS, Mr. GILLMOR, Mr. GRADISON, Mr. GRANDY, Mr. HASTERT, Mr. HAMMERSCHMIDT, Mr. HENRY, Mr. HERGER, Mr. HOPKINS, Mr. HOUGHTON, Mr. INHOFE, Mr. JAMES, Mr. KYL, Mr. LENT, Mr. LIGHTFOOT, Mr. MILLER of Washington, Mr. RAMSTAD, Mr. RIDGE, Mr. RIGGS, Mr. RITTER, and Mr. SHAW.

H.J. Res. 224: Mr. BILBRAY, Mr. BROWDER, Mr. ERDREICH, Mr. TAYLOR of Mississippi, Mr. HUBBARD, Mr. HALL of Texas, Mr. STENHOLM, Mr. MONTGOMERY, Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. CAMPBELL of Colorado, Mr. LANCASTER, Mr. BREWSTER, Mr. ANTHONY, Mr. ENGLISH, Mr. RAY, Mr. HUCKABY, Mr. JENKINS, Mr. PENNY, Mr. ROWLAND, Mr. BEVILL, Mr. LAROCCO, Mr. GUARINI, Mr. BARNARD, Mr. HARRIS, Mr. VOLKMER, Mr. PAYNE of Virginia, Mr. PETERSON of Florida, Mr. CONDIT, and Mr. ORTON.

H.J. Res. 372: Mr. STOKES, Mr. PANETTA, Mr. WEISS, Ms. KAPTUR, Mr. DAVIS, Mr. KA-

SICH, Mr. HORTON, Mr. GINGRICH, Mr. WAXMAN, Mr. TAYLOR of Mississippi, Mr. VENTO, Mr. VOLKMER, Mr. FAWELL, Mr. LAROCCO, Mr. FALEOMAVAEGA, Mr. ZIMMER, Mr. RICHARDSON, Mr. STAGGERS, Mr. TALLON, Mr. SHAYS, Mr. OWENS of New York, Mr. WHEAT, Mr. EARLY, Mr. SCHIFF, Mr. SIKORSKI, Mr. SOLARZ, Mr. SERRANO, Mr. ENGEL, Mr. TORRES, Mr. VISCLOSKY, Mr. INHOFE, Mr. SWETT, Mr. REED, Mr. CARPER, Mr. LAUGHLIN, Mr. SMITH of Texas, Mr. KANJORSKI, Ms. DELAURO, Mr. MARTIN, Mr. ROWLAND, Mr. YATRON, Mr. SOLOMON, Mr. SMITH of Iowa, Mr. SANGMEISTER, Mr. WASHINGTON, Mr. MURPHY, Mr. PACKARD, Mr. MOORHEAD, Mr. KLECZKA, Mr. FAZIO, Mr. HYDE, Mr. KLUG, Mr. ROBERTS, Mr. LEACH, Mr. MFUME, Mrs. LOWEY of New York, Mr. EVANS, Mr. FASCELL, Mr. PICKLE, Mr. HUTTO, Mr. PASTOR, Mr. MARTINEZ, Mr. LAFALCE, Mr. NEAL of North Carolina, Mr. PARKER, Mr. LANTOS, Mr. WYDEN, Mr. GUNDERSON, Mr. LOWERY of California, Mr. HUBBARD, Mr. HAYES of Illinois, Mr. HALL of Texas, Mrs. BENTLEY, Mr. BLILEY, Ms. PELOSI, Mr. BACCHUS, Mr. MCHUGH, Mr. HEFNER, Mr. JACOBS, Mr. HERTEL, Mr. COX of Illinois, Ms. SLAUGHTER of New York, Mr. DREIER of California, Mr. SARPALIUS, Mr. HASTERT, Mr. GORDON, Mr. DICKS, Mr. BEILENSON, Mr. HOAGLAND, Mr. YATES, Mr. BUSTAMANTE, Mr. DOOLEY, Mrs. BYRON, Mr. SAWYER, Mr. OBEY, Mrs. PATTERSON, Mr. SKAGGS, Mr. ECKART, Mr. MOLLOHAN, Mr. WYLIE, Mr. SISISKY, Mr. MAZZOLI, Mr. ANDREWS of Maine, Mr. ARCHER, Mr. RIDGE, Mr. DARDEN, Mr. GREEN of New York, Mr. ORTON, Mr. PALLONE, Mr. PAXON, Mr. RIGGS, Mr. GILLMOR, and Mr. JEFFERSON.

H. Res. 284: Mr. ANDERSON, Mr. HYDE, Mr. MONTGOMERY, and Mr. NATCHER.

H. Res. 293: Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. HASTERT, Mr. PICKLE, Mr. CARPER, Mr. HOCHBRUECKNER, Mr. BEILENSON, Mr. KOSTMAYER, Ms. COLLINS of Michigan, Mr. REED, Mr. ROYBAL, Mr. HAYES of Illinois, Mr. BENNETT, Mr. MCDERMOTT, Mr. BLACKWELL, Mr. AUCOIN, Mr. OXLEY, Mr. HOBSON, Mr. SCHAEFER, Mr. LOWERY of California, Mr. ROGERS, Mr. WALSH, Mr. ROBERTS, Mr. COUGHLIN, Mr. BARRETT, Mr. WOLF, Mr. PENNY, Mr. MARKEY, Ms. DELAURO, Mr. WHEAT, Mr. HALL of Ohio, Mr. BONIOR, Mr. SERRANO, Mr. SCHEUER, Mr. DERRICK, Mr. JONTZ, Mr. COLEMAN of Texas, Mr. ROWLAND, and Mrs. SCHROEDER.

SENATE—*Saturday, November 23, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY WIRTH, a Senator from the State of Colorado.

The PRESIDING OFFICER. The prayer will be offered by Dr. James D. Ford, Chaplain, U.S. House of Representatives, Washington, DC.

PRAYER

The Chaplain, Dr. James D. Ford, Chaplain, U.S. House of Representatives, Washington, DC, offered the following prayer:

Let us pray:

Teach us, gracious God, to remember You in our prayers and petitions not only at times of conflict and distress or at the moments of anxiety and frustration, but to speak daily to You from the depths of our hearts and from the center of our being. O God, You have blessed us with every good gift of life and love and with all the opportunities of friendship and fellowship. Remind us at the dawn of the morning until the fading light of day to hear Your still small voice and joyfully celebrate Your blessings to us and to all people. In Your name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 23, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, under the agreement reached last evening, the Senate will now proceed to the Defense appropriations conference report under a time limitation which provides for a maximum number of 5 hours of debate on that bill. I indicated last evening that the vote would occur when all the time is used or yielded back but in any event not prior to noon. So, a vote on that bill will, therefore, occur sometime between noon and 2 p.m. depending on how much of the maximum 5 hours permitted for debate is actually used.

Upon disposition of that bill the Senate will proceed to consideration of the CFE Treaty. There is no time limitation. We have been unable to obtain a time limitation on debate, and I am advised that there may be considerable debate on that matter. It is an important matter, of course, deserving of full consideration by the Senate.

I intend to remain in session today until we do complete action on that and, therefore, the Senate will undoubtedly be in session throughout the day and perhaps into the evening depending upon progress of debate.

I also indicated last evening that the possibility of other matters coming before the Senate exists and that remains the case. I will be meeting with the Republican leader and with the Senators on both sides of the aisle throughout the day in an effort to determine how best to proceed so as to enable us to complete the business on which we must act prior to adjournment. And it is possible that there will be other measures before the Senate during the day today.

Mr. President, I note the presence of the distinguished Senator from Hawaii, the manager of the bill which will now be before the Senate.

I, therefore, yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 2521 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 18, 1991.)

The ACTING PRESIDENT pro tempore. The time for debate on the conference report is limited to 5 hours divided and controlled as follows: One and a half hours each for Mr. NUNN and Mr. WARNER, 45 minutes each for Mr. INOUYE and Mr. STEVENS, and 30 minutes for Mr. SASSER.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, on behalf of the managers on the part of the Senate in the committee on conference on the fiscal year 1992 Defense appropriations bill, I am pleased to present to the Senate our recommendations for fiscal year 1992 funding of the programs and activities of our Government in support of our Nation's defense and security.

The bill before the Senate provides $269.9 billion in budget authority and $275.4 billion in outlays for fiscal year 1992 defense spending. These amounts approximate the committee 602(b) allocations of budget authority and outlays to the Subcommittee on Defense Appropriations. We are within, approximately, $500 million of our budget authority total—in other words, we are below the amount designated for the committee—and $25 million of the allowance for outlays. We have spent less than what we were designated.

This conference agreement is in tune with our times and it is in touch with reality. At a time when the Soviet threat appears to be receding, we make appropriate adjustments. At a time when it is difficult to be certain that all threats have, indeed, been removed, we fund the basic elements of our national strength and we preserve the vitality of our Nation's Armed Forces. And, as we look to a future where America will undoubtedly turn inward and reduce spending for military programs, we finance investments in research and development, and, we fund procurement of systems which will preserve our Nation's strength with a smaller Army, a smaller Air Force, and a smaller Navy and Marine Corps.

So now if I may proceed first to title I, military personnel.

TITLE I: MILITARY PERSONNEL

The bill before the Senate fully funds the President's request for military personnel. The recommendation fully funds active duty personnel end strength at the budgeted and authorized level—a reduction of 106,358 from fiscal year 1991. I would like to repeat that again. This bill reduces the active duty personnel end strength by 106,358 from fiscal year 1991. For the Guard and Reserve, we add back 67,796 from the budgeted reduction. As we all recall, the President of the United States had proposed the reduction of 107,526 in National Guard and Reserve end strength; we reduced it by 40,030. In other words from the President's budget reduction we added back 67,496.

We also protect the Guard and Reserve Force structure. Section 8067, a general provision, prohibits any reduction in the force structure allowance of the Army Guard and Reserve below specified numbers.

Mr. President, several of my colleagues have come to me expressing concern about the actions taken by the conference committee on the National Guard and Reserves. I believe it might be helpful if I tried to put the actions of the appropriations conference agreement in context with the actions of the authorization conference agreement. Both of these agreements, as my colleagues are aware, have been adopted by the House. And the Senate has now passed the authorization agreement.

Under bill language contained in the authorization conference agreement, end strength levels for each of the Guard and Reserve components are mandated.

End strength levels refer to the number of people in the Guard or Reserve on the last day of the fiscal year, September 30, 1992. To put it another way, the authorized end strength level places a ceiling on the number of people in the Guard and Reserve during a given fiscal year.

The concerns that have been expressed to me principally involve the Army National Guard and the Army Reserve. Let me use the Army National Guard as an example to illustrate the point I am trying to make.

The authorization agreement mandates an Army Guard end strength of 440,000 men and women, plus the possibility of a 2-percent increase for a total of 448,800. So under the authorization conference agreement, the Army Guard strength could go as high as 448,800. However, nothing—I repeat nothing—is contained in the authorization conference agreement which would prevent the Department of Defense from drawing Army Guard end strength down to any figure it chooses. Army Guard strength under the authorization bill could be anywhere from 448,800—2 percent above the authorized end strength—or 50,000, or 60,000, or 70,000 below that level.

Theoretically, if the DOD lost its mind, it could go all the way down to zero. In other words, the authorization conference agreement set a ceiling but not a floor.

The appropriations conference, on the other hand, sets a floor on Army Guard end strength, and that floor is 440,000, the authorized end strength. Our conference agreement says that the Department of Defense may not draw Guard end strength below 440,000, except that the Secretary of Defense may vary that end strength by no more than 2 percent. The Department of Defense could reduce Army Guard end strength by an additional 8,800 under the end strength funded in the appropriations bill. But DOD could not reduce end strength any further. Unlike the authorization bill, the appropriations conference agreement floor would prevent further reductions and as such we establish a minimal force size. To put it another way, we protect the Guard.

Mr. President, the appropriations conference agreement also addresses force structure allowances. Under our agreement, there is a floor on Army Guard and Army Reserve force structure allowances. The Department may not reduce force structure allowance for the Army Guard below 450,000 and for the Army Reserve below 310,000 and for the other Reserve components below the end strength levels supported by the Appropriations Act. Again, we have given the Secretary of Defense a little flexibility. Our agreement will allow him to vary force structure allowances by the same percentage that he has varied—increased or reduced—end strength.

This is one of the most difficult issues that we confronted in conference. No one here wants to reduce Guard and Reserve Forces, and yet, as the active components are reduced and elements are eliminated, it is difficult to justify keeping the Guard and Reserve at their current level. We did, however, want to avoid large reductions at this time, especially since the Department of Defense does not appear to have a coordinated plan to make these reductions.

In the report which accompanies the conference agreement, we have directed the Department of Defense to provide the Committees on Appropriations with a listing of all units scheduled to be reduced, realigned or inactivated in fiscal year 1992 and a similar listing for fiscal year 1993. Where appropriate, the lists are to include active units which these Guard and Reserve units support.

The authorization conference agreement also requires an assessment of the structure and mix of Active and Reserve Forces through the mid- to late-nineties, with an interim report due by May 1, 1992. I hope, and believe, that the two reports will make it possible for all of us to make informed decisions when we consider the fiscal year 1993 authorization and appropriations bills.

Mr. President, I know that there are Senators who will disagree with the position the conferees have taken on the Guard and Reserves. Nonetheless, I stand before you and the Senate, and I say without reservation—we protected the Guard.

TITLE II: OPERATION AND MAINTENANCE

For the operation and maintenance title, various pricing and fact-of-life adjustments enabled us to take $1.8 billion out of the request. We have put this money to good use.

We have increased Army training funds by $150 million; we have enhanced readiness by providing an increase of $400 million for depot maintenance—that is repair and maintenance of equipment, long, long overdue; and we have provided a $500 million fund to meet the requirements for facilities maintenance at Army, Navy, and Air Force installations.

Under the O&M title, we have also provided funds to really begin the environmental cleanup of our Nation's defense installations, we provide $1.2 billion, not just for studies and research but for cleaning up the mess left behind by a century of neglect. In this regard, we also provide $105 million in Navy operation and maintenance funding to support Navy operations and to help clean up environmental pollution in Antarctica.

The bill also addresses Coast Guard operations. We provide $189 million in support of Coast Guard drug interdiction and defense related operations.

TITLE III: PROCUREMENT

Mr. President, the bill which the committee has recommended makes a prudent investment in the military hardware and related equipment necessary to preserve a strong defense establishment.

NAVY

For the Navy, we provide funds for 1 SSN-21 *Seawolf* attack submarine, 5 DDG-51 Aegis destroyers, 3 MHC Minehunters and 24 of the LCAC landing craft.

Mr. President, it is clear that our Nation needs to revitalize its fleet of attack submarines. The committee is concerned, however, that the *Seawolf*—the SSN-21 class—may be too expensive. Under current plans, only one per year is to be constructed. At one submarine per year, we can never sustain our goal of 60 or 70 submarines. Therefore, the Navy is now starting to look at a follow-on to the *Seawolf*, the SSN-21, the so-called *Centurion*. At this juncture I think it is well for us to note that while we are providing funds for one submarine, the Soviet Union, with all its economic ills and problems, will be providing funds for nine submarines.

Therefore, the Navy is now starting to look at a follow-on, as I said, to the SSN-21, the so-called *Centurion*. The committee has provided advance procurement funds for submarine construction, but has withheld the obligation of these funds until the Secretary of the Navy reports on his review of the submarine program and his determination as to where the future lies—with the *Centurion*, or some other submarine.

We address the problems of Navy air by funding procurement of 39 F/A-18 aircraft. We also provide substantial amounts in R&D funding for an advanced version of the F/A 18, the E/F version.

ARMY

For the Army, we are recommending the procurement of a new training helicopter—it will save money to buy rather than lease a new training helicopter, and we recommended procurement of 47 additional UH-60 Blackhawk utility helicopters. We also fund 24 AHIP helicopters, as authorized.

A number of Members have expressed an interest in the MLRS rocket. We recommend funding of 36,000 rockets and 44 launchers. This year, in addition to procurement for the Regular Army, we are recommending the appropriation of $110 million for procurement of MLRS for the National Guard. This amount was not requested, but I believe the Guard can and should take on additional roles in the future of our Nation's defense.

We provide additional funding to meet the increased cost of procurement of the 60 M1A2 tanks funded in fiscal year 1991 and we provide funding to upgrade the M1 tank to the M1A2 tank—as you know, the M1 is the tank which did so well in the recent war in the desert. It outgunned the Russian T-72 tank and outmaneuvered it as well. In fact, the M1 outmaneuvered its own support vehicles, so, in R&D, we provide funds for support vehicles in the Armored Systems Modernization Program, while deferring development of the so-called Block III tank.

AIR FORCE

For the Air Force, we provide in excess of $1 billion for the procurement of 48 F-16 aircraft, with advance procurement for an additional 24 to be procured in fiscal year 1993.

We begin to meet the requirements for airlift by funding four C-17 air transport aircraft. The budget had requested funding for six, but the contractor has experienced delays and we believe $1.5 billion is sufficient to meet production requirements for four aircraft.

Mr. President, I know all Senators are interested in what we are proposing for the B-2. We provide the same funding levels as included in the authorization bill, a total of $2.8 billion in procurement and $1.6 billion in R&D. The fences and restrictions in the authorization bill govern the obligation of these funds.

TITLE IV: RESEARCH AND DEVELOPMENT

In the research and development accounts, we provide funding for investment in the future of America's Armed Forces. We are not unaware that defense budgets will decline—and decline sharply—in the next 3 years. Accordingly, we have been careful to avoid initiation of R&D programs which are unaffordable in the future.

NAVY

We do provide ample resources to those R&D programs which have been identified as required investments. For example, we provide $350 million for the Navy's F/A 18 E/F program. This airplane will provide the solution to the Navy's midterm problems in the area of attack aircraft.

ARMY

Under Army R&D, one of the largest expenditure's will be for the armored systems modernization program. Because of the committee's concern with the need to get on with the development of new artillery—a need which was underscored in Desert Storm, where Iraqi artillery had greater range than anything we had in the field—we have provided funds to accelerate development of the new howitzer while slowing the development of the Block III tank.

AIR FORCE

The R&D programs in the Air Force are numerous, and very costly. Nonetheless, we support them because we believe air superiority and the importance of strategic and tactical bombing was unquestionably demonstrated in the gulf war. Communications, intelligence, and control of the air over the battlefield are vital to the success of our Armed Forces.

For the Air Force, we provide: $900 million for Milstar Satellite communications; and $376 million for the C-17 transport aircraft.

We also provide: $442 million for ICBM modernization; $145 million for Titan space launch vehicles, and, $1,563 million for continued R&D on the B-2 bomber.

DEFENSE AGENCIES

It is under Defense agencies that we find the largest of the R&D programs, the strategic defense initiative. As you know, the Defense authorization bill restructures this program and provides increased emphasis on ground-based systems. As authorized, we provide $4.15 billion for the SDI Program.

CONCLUSION

Mr. President, those are the principal recommendations for funding.

As you know, the Defense appropriations bill carries a large number of general provisions—over 100—which cover a variety of subjects. I will not review all of them; most have been carried in our bill for a number of years.

Mr. President, in a recent, special briefing before the Appropriations Committee, Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff, spoke frankly and candidly about his fears for the future of America's Armed Forces.

He expressed his concern that measures to keep the Guard and Reserve at current levels, or to prohibit the managed reduction of the regular force, will lead to a top heavy structure of aging military personnel.

He expressed his concern that reductions in procurement and research and development could erode the qualitative edge our service men and women have on the battlefield. A qualitative edge which will grow ever more important as we reduce the number of men and women under arms.

General Powell expressed his concern that we would build a hollow force with outmoded equipment and overage soldiers.

Mr. President, we must not allow that to happen. We must manage reductions in force levels and defense spending. We all know these reductions will come over the next several years. We, on the Defense Appropriations Subcommittee have begun to make them.

Mr. President, that concludes my remarks. I am pleased to yield the floor to my distinguished colleague, my dear friend whose wisdom and humor have made my life much easier and my work more productive, the senior Senator from Alaska, TED STEVENS, the ranking minority member of the Subcommittee on Defense Appropriations.

Mr. President, I yield the floor at this moment.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am grateful to my good friend from Hawaii. It is difficult to keep one's good humor in dealing with this bill but I think we should try to do that today.

Let me start off briefly with just a couple of comments. I yield myself 5 minutes, Mr. President, and I yield my good friend, the distinguished Senator from Arizona [Mr. MCCAIN] 20 minutes, and reserve the remainder of the time for later comments today.

The Senate, in its wisdom, has divided jurisdiction over this subject between two entities of the Senate: One, the Senate Armed Services Committee, which has some 50 staff; the other is the Defense Appropriations Subcommittee, chaired by my good friend from Hawaii. I was the chairman of this subcommittee for 6 years, and we have worked together for some 20 years.

We have 10 staff on the majority side. They are basically nonpartisan. And I have one professional assistant on this subcommittee, Mr. Cortese, who sits beside me. We have a total, in other words, of 14, of our administrative staff, 14 working with us, and there are

50 working with the Armed Services Committee.

We are going to witness today a battle between the staffs, because when our bill, the Defense Appropriations Committee bill, left the Senate, it was almost tracking the defense authorization bill. The Senators who represent the Armed Services Committee and went to conference with the House on the defense authorization bill met with 102 Members of the House; some 13 Members of the Senate did that.

The bill that they brought back to the Senate, and we just approved yesterday as a conference report, was substantially different from the bill that we tried to fund with the Senate-passed appropriations bill. In conference, we tried to keep up with their conference, those of us who were on the Appropriations Committee, but it was almost impossible to do so because the changes in that bill were so rapid, so varied, and the final version, as I indicated, was very little like the original product that left the Senate.

We met as a subcommittee with the subcommittee of the House Appropriations Committee, some 13 of us, meeting with 19 other Members. There is no overlap between the Appropriations Committee or the Armed Services Committee, House or Senate. So we had to do as best we could to fashion a bill to meet the objectives of the Senate, keeping in mind the bill that we took to the conference tracked the original authorization bill but the bill they brought back here did not look like anything they took to conference themselves.

We are going to be railed against once again, and this Senator is getting a little tired of it. The authorization committee in the Senate, I will note, micromanages the Department of Defense and now they are trying to micromanage another entity of the Senate.

This conference report that is before the Senate now complies with the 602 limits for budget authority and outlays for the Department of Defense. We have funded the major items of the defense bill that was brought back by the Armed Services Committee, notwithstanding their peregrinations and notwithstanding the varied amounts in their bill as compared to the original bill.

We have, as the Senator from Hawaii has indicated, I think maintained the significant initiatives of the Armed Services Committee, including the Warner initiative on SDI, which is significantly different from the President's budget, significantly different from the recommendations of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. We maintained the progress on the new F-22 advance attack fighter for the Air Force, the E/F version of the F-18 and the V-22 for the Marine Corps, notwithstanding various disagreements in the Pentagon and in the White House and, I might add, here with some other Members of the Senate. But we have tried to track the desires of the Armed Services Committee to the maximum extent possible.

The difficulty I have with the criticisms that the Senate is going to hear today is that in trying to work out an agreement with the House Members in this conference of ours on appropriations, we had to make significant concessions on small items. They are very small items. Take, for instance, the university items before us today. I personally had over 200 letters from Members of the Senate that if we had been able to accede to their request would have totaled more than $10 billion.

We were not able to accede to all those requests, but the ones from the Armed Services Committee we did accede to, and we did get our colleagues in the House to agree to.

The interesting thing is the Armed Services Committee has forced us to fund what we call federally funded research and development centers. Those centers have increased $600 million since 1985. They spend the same kind of money as these universities that the people will complain about today. They are, in effect, consultants for the Department of Defense, and so are the universities.

I do not totally defend the process by which we end up with these universities and their allocations today, but they are equally sound to the FFRDC's, the federally funded research development companies, that spent in total $1.6 billion this year of taxpayers' money to consult with those who should be making our defense policy.

I commend to the Armed Services Committee the task of reducing that expenditure as they try to reduce the expenditures by our universities.

Mr. President, I hope to be able to respond to others, but I think we have reached an acceptable balance for 1992 with our counterparts in the House.

I particularly want to commend the chairman, Mr. MURTHA, and the ranking member, Congressman MCDADE, who have worked with us. And I again thank my good friend from Hawaii for all his patience in trying to work out this matter.

I myself had to author an amendment to delete an item that I personally first brought to the Senate 10 years ago to try and find a way to provide women in Armed Services with some form of consideration when they do have the problem of facing abortion. I had to author that amendment to delete from this bill that section in order that we might get a bill to bring back to the Senate this year because there was such stern opposition to it in the House.

That was not a pleasant duty, and I do thank those who understood the circumstance. I am sure I will have to answer to that for years to come. But this bill is an important bill. It is a bill that must continue the support for our Armed Services and, as I indicated, I look forward to the dialog today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MCCAIN addressed the Chair.

Mr. INOUYE. Mr. President, may I yield myself just 30 seconds?

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that during consideration of this conference report, the following people, Charles Cook, John Young, and Stacy McCarthy, be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arizona is yielded 20 minutes.

Mr. MCCAIN. Mr. President, if it is agreeable to my distinguished friend from Alaska, acting in behalf of Senator WARNER, I yield myself such time as deemed necessary from his time. Is that agreeable to the Senator from Alaska?

Mr. STEVENS. It is my understanding, Mr. President, that the Senator wanted 20 minutes of my time. I yielded that to him. He may have it if he wishes.

Mr. MCCAIN. I thank my friend from Alaska. Mr. President, let me preface my remarks with by noting the high esteem, regard, and affection which I hold for the distinguished chairman and the ranking Republican member of the Defense Appropriations Subcommittee. One of the greatest privileges that I have had serving in this body is knowing and appreciating the skills, talent, and dedication of these two individuals, and I know that they would not perceive my remarks as in any way a criticism of them.

What I am going to criticize today is a system which has become more and more flawed and more and more disgraceful. Most important, it has become a great disservice to the taxpayers of my State and this Nation.

Our current system for reviewing the defense budget cries out for reform, and at the end of my remarks, I will make several recommendations. We cannot, however, wait to reform the system. We are faced with a fiscal year 1992 Defense appropriations bill which programs over $6 billion in unauthorized and/or noncompetitive expenditures. This can be broken down into $3.3 billion in 17 accounts or $4.9 billion in 170 lines at the line-item level with all due respect to my dear friends, Senator INOUYE and Senator STEVENS, I have to register not only my feeling of strong disagreement with such waste but that of the people I represent.

I am going to vote against this bill. I am going to do so even though the bill has many strong features, many features which I was privileged to work on over the entirety of last year. Nevertheless, a point of principle is involved, and so is the interest of the American taxpayer. It is no secret that each of us is here to represent his or her constituents. It is no secret that the Congress makes a host of changes in every appropriations bill. Many of these changes are, in fact, changes that aid our national security. The defense budget is prepared and submitted to Congress nearly 10 months before we take final action.

There are many areas of controversy that need to be debated as time goes on. There are many shifts in the overall budget situation, our strategic posture, and military requirements. All of us see many lobbyists in uniform, as well as in civilian clothes. No one can object if some objections are made to suit State and local interests.

We all know that the Federal Government is anything but infallible and that small changes in the total Federal budget can have a devastating impact on a given community. We exist as a body because our Founding Fathers knew that we could only build a national consensus around the fair representation of regional interests and a concern for the people, as well as national policy.

I think it is appropriate in this context to mention that my friend from Alaska just stated the defense authorizers micromanage the defense establishment I believe that remark to be unfair. Our obligation is to ensure that the defense budget meets the Nation's needs and those of the American people, not to be act as a rubber stamp for the Pentagon or the executive branch. As an authorizing committee under the leadership of our chairman, Senator NUNN, we have for years attempted to avoid micromanagement. I admit that the criticism of the Senator from Alaska is sometimes accurate. We are not perfect. We do micromanagement from time to time. However, I would suggest that clearly, under the structure of the Senate, the authorizing committee is required to make the kind of decisions it makes in the authorization bill. I will quote the law in just a minute. But again, I repeat, I am not attacking the appropriations bill because the authorization bill is at issue. I am doing so because of its impact on public policy.

Mr. President, I believe in a strong national defense. I believe in a competitive United States. I believe in a peace dividend. In lowering taxes, and in getting the Federal deficit under control, I believe there must be sharp limits on midnight raids on the Treasury. The law is clear. And I will repeat it more than once during the course of this debate. It says:

> No funds may be appropriated for any fiscal year, or to or for the use of any armed force or obligated or expended (for procurement, R&D, etc.) unless funds therefore have been specifically authorized by law.

"Unless funds therefore have been specifically authorized by law." The Armed Services Committee also has a longstanding agreement with the appropriators that the Senate Armed Services Committee sets the ceiling for defense expenditures, and they establish the floor. We have agreed to a process of checks and balances on unnecessary defense spending where we do not reverse each other's policy decisions and no one legislates on the appropriations bill.

But, Mr. President, as I said earlier, the defense appropriations bill adds $3.3 billion in 17 accounts at the account level. It adds $4.9 billion in 170 lines at the line-item level. It legislates unnecessary spending for universities, military depots, and museums by ending a legal requirements for competition. This adds about $350 million to the total.

The bill also mandates that a single contractor—a single contractor—get a noncompetive extension of a contract for CHAMPS services worth over $1 billion. In short, we are talking about changes that total at least $6.3 billion. To my friends in Arizona, $6.3 billion is a great deal of money. I want to emphasize that some parts of this $6.3 billion may include very valuable and, indeed, justified items in them. But the fact is, the law states:

> Unless funds, therefore, have been specifically authorized by law, no funds may be appropriated for any fiscal year.

Mr. President, we cannot turn a blind eye to this kind of unnecessary spending at a time when Americans all over this country are experiencing economic hardship and uncertainty. We cannot turn a blind eye at a time when we are making massive cuts in defense spending in our forces. We live in a world where real defense spending by the Department of Defense has already been cut from $349 billion in fiscal year 1986 to $278 billion today. We live in a world where real defense spending will drop below $245 billion by the mid-1990's. We live in a recession where Americans need tax reduction and deficit reduction and honest competition to stimulate the economy.

We cannot afford to shift over $6 billion in defense funds from high-priority military needs to areas which often serve local or special interests. We cannot, after 6 straight years of cutting the defense budget, treat it as a pool of resources that neither enhances our security nor reduces the burden on the taxpayers. We cannot ignore the needs and sacrifices of our men and women in uniform.

Let me emphasize this latter point. Mr. President, one that I wrestled with—along with the chairman, the ranking member, Senator WARNER, and Senator GLENN on the Manpower and Personnel Subcommittee—is how we could properly compensate those men and women who served in the military, who volunteered for service, and who will be involuntarily separated or forced to leave military service voluntarily years before they planned to do so. This will include well over 300,000 men and women and at least some who risked their lives in Desert Storm. One of our biggest difficulties in providing such compensation was finding the funding to provide them with the benefits which they deserve and which many have risked their lives, to earn.

Frankly, Mr. President, a lot of this $6.36 billion I am talking about could better be spent on giving the American men and women who serve in our military better benefits, including pay raises in keeping with the rises in civilian salaries, which we have not done over several years.

Let me now address the issue of how this money will be spent if the Defense appropriations bill passes.

I have a long list of the detailed addons that contribute to this $6 billion figure, and I will request that they be added to my statement at the end of my remarks. Once again, I do not dispute that some are justified. I make no claim for perfection on the part of the authorizing committee, but I cannot help but touch on a few of these items. They include:

The sum of $20 million in gasoline truck engines to keep one firm alive at a time the Army has a more than 10-year surplus of such engines, and is converting to multifuel engines.

The sum of $175 million in upgrades for the F-14 whose nature is undefined, but which seem to be designed to subsidize an engine manufacturer and which will create a fourth configuration of the F-14, rather than attempt to solve the Navy's real fighter development problems.

The sum of $35.5 million for 155mm artillery rounds. This may even be a good idea. We are short on ammunition, but why 155mm rounds and not all the other shortfalls.

The sum of $8 million to subsidize a manufacturer of tactical trailer and dolly sets.

The sum of $100 million for the SSN-21 *Seawolf*—a submarine that now lacks a stand off weapon and new torpedo and whose cost seems to be climbing well above $2 billion.

The sum of $91 million for the AN/SSQ-95 sonobouy at a time when the Navy is dropping ASW from first to seventh priority.

What seems to be over $80 million for special and black programs which now seem to have black budgets.

The sum of $221 million more in black money for a classified ship air defense program.

The sum of $35 million for unspecific range improvements—which often translate into local improvements.

The sum of $356.5 million above the increase we made as authorizers for still more C–130's—a plane that is constantly being thrust on the National Guard without any regard for the Guard's overall priorities and the need for a modern total force concept. Further, there is another $42.6 million for C–130 modifications.

Mr. President, the fact is that the law says that these grants to universities will be competed for on a merit basis. We have seen this earmarking grow and grow and grow over the years. We have to return to fair competition for these universities. Otherwise, it will be difficult for me and any other Member of Congress to tell the universities in my State to go ahead and compete if the money is going to be awarded on a noncompetitive basis.

The sum of $600 million more for sealift, where we already have $1.275 billion waiting to fund a program that does not yet have any obligations.

The sum of $238 million for LCAC landing craft, to double the number from 12 to 24, although the Authorization Act questioned the need for 12 and the appropriations bill does not fund an LSD–49 call amphibious landing ship that was both requested and authorized.

The sum of $149 million for a TAGOS ocean surveillance ship which cannot actually fund a full ship, and in spite of the fact the same manufacturer is likely to have to submit claims and cost overruns for the first two ships.

The sum of $60 million for a field artillery ammunition vehicle that the Army does not want, and that will keep a single manufacturer in business.

The sum of $114 million in university set-asides that subsidize certain schools without any competition, without any concern for academic excellence, and without any concern for the taxpayer—often making gifts of $10 to $29 million of the taxpayer's money to a given school.

The sum of $146 million in other institutional set-asides, including $37 million for the Letterman Army Hospital at the Presidio, and $22 million for a single public school at Fort Irwin. Incidentally, some people have already asked if their children will be eligible for a $22 million public school. They might even settle for the $10 million school at Fort Bragg.

These set-asides include $25 million for an Arctic region supercomputer. Further, there is another unexplained $60 million add-on for supercomputers elsewhere in the bill—total procurement—Defense agencies. All the universities in my State want one too. They, however, are trying to get one the old-fashioned way. They are trying to compete for one. Then we have a $11 million, I believe, in museums.

I think museums are an enormous contribution to our culture, to our heritage and our appreciation of the service and sacrifice of our men and women who have served in the military. But we face critical fiscal constraints. Is it justified to spend $11.7 million for a military museum? I think it is a legitimate question.

The sum of $55 million to satisfy a private manufacturer's claim for cost overruns on TAGS 39/40 ships built during 1989 and 1990 that it could never get through the law. Let me take a moment to discuss this claim in more detail. As a result of actions whose source and nature is not clear to me, the defense appropriations bill would provide $55 million to a single firm, the Baltimore Marine Division of Bethlehem Steel for cost overruns on two TAGS 39-class ocean surveying ships. This $55 million would be given to Bethlehem Steel even though the taxpayers have already paid $196.7 million for these ships. It would be given although the Department of Defense did not request it, although the money is not authorized, and although the money was not included in the House or Senate defense appropriations bills.

The $55 million of the taxpayers' money would be given away although none of the merits claimed have been decided by the proper courts and boards, and such claims are pending. Bethlehem Steel has already filed requests for equitable adjustments with the Navy, requested extraordinary relief from the Secretary of the Navy, and filed suit in the U.S. claims court.

If this is the kind of precedent we are going to follow, does that mean that we provide $3.1 billion to meet the claims of McDonnell Douglas and General Dynamics for overruns on the A–12? Do we give Lockheed $400 million for its claim on the P–7? Do we give Grumman its claims for its entitlements on stock options? Do we give Peterson Builders its claim on the mine countermeasure ships? Do we give McDonnell Douglas another $200 million for its claims on the C–17?

Why should we bypass every normal claim in court and legislative procedure for one firm and not another? We need peace dividends, we need defense, not waste. We need to give Americans a fair chance to compete, not special interest subsidies.

In fact, let me point out that few States will really benefit from this kind of unnecessary spending. Any given item may seem attractive, but each takes away money from the competitive and efficient. Each adds money to one part of a State, but usually at the cost of taking taxpayers' dollars from another. Each deprives those who compete of their just reward, and each encourages those who politick.

Mr. President, that is why I support my colleagues in the Senate Armed Services Committee so strongly in voting against this bill.

I understand that the Senate will probably pass this bill, although I will urge my colleagues to defeat it. If it does, I hope that the President will veto it. If the President does not veto it, I will urge the Secretary of Defense to seek rescissions on every expenditure that he feels is not necessary whether they are in the appropriations bill or the authorization bill.

Mr. President, I hope that at some point in time we can reform this process and comply with our own laws. There has been a great deal of criticism from time to time about the members of the executive branch, and justified criticism, and certain actions taken against individuals who have failed to obey the law. We too, however, are clearly at blame. We are concentrating on 1-year or line item or input expenditures. We are failing to look at strategic requirements, the needs of given roles and missions, and the need for long-term stability in creating cost-effective programs. We are ending this year's budget cycle with more than $6.3 billion in unauthorized expenditures. Expenditures that cry out for a line-item veto. This is a legislative initiative I have strongly pursued in the past, and which this bill indicates is a vital necessity. It is an initiative that I will pursue in the future.

It is my understanding, Mr. President, and I would be glad to be educated by my more informed colleagues, that the law regarding these expenditures is very clear: No funds may be appropriated for any fiscal year to or for the use of the Armed Forces or obligated or expended unless funds therefore have been specifically authorized by law.

Let me conclude by saying that I do appreciate the outstanding and dedicated work of the members of the Appropriations Committee. I want to state again that some of the areas that I have remarked upon as being unnecessary or unauthorized spending may prove to be fully justified. But the fact is that they were not authorized, and they involve very large sums of money. I think that it is time that we look at the budget review system. It has clearly gotten out of hand, particularly given the coming cuts in the defense budget. We are going to have to make more and more difficult decisions and more and more cuts. We need a system that gives priority first to our national security requirements and, second, to the men and women who man the military.

Mr. President, I ask unanimous consent that the aforementioned list of detailed add-ons be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Unappropriated authorizations

	Millions
9 F–18 aircraft	202
4 F–117 aircraft	560
21 Trident II missiles	140
1 LSD–41 amphibious ship	245
6 MX test missiles	255

SICBM	115
Precompetitive technology	40
Critical technology centers	50
Manuf. extension program	50
13 UH-60 helicopters	83
9 HH-60 helicopters	165
Standard missiles	83
Marine Corps MLRS	95
F-18 R&D	64
Advanced cruise missile R&D	80
Balanced technology initiative	35

Unauthorized appropriations account levels

O&M, Navy Reserve	0.9
O&M, Marine Corps Reserve	.8
O&M, Army National Guard	1.0
O&M, Air National Guard	5.0
Rifle practice	1.0
Humanitarian assistance	2.0
Drug interdiction	30.0
Weapons and Tracked combat vehicles	103.8
Army ammunition	6.7
Shipbuilding	787.5
Missile procurement, Air Force	30.6
Procurement, Defense agencies	11.8
Guard and Reserve equipment	816.7
Coast Guard	188.7
Corporate information management	710.3
Mount Pinatubo claims	150.0
Real property maintenance	500.0
Account subtotal	3,346.8
O&M, Defense agencies	7,755.4

Earmarks in fiscal year 1992 DOD appropriations bill/report

University set-asides:	*Millions*
Prostate research at Walter Reed	2.0
Neuroscience R&D at Louisiana State	10.0
Marywood College, PA	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environ. R&D	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	.25
University of South Carolina	.5
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10.0
University of St. Thomas, MN	.5
Brandeis University	2.0
New Mexico State University	3.0
Penn State University	5.0
Illinois Institute of Technology	2.0
Monterey Institute for International Studies	6.8
St. Francis College, PA	2.5
Oregon Graduate Institute, HDTV research	1.3
Subtotal	114.2

Earmarks in fiscal year 1992 DOD appropriations bill/report

Other institutional set-asides:	*Millions*
National Center for Manuf. Sciences	30.0
U.S.-U.S.S.R. Joint seismic research	5.7
Mississippi Resource Development Corp	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association	.3
Fort Irwin public school construction	22.0
Fort Bragg public school construction	10.0
Post traumatic stress centers, Pennsylvania and Hawaii	0.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Arctic regional supercomputer	25.0
Subtotal	145.1

Museums:	
Naval Undersea Museum, Keyport, WA	2.1
National D-Day Museum Foundation	4.0
Airborne and SOF Museum Foundation	4.0
Restoration of U.S.S. *Blueblack*, Oregon	1.6
U.S.S. *Bennington* transportation to Vermont	
Subtotal	11.7

Unauthorized programs

	Millions
Bradley advance procurement	50
Field artillery ammo. vehicle	60
F-14 upgrades	175
AV-8B modifications	40
Slam missile	130
Tagos surtass ship	149
Tags 39/40 (ship claim)	55
Sealift	600
LCACS	238
Army truck engines	20

SASC sub	Line	PE	Program	Amended fiscal year 1992 request	Conference: Change to request	Conference: Authorized	Appropriation Conference versus Request	Fiscal year 1992 Appropriation Conference	Unauthorized appropriation
D	2	61102A	Defense research sciences	179,363		179,363	11,500	190,863	11,500
D	21	62720A	Environmental quality technology	18,984	10,000	28,984	10,750	29,734	750
D	27	62786A	Logistics technology	31,552		31,552	2'800	34,352	2,800
D			Simulation facility				8,000	8,000	8,000
	30A		MPIM technology				7,000	7,000	7,000
D	32	63002A	Medical advanced technology	22,245	1,500	23,745	4,500	26,745	3,000
D			Laser burn treatment				1,000	1,000	1,000
D			Prostate disease research				2,000	2,000	2,000
D			Breast cancer research				25,000	25,000	25,000
D	34	63004A	Weapons and munitions advanced tech	40,865	8,500	49,365	15,000	55,865	6,500
C	49	63322A	Tractor cage	20,966		20,966	4,000	24,966	4,000
	59b		Multi-purpose weapon				6,000	6,000	6,000
C	71	63713A	Army data distribution system	19,534		19,534	3,000	22,534	3,000
C	77	63757A	Forward area air defense (FAAD) system	97,387		97,387	10,000	107,387	10,000
C	81	63801A	Aviation—Adv dev	13,828		13,828	1,100	14,928	1,100
C	85	63805A	Combat service support computer system	24,635		24,635	4,000	28,635	4,000
C	95	64270A	EW development		(7,000)		(53,537)		46,537
C	96	64321A	Joint Tactical Fusion Program	130,775	−21,500	109,275	−15,500	115,275	6,000
C	114	64746A	Automatic test equipment development	11,232		11,232	7,000	18,232	7,000
C	119	64769A	Tractor helm	66,973	35,000	101,973	36,400	103,373	1,400
C	122	64801A	Aviation—eng dev	12,517		12,517	1,500	14,017	1,500
C	132	64813A	Tractor pull	16,762	−16,762			16,762	16,762
C	150	23801A	Missile/air defense product improvement	53,042		53,042	5,000	58,042	5,000
		Total R,D,T & E Army							179,849
D	27	63712N	Generic logistics R&D technology demons	13,829		13,829	600	14,429	600
S	33	63794N	C3 Advanced technology	1,373		1,373	15,000	16,373	15,000
C	55	63231N	Navy advanced tactical fighter				2,000	2,000	2,000
P	67	63504N	Advanced submarine ASW development	31,232		31,232	9,000	40,232	9,000
P	69	63512N	Shipboard aviation systems	11,440		11,440	4,400	15,840	4,400
P	92	63612M	Marine Corps mine/countermeasures sys-adv d				16,800	16,800	16,800
P			Ship self defense				221,000	221,000	221,000
P	124	64212N	Lamps	30,215		30,215	4,000	34,215	4,000
P	129	64219N	Airborne ASW developments	25,843	−17,533	8,310	−6,000	19,843	11,533
P	130	64221N	P-3 Modernization Program	41,144	17,603	58,747	41,500	82,644	23,897
P	149	64367N	Tomahawk	28,815		28,815	4,000	32,815	4,000
P	158	64507N	Navy standard signal processors	9,266		9,266	11,100	20,366	11,100
P	163	64524N	Submarine combat system	270,272	−27,300	242,972	−3,000	267,272	24,300
P			Centurion				23,000	23,000	3,000
C	172	64603N	Unguided conventional air-launched wpns	8,389		8,389	2,400	10,789	2,400
P	194	64784N	Fixed distributed system—eng	229,154	−20,000	209,154	9,069	238,223	29,069
P	202	24229N	Surface Combatant ordnance and missiles	28,428	−1,200	27,228		28,428	1,200
P	203	24311N	Undersea surveillance systems	72,594	−3,700	68,894		72,594	3,700
P	204	24313N	Ship-towed array surveillance systems	17,622		17,622	6,300	23,922	6,300
C			Improved tactical air-launched decoy				17,000	17,000	17,000
S			Laser communications				10,000	10,000	10,000
S	999		Intelligence and communications classified	678,821	16,335	695,156	16,815	695,636	480
D			Total R,D,T & E Navy						420,779
D	33	63401F	Advanced spacecraft technology	17,914	5,000	22,914	10,000	27,914	5,000

SASC sub	Line	PE	Program	Amended fiscal year 1992 request	Conference		Appropriation Conference versus Request	Fiscal year 1992 Appropriation Conference	Unauthorized appropriation
					Change to request	Authorized			
D	37	63605F	Advanced weapons technology	57,152		57,152	4,400	61,552	4,400
D	39	63723F	Civil and environmental engineering tech	12,036		12,036	1,000	13,036	1,000
S	50	64240F	B–2 advanced technology bomber	1,563,072	−200	1,562,872		1,563,072	200
S	69	12424F	Spacetrack	20,124		20,124	14,500	34,624	14,500
C	92	64218F	Engine Model Derivative program (EMDP)	1,022		1,022	3,000	4,022	3,000
C	106	64270F	EW development	215,221	−17,250	197,971	−15,150	200,071	2,100
S	106a		B–1B RWR		−9,800	−9,800			9,800
C	108	64327F	Hardened target munitions	7,183		7,183	6,000	13,183	6,000
C	120	64740F	Computer resources management technology	8,419		8,419	9,000	17,419	9,000
S	194	64408F	Advanced launch system	147,744	−97,744	50,000	−92,744	55,000	5,000
D	209	65894F	Real property maintenance—RD&E	105,123	−4,000	101,123	−2,000	103,123	2,000
S	215	35144F	Titan space launch vehicles	143,915		143,915	1,500	145,415	1,500
			Excimer laser				15,000	15,000	15,000
			Total R,D,T & E Air Force						78,500
D	1	61101E	Defense research sciences	88,290	12,800	101,090	25,300	113,590	12,500
D			Military nursing research				1,000	1,000	1,000
D	3	61103D	University research initiatives	87,373	95,000	182,373	138,600	225,973	43,600
D	7	62109H	Superconductive magnetic energy storage		20,000	20,000	40,000	40,000	20,000
D	10	62227D	Medical free electron laser	20,000		20,000	3,600	23,600	3,600
D	12	62702E	Tactical technology	117,900	3,000	120,900	9,000	126,900	6,000
D	15	62712E	Materials and electronics technology	62,036	81,000	143,036	125,500	187,536	44,500
P	32	63569E	Advanced submarine technology		45,000	45,000	75,000	75,000	30,000
S	58	63741D	Air defense initiative	273,000	−109,000	164,000	−66,000	207,000	43,000
S	66	63710D	Classified Program—C31	5,300		5,300	5,000	10,300	5,000
C	68	63715D	AIM–9 Consolidated program	43,781		43,781	18,558	62,339	18,558
C	73	21135K	Cinc C2 initiatives				1,803	1,803	1,803
C			Mobile offshore base		1,000	1,000	3,000	3,000	2,000
P	79	1160404BB	Special operations tactical systems dev	194,290	12,800	207,090	14,000	208,290	1,200
S	92	35159I	Defense reconnaissance support activ	52,876	22,000	74,876	30,000	82,876	8,000
S	999		Intell & communications classified	1,226,759	44,406	1,271,165	48,941	1,275,700	4,535
D	99b		FCIMS programs		21,500	21,500	27,000	27,000	5,500
D	111	65116D	General support to C3I				15,000	15,000	15,000
			Total R,D,T & E Defense agencies						265,796
D	1	64940D	Central test & eval investment develop	125,527	−35,600	89,927	−32,200	93,327	3,400
			Total developmental test						3,400
			Total RDT&E						948,324

SASC sub	P–1 line	Item	Amended fiscal year 1992 request		Conference change to request		Conference fiscal year 1992 authorization		Appropriations Conference 1992 +/− Req	Appropriations Conference 1992 amount	Unauthorized programs
			Quantity	Amount	Quantity	Amount	Quantity	Amount			
C		C–23 MODS							8,000	8,000	8,000
C		External fuel tanks							5,000	5,000	5,000
C	34	Aircraft survivability equipment		48,035				48,035	1,500	49,535	1,500
		Total aircraft procurement Army		1,667,700		115,900		1,783,600	25,100	1,692,800	14,500
C	2	Bradley advance proc (CY)							50,000	50,000	50,000
	7a	FAASV							60,000	60,000	60,000
C	19	Production base support (TCV–WICV)		73,287		−10,300		62,987	−7,287	66,000	3,013
C	24	Grenade launcher, auto, 40MM, MK19–3			1,066	16,600	1,066	16,600	17,600	17,600	1,000
		Total procurement of W&TCV, Army		839,100		168,200		1,007,300	271,996	1,111,096	114,013
R	35	Proj, Arty, 155MM, HE, M107							35,500	35,500	35,500
R	44	Fuze, artillery, elec time, M762				20,500		20,500	22,000	22,000	1,500
		Total ammunition Army		1,249,800		112,600		1,362,400	119,280	1,369,080	37,000
C	1	Tactical trailers/dolly sets		8,311				8,311	25,000	33,311	25,000
C	42	Eac communications		27,574				27,574	13,200	40,774	13,200
C	43	Mod of IN–SVC equip (EAC COMM)		16,209		−4,000		12,209		16,209	4,000
C	103	Integrated family of test equip (IFTE)		48,048				48,048	14,000	62,048	14,000
C	111	Production base support (C–E)		1,000				1,000	11,500	12,500	11,500
C	158	Medical support equipment		84,893				84,893	5,000	89,893	5,000
		Total other procurement Army		3,163,800		−81,999		3,081,801	−100,001	3,063,799	72,700
C	3	EA–6B/REMFG (electronic warfare) prowler		98,434		−5,000		93,434		98,434	5,000
P	5	AV–88 (V/STOL) harrier PY savings				−40,000		−40,000	40,000	40,000	80,000
C	21	E–2C (early warning) Hawkeye	6	500,908		−30,000	6	470,908		500,908	30,000
C	30	A–6 series		5,485				5,485	16,000	21,485	16,000
C	35	F–14 series		53,562				53,562	175,000	228,562	175,000
P	44	H–1 series		118,201				118,201	15,000	133,201	15,000
P	45	H–2 series		108,202				108,202	8,000	116,202	8,000
C	59	Common ECM equipment		101,414				101,414	18,000	119,414	18,000
C	63a	Common ground equipment PY savings				−38,000		−38,000			38,000
		Total aircraft procurement, Navy		7,114,800		−25,000		7,089,800	−166,180	6,948,620	385,000
C	8	Harpoon/SLAM		37,803				37,803	130,000	167,803	130,000
C		Rockeye PIP		37,803					4,000	4,000	4,000
		Total weapons procurement, Navy		4,581,300		139,560		4,720,860	−18,679	4,562,621	134,000
P	5	SSN–21	1	1,527,725		−100,000	1	427,725		1,527,725	100,000
P	17	Tagos surtass ships							149,000	149,000	149,000
P		Tags 39/40							55,000	55,000	55,000
P	21	Sealift							600,000	600,000	600,000
P	22	Service craft		15,468				15,468	20,000	35,468	20,000
P	24	LCAC landing craft	12	265,902			12	265,902	238,098	504,000	238,098
		Total shipbuilding and conversion, Navy		8,493,200		−127,410		8,365,790	660,087	9,153,287	1,162,098
P	40	Standard boats	326	19,940			326	19,940	2,000	21,940	2,000
P	47	Modernization support		786,159				786,159	93,000	879,159	93,000
P	49	AN/SPS–48		20,354				20,354	24,250	44,604	24,250

SASC sub	P-1 line	Item	Amended fiscal year 1992 request		Conference change to request		Conference fiscal year 1992 authorization		Appropriations Conference 1992 +/− Req	Appropriations Conference 1992 amount	Unauthorized programs
			Quantity	Amount	Quantity	Amount	Quantity	Amount			
P		Enhanced modular signal processor							91,200	91,200	91,200
P	74	AN/SSQ-95							12,000	12,000	12,000
C	190	Meteorological equipment		33,008		−3,400		29,608	−2,200	30,808	1,200
P	248	Amphibious equipment		86,049				86,049	6,000	92,000	6,000
		Total other procurement, Navy		6,471,200		21,155		6,492,355	−38,737	6,432,463	229,650
R	16	155MM HE ADAM		40,200				40,200	40,200	80,400	40,200
P	48	TOW							30,000	30,000	30,000
P	65	Tactical air oper module (TAOM)							27,000	27,000	27,000
		Total procurement, Marine Corps		1,039,400		85,237		1,124,637	40,551	1,079,951	97,200
C	5	F-15 E		169,657				169,657	335,300	504,957	335,300
P	12	C-17 advance procurement (CY)		222,424		−100,000		122,424	−50,000	172,424	50,000
P	14	C-130H	8	245,479			8	245,479	44,521	290,000	44,521
		LC-130H							92,000	92,000	92,000
C	30	F-15		294,537				294,537	2,500	297,037	2,500
C	31	F-16		250,985				250,985	3,000	253,985	3,000
C	63	Classified projects		56,254		−10,392		45,862	12,000	68,254	22,392
R	66	APAF spares and repair parts		984,465		−387,500		596,965	−380,500	603,965	7,000
C	70	Other production charges		445,331		101,720		547,051	102,419	547,750	699
R		DBOF deny milcon capital budget				−1,200		−1,200	3,500	3,500	4,700
		Total aircraft procurement, Air Force		11,115,500		−478,569		10,636,931	−703,150	10,412,350	562,112
C	11a	AGM-65D Maverick PY savings				−100,000		−100,000			100,000
S	46	Special programs		2,419,740		−239,400		2,180,340	−189,400	2,230,340	50,000
C	999	Classified programs		32,594				32,594	9,806	42,400	9,806
		Total missile procurement, Air Force		5,600,000		−395,117		5,204,883	−364,550	5,235,450	159,806
R	13	MK-87 Inert/BDU-50							13,800	13,800	13,800
C	100	Air traffic ctrl/land sys (Atcals)		14,135		−14,135				14,135	14,135
C	129	Range improvements		51,665				51,665	35,000	86,665	35,000
C	151	TV equipment (AFRIV)		4,047				4,047	500	4,547	500
C	175	Base procured equipment		33,485				33,485	2,500	35,985	2,500
S	187	Intelligence production activity		62,888		−29,086		33,802	−28,369	34,519	717
		Total other procurement, Air Force		8,058,100		135,909		8,194,009	10,004	8,068,104	66,652
R	23	Other major equipment, DLA							10,000	10,000	10,000
S	999	Classified programs		465,965		86,520		552,485	95,727	561,592	9,207
S		Classified program							15,400	15,400	15,400
C		Joint simulation office-PY savings				−60,000		−60,000			60,000
		Supercomputers							42,000	42,000	42,000
P	45	C-130 modifications		101,663		12,900		114,563	55,500	157,163	42,600
P	51	Patrol boat, coastal		2,605				2,605	1,600	4,205	1,600
P	67	Classified programs		124,264				124,264	4,999	129,263	4,999
		Total procurement, defense agencies		2,089,600		149,429		2,239,029	161,226	2,250,826	185,806
C	2	Communications electronics							15,000	15,000	15,000
P	8	Miscellaneous equipment				10,000		10,000	15,000	15,000	15,000
P	9	AN-SQT-1 trainers							10,000	10,000	10,000
P		C-130T							114,000	114,000	114,000
P	13	HH-60H upgrade kits							45,000	45,000	45,000
P		MIUW vans							15,000	15,000	15,000
		P-3 upgrades							20,000	20,000	20,000
P	21	KC-130T aircraft							67,000	67,000	67,000
P	22	AH-1W Cobra aircraft							71,000	71,000	71,000
C	25	C-130 aircraft			8	200,000	8	200,000	348,000	348,000	148,000
C	43	C-26 aircraft							3,000	3,000	3,000
C	45	MLRS rockets							48,000	48,000	48,000
C	47	Communications electronics							15,000	15,000	15,000
C	47a	Squad engagement training devices							10,000	10,000	10,000
		Sincgars radios							35,000	35,000	35,000
C	TCT upgrade								8,200	8,200	8,200
C	AH-1 MODS C-nite								15,000	15,000	15,000
C	50	C-130 aircraft			12	309,800	12	309,800	337,300	337,300	27,500
C	53	C-26 aircraft							18,000	18,000	18,000
C	54	MH-60G helicopters							35,000	35,000	35,000
C	62	TAC air control improvements/MCE				50,000		50,000	95,000	95,000	45,000
		Total Guard and Reserve									769,700
		Total procurement									3,990,237

Earmarks in fiscal year 1992 DOD appropriations conference report

[Total: $335,000,000]

University Set-Asides:	
In bill language:	
Walter Reed Army Institute of Medical Research, Center for Prostate Research	2.0
Louisiana State University, Neuroscience Center of Excellence	10.0
Marywood College, PA	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environmental Studies	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	.25
University of South Carolina	.5
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10.0
University of St. Thomas, MN	.5
Brandeis University	2.0
New Mexico State University	3.0
In statement of managers:	
Pennsylvania State University	5.0
Illinois Institute of Technology, Instrumental Factory for Gears	2.0
Monterey Institute of International Studies	6.8
St. Francis College, PA, Physician Assistant Program	2.5
Oregon Graduate Institute, HDTV Research	1.3

Earmarks in fiscal year 1992 DOD appropriations conference report—Continued

[Total: $335,000,000]

Other Institutional Set-Asides:	
National Center for Manufacturing Sciences	30.0
Incorporated Research Institutions for Seismology, U.S.-U.S.S.R. Joint Seismic Research	5.7
Mississippi Resource Development Corp. National Center for Physical Acoustics	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association, health care demonstration project	.3
Silver Valley Public School District, CA public school construction at Fort Irwin	22.0
Cumberland City School District, NC public school construction at Fort Bragg	10.0
2 post-traumatic stress disorder treatment centers, Hawaii and Pennsylvania	.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Museums:	
Naval Undersea Museum Foundation, Keyport, WA	2.1
National D-Day Museum Foundation	4.0
Airborne and Special Ops Museum Foundation	4.0
Oregon Museum of Science and Technology, restoration of U.S.S. Blueblack	1.6
U.S.S. Bennington "accoutrements", transportation from China Lake to Vermont	(?)
Other Set-Asides:	
Memorial Day celebration	.35
Capitol Fourth project	.35
Oregon Department of Economic Development (chemical decontamination around Umatillo)	.35
Nye County, NV (economic assistance following F–177 move out of Tonapeh)	1.0
Charleston Harbor management plan (economic assistance)	.5
Kaneohe, HI, stock enhancement	.75
Arctic region supercomputer	25.0
Manhattan, KS, airport study	.25
Inventory of DOD-owned property in Hawaii	.75
Memphis Naval Complex, TN, facilities restoration	(?)
Forth Riley, KS, railyard work	6.8
Reinternments in Hawaii	.3
Forth Bragg, NC, mental health care demonstration project	14.0
Babcock and Wilcox, PA, to clean up submarine facility	30.0
National Presto Industries, WI, cleanup	7.0
Sunflower, KS, ammo plant cleanup	10.0
Possible Set-Aside:	
Space launch reimbursement (Amount No. 200)	20.0

Mr. McCAIN. Mr. President, I yield the remainder of my time.

Mr. STEVENS addressed the Chair.

Mr. McCAIN. I thank my friend from Alaska for allowing me this time from his allotted time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself whatever time I use.

My comments to my friends are with regard to the university competitions. There are no competitions for federally funded research development corporations. Those are specified, authorized by the Armed Services without regard to competition.

Second, the Armed Services Committee included $560 million to restart production of the F-117, the stealth fighter, notwithstanding that it was not requested.

The Air Force specifically came to us, Senator INOUYE and me, and asked our committee not to fund that initiative in conference. It was unneeded and a waste of defense funds.

As far as the TAGS vessel, those funds are available in this bill subject to the determination of the Secretary of the Navy that the claims are justified. We have not funded unjustified claims.

I really find the great difficulty I have with the comments of my friend from Arizona is that most of the items the Senator has mentioned are items that came to our subcommittee from members of the Armed Services Committee while we were in conference. They were requested from us. We could not tell whether they were authorized in the Armed Services bill or whether they were personal requests of the member. We proceed to fund them to the extent of our ability. Now we are being lashed for having done so.

I think the procedure is wrong. I would remind the Senate that in 1984 I suggested that the Armed Services Committee become the subcommittee for the Appropriations Committee for the purpose of dealing with this bill. The Senate refused to do that.

As long as we have to deal with different Members of the House, to try to accommodate the wishes of the Senate, we cannot come up with a bill that goes to the keynote fashioned by the Armed Services Committee. Furthermore, Mr. President, I am compelled to say I would not want to fund the keyhole fashion by the Armed Services Committee. They have not been, in my judgment, other than micromanaging the bill.

I intend to bring before the Senate today sometime the 1991 authorization bill and the 1991 authorization bill report, which would fit easily into the palm of my hand.

And then let us take the one from this year, the authorization bill and the report that accompanied it, and then the report that accompanies the conference report on the Armed Services Committee—they weigh 10 pounds. The Armed Services Committee is not only micromanaging the bill, the Department of Defense, but as I said before, they are trying to micromanage the appropriations process; every single nut and bolt that the Department of Defense must buy this year is line itemed now in the authorization bill.

If we deviate one single speck from it, those 50 staff members over in the Armed Services Committee are running out and telling somebody in the press that we are spending money that is not authorized.

This process cannot work in that way. I hope that perhaps the Armed Services Committee would agree that next year they will work with the same number of staff we work with, which is 14. If they did, that is one more than on both of our committees. The Armed Services Committee has 13. We have 13. Why do we need 50 staff members wandering around there causing trouble all of the time? If they had just 13 or 14, I think this issue would not come up every year.

I reserve the remainder of my time.

THE REGIONAL CENTER FOR SOFTWARE ENGINEERING, MANUFACTURED AND MANAGEMENT TECHNOLOGY

Mr. DURENBERGER. Mr. President, I want to bring to my colleagues' attention an important initiative which has been developed by an institution of higher education in St. Paul, MN. The University of St. Thomas has developed an innovative proposal—the Regional Center for Software Engineering, Manufacturing and Management Technology—to assist the Department of Defense in enhancing national security and domestic industrial competitiveness through the development and transfer of critical technologies to American industry.

According to both a May 1991 Department of Defense "Critical Technologies Plan" and a March 1991 report compiled by the National Critical Technologies Panel [NCTP]:

> Because of the pervasive nature of (critical) technologies, the strong international and technological challenges faced by U.S. producers in this technology area tend to cascade throughout the economy, * * * (Additionally), [m]aintaining state-of-the-art capabilities in information technologies will, without question, determine the economic performance of increasing numbers of segments of the U.S. manufacturing and service sectors.

To achieve the dual goals of ensuring our national security and economic competitiveness, attention needs to be directed to improving technology transfer, the transformation of theoretical advances into practical and applied technologies. Addressing this need is the underlying premise supporting the proposal for the center. Specifically, the center will concentrate on applied research and computing technology, with a primary focus on software engineering, manufacturing systems engineering and management of technology-intensive operations and organizations. It is this technology that ultimately defines sophisticated defense weapons systems and enables the integration and control of complex and versatile manufacturing systems.

The mission and focus of the center would provide the foundation for a partnership involving the Department of Defense, the university and industry. It would also provide an important resource to those industries that have been, and will continue to be, primary contractors for our national defense. The university has strong industry ties, and its technology programs are unique among universities and colleges in the United States. Existing programs fill critical need, and Federal support for the center would allow for the expansion of those programs as well as the development of new ones.

There are two major factors which, in my opinion, reflect the university's unique capabilities to assist the Federal Government in advancing this critically important initiative. First, is the expertise of the university's faculty, the majority of whom are hired because of their demonstrated ability to relate theory to application and their heavy involvement in private sector research projects at nationally renowned corporations such as 3M, Honeywell, and Cray, which have their headquarters in Minnesota.

In addition to the expertise of its faculty, the university has extensive experience and a proven track record in developing academic programs to meet the needs of both civil- and defense-oriented corporations. The Master of Software Design and Development [MSDD], the largest graduate program in software design and development in the country, and master of Manufacturing System Engineering [MMSE] Programs in the university's graduate school of technology are highly successful because of their emphasis on applied research and their ties to high-tech industries. Currently, there are nearly 5,000 students enrolled in the university's graduate school programs.

The integration of academia and private sector expertise is a unique and essential component of the entire program. It has made it possible for MSDD students to solve real world software problems in tandem with leading researchers at national corporations. MMSE students work in the university's manufacturing research laboratory, and in corporate laboratories, to solve problems and develop ideas which will revitalize and invigorate America's manufacturing sector. These experiences provide an opportunity to improve both quality and productivity by applying in the workplace the theory learned in the classroom.

With the university's proven track record, highly trained faculty, and a dedicated student body, I believe the Regional Center for Software Engineering, Manufacturing and Management Technology provides the Department of Defense with a tremendous opportunity to strengthen both the technological capabilities and national security interests of the United States.

Mr. INOUYE. Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. FORD). The Senator from Hawaii has remaining 20 minutes, 6 seconds.

Mr. INOUYE. I am pleased to yield 10 minutes to the president pro tempore.

Mr. BYRD. Mr. President, I commend the distinguished chairman of the Defense Subcommittee, Mr. INOUYE and the distinguished ranking member, Mr. STEVENS, for their excellent work on this mammoth bill. Under their leadership, the Defense Subcommittee has done a remarkable job of maintaining a responsible level of spending for our country's security, and at the same time, incorporating various adjustments which reflect the changing reality of the international environment.

Mr. President, the pressure to reduce defense spending, due to several key developments, is growing and will continue to mount. Three major events or trends are now at work affecting our national security requirements and the kind and level of resources which we need to dedicate to national security over the next few years.

First, the Soviet empire has crumbled, and the Soviet Union itself has disintegrated as a viable nation state. Whatever collage of political and economic entities finally emerges into some semblance of stability will not resemble the beast that has died.

Thus, the primary focus of nearly everything of consequence that we have done in the national security arena; that is, the presence of a virulent centralized adversary which threatened our survival, and challenged our basic interests, allies and friends everywhere in the world, has ceased to exist.

Thus, the international framework driving our Defense budgets, our alliances, and our worldwide network of commitments is obsolete. Nothing has yet replaced it, but the international scene will be different, hopefully less hostile, and less threatening to our country.

Second, the American economy is in very difficult shape. All major indices of economic health are in the red zone: Our basic competitiveness, savings and investment rates, trade and budget deficits, employment, and the state of our infrastructure. We must attend to our domestic needs, and shift our priorities and our resources accordingly.

Third, our allies and our former adversaries from World War II have all become healthy economic powers who can more or less take care of themselves and pursue their own interests. We rebuilt the world for half a century, and the West is strong and safe. While America will remain an international leader, the world is now more a collection of healthy Western nation states, and unhealthy and recovering Eastern former Communist nations.

The time has come, therefore, to attend to our domestic problems and reemphasize domestic priorities. Over the next couple of years, we must shift our resources toward our own country and our own people.

The defense and foreign operations budgets of the next few years must come down, but in an orderly and sensible way, so that our forces remain fit to fight, even though they will be somewhat smaller in overall size. Big new weapons systems must be curtailed, or they will gobble up most of our defense resource. We must shift our manpower toward a larger percentage of Reserve and National Guard Forces, since they are less expensive, and since we have seen a graphic demonstration of their capabilities in the sands of the Middle East during the Desert Storm operation.

All these trends have begun in the bill that is before us, and I commend the managers for their successful work in this difficult, uncertain, and rapidly changing environment.

Mr. President, this bill also contains a provision which funds the implementation of a plan proposed by the CIA for the consolidation of nearly two dozen Washington area facilities. The language of the provision is identical to that contained in the fiscal year 1992 intelligence authorization measure, and it has been included in this bill at my request.

The language pays due attention to the procedures needed for a responsible and careful selection procedure in connection with the consolidation. I fully agree with the need to have in place such procedures.

I hope that these language provisions will address the criticisms that have been leveled at the CIA and some at me personally.

I think it is important to try to answer some of the questions that have been raised over the course of the past year. This consolidation proposal was not the product of a "back-room deal." It was not developed in secrecy. It does not circumvent the proper procedures. In point of fact, the consolidation proposal is the product of nearly 5 years of planning, feasibility studies, and careful analysis on the part of the CIA and its management consultants.

The idea for a consolidation plan originated with the CIA back in 1987. The agency recognized then the drawbacks to having offices scattered in many locations. In an attempt to address concerns regarding cost, security, and efficiency, efforts were begun to look for land to accommodate relocating these offices and also to address future needs.

In late 1990, the CIA contracted with the real estate consulting firm, Legg-Mason, for the purpose of conducting a site survey and feasibility study. At that time, the Agency gave the consulting firm specific criteria, which included a 75-minute non-rush-hour commute, locations west of the Potomac River and southwest of Interstate 270, and physical needs such as access to utilities. The original survey included a slice of Jefferson County, WV. Unfortunately, Legg-Mason erroneously and unilaterally altered the CIA's criteria and, in so doing, eliminated portions of the geographic area proposed by the CIA, including West Virginia.

In putting together the survey, Legg-Mason arbitrarily changed the criteria, inadvertently, I am sure, but arbitrarily changed the criteria with respect to computing time and assumed the drive was to be made in 75 minutes during rush hours.

After realizing this mistake, the Agency then directed Legg-Mason to go back and review locations that had been wrongly eliminated by virtue of the change in the criterion with respect to non-rush-hour traffic. As a result of that review, a suitable site in Jefferson County was identified and is now part of the CIA proposal.

The consolidation will affect CIA employees in two directorates: science and technology, and administrative.

The CIA, in assessing the needs of its employees in the spring of 1991, determined that the population could be divided into two segments. The science and technology directorate interacts frequently with headquarters' staff at Langley, but not every day, and travels frequently, so the employees need access to a major airport.

The administrative directorate encompasses more light industrial functions, including a printing plant and computers, and would house a larger number of machines than people.

In comparing land costs, the CIA noted that land in Prince William County, VA, costs in the neighborhood of $100,000 or more per acre, while land in the Charles Town, WV, area costs approximately $10,000 per acre.

CIA staff determined that it would make more sense economically to split the consolidation into two compounds, and on May 24, 1991, the CIA's management committee approved the two-site proposal. Then-Director William Webster agreed to the recommendation on June 19, 1991.

The consolidation from 21 leased offices into two compounds will improve security, operating efficiency, and intelligence-gathering abilities, and will also provide tremendous economic benefits.

The CIA has estimated the cost of the consolidation to be $1.2 billion. But that is a comprehensive, 20-year figure that takes into account inflation, about $300 million; operations and maintenance of buildings as they come on line, about $200 million; security and communications, $192 million; and construction and land acquisition, $445.5 million. It should be noted that it is most unusual for an agency to incorporate the added costs of infrastructure, such as I have mentioned, into a proposal of this kind. Most often a consolidation price tag would only include the costs of construction. The CIA really should be commended for being forthcoming and upfront about the overall costs of their consolidation plan.

More significant than the outlays are the cost savings that this consolidation will result in for the American taxpayer. By the year 2006, the total savings to taxpayers will be $500 million to $600 million as compared to the cost if the CIA continued its current lease system. By the year 2010, the consolidation will pay for itself.

Contrary to fears that have been expressed over the welfare of CIA employees that may be affected by the consolidation, the proposal is designed to improve working conditions of CIA employees. According to the CIA, many of the Agency's employees are currently laboring in substandard working conditions. The General Services Administration recommends 125 square feet of space per employee. The CIA has people working in 70 to 80 square feet of space. Headquarters at Langley are overcrowded.

The CIA estimates that 3,200 employees would be located at the Prince William County site, and 2,200 at the Jefferson County site. Most of the CIA's employees currently live in Virginia, between Leesburg, Manassas, and Falls Church, and the Agency has determined that the employee population is shifting south and west. The consolidation proposal will give CIA employees an opportunity for a reverse commute to work.

Mr. President, we have heard claims of employee commutes in excess of 4 hours. Those are exorbitant claims. I have driven from the McLean area of CIA headquarters to Charles Town, WV, many times. The distant is under 60 miles. It has taken me no longer than 75 minutes on any occasion, driving at moderate speed, to reach Charles Town from where I live in McLean just across the highway from the CIA headquarters and no longer than 75 minutes to return therefrom.

West Virginia has a great deal to offer in terms of a lower cost of living, one of the lowest crime rates in the Nation, affordable housing and attractive real estate prices. The eastern panhandle is a rapidly growing part of the State that offers many opportunities for education, employment, and entertainment for its residents. Above all, West Virginians are known for their friendliness and solid values, and those qualities make West Virginia an ideal location for living and raising a family.

So, it may be that some employees would choose to move to the eastern panhandle of West Virginia. In that event, let them be reassured that they will not have to uproot, sell their current homes, pull their children out of school, have their spouses quit their jobs, and disrupt their lives overnight. According to the CIA, the earliest that anyone would be relocated would be in the 1997 to 1998 timeframe. Completion of the consolidation is not expected until 2003 to 2004, so employees would have, on average, 8 to 12 years to make this transition.

This is not something new for CIA employees. According to Agency officials, the CIA operates in somewhat the same fashion as the military, and assigns personnel to a variety of duty stations throughout their careers. Moreover, the Agency assures me that it works with employees who have any problems with relocating to a specific location. With such a long lead time, and an attrition rate of approximately 5 percent a year, the CIA is confident that it will be able to manage the consolidation smoothly and with little unforeseen disruption to the lives of its employees.

I am confident that the CIA proposal is a good one and that it is in the best interests of the American taxpayer.

Lastly, I commend the staff of the subcommittee for its long, hard, and outstanding work: Richard Collins, Steve Cortese, Richard D'Amato, Rand Fishbein, Charles Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Jane McMullan, David Morrison, Mavis Masaki and Mazie Mattson, Dona Pate, and the able detailee support group that has worked with them throughout the year, Charles Cook, Stacy McCarthy, and John Young.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I will yield myself a few minutes.

Mr. President, I sincerely thank my colleagues, Senator STEVENS and Senator INOUYE, for their diligent effort in reaching agreement on the conference report to accompany H.R. 2521, the fiscal year 1992 DOD Appropriations Act. In general, this bill reflects the similar actions of the Armed Services Committee on a defense program for the current fiscal year. As the ranking Republican member of the Senate Armed Services Committee, I understand the difficulty of negotiating the thousands of items contained in defense bills, and I commend my colleagues on the Appropriations Committee for their successful negotiation of a good bill.

However, I wish to bring to the attention of the Senate my serious concerns about certain provisions in the conference report—concerns which are generally shared by my colleagues on the Senate Armed Services Committee.

First, this conference report sets aside over $400 million for grants to dozens of specifically identified colleges and universities, private and public institutions, public school districts, museums, local governments, and other organizations. In some cases, in order to ensure that these amounts are provided directly to the institutions and agencies named in the bill, all competitive contracting procedures relating to these "earmarks" are waived in a separate provision of the bill. In many cases, the programs for which funds are set-aside are in no way related to national security needs, and often the purpose of the program is not described in even a general way.

Let me take a moment to point out to my colleagues a few of the programs which cause me concern: $32 million for two separate public school districts for the purpose of building public schools at local military bases; individual grants to 15 colleges and universities to conduct some form of unspecified research, described in the conference report as "laboratory and other efforts associated with research, development, and other programs of major importance to the Department of Defense." I must note that, in this area, $750,000 is set-aside for a university in the State of Virginia; $6.8 million for a grant to an institute of international studies, for which no purpose is specified; almost $12 million to establish four specific new military museum foundations in several States; $2 million for a prostate research center in the Washington Metropolitan Area and $10 million for a Neuroscience Center of Excellence at a southern university; and a physician assistant program at a northeastern college, and research into high-definition television at a west coast institute.

These are but a few examples of the types of programs for which defense funds are earmarked in this conference report. I have a more comprehensive list of the set-aside provisions in the bill, and I ask unanimous consent that the entire list be included in the RECORD at this time.

The earmarking of defense funds, particularly for activities with little demonstrable relationship or utility to national security, is a practice which the Armed Services Committee has actively opposed for many years, and we have made our views well known to our colleagues on the Appropriations Committee. The Congress enacted into law a requirement that such DOD contracts for these research activities be awarded competitively, but the conference report specifically waives that competitive requirement for these earmarked programs.

Mr. President, I firmly believe that noncompetitive grants of unspecified research and other contracts to universities, institutes, and other organizations flies in the face of past actions of the Senate and contradicts standing law which requires that such contracts be awarded competitively to ensure the lowest price and the highest quality product. At a time when declining defense budgets are forcing the administration and the Congress to make difficult choices among truly meritorious defense programs, I find it completely unacceptable that defense dollars are diverted to projects that have not been reviewed or requested by DOD, may not serve any national security purpose, and could not apparently withstand the scrutiny of competition. I and my colleagues will continue to work to resolve this issue to ensure that defense funds are spent only for the highest priority defense programs and in the most cost-effective manner.

Mr. President, another issue of concern is the continuing practice of appropriating funds for defense programs in excess of the amounts authorized. We have fought the issue, too, for many years, and we have sometimes won these fights.

This year, we have identified 170 line items where the amount appropriated for the program exceeds the amount authorized; these excess appropriations amount to almost $5 billion. I must note that some of these add-ons, indeed, may prove after further study to be meritorious defense programs, but some are clearly not justified on the merits of the programs.

For example, the conference report contains an additional $600 million for sealift, but the DOD has not yet expended almost $1.3 billion appropriated for this program over the last few years. I do not question that additional sealift capability is required, but it is also clear that the program does not at this time require an additional $600 million in unrequested, unauthorized funding.

The conference report also funds 31 C–130 aircraft, which is 11 more than the number authorized, for a total of $357 million more than the amount authorized. All of these aircraft are designated for the Guard and Reserve components.

The conference report contains $238 million for an additional 12 LCAC ships, which is 12 more than necessary to fulfill 100 percent of the total requirement for these ships.

The conference report adds funds to several programs which were not even included in the President's budget request, such as $60 million for the Field Artillery ammo support vehicle, $149 million for TAGOS Surtass ships, $91.2 million for an enhanced modular signal processor system, $27 million for the Tactical Air Operations Module Program, $42 million for supercomputers, over $700 million for Guard and Reserve equipment, and many research and development programs.

Mr. President, the Armed Services and Appropriations Committees have a long-standing agreement that appropriated amounts must be specifically authorized. The inclusion of large amounts of excess appropriations in this conference report violates, at a minimum, the spirit of our agreement. The members of the Armed Services Committee intend to ensure that any meritorious program for which appropriations exceed the authorized level will be authorized. But we will also review each of these programs and work to ensure that any excess appropriations designated for programs which do not meet the test of national security are not expended for that purpose.

Mr. President, these are serious concerns that I and my colleagues have raised today. Chairman NUNN and I have discussed these issues with the members of the Armed Services Committee, and we are continuing to explore a number of options to address our very serious concerns.

Mr. President, yesterday, the Senate passed the fiscal year 1992 dire emergency supplemental appropriations bill for Operation Desert Storm as well as various other domestic programs. The managers of the bill and the leadership of the Senate characterized the bill as a dire emergency requiring immediate action by the Congress, even though the legislation had been received in the Congress almost 6 months earlier. To be honest, I know, and I believe the majority of my colleagues, as well as the managers of the bill will agree, that there is little, if anything, in that bill which could be fairly characterized as an emergency legislation. However, in order to conclude Senate action, the manager of the bill undertook to cut off debate by moving to third reading of the bill, while knowing that more than 70 amendments, coming from both sides of the aisle, remained to be offered to the legislation.

I and my colleagues on the Armed Services Committee had intended to offer amendments to that supplemental appropriations bill to address the concerns I have discussed here today. Obviously, these amendments would have been strenuously opposed by the authors of the DOD appropriations conference report.

Mr. President, the only reason that we proposed to amend the supplemental bill rather than the DOD appropriations conference report is that this conference report is not open to amendment. I find it quite interesting that this conference report—which was returned to the Senate with earmarks, unauthorized appropriations, and other legislative provisions which were in neither the Senate or House bill going into the conference—is the only appropriations conference report this year that includes not one single amendment in disagreement. Since there are no amendments possible to this conference report, we had no option but to offer amendments to some other bill in order to raise these important issues.

Mr. President, I am very troubled with the manner in which substantive debate on the supplemental appropriations bill was cut short and the bill was subsequently passed. I and my Armed Services Committee colleagues continue to have serious concerns about many of the provisions in this conference report, and we have been denied the opportunity to present our concerns to the Senate. Therefore, I regret that I am unable to support the fiscal year 1992 DOD appropriations conference report.

I urge my colleagues to defeat this legislation and to require the Appropriations Committee to reconsider their recommendations in the areas I have discussed today.

Mr. WARNER. I am presently in the highway conference, and just learned of these remarks by my distinguished chairman. We worked together on this. Not having had the benefit of his earlier remarks, I wish to engage in a brief colloquy.

My recollection is that the chairman and I have worked long on this consolidation project, and when a time came that there was a question raised about the CIA's procedures, we worked out a draft bill which was included in the Senate Intelligence Committee of which I am a member. We further refined this bill in conference and reached an agreement that was acceptable to the chairman of the House Intelligence Committee; is that not correct?

Mr. BYRD. That language was worked out with the chairman of the House committee and the chairman of the Senate committee, the Intelligence Committees, and the Senator from Virginia and I were consulted thereon.

Mr. WARNER. And my recollection was that that language was agreeable to all parties involved.

Mr. BYRD. That is my recollection. And it was at my request that the identical same language be placed in the DOD appropriations bill which we are now discussing.

Mr. WARNER. And in drafting that language the Senator from West Virginia and the Senator from Virginia explicitly put in provisions to protect the interests of Government procedures to involve the GSA and all of the other protective mechanisms that are associated with an Agency or Department of the Federal Government acquiring new lands and new facilities.

Mr. BYRD. Those procedures are specified therein. They were agreeable to the Senator from Virginia [Mr. WARNER] and myself, and they are also included in the DOD appropriations bill, and they will, I am sure, go far in answering and allaying criticisms that have been leveled at this consolidation proposal.

Mr. WARNER. Mr. President, also I would like to add at this time that I was a member, as I say, of the Senate Intelligence Committee—of course that is a matter of record—but I also participated very actively throughout the entire day when the conference was held between the Senate conferees on the intelligence bill and the House conferees, and the subject of this consolidation consumed, as it should have, a considerable portion of that debate. I think I was completely responsive to all inquiries, as was Chairman MCCURDY of the House Intelligence Committee, and Chairman BOREN of the Senate Intelligence Committee. The three of us responded to a number of inquiries, not from the Senate side, but from the House side, and at the conclusion, of course, the conferees accepted the provision and it is now becoming a matter of law.

Thereafter ensued a number of articles relating to what happened. And in reading those articles the facts and conclusions stated therein do not comport to my recollection of what transpired in the conference, nor do some of these articles comport with the clear English language contained in the conference report.

I am pleased to see that the chairman and I agree, and I will have an opportunity later to put in the RECORD details of interpretation of the events leading up to the conference, the conference and the conference report now going to the President. It is my intention early this coming week to work with CIA officials and see if for any reason the provisions of the statute are interpreted by them in a manner inconsistent with my interpretation and the interpretation of the distinguished Senator from West Virginia.

But it is clear that the projects are going forward, and the articles which said that the projects are not going forward are factually incorrect. A typical copy of press report is attached to the end of my remarks, with the headline reading "House Kills CIA Move to W. Va." This misleading press must be corrected for the benefit particularly of CIA employees.

I thank the Chair, and I thank my distinguished colleague.

I rise today to stress my support for and provide information on the proposed consolidation of the nearly two dozen CIA offices into two facilities, one in Prince William County, VA, and the other in Jefferson County, WV, near the Virginia/West Virginia border. There has been considerable press covering congressional viewpoints to date. I have not participated, since I believed a more proper time to comment should await final action by both Houses and public disclosure of a conference report. That time has arrived.

To set the record straight, let me make the following point. In this Senator's judgment, the bill language in the Intelligence authorization conference report does not, I repeat, does not "halt the CIA consolidation plan"; rather, it provides for the continued, orderly progress of the basic consolidation plan announced by Director Webster. CIA will, as I believe it always has, follow appropriate and well-established guidelines. These procedures were worked out among the conferees, of which I was one, and have the support of the chairman and vice chairman of both Intelligence Committees, as well as Senator BYRD and myself.

What, then, does the bill actually do? There is authorized and appropriated $10 million available within 60 days after the CIA fulfills a series of conditions. An additional $20 million is also authorized subject to reprogramming actions by the appropriate committees in both Houses. Finally, $500,000 is available immediately to maintain the availability of the property at both sites.

The conditions which must be met in order to secure the funding include a certification that written procedures are in effect and that the consolidation process was in accordance with such procedures; a written opinion by the GSA Administrator that the plan will result in cost savings and will conform to local government regulations; a certification by the OMB Director that the plan has been reviewed and approved by the administration for funding in fiscal year 1991 and is consistent with the fiscal year 1990 budget agreement; a certification that if any improper procedures have been followed, corrective actions will be implemented; and a report that includes a site evaluation and assesses budgetary and personnel changes that may impact on the CIA's plan.

Mr. President, having reviewed in detail the CIA consolidation plan and the reasoning behind it, I am confident that CIA can meet these conditions expeditiously, and thus satisfy any residual concerns about the proposed consolidation. In short, the funds have been authorized, the conditions can be met, and the consolidation plan, as originally decided upon by CIA, will continue apace.

Let me now turn to the substantive arguments for consolidation. Neither proponents nor opponents doubt the need for consolidation. The current set of facilities are inadequate, and operationally inefficient. There are too many, they are too costly, and some do not meet the agency standards for safety and security. The proposed consolidation will save taxpayers money. As Richard Kerr, the CIA Deputy Director notes, "We estimate that by the year 2010 the amount we would save in costs associated with continuing to lease, renovate, and supplement rented buildings would cover the full cost of construction and outfitting the proposed new government-owned facilities." This amounts to roughly $700 million. The consolidation will greatly improve the working conditions of employees.

The decision for two sites also is documented. For those individuals—scientists, technicians, and administrative personnel—who require traditional office space, travel frequently to various agencies and departments in the Washington metropolitan area, and who must maintain day-to-day contact with CIA headquarters, the Prince William site serves the purpose. For those individuals involved in maintenance, storage, printing, and other support services, and who thus do not need to travel frequently or maintain day-to-day contact with CIA headquarters, an outlying area, such as Jefferson County, WV, is a cost-effective choice. The cost of purchasing land and doing business in such an outlying area is less.

Next, I should like to address the process undertaken by CIA. I will simply quote a couple of statements made by the president of Legg-Mason, a highly reputable realty firm chosen to identify and evaluate sites for the CIA consolidation, and whose performance in this task even the critics have not challenged. Mr. Kleinpaste, the president, states, "it is my strongly held belief that you [CIA] have already conducted one of the most thorough and effective site selection competitions ever undertaken." He further states: "I have told you [CIA] previously how impressed I am with the diligence, care and eithics which you and your staff have brought to this site selection process."

Finally, let me touch on the interests of the State of Virginia, and its citizens employed by the CIA. I simply note that an increasing number of CIA employees already live in the extended suburbs of Virginia—that is, Prince William, Loudoun, and the western, northern, and southern part of Fairfax Counties. This area would be encircled by the three facilities. With the Prince William site within 30 minutes driving time of CIA headquarters and with the Jefferson County site within the 75 minute driving-time criteria, the CIA consolidation offers CIA employees an opportunity to remain in the immediate vicinity of the greater metropolitan area. They may seek housing in the less congested and more affordable areas of the proposed new facilities. At present the State of Virginia is the primary beneficiary of the very positive local economic impact of the CIA; under this proposal Virginia will still be the primary beneficiary.

Ultimately, however, the test of the CIA plan should be whether it enhances the agency's ability to perform its mission for U.S. national security into the next century. I believe it will.

In conclusion, Mr. President, the conference report ensures that the CIA consolidation will go forward.

There being no objection, the press report was ordered to be printed in the RECORD, as follows:

[From the Alexandria Journal, Nov. 21, 1991]

HOUSE KILLS CIA MOVE TO W. VA.—BYRD BID FOR AGENCY SCUTTLED

(By Chet Lunner)

The House of Representatives swiftly approved by voice vote yesterday a measure that effectively stops the move of 6,000 CIA workers from Langley to Prince William County, Va., and West Virginia.

"There was not even a vote," said a pleased Rep. Frank Wolf, R-Va., a key player in the fight to block the move.

The intelligence agency move was proposed under a bill drafted by Sen. Robert Byrd, D-W. Va., chairman of the Senate Appropriations Committee.

"It'll stop the West Virginia move," Wolf said of the measure, agreed to by Senate and House conferees on the overall intelligence authorization bill.

Wolf said he hopes the studies called for in the bill will eventually result in a consolidation of offices near the main Langley CIA campus.

"This [would have been] the most expensive relocation in the history of the country," Wolf said of the Byrd plan.

Byrd's plan met with furious opposition from congressional and administration officials who were not involved in the decision. The language in the new intelligence bill severely restricts any future CIA moves.

The bill requires CIA plans to pass through a series of hearings, studies and approvals inside and outside Congress.

"It's very tight," Wolf said.

The plans also would be reviewed by four congressional committees: House and Senate intelligence and defense appropriations panels.

"If any of those four say 'no,' it's dead," Wolf said.

Mr. BYRD. Mr. President, I thank my friend and I appreciate deeply his cooperation during this entire effort. I also thank him for the cooperation that he extended liberally during the time that we were discussing the highway bill and the Byrd amendment thereto. It was because of that fine cooperation on his part in part that we were able to enact the highway bill, the conference on which he is now attending.

Mr. WARNER. I thank the distinguished Senator from West Virginia.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, what is the time allocation?

The PRESIDING OFFICER. An hour and a half each for Mr. NUNN and Mr. WARNER. Mr. WARNER just used approximately 4 minutes of his hour and a half. The Senator from Georgia has 1½ hours.

Mr. NUNN. I thank the Chair.

Mr. President, the defense appropriation bill is a big bill with many complex provisions. In the short hours that remain in this session of the 102d Congress, the Armed Services Committee met several times since the appropriations conference report was completed to initially review this important piece of legislation, but I must confess we are still unable to analyze the entire report because of its complexity and length.

There is not a bill or conference report that cannot be improved. We all know that. There are items in our own defense authorization conference agreement on which I would have preferred a different outcome. There always are, there always will be. And I know Senator INOUYE and Senator STEVENS feel they did the best they could with the defense appropriation conference report. I know how hard both of them worked on this legislation and I know how hard their staffs worked. And I know that both of them and their staffs are dedicated and absolutely committed to a strong and capable national defense. So I want to make that absolutely clear up front. I admire both of them. I feel both of them are very valuable Members of the Senate. I think they are very valuable people.

Mr. President, the conference report does, however, contain a number of items that I simply cannot support. These are problems that cannot be fixed on this bill because this appropriation conference report is not amendable.

Several days ago, I indicated to both Senator INOUYE and Senator STEVENS, as well as Senator BYRD, the chairman of the full Appropriations Committee, the problems that our committee had with this legislation and our hopes that some of these problems could be corrected.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that the Armed Services Committee sent, after a number of meetings, to Senators INOUYE and STEVENS outlining our concerns and our intention to try to eliminate some of the problems we had with the conference report. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, DC, November 21, 1991.

Hon. DANIEL INOUYE,
Chairman, Subcommittee on Defense Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. TED STEVENS,
Ranking Minority Member, Subcommittee on Defense Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR DANNY AND TED: Congratulations on the conclusion of the conference on the defense appropriations bill. We understand the complexity of the process and the pressures you faced in crafting a bill that meets our defense needs in this difficult fiscal environment.

The Armed Services Committee met this morning to discuss the Conference Report on the FY 1992 Defense Appropriations Bill. You were invited, as always, and members of your staff were present during this discussion. We have only had a few days to review the conference report, so our assessment is necessarily provisional. It is clear there are many solid provisions on which we all agree. The conference report parallels in most regards the most difficult and controversial issues in the budget request and our authorization conference.

Nonetheless, the Committee has serious reservations over certain elements of the conference report. More important, those reservations go to the heart of our longstanding agreement that outlines the working relationship we have established between our Committees.

Our agreement stipulates that each committee will refrain from reversing the policy initiatives of the other committee, and that the Appropriations Committee will honor the Senate rule that prohibits legislating on an appropriation bill. In this regard, the Committee is very concerned over the continued practice of earmarking funds for certain colleges, universities and other institutions, especially where such earmarkings were not included in either the original House bill or the Senate amendment. More importantly, the Committee strongly objects to the provision in the conference report that waives statutory requirements for merit review and open competition. Apart from constituting flawed policy, this practice flatly contradicts our agreement with your Committee. There are other instances in the conference report where the appropriations conference waives or reverses actions in the pending authorization bill or in previous authorization acts. We object to these reversals, and find them inconsistent with our agreement.

Our agreement with your Committee also stipulates that the Armed Services Committee will not legislate obligation "floors" and the Appropriations Committee will avoid breaching authorization "ceilings." We have scrupulously adhered to this principle. This year, as in previous years, we have eliminated all obligation floors in our bill, opposed all obligation floors in the House bill, and eliminated any floors that members or staff of the Appropriations Committee brought to our attention.

As we review the Appropriations Conference Report, however, we find 18 accounts in the bill totalling $11 billion that breach authorization ceilings or establish new accounts that were never authorized in the first place. Some of these breaches are technical in nature. For example, your decision to consolidate medical funding DOD-wide, representing $8 billion of the $11 billion, is more of a technical financing issue. But there are other areas that total over $3 billion that we must study more closely. In terms of programs, projects and activities, there might be as many as 170 items totalling over $4.9 billion that exceed the authorization. In any event, our agreement with you stipulates that any appropriations that breach the authorization ceiling be subsequently authorized. We find nothing in the Conference Report that makes it clear that a subsequent authorization is required for these accounts.

We wish to emphasize that we may not necessarily oppose certain decisions that resulted in appropriations that breach authorization ceilings. In previous instances, we have subsequently reviewed them and agreed with many of your decisions. But we do insist that the appropriations conference adhere to the same agreement that we observe in our conference.

As is frequently the case, however, the hour is late and the options available to you and to us are limited. The conference report has been adopted in the House and is not subject to amendment. We are forced either to oppose the conference report—which we find painful because of the considerable merit in the bill—or to find other means to reestablish the balance struck in our agreement with you. We are taking this opportunity, however, to let you know that we do have strong reservations with certain elements of your bill and will seek to work with you and with others to eliminate those concerns.

Sincerely,

Sam Nunn, Chairman; John W. Warner, Ranking Minority Member; J.J. Exon; Carl Levin; Connie Mack; Richard Shelby; John McCain; Tim Wirth; Malcolm Wallop; John Glenn; Strom Thurmond; Jeff Bingaman; Bill Cohen; Alan J. Dixon; Al Gore; Trent Lott, Dan Coats; Bob Smith.

Mr. NUNN. Mr. President, I had hoped to correct some of these problems with two amendments last evening to the supplemental appropriation bill, but this, of course became impossible when all amendments were precluded.

Since these problems areas have not been corrected, I regret that I cannot in good conscience vote for the conference report in its current form. This will be the first defense appropriations bill I have ever opposed since I have been in the Senate. I do so with regret. I do so with sadness. I need to, I think, explain to my colleagues some of the reasons for my decision.

First, there are numerous earmarkings for defense research money for special projects at specific universities and colleges. What makes this most objectionable is the explicit direction by the conferees to waive existing Federal statutes that require these types of awards to be made on the basis of a fair and open competition. In fact, the appropriation conference report specifically prohibits competition for $94.6 million in funding that is directed in 16 colleges and universities in 12 States. The conference report includes a provision that specifically exempts these specific universities and the earmarked funding for each from Federal statutes that the Senate adopted only 3 years ago requiring fair and open competition in these areas.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a compilation of the earmarkings and set-asides that are in the conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EARMARKS IN FISCAL YEAR 1992 DOD APPROPRIATIONS BILL/REPORT

UNVERSITY SET-ASIDES FOR WHICH COMPETITION IS PROHIBITED

1. Neuroscience research at Louisiana State University ($10.0m).

2. Marywood College, Pennsylvania ($10.0m).

All the bill says about this grant is that it is to be used for "laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense."

This same language is then used in the bill to describe all of the following grants:

University of Texas at Austin ($6.0m).
Northeastern University ($6.0m).
Texas Regional Institute for Environmental R&D (5.0m).
Kansas State University ($7.7m).
University of Wisconsin ($1.6m).
Boston University ($29.0m).
Medical College of Ohio ($250,000).
University of South Carolina ($500,000).
George Mason University ($750,000).
Monmouth College, New Jersey ($2.3m).
University of Minnesota ($10.0m).
University of St. Thomas, Minnesota ($500,000).
Brandeis University ($2.0m).
New Mexico State University ($3.0m).

OTHER UNIVERSITY SET-ASIDES

1. Penn State University ($5.0m).

The only explanation for this grant is report language that says it is for "life-cycle by networking critical manufacturing technologies."

2. Monterey Institute for International Studies ($6.8m).

No explanation of its purpose in either the bill or the report.

3. St. Francis College, Pennsylvania ($2.5m).

4. Oregon Graduate Institute ($1.3m).

OTHER INSTITUTIONAL SET-ASIDES

1. Mississippi Resource Development Corporation ($1.0m).
2. Maryland Hospital Association ($300,000).
3. National Biomedical Research Foundation ($10.0m).
4. Arctic Region Supercomputer at the University of Alaska ($25.0m).
5. Consortium for International Earth Science Information Network ($1.0m).
6. Oregon Department of Economic Development ($350,000).

OTHER EARMARKS

1. Memorial Day Celebration ($350,000).
2. Capitol Fourth Project ($350,000).
3. Cleanup of National Presto Industries in Wisconsin ($7.0m).
4. Fish stocking in Hawaii ($750,000).

The report explains that this earmark is to "initiate a feasibility study to improve existing nursery ponds for mullet culture and to establish a mullet larvae hatchery."

Mr. NUNN. Mr. President, I do not know if this list is complete that I have because we have not had a chance to study every small provision in the appropriation bill. I will in a moment reference those particular set-asides, but I do not make the statement here that they are exclusive because there may be others that we have not found. Frequently, earmarkings are indirectly implied by reference to report language. It is a little bit like those Russian dolls that contain smaller dolls inside. You keep finding more earmarkings as you keep reading and looking behind the provisions. We have not had the opportunity to evaluate the merits or demerits of the earmarks that are in this bill.

I want to make it clear my remarks are not aimed at any one earmark. It may very well be that is a project we will really need for our defense effort. If it is, however, it seems to me, it would be able to withstand the competitive provisions that all our other universities have to compete with.

The appropriation conferees must believe that the 16 university projects for $94.6 million are of such questionable value to the Defense Department, however, that the bill has exempted these projects from any form of competition or merit review or in that they alone are interested in this $94.6 million.

The effect of this general provision is to wipe competition and merit review off the books of this project. It exempts these earmarks from the process Congress established several years ago to ensure that the awards are made on the basis of merit and that all qualified institutions are allowed to compete. But, most of all, the competition produces the best results for the taxpayers. That is why we have it—to choose the best for this kind of work, and this kind of work is important.

These competition statutes were the result of several years of floor debates and votes on this issue by the Senate itself. The Senate has spoken on this at least on two occasions after a vigorous debate and rollcall votes. These efforts were led by Senator DANFORTH, Senator BINGAMAN, and myself, and others to ensure all colleges and universities have an equal opportunity to compete and offer their talents to provide the very best research possible for our defense effort.

Yet these statutes are waived in order to ensure funding for a series of what, I assume, must be a questionable projects in the minds of the sponsors, otherwise why waive competition? I do not believe this process is in the best interest of the taxpayer or the Department of Defense or the U.S. Senate. And I again add, some of these projects may be very valuable and maybe the universities named are the best for that particular research. But if they are, why not let them be chosen like others are chosen, on their merit?

Mr. President, no other college or university in our Nation is allowed to compete to work on these projects. No matter how competent any other college or university or institution might be, there is no flexibility on the part of the Government to get the most out of the investment.

Mr. President, I ask unanimous consent that a list of the 38 States where colleges and universities cannot compete for these defense funds that were earmarked for 16 institutions in 12 States.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATES WITH UNIVERSITIES THAT ARE PROHIBITED BY SECTION 401 FROM COMPETING FOR UNIVERSITY RESEARCH FUNDING

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho.

Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada.

New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wyoming.

Mr. NUNN. Let me just read the list: Louisiana State University, $10 million; Marywood College, PA, $10 million; University of Texas at Austin, $6 million; Northeastern University, MA, $6 million; Texas Regional Institute for Environmental Studies, $5 million; Kansas State University, $7.7 million; University of Wisconsin, $1.6 million; Boston University, $29 million; Medical College of Ohio, $0.25 million; University of South Carolina, $0.50 million; George Mason University, $0.75 million; Monmouth College, NJ, $2.3 million; University of Minnesota, $10 million; University of St. Thomas, St. Paul, MN, $0.50 million, Brandeis University, $2 million; New Mexico State University, $3 million. I ask unanimous consent that this list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Attachment 1

List of universities exempted by section 401

	Millions
Louisiana State University	10
Marywood College, PA	10
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environmental Studies	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29
Medical College of Ohio	.25
University of South Carolina	.50
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10
University of St. Thomas in St. Paul, MN	.50
Brandeis University	2.0
New Mexico State University	3.0
Total	94.6

Mr. McCAIN. Will the Senator from Georgia yield for a question?

Mr. NUNN. Yes.

Mr. McCAIN. Does the distinguished chairman know for what purpose those grants are awarded to those universities or is it just that they are awarded to the universities?

Mr. NUNN. I really have to say to my friend I cannot tell by reading the conference report what the purpose is.

I would like for my colleagues who have been listening or have aides listening to this debate this morning to understand that this $94.6 million makes ineligible universities in 38 States.

Here are the States that do not get to compete for this $96 million: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

I would say Senators representing those States should take a close look at this and ask if they believe that their own universities should be able to compete or whether they conclude, as obviously the Appropriations Committee conferees did, that no other university shall be allowed to compete in this procedure.

This legislative provision eliminating competition, which is a legitimate provision on an appropriations bill, was not in either the House or the Senate bills when they were originally considered. There was no opportunity to debate this extraordinary procedure. And now it is impossible to amend it or eliminate it. At this point we have no other choice but to look for another vehicle, probably in the next session, to deal with this provision. Mr. President, it is provisions like this and situations that the Senate faced yesterday evening that makes the line-item veto attractive to many people.

I have, myself, not come to that conclusion. But I must say if we continue this practice I think there are going to be an awful lot of people who have not favored the line-item veto in the past who may very well reach a different conclusion.

MUSEUMS

Mr. President, in another area, this bill also puts the Defense Department again in the business of funding museums with defense funds. Last year's defense appropriation bill contained funds for a children's science museum in New Jersey and a parliament building in the Solomon Islands. This year's conference report contains funds for four new museums. They all appear to be much more defense related than a couple last year: $4 million to build a National D-Day Museum in New Orleans, LA; $4 million to build an Airborne and Special Operations Museum at Fort Bragg, NC—an installation already hosting a museum honoring the Green Berets, and another commemorating the 82d Airborne Division. It is a wonderful base. It is an installation, however, that already has a museum honoring the Green Berets; $2.1 million for a Naval Undersea Museum at Keyport, WA; and $1.6 million to refurbish a submarine, the USS *Blueback*, for the Oregon Museum of Science and Industry in Portland, OR.

Mr. President, I do not want to in any way denigrate the importance of the specific valor displayed by our fighting forces at D-Day, or the importance and dedication of our airborne, special operations, or submarine communities.

On the contrary, I am an enthusiastic supporter of all these missions. Within my own State of Georgia, there are important military bases supporting the Trident sea launched ballistic missile force at Kings Bay Naval Submarine Base, and special forces units at both Fort Benning and Hunter Army Airfield. Any of these installations would make excellent locations for museums commemorating the heritage of these proud forces. I am sure that if I scoured the history books, I could also find a suitable Georgia location to house the memorabilia of the great victory of D-Day, and I am sure other Senator could find suitable locations in their own States.

I have been personally involved in the development and support of an important museum in middle Georgia, the Robins Museum of Aviation, which is located on Robins Air Force Base. This institution commemorates not only the local and State aviation history, but also the development of logistics support for military aviation. I know from firsthand experience how these museums act as a catalyst for community involvement with and support for adjacent military bases, and how they can be centers of education for our young people. I also appreciate how military museums can support and complement regional tourist industries. I also know how much work it is to raise private funds for museums because that's how the museum at Robins was built with private funds. And we have had several fundraisers in that respect.

In short, Mr. President, I support military museums, and believe that the four new museums which are selected for support in the Defense appropriations bill would probably fulfill many positive functions.

The question, Mr. President, is not whether museums are worthy institutions but, rather, whether they should be built with defense dollars and, if defense funds are available, whether they should be used for existing museums picked out by certain Members of Congress or whether they should be used for supporting the existing museums that already are being funded and already have a substantial amount of visitors going to those museums.

For many years we have seen numerous private proposals to establish new military museums. We have had proposals in our committee in the past for construction of new museums. We have consistently turned those down. Each new museum initiative cites the value of preserving the heritage of the mission or event which it seeks to commemorate. Inevitably, as these proposals mature, they run into the reality of raising the funds to capitalize the facilities. It is then that we see legislative initiatives to have the Federal taxpayer finance these centers, often using funds allocated to the defense of our country.

Where do we draw the line on these worthy ventures, Mr. President? In the Military Construction Authorization Act for Fiscal Year 1985, the Armed Services Committees debated long and hard on this one. We drew the line by limiting each service to one museum which would be constructed with appropriated funds. Even in these limited situations, the conferees urged joint public and private capital funding.

Today there are numerous other military museums which receive modest levels of appropriated operating support from their associated military bases. But actual construction of museums has generally been limited to one official museum for each service. The official Navy and Marine Corps museums are at the Washington Navy Yard. The official Air Force museum is located at Wright Patterson Air Force Base in Ohio, and was built with a combination of private and public funds.

I believe that this is an appropriate balance—one official, federally capitalized museum for each military service. The proliferation of other military museums, supported by local communities would make the demands on ever more scarce defense funds intolerable if they were also eligible for appropriated fund support for capitalization.

As of this moment, before we pass this bill, we have a pretty good policy. Not perfect. Certainly there are exceptions. But we have a pretty workable policy, an equitable policy regarding the capitalizing of military museums. The conference report on the fiscal year 1992 Defense appropriations bill ignores this policy and asks us to open the floodgates to funding all sorts of museums.

Mr. President, I am a realist. There is nothing that can be done on this bill to fix this problem. But I can see it coming. Next year we will have more museums. If we are going to open up the Department of Defense budget for museums, every Member of Congress will want a piece of the action. Why build museums the old-fashioned way, by raising private funds? There is a lot easier way—let the taxpayer do it. Mr. President, if this practice continues, I will no longer try to prevent the members of the Armed Services Committee from promoting their own museums and earmarks.

I can see it now. San Francisco, a city that prides itself on its fine food, can host the national museum on MRE's, "meals ready to eat." Buffalo, one of the cities with the greatest annual snowfall, can become the museum to house the famous Schwarzkopf sand boot. The New York garment industry can open a museum with the old Air Force uniforms that are being discarded. All of this can be accomplished the easy way, with taxpayer money, while at the same time we give out involuntary pink slips to people who are having to leave the military.

LEGISLATING ON AN APPROPRIATIONS BILL

Mr. President, there are other serious problems with this conference report. One of the fundamental premises of the legislation process is the separation of the authorization and the appropriations process. The Senate embodies this principle with Senate rules that prohibit legislating on an appropriations bill.

My colleagues should be disappointed by the specific examples of legislating on this appropriations bill. I already mentioned the waiver of the Competition in Contracting Act and the waiver of merit review, both of which are specified in title 10, United States Code. These are two instances where the law of the land is waived on an appropriations conference report.

But there are other areas of concern. Section 8137 of the bill amends section 2208 of title 10 by adding an entirely new authorization for government depots to team up with private contractors to compete with other private contractors. Mr. President, this provision has potentially far reaching consequences. Depots, which do not have to amortize their buildings, would be allowed to join private companies to compete against other private companies that do have to amortize their investments. That could be a sweet deal for private companies that team up with depots.

This could constitute a de facto government subsidy to one private firm to compete against another private firm. There might be a good reason to do this. I do not prejudge it. It might be possible to develop rules and guidelines to avoid the obvious potential pitfalls. This provision might have the beneficial outcome of putting more workload in Government depots, although potentially at the expense of private enterprises. But we have no idea if that will be done. This provision was not in either appropriations bill when passed and has never been the subject of hearings or any rigorous review. And it is clearly, clearly legislation on an appropriations bill which emerged from the conference.

This is not the only instance of substantive legislation in this conference report. Section 8064 legislates timetables for actions involving several military installations taking place under the base closure and realignment process. This is a very unfortunate precedent. We established the base closure process to be independent of individual, parochial interests, which we all have. We all represent individual parochial interests, and we always will. That is the nature of the process. But we managed to keep it separate until now.

Senator DIXON, I understand, will have more to say on this provision. He has been very involved in drawing up the base closing report and in protecting it, and this now undermines the all-or-nothing concept. I know Senator DIXON, the Senator from Illinois, who has been very, very involved in this, will explain that in more detail.

Unfortunately, as I said earlier, there is little that can be done on this bill. It comes to the Senate with no possibility of amendment, and at this late hour, none of my colleagues would welcome the prolonged deliberations that these legislative provisions deserve.

Mr. President, I want to say a word about the F-117 Stealth aircraft, and I want to thank Senators INOUYE and STEVENS for supporting that aircraft in the Senate bill. It was dropped in the conference.

Mr. President, I predict we will see the day when we regret this missed opportunity. The F-117 was the super star of Desert Storm. This tiny fleet of aircraft conducted the lion's share of the strategic bombing in the war. No other aircraft in the Air Force's inventory provides the unique combination of precision accuracy and survivability as does the F-117.

Unless the Air Force starts operating the B-2—and I know the individual occupying the Chair now shares my hope that that will be a reality, but it is a big question mark, and I think we all have to understand that—unless we have the B-2, the F-117 will be the only Stealth attack aircraft in the Air Force inventory for the next 20 years.

If we get into a conflict again—and I hope and pray we do not—but if we go to war again, whether it is someplace in Northeast Asia, whether it is in the Middle East, wherever it is, everybody in this body knows that one aircraft will be indispensable to our operations, and that is the F-117. If we have any kind of war in the near term, the F-117 will be the one aircraft, the only one that I know of, that we will need more of. We will need it. We have 56 of those aircraft. We used every one of them in the Persian Gulf war.

By contrast, we have now 1,800 F-16's. We used 15 percent of the F-16's in the Persian Gulf war. That is a superb aircraft. There is no doubt about it being a superb aircraft. In our own conference report on the authorization, we were required to add back 48 F-16's. I am not sure what the appropriators did on that, but I do want to thank the appropriators, Senators INOUYE and STEVENS for, in the Senate bill, backing what I think is an essential move now, particularly as a hedge against the B-2, and that is to begin producing a small additional number of F-117's which can be used for reconnaissance, or can be used for an attack role, as they have been used.

I am disappointed the conference report was not able to bring that back. I know the House conferees opposed it, and I know the Senate conferees supported it. Despite my disappointment, Mr. President, I understand that the Appropriations Committee has every right to fund programs at levels below those authorized. That is their right.

In this instance, while I disagree with the outcome, I am disappointed with the outcome, I cannot fault the Appropriations Committee on any procedural ground, and I do not oppose the conference report because of this omission.

Mr. President, I should also point out that this bill contains substantial funds that exceed the levels contained in the authorization bill at both the account level as well as the program, project, and activity level.

Mr. President, the law requires—as Senator MCCAIN, the Senator from Arizona, made very clear in his earlier, I thought, superb presentation—the law requires that the defense appropriations be authorized. There are a number of accounts in the defense appropriations conference report that exceed the levels authorized in the authorization conference report, in violation of the explicit requirement in law that funds may not be appropriated unless they are specifically authorized in law.

These accounts are the large lines in the bill where funds for such things as O&M, shipbuilding, and Guard and Reserve equipment are carried. The chairman and ranking member of the defense subcommittee have acknowledged that they are over the authorized level for some accounts.

Mr. President, we know and recognize that when both the Armed Services and Appropriations Committees are marking their bills to the same funding total in the budget resolution, the Appropriations Committee will not fund every program we authorize, and that inevitably there will be areas where they exceed our authorization ceiling. I know that some of that is inevitable. I understand it.

But the agreement between the committees, which is an explicit agreement in writing, and the requirement also in law is that when they do exceed authorized levels, they make these accounts subject to authorization. Unfortunately, that was not done in this conference report.

So we did not have, unfortunately, a carrying out of the explicit written agreement between the authorizers and the appropriators.

Mr. President, the exact wording of our agreement, which has been signed off on by the leaders on both sides, and all the members of the committee know about it—on our committee, at least—the exact wording is:

> The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in the authorization bills.

Mr. President, let me give just a small recitation of the accounts that are exceeded: Operation and maintenance, Navy Reserve, $0.9 million; operation and maintenance, Marine Corps Reserve, $0.8 million; operation and maintenance, Army National Guard, $1 million; operation and maintenance, Air National Guard, $5 million; National Board for the Promotion of Rifle Practice, $1 million; humanitarian assistance, $2 million; drug interdiction, $30 million; weapons and tracked combat vehicles, $103.8 million; Army ammunition, $6.7 million; shipbuilding, $787.5 million; missile procurement, Air Force, $30.6 million; procurement, Defense agencies, $11.8 million; Guard and Reserve equipment, $816.7 million; Coast Guard, $188.7 million; Mount Pinatubo claims, $150 million; real property maintenance, $500 million.

Mr. President, in addition, the Appropriations Committee transferred $8 billion of medical program funding from the services to the Office of the Secretary of Defense, so the operation and maintenance Defense agencies account exceeds the authorized amount by $7.775 billion for this account.

I understand fully that this is a technical change, so I do not include that $7 billion in my comments in terms of complaint.

Mr. President, the distinguished managers of the bill, Senator INOUYE and Senator STEVENS, have pointed out that many of these accounts exceed the authorized amount by only a small amount. That is true, Mr. President.

However, the requirement in law does not say only large unauthorized amounts need to be subject to authorization. It does not say that. It says unauthorized amounts. Some of the unauthorized appropriations, such as those for shipbuilding and guard and reserve equipment, are very large. The managers have pointed out that these funds support worthy projects that some or all of the members of the Armed Services Committee may think is a good idea. That may well be.

But, Mr. President, once again, the requirement is not that the good ideas need no authorization. The requirement is that all appropriations must be authorized by law. And, as I said, we understand that cannot always be done in a conference atmosphere. Taking that into account, we asked the appropriators to agree, and they did agree explicitly in writing, that when the accounts are exceeded, there will be a provision saying they are subject to further authorization by law. We felt that was a good compromise. We reached that compromise, facing reality several years ago, but that compromise is in no way adhered to in this report.

Mr. President, let me explain why the requirement for an authorization is crucial to the authorizing committee. And I hope other authorizing committees that are not involved in this debate this morning will understand that, in effect, our authorizing committee is making a stand for all authorizing committees today.

Mr. President, our agreement is that authorizations are ceilings and not floors. We do not compel the Appropriations Committee to fund programs we authorize. We cannot write floors into law, because that has the effect of compelling. We would like to many times. We understand that authorizing bills are ceilings, but not floors. Many times, we would like to change that, because we have projects that we believe are absolutely crucial.

But if the Appropriations Committee can come in under the authorized level, which they can and should, but if they can do that, and they can also exceed the authorized level, then clearly there is no point in having an authorization. If we are not a ceiling—we know we are not a floor—if we are not a ceiling, what are we, the authorizers?

I am certain that there are those who would support this. But I think there is a growing sentiment that at some point, we are going to have to address this fundamentally.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. NUNN. I will be glad to yield.

Mr. STEVENS. Mr. President, I have in my hand—and I would like to ask the Senator a question about this—the 1971 Authorization Act that was presented to the Senate by Senator Stennis on February 2, 1970. And for aircraft, it says for the Army, $292,100,000; for the Navy and Marine Corps, $2,416,700; for the Air Force, $3,255,500,000.

That is the authorization for aircraft. In the Senator's bill that was brought to the floor as a conference report this year, there are some 25 pages of authorization for aircraft. The detail and the acquisition for aircraft under the authorization bill replaces 2 lines, 2 lines. The Senator says that this must be authorized by law.

Until just recently the authorization was a general authorization. And that authorization was followed up by hearings by the Appropriations Committee, and the Appropriations Committee would fund those requests that came in the budget or not fund them. The Armed Services Committee established a ceiling. Now the Armed Services Committee establishes levels line by line. Now, is it the Senator's position that the Armed Services Committee should also provide the detail for the appropriations process and that we cannot deviate from that?

Mr. NUNN. I say to the Senator from Alaska everything he is saying was absolutely the fact when the Senator from Alaska and others signed the written agreement which I just recited, which was explicit, which took this into account, and which was a commitment, I thought, by all of us to try our best to adhere to it. I say further to my friend from Alaska that we have exactly the same accounts that the appropriators have.

Mr. STEVENS. No. No. We have exactly the same accounts that the authorization committee has because we have no alternative under the Senator's approach. The question that I am asking the Senator is: Why should the Senator have two functions, authorizations and appropriations, if we have no alternative other than to either fund or not fund precisely what the other committee tells us to do when we are dealing with a different group in the House than the Senator deals with in the House when he goes to conference?

Mr. NUNN. I just recited very clearly to the Senator from Alaska that we understand the practicalities and we provided in a written agreement, which the Senator signed, that any appropriations above the authorization would be made subject to authorization. That was what the Appropriations Committee committed to in writing, but it has not been fulfilled. I would say further to the Senator, is he concluding that we should not have both the authorizing and appropriations committee? I would say the Senator from Georgia has reached exactly the same conclusion.

Mr. STEVENS. Mr. President, this Senator has reached that conclusion. I would like to ask the Senator another question. The Senator's committee and our committee received the budget. The Armed Services Committee does not track the budget. It writes up its own budget, right? And when we get to the point of signing a letter, as we did, we agreed to track the authorizing bill. We did. When we left this Senate, the Senator gave us a letter thanking us for our cooperation, an historic act of cooperation between the two committees. The Senate appropriations bill this year tracked the authorization bill. When we got to conference, the Senator changed the authorization bill. I have it right here. As a matter of fact, it happens to be 718 pages long as it was delivered to us the night before we finished the conference. Now, we have an appropriations report that is 211 pages long and deals with the same subject. But my question to the Senator is, Does the Senator believe that we ought to have tracked this, this 718-page bill that we received 18 hours before we finished?

Mr. NUNN. If the Senator will check with the staff, he will find that staff had 99 percent of that for several days, in fact a good many days, before we finished formally our report. The committee staff worked together very closely, and I think they will acknowledge to the Senator from Alaska that that is the case.

Mr. President, may I finish my remarks.

Mr. STEVENS. May I just ask two more questions and I will retire.

The Senator asked us to have our staffs track it. In the 1970's, the authorization committee had 19 members of staff. In 1981, they had 36 members of staff. To date, they have 50 members of staff. Our staff has decreased on the Appropriations Committee. The Armed Services Committee staff has increased. Is not this sort of a staff battle now?

Mr. NUNN. If it was a staff battle, I would not be standing here on the floor of the Senate. I do not fight staff battles.

Mr. President, may I finish my remarks.

Mr. STEVENS. My second question—I had a second question.

Mr. NUNN. I have the floor. I would like to finish my remarks.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. STEVENS. The Senator was in order, Mr. President.

The PRESIDING OFFICER. The Senator will be in order, and the Chair asks, please, that the Senator from Alaska address the Chair properly. I hope that we can keep a civilized atmosphere on the floor of the Senate.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has the floor. Does the Senator from Georgia yield further to the Senator from Alaska?

Mr. STEVENS. I thought the Senator yielded for two questions, Mr. President.

The PRESIDING OFFICER. I admonish the Senator from Alaska once again. The Senator from Georgia has the floor. If the Senator from Georgia wishes to yield to the Senator from Alaska, without losing his right to the floor, he has that right. The Senator from Alaska has no right to the floor at this moment.

What is the pleasure of the Senator from Georgia?

Mr. NUNN. Mr. President I would like to finish my remarks, but I see the Senator from Alaska is very compelling in his urge to ask the second question, so I will be glad to yield to him for a second question.

The PRESIDING OFFICER. Does the Senator from Georgia yield without losing his right to the floor?

Mr. NUNN. I yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Georgia was recognized and yielded to the Senator from Alaska without the Senator from Georgia losing his right to the floor.

Mr. STEVENS. I am pleased to have the guidance of the Chair. I was going to ask a question with the Senator not losing his right to the floor if I asked the question. I will not ask the question in view of the attitude of the Chair.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will not go into the details of some of the points that Senator McCAIN made very well, but I would agree with him on his points about the air cushion landing craft vehicles which were added at the same time we cut the ship that carried them, the LSD, and do not really have any ship to carry the ones we are now building because of that.

Mr. President, I would also like to point out that there are items in here that certainly affect my State of Georgia, and, like every Senator, I am very interested in those. The C–130 aircraft are built in Georgia. Contrary to what some people believe, the F–117's are not built in Georgia, have no relationship to Georgia whatsoever. The B–2 has no relationship to Georgia. But, the C–130 does. Our authorization bill has 28 of those C–130's. That is above the budget request. There is tremendous pressure from our colleagues and from the Guard forces around the country because these are their favorite aircraft. They perform a tremendous function. And everyone knows they are a great aircraft. It is the best tactical aircraft in the world. The Appropriations Committee has added 42 instead of 28. Now, I agree with that. I agree with that, but I do not believe it ought to be in here without being made subject to authorization, even though it is a program I favor.

Mr. President, these are just a few examples in the appropriations conference report where there are over 170 items that exceed the level set in the authorization act. Some of these, probably a large number, are sound recommendations and stand up to scrutiny and our committee will likely approve them. Some of them we cannot, I suspect. I believe that these appropriations in excess of authorization require the Armed Services Committee to take action to provide the authorization required in law and deny it where it is not needed. We will certainly turn to that task next year to the best of our ability.

Mr. President, I want to close my remarks by stepping back from the details of this conference report and looking more philosophically at what is happening. We are all spending our last days of this session in a pressure cooker environment, rushing to complete big, complex, detailed, and very important bills within a few hours. This conference report is replete with special exemptions and waivers from standing law. In my view, this is not how the process is supposed to work.

We have Senate rules that prohibit legislating on appropriations bill, and yet we have legislation on this bill that was never included in either appropriations bill in the first place. This is not my view of how the process is supposed to work.

All of these examples have one thing in common. They reflect the breakdown in the legislative process. Last year, Senator BYRD delivered a landmark speech on the workings of the Congress, and he spoke of the breakdown of legislative process, and I quote Senator BYRD: "I do not want to see the legislative process perverted here. This is exactly what we are doing when we attach authorizing measures to appropriations bills."

Mr. President, the problems we face transcend the immediate problems we face in this conference report. These are just examples. They go to the heart of the current way we function in the Congress.

Mr. President, there have to be fundamental changes made in the way we operate. With regret, Mr. President, with sadness, and again with my own sincere thanks—and I mean this sincerely—to the Senator from Hawaii and the Senator from Alaska for the thousands of hours they and their staffs put in. I know they are absolutely dedicated to our national security, as I have said. We agree far more than we disagree, but as a matter of principle I will oppose this conference report.

Several Senators addressed the chair.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Virginia.

Mr. DIXON. Mr. President, I wonder if the Senator from Virginia will yield to accommodate me about a matter.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. I would like to hear the question first and perhaps yield the floor.

Mr. DIXON. May I advise my friend from Virginia and my other colleagues on the floor, that at 11:20 I have a window to do a speech to a soybean conference back in my State. I have a statement I very much would like to make that will not take that much time. If I could be accommodated now, so that I could then go utilize that window to accommodate farm groups in my State that are concerned about this disastrous drought that we have, I would then return prior to 12.

Would my colleague mind if I took not more than 10 minutes to say what I would like to say at this point?

Mr. WARNER. Mr. President, I would like to accommodate our good friend, a very valued member of the Armed Services Committee at this time.

Mr. DIXON. I thank my colleague.

Mr. WARNER. I expect that the time will be coming from that of the Senator from Georgia.

Mr. NUNN. I will be glad to yield the Senator 15 minutes.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois. The time to be charged to the time allocated to the Senator from Virginia.

The Senator from Illinois.

Mr. DIXON. Mr. President, I am very disappointed that the conference report on the fiscal year 1992 Defense appropriations bill contains a legislative provision that would alter the current timetable for actions involving several military installations impacted by the base closure and realignment process. This is a very unfortunate precedent.

The provision I am referring to is section 8064. This section says that:

> The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and the Depot Systems Command are scheduled to relocate to Rock Island Arsenal. This provision is in no way intended to affect the move of the 2.5- and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.

The statement of managers accompanying the conference report goes on to say:

> It is not the intention of the conferees to impede the realignment of the Systems Integration Management Activity and Headquarters, Depot Systems Command but to ensure that the Army's plan to establish the Joint Missile Service at Letterkenny Army Depot is implemented.

The problem, Mr. President, is that this provision does interfere with the Army's current plans to implement the recommendations of the Base Closure and Realignment Commission which have been approved by Congress with respect to relocating two missions from Letterkenny Army Depot to Rock Island Arsenal, and the consolidation of missile maintenance work from several locations to Letterkenny.

Army officials indicate that under their current implementation plan—the plan which was the basis of the Secretary of Defense's recommendation to the Base Closure and Realignment Commission—the Systems Integration Management Activity and the Depot Systems Command at Letterkenny Army Depot are scheduled to move to Rock Island Arsenal in fiscal year 1994.

Missile maintenance workload from several Army, Navy, and Air Force depots is scheduled to be consolidated at Letterkenny Army Depot during fiscal years 1996 and 1997. Acceptance of this work at Letterkenny will require new facilities at the receiving site, and careful coordination of the shift of workload to preclude adverse readiness imparts on several critical missile systems.

So under the provision in this fiscal year 1992 Defense appropriations bill, Army officials say they will have to either slow down the moves from Letterkenny Army Depot to Rock Island Arsenal, or speed up the move of missile maintenance workload from other depots to Letterkenny Depot.

Why is this a matter of importance, Mr. President? Cannot the Army simply accelerate its missile transfer plans? Perhaps; the Service has not determined what it would require to make these moves sooner. The principal issue, I believe, is the precedent this provision sets. I would like to place this provision in the context of the overall base closure process.

The Defense Base Closure and Realignment Acts of 1988 and 1990 were based upon a compact between the legislative and executive branches which said that both branches would be bound, short of complete rejection, to the base closure and realignment recommendations of an independent commission. Both Congress and the President were linked to an all-or-nothing choice of the Commission's recommendations. In both 1989 and 1991, the other body decisively rejected resolutions of disapproval of the Commission's closure and realignment recommendations. In both cases, no Senator ever moved a resolution of disapproval. So in each instance, the Senate tacitly approved the Commission's recommendations.

Despite substantial disagreements with the 1989 recommendations, the all-or-nothing compact was kept. Once it approved the package of recommendations, Congress did not attempt to interfere with its implementation.

The 1991 process, while not perfect, was a substantial improvement over its predecessor. Congress and the President again approved the Commission's base closure and realignment recommendations.

Despite painful closures experienced in each of these rounds by members of the Armed Service Committees, these committees were careful during deliberation over this year's National Defense Authorization Act to do nothing to taint the base closure process or weaken the all-or-nothing compact.

Members of these committees had good reason to attempt to interfere with these closures. My own State of Illinois saw the closure of two major bases in the 1989 process: Chanute Air Force Base and Fort Sheridan. In the 1991, Rock Island Arsenal received a substantial reduction of employment.

Other committee members in both bodies experienced very controversial closures. The States of Indiana, Michigan, Massachusetts, Colorado, South Carolina, Maine, Arizona, Florida, New Hampshire, New Jersey, and Pennsylvania, to name a few, were all confronted with base closures. These actions substantially impacted local communities represented by influential Members on both sides of the aisle.

Despite these politically unpopular actions, not one member on the Senate Armed Services Committee attempted to weaken the all-or-nothing compact by imposing legislation to block or delay the recommendations of the Defense Base Closure and Realignment Commission, or the timing of the implementation of these recommendations.

To the contrary the National Defense Authorization Act this year made several changes to strengthen the process to ensure that the 1993 and 1995 closure cycles would be even more open, fair, and equitable.

In this process, we did clarify the legislative intent regarding the exclusion of the civil works activities of the Corps of Engineers from the base closure process. This was a position supported by Secretary of Defense Cheney. While this clarification in effect excluded from closure certain Corps of Engineers offices, this was a policy issue, not one driven by particular Member interest. It reiterated a position outlined to the Commission by the Armed Services Committees' leadership before these functions were ever recommended for closure, that the civil works functions of the Corps of Engineers were outside the scope of the base closure statute.

Mr. President, section 8064 in this bill, while not blocking any action recommended by the 1991 Base Closure and Realignment Commission, affects the timing of realignment actions approved by the Base Closure and Realignment Commission. And in doing so, it weakens, for the first time, the Congress' resolve to live with a balanced base closure process. It suggests that the Congress is willing to break, for the first time, its all-or-nothing compact with the executive branch.

Section 8064 does this by directing the Secretary of Defense to complete at least half of the planned realignment of depot level missile work to Letterkenny Army Depot by the time that installation is due to transfer two management headquarters to Rock Island Arsenal.

I should reiterate, Mr. President, that even with the relocation of these activities to Rock Island in my State, this installation will experience a net loss of personnel.

Mr. President, by supporting the legislation in section 8064, this Congress, once again, unfortunately, appears to be attempting to block or to otherwise interfere with or micromanage the agreed-upon base closure and realignment process through subsequent legislation.

This is not a signal we should be sending to the executive branch, which must make difficult recommendations in light of a declining force structure, declining over the next 5 years from 2,100,000 to 1,600,000.

It is not the signal we should be sending to our colleagues who also experience difficult base closures. This is not the signal we should be sending to the American people whose communities are often severely impacted by these difficult decisions.

Congress and the executive branch have worked together to attempt to assure all impacted parties that the base closure process is fair, with no undue advantage to anybody.

Section 8064, while not directly blocking a base closure or realignment recommendation, gives the appearance of doing so and, in my view, is a step in the wrong direction. Provisions like 8064 weaken the perception of fairness and the balance between the legislative and executive branches. They are ill-advised and should be avoided in the future.

Mr. President, this is the first precedent in a long line of what I think will be bad examples of compromising what the base closure commission does.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to accommodate other Members. As yet, I have not had an opportunity to deliver my remarks. And, at the same time, I have obligations in the conference on the highway report.

What is the desire of the various Members?

Mr. GLENN. Ten minutes.

Mr. WARNER. On my side of the aisle, are there others who desire to speak?

Mr. McCAIN. Five more minutes.

Mr. WARNER. At an appropriate time I will come in and try to——

Mr. BINGAMAN. I would like about 5 minutes, Mr. President.

Mr. WARNER. Five minutes. Very well. I will yield the floor and allow the Senator from Ohio to proceed.

The PRESIDING OFFICER. Does the Senator from Georgia yield time to the Senator from Ohio?

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from Ohio.

Mr. WARNER. May I inquire? The Senator from Virginia has what time remaining?

The PRESIDING OFFICER. Eighty-four minutes remaining.

Mr. WARNER. I misinterpreted the Chair's remark. Eighty-four.

The PRESIDING OFFICER. Yes.

Mr. WARNER. As I understand it, the Senator from Alaska, as an accommodation to the Senator from Arizona, allocated time to the Senator from Arizona. I ask unanimous consent that that time be restored to the Senator from Alaska, and it will come out of the time allocated by the Senator from Virginia, thereby reducing the 84 to how many minutes?

Mr. McCAIN. Sixty-four minutes.

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

Mr. GLENN. Mr. President, I rise wearing two hats here today; one, as a member of the Senate Armed Services Committee and the other as chairman of the Governmental Affairs Committee.

It involves an amendment I would have proposed yesterday, had the parliamentary situation been a little bit different on the supplemental. But that opportunity is gone, and so we will not have the opportunity to vote on the amendment I would have proposed.

The amendment would have had the affect of prohibiting a mandated, noncompetitive extension of the current CHAMPUS reform initiative contract. And, two, to prohibit a mandated expansion of the CHAMPUS reform initiative that I feel should rather have been done on the merits.

The reason I say I represent Governmental Affairs on this also is that we have done a lot of work through the years on the Federal acquisition regulations and the Competition in Contracting Act. I think we can point to savings under those acts that would literally save us tens of billions of dollars through the years.

Mr. President, the CHAMPUS reform initiative—and CHAMPUS stands for civilian Health and Medical Program of the Uniformed Services—provides for a contract for the delivery of civilian medical care to the families of military personnel, military retirees, and their eligible dependents in the States of California and Hawaii. It is not a small bill. It is an annual cost to the Department of Defense of about $800 million. The current 5-year contract expires February 1, 1993. DOD already has published in the Commerce Business Daily announced plans for a new request for proposal for another 5-year contract to be awarded competitively.

The current contractor for CRI, Foundation Health Corp., located in California, has been lobbying, of course, for the noncompetitive extension of the contract.

Mr. President, I do not blame them. That is fine. I do not fault them for that, for wanting a noncompetitive extension, because contracts are profitable, I presume. Otherwise they would not want to continue them.

I will go further to say CHAMPUS beneficiaries have expressed general satisfaction for the health care services they receive. I fully support the program, and I believe CRI should continue to be the mode of civilian health care delivery for people in California and Hawaii. I think it has been an excellent program. I, too, want to see it expanded. I am not opposed to it.

CRI has proven to be not only effective, from the standpoint of patient satisfaction, but in holding down cost. Depending on cost-benefit analyses, a case could be made for the expansion of CRI in other States.

Mr. President, my problem is not with the concept of CRI, but with the procurement of CRI services as proposed in the Defense appropriations conference report. It would noncompetitively extend the current CRI contract for 1 year. It would overturn a provision in the Defense authorization conference report we just passed that would ensure that the CRI contract would be renewed competitively.

In fact, what we put in the Defense authorization conference report was in reaction to a provision in the House defense appropriations bill that would mandate noncompetitive extension of the existing CRI contract.

Let me give credit. Our Senate appropriators, including Senator INOUYE and Senator STEVENS, initially supported the Defense authorization conference provision, but in the give-and-take of the appropriations conference, they had to give on this particular point.

So I am sorry that this had to occur because I think fair procurement policy and the experience we have had with competitive bidding would indicate that we should have gone that direction. But that is what happens in conferences.

Mr. President, current Federal procurement statutes require competition for the award of Federal contracts, and they may sole source these things only under very limited circumstances that are very specifically prescribed by law. Obviously, the Department of Defense saw no circumstances that led it to think that sole sources of this would have been any advantage because it has already announced its intention to issue an RFP for competitive bidding.

If we allow a noncompetitive 1-year extension of the current CRI contract, I believe we are turning a blind eye to the contracting regulations.

I mentioned the Competition in Contracting Act and the Federal acquisition regulations. We would be singling out for special treatment a company that just happens to be in the district of a senior member of the House Appropriations Committee. In doing so, we would be excluding other companies who may be equally or more competent in providing the needed services.

Mr. President, aside from fairness, there is the issue of cost. Requiring a noncompetitive extension of the current CRI contract could potentially cost taxpayers millions of dollars. There are other companies who could compete for, and possibly win, a competitive contract that could result in lower cost and equal or even better health care delivery to CHAMPUS beneficiaries.

Mr. President, for those reasons, I regret I did not have the opportunity to obtain a vote in favor of a more fair and open competition covered by the amendment that I would have submitted yesterday.

Mr. President, briefly, involving a very different subject, I want to take just a couple minutes to remark on the amendment we passed yesterday as part of the supplemental that would provide for abortion services in U.S. military hospitals overseas. I think that is a very important issue, but I do not know what the President's view is on this. I heard a rumor that he will automatically veto a bill that has that type of provision in it.

Mr. President, open access to abortion services is the law of the land in this country. It was not until June 1988 that there was a Department of Defense specific restriction on this when there was a memo sent out by Assistant Secretary of Defense for Health Affairs Mayer that said there could be no further consideration, no further activity, like that in any U.S. military hospital overseas, no matter what, even though the recipients of these services were prepaying the costs themselves. And I might note there were very, very few such procedures being conducted.

Mr. President, what Dr. Mayer obviously was taking into account in his memo was President Reagan's views, his personal ideological views, but not those views shared by most Americans, since about 63 percent of Americans polled indicate that they do not object to abortions.

So, really it is a matter of fairness for our people in the military. We have certain health care standards in this country. We take care of our military people here, and that includes access to abortions.

I would say to my Senate colleagues, if it was your daughter or your wife in the military in some hospital in a Third World country where some of our military people are stationed, would you want your wife or your daughter going into one of those hospitals? I have been in some of them, and they did not come up to American standards. Many are dirty, infection rates are higher, and AIDS rates are higher in many of those countries. Would you as a military spouse or parent not want your wife or daughter to be treated in a well equipped, staffed, and managed American hospital there overseas?

I think I know your answer before I even ask the question. It is not a matter of cost to the Government, since the individual perpays the cost. It is a matter of fairness. It saves the rights of American service personnel and their female dependents from what could be looked at as an imposition of Presidential ideology.

Are individual rights going to prevail, or are preferences of a particular President? Abortion in this country is legal. That has not changed. There are no taxpayer dollars involved in providing this service in U.S. military hospitals overseas, because the person would pay for these services, as they did prior to the 1988 DOD memo.

Mr. President, I would say that our military people overseas are there to protect our freedom. Yet we seem to be unable, because of Presidential fiat, to let those same people who are out there protecting our freedom to have the medical freedom that every woman has inside the continental United States. To me, that is just not fair.

So I would hope that President Bush would avail himself of this opportunity to correct an inequity by not opposing this provision now in the supplemental. I note that we have an increasing number of women in the military, and after the newly mandated Presidential Commission on Women in the Military gets finished with its assessments a year from now, I have no doubt we are going to have women filling even more roles in our military and in increasing numbers.

So what I say is let American law prevail in this issue, and let it follow American women wherever they go in the military all over this world. They are not always where they can get good medical help. So let American laws prevail. Let the Constitution of the United States prevail. Let the compassion that people normally show in this regard prevail. Let respect for our servicewomen prevail as they represent us all around this world. Let sanity prevail.

I would urge that President Bush not veto anything because of this provision. But when the law changes in this country, if it ever does, then we will reflect that change in the military. But the law right now permits abortions in this country—and I would hope that we would have the women who represent us in the military have the same right by extending medical services to them in U.S. military medical facilities overseas, as we outlined yesterday.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret the last occasion when I was on my feet that the Presiding Officer indicated that I was out of order, and I want to call the Senate's attention to rule XIX, paragraph 2, that restrains any Senator, including the Chair, from imputing to a Senator conduct unbecoming a Senator. And I further call to the attention of the Chair that a Senator that is called to order by the Chair may appeal the ruling of the Chair and the appeal would be subject to debate, unlimited debate.

This Senator does not appreciate being called to order when he is not out of order.

Mr. President, it is regretful that I hear that the members of the Armed Services Committee will vote against this bill for the first time. Should that happen, this Senator denounces the agreement we entered into before. Every member of the majority of the Armed Services Committee in the House voted for this bill. Every member on the majority side. To have the majority on this side now say they are going to vote against this bill because it was entered into in good faith with members of the other body after serious negotiation to me transgresses the agreement we had.

We said we would do to the best of our ability what we could to live up to the authorizing committee. We did not say that we pledged to bring back as a matter of rote every single item the authorization committee entered into in a conference that was with different Members of the House.

Again, I repeat to the Senator from Georgia that this was delivered, the tables that are contained in this report that is 718 pages were delivered to me in the afternoon of Thursday. We completed our agreement with the House on Friday. This Senator almost got no sleep on Thursday night because this very able staff member as he went back to work with the staff almost all night gave me a series of things to read over to be prepared for the conference the next day.

It is a matter of fact that we have tried to do our best to work with the Armed Services Committee. I hope we can continue. But for this Senator, it will be determined by whether these Senators carry out their threat to vote against this bill. This bill is a good faith compliance with the agreement we had with the Armed Services Committee.

Let me point out, for instance, the conversation that just took place concerning our announcement that the university grants under this bill are not subject to competition.

If one looks at page 500 of the Armed Services Committee report, you will find this statement: Because FFRDC's are largely exempt from the requirements of the Competition and Contracting Act, placing work at the FFRDC's tends to be both more rapid and less burdensome. But the FFRDC's cannot be allowed to exploit unfair competitive advantages."

In other words, the creation of the Armed Services Committees, the FFRDC's, are already not subject to competition and yet we are criticized for making the universities not subject to competition.

That was not our idea. That came from the House. Everyone here knows it came from the House. With the FFRDC's, the Senate Armed Services Committee insisted that the House go back up to the level of $1.6 billion. We have reduced the FFRDC's down in negotiation to $1.453 billion.

We have brought them down. Now, we have brought them down because we did include the money, almost $100 million, for the universities. But neither of them are subject to the competition requirements of the law.

I do believe that the problem in dealing with the separate Members of the House is they have different goals, as we have separate goals. But we signed an agreement in the past, in 1986. To my memory, it said, to the best of our ability we would comply with the agreement that we would try to track one another's bill.

This Senator once again now is disturbed about the continuing feeling that the members of the Armed Services Committee somehow or other think they could have done a better job in the conference with the House Members we met with. Maybe next year we ought to switch and see if we can improve the bill. There are 20 of us. There are 20 Armed Services Committee people. Maybe we should switch and let us negotiate with the House Armed Services Committee and let them negotiate with the House Appropriations Committee.

I am not being facetious. The problem is we negotiate with different people from different States who have different priorities, and each of us have come back with a different bill than the Senate approved in the first instances. Those two bills, by definition, almost track one another.

I think Members of the Senate who are criticizing this bill now—and it is not perfect. There are a great many things in there that we argued against and, very reluctantly, at the last minute, agreed that we would work out some sort of compromise in order to bring the Senate a bill this year that I think is a very vital bill to preserve the defenses of this country.

But, Mr. President, above all I want to ask the members of the Senate Armed Services Committee to reconsider their threat. Because if every member of the House Armed Services Committee that they met with, and the conferees come back with their conference report on the majority side, can support this bill and did, then I wonder why there is this feeling by the Senate Armed Services Committee that we brought back an imperfect product.

Mr. McCAIN. Mr. President, as acting manager for Senator WARNER, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator may proceed for 5 minutes.

Mr. McCAIN. Mr. President, I would like to respond just briefly to the Senator from Alaska on the issue of the FFRDC's. He read from the Defense Authorization Act concerning the lack of competition in FFRDC's. Specifically:

> Because FFRDC's are largely exempt from requirements of the Competition in Contracting Act, placing work at FFRDC's tends to be both more rapid and less burdensome * * *.

Let us also keep in mind the committee also said:

> * * * but FFRDC's cannot be allowed to exploit unfair competitive advantages. The conferees note again the sizable growth—23 percent—in manning levels at FFRDC's since the historic peaks of the defense budget in 1985, and declare their intentions to work with the Department to develop a long-term plan to provide stable reductions in FFRDC manning in future years, commensurate with the needs of DOD for such services and the level of defense spending.
>
> Finally, the Department of Defense is enjoined from creating additional FFRDC's, unless such additional FFRDC's are authorized in law.

So I think it is important for us to recognize here, Mr. President, that comparing the FFRDC's and the expenditures earmarking for universities is clearly apples and oranges. Contracts awarded by FFRDC's are exempt from the Competition in Contracting Act.

However the agencies situated in the Department of Defense contract with such organizations on the basis of agency requirements, not on the basis of congressional earmarking of projects for specific institutions.

In fact, the defense authorization report, as I just mentioned, in language explicitly endorsed by the Defense Appropriations "Statement of Managers," placed a series of limitations on man-year levels at all the FFRDC's to prevent unreasonable growth in these institutions. And I might add, only three FFRDC's have a specific authorization in the Defense authorization bill. The rest are funded by the agencies based on work to be performed. So it is important to recognize that there are some significant differences here.

Also, Mr. President, I want to point out a need for reform that I have mentioned earlier, and which this discussion highlights and emphasizes.

Three years ago, we began this process of reform with an amendment to the authorization act that I drafted, and that required that the justification for the budget submission be explained in an annual net assessment by need, a budget where expenditures can be related to their impact on national security and where the budget data are organized under a clear definition of roles and missions. We need a budget that shows how expenditures will shape viable programs by role and mission over a period of at least 5 years, and which shows the need for continuity and stability by the Joint Chiefs of Staff which allows the authorizing committee and the appropriators to better authorize and fund our Nation's security and our defense forces.

In fiscal year 1991 we amended the authorization act to require a budget submission that showed how the budget would be spent by role and mission and over a period of at least 5 years. This new form of submission must begin in fiscal year 1993.

If we get a clear definition of how money is to be spent by role and mission, and over time, from the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, I think we may be able to avoid the kind of micromanagement which we all decry. I think we may be able to achieve better synchronization between the authorizing and appropriating committees. Our goal should be to advise and consent on the overall level of defense spending and to work with the administration in forging effective forces for each role and mission at the least possible cost. We can only do this if we have budget data that allow us to do this.

This will not, however, end the need for a stable agreement between the authorizers and the appropriators. I would like to say to my friend from Alaska that I do not quite understand the logic of destroying the present agreement if one or more or all members of the authorizing committee do not agree with the product.

I would suggest that if agreements require that all parties vote for any piece of legislation that comes out of such an agreement, that would be binding on Members of this body in such a way which I think would prevent this Senator from entering into any such agreements in the future.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

Mr. NUNN. Mr. President, I yield to the Senator from Nebraska 10 minutes.

The PRESIDING OFFICER. The Senator from Georgia yields 10 minutes to the Senator from Nebraska.

Mr. EXON. I thank the Chair and I thank my colleague, the chairman of the Armed Services Committee.

First let me start out by saying, Mr. President, that the references made to my friend and colleague from Alaska while this Senator from Nebraska was in the Chair were only an attempt by this Senator as Presiding Officer of the Senate to abide by the rules of the U.S. Senate which provides that the Chair will do everything within its power to see that debate flow freely in the U.S. Senate and that the ongoing heated discussions that take place are done in a manner in accordance with the rules.

There are times when the Chair must take action to make sure that those rules are applied. Certainly the Chair had no intention of being unduly harsh on any Member of the Senate on either side of the aisle.

The Senator from Nebraska in 13 years here has been in the Chair on many, many occasions and I believe that most would agree that I have been fair to all Senators, regardless of their political affiliation, in trying as best I could, to make sure that the debate is handled in the Senate in a way that is entirely proper.

If I offended anyone, I apologize. I was only trying to do and carry out the duties as I saw them as an occupant of the Chair during the last hour or so.

Mr. President, we are here engaged in a typical clash between appropriators and the authorizing committees. This is not the first or the last time on the Senate floor that we are going to have sharp differences of opinion. And I guess the only way we resolve these is to state our views, try and make them clear, and have a clear-cut explanation of why we are, many of us, opposing this particular appropriation conference report. It has nothing to do whatsoever with personalities. It, rather, has to do with regard to the mechanics in the future workings of the U.S. Senate.

Ever since the establishment of the Budget Committee, before this Senator came to the U.S. Senate, there has been this ongoing problem with the authority of the Budget Committee, the authority of the appropriating committee, and the authority of the authorizing committees. And I suspect until that matter is better resolved than it has been thus far, these kinds of clashes will continue to take place.

I also want to say from the beginning that I have the highest respect for the Appropriations Committee, its leadership, and especially the leadership of the Senator from Hawaii and the Senator from Alaska, who are the ranking member and chairman of the subcommittee of Appropriations having to do with national defense. Certainly, with regard to the Senator from Alaska and the Senator from Hawaii, I salute them for their understanding. I salute them for the cooperation, generally, that we have had over the years. And I think that they try just as hard as we do in the authorizing committee to do what is best and fair overall.

There has never been a perfect bill passed in the U.S. Senate. I suspect most would agree, at least, this measure is far from a perfect one. The numbers indicate, however, that with about a third of the Senate—approximately 33 Members of the 100-Member body—serving on the Appropriations Committee, the largest committee by far of any of the committees in the Senate, I guess I would have to say that all that the appropriators need on each and every bill of this type is 17 defections from the rest of the Senate that serves on authorizing committees to get their way.

So there is no question but what the Appropriations Committee remains, in my opinion, the most powerful committee as far as getting their will, more than any other committee of the Congress.

Having said that, I have some serious reservations about the speed with which we are moving. Always as is the case when we come up against deadlines, as we are right now, and so many of these important matters come down to deadlines. Not only do we have a deadline on this Defense appropriations bill, but certainly within the next few hours sometime, we are going to have brought forth from the authorizing committee the highway bill, which has been under intense negotiations between the House and Senate now for, lo, these many weeks and even months.

I suspect we may have another rather heated debate when the highway bill comes up. I do not know whether or not it will take the same general character of this debate. But I suspect it is always difficult to work out the differences between the Senate and the House bills. It is an especially difficult proposition, trying to work them out hurriedly, if not expeditiously, as we rush to adjournment.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. EXON. I was allotted 10 minutes. Has 10 minutes expired?

The PRESIDING OFFICER. The Chair corrects itself. The Senator from Nebraska has 5 minutes remaining.

Mr. EXON. I thank the Chair. I may have to ask for some additional time.

Mr. President, just let me say I think it would be wise for us to vote down the appropriations measure, which would mean we would not, very likely, finish our activity before Thanksgiving. But, coming, up, is an arbitrary date when we would all like to leave and carry on other important business. Setting all that aside, our first responsibilities, Mr. President, I suggest, are to remain here as long as is necessary up until Christmas or thereafter, to complete our work in an orderly fashion before we adjourn.

Mr. President, I am in opposition to the supplemental appropriations bill to eliminate a fiscal year 1992 Defense appropriations bill provision mandating that $25 million in fiscal year 1991 Strategic Environmental Research and Development Program [SERDP] funding be set-aside for an Arctic region supercomputer center.

Last year, I joined Senators NUNN, GORE, BINGAMAN, and other of my Armed Services Committee colleagues to establish a program to substantially increase the defense department's contributions to countering major environmental threats, such as global warming and hazardous waste cleanup, facing the United States and world. The Defense community has a great amount of resources, equipment and expertise not presently available in the commercial sector which can aid in this fight to save our environment.

The sum of $150 million was appropriated for the SERDP in fiscal year 1991 with the condition that $25 million be noncompetitively directed to the State of Alaska for the establishment of an Arctic region supercomputing center. Because this mandate was contained in report language, the Department of Defense was able to rightfully ignore the provision. But in this year's fiscal year 1992 Defense appropriations, however, the Alaska set-aside was again stated, this time as bill language.

The resources of this fledgling research and development program are too scarce for it to be the victim of this type of raid. The Statute creating the SERDP sets forth an independent procedure by which worthy programs are selected and funded. The Alaska supercomputer and its center are not a product of this merit-based process. The earmarking of this $25 million to one State, to one program, is an egregious example of Pork-Barrel politics at the expense of the integrity of the SERDP itself. This is not good government and, if allowed to continue, it will handicap our Nation's ability to direct scarce funding to our growing environmental problems.

Mr. President, I urge my colleagues to reject this conference report for several reasons, including the ones that I have just enumerated.

This bill also fences funds contained in the fiscal year 1992 Defense appropriations bill for the construction of four new military museums.

Mr. President, it seems to me in these very, very difficult times of cutting back on defense, we cannot go about creating a whole series of new museums. It simply does not make sense.

These four new museums mandated in the Defense appropriations bill and totaling $11.7 million represent collectively the illegitimate twin of the noncompetitive earmarking of university grants also contained in the 1992 Defense appropriations bill.

None of these museums were funded in the Senate-passed version of the bill, and none of these funds have been requested by the military services. Perhaps these four museums are warranted and perhaps their locations are appropriate. But we will never know and 46 States will be automatically excluded from the running. The four new museums are just the most recent examples of how a small group of Congressmen attempts to subvert the proper, competitive establishment of such institutions. I urge my colleagues to not be part of these parochial, pork-barrel games and vote against the conference report.

This is not the first time this battle against pork-barrel spending has been joined. In the whole, it comes up time and time again. It will come up time and time again in a whole series of areas.

Each year, the Senate Armed Services Committee drafts a Defense authorization bill which ignores the siren call to load up the bill with earmarked funding for universities in particular congressional districts or to fund other dubious, rigged, noncompetitive projects. And each year, under the strong guidance of committee chairman, Senator NUNN, and ranking minority member, Senator WARNER, we have achieved this goal of not earmarking these types of funding.

Mr. President, I ask for 4 minutes of additional time.

Mr. BINGAMAN. How much time remains to the Senator from Georgia?

The PRESIDING OFFICER. The Senator from Georgia has 16 minutes remaining.

Mr. BINGAMAN. Mr. President, I ask the Senator from Nebraska if he could do with 2 minutes. We have three or four other Senators waiting on the floor wishing to speak during that 16 minutes remaining.

Mr. EXON. I would certainly agree with that, so long as those of us who have not had a chance to speak on this do not have to yield to other Senators who have already spoken.

Mr. BINGAMAN. We will be glad to allocate the time in that way, if the Senator requests.

I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from New Mexico yields 2 additional minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, what we have been attempting to do in the Armed Services Committee is strike a blow, if you will, for government, good government. However it is with equal regularity that the Defense appropriation have been undercut, which gives some leeway properly to the appropriator, but yet they have kind of filled in these, changed it around for university set-asides.

This year's bill contains $95 million in university set-asides and earmarks spread over 13 States that are purposely and wrongfully, in my opinion, not intended to meet the rigors of competition, competition based on merit, competition based on cost, competition based on even more simply whether the program is deserving of taxpayers' dollars.

It is clear that the Congress should not be in the business of directing scarce funds on a preferential basis to the universities in the States of the selected few Senators and Congressmen. The American people expect more of their elected officials. They deserve a higher standard for accountability at a time when our Federal deficit is running wild, devouring the budget, at a time when social services are being squeezed by the forces of a worsening domestic economy. And $95 million in the earmarked university funding may not amount to much when compared to the overall defense budget or the entire Federal budget, but its the most significant and it is the most symbolic thing that we are doing wrong.

It is significant because the $95 million is a great deal of money even by those standards of those here in Congress. It is symbolic because it is affront I suggest to a basic pillar of good government and the trust with which the American people have placed in us and in this great institution.

In conclusion, simply let me say I have no personal involvement in this or criticism of the bill with regard to the strategic programs. I have worked very closely with the Senator from Alaska and the Senator from Hawaii. I have no basic complaint with the agreements and arrangements that they came to as incorporated in this bill, except the fact that I might add I think we are spending more money on the strategic defense initiative than is justified under the circumstances.

Just let me say that it is not because of any particular program that I reluctantly will oppose this bill. It is the overall thrust of the measures that have been outlined as wrong by myself and other members of the Armed Services Committee.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, I yield myself 4 minutes.

Mr. EXON. Mr. President, I ask the Senator from New Mexico whether or not the Senator from New Mexico has previously spoken on this subject.

Mr. BINGAMAN. The Senator from New Mexico has not spoken on this subject, I will respond.

Mr. EXON. I have no objection.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I am going to follow the lead of the chairman and ranking member of the Armed Services Committee in voting against the conference report.

This is the first time that I have voted against a conference report on the Defense appropriations bill in the years that I have been in the Senate, and I do so not so much because of the substance of that report but as a reflection of my strong belief that the process that we need to follow has broken down.

I do believe that, in the past, the bill was presented to the Senate floor in a way—with the exception of last year—the bill was presented to the Senate floor in a way that made it subject to amendment. I think in 1988, Senator NUNN was able to eliminate, and Senator DANFORTH with him, a series of porkbarrel university projects because the bill at that time was subject to amendment. Others have been able to at least get a hearing for their differences on the bill because it was subject to amendment. Unfortunately, because of the success that occurred in 1988 in eliminating some of the provisions, we find that now the bill comes back to us—it did last year, it does again this year—in a way that makes it unamendable. Accordingly, our ability to have input, our ability to amend, our ability to meaningfully oppose particular provisions is eliminated.

Others have spoken about the specific problems of the bill. Let me just cite a few of those. Clearly, there is a problem with university set-asides. Mr. President, let me just cite a particular instance that I experienced a few months ago where a president of a leading university in this country mentioned that he felt that the earmarking of funds for particular universities had become so prevalent in the Defense bill that he had no alternative but to essentially do as the Romans do when in Rome. He felt that he, as many other presidents probably have also previously decided, that in order to protect the interests of his university, he would have to go the now-accepted route of hiring a lobbyist in Washington to look out for the university's research budget, to urge, through that lobbyist, that funds be included in the Defense appropriations conference report. That is where they are included, I call to my colleagues' attention, because that is a place where they are not subject to amendment. There is no effort being made on the floor to strike those because that would not be within the procedures of the Senate. This conference report is not subject to amendment. We have no option but to vote up or to vote down on it.

Mr. President, I feel that the Senate can only function well where there is an opportunity for all Members to state their views, to offer their amendments, to deliberate issues on the Senate floor. The great thing that distinguishes this institution from other institutions, not only in this country but worldwide, is that we do have a right of amendment. That right has been denied us in this case. The bill that comes to us is not subject to amendment.

Mr. President, I will conclude by saying that it is with regret that I have to vote against this conference report. I hope very much that the procedural problems that are causing me to do that can be remedied before this process, once again, goes forward next year.

Mr. President, the Senator from Michigan has requested 5 minutes. He has not previously had a chance to speak on this bill, and I yield him 5 minutes of the time the Senator from Georgia has been allocated.

Mr. STEVENS. Mr. President, before the Senator from Michigan speaks, it was called to my attention that the dialog I had with the Senator from Georgia was charged partially against his time. I would like to give 10 minutes back to the Senator from Georgia so that there will not be an imbalance.

The PRESIDING OFFICER. The Senator has that right. The Chair is assuming that time would be taken from the time of the Senator from Alaska.

Mr. STEVENS. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Michigan is recognized.

Mr. LEVIN. I thank my friend from New Mexico. Mr. President, I will try to do this in less than 5 minutes so I can yield back time for others.

First, let me thank the members of the Appropriations Committee and their staffs because the bill contains so many good things and they have extended so many courtesies that that is the first thing I want to say to them, to acknowledge what they have done in this bill which contains so many positive things.

I am an authorizer, and I look at the world that way, and I know that they understand that. The improvements that this bill contains, as I said, are many. I am glad that they removed funds for MX missiles, which are unnecessary and were not requested. I am glad the appropriators have reduced funds for mobility for the small ICBM, a program that the President terminated in September. I am glad that the appropriators reduced funds for Trident II missiles that were not requested. I applaud their reducing funds for the advance cruise missile, a nuclear missile which has had considerable problems in development.

I am troubled by a number of aspects of this bill. Others have spoken about them. And whether one votes for or against the appropriations bill from an authorizing point of view, there are a number of troubling aspects to this bill.

First is the waiver of the Competition in Contracting Act.

Mr. President, one of the things that does concern me is the waiver of the Competition in Contracting Act. That is an act that I have had a great deal of input in and helped to write. That act is being waived so that competitive procedures need not be used for grants and award contracts in institutions of higher learning. I think it is a significant mistake to do that. That waiver of competition is opposed by associations of universities, and I want to just name a few that feel strongly that we should have competition for grants and awards to universities: The American Association of Universities strongly supports competitive procedures. The National Association of State Universities and Land Grant Colleges and many individual university presidents have spoken out about the importance of this. I know the appropriators are in a difficult position when they go to conference. I know this is not their idea, but the problem is it comes back to us unamendable. It was added in conference, and it represents a significant departure from what we must be all about in our universities.

Second, there are many unauthorized appropriations in this bill, and, again, I know that many of these were imposed by the House of Representatives in conference. But, nonetheless, there was an understanding that, to the extent possible, we would avoid any unauthorized appropriations which are not later subject to authorization. That provision that unauthorized appropriations be subject to later authorization was not added in this bill, and that represents a significant undermining of the authorization process. All Members of this body who are members of authorizing committees must be concerned by this development.

So, there are items in this bill that are deeply troubling to me on principle and, I think, must be resolved somehow by the leadership of this body. Conflict is going to occur in a legislative process. That is always the way it has been, it is always the way it is going to be. But there are now some basic conflicts which are again surfacing between the authorizing and the appropriations process which I believe the leadership of this body must attempt to resolve. The authorizing committee, being the Armed Services Committee, sets ceilings for expenditure. The appropriators set floors. When that basic approach is deviated from significantly, we have then undermined either the appropriating process or the authorizing process. And when we authorize on appropriations bills, when we waive the Competition in Contracting Act on an appropriations bill, we have deviated significantly from a process which has allowed us of function smoothly.

So I would hope that the leadership of this body would try to pull us together after this session is over to find a way that we can avoid the kind of process conflict into which we are all plunged.

Again, I want to end by thanking my friends on the Appropriations Committee. I particularly want to thank Senator INOUYE, who has labored so mightly with so many of us to make possible so many projects that we feel and he feels are important in many of our States. And I want to end as I began with a note of gratitude to him and the other appropriators. I thank the Chair.

Mr. STEVENS. Will the Senator yield for just a moment on my time?

Mr. LEVIN. I think my time is up.

Mr. STEVENS. I have time. I yield to the Senator 2 minutes to answer my question.

When the Senate passed this authorization bill, the Senate level of university research initiatives was $107 million. When the conferees from the Senate Armed Services Committee came back from their conference with the House it was $182 million. That is exactly what happened to the appropriations. What is the difference?

Mr. LEVIN. The difference is that the Competition in Contracting Act was waived.

Mr. STEVENS. It was waived by the Armed Services Committee on the FFRDC's.

Mr. LEVIN. I do not believe that we waived the Competition in Contracting Act, and I stand subject to correction on this.

Mr. STEVENS. Look at page 500 of your report, I would say to the Senator.

Mr. LEVIN. I believe that the Competition in Contracting Act has not been applied to other FFRDC's and other legislative actions, including the legislative action of the authorizers. That is a legislative bill.

But FFRDC's have not been subject, as I understand it, to the Competition in Contracting Act which is one of the reasons we have problems with FFRDC. And the last thing we ought to do is extend that further and then say because FFRDC's are not subject to competition the way others are, that we therefore should waive the Competition in Contracting Act for universities. I believe we have made a mistake.

Mr. STEVENS. I just yielded the Senator 2 minutes.

Mr. LEVIN. If I could continue my answer to the Senator from Alaska.

Mr. STEVENS. I yielded the Senator 2 minutes. I have limited time; he has limited time. I will be happy to yield him another 2 minutes to answer a question, if he wants to do it. But the question is this: House members of the Appropriations Committee tell us those Armed Services Committee people, they have an initiative and they put it up to peer review. They are basically people from the State where the peer review grants are awarded; we want some of these university grants for our districts, and we yielded to them as you yielded to the ones in your conference.

Now, why is it that the Armed Services Committee people on our side are going to vote against this bill when the Armed Services Committee people on the other side, particularly on the majority side—there were some conservatives who did not vote for it and will not vote for a bill like this, but why is it that Senators are united now to vote against the bill when each one came to me and asked me to support additions to this bill, including the Senator from Michigan?

Mr. LEVIN. I thank my friend from Alaska. What I have tried to seek consistently with the appropriating committee—and I again thank the appropriaters for their cooperation—is items which have been authorized by the authorizers. That is No. 1.

No. 2, we have not waived CICA before in an appropriating bill as far as I know. CICA is here being waived for universities and the universities, the associations of universities do not want waiver of CICA. They do not want to abolish competition. And the reason given by them is because they want fairness for all universities and States.

If I can now direct my answer to the first question of my friend from Alaska, I agree with the Senator. I think some States and some universities have been left out by the competition process, and that is why it was attempted in an authorizing bill to provide that a minimum amount of money for research and development grants would go to smaller universities.

But all smaller universities then ought to be able to compete for those funds. We should not just say that we are going to waive the Competition in Contracting Act so we can give grants to certain universities that have been omitted from the competition process or from the peer review process. If that peer review process has not worked well, we should amend the peer review process or do what we have done in other bills, which is to require that a minimum amount of money go to universities which have been left out of the process. But process is key, just as it is on this floor. And that is what we have tried to restore.

Mr. STEVENS. The Chair is watching my time, I say to my friend.

The PRESIDING OFFICER. The Senator has used the 2 minutes.

Mr. STEVENS. I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, from the time allotted to Senator WARNER, which I am authorized by him to allocate, I yield myself 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I thank the Chair.

This is a difficult time, it is clear, and you see the tensions that this dispute has raised. The reason tensions are raised is that the process has now completely collapsed. There is no means by which, whether in the Armed Services appropriations, authorization or budget or any other committee's appropriations, authorization or budget we can any longer make sense, whether it is economic, whether it is philosophical or whether it is just pure accounting sense.

There are too many says. There are now three says. There is the authorization say, budget say, and appropriations say.

What has happened now and why the tensions are so great is that the authorization process has become irrelevant, at least so far as the Senate Armed Services Committee is concerned. We are reduced by the statements of the managers of the appropriations bill to saying, "Gee, thank you, daddy." "Look in the bill, you have some nice things in there." "Gee, thank you, daddy." "But hush, child, don't you dare express any reservations about what you thought was your obligation."

Mr. President, I am one who will right now say to the distinguished Senator from Hawaii and the distinguished Senator from Alaska, "Thank you, daddy." There are some nice things in there for Wyoming, for which I asked, which the committee authorized—in fact, authorized a little bit more than was appropriated, but we got something. "Gee, thank you, daddy." But that is now our role and it is not an appropriate role.

There is no structure, Mr. President, when three committees exist. What happens then, as has been demonstrated on this floor, is that pride now becomes more important than principle, seniority more important than pride, and local economies more important than national force structure, pride or principle.

The pork now, Mr. President, is more important than the pig.

Too many says means that there is no circumference or boundary around, in this instance, the needs of America's military force. There is no budget pie; there is only a pile. And you can throw on a piece, take off a piece; it does not change the shape of the pile.

What is important, Mr. President, is somehow or another we get to a process within this body where there is a circumference; and that in order to argue a piece out of the budget pie, you must find some other satisfactory insertion to go into that pie so that the shape essentially does not change.

When you have nothing but a pile, there is no shape, there are no means by which anybody can render a judgment. That is why seniority becomes more important, that posture on the committee becomes more important; that the right sort of committee becomes more important than the whole philosophical view.

So when, Mr. President, we hear a threat to abandon the agreement, it is a hollow threat. We really do not count anymore in the process other than being able to express our gratitude if the appropriators condescend to follow our priorities. And clearly I do, as do others, have that gratitude. But we no longer have a meaningful role in the authorizing committee in shaping America's military forces, any role except that of supplicant, a beggar coming to those who hold the real power.

Our role in the Armed Services Committee now has been reduced to approving nominees of the President, promotions of military officers, to give comment on treaties like the one we are about to consider, but not to approve or disapprove it, to pass a Persian Gulf resolution to go to war with forces over which we had little or no say in shaping or producing.

So what now happens, Mr. President, is that we are faced with a conference report of the Appropriations Committee. It is unamendable. We now have two roles left to us. One is to comment, and having included, "Gee, thank you, daddy," to say what frustrates us, and vote against it—nothing else is left to us by way to shape this document.

Mr. STEVENS. Mr. President, will my good friend yield for a moment?

Mr. WALLOP. On the Senator's time without losing my right to the floor.

Mr. STEVENS. I call attention to the report of the DOD authorization bill which was presented to the floor, all 718 pages. It was unamendable. It was unamendable, exactly as ours is unamendable, because that is the only way we can get a bill.

Mr. WALLOP. I say to my friend from Alaska, that it is unamendable except by the Appropriations Committee which has just amended it. That is what brings us into the argument in which we now find ourselves. They amended it at will.

So the role of the Armed Services Committee is just as what I said it was, the role of supplicant and grateful beggar, if we get the few crumbs offered to us for those things for which we ask.

And I have absolutely the greatest respect for the Senator from Alaska, and the Senator from Hawaii. They are, I know, patriots. And they are, I know, among the few of those of us in the Senate who have actually stood up for the defense priorities and the purposes which the Senate Armed Services Committee has authorized in legislation. Lord knows where we would be without the two of them: That I absolutely will stipulate.

But nonetheless, on a whole variety of little areas we authorizers simply no longer have any say. In competition with our priorities, for example, we have in here $300,000 for the Maryland Hospital Association, clearly one of America's critical defense needs. You could go on and ridicule many more such pork barrel items.

I do not mean to ridicule anything but the process itself which has now become so corrupt that neither the appropriaters nor authorizers nor the Budget Committee really have a coherent role except to play with a pile. There is no longer any boundary line against which the changes are measured.

That is not to fault the Appropriations Committee. It is a frustration beyond reach of the authorizing committee. We really do no longer have anything else to do.

What I am saying today is the Congress of the United States, through its Budget Act and appropriations process, now is totally sick. It does not work.

The Senator from Alaska well knows that we are now in the idiotic posture that sales of the assets of the United States that would bring multimillions of dollars to the Treasury of the United States do not count as money. That is where we are. We have a process that has no economic sense, no accounting sense, no philosophical sense, no sense whatsoever, and that is why we are engaged in prodigal discussions where the pork has become more important than the pig.

That is not the fault of the Senator from Hawaii, or Georgia, or Virginia, or Alaska, or Wyoming, or anywhere else. It is what we have allowed ourselves to lapse into. It brings us in rage and frustration to the floor right now where those of us who thought we had a role find ourselves having none.

Mr. President, I yield the floor and the time that I have yielded myself in this heavy note of frustration. This is an irresponsible process engaged in by a now irresponsible body. If we do nothing else in the year in front of us without politics involved, we ought to see if there is not a better way.

Mr. President, I yield the floor.

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Would a point of order rest against an appropriations matter where the appropriations exceed the authorization?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that there is no Senate rule nor precedent that would provide for such a point of order.

Mr. SIMON. I thank the Chair.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. I want to ask a question if I could get 30 seconds.

Mr. BINGAMAN. Mr. President, I yield 30 seconds or a minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, if I could get the attention of the distinguished Senator from Alaska, Senator STEVENS, who appears to be managing this bill, I have one question that would be answered with a yes or no answer. Are there items in this appropriations bill on the Department of Defense that are not authorized by the Armed Services Committee, the authorization committee?

Mr. STEVENS. The answer is yes.

Mr. PRYOR. Mr. President, I thank the Chair. I thank the Senator from Alaska.

The PRESIDING OFFICER. Who yields time.

Mr. WALLOP. Mr. President, I yield myself 30 more seconds out of time allotted to Senator WARNER.

Mr. President, the amendment which I would have proposed if this bill were amendable would have restored two critical features to an important initiative the Senate Armed Services Committee undertook this year.

One of the major features of our bill for fiscal year 1993 was a program to enhance modernization within the Marine Corps.

As a result of several trips to the gulf by members of our committee, after-action reports from the services, and testimony from ground commanders following the war in the Persian Gulf, the committee pulled together a number of modernization initiatives carefully structured to improve areas of the Marine Corps where they had not kept pace with the other services.

These measures were enthusiastically adopted by members of the Senate Armed Services Committee and readily agreed to by conferees in the Senate-House Defense authorization conference.

These enhancements focused on armor, fire support, night fighting capabilities, tactical intelligence and mine detection, and clearance.

Together, the appropriations bills of the Senate and the House included the modernization enhancements for the Marine Corps which our committee had recommended.

Unfortunately, the outcome of the appropriations conference did not include two critical aspects of this modernization package—the multiple-launch rocket system [MLRS] for the Marines and Naval ship-to-shore fire support.

Our committee recommended in the committee report that the Marines should begin to receive in fiscal year 1993 the MLRS with which the Army is already equipped.

This system proved especially effective for the Army during the war in the gulf.

In fact, Marine Corps units were supported by Army National Guard MLRS artillery units during Marine operations in Saudi Arabia and Kuwait.

The amendment which I would have proposed would have restored the 9 MLRS launchers the Senate and the DOD Senate-House conference had originally authorized plus the 10,000 rockets that were authorized.

Mr. President, another critical area we addressed in this initiative is the fire support provided by the Navy for Marine Corps amphibious attacks and operations ashore.

We are now in the process of phasing out of the Navy the last remaining battleship.

I wish that we could afford to keep at least two of these ships in service, but the Navy has concluded that the personnel and operating costs are just too high.

Under these circumstances, we must devise new, cost-effective ways to provide the vital ship-to-shore fire support which our Marines are sure to need at some point in the future.

My amendment would have restored $4 million for studies by the Navy and the Institute for Defense Analysis to determine the best alternatives for both the near term and the future for this type of fire support.

Both rocket and gun systems were to be considered in these essential analyses.

I hope the Navy will find a way to conduct these studies anyway within the funds provided for fiscal year 1993.

Mr. President, I am prohibited from offering an amendment on this bill. I hope that my colleagues on the Appropriations Committee will support these initiatives next year in the appropriations process.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, an outside observer listening to this debate might be inclined to recall the line from Shakespeare in Romeo and Juliet, where one of the characters says: "A plague on both your houses."

Here we are with a deficit that will reach $362 billion in 1992, with a recession that has millions of Americans desperately searching for work, but who can find none, which is now stretching into its 17th month, with a Soviet empire that has dissolved, collapsed, and in danger of turning inward and devouring itself, and we are standing here conducting what is essentially a turf war over which Senate committee's military spending is going to be protected.

The simple fact is that both of these bills spend too much. Oh, yes, I understand, both bills do conform to the budget agreement. But let us be honest about it. This budget agreement relative to military spending is a relic of a bygone age, put together at a time when the country was in a state of high anxiety, facing what we thought might be a war in the Middle East. But today this is a new world. And I defy anyone to justify spending $290 billion on military, with the economy in this country in the condition it is in today.

According to the Congressional Budget Office, that $290.3 billion in budget authority that is contained in this bill before us is some $4.7 million above last year's budget authority level in nominal dollars.

That is just one evidence, one measure of how out of touch with the world we live in this whole debate is that we are engaged in today. As I stand here, approximately—it is very difficult to get a precise figure—500,000 U.S. troops are deployed overseas in 136 foreign bases, in 20 foreign countries, supported by 200,000 to 300,000 civilian employees, all overseas; about 25 percent of our total active duty forces, outside of this country, serving on foreign soil; 300,000 troops in Europe, supported by almost an equal number of civilian employees and dependents.

What does that say about a country that is in desperate condition with regard to its balance of trade and balance of payments? Supporting this massive military establishment abroad, for what?

To be sure, the administration proposes to cut that number in Europe by 150,000 in the mid-1990's. But we have to ask ourselves, what are those troops doing there now? Who are they defending? Who are they defending against?

The General Accounting Office says—and the Comptroller General appeared before our Budget Committee and testified—that we are spending over $1 trillion—a figure that boggles the mind—on the acquisition and development of over 100 major weapons systems that were conceived and designed in the days of the cold war, which is now over. Half a trillion dollars of that $1 trillion remains unspent. But, again, that is one-sixth of the yearly gross national product of this country.

I ask my colleagues, what threat is there that justifies that kind of spending? Is it paranoia that drives it?.

Congress is recognizing the problem, to some degree. We have gone on record now against the MX missile. We have had a growing opposition to the B-2 bomber, but that weapon system, like so many, in like Hydra in the Greek mythology. If you cut off one head of the serpent, it grows another.

But we are still nowhere near a true recognition of what kind of cuts are required to bring our defense budget into conformity with reality, into conformity with international reality, Mr. President, and the fiscal reality this country faces today in 1991.

Let us look at what we are doing with one system: Strategic defense initiative.

I see the distinguished Senator from Arkansas [Mr. PRYOR], on the floor. He has long been critical of our spending in this area. But in this one area, strategic defense initiative, star wars, here is a system that we spent over $24 billion for, and as far as I can ascertain, we have received nothing for it. Now we are adding $1 billion to last year's spending level on this level, bringing it up to almost $5 billion, and we are on the road toward spending $10 billion to $30 billion in additional dollars in some new variation, a new variation that has never been adequately analyzed, nor even fully debated in this body.

There is a refreshing element to this discussion, though, and let me point it out. Some of the documentation from the Armed Services Committee refers candidly to spending in the appropriations bill that is unauthorized and, conversely, to authorize programs that the appropriators chose not to fund.

So that laymen can understand what we are discussing here, these are programs that one highly defense-protective committee or another judges to be unnecessary for protecting this country's security.

The Armed Services Committee—made up of distinguished Senators, experts in the field of national security and weapons systems and military spending, et cetera—has authorized some 2 billion dollars' worth of programs and weapons systems that have been judged unnecessary by the Defense Appropriations Committee, made up of equally distinguished and energetic and learned Senators in the field of national defense, weapons acquisition, et cetera.

The Defense Appropriations Committee has appropriated some $3.4 billion for programs and projects judged unnecessary by the authorizing committee.

So what we have before us today, and really what we are arguing about, is some $5 billion worth of military spending that one committee of defense experts—the Armed Services Committee—or the other committee of defense experts—the Appropriation Subcommittee—contends is unwarranted.

An unbiased observer might say, well, OK, stop right here, argue no further. You are both right. Let us cut the programs the authorizers do not want, and let us cut the programs the appropriators do not want, and then let us put that $5 billion into something that the Nation can agree that it truly needs, such as either reducing these massive budget deficits or, if we do not want to do that, let us put it into our deteriorating education system.

Just this morning I heard, as I was getting up, on National Public Radio, the sad story of a town in Massachusetts where they are cutting the number of teachers in the school system by one-third.

The sizes of the classes are going up from 30 to 50 students. It is being repeated all across this country because we do not have the funding to finance education. Yet the administration comes before the country with some sort of slick public relations medicine show calling it "Education 2000" and saying in 2 years we are going to have the best math students and total literacy all cross this country. Absolute poppycock.

Why do we not put this $5 billion into an egregious health care system that leaves 37 million Americans with no health care whatsoever in this country?

Let us just look at some of the unappropriated authorizations. What that means is that the experts on the Armed Services Committee said that we need it. There are four F-117 Stealth fighters that cost one-half billion dollars. They were not requested by the administration. They did not want them. The Air Force said they did not want them. But they are in the authorization bill, anyway. I wonder why.

There is $115 million in the authorization bill for a small intercontinental ballistic missile program. Who are we going to use that against? It is a program that even the President says is no longer needed in his dramatic call for reducing nuclear weapons.

Let us look at the other side of the coin. Let us look at the unauthorized appropriations. In it there are $787 million for shipbuilding, much of it for ships behind schedule and over budget, and $117 million to upgrade the F-14 Tomcat airplane, an aircraft the Secretary of Defense has repeatedly attempted to cancel over the past 2 years.

So I would just sum it up by saying this, Mr. President. This is a debate that confirms what virtually everybody else has already recognized. We are funding defense programs and projects that are no longer warranted. They are not needed. The two committees can agree that some of these things are not needed. We cannot afford it.

Mr. President, I think we need to put some reality into this debate here. And it is my hope that this debate will lead us next year into a more rational disposition of the very limited fiscal resources this country has. I think we now know that our resources are not infinite. In my view that means we will have to reduce defense spending substantially below the levels charted out by the President and charted out by the budget agreement itself.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 18 minutes remaining.

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I rise in opposition to the conference report. I have great respect for Senator INOUYE and Senator STEVENS. But, for a variety of reasons, I think it is a mistake to move ahead. Part of it is provincial, real candidly.

Part of this conference report is to say we are not going to move some people from Pennsylvania to the Rock Island Arsenal that were called for in the base closing commission. We have already in the State of Illinois been hurt substantially by base closings.

But it is much more than that. Part of it is we have $3.4 billion in appropriations above the authorization, as the chairman of the Senate Budget Committee has so eloquently pointed out.

I just had a discussion with the Senator from Arkansas [Mr. PRYOR]. We are going to consider putting in a new rule in the Senate that you cannot appropriate for what has not been authorized. It would be a very practical way of getting ahold of things a little more around here.

But it is just unrealistic. When Senator SASSER, with whom I agree on everything but one issue, talks about $4 billion that we have spent on star wars, when we have schools that are inadequately funded, something is wrong in terms of how we are facing the future.

I am just reading the rough draft of a manuscript right now by the distinguished economist Lester Thurow. The book will be out in a few months. And let me tell you that book is going to stir some people, if we have any common sense at all about what has happened, where we are, and where we are headed if we do not change our habits. And we are just drifting along as though there were no crisis. That is what has happened.

I just saw this week a press release from the Pentagon saying that by the end of 1995 we are going to reduce our troops in Western Europe by 50 percent. By the end of 1995. Now, if we had all kinds of money and we were just overflowing, we had no trade deficit, maybe that would make sense.

If we can move so many troops for Desert Storm and if we recognize we have an economic storm here at home, why cannot we get half those troops out by the end of 1992?

I think it is totally irrational for us just to continue to drift, and that is what this appropriation does again; it continues to drift.

I hope we turn it down. I hope, at the very least, if then the Appropriations Committees come back and just eliminate everything that is not authorized we will save $3.4 billion. That is a substantial sum. We will have at least made a little progress. And my hope is we can get a majority in this body to vote against this conference report and then come back, and this will be one step down a road to fiscal common sense.

Mr. President, I yield back the remainder of my time to Senator SASSER.

Mr. DOMENICI. I wonder if the Senator from Wyoming would yield a few moments to the Senator from New Mexico.

Mr. WALLOP. I am happy to yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, that is extremely generous of the Senator because he is yielding his time, and I do not believe I agree with his position and I think he knows that.

Mr. President, let me talk to a couple of points that Senator SASSER raised in the few moments that I have. First of all, the chairman of the Budget Committee would have the Senate believe that the defense number, that is the cap, came from the budget agreement of last year. The truth of the matter is it was approved by the U.S. Senate twice, not last year or the year before, but this year.

The U.S. Senate voted for an authorization bill and an appropriations bill before conference, both of which had the number that we are talking about today. So I do not think we really should be arguing that the defense number is a vestige of the past unless we really believe that the overwhelming vote twice by the U.S. Senate for these numbers is also a vestige of the past. Perhaps some would conclude that it is.

My second point, with reference to authorization and appropriation, I surely hope that everyone knows that there are many things done that are not authorized because rule 16 provides for the Appropriations Committees to move the adoption of certain levels of funding without authorization.

Let me suggest if that was not the case we would have no foreign aid, I say to the distinguished chairman, who by coincidence is on the floor. More years than not we had no authorization for foreign aid and we appropriated it.

Rule 16.2 of the U.S. Senate envisions exactly what is occurring here today. It occurs when we fund the Department of Energy, for which there is no current authorization; exactly the same when we funded Justice Department.

I say to my good friend, who is worrying about this issue—I see him there—the entire Justice Department is without authorization. And would it not be interesting if you could indeed say we will have no Justice Department because there is no authorization?

Beyond that there are many more, and the rules of the United States Senate clearly contemplate as one of the methods of appropriating what the Government of the United States needs is by the Appropriations Committee finding it necessary.

If I read the rule right, there are three reasons and three ways that you can appropriate. One is if it is authorized. There is another one. And the third one envisions exactly this because it says the Appropriations Committee may move the funding even if it is not authorized, and that is because it may be needed. That is because indeed you may not have everything authorized.

That may be the wisdom of somebody that knew that we have a very confused system and we ought not fail to fund something because of the confusion. I believe that is the case.

I do not think we ought to kill an appropriation bill for defense at this late date.

I do not think at this late date, over this kind of issue, we ought to kill the defense appropriations bill. For those who do not want this much spent on defense, they have a very valid reason to vote no. For those who want to vote against it because of the technical arguments made here today, I do not believe that should be the case. For those who say it breaks the budget, let me suggest that is absolutely wrong. It might be that you do not choose to spend the money this way, but it does not break the budget.

Clearly, it is within the budget. And I submit that that same problem is the case in every appropriations bill. We are not spending it exactly where somebody wants, but it is within the budget. Nobody seeks to change those bills because they have projects or programs that are not authorized.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will one of the managers yield me 1 minute?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 10 minutes.

Mr. NUNN. I yield 2 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, my name has been brought into the debate a couple of times. I would like to respond to rule 16.2 that the distinguished Senator and my friend from New Mexico has just mentioned. Rule 16.2, Mr. President, has now been superseded by something that takes precedence over the rules of the U.S. Senate, as august as this body might be, and that is the law of this land.

I would like to quote title X, section 114, which is today the current law on authorization of appropriations.

Once again, title X, section 114, subsection (a), and I urge my friend from New Mexico to listen to this, because it says:

> (a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for [procurement, R&D. etc.] unless funds therefore have been specifically authorized by law.

That is the law of this land. And what we are doing today by appropriating unauthorized funds to the extent of $3.3 billion is not only illegal, it is wrong. And the Senator cited the Justice Department and the Energy Department, which lumbered along here for years with no authorization. Perhaps that is what is wrong with those two departments. There was never any oversight; never any questions. And that is what is happening today in many of these defense expenditures.

Mr. President, I think without question that a questioning of the parliamentary situation of this and perhaps a point of order might well lie under citing title X, section 114, and I may get to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SASSER. Mr. President, I yield 10 minutes to the distinguished Senator from Colorado, and reserve the remainder of my time, which I think would be about 3 or 4 minutes.

The PRESIDING OFFICER. The Senator would be correct. The Senator has 13 minutes remaining.

The Senator from Colorado is recognized for 10 minutes.

Mr. WIRTH. Thank you, Mr. President.

I thank the distinguished chairman of the Budget Committee, and I am proud to be a member of the Budget Committee. I thank him for yielding me some of his time.

Mr. WIRTH. Mr. President, we are in a situation today where the American public is looking at us askance. The American public is looking with great skepticism at what we do in the U.S. Senate, on what goes on in the other body at the other end of the Capitol, and in the administration, and in Washington overall. For a variety of reasons, they are saying, "You just don't get it."

And they are right. What are we debating here is another reflection of the fact that we are collectively pointing out to the American public that "We just don't get it." The context that we are talking about are tens—in fact, hundreds of billions of dollars. We are here, Mr. President, talking about close to $300 billion; in fact, in this bill, $275 billion and, in addition, $15 billion in the Department of Energy in defense programs. We are talking about a $290 billion defense appropriation.

Mr. President, people who are not familiar with the ins and outs say: Well, how much is this $290 billion? Compared to what? Is this a lot; is this a little bit? What is this compared to?

I think we have to put that, first of all, into context. And, Mr. President, I have a chart that I think helps a great deal to do that.

What this chart points out, Mr. President, is that the peacetime average in the United States since World War II, when the cold war was on, the peacetime average that we spent was almost $240 billion; a little less than that. In 1991 dollars, same-year dollars, everything adjusted for inflation, we are talking about the same numbers. Since 1945, when the cold war was on, we have spent $235 billion to $240 billion.

We spent more than that during the Korean war. There was a bump-up here. We spent more than that during the war in Vietnam. And then we had that massive ramp-up in the last decade. But the peacetime cold war defense budget was $235 billion to $240 billion.

Mr. President, the cold war is over. The cold war is over. We spent $235 to $240 billion at the height of the cold war. With Brezhnev in the Kremlin and the Soviets in Afghanistan, we spent $235 to $240 billion. And today, we are talking about $290 billion. That is the context in which we are operating, Mr. President. "We just don't get it."

This chart is a dramatic illustration of the fact that we are now way up here; we are way above even the peacetime cold war average, and the cold war is over. That is what this debate should be all about.

Mr. SASSER. Will the Senator yield?

Mr. WIRTH. Yes; I yield to the distinguished Senator from Tennessee.

Mr. SASSER. If I understand what the Senator is telling us here, you are saying these are in constant 1991 dollars, the same dollars, 1991 dollars?

Mr. WIRTH. In 1991 dollars.

Mr. SASSER. So the cold war average was $235 billion?

Mr. WIRTH. That is right.

Mr. SASSER. And now that the cold war is over, we are spending $290 billion in constant 1991 dollars?

Mr. WIRTH. That is right.

Mr. SASSER. So we are in essence spending about what?

Mr. WIRTH. $55 billion more.

Mr. SASSER. $55 billion more, with the cold war being over, than the cold war average?

Mr. WIRTH. That is correct. For the peacetime cold war average, there was a bump-up during the Vietnam war. But without the conflict going on—we are just in a state of cold war—we are now spending $55 billion a year more, same dollars, than we were at the height of the cold war.

Now, that is the context in which this debate must occur, and that is the context with which the American public ought to measure the performance of this institution and the performance of their Government.

Why is that? Because the American public knows—and apparently "we don't get it," because we are locked into these budget ceilings, and the cold war is over—the American public knows that out there, right on the homefront, in our own backyard, we are facing very, very significant problems. Middle-class kids cannot go to college anymore. Higher education is becoming the purview of the privileged few. You cannot afford to buy a new house.

People in this country know that they do not have access to the opportunities we once had. And yet, what are we doing? With this accelerated budget, we are building an advanced tactical fighter to face the Soviet stealthy threat. If you believe the Soviet Union is embarked upon the building of Stealth aircraft which we have to encounter with the next generation, then you ought to support this budget. I do not think so.

They know that one quarter of the kids in the country eligible for Head Start are enrolled. The other three quarters are not. We do not have the money for that. Yet we are building B-2 bombers at almost a billion dollars a copy. The costs of enrolling all of those kids in Head Start is the cost of a B-2 bomber. The cost of enrolling every eligible kid in Head Start—and we know that is the greatest education program with the greatest return—the cost of that is two B-2 bombers.

We know about the child immunization programs. We could immunize every child in the United States, 100 percent of those immunized, for more than a decade for less than the cost of one Seawolf submarine.

These are the kinds of choices that we in the United States have to make and we are not doing it. That is why the American public is saying to us: "You don't get it"; and we do not.

In addition to the very clear budget choices, as well—that we have, Mr. President—as very clear signals and messages and crying and yearning and begging from the American public to change what we are doing here, in addition to that there are a set of new frontiers out there that we have not even begun to address.

The distinguished chairman of the Armed Services Committee, Senator NUNN, along with Senator GORE and others, began a program of looking carefully at a whole new set of national security challenges related to the environment—global climate change, the destruction of the ocean, the hole in the ozone, the population issue—a whole set of issues that are a lot more of a threat to us than the new Soviet stealthy airplane. I am sure that that is true. Yet that environmental money was cut in half by one project earmarked in here and we had to beg, borrow, and steal just to get a small allocation of money for these issues related to this new international global environmental threat. We just do not get it.

The examples, over and over again, Mr. President, ought to be the ones that are talked about. The American public is saying to us, change your priorities.

We are building nuclear weapons in my own backyard in Rocky Flats, CO; a nuclear weapons plant right on the edge of the city of Denver.

They are saying to us we have to have a whole lot of new W-88 warheads for the Trident. To meet what threat? The President of the United States called for "radical changes in the nuclear postures of both sides" in his September 27 speech. Where is the radical change? This is incremental, not radical, change. This is incrementalism from what we were doing before.

My final point in the remaining time is the military abortion issue. We have debated on any number of occasions the military abortion provision. Women are treated as second-class citizens in the military. We have debated that over and over again. That provision was dropped out in conference. The argument was made that severe House opposition dropped this out. The House voted, by a vote of 220 to 208, to include the provision to treat women in the military the way women are treated elsewhere in our society. The House voted for that by a majority of 220 to 208; not severe House opposition. We voted on this floor last night with 57 votes in the U.S. Senate, more than a majority of the U.S. Senate, to treat women in the military the way women are treated elsewhere. Yet it got dropped—I believe in a very disgraceful fashion—in this appropriation bill. There is no reason for that. The American public is saying to us, You just don't get it. And they are right. I hope we will vote down this appropriations bill.

I thank the distinguished chairman of the Budget Committee for yielding me his time.

DEFENSE AND NEW BUDGET REALITIES

Mr. WIRTH. Mr. President, the fiscal year 1992 Defense appropriations before the Senate conforms to the caps contained in last year's budget agreement. Along with Department of Energy defense programs, we will spend $290 billion on defense this fiscal year. Those caps and that budget agreement, however, are obsolete.

This bill puts us on spending path that will impoverish vitally needed programs for Americans here at home. As Dr. Reischauer, Director of CBO, testified before the Senate Budget Committee on July 16, continued adherence to the administration's proposed defense plan and the budget agreement targets will require us to reduce spending on domestic discretionary programs in fiscal year 1994 and fiscal year 1995.

There is no rationale for sustaining these high defense budgets, Mr. President, in light of the dramatic changes in the world and pressing needs at home. Last year's budget agreement was fashioned in light of the collapse of the Warsaw pact. Since that time, we have witnessed the effective collapse of the Soviet Union.

A new political reality dawned on September 27 when George Bush embraced radical reductions and fundamental changes in our nuclear posture toward the Soviet Union. The President called for "radical changes in the nuclear postures of both sides." He validated deep cuts and unilateral moves. Noting that the "Soviet nuclear stockpile now seems less an instrument of national security and more of a burden," President Bush conceded that our security is now based on cooperation with the Soviets rather than containment.

In that speech, the President also stated that "changes that allowed us to adjust our security strategy a year ago have greatly accelerated." At the same time, however, his administration continues to cling to the defense budget levels agreed last year as if nothing has changed. Secretary Cheney touts the fact that he plans to cut the defense budget by 22 percent by fiscal year 1996—and that further reductions are impossible.

Under the administration plan, however, we will still be spending more on defense in 1995 than we were in 1980. In 1980, we spent $243 billion counted in 1992 dollars. We will spend $290 billion this year. In 1995, under current plans, we will allocate $264 billion for national defense. This is $20 billion more than the pre-Reagan defense budget.

The projected defense budget for 1995 is also significantly higher than the peacetime cold war average for defense spending—approximately $240 billion in 1992 dollars. We will still be spending more on defense in the mid-1990's than we did when the Soviets were in Afghanistan and Brezhnev was in the Kremlin. The world has changed and so must we.

We hear from the administration that we cannot possibly afford to cut defense any further. We hear that by 1996 we will only be spending 3.6 percent of GNP on defense, as if somehow defense had become an entitlement program. We hear that there is an irreducible minimum below which we cannot go.

This is nonsense. We must make choices. We must decide priorities. We must allocate finite resources among competing claims. Defense is an insurance policy. The risk has been radically reduced. So too should the premium. So too should the kind of insurance we buy.

I believe we can and should cut defense spending significantly below the Bush administration 5-year plan. The distinguished chairman of the Senate Budget Committee, Senator SASSER, has argued that we could prudently cut another $100 billion in budget authority and $70 billion in outlays from the 1993-97 defense budget. This translates into a 6-percent cut from the President's proposed build-down of the defense budget through fiscal year 1997.

The CBO has analyzed the programmatic impact of a defense budget reduction of this magnitude. The first and most obvious area for cuts is in strategic nuclear forces, beginning with the elimination of the B-2 bomber—saving $8 billion over the next 4 years. We should move rapidly toward a world in which we deploy the absolute minimal number of nuclear weapons necessary for deterrence.

CBO has estimated that we could save $26 billion in strategic budget authority by planning for a strategic nuclear force of 6,000 warheads—rather than the 10,000 permitted by START. Six thousand warheads is twice the number most strategic analysts agree would be necessary for deterrence of attack upon the United States. Why do we need to proceed with expensive programs, such as the W–88 silo-busting warhead for Trident? This year, we shall spend nearly $500 million to resume operations at the Rocky Flats nuclear weapons plant for the sole purpose of manufacturing more W–88 warheads. Rather than building more warheads, we should focus our efforts on reducing nuclear forces in tandem with those of the Soviet Union.

We must also make changes in our conventional force posture. The Defense Department claims that American security in the 1990's requires a irreducible minimum force. This level just happens to be the forces left in place after the administration proposed defense reductions are implemented: 1.6 million Americans on active duty in 12 Army divisions, 15 Air Force wings, and 12 aircraft carrier battle groups—in addition to 1 million reservists. This force is considered by the Bush administration to be the minimum capability necessary to deal with undefined future threats to American interests in the Middle East, East Asia, Central America—anywhere and everywhere.

Cutting conventional forces beyond the Bush plan is both possible and prudent. We can do so through deeper manpower reductions and cuts in procurement. We should place many planned new starts such as the advanced tactical fighter, on hold and cancel troubled programs, such as the Seawolf submarine. There is little rationale for building weapons designed in the 1980's for a Soviet threat of the 1990's. We should rely on proven weapons platforms—F–15, F–18, *Los Angeles*-class submarines—with appropriate upgrades, rather than on new starts to deal with undefined threats.

Defense reductions will cause pain—among the dedicated men and women who are separated from service and for the many companies and workers who would have built defense systems we can no longer afford. We must face up to these choices. We can avoid the pain of further defense cuts—but at a great cost to our economic and social well-being.

Mr. President, as we reduce defense spending, we must take special care to maintain a viable defense industrial and technology base—so important to our defense and to our national economy. I have spent a great deal of time chairing a task force—staffed by the Defense budget project and the Henry Stimson Center and with a very capable membership, including Martin Marietta CEO Norm Augustine—on this subject. That task force has made several key recommendations on preserving the defense industrial base as we cut defense spending. I ask unanimous consent that a statement of that task force be entered in the RECORD at this point.

General Powell has explained that "we no longer have the luxury of a threat to plan for. What we plan for is that we are a superpower." America must remain engaged in the world. We must continue to lead, but we need not—nor can we afford, nor should we—assume the full burden of international security. We must learn from the coalition success of Desert Storm and assure a more equitable sharing of the burden of security.

President Bush was absolutely correct in bringing together broad international support for Desert Storm. Future conflicts will almost certainly demand such international support. Rather than sizing our forces and shaping our policies to act unilaterally—as the Bush administration proposes—we should engage more actively in plans for coalition defense against plausible threats to American interests. We have already done so successfully in Europe and Northeast Asia. We need to build on that model of collective security, not turn our backs on it.

Finally, Mr. President, we must begin to think of ourselves as a superpower not in terms of military prowess alone, but in terms of our economic vitality—a far more important criteria than our ability to deploy expeditionary forces abroad. And our status as an economic and social superpower is in serious jeopardy.

Record deficits—$362 billion for the current fiscal year alone—threaten long-term growth. Crumbling infrastructure, poor educational achievement, inadequate health care undermine America's economic future—and with it our ability to do all the things we hope to achieve at home and as a leader in the world of the next century.

What good will our forces be to the Nation if we go broke buying them or have to pass the hat to deploy them? How sustainable is American international leadership if we are weak and divided here at home?

The end of the cold war provides a new opportunity—a responsibility—to refocus our energies on the sources of American pride and power. We must seize that opportunity and meet our responsibility to lead, to shape priorities. This session of the 102d Congress is almost over, but I look forward to a vigorous debate in the next session on these issues.

Before concluding, Mr. President, I would like to add my voice to that of Senator NUNN and others in expressing concern over noncompetitive earmarks in the Defense appropriations bill. We have been through this before, and sadly we are here again arguing against so-called university pork. I am also deeply concerned that over half of the moneys appropriated in this bill for the Strategic Environmental Research and Development Program [SERDP] have been earmarked for a project in Alaska. A supercomputer for Arctic research may be meritorious, Mr. President. So too may be the many proposals that will be unfunded by the SERDP because of this earmarking. We must find some way to avoid these earmarks in the coming session. We do not have the resources to squander.

A final note on the military abortion provision. I thought that I heard the distinguished chairman of the Defense Subcommittee say this morning that the abortion provision was dropped in conference due to "severe House opposition." Mr. President, that provision was passed by a rollcall vote of 220 to 208 in the House, and I am disappointed that this effort to provide simple fairness to servicewomen and military dependents was dropped by the conferees.

Mr. President, I ask unanimous consent that a CBO study on defense spending options be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Task Force on Defense Spending, the Economy and the Nation's Security, Sept. 17, 1991]

STATEMENT: PRESERVING THE DEFENSE INDUSTRIAL BASE

The sustained decline in U.S. defense spending since fiscal year (FY) 1985 has raised concerns about the future of the nation's defense industrial and technology base. The resulting decline in demand for defense goods and services is likely to divert U.S. industrial and technological resources away from the defense market, with the risk of leaving the United States with a weakened defense industrial and technology base which is less capable of meeting future U.S. national security needs.

The end of the Cold War and growing federal budget deficits have combined to place strong downward pressure on U.S. defense budgets. According to current projections, the U.S. defense budget will decline by 31.7 percent in constant dollars between FY 1985 and FY 1996. This ongoing decline has meant lower demand for goods and services, with defense procurement projected to fall 48 percent, and research and development spending (R&D) projected to fall 23 percent over the same time period. While this decline in DoD demand has not been felt equally across the many industrial sectors supplying the defense market, it has caused a reduction in the number of firms receiving defense contracts.

New international realities and declining levels of defense spending demand a reassessment of U.S. defense industrial base policy. We believe that the federal government should, among other activities, define policies which will help preserve and strengthen the base through greater integration with the dynamic, innovative, and market-driven national commercial industrial base. Declining defense spending levels have illuminated the weaknesses in current DoD industrial base policy and planning, weaknesses which may compromise the ability of the defense industrial and technology base to meet U.S. national security needs in an era of declining defense budgets. If the United States is to maintain a technologically advanced, cost-effective, and mobilizable defense industrial and technology base in an era of declining demand for defense goods and services, DoD will have to review and change policies which have traditionally inhibited the flow of government funded basic research discoveries, innovative dual-use technologies, advanced commercial technologies, process improvements, effective management systems, and human resources between the defense and commercial sectors of the U.S. economy.

As we identified in our July 30, 1990 *Statement on adjusting to Lower Defense Budgets*, we believe that an integrated defense industrial base, combining, to the greatest degree possible, the industrial and technological strengths of defense and commercial work, will assist the United States in maintaining its superiority in a military systems and technology while enhancing the survivability of modern and economically competitive defense industrial base. This conclusion has been widely supported by the findings of groups such as the defense Department's Defense Science Board, the Center for Strategic and International Studies, the Carnegie Commission on Science, Technology and Government, and the Office of Technology Assessment, among others, which addressed the needs of the defense industrial and technology base and identified possible federal approaches to preserving and strengthening its capabilities.

Given the diverse nature of the firms and industries supplying DoD, it is our belief that greater defense/commercial integration can, will and should spring primarily from decisions made by firms in the private sector. The challenges for the federal government are to ensure that this market-driven transition does not result in the loss of vital domestic capabilities and technologies which the market may undervalue and to facilitate the transition by eliminating existing federal policy obstacles to greater integration. Thus, we feel that the public sector also has a role to play in facilitating the industrial transition to lower levels of defense spending and must take clear and decisive steps in two areas:

(1) To define the basic security challenges to the United States, and the resulting requirements for a viable U.S. defense production and research base; and

(2) To facilitate the private sector transition, where feasible, to an integrated defense industrial and technology base by removing the public policy barriers which inhibit interaction between the defense and commercial sectors of the economy.

DEFINING DEFENSE PRODUCTION AND RESEARCH BASE REQUIREMENTS

With the decline in some elements of the Soviet Union's military power, it has proven difficult to focus federal attention on new and emerging threats to U.S. national security and the industrial base resources necessary to meet these potential treats. In order to design effective defense industrial base policy, the Congress and DoD must seek to define better a set of threat contingencies, or "stress" cases, to which the defense industrial and technology base will need to respond. Such an effort will also require an assessment of current strengths and weaknesses in the base and its ability to mobilize and respond. Policy makers must also plan future DoD procurement and research budgets in ways that reflect these security requirements and provide some resource predictability for planners within the production (manufacturing and services) and research base.

To evaluate the existing capabilities of the defense industrial and technology base, policy makers will require better information than is currently available on the composition of the base at the prime and subcontracting levels; bottlenecks in research, production and supply; and the potential costs (in terms of price, time, efficiency, and preparedness) of various production and research funding decisions currently being made on major DoD programs. In addition, attention must be directed toward measuring and identifying the effect of foreign supplied goods and technologies on the defense industrial base and its ability to meet U.S. National security objectives in a time of crisis.

PROVIDING THE INCENTIVES FOR DEFENSE/COMMERCIAL INTEGRATION

Current DoD acquisition and cost recovery policies constitute a significant barrier to greater defense/commercial integration. We urge the Congress and DoD to modify defense acquisition, military specification and contractor oversight policies in order to meet the following six goals:

(1) To encourage greater contractor investment in cost-saving technologies and process improvements within the base, thus making firms more efficient and competitive in the commercial market;

(2) To bring greater realism and stability to development and production funding over the long-term, allowing firms to anticipate demand, plan accordingly and limit the risk associated with contracting in a declining market;

(3) To lower the overhead costs associated with defense production, making defense contracting more appealing to the private sector and opening up DoD procurement to greater numbers of commercial producers;

(4) To reduce the risk associated with developmental contracts, raising the potential return on R&D investments and encouraging the dual-use application of defense technologies, thus making such contracts more rewarding and appealing to firms in both sectors;

(5) To ensure continued private sector investment in defense-related R&D, thus levering greater investment in dual-use and commercially-oriented R&D by defense contractors; and

(6) To support the creation of stronger links between the defense/government research sector and the commercial sector, thus helping to promote the transfer and commercialization of technologies from federal laboratories.

These goals can be advanced through a careful review and revision of existing DoD policies, including:

Expanding process improvement programs such as the Manufacturing Technology program (MANTECH) and the Industrial Modernization Incentives Program (IMIP);

Implementing multi-year procurement planning and budgeting, and applying selectively second source contracting for major weapons systems and other large procurement programs;

Reviewing and eliminating many military standards and specifications (MILSPECS) to allow DoD and contractor use of appropriate commercial products and technologies;

Restricting contractor oversight and auditing requirements when a firm's historical performance warrants it;

Avoiding the use of fixed-price contracts for developmental efforts and ensuring full contractor cost recovery for research and development efforts;

Granting contractors greater proprietary data and technical rights on DoD funded research projects;

Enhancing support for the Independent Research and Development (IR&D) R&D cost-recovery program, lifting IR&D cost ceilings and streamlining the cumbersome and costly technical review process, thus letting market forces determine contractor investment;

Placing greater emphasis on the funding of technology base programs;

Using technology base funding and the support of the Defense Advanced Research Projects Agency (DARPA) to support the development of dual-use technologies; and

Institutionalizing closer collaboration between DoD and the military services, as well as between DoD and other federal agencies that are involved in technology development, such as the Departments of Energy, Commerce and Agriculture, NASA and the National Institute for Science and Technology (NIST).

The members of the Task Force who endorse this statement are listed below. While each of the signatories supports the broad thrust and overall recommendations contained in the statement, they may not necessarily agree with every specific phrase.

Senator Tim Wirth, Colorado, Task Force Chairman.

Dr. Gordon Adams, Director, Defense Budget Project.

Mr. Norman Augustine, President, Martin Marietta Corporation.

Dr. Barry Blechman, Chairman, Henry L. Stimson Center.

Representative Tom Campbell, California.

Governor John Carlin, former Governor, State of Kansas.

Governor Richard Celeste, former Governor, State of Ohio.

Dr. Robert Costello, Hudson Institute.

Mr. Sandy McDonnell, Chairman Emeritus, McDonnell Douglas Corporation.

Dr. William J. Perry, Chairman, Technology Strategies and Alliances.

Mr. Harold Palmer Smith.

Mr. Preston Townley, President, The Conference Board.

Dr. Murray Weidenbaum, Washington University.

Mr. J. Fred Weintz, Jr., Limited Partner, Goldman Sachs and Co.

Mr. Earle Williams, President, BDM International Corporation.

Mr. Charles Zracket, The MITRE Corporation.

[CBO Staff Memorandum]

Implications of Additional Reductions in Defense Spending, October 1991

In view of the worsening outlook for the deficit and the evolving situation in the Soviet Union, some Members of Congress have raised the possibility of making cuts in defense spending that are greater than those planned by the Administration and required by the Budget Enforcement Act of 1990. This Congressional Budget Office (CBO) staff memorandum, prepared at the request of the Chairman of the Senate Budget Committee, examines two defense spending paths. The Chairman specified the main aspects of each alternative. The first alternative would reduce national defense budget authority to $275 billion by 1997, compared with about $305 billion under the Administration's plan. The second scenario would lower the national defense budget to $250 billion by that same year. In keeping with CBO's mandate to provide neutral and nonpartisan analysis, this memorandum discusses the implications of these two alternatives but makes no recommendations about their desirability.

This memorandum was prepared by R. William Thomas under the supervision of Robert

F. Hale, Barbara Hollinshead, Raymond J. Hall, William P. Myers, Amy Plapp, and Lisa Siegel of CBO's Budget Analysis Division prepared the estimates of defense costs under the supervision of Michael A. Miller. Questions regarding the force implications of these cuts may be addressed to William Thomas at 226-2900; budgetary questions should be addressed to Barbara Hollinshead at 226-2840.

INTRODUCTION AND SUMMARY

The Soviet military threat continues to recede. The collapse of a strong central government in the Soviet Union seems to reinforce earlier judgments by intelligence professionals that Soviet conventional military forces no longer represent an immediate threat to the security of the United States and Europe. Ratification of the Conventional Forces in Europe (CFE) Treaty will confirm a momentous reduction of armaments in the European theater, the area where the two most costly wars of the twentieth century have begun. The leaders of the United States and the Soviet Union have recently signed the Strategic Arms Reduction Talks (START) Treaty, the first such accord to mandate reductions in strategic warheads. Moreover, each head of state has since ordered the elimination of thousands of tactical nuclear weapons and proposed even more significant steps to limit strategic forces.

At the time, the deficit outlook for the United States has deteriorated. The Congressional Budget Office (CBO) predicts that in 1992 the deficit will reach $362 billion. Although the deficit is expected to decrease in the years beyond 1992, it will remain substantial through the decade if no further deficit reduction measures are adopted. Because of the magnitude of the projected deficit, the Congress is constrained in its ability to commit additional resources to social needs, such as health care, education, research, and investment in public infrastructure. Indeed, spending for nondefense activities would actually have to be reduced in real terms in 1994 and 1995 if the Congress approves the defense budget the Administration proposed while also complying with the limits last year's budget agreement set.[1]

One way to reduce the federal deficit or to provide more resources for nondefense spending is to impose heavier cuts on defense spending than those proposed by the Administration. This Congressional Budget Office staff memorandum examines two alternative defense budget paths that were specified by the Chairman of the Senate Budget Committee. The first of these would reduce national defense budget authority to $275 billion by 1997, and additional reduction of about $30 billion, or 10 percent, beyond the cuts the Administration proposed. The second alternative would achieve a national defense budget of $250 billion by 1997, an additional reduction of about $55 billion, or 18 percent (see Table 1). In the first scenario, active-duty military personnel would be reduced by 90,000 a year, while the second envisions a decrease of 110,000 a year.

TABLE 1.—ALTERNATIVE NATIONAL DEFENSE BUDGETS

[In billions of current dollars]

	1992	1993	1994	1995	1996	1997	Total 1993–97
Administration's budget projection [1]							
Budget authority	290.8	290.9	295.0	297.9	300.3	304.9	1,489.0
Outlays	298.2	292.8	289.9	291.4	295.8	294.6	1,464.4
Alternative I:							
Budget authority	290.8	287.8	288.3	286.4	281.4	275.0	1,418.9
Outlays	298.2	291.6	286.5	284.1	281.8	270.4	1,414.4
Alternative II:							
Budget authority	290.8	284.0	278.9	271.7	261.4	250.0	1,346.1
Outlays	298.2	289.7	280.4	273.2	265.7	249.3	1,358.3

[1] As reestimated by CBO. Estimates for 1994 and beyond exclude the change in accrual accounting for retirement costs proposed by the Administration and thus exceed figures reported by the Administration by about $3 billion. Outlay estimates reflect CBO assumptions about timing of outlays.

Source: Congressional Budget Office.

Alternative I, which reduces defense spending to $275 billion by 1997, would save a total of $70 billion of budget authority, or 5 percent of the Administration's projected funding for the 1993-1997 period. Savings in outlays would total $50 billion over the same period. Two-thirds of the reduction in budget authority—nearly $47 billion from 1993 through 1997—would be drawn from the investment appropriations. This represents 7 percent of the investment spending planned by the administration for the five-year period. A reduction of this size could mean canceling one or two major modernization programs and delaying several others. By 1997, under the across-the-board cuts assumed in this memorandum, the active-duty military would be about 12 percent smaller than the Administration's base force. The forces that would remain, however, would be able to maintain their training and operating tempos at current rates and would not lack equipment.

Alternative II, which achieves a $250 billion national defense budget by 1997, would reduce defense budget authority below the Administration's plan by $143 billion, or 10 percent, in the 1993-1997 period. Of this amount, $86 billion—almost twice the amount in Alternative I—would be cut from investment programs the Administration plans. Savings of this magnitude could require canceling several major acquisition programs and delaying others. Military forces would be nearly one-fifth smaller than the Administration's planned base force by 1997 under this alternative The forces that would remain might, because of the investment reductions, need to continue to operate older equipment longer than planned, but they would retain the funding necessary to maintain readiness at current levels.

Although this memorandum addresses implications of the alternative budget cuts on military forces, personnel and readiness, and investment, it does not attempt to determine whether the defense forces that would be retained under the smaller budgets would be adequate to meet U.S. security needs.

THE ADMINISTRATION'S PROPOSED DEFENSE REDUCTIONS

The Administration's plan for reducing the military establishment calls for cutting the number of active-duty military personnel to 1.63 million by 1997, a 21 percent reduction from the 1990 level of 2.07 million, with selected reserve forces reduced by almost the same percentage. Table 2 specifies the forces that are planned for 1997, the final year of DoD's Future Years Defense Program (FYDP). The Administration refers to these forces as the "base force." Twelve active Army divisions would remain in the base force, down from 18 in 1990, while the 10 existing National Guard divisions would be consolidated into six. Air Force tactical fighter wings would be reduced from 36 to 26, with all but one of those that would be eliminated being taken from the active component. The number of active and reserve Navy combatant ships would be reduced to 448, down from 545 in 1990. Twelve aircraft carriers would remain in the base force, together with 11 active and two reserve air wings.

TABLE 2—PROPOSED MILITARY FORCE REDUCTIONS

	1990	Base force[1]	Percentage reduction
Active forces:			
Ground Forces:			
Army divisions	18	12	33
Marine brigades	9	[2] 7	22
Naval Forces			
Aircraft carriers	13	12	8
Carrier air wings	13	11	15
Ships[3]	545	448	18
Air Force			
Tactical fighter wings	24	15.5	35
Strategic Forces			
Land-based ICBMs	1,000	550	45
Sea-launched ballistic missiles	608	432	29
Strategic bombers (PAA)	228	181	21
Reserve forces:			
National Guard divisions	10	6	40
Marine brigades	3	3	0
Carrier air wings	2	2	0
Tactical fighter wings	12	11	8

[1] Forces planned for 1997 by the Administration.

[2] Estimated by Congressional Budget Office based on U.S. Marine Corps personnel reduction.

[3] Includes reserve forces ships.

Source: Statement of General Colin Powell before the House Appropriations Committee, Subcommittee on Defense, September 25, 1991, except as noted.

Note: ICMB=intercontinental ballistic missiles.

Budgetary implications

The Administration's changes in military forces, together with changes in investment spending, would result in military budgets substantially lower in real terms than that of 1990. In the President's national defense budget, as reestimated by CBO, national defense budget authority (expressed in constant 1992 dollars) would decline by 21 percent between 1990 and 1995, with an additional reduction of 6 percent planned for 1995 and 1997.

The reduced level of budget authority for 1992 and 1993 complies with the limits imposed by the Budget Enforcement Act of 1990. The act limits overall discretionary expenditures beyond 1993 but does not impose separate limits on defense or other budget categories. The Administration's budget proposals for 1994 and 1995 suggest that both defense and nondefense discretionary expenditures would be reduced in real terms in order to comply with the limits in the act.

ALTERNATIVE I. A REDUCTION TO $275 BILLION BY 1997

The first alternative examined in this memorandum sets the target level of national defense budget authority at a nominal level of $275 billion in 1997, about 10 percent below the Administration's proposed budget figure of $305 billion.[2] Reductions in active-duty personnel under Alternative I would amount to 90,000 people in each year between 1993 and 1997. This would leave 1.44 million people on active duty in 1997, compared with about 1.63 million under the Administration plan.

CBO makes several other assumptions in this memorandum about the nature of the additional reductions. It assumes that the number of selected reserve personnel will not be reduced by more than the Administration has proposed, which is consistent with the spirit of recent Congressional action. Indeed, the House and Senate have not even accepted all of the Administration's proposed cuts in reserve forces for 1992.

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[1] See testimony of Robert D. Reischauer before the Senate Budget Committee, July 16, 1991.

[2] The Administration estimates the Department of Defense's total obligational authority in 1997 at $288 billion. CBO projected 1996 data for other elements of the national defense budget (chiefly Department of Energy defense programs) to arrive at the $305 billion figure.

In order to avoid reducing funds available for activities related to readiness, money in the operation and maintenance appropriation (which pays for many day-to-day operating costs) is assumed to be reduced in proportion to reductions in spending for personnel. After spending reductions for personnel and for day-to-day operating activities are calculated, all remaining savings would be achieved by reducing spending for investment. The various categories of investment funds (procurement; research, development, test, and evaluation; military construction; and defense investment by the Department of Energy) are assumed to be reduced in proportion to their current budget shares. Finally, to avoid imposing precipitous budgetary cuts, reductions are assumed to begin in 1993 and to increase gradually through 1997.

Budgetary savings

Budgetary savings would be substantial under Alternative I. Compared with the Administration's plan, the alternative would reduce defense budget authority by about $30 billion, or 10 percent, in 1997 and by a total of about $70 billion, or 5 percent, over the 1993–1997 period (see Table 3). Savings in the investment appropriations equal $47 billion in 1993–1997. Thus, the investment appropriations contribute about two-thirds of the total savings in budget authority, but make up only 44 percent of overall spending in 1993–1997. Operating savings of $23 billion make up the balance of the total savings in budget authority.

TABLE 3.—REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE I

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Military personnel	0	0.1	0.8	2.8	6.4	10.0
Operation and maintenance	0	.1	.9	3.1	7.2	11.3
Other	.1	.2	.4	.5	.7	1.9
Subtotal	.1	.4	2.0	6.4	14.4	23.2
Investment appropriations:						
Procurement	1.6	3.3	5.4	7.1	9.0	26.5
Research, development, test and evaluation	1.0	1.9	2.7	3.4	4.1	13.1
Military construction	.1	.3	.5	.6	.7	2.3
Atomic energy	.3	.6	1.0	1.4	1.7	4.9
Subtotal	3.0	6.3	9.5	12.5	15.5	46.8
All appropriations:						
Budget authority	3.1	6.7	11.5	18.9	29.9	70.0
Outlays	1.1	3.3	7.3	14.0	24.2	50.0

Source: Congressional Budget Office.

Note: All data are shown as reductions budget authority, except for the final line, which shows outlay reductions. Numbers may not add to totals because of rounding.

Alternative I would also result in substantial reduction in defense outlays. Compared with the Administration's plan, outlays would be reduced by about $50 billion during the 1993–1997 period. Reductions in the investment appropriations produce $29 billion, or 58 percent of this amount, as compared with $21 billion, or 42 percent, from reduced operating and support outlays.

The budgetary reductions under Alternative I would be substantially larger than those the Administration proposed. Alternative I would result in an average real decline in total national defense budget authority over the 1993–1997 period of about 5 percent a year, compared with an average annual real decline of 3 percent under the Administration's defense plan. By 1997, the $275 billion national defense budget would be about 33 percent smaller in real terms than the budget in 1990, compared with a reduction of 26 percent under the Administration's plan.

The $275 billion budget would, after adjustment for inflation, approximately equal defense budgets in the mid-1970s, when defense spending fell to its lowest level since 1950. However, the budget under Alternative I would considerably exceed the level of defense spending during the 1947–1950 period, between World War II and the Korean conflict.

Reduction in numbers of forces

DOD has many ways to reduce its active-duty military forces to accommodate the additional reduction in active-duty military personnel assumed in Alternative I. To illustrate one possible outcome, Table 4 shows reductions in numbers of forces, assuming that, compared with the Administration's plan, the number of active forces in each service is reduced below the Administration's proposed level by 12 percent, the same percentage by which overall active-duty personnel are reduced. There are no additional cuts in reserve forces beyond those proposed by the Administration. The method used to generate the force cuts under Alternative I assumes that additional cuts are made proportionately by each military service and that support functions (for example, training, medical care, and administration) are reduced in proportion to cuts in combat forces.

TABLE 4.—REDUCTIONS IN ACTIVE-DUTY MILITARY FORCES UNDER ALTERNATIVE I BY 1997, ASSUMING PROPORTIONAL CUTS

	Administration's Base Force	Alternative I	Reduction
Army divisions	12	10⅔	1⅓
Carrier battle groups	12	10 or 11	1 or 2
Navy ships	448	396	52
Air Force tactical fighter wings	15½	13½	2
Active Marine Corps brigades	7	6	1

Source: Congressional Budget Office.

An additional cut of 12 percent in Army forces would result in the elimination of about one and one-third divisions (four combat brigades) together with their supporting forces. This would leave the Army with fewer than 11 active divisions. The reduction of Navy personnel could result in the elimination of one or two carrier battle groups (leaving 10 or 11) and the loss of 52 combatant and support ships (leaving 396). The Air Force would have to reduce its 15.5 tactical fighter wings by 2, leaving 13.5, and make concomitant reductions in airlift, strategic bombers, and tanker forces. The active component of the Marine Corps would lose one more brigade, reducing each of the three active Marine Expeditionary Forces to a two-brigade unit by 1997.

The across-the-board pattern of reductions could be altered if disproportionately large reductions were made in certain categories of forces. Table 5 illustrates some possibilities. For example, if a decision were made to eliminate three tactical fighter wings, rather than the two wings that were eliminated under the across-the-board cuts, then savings in operation and support costs would increase by $2 billion in 1993–1997. Those savings could be used to minimize reductions in other types of units, whose operation costs are also shown in Table 5.

TABLE 5.—SAVINGS UNDER ILLUSTRATIVE OPTIONS THAT REDUCE OPERATION AND SUPPORT SPENDING

[In billions of dollars of budget authority and thousands of persons]

Force(s) eliminated	Average annual savings	Total savings in 1993–97	Reduction in personnel
Heavy army division (Europe) (3 brigades)	2.4	12.0	46
Active round-out division in U.S. (2 brigades)	1.8	8.8	34
Marine expeditionary brigade	1.0	5.0	20
Aircraft carrier battle group	1.1	5.6	19
Carrier air wing	.4	2.0	6
10 Attack submarines	.4	1.8	5
Tactical fighter wing	.4	2.0	6
50 Minuteman missiles	.1	.5	1
20 B–52 bombers	.3	1.7	5
1 Poseidon submarine	.1	.5	1

Source: Congressional Budget Office.

Note: Annual savings in operation and support costs and personnel include direct, indirect, and overhead figures. Savings for the period 1993–1997 assume that the reduction is implemented in 1993.

More far-reaching changes could also be made in some types of forces. Some observers have proposed that, in the wake of improvements in relations between the United States and the Soviet Union, the two superpowers should seek significant reductions in their nuclear weapons. If such reductions could be achieved within a few years, reductions in conventional military forces could be even smaller than those proposed in Alternative I while still achieving the required budgetary savings.[3] The implications of making deep strategic cuts in the context of the overall budget limits set by Alternative I are presented in the Appendix.

Effects on personnel and readiness

Under Alternative I, active-duty personnel would be reduced by 90,000 a year, compared with the Administration's proposed annual reductions averaging 52,000 in the 1993–1997 period. In view of the smaller size of the military under the alternative, the services could further reduce the numbers of new personnel they bring in. Relying exclusively on cuts in enlistments, however, would unbalance the military's grade structure. In the short run, promotions would be slowed and senior personnel would be forced to perform the work of more junior personnel; in the longer run, a shortage of people qualified to fill leadership roles could develop.[4] Therefore, the services probably would involuntarily separate even more personnel than under the Administration's plan. Alternatively, the Congress could enact an early retirement plan or other monetary incentive designed to increase the number of voluntary departures. The savings shown for this alternative, however, implicitly assume that additional losses represent involuntary separations and that no new separations benefits are made available.

Reducing the size of the military at a faster pace may add to the burden the services bear during the transition, but should not affect readiness of the forces that remain after the drawdown is complete. As units are eliminated, personnel who still have tours of duty to complete will need to be reassigned, perhaps physically moved, and often retrained for new jobs. Transferring equipment or preparing it for storage will absorb time that might otherwise be spent on training activities. Thus, some loss in overall military readiness is likely during the transition period. The larger cuts that Alternative I imposes could exacerbate these problems. However, once this transition period is past, the day-to-day operating funds available to a typical unit will remain unchanged from current levels and training and activities related to readiness could continue largely intact.

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[3] See testimony of Robert D. Reischauer before the Senate Committee on Foreign Relations, September 25, 1991, for estimates of savings from reducing strategic forces.

[4] For a more complete discussion of personnel issues, see Congressional Budget Office, "Managing the Reduction in Military Personnel," July 1990.

Changes in investment

Alternative I would cut $15.5 billion from DoD's investment program in 1997 and a total of $46.8 billion for those programs in 1993 through 1997 (see Table 3). CBO assumes that cuts in procurement, research and development (R&D), military construction, and defense investment programs in the Department of Energy are proportional. Thus, procurement cuts would amount to $9 billion in 1997 and $26.5 billion in the 1993–1997 period. Research and development cuts would amount to $4.1 billion in 1997 and $13.1 billion over the five-year period. These numbers are, of course, only representative of the magnitude of the cuts required. The actual mix of procurement and R&D cuts could vary to reflect the priorities of the Congress and the Administration.

Investment savings of these magnitudes could be accomplished by delaying a number of acquisition programs. Alternatively, the Administration and the Congress could accomplish most of the reduction by terminating or scaling back a few large programs. Table 6 lists some examples of specific reductions, together with potential savings.

TABLE 6.—SAVINGS UNDER ILLUSTRATIVE OPTIONS THAT REDUCE INVESTMENT SPENDING

[In billions of dollars of budget authority]

Option	Reduction
Reduce funding for modernization of armored systems[1]	2.3
Cancel C–17 airlift aircraft[2]	19.4
Terminate production of new B–2 bomber	20.9
Reduce spending for strategic defense initiative[1]	20.3
Cancel national aerospace plane[1]	1.4
Cut development and testing of nuclear warheads by one-third[1]	13.0
Cancel F–22 program[2]	11.8
Cancel aircraft carrier purchase	4.2
Cancel SSN–21 submarine program[2]	17.3

[1] 1993–94 compared with the administration proposals.

[2] For a discussion of pros and cons, see Congressional Budget Office, "Selected Spending and Revenue Options," June 1991.

[3] Some of the savings might have to be devoted to purchases of other systems to meet mission needs.

Source: Congressional Budget Office.

Note: These options are presented as illustrations, not as recommendations.

ALTERNATIVE II. A REDUCTION TO $250 BILLION BY 1997

Alternative II would achieve a national defense budget of $250 billion by 1997. Reductions in the number of active-duty personnel would be set at 110,000 a year, leaving the 1997 active-duty level at 1.34 million persons.

The assumptions made in analyzing Alternative II are generally the same as those used in analyzing the first alternative, with one important exception. Under Alternative II, it is assumed that the number of selected reserve personnel would be reduced about 22 percent below the Administration's proposal. Thus, by 1997, selected reserve forces would total about 700,000 people under this alternative, as opposed to the 906,000 in the Administration's plan (see Table 7 for details).

TABLE 7.—ALTERNATIVES FOR REDUCING SELECTED RESERVE PERSONNEL

[In thousands]

	1990 level	Base force and alternative I	Alternative II
Army National Guard	347	321	250
Army Reserve	299	230	180
Navy Reserve	149	118	90
Marine Corps Reserve	45	35	30
Air National Guard	117	119	90
Air Force Reserve	81	82	60
Total	1,128	905	700

Sources: Office of the Assistant Secretary of Defense (Reserve Affairs) for 1990 and Base Force; Congressional Budget Office for Alternative II.

Budgetary savings

Under Alternative II, reductions in budget authority below the Administration's proposed level would amount to about $55 billion or 18 percent in 1997, and would total $143 billion or about 10 percent in the 1993-1997 period (see Table 8). The resulting budgets would be smaller than all budgets since 1950, but still about 10 times larger than pre-World War II military budgets.

TABLE 8.—REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE II

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Military personnel	0.5	1.8	3.7	7.0	12.0	24.9
Operation and maintenance	.5	2.0	4.1	8.0	13.5	28.2
Other	.2	.5	.7	1.0	1.2	3.6
Subtotal	1.2	4.4	8.5	16.0	26.7	56.8
Investment appropriations:						
Procurement	3.1	6.3	10.0	13.0	16.4	48.7
Research, development, test, and evaluation	1.9	3.7	5.0	6.3	7.4	24.2
Military construction	.2	.6	.9	1.1	1.4	4.2
Atomic energy	.6	1.2	1.8	2.5	3.0	9.1
Subtotal	5.8	11.7	17.6	22.9	28.1	86.1
All appropriations:						
Budget Authority	7.0	16.1	26.1	38.9	54.8	142.9
Outlays	3.0	9.5	18.1	30.1	45.5	106.1

Source: Congressional Budget Office.

Note: All data are shown as reductions in budget authority, except the final line, which shows outlay reductions. Numbers may not add to totals because of rounding.

Outlay reductions under this alternative would total $106 billion in the 1993–1997 period. Reductions in 1994 and 1995 would be about three-quarters of those needed to avoid any real reductions in nondefense spending while still complying with last year's budget agreements.[5]

Changes in numbers of forces, personnel, and readiness

The additional 100,000 active-duty personnel eliminated under Alternative II would require somewhat larger cuts in active-duty forces than the cuts under Alternative I. If cuts in the military services were made as they were in Alternative I, each service would be reduced about 18 percent more than it would be under Administration plans. For the Army, this would result in the elimination of two divisions (six combat brigades) from the active component, leaving 10 divisions (see Table 9). Four combat brigades would be eliminated from the Army's reserve components, leaving fewer than five National Guard division. The reduction in Navy personnel could result in the elimination of two carrier battle groups (leaving 10) and the loss of about 80 combatant and support ships from the 448-ship fleet in the base force. The Air Force would be reduced to 12.5 tactical fighter wings in the active component and about 8.5 in the reserved component. Although the active component of the Marine Corps could retain three divisions, each with two brigades, the reserve division would lose one of its three brigades.

TABLE 9.—REDUCTIONS IN MILITARY FORCES UNDER ALTERNATIVE II BY 1997, ASSUMING PROPORTIONAL CUTS

	Administration's base force	Alternative II	Reduction
Active forces:			
Army divisions	12	10	2
Carrier battle groups	12	10	2
Navy ships	448	368	80
Air Force tactical fighter wings	15½	12½	3
Marine Corps brigades	7	6	1
Reserve forces:			
National Guard divisions	6	4⅔	1⅓
Tactical fighter wings	11	8½	2½
Marine Corps brigades	3	2	1

Source: Congressional Budget Office.

Because it cuts more personnel and forces, this alternative would make the transition to a smaller force more difficult. For example, involuntary separations of career military personnel might increase by about 100,000, compared with those necessary under the Administration's plan. Faced with this increase, the Congress might feel it necessary to increase incentives for voluntary separation in order to ease this burden. Once this transition period passed, however, the readiness of the remaining units should not be adversely affected.

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[5] For a more complete discussion of this issue, see testimony of Robert F. Hale before the Senate Budget Committee, July 16, 1991.

Effects on Investment

Reductions in investment spending would be substantial under Alternative II. Investment funding in 1997 would be reduced by $28 billion, a reduction of 21 percent below the Administration's proposal (see table 8). The total reduction of $86 billion through 1997 would represent a cut of 13 percent in the Administration's planned investment spending for that period. Assuming the proportional cuts that are used in analyzing these alternatives, procurement programs would have to be reduced below the Administration's request by $16.4 billion (21 percent) in 1997 and research and development appropriations by $7.4 billion (21 percent).

Achieving these substantial additional cuts in investment would require canceling a number of the larger defense procurement and research programs and slowing acquisition of other weapon systems. Reductions in minor procurement would also be required.

The cutbacks that would occur under this example could increase shortfalls in spending for procurement over the long run. During the next decade or so, the Administration plans to equip many military units with new and expensive weapons. CBO estimates that under the Administration's plan, procurement budgets in the next decade would have to rise substantially above levels planned for the mid-1990s.[6] The additional reductions in funding for procurement under this alternative could exacerbate this problem. However, further reduction in numbers of forces under this alternative would reduce long-term procurement needs. Reductions in procurement might also prompt the services to hold down the cost of new weapons, thus helping to minimize shortfalls in procurement funding over the long run.

Near-term effects of Alternative II on the defense industrial base may be of even greater concern. Procurement budgets have fallen sharply in recent years, the legacy of large budgets in the 1980s combined with the reductions in forces and tight budgets expected in the 1990s. Coupled with the high prices of many new weapons, the lower procurement budgets of the 1990s will eliminate the purchase of many types of arms. The predictable result: the industrial base for weapons production will shrink, perhaps jeopardizing the ability of the United States to produce weapons in large quantities later in the 1990s or in the next decade, should that be needed. The substantial reductions in procurement under Alternative II could heighten concern over this problem.

OTHER APPROACHES

Other approaches to cutting defense spending are certainly possible. The pattern of reductions laid out in the two alternatives presented above limits the pace of cuts in personnel, leaving the balance of cuts to come out of spending for investment. Within each category, the alternatives assume proportionate cuts in individual appropriations. The Congress, however, has many other options if it determines that additional cuts in defense spending are appropriate. It could cut only active forces, or both active and reserve forces. It could reduce the appropriation for day-to-day operating costs (operation and maintenance) beyond those cuts assumed here, either by mandating additional efficiencies in day-to-day operations or by limiting funds for training and support.

Within the investment accounts, the Congress could follow the lead of the Administration and favor research and development funding by making larger reductions in procurement appropriations at a time when the services enjoy equipment surpluses. Conversely, it might seek additional cuts in research and development appropriations, restoring them to their historical balance with procurement spending. Planning future defense budgets will require careful consideration of the nation's military priorities and may depend, as well, on how the world political situation evolves.

APPENDIX

A DEEPER CUT IN STRATEGIC FORCES

Recent days have seen dramatic proposals by Presidents Bush and Gorbachev to eliminate land-based tactical nuclear warheads and to negotiate major reductions in strategic warheads. Smaller reductions in spending for conventional forces would be possible if the Administration and the Congress were to agree to a schedule and program for such strategic reductions. This Appendix describes one illustrative example.

The example, which constitutes a third alternative, postulates that the United States would reduce strategic nuclear warheads to a total of 6,000 by 1997, as compared with the approximately 10,500 strategic warheads it would possess under the START treaty limits. The Soviet Union would also limit its warheads to 6,000.

The resulting strategic force, although smaller than current forces, would still provide the United States with substantial ability to absorb a first-strike attack and retaliate against a wide variety of targets. The United States would retain a triad of delivery systems, consisting of 97 B-1 and 30 B-2 bombers, 18 Trident ballistic missile submarines, and land-based missiles. But under this approach, a number of current Administration initiatives to modernize forces would be terminated or scaled back. In particular, the option assumes that the small intercontinental ballistic missile program would be terminated, only 30 B-2 bombers would be bought, and that fewer Advanced Cruise Missiles and D5 Trident missiles would be purchased than current Administration proposals specify. This illustrative example also assumes that the United States and the Soviet Union agree to reduce the number of strategic warheads to 6,000 in time to begin making the cuts in 1993. If they were to agree later, savings would be smaller in the 1993-1997 period.

This alternative would draw a much greater share of its overall savings from strategic programs than would Alternative I. Reductions in strategic programs, compared with the Administration's plan, would save $26.3 billion over the 1993-1997 period, leaving about $44 billion to be achieved through cuts in conventional force programs (see Table A-1). Only some $24 billion would be saved from operating budgets over the five-year period.

TABLE A-1. REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE III

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Strategic forces	0.7	0.9	1.2	1.5	1.6	5.9
Conventional forces	0.	0.	.8	4.9	12.8	18.5
Subtotal	.7	.9	2.0	6.4	14.4	24.4
Investment appropriations:						
Strategic forces	2.8	1.8	2.2	6.9	6.7	20.4
Conventional forces	0.	4.0	7.3	5.6	8.8	25.7
Subtotal	2.8	5.8	9.5	12.5	15.5	46.1
All appropriations:						
Budget authority	3.5	6.7	11.5	18.9	29.9	70.5
Outlays	1.6	3.6	7.2	13.9	24.3	50.5

Source: Congressional Budget Office.

Note: All data are shown as reductions in budget authority, except for the final line, which shows outlay reductions.

Conventional force reductions would still be necessary to meet the overall target for reducing military personnel set in Alternative I. Strategic force reductions provide relatively little savings in personal and operating costs. This alternative, however, would delay the schedule for implementing the conventional force reductions described in Alternative I by about two years, thus giving the Congress and the Administration more time to assess international developments before initiating the process of reducing conventional forces below the Administration's base force level.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. NUNN. I yield the Senator from Tennessee 5 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. GORE. My thanks to my distinguished chairman, my colleague, the Senator from Georgia.

What we are hearing here today is that this process has begun to break down in serious ways. It needs attention. We cannot fix it here today. But what happened yesterday and what happens with this bill here today serves notice on the Senate that, as the new session begins in January, we really have to think about some major changes in the way the process works.

I say this with regret because, in many ways, the process has worked in that the personal relationships between the authorizers and the appropriators are very good and strong, and on a number of issues the appropriators have been very responsive to members of the authorizing committees.

In my own case, I would like to note my appreciation for the fact that the appropriators moved toward the authorizing bill on the issue of the small ICBM and mobility in a way which preserves this option and confronts the administration with an opportunity to make a major strategic choice wisely which can save money and move us and the Soviet Union toward a stable balance.

I also want to acknowledge the grain of truth in what my colleague from New Mexico said earlier about the fact that a lot of agencies and departments get money appropriated when they are not authorized. That is true. The breakdown really began in the willingness of Congress, beginning some years ago, to allow agencies and major parts of the Government to continue operating without being authorized. But that has not been the case with the Pentagon. It has not been the case with the Armed Services Committee.

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[6] See, for example, Testimony of Robert F. Hale before the Subcommittee on Projection Forces and Regional Defense of the Senate Armed Services Committee, June 14, 1991.

I hold no brief here that our chairman is more able than any other chairman in either body of Congress. But he is pretty able. And we who serve on that committee have tried very hard to make sure that there is an authorizing bill every year that pays careful attention to every detail that has to be authorized. And where the process is working, for the Congress to then sanction an action that ignores the work that has been put in is wrong. I think it is unfortunate that to that extent cooperation between defense authorizers and appropriators has broken down.

Those of us who have worked hard on the authorizing legislation are left with the feeling that this year, the process has not done justice to our labors. We are also left with the feeling that precedents are being set which make it increasingly difficult—perhaps even impossible—to justify what we are all doing as a rational and, somehow, coherent process.

If we are spending too much money overall—and I believe we are—then why not put the burden back on the appropriators to find an authorizing bill before appropriating? That will, over time, cut down on what is approved and authorized and appropriated overall.

Let me just give two concrete examples of what leaves me feeling dissatisfied and inclined to vote against the bill before us. I have worked hard for the last 2 years on the Strategic Environmental Research and Development Program. Senator NUNN and I have brought this forward, and others on the committee worked to improve it. The program is designed to stimulate and finance innovative research into environmental issues with a view toward helping the Departments of Defense and Energy better handle their environmental challenges. Other aspects of the program are aimed to promote data exchange across the barriers between the defense establishment and the private sector in areas of environmental concern.

To manage this process, our legislation created a carefully balanced governing council of officials from both DOD and DOE, backed up by a science advisory board drawn broadly from the community of nongovernmental experts. We worked hard to devise a system that would look hard for good programs to back, that would make well-considered choices in an atmosphere as objective as we could make it.

Now let us look at the outcome of the process. This year's appropriations bill takes $25 million out of the total $150 million appropriated for SERDP, and mandates that it will be spent at one particular institution for one particular kind of research that has not been peer reviewed, has not been examined by any of the members of this science advisory council, and has no backing from the SERDP governing council.

The question of the merit of this directed application is not an issue here, nor are the intentions of the principal sponsor of this particular project at issue here. I am sure that one could find some merit. I know that those enthusiastic about it believe it is merited, but it ought to compete. It ought to be considered along with the other projects that need priority attention. What bothers me is that this proposal did not have to compete against others, was never evaluated against others, and will go forward at the expense of all other possibilities.

Now, the second example. I worked hard for 2 years to get data from the intelligence community made available to environmental scientists when the national security data is scrubbed out of it. I have worked very carefully with the chairman of the Intelligence Committee, Senator BOREN, with our counterparts in the Intelligence Committee in the other body, with Senator NUNN and the staffs of the Commerce Committee, the Armed Services Committee, and the Intelligence Committee.

In fact, just 2 days ago, I conducted another lengthy roundtable session with intelligence experts and environmental scientists. Now I find in this bill there is allocated $1 million to a consortium for an Earth science information network designed to do precisely this. And to this hour, the combined efforts of the Intelligence Committee staff, the Armed Service Committee staff, and the Commerce Committee staff have been unable to find out where the Earth science information network is, who it is, what it is, who sponsors it. We do not know.

When members of an authorizing committee put 2 years' worth of work in trying to solve a complex set of problems for the benefit of this country, and then in the dead of night the work is partially undone and steered toward a mysterious location which the Intelligence Committee, the Armed Services Committee, and the Commerce Committee cannot even find yet, then the process had broken down. In spite of all the efforts that have been made to cooperate, which are appreciated, overall the process is not working. As a result, I will stand with my chairman, Senator NUNN, and I will vote against this bill.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

FUNDS APPROPRIATED TO KANSAS STATE UNIVERSITY, SALINA CAMPUS

Mr. DOLE. Mr. President, I commend the chairman and ranking member of the Defense Appropriations Committee, Senator INOUYE and Senator STEVENS, for their hard work and enduring commitment to our national security. The process of building down our forces while ensuring that our vital interests are secure in this uncertain world is a formidable task. This bill strikes the difficult balance between limited resources, an uncertain security environment, and preservation of our industrial base, and yet, it will keep America strong.

Further, I wish to thank the distinguished chairman and ranking member for their thoughtful consideration and recognition of the leadership displayed by Kansas State University, and particularly the college of technology at the Salina campus in the field of aerospace. It is my understanding that this bill appropriates a grant of $7.7 million to Kansas State University at Salina to purchase equipment and to administer comprehensive professional pilot, aviation maintenance, and avionics training programs.

Mr. INOUYE. The distinguished Republican leader is correct. This bill, as outlined in the conference report, specifically appropriates a grant of $7.7 million for the Salina campus of Kansas State University. These funds are for the purposes stated by the Republican leader. I wish to add that Kansas has long stood at the forefront of world aviation. This is due to the high level of skill and commitment of that great State's work force and to the educators and administrators of Kansas universities and colleges. Kansas has led the Nation in providing state-of-the-art training and educational programs such as this one. Kansas State University is to be commended for this forward thinking and innovative approaches to aerospace engineering, education, and training.

Mr. STEVENS. Mr. President, I agree with the distinguished chairman's characterization of the leadership role that Kansas plays in America's aerospace and defense industry. I want to add that Kansas State University has invested heavily in the ability to extend its fine educational and training services nationwide through satellite transmission. It is my understanding that the Strategic Air Command and the Kansas National Guard are keenly interested in utilizing the educational and training services represented in this grant. I strongly encourage their fullest participation and recommend that all of the military services make the maximum use of this cost effective, state-of-the-art approach to education and training.

Finally, let me note that a full description of the intended use of this $7.7 million grant is not detailed in this report. I would ask the distinguished Republican leader if he wishes, for the record, to outline the program for which these funds will be utilized.

Mr. DOLE. I thank the managers of this bill for their comments. I would like to provide a brief description of the program that for which this grant is intended. It is my understanding that $7.7 million is to be disbursed by the Department of Defense to Kansas State University. The funds will be used to purchase aircraft, single engine and multiengine flight simulators, equipment for composites and electronics laboratories, turbo engines for laboratory use, a turbine thrust cell, a painting and stripping station, computer hardware and software, avionic stations and associated equipment, a nondestructive ultrasound testing laboratory, and for administrative purposes. Further, it is my understanding that this is a one-time appropriation and that course curriculum and configuration control of this equipment will be the sole responsibility of Kansas State University unless otherwise provided for by the Department of Defense.

Mr. INOUYE. Mr. President, the distinguished Republican leader's understanding of the nature of this appropriations grant to Kansas State University is consistent with my own and reflects the intent of this bill and conference report.

Mr. STEVENS. Mr. President, I agree with my colleague, the distinguished chairman.

Mr. DOLE. Mr. President, I would like to conclude my remarks by commending Jon Wefald, president of Kansas State University and his fine staff, Mel Chastain, Larry Pankratz, Tom Cornelius and others whose superb leadership and tireless efforts will build this program into one of the premier aviation programs in the country. It has been a long time since that day in the early 1960's when, as a junior Congressman from the Kansas First Congressional District, I was notified that Schilling Air Force base in Salina, Kansas, and in my district, was to be closed. I recall trying to get the assistance of then Senators Pearson and Carlson. But, I could not get through to discuss this terrible event. After numerous attempts to get through, Frank Carlson's administrative assistant finally returned my call. I explained that Schilling Air Force Base was going to close and asked what could be done about this. The response provided this junior Congressman with a tough political lesson. The young man on the phone said, "Congressman DOLE, we don't announce base closings in this office, just base openings".

It has been a little over 30 years since I had to make that announcement to the people of Salina. But, I am delighted to announce this base opening—at the very same location.

SHARED FLEXIBLE COMPUTER INTEGRATED MANUFACTURING FACILITY

Mr. DOMENICI. Mr. President, the conference report, in amendment numbered 97, includes the following provision, "* * * not less than $3 million of the funds appropriated in this paragraph [Research, Development, Test and Evaluation, Defense Agencies] shall be made available as a grant only to the New Mexico State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense."

I would like to take a moment to clarify the importance of this appropriation.

This country's defense capabilities are maintained, in large part, by civilian contractors to the Department of Defense. These contractors, be they large corporations working on multibillion-dollar procurement contracts, or smaller companies with just a few employees, provide essential manpower, materials, and manufacturing know-how that have helped to keep this country's military the most technologically advanced in the world. I believe it is vitally important that we support this correlation between our industrial and manufacturing base and our military might.

Mr. INOUYE. I certainly concur in this sentiment.

Mr. DOMENICI. I thank the chairman. The funding in the bill will help to ensure that we maintain this country's preeminence in the manufacturing of defense and commercial components. The $3 million is to be coordinated by the National Center for Manufacturing Science and provided to the Shared Flexible Computer Integrated Manufacturing Facility at New Mexico State University. This facility will work with small- and medium-sized companies to share resources, technology, personnel, and the most advanced manufacturing equipment. This facility will train personnel so they become familiar with state-of-the-art machine tool technology. These activities will provide opportunities for smaller domestic manufacturers to contribute to the Nation's defense manufacturing base.

Mr. STEVENS. Mr. President, I join Senator DOMENICI in his support for this endeavor. I certainly support efforts that coordinate our commercial and military industrial efforts.

Mr. DOMENICI. Mr. President, I want to thank the chairman and ranking member for their support of this initiative.

Mr. STEVENS. Mr. President, I have in my hand an article entitled "Peer Review: Treacherous Servant, Disastrous Master." It is from the Technology Review for October 1991, a very pertinent article. Let me just quote in part:

> Peer review, out of control, makes science a jungle where politics rules and fraud is tolerated.

Another quote:

> Peer review suggests trial by a jury of one's peers, a jewel in the crown of Western democracy—surely an excellent model. But it takes more than a jury to have a fair trial. A lynch mob is also a peer panel. Rules and procedures—jury selection, rules of evidence, the requirement that evidence be heard in public—and a judge to interpret and enforce them are necessary if fallible people are to render fair decisions.

Another quote:

> Peer review resists investigation. Only insiders know the details of each decision. They may not tell the truth, and the technical background needed to extract the facts is hard for outsiders to learn. Lacking the omniscience of Orwell's Big Brother, we must be content with horror stories of reviewing gone wrong.

Another quote:

> The Federal Government uses a variety of ways to decide how to fund science. Department of Defense managers can fund whomever they like, without having to get advice.

A whole series of reviews of the processes of peer review.

I ask unanimous consent this be printed in the RECORD, and I call it to the attention of anyone who wants to talk any more about peer review.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Technology Review, Oct. 1991]

PEER REVIEW: TREACHEROUS SERVANT, DISASTROUS MASTER

(By Charles W. McCutchen)

"Peer review, out of control, makes science a jungle where politics rules and fraud is tolerated."

Science has become a profession: grants and research contracts are what it lives on. Whereas a rich dilettante like Lord Rayleigh could retire to his country estate and do acoustics or whatever else he wanted, modern scientists must sing for their supper. They do not sing to their patron, the U.S. taxpayer. They sing to other scientists, who wield over them the power of professional life and death via peer review.

Peer review, the evaluation of a specialist's work by others in the same field, is an inevitable consequence of specialization. Example: though anyone can tell if a bridge design is truly bad—the bridge collapses—it makes sense to have other engineers check the plans before the bridge is built. Science uses peer review to determine which projects to pay for and which articles to publish, and, recently, to judge cases of alleged misconduct.

Peer review suggests trial by a jury of one's peers, a jewel in the crown of Western democracy—surely an excellent model. But it takes more than a jury to have a fair trial. A lynch mob is also a peer panel. Rules and procedures—jury selection, rules of evidence, the requirement that evidence be heard in public—and a judge to interpret and enforce them are necessary if fallible people are to render fair decisions. Specialist peer review is fraught with biasing influences. Specialists compete with one another and, at the same time, fight collectively for their profession.

Peer review is at best a treacherous servant, but scientists often forget that a jury trial is more than a jury, and act as if the use of peers automatically sanctifies the resulting decisions. Establishment scientists have been treated well by peer review; scientific administrators use it. Both want to believe in it, and the need engenders beatification by faith. "Peer review is the distinguishing characteristic of science," they say. "It makes science what it is."

They are right—in a way. Every scientist is an informal peer reviewer. A scientist's work affects science only if others accept it. But formal review of grant applications, manuscripts, and fraud allegations also makes science what it is, and here human failings can yield improper decisions whose practical consequences and poor ethics propagate throughout science.

Peer review resists investigation. Only insiders know the details of each decision. They may not tell the truth, and the technical background needed to extract the facts is hard for outsiders to learn. Lacking the omniscience of Orwell's Big Brother, we must be content with horror stories of reviewing gone wrong. Though such stories do not directly reveal the frequency of mistakes, they show which human failings are involved, and thus the likelihood of trouble and how to reduce it.

PEER REVIEW AND GRANT GIVING

The federal government uses a variety of ways to decide how to fund science. Department of Defense (DOD) managers can fund whomever they like, without having to get advice. They do not compete for contracts with the scientists they might choose. Instead, they shine in the success of the programs they manage, and should something go wrong in a program, the manager is responsible. These are all good features. Unfortunately, managers are subject to agency politics.

As consultant to a small firm, I watched the Navy fail to give a fair hearing to our best idea, Sea Knife, a fast boat of strange but simple shape that rides smoothly in rough water. We decided that the Navy's small-boat people would not admit that a craft by outsiders might be better than theirs. But having figured a way around this obstruction, we were funded to build Wavestrider, a faster though rougher-riding and more complicated boat. We got unrelated contracts to explore far-out and ultimately unsuccessful forms of marine propulsion. I think these were funded because they threatened no powerful group within the Navy.

At the National Science Foundation (NSF), too, managers make the final funding decisions but with the advice of peer reviewers. Managers benefit from the peers' specialized knowledge but have the authority to correct for peer bias. As at the Defense Department, should something go wrong, the program manager is responsible. For years, George Koo Lea, director of the fluid mechanics program, supported Van Chao Shein Mow, now of Columbia University, for work that was never novel and true at the same time. Workers in his field, the lubrication of animal joints, who disagreed with the professor had trouble getting funded by NSF.

At the National Institutes of Health (NIH), where I have worked since 1964 in biomechanics, optics, and fluid mechanics, peer reviewers effectively make the final decisions; managers are nearly powerless. In each discipline, a peer panel—the study section—evaluates grant applications. By secret ballot, each panel member gives an application a numerical score, and these scores largely decide its fate. An upper, advisory council can fund projects slightly out of the order of their scores without attracting comment, as can program managers. But when whistleblower Robert Sprague, a grantee for many years, did well in the study section but lost out at the advisory council, the event made news.

Since peer review puts a scientist's future at the mercy of competitors, is it any wonder that career issues are a respected, if unadmitted, influence on decisions? Would we not expect mutual assistance pacts to be accepted facts of life? Should we be surprised that politics is especially ripe in disciplines funded by NIH, where the power of scientists over one another is essentially unchecked? Van Mow receives three-fourths of all NIH support of research in joint lubrication and still accomplishes little. For years, those with contrary views received none. Support for research on lubricin, the lubricating chemical in joints, ceased in 1982.

Since power over grants confers power elsewhere, dissent in joint-lubrication research appears only in unrefereed publications such as conference reports and public lectures or in journals of distant fields. Timothy Harrigan and his then supervisor, MIT biomedical engineer Robert Mann, made an important contribution to the theory of how cartilage in joints deforms. Refused by the Journal of Biomechanics, it was accepted by Archives of Rational Mechanics.

If NIH grant administrators made the final funding decisions, they could be called to account for permitting cronyism. But peers are the ultimate authority, and because they exercise this power in secret, no one is accountable. This unaccountability makes the NIH system attractive to management. When a Professor Mow seems to have an inside track, NIH blandly declares that his success shows that his colleagues think well of him. Whoever gets funded, NIH can say the decision was out of its hands. However deserving Dr. X from Rep. Y's district may be, administrators can say they have no way of influencing X's funding. Privately, NIH officials admit there is politics in study sections but say it is a price worth paying to insulate grants in biomedical science from national politics. The cost was surrendering control of funding to scientific politicians.

NIH has one potential lever. The executive secretaries of study sections, who are NIH employees, appoint section members and could use that power to suppress the politics. Although members, who serve for four years, cannot succeed themselves, they expect a large say in the choice of their successors. A section secretary could threaten, "If you misuse your power, your successor will not be from your faction." But such action would require support from NIH management, because section secretaries are not famous scientists. The support would not be given, since NIH conceals this power of appointment. The handbook describing the study sections says that their members are "selected by the NIH" but supplies no details. The impression given is that peer review is above the vulgar mechanics of the appointing process. Without support from above, an executive secretary would need great courage to stop a determined cabal from controlling NIH funding in a discipline.

So cronyism proceeds. In 1976, Mow and Peter Torzilli published two spectacularly erroneous papers on joint lubrication. NIH knew experts held the papers to be nonsense. They predicted such a rapid flow of fluid through the porous joint cartilages that viscous losses would have generated heat 100 million times faster than mechanical work was being done on the joint. Yet Torzilli replaced Mow when the latter left the Orthopedics and Musculoskeletal Diseases Study Section in 1984.

INHERENT FAILINGS OF THE PROJECT GRANT SYSTEM

Politics is particularly bad in biomedical research because biomedical scientists directly control the flow of money that supports their disciplines. But even without politics, today's grant system, in which scientists propose future research projects to an agency, would be bad. The system gained its popularity after World War II when there were fewer scientists and most projects were funded. But even in those flush times, the Office of Naval Research, Atomic Energy Commission, and National Science Foundation all refused Donald Glaser when he asked for funds to develop the bubble chamber, later the standard device for observing particles in high-energy physics.

The great ideas in science in the next few years will be those not yet thought of. The system ought to select people likely to think them, but, alas, it is inherently biased against such speculation. Granting agencies want certainty, and reviewing peers fear unexpected discoveries by their competitors. As NIH puts it in a pamphlet for grant applicants, "Reviewers prefer limited clear goals that can be realistically approached; rather than broad, multiple questions or vague goals the entertainment of which is open to doubt."

The caution of officialdom displays itself in a 1940 report from the Gas Turbine Committee of the National Academy of Sciences: "Even considering the improvement possible . . . the gas turbine could hardly be considered a feasible application to airplanes mainly due to the difficulty in complying with the stringent weight requirements." Thus did great men, including engineer-fluid dynamicist Theodore von Kármán, evaluate the turboprop and jet engine.

The project grant system ignores the range of human talents. As well as inflicting anguish on inventive people, it has no official niche for promoters, people who make enterprises go, people like Vladimir Zworykin who persuaded RCA to spend its money developing television. The grant system does not eliminate such promotership; it just perverts it. Promoters pretend to be great and impossibly active scientists to get money in promoter-scale quantities. They sign every manuscript from their laboratories and accumulate reputations earned by the work of others.

The grant system disrupts the chains of authority and loyalty between scientists and universities. Each university scientist is like a pirate ship raiding the U.S. Treasury. The university provides docking space; in return, the scientist provides for his or her keep, and preferably more, out of grants. To the scientist, the university is a leech; to the university, the scientist is a prima donna. In the middle of these cross purposes, students are supposed to be taught.

PEER REVIEW OF JOURNAL ARTICLES

When peers referee journal articles, they perform a valuable service. They find mistakes and sometimes fraud, and they form a trial readership whose reactions show what to change to hold a reader's attention. A referee who knows the field can clarify what is and is not novel in a manuscript. Competent reviews take hours or days of hard work and are a tribute to those who do them.

Unfortunately, the power of referees, usually anonymous, permits self-interest, jealousy, revenge, and other unworthy motives to influence decisions. Dozens, probably hundreds, of letters to the editor over the years show that nastiness in reviewing contributes to a general unpleasantness in the publication process and in science as a whole.

Reviewing weeds out good manuscripts as well as poor ones. Frederick Lanchester's 1894 circulation theory of how wings lift, Chandra Bose's photon statistics in 1924, Enrico Fermi's theory of beta decay in 1933, Herman Almquist's discovery of vitamin K_2 in 1935, Hans Krebs's citric-acid cycle in 1937, and Raymond Lindeman's trophic-dynamic concept in ecology in 1941 all were turned down at least once. Charles Fourier and Gregor Mendel had trouble getting published. We will never know how many deserving manuscripts remained unpublished.

The time and energy spent fighting to be published are lost forever. Lindeman died before his article appeared, and the delay Almquist suffered may have cost him a share in a Nobel Prize. The discoveries by Fermi, Almquist, Krebs, and Lindeman were held up only for a short time, but the circulation theory of lift was delayed over a decade.

My experience has been similar. Since Lord Rayleigh's time, it has been known that the wave nature of light spreads the image of a point source into a blur whose shape on the focal plane is described by the two-dimensional Fourier transform of the lens aperture. The image projected by a square lens is a diamond-shaped array of checkerboard squares. I realized that a Fourier-transform relation between aperture and image also holds true in three dimensions. When I attempted to publish this fact in the *Journal of the Optical Society of America*, referees rejected it. The editor kindly published it in response to my plea. This relation is now the starting point for calculating the three-dimensional resolving power of confocal scanning microscopes.

This evidence is anecdotal, so, by current convention, those who find it uncomfortable can ignore it. But in 1977 Michael Gordon wrote in the *New Scientist* that Henry G. Small of the Institute of Scientific Information had found "a significant negative correlation between referees' evaluations of [highly-cited chemistry] papers and the number of citations the papers subsequently received." Low citation scores followed high opinions by referees, and vice versa.

The inability of peer reviewers to judge good papers should be no surprise. A discovery is usually a better-than-his-or-her-average product of a brighter-than-average (or perhaps simply unusual) scientist; the resulting paper will likely be reviewed by an ordinary scientist, operating at an ordinary degree of inspiration, and possessing human imperfections. Truly novel papers may not be understood. Those understood will be envied and perhaps rejected with one excuse or another. In 1844, J. J. Waterston tried to publish a paper that anticipated by several years the kinetic theory of Clerk Maxwell and Ludwig Bolzmann. A referee pronounced it "nothing but nonsense, unfit even for reading before the [royal] society."

These famous examples of rejected discoveries end with World War II. With the rise of grant-supported science, few manuscripts are unembellished reports of discoveries. A discovery is too valuable to reveal in a journal article until it has been used in grant applications. By the time most discoveries are published, they are already on the rumor circuit, and the papers announcing them include data generated in work the grants paid for.

It is follow-up papers that most scientists write and that referees are most likely to approve. A paper starkly describing something new looks strange and will be treated like the proverbial ugly duckling. An example: theoretical treatments of a plate planing on the surface of water like a surfboard demand that a sheet of fluid be ejected forward from under the plate. I found this not so in practice. Instead, there is a tumbling mass of foam where the plate meets the water. When I tried to report this in the Journal of Fluid Mechanics, none of the four referees disputed my findings, and three complimented my work. But the four were unanimous that my manuscript could not be published in the journal. One said my account was too sketchy even for a grant application. So far as I know, official fluid dynamics has not yet acknowledged the phenomenon, though my article is now Appendix D in Planing by Peter Payne.

Publications can lead to jobs and research support; NIH hired me as a result of my publications on joint lubrication. By denying publication to unadorned discoveries, refereeing obstructs this career channel and drives innovators to the granting agencies and ultimately to the establishment. A deadening uniformity is enforced. Dilettantes are squeezed out, not because they are bad scientists but because they do not belong to the union. This is a major loss. A Parisian gardener was the first to reinforce concrete with steel. Lanchester, inventor of the circulation theory of lift, was a mechanical engineer, not a fluid dynamicist. The inventor of the traveling wave amplifier was trained as an architect, and two musicians invented Kodachrome.

Adding to the number of scientists by drawing from the fat middle of the bell curve of ability may retard rather than accelerate progress. As reviewing peers, the new recruits may silence and starve better scientists out of science. This happened to Douglas Kenyon, who once calculated the flow of water though joint cartilage. He now works for the Marathon Oil Co., and calculates the flow of petroleum through rock.

I call the cooperation of referees with the establishment an "evolved conspiracy." Referees, doing what their personal devils make them do, force innovators into the arms of the establishment, and the establishment is happy with this fact. Were it unhappy, changes would be made.

MISUSING PRIVILEGED INFORMATION

Reviewing of journal articles and grant applications gives reviewers the intellectual pleasure of interacting with authors and proposers, as well as education that, I suspect, has led to more advances than generally realized. These rewards are legitimate. Some rewards are not.

An obvious misuse of privileged information is rejecting or delaying a competitor's paper. The anonymity of referees ordinarily renders this untraceable. In 1978 Vijay Soman and Philip Felig rejected an article on anorexia by Helena Wachslicht-Rodbard and others to ensure priority for an article of their own. The action was detected only because the offenders plagiarized the reviewed article, and their manuscript was sent to Wachslicht-Rodbard for review.

Under cover of anonymity, reviewers can steal ideas from grant applications and manuscripts. There have been many private complaints by apparent victims. Theft is hard to prove, but it is known that the composition of the first material that was superconducting at the temperature of liquid nitrogen was leaked from a paper that Maw-Kuen Wu et al. submitted to Physical Review Letters; the leak was revealed because yttrium was wrongly called ytterbium in the manuscript. This error turned up on the grapevine.

A few proved cases do not show that stealing is common. But the rewards are large, especially now that professors must win grants to get tenure and promotions. It is bad form for victims to complain in public. Indeed, it is half-accepted that big fish will appropriate the success of little fish. Jocelyn Bell's discovery of pulsars won a Nobel prize for her superiors but not herself. There was an outcry but not of the size the injustice deserved, nor did the superiors seem embarrassed.

PEER REVIEW AND FRAUD

The current attempt to deal with scientific fraud is science's first brush with formal self-regulation. Self-regulation of any profession runs afoul of collective self-interest and pack loyalty. When disciplinary committees operate in secret, these influences have full rein. Need I enlarge on the ineffectiveness of the disciplining of doctors by doctors?

Though a few fraud cases are famous, most investigations have been ineffective: a top HIH administrator told me that no university can bring itself to use the word "misconduct." He exaggerated. A very few small fry have been found guilty—for example, the unfortunate Lonnie Mitchell of Coppin State College in Baltimore. He had his grant application prepared by a professional writer who plagiarized someone else's application that Mitchell had provided as a model. Alas, the plagiarizee reviewed Mitchell's proposal.

The vast majority of scientists who stand accused before a university bar of justice are exonerated. Tim Beardsley recently reported in Scientific American that the accused was found guilty in only 16 of 110 cases completed by the Office of Scientific Integrity (OSI) since it took over as NIH's fraud squad in early 1989. According to Lyle Bivens, head of the Office of Scientific Integrity Review (OSIR), which oversees OSI for the Department of Health and Human Services (HHS), NIH has reversed only one university exoneration. At face value, this says that most fraud charges are baseless, but we have only the word of the universities and OSI that this is true. Details of the exonerations, including the names of accuser and accused, are secret. (I am suing HHS under the Freedom of Information Act in an attempt to lift this secrecy.) Where secrecy has been penetrated, exonerations have been found to be mistaken. Both the University of Wisconsin and OSI declared James Abbs innocent of Steven Barlow's charge that he had forged an illustration for a journal article by making a smoothed tracing of a figure in an article co-authorized by Abbs and Barlow. Neurology has published a letter to the editor in which I demonstrated the relationship between the figures. Abbs's published response gave no satisfactory explanation of the resemblance.

A little-known case is revealing. The University of Medicine and Dentistry of New Jersey, and later OSI and OSIR, all told Gene L. Trupin that he was wrong in claiming that Barbara Fadem had stolen his research. OSI and OSIR ignored obvious signs of trouble. Just one example: in defending herself and other members of the university faculty against a lawsuit by Trupin, Fadem said that a journal article he and she co-authored proved that Trupin knew certain facts when the article was submitted. Court records show the facts in question were added to the article at the proof stage, 10 months after the date of submission. OSI knew about this dodge at the time it found Fadem innocent. It also knew that the suit was settled out of court in 1988 with a $60,000 payment to Trupin.

As long as NIH's watchdog is blind to evil when it wants to be, is it any wonder scientists learn that ethical pliability is a professional necessity, and find it prudent to discover that what looks like fraud is a "scientific disagreement," an "error," or "sloppiness"?

One might think a determined whistleblower could force OSI to conduct a real investigation. Not so. Once OSI receives an accusation, it tells the whistleblower little or nothing. As the whistleblower who got the Abbs case reopened I was volunteered no information: OSI's predecessor office did not tell me to prepare a 10-minute presentation, but I was never summoned to make the presentation, nor told it was called off. Meanwhile, OSI's impenetrable secrecy encouraged Abbs to complain that this constitutional rights to due process were being trampled. He sued and won on a technicality. DHHS is both appealing the verdict and, as the judge required, going through the steps laid out by the Federal Administrative Procedures Act.

Universities routinely use peer panels to investigate and judge fraud. This shifts responsibility but does not get justice done. A powerful accused scientist or pack solidarity can frighten a panel into seeing no evil. The panel that the University of Wisconsin convened to investigate Abbs's alleged faking ignored blatant inconsistencies in his submission. For example, Abbs falsely claimed that accuser Steven Barlow had displaced one record before comparing it with the other. The public gaze might shame a panel out of doing a whitewash, but panels operate in secret. Incredibly, in its filing under the Administrative Procedures Act, DHHS proposes that determinations of guilt no longer be printed in the Federal Register. Secrecy, secrecy, ever more secrecy.

Secrecy gives full rein to subterranean forces, and a major scientist can bring great force to bear. Panels at MIT, Tufts, and NIH all said, wrongly, that no misconduct was involved in a paper co-authored by Thereza Imanishi-Kari, Nobel laureate David Baltimore, and others. It is a matter of record that Baltimore used both a letter-writing campaign and professional lobbyists in an unsuccessful attempt to get Congress to halt Rep. John Dingell's (D-Mich.) investigation of that matter. (It was Rep. Dingell's investigation that finally forced NIH to mount a real investigation of its own.)

Media interest in the Baltimore affair is more than instinctive celebrity chasing. Fake work impedes progress much more if a major scientist is involving than otherwise, because others must pretend to agree with it if they want jobs or grants. I know of no attempt by other scientists to duplicate the precise experiments in the Baltimore affair. Scientists supposedly delight in providing one another wrong, but they hesitate to embarrass someone with power and the willingness to use it.

Because no one at NIH is accountable for the decision to fund Professor, no one feels betrayed, no one is angry or ashamed if X commits fraud. So NIH washes its hands of the matter and passes off the consequent cover-up as political realism. As an official in the Department of Health and Human Services said to me about OSI: "They have to compromise." Expedient exonerations are excused as being for the good of science. If the public got the idea that a lot of fraud exists, the argument goes, it might not support research. The whistleblowers is, figuratively, given a loaded pistol and told to do the proper thing.

According to the New York Times, retired Harvard microbiologist Bernard Davis believes it would have been better had the Baltimore affair been dropped. The biomedical science establishment would rather let fraud continue than have it publicized, a policy that will keep fraud going forever. Concealment requires that the sinners keep their funding. Abbs and his laboratory received millions in government support after the initial brushing off of the complaint against him. So long as such scientists are protected and fed, their species will multiply.

By not using its control over who gets funded, NIH has given up the power that would go with being paymaster. Despite signing $7 billion a year in checks for research, NIH was unwilling or unable to prevent MIT's whitewash of Imanishi-Kari, Wisconsin's of Abbs, and numerous similar instances.

Were NIH to invoke its power of the purse, a university might say it was applying improper influence, a confrontation NIH evidently fears. James Wyngaarden, ex-director of NIH, and Joseph E. Rall, ex-deputy director for intramural research, have both said that universities have run ineffective investigations, but NIH has never punished—or even tongue-lashed—them for doing so. Nor has it said that running a bogus investigation is unethical. Yet unless NIH greatly expands OSI, the agency will depend on university investigations of fraud.

Compare NIH with NSF, where managers make the final decision about who gets funded. With responsibility comes accountability—for such odd decisions as siting the National Earthquake Engineering Research Center in Buffalo, N.Y., rather than in California. One can also question the reasons for moving the National Magnet Laboratory from MIT to Florida State University. But whatever one may think of them, these decisions show that NSF has power. If NSF wanted a university to investigate a fraud, the school would remember the movability of laboratories before doing a whitewash. Perhaps this power is reflected in the apparent lack of fraud in the parts of science NSF funds.

TAMING A FRACTIOUS HORSE

Reform the grant system: Suppose politics could be eliminated from NIH study sections. Suppose DOD and NSF program managers were all smart and incorruptible. The project grant system would still be a time-destroying Moloch, demanding and reviewing long applications, most of which are not funded, and it would still sponsor sure things rather than imagination. Block grants to universities would be better. The schools would decide who to support however they wished, using any system they wished, from despotism, to democracy. Universities have made good choices in the past. The University of Michigan found the initial, essential money for Donald Glaser's bubble-chamber research.

Each year, universities would go to the federal government and argue for support. Let them bring citation scores, rumors of Nobel Prizes almost awarded, whatever they want. Out of this free-for-all, a formula would emerge, no doubt with loopholes and exceptions, and the negotiators would return home exhausted and tell the troops how they made out. The mutual dependence of scientists and brass would develop the loyalty upward and downward that makes institutions bearable to their members.

Under the block-grant system, everybody in a university would be in the same lifeboat and would benefit collectively from one another's success. Still, researchers would continue to compete within the school, so to dull the teeth of university politics, perhaps 10 percent of federal support should remain as grants to individuals.

No-fault publication: Specialist journals should never reject. If scientists are worth paying, they are worth hearing from. A referee who thought a paper wrong could try to argue the author out of publishing it, invoke a six-month cooling-off period, impose a length limit of a page or two, and have signed comments published along with the paper. If no-fault publication results in a flood of garbage, it shows that scientists are creating garbage. Better we learn about this than conceal it.

General-circulation journals like Science and Nature would still reject most manuscripts they receive. Their editors, not reviewers, should make the final decision. Editors are the filter that catches reviewer misbehavior. Essay-form reviews can be windows into a reviewer's motives, and having one reviewer from outside the specialty under review is a wise precaution against discipline politics.

Editors of all journals should ask reviewers to be as kind as possible, and authors should know the identity of writers of adverse reviews. A referee whose identity is known is less likely to steal from a paper, reject or delay it for professional advantages, or be pointless nasty. On the other hand, favorable reviews should be anonymous to discourage reviewers from trying to curry favor with authors. There is no way to keep them from informing authors privately, but the rule would remind them it is unethical.

Fraud: The fraud problem reflects the ethics at the top of biomedical science. By not retaining for itself final authority over funding decisions, NIH left this power unguarded for ambitious scientists to pick up. With power came arrogance and the feeling that rules were for lesser beings. The cure is obvious. End the carving of their own cake by biomedical scientists, and the steamy politics will dry up.

If funding is not reformed, the scientific establishment will remain the problem, and the solution must come from elsewhere. John Dingell cannot interest himself in every fraud case, so the public's sense of fair play must be enlisted as a force for justice. Whistleblower and accused should know everything that occurs at every stage of an investigation so they can object and, if necessary, complain in public. The final conclusions of all fraud investigations should be made public.

If a peer panel has to make the final decision, as it might in cases of fraud, only extraordinary measures will yield justice. Because panel members are specialists judging fellow specialists, Precautions beyond those in jury trials are needed to counter the effects of politics and pack loyalty. Accused and accuser, or their advocates, must have the right to question panel members in public about decisions before they become final. Unless these or very similar reforms are instituted, OSI should be closed, because it cannot yield justice.

Using peer review is like riding a fractious horse. One must understand its bad habits and never let it forget who is boss. Kept under control, peer review can yield good advice. Given its head, it will hurt people, serve the interests of the reviewing peers, and warp the institutions that use it. Where possible, peers should not make the final decisions but should advise the decision makers, who can filter peer self-interest from peers' recommendations. As a fractious horse is only as good as its rider, peer review is only as good as the program managers and editors who use it, but these people are visible and can be called to account for their decisions.

(Charles W. McCutchen emerged from Cambridge University in 1957 with a doctorate in nuclear physics and a gadgeteering outlook. Introduced to joint lubrication by the New Scientist, he discovered the physical principle that accounts in part for the low friction of animal joints. Long interests in boats and model airplanes induced self-education in fluid dynamics. He found that the trout tail is a self-cambering hydrofoil, and that the seeds of ash and tulip trees rotate as Flettner rotors as well as spin around their heavy ends like maple seeds. Later, he used shadowgraphs of thermally stratified water to render visible the wake of a swimming tropical fish. In 1980, he published a warning in the Journal of Aircraft that the pitching motion of unstable airplanes should be controlled from the front. Several new and proposed fighters follow this practice.

(McCutchen has experienced reviewing both as reviewee and reviewer. Getting published was not a problem in nuclear physics or its instrumentation. At the other extreme, he found the Journal of Fluid Mechanics uncrackable.

(Seeing his own theory of joint lubrication displaced by what he calls politically enforced nonsense gave McCutchen a strong interest in the influence of scientific politics upon funding and in scientific misconduct in general. His friendship with NIH fraud busters Ned Feder and Walter Stewart introduced him to many instances of fraud, including the Abbs case touched on in this article.)

Mr. STEVENS. Mr. President, I ask my friend from Hawaii, does he desire some of my time? How much time do I have left?

The PRESIDING OFFICER (Mr. GORE). The Senator from Alaska has 12 minutes remaining.

Mr. STEVENS. I give all but 2 minutes to my good friend from Hawaii who must manage the bill and answer these allegations.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my friend from Alaska for his generosity.

Mr. President, the Senator from Georgia placed into the RECORD a copy of a letter that he and other Members of the authorization committee addressed to Senator STEVENS and myself. So, Mr. President, I ask unanimous consent that a reply by Senator STEVENS and myself, together with an analysis of the briefing prepared by the Armed Services Committee and the slide presentation be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 22, 1991.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

The Hon. JOHN W. WARNER,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SAM AND JOHN: We thank you for your letter of congratulations regarding the conclusion of our conference on the Defense Appropriations bill. We appreciate the support that you offered to us when our bill was brought before the Senate for consideration.

We are disappointed that you cannot fully endorse our conference agreement. I am sure you understand that no conference agreement ever fully satisfies any member or either body. All parties must be willing to compromise to reach accord. While there are items in your conference with which we are not in complete agreement, such as the funding level and stipulations involving the B-2 bomber, we none the less supported this policy decision of your Committee in our conference and have voted in favor of your conference report on the floor.

You can be assured that the Senate conferees struggled hard to uphold Senate positions, particularly those of import to the Committee on Armed Services, including the overall funding level for SDI, the initiative on a limited ABM site and the termination of the F-14 remanufacturing program.

We are concerned that the members of the Armed Services Committee may not be fully aware of the agreement of the two committees. The agreement calls for both committees to try to avoid reversing the policy decisions of each other, recognizing that, because the House is not a party to this agreement, neither committee can guarantee outcomes which are determined in concert with the House.

We are more disturbed that the description of unauthorized appropriations may be overstated. From the review of our staff, most of the $3.3 billion described as over authorization represent decisions that have been previously approved by the Senate and were not opposed by the Armed Services Committee. These include $600 million for sealift, $188 million for the Coast Guard, and $150 million for claims resulting from the volcano at Mt. Pinatubo. Additionally, the $710 million noted as over authorization for corporate information management and $500 million for real property management are merely reallocations of funds authorized in the Defense Authorization Act. Together these represent more than two thirds of the funds cited in your letter.

The remaining funds are primarily modest amounts, except those for National Guard and Reserve Equipment. While we recognize that these funds have not been specifically authorized, we believe it is an appropriate reallocation of savings identified in our conference; one which, we believe, will be supported by the Senate, to continue to vigorously support modernization of our National Guard and Reserve forces.

With the assistance of our staff, we reviewed the briefing charts used by the Armed Services Committee to explain the differences between our two committees and we have prepared a memo on that subject. To aid in your understanding of the specific proposals in the conference report, we have attached a copy of this memo for your review.

We hope that this letter and the attached memo will serve to alleviate your concerns about our conference agreement, and trust that this explanation willl allow you to support our conference report.

Sincerely,

DANIEL K. INOUYE,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate.
TED STEVENS,
Ranking minority Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate.

MEMORANDUM

To: Senator SAM NUNN, Senator JOHN WARNER.
From: Senator DANIEL K. INOUYE, TED STEVENS.
Date: November 22, 1991.
Re: Commentary on briefing slides presented in November 22, 1991, Senate Armed Services Committee meeting on the FY 1991 Defense appropriations conference report.

Our analysis makes reference to the briefing slides used in the meeting. We have attached a copy of them and will refer to them in order.

Slide 1—This slide quotes existing statute on the requirement for authorization prior to the obligation or expenditure of funds.

Slide 2—This slide presents a synopsis of the memorandum of agreement between the Armed Services Committee and the Appropriations Committee. Clearly, the parties to the agreement understood that, in point of fact, the agreement could not be regarded as binding, because the House counterpart committees would not be bound by the agreement. The conditional aspect of the agreement is recognized in the actual text of the agreement. To wit:

"6. Both Committees pledge to try to avoid reversing the policy directions of the other committee."

"7. The Committee on Appropriations agrees to try to avoid the incorporation of legislative provisions in annual Defense Appropriations Bills * * *"

We would note, therefore, that the agreement is, essentially, a pledge to make a good faith effort to maintain comity between the two committees. On this point, there can be no question. The Defense appropriations subcommittee has made a concerted effort to support and advance the policies and the positions of the Armed Services Committee throughout the year and in conference. We have shared our markup notes prior to subcommittee markup, we have supported Armed Services Committee positions on the floor both in support of your bill and in our bill. Indeed, from our perspective, comity between the two committees this year has been at its highest point in recent years.

To repeat, the appropriations subcommittee on Defense has worked assiduously to support armed services positions both on the floor and in conference. The bill which the Senate Defense Subcommittee managed on the floor conformed to the Senate passed authorization. In conference, however, the Senate conferees had to yield to the House on several issues to achieve an overall agreement.

In this regard, it should, perhaps, be noted that several Senators on the authorization committee had written to Chairman INOUYE advocating positions held by the House and which, as it happens, were often at odds with those of the Senate passed authorization.

Slide 3—This slide presents an overview of the "problems" the Armed Services Committee has with the FY 1992 Defense appropriations conference report.

The first bullet asserts that the appropriations conference provides $3.3 billion in 17 accounts in excess of authorization. We will address this assertion when we comment on the more detailed slides which follow.

The second bullet asserts that there is "significant 'legislating'" in the appropriations bill. The first assertion is that the bill waives title 10 requiring competition on university grants. That is accurate. The underlying legislation in title 10 requires that, for a grant to be made to a specific college or university, the provision of law making the grant must specifically waive the competition requirement. We have done so. We have followed, with precision, the process established by your committee and required in law.

The assertion is also made that an amendment to allow military depots to become subcontractors to commercial defense contractors is "significant" legislation. The amendment was accepted in conference as part of a compromise agreement involving programs of interest to both Senate and House conferees. It is doubtful that overall agreement could have been reached without this or a similar compromise.

The third bullet asserts that the conference agreement reverses policies established by the authorization committees. It is true that the conference agreement allowed the non-competitive extension of a CHAMPUS contract. However, Senate conferees were successful in resisting an effort by the House to both extend and significantly expand the CHAMPUS contract. Because of Senate action, meaningful competition will occur in the expansion of the CHAMPUS reform initiative to New Mexico, Nevada, Arizona, and the tidewater area of Virginia. We tried to uphold the policy, but we were unable to get the House to agree to the recompetition of a contract which had been won through competition in previous years.

On the suggestion that the appropriations conferees reversed certain program directions it can be said that we did, in fact, allow side-by-side testing of radar warning devices for the B-1B bomber. This was in contravention of authorization direction, but we did not regard it as a significant departure since it was allowed in last year's appropriation.

On the question of the P-3B aircraft, we did not reverse authorization. This is, simply, a misstatement of fact.

The slide correctly indicates there was a problem in the classified portion of the conference agreement, but as soon as it was brought to the attention of the Senate conferees, we moved to correct the error.

Slide 4—This slide discusses possible courses of action. We will not comment on these other than to suggest that perhaps there should have been some discussion of how the Armed Services Committee might work more closely with the appropriations committee to avoid a recurrence of problems. Throughout the past year, the Defense appropriations subcommittee staff has attempted to engage the Armed Services Committee staff in discussions which might lead to enforceable criteria on grants to colleges and universities. We would welcome an opportunity to move these discussions forward.

Slide 5—This slide discusses "university set-asides." It is inaccurate and fails to note that at least four university grants are authorized, another is in the statement of managers and may be competed, and several were put in by Senate conferees at the behest of members of the Armed Services Committee. Among the latter are:

Senator DIXON—Illinois Institute of Technology.

Senator KENNEDY—New England Consortium for Photonics Research.

Senator KENNEDY—Northeastern University.

Senator GLENN—Medical College of Ohio.

It should also be noted that the item which leads the armed services list of university set-asides, "Prostate research at Walter Reed," is not a university set-aside. The program funds valid health research at the Walter Reed Army Institute of Research.

Slide 6—This slide presents information on other "set-asides." As with the previous slide, it is inaccurate and fails to note that, of $146.1 million in appropriations on the list, $87.2 million is authorized, $37 million is in the budget request and authorized, and $25 million is in for the release of prior year funds.

As for the museums, a total of $11.7 million in appropriated funds is provided for four museums all of which are also supported by private contributions. It is interesting to note that in the conference agreement we provide appropriated funds in support of private museums. In other instances, private organizations support museums on military installations. For example, a museum at Warner Robbins Air Force Base in Georgia is supported by private contributions, but land and facilities (valued at in excess of $1.3 million) is provided by the Air Force for use by the private organization.

Slide 7—This slide portrays appropriations accounts which are said to exceed authorization. For the Guard and Reserve operation and maintenance account, we admit that we exceed authorization by $7.7 million. These accounts total $7,361,200,000. It cannot, reasonably, be said that the appropriations conference exceeded the authorization level in any meaningful way.

We did provide $1 million above authorization for the National Board for the Promotion of Rifle Practice. We funded the account at the Senate authorized level. The House did also. The amount was not in our conference.

We did provide $2 million in excess of authorization for humanitarian assistance by the Military. It is puzzling that those who proposed $1 billion in aid to the Soviet Union would now object to a $2 million increase for humanitarian assistance programs of the U.S. Military.

On the Army ammunition account, we were hard pressed to keep the level as low as we did. Many Senators, most notably Senator DIXON of the Armed Services Committee wrote to the Defense subcommittee requesting increases in funding for Army ammunition. We are $6.7 million over authorization in this $1,369,000,000 account.

For National Guard and Reserve equipment we did exceed authorization, but one may well ask, if we are able to achieve savings in other areas, are we wrong to put additional funds into the Guard which has been underfunded for years and is in need of modernization if it is to meet the challenges of the future. Even at the appropriations level, the account is some $638 million blow the amount provided to the Guard last year.

By the way, of this $816 million over authorization, $354 million is for C-130 aircraft and $129 million is for MH 53 helicopters. Both items are of great importance for Senators and Congressmen.

The $710.3 million for the "corporate information management" program funds a Defense Department initiative which we hope will save money in the procurement and management of computer appropriations accounts into one to improve management and our oversight. That is our job.

The same reasoning applies to the real property maintenance account.

As an aside, let me note that funding for shipbuilding, the real property maintenance account all passed the Senate—without complaint from the authorization committee—at higher levels than emerged from conference.

Slide 8 This slide purports to depict programs which were funded in excess of the authorized level. We will not comment on all of them, but we will note that the Senate conferees had to accept House positions on these items—in part to reach an overall agreement, in part to protect items of particular interest to Senators. For example, Senator DIXON favors the AV-8B aircraft, Senator MACK favors the Tagos Surtass ship, and we would have lost funding for the tri-service stand-off attack missile (of interest to Senator NUNN) had we not accepted the House favored stand-off land attack missile.

The inclusion of on item is particularly disturbing. Senator GLENN, a member of the Armed Services Committee, wrote to the Defense Subcommittee enlisting our support for procurement of truck engines because, without funding for these additional truck engines, yet another plant in his State would be closed. Therefore, he asked that we give "fullest consideration to including language directing the Army to purchase additional Hercules multi-fuel engines in this year's Defense appropriations legislation." We did so. We acted to support a fellow Senator and a member of your committee, who was faced with a particularly difficult situation, and now we are criticized for doing so.

Slide 9—This slide lists unappropriated authorizations. Since the appropriations committee is not required to fund all authorized programs and is, indeed, fulfilling its responsibilities to the Senate by examining programs and determining the proper level of funding, it is unclear what factual point the Armed Services Committee wished to establish in this slide.

CURRENT LAW ON AUTHORIZATION OF APPROPRIATIONS

Title 10, section 114.

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for [procurement, R&D, etc] unless funds therefore have been specifically authorized by law.

MEMORANDUM OF AGREEMENT BETWEEN ARMED SERVICES AND APPROPRIATIONS COMMITTEES

Avoid reversing other committee's policy decisions.

Avoid legislating on appropriations bill.

Authorizations are ceilings—subsequent authorization required if appropriations exceed authorization.

Authorizations do not establish obligation floors.

Authorizations should avoid financing restrictions on flexibility of appropriations.

PROBLEMS WITH FY 92 DEFENSE APPROPRIATIONS CONFERENCE REPORT

Substantial unauthorized appropriations:

$3.3 B. in 17 accounts at account level (excludes $8.0 B. consolidation of medical funds); and

$4.9 B. in 170 lines at line item level.

Significant "legislating" in the appropriation bill:

Waive title 10 requiring competition on university grants; and

Amend title 10 to permit military depots to become subcontractors to commercial defense contractors

Policy reversals:

Noncompetitive extension of $1.0 B.+ CHAMPUS contract;

Reverses certain program direction (e.g., B-1B, P-3B); and

Classified programs.

POSSIBLE COURSES OF ACTION

Oppose appropriations conference report on Senate floor.

Address issues on subsequent legislation (e.g., fiscal year 1992 supplemental appropriations bill).

Report out supplemental authorization bill.

Encourage DOD to submit rescissions.

Earmarks in Fiscal Year 1992 DOD Appropriations Bill/Report

University set-asides:	*Millions*
Prostate research at Walter Reed ...	$2.0

Neuroscience R&D at Louisiana State	10.0
Marywood College, Pennsylvania	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environment R&D	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	0.25
University of South Carolina	0.5
George Mason University	0.75
Monmouth College, New Jersey	2.3
University of Minnesota	10.0
University of St. Thomas, Minnesota	0.5
Brandeis University	2.0
New Mexico State University	3.0
Penn State University	5.0
Illinois Institute of Technology	2.0
Monterey Inst. for International Studies	6.8
St. Francis College, Pennsylvania	2.5
Oregon Graduate Institute, HDTV Research	1.3
Subtotal	114.2

Earmarks in Fiscal Year 1992 DOD Appropriations Bill/Report

Other institutional set-asides:	Millions
National Center for Manuf. Sciences	$30.0
US-USSR joint seismic research	5.7
Mississippi Resource Development Corp	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association	0.3
Fort Irwin Public School Construction	22.0
Fort Bragg Public School Construction	10.0
Post Traumatic Stress Centers, PA & Hawaii	0.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Arctic Region Supercomputer	25.0
Subtotal	146.1
Museums:	
Naval Undersea Museum, Keyport, Wash	2.1
National D-Day Museum Foundation	4.0
Airborne & SOF Museum Foundation	4.0
Restoration of USS Blueblack, Oregon	1.6
U.S.S. *Bennington* Transportation to Vermont	
Subtotal	11.7

Unauthorized Appropriations Account Levels

	Millions
O&M, Navy Reserve	$0.9
O&M, Marine Corps Reserve	0.8
O&M, Army National Guard	1.0
O&M, Air National Guard	5.0
Rifle practice	1.0
Humanitarian assistance	2.0
Drug interdiction	30.0
Weapons & tracked combat vehicles	103.8
Army ammunition	6.7
Shipbuilding	787.5
Missile Procurement, Air Force	30.6
Procurement, Defense Agencies	11.8
Guard and Reserve Equipment	816.7
Coast Guard	188.7
Corporate Information Management	710.3
Mount Pinatubo Claims	150.0
Real Property Maintenance	500.0
Account subtotal:	3,346.8
O&M, Defense Agencies;	7,755.4

Unauthorized Programs

	Millions
Bradley Advance Procurement	$50
Field Artillery Ammo. Vehicle	60
F–14 Upgrades	175
AV–8B Modifications	40
SLAM Missile	130
Tagos Surtass Ship	149
Tags 39/40 (Ship Claim)	55
Sealift	600
LCACS	238
Army Truck Engines	20

Unappropriated Authorizations

	Millions
9 F–18 Aircraft	$202
4 F–117 Aircraft	560
21 Trident II Missiles	140
1 LSD–41 Amphibious Ship	245
6 MX Test Missiles	255
SICBM	115
Precompetitive Technology	40
Critical Technology Centers	50
Manuf. Extension Program	50
13 UH–60 Helicopters	83
9 HH–60 Helicopters	165
Standard Missiles	83
Marine Corps MLRS	95
F–18 R&D	64
Advanced Cruise Missile R&D	80
Balanced Technology Initiative	35

Mr. INOUYE. Mr. President, I have been in this Chamber since 9 this morning, and I have been showered with nearly 3 hours of painful criticism. It has not been one of my happier days. But I believe the concerns of my colleagues are deserving of my response.

First of all, this may sound trite, but I do so with all seriousness. This Congress of the United States is two bodies: The U.S. Senate and the U.S. House of Representatives. The chairman of the Armed Services Committee spoke eloquently of an agreement that is in existence between the Defense Subcommittee and the Armed Services Committee. Yes, we did sign this agreement and we did so with all solemnity, and we have done our best to live up not only to the letter but to the spirit of that agreement.

In fact, I recall not too long ago, about September 26, when I had the privilege of debating the defense appropriations measure and just before its passage, the chairman of the Armed Services Committee stood to commend the work that Senator STEVENS and I had performed on this measure. And if my recollection is correct, most, if not all, of the members of the Armed Services Committee voted for the passage of the defense appropriations bill.

We were commended because we lived up to the letter and the spirit of the agreement. But I am certain that all of us realize that this agreement does not affect the Members of the House. Our bill had over 200 statutory differences with the House and about 400 differences in report language. So, obviously, we had to go into conference to iron out our differences.

If the Members of this body expected the conferees on the part of the Senate to return with the identical bill that we passed, then something is wrong with our dreaming mechanism. No such thing will ever happen. It is a give and take process. We have to accept propositions made by the House that may be personally objectionable, but we bite our tongues. We insist that the House agree upon amendments that we have in our bill that may be unacceptable to them, but they take it.

It is not an easy process. We sat in conference for over 3 days. We came forth with a measure which was not amendable. I agree with that. It was like the authorization bill; it was returned here unamendable.

Why did we work towards this unamendable bill? Because my colleagues wanted an unamendable bill. The leadership wanted an unamendable bill. Time was passing. All of my colleagues wanted to go home. If we had an amendable bill, we would be here until Christmas. The House has an unamendable bill; we have an unamendable bill.

The second criticism: That we have unauthorized amounts in this measure. Mr. President, I plead guilty. Yes, we have amounts that are unauthorized. In fact, there are $397 million worth of unauthorized dollars in this bill requested by members of the Armed Services Committee. We were asked to accommodate our colleagues in the Armed Services Committee. I will not mention names. One member said he needed $20 million to re-engine the 2½-ton trucks. They are still in good use.

They were not authorized. We accommodated that member.

Another said we need research and development at universities, $35 million. We accommodated that member.

Another member spoke of the procurement of radios which proved so effective in Desert Storm, radios that men carried in combat. That was $35 million, unauthorized.

Then we appropriated $40 million for special operations, unauthorized again, Mr. President.

And one of the members wanted $61 million for ships. They were not authorized but requested by the Navy. We were convinced they were important. We appropriated the funds.

Another member of the committee requested $149 million for ships that the Navy wanted but not authorized. We appropriated $149 million.

And one member came up with a very reasonable amount, just $5 million for research. We did our best to get that, and he got $5 million.

One member of the committee wanted the remanufacturing of a certain sophisticated aircraft that goes upwards instead of horizontally. That was $40 million.

Another wanted some money, $1.5 million, for artillery fuses. We assisted in that—a total of $397.7 million.

These were in our bill which the House accepted. We in turn as part of the bargain accepted $11 million worth of museums. They were not in our bill, but they were in the House bill. These are museums to honor those men and women who served on submarines.

One called for the transfer of a ship from one State to another so that that ship can be made into a museum—from Washington to Oregon.

Another called for $150 to transfer a ship's bell from the west coast to the east coast, and we are complaining about that because it was not authorized.

They wanted a museum for the airborne troops.

Now, these are not horrendous amounts. The total amount is $11 million, and I plead guilty. They are not authorized. But they take our unauthorized $397 million. So they can go back to their constituents and say, "You see, they were not authorized but I got it for you."

But all of these Members are now going to vote against the measure because we put in $11 million for museums, for submariners, for the 82d Airborne, for the ship in Washington to be shipped over to Oregon, and the bell from the west coast to the east coast.

Then we come to universities. Some of the universities were authorized, in fact over half were authorized. Yes, I plead guilty. The others were not, but they were in a general account of research and development that was authorized. The amount involved, Mr. President, over a $274 billion budget, it is less than one-tenth of 1 percent, and this is the area of concern that my colleagues have been telling us all morning.

I wish I could come forward and accommodate all. Title X, incidentally, is the law of the land, as my friend from Arkansas stated, and so the Defense Department is well aware of title X. If that project is not authorized, as they will always do, they pick and choose. We will get a list of rescissions. They will not spend the money. So we are not violating any laws.

We realize that these amounts are subject to authorization. But, Mr. President, you know and I know that if this bill passes and is signed into law, though it is not authorized, Members will call upon the Secretary of Defense and say, "Look, we want you to spend this money. It's very important for the security of this country."

Mr. President, I agree with one and all that the cold war with the Soviet Union is over. I wish, as chairman of the committee, we could cut defense by 90 percent. That is what happened after World War II, Mr. President. They cut it down by 90 percent because euphoria was all over the world. Peace was upon us.

Then in June of 1950, the North Koreans looked at us and said. "Aw, Americans have no stomach for war. They have given up." They crossed that border. The only thing we had were cooks, stevedores, and clerks in Japan to stem that force. The first 10,000 casualties were unnecessary. They were casualties because they were not equipped and they were not trained.

Then take Desert Storm, the war of which America seems to be so proud. I think we should remind ourselves that in January of 1990, General Schwarzkopf was ready to be retired and the central command was ready to be terminated. Why? Because policymakers said peace is in the Middle East. "We don't need General Schwarzkopf. We don't need the central command."

That was the national policy. And in that same month our Department of Commerce was ready to establish a trade fair in Baghdad to sell the Iraqis computer technology, aerospace technology. It is a good thing that this subcommittee was alert to all of this. And remember colleagues in this body who stood up and sang the praises of Saddam Hussein, suggesting that he visit us, to speak to us as a man of peace? Well, this committee did not fall for that. Even if the cold war was over, we knew that there were trouble spots.

Who can tell me as to what will happen in North Korea? I do not want to gamble with the lives of Americans. I would rather spend and save lives than gamble and lose lives.

The bill is not a perfect bill, Mr. President. We are not suggesting it is, but we have tried our best, absolutely our best. I think we came forth with a measure that lived up to the expectations of this body.

Finally, I want to point out a few things about the criticisms of unauthorized amounts. For example, they mentioned the number $3.3 billion and they cited $600 million for Sealift, not authorized. In September, this body voted for $2 billion in Sealift, and in conference we reduced it to $600 million. All of us voted for that.

Then we were told that we went $710 million above authorization for certain management initiatives. We authorized that. What we did is we put them all together to get better efficiency.

Then we were told that we overspent $500 million in real property maintenance. Every command had a real property maintenance. Now we put it under one office so we know how it is spent. We are saving money.

We were told that we spent $188 million for the Coast Guard, and yet this body in September approved $318 million for that. We reduced that amount.

Mr. President, we appropriated $150 million to assist our men in the Philippines, and assist the military in the Philippines to evacuate as a result of Mount Pinatubo. The Senate had approved $289 million. We reduced that amount. Technically, they were not authorized, but this body voted for it. If that is not authorization, I do not know what is. It passed the Senate almost unanimously.

Now we are told because we appropriated $11 million for museums, which was not authorized because we spent about $50 million for universities that was not authorized, they are going to vote against it. If that is the will of the Senate, so be it.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

THE U.S.S. "LEXINGTON"

Mr. SHELBY. Mr. President, would the distinguished chairman of the subcommittee please yield?

Mr. INOUYE. I am happy to yield to my colleague from Alabama, Senator SHELBY.

Mr. SHELBY. I thank the chairman. I would like to take this opportunity to discuss with him a provision in the conference report on H.R. 2521, which directs the Navy to evaluate the feasibility of returning the U.S.S. *Lexington* to Quincy, MA, for conversion to a museum. The language goes on to state that the Navy shall work with the Massachusetts Commonwealth and the city of Quincy to perform this evaluation. I am concerned about the effect this provision could have on the evaluation the Navy is currently performing on applications made by the cities of Mobile, AL, Corpus Christi, TX, and Quincy, MA, regarding the conversion of the U.S.S. *Lexington* into a floating museum. Does this provision in any way preclude the Navy from evaluating all sites on an equal basis?

Mr. INOUYE. I understand the concern of the Senator from Alabama. I would like to take this opportunity to assure you that this language is not meant to direct the Department of the Navy in any way.

Mr. BENTSEN. If the distinguished chairman would continue to yield,

Mr. INOUYE. I am pleased to yield to my friend from Texas.

Mr. BENTSEN. I thank the chairman for his courtesy. I would also like to express my concern about this provision in the conference report on the Defense appropriations bill. The cities of Corpus Christi, Mobile, and I am sure Quincy have made serious bids on the *Lexington*. This is an effort that has gone on for over 6 months. Each city brings unique qualifications to this competition. However, I fear that this provision could pressure the Navy into making a decision based on congressional influence rather than on the qualifications of the bidders?

Mr. INOUYE. I assure the Senator that this language is not intended to prejudice this competition in any manner. The committee expects the Navy to be objective in its conclusions.

Mr. GRAMM. Would the chairman of the Defense Subcommittee yield to me for a question?

Mr. INOUYE. I will certainly yield to the distinguished Senator from Texas.

Mr. GRAMM. I thank the chairman. Mr. President, the city of Corpus Christi, TX, also has a special connection to the U.S.S. *Lexington*. This great Texas city would have been the final duty station for the "Lady Lex" as she carried out her mission of training future naval aviators. Her berth next to the Texas State Aquarium will result in hundreds of thousands of visitors to this historic Navy carrier. Is it the chairman's understanding that the ongoing Navy evaluation of potential sites for the U.S.S. *Lexington* meets the requirement for the feasibility study outlined in the conference report?

Mr. INOUYE. The answer to my friend's question is yes. The Navy is currently involved in a feasibility study that certainly meet the criteria outlined in this provision.

Mr. HEFLIN. I ask if the chairman would yield to me also on this important issue.

Mr. INOUYE. I am delighted to yield to the senior Senator from Alabama.

Mr. HEFLIN. I thank the chairman. Mr. President, the Senator from Texas points out that the competing cities bring unique qualifications to this competition. The city of Mobile, in my home State of Alabama is the home of the battleship, U.S.S. *Alabama* and the attack submarine U.S.S. *Drum*. It has 27 years of experience in maintaining these museums. Mobile is an ideal location and has proven it can perform this activity. I am particularly concerned by the language that states that the Navy has until May 1, 1992, to provide the results of the evaluation as well as a plan that includes a delivery schedule, total costs, and sources available to fund the conversion to and operation of this museum. Would the distinguished Senator explain the intent of this language, and the extent of the Navy's obligation?

Mr. INOUYE. The Navy is responsible for the delivery schedule and should provide an estimate of the annual maintenance costs the cities can expect. It is wholly the cities' responsibility to inform the Navy of sources available to fund the delivery, conversion to and operation of the *Lexington* as a museum. After evaluating the merits of the three competing cities' proposals and making their decision, the Navy has until May 1, 1992, the provide each of the cities with an explanation of their respective proposal, and a formal explanation of the criteria used by the Navy in making their selection. This provision does not, however, preclude the Navy from reaching a decision on this important matter at any time between now and May 1, 1992.

Mr. SHELBY. If the Senator will yield, I thank the distinguished chairman for his patience and his response. I also want to thank my colleagues for their attention to this matter of vital importance to our constituents.

Mr. STEVENS. What is the time remaining, Mr. President?

The PRESIDING OFFICER. Senator WARNER controls 46 minutes, Senator STEVENS controls 2 minutes, Senator SASSER controls 3 minutes.

Mr. STEVENS. Mr. President, there seems to be no one wishing to claim time at this time.

I suggest the absence of a quorum, and ask that it be taken from Mr. WARNER to start with, for 5 minutes, and we will see what happens.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have been informed that it would be agreeable with Senator WARNER, instead of using the time in the quorum call, that I use that 5 minutes. So I ask to be recognized for the balance of the 5 minutes of his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska has 3 minutes remaining.

Mr. STEVENS. Mr. President, the real problem about this unauthorized appropriations question is that those of us who represent the Senate on this conference agreed there are unauthorized items, items that were not addressed in the Armed Services Committee authorization conference report, but they were, in fact, in the Senate bill when the Senate bill went to conference.

That is the problem that we face. We go to conference as Senate conferees to defend the bill passed by the Senate. Now we have come back with a substantial portion of what was in that bill, and because the authorization committee changed this bill in conference, we are now told that we were wrong and we brought back unauthorized items.

That is so because some of these items are items that do get out of control.

Take for instance the unauthorized item that is listed in terms of the DOD medical programs. Those funds support all military hospitals, clinics, and the CHAMPUS program. The Armed Services Committee obviously does not oppose the total amount. The consolidation, however, was brought about by this conference report.

That was endorsed by the Department of Defense, it was included in the House-passed bill. The administration urged our committee to recede to the House position because they felt this approach would improve both the quality of health care provided to the military and the costs of such services.

Our committees have disputed over the appropriate level of funding for these programs for several years. But we also have another dispute. That is in the National Guard and Reserve. Almost half of the difference in the National Guard and Reserve equipment funding supports the acquisition of C-130 aircraft for the Wyoming and Ohio National Guards and reservists who we believe needed these new items.

Of the five accounts identified by the Armed Services Committee totaling $1.15 billion, 64 percent, or $3.3 billion of the amount they identified, were included in the Senate-passed appropriations bill. The Senator from Hawaii has already indicated Sealift, Coast Guard, and the corporate information management.

I am particularly concerned about the Mount Pinatubo claims. The great disaster in the Philippine led the Senate to pay $281 million for claims in damages and relocation costs due to the volcanic eruption in the Philippines. That was reduced to $150 million. Yet this great disaster, which we must pay for, was not included in the DOD authorization bill. This is one of the items that is listed as being overages in that 36 percent that we are over of the appropriations bill because we are in unauthorized items.

I really think the worst one is the real property maintenance item. That is listed as being identified again in the staff document from the Armed Services Committee as being something that is unauthorized.

The Senate-passed bill included $1 billion in additional funds to address the backlog of real property maintenance. Because of the lack of funds, we reduced that one-half billion dollars.

Mr. President, I think there are a lot of people in the Senate that are getting disturbed by the charge regarding the unauthorized appropriation accounts, a charge which has been leveled by the staff from the Armed Services Committee. Actually, our conference report reduced the funding for those items they have specifically indicated. An those items were in our Senate bill when we passed the bill. I think the charge is unfairly leveled and, Mr. President, if this bill goes down because of that charge, we will not get another bill this year. We will get a continuing resolution, and we will be facing this bill next year. We will be facing this bill next February or March and, in the meanwhile, the defense of this country will be severely hampered, in my judgment.

I reserve the remainder of my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I yield myself 5 minutes out of the time allocated to Senator WARNER.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, although the substantial majority of provisions in this conference report are balanced and responsible, I think the merits of the bill before us are overshadowed by a very fundamental flaw. In addition to serving the national security interests of the United States, this conference report has been used as a vehicle for serving numerous special interests at the expense of the American taxpayer and, unfortunately, at the expense of U.S. national security.

For that reason, I am regrettably compelled to vote against this conference report when it comes to a vote shortly.

I want to make it clear, Mr. President, that I do not fault any member of the Appropriations Committee for this problem. I am convinced that this is a systematic problem that now plagues the appropriations process whereby provisions are added during conference that were never debated or approved by the Senate or the authorizing committee.

Today, as so many times before, the Senate is faced with a conference report packed full with special interest items, leaving many of us with no recourse other than to vote against the entire report. I am not going to take the time to enumerate the special interest items contained in this report, or the unauthorized items contained in this report. Previous speakers have done that at length. I simply want to state that an established procedure, codified in law and in Senate procedures, of the past has been thrown to the wind.

This conference report waives the legal requirement to have competition in awarding university research grant. It exceeds, by several billion dollars, the authorized level for some 170 line items in the defense budget. It funds numerous other special item projects that were neither requested by the administration nor authorized by this Congress.

Mr. President, as many Members here know, I have, along with Senator MCCAIN, pursued in the last 3 years, the concept of line-item veto. We call it enhanced rescission. It is a modified form of the line-item veto process. I have not pursued that because I thought it was the perfect instrument, that it was a means of achieving the kind of fiscal discipline we need to run a fiscally sound budget process or balance the budget. I realize it is a partial step. But I have advocated it and urged the Senate to endorse it, because it is one very substantial way that we can gain some control over what I see as an appropriations process that simply has very little discipline.

As I and Senator MCCAIN have offered that in the past, others have come to the floor, who are the opponents of our attempts, and have indicated that, well, if we are dissatisfied with items in appropriations bills, we ought to come forward at the time those bills come before the Senate and express our dissatisfaction and offer amendments to remove items that we do not feel meet the test of authorization, or simply were added to satisfy particular members of the Appropriations Committee.

But, as so often is the case, we find ourselves in this exact situation that we are in today—with items added in conference, after the appropriations bill has come through the Senate—with very little or actually no other recourse except to vote for or against the whole bill.

In voting against it, we vote against many items we feel are important to our national security. In voting for it, we have to swallow the inclusion of many items that we feel are simply unnecessary, which have been deliberated on and rejected by the authority committee or—in many cases that we face here today—never even discussed, never even raised, never even debated.

So we go home to our constituents and they say: we noticed that the university of such and such, or the museum at fort so and so got an appropriation. You are on the Armed Services Committee, Senator COATS. How come we do not get appropriations for our particular universities or museums?

Then we try to explain—if it is explainable—the process of authorizing and appropriating, and how each take place on a separate track, and why being on the authorizing committee does not put a particular Representative or Senator in a position to make decisions on the Appropriations Committee that perhaps violate the decisions of the authorizing committee.

People back at home scratch their heads and say:

> I would never run a business that way. You can never run a household that way. What an arcane, ancient, unworkable system you have instituted in the U.S. Congress to deal with decisions relative to our national security and the way in which you spend our tax dollars.

Would it not make better sense to combine the two efforts so that those who were making the decisions about what was best for our national security were also the same people who were making decisions about how much we should spend? And should we not have a system whereby items of expenditure are debated as to their merit, and discussed, and vetoed on by members of the committee that are charged with making a determination as to whether this was a wise expenditure of money, or whether it was a necessary item to protect our national security?

So the enhanced rescission, or line-item veto, process that Senator MCCAIN and I have offered year after year—and we intend to do that again in the next session—simply makes a point that we need to gain some control over a process here that puts all of us in this position, on one of the waning days of this Congress, with no other choice but up or down on the whole bill. It does the very same for the President.

We think line-item veto is, as I said, certainly not perfect. It may be a blunt instrument, but apparently the only instrument available to us at this particular time, absent significant congressional reform in terms of the way we make the decisions.

Mr. President, I do not take pleasure in voting against the defense appropriations report. I support a strong defense and believe that this bill, for the most part, solidly funds our national security requirements. Unfortunately, if we do not draw a line on the practices that are part of this bill before us today, I am concerned that in the future scarce funds for defense will increasingly be decided not on the basis of what is in the best interest of the taxpayer or the national security, but whether or not the particular Member sits on the Appropriations Committee.

At some point, if we continue this process, I am concerned that our military readiness will be in jeopardy. I think today is time to draw the line. As I said, I think this is a systemic problem. I do not fault any member of the Appropriations Committee. I fault the process. I think we need to send the signal loud and clear that the current process needs to be changed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. Senator WARNER controls 31 minutes; the Senator from Alaska controls 2 minutes; and the senior Senator from Tennessee controls 3 minutes.

Mr. NUNN. Mr. President, I do not know what the Senator from Alaska would like do at this point, but I think we can wind it up a little early, if the Senator from Hawaii and the Senator from Alaska would like to do that. I do not have time remaining, but the Senator from Virginia has authorized me, in absence of anyone managing the bill on that side, to deal with his time.

So I would suggest to my friends from Hawaii and Alaska that we could wrap this up a little early if they would like to summarize it.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, and the time will be charged equally.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ZAIRE

Mr. SIMON. Mr. President, this morning's New York Times, on the editorial page, has an op-ed piece by Dr. William Close, who at one point was the personal physician of President Mobutu of Zaire. That is a condensation of a larger letter to me, as chairman of the Senate Subcommittee on African Affairs, that outlines in some detail what is happening, and why the United States has to do whatever it can in the way of leveraging pressure for a change in Zaire to avoid massive bloodshed.

I ask unanimous consent to print Dr. Close's letter to me in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARBLETON, WY,
November 17, 1991.

Hon. PAUL SIMON,
Chairman, Subcommittee on African Affairs, U.S. Senate, Washington, DC.

DEAR MR. SIMON: In 1960, King Baudouin handed the Belgian Congo back to the Congolese and their new prime minister, Patrice Lumumba. Two days later the army mutinied for the promised benefits of independence and more pay and the country exploded into a collection of regional governments. Col. Joseph Mobutu—an officer with some training as a journalist—took over. Lumumba escaped from house arrest but was caught and later assassinated. Mobutu enlisted the few university graduates available and, as young "technocrats," they kept the government going. Then, under the protection of the United Nations and with the encouragement of Western powers, an elected government was formed by Cyrile Adoula, a labor leader from a small tribe, therefore acceptable to most in the country.

Unfortunately for the Congolese people the country was (and still is, potentially,) one of the wealthiest in Africa. A third of the size of the United States, the Congo—now known as Zaire—mines diamonds, gold, uranium, copper, as well as strontium, germanium, and cobalt—especially valuable to the arsenals of superpowers. I call these riches "unfortunate" because the Congolese found themselves and their country coveted targets in the cold war struggle between the USA and the USSR. The efforts of the Adoula government were handicapped when the mineral-rich southeastern province of Katanga (Shaba) tried to break away from the central government. And, soon after, rebels backed by China and Cuba devastated two thirds of the country killing most of the Congolese who could read and write. Re-enter, in 1965, Colonel Mobutu who took control of the government again. He remains in power to this day.

After crushing the rebellion and welding together the regions into the semblance of a nation, President Mobutu encouraged foreign investments and the Congo/Zaire began a decade of growth and success. He was widely acclaimed as a smart politician, and Americans were proud of the fact that he had been aided by many different US Government agencies and big business.

I travelled to the Belgian Congo with a missionary organization in 1960, arriving just before independence. When the mutiny broke out there was a massive exodus of Europeans. I too tried to leave but couldn't: the roads to the airport had been blocked. So, looking for someway to help, I drove over to the 1500 bed Hospital des Congolais. An old Belgian was the only surgeon left. I offered to help him and when, a week later, he had to escort a wounded police commissioner back to Europe, I found myself the only surgeon in the hospital. My assistant was a Belgian nun. We had no lab and did our own gas-oxygen-ether anesthesia. We averaged 350 operations a month. During most of that first year, there were only three doctors for the whole hospital.

After a year and a half, I was appointed chief doctor for the Congolese Army by President Mobutu. I also became his personal physician. Five years later, he asked me to run the city hospital. With the help of doctors recruited from the United States, Canada, and Europe, I renovated and staffed the hospital, turning it into a national referral center of over 2000 beds. Our occupancy rates often reached 120%. Until recent events in Zaire, that hospital—renamed "Mama Yemo" after the President's mother—was one of the biggest centers in Africa for patients with AIDS: it is now destroyed.

By the end of 1976 I had been overseas for 16 years and was ready to come home. Things were getting sticky with the president. Among other things, we needed additional money to buy protein-rich food for the hundreds of children in our pediatric division. Since extra-budgetary expenses were prohibited—even back then the country's economy was in disarray—I suggested to the president that he ground a flight of Italian jets scheduled for the independence day parade and use the fuel money to buy food. Following a sharp exchange, he snatched up the telephone and called the governor of the national bank. I collected the money, and the jets buzzed his grandstand on the following day. Then a couple of months later, he insisted I rehire a doctor I had fired for corruption. It became more and more difficult to see the president, and it seemed clear to my wife and me that our ability to continue constructive work in the country had come to an end. We returned to the United States, and I became a village doc in the Rocky Mountains.

Then one morning a month ago I awoke to the news that the army in Zaire had again mutinied and that civilians in Kinshasa (Zaire's capital) had joined in the pillaging. Belgian and French troops were flown in to protect their own citizens and to evacuate them. It had taken Mobutu 15 years to return the country to the chaos of the sixties and worse. Now the infrastructure is destroyed, the people are starving and sick, and "peace" is being kept not by the United Nations but by thugs from the president's special detachment. Civil war may follow, provoked by Mobutu's strong-arm men and his intransigence before the forces for democracy. As he recently pronounced to the world press: "La démocratie, c'nest moi!"

France and Belgium have publicly withdrawn support from Mobutu. The House and Senate have called upon the U.S. Government to do the same, but our Administration's leadership has chosen to stay silent about a dictator whom some apparently still consider a friend. Certainly during the cold war, the Gulf war, and more recently in the Angolan conflicts, Mobutu was a useful ally. His corruptibility was an asset to us as it was to international entrepreneurial companies out for a quick buck. Now that the country is without an effective government, without banks, food, or medicines, and now that all the expatriate technical experts have been evacuated along with the Belgian and French troops, "our friend" Mobutu has become an embarrassment to us and a deadly threat to his own people. Although clear pronouncements from Congress and fuzzier intervention from the State Department have called for real distance between ourselves and Mobutu, the continued silence of our Administration's policymakers remains an enigma. Our lack of leadership in dissociating ourselves from "our man in Kinshasa" three weeks ago when the Belgian and French troops were still there has increased violence throughout Zaire. But some in high government positions still think Mobutu will share power. Others even believe that if he no longer controls the army, finances, and the mines, that civil war will break out. The fact is that the longer Mobutu clings to power the more brutality and repression will spread. Those still loyal to him in the presidential special detachment cannot quiet the miserable thousands in the capitol's teaming slums for long. Fear battles anger and frustration as food, medicine and, this week, fuel supplies run out. The national treasury has been raped for years by Mobutu. Last week the national currency soared from 44,000 to 57,000 for one dollar overnight: On October 1 the exchange rate was $1=Z 21,000.

The U.S. Government needs to dissociate itself from Mobutu. This message must come from the White House since the world is aware of the long-standing relationship between Presidents Bush and Mobutu—a relationship which Mobutu has distorted and exploited. The U.S. Government should clearly state that it would support the establishment of a transitional government which represents the major political parties and the critical interests of the people. The U.S. Government should strongly oppose any Zairian military intervention in the process of democratization, committing itself only to the support of an international peacekeeping force if so requested by the legitimate government or by a legitimate national conference.

Finally, through the years, I remember a number of patients rushed to my clinic near the presidential estate in Kinshass with wounds raked across their bodies like razor slashes. Mobutu kept a leopard called Mimi in his private zoo. Mimi allowed only the president to caress her. I sewed up all others who even tried, including one of his daughters. Eventually a barrier was built to keep people at a distance from the cage.

The spots on Mobutu's leopard hat will neither change nor fade. He can no longer be petted and, indeed, must now be isolated where he can terrorize those within his reach no more. It will take years for Zaire to recover from its present wounds. Old friends have a duty to send a message to Zaire that we no longer condone his mauling of the people.

Respectfully yours,
WILLIAM T. CLOSE, M.D.

Mr. SIMON. Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 1½ minutes remaining, the senior Senator from Tennessee has 2½ minutes remaining, and the Senator from Virginia has 27 minutes remaining.

Mr. STEVENS. Mr. President, I ask unanimous consent that we yield to the chairman of our Appropriations Committee 5 minutes.

The PRESIDING OFFICER. From whose time?

Mr. STEVENS. From the combined time that is left.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I have listened to the debate today with a great deal of concern. I have heard what I would characterize pretty much as a general assault upon the Appropriations Committee of the U.S. Senate. I understand the feelings of Senators who have expressed themselves today, and I sympathize with some of those feelings.

I would like to say that, if we have problems between the authorizers and the appropriators, then we ought to sit down together and try to work out those problems and not take it out on this bill. This bill has required many hours of thought and labor on the part of members of the Subcommittee on Appropriations for the Department of Defense and on the part of staff. There have been conferences with the House of Representatives. I am a conferee. It was not possible for me to attend the conferences except in one instance only.

There has been an allusion to an agreement. Has that agreement been put in the RECORD?

I ask unanimous consent that the entire agreement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. I have tried in good faith to live up to that agreement. I do not think anybody questions that. I am sure they do not. And I am sure that Senator INOUYE, Senator HATFIELD, and Senator STEVENS have tried to live up to that agreement.

I think we have to remember, however, that that agreement was just among us Senators. It did not include the Members of the House of Representatives or even our counterparts in that body. Consequently, when our conferees go to conference with the House, our conferees try in good faith to live up to the letter and the spirit of the agreement. But we are only half, one body as against the other. We cannot force the House Members to conform to our own internal agreement. Consequently, if we get a bill out of conference, sometimes we have to give a little and take a little, and we may have to take something we do not like.

So I hope that Senators will apply a little bit of mercy to our conferees in recognition of that fact. We cannot bludgeon the Members of the other body; we cannot shove that pile of papers under their noses and say, "There is the agreement. You have to stick to it." They do not have to do so. They do not have to live up to that agreement.

There are those who have expressed concerns that matters were added in conference that were in neither bill. Well, that has been going on around here for a long, long time. As long as those matters are not entirely irrelevant to either bill, the conferees have a wide latitude in adding matters to bills that do not go to the conference in either bill. And that is done not just where appropriators are concerned. That is done, I venture to say, in most of the committee conferences that take place here between these two bodies.

This bill is important to the Nation. I want Senators to contemplate what will happen if they vote this conference report down. It is my understanding that all the members, or most of the members, of the Armed Services Committee, with the exception of myself, will vote against this conference report. They have a right to do that. And there will probably be other Members who will vote against the conference report for other reasons. They do not like it because we are spending, they say, too much money on defense or because some language was taken out that they helped put into the bill by way of an amendment on the Senate floor.

But let me say this. I have been saying that we need to reduce the spending for defense, we need to spend more money on the infrastructure of this country.

The PRESIDING OFFICER. The 5 minutes allocated to the President pro tempore has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. I went to the budget summit. And it was ROBERT BYRD who stood in that summit and led the fight for more money for infrastructure, both physical and human. There are some others in this body who did not want to reduce defense spending at the summit. I felt then and I feel now that we can stand some reductions in defense spending.

I do not approve of everything in this conference report. There are some things I would rather not have in it. I do not know everything that is in it. Only a few Senators really know that. But, I am going to vote for it, I urge the Members of this Senate to vote for this conference report. Let us not take it out on this conference report because we do not like something that happened in the conference.

I have explained that no man is master of any other man. And the Senate conferees are not masters of House conferees. They cannot lash the Members of the House, as the Persian Kings could lash their soldiers going into battle. We cannot do that. We have to do with what we have and do the best we can. Let us not take it out on this bill.

Now, what will happen if we vote this conference report down? I want Senators to think about that. We have both party leaders here hoping—and all Senators, I think most Senators, want likewise—to adjourn sine die next Tuesday—before Thanksgiving.

If we vote this conference report down, we may not adjourn next Tuesday. It is going to take some longer time.

What are our alternatives? One is a continuing resolution. I do not know how that would work out. Some of those Senators who want more cuts made in this bill than we were authorized to spend last year for some particular weapons system, may not find a continuing resolution to their liking. Or, we can insist on our amendments, ask for another conference and appoint conferees. They may be the same conferees but we have to appoint them again.

So those are the alternatives, as I see it. We have to go back to conference and have all this to do over again. And the next conference report may not be any more to our liking than this one is.

I say, my friends, we are taking quite a responsibility on ourselves. If we, out of some kind of pique—and we may be justified in having a pique—but if we, out of some kind of pique, say we are going to vote against this conference report because of thus and so, I hope we will rethink that position.

As I say, if there is some problem here, let us sit down and try to resolve it between the authorizers and the appropriators.

Let me add this. I daresay—I cannot show for a fact—but I imagine a good many of the items in this bill that are not authorized were put in there at the request of Members of the Senate who are not on the Appropriations Committee. I know that happens in appropriations. Senators come to me, they come to other subcommittee chairmen on the Committee on Appropriations and say I want this, I want that, and we try to help them, if the items can be justified. They are not necessarily authorized by any particular law but very few Senators in this body can stand up and say to me that they have never asked me to put anything in the Interior appropriations bill. Very few Senators can say that. There may be some. I will not say all of them have. But we all do these things.

And not only that, but we put in items that the Members of the other body requests. I have had Members of the other body call me on the telephone: Please help me on this item on the bill; I need this, I need that. And we try to be of service because, after all, we think we are spending money for the good of the country, to up-build the country, to enhance the welfare and the standard of living of the American people, to enhance the economy. The same is probably true of this bill. And that is the way I look at it.

We spend money in this country; it is a heck of a lot better than sending it overseas.

But we all try to accommodate. Now you say you want to take it out on the Appropriations Committee. Let those who say that, search their minds and their hearts and try to remember whether or not they have ever asked the Appropriations Committee to do something for them. Think about it. And you will be back again. You will be asking again. The Appropriations Committee does not have the staff to deal adequately with the executive branch. We have less than 90 members on our total staff, yet we have to deal with the budget across the board. And our subcommittees have even fewer members.

I am just not going to sit still and see this assault made on the Appropriations Committee without saying something in return to try to lay the record straight.

Finally, Mr. President, there is no general prohibition—I have heard some things said on the floor today that I think ought to be corrected for the record—there is no general prohibition in the Standing Rules of the Senate or the precedents against making appropriations for a project or a program in the absence of an authorization. Such a point of order might lie against a particular amendment offered by an individual Senator. Points of order in the Senate regarding items of appropriations in excess of authorizations may be made against an amendment when that amendment is pending. It may be made. It is merely a majority vote, and so the Senate may vote otherwise. But Senators have that opportunity if they want to make a point of order.

In the instant case, however, there is no amendment pending. We have a conference report. I have heard it said, "I may make a point of order against this conference report." Well, budgetary discipline is provided by the Congressional Budget Act. The Constitution of the United States gives the Senate the authority to determine its own rules and, as such, the Senate may establish procedures that are inconsistent with provisions in the statutes because the Congress enacts the statutes. And if Congress wants to enact a statute today that is not in conformity with a statute that was enacted yesterday, Congress can do that. The section of the United States Code that was cited earlier is arguably a restriction on the agencies that have received appropriated funds for which there is no authorization.

(Ms. MIKULSKI assumed the chair.)

Mr. BYRD. Madam President, I have here that statute that was quoted in part. I am not sure it was read in its entirety.

I ask unanimous consent that it be included in its entirety.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

§ 114. Annual authorization of appropriations

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense.

(Added Pub. L. 93-155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, § 138; amended Pub. L. 94-106, title VIII, § 801(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 94-361, title III, § 302, July 14, 1976, 90 Stat. 924; Pub. L. 96-107, title III, § 303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96-342, title X, § 1001(a)(1), (b)-(d)(1), Sept. 8, 1980, 94 Stat. 1117-1119; Pub. L. 96-513, title I, § 102, title V, § 511(4), Dec. 12, 1980, 94 Stat. 2840, 2920; Pub. L. 97-222 § 2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97-86, title III, § 302, title IX, §§ 901(a), 902, 903, Dec. 1, 1981, 95 Stat. 1104, 1113, 1114; Pub. L. 97-113, title I, § 108(b), Dec. 29, 1981, 95 Stat. 1524; Pub. L. 97-214, § 4, July 12, 1982, 96 Stat. 170; Pub. L. 97-252, title IV, § 402(a), title XI, §§ 1103, 1105, Sept. 8, 1982, 96 Stat. 725, 738, 739; Pub. L. 97-295, § 1(3), (4), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98-525, title XIV, § 1405(2), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99-145, title XII, § 1208, title XIV, § 1403, Nov. 8, 1985, 99 Stat. 723, 743; renumbered § 114 and amended Pub. L. 99-433, title I, §§ 101(a)(2), 110(b)(1)-(9), (11), Oct. 1, 1986, 100 Stat. 994, 1001, 1002; Pub. L. 99-661, div. A, title I, § 105(d), title XIII, § 1304(a), Nov. 14, 1986, 100 Stat. 3827, 3979; Pub. L. 100-26, § 7(j)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100-180, div. A, title XII, § 1203, Dec. 4, 1987, 101 Stat. 1154.)

Mr. BYRD. Madam President, I thank Senators for their courtesy in allowing me to speak for these few minutes. I do not speak out of anger or out of rancor. I think however, we are on the verge of doing something that will be very hurtful to the institution, and that Senators will come to regret.

I hope that Senators will rethink their position if they have decided to vote against this conference report on the basis of some of the arguments that have been made today. And, as I say, if there are problems between the authorizers and appropriators, let us sit down and try again to resolve those problems. But do not let us vote against this conference report for that reason only. We are going to be here several days if we do that, and the American people, more than ever, will wonder—will wonder if we still retain our senses.

EXHIBIT 1

AGREEMENT BETWEEN THE ARMED SERVICES AND APPROPRIATIONS COMMITTEES

To improve the working relationship between the Committees on Appropriations and Armed Services:

1. The Chairman and Ranking Member of each full Committee shall be considered ex officio members of the other full Committee.

The Chairman and Ranking Member of the Committee on Armed Services shall also be considered ex officio members of the Committee on Appropriations Subcommittee on Defense.

The Chairman and Ranking Member of the Subcommittee on Defense shall also be designated to be ex officio members of the Armed Services Committee.

2. Ex officio members may participate in all meetings, hearings and markups of the respective committees and subcommittees through the legislative process, but may not vote.

3. Amendments on behalf of the respective committees may be offered by ex officio members if such amendments have been authorized by a majority vote of the members of the respective committees.

4. Committee staff shall make all markup materials available to ex officio members prior to subcommittee and full committee markups of annual and supplemental authorization and appropriation bills.

5. Designated staff from each committee will be admitted to all subcommittee and full committee markups and included in all conference meetings on annual and supplemental authorization and appropriation bills.

6. Both committees pledge to try to avoid reversing the policy directions of the other committee.

7. The Committee on Appropriations agrees to try to avoid the incorporation of legislative provisions in annual Defense Appropriations bills whether such initiatives are offered during the Committee markups, the Senate floor or during the House-Senate Conference on such bills, and the Armed Services Committee shall join in such resistance.

8. The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in authorization bills.

9. The Armed Service Committee will resist statutory proposals that restrict the flexibility of the Appropriations Committee in making financial adjustments using prior year funds. However, nothing contained herein shall restrict the Armed Services Committee or any member thereof from opposing the appropriation of funding at a level above account levels or for unauthorized programs, projects or activities.

The purpose of this agreement is to improve the working relationship between the Committees on Appropriations and Armed Services. Nothing contained in this agreement shall be construed to restrict the rights and prerogatives of any Member of either Committee.

Committee on Armed Services:
SAM NUNN,
Chairman.
JOHN WARNER,
Ranking Member.
Committee on Appropriations:
ROBERT C. BYRD,
Chairman.
MARK O. HATFIELD,
Ranking Member.
DANIEL K. INOUYE,
Chairman, Subcommittee on Defense.
TED STEVENS,
Ranking Member, Subcommittee on Defense.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I yield such time to the Senator from Georgia as he may require, first making the parliamentary inquiry: The Senator from Virginia has about 21 or 22 minutes remaining?

The PRESIDING OFFICER. The Chair wishes to advise the Senate that Senator WARNER has 23 minutes remaining of the time that he controls. Senator STEVENS of Alaska has 1 minute in the time that he controls. And Senator SASSER of Tennessee, 2 minutes for the time that he controls.

Mr. WARNER. Madam President, I yield such time as the Senator from Georgia may require.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair. I thank my friend from Virginia.

Madam President, let me say first in response to the Senator from West Virginia, that I will always be glad to sit down with him, the Senator from Hawaii, the Senator from Alaska, the Senator from Virginia and others to try to see if we can make this process work. We have been trying for about 5 years now.

When the Senator from West Virginia took over the Appropriations Committee, one of the first things we did—I cannot think of anyone more cooperative in terms of trying to work these matters out than the Senator from West Virginia—we did sit down, we did negotiate, we did get our staffs involved, we did talk about the ramifications of the differences between appropriations and authorization.

We came on the floor and the Senator from West Virginia clearly agreed with the position I had taken that appropriations bills should respect the ceilings of authorization bills, and that the authorization process was a ceiling; that the appropriation process was a floor. In other words, the appropriators have every right to cut any program they choose to that is in the authorization. And yet they are not supposed to, according to the custom and according to what I read as the law—they are not supposed to go over the authorization.

So we ended up with an agreement. The agreement is right here, and I am glad the Senator from West Virginia said it should be put in the RECORD in toto, and I agree with that.

It could not be clearer. It was—every word was negotiated. It has been signed by Senator BYRD, Senator HATFIELD, Senator INOUYE, Senator STEVENS and myself and Senator WARNER.

And I understand the conferences. I understand we cannot bind the House. We get in our conference each year and we have floors on the House side. We have minimum expenditures that are mandated in the House bill. We had at least 15 to 20 floors this year that would have precluded the appropriators from going below that amount because it would have been automatic in law. They can always come along perhaps later and repeal that law. That would have been against the spirit of our agreement.

The Senator from West Virginia and I had an explicit understanding that we would not undermine their floor position, their ability to cut our bill, and they would not undermine our ceiling. If the Appropriations Committee can cut what we authorize, then we certainly are not a floor and we should not be. But if the appropriators can go above what we authorized in accounts and in broad categories, then we are not a ceiling either. If an authorization committee is not a ceiling and not a floor, then that committee has no reason for existence. We might as well abolish the authorizing committees, put everybody on the Appropriations Committee, have one gigantic Appropriations Committee, and then we would all be in there together and we would be making decisions together.

Madam President, the exact language that we believe should be adhered to that was explicitly agreed to in this written agreement that is now going to be part of the record, paragraph 8 says:

> The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in authorization bills.

That is the exact language.

Madam President, we had some 15 or 20 floors in this bill from the House. We told them something very simple, I say to my friend from West Virginia.

We told the authorization conference, the House conferees, who had the floors in their bill that we would not bring back floors in this bill in our authorization bill because it would breach the agreement, and we would just not do it. We would not bring back that kind of breach of the agreement. We insisted that the House drop all their floors, their minimum expenditure provisions in the bill. We have adhered explicitly to that agreement since the day this agreement was signed.

Madam President, what we ask the appropriators to do is nothing that would be mission impossible. We do not say you basically have to come back and never exceed an authorization. We know that, by the nature of accomplishment, is impossible. What we do ask is for them to live up to the agreement which they signed which says the "Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization."

In reading this conference report, there is nothing in there that says these unauthorized appropriations are made subject to further authorization. That was the whole agreement that we had, that we would be able to come back with a subsequent bill, take a look at the unauthorized appropriations and then make our judgment on it. Frankly, we approve most of them. We find reasons most of the time that the appropriators are correct. But that is the agreement we had, and I have to say it has not been lived up to.

Madam President, I have to say also that there is nobody in this body, and we can stipulate this for the record, that has not written the Appropriations Committee or contacted them and asked for some project for their own State. We can stipulate that. I would say anyone who has never talked to the appropriators and asked for anything for their own State is probably not representing their own State very well.

But I would also say that I do not believe that we forfeit our right to determine how to vote as U.S. Senators on the appropriations bill or a final conference report of an appropriations bill because we have tried from time to time to protect our State and to get certain funds for our State. The only place you can get those funds is through the appropriations bill. We are not going to be put in the position, I do not believe, in this body that we disqualify ourselves to judge the merits of an appropriations bill if we have ever asked for any help for our State. I do not think anyone intends to insinuate that.

Madam President, I will close my remarks by saying that I am not lobbying people to vote against this bill. I have stated my views on the floor. Everyone will make their own decision. I expect this conference report would be agreed to like most other conference reports. It is an important bill. There is no doubt about that. But I cannot support the bill because I cannot support the earmarkings of defense funds for specific university projects that are outside the competitive process. I cannot support taking $94.6 million and saying that 38 of our States cannot compete because the appropriations conference decided that these universities would get this money and there would be no competition. And remember, I say to my colleagues, remember that the Competition in Contracting Act, which is explicitly waived in this bill, gives the Secretary of Defense the right to make a sole-source award if there are unique reasons for doing so. If the University of Texas or the University of Georgia or the University of West Virginia is the only university that can perform a certain function, they have every right in the Department of Defense to have a sole-source contract. But the only reason I can figure out you want to make sure there is no competition is because that university must not be the best one around. Why else would you not be willing for that university to compete?

So, Madam President, I cannot support the earmarkings of defense funds for specific university projects outside of competitive procedures. I know that is done in other appropriations bills. It has been done in other appropriations bills. But I do not believe anybody believes it is a good idea, and I think we would be making a very bad mistake to begin doing it in defense appropriations. But we are if we agree to this conference report.

Madam President, I cannot support the inclusion of legislative provisions which specifically negate and overhaul and break new ground on an appropriations bill, and we have several of those in this bill which I have enumerated. I cannot support the beginning of another long line of people and military bases coming up and saying: "We want a museum." I cannot support the beginning of that precedent which is going to come back to haunt us, and that precedent is clear and present in this bill. I cannot support $3.3 billion in appropriations at the account level that exceed the authorization level which are not made subject to authorization in accordance with the explicit written agreement that we have with the appropriators.

Madam President, as I have said earlier, this will be the first defense appropriations bill I vote against, and I do so with great reluctance and great sadness. I also will repeat what I said at the outset. You will never find the Senator from Georgia not willing to sit down and try to work something out. I suspect so far in the last 5 years I have spent about a hundred hours sitting down and trying to work things out in this vein. And that is exactly what we thought we had worked out when we signed this piece of paper with the appropriators.

Madam President, I will vote against this conference report.

Several Senators addressed the Chair.

Mr. BYRD. Will the Senator yield for a question?

Mr. NUNN. I will be glad to, if I have further time from my friend from Virginia.

Mr. WARNER. Madam President, the Senator has the time.

Mr. BYRD. Madam President, I have two questions. One: As the bill was written when it passed the Senate before it went to conference, did the distinguished Senator from Georgia, the chairman of the Armed Services Committee, did he at that time have any problem with that bill insofar as the agreement was concerned?

Mr. NUNN. I will say to my friend from West Virginia, no, I did not. I thought that the bill was in compliance with our agreement at that time, and I will say in further response to him, we basically stated in this agreement we signed that we are not talking about simply a Senate bill, we are talking about what comes back from the conference.

Mr. BYRD. The Senator says that, but the Senator also knows that we cannot control the House Members. I have said this. I do not need to repeat it. The point I am making is that when this bill left the Senate and went to conference, it had not, in the words of the distinguished Senator from Georgia, broken any agreement.

Mr. NUNN. The Senator is correct.

Mr. BYRD. So that whatever is in this conference report that is not in conformity with that agreement was put in there by the conferees.

Mr. NUNN. The Senator is correct.

Mr. BYRD. I would say our Senate conferees perhaps did the best they could. I would want to think they did the best they could.

Now, the agreement does not say that if a bill leaves the Senate and meets the requirements of the agreement, if it comes back otherwise in the conference report, we are to be held responsible, the Senate is to be held responsible, the committee is to be held responsible, and the conference report should be opposed. Is the Senator saying that members of the Appropriations Committee are bound by this agreement to oppose the conference report because, in the conference, Senators had to agree with some things with the House that do not conform to this agreement—and we have already stipulated, I guess we have, that the House Members are not bound by this agreement—is the Senator saying that the agreement applies, that we who were signatories of the agreement, myself being one, are bound in conscience to vote against this conference report because it does not conform to the requirements of this agreement which only applied to the Members of the Senate? And the Senator has already agreed that when this bill went to conference, it met these requirements.

Mr. NUNN. I say to the Senator from West Virginia that I do not think anyone is bound to vote against this conference report. I exercise my rights as a Senator to vote against the conference report, and I say why. I do not say the Senator from West Virginia has a duty to vote against this conference report.

I do say I do not think the appropriators who negotiate for the House Appropriations Committee are any more tenacious, any more diligent, any tougher in adhering to their position than the authorizers from the House. We knock out the floors in the House bill because we insist on doing so.

The Senator from West Virginia and I have talked about that on many occasions. He has brought to my attention a couple times where we inadvertently had floors in our bill, and we have gone back and taken them out. I think the Senator from West Virginia will be the first person on the floor to protest against an authorization bill that had floors in it.

And so I am saying to him there is no one who has an obligation to vote against this report. But I do believe the appropriators have an obligation to do their very best to live up to the agreement in the conference. They will not always succeed. They will not always succeed. But I do not believe, I would have to say, that there has been a very vigorous effort by appropriators to put in the conference report when the ceilings are exceeded the very simple sentence that would say, "This unappropriated amount is subject to further authorization."

That is all that is required to live up to this agreement—one simple sentence. But it has not been put in this conference report. I do not believe much time was spent trying to negotiate that agreement. I hope the Senator from Alaska and the Senator from Hawaii will correct me if I am wrong, but my guess is that the subject was not brought up at the conference.

Mr. BYRD. Madam President, will the distinguished Senator yield for another question.

Is the Senator telling me that we are expected to wrench out of the House conferees their agreement to such language in a conference report? They have to take back to their House the same conference report we have to bring back to the Senate. Is he expecting us to exact that pound of flesh from the House conferees?

Mr. NUNN. I would say I have the same expectations of the appropriators that the appropriators have of us in not having floors in our bill. And I also would say we discussed that very specifically when we drew up that agreement where that is exactly what the appropriators agreed to do.

Mr. BYRD. The words say "will try."

Mr. NUNN. Did the appropriators try?

Mr. BYRD. Ask them.

Mr. NUNN. If they tried, I would like to know about it. I do not gather there was much effort to put in that very simple sentence. I may be wrong. If that was the subject of intense negotiation, I would like to know about it.

Mr. BYRD. Madam President, will the Senator take another question.

Mr. NUNN. I will be glad to.

Mr. BYRD. Does the able Senator really mean to tell this Senator that he thinks the House, which is not bound by this agreement, would agree to that sentence in the conference report that is taken back to the House?

Mr. NUNN. I would say it would be just as likely they would agree with that as the House Armed Services Committee would agree to drop all their floors which they felt very strongly about and which they dropped.

Mr. BYRD. Well, the distinguished Senator from Georgia is assuming that they would. I do not think we have any right to assume that.

On final question I would like to ask the distinguished Senator. And I do not mean for this question to be unfair. I think he knows that I have urged that we stay with the agreement.

Mr. NUNN. I know that.

Mr. BYRD. Does he know that?

Mr. NUNN. Yes, I know that, and I appreciate that.

Mr. BYRD. Would he be willing to say, if he thinks so, that members of the Appropriations Committee have broken faith—those of us who signed this agreement—have broken faith with this agreement?

Mr. NUNN. When the Senator from West Virginia uses the word "faith," that gets into subjective judgment. What I say is the agreement itself is broken and everyone has to examine their own conscience about whether faith has been broken. I do not accuse any Senator of breaking faith. What I do say is that the agreement itself has been broken.

Mr. BYRD. Madam President, will the Senator yield to me for 1 minute?

Mr. NUNN. Yes, I will be glad to.

Mr. BYRD. Madam President, my conscience is clear. I do not think faith has been broken by Senate conferees. And I do not think the agreement has been broken. The agreement applies to Senators, and the Senator from Georgia has already indicated that when this bill went to conference, it met with his approval so far as the agreement is concerned.

Mr. NUNN. Is that a question?

Mr. BYRD. No, I did not say it was to be a question. I asked the Senator if he would yield to me for a minute.

Mr. NUNN. Yes, I will be glad to.

Mr. BYRD. We speak of our consciences. The Senator feels good in his conscience; I feel good in mine. I am going to support my Appropriations Committee. The conferees worked hard. I think they did their best. And I will not imply that they broke faith or that they did not try. But when this bill left this body, it met with the agreement. We cannot be responsible for the House, and we cannot insist to the point of futility that a conference report be written to satisfy ourselves when we cannot get House conferees to agree with everything we want. If we do that, may I say to my friend from Georgia, there will be a good many bills that will die in conference.

Mr. NUNN. I say to my friend from West Virginia, I understand his point, but I would also say if the agreement does not apply to conferences, it has no effect. There is no reason in struggling all year long to live up to something in the Senate and then as soon as we get to conference drop the principle altogether.

I hope that there was a real effort. I hope there was a real effort. And if there has been, then fine. I make no judgment about anyone's good faith here. I am not talking about good faith. I am talking about the agreement itself and the process itself. I think all of us in the Senate are probably coming to a conclusion slowly but surely that the process itself is badly flawed; that we ourselves are going to have to correct that process. I think we either have to put everybody on the Appropriations Committee or we need to abolish the authorizing committees or we need to combine the two and abolish the Budget Committee or find some way to get three layers down to two layers.

I just read the other day the proposal of the Senator from Kansas [Mrs. KASSEBAUM] which says that we ought to have a leadership committee that would take the place of the Budget Committee. Senator INOUYE from Hawaii has cosponsored that. The leadership committee would be composed of the ranking member and the chairman of each one of the committees, including authorizers, and that would substitute for the Budget Committee. And then what we would have is the authorizing and Appropriations Committees merged with the subcommittees moving into the authorizing committees and then that committee would do both the authorizing and the appropriating. We would cut one whole layer out of the process.

I know it has to be studied carefully. But the Senator from Kansas, Mrs. KASSEBAUM, has a very good idea. The Senator from Hawaii has cosponsored that.

It is absolutely absurd to go through the budget process, authorizing process, and the appropriating process. It is absolutely absurd to come on the floor and debate a defense bill twice and have two conference reports and to have to go through this over and over again. The process itself is absurd, and I think all of us had better start examining whether we want to continue to be a part of a process that is so apparently flawed and, in my opinion, is not producing the kind of results the American people have every right to demand.

So this goes far beyond this particular bill. It goes to the process the Senate is going through now, and I think all of us need to examine our own feelings about this in the months and weeks to come.

I yield the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I stand foursquare with the Senator from Georgia, my chairman, Mr. NUNN, on this matter and will vote no for the first time against the Defense appropriations bill.

Mr. INOUYE addressed the Chair.

Mr. WARNER. I yield the remainder of my time.

The PRESIDING OFFICER. The Senate will come to order. It is very difficult for the Chair to hear because of conversations on the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia had 1 minute and 13 seconds remaining. The Senator from Alaska has 1 minute remaining. The Chair advises the Senator from Tennessee he has 2 minutes remaining.

Does the Senator from Alaska seek recognition?

Mr. SASSER. Madam President, I yield back the remainder of my time.

THE DEFENSE CONFERENCE REPORT

Mr. LEAHY. Mr. President, I oppose attempts by the Senate Armed Services Committee to scuttle the Defense appropriations conference report.

My chairman from Hawaii knows that he and I are united in providing a strong defense for our Nation, but that we do disagree on our support for several programs. Our differences, however, do not affect my admiration for his leadership on the Appropriations Committee.

Mr. President, while I disagree with many of the provisions and the level of spending in the Defense Appropriations Act, I want to make it clear that I strongly oppose the efforts by the members of the Senate Armed Services Committee.

The authorizing committee has objected to provisions in the Defense appropriations bill that are insignificant compared to what really is happening around here.

Yesterday, we authorized billions of dollars for star wars and the B-2 bomber. We have put ourselves on course to deploy an antiballistic missile system that will cost our Nation tens of billions of dollars. The defense budget is nearly $300 billion.

And what issues do the Armed Services Committee choose to complain about in the appropriations conference report? Provisions that amount to less than 1 percent of the Defense budget.

They have even taken aim at the $150 it will cost the Navy to transport the bell of the U.S.S. *Bennington* from California to Bennington, VT.

So Mr. President, I would have much more sympathy for the authorizers if their bill had actually differed considerably from the appropriations conference report. I say next year, let us go after the B-2 again. Let us ground star wars. Let us discover the peace dividend. But today, I say approve the appropriations report and leave our sacred bell alone.

FISCAL YEAR 1992 DEFENSE APPROPRIATIONS BILL CONFERENCE REPORT ON H.R. 2521

Mr. DOMENICI. Mr. President, I rise in support of the conference report accompanying H.R. 2521, the Department of Defense appropriations bill for fiscal year 1992.

This bill provides $269.9 billion in budget authority and $176.1 billion in new outlays for the Department of Defense in fiscal year 1992.

When outlays from prior-year budget authority and other adjustments are taken into account, the conference agreement totals $269.9 billion in budget authority and $275.4 billion in outlays for fiscal year 1992.

I commend the conferees for producing a bill within the subcommittee's section 602(b) allocation and that consistent with the budget agreement.

This bill funds a number of worthwhile programs within the Department of Defense.

I am pleased to note that one of these programs is SDI, which is funded at $4.15 billion, representing the highest level of funding in the history of the SDI Program.

I think the events in the Persian Gulf last winter and in the Soviet Union last summer underscore out need for missile defenses.

While I am pleased with the overall funding level for SDI I must note a concern I have with the new focus on near-term technologies over follow-on technologies.

This is something we will have to think more about in the months and years ahead.

Mr. President, this bill marks the culmination of my first year as a member of the Defense Appropriations Subcommittee.

It has been a great pleasure for me to work with the distinguished subcommittee chairman and ranking member, Senator INOUYE and Senator STEVENS. I have enjoyed working with them on this very complex bill, and I look forward to my participation in the year's to come.

I also wish to thank them for the consideration and courtesy they have extended to me, and to my staff, during this past year.

The committee staff they have assembled is both professional and dedicated, and it is a pleasure to work with them.

I also want to express my appreciation to my fellow conferees for their support of a number of ongoing projects and programs important to my home State of New Mexico.

I particularly want to thank my colleagues for their overwhelming support for funding in the amount of $30 million to pay claims authorized in the Radiation Exposure Compensation Act of 1990. Recognition of these claims is long overdue, and the funding in this bill will make significant progress in paying these much-needed benefits.

I urge the adoption of the conference report.

U.S.S. "LEXINGTON"

Mr. HEFLIN. Mr. President, most Members are probably not aware that for the last few months three cities, Mobile, AL, Corpus Christi, TX, and Quincy, MA, have been locked in a competition to receive the U.S.S. *Lexington*, a recently retired aircraft carrier. I was pleased that this competition has been conducted fairly, with each city wanting to be judged on the merits of their proposal.

But now, just days before the Secretary of the Navy is to make his decision, some persons in the House attempted to tilt the playing field and give an unfair advantage to Quincy. Behind the closed doors of the conference committee, they managed to slip in the report a paragraph that, had it gone unnoticed, might have been construed as directing the Navy to send the *Lexington* to Quincy.

Mr. President, I see this move as a slap in the face to the people of Alabama and to all others who have worked so hard on this project. Should Alabama win the competition, the *Lexington* will be placed beside the historic U.S.S. *Alabama* and U.S.S. *Drum* in Mobile's Battleship Park. This park stands as a monument to our Nation's armed services and veterans, and through years of hard work, the park has grown to become Alabama's No. 1 tourist attraction. In fact, I think it is fair to say that the Battleship Park has also become a monument to the hard work and patriotism of the people of Alabama. Mr. President, I cannot sit still and let the proud addition of the U.S.S. *Lexington* be stolen from us.

The distinguished managers of this bill, Senators INOUYE and STEVENS, also feel that this should be a fair competition, and earlier entered into a colloquy with me to clarify the intent of the *Lexington* language. They agreed that the proposals of the three cities should be judged on their merits, and the Navy should work equally with each of the competitors.

I believe the floor action of the Senate will convince the Secretary of the Navy that it is the intent of Congress that fairness should prevail and that his decision should be entirely on the merits. I firmly believe that the merits of the decision are clearly with Mobile.

Mr. THURMOND. Mr. President, I want to compliment Senator INOUYE, the chairman of the Subcommittee on Defense Appropriations, and Senator STEVENS, the ranking member, for their efforts in getting this Defense appropriations conference report to the floor. In my judgment, this report reflects their strong commitment to this Nation's defense and support for our men and women in uniform.

Mr. President, although in many areas this is a good bill, I am disappointed that the report contains almost $11 billion for 18 accounts that breach authorization ceilings or are new accounts that were not authorized by the Armed Services Committee. These appropriations were included in the bill despite a longstanding agreement between the Appropriations and Armed Services Committees to avoid this situation. In addition, these appropriations contradict title 10, section 114(a) which states: "No funds may be appropriated for any fiscal years to or for the use of any armed force or obligated or expended for [procurement, R&D, etc.] unless funds therefore have been specifically authorized by law."

As the senior member of the Armed Services Committee, I am aware that the problem of unauthorized appropriations has existed for quite some time. However, over the past years, these unauthorized appropriations have grown in numbers and scope. In this conference report, the Armed Services Committee has identified at least 170 programs for which $4.9 billion was appropriated, but which are not authorized. What is most ironic is that many of these programs were at one time or another considered by the Armed Services Committee, but deemed not high enough in priority in view of the drawdown in the force structure and budget.

Mr. President, I know my colleagues will agree with me that the United States and the Defense Department must encourage our academic institutions to maintain a strong research program. The university research initiative and similar programs sponsored by the Federal Government are essential in this endeavor.

Without Federal funding, our colleges and universities could not devote the resources to those multidisciplinary fields of research which are essential to our Nation, both in defense and commercial applications.

To receive the most benefit from the dollars committed to these research programs, we must ensure that there is competition. Competition fosters initiative and innovation, both of which are critical to research.

The bill before us takes away that competition by earmarking $94.6 million for 16 universities including $500,000 for my State. This is in contradiction to the Competition in Contracting Act and deprives other colleges and universities the opportunity to compete for the precious research and grant dollars.

Earmarking, although politically beneficial, is not in the best interest of scientific research of our Nation and I urge my colleagues to reject it.

Mr. President, I hope that both the chairman and ranking member of the Defense Appropriations Subcommittee will work with the Armed Services Committee to resolve these problems. Since the conference report can not be amended, I would urge them to go on record as encouraging the Secretary of Defense to seek authorization before he obligates any of the funds that are appropriated, but not authorized.

Finally, as the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence, I am dismayed that the conferees on the Appropriations bill deleted funding for the 6 MX test missiles. These missiles were critical to test the reliability of the MX missiles currently deployed. Because of these cuts, some experts estimate, the Nation will have to begin to retire our deployed MX missiles earlier, rather than later in the century.

Mr. President, this conference report represents a great deal of hard work and commitment by the members of Defense Appropriations Subcommittee. It has its shortcomings, but it is the bill that funds our Nation's defense for the next year and I therefore reluctantly will vote for it.

Thank you, Mr. President.

Mr. PELL. Mr. President, yesterday I voted with considerable misgivings for the Defense authorization bill for fiscal year 1992. I stated at the time that it seemed beyond belief to me that we were voting for a bill which authorized $2 billion more than the amount authorized for the current fiscal year, notwithstanding the fact that the major threats to our national security seem to have evaporated.

Today, we are being presented with an appropriation bill which provides $3.4 billion more than yesterday's bill authorized. And it would appropriate some $2 billion more than was appropriated for the current fiscal year. Again, we are going in the wrong direction, only more so. And, unfortunately, from my point of view, this bill just goes too far.

In addition to the question of the magnitude of defense expenditures, I also want to state my complete agreement with the Senator from Georgia [Mr. NUNN], and others who have spoken here today, on the need to maintain the integrity of the authorization process. The appropriation process is supposed to flow from the duly constituted authority of the authorizing committees and we should draw the line now to make sure that this principle is adhered to.

When I cast my vote for yesterday's bill, I did so primarily out of parochial interest in assuring that provision was made for the third Seawolf submarine, the production of which is of such paramount importance to the economy of my State. My vote today in no way should suggest that my concern in this regard has diminished. But I am mindful that the Senate has spoken its will conclusively in support of this program by a 90 to 10 vote when the appropriation bill was before us earlier this year. If the conference report is rejected, I urge that prompt action be taken to return the DOD appropriation to us in acceptable form.

ANTARCTIC LOGISTICS

Ms. MIKULSKI. I understand the DOD appropriations conference report earmarks $105 million for the logistical and environmental activities associated with the U.S. Antarctic Program. The balance of the budget for this program—a total of $88 million—has already been appropriated in the VA, HUD, and Independent Agencies Appropriations Act for fiscal year 1992 to the National Science Foundation. When these bills are taken together, we have provided a total of $193 million for this program. This equals the President's request for this program.

As I am sure the Senator from Hawaii knows, this is a very important program—not only for research purposes, but also because it serves as the way in which the Nation exercises its active and influential presence on this vital continent. It is my understanding that the administration's policy—as expressed in various National Security Council memorandums, a Presidential memorandum, and other administration reports—with respect to the management and budgeting for this program is that NSF is to be the lead agency to ensure that the program is managed as a single package.

I would like to ask the distinguished chairman of the Defense Appropriations Subcommittee, with the funds in the defense bill being provided directly to the Defense Department and $88 million already appropriated to the NSF, how can we ensure that the program is managed as a single, unified operation?

Mr. INOUYE. I appreciate the question from the Senator from Maryland, and the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee. I want to say at the outset that I share with the Senator from Maryland the concern about the need to have this national program operate in a well-coordinated fashion.

In this bill, we have provided $105 million for U.S. Antarctic logistics support. Of this amount, $75 million is for the budget request for personnel, air operations, surface transportation, Antarctic Continent operations, United States and New Zealand operations, and major construction and procurement.

In addition, we have provided $30 million, consistent with the administration's position, to support the continuation of the President's safety, environmental, and health initiative in the Antarctic. I am well aware of the critical safety and environmental requirements that must be addressed in the future and expect the administration will respond to maintain and strengthen this Nation's active and influential presence in the Antarctic through this initiative.

It is my own view that the Navy is to use these funds consistent with the budget request and Presidential Memorandum 6646 which, as the distinguished Senator from Maryland knows, designates the National Science Foundation with overall management responsibility for U.S. activities in the Antarctic. It is my expectation that the Navy will coordinate its activities closely with the NSF to provide the support necessary to meet Antarctic Program objectives.

Let me say to the Senator, it is my intent to work with the administration to see that these funds are made available to the NSF as quickly as possible so that this complex program is managed as effectively and efficiently as possible.

In that way, it will allow the program to be operated with NSF as the lead agency managing the program so that the National Science Foundation can maintain its active and influential presence in the Antarctic.

As the Senator from Maryland knows, to provide the funds for the Antarctic activity, we were required to rescind a total of $75 million in domestic budget authority. Of that amount, $5 million is to come from NSF's research and related activity. The remaining $70 million, in whole or in part, from either or both of the following two sources: NSF and unobligated funds from the assisted housing programs in HUD. I would expect that the administration's proposed programmatic allocation of the rescission be submitted to the committee as part of the respective agencies' fiscal year 1992 operating plans.

Mr. STEVENS. I want to add my voice to the comments just made by the chairman of the Defense Appropriations Subcommittee. This is an important national program that needs to be managed as a single package.

Ms. MIKULSKI. I appreciate the chairman's explanation and the remarks of the Senator from Alaska. Given the unique nature of this program, I want to join with the Senator from Hawaii and the Senator from Alaska in urging the administration to consolidate the appropriated resources from the DOD bill with those appropriated to NSF in the VA, HUD, and Independent Agencies Appropriations Act. I also want to associate myself with the statement by the Senator from Hawaii regarding the administration's submittal of its operating plans as the vehicle for addressing the rescission. I look forward to working with the chairman and other Senators to encourage this to happen as expeditiously as possible.

FAST SEALIFT PROGRAM

Mr. JOHNSTON. Mr. President, as I understand it, the legislation proposed by the House supporting the Fast Sealift Program required that all fast sealift vessels be constructed in private U.S. shipyards. The conference report now before the Senate changes that requirement and provides that 15 percent of the funds appropriated for the Sealift Program may be utilized by the Department of Defense to acquire ships constructed in foreign shipyards.

Was it the intention of the conference that the funds now set aside for the acquisition of the ships constructed in foreign shipyards may be spent to acquire existing ships heretofore built in foreign shipyards as well as brand new, state-of-the-art vessels that citizens of the United States might now build, with a substantial investment of private funds for commercial utilization, under contract with the Navy?

Mr. INOUYE. Yes. As the conference report states, no more than 15 percent of the funds available to the Department of Defense for sealift may be used to acquire ships constructed in foreign shipyards. This provision is broad enough to authorize the Navy to acquire precisely the type of sealift vessels it needs, whether those vessels be newly constructed or previously used. However, any necessary conversion work must be done in a U.S. shipyard.

Mr. JOHNSTON. With reference to the 85-percent balance of Fast Sealift Program funds still reserved for the construction or conversion of sealift vessels in private U.S. shipyards, do I correctly read the conference report to state that, under existing law, the Defense Department is not precluded from contracting with U.S. citizens for the construction of sealift ships the Navy needs, and to share the cost of construction with those private citizens who will operate the vessels commercially with U.S. crews until they are needed for military use?

Mr. INOUYE. Yes. That was the intention of the conference. The conference report authorizes the Defense Department to consider a CRAF-like program such as the Senator describes for sealift.

GUARD AND RESERVE END STRENGTH

Mr. FORD. Mr. President, as cochairman of the Senate National Guard caucus, I am deeply concerned about the large reductions that the Department of Defense has proposed for the Selected Reserve end strengths, particularly for the Army National Guard and the Army Reserve. It is the feeling of the caucus that sufficient and compelling justification has not been provided for these reductions and that they have been developed not on the basis of force structure but rather on a share-the-pain budget approach. Consequently, the caucus has worked hard this year to forestall cuts it believes are disproportionate and completely unjustified.

Thanks to the great cooperation of our colleagues on both the Armed Services and the Appropriations Committees, the efforts of the caucus have been largely successful. I am concerned, however, about language relating to the selected Reserve in section 8067 of the conference report that is now before us, and am wondering if the chairman of the Defense Subcommittee could clarify the intent of this provision.

Mr. INOUYE. I am happy to respond to my distinguised colleague from Kentucky, but I wish first to pay tribute to his unrelenting defense of the selected Reserves. His continued strong and effective leadership in this area is greatly appreciated by this Senator and the men and women who proudly serve this country in the Guard and Reserves.

Now to section 8067. As the conference report clearly states, the conferees believe that during a period of decreasing Defense budgets, it makes sense to put more, not less, force structure in the Reserve component. The conferees were concerned that the Department of Defense would, because of mounting budget pressures, unilaterally decide to reduce the Reserve component end strength below the authorized levels established within the fiscal year 1992 authorization bill. There is, as the Senator knows, no floor on end strength in the authorization bill. The Department could reduce end strength well below the authorized amount.

In order to prevent this undesired outcome, the conferees propose to put into law an end strength floor, below which the Department can not go in fiscal year 1992. The conference did provide the Department a small measure of flexibility by allowing reduction below the fully authorized end strength levels of up to 2 percent—2 percent, and no more. Unlike the authorization bill, the appropriations bill establishes a minimum level. Furthermore, I would note that this conference report fully funds the authorized end strength levels for the Reserve components and any further reductions are not necessary to meet budget constraints.

Mr. FORD. A paramount objective of the Senate Naional Guard caucus this year has been to diminish the effect of final cuts in end strength on the Army Guard Reserve. Is it the intent of the Defense Subcommittee that these reductions be accomplished through attrition and reduced accession, rather than through involuntary separation?

Mr. INOUYE. If the Department does make additional end strength cut, it is the desire of this Senator that reductions be made through attrition and reduced accessions. Having fully funded the authorized end strength, I can see no justification for involuntary separations and can state that the committee would take a dim view of any attempts by the Department to do so.

Mr. FORD. The conferees have included a reporting requirement which asks the Defense Department to provide to the subcommittee a listing of all units being reduced, realigned, or inactivated in fiscal year 1992 by March 15 of next year. I hope there will be no inactivations on that list, but would also like to know if the subcommittee and other interested Members of the Senate will be given adequate time to review the list before the Department takes any action on it.

Mr. INOUYE. In my view, the intent of the managers is that the Department provide a complete listing of any proposed reductions, realignments, or inactivations to Congress before any action is taken. We would expect this list to be received well in advance of any action by the Department.

Mr. FORD. Is it also the understanding of the subcommittee that reductions are to be distributed evenly throughout the Army Guard and Reserve, thereby avoiding disproportionate cuts in any State or region? I am specifically concerned about preserving historic National Guard units in Connecticut and Massachusetts.

Senator DODD has worked very hard on behalf of those units in his State which have such an important link with our past, and would like to speak on their behalf at this time.

Mr. DODD. I thank the Senator from Kentucky for giving me this opportunity to address the issue of potential cuts in the National Guard. And let me also take this opportunity to thank the Senator from Kentucky for his efforts and the efforts of his staff to make sure that my office was kept abreast of the latest developments on this important issue. The selfless generosity of the Senator from Kentucky has not gone unnoticed.

I must say, Mr. President, that the issue of the National Guard is one that I feel very strongly about. I served in the Army Reserve myself, some time ago, and I know from firsthand experience the importance and enduring value of our Nation's Guard and Reserve. There is certainly no component of our Armed Forces that provides more service to the Nation at a lower cost than the National Guard.

In Connecticut, however, we have an additional cause for concern. Many of the Army National Guard units in my State date back to the pre-Revolutionary War era. In fact, three units of the 43d Brigade—the 102d Infantry, the 169th Infantry, and the 192d Field Artillery—trace their lineage back to the year 1672. These units have taken part in nearly every major conflict the United States has fought.

To sever this fragile link with the past would be an incomprehensible mistake, in my view. That is exactly what the Quicksilver plan would have done. And that is why, as I understand it, the authorizing committees sought to ensure that end strength would be held at 440,000—and why language in their conference report stated the expectation that an equivalent force structure allowance would be maintained.

I look forward to hearing from the Senator from Hawaii exactly what the committee's intention was in regard to the preservation of historical units and the equitable distribution of cuts in the National Guard.

Mr. INOUYE. I would like to assure the Senator from Connecticut that I am very sensitive to his concerns about potential cuts to historical units and pledge to him my support to ensure that these units are not eliminated in any proposed force structure reduction. We should not and can not lose our link to the honorable past symbolized by these units in Connecticut. I repeat that the statement of the managers mandates a report to Congress before any force structure reduction or adjustments are made by the Department.

Mr. DODD. I thank the chairman for his explanation and assurances and compliment him on his foresight in providing a legislated floor which protects Reserve component end strength in fiscal year 1992.

Mr. FORD. I thank the chairman for his clarification on this matter. We appreciate the action of the appropriations conferees in establishing a floor beyond which end strength and force structure cannot be reduced, even though we do not necessarily agree with the levels which may be reached as a result of this conference report. We would appreciate working with the subcommittee next year to see that an appropriate, mutually agreed-upon floor is established in the fiscal year 1993 bill.

NEUROSCIENCE CENTER

Mr. MACK. Mr. President, we refer to the statement of manager's language within the Defense agencies RDT&E section of the fiscal year 1992 DOD conference report on appropriations pertaining to the Neuroscience Center. This language reiterates the intent of Congress as previously stated in the fiscal year 1990 and fiscal year 1991 DOD authorization bills. I take this opportunity to again express my great enthusiasm for this project which provides $18 million for a collaborative spinal cord injury, paralysis, neuroscience research, education, and training facility and I reiterate that the Federal contribution should constitute no more than one-third of the total cost of the biomedical complex in which this facility would be located. Having worked with the Department of Defense for the last 3 years on this funding, I feel confident DOD understands the intent of Congress.

Mr. KASTEN. I am happy to support the comments made by my friend and colleague, Senator MACK. We have worked together for some time on funding for such a facility. Indeed, this provision reinforces the language contained within the last two DOD authorization bills.

Mr. STEVENS. I concur with my colleagues and am happy to lend my support to this provision.

Mr. INOUYE. Spinal cord injury is a highly technical and very important field of medical research. It is without hesitation that I support the thoughts expressed by my colleagues.

Mr. SANFORD. Mr. President, the role of the U.S. Congress in helping to mold what is our total national security structure is one of the most important functions of the institution. It is here where the merits of defense programs and strategies are debated and where the world events that change the course of history can be folded into those strategies and debates. I support the conference report of the Defense appropriations bill for fiscal year 1992 because we have debated the merits of its content and the great magnitude of events in Eastern Europe, the Soviet Union, the Middle East, and the fiscal constraints right there in our own country have been factored into this final form.

I stated earlier for the record my support for the Defense authorization bill which passed this Chamber 2 days go. I took note of the tremendous amount of work that went into that legislation. No less effort went into the legislation now before this body. As with the authorization conference report, the appropriations conference report is an essential element to our national security arrangement. Also, as with the authorization report, the appropriations report has in it sections that are of exceptional importance to North Carolina.

The North Carolina Air National Guard will finally receive aircraft to modernize its current fleet composed of the oldest and least efficient of C-130's in the Air Guard and Reserve. The appropriations conferees noted the importance of the Guard and Reserve by including language that states that more not less resources should be directed toward them. Our force structure should continue to reflect this philosophy.

It must be noted that the hardware provided for in the appropriations bill is important to all of the services based in North Carolina. There are, however, sections that affect industry, small businesses, and colleges and universities. Small businesses adversely impacted by the large deployments from Desert Storm and Desert Shield will have made available to them loans to assist in their recoveries. The jobs and services these businesses provide cannot be lost in our current economic environment.

There are civilians that work at Cherry Point Marine Corps Air Station that stood to lose their jobs due to an A-76 cost study to go to a private contractor for facility maintenance, utilities, and motor transport services. While all of the jobs would not be lost, Federal benefits that many of those employees had worked for for close to 20 years would have been lost. Both Houses strongly agreed on this measure.

North Carolina takes exceptional pride in hosting tens of thousands of soldiers, sailors, marines, and airmen at their respective bases and posts but it has few major defense contractors. AT&T facilities in Burlington and Greensboro NC, do, however, make a significant contribution to our national defense with work on systems for the U.S. Navy's antisubmarine warfare community. Funds for the enhanced modular signal processor are provided for in this bill.

The airship and aerostat industry is a key component not only within the military, but it is also a key component to the U.S. Customs Service in the continuing war on drugs. Facilities in northeastern North Carolina make these airships and aerostats for the military and the Customs Service. This bill continues to provide funds for these systems so valued by the Department of Defense, the Department of the Treasury, and the Department of Transportation.

It has been noted during debate on this legislation of how significant Fort Bragg is to our national security. The men and women who serve there are provided for more than adequately by this appropriations bill. The education of their children is also provided for with a section that would help to support a public school on military property that would primarily serve dependents of military and Department of Defense personnel. It must not be forgotten that Fort Bragg is the birthplace and home of the Airborne. The Congress has provided funds to make note of this by showcasing the Airborne and special operation's contribution to past, present, and future American military operations in a consolidated facility on post at Fort Bragg.

Mr. President, I do wish to take note of the objections to this legislation by some Members of the Senate, especially the chairman of the Armed Services Committee, Mr. NUNN. During my time here in the Senate he has been most accommodating to me in meeting the interests of our Armed Forces as those interest pertain to North Carolina. It is not an easy decision for me to support this legislation. Along with agreeing with the senior Senator from Georgia on most defense issues, I support wholly his opposition to earmarks for colleges and universities in appropriations bills.

It is my hope that future differences of opinion between authorizers and appropriators will not manifest themselves so late in the process as to threaten the actual passage of these measures. Solutions to such disagreements need to be immediate. I was greatful to hear this opinion also of the chairman of the Appropriations Committee, Senator BYRD. He too has been most accommodating to the interest of the people of North Carolina. I so much appreciate his efforts. Under his leadership and that of the chairman of the Armed Services Committee, I feel confident future discord will be eliminated. I will vote for the Defense appropriations conference report ever mindful of the debate surrounding it and ask that my colleagues do the same.

Mr. MACK. Mr. President, I feel it is incumbent upon me to explain my opposition to the Defense appropriations conference report, since there are many elements in it which I strongly support.

I fought hard for the continuation of the F-14 Tomcat in the Senate Armed Services Committee and the authorization conference. My belief in the need for the F-14, both as world-class fighter and possible bridge to the Navy's next generation attack plane, is a matter of record. Unfortunately, those efforts were unsuccessful. I applaud the appropriators for their decision to spend $175 million to upgrade F-14's now in the fleet.

Similarly, I worked diligently to see an additional T-AGOS ship built next year at Tampa Shipyards. While that proposal was turned down by the Armed Services Committees, I was delighted that the appropriators agreed to fund $149 million for the new ship.

Furthermore, the appropriators agreed to fund a spinal cord injury research facility, which the University of Miami will have the opportunity to compete for. I am confident that the Miami proposal is so strong that it will win that competition.

The appropriators also allotted vital additional funds to improve Eglin air Force Base's test range in the Gulf of Mexico.

The appropriators demonstrated great wisdom in their conference with the House by insisting on fully funding the Strategic Defense Initiative Program developed by Senate Armed Services Committee. We are now poised to take the first steps toward providing the American people with the same kind of security from the terror of ballistic missiles that our troops in Desert Storm had. Such protection is our right. Under this plan, for the first time, we will have it.

In short, there is much to like about this Defense appropriations conference report. I wish I could have supported it. However, an important line of jurisdiction was crossed by the appropriators which called into question the very purpose of the Armed Services Committee. Indeed, the role of authorizing committees in general is sternly challenged. Therefore, I had no choice but to oppose this worthy bill.

Mr. STEVENS. Madam President, in 1984 I suggested a revision of the Senate so that we would recognize the fact that there are 100 of us dealing with 450 people in the other body. That is exactly what the Senator from Georgia is doing now. I lament the fact that Senator INOUYE and I are managers of the bill. But, once again, in bringing this appropriations bill to the floor, the time that has been consumed here today has been consumed two-thirds by the authorizing committee and one-third by those who brought the bill to the floor.

I urge that the bill be approved, and again I point out to the Senate that if it is not approved we will be operating under a continuing resolution until March 15.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, the chairman of the Defense Appropriations Committee.

Mr. INOUYE. I urge adoption of the conference report.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is all time yielded back?

Mr. STEVENS. Parliamentary inquiry. I ask the Chair: Did the agreement that we entered into pertain to time on a motion to reconsider?

The PRESIDING OFFICER. The agreement is silent on that.

Mr. STEVENS. Pardon?

The PRESIDING OFFICER. The agreement was silent on the debatable motion. A motion otherwise debatable would be decided without debate.

Mr. STEVENS. I am sorry. A motion otherwise debatable if this bill were to be defeated, and is a motion to reconsider, is there time for the debate of that motion or not?

The PRESIDING OFFICER. There would be no time to debate the motion.

The question is now on agreeing to the conference report. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN] and the Senator from Utah [Mr. GARN] are necessarily absent.

On this vote, the Senator from Utah [Mr. GARN] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from Utah would vote "yea" and the Senator from Colorado would vote "nay."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—66

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Reid
Rockefeller
Rudman
Sanford
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wofford

NAYS—29

Bingaman
Bradley
Coats
Cohen
Conrad
Dixon
Exon
Gore
Grassley
Kohl
Levin
Mack
McCain
McConnell
Metzenbaum
Nunn
Pell
Pryor
Riegle
Robb
Roth
Sarbanes
Sasser
Simon
Smith
Wallop
Warner
Wellstone
Wirth

NOT VOTING—5

Breaux
Brown
Garn
Harkin
Kerrey

So the conference report was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Who seeks recognition?

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator will please suspend. The Senate is not in order.

Mr. LEAHY. Order, Mr. President.

The PRESIDING OFFICER. The Senate is not in order.

The Chair requests those Senators carrying on conversations not formally recognized by the Chair please take them to the cloakroom.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Florida is recognized for up to 5 minutes as if in morning business.

Mr. GRAHAM. Thank you Mr. President.

SURFACE TRANSPORTATION CONFERENCE COMMITTEE

Mr. GRAHAM. Mr. President, as we are working through our agenda on the floor there are several conference committees meeting on important matters. One of those is the Conference Committee on Surface Transportation.

This is an issue of great concern to all Members of the Congress and the people that we represent. It is an especial issue of concern to the approximately 20 States which, for the last several decades, have been described as the donor States. These were the States which, during the time that we have been building our Interstate System, have been sharing substantial amounts of their contributions to the Federal highway trust fund with other States in order to be able to complete a National Interstate System.

We have explained to our citizens why it was necessary for them to make that contribution as a Nation, and they have been very generous and understanding for the better part of a half century in doing so. Now, Mr. President, the Interstate System is essentially complete.

That great effort, which started under President Eisenhower, is now entering its very last stages, a great national accomplishment. We believe, therefore, that it is time for the Congress to reexamine the priorities, the standards, the sense of obligation of all of the States toward the future of America's transportation system. And thus we are deeply interested in the decisions that are going to be made in the next few hours or days relative to the next 6 years of distributing what will be approximately $150 billion of Federal funds for the transportation-related programs.

In that regard, Mr. President, we are concerned about the fact that at this point it has been difficult to get a clear picture, a clear understanding of the direction the conference committee is likely to take. I am very pleased that the representative of the Senate, the chairman of the Senate conferees for purposes of the Surface Transportation Act, the senior Senator from New York, has agreed to meet with representatives of the donor States and, I am certain, with any other Senator who would be so interested.

I would like to use this opportunity to extend a broad invitation and request for interests by Senators so that we can have a clear understanding of what likely direction the conference committee will take, and that that understanding will be based on statistics, analysis of policy, rather than the almost hourly rumors that have been the basis of our information the past several days.

So, Mr. President, I wish to make these remarks in order to underscore the great significance of this decision to the Nation. The President and our leadership have described this highway bill as being one of the key building blocks of a national economic policy, not only for recovery from this immediate period of recession but also building a stronger, more competitive America for the future.

I agree with the importance being focused on this legislation. We want to be certain the funds are distributed based on the present and future needs of America, not a continuation of a policy of the past which was oriented toward a different goal; that is, the now-realized goal of completing the National Interstate System. This is a matter of deep concern and interest to all Members of the Congress and to all of our citizens.

I look forward to the opportunity of becoming, with my colleagues, more knowledgeable as to what is in this proposal. I hope that with that knowledge we cannot only help shape the final conference report that will be before us but be in a position to enthusiastically support that conference report. I hope that we would not reach a situation in which, during the last days of the session, we would be faced with a contentious disagreement as to whether the conference report in fact represented what is important and appropriate for the future of America. I believe the steps that have been taken by our distinguished colleague from New York will contribute toward the avoidance of that type of unfortunate, last-hour clash.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired. Who seeks recognition?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Does the distinguished junior Senator from Florida wish to address the Senate on the same subject?

Mr. MACK addressed the Chair.

Mr. MITCHELL. How much time would the Senator from Florida like?

Mr. MACK. No more than 3 minutes.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Florida be recognized for 3 minutes, following which time I be recognized.

The PRESIDING OFFICER. Without objection, the Senator from Florida [Mr. MACK] is recognized for up to 3 minutes.

SURFACE TRANSPORTATION CONFERENCE

Mr. MACK. Mr. President, my purpose for rising is to add my thoughts and comments to my colleague from

Florida with respect to the Surface Transportation Act. It is a very important measure for the Nation. It is a very important measure for the States.

I cannot let this opportunity go by without voicing some very strong concerns about what appears to be happening. As my colleague from Florida indicated, we do not have the exact figures, but it appears from the last information we have that somewhere around 88 cents per $1 will be coming back to the State of Florida, where the average, under the proposal, appears to be around $1.23. Florida, therefore, is going to be somewhere around 47th to 48th in rate of return.

It was not more than just a few weeks ago that Members of the various States stood on this floor to complain about what was happening to the extension of unemployment benefits, and the unfairness of those dollars. I must suggest that if an agreement cannot be reached, there are those of us who feel we must stand up and say that cannot happen again.

Florida received something like 53 cents out of every $1 that it sent to Washington in 1990, and in 1991 it is suggested around 61 cents. The State of Florida must have an opportunity to receive more funds than what is being proposed.

The problem can be addressed if a true minimum allocation of at least 90 percent can be fully funded—let me underscore that—fully funded, based on apportionments, allocations and demonstration projects. Currently the minimum allocation fund needs to be boosted to ensure proper funding of the Bentsen minimum allocation plan.

I must add again that if an agreement cannot be reached to accommodate all States, as we did during the unemployment extension bill, Senators must be prepared to stay in session to discuss the bill at length.

I thank the Chair.

UNIVERSAL ACCESS TO HEALTH CARE—NOW

Mr. DIXON. Mr. President, I rise to appeal to my colleagues and to President Bush to enact a Universal Access to Health Care Program before the end of this 102d Congress.

Our health care system is critically ill. We must find a cure. That cure will not be found in the continued application of more bandages to repair its many ailments. The diagnosis requires comprehensive surgery.

Some of the major symptoms are as follows:

Thirty-seven million Americans have no health insurance coverage;

Another more than 50 million Americans are underinsured. Two-thirds of the underinsured are full-time, hard-working taxpayers with incomes above the poverty level.

Spiraling health insurance rates have forced many employers to cut back on their health care spending. This has caused a reduction in health care coverage;

Throughout this country, many financially troubled hospitals and trauma centers have closed their doors;

Many physicians, hospitals, and other health providers will no longer treat the uninsured and underinsured; and

An increasing number of American families have to choose between receiving health care and buying food or paying the rent.

Mr. President, this is a disgrace for any industrialized Nation. And yet our health care system is the most expensive in the world. We spend more per person on health care than any other developed country—an average of $2,500 per year. In fact, the General Accounting Office estimates that in 1992, the United States will spend $707 billion on health care. The problem, however, is that our current health system is not a good value for that huge expenditure. We must halt this financial drain on our own pocketbooks, as well as on our national economy. And, we have to get much better value for the money we spend.

The American public is crying out to the President and Congress—no more increases in health care costs—give us reform.

Under our failing health care system, insurance rates have escalated so fast that they are out of reach for not only the working but also many middle-income families. Everyday, I hear from middle-income retirees who thought that they had prepared sufficiently for a comfortable financial retirement. However, these folks tell me how they are having to lower their standards of living on order to pay for the drastic rise in insurance premiums, and the escalating costs of medications, hospital bills, and physician fees.

In many inner-city areas, emergency rooms are crowded with uninsured and underinsured patients waiting to receive health treatment. In many rural and inner-city areas, uninsured and underinsured families wait to receive health care at the limited number of financially troubled hospitals that have not yet closed their doors.

Mr. President, over the years, Congress has attempted to respond to our health care crisis. As an example, in 1983 we changed the way Medicare reimburses hospitals. In more recent years, we reformed the way Medicare reimburses physicians and other health care providers. During the last Congress, we expanded Medicaid eligibility for pregnant women, children, and other groups. We provided refundable tax credits for health insurance premiums for qualified children. And during the last Congress we authorized States to continue to purchase health coverage for certain low-income workers.

Mr. President, although these and other provisions were enacted, far too many American families continue to be uninsured and underinsured, and health care costs keep rising.

Approximately 20 bills have been introduced during this Congress to provide health care reform. I pledge my support to legislation which will make health care accessible and affordable to all. It must offer preventive treatment and care. It must reduce administrative expenses. And the legislation must be economically realistic and fair to our small businesses.

During this 102d Congress, let us start on a legislative agenda to address the issue of affordable long-term care. I pledge my support for legislation which emphasizes immediate action to provide home and community-based services for the elderly and disabled, as well as support for family caregivers.

Mr. President, last week, Senator MITCHELL announced that beginning in early December, he and other Democratic Senators will hold a series of field hearings around the country on health care reform. One of the hearings will be in the city of Chicago in late January or early February. While we know what the health care problems are, the hearings will primarily provide more input in the shaping of solutions.

I will work with the Democratic leader and others in developing and shaping an alternative solution to our critically ill health care system and will give that legislation my full support for introduction in the spring and for immediate enactment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE [CFE] (TREATY DOC. NO. 102–8)

Mr. MITCHELL. Mr. President, as in executive session I ask unanimous consent that the Senate proceed to consideration of Executive Calendar No. 16, that the treaty be advanced through its various parliamentary stages up to the presentation of the resolution of ratification; that the committee-reported conditions and declarations be considered agreed to except committee-reported condition No. 5, and that only two conditions be in order: One offered by Senator COHEN to condition No. 5, limited to 2 hours equally divided; one offered by Senators SMITH and WALLOP, to the resolution of ratification; that Senator COHEN be recognized to offer his condition today under the time agreement stated above, and that following the disposition of the Cohen condition, there be 3 hours remaining to be equally divided in the usual form, for debate on the Smith-Wallop condition and general debate on the resolution of ratification today.

I further ask unanimous consent that notwithstanding any provision of rule XXII and solely for the purpose of completing action on this treaty, at 1 p.m. on Monday, the Senate resume executive session and the resolution of ratification, and there be 1 hour equally divided between the majority manager and Senator SMITH or their designees, to be followed immediately by the vote on the Smith-Wallop condition and the adoption of the resolution of ratification without any intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this agreement having been agreed upon by the Senate there will now be 2 hours of debate on a condition to be offered by the senior Senator from Maine, following which there will be a vote on that condition. Therefore, Senators should expect to vote at approximately 5:15 today, on the condition offered by the senior Senator from Maine, should all the time be used. Should any time be yielded back the vote could, of course, occur before that.

Several Senators addressed the Chair.

Mr. STEVENS. Will the Senator yield?

Mr. MITCHELL. I yield.

Mr. STEVENS. If there is another disposition of the amendment of the Senator from Maine prior to the expiration of time, could we ask that Senators be notified? Some of us are going to be away from the building now. It is possible, I understand, there may be another disposition of this amendment prior to the vote. If that is the case I would like to be notified.

Mr. MITCHELL. Yes; we will notify all Senators of any disposition.

The PRESIDING OFFICER. Under the previous order, the clerk will report the treaty and then will report the amendment.

The treaty will be stated.

The legislative clerk read as follows:

Treaty Document No. 102-8, Treaty on Conventional Armed Forces in Europe [CFE]. Reported with conditions and declarations.

The PRESIDING OFFICER. Under the previous order the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and contest to ratification of the Treaty on Conventional Armed Forces in Europe (CFE), with protocols on existing types (with annex), aircraft reclassification, reduction, helicopter recategorization, information exchange (with annex), inspection, the Joint Consultative Group, and provisional application; all signed at Paris on November 19, 1990 (Treaty Doc. 102-8), provided that the Senate's advice and consent to ratification of the CFE Treaty is subject to the following conditions, which shall be binding upon the Executive, and the following declarations, which express the intent of the Senate:

(a) CONDITIONS.—

(1) TREATY-LIMITED EQUIPMENT.—The United States shall regard actions inconsistent with the Statement by the Union of Soviet Socialist Republics, dated June 14, 1991, resolving a dispute concerning the application of the Treaty's principal counting rules in Article III, as equivalent under international law to actions inconsistent with the CFE Treaty.

(2) DATA.—Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(A) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and

(B) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

(3) EQUIPMENT EAST OF THE URALS.—The United States shall regard militarily significant actions inconsistent with the Statement by the Representative of the Union of Soviet Socialist Republics to the Joint Consultative Group, dated June 14, 1991, with respect to certain equipment in Treaty-limited categories located outside of the Atlantic to the Urals area, as potentially warranting a United States response pursuant to Article XIX; and, in the event of such actions, the President shall report to the Senate concerning the appropriate United States response.

(4) SOVIET EQUIPMENT TEMPORARILY IN THE BALTICS.—The United States shall regard actions inconsistent with the Statement of the Chairman of the Joint Consultative Group on October 18, 1991, with respect to the inclusion in the reduction liabilities set forth in the Treaty of equipment owned by the Union of Soviet Socialist Republics and temporarily located on the territory of Estonia, Latvia, or Lithuania, as equivalent under international law to actions inconsistent with the CFE Treaty.

(5) AREA OF APPLICATION AND NEW STATES.—If in the future a new state is formed in the "area of application" that existed on the date of Treaty signature and such state declines to accept the obligations of the Treaty, the President—

(A) shall consult with the Senate regarding the effect on the Treaty of such developments;

(B) shall, if he determines that such state's holdings, or potential holdings, of equipment in Treaty-limited categories are of such military significance as to constitute a changed circumstance affecting the Treaty's object and purpose, and if he decides not to invoke the withdrawal right under Article XIX, request the depositary to convene, in accordance with paragraph (2) of Article XXI, an extraordinary conference to assess the viability of the Treaty and to determine if an amendment is needed to accommodate the changed circumstance, or undertake other appropriate diplomatic steps; and

(C) shall, if he has made the determination described in paragraph (B), submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature.

(b) DECLARATIONS.—

(1) ACCESSION TO THE CFE TREATY.—The Senate urges the President to seek the accession to the Treaty by any new state that may in the future be formed in the land area that constituted the "area of application" on the date of Treaty signature.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) in the resolution of ratification approved by the Senate on May 27, 1988, with respect to the INF Treaty.

(3) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intent to approve international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the Treaty Power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(4) COMPLIANCE ISSUES AND FUTURE STRATEGIC ARMS TREATIES.—The Senate declares that it will take into account, as part of its consideration of the START Treaty, whether—

(A) the SS-23 missiles of Soviet origin that the President has determined constitute a probable violation of the INF Treaty have been dismantled in accordance with procedures consistent with such Treaty; and

(B) the large phased-array radar located at Krasnoyarsk, which constitutes a violation of the 1972 ABM Treaty, has been dismantled in compliance with such treaty.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I hope very much that the Senate will give an overwhelming endorsement today to the ratification of the Conventional Forces in Europe Treaty.

The Committee on Foreign Relations gave careful consideration to this treaty in hearings beginning this summer, clarified certain matters in the resolution of ratification and voted the treaty favorably reported in a unanimous vote on Tuesday. The majority's work on the treaty was undertaken by the chairman of the Subcommittee on European Affairs, the Senator from Delaware [Mr. BIDEN], who worked closely with the committee's ranking minority member, the Senator from North Carolina [Mr. HELMS]. Both deserve our commendation and thanks for a job well done.

It is appropriate that this treaty precedes the Strategic Arms Reduction Treaty, which the Senate will consider next year. The committee has already held three hearings on START since the presidents of the United States and the Soviet Union signed that treaty last summer. The President is expected to submit START shortly, and I will chair hearings on that treaty early in the next session.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, the proposed Conventional Forces in Europe [CFE] Treaty has been largely overtaken by events, because of the Soviet unilateral military withdrawal from Eastern Europe, the fall of communism in Eastern Europe, the dissolution of the Warsaw Pact, and the ongoing collapse of the former Soviet Union itself.

But there are some important benefits to the CFE Treaty. The key effect of the treaty is that it codifies the former Soviet Union's military withdrawal from Eastern Europe, it reduces the major armament holdings in Soviet European-based forces by more than half, it destroys a large quantity of these weapons, it places one-fifth of the remaining weapons in storage, and finally, it distributes the rest of the Soviet armaments geographically under ceilings. These reductions will improve substantially the military balance that currently exists among the various countries of Eastern and Central Europe. The CFE Treaty will greatly reduce the threat of a surprise conventional attack on NATO, and it nullifies the Brezhnev doctrine.

The Chairman and I have joined in proposing a resolution of ratification which contains five conditions and four declarations intended to rectify the flaws in the CFE Treaty. We have worked closely with the bipartisan leadership of the Senate, and Armed Services Committee, and the Intelligence Committee, and consulted closely with the administration. I wish to thank Chairman PELL and Senator BIDEN for their constructive cooperation throughout the CFE process.

Mr. President, as the Senate considers its advice and consent to the proposed CFR Treaty, we must be aware of the fact that the Soviets have already violated it. Moreover, there is a major conceptual flaw in the Treaty. These related facts require a condition to the resolution of ratification regarding the data provided by the former Soviet Union. This condition, which is condition No. 2 in the Committee Resolution of Ratification, requires some discussion, and that will happen.

Mr. President, the Senate Committee on Armed Services deferred to the Senate Intelligence Committee on the issue covered by condition No. 2, but the Intelligence Committee decided not to take a position on this issue or to make any recommendation. Thus, condition No. 2 is the only way for the Senate to address this issue.

This conceptual flaw concerns the fundamental obligation of the CFE Treaty, and it has two elements.

The fundamental obligation of the CFE Treaty is the obligation to reduce conventional forces. The first element in this conceptual flaw arises from the Soviet declaration of false data on their conventional forces when they signed the treaty exactly 1 year ago, on November 19, 1990. Second, it stems from the fact that some officials in the executive branch mistakenly I think, propose to use this false Soviet data as the baseline to calculate the Soviet obligation to reduce its forces. I vehemently disagree with the executive branch on this point.

The precise terms of the CFE Treaty are explicit on how to calculate the Soviet obligation to reduce their conventional forces. In the event that the data provided by the Soviets at the time of signature is found to be false, then data on Soviet forces actually in the treaty zone derived from United States intelligence must be used to calculate the Soviet reduction obligation.

According to unclassified, authoritative testimony to the Committee on Foreign Relations, the fact of gross Soviet data falsification at the signing of the CFE Treaty is indicated by conclusive evidence from United States intelligence-U.S. national technical means of verification. United States intelligence has collected smoking gun evidence proving conclusively that at least about 4,000 Soviet pieces of treaty-limited equipment were in the treaty zone at signature, but were not declared by the Soviets. In addition, due to the fact that subsequently the Soviets slightly corrected their CFE data provided at the time of signature, they have in effect admitted in diplomatic channels that their data declared at treaty signature was indeed false. Moreover, authoritative testimony to the committee indicates that the magnitude of the Soviet data falsification violation is militarily significant.

Mr. President, President Bush is required by law to report to Congress every year by December 1—about 9 days from now—on Soviet noncompliance with arms control treaties. Indeed, I am advised that such a report on the Soviet violation of the CFE Treaty at signature by providing inaccurate data is already being prepared. Thus the President's report on the Soviet CFE data falsification is impending.

The clear fact that the Soviets provided false data on the day of signature of the CFE Treaty, which is about to be confirmed by an impending Presidential report, means that the Soviets violated their obligation under the CFE Treaty to provide accurate data at signature. Thus the Soviets have violated the CFE Treaty even before it is ratified.

Mr. President, one of our colleagues on the Committee on Foreign Relations at the Committee markup conceded that the Soviets has falsified their data significantly, even agreeing that there was smoking gun evidence of this fact. He even agreed that this false Soviet data declaration at signature constituted a technical violation of the CFE Treaty, and he supported my condition No. 2 on data as the best solution to the problem.

I agree that it is a violation, but it much more than a technical violation. It is a fundamental violation. But my colleague argued that the magnitude of the Soviet data falsification is not ultimately resolvable. I would urge my colleagues to read the national intelligence estimate on the monitoring of the CFE Treaty. It is no secret that the NIE's best estimate, based upon United States national technical means of verification, is that the Soviets clearly provided inaccurate data, and failed to declare about 18,000 pieces of equipment that were in the zone at signature.

Thus, the fact that the Soviets lied has been clearly established, and all that remains is for the Senate to enact an effective condition solving this problem.

As one Senator who has been deeply concerned with Soviet violations of arms control treaties over the years, I am more than a little bit alarmed that the Senate is being asked to vote its advice and consent for the President to ratify the CFE Treaty only about 2 weeks before an impending report to the Senate will confirm that the Soviet data falsification at signature constituted fraud in the inducement and also a clear violation of the treaty.

As a matter of principle, the Soviets should not be allowed to benefit from this attempted fraud. Indeed, a basic principle of both domestic law and international law is that a party to a contract or a treaty should not benefit from fraud. Yet, if this false Soviet baseline data is used for the reduction calculation, the Soviet obligation to reduce will be minimized; it will be cut to about half of what it should be.

Unfortunately, most officials in the executive branch nevertheless advocate using this fraudulent Soviet data in order to calculate this minimized Soviet reduction obligation. The executive branch wants to accept the false Soviet data apparently because it believes that extensive further diplomatic efforts would be required to achieve Soviet compliance with their full obligation to reduce. And the unspoken premise of the executive branch is that these additional negotiations might still fail to achieve full Soviet compliance.

Now I agree that one way to solve this problem would be to delay Senate advice and consent to the CFE Treaty until the President reports on December 1 on the Soviet data falsification violation at signature, and takes appropriate steps to achieve compensating Soviet reductions. Another option for the Senate would be to condition its advice and consent to the treaty, or the treaty's entry into force, on the receipt of the Presidential report and a further Presidential assurance that the United States had obtained adequate compensation for the Soviet data falsification at signature.

There are several other defects in the treaty that the Senate might also want to correct, such as inserting the new name of the former Soviet Union into the treaty everywhere the old name appears in the treaty. Just last week the rump State Council of the former Soviet Union approved the Nation's new name, the "Union of Sovereign States." Moreover, we could change Gorbachev's new title to "President of the Union of Sovereign States." Even the State Department has advocated these changes in the treaty.

Finally, there is another possible reason for Senate delay. On December 1 the Ukraine Republic plans to vote on its independence from the former Soviet Union. The Ukrainian vote in favor of independence is expected to be overwhelming. The Senate could wait and see what effects Ukrainian independence, and the dissolution of the Red army to form a new Ukrainian national guard, might have on the viability of the CFE Treaty.

Unfortunately, Mr. President, all of the above options would certainly delay the advice and consent vote beyond this session, and could even kill the treaty. Although I believe that the CFE Treaty is largely overtaken by events—such as the dissolution of the Warsaw Pact and the former Soviet Union—the treaty still does have some merit. CFE does repeal the Brezhnev doctrine on the subjugation of Eastern Europe, and therefore it protects the newly won sovereignty of the former members of the Warsaw Pact in Eastern Europe. Moreover, it protects the sovereignty of the Baltic States, and it encourages the further dissolution of the Soviet empire.

The Senate can solve the problem of the inaccurate Soviet data, and the Senate must solve this problem. I believe that the solution is simple, and it is proposed as condition No. 2 in the resolution of ratification proposed by the Committee on Foreign Relations.

The false data that the Soviets declared at signature is technically not a legal part of the treaty, and it was not part of the formal and official CFE Treaty documents originally sent to the Senate. The Soviet data has still not been officially and formally sent to the Senate. Therefore, the Senate should require, as a condition of its advice and consent to ratification, that the false Soviet-declared data should not be used to calculate the Soviet reduction obligation.

In the event that the impending Presidential report confirms a Soviet violation of the obligation to declare accurate data at treaty signature—a violation which testimony shows has already occurred—the correct interpretation of the CFE Treaty clearly requires that data on the number of pieces of Soviet Treaty-limited equipment actually present in the treaty zone of application at signature must be derived from Unites States national technical means of verification. The treaty's provisions explicitly indicate quite clearly that this data on Soviet forces derived from United States national technical means of verification should instead be used as the baseline to calculate the Soviet reduction obligation.

The precise provisions of the CFE Treaty require that United States national technical means of verification be used to verify all Soviet locational and numerical declarations, to validate all Soviet data, and most significantly, to calculate the Soviet reduction obligation in order to ensure compliance.

Using this data obtained from United States national technical means of verification results in a Soviet reduction obligation that is almost double the obligation based on the false Soviet data.

The Senate should not allow the Soviets to benefit from their attempted fraud. But unless the Senate fixes this conceptual flaw by attaching a condition to its resolution of ratification consenting to the CFE Treaty, the Senate will be approving the erroneous use of deliberately false Soviet data in order to calculate a minimized Soviet reduction obligation.

A grave matter of principle is therefore at stake for the Senate in addressing this major conceptual flaw in the proposed CFE Treaty. The Soviets have clearly violated the treaty even before its ratification by providing false data. The Senate should avoid approving a resolution of ratification which implies acceptance of this fraudulent Soviet data which violated the treaty. The United States must have the political will to interpret the CFE Treaty in accordance with its precise terms, to calculate properly the Soviet reduction obligation, and to enforce full Soviet compliance. Unless the Senate demonstrates this political will by approving a condition fixing this conceptual flaw, the Senate will be an accomplice in a major Soviet deception, and the proposed CFE Treaty could fail to achieve its intended objectives.

Here is the proposed Senate condition No. 2 on data:

> (2) Data. Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—
>
> (a) continue to seek clarification of those holdings of treaty-limited equipment as of November 19, 1990; and
>
> (b) seek to obtain additional reductions of equipment in treaty-limited categories in the event the President determines that actual holdings of treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

This condition No. 2 on data to the resolution of ratification will solve the problem of Soviet violation of the CFE Treaty at signature. "Actual holdings of Treaty-limited equipment" by the former Soviet Union at treaty signature would be determined by United States national technical means of verification.

This chart on the Soviet obligation for conventional force reduction under the CFE Treaty illustrates the major conceptual flaw in the CFE Treaty. The chart shows the magnitude of the attempted Soviet fraud. It shows that the Soviet-declared fraudulent data is a maneuver designed to cut their obligation to reduce their conventional forces almost in half.

The maximum number of treaty-limited equipment allowed under the treaty is 53,650. The Soviets have declared that they have 19,670 items over that number, items they would have to eliminate. But our national technical means of verification indicate that the Soviets had about 18,000 more pieces of treaty-limited equipment in the treaty zone at signature that they did not declare.

Therefore, the Soviet obligation to reduce is not 19,670, but actually in excess of 37,670, almost twice as large an obligation as they have admitted. This is a fundamental inaccuracy which must be addressed in the resolution of ratification.

Condition No. 2 requires the President to make a finding on whether the declared data is inaccurate. This would occur anyway by law on December 1, and would be based upon U.S. national technical means. As I said, I am confident that he will make such a finding. If he finds such a violation, then condition No. 2 requires him to seek compensation through additional reductions of equipment.

Some argue that this additional obligation to reduce has already been addressed by the Soviets to a certain extent in a side-agreement signed on June 14 which is not part of the treaty. But this agreement does not go far enough, and unless it is addressed within the treaty itself, it allows the Soviets to get by with fraud.

I think that condition No. 2 places the proper framework on the central obligation of the treaty, the obligation to reduce equipment based on real numbers, not on false declarations.

With this condition and the other conditions and declarations, I am prepared to support the treaty.

The Senate should act to prevent the Soviets from succeeding in this deception. Condition No. 2 to the resolution of ratification can correct this Soviet fraud. Finally, Mr. President, I ask unanimous consent that my additional views to the Committee on Foreign Relations report on the CFE Treaty be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR JESSE HELMS ON THE PROPOSED CFE TREATY

MAJOR CONCEPTUAL FLAW IN THE PROPOSED CFE TREATY

Summary: There is a major conceptual flaw in the proposed Conventional Forces in Europe—CFE—Treaty which requires a condition with regard to the declared data provided by the Soviet Union. This condition, which is Condition No. 2 in the Committee resolution, require some additional analysis in depth.

This conceptual flaw concerns the fundamental obligation of the proposed CFE Treaty, and it has two elements.

The fundamental obligation of the proposed CFE Treaty is the obligation to reduce conventional forces. The first element in this conceptual flaw arises from the Soviet declaration of false data on their conventional forces. Secondly, it stems from the fact that some officials in the Executive Branch mistakenly propose to use this false Soviet data as the baseline to calculate the Soviet obligation to reduce its forces.

The precise terms of the CFE Treaty are explicit on how to calculate the Soviet obligation to reduce their conventional forces. In the event that the data provided by the Soviets at the time of signature is found to be false, then data on Soviet forces derived from U.S. Intelligence must be used to calculate the Soviet reduction obligation.

According to unclassified testimony to the Committee, the fact of gross Soviet data falsification at the signing of the CFE Treaty is indicated by conclusive U.S. intelligence evidence. In addition, due to the fact that subsequently the Soviets slightly corrected their CFE data provided at the time of signature, they have in effect admitted in diplomatic channels that their data declared at Treaty signature was false. Moreover, the President is required by law to report to Congress every year by the First of December on Soviet non-compliance with arms control treaties, and such a report on the Soviet data falsification in the CFE Treaty is already being prepared. Finally, testimony to the Committee indicates that the magnitude of the Soviet data falsification is militarily significant.

The fact that the Soviets provided false data on the day of signature of the CFE Treaty, which shortly will be confirmed by a Presidential Report, means that the Soviets violated their obligation under the CFE Treaty to provide accurate data at signature. Thus the Soviets have violated the CFE Treaty even before it is ratified.

As a matter of principle, the Soviets should not be allowed to benefit from this attempted fraud. Indeed, a basic principle of both domestic law and international law is that a party to a contract or a treaty should not benefit from fraud. Yet if this false Soviet baseline data is used for the reduction calculation, the Soviet obligation to reduce will be minimized—it will be cut to about half of what it should be.

Unfortunately, most officials in the Executive Branch nevertheless advocate using this fraudulent Soviet data in order to calculate this minimized Soviet reduction obligation. The Executive Branch wants to accept the false Soviet data apparently because it believes that extensive further diplomatic efforts would be required to achieve Soviet compliance with their full obligation to reduce. And the unspoken premise of the Executive Branch is that these additional negotiations might still fail to achieve full Soviet compliance.

But the Senate must solve this problem. This solution is simple, and is proposed as Condition No. 2 in the Committee resolution.

The false data that the Soviets declared at signature is technically not a legal part of the Treaty, and it was not part of the formal and official CFE Treaty documents originally sent to the Senate. It still has not been formally sent to the Senate. Therefore, the Senate should require, as a condition of its advice and consent to ratification, that the false Soviet-declared data should not be used to calculate the Soviet reduction obligation.

In the event of the impending Presidential Report confirming a Soviet violation of the obligation to declare accurate data at Treaty signature—a violation which has in fact already occurred—the correct interpretation of the CFE Treaty clearly requires that data on the number of pieces of Soviet Treaty-Limited Equipment actually present in the Treaty zone of application at signature must be derived from U.S. National Technical Means of verification. The Treaty's provisions explicitly indicate quite clearly that this data on Soviet forces derived from U.S. National Technical Means of verification should instead be used as the baseline to calculate the Soviet reduction obligation.

The precise provisions of the CFE Treaty require that U.S. National Technical Means of verification be used to verify all Soviet locational and numerical declarations, to validate all Soviet data, and most significantly, to calculate the Soviet reduction obligation in order to ensure compliance.

Using this data obtained from U.S. National Technical Means results in a Soviet reduction obligation that is almost double the obligation based on the false Soviet data.

The Senate should not allow the Soviets to benefit from their attempted fraud. But unless the Senate fixes this conceptual flaw by attaching a Condition to its resolution of ratification consenting to the CFE Treaty, the Senate will be approving the erroneous use of deliberately false Soviet data in order to calculate a minimized Soviet reduction obligation.

A grave matter of principle is therefore at stake for the Senate in addressing this major conceptual flaw in the proposed CFE Treaty. The Soviets have violated the Treaty even before its ratification by providing false data. The Senate should avoid approving a resolution of ratification which implies acceptance of this fraudulent Soviet data which violated the Treaty. The United States must have the political will to interpret the CFE Treaty in accordance with its precise terms, to calculate the Soviet reduction obligation, and to enforce full Soviet compliance. Unless the Senate demonstrates this political will by approving a Condition fixing this conceptual flaw, the Senate will be an accomplice in a major Soviet deception, and the proposed CFE Treaty could fail to achieve its intended objectives.

Here is the proposed Senate Condition No. 2 on Data:

"(2) Data.—Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(a) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and

(b) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990."

This Condition to the Resolution of Ratification will solve the problem of Soviet violation of the CFE Treaty at signature.

The following chart on the Soviet obligation for conventional force reduction under the CFE Treaty illustrates the major conceptual flaw in the CFE Treaty. The chart shows the magnitude of the attempted Soviet fraud. It shows that the Soviet-declared fraudulent data is a maneuver designed to cut their obligation to reduce their conventional forces almost in half. The Senate should act to prevent the Soviets from succeeding in this deception. The Condition to the Resolution of Ratification can correct this Soviet fraud. *End Summary.*

INTRODUCTION: SHORT EXPLANATION OF SOME DETAILS OF CFE'S CONCEPTUAL FLAW

A. U.S. national intelligence estimates show that the Soviets declared false CFE data

According to unclassified testimony to the Committee derived from National Intelligence Estimates, U.S. Intelligence has conclusive evidence that the Soviet Union deliberately falsified its declared data on the day of signature of the CFE Treaty, November 19, 1990.

The Acting Director of Central Intelligence testified publicly to the Committee on Foreign Relations on July 17, 1991, that:

"[W]hen the Soviets tabled their figures on Treaty-Limited Equipment holdings as of 19 November, 1990, there were *major discrepancies* between those figures and our most recent estimates available at that time . . . We have *confirmed* that some of the weapons being moved east of the Urals did not arrive at their destination until a month or so after signature . . . We also *know* that a number of items that the Soviets claimed to have eliminated by 19 November were still in the zone."

These public intelligence judgments based upon our National Intelligence Estimates clearly indicate that the Soviets deliberately falsified their initial data declaration at Treaty signature. It should be re-emphasized that these unclassified judgments are derived from the classified National Intelligence Estimates.

Since the signing of the CFE Treaty on November 19, 1990, the Soviets have even admitted their data falsification in diplomatic channels, when confronted with them by U.S. negotiators, thus confirming that the deliberate falsification occurred.

The Chief U.S. CFE negotiator, Ambassador James Woolsey, even termed this false Soviet data declaration flagrant "fraud." This assessment of fraud can only be interpreted to mean that Ambassador Woolsey believes that the Soviets violated their obligation under the CFE Treaty to declare accurate data at Treaty signature. Moreover, the

Executive Branch is already preparing a noncompliance report for the President to deliver to Congress in December, 1991, on the Soviet CFE data falsification. The Presidential Report is required because the Soviet data declaration was clearly inaccurate, and the Soviets clearly violated their obligation to declare accurate data upon signing the CFE Treaty.

The intelligence evidence that the Soviets grossly under-declared their forces at the time of Treaty-signature is conclusive. There is "smoking gun" evidence that thousands of pieces of Soviet Treaty-Limited Equipment were present in the zone of Treaty application and yet were not declared on the day of signature.

Indeed, our best intelligence indicates that the Soviets had about 18,000 pieces of Treaty-Limited Equipment (TLE) inside the zone of application that they did not declare at the time of Treaty signature. Originally, just after CFE Treaty signing on November 19, 1990, U.S. Intelligence concluded that the "major discrepancy" between U.S. evidence and the Soviet data declaration was as large as a Soviet under-declaration of 35,000 to 40,000 pieces of TLE. But after a thorough restudy of all the U.S. evidence collected during 1990, which is described in more detail below, U.S. Intelligence concluded that the "major discrepancy" was about 18,000 pieces of un-declared TLE.

Within this block of 18,000 pieces of un-declared Soviet TLE, there is conclusive, "smoking gun" evidence of about 4,000 undeclared pieces of TLE within the zone on the signature date.

Indeed, the Chief U.S. CFE negotiator has testified publicly that about 4,000 un-declared pieces of TLE were clearly still inside the zone on the date of signature, and that a total of about 18,000 TLE are estimated to have been in the category of un-declared but inside the zone on date of signature.

Ambassador Woolsey, the U.S. Chief CFE negotiator, testified to the Committee in open session on July 25, 1991, as follows:

"* * * We believed, based on information that had been provided to us by the Intelligence Community, that there were * * * data problems * * * with respect to the aircraft, there was approximately 1,000 aircraft * * * that the Soviets * * * did not declare. And we raised this issue in the Joint Consultative Group, and after discussions there they *increased* their notified holdings by between 100 and 200 aircraft. There were still 800 or so aircraft that they did not notify * * *. There was also about 1,000 pieces of ground * * * based equipment which we believe * * * [with] reasonably good confidence were not declared properly * * *. Now in addition to this approximately *800* or so aircraft and *800* or so pieces of ground equipment, there are another, let us say in the *very low thousands*, pieces of equipment that, I believe it is fair to say we believe we have some evidence to suggest were not destroyed in time and/or alternatively did not get out in time, that is, were not destroyed by November 19th or did not get out by November 19th."

Thus we have public testimony from the U.S CFE negotiator to the Committee that there is hard evidence that at least about 4,000 Soviet pieces of TLE were clearly in the zone of Treaty application, but were not declared.

The evident Soviet purpose in their data falsification was to avoid having to destroy the full 18,000 un-declared pieces of TLE in the zone. In the months following the signature date of November 19, 1990, all of these 18,000 pieces of un-declared TLE have evidently been removed from the CFE Treaty zone of application, and by being East of the Urals, they are now immune from destruction under the Treaty.

Testimony to the Committee from the Chairman of the Joint Chiefs of Staff, quoted in detail below, also shows that the magnitude of this deliberate Soviet data falsification is so large that it must be regarded as "militarily significant."

B. Soviet violation of CFE obligation to provide accurate data

Testimony therefore shows that the Soviets have committed a militarily significant, fundamental violation that goes to the heart of their most significant obligation of the Treaty, even before the Treaty is ratified. The gross Soviet data falsification at signature is a violation of the CFE obligation to provide accurate data. Moreover, the obligation to reduce TLE is the central obligation of the Treaty, and the data upon which this obligation is based is the cornerstone of the central obligation. Since the data (either declared by a State Party to the Treaty or derived from U.S. National Technical Means) is so important to calculating the central obligation of the Treaty—the reductions, the Soviet data falsification could be viewed as defeating the object and purpose of the Treaty.

Indeed, this gross Soviet data deception is more than "bad faith" or simple "fraud." Under international law, it is "fraud in the inducement" to sign the CFE Treaty, that is to say fraud intended to induce the other party to accept unequal terms. Thus Soviet "fraud in the inducement" could give the United States the right to refuse to ratify the Treaty, or to withdraw from it.

C. What is the correct method for calculating how much the Soviets must reduce?

The proposed CFE Treaty, of course, requires the NATO group of nations and the former Warsaw Pact group of nations to reduce their conventional forces to agreed-upon levels equal for each group. The Soviet obligation is to reduce its forces along with its former Warsaw Pact allies to the agreed level.

The question then arises—what is the starting point for calculating the Soviet obligation to reduce? Is this starting point the level of forces which the Soviets declared at Treaty signature, or is it the level which U.S. National Technical Means of verification detected that the Soviets actually had in the zone on the day of signature?

Most officials in the Executive Branch are seeking to minimize the Soviet obligation to reduce. These officials hold that the Soviet reduction obligation should be calculated from the level of forces that the Soviets declared at Treaty signature. Under this method of calculation, the Soviet obligation to reduce would be only 19,670 pieces of Treaty-Limited Equipment. The probable reason for this attempt to minimize the Soviet reduction obligation is the presumed difficulty of the diplomatic effort it would take to achieve Soviet compliance with their full reduction obligation.

However, this Soviet-declared data is not a legal and integral part of the CFE Treaty; in fact, this Soviet-declared data has not even been officially and formally submitted to the Senate with the Treaty as part of the official documents included in the Treaty; and finally, U.S. Intelligence has established that it is grossly inaccurate.

The correct interpretation of the CFE Treaty, according to its precise provisions to be quoted below, shows that Soviet-declared data is only a supplement to the data gathered by U.S. National Technical Means of verification for calculating the Soviet reduction obligation.

The Treaty's terms precisely state and that U.S. National Technical Means of verification are required for "validation" of the Soviet-declared data. Moreover, there are locational and numerical constraints in the Treaty that can only be verified by National Technical Means. Finally, the Treaty explicitly states that U.S. National Technical Means of verification are to be used for "ensuring verification of compliance with the provisions of the Treaty." This means that U.S. National Technical Means of verification must be used to calculate the compliance obligation—the Soviet obligation to reduce.

In a circumstance in which the Soviets have clearly violated their obligation under CFE to provide accurate data at Treaty signature, only U.S. National Technical Means of verification can establish the baseline of how many pieces of Soviet TLE were in the zone on the day of Treaty signature. This view was provided in answer to one of my questions which was agreed to by an interagency group.

In sum, the Treaty clearly establishes that the Soviet obligation to reduce must be calculated from data on Soviet forces actually in the zone of application on the date of Treaty signature, as established by U.S. National Technical Means of verification.

Under this correct method of calculation, the Soviet reduction obligation would be the sum of the 19,670 pieces of Treaty-Limited Equipment *plus* the 18,000 pieces that the Soviets did not declare, or a total of 37,670 pieces—almost *twice* as much.

Thus we must almost *double* the Soviet reduction obligation.

A fundamental principle of both civil and international law is that a contracting party should not be able to benefit from false declarations in a contract or a treaty. This principle's practical effect in this case is that if we know from U.S. National Technical Means of verification that Soviet-declared data is grossly false, then we must use our own NTM data on actual Soviet forces in the zone in order to calculate the Soviet obligation to reduce.

D. Senate should not approve use of fraudulent Soviet data

The Committee and the Senate must resolve the related problems of the grossly inaccurate Soviet-declared data, and how to calculate the Soviet reduction obligation.

Otherwise, if the Senate does not solve this problem, the Senate will face the anomaly of having to vote to approve the grossly inaccurate Soviet-declared data being erroneously used to calculate the fundamental obligation of the Treaty. A Senate vote for the CFE Treaty, in the *hope* that on-site inspections (after ratification) can solve the data problem, would be like buying a "pig in a poke," or consummating a deal without knowing what we are getting into.

There is an acceptable way to solve the Senate's problems with the CFE Treaty, in the form of Senate Condition No. 2 to the Resolution of Ratification, which will be proposed during Committee mark-up on the Treaty. *(End Introduction.)*

I. BACKGROUND TO THE PROBLEM WITH THE SOVIET-DECLARED CFE DATA: LONG HISTORY OF SOVIET DATA FALSIFICATION IN SALT, MBFR, AND INF

Russian President Boris Yeltsin recently stated that the Soviet Union has provided false data in arms control negotiations. Yeltsin recently told a group of 72 Senators and also a press conference at the White House in June, 1991, according to two transcripts and two translations, that Soviet hardliners falsified the numbers of Soviet weapons systems, and engaged in deception, throughout the last thirty years of arms control treaty negotiations with the West. Yeltsin's assessment is consistent with the facts of Soviet data deception in arms control negotiations long known to U.S. Intelligence.

In September, 1988, then-Soviet Foreign Minister Eduard Schevardnadze finally admitted that the Soviet Krasnoyarsk radar was a clear violation of the SALT I ABM Treaty. Schevardnadze also conceded that for years the Soviets has falsely denied their violations of arms control treaties to the world, thereby authoritatively conceding the magnitude of Soviet arms control falsification and deception.

Presidential reports to Congress since 1984 have confirmed several cases of Soviet data falsification and deception in SALT I, SALT II, and the INF Treaty.

A. Problems with Soviet data, case one: In SALT I the Soviets declare false intentions, capabilities, and data, and these are part of the agreement

There is a long history of Soviet data falsification and deception, dating back to the first strategic forces arms control agreements signed in 1972. This history suggests that the Soviet Union has engaged in "fraud in the inducement" since arms control involving strategic forces began.

In the SALT I Interim Agreement of 1972, the Soviets falsely declared that they did not intend to replace light ICBMs with heavy ICBMs, when in fact they had precisely such intentions and later proceeded to execute them.

Moreover, the Soviets falsely declared that they needed to be compensated for the short range of their SLBMs, by being allowed a higher total of SLBMs, when in fact they had already developed a long-range SLBM to overcome their "geographical asymmetry."

Finally, the Soviets declared a false number of the submarines that they then possessed. This false number was used in the negotiations and in the agreement to calculate a favorable weapons "replacement" quota for them, increasing their advantage in submarines and SLBMs.

The President's General Advisory Committee on Arms Control concluded in 1984 that the Soviet negotiating deception resulting in the Soviet replacement of light ICBMs with heavy ICBMs, when SALT I's Article II prohibited such replacement, was a circumvention of SALT I which defeated its object and purpose.

A fourteen year-old CIA study also confirmed that the Soviets falsified their number of submarines, and hid the long range of an SLBM designed to overcome their "geographical asymmetries" until after the agreement entered into force.

Thus there is official confirmation that the Soviets negotiate deceptively in SALT I, provided some false information on their intentions and capabilities, and provided some false data.

The United States agreed to this false Soviet-declared data at the time, it was included in the agreement, and the United States therefore in effect became a complicit party to the Soviet data deception.

B. Problems with Soviet data, case two: False Soviet data is agreed to by the U.S., and is made part of SALT II Treaty

In the SALT II Treaty of 1979, the Soviets declared much more data on their strategic forces, and this data declaration was in the form of a "Memorandum of Understanding" which was linked directly to the Treaty. In fact, it was considered to be tantamount to a protocol to the Treaty. Moreover, the United States stated in this "Memorandum of Understanding" that it "agreed" with this Soviet-declared data. This "agreed" Soviet-declared data was sent to the Senate as an official part of the unratified SALT II Treaty.

However, it later turned out that the Soviet-declared SALT II data was false in several ways. The eight Presidential Reports to Congress on Soviet Non-compliance with Arms Control Treaties beginning in 1984, together with the Defense Department series begun in 1981 entitled *Soviet Military Power*, have officially confirmed the following Soviet SALT II data falsifications:

—The Soviets failed to declare about 50 to 200 mobile SS-16 ICBMs that were probably deployed at the time, and in effect falsely declared that they had zero mobile ICBMs;

—The Soviets failed to declare that about 200 of their AS-3 cruise missiles carried on their 100 older Bear bombers had a range of more than 650 kilometers, and therefore they falsely declared that they had "zero" heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers, when they actually had at least 100 such bombers;

—The Soviets falsely declared in a statement that was made an integral part of the Treaty that their 400 intercontinental Backfire bombers did not have intercontinental range or radius capability, did not have inflight refueling capability, and would not be produced at a rate in excess of 30 per year, in order to exclude all Backfire bombers from counting in the Treaty. Yet all these Soviet Backfire data declarations turned out to be false.

Thus the United States had another bad experience with including Soviet-declared data in the SALT II Treaty, because the Soviets falsified some of their data. Moreover, the United States made the mistake of "agreeing" with the Soviet-declared data that later turned out to be false. In effect, the United States again became a complicit party to the Soviet data deception.

C. Problems with Soviet data, case three: Soviets declare false INF data, but it is not made part of the INF Treaty

The fact that we later discovered that in SALT II the Soviets falsified data that was part of the Treaty and which the United States "agreed" to had an important effect. Ever since SALT II, the United States has been reluctant to agree to the accuracy of Soviet-declared data or to including Soviet-declared data in arms control treaties.

In the case of the 1987 INF Treaty, the Soviet-declared data was *not* agreed to by each side, and it was not included in the Treaty. But the Soviet-declared data was nevertheless sent to the Senate as if it was part of the Treaty, even though it was not a legal and integral part of the Treaty. And during the ratification process the state Department vigorously defended the accuracy of the Soviet-declared INF data, even though the Treaty said that only the Soviets were responsible for the accuracy of their own data.

Just as happened in SALT I and SALT II, later it turned out that the Soviets had again falsified some of their INF data. The State Department was embarrassed by the discovery later that some Soviet-declared INF data was false, because the State Department had repeatedly vouched for its accuracy in public when advocating the Treaty. But defending the accuracy of Soviet-declared data again turned out to be a losing proposition. These Soviet falsifications of their data declared for the INF Treaty have been confirmed by several National Intelligence Estimates and Presidential Reports to Congress on Soviet Non-compliance with Arms Control Treaties.

The most important unclassified examples of Soviet INF data falsification, and there are many more than those listed below, are the Soviet failures to declare:

—At least 120 Soviet-controlled SS-23s covertly deployed in Eastern Europe, which President Bush termed showed Soviet "bad faith" in the INF negotiations, which the U.S. INF negotiator termed "deceit and mendacity" during the negotiations, and which President Bush recently stated constituted a "probable violation" of the INF Treaty;

—The true dimensions of their SS-20 missile second stages, SS-20 canisters, end caps for the SS-20 Re-entry Vehicles, and SS-23 missiles;

—About 85 Treaty-Limited Items of INF missiles and equipment detected at the time of INF Treaty signature at non-declared sites;

—At least 300 or more covert Soviet SS-20 launchers and missiles which had probably been produced at the time of INF Treaty signature.

D. Conclusion: The Soviets continued to falsify data whether the data was included in the treaties or not

We have not yet mentioned the fourth case, the 1973–1989 aborted negotiations on the Mutual and Balanced Force Reductions, in which the main obstacle to agreement was longstanding Soviet falsification of their force data.

According to press reports, a spy for the CIA who later defected to the West, Polish Army Colonel Roman Kuklinski of the Polish General Staff, has given the United States voluminous documentary evidence of the systematic data deception that the Soviet General Staff engineered throughout the MBFR negotiations.

According to several reports, a U.S. Intelligence study, reportedly based upon Colonel Kuklinski's evidence, stated:

"We believe Soviet officials *deliberately under-stated* the number of Warsaw Pact military servicemen in Central Europe that would be subject to an MBFR agreement."

Thus we have four major case studies of Soviet data deception—SALT I, SALT II, INF, and MBFR.

In sum, we have the following history of false Soviet-declared arms data:

—In the case of the SALT I Agreement, some Soviet-declared data was false, it was part of the agreement, the United States agreed to it and therefore became a complicit party to the Soviet data deception;

—In the case of the SALT II Treaty, some Soviet-declared data was false, it was part of Treaty, the United States agreed to it and therefore again became a complicit party to the Soviet data deception;

—In the case of the INF Treaty, some Soviet-declared data was false, it was not part of the Treaty, the State Department nevertheless defended its accuracy, but in ratifying the Treaty which depended on this non-integral data for the implementation of the Treaty, the United States yet again became a complicit party to the Soviet data deception;

—In the MBFR negotiations, we know that the Soviets systematically falsified their data, and this deliberate falsification became the main reason for the failure of the negotiations;

—In the cases of the SALT I Agreement, the SALT II Treaty, and the INF Treaty, the partly false Soviet data was sent to the Senate.

The Executive Branch has thus "agreed" to partly false Soviet-declared data in SALT I, SALT II, and even in the INF Treaty. And the United States Senate has repeatedly become a complicit party to Soviet data deception by ratifying or approving these Agreements and Treaties.

A good case can be made that the Soviet data falsification was so significant that the Soviet Union engaged in "fraud in the inducement" in SALT I, SALT II, MBFR, and the INF Treaty.

There are reports that the Soviets have also again falsified some of their declared data in the proposed START Treaty, as a 65 page CIA study points out.

In view of this history, the Senate should be aware of the non-legal status of the Soviet-declared CFE data, and whether or not it is accurate. In the most recent case—the INF Treaty—on May 26, 1988, the Senate gave its advice and consent for the President to ratify a Treaty which used for its compliance and implementation Soviet-declared data that can now be demonstrated to be partially false.

In the case of the proposed CFE Treaty, the Senate would be wise to avoid a situation in which it gives its advice and consent for the President to ratify a treaty which either makes use of false Soviet-declared data, or depends upon false Soviet-declared data for compliance and implementation. Otherwise, the Senate could even yet again a fourth time become a complicit party to Soviet data deception.

II. THE PROBLEM WITH THE SOVIET-DECLARED CFE DATA

A. U.S. intelligence detects 18,000 Soviet undeclared TLE

As noted, according to public, unclassified testimony and press reports, U.S. National Technical Means of verification have detected about 18,000 *more* pieces of Soviet Treaty-Limited Equipment—TLE—in the Treaty zone of application at date of Treaty signature on November 19, 1990, than the Soviets declared. This inescapable conclusion was reached after an intensive re-study by U.S. Intelligence of all the evidence of Soviet forces in the CFE zone during 1990. Further, we have seen that the original "data gap" was as large as 35,000 to 40,000 pieces of Soviet undeclared TLE. Finally, as further noted, there is hard evidence of this Soviet under-declaration of data. The only discernible purpose for this under-declaration is to minimize the Soviet obligation to reduce.

Within this block of 18,000 undeclared TLE, there is positive, conclusive evidence that a batch of about 4,000 combat aircraft TLE and ground TLE were not declared by the Soviets, even though they were clearly in the zone at the time of Treaty signature. The evidence in these cases is "smoking gun" quality—hard evidence from U.S. National Technical Means of verification on the day of Treaty signature. These 18,000 pieces of Soviet undeclared TLE, including the 4,000 "smoking guns," are clearly a violation of the CFE Treaty.

As noted, this judgment of the magnitude of undeclared Soviet TLE—18,000 pieces including the 4,000 "smoking guns"—is thus based upon hard intelligence evidence and sound analytical methodologies. An intensive re-study of all the evidence on Soviet forces in the CFE zone of application throughout 1990 was conducted by U.S. Intelligence.

One methodology reportedly entailed macro-counting Soviet equipment in the 900 or more "Objects of Verification" in the Atlantic to the Urals zone. The second methodology reportedly entailed micro-counting Soviet equipment being stockpiled and stored at scores of Soviet military depots East of the Urals. These two "macro-micro" methodologies can be compared to counting first the "bean pods" in the military bases inside the Treaty zone (because most Soviet equipment there is under cover inside sheds), and then counting the "beans" themselves in mostly open storage concentrations in the depots East of the Urals.

The Intelligence Community is thus confident that this hard evidence and the two counting methodologies show that the Soviets grossly under-declared their data by about 18,000 pieces of TLE, and that the Soviet purpose in this was clearly to minimize their reduction obligation. This Soviet purpose is confirmed by the strong likelihood that all of this undeclared Soviet TLE has probably been moved East of the Urals by now, where it will not have to be reduced under the terms of the Treaty.

B. Legal status of Soviet CFE data

What is the legal status of this Soviet-declared CFE data? In the case of the CFE Treaty, the Senate has not even formally and officially been sent the Soviet-declared CFE data, surely because the State Department does not believe that it is legally part of the CFE Treaty or that it is an integral part of it.

Indeed, Ambassador Woolsey has authoritatively told Committee staff that he does not regard the Soviet-declared CFE data to be a legal and integral part of the CFE Treaty. But there seems to be a more fundamental reason why the Senate has not been formally and officially sent the CFE data that the Soviets declared at signature. Perhaps the real reason that the Soviet-declared data was not sent was because the State Department does not once again want to have to vouch for the accuracy of false Soviet-declared data, especially Soviet-declared data which this time is so grossly and deliberately inaccurate. Thus the Senate should also be cautious with regard to the Soviet-declared CFE data.

There is thus an anomalous situation with regard to the CFE Treaty. Unlike the INF Treaty, which simply banned all the types of INF missiles and the missiles themselves that were declared, (as it turned out we have confirmed that the number of Soviet INF missiles was falsely under-declared), there is a more fundamental problem with the Soviet-declared CFE data. The Soviet-supplied CFE data is not part of the Treaty, even though the Executive Branch believes that this data must be used to calculate the key obligation of the CFE Treaty.

C. Should the Senate agree to use deliberately and grossly false Soviet-declared data in CFE?

But is it reasonable to use a set of data which is not legally and integrally part of the CFE Treaty, and which was not officially and formally furnished to the Senate, in order to calculate the fundamental Soviet obligation of the Treaty—the Soviet reduction obligation?

More significantly, is it reasonable to use this data for such a calculation even when we clearly know it to be grossly and deliberately inaccurate?

The CFE Treaty contains numerical and locational constraints on "Treaty-Limited Equipment" or TLE. The Treaty is also supposed to be monitored by National Technical Means of verification. Indeed, the numerical and locational constraints on the TLE contained in the Treaty can only be verified by National Technical Means. Moreover, even the CIA has stated that verification of the baseline data is crucial to having parity after the reductions, and National Technical Means of verification are the only means to verify the Soviet baseline data.

Thus this Soviet under-declaration of 18,000 pieces of Treaty-Limited Equipment goes to the heart of the fundamental Soviet obligation under the Treaty—the obligation to reduce to equal levels of forces for the groups of nations.

Finally, as is discussed in more detail below, the Chairman of the Joint Chiefs of Staff has testified to the Committee that illegal TLE numbering more than 15,000 pieces would be a "military significant" violation.

The Soviets thus have under-declared their CFE data on November 19, 1990, by at least 18,000 pieces of TLE, which is a military signficant amount.

This "data gap," or under-declaration problem is therefore an important case of Soviet "fraud in the inducement" to the CFE Treaty, a violation at the signature of the Treaty serious enough to allow the United States to withdraw from the Treaty or refuse to ratify it. This Soviet data fraud must be considered as part of the problem of calculating the Soviet reduction obligation under the terms of the Treaty.

III. CALCULATION OF THE SOVIET OBLIGATION TO REDUCE

According to Ambassador James Woolsey, the U.S. chief negotiator, and also to most other Executive Branch officals, the way to calculate the Soviet obligation to reduce is to simply subtract the allowed Soviet TLE holdings contained in the Treaty's statement of permitted holdings at the end of the 40 month period from the Soviet data declared at Treaty signature. The result is supposed to be the total number of TLE that the Soviets are obligated to destroy. The State Department and most other Executive Branch officials agree with this method of calculating the Soviet obligation to reduce.

Using this methodology, the Soviets would have to reduce by 19,670 pieces of TLE.

Thus it can be argued that the Soviet data declaration at Treaty signature is the most important input, indeed, the only input, for calculating the Soviet reduction obligation. But this Soviet-declared data is not a legal, integral part of the Treaty; it has not even been officially and formally furnished to the Senate; it is clearly grossly false; and a proper interpretation of the Treaty shows that it cannot be the only input into the calculation.

A. The Soviet data declaration not formally and officially sent to the Senate

Moreover, the fact that the Senate does not even officially and formally have the Soviet data declaration is significant, and needs re-emphasis.

The Soviet-declared data has not even been formally and officially sent to the Senate as part of the CFE Treaty. The Soviet data was only sent informally and unofficially to the Committee on Foreign Relations long after the Treaty itself was submitted to the Senate, and it was only sent because of repeated staff requests for it.

If the Senate does not officially have the Soviet-declared data, then the Senate cannot calculate the Soviet reduction obligation under the proposed Treaty, even using the method suggested by Ambassador Woolsey and most Executive Branch officials. But even if the Soviet-declared data had been formally and officially sent to the Senate, it is not regarded by the Executive branch to be an integral or legal part of the Treaty.

In sum, if the Soviet data declaration is not before the Senate and is not legally an integral part of the Treaty, and is deliberately and grossly false, then clearly there must be another input for calculating the Soviet obligation to reduce. We must seek to interpret the Treaty to determine the proper method of calculating the Soviet reduction obligation.

B. U.S. NTMs are the main input into the calculation

A fundamental principle of both civil and international law is that a contracting party should not be able to benefit from false declarations in a contract or a treaty. This principle's practical effect in this case is that if we know from U.S. National Technical Means of verification that Soviet-declaration data is grossly false, then we must use our own NTM data on Soviet forces in the zone at signature in order to calculate the Soviet obligation to reduce.

The top official in the Executive Branch with explicit responsibility for verification believes that what follows is a description of the proper, correct method for calculating the Soviet reduction obligation.

A full and careful study of the relevant provisions of the proposed CFE Treaty shows that the correct method for calculating the Soviet CFE reduction obligation is as follows:

For full compliance with the intended reduction obligations, a State must:

Provide complete and accurate data on the numbers of all of its armaments and TLE that are in the zone of the Treaty, and their location, as of the dates of signature and entry into force. The quantity of such TLE that must be declared as a state's reduction obligation and reduced by the Treaty-specified procedures by 40 months after entry into force of the Treaty must not be less than: the difference between the *higher* of the *actual number* of TLE present in the zone at the date of signature or entry into force, and the state's declared maximum holdings.

Three provisions of the CFE Treaty provide the basis for this conclusion that data on Soviet TLE *actually present* in the zone at the date of signature or entry into force are the main determinant of the Soviet obligation to reduce. These three provisions are as follows:

(1) There are locational and numerical data declarations and constraints in the Treaty, which can only be verified by U.S. National Technical Means of verification.

For example, Sections II. and III. of the Protocol on Notification and Exchange of Information state that:

"each State Party shall provide to all other States party information on—*overall numbers* and the *numbers by type* of its holdings of battle tanks, armored combat vehicles, and artillery limited by the Treaty in each of the areas [of application of the Treaty] * * * each State Party shall [also] provide to all other States Parties the following information—the designation and peacetime location * * * specifying the *geographic* name and *coordinates* [of its] battle tanks, armored combat vehicles, artillery, combat aircraft, and attack helicopters * * *"

This Treaty language clearly implies that U.S. National Technical Means of verification will be used to validate the Soviet data declaration.

(2) Soviet data declarations are not intended to be used for implementation and compliance all by themselves. U.S. National Technical Means of verification specifically are to be used to *validate* Soviet data.

For example, Article XIII .3 of the Treaty states that:

"Each State Party shall be responsible for its own information; receipt of such information and of notifications shall not imply *validation* or acceptance of the information provided."

This Treaty language clearly means that U.S. National Technical Means of verification are required to validate the Soviet data declaration.

(3) Finally and most significantly, U.S. National Technical Means of verification are clearly intended to be the main source of data on Soviet forces covered by the Treaty, for purposes of implementation and *compliance.*

Article XV of the Treaty states:

"For the purpose of ensuring verification of compliance with the provisions of the Treaty, a State Party shall have the right to use national or multinational technical means of verification * * *"

Thus the precise provisions of the CFE Treaty require that U.S. National Technical Means of verification be used to verify all locational and numerical declarations, to validate all data, and most significantly, to calculate the reduction obligation in order to ensure compliance. In sum, these provisions of the CFE Treaty clearly indicate that U.S. National Technical Means of verification showing evidence of *actual* Soviet TLE holdings in the zone at the time of signature and entry into force must be the fundamental determinant of the Soviet reduction obligation.

C. Even the CIA states that baseline verification is vital for parity

Moreover, even the Intelligence Community stated in a document dated October 17, 1990, that "baseline verification" is one of the three main verification tasks of the CFE Treaty.

The Intelligence Community emphasized, regarding baseline verification, that:

"We must be confident that the starting figures, from which the required reductions in TLE will be calculated, are *correct.* Otherwise there is no assurance that reductions will result in *parity.*"

Thus even this Intelligence Community statement also strongly implies that U.S. National Technical Means of verification will be used as an important input into determining the Soviet obligation to reduce.

Using the correct methodology to calculate the Soviet reduction obligation thus would add the 18,000 pieces of Soviet undeclared TLE to the 19,670, resulting in a total Soviet obligation to reduce 37,670 pieces of TLE. This is almost a *doubling* of the Soviet obligation to reduce.

D. The magnitude of the Soviet under-declaration

As noted, according to press reports and to open testimony, the Soviet have clearly under-declared their CFE data on the date of Treaty signature by about 18,000 pieces of TLE.

This "data gap" or under-declaration problem is therefore an important case of Soviet "fraud in the inducement" to the CFE Treaty. More significantly, this Soviet misbehavior goes to the heart of the fundamental obligations of the CFE Treaty.

The next question is whether the 18,000 pieces of TLE, of which the 4,000 "smoking gun" cases are only a part, are "militarily significant."

E. JCS chairman says more than 15,000 illegal TLE are "militarily significant"

On July 16, 1991, the Chairman of the Joint Chiefs of Staff, General Colin Powell, testified to the Committee as follows:

"* * * Senator Helms, 15,000 treaty-limited pieces of equipment that had been covertly infiltrated back into the ATTU [Atlantic to the Urals zone of the CFE Treaty] in violation of this Treaty, that indeed is *militarily significant.*"

Now General Powell was speaking hypothetically of the infiltration of illegal TLE into the zone, but what is important here is the level of illegal TLE, whether infiltrated or covert or undeclared, that is assessed as "militarily significant." If 15,000 illegal TLE that are infiltrated are assessed as "militarily significant," then it is reasonable to conclude that 15,000 covert or undeclared TLE would also be "militarily significant."

Finally, because the prevailing Executive Branch calculation of the Soviet reduction obligation has the Soviets reducing by about 19,670 pieces of TLE under the Treaty, if 18,000 undeclared TLE is *not* "militarily significant," then the ostensible 19,670 TLE reduction is also not "militarily significant." Thus if 18,000 pieces of TLE are not militarily significant, then the entire CFE Treaty may therefore not be "militarily significant." And if CFE is not militarily significant, then it may be judged to be irrelevant.

But the most logical and correct interpretation, based upon General Powell's testimony, is that the Joint Chiefs of Staff assess both 18,000 pieces of TLE and 19,670 pieces of TLE as being militarily significant.

IV. CONCLUSION: SOVIET VIOLATION OF CFE AT THE OUTSET

In conclusion, here is how we must describe the false Soviet data declaration gap at Treaty signature:

(1) The Soviets have deliberately tried to minimize their reduction obligation by systematically falsifying their data at the date of signature by 18,000 pieces of TLE;

(2) This gross Soviet falsification was intended to save the Soviets from destroying about 18,000 pieces of TLE, almost as many as the 19,670 TLE that the prevailing Executive Branch methodology has calculated that they will have to destroy under the Treaty;

(3) The gross Soviet falsification of their declared data at signature is "fraud in the inducement," and is a violation of their obligation to provide accurate data at Treaty signature;

(4) The JCS Chairman, General Powell, has testified to the Committee that illegal Soviet TLE above 15,000 is "militarily significant," and thus this Soviet data falsification which would save the Soviets from destroying 18,000 pieces of TLE is a "militarily significant" number.

In sum, the Soviets have already violated the CFE Treaty in a militarily significant way:

—The Soviets have minimized their reduction obligation by deliberately falsifying their data at the date of signature by about 18,000 TLE, despite their Treaty obligation to provide accurate data;

—This Soviet falsification saves the Soviets from destroying about 18,000 TLE;

—The JCS Chairman, General Powell, has testified to the Committee that illegal Soviet TLE above 15,000 is "militarily significant," and thus this Soviet data falsification saving about 18,000 Soviet TLE from destruction is militarily significant.

Thus by violating their CFE Treaty obligation to provide accurate data at signature, the Soviets have already violated the CFE

Treaty in a militarily significant way, even before ratification.

Finally, use of the correct methodology to calculate the Soviet obligation to reduce would almost *double* the number of pieces of Soviet TLE required to be dismantled by adding in the 18,000 Soviet undeclared pieces of TLE to the 19,670, resulting in an obligation to reduce 37,670 pieces of TLE.

V. SENATE CONDITION TO CFE RESOLUTION OF RATIFICATION

The United States has been deeply worried about the potential of the Soviet Union to circumvent the CFE Treaty with the 57,300 or more TLE that they have withdrawn behind the Urals prior to the entry into force of the Treaty. The United States has therefore tried to get the Soviets to agree to further reductions of their forces beyond the Urals, outside the Treaty. This was the purpose behind the Soviet statement of June 14, 1991.

On June 14, 1991, the Soviet Union made the following "political commitment." The Soviets stated that between 1991 and 1995, they would:

"* * * destroy or convert into civilian equipment no less than 6,000 battle tanks, 1,500 armored combat vehicles, and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals * * *"

These additional, pledged reductions would total 14,500 pieces of TLE. The United States would be notified about the timing and location of these reductions, and the United States would use National Technical Means of vertification to observe these reductions, rather than on-site inspections.

This is thus a Soviet political commitment to reduce a total of 14,500 pieces of TLE, or about 25 percent of the 57,300 Soviet pieces of TLE that they have admitted withdrawing behind the Urals in 1989, 1990, and 1991. It is significant that a total of 14,500 pieces of TLE is approximately equivalent to the 18,000 pieces of TLE that U.S. Intelligence believes was undeclared at signature.

In sum, it would be possible to solve the inter-related Soviet data falsification problem and the problem of establishing the correct methodology for calculating the Soviet reduction obligation, by conditioning the Senate's advice and consent to the resolution of ratification to say that the Soviet political commitment to dismantle these 14,500 pieces of TLE are an approximate equivalent to the 18,000 under-declaration, and are thus an adequate compensation to the United States for the Soviet under-declaration.

PRESIDENT BUSH CONFIRMS SOVIET VIOLATION OF INF TREATY

Mr. HELMS. Mr. President, my critique of the INF Treaty in 1988 was based upon my assessment that the Soviets had engaged in negotiating deception to preserve covert INF missile forces, that the Soviets had falsified their declared data on the numbers of their INF missiles, and that they had illegally retained banned INF missiles as covert forces.

As I stated in April, 1988, during the debate over the INF Treaty:

> * * * The Soviets failed to declare their actual inventory of INF missiles in 1987, and they did not act in good faith. The INF Treaty is therefore not a "global ban on INF missiles," as was claimed in 1987 by its supporters.

In January 1990 a local newspaper in Eastern Germany published a story about Soviet-origin SS–23 missiles being covertly deployed at a military base nearby. In February, 1990, United States intelligence national technical means of verification reportedly detected some Soviet covert SS–23's at this eastern German base.

In April 1990, the Soviets finally admitted that they had covertly provided SS–23 missiles banned by the INF Treaty to three Eastern European nations. The Soviets covertly provided at least 72 SS–23 INF missiles to East Germany, Czechoslovakia, and Bulgaria. The Soviets covertly controlled these SS–23 INF missiles and their nuclear warheads.

But according to a Soviet report to the United Nations, a total of at least 120 banned SS–23's of Soviet origin are still unaccounted for, are not dismantled, and they violate the INF Treaty.

In March 1990, the former Chief U.S. INF negotiator, Ambassador Maynard Glitman, termed this Soviet covert SS–23 deployment "deceit and mendacity," and he added that "deceit and mendacity" had characterized Soviet private and public behavior before, during, and after the INF Treaty negotiations. But at the time of the INF Treaty ratification hearings, I do not recall any testimony from Ambassador Glitman, or from any other executive branch witness, about Soviet "deceit and mendacity," although I asked about Soviet deception.

In August 1990 the Senate unanimously passed a Helms amendment to the fiscal year 1991 Defense authorization bill requesting that before the United States signed a Start Treaty with the Soviets, a Presidential report be sent to the Senate on whether the covert Soviet SS–23's in Eastern Europe violated the INF Treaty.

A similar Helms amendment to the fiscal year 1992 Defense authorization bill again requesting a supplemental report from the President on the SS–23 violation was also passed unanimously by the Senate in July 1991.

In June 1991, Russian President-elect Boris Yeltsin publicly attacked Soviet falsification and deception in all arms negotiations. The U.S. Chief CFE negotiator, Ambassador James Woolsey, also has accused the Soviets of fraud in the CFE negotiations. President Bush agreed with Ambassador Glitman on Soviet bad faith in the INF negotiations, and the President characterized the Soviet covert SS–23's as an act of bad faith in his February 1991 report to Congress on Soviet noncompliance with arms control treaties.

The United States has long had strong evidence that the Soviets controlled both the covert SS–23's, and also their nuclear warheads, which were covertly deployed in Eastern Europe.

Mr. President, I ask unanimous consent that a supplemental report from the administration on SS–23 missiles in Eastern Europe, dated September 19, 1991, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, September 19, 1991.

Hon. JESSE HELMS,
Ranking Republican, Committee on Foreign Relations, U.S. Senate.

DEAR SENATOR HELMS: On behalf of the administration, I am transmitting a Supplemental Report on SS–23 Missiles in Eastern Europe.

In the February 1991 Report to Congress on Soviet Noncompliance with Arms Control Agreements, the United States examined the question of SS–23 missiles discovered in former non-Soviet Warsaw Pact (NSWP) countries. The United States has received additional information since that Report was written. This new evidence permits the United States to update the finding.

The United States has found that the Soviet Union had understandings that constituted what amounted to an undisclosed program of cooperation. Thus, the United States has reaffirmed its previous finding that the Soviet Union negotiated in bad faith. The United States further found that the Soviet Union has probably violated the Elimination Protocol of the Treaty by failing to eliminate in accordance with Treaty procedures, re-entry vehicles associated with and released from programs of cooperation.

The Administration views the SS–23 issue as the most serious question to arise in the years of INF Treaty implementation. As our analysis continues, the Administration is committed to keeping the Congress fully informed of our findings.

Sincerely,

STEPHEN R. HANMER, Jr.,
Acting.

SUPPLEMENTAL REPORT TO CONGRESS ON SS–23 MISSILES IN EASTERN EUROPE,

September 18, 1991.

The President's February 1991 Report to Congress on Soviet Noncompliance addressed whether SS–23 missiles located in three Eastern European countries are accountable as being in Soviet possession at any time after November 1, 1987 or were third party systems. This is a supplement to that Report, providing an updated finding on the issues of programs of cooperation and negotiating behavior. The United States will continue to seek evidence from all parties involved regarding the transfer and possession of these systems and is continuing to study the issue of possible unaccounted for SS–23 missiles, which this supplemental Report does not address.

I. PREVIOUS FINDING

In the February 1991 President's Report, on the question of possession and fraud, the President found that:

"Based upon the evidence available to date, the United States Government cannot make a judgment that Soviet actions with regard to the transfer of SS–23 missile systems constitute a violation of the INF Treaty. Neither does the available evidence absolve the Soviet Union from responsibility. In any case, Soviet failure to inform the United States of the existence of SS–23 missile systems in the GDR, Czechoslovakia, and Bulgaria during the negotiations and in the interim period preceding the GDR announcement, constitutes bad faith. As such the Soviet Union bears political responsibility to facilitate the destruction of this entire class of Soviet-produced missiles. The United States has concerns about the very existence of these systems and will continue to seek evidence from all parties involved to make a definitive judgment regarding possession. The U.S. objective is the destruction of this class of weapon system which was banned by the INF Treaty."

New evidence obtained since that report was prepared permits the United States to update this finding.

II. BACKGROUND

During the INF Treaty negotiations, the Soviet Union never said that it had transferred, either because of an existing pattern or program of cooperation or for any other reason, Soviet-origin shorter-range missiles to any country.

Paragraph 9, Section II, of the Elimination Protocol required that "during the last fifteen days, a Party shall withdraw to its national territory reentry vehicles which, by unilateral decision, have been released from existing programs of cooperation and eliminate them during the same timeframe in accordance with the procedures set forth in this section." The INF Treaty, however, does not define the term "programs of cooperation" (POC).

A program of cooperation is understood for purposes of the INF Treaty to be an arrangement between parties to the POC involving a missile manufactured by the supporting party and owned by the supported party, and a warhead manufactured, owned, and provided by the supporting party. This arrangement would commit the supported party to provide the missile for use with the supporting party's warhead and would commit the supporting party to provide the warhead. A POC can additionally include arrangements for some or all of the following:

Proposals approved by heads of government;

Commitments to supply nuclear warheads;

Technical information and training to employ the missile are provided to the supported party by the supporting party;

Maintenance and security of the missile is provided by the supported party;

Maintenance and final security of the warhead is provided by the supporting party.

Evidence now indicates that these countries each fielded 24 SS-23 missiles that would be employed in accordance with Soviet military planning. These countries were supplied with connecting sections and training equipment related to nuclear employment. The United States has confirmed that the connecting section is only used to mate a nuclear warhead to the SS-23 missile. Security measures used with regard to the SS-23 units were extensive and went beyond those in place for other forces.

When the United States has pressed the Soviet Union to provide information related to the SS-23 missiles, the Soviet Union has told the United States that it should seek information from the owners of these missiles—the former GDR, Czechoslovakia, and Bulgaria. However, the Soviet Union insisted that these countries observe contractual obligations associated with the transfer of the SS-23 missiles. This has effectively impeded the United States' ability to obtain information from these countries.

III. FINDING

The United States believes that the Soviet Union had understandings that Soviet manufactured SS-23 missiles transferred to at least one of the East European countries could be mated with Soviet nuclear reentry vehicles. Within the common meaning of the term, these understandings constituted what amounted to an undisclosed program of cooperation.

With respect to the SS-23s, the United States reaffirms its previous finding that the Soviet Union negotiated in bad faith.

The Soviet Union was required to eliminate, by May 31, 1991, any reentry vehicles unilaterally released from programs of cooperation. Although we have no evidence that the Soviet Union has retained SS-23 reentry vehicles, neither have they notified us of the destruction of any SS-23 reentry vehicles previously associated with programs of cooperation under this provision. The existence of a POC creates a strong presumption that allowances were made within the warhead stockpile system to provide reentry vehicles for missiles associated with POCs. The United States therefore believes that the Soviet Union has probably violated the Elimination Protocol of the Treaty by failing to eliminate in accordance with Treaty procedures, re-entry vehicles associated with and released from programs of cooperation.

The Soviet Union has impeded United States efforts to gain information that might resolve this issue. The United States will continue to seek evidence from all parties involved regarding the transfer and possession of these systems; to press the new authorities in Moscow to give a full accounting of this issue and to eliminate any remaining re-entry vehicles formerly associated with and released from programs of cooperation; and to press for destruction of the remaining SS-23 missiles.

Mr. HELMS. Mr. President, this supplemental report reaffirms President Bush's finding that the Soviets engaged in bad faith in the INF Treaty negotiations, but it finds for the first time that the Soviet covert SS-23 deployment in eastern Europe probably violated the INF Treaty.

I would point out, however, that there is even more evidence proving conclusively that the Soviets controlled the 120 covert SS-23's in Eastern Europe and their nuclear warheads. I am advised that this additional new evidence will be contained in the next Presidential Report to Congress on Soviet noncompliance with arms control treaties, due by law on December 1, 1991.

Mr. President, on July 17, 1991, the Acting Director of Central Intelligence, Mr. Richard Kerr, testified in public to the Committee on Foreign Relations on monitoring the CFE Treaty. In his unclassified testimony, the Director of Central Intelligence stated specifically that under the INF Treaty:

> * * * The detection of a single proscribed [INF] weapon [is] a violation [of the INF Treaty] once the reductions period is completed."

Well, I must agree with the acting DCI, Mr. Richard Kerr. The 3-year INF reduction period was over on May 31, 1991, and after that date, all United States and Soviet INF missiles and all their support equipment, anywhere in the world, were supposed to be completely destroyed. But there is still newer evidence of Soviet control of the 120 covert SS-23's, and this new evidence will prove conclusively that the Soviets violated the INF Treaty with their covert SS-23 deployment. In his December 1, 1991, report to Congress on Soviet violations, I believe that this new, conclusive evidence will allow the President to find that the Soviet covert SS-23's are an unqualified violation of the INF Treaty.

Mr. President, we should recall that former Secretary of State George Shultz stated during the INF Treaty ratification hearings to the Committee on Foreign Relations that the United States would react strongly to any Soviet violations of the INF Treaty. But the United States has not reacted strongly to the Soviet violation of the INF Treaty. The Soviet SS-23 violation is thus certain to become an issue in the impending START ratification debate.

Mr. President, I have some additional comments related to the CFE Treaty.

Kommunist, the ideological journal of the Communist Party of the Soviet Union, had a very interesting statement in the edition signed to press on April 5, 1991. Kommunist stated:

> Thanks to this transfer of armaments [East of the Urals before the CFE Treaty was signed], unprecedented in peacetime (and even in wartime), we will not only have about one third of all armaments remaining in Europe under the Paris [CFE] Treaty, but we will also keep a quantitative advantage in land armaments over NATO, China, and Japan combined.

I wonder whether the Soviet Union subverted the CFE Treaty by maintaining its military superiority under the CFE Treaty.

This same edition of Kommunist also claims that Soviet defense spending will rise by at least 26 percent in 1991. But this rise in Soviet defense spending is inconsistent with the Soviet force reductions we envisage occurring under CFE.

It would seem that the United States is reducing its defense budget by about 25 percent over the next 5 years, when there is evidence that the Soviets may be increasing their defense budget by at least 25 percent over the same 5 years.

On January 3, 1991, Moscow's Komsomolskaya Pravada stated that:

> When the [CFE] Treaty was signed, it was praised and supported by none other than Marshal D. Yazov. This was natural. Another thing was strange: to hear a contrary opinion from his very mouth a bit later during the work of the 4th Congress of the Peoples' Deputies. * * * High officials of the Ministry of Defense also responded negatively to the document at a closed meeting which recently occurred with the editors of military publications. Just where are they [the Soviet military] speaking the truth—in Paris or in Moscow?

This statement in Komsomolskaya Pravda suggests that at least some elements in the Soviet military oppose the CFE Treaty. I am advised that as recently as October 1991, after the recent coup attempt, that the Soviet

General Staff is still resisting the CFE Treaty.

There is thus a legitimate question, given the Soviet under-declaration of data and their reopening of CFE's article three, about whether the Soviet military is likely to implement the CFE Treaty faithfully.

Finally, Russian President Boris told a group of 72 Senators on June 19, 1991, that Soviet hardliners falsified the numbers of Soviet weapons systems in arms control negotiations.

Yeltsin stated to Senators:

> In the past, the Soviet Union used false statistics in arms negotiations. This must not be repeated.

Later the same day, Yeltsin met with the Secretary of Defense, and he reportedly said much the same thing.

My distinguished colleague, Senator MALCOLM WALLOP, and I wrote a letter on June 25, 1991, to Defense Secretary Cheney, asking some questions about Yeltsin's statement on Soviet falsifications and deceptions in arms control negotiations.

The Soviets have the following track record of negotiating deception in arms control treaties:

Five cases of negotiating deception in SALT I of 1972;

Six cases of negotiating deception and data falsification in SALT II of 1979; and

Three cases of negotiating deception and data falsification in the INF Treaty of 1987.

Moreover, it is well known that the 1972–88 mutual balanced force reduction treaty negotiations finally could not be consummated because of deliberate, systematic Soviet data falsification.

This same problem has recurred in the 1990 CFE Treaty data.

Finally, as I have mentioned before, the Chief U.S. Negotiator of the INF Treaty, Ambassador Maynard Glitman, stated in March 1990, that the Soviets had engaged in "deceit and mendacity both inside and outside, privately and publicly, during and after the INF negotiations."

And President Bush accused the Soviets of "bad faith" in the INF negotiations in his February 1991 Report to Congress on Soviet Arms Violations.

Thus, unfortunately, there is much independent evidence supporting Yeltsin's attack on the manifold lying and deception of the Soviet Union in the SALT I, SALT II, INF, MBFR, CFE, and START negotiations.

AMENDMENT NO. 1432 TO CONDITION NO. 5

(Purpose: To permit continued adherence to the Treaty by the United States under changed circumstances)

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized.

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Maine [Mr. COHEN] proposes an amendment numbered 1432.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:
>
> "(C) shall, if he has made the determination and decision described in subparagraph (B)—
>
> "(i) submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or
>
> "(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence to the Treaty would serve the national security interests of the United States, seek the Senate's advice and consent to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

Mr. COHEN. Mr. President, for the benefit of my colleagues, first, let me say I do not seek to delay this treaty. Some have suggested that perhaps several of us are trying to hold up the CFE Treaty. That is clearly not the case since I support the treaty, and I am aware of no effort being made in any way to delay this, and I am not trying to embarrass the administration or the Secretary of State in any way. My goal is simply to reaffirm what I believe to be the constitutional powers and responsibility of the Senate.

The administration's first, second, and, I must say, last line of defense is always that any amendment or condition attached to a treaty resolution of ratification is unconstitutional, per se. We heard this argument in a different form during the ABM debate. My colleagues may recall when we debated the INF Treaty, there was considerable discussion dedicated to the question of whether or not the administration was bound by the common understanding that occurred or was reached back in 1972 during the debate on the ABM Treaty, and that the view of the Reagan administration was that it was not bound by any such understanding.

I might suggest this is not too different from Justice Scalia's view that Congress does not think very seriously about issues and, indeed, when it does bother to think about issues, it should not be taken very seriously. I suggest that that particular view of Justice Scalia's is not very different, a difference of degree only, from the one that is often articulated by the administration when it comes to foreign policy.

My colleagues may recall that the administration has taken the position, particularly with respect to covert actions, even though this may be an instrument to achieve a legitimate foreign policy objective, that the President has the constituional power to withhold notice to the oversight committees at his sole discretion as to what is a reasonable timeframe. He would not even have to report to the Big Eight or, indeed, the Big Four; that would be solely at his discretion.

More recently, we saw the attitude reflected during the debate on the Persian Gulf resolution. There was some sentiment expressed within the White House that the administration did not even have to come to Congress to get a resolution or declaration of approval since the President had the inherent constitutional power to commit our forces to combat.

Many of us felt very strongly that that was clearly in contravention of the expressed wording of the Constitution. Fortunately, the administration ultimately agreed that it should come forward and seek the advice and consent, as such, of the Congress.

Too many, I think, have a view that the Senate, in particular, has a minor role in the field of foreign policy and that we are a nuisance that must be tolerated or, indeed, intimidated. Advice and consent in their view is "Let us just skip the advice, and you just stamp your consent and do not think about the issues and do not interfere with the work of serious-minded experts." I do not share that view and it is my hope that a majority of my colleagues will reject the view as well.

Mr. President, I am going to discuss briefly two issues that are of concern to me. Senator HELMS a moment ago outlined some of his questions about the Soviet behavior with respect to data exchange, and then I want to talk briefly about the Senate's role in advice and consent.

Soviet holdings in the covered area, the so-called ATTU, the Atlantic to the Urals region, as of July 1988, according to Eduard Shevardnadze was as follows: They had 41,580 tanks; 57,800 armored combat vehicles; 42,400 artillery pieces; and 9,400 combat aircraft.

I am just giving a partial listing. There were helicopters that I have not referred to as of yet.

Then about 16 months later, at the time the treaty was initiated, the Soviets declared that they had only 20,694 tanks; 29,628 armored combat vehicles; 13,828 artillery pieces; and 6,445 combat aircraft. In other words, the Soviets had asserted they removed nearly half of its tanks, half of its armored combat vehicles, and two-thirds of its artillery from the area that was designed to be covered by this treaty.

Then within 90 days, as they were allowed to do, they were allowed to make modifications to amend those particular declarations.

And, lo and behold, after being confronted by the United States and other parties to the treaty, the Soviet Union declared its revised holdings in an upward fashion as follows: They said they had 31 more tanks, 262 more armored vehicles, 110 more artillery pieces, 166 more combat aircraft.

Mr. President, the first action, removing from Europe large amounts of equipment prior to signature of the treaty in order to avoid eliminating it, clearly contravened the entire objective of the treaty, itself. The objective of the treaty was in fact to reduce these weapons systems, to destroy and dismantle them, not to move them over the Urals. Yet that is precisely what the Soviets did.

Their explanation was that these 50-odd-thousand pieces of treaty-limited equipment were moved east of the Urals and they were incorporated in the Soviet forces there or stored for future use.

Indeed, the express wording of the treaty did not bar their movement, but that action clearly contravened the understanding of the negotiators. As a matter of fact, the Soviet Union's own treaty negotiators were kept pretty much in the dark by the Soviet military as to what was taking place.

In addition to that, the Soviets more boldly transferred, and did not declare, about 5,457 pieces of ground TLE, or treaty-limited equipment, to their coastal defense, naval infantry, strategic rocket forces, and civil defense. The Soviet contention that this equipment was not covered by the treaty was clearly at odds with the treaty and its failure to declare the equipment was a clear violation of the terms of the agreement.

They have made some concessions then. They have agreed to destroy a number of items, some 14,500 TLE located east of the Urals, a fraction of the over 57,000 that they admit to have moved out of the region.

We still have great discrepancy in terms of the declarations they made of the number of items that were in this region when the treaty was signed. The range is quite broad. I might say it is classified. The exact numbers are classified.

I would concede that the numbers are not militarily significant, but I do want to take the floor today to articulate the principle that we should not be negotiating treaties with a country that starts off by, No. 1, trying to evade and circumvent the terms of the agreement or the treaty and No. 2, then boldly makes a data declaration that is clearly false and further states that it is not bound by the clear language of the treaty.

I think this does not bode well for the future when we are talking about other significant agreements that pertain to our strategic relationship such as START I and II. And so I raise this solely to call attention to my colleagues that we have to be much more serious minded in dealing with these kinds of discrepancies rather than simply passing over them and saying it is militarily insignificant.

I might also point out—I see the Senator from Georgia on the floor—Senator NUNN, Senator LUGAR, Senator BOREN, Senator BRADLEY, and others are concerned about humanitarian relief for the Soviet Union. There are people who could be facing starvation in the Soviet Union this winter. Many of us are concerned about how we can be of assistance to relieve the prospect of mass hunger and riot and anarchy that could afflict that country. But it tells you something about the mindset of the Soviet military and something about how they set priorities that they would save weapons at the cost of food. And the audacity of the Soviets to circumvent the CFE treaty limits is even more astounding given that the movement of this equipment from Europe to Asia required the diversion of fuel and rail stock desperately needed by the Soviets to collect and bring in the record 1990 harvest to market.

I just want to quote one Soviet commentator who defended the Soviet military. He said:

> The military, in an effort to rectify, if only slightly, the mistakes of the [Soviet Union's] diplomats, organized the swift transfer beyond the Urals of thousands of tanks and guns and other equipment—at least there it would not have to be destroyed. It is unfortunate, of course, that all of this coincided with a record harvest occupying badly needed rail cars and making the job of transport more difficult. But who was to blame for that? First and foremost, the Foreign Ministry, which was rushing full steam ahead toward a treaty.

What they are saying basically is that the Soviet people prefer guns over butter and, given the choice of moving food and harvest to the marketplace and to the homes of the people of the Soviet Union, they chose to move weapons in order to circumvent the CFE treaty.

Mr. President, I suggest that we have to be very cautious in our future dealings not with an administration headed up by Brezhnev or Chernenko or Andropov, but one that is headed up at this time at least by President Gorbachev and President Yeltsin of the Russian Republic.

Mr. President, now I want to turn to the amendment that I have submitted at the desk.

From October 1985 until May 1988, the Senate's treaty making powers underwent an unprecedented assault. The point at issue was whether the Executive was bound to the common understanding of the meaning of the ABM Treaty that existed between the Executive and Senate in 1972 when the Senate gave its advice and consent to ratification and upon which the Senate had based its advice and consent.

Notwithstanding the authoritative representations that the Nixon administration had provided to Senate committees during the ratification hearings as to the meaning of the ABM Treaty, the Reagan administration argued that it could unilaterally adopt a new meaning related to the issue of ABM systems and components based on so-called other physical principles.

The Reagan administration's reasoning to justify its position shifted continuously, and not without contradiction. It engaged in what lawyers refer to as pleading the alternative. My client was not at the scene of the crime. If he was, he did not commit assault. If he did commit the assault, he was provoked and acted only in self-defense. And even if he was not acting in self-defense, he was suffering from temporary insanity.

The Reagan administration argued variously that authoritative representations on the treaty's meaning regarding the specific issue had not been made by the Executive. If authoritative representations had been made, they were made to Senate committees—not to the Senate—and, therefore, they did not reflect the understanding of Senate, per se. And even if these authoritative representations did reflect the understanding of the Senate at the time of ratification, the Senate's understanding of the treaty's meaning was not determinative and essentially irrelevant.

I joined Senator NUNN and other Members of this body and fought a bruising battle to defend the prerogatives of the Senate, as well as the integrity of the ABM Treaty, against this assault. Our unequivocal position, subsequently affirmed by the Senate and acquiesced in by the Reagan administration, was that when the Senate bases its advice and consent to a treaty upon certain understandings with the Executive as to the meaning of the treaty, those understandings cannot be unilaterally altered by the Executive.

During our consideration of the INF Treaty in 1988, the Senate insisted on defending its prerogatives by adopting a condition to the resolution of ratification regarding treaty making powers. This condition reaffirmed the principle, as stated in the Foreign Relations Committee report on the INF Treaty that:

> The meaning of a treaty is to be determined in light of what the Senate understands the treaty to mean when it gives its advice and consent.
>
> For the United States, the meaning of the treaty that the President ratifies is the meaning on which there existed a meeting of the minds between the President and the Senate at the time of Senate consent.

By proceeding with the ratification of the INF Treaty, the Reagan administration accepted this condition.

The CFE resolution of ratification now before the Senate specifically reaffirms, in one of its declarations, this INF Treaty condition.

Now, in the interest of time, Mr. President, I am going to simply ask unanimous consent to have printed in the RECORD a number of statements that were made during the period of the ABM reinterpretation debates and the INF Treaty floor debate by Senator NUNN and Senator BYRD about the meaning of the Senate's role and expression of its powers under the Constitution as it pertains to advice and consent of treaties.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator BYRD. Senators have a responsibility to be very careful when they approve a treaty and make it the supreme law of the land, that they have an adequate understanding, a very clear understanding as to what they are voting to approve. (CONGRESSIONAL RECORD S2810, March 23, 1988.)

The constitutional framers did not intend for the words "advice and consent" to be symbolic. They meant for those words to be substantive, to have meaning. This amendment establishes and provides that there will be no reinterpretation after the Senate and Executive both agree, through shared understandings, as to what the treaty means—that there be no reinterpretation without further action and approval by the Senate thereof. (CONGRESSIONAL RECORD S6727, May 26, 1988.)

It shakes me a little bit when Senators reduce the constitutional role of this institution to partisan terms. I believe that every Senator first, last, and always ought to stand for this institution and its role under the Constitution, and we ought to carefully and zealously guard that role against any erosion from any quarter, from any party. (CONGRESSIONAL RECORD S6783, May 26, 1988.)

Senator NUNN. Because the Senate is an equal partner with the President in the treatymaking process, we have a direct, constitutional interest in ensuring that treaties are accurately presented and faithfully upheld. (CONGRESSIONAL RECORD S6773, May 26, 1988.)

Treaties are, if you believe the Constitution, the law of the land. But the administration says, "Leave that up to us boys. Don't you get involved in all those nitty-gritty things about what the Constitution means." (CONGRESSIONAL RECORD S6359, May 13, 1987.)

(A) treaty is the supreme law of the land. It is not just a piece of paper. * * * If we make a mistake in passing a bill, that can be fairly easily rectified simply by passing another bill repealing the first law. But when it comes to a treaty, if we make a mistake, we had better know it before we enter into its ratification. (CONGRESSIONAL RECORD S5267, May 9, 1988.)

Mr. COHEN. The amendment I am offering would address the situation in which the Ukraine or Russia, for example, decided to opt out of the CFE Treaty. Such a situation would be militarily significant and would constitute a change in circumstance. The Bush administration has suggested that in such a situation, it might withdraw from the CFE Treaty. As the CFE negotiator, Ambassador Woolsey, testified, "The Treaty won't work without the Ukraine in it." However, another option would be to negotiate changes in the Treaty to "make it work" notwithstanding the militarily significant changed circumstances.

The condition approved by the Foreign Relations Committee requires that if the President decides not to withdraw in response to such a situation, he shall make an effort to negotiate such changes. And it also requires, as is obviously appropriate, that any substantive change in the treaty be submitted to the Senate for its advice and consent.

What the condition does not address is what happens if the President is unsuccessful in negotiating the necessary treaty amendments. Given the multilateral nature of the treaty regime, this is not difficult to imagine.

Clearly, if the Ukraine or Russia were to opt out of the treaty, the treaty would no longer be the treaty to which the Senate had given its advice and consent. In such a situation, if the President wishes to continue adhering to the treaty, he should be required to come back to the Senate for its advice and consent. Otherwise, the United States would, in effect, be bound to a different treaty without the advice and consent of the Senate.

The Restatement of the Law, Foreign Relations Law of the United States, a well-respected if not an authoritative document, states that "the power of the President to terminate an international agreement does not imply the authority to conclude a new one in its place."

Amplifying on this point, the Foreign Relations Committee, in its report on the INF Treaty, noted that "Were the President to amend an agreement on his own, he would in effect be terminating an old agreement and entering into a new one."

The same is true if the Ukraine or Russia were to opt out of the CFE treaty: this would amount to a substantive alteration of the treaty. And continued adherence would amount to entering into a new agreement—something which requires the advice and consent of the Senate.

OBJECTION: WORDS, NOT MEANING, ARE WHAT COUNTS

One potential objection to the amendment that I have heard is that the "area of application" of the treaty is defined as "the entire land territory of the States Parties in Euope from the Atlantic to the Urals," and the "States Parties" include the U.S.S.R., but not the Ukraine, Russia, or Byelorussia.

Accordingly, goes this argument, if the Ukraine—or Russia for that matter—secedes from the U.S.S.R. and opts out the treaty, the "area of application" would not have changed in so far as the words of the treaty are concerned, since the U.S.S.R. will still be a "States Party"—it just won't include the territory of the Ukraine, or Russia, or whatever the case may be! In other words, the term "area of application" does not refer to a particular piece of real territory, but rather means whatever territory is associated at any given time with whomever is included under the term "States Parties."

This sophistry is not only substantively ridiculous, it is also contradicted by the ratification record. I would note that the treaty's definition of the term "area of application" [Article II.1(B)] states that: "In the case of the U.S.S.R., the area of application includes all territory lying west of the Ural River and Caspian Sea."

Under this argument, opponents of my amendment would claim the area of application had not changed even if, in the case of a truncated U.S.S.R., it included only a small fraction of the territory west of the Ural River and Caspian Sea. This is patently absurd. While the words, "area of application," would remain unchanged, the meaning of those words would have been substantially altered.

I would also note that during the ratification hearings, the administration clearly stated that for "purposes of the treaty the Soviet military districts identified in the treaty referred to "defined pieces of territory" delineated by the boundaries of those districts as of the date of signature, notwithstanding the likelihood that the borders of those military districts will be redrawn.

The military districts are not defined in article II, so they are not exactly analogous to the term "area of application." But, it is more than a little curious that the concept of military districts is tied to "defined pieces of territory" that do not change even if the borders of the districts change, whereas the concept of the "area of application" is asserted to have no relationship whatsoever to "defined pieces of territory." This is even more curious since the administration's article-by-article analysis discusses the definition of the term "area of application" by referring to a Soviet map that delineates both the eastern edge of the area of application and the borders of the Soviet military districts.

Perhaps this is merely a curiosity and is not determinative on the question I am addressing, but I thought it worth bringing to the Senate's attention.

In any event, the argument that the words "area of application" would not be changed if the Ukraine or Russia were to opt out of the treaty ignores the fact that the meaning of the words would change—and change significantly.

The simple and undeniable fact is that the meaning of the treaty would no longer be that to which the Senate had given its advice and consent.

To continue to adhere to the treaty would, to use the words of the Foreign Relations Committee report on the INF Treaty, "in effect, be terminating an old agreement and entering into a new one." And this simply cannot be done without the advice and consent of the Senate.

OBJECTION: AMENDMENT JEOPARDIZES TREATY

Another potential objection that I have heard from one Senator who supports the CFE Treaty is that the adoption of my amendment would somehow endanger the CFE Treaty.

Let me first state that I strongly support the CFE Treaty. There should be no question on that.

Such concerns about the amendment, to the extent that they exist, seem to stem from the view of the White House counsel that the amendment is somehow unconstitutional because it intrudes on the President's prerogatives. This is not a situation with which the Senate is unfamiliar. White House counsel as is well known, has a rather expansive view of Presidential prerogatives and a rather restrictive view of Senate and congressional prerogatives.

Every year when the Armed Services Committee produces a defense bill, for example, we are provided a laundry list of provisions that are asserted to be unconstitutional, usually including numerous report requirements. Seldom, if ever, does the Senate alter our bill in response, notwithstanding intimations that, absent changes, the bill might never be enacted. This is a wolf howl we have heard too often and which, accordingly, has lost much of its credibility.

The notion that the President would not proceed with ratification of this treaty if my amendment is adopted is without merit. The President is as committed to this treaty as anyone. He is personally responsible for its most important contents, which resulted from his bold initiative of May 1990. The notion that he would need to come back to the Senate in the event that the treaty's meaning is transformed by the Ukraine's opting out cannot possibly be perceived as so objectionable that he would abandon the treaty.

Indeed, everything we have heard from the administration in recent days is that this treaty is so important we cannot dare delay its approval.

I should also note that my amendment strictly addresses relations between the Executive and the Senate. It would impose no obligation of any other party to the treaty, nor even require notice to any other party. There is no possibility that this amendment or the underlying condition adopted by the Foreign Relations Committee could be killer provisions, nor is there any basis on which they reasonably could be perceived as being killer provisions.

If anything, the fact that a few have expressed such concerns supports the view that this amendment is needed. I say that because such concerns seem to reflect the view that the treaty is so important that all other considerations be set aside. That is precisely the attitude that I fear could happen if the Ukraine were to opt out and the President unable to negotiate a fix in an unwieldy, multilateral regime. In that situation, a President—not necessarily this President—might share the view that the treaty is so important we would need to live with it, even though it was no longer the CFE Treaty as we now know it.

It is argued that no President would reach such a conclusion—that he would instead certainly withdraw from the treaty. But the fact that some believe that treaty is so important that all other considerations should be set aside, in my view, justifies my concern that a similiar view could prevail in the future. And that is why I want to ensure that, in such a circumstance, the Senate's prerogatives are protected.

The lesson of recent years—most notably the ABM Treaty reinterpretation debate—is that the Senate cannot base its advice and consent to treaties on the good intentions of a specific administration, nor can the Senate entrust the protection of its prerogatives to the Executive.

Now, to illustrate the point of my amendment Mr. President, just look at this map. If, for example, the Ukraine were to say that we are now independent and we do not believe we are bound by the terms of this treaty, if you pull the Ukraine out, that is the size of the gaping hole that is left in terms of what area is covered by the terms of the treaty.

One can go further and take out Byelorrusia, if they should opt out, and that is what we are left with. And, of course, if the Republic of Russia, itself, should pull out, then the entire thing would collapse, Obviously.

But leaving this kind of a gap and still saying that we have an agreement with the territory of the U.S.S.R., it seems to me to be patently absurd.

Now, the Foreign Relations Committee recognized this. And what the Foreign Relations Committee did was to attach a condition.

FIFTH CONDITION AS ADOPTED BY FOREIGN RELATIONS COMMITTEE

Under section (A) of the fifth condition approved by the committee, if any newly formed state opts out of the treaty, the President is required to consult with the Senate.

If the President determines that the new state's holdings of treaty-limited equipment are of such military significance as to constitute a change circumstance affecting the treaty's object and purpose, and if he decides not to withdraw from the treaty, section (B) requires one of two actions. Either the President shall call for a extraordinary conference of treaty parties to assess the viability of the treaty and determine if a treaty amendment is needed to accommodate the new circumstance. Or, the President shall undertake other unspecified "appropriate diplomatic steps."

Section (C) requires that any change in the treaty's obligations that result, regardless of the mechanism the President pursues under section (B), shall be submitted to the Senate for its advice and consent unless it is a minor matter of an administrative or technical nature.

COHEN AMENDMENT TO COMMITTEE'S FIFTH CONDITION

My amendment would leave untouched the fifth condition as adopted by the committee, but it would add a new provision to section (C).

This new provision would state that if the President is unable to negotiate changes to make the treaty work, but he believes that it is nonetheless in the U.S. interest to still participate in the treaty, he must obtain the Senate's advice and consent to continued participation since the treaty would no longer be the treaty to which the Senate had given its original advice and consent.

UKRAINE, RUSSIA, BYELORUSSIA NOT EXPLICITLY CITED

Mr. President, I should note that condition 5 as adopted by the committee does not explicitly refer to the Ukraine, Russia, or Byelorussia, and my amendment would not change that aspect of the amendment.

The reason that it is not necessary to explicitly cite them is that the ratification process has clearly established a common understanding that if any one of these three Republics opts out of the treaty, that would be of such military significance as to constitute a changed circumstance. And that changed circumstance is what triggers sections (B) and (C) of the fifth condition.

BUSH ADMINISTRATION ON OPTING OUT BY UKRAINE, RUSSIA, BYELORUSSIA

During the ratification process, authoritative statements by administration officials made a distinction between a decision to opt out of the CFE Treaty by Russia, the Ukraine, or Byelorussia, on the one hand; and, on the other hand, opting out by one of the other small Soviet Republics in the Atlantic to the Ural [ATTU] region, such as Georgia, Armenia, Azerbaijan, or Moldavia.

In the latter case, in which one of the smaller states opted out, the administration testified it probably would be a matter of secondary concern, so long as treaty-limited equipment under the control of central authorities remain subject to the treaty, as has been provided for in the case of the Baltic republics.

In the former case involving the Ukraine, Russia, or Byelorussia, however, the administration clearly indicated that a decision to opt out of the treaty by any of these countries would amount to a militarily significant changed circumstance and would seriously bring into question the continued validity of the treaty. Accordingly, section (B) of the fifth condition would be invoked.

In written response to a question from Senator BIDEN, Secretary of State Baker stated:

> In order to safeguard the integrity of the treaty regime, it almost certainly would be necessary for all three of these Republics—Russia, Ukraine, and Byelorussia—as they are likely to retain significant amounts of equipment in treaty categories, to participate in CFE.
>
> If these republics should become independent states and choose not to participate in the treaty, the United States and its allies would consider an appropriate response. The treaty contains mechanisms for withdrawal should this be necessary.

Similarly, in a written response to a question from Senator WARNER, Under Secretary of State Bartholomew stated:

> It is the position of the administration that, in order to maintain the integrity of the treaty regime, an independent Ukraine holding significant amounts of equipment in treaty categories would almost certainly need to be a CFE participant * * * Should an independent Ukraine nevertheless refuse to participate in the Treaty, the appropriate U.S. response would depend on the precise circumstances at the time. A decision to withdraw, e.g., would always be an option.

Again, in a hearing before the Senate Intelligence Committee on November 13, Ambassador Woolsey stated further:

> [Non-participation in the treaty regime by an independent Ukraine] fundamentally would call into question the viability of the treaty. * * * The treaty won't work without the Ukraine in it.

And in a letter to Senator BIDEN dated November 22, 1991, Secretary Baker stated:

> In all likelihood, the emergence of an independent Ukraine or Byelorussia that declined to participate in the CFE Treaty would indeed result in the President's determining that a "changed circumstance" had occurred. There is always the possibility that such a state would decide to hold no or only minimal amounts of equipment in treaty categories, in which case the military significance criterion specified in the Senate condition might not be met. We consider this very unlikely, however, and thus expect that the President would, indeed, determine that a "changed circumstance" had occurred.

In summary, the Bush administration's clear and consistent statements during the ratification process indicated that if the Ukraine or Byelorussia opt out of the CFE Treaty, this would be of such military significance as to constitute a changed circumstance, which would trigger section (B) of the fifth condition adopted by the Foreign Relations Committee.

In its report, the committee states that its intent is that this the fifth condition would be triggered if either the Ukraine or Byelorussia opted out or if Armenia, Georgia, and Azerbaijan were all to opt out.

I am not aware that the administration addressed the last case, in which the three Transcaucasian Republics all decided to opt out. Accordingly, I would hesitate to say that there exists a common understanding on that matter between the Executive and the Senate. But in the case of the Ukraine and Byelorussia, the record is clear.

In the case of Russia, the administration at times seemed to want to not focus on the possibility. A written response by Secretary Baker to Senator BIDEN stated:

> For the Russian republic to "become an independent state," i.e. to withdraw from the union, would mean the disintegration of the union as we know it. We do not expect this to happen. However, if the union did completely disintegate, the Russian republic presumably would assume the international obligations of the former U.S.S.R.

However, other administration statements—such as Secretary Baker's other testimony I cited—certainly indicate that Russia's nonparticipation in the treaty would constitute a changed circumstance, and that would trigger sections (B) and (C) of the fifth condition.

Mr. President, let me emphasize, I would seek to impose no obligation on any other party to this treaty. We do not have to seek the consent of any of the other parties. We do not even have to notify them. This simply applies to th powers of the U.S. Senate. We are giving our consent today, based upon a representation as to the area that is covered by the terms of the treaty. If there is going to be a fundamental alteration of that understanding, a fundamental alteration of which areas are covered, it seems to me it follows not only logically but constitutionally that the President must come back to us and seek our advice and consent.

I know, for example, that this was the position that was articulated by the Senator from Delaware, who serves on the Foreign Relations Committee. I know that he has done extensive research, and his staff has done extensive research examining the constitutional basis for the Senate's role and responsibilities. I believe that he would agree to the merit of the position that I am articulating here today.

Mr. BIDEN. Will the Senator yield for 10 seconds?

Mr. President, on the merits, there is no question in my mind, absolutely none, that from a constitutional standpoint, the Senate has the authority to insist on the provision that the Senator is proposing.

Indeed, I drafted a provision along similar lines and I concluded not to move forward after encountering administration resistance. I felt it was important to get this done promptly; and I regard as highly unlikely the eventuality that is covered by the provision.

But I think the Senator has done good work on this. I think he is absolutely, positively right on the constitutional point. I disagree with him only in terms of facilitating this legislation, and measuring it against the prospect that his concern would in fact become a reality.

But on the merits, he is dead right. At some point, if the Senator from Maine will entertain it, I would like to propose to him a potential compromise that I hope would accommodate all he is seeking.

But I thank him for yielding to me.

Mr. COHEN. Mr. President, I thank the Senator from Delaware for his comments and his support of the constitutional position that I have outlined.

I would simply point out that up until this day or this moment, the administration has taken the position that there is no constitutional requirement for the President to return to the Senate to seek its advice and consent, even if there is a material change, and especially if the President is unable to get agreement by the states party to this treaty.

Mr. BIDEN. Will the Senator yield for another moment? Mr. President, not only has the administration taken that position; they have taken it one step further. They have argued that the Senate has no constitutional authority—no authority—to do what the Senator from Maine is suggesting.

And on that score, I believe they are dead wrong, from the constitutional point of view.

Mr. COHEN. I thank the Senator for his comments.

Mr. President, let me just reverse it the other way. Let us suppose that the administration came to the Senate today, and said: We have negotiated a treaty with the Soviet Union, except that the Soviet Union looks like this. It has a big hole here now, because the Ukraine has declared its independence and it has opted out. And we have Byelorussia declare its independence; it has opted out. We still have Russia there, at least temporarily. We would like you to ratify this treaty. We have a big hole here. There are a lot of weapons that we are concerned about. But we think, in the interest of the other 21 nations who agreed to this treaty, that we ought to go forward.

Do you think that the Senate is going to be rushing to give its advice and consent to go forward under these circumstances? I suggest to you, the answer is no—a resounding no. We are giving consent if the pieces are all there; if the pieces remain intact. If perchance, due to some circumstance in the future, one of these pieces should pull out, we think that is a fundamental change in the nature of the security relationship as it impacts upon Europe itself.

Right now, the Senator from Delaware has said it is very remote that the Ukraine would consider pulling out and not going along with this particular treaty. I agree.

But I must tell you that there is a great deal of instability right now. We are not too sure exactly what is going to happen in the Ukraine. We are not too sure who is going to be in charge in the Republic of Russia, depending upon what happens this winter.

I think that countries such as the united Germany are also examining options that they might have, depending upon that instability and how it spreads throughout what remains of the Soviet Union.

So I do not think we can make any categorical assumptions today, given the great instability and the potential for anarchy spreading throughout the Soviet Union, as to what this map might look like 6 months from now or 6 years from now.

That is the reason I have simply said if it does change, that the President, and if he goes to this group of 22 and comes back having been unable to reach an agreement and he wishes to remain in the treaty, then he has to seek our advice and consent. The administration in response has been, "absolutely not." So, Mr. President, I, at this particular moment, intend to pursue the issue unless an acceptable compromise can be reached.

I will reserve the remainder of my time at this time.

Mr. SPECTER. Will the Senator yield for a question?

Mr. COHEN. Yes.

Mr. SPECTER. If the Senator's amendment is adopted, would that require the President, the executive branch, to go back and renegotiate the treaty?

Mr. COHEN. The condition that was attached by the Senate Foreign Relations Committee requires the following: If one of the big Republics should pull out, the President can withdraw. If he decides not to withdraw he is then required to go to this group of 22 and see if he cannot renegotiate some changes in the treaty that take into account the change in political and geographical circumstances. If he reaches an agreement with that group, he is required to come back and seek advice and consent. That is what the Foreign Relations Committee has done.

I simply add one refinement to it. Under the committee's condition if he cannot get such agreement, if they say, "We do not like it, but we are not in agreement with trying to renegotiate it," at that point, he can say, "I intend, unilaterally, to keep us in that agreement."

Under my amendment, after failing to negotiate an acceptable agreement with all of the nations, he would have to come back, and say to the Senate: Ladies and gentlemen, this is our situation; there has been a material change—something that in the ratification process I represented to you would constitute a material change—and I cannot get agreement with the other nations, but I still think it is in our interest to stay in this treaty. I would like to have your consent to that understanding.

Mr. SPECTER. Mr. President, I have one additional question either of the Senator from Maine or the Senator from Delaware.

Is it required, with the condition imposed by the committee in the current treaty, that the executive branch go back and get agreement from the other parties?

Mr. COHEN. I will try to answer. He has two options. He can either unilaterally withdraw; he can terminate our involvement under those circumstances, or he can go back and try to negotiate.

Mr. SPECTER. My question goes to the point and the issue raised by the Senator from Delaware as to whether there is going to be a delay here. A treaty has been agreed to. It has been submitted to the Senate. My question goes to the point as to whether what the committee has done will require resubmission to the parties, or whether what the Senator from Maine has done would require resubmission to the parties on the issue raised by the Senator from Delaware on getting it done.

Mr. BIDEN. Mr. President, the answer to the Senator's question is, unequivocally, no. If this passes as written by the committee, meaning the Senate consents to ratification with the conditions that presently are at the desk, there is no requirement whatsoever that the President renegotiate anything at all with any of the other 21 nations. None.

Mr. SPECTER. What would occur if the amendment of the Senator from Maine is adopted?

Mr. BIDEN. The same thing. No requirement. If the amendment of the Senator from Maine is adopted, there would be no requirement for the President to do anything with regard to the Soviet Union or any nation before ratifying the treaty.

Mr. SPECTER. Then why, if I may ask the Senator from Delaware, having agreed with the substance of what the Senator from Maine wants to do, does he disagree on the basis of expediting the conclusion of ratification?

Mr. BIDEN. For a very simple reason. And that is a very good question. When I sat down with the administration, Senator PELL having asked me to perform some of the responsibility relating to this, I sat down with the administration and tried to work out the various conditions that the Senator from Maine, and the Senator from Rhode Island, and the Senator from Delaware, and the Senator from Georgia, and the Senator from North Carolina, all thought were important. As we sat down to do that, the administration resisted any conditions at all.

In fairness to them, they had not contemplated, when this was being negotiated, disintegration of the Soviet Union. And after that occurred they believed that they were fully capable, under the terms of the treaty, without any conditions as proposed, to handle any exigencies that would occur—and they are occurring, by the way. But we wanted to make sure that they did certain things and, under certain circumstances, that they were required to come back. They were very reluctant, like all chief executives, to acknowledge that the Senate's role.

After torturous negotiations, led by Senator HELMS' staff and mine, we got to the point where they finally acknowledged the inevitable: that there is a Constitution, we are part of it. I am being a little facetious, but it is almost that bad. We got down to the point where we were concerned that there might be some Members of the Senate, in the waning days of this session, who would prevent us from getting to final ratification if, in fact, we attached additional conditions.

I want to clarify one point. When I said to the Senator from Maine that there was a remote pssibility, the remote possibility was not that the Ukraine might not federalize, nationalize federal troops, nationalize what are now part of the Soviet Army, nationalize the 6,500 "Soviet tanks" that are on Ukrainian soil. That is very possible. That is very possible, although they assert to us that the likely new leadership—the election has not taken yet—has asserted to the President, and to those of us who have met with him, that they will not do that. But that is possible. The remote possibility I was referring to is that if the Ukraine did that, that any President would say, notwithstanding the fact that the Ukraine now has 6,500 "Russian and Soviet Union tanks" under their possession, we are going to ignore that and say "business as ususal," and not expect the Ukraine to accept obligations, and then if they did not, to say, well, OK. That is what I consider remote, that any President would accede to remaining in the treaty after attempting—and failing—to renegotiate the terms of it with the Ukrainians and with the other parties. Can you imagine the President saying, well, I failed, and there are 6,000 Soviet tanks in the Ukraine, and they're not covered in the treaty but the good old United States is going to stay in the treaty anyway." That is what I think is remote.

Let me return to the question of conditioning our consent. This is from the Hill to the White House. That is the action we are talking about now. We can bind the President to anything we want to. We could say, constitutionally, Mr. President, we will accede to this treaty if every 2 years you bring it back to us. We will accede to this treaty if you put it in a blue binder and it has red stars on the cover, but not unless you do that. None of that requires the President to go renegotiate with other parties.

The White House is reluctant to acknowledge our constitutional authority to do what the Senator from Maine wishes to do. But since the possibility of a President remaining in a treaty that is overwhelmingly against our interest is very remote, I propose that we compromise with him on something we do not have to constitutionally compromise on, but that we do so as a matter of comity, without giving up the constitutional point. We can accomplish, I believe, the same end the Senator wishes to accomplish.

I would propose the following to my friend from Maine: Strike on line 9, "the Senate's advice and consent" and in lieu thereof put "a Senate resolution of support."

Mr. COHEN. Mr. President, let me respond to my colleague from Delaware. First, since the administration does not want to set any precedents in terms of resolving this perennial constitutional dispute between the executive and the congressional branches, let me indicate that if I were to agree to this modification, it would be very clear that the Senate makes no statement concerning a surrender of its constitutional prerogatives. We would have to reserve that particular battle for future treaties in other types of agreements that called for Senate advice and consent.

Second, could I inquire as to whether or not this particular proposal is agreed to or is acceded to by a reliable authoritative spokesman for the administration?

I do not want to go through this again, as we went through the reinterpretation of the ABM Treaty in which we were told that the representations made to the Senate committee were not by those in positions of authority, and that the representations were, even if authoritative to the committee, were not authoritative to the Senate itself.

So, at a future time if we should have either President Bush, or President Harkin, or President Cuomo, they would feel compelled to abide by the understanding reached with this administration, that they agree that, under those remote circumstances that the Senator referred to, the President would be duty bound to return to the Senate to seek its support for a resolution of support which I suspect would be interpreted to mean a majority vote as opposed to a two-thirds vote.

Mr. BIDEN. I would be happy to respond, and I would also like to know what future President Rudman thought about this. But I will ask him later.

Let me say that, as usual, the Senator from Maine puts his finger on the crux of the problem. With regard to whether or not we are yielding a constitutional point, the answer to that question is we are not yielding a constitutional point.

We set forth, in connection with the INF Treaty, a clear statement of principles about the President's latitude in interpreting and his inability to "reinterpret" treaties. We made it clear, as a result of the fight over the reinterpretation of the ABM Treaty, that Presidents cannot unilaterally reinterpret treaties. We wanted to make it clear that future Presidents, Cuomo, Rudman, et al., cannot reinterpret treaties.

Mr. COHEN. The Senator and I are in complete agreement on that.

Mr. BIDEN. But it is one thing to fight against the President acting unconstitutionally as did President Reagan when he sought to reinterpret ABM. That was a constitutional fight when it happened, and it was a fight the Senate needed to wage.

But here we are in a position where we already established the principle that treaty reinterpretation is not permissible. And we are making clear, since the President can't reinterpret the treaty, what he has to do instead. And the President would be bound to do it. So, we would not have to worry about President Rudman making a deal to send 6,500 tanks from the Ukraine to New Hampshire which, since he used to drive one of these things, he might consider doing.

All kidding aside, all future Presidents would be bound by all of the conditions that already are in the resolution at the desk. This would be an additional condition and equally as binding on a future President.

Mr. COHEN. I thank the Senator for his clarification of these issues and, Mr. President, the reason I have taken the floor to raise it is that I think in the past we have been too willing to surrender those constitutional powers, which I believe that we have, and that we seem not to be able to communicate with the administration to find any flexibility in their adamant position that the Senate has a very narrow, limited role.

So under the assurances given to me by the Senator from Delaware, I am prepared to offer a modification to my own amendment which I now send to the desk.

Mr. BIDEN. Before the Senator does that, if the Senator will withhold, let me give him further reassurance.

In the Resolution of Ratification, which is at the desk, it reads as follows:

> The Senate affirms the applicability to all treaties of the constitutionally based principle of treaty interpretation set forth in condition 1 of the Resolution of Ratification approved by the Senate on May 27, 1988, with respect to the INF treaty.

So, we speak explicitly to the question of whether or not a future President can unilaterally reinterpret this and other treaties.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Surely.

Mr. WALLOP. Is the language that Senator BIDEN read, seeking to condition Presidential behavior on other existing treaties or just Presidential behavior with regard to this treaty?

Mr. BIDEN. The principle applies to all treaties. But that is not what we are talking about. We only have one treaty before us, so what we are doing is we are making it clear on the treaty before us the principle that was established in connection with the INF treaty is applicable to this treaty as well.

The Senator from Wyoming and I might argue whether or not it applies to all treaties. I suspect we would. But stating those generally valid principles by way of emphasizing that they apply to this treaty.

Mr. WALLOP. I would say to my friend that this treaty before us reaches far enough without reaching into all other Presidential prerogatives. I appreciate the narrowing of the words as I heard them read the first time.

Mr. BIDEN. If I could have figured out a way to ensure that all treaties in the future are implemented according to those principles, I would have.

I do not want to mislead anybody. As long as the Senator from Delaware is in the Senate and as long as I am on the Foreign Relations Committee, and as long as there are treaties that come before us, I will attempt to uphold those principles.

Mr. SPECTER. Will the Senator from Delaware yield for a question?

Mr. BIDEN. I am delighted to.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Maine has the floor.

Mr. COHEN. I yield.

Mr. SPECTER. I thank the Senator from Maine.

When the Senator from Delaware offers the interpretation that striking the language of advice and consent from the amendment and inserting instead the Senate resolution of support, does the Senator from Delaware have any agreement by the administration that that is the same?

Mr. BIDEN. I never got to answer that.

With the permission of the Senator from Maine, I would like to answer that question, if I can.

Mr. COHEN. I yield to the Senator from Delaware.

Mr. BIDEN. The answer is, yes, the chief negotiator of this treaty, Mr. Woolsey, has agreed to this language, although as a practical matter, it would not matter whether or not they agreed to the language. It is irrelevant from the legal standpoint whether or not they agree. That is not relevant to whether or not the President is bound by the condition.

Mr. SPECTER. If the Senator from Maine would yield for one further question?

Mr. COHEN. I yield for one question. Let me also indicate that Ambassador Woolsey has indicated to us that he would not give such an assurance to the Senator from Delaware unless he had the support of the administration giving that assurance. So he is not only speaking on behalf of himself but the administration.

Mr. SPECTER. The additional question I have to the Senator from Delaware relates to his statement that deleting the advice and consent and inserting the Senate resolution of approval of support would have the same effect. The question that I have is whether either has any effect as a matter of law.

There is a constant argument with the executive branch and the Senate as to what authority the Senate has. And when the Senator from Delaware makes his declaration that as long as he is in the Senate many things will occur, that situation will change if he became the President, which might be a more likely possibility than the Presidency of Senator RUDMAN.

I compliment the Senator from Maine for what he is doing here and the Senator from Delaware. These are very, very important considerations. But the recurrent question which is in my mind that I state for either of the Senators on their feet is whether this amounts to anything in terms of obligating the President. The cases in the field are very muddled as to justiciability and what happens anywhere.

But if there is agreement by the President, and then we have to assume or presume agreement by succeeding Presidents, at least there is agreement by the President that they will follow the intent of the Senator from Maine, and with the change in the language the Senator from Delaware articulates that the result will be the same, that they will come back and require the same set of actions and that would satisfy me.

Mr. BIDEN. Mr. President, I am using up all of the time of the Senator from Maine. If I could, on my time for 3 minutes, respond to that, and then yield the floor back to the Senator from Maine, if I may.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware for 3 minutes.

Mr. BIDEN. I say to my friend from Pennsylvania, I held extensive hearings on the constitutional powers of the President relating to the treaty-making clause of the Constitution. The Senator from Pennsylvania is correct. There is precious little case law on this issue.

But there is no question among major constitutional scholars, starting with probably the most notable in this area of foreign relations law, Prof. Louis Henkin, that the Senate can place binding conditions upon its advice and consent.

But there is also no denying that any President of the United States can precipitate a constitutional crisis. Any President of the United States can come along and say, "I don't believe that is what the treaty means. I don't believe that, I am not going to abide by that provision," and precipitate a constitutional crisis.

The least important factor here is that a President promises something. No President can bind the next President by what he says. But he can bind the Executive permanently by what he does—if he ratifies a treaty pursuant to our conditioned consent. We bind all future Presidents by stipulating the conditions, and the President binds his successors by defacto accepting the conditions when he acts on the conditioned consent.

So although it is helpful to know that the President agrees with this, the main reason it is helpful is so that we do not have five Senators standing up objecting to it. That is all its value is. It is of no legal value; none whatsoever. It is of significant political value so we get this thing passed. But it is of no consequence in terms of the record, in terms of a future President, and in terms of how a court would construe the interpretation of these provisions relative to a future President.

There is no question that we can attach to that resolution of ratification whatever conditions we wish. The President does not have to accept them. The President cay say, "OK, if that is what you are going to make me do, I am not going to ratify the treaty. We are not going to place the treaty into effect. We are out. I am not going to do it." Or the President can say, by his actions in ratifying the treaty, "I accept the conditions laid down here."

None of these conditions require the President to go out and renegotiate something with any other nation. But, once he puts this treaty in effect, after we consent to ratification—we are not ratifying—he makes it the law of the land. Once he does that, he is bound, and future Presidents are bound.

And unless a President is deciding to retire very rapidly after that, one is not likely to do that. And I know of no precedent in American history where a President has been unwilling—the closest we have ever come, closest we have ever come is a showdown on broad-narrow interpetation of ABM.

I yield the floor.

Mr. NUNN. Mr. President, what is the time allocation? I have not been informed. Is this on the Cohen amendment?

Mr. COHEN. I think the Senator from Delaware has used all of the time of the Senator from Maine.

Mr. BIDEN. I beg your pardon? How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Eighty-three minutes and twenty seconds.

Mr. BIDEN. Three minutes?

The PRESIDING OFFICER. Eighty-three minutes.

Mr. BIDEN. I yield whatever time the Senator from Georgia would like.

Mr. NUNN. I do not need much time.

I thank the Senator from Maine [Mr. COHEN] for his leadership in this. I also thank the Senator from Delaware for, I think, a superb job of guiding this treaty through the Senate—which I anticipate will happen.

I favor this treaty. I think the resolution of ratification reported by the Foreign Relations Committee on November 19 should be approved.

On November 18, 1991, the Armed Services Committee reported its views and recommendations on this treaty in the form of a letter to the Foreign Relations Committee, which has jurisdiction over treaties.

Mr. President, I ask unanimous consent that the Armed Services Committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. In preparing our report to the Foreign Relations Committee, Senator WARNER and I consulted with all members of the committee on the recommendations and proposed conditions identified in the committee's letter. With the exception of the additional views that certain Members appended to the letter, the letter can be said to reflect the corporate view of the committee on this treaty. The recommended conditions contained in the additional views carry the approval only of those Senators who signed the additional views.

In its report to the Foreign Relations Committee, the Armed Services Committee concludes that the CFE Treaty "promotes the national security interests of the United States, our allies in NATO, and the emerging democracies of Eastern Europe." There are numerous reasons why we reached this determination.

First, measured by military criteria, the treaty is demonstrably and overwhelmingly favorable to the United States and its NATO allies. Under the equipment cascading plan developed by General Galvin, the Supreme Allied Commander in Europe, the United States can meet its reduction obligations under CFE by transferring older equipment to allies, who will in turn transfer their even older equipment to other allies. As a result of this cascading, the United States will have to destroy no equipment as a result of the treaty. Let me repeat that. The United States will not be required to destroy any equipment under this treaty.

In some areas, such as combat aircraft, the CFE ceilings are set so high compared to current United States and allied inventories that we could actually increase our holdings and still remain within the bounds of the agreement. Excluding the over 10,000 pieces of military equipment acquired by Germany following its absorption of the former German Democratic Republic, NATO will have to destroy only a few thousand weapons to reduce its holdings to treaty levels.

By comparison, the Soviet Union must destroy almost 22,000 items of combat equipment under the terms of the treaty. In addition, the Soviets have pledged to eliminate another 16,000 pieces of equipment in partial compensation for the tens of thousands of weapons they rushed out of the CFE region prior to or shortly after treaty signature. In sum, then, the Soviet Union will destroy about 38,000 weapons under or in relation to CFE, NATO will destroy a few thousand mostly older weapons, and the United States will destroy none. That is truly an astonishingly asymmetrical outcome—an outcome Senators should keep firmly in mind as we consider any proposed condition that might have the effect of impeding or even derailing ratification.

Second, it is important to note that our negotiators, led by our supremely talented and experienced Ambassador, Mr. R. James Woolsey, were able to adjust many aspects of the treaty text in midnegotiation to reflect the dramatic developments that occurred in 1990 in the Soviet Union and Eastern Europe. As a result, the CFE Treaty evolved to a significant degree from the strict bloc-to-bloc parity accord that had originally been envisioned to a far more pluralistic concept of security and stability in Europe. For example, Soviet troops cannot be stationed under the treaty on the territory of any nation in Eastern Europe unless that nation consents. Hungarian, Czech, or Polish inspectors can conduct onsite visits to declared Soviet equipment sites on Soviet soil west of the Ural Mountains. And if one of the former Wasaw Pact allies of the Soviet Union should decide to formally withdraw from the Group of Six and petition to join NATO's Group of Sixteen, article XXI of the treaty provides a mechanism for adjusting the accord to reflect this changed circumstance.

The military significance of these features, in tandem with the zonal structure of the agreement and the so-called sufficiency rule, is profound. Not only is what remains of the Soviet Union's once formidable short-warning attack posture sharply reduced quantitatively, it is removed geographically well to the east. As a result, this once canonical threat—a threat that drove NATO's conventional and nuclear defense posture and budgets for decades—is virtually eliminated.

Were a reactionary regime to come to power in the Soviet Union at some point in the future intent on reasserting its influence and/or control over Eastern Europe or intent on again threatening the security of Western Europe, it would likely conclude rather quickly that such ambitions were impossible within the terms of the CFE Treaty. For example, the 13,150 tanks the Soviets are allotted under the Group of Six's CFE apportionment would not have to confront the 20,000 tanks allowed NATO under the agreement, they would also have to deal with the 6,850 tanks deployed under the accord by the emerging democracies of Eastern Europe. Thus using a crude static comparison in tanks, a hypothetical future Soviet regime that returned to Brezhnev-era foreign policies would have to comtemplate a highly disadvantageous 1-to-2-attack ratio in tanks if that regime were intent on aggression against Western Europe. Indeed, the 13,150 Soviet tanks would have first to defeat Eastern Europe's 6,850 tanks before they could even engage NATO's 20,000-tank force.

Clearly, then, the CFE Treaty will erect significant barriers against the resurrection of a clear and present Soviet invasion threat against NATO. In all likelihood, a future Soviet regime intent on pursuing such designs would, as preconditons, have to abrogate the treaty and then methodically rebuild its conventional war fighting capabilities if it were to again achieve a position of preponderance. These developments would in turn provide the United States and its allies with unequivocal warning of the growing danger and allow the alliance time to reconstitute its conventional and theater nuclear deterrent postures.

Third, the CFE Treaty will put in place a far-reaching verification and inspection regime that will further enhance the transparency of military developments within the Soviet Union. As previously mentioned, an important aspect of this verification regime is that it will allow Eastern European nations to conduct inspections on Soviet soil and thereby build confidence in their state-to-state relations.

Finally, the CFE Treaty will establish a foundation for a continuing dialog and consultation within its 22 States Parties on security issues. Through its implementation arm, the so-called Joint Consultative Group, as well as the extraordinary conferences which can be convened pursuant to article XXI, the accord constitutes a flexible mechanism for adapting to developments and changed circumstances as they arise in Europe in the months and years ahead.

For all these reasons, the Armed Services Committee recommend that the Foreign Relations Committee report the treaty favorably to the Senate. The committee did not, however, believe that there were no issues of serious concern associated with this treaty. Many Members felt the treaty had been largely overtaken by political developments in Europe and this was of decreased relevance. Many Members were disturbed that the Senate was being asked to enter into a contractual relationship with the Soviet Union when the continuing disintegration of central authority and sovereignty in that nation has yet to run its full course. And all Members were concerned by the discrepancies in the Soviet Union's data declaration of November 19, 1990.

For these reasons, the Armed Services Committee did not recommend that the treaty be approved unconditionally. Rather, we recommended that the treaty be approved subject to three specific conditions. The first two conditions recommended by the committee concern the legal status of the side agreements that deal, respectively, with the naval infantry dispute and the question of Soviet forces still in the Baltic nations. The third recommended condition concerns the implications of Ukrainian independence for the viability of the treaty. I will not explain these three amendments in my remarks today, since they are discussed at some length in the Armed Services Committee report. I would say, however, that in my judgment the conditions addressing these three subjects contained in the resolution of ratification reported by the Foreign Relations Committee is consistent with the three conditions recommended by the Armed Services Committee.

Mr. President, as evidenced by the additional views attached to our letter, although the Armed Services Committee was largely in agreement with regard to the CFE Treaty, a split did occur within our ranks on two points.

First, eight members of the committee—Senators WARNER, THURMOND, COHEN, WALLOP, LOTT, COATS, MACK, and SMITH—recommended a stronger condition on the data discrepancy issue than that contained in the resolution of ratification reported by the Foreign Relations Committee. The Foreign Relations Committee-proposed condition would require the President to continue U.S. efforts to account for and/or eliminate these discrepancies. The condition proposed by eight members of the minority side of the Armed Services Committee would prohibit the President from entering the CFE Treaty into force until the Soviet Union had accepted the United States intelligence community's estimate of Soviet equipment holdings in the CFE zone as of November 19, 1990, and agreed to destroy the equipment that it had previously undercounted.

In the body of its report to the Foreign Relations Committee, a majority of the members of the Armed Services Committee agreed that this is an issue of serious concern. However, since the Armed Services Committee had not held a hearing on this subject but had instead only participated in the Intelligence Committee hearing on the matter, the majority of members on the Armed Services Committee deferred to the Intelligence Committee in making recommendations to the Foeign Relations Committee on an appropriate condition on this subject.

In its November 18, 1991, letter to the Foreign Relations Committee, the Intelligence Committee stated:

> We endorse continued efforts to arrive at an accurate accounting of what TLE the Soviet Union had in the ATTU on November 19, 1990, and to gain agreement to destruction

obligations proceeding from such an accounting.

This is the approach incorporated in condition two in the resolution of ratification that is now before the Senate.

Mr. President, I believe it is evident that the Soviet Union undercounted the treaty-limited equipment it had in the CFE zone on November 19 last year. I believe we should continue vigorous United States efforts to get an accurate count and to persuade the Soviet Union to take appropriate actions to reflect these revised levels. I do not, however, believe that we should hold the entry into force of this treaty hostage to getting the Soviets to accept current United States intelligence estimates. Such a requirement, in my view, is disproportionate to the benefits we will achieve in terms of Soviet equipment destruction if the treaty is entered into force. I also believe that establishing such a rigid requirement would also ignore the fact that the Soviet Union has already said in so many words that it recognizes that it undercounted its equipment holdings and has already committed to destroy equipment now stored east of the Urals in what amounts to compensation for this error.

Mr. President, I do not intend to go further into the data discrepancy matter in my remarks today. I would, however, recommend that my colleagues find a moment to read the transcript of the classified November 13, 1991, testimony on this subject to the Intelligence Committee by Mr. Doug MacEachin, Chief of the Arms Control Intelligence Staff at the CIA. I would also commend to the attention of my colleagues the excellent statement on this subject made in open session during the treaty markup in the Foreign Relations Committee by the senior Senator from Indiana [Mr. LUGAR].

Mr. President, I ask unanimous consent that the November 19 statement by Senator LUGAR be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NUNN. The second disagreement over proposed CFE conditions that emerged within the Armed Services Committee concerns the so-called second vote issue on CFE ratification. Let me explain what we do agree on and what we do not agree on. We all agree that should the Ukraine or any other large Soviet republic with sizable military forces or a significant military potential become independent and foreswear the CFE Treaty, an extraordinary and fundamentally changed circumstance would be created. Should these events transpire, the condition reported by the Foreign Relations Committee requires a number of actions: The President must consult with the Senate; he must convene an extraordinary conference of the CFE states pursuant to article XXI or undertake other appropriate diplomatic steps to collectively assess the situation; he must submit any material changes in our obligations under the treaty or in relation to the treaty that result from this conference or these diplomatic undertakings to the Senate for approval; and if no changes are made in our obligations and he elects not to withdraw the United States from the treaty, he must tell the Senate why. That is what we all agree upon.

The proposed condition by eight Republican members of the Armed Services Committee would go one step farther. It might go so far as to specify that if, notwithstanding the emergence of a heavily armed and independent Ukraine that remains outside the CFE regime, the President makes no changes in the treaty and elects not to withdraw the United States from the treaty, then he must nonetheless withdraw the United States from the treaty unless he resubmits the treaty to the Senate and the Senate votes to sustain his decision to keep the United States within the treaty.

Mr. President, I have consistently fought long and hard for the prerogatives of the Senate under the Constitution in the area of treatymaking. While I have not reached a decision on the merits of the condition now before the Senate, I would point out that should the scenario addressed by the Senators' proposal ever materialize, the Senate would have recourse available to it in the absence of this proviso. In the case of CFE, as in the case of any treaty, the Senate can act if it believes that the United States should not remain within a treaty despite the President's determination to keep the United States in that treaty. For example, the Senate could pass a resolution expressing the sense of the Senate that the United States should withdraw from that treaty. Failing all else, the Senate, in concert with the House, could pass a bill that, as domestic legislation, would take precedence over and in effect vitiate the treaty. It may be, however, that if modified as suggested by Senator BIDEN, the condition proposed by Senator COHEN would be acceptable.

Mr. President, before I conclude my remarks I would like to take note of an insightful article that appeared in the November 3, Washington Post. The op-ed was written by two former senior Senate staffers, Alton Frye, who was formerly chief of staff to Senator BROOKE, served as a close consultant to Senators COHEN and BAKER, and is now the Washington director of the Council on Foreign Relations; and Jeffrey H. Smith, a Washington attorney who was formerly general counsel of the Armed Services Committee under me.

In the article, Mr. Frye and Mr. Smith tackled a very difficult question; namely, how can the United States preserve the basic framework of international security arrangements and arms control agreements as the Soviet Union undergoes momentous change? I believe it is very much in our interest to protect the gains we have made over so many years. Many of these gains have been codified in various agreements that must be honored by the Soviet Union and any successor states or breakaway republics. In particular, the authors address questions about how to preserve the Soviet obligations under existing agreements such as the Nonproliferation Treaty, the U.N. Charter, and the Conference on Security and Cooperation in Europe.

They urge—and I wholeheartedly agree—that the United States and its allies make clear that we will not recognize or trade with any Soviet successor, government, or republic state unless it formally accepts its treaty obligations under these agreements. They also urge the United States to assist the Soviets and the republics with technical measures to assure strict command and control arrangements over Soviet nuclear weapons and they suggest that the recent initiative taken by Presidents Bush and Gorbachev to further reduce nuclear weapons be codified in agreements that fit within existing verifications schemes. They also argue that we should insist that any break away republics not exceed a pro rata allocation of the quotas assigned to the Soviet Union for conventional military hardware under the CFE Agreement.

Finally, and this is particularly germane to our proceedings today, they urge rapid ratification of CFE and START, despite the fluid situation in Moscow. They point out, quite correctly, that unless these agreements are ratified, and made applicable to any republics that may break away, the United States will have no formal legal agreement which we can use to try to constrain any future Soviet militarism, should it raise its head again.

Mr. President, I think this is a piece that deserves close attention of the Senate. I am very pleased that two of our distinguished former staffers have written this thoughtful piece and I request that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, November 18, 1991.

Hon. CLAIBORNE PELL,
Hon. JESSE HELMS,
Hon. JOSEPH R. BIDEN, Jr.,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATORS PELL, HELMS, AND BIDEN: The Committee on Armed Services has completed its review of the Treaty on Conventional Armed Forces in Europe (CFE) and has concluded that the Treaty promotes the national security interests of the United States, our allies in NATO, and the emerging democracies of Eastern Europe. The Committee recommends that the Committee on Foreign Relations report the Treaty favorably to the Senate, subject to certain conditions.

First, the Committee believes that the CFE resolution of ratification should condition the Senate's advice and consent on its understanding that the June 14, 1991 side agreement resolving the naval infantry dispute has the same legal force and effect as the Treaty itself. In a February 5, 1991 letter to Secretary Baker, the Chairmen and Ranking Minority Members of the Armed Services Committee and the Senate Select Committee on Intelligence urged the Administration not to submit the CFE Treaty to the Senate until the naval infantry dispute and certain other post-signing discrepancies were resolved. In a March 7 reply, Secretary Baker stated that the Soviet interpretation of the application of the Treaty to naval infantry units "flatly contradicts the language of the Treaty and has no basis in the negotiating record." Secretary Baker's letter also stated: "This is an issue of priciple, a clear-cut case of the Soviet Union failing to fulfill a Treaty obligation. We have repeatedly made clear to Soviet officials, at very high levels, that they should abandon this wholly unsupportable position."

Notwithstanding its original demand that the Soviet Union recant its unacceptable interpretation of Article III, the Administration elected to deal with this problem through the mechanism of a side agreement that establishes obligations outside the framework of the Treaty. While that approach will result in Soviet equipment holdings under CFE at the same level as if they had never asserted that naval infantry equipment was exempt, the decision to resolve this dispute through a separate side agreement has the disadvantage of leaving the Soviet Union in disagreement with the 21 other CFE signatories over the interpretation of a key provision in the Treaty. As noted in the State Department's Article-by-Article Analysis of the Treaty: ". . . it should be noted that the Soviet Union, in contrast to the other 21 Signatories to the Treaty, does not subscribe to the analysis of the scope of Article III counting rule described above."

It is highly unusual for an administration to submit a treaty for advice and consent by the Senate with an open acknowledgement that the parties are in disagreement over a fundamental point of treaty interpretation. This anomoly is only tolerable to the Senate due to the corrective effect of the June 14, 1991 side agreement; however, this makes it all the more important that the Senate act within the resolution of ratification to ensure that the side agreement is afforded the same legal force and effect as the Treaty. A condition making this explicit will help guarantee that any Soviet action inconsistent with or in violation of the June 14, 1991 side agreement is treated by the United States with the same gravity as any Soviet action inconsistent with or in violation of the Treaty.

The June 14, 1991 side agreement raises another point of concern to the Committee: The Executive Branch's continuing practice of using legally binding side agreements and political commitments to establish obligations outside the framework of an arms control treaty. President Bush's July 9 letter of transmittal for the CFE Treaty describes the June 14 side agreement on naval infantry as "associated with, but not part of, the Treaty." The practice of relying upon agreements and commitments outside the framework of treaties began with the Soviets' "political commitment" on Backfire bomber issues in SALT II, was repeated in the case of various definitional and verification issues in INF, and has now been repeated with regard to a variety of issues related to CFE and START. The Committee believes that the practice of relegating "too hard to solve" negotiating issues to side agreements, rather than resolving them within the confines of the treaty proper, threatens to detract from the Senate's role under the Constitution as a comaker of treaties. Absent a change in approach, the Committee believes that it is necessary for the Senate to attach conditions to the resolution of ratification that predicate the Senate's advice and consent to arms control treaties upon the understanding that the various side agreements have the same legal force and effect as the treaties.

Second, the Committee recommends that the CFE resolution of ratification also condition the Senate's advice and consent on its understanding that the October 18, 1991 side agreement dealing with the accountability and inspectability of Soviet forces in the independent Baltic nations has the same legal force and effect as the Treaty. The Committee recognizes that this side agreement responds to a development (the Soviet Union's formal recognition of Baltic independence) that arose well after the Treaty was signed. Nonetheless, the Committee would note that the Administration chose to address this development through the mechanism of a side agreement that established obligations outside the framework of the Treaty, rather than as an amendment or protocol to the Treaty that would have required formal approval by the Senate. As with the naval infantry side agreement, failure to affirm the legal force and effect of this side agreement in the resolution of ratification would detract from the Senate's Constitutional role in the treaty-making area.

Third, the Committee recomends that the resolution of ratification include a Condition addressing the possibility that the Ukraine or some other republic of the formerly Soviet Union with large military forces or a significant military potential might achieve independence and elect not to be bound by or accede to the Treaty or for other reasons remain outside the CFE regime. In response to a quesiton we submitted in advance of our first hearing, Secretary Baker stated:

> It is the view of the Administration that in order to safeguard the integrity of the Treaty regime, it almost certainly would be necessary for Ukraine and Byelorussia, if they were not bound as part of the USSR or any successor state, and retained significant amounts of equipment in Treaty categories, to accede to CFE.

During our November 4 hearing, Ambassador Woolsey testified that should such a scenario play out, it would provide grounds for U.S. withdrawal from the Treaty: "Certainly a country the size of the Ukraine, if it had substantial military forces, could, I would think, also be regarded as a fundamental change of circumstances under the Treaty, the old doctrine of 'rebus sic stantibus.' "

The Committee recognizes that there have been many signals emanating from the Ukraine, including the October 30 Kiev communique between the Ukraine and Russia, indicating that the Urkaine intends to observe the CFE Treaty. Nonetheless, many issues remain unsettled, including the quesiton of which current CFE state or states in the Group of Six would yield entitlements of Treaty-Limited Equipment (TLE) to the Ukraine to establish Ukrainian TLE allotments in the event the Ukraine joins CFE as a sovereign state.

The Committee believes the uncertainties in the current situation are such that the resolution of ratification should include a Condition requiring certain actions in the event former republics become independent and decline to be bound by the CFE Treaty or, assuming that they are not bound under international law in the absence of any action on their part, decline to accede to the Treaty. In such a Condition, such developments with respect to the Ukrainian, Belorussian or Russian republics would be recognzized as a military signficant changed circumstance—a point that was acknowledged in our hearings by numerous Adminstration witnesses.

In the event of such developments with these three republics, the Condition should require the President to consult immediately with the Senate as to whether the United States should exercise its withdrawal rights under the Treaty. If, after such consultation, the President elects not to exercise withdrawal, the Condition should, at a minimum, require him to request the Treaty Depository to convene an extraordinary conference of the States Parties pursuant to Article XXI, with representatives of the new state in question invited, to assess the continued viability of the Treaty and whether amendments are necessary and appropriate to deal with these changed circumstances.

If, following such a conference, the new state in question still refuses to accede to or be bound by the Treaty, the Condition should require the President to immediately transmit to the Senate any amendments agreed to during such conference, or if no such amendments have been agreed to, a recommendation as to whether the United States should continue to be bound by the Treaty or to withdraw from the Treaty and his explanation of his reasons for such recommendation.

Finally, we would note that we have reviewed the draft legislation on CFE "cascading" that has been negotiated between the House Foreign Affairs Committee and the Defense Department, and we have no objection thereto assuming it is not amended. We recognize that this CFE implementing legislation, which would amend the Arms Export Control Act to permit certain specified weapons transfers within NATO for the purpose of modernizing our allies equipment, is under the jurisdiction of your committee, but we would recommend that you act on this matter before the Senate adjourns.

We have consulted with all Members of the Committee on the recommendations outlined above and no objection has been raised. However, certain Members of the Committee have identified in the attached Additional Views other proposed Conditions, including one on the issue of the Soviet declaration of TLE in the area of application on November 19, 1990—a declaration that is disputed by U.S. intelligence. While the other Members of the Committee agree that this is an issue of serious concern, they have deferred to the Senate Select Committee on Intelligence in making recommendations to your Committee on an appropriate Condition on this subject.

Sincerely,

SAM NUNN,
Chairman.
JOHN W. WARNER,

Ranking Minority Member.

ADDITIONAL VIEWS OF SENATORS WARNER, THURMOND, COHEN, WALLOP, LOTT, COATS, MACK, AND SMITH

We agree with the Committee's letter report on the Conventional Armed Forces in Europe (CFE) Treaty and endorse the recommended conditions to any Senate approval of ratification of the CFE Treaty in at least the specific areas addressed in the letter. We believe, however, that further recommendations are necessary to protect the Senate's constitutional prerogatives in the Treaty-making process and to assure future U.S. national security interests.

Specifically, the inaccuracy of Soviet data declarations of Treaty Limited Equipment (TLE) in the area of application at the time the CFE Treaty was signed on November 19, 1990 is a serious concern. While the Administration has attempted to resolve this issue, significant differences still exist between the Soviet data declaration and U.S. intellligence estimates of the number of Soviet TLE in the area of application. These differing estimates range in the thousands of pieces of TLE above the amount included in the Soviet declaration.

We believe this discrepancy represents a significant question about Soviet probility and good faith with respect to their obligations under the terms of the CFE Treaty. While the Administration has expressed its intention to continue to work to achieve a resolution of this data dispute, it has not yet been able to do so. The June 14, 1991 resolutions of the Article III dispute and the issue of Soviet equipment transferred to locations east of the Urals do not resolve this issue.

We do not believe this is necessarily an issue over the military significance of the unreported Soviet equipment, and we make no judgment as to the military significance of this equipment or which U.S intelligence estimate of unreported TLE is most accurate. Instead, we believe there is a very important principle associated with this issue with respect to maintaining the integrity of the arms control process, particularly as it might set a dangerous precedent for START. Consequently, we believe this issue must be resolved before the United States assumes responsibility for its obligations under the terms of the Treaty.

In order to resolve this issue in a manner consistent with U.S. national security interests and what we view as the national interests of the other State Parties to the Treaty, we propose the following reservation to the CFE Treaty which should be included in the resolution of ratification. The reservation would read as follows:

"Whereas, data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall not be bound by the terms of the Treaty unless and until—

(A) the President has certified to the Senate his best estimate of the amounts and types of equipment holdings of the Union of Soviet Socialist Republics in the Atlantic to the Urals area of application on November 19, 1990;

(B) the President has certified to the Senate that the Union of Soviet Socialist Republics has agreed that the Soviet equipment holdings described in (A) are the amounts and types of equipment holdings in the Atlantic to the Urals area of application on November 19, 1990; and

(C) the President has certified to the Senate that the Union of Soviet Socialist Republics has agreed that it will destroy such amounts and types of equipment as required by the Treaty based on the amounts and types certified pursuant to clause (A) either as required by the Treaty or, if such equipment is no longer in the Atlantic to the Urals area, in accordance with destruction procedures similar to those provided for in the Treaty."

Additionally, while the Committee letter suggests a general condition designed to deal with the possibility of the Russian, Ukrainian, or Belorussian Republics becoming independent and not agreeing to the Treaty, we believe we should provide our views on a specific reservation designed to deal with this situation.

We believe that the resolution of ratification should provide for very specific procedures to be followed in the event that the Ukrainian, Belorussian, or Russian Republics were to become independent and not agree to be bound by the terms of the Treaty. Administration officials consistently testified that, if such a circumstance should arise, it would amount to a militarily significant changed circumstance and would seriously bring into question the continued validity of the Treaty. While we recognize the possibility exists that other Soviet republics might well become independent in the future and might, for whatever reason, not agree to be bound by the provisions of the CFE Treaty, it is less likely that such situation would amount to militarily significant changed circumstances.

Therefore, we suggest that the Foreign Relations Committee include in the resolution of ratification two conditions dealing with the creation of new states in the Treaty area of application: one condition applicable with respect to the Ukrainian, Belorussian, and the Russian Republics, and another condition applicable with respect to the creation of new states in any other area. Furthermore, we suggest that the Foreign Relations Committee include a condition relating to creation of new states in the Ukrainian, Belorussian, or the Russian Republic that might go so far as to mandate U.S. withdrawal unless the President resubmits to the Senate for its advice and consent the Treaty or amendments to the Treaty which are designed to deal with the changed circumstances.

John Warner, Dan Coats, Bob Smith, Strom Thurmond, Bill Cohen, Connie Mack, Malcolm Wallop, Trent Lott.

ADDITIONAL VIEWS OF SENATORS SMITH, WALLOP, AND MACK CONCERNING THE CFE TREATY

We, as members of the Armed Services Committee, have reviewed the Treaty of Conventional Armed Forces in Europe (CFE), and share the view of our colleagues that, with the inclusion in the Resolution of Ratification of certain conditions to the Senate's advice and consent, the Treaty would promote U.S. national security interests. In our opinion, however, further clarification on a variety of issues is needed before the Senate discharges its constitutional prerogatives.

We recognize that the Administration considers prompt ratification of CFE an urgent priority. It is neither our wish nor intent to prevent timely disposition of this matter. However, the Warsaw Pact dissolution and subsequent disunion of the USSR are extraordinary transformations which have injected great uncertainty into the legal, political, and military foundations of the Treaty. We are concerned that precipitant consideration, prior to resolution of technical discrepancies, and ongoing political proceedings among the Group of Six, particularly the former Soviet Union, could severely undermine the Senate's province and contribution to the ratification process.

For instance, with respect to treaty limited equipment (TLE) within the ATTU zone, there exist significant disparities between U.S. intelligence estimates and the Soviet data declaration provided at the time of Treaty execution. Although numerical estimates of unreported TLE differ among elements of the intelligence community, there is consensus that some TLE, and quite possibly a substantial amount, was not reported. Under-reporting of TLE would significantly diminish Soviet reduction obligations under the Treaty, and could prove to be militarily significant. Yet, to our knowledge, this matter remains unresolved. In our opinion, ratifying CFE prior to resolution of data base discrepancies would imperil Treaty efficacy and set a dangerous precedent for consideration of the Strategic Arms Reduction (START) Treaty.

Furthermore, the abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Rising nationalism and sovereignty claims among the republics have eroded internal symmetry, and shifted the power balance within the Group of Six. At present, it is unclear how these developments will transform the Soviet political and military framework, and whether the individual republics will, in fact, accede to the Treaty. Both Secretary Baker and Ambassador Woolsey have affirmed that Treaty viability hinges on participation by the republics, particularly Russia, Ukraine, and Belorussia. We share this view, and believe it would be premature for the United States to act on the Treaty prior to the impending referendums on independence in Ukraine and Belorussia.

Moreover, we are concerned that, in the wake of the Warsaw Pact dissolution, the bipolar structure of the Treaty may actually jeopardize the long term security interests of emerging East European democracies, such as Poland and Czechoslovakia. Its merits note that many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that, in the future, these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. However, within the existing bloc-to-bloc Treaty structure, larger TLE holders, such as the Russian republic or some other former Soviet state system, could exercise a de facto veto over such augmentations by refusing to lower their own equipment allocations. We believe this matter warrants consideration.

The fundamental objective of the Treaty has always been to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large scale offensive action against Western Europe. This imperative has been largely accomplished, irrespective of CFE, through the demise of the Warsaw Pact and disunion of the USSR. Nonetheless, we believe that, with the inclusion of certain conditions, the Treaty would retain a degree of flexibility and efficacy necessary to promote U.S. and NATO security interests.

In our opinion, the national security interests of the United States, and our NATO allies, would be best served by resolving the aforementioned issues *prior* to ratification. While we understand the Administration's desire to secure prompt approval of the accord, it should be noted that formal transmittal and subsequent Senate action were unduly delayed because of Soviet Article III violations. Given present uncertainties regarding the legal, political, and military foundations of the Treaty, we recommend the Senate defer action until these questions are resolved. However, should the Senate elect to proceed with ratification at this time, we believe the suggested conditions of the Republican Armed Services Committee members should be wholly incorporated to condition Senate advice and consent.

MALCOLM WALLOP.
BOB SMITH.
CONNIE MACK.

EXHIBIT 2

DATA DISCREPANCY ISSUE

(By Richard G. Lugar)

Mr. Chairman: It has been clear for months that the data discrepancy issue would be a thorn in our side as we considered the CFE Treaty. Of the three major post-signature issues, this one was given initially the least attention by the Administration.

I agree that it constitutes a problem area. But I also believe that it is not ultimately resolvable, and certainly cannot be resolved through a condition on the resolution of ratification.

The data describing Soviet holdings of equipment in the zone, submitted by the Soviet delegation on November 19, 1990, diverged significantly from U.S. intelligence estimates, raising questions both about our ability to monitor the Treaty's provisions effectively and about some major Soviet cheating. The Soviets reported thousands of fewer items of equipment in the zone of application than our estimates would lead us to expect, and thus the amount of equipment that they will have to destroy in order to reach Treaty-mandated levels was also lower than we expected. In addition, we discovered undeclared equipment at several sites.

The Intelligence Community experienced great difficulty during the Fall of 1990 in estimating accurately how much Soviet equipment was in the zone. The huge amount of equipment moved by the Soviets east of the Urals prior to Treaty signature accounts for much of the discrepancy. As of mid-1988, U.S. estimates roughly matched what the Soviets acknowledged they had at the time. By early 1989, the Soviet unilateral force reductions and withdrawals from Central Europe had begun. By early 1990, the pace and size of the Soviet withdrawal of equipment from the zone increased to the point that the Intelligence Community, while recognizing the scope and direction of the Soviet effort, was unable to identify all of the units in the Treaty zone from which equipment was being withdrawn. Richard Kerr, Deputy Director of the Central Intelligence Agency, admitted in testimony that the Intelligence Community essentially lost its place and was unable to keep up the data base. A thorough review of all the available evidence since Treaty signature had narrowed the gap significantly.

Some fear that there may have been thousands of pieces of equipment that the Soviets did not declare and may have left in the zone illegally to avoid destroying them. But if there were a substantial amount of undeclared equipment in the zone, most of it had been withdrawn or is being destroyed. Though there are a number of "smoking guns" we have raised with the Soviets, we have little meaningful evidence to back up the bulk of our suspicions. For this reason, the problem cannot be completely resolved.

Deputy Director Kerr testified that the Intelligence Community believes that the figures submitted by the Soviets on November 19, 1990, reflect what they intended to have in the zone when the Treaty entered into force, if not before. Thus, the Intelligence Community believes that the Soviets were not necessarily trying to violate the Treaty in order to avoid their destruction liability, but simply failed operationally to carry out by Treaty signature all of the withdrawals or destruction of equipment that they intended. Kerr characterized Soviet failure to declare all of their equipment in the zone at Treaty signature as a "technical violation".

There is a fundamental philosophical disagreement about whether most of the discrepancy should be characterized as "undeclared" equipment. Most Administration experts believe that, while we can legitimately continue to press the Soviets for full resolution of our concerns, for the most part we cannot prove that the Soviet declaration is wrong. Others, however, place the burden of proof on the Soviets. They argue that the U.S. position should be that the Soviets failed to declare these thousands of pieces of equipment unless they, the Soviets, prove that the equipment was not in the zone at Treaty signature.

Moreover, there is a tendency to confuse the nature and basis of our estimates of Soviet equipment with those of the Soviet declaration of data. Intelligence estimates and Soviet data declarations are apples and oranges. In an ideal world, they would be identical. But in the real world, there will inevitably be discrepancies. For example, the Intelligence Community's estimate in the Fall of 1990 was not a "snap-shot" of the zone on the date of signature. But that is precisely what the Soviet data declaration was supposed to have been. An estimate, by definition, uses incomplete information and analytical assumptions to develop a model of what the force should look like—it has never been possible to precisely count and document every piece of equipment.

When it signed the Treaty, the Administration believed that, to meaningfully affect the strategic balance, there would have to be Soviet cheating on a huge scale, which could be detected. But, as a political matter, the view that large-scale Soviet cheating could be detected was drawn into question as a result of the data discrepancy issue.

The simple response is that we can monitor the Treaty effectively. First, we will be monitoring not primarily pieces of equipment, but "militarily significant change" in the zone. The standard of "military significance" focuses on fighting force. Equipment by itself is not a direct military threat. It must be part of cohesive units of trained personnel and a large amount of support equipment. This factor makes significant change easier to detect and increases warning time.

In addition, when the Treaty is implemented, we and our allies can use the tools provided by the Treaty—on-site inspection and notifications—to enhance greatly our monitoring capability. We will be able to check out our estimates by going to specific sites for a close-up look, and we will be able to compare our estimates with what the Soviets tell us about their forces. The Soviets will be less likely to falsify their declarations intentionally because of the fear of being discovered through on-site inspections or other means. But on-site inspections can only be undertaken once the Treaty is implemented.

The intelligence problem behind the data discrepancy issue was likely unique. The Intelligence Community has learned from its errors; the Treaty will improve our monitoring capability greatly; and the risk of a recurrence of the problem should be virtually eliminated.

When the Treaty is implemented, the Intelligence Community may also get a better grip on the question of equipment illegally in the zone. But since so much of the equipment has been removed from the zone or destroyed, we are unlikely to ever get a true picture of Soviet holdings in the zone at Treaty signature.

Thus, Mr. Chairman, I think it important that the Committee call attention to the problem in the resolution of ratification, and I think the language contained in the Committee draft does so in a firm yet reasonable way. But together, more stringent language designed to "solve" the data discrepancy issue—an issue that is unresolvable—could only endanger the Treaty.

EXHIBIT 3

[From the Washington Post, Nov. 3, 1991]

DEALING WITH THE UN-SOVIET UNION

(By Alton Frye and Jeffrey H. Smith)

The move to independence by the Ukraine and other former Soviet republics has created grave international security problems. The parliament in Kiev contemplates an army of 400,000 men or more, larger than Germany's will be. Russian President Boris Yeltsin has said his government may need an army. Other newly independent republics also talk of separate forces.

In several regions where Soviet nuclear weapons are deployed, there are strong hints the weapons could become bargaining chips for the republics in future talks with Moscow. The prospect of multiplying armies and proliferating fingers on the nuclear trigger demands sober action by the United States.

President Bush's unilateral initiatives on nuclear weapons are an attempt to turn the dangers arising from Soviet fragmentation into opportunity. Bush acted within the context of numerous agreements negotiated over the years with the Soviet Union, including the Nuclear Non-Proliferation Treaty (NPT) the acts of the Conference on Security and Cooperation in Europe (CSCE), the Anti-Ballistic Missile Treaty (ABM) and the as-yet unratified Strategic Arms Reduction Treaty (START) and Conventional Forces in Europe Treaty (CFE).

It is essential that the new republican governments adhere to these deals—and that the further nuclear reductions promised by Soviet President Mikhail Gorbachev in response to Bush's cutbacks take place.

The Soviet Congress of Peoples' Deputies has pledged that all international agreements and obligations will be "unswervingly observed in the transitional period" and has urged secessionist republics to join the NPT and CSCE. This fell short of the traditional principle that successor governments accept their predecessors' international legal obligations. (To this day, for example, the United States and some former British colonies respect an extradition treaty dating from the years of empire.)

In the START agreement, the Soviet Union declared more than 20 deployment, production and other sites outside Russia as subject to the treaty's limits. The Ukraine's legislature has acknowledged central authority over nuclear forces on its territory and proclaimed its intent to become a nuclear-free zone by the mid-1990s. At the same time, leaders in Kiev are pressing for a future role regarding nuclear weapons in Russia. These pressures, and similar efforts in Kazakhstan and Byelorussia, make the first priority for the United States to firm up commitments to maintain effective, responsible control over nuclear systems deployed outside Russia.

Except for the central government or Russia, if it assumes control of Soviet nuclear forces, the United States should treat all governments that emerge in the territories of the old Soviet Union as "non-nuclear weapons states" within the meaning of the NPT. Any nuclear weapons that remain on their territory should do so only in an alliance relationship with the central government or Russia comparable to the basing agreements for U.S. nuclear systems in NATO or elsewhere.

Republics defined as non-nuclear-weapon states are obligated under the treaty not to acquire nuclear explosives. But the central government (or Russia) is required by START to carry out reductions and enforce other treaty strictures on intermediate nuclear forces and anti-ballistic missile defenses.

Complications abound. For some ABM Treaty provisions, for instance, it may be necessary to grandfather the successor republics in which ABM radars or other facilities are installed. The only Soviet ABM test range permitted under the treaty, Sary Shagan, is located in Kazakhstan, as is the major Soviet missile test and space launch complex at Baikonur. Only if other republics agree will the Soviet Union's nuclear successor (Gorbachev's or Yeltsin's government) be able to exercise its ABM treaty rights.

The unratified START and CFE treaties pose different considerations. START would remove thousands of strategic weapons. The Soviets continue to modernize their vast arsenal, the gravest threat ever faced by the United States. We cannot miss the opportunity to reduce that peril.

Equally, CFR is vital to America and her allies. Its provision for redeployment and destruction of massive amounts of conventional equipment—tens of thousands of tanks, armored vehicles, artillery and helicopters—should guarantee that the turn toward stability at lower force levels in Europe is irreversible.

These treaties are the framework for mutual predictability and for correcting Soviet military excesses. They also are indispensable to relieving some of our own defense burdens.

Given such momentous stakes, U.S. policy must be precise and explicit:

International agreements: The United States and its allies should make clear that apart from the Baltics, they will not recognize or trade with any Soviet successor government or republic government or support its participation in the United Nations unless it formally accepts treaty obligations to prevent nuclear proliferation and to honor other international convenants.

Nuclear weapons: Washington should insist on firm evidence that strict command-and-control arrangements govern Soviet nuclear weapons. Preferably, these should be moved to Russia, but Ukrainians and others who favor non-nuclear status for themselves are not keen to enhance Moscow's nuclear monopoly. Because the United States maintains nuclear weapons in other countries, it cannot easily press that demand. Moreover, there is concern about moving weapons during periods of instability.

Bush's concern for the "physical security" of weapons points the way. Washingon should offer technical assistance and equipment to bolster command and control wherever Soviet nuclear weapons are located, including help in installing two-key systems for all weapons. One idea worth pursuing would be to add post-launch destruct mechanisms, used on test rockets, to all ballistic missiles.

Short-range nuclear weapons: The matching pledges by Bush and Gorbachev to eliminate short-range ground-launched nuclear weapons and to remove nuclear weapons from surface ships should be codified and confirmed. Reciprocal unilateral reductions will build more confidence if the two sides fit them into existing verification schemes.

Force limits: The United States and its allies should declare that under no circumstances should any military forces deployed by the separate republics exceed a pro rata allocation of the quotas assigned to the Soviet Union by the conventional force reduction accord. The onus is on the successor governments to satisfy the so-called transparency requirements—restraints on military maneuvers, mutual observation and inspection procedures—of the CSCE accords and to move forward with CFE force reductions. We should not wait for the dust to settle in the intra-Soviet bargaining to send that message loud and clear.

Treaty ratification: The United States should ratify CFE and START expeditiously. Although the situation in Moscow is fluid, the risks of delay are greater than the risks of proceeding now. Unless CFE and START are brought into force, there will be no effective limits on any new leadership inclined toward militarism.

Despite uncertainty about which post-Soviet governments will be accountable for particular obligations, the political flux in the former Soviet republics invites creative action by the U.S. Senate to tie the new regimes to accords that are so critical to American security.

Problems will surely arise in the implementation of such complex agreements but they can be resolved through the mechanisms for clarification and enforcement contained in the treaties. Shaping the international obligations of the new republics is now the crucial objective. American approval of CFE and START could be decisive in locking them into the reductions process. For that purpose "wait-and-see" is worthless. The moment calls for "commit-and-constrain."

AMENDMENT NO. 1432 TO CONDITION NO. 5, AS MODIFIED

Mr. BIDEN. Will my colleague yield?

Mr. NUNN. Mr. President, as I sense it—and I have not been here for this whole debate—but has there been an agreement to modify the Cohen amendment?

Mr. BIDEN. I say to the Senator, yes. The Senator is about to send up his modification, I believe.

Mr. COHEN. I believe I had sent the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 1432), as modified, is as follows:

In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:

"(C) shall, if he has made the determination and decision described in subparagraph (B)—

"(i) submit for the Senate's advice and consent any change in the obligations of the state parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or

"(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence to the Treaty would serve the national security interests of the United States, seek a Senate resolution of support to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

Mr. NUNN. Mr. President, I did discuss this briefly with the Senator from Maine, the Senator from Delaware, and Ambassador Woolsey. I think this is a good modification. I think it is a very sound approach. It addresses circumstances we are not sure of now and cannot be sure of.

The Senator from Maine makes an absolutely valid point that if the Ukraine decides to form a very large army and does not become part of the CFE Treaty, it could make an enormous difference in the balance of power. I think those circumstances would warrant both the President taking another look at the treaty and the Senate of the United States taking another look.

The reason I think this is an improvement is that I could foresee if you had a two-thirds requirement you might have some real difficulty. The way this condition is now modified it is clear it would require a majority vote and it would be a resolution of support or resolution, I assume, of disapproval of the President's decision. Is that the correct interpretation?

Mr. COHEN. That is correct. A resolution of support for a President declaring this in our interests to stay in. He can pull out unilaterally. He does not need our consent to do that although under the Goldwater case that still might be the possibility of someone questioning whether the President can unilaterally terminate a treaty. That was discussed in Goldwater versus Carter. And, of course, the Supreme Court said that is a political question, go back and fight it out within the Executive. That is where the question rests.

Mr. NUNN. I believe this is a real improvement and contribution to the treaty itself and I certainly will support this.

I believe it is preferable to the original language. I believe I understood the intent of the original language but under certain circumstances it seems to me the results of what would be required would be a little bit vague.

For instance, it will take a two-thirds vote to approve the CFE Treaty Monday. But if the Ukraine decided to form their own army and then they did not adhere to the CFE Treaty, and made it clear they would not, and the

President said, "Notwithstanding that, I am going to stay in the treaty," then the Senate of the United States would have to act.

I was a little bit puzzled under the original language whether the President of the United States would have to have a two-thirds vote to stay with the treaty then or whether it would take two-thirds of the Senate to get out of the treaty or to force the President out of the treaty.

So I think this is a preferable approach.

I could also have envisioned under the original language—let us assume 60 percent voted and said the President is correct, we want to stay in the treaty. That would not be two-thirds.

So, really, in effect, you could have the failure of getting two-thirds, basically, overrule the President in his determination, whereas, in approving the treaty in the first instance two-thirds were required.

In other words, what I was concerned about is whether 35 percent or 40 percent could undo what it had taken two-thirds of the Senate to ratify.

Maybe I missed something in the original proposal and maybe there was an explanation for it. But that did give me concern. But I am fully in accord with what I understand to be the Cohen amendment as it has now been modified.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that a letter to me dated November 22 from Secretary Baker outlining in detail the administration of and support of all of the other conditions that are in the treaty worked out by myself and Senator HELMS and Senator PELL, under Senator PELL'S leadership on our side, be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, November 22, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Subcommittee on European Affairs, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The unanimous recommendation of the Foreign Relations Committee that the Senate give its advice and consent to the Treaty on Conventional Armed Forces in Europe (CFR) was very gratifying. I appreciate your and the Committee's efforts on behalf of this landmark agreement. The reductions, limitations and military transparency it will bring about will put security relations in Europe on a new and positive basis and significantly enhance stability there. This has become more important than ever in these uncertain times.

I understand, however, that amendments to the Resolution of Advice and Consent reported by the Foreign Relations Committee may be offered when the Treaty goes to the Senate floor. One which reportedly is being considered would require, under certain circumstances, the resubmission of the Treaty in its entirety for Senate advice and consent. That would be unprecedented and unconstitutional and therefore wholly unacceptable to the Administration.

Another potential amendment would deal with the CFE data issue along the lines proposed by minority members in their section of the Armed Services Committee's report on the Treaty. Quite frankly, such a reservation would make it impossible for the United States to ratify the Treaty because the conditions specified could never be fulfilled. The Treaty would never go into effect, and its many benefits would never be realized.

I understand as well that, despite the careful crafting of the language of the condition on new states, there is some concern in the Senate that important changes in Treaty obligations could occur which would not be submitted to the Senate for its advice and consent. I would like to reassure you that the Administration intends to implement the condition adopted by the Foreign Relations Committee in good faith and in the spirit in which it was negotiated. Specifically, we will implement the condition as follows:

(a) In all likelihood, the emergence of an independent Ukraine or Byelorussia that declined to participate in the CFR Treaty would indeed result in the President's determining that a "changed circumstance" had occurred. There is always the possibility that such a state would decide to hold no or only minimal amounts of equipment in Treaty Categories, in which case the military significance criterion specified in the Senate condition might not be met. We consider this very unlikely, however, and thus expect that the President would, indeed, determine that a "changed circumstance" had occurred.

(b) If, in order to accommodate such a changed circumstance resulting from the emergence of a new state, Treaty participants were to agree to a "change in the obligations" through a legally-binding side agreement, rather than a Treaty amendment, the Administration would submit such agreement to the Senate for advice and consent, just as it would an amendment to the Treaty.

(c) The Administration would not agreee to such a "change in the obligations" solely through administrative or technical changes to the Treaty.

As Acting Secretary of State Eagleburger noted in his letter of November 19, the Resolution already approved unanimously by the Foreign Relations Committee contains a sound and workable approach to dealing with these complex issues. I urge you and the entire Senate to proceed with its advice and consent based on the Resolution as it now stands.

Sincerely,

JAMES A. BAKER III.

Mr. COHEN. Will the Senator yield?

I want to clarify for the record. Earlier I indicated Ambassador Woolsey had stated that he would not speak unless he had the support of the administration. It was another administration official who made that representation, that if Ambassador Woolsey came and supported the modification language that I have now submitted to the clerk, that he would be acting on behalf of the administration.

Mr. BIDEN. Mr. President, it is further my understanding from our staff conversations that Ambassador Woolsey in fact does support this modification. And a point that Senator HELMS made to me, which is very important that it be restated: When I was going through what authority the Senate had and did not have relative to treaties, I left out a very important one, and Senator HELMS pointed it out to me. That is that the Senate, if it desired—and it does not—but if it desired, it could require the President to go back and renegotiate any portion or all of the treaty. It could do that. It could do that. It could say "We will pass this treaty conditioned only upon you getting the Russians to agree to the following two points and change paragraph 7 and 9 to thus and so."

We could do that. That is not what we are doing here. That is not what we are doing here. And, again, I want to make it clear the administration—directly through the representation in a letter which is now in the RECORD, from Secretary Baker—has gone into detail and agreed to and is supportive of all the conditions that are in the ratification instrument and Ambassador Woolsey has verbally acknowledged that the amended amendment, the modified amendment of the Senator from Maine, is also acceptable to the administration.

I know there are a lot of Senators trying to catch planes.

Before I yield the floor, let me ask of my colleagues from Maine, would it be his desire to seek a rollcall vote on this?

Mr. COHEN. It is not. I do not seek a rollcall vote. I am not aware of anyone on my side who is seeking a rollcall vote.

Mr. BIDEN. I know of no one on our side. I, obviously, am not the leader. I do not have the authority to free people up. I know there are a lot of people knocking on our door asking whether or not they could catch their planes.

I do not know what I would do, but I tell you I do not think there is going to be a rollcall vote. We may be able to pass this very quickly.

Before we do pass it, maybe we could move to third reading of the modified amendment and pass it and then continue this discussion so Senators would be assured that there was not going to be a rollcall vote and they could catch their planes.

Would anyone object to that?

Mr. SPECTER. Mr. President, that is agreeable to this Senator, and I will make a few comments on this, asking unanimous consent that they be printed prior to the voice vote.

Mr. BIDEN. Mr. President, I move——

Mr. COHEN. Will the Senator withhold the request for a moment?

Mr. JEFFORDS. Mr. President, the CFE Treaty is a landmark agreement which enhances the security of all signatory nations. It is the foundation for a new order in Europe. It shuts the door on the cold war and opens the way to an era when cooperation can replace competition.

By requiring dramatic cuts in Soviet conventional armed forces, the CFE Treaty enhances the security not only of Western European nations but also of the emerging democracies in Eastern Europe which now can turn their attention to building new societies without fear of being overrun.

I fully support the CFE Treaty and will vote for it.

I also will vote in favor of the amendment offered by my friend from Maine. If there is one thing certain about the Soviet Union's future it is that nothing is certain. It is important to recognize that we are not sure who we are dealing with there. We cannot tolerate a situation in which a Soviet republic with large holdings of treaty-limited equipment does not accede to the treaty. The Senate must be able to have a say in such a case.

The CFE Treaty is a remarkable achievement. The Cohen amendment makes it an even stronger guarantee of U.S. security. Will the Senator from Delaware allow me to ask just one question?

Mr. BIDEN. Surely.

Mr. JEFFORDS. The Senator from Maine, Mr. President, I would like to direct my question to the Senator from Maine on his original amendment that I had agreed to support. Now that it is changed, I would like to know the significance of the change and, in particular, if we were to pass a resolution not supporting the President, as to the ramifications or legal authority or power, if any, that it has.

Mr. COHEN. Mr. President, let me respond to my colleague from Vermont. The change has been brought about by an agreement reached with the administration. Frankly, my purpose was to assert the Senate's prerogative and constitutional authority to require the administration to seek the advice and consent of a significant change in our original understanding. To the extent that the administration is at least willing at this time to say we will return to the Senate and ask for a resolution of support, that achieves my objective; namely, that the administration will come back to us.

The understanding was reached in order to avoid a major controversy or debate that was just articulated by Senator NUNN and I suspect will be commented on further by the Senator from Pennsylvania; namely, whether or not we would have to have a two-thirds approval or resolution of approval or resolution of disapproval if the President should come back.

That could take up considerable time. It might forestall the resolution, the final passage of this treaty for some time. So in an effort to strike a compromise, I agreed to the modified language which will achieve my objective, and that is a recognition on the part of this administration if there were such a fundamental change, the President would come back and seek our advice in the sense that he would seek a resolution of approval for us to stay in the treaty. So it achieves my objective and I think it would preserve at least the prerogatives of the Senate.

Now what is its legal implication? I suspect it is more of a political obligation. This administration is not going to commit on this treaty or any other treaty that it is surrendering any of its perceived constitutional powers. That is a matter that will have to be fought out on each and every treaty that comes before this body.

The only way to resolve that is, in fact, to have a political confrontation, as we had during the INF Treaty, over the interpretation of the ABM language. So I suggest to my friend from Vermont that it is more of a political statement than a legal one.

Mr. JEFFORDS. I thank the Senator for the answer, and that is my understanding. I also believe, then, if the President did not come back, it still would only be a matter of political aspects of us being able to point that fact out and to bring, through moral persuasion or otherwise, upon the President to at least explain his actions or to come back in some way to us; is that correct?

Mr. COHEN. If the unfortunate thing should occur and we see the disintegration of the Soviet Union and one of the major Republics forming its own army and not agreeing to the terms of this treaty, and if the President were to either not disengage from the treaty, nor seek to modify it with the other nations, and not come back to the Senate, I would say that President is, indeed, troubled politically in terms of future relationships and future battles, and a number of conditions certainly would be imposed in various and sundry ways.

Second, with respect to binding future Presidents, the Senator from Delaware already indicated we cannot do that. A future President can come back and say, "I disagree with that interpretation." That in itself would precipitate another political confrontation, a constitutional crisis, as such.

So basically what this President is doing is saying, "I intend to be bound by the understanding reached under this modified condition" and that is all we can ask of this President at this time.

Mr. BIDEN. Mr. President, may I respond to the Senator's question as well?

Mr. JEFFORDS. I would appreciate the response.

Mr. BIDEN. I want to make a clear distinction here. There are political requirements a President has and there are legal requirements, and sometimes a legal requirement, in effect, imposes a political requirement.

The President, when Senator COHEN's amendment condition is passed, will be legally bound—legally bound—to come back to the Senate. He will be legally bound. But a President, on matters of dispute between the President and the Congress, can ignore a legally binding requirement, but only at his political risk.

As the Senator from Pennsylvania points out, there is precious little case law in this area, but there is a legally binding requirement once we pass this treaty with the Cohen condition on it that the President come back and say, A, the Ukraine is now independent; B, they choose not to stay in the treaty; C, they have x number of tanks or any other treaty-covered equipment; D, they present a threat to us; and E, it does not matter to me, I am going to stay in, anyway.

That is what has to happen before we get to the Cohen condition. They are the antecedent events that must occur. If he gets to that point, he then, under the law of the land—this treaty becomes the law of the land—he is required to come back and say: "Senate, I want to stay in the treaty and I do not want to renegotiate anything. Is it OK?"

He has to come up and ask us that and we have to pass a resolution either saying it is OK or it is not OK.

If we say it is not OK, he can still do it. But he will have paid a big political price for doing it.

In contrast, if he negotiates an amendment to the treaty, in that circumstance, he has to come up to the Senate and get two-thirds of the Senators to say that is OK, Mr. President, to change it that way, binding the United States that way. Otherwise there is no new agreement concerning the Ukraine or whatever other republic may have caused the changed circumstance.

That is a legally binding requirement that the President cannot ignore under the law; he cannot ignore that. But what he is required to do under the Cohen amendment condition is different. He must simply come up and ask for a vote. He is legally required to do that. Once we vote, he is not legally bound by the vote.

But the Senator from Maine and I understand that it is unlikely politically that the President would ignore that vote. If 51 or more Senators vote no to staying in, the political pressure on that President would be overwhelming.

That is the value, in my view, of the Senator from Maine seeking to deal with this gray area. We have never dealt with this area before, to the best of my knowledge.

Mr. SPECTER addressed the Chair.

Mr. JEFFORDS. Mr. President, I would just like to conclude, if I may. I thought it was important that we being it out, so we all understand the implications of what we are doing here. And I appreciate the clear understanding which has been given me by both the Senator from Maine and the Senator from Delaware.

We are moving into a very difficult time when we are not sure who we are dealing with, and thus I believe it is very important that we are careful as to—that we know exactly the kinds of problems we are getting into and the kinds of solutions that we have arrived at.

I would conclude by commending the Senator from Maine, and I will support him on the amendment.

I yield the floor.

Mr. BIDEN. Mr. President, I would like to make a unanimous consent, if my colleagues will allow. I ask unanimous consent that the Senate be in order to vote on the amendment of the Senator from Maine at this time, notwithstanding the time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, I had sought recognition earlier and I think I had recognition but yielded to the Senator from Vermont.

Mr. BIDEN. I will withhold, if the Senator likes.

Mr. SPECTER. I would like to make a very brief comment.

Mr. BIDEN. I withhold the UC.

The PRESIDING OFFICER. On whose time is the Senator speaking?

Mr. SPECTER. I seek time from the distinguished Senator from Delaware.

Mr. BIDEN. Surely. The Senator may take the time he wants.

Mr. SPECTER. When I say a brief comment, it will be 3 minutes.

Mr. President, I wish it was clear, as the Senator from Vermont stated. I do not believe that on this record there is very much which is clear. But I want to compliment, again, the Senator from Maine and the Senator from Delaware for providing what is a very useful debate to express the view of the Senate that if there is change in the republics involved, with the withdrawal of major ones like the Ukraine or others, that this is a matter which the President ought to bring back to the Senate.

When the Senator from Delaware says that it is legally binding, I have to respectfully disagree with him on the proposition that you cannot take it to court and get it enforced.

The area of treaty ratification responsibility is an extraordinarily complicated one, and on the current state of the law, there is very little, if anything, you can take to court and get enforced. That depends upon the constituency of the court. And there is a Justice Powell concurrence in the Goldwater case which suggests there are some issues which can be resolved in court.

But the practical impact is, I think, a profound one. I think on the face of the treaty, which is a good treaty, where you bind the U.S.S.R., the Union of Soviet Socialist Republics—that is still its name, Republics in plural—where you have a given number, including the Ukraine—for example, if the Ukraine is out, there would be a solid position that the treaty is not binding anymore because the republics are not the same. And it is material with the Ukraine being out on the very good chart which the Senator from Maine has.

We have had a lot of discussion here today, Mr. president. I think it is important to assert the constitutional role of the Senate. And just for a brief comment, I agree with much of what the Senator from Maine has said today. I do not agree with an earlier comment about the ABM Treaty with respect to narrow and broad, not because of the lack of standing of the Senate, or a new meaning to "other physical principles," but because my view of the ABM Treaty is that on the three critical factors—the negotiating record, the ratification record, and the subsequent practices of the parties—I come to a different conclusion than does the Senator from Maine in saying that it is a broad interpretation.

But I thank my colleagues for the discussion today, and I think it is very useful. But I do not believe there is anything very clear or anything very legally binding.

I thank the Chair and yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I was going to respond to my colleague from Delaware by saying we have the situation, I believe, under the terms of this condition as now modified, that the President is, in fact, legally bound to come to the Senate under the conditions which the Senator from Delaware outlined. But that for enforcement purposes, we have grave difficulty, I think, in bringing it into a court of law. The Supreme Court might very well say this is not a justiciable issue; this is a political thicket into which the Court will not step, and you go fight it out on another constitutional basis or battle between the executive and congressional branch. That, in all likelihood, would be the situation.

So while it may be a legal obligation in terms of its enforcement, it would be political in nature. And so that is the difficulty in trying to articulate what is legal and what is not.

The Restatement of the Foreign Relations Law of the United States recognizes this principle. It says:

> There is no authoritative doctrine indicating limits on the price the Senate can exact as a condition for its consent. * * * A condition relating to the treaty before it and having plausible relation to its adoption or implementation is presumably not improper and if the President proceeds to make the treaty, he is bound by the condition.

So he is bound by the condition. Now, how do we enforce it? Well, we might enforce it on the next item that would come before the Senate that the President had some interest in. That may be one way of doing it.

Second, I want to respond briefly to the comments made by the Senator from Delaware. He indicated that no President under these circumstances, where the Ukraine is out, would ever ignore the implications of that, and say: "I want to stay in."

Now, the Senator from Wyoming may get up and talk about what we have just waived in terms of thousands of pieces of equipment that the Soviet Union had, in fact, left in these areas bound by the treaty on the date of signature, and which we have decided to waive because we have come to the judgment that it is militarily insignificant under the circumstances. I believe that it is perhaps militarily insignificant, but I think the principle that we have established by doing it is very dangerous as it pertains to future agreements.

But here we have a case where we have thousands of weapons which were not counted, that should be counted, that we have simply given precatory language inserted in the treaty as such: We urge the President to continue to seek to resolve this. But here we had a decision made to waive that and continue to go forward with the terms of the treaty.

So I do not rule anything out in the future. I would not say that anything is impossible. What I want to ensure is that if one of these circumstances should occur, where one of the major Republics in fact opt out of the treaty, the President is duty bound to come back to us. If he chooses not to do so, he has precipitated a crisis, and the Senate would then act accordingly.

Mr. President, I have no further need for time, and I would at the appropriate point, if the Senator from Delaware is finished, urge adoption of my amendment.

Mr. BIDEN. I reinforce the point my friend from Maine made, our friend from Pennsylvania is a fine lawyer, but he is dead wrong on the law. He is confusing the ability to enforce—the ability to enforce—with legality. And there is a distinction with a difference.

But I yield back the remainder of my time.

Mr. COHEN. I urge adoption of the amendment.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified.

The amendment (No. 1432), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the condition, as amended.

The condition, as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, could I inquire of the chairman now, under the unanimous-consent agreement, as I understand it, time is now to be divided, I think it is—is it 3 hours today?

Mr. BIDEN. I think it is 2 hours today.

I would ask the Chair, what does the unanimous-consent agreement call for on the next item?

The PRESIDING OFFICER. Three hours on the Smith-Wallop amendment.

Mr. BIDEN. Is it 2 hours today, or 3 hours today and 1 hour on Monday?

The PRESIDING OFFICER. Three hours today, plus an hour on Monday.

Mr. BIDEN. I thank the Chair.

Mr. WALLOP. Could I further ask the Chair. As I understood it, the phrasing of the unanimous consent said that 3 hours today was equally divided, but it was on the Smith-Wallop amendment and general debate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Did that agreement assert itself as to who was in charge of the time?

The PRESIDING OFFICER. Senators SMITH and WALLOP control half, Senator BIDEN controls the other half.

Mr. WALLOP. Under those circumstances, does the majority leader seek recognition.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleague.

Mr. President, I am advised that the Senate has just adopted a modified condition offered by the distinguished Senator from Maine that was to be the subject matter of the vote which was to occur at or about 5:15 p.m. That matter now having been disposed of, there will be no further rollcall votes today.

The Senate will, however, remain in session for the purposes of debate pursuant to the agreement as referred to in the colloquy between the Senator from Wyoming and the Senator from Delaware.

There will be votes on Monday. Under the agreement already obtained, there will be at least two votes at 2 p.m. There may be votes on Monday prior to and subsequent to that depending upon what occurs with respect to other business that we are attempting to resolve now or during the course of the day.

So Senators should be aware that they must be present on Monday. At least two votes are now scheduled for 2 p.m. The possibility of votes prior to that and subsequent to that continues to exist.

We will have a final announcement in that regard before the end of the day, or actually, it will be sometime this evening when this debate concludes.

Mr. COHEN. Would it be possible to assure any of us that the votes on Monday will not proceed prior to 2 o'clock? I have postponed a trip back to Maine as it is, and I still plan to go tomorrow. I will get back here by 2, but prior to that time it will be difficult.

Mr. MITCHELL. Mr. President, it is, of course, my desire to accommodate every Senator and, in particular, my colleague from Maine. We may be able to do that. I will try very hard to do that. But I am not able to say that now, for this reason: We are trying to finish by Tuesday. So Monday will be the next-to-the-last day of the session. We have still a fairly substantial number of matters to try to dispose of.

I assure my colleague I will do the very best I can. But I am not able at this moment to make that commitment. I will have to discuss it further with the Republican leader and with other Senators as well.

I thank my colleague, Mr. President. I thank the Senator from Wyoming for his courtesy.

I yield the floor.

Mr. WALLOP. Mr. President, will the Senator from New Hampshire yield 15 minutes to the Senator from Wyoming?

Mr. SMITH. I yield 15 minutes.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Does the Senator from New Hampshire offer a condition at this time?

Mr. WALLOP. Mr. President, I would say it is not the obligation of the Senator to offer that at this time. It is for general debate or debate upon the condition.

Mr. SMITH. If it please the Chair, we can offer it now. The vote, by agreement, is not until Monday.

The PRESIDING OFFICER. The agreements with time constraints require that they be offered.

Mr. WALLOP. Will the Chair restate that?

The PRESIDING OFFICER. The agreements with time constraints require that they be offered.

Mr. WALLOP. Mr. President, that does not constrain the agreement; it merely constrains the time this afternoon for debate on it, general debate on the agreement, does it not?

The PRESIDING OFFICER. If there is no objection, time will run on the agreement. The Senator from New Hampshire controls an hour and a half.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Parliamentary inquiry. Mr. President, did you say that the amendment, did you make some ruling on the amendment being offered now or on Monday?

The PRESIDING OFFICER. If there is no objection, we can run time without the condition being offered. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. SMITH. I yield to the Senator from Wyoming whatever time he desires.

Mr. WALLOP. Mr. President, I thank the Senator. I will say there is nothing devious about this delaying introducing the amendment, no strategy, no tactic is this. We are waiting for it to reach a final form. It is my understanding that it will be introduced here shortly.

Mr. President, one of the problems that we always have with arms control is that despite the best intentions of the negotiators, the democratic nations that enter into them, and their negotiators, they become political documents and not military documents. The Secretary of State last night as much as verified that to me when he told me that the reason this Congress and this country ought not to wait until the compliance report due December 1st is in is because the United States is supposed to lead. Already other nations have entered into this agreement.

But I would say that if it was anything but a political document and if it really was a military document, we would at least take time to understand whether or not the requirements under the agreement and the protocols have been or are likely to be met. But the Secretary of State deems the military requirements to be essentially irrelevant and so, too, is this Senate about to deem them.

I would just say there are several things the Senator from Maine mentioned. I will get to that in a minute. But one of the things this treaty does not talk anything about is completely ignoring the history of Europe; the possibility that peacekeeping forces might have to be put into place between traditional rivalries, Germany and Russia, with Poland in the center, and Czechoslovakia, Hungary, and yet there is nothing in this treaty which permits them to be put in place in violation of the numerical limits that would be stationed in any of those lands.

If you are serious about the history of Europe and you are serious about the potential of instability in those newly released lands of the Warsaw Pact, you might just pause to consider what would happen if traditional rivals on either side threatened the peace or security of somebody in between. But that is not what we are doing here. What we are doing is making a political statement.

If it was more than a political document and insisted on some military relevance, we might have noticed that the notice required—under the terms of the treaty, prior to the movement of troops—that it would, if it existed in January, have prevented us from the buildup in the gulf. But it does not have a military relevance, and so, according to the Secretary of State, the United States must do this without asking these kinds of questions.

Mr. President, these CFE negotiations began in March 1989 with a mandate to eliminate the disparities in conventional force levels in Europe, in order to strengthen stability, security, et cetera, and to eliminate the capability of any nation to launch surprise attacks.

At that time, Mr. President—it seems hard to remember—the Soviet-Warsaw Pact forces—there was a Warsaw Pact in 1989, but it seems hard to remember—enjoyed a significant numerical advantage over the conventional forces of NATO.

We were told that a CFE treaty to be negotiated under the mandate agreed to by NATO and the Warsaw Pact would require the destruction of almost 120,000 of the weapons that were there, including, Mr. President, 100,000 Soviet weapons, to create a balance of conventional forces between NATO and the Warsaw Pact.

But that is not the case under the treaty that is in front of us. Under this treaty, and a related legally binding side agreement, the Soviets will only have to destroy about 23,400 pieces of equipment instead of 100,000, less than a quarter of the amount estimated when the negotiations began. It is for several reasons.

As soon as the negotiations began, the Soviet Union began the move massive amounts of equipment to locations east of the Ural Mountains, outside the area of application of the treaty limitations. By their own count, the Soviets moved 57,300 pieces of treaty limited equipment, called TLE's, out of the area of application of the treaty since January 1989, and some before signature last November 19, but a portion of it after the treaty was signed, in direct violation of the treaty provisions and the protocol.

That has been the experience of arms control. Yet, we go back like lemmings to the sea. The Soviets are today in violation of the agreements that they undertook under this treaty.

The Secretary of State says, no matter, we can ignore them. Mr. President, we ignore them here, we ignored them in INF, we ignored them in SALT II, and we ignored them in SALT I and the ABM Treaty. And if they are of no significance to us. we will ignore them in START II, whether or not they are of significance to us.

That is going to be the basis upon which the Senator from New Hampshire and I wish to offer our amendment.

As soon as CFE negotiations began, there were massive amounts of Soviet equipment moved to locations east of the Ural Mountains, and outside of the area of the treaty limitations. Now what happened when those things went out of the treaty zone? It falsified the required declaration of equipment holdings in the treaty zone at signature on November 19. In addition, the Soviets did not include over 3,700 pieces of TLE equipment and claimed the equipment had been redesignated as naval infantry, coastal defense, or strategic forces units and was therefore not covered by the conventional forces treaty.

That was serious enough to attract our attention and that has been, in one way or another, short of resolved, brushed under the carpet.

Finally, the Soviets deliberately understated the total amount of the treaty-limited equipment in the zone on November 19 of this year, again to avoid destroying large numbers of equipment under the treaty. It could amount to as many as 18,000 pieces of equipment, according to some intelligence experts.

The Soviets have stated their data declaration reflected what they had intended to have in the zone at the time of the signature but they have just not been able to be in compliance. They then proceeded to continue to move the equipment out of the zone after the treaty was signed, in violation of the treaty itself.

Those items were supposed to be destroyed, were they not? So they understate them, and then say, we could not get around to destroying it. Instead of destroying them, they take them out of the zone, and that is militarily signicant.

So now that we see is that under the treaty, the Soviets will only have to destroy about 23,000 pieces of equipment instead of 100,000, including the naval, infantry, and coastal defense equipment. Even including the additional 14,500 older pieces of equipment east of the Urals, which the Soviets promised to destroy sometimes over the next several years, the total Soviet destruction requirement is left at half of the amount that was expected by the negotiators. Less than half, Mr. President. Yet, the negotiators, the administration, and the Secretary tell us that it was not military significant.

If it was not, one has only to add, why was it negotiated in the first place? If it was military insignificant, it is an irrelevant exercise is it not, even that we complete this treaty? If none of the numbers mean anything, there was no point in negotiating them. If there was a point in negotiating them, there is a point in seeing to it that they are complied with under some set of circumstances. But, no, we did not do that, because this is a political document and not a military document.

On the very day the treaty was signed, the Soviets submitted a false statement to all other signatories, not the United States by itself, but to all other signatories. While a deliberate understatement of holdings in the conventional categories limited by the CFE treaty may or may not be that significant, any discrepancy, I say again, in the data of a future declaration would certainly be a matter of grave concern.

What reason, may I ask, would the Soviets have to think there is any particular requirement that we might hold them to under anything they negotiated, if we are so quickly willing to forget these CFE violations?

Yet American government continues down this road, always pursuing the illusory dream that this time, with this treaty, we can finally reach utopia. In the immortal words of Dr. Johnson, our unflagging pursuit of arms control through such treaties represents "the triumph of hope over experience."

I don't intend to take the Senate's valuable time belaboring further details of the treaty. It is a complex document, full of arcane legalisms and convoluted matters of international law that could take hours to discuss fully. In any case, I believe the treaty to be largely irrelevant. Its fundamental purpose has always been to eliminate the massive imbalance in conventional forces between NATO and the Soviet bloc, and thereby reduce the possibility of a surprise attack or aggression against our European allies. But that goal has for the most part been accomplished by the strength and resolution of America and her allies, and by the march of recent history—not by CFE. The end of the Warsaw Pact and the collapse of the Soviet empire make a conventional war threat against Europe essentially bizarre.

Despite that fact, the administration is in great haste to have this treaty ratified. I cannot help but recall the words of French Gen. Pierre Bosquet, watching the gallant but foolish charge of the Light Brigade at Balaclava in 1854. "C'est magnifique, mais ce n'est pas la guerre," He said. "It is magnificant, but it is not war."

CFE may appear magnificent to the theologians and disciples of arms control, Mr. President, but it is no treaty. It is a form of magical incantation that we chant to soothe ourselves. It is an exercise in solipsism, something we do exclusively to and for ourselves, that has little relation to the objective world. As something we do simply to satisfy our own inscrutable inner longings, CFE is without seriousness. It is strictly a political document, a public relations confidence game. The Secretary of State has said as much when pleading for the haste to ratify not for our stature. When we should be leading, we are now eight. Has any Senator heard a more profoundly strategic concept of politics not policy.

If we were serious, Mr President, we would not approach the problem of conventional forces this way. For if reducing or eliminating weapons is so important, then why would we ignore the discrepancy in the accounting of treaty-limited equipment? The Soviet-reported TLE data have been shown by United States intelligence to be considerably—and consistently—understated. Were we serious, would we not want this matter resolved, prior to ratification? Of course but only if military considerations held at least equal sway to political ones.

The treaty's sponsors tell us Soviet violations are "militarily insignificant." Perhaps so, Mr. President. I repeat, there is little likelihood of a Soviet conventional attack on Western Europe. But while these discrepancies may be militarily insignificant, they are significant for what they reveal about the arms control process.

Mr. President, I am far more concerned about the process that brought us to this point than I am about the obvious deficiencies in this treaty. CFE may well be largely irrelevant. But the flawed process that produced it, and our inability to change our behavior in the last quarter century, may well spawn other flawed treaties that do matter, treaties which may indeed have a profound impact on our security—START, for example.

CFE is further evidence of a bankrupt process, Mr. President. We have pursued arms control blindly and doggedly, the process has now become an end in itself. We have lost sight of its goal, of the national interests that we purport to serve by following the treaty road. We have totally confused means and ends. We have made sacred icons of arms treaties. We genuflect before the altar of the religion of arms control. But if this religion has failed, if SALT I, SALT II, and especially the ABM Treaty have fallen short of their promise and in fact have made the world less secure, then a false god is worshipped.

Mr. President, it troubles me that the White House is asking the Senate for a blank check in ratifying this treaty. There are major unresolved issues—the data discrepancy, the question of new states or successor states—that ought to be resolved before we ratify—if we are serious, that is.

The issue of successor states especially is no trivial matter. After all, with whom are we making this treaty? With the so-called Soviet Union, which no longer exists? With fifteen constituent Republics? With five Republics? Just trust us, says the Secretary of State—we will fix all that later.

I believe in the Constitution, and I strongly support the President's role in treaty-making and foreign policy. He is the Chief Executive, the Commander in Chief; his treaty prerogatives surpass those of the Senate. And this Senate's conduct is not so exemplary that I would want to see its treaty-making role elevated at the expense of the executive. But the President is setting a dangerous precedent in asking the Senate for an open-ended consent to the treaty. The President may indeed have the preeminent treaty-making prerogative, but I am sorry to say he—or more accurately his State Department—has exercised it badly.

I suspect some in the administration know this. The President's men are well aware that many critical issues in the treaty remain unresolved. Yet they demand adamantly that we ratify it simply on its promise that they will be resolved after that fact. They castigate those who want it delayed until the outstanding issues are settled. Mr. President, this is the behavior of embarrassed men, of timid men who want to rush this severely flawed treaty through the Senate before full public scrutiny reveals its weaknesses.

One might ask, Mr. President: since the treaty is not a document with a military rationale; and since, as I have already acknowledged, the threat of conventional war in Europe has largely faded anyway, why make such an issue over it? Why not let the administration have its political triumph, hollow though it may be? Why not give the acolytes of arms control another innocuous icon for their devotions?

The answer is simple, Mr. President. What is ultimately at stake here is not merely conventional arms in Europe, or the political fortunes of the administration, or the constitutional powers of the Senate. What is at stake is the truth.

If we ratify a CFE Treaty so manifestly deficient, one clearly negotiated in bad faith by the Soviets, one that dismisses, glosses over, or conceals so many unresolved issues, then I submit, Mr. President, the Senate is simply colluding in a lie to the American people.

(Mr. BRYAN assumed the Chair.)

Mr. WALLOP. Mr. President, as I have demonstrated, there are major unresolved issues in the CFE Treaty. These are issues of importance, if you believe that arms control treaties ought to have some relevance to armaments and arms control.

Mr. President, I guess I view the Secretary of State and the President as setting a dangerous precedent in asking the Senate for an open-ended consent to this treaty. There is a report, I point out, that is due on December 1 on Soviet compliance. The report could tell us of the nature of the threat that may be arrayed against us and the nature of the instability that could be caused by it. But we have decided to proceed and ignore that report.

So, I have no doubt but what the Senate will ratify the treaty. It always ratified arms control treaties. But I would say that treaties are not panacea to the problems of instability in the world. I shall be voting against the resolution and in doing so will be hoping to do more than just criticize. I truly do not relish the constant role of critic of arms control. But in speaking against this resolution let me assure my colleagues that a safer and more secure Europe is indeed possible, is indeed desirable, and could indeed be achieved, but not through this treaty.

It will never result from exercises in self-delusion and magical incantation. Peace and stability do not come if we focus merely on arms and ignore the deeper factors which breed conflict.

Mr. President, let me conclude by saying that arms do not drive nations to acts of aggression. Men do. Treaties control neither men nor arms. If the history of this century has taught us nothing else, it has taught us that they do not control arms.

Treaties control neither men nor arms. Democracy, Mr. President, and governments of laws can control men. When men can change laws enjoy liberty and personal property treaties are unnecessary and so too are arms. When the opposite exists free people arm themselves, but sadly, Mr. President, free people also believe the incantations of leaders who tell them they are safe, when indeed at times they are not and cannot be made safe by the mere expressions of treaties or hopes.

Mr. President, may I say that I thank my friend from New Hampshire and am a proud cosponsor of the condition of which he will shortly be the principal sponsor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, I was somewhat taken aback by the rush to bring this treaty to the floor of the Senate, as was previously mentioned by my colleague from Wyoming. The constitutional role of the Senate in treaties is very clear with respect to advise and consent. And I resent efforts to usurp the Senates' prerogatives.

It took some 15 years to reach the culmination of this treaty, and it seems to me that we ought to be able to fully debate it here in the Senate without having to feel rushed within an abbreviated time limit.

Frankly, it was a struggle to get the opportunity to debate this treaty at all. There were many who did not want to debate it, which is something that I have a difficult time understanding. But he that as it may, we have entered an agreement here where we can debate the treaty for a few hours. But considering the significance of the accord and the constitutional responsibility that we have in the Senate I am somewhat puzzled, as a former teacher of the Constitution, as to why there would be so much reluctance on the part of many in the administration and some here in the Senate to allow us to exercise that constitutional prerogative.

In any case I am for the opportunity to debate it, and believe the nation's interests are promoted by doing so.

I also intend to lay down an amendment on behalf of Senator WALLOP and myself, which I feel is very important.

Mr. President, I would point out at the beginning of my remarks, that I am not necessarily opposed to the CFE Treaty. What I am opposed to is rushing helter-skelter to judge this accord before we have considered all the information that we should have at our disposal.

Let me just comment generally on the treaty. It is a watershed event. It is an accord with 22 signatories and is something we sought for some 15 years through the MBFR negotiations, and the CFE talks. Without question, it will eliminate a fundamental cause of tension and instability in Europe.

Mr. President, this treaty will not only end Soviet conventional superiority in the European theater, I think it will reverse it.

But I think it is also important to point out that the treaty has been overtaken by events. In fact, you might compare the treaty and events in Europe to a horse race in which suddenly one horse moved out ahead of the other, that horse in this case being the unfolding of events, the falling of the Berlin Wall, and the rapid domino effect of the fall of communism.

It is interesting that years ago the domino theory was emphasized to explain how countries succumbed to communism. I do not know anyone who expected the domino theory to be applied to countries falling away from communism. That is what has happened, and it is certainly welcome.

But even before this treaty was signed, the Soviet Union was forced to begin withdrawing thousands of tanks, artillery pieces, and other armored weaponry from Eastern Europe.

This occurred in part because of Soviet unilateral reductions and in part because of bilateral agreements, with Hungary, Poland, Czechoslovakia, and Germany. However, I would also emphasize this was occurring because the Soviet defense establishment sought to avoid the destruction requirements of the CFE Treaty itself.

We do not know which of those three conditions was most important in the minds of the Soviet planners. But we do know that Soviet capabilities remain robust in any event.

This treaty will not require the Soviet Union to destroy some 100,000 pieces of equipment as administration officials predicted. More than half of this equipment has been moved out of the treaty zone and only a fraction of it will be destroyed.

Now some say "why dwell on the fact that the West was unable to require the destruction of Soviet forces retreating from Eastern Europe and from the cold war? Either way, the equipment is no longer there, so its not a threat." Well, the fact is that by removing the equipment, the Soviets substantially reduced their destruction obligation, which would allow them to reconstitute the threat rather easily in the future.

And what about verification? The treaty does provide on site inspection to confirm compliance. But as we know from experience, onsite inspection and verification has not been one of the bulwarks of Soviet cooperation.

We must insist on full verification of compliance because without it the treaty is useless.

Mr. President, I ask unanimous consent to print in the RECORD at the end of my remarks the additional views of Senators SMITH, WALLOP, and MACK concerning the CFE Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. Mr. President, in spite of the worthwhile objectives of the treaty, I think our national interests would be best served by slowing this process down. I realize that many of my colleagues do not agree, but it is better to err on the side of caution. I see absolutely no reason, why this treaty has to be approved or ratified by the U.S. Senate within the next 2 or 3 days. If anybody has a good reason, I have not heard it. Let me be clear; that does not mean that I am opposed to the treaty. It means that I am opposed to ratifying the treaty before we have the information at hand that we need to make an informed judgment.

Mr. President, the basic premise of any arms accord should be to further the U.S. national security interests. That must be the primary objective. Yet, all too often, we end up ratifying treaties and perpetually binding ourselves to them when prudence would suggest that we do otherwise. This is certainly the case with the 1972 Anti-Ballistic Missile Treaty, which is basically an obsolete relic of the mutual assured destruction era, but continues to compel blind and unfailing adherence by the United States, even though it contradicts our national securities interests.

Against this backdrop, over the past several months I have worked very closely with my colleagues on the Armed Services Committee to examine the CFE Treaty and determine whether it advances our national security.

And while I have concluded that the treaty could, with the inclusion of certain conditions to advise and consent, promote our security interests, I believe that further clarification on a variety of issues is needed before the Senate discharges those constitutional prerogatives.

And again, I repeat, we have had to fight just to get a few hours to discuss those issues.

Mr. President, as my colleagues know, the CFE negotiations were an outgrowth of the largely unsuccessfully mutual and balanced force reduction talks of the 1970's and 1980's. Unlike the MBFR talks, which centered primarily on manpower reductions, the CFE negotiations targeted equipment holdings in the area between the Atlantic Ocean and Ural Mountains. The fundamental objective of the negotiations was to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large-scale offensive action against Western Europe.

The treaty was signed by the 22 NATO and Warsaw Pact states on November 19, 1990. According to the terms of the treaty, each group of States is permitted to keep in the treaty area a maximum of 20,000 tanks, 30,000 armored combat vehicles, 20,000 artillery pieces, 6,800 combat aircraft, and 2,000 attack helicopters. Clearly, the reduction obligations of the Warsaw Pact, also known as the Group of Six, exceed those of the NATO Group of Six within the zone. Nonetheless, new issues have arisen which call into question the veracity of Soviet data, and inject great uncertainty into the legal, political, and military foundations of the treaty.

First, and perhaps foremost, it has become evident that the Soviets lied about the quantity of treaty limited equipment within the treaty zone. Although numerical estimates of unreported equipment differ among elements of our intelligence community, it is clear that a substantial quantity numbering in the thousands was not reported at the time of the treaty execution.

This intentional deception—and it was intentional—occurred after the Soviets had already conducted a massive transfer of some 57,000 pieces of equiment out of the treaty zone to avoid accountability. These actions substantially diminished the Soviet reduction obligations, and sent a clear message that the Soviets negotiated the CFE Treaty in bad faith.

Furthermore, Mr. President, following formal signing of the treaty, the Soviets recategorized three regular army divisions near the Baltic and Black Seas as naval infantry units for coastal defense. This reinterpretation by the Soviets represented a blatant attempt to exempt these forces from treaty ceilings. Although the United States and other states parties flatly rejected the Soviet action, incredibly, a compromise was struck which allowed the Soviet Union to withdraw nearly 50 percent of the equipment to territories out the treaty zones.

Frankly, that is an outrage. The United States should not have participated in a compromise on this matter. By doing so, we legitimized a flagrant violation rewarded the Soviets for reneging on a legally binding commitment.

What about the future? What are the implications for START and other treaties? What message have we sent the Soviets?

What we have told them is, "We don't have a problem with cheating. We are not going to make you answer for it. Go ahead, you will get away with it." That is a pretty sad satement of U.S. resolve.

Mr. President, a critical issue in our deliberations is the current status of the U.S.S.R., if it even still exists. The abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Amid rising nationalism and competing sovereignty claims, it is unclear what type of coalition will emerge and whether the Republics will, in fact, accede to the treaty. These are critical, yet unanswered questions.

Both Secretary Baker and Ambassador Woolsey have affirmed that treaty viability hinges on participation by the Republics, particularly the Ukraine, Russia, and Byelorussia. In fact, in a hearing before the Select Committee on Intelligence, when asked about the effect of nonparticipation by an independent Ukraine, Ambassador Woolsey stated: "It fundamentally would call into question the viability of the treaty * * *. The treaty won't work without the Ukraine in it." This is a very sobering statement, indeed.

If it will not work without the Ukraine, why do we not defer action until we know whether the Ukraine will participate in the treaty.

Why are we hastily moving to ratify the accord prior to the upcoming referendums on independence—in both the Ukraine and Byelorussia? It makes no sense.

I know there is pressure—pressure from the administration, and pressure from my colleagues in the Senate—but international law on this matter is highly ambiguous.

To say the least, there is no definitive precedent concerning the legal obligations of successor states, like Russia, Byelorussia, and the Ukraine. At last check, the administration had propounded three separate theories concerning the liabilities incurred by independent entities of a former state party.

Some within the administration believe ratification of the treaty by the U.S.S.R. would be binding on its Republics until they became independent states, which could happen either when the U.S.S.R. recognized their independence, as in the case of Baltics, or when the Republic in question met the requirements for statehood under international law.

However, it is not clear whether such seceding states would be obligated under international law to abide by CFE after they became independent if they did not indicate their intention to be bound. Some precedents support the view that a seceding state is entitled to a clean slate as matter of law while other precedents indicate that treaty obligations remain binding on such a state.

There are divergent interpretations, and they are not very clear.

The Vienna Convention on Secession of States, to which neither the United States nor the Soviet Union is a signatory or a party, takes the position that, as it was in former colonies, where a part of a state breaks away to form a new state, treaty relations continue and the new state does not have the option to pick and choose which treaties it will adhere to.

On the other hand, the third restatement on foreign relations law take the position that in such a situation a new state has the right to a clean slate, that is to decide which of the treaty obligations of its parent state it will accept and which it will not accept.

The administration has taken a view that the Baltic States are entitled to a clean slate. But in that case, the United States never recognized the forcible incorporation of the Baltic States into the Soviet Union in the first place.

The point being, Mr. President, there is absolutely no definitive precedent concerning the legal obligations of successor states. And that is, in itself, a reason why we ought to slow down, take a deep breath, and seek further clarification before we ratify.

The impression I get is that the administration is saying "Trust us, you ratify the treaty and we will work out the details."

Mr. President, I spent a lot of time teaching the Constitution. That is not how the process should work. That is not advise and consent.

On a great many issues, I am very confortable deferring to the administration. But in this case, the Senate's constitutional obligations are clear. And when we are dealing with constitutional obligations of advice and consent, rash action merely for appearance sake undermines the process and the product. It is irresponsible for us to ratify this accord without a clear understanding of exactly who is bound by the treaty and what their legal obligations are.

Moreover, I am concerned that in the wake of the Warsaw Pact dissolution, the bipolar structure of this treaty may actually jeopardize the long-term security interests of emerging East European democracies such as Poland and Czechoslovakia.

As my collegues know, many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that in the future these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. They may want to join NATO, as well.

However, within the existing bloc-to-bloc treaty structure, larger equipment holders such as the Russian Republic or some other former Soviet state system, could exercise a de facto veto over such augmentation by refusing to lower their own equipment allocations. This scenario benefits neither the West or the emerging East European democracies.

Mr. President, I am aware that the administration considers prompt ratification of CFE an urgent priority. Indeed, I have discussed it personally with Secretary Baker. But I have yet to hear a good reason why, other than for appearances, we ought to rush to ratify this treaty now.

On the contrary, there exist a variety of serious and compelling reasons for the Senate to defer consideration. And these involve national security, first; constitutional prerogative, second; and precedent, third. These are not simply appearances; but important issues of precedent, constitutional prerogative, and national security.

While the resolution of ratification reported out of the Foreign Relations Committee attempts to address these issues, in my opinion the recommendations fall short, far short. The national security interests of the United States and our NATO allies would best be served by resolving these issues prior to ratification, not after ratification.

Given present uncertainties in the legal, political, and military foundations of the treaty, the responsible course of action would be for the Senate to temporarily defer action until the various transformations have played out and data discrepancies have been resolved. To hastily rush this treaty through without the benefit of thoughtful debate and clarification of these issues would undermine the Senate's constitutional jurisdiction and, in my opinion, set a terrible, terrible precedent for future treaties.

Mr. President, I would like to say at this point, as I near conclusion of my remarks, that if there are no other Senators who wish to speak on my side, I will be happy to yield back my time. So I would serve notice if there are Senators who wish to speak, they may want to come to the floor. Otherwise it is my intention to yield back the time in deference to the Chair and to my colleagues, who might be otherwise inconvenienced on this Saturday afternoon.

Mr. President, in conclusion I want to reiterate the following points.

No. 1, the Soviets have blatantly lied—just as they have done in the past, about their equipment holdings from the very start.

No. 2, data discrepancies, about what equipment and weaponry they had in the treaty zone have yet to be resolved.

No. 3, the Soviet Union is dissolving. We do not even know who we signed the treaty with. We do not know who will accede the treaty in the future. Is it the Soviet Union? Or is it the Union of sovereign States? Will Byelorussia? Will the Ukraine? Will Russia? How do you enforce a treaty when you do not know who the participants are? It is unclear what type of confederation will emerge and whether the individual republics will accede to the treaty.

No. 4, the administration has provided no definitive guidance on successor State obligations in international law, as I have already indicated. And until these issues are resolved, it would be irresponsible and dangerous for the Senate to act on this treaty.

Mr. President, I yield the floor.

EXHIBIT 1

ADDITIONAL VIEWS OF SENATORS SMITH, WALLOP, AND MACK CONCERNING THE CFE TREATY

We, as members of the Armed Services Committee, have reviewed the Treaty on Conventional Armed Forces in Europe (CFE), and share the view of our colleagues that, with the inclusion in the Resolution of Ratification of certain conditions to the Senate's advice and consent, the Treaty would promote U.S. national security interests. In our opinion, however, further clarification on a variety of issues is needed before the Senate discharges its constitutional prerogatives.

We recognize that the Administration considers prompt ratification of CFE an urgent priority. It is neither our wish nor intent to prevent timely disposition of this matter. However, the Warsaw Pact dissolution and subsequent disunion of the USSR are extraordinary transformations which have injected great uncertainty into the legal, political, and military foundations of the Treaty. We are concerned that precipitant consideration, prior to resolution of technical discrepancies, and ongoing political proceedings among the Group of Six, particularly the former Soviet Union, could severely undermine the Senate's province and contribution to the ratification process.

For instance, with respect to treaty limited equipment (TLE) within the ATTU zone, there exist significant disparities between U.S. intelligence estimates and the Soviet data declaration provided at the time of Treaty execution. Although numerical estimates of unreported TLE differ among elements of the intelligence community, there is consensus that some TLE, and quite possibly a substantial amount, was not reported. Under-reporting of TLE would significantly diminish Soviet reduction obligations under the Treaty, and could prove to be militarily significant. Yet, to our knowledge, this matter remains unresolved. In our opinion, ratifying CFE prior to resolution of data base discrepancies would imperil Treaty efficacy and set a dangerous precendent for consideration of the Strategic Arms Reduction (START) Treaty.

Furthermore, the abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Rising nationalism and sovereignty claims among the republics have eroded intenal symmetry, and shifted the power balance within the Group of Six. At present, it is unclear how these developments will transform the Soviet political and military framework, and whether the individual republics will, in fact, accede to the Treaty. Both Secretary Baker and Ambassador Woolsey have affirmed that Treaty viability hinges on participation by the republics, particularly Russia, Ukraine, and Belorussia. We share this view, and believe it would be premature for the United States to act on the Treaty prior to the impending referendums on independence in Ukraine and Belorussia.

Moreover, we are concerned that, in the wake of the Warsaw Pact dissolution, the bipolar structure of the Treaty may actually jeopardize the long term security interests of emerging East European democracies, such as Poland and Czechoslovakia. It merits note that many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that, in the future, these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. However, within the existing bloc-to-bloc Treaty structure, large TLE holders, such as the Russian republic or some other former Soviet state system, could exercise a de facto veto over such augmentations by refusing to lower their own equipment allocations. We believe this matter warrants consideration.

The fundamental objective of the Treaty has always been to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large scale offensive action against Western Europe. This imperative has been largely accomplished, irrespective of CFE, through the demise of the Warsaw Pact and disunion of the USSR. Nonetheless, we believe that, with the inclusion of certain conditions, the Treaty would retain a degree of flexibility and efficacy necessary to promote U.S. and NATO security interests.

In our opinion, the national security interests of the United States, and our NATO allies, would be best served by resolving the aforementioned issues *prior* to ratification. While we understand the Administration's desire to secure prompt approval of the accord, it should be noted that formal transmittal and subsequent Senate action were unduely delayed because of Soviet Article III violations. Given present uncertainties regarding the legal, political, and military foundations of the Treaty, we recommend the Senate defer action until these questions are resolved. However, should the Senate elect to proceed with ratification at this time, we believe the suggested conditions of the Republican Armed Services Committee members should be wholly incorporated to condition Senate advise and consent.

MALCOLM WALLOP.
BOB SMITH.
CONNIE MACK.

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

Mr. LUGAR. May I ask the distinguished Senator from New Hampshire whether I might have 25 minutes that have been allocated to him?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 45 minutes.

Mr. SMITH. I yield 25 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 25 minutes.

Mr. LUGAR. Mr. President, I believe that the committee has discharged its responsibilities with respect to the CFE Treaty in a most commendable way.

We had a good series of hearings with administration witnesses and private citizens. General Galvin provided the committee with his insights on the military implications for NATO of the treaty, and General Powell did the same with respect to U.S. national security interests.

I thought that our hearings with members of the U.S. intelligence community, both open and closed, were particularly instructive. I particularly appreciated the way in which the intelligence community worked with Senators to sort out some of the problems associated with the data issue.

And last, I was most pleased with the way in which committee staff worked with individual Members and with the administration in developing appropriate language for the resolution of ratification. Ambassador Woolsey may have decided that it was easier to negotiate the treaty with 21 other nations than to work out acceptable language with the Senate on the resolution of ratification, but we appreciated his efforts on the side of the administration.

The way in which the committee has dealt with the CFE Treaty augurs well for timely but thorough consideration of the START Treaty during the next session of the Congress.

Most of the committee hearings on the CFE Treaty were held prior to the failed coup attempt in the Soviet Union in August. Since that time, what has been at issue is not the overwhelming merits of the treaty but rather its relevance. As we have witnessed the disintegration of the Soviet Union, the utility of the treaty regime as a predictable and stabilizing element in the newly emerging security order has become apparent.

But this treaty is also a living document, containing sufficient flexibility in its mechanisms to accommodate the changes that will accompany the sorting out process inside the U.S.S.R. Indeed, it is my hope that Senate consent to the ratification of this treaty will provide added incentive to the participants in the CFE 1-A talks as they seek to supplement treaty-mandated equipment limitations with personnel and military manpower limitations.

DATA DISCREPANCY ISSUE

Mr. President, I think it important that a record be established with respect to one of the more controversial issues that has arisen during consideration of the CFE Treaty.

It has been clear for months that the data discrepancy issue would be a thorn in our side as we considered the CFE Treaty. Of the three major postsignature issues, this one was given initially the least attention by the administration.

I agree that it constitutes a problem area. But I also believe that it is not ultimately resolvable, and certainly cannot be resolved through a condition on the resolution of ratification.

The data describing Soviet holdings of equipment in the zone, submitted by the Soviet delegation on November 19, 1990, diverged significantly from United States intelligence estimates, raising questions both about our ability to monitor the treaty's provisions effectively and about some major Soviet cheating. The Soviets reported thousands of fewer items of equipment in the zone of application than our estimates would lead us to expect, and thus the amount of equipment that they will have to destroy in order to reach treaty-mandated levels was also lower than we expected. In addition, we discovered undeclared equipment at several sites.

The intelligence community experienced great difficulty during the fall of 1990 in estimating accurately how much Soviet equipment was in the zone. The huge amount of equipment moved by the Soviets east of the Urals prior to treaty signature accounts for much of the discrepancy. As of mid-1988, United States estimates roughly matched what the Soviets acknowledged they had at the time. By early 1989, the Soviet unilateral force reductions and withdrawals from Central Europe had begun. By early 1990, the pace and size of the Soviet withdrawal of equipment from the zone increased to the point that the intelligence community, while recognizing the scope and direction of the Soviet effort, was unable to identify all of the units in the treaty zone from which equipment was being withdrawn. Richard Kerr, Deputy Director of the Central Intelligence Agency, admitted in testimony that the intelligence community essentially lost its place and was unable to keep up the data base. A thorough review of all the available evidence since treaty signature has narrowed the gap significantly.

Some fear that there may have been thousands of pieces of equipment that the Soviets did not declare and may have left in the zone illegally to avoid destroying them. But if there were a substantial amount of undeclared equipment in the zone, most of it has been withdrawn or is being destroyed. Though there are a number of smoking guns we have raised with the Soviets, we have little meaningful evidence to back up the bulk of our suspicions. For this reason, the problem cannot be completely resolved.

Deputy Director Kerr testified that the intelligence community believes that the figures submitted by the Soviets on November 19, 1990, reflect what they intended to have in the zone when the treaty entered into force, if not before. Thus, the intelligence community believes that the Soviets were not necessarily trying to violate the treaty in order to avoid their destruction liability, but simply failed operationally to carry out by treaty signature all of the withdrawals or destruction of equipment that they intended. Kerr characterized Soviet failure to declare all of their equipment in the zone at treaty signature as a technical violation.

There is a fundamental philosophical disagreement about whether most of the discrepancy should be characterized as undeclared equipment. Most administration experts believe that, while we can legitimately continue to press the Soviets for full resolution of our concerns, for the most part we cannot prove that the Soviet declaration is wrong. Others, however, place the burden of proof on the Soviets. They argue that the United States position should be that the Soviets failed to declare these thousands of pieces of equipment unless they, the Soviets, prove that the equipment was not in the zone at treaty signature.

Moreover, there is a tendency to confuse the nature and basis of our estimates of Soviet equipment with those of the Soviet declaration of data. Intelligence estimates and Soviet data declarations are apples and oranges. In an ideal world, they would be identical. But in the real world, there will inevitably be discrepancies. For example, the intelligence community's estimate in the fall of 1990 was not a snapshot of the zone on the date of signature. But that is precisely what the Soviet data declaration was supposed to have been. An estimate, by definition, uses incomplete information and analytical assumptions to develop a model of what the force should look like—it has never been possible to precisely count and document every piece of equipment.

When it signed the treaty, the administration believed that, to meaningfully affect the strategic balance, there would have to be Soviet cheating on a huge scale, which could be detected. But, as a political matter, the view that large-scale Soviet cheating could be detected was drawn into question as a result of the data discrepancy issue.

The simple response is that we can monitor the treaty effectively. First, we will be monitoring not primarily pieces of equipment, but military significant change in the zone. The standard of military significance focuses on fighting force. Equipment by itself is not a direct military threat. It must be part of cohesive units of trained personnel and a large amount of support equipment. This factor makes significant change easier to detect and increases warning time.

In addition, when the treaty is implemented, we and our allies can use the tools provided by the treaty—on-site inspection and notifications—to enhance greatly our monitoring capability. We will be able to check out our estimates by going to specific sites for a closeup look, and we will be able to compare our estimates with what the Soviets tell us about their forces. The Soviets will be less likely to falsify their declarations intentionally because of the fear of being discovered through on-site inspections or other means. But on-site inspections can only be undertaken once the treaty is implemented.

The intelligence problem behind the data discrepancy issue was likely unique. The intelligence community has learned from its errors; the treaty will improve our monitoring capability greatly; and the risk of a recurrence of the problem should be virtually eliminated.

When the treaty is implemented, the intelligence community may also get a better grip on the question of equipment illegally in the zone. But since so much of the equipment has been removed from the zone or destroyed, we are unlikely to ever get a true picture of Soviet holdings in the zone at treaty signature.

I discussed this issue during markup of the treaty before the Senate Foreign Relations Committee. Subsequent to those remarks, the new Director of the CIA, Bob Gates, corresponded with me in order to restate the intelligence community's view on the so-called data discrepancy issue.

I ask unanimous consent that Director Gates' letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DIRECTOR OF
CENTRAL INTELLIGENCE,
Washington, DC, November 21, 1991.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: As the Senate considers the CFE Treaty, I would like to restate the intelligence community's view of the data discrepancy issue. The Foreign Relations Committee heard testimony on this subject from Acting DCI Kerr in July of this year. It was also addressed in closed session before the Senate Select Committee on Intelligence and is incorporated in their report to the Foreign Relations Committee. Let me say at the outset, I believe your statement during the Foreign Relations Committee's November 18 consideration of the treaty captures the essentials of this issue.

The intelligence community believes the figures provided by the Soviet Union on November 19, 1990 reflect the amount of treaty-limited equipment they intended to have in the Atlantic-to-the-Urals zone—if not on or shortly after treaty signature, certainly by the time the agreement entered into force. As you know from the testimony of intelligence community witnesses, prior to treaty signature the Soviets embarked on a massive reduction program, including both destruction of equipment at sites within the treaty zone and removal of equipment from the zone to locations east of the Urals.

Our evidence clearly shows they failed to meet the goals of that ambitious effort. We have unambiguous evidence of the presence in the zone on the treaty signature date of roughly 1,500 pieces of treaty-limited ground force equipment and combat aircraft which were not included in the Soviet data declaration. This was mainly older model equipment, stored in the open, and in the weeks and months following treaty signature we saw much of it in the process of being destroyed.

> When challenged by United States and NATO representatives to explain these specific discrepancies, the Soviets have acknowledged the fact that this equipment was still in the zone at the time of signature, but claimed it was no longer in service and, in effect, was derelict at the time the treaty was signed. This is generally consistent with our evidence, although the Soviets did still have an obligation to report it.
>
> There is substantial circumstantial evidence that there were up to a few thousand additional unreported pieces of equipment still in the zone at treaty signature. Some of these were in the process of being destroyed, and others appear to have been part of the amount moved to the east but which did not clear the zone until shortly after treaty signature. The actual amount of late shipments may have been higher, but evidence is lacking.
>
> We think the pattern of evidence for all of this is more indicative of a failure to fully implement the destruction and shipment plans on schedule than of a deliberate effort to deceive. Nearly all of the activities I have described were carried out in the open with no discernible efforts at concealment or deception.
>
> As you are aware, there was also—at the time of signature—a sizeable discrepancy between the intelligence community's most recent detailed estimates of the numbers and locations of Soviet equipment in the treaty zone and the data declared by the Soviets. The intelligence community had anticipated that at least some such discrepancy would occur as a result of the turbulence and dislocation produced by the U.S.S.R.'s pretreaty reduction efforts. For example, while we were able early in the process to detect and assess the general order of magnitude of the movement east of the Urals, there was an unavoidable time lag in our ability to identify and confirm the sites inside the treaty zone from which the equipment had been drawn.
>
> A detailed review of the sites at which the Soviet declaration showed difference from what had been held in the earlier intelligence estimate was able to turn up at least some evidence to support the Soviet claims for about half of the differences. For the remainder, the available evidence could neither support nor disprove the Soviet declaration.
>
> Continuing collection and analysis has enable us to confirm that the bulk of the equipment withdrawals from the treaty had in fact occurred within 1 and 2 months of the treaty signature date. But whether they had actually been completed by the treaty signature date is something we cannot confirm or refute. Given the nature of the circumstances under which the Soviet drawdown occurred, it is unlikely that we will obtain evidence to narrow the time frame any further.
>
> If I may be of any further assistance in meeting your needs for information regarding the CFE treaty, please let me know.
>
> Sincerely,
>
> ROBERT M. GATES,
> *Director of Central Intelligence.*

Mr. LUGAR. Let me touch on the highlights of the Gates' letter.

The Intelligence Community believes the figures provided by the Soviet Union on November 19, 1990, reflect the amount of treaty-limited equipment they intended to have in the Atlantic-to-the-Urals zone—if not on, then shortly after treaty signature, and certainly by the time the agreement entered into force. Prior to treaty signature, the Soviets embarked on a massive reduction program, including both destruction of equipment at sites within the treaty zone and removal of equipment from the zone to locations east of the Urals.

Director Gates writes:

> Our evidence clearly shows they failed to meet the goals of that ambitious effort. We have unambiguous evidence of the presence in the zone on the treaty signature date of roughly 1500 pieces of treaty limited ground force equipment and combat aircraft which were not included in the Soviet data declaration. This was mainly older model equipment, stored in the open—and in the weeks and months following treaty signature, we saw much of it in the process of being destroyed.

Mr. President, when challenged by United States and NATO representatives to explain these specific discrepancies, the Soviets have acknowledged the fact that this equipment was still in the zone at the time of signature, but claimed it was no longer in service and, in effect, was derelict at the time the treaty was signed. This is generally consistent with the evidence of the United States intelligence community, although the Soviets did still have an obligation to report it.

Mr. President, there is also substantial circumstantial evidence that there were up to a few thousand additional unreported pieces of equipment still in the zone at treaty signature. Some of these were in the process of being destroyed, and others appear to have been part of the amount moved to the east but which did not clear the zone until shortly after treaty signature. The actual amount of late shipments may have been higher, but evidence is lacking.

On this point, Director Gates' conclusion is instructive:

> We think the pattern of evidence for all of this is more indicative of a failure to fully implement the destruction and shipment plans on schedule than of a deliberate effort to deceive. Nearly all of the activities I have described were carried out in the open, with no discernible efforts at concealment or deception.

Mr. President, there was also—at the time of signature—a sizable discrepancy between the intelligence community's most recent detailed estimates of the numbers and locations of Soviet equipment in the treaty zone and the data declared by the Soviets. The intelligence community had anticipated that at least some such discrepancy would occur as a result of the turbulence and dislocation produced by the U.S.S.R.'s pretreaty reduction efforts. For example, while the intelligence community was able early in the process to detect and assess the general order of magnitude of the movement east of the Urals, there was an unavoidable time lag in the intelligence community's ability to identify and confirm the sites inside the treaty zone from which the equipment had been drawn.

A detailed review of the sites at which the Soviet declaration showed differences from what had been held in the earlier intelligence estimate was able to turn up at least some evidence to support the Soviet claims for about half of the difference. For the remainder, the available evidence could neither support nor disprove the Soviet declaration.

Director Gates' conclusion bears importantly on an amendment proposed for consideration in the minority part of the additional views of the Senate Armed Services Committee report to the Senate Foreign Relations Committee, Director Gates writes:

> Continuing collection and analysis has enabled us to confirm that the bulk of the equipment withdrawals from the treaty (zone) had in fact occurred within 1 or 2 months of the treaty signature date. But whether they had actually been completed by the treaty signature date is something we cannot confirm or refute. Given the nature of the circumstances under which the Soviet drawdown occurred, it is unlikely that we will obtain evidence to narrow the time frame any further.

Mr. President, let me reiterate my earlier conclusion in a most succinct way: The data discrepancy issue is a product of sloppy execution on the part of the Soviet Union rather than a case of willful misconduct. When challenged by United States negotiators, the Soviets admitted that they blew it, both operationally with regard to the withdrawal and destruction of equipment and procedurally with respect to the reporting obligations concerning derelict equipment.

I think it important that the Foreign Relations Committee called attention to the problem in the resolution of ratification reported out of committee. And I think that the language contained in the resolution of ratification recommended by the committee does so in a firm yet reasonable way.

But, Mr. President, attempts to craft tougher, more stringent language in condition form designed to solve the data discrepancy issue—an issue that is unresolvable—could only endanger the treaty, a tready that, by all accounts, is overwhelmingly in the interest of the United States.

Mr. President, I thank the Chair and I thank the distinguished Senator from New Hampshire for giving me this time.

Mr. PELL. Mr. President, I would like to offer a few general comments.

The CFE Treaty will end the substantial numerical disparity which has existed for decades between East and West. That balancing of forces, taken together with the sovereignty changes in Eastern Europe and the decisions by the two leaders in September and October to dramatically reduce tactical nuclear weapons will mean that we and our allies and former adversaries can cooperate, rather than confront, and seek mutual solutions, rather than devoting so much energy and money dealing with the military threat in Europe has essentially evaporated.

In this new situation massive nuclear arsenals as the guarantors of peace and stability are much more widely perceived as unnecessary. While we must retain reasonable defenses, we can take advantage of the reductions required in START and look ahead to opportunities to reduce the arsenals to a small fraction of their present size and to bring about other arms control in the period ahead.

News reports constantly remind us that there are serious threats to peace in the world, many of them growing. Specific and urgent concerns include the continual spread of weapons of mass destruction and the means to deliver them.

Saddam Hussein of Iraq has been hurt, but he remains on the scene. There will be other Saddam Husseins in the future. Malevolent and meretricious leaders will be scheming to threaten and bully others. Recent arms control successes, such as the START and CFE Treaties will help, as will such steps on recently enacted legislation establishing sanctions on nations that use chemical and biological weapons and on companies that engage in illicit sales supporting chemical and biological weapons programs. We must be vigilant and steadfast in our efforts.

Mr. President, the CFE Treaty is an important part of the continuum of arms control. The CFE Treaty codifies the destruction of a very considerable amount of conventional military equipment, some 37,000 Soviet pieces of treaty-limited equipment, called TLE, and some 10,000 Eastern European TLE and 10,000 German Democratic Republic TLE. This gives a total of almost 60,000 TLE that will be destroyed pursuant to the CFE Treaty. In addititon, as a result of the treaty, the Soviets have moved massive amounts of equipment from the Atlantic-to-the-Urals region, reducing the Soviet levels of equipment from about 150,000 in January 1989 to the treaty-limited level of 53,000 in 1995. This reduction of some 100,000 pieces of Soviet equipment in the ATTU region is greater than the total of 76,000 possessed by NATO. By contrast, NATO will destroy only about 2,000 TLE, without counting the equipment of the former German Democratic Republic. The United States will transfer, in a process called cascading, about 3,000 TLE to other NATO nations, thus accomplishing worthwhile reductions and allowing our allies to improve qualitatively within the ceilings.

Because of the shifts in military equipment, the time NATO would have to react to a major Soviet buildup has been greatly increased, from a matter of days or weeks to a year or more. The minimum distance that Soviet Forces would need to travel from its western border to Berlin will now be about 500 miles. The distance to Berlin for the large amount of TLE east of the Urals will now be about 2,500 miles, the distance from Washington, DC, to California.

The treaty also opens up the most industrialized portions of Soviet territory to an extensive verification regime of routine and challenge inspections. The transparency created through data declarations, notifications and on-site inspections, along with U.S. national technical means, should greatly enhance confidence in the ability to determine compliance to the CFE.

I have in my hand the Soviet military declaration which contains the unit-by-unit structure, and the listing of the locations of each of the 73,000 TLE that the Soviets declared. This is a significant document. When the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, testified before the committee, he stated:

> I can tell you that as Commander of the V Corps in Germany 5 years ago, I would have paid a fortune for such a document such as this which tells me where those forces are. But even more importantly, with this information, we are now also, with the treaty, able to visit many of these units, look at much of the equipment, and to verify on site throughout this entire region, the accuracy of the information being provided to us.

Yes, this is an amazing document, none of us could have predicted that this stabilizing information would be so accessible to the military leaders of all the 22 CFE nations.

In the remaining time allotted to me, I would like to address three issues. Two of these are addressed in the resolution of ratification, namely the data issue and the issue of the SS–23's from the INF Treaty. In addition, I would like to discuss the verifiability of the treaty.

SOVIET TLE MOVED FROM THE ATTU AFTER NOVEMBER 19, 1990

There has been a considerable discussion about the Soviet equipment that left the ATTU region after November 19, 1990. Administration witnesses testified before the committee that there was a great deal of confusion as the Soviets moved some 70,000 TLE from the ATTU region, a force about the size of all of NATO's holdings. The administration has described the movement of this equipment as an Oklahoma land rush.

Richard Kerr, the Acting Director of Central Intelligence testified:

> The massive shift took place so rapidly that we were unable to identify all the units in the treaty zone from which the equipment was withdrawn. * * * At this time, our best judgment is that the Soviet November 19 figures reflected what they intended to have in the zone when the treaty entered into force—if not before. * * * We have confirmed that some of the weapons being moved east of the Urals did not arrive at their destination until a month after the date of signature.

The very able CFE negotiator, Ambassador James Woolsey testified that about 4,000 to 5,000 Soviet TLE above those declared were probably in the ATTU on November 19. About 1,500 of these were older aircraft, such as Mig-21's and Beagle bombers, or older T–10 tanks (built in about 1945) and the Soviets may well have been unaware of their actual locations. In several cases, the United States had to tell the Soviets where to look for these TLE. A further undeclared 3,000 or so TLE may also have been in the treaty zone on November 19, 1990, but this can not actually be proven. On June 14, 1990, the Soviets made a politically binding, unilateral statement that stated that they would destroy an additional 14,500 TLE of those that had been transferred to east of the Urals. Thus, the Soviets will have balanced the violation, of the equipment departing after November 19, 1990, with the unilateral destruction of 14,500 TLE, plus the destruction of 3,738 TLE pursuant to the article III dispute. No one is exactly sure that all the extra 4,000 to 5,000 TLE were actually in the ATTU on November 19, 1990. This is the best estimate made by the Government, based on reasonably good evidence.

It has been charged that substantially larger amounts of TLE than were declared might have been in the ATTU on November 19, 1990. There is no compelling evidence that one can confirm or negate such a charge. Gen. John Galvin, Supreme Allied Commander, Europe stated:

> In fact, out of the 57,000 plus 10,000 plus 7,000, there are about 18,000 pieces of equipment that we have not been able to specifically note. Part of that is because there is covered storage and we are not able to look into buildings, and part of it is simply that that is a great deal of equipment scattered over the whole Soviet Union, and it is hard to say what is what. This is, of course, a very strong argument for the treaty itself and for the verification regime that we will work with the treaty. The Soviets moved that equipment there, and I have asked differed Soviet leaders, such as General Moiseyev, why. His answer has been, it is a question of a management problem that we have had in trying to figure out what equipment we are going to need for a reorganized, smaller Soviet military.

It is the opinion of all adminstration experts that we shall problably never really know the answer on the possibility of a violation of an undeclared total of an additional 18,000 TLE in the ATTU on November 19. The intelligence community simply could not keep up with the flow of equipment, and they cannot confirm or negate the charge of a violation of an additional 18,000 TLE. On-site inspections will be able to tell us what is in the ATTU after the treay enters into force, but they will not tell us when these 18,000 TLE left the zone. Because this issue involves much detail, we cannot really address the facts here. However, for the record, I am attaching some tables of data on the Soviet declarations. In addition, a classified appendix to the committee report is available for Senators to read in S–407.

VERIFIABILITY

All of the intelligence agencies testified in closed session on the ability of the monitoring regime to determine if the other State Parties are in compliance with the provisions of the CFE Treaty. In all cases, the administration witnesses stated that the CFE Treaty was verifiable.

When the executive branch testified that the CFE Treaty was effectively verifiable and that the ratification of the CFE Treaty was in the national interest, they took into account a number of factors: The definition of a militarily significant violation of the CFE Treaty as determined by the Joint Chiefs of Staff; the ability to monitor and detect such a violation; and the time it would take NATO and the United States to respond effectively to the additional militarily threat. In the closed hearings and in classified documents, the executive branch has explained in some detail their reasoning behind the finding that the CFE Treaty is verifiable. The classified appendix to the CFE Report (Ex. Rept. 102–22) contains a staff analysis on these issues.

Various circumvention situations and scenarios were examined in terms of military significance, monitorability, and timely warning. When the Senate votes on the CFE Treaty, they will also be asked to make a collective judgment on all of these issues together. These judgments on verifiability of the CFE Treaty by the executive branch and the Committee on Foreign Relations were not made on the basis of any one provision as the basis for successful monitoring and verification. Rather, each provision is seen as part of an interlocking web of constraints that are designed either to deter cheating through the chance of detection, through the expense of clandestine facilities, and to make its timely detection likely.

The Senate Select Intelligence Committee has also examined the verifiability of the CFE Treaty. In a letter to the committee of November 18, the chairman, the Senator from Oklahoma [Mr. BOREN] and the ranking minority member, the Senator from Alaska [Mr. MURKOWSKI] stated:

> We also believe that U.S. intelligence is justified in having high confidence that it could detect any violation of the treaty in which the Soviets attempted to move large quantities of TLE (i.e., thousands of pieces of equipment) as whole divisions, combat wings, or partial units back into the ATTU in a short period of time—weeks to months. U.S. intelligence would detect such cheating well before it reached the levels identified by the Joint Staff as militarily significant. Similarly, the formation of new combat ready divisions within the ATTU from covert production facilities would also be detected before it reached militarily significant levels by the Joint Staff's criteria.

THE INF EXPERIENCE

Because the committee added a declaration on the SS–23 missiles covered by the Intermediate Nuclear Forces [INF] Treaty, I would like to add some background information. The INF experience with on-site inspections has generally been regarded as favorable. The two sides have removed a total of some 1,846 Soviet INF missiles and 846 U.S. INF missiles. Because 654 of the Soviet missiles were the three-warhead SS–20's, the number of removed warheads for the Soviets was far greater for the Soviets with 3,154 warheads than for the United States with 846 warheads.

In response to a question for the record by the committee, the On-Site Inspection Agency stated that in fewer than 1 percent of the 653 INF inspections were there any significant problems. On July 25, Gen. Robert Parker, the Director of the On-Site Inspection Agency testified that "the Soviets have been very cooperative in ensuring that the aspects of the [INF] treaty have been implemented."

On the other hand, one serious problem did take place during the 3-year destruction period. The Soviets had three undeclared programs of cooperation [POC] with three of the former Warsaw Pact nations, which contained 72 SS–23 missiles. Unfortunately, the Reagan administration steered clear of discussions in the negotiation that would have put the Soviets on the spot with regard to any such missile transfers to Eastern nations then allied with them in order to not to bring the issue of West German Pershing I missiles into the negotiations. As a result, the German missiles were handled separately in tandem with INF, and the missiles in the hands of Soviet allies were not dealt with at all in INF.

It is not known exactly how high in the Soviet bureaucracy the issue on the SS–23 programs of cooperation rose in the Soviet policy process. Because of the great confusion of the late 1980's in the Soviet Union, it is possible that the highest level of Soviet leaders did not focus on the already-transferred SS–23 missiles in the three former Warsaw Pact nations. On balance, because the INF Treaty helped pave the way for other Soviet reductions and because of the relative small size of the undeclared SS–23 force, the problem should be put into context. When one does this calculation, it is clear the United States bears a certain responsibility for not being sufficiently alert to this possible problem, that the Soviet Union should have fully disclosed the presence of the SS–23's on the soil of these nations, and that it is a problem that can be resolved.

Mr. President, I ask unanimous consent the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABULAR DATA ON TLE REMOVED FROM THE ATTU

TABLE 1.—Soviet Statement on Unilateral Reduction of Ground TLE from the ATTU

	Into storage	To units	Total
Tanks	8,400	8,000	16,400
ACV's	4,700	11,200	15,900
Arty	23,400	1,600	25,000
Total	36,500	20,800	57,300

Table 2.—Soviet TLE removed from the ATTU. Column (1) is the Soviet TLE in the ATTU in July 1988, numbers agreed to by both sides; (2) is the November 19, 1990 Soviet declaration, as amended in February 1991 of TLE in the ATTU; (3) is the Soviet TLE moved from the ATTU prior to November 19, 1990, obtained from (1) minus (2); (4) is the June 1991 Soviet statement of the movement of 57,300 to east of the Urals; and (5) is "other," the sum of the statements of 10,900 destroyed in the ATTU or exported from the ATTU, and 8,900 MT–LB APCs converted to "Look-Alikes;" and (6) is the sum of "June 1991" and "Other."

	July 1988	November 1990	Early move
Tanks	41,580	20,725	20,855
ACV's	57,800	29,890	27,910
Artillery	42,400	13,938	28,462
A/C	9,400	6,611	2,789
Helos	1,150	1,481	0
Total	152,330	72,645	79,011

	June 1991	Other	Total
Tanks	16,400	4,100	20,500
ACV's	15,900	12,300	28,200
Artillery	25,000	3,400	28,400
A/C		2,789	2,789
Helos			0
Total	57,300	22,589	79,889

Table 3.—Total TLE Removed from the ATTU: The total amount of the five kinds of Soviet TLE taken out of the ATTU between January 1989 and 1995, after destruction under CFE is completed, is a total of the following entries:

TLE moved/destroyed/converted from ATTU before November 1990	80,000
TLE to be reduced by CFE	19,689
TLE to be destroyed pursuant to Article III dispute	3,738
Total Soviet TLE moved out of ATTU, destroyed, or converted	103,000

In addition, the other members of the WTO will also reduce their TLE by the following amount:

TLE reductions for former WTO members, B/C/H/P/R	10,149
TLE reductions for the German Democratic Republic	10,675
Total TLE from the six former non-Soviet WTO members	21,000

Combining the reduction numbers for the Soviets with those of the other six former WTO members, we obtain:

Soviet TLE moved out of ATTU, destroyed, or converted	103,000

Six former non-Soviet WTO members TLE destroyed	21,000
Total WTO TLE moved out of ATTU, destroyed, or converted	124,000

TABLE 4.—TLE To be reduced

Soviet CFE declarations	19,689
June 1991 Article III declaration	3,738
Soviet declaration of June 1991, E of Urals	14,500
Soviet destruction/export prior to November 1990	10,900
Soviet conversion of MT-LB's to "Look-Alikes"	8,900
Total Soviet TLE destroyed or converted	57,700

To this amount, we will now add the TLE of the six other former WTO members:

B/C/H/P/R former WTO nations	10,139
GDR equipment now owned by FRG	10,675
Total TLE destroyed by non-Soviet WTO nations	21,000

Combining the TLE that will be destroyed or converted, we obtain: 57,700 + 21,000 = 79,000 destroyed (or converted).

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1433

Mr. SMITH. Mr. President, under the unanimous-consent agreement, I at this point would like to offer an amendment on behalf of myself and Senator WALLOP. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. WALLOP, proposes an amendment numbered 1433.

Add after Condition (a)(5)(C), the following condition:

"(6) U.S. OBLIGATION TO THE TERMS OF THE TREATY—The United States shall not be bound by the terms of the Treaty unless and until the Congress has received, pursuant to public law 99-145, the President's Soviet Noncompliance with Arms Control Agreement report and the President has certified through the report that the Soviet Union is not in violation or probable violation of the terms of the CFE Treaty and protocols thereto.".

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, just a little over a year ago, on November 19, 1990, the Conventional Forces in Europe Treaty was signed by 22 nations in Paris. In the 12 months since signature, a great deal has occurred in the world, particularly in the Soviet Union. Inevitably these events have colored the way we view this treaty today.

A year ago, this treaty was seen as a tremendous accomplishment. Yet, today, in the aftermath of the August Soviet coup, the treaty somehow seems anticlimatic. Some of my colleagues have even suggested that the treaty is irrelevant.

But, I would argue that the CFE Treaty is not irrelevant. And, I don't think that we should minimize the achievement of this agreement. When we began the CFE negotiations in March 1989, we had hopes of positive changes in the Soviet Union, but we could not and did not predict the dramatic developments in Eastern Europe and the Soviet Union that were to follow. I would like to remind my colleagues—those who with the aid of hindsight have downplayed the significance of this treaty—that when this treaty was being negotiated, our proposed terms seemed radical, almost unachievable.

Yet, today before us, we have a treaty which will limit the Soviet Union to 13,300 tanks in the Atlantic to Urals area, when at one time it had more than three times that amount. This treaty will also limit the Soviets to no more than 13,700 pieces of artillery, and 20,000 armored combat vehicles.

Our negotiator, Ambassador Jim Woolsey, did a superb job of negotiating a verifiable treaty which will codify the elimination of the overwhelming Soviet conventional advantage in Europe. He managed to forge an agreement that is characterized not only by strict limits on numbers of equipment, but also on deployment. The geographic zones established by this treaty will reenforce the numerical limitations on conventional forces. Moreover, Soviet reductions will be achieved through the verifiable destruction of equipment in the treaty zone. This is not a treaty which moves the threat—it eliminates the threat.

And, let us not forget that while it is hard enough negotiating such a complex treaty just with the Soviets, Ambassador Woolsey had another 20 nations to negotiate with. Sure, some of them are our allies, but negotiating with your friends can at times be as tough as negotiating with your adversaries.

In my view, the CFE Treaty establishes a stable security frame work in Europe at a time when the situation in parts of Eastern Europe, as well as the Soviet Union are very uncertain. For the first time in over four decades, the West will no longer need to prepare to defend against a surprise conventional attack on Western Europe.

While I believe that the CFE Treaty will contribute positively to our Nation's security, I recognize that it has its flaws and will not necessarily accommodate, without significant changes, potential future developments in the Soviet Union.

As such, I commend the Committee on Foreign Relations for including in the resolution of ratification a condition which addresses the potential for new states on the territory of the Soviet Union. I believe we all recognize that this is a very real possibility, and I certainly appreciate the action they take. I think we all recognize that there is a very real possibility that the Soviet Union, with whom this treaty was negotiated, may look very different in the future and may indeed be dissolved into a number of independent states. Condition No. 5, as crafted by the Foreign Relations Committee, takes this possibility into account and preserves the Senate's constitutional role in the treatymaking process.

I would like to commend the distinguished chairman of the European Subcommittee, Senator BIDEN, the distinguished ranking Republican on the Foreign Relations Committee, Senator HELMS, and the distinguished chairman, Senator PELL, for their efforts in drafting the conditions that are part of this resolution of ratification. I know that they and their staffs worked hard to incorporate the views of other Senators, as well as the administration.

I also want to commend the work done by the Armed Services and Intelligence Committees. Both committees held hearings which explored, in detail, the potential impact of changes in the Soviet Union on the CFE Treaty.

I think that all of my colleagues support the conditioning of Senate advice and consent to the treaty on the understanding that the June 14, 1991, side agreement has the same legal force as the treaty itself, and that actions contrary to that and other Soviet statements will be considered inconsistent with the CFE Treaty.

While I understand that the administration, and Secretary Baker, in particular, worked hard to resolve the interpretation dispute with the Soviets regarding article III of the treaty, as well as the problem of Soviet movement of equipment east of the Urals, I am uncomfortable with the increasing trend of resolving fundamental treaty matters via statements or agreements that are not part of the treaty, and thus do not require the advice and consent of the Senate. In my view, these matters should be taken up within the confines of the treaty—in other words as an amendment or protocol to the treaty.

Another area of serious concern to me is the question of discrepancy in Soviet data. In my view, we must have confidence in data submitted by the Soviets in accordance with arms control agreements or we will not be able to have confidence in the integrity of that agreement.

Prior to treaty signature, the Soviets moved thousands of pieces of equipment east of the Urals. However, according to the Director of Central Intelligence, Robert Gates, there is substantial circumstantial evidence that there were indeed several thousand unreported pieces of equipment in the zone at the time of treaty signature. But, his analysis is that this was, "indicative of a failure to fully implement the destruction and shipment plans on schedule" rather than a "deliberate effort to deceive," since Soviet equipment movements were carried out in the open. He notes also that the intelligence community had anticipated that at least some discrepancies would occur as a result of the turbulence and dislocation that resulted from this effort to reduce equipment in the zone prior to treaty signature.

The bottom line, according to Mr. Gates, is that although we could confirm that the bulk of equipment withdrawn by the Soviets occurred within 1 or 2 months of treaty signature, given the nature of the circumstances under which the Soviet drawndown occurred, it is unlikely that the United States will obtain evidence to narrow the time frame any further.

Mr. President, I realize that this is inconclusive, and I wish it weren't—but, I am not an intelligence expert. So I am going to rely on Robert Gates' judgment on this very complicated issue.

On balance, I believe that the Conventional Forces in Europe Treaty is in the national security interest of the United States and worthy of the Senate's support. I, therefore, urge my colleagues to vote in favor of the resolution of ratification.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Does the Republican leader yield the floor?

Mr. DOLE. I yield the floor.

Mr. SMITH. Mr. President, I have no further requests for time on my side, and I just want to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I would just use a few moments of the time—I have not used any—and I will be very brief.

Mr. President, this amendment, obviously well-intended, is nonetheless a killer amendment, plain and simple. If the Senate adopts this amendment, we can quite frankly kiss the CFE Treaty goodbye.

Obviously, this issue is complicated by the question of classification, but I can say this: The intelligence community simply cannot certify exactly how many tanks, armored combat vehicles, and artillery were in the Atlantic to the Ural zone at the time of the treaty signature. I repeat: Such a classification simply cannot be made, not possible, no way, no possibility of them being able to certify with any degree of certainty. All the intelligence community can do is develop an estimate. And I repeat again and again, an estimate. All it is capable of doing is estimating how much equipment was in the zone at the date of the treaty signature.

Mr. President, the supporters of this amendment, in my view, simply underestimate or do not understand the difference between evidence and estimates. We are confident that a small number of pieces of Soviet equipment were not declared.

The CIA has told the committee openly that the number is about 800. These are the so-called smoking guns. There is a somewhat larger number of undeclared equipment that was probably in zone at the time of the treaty.

But, Mr. President, the Bush administration is seeking to obtain additional reductions of this amount, as well they should, and that is exactly what the committee condition that is before the Senate requires.

So much for the smoking guns.

But this agreement goes much farther. This amendment proposed goes much further. It requires the administration to make a determination it cannot reasonably make beyond the smoking guns. The reason such a determination cannot be made is obviously difficult to discuss in open session.

But we all know that Soviet forces in Eastern Europe have undergone enormous changes, and it is precisely at such a time when a typical model for estimating Soviet equipment would not be too accurate. It is in that circumstance that the typical model no longer has much relevance, the model by which the agencies, intelligence communities would be used to be able to have a reasonable estimate. In other words, the amendment would require us to hold the Soviet side accountable for estimates about which we may not have much confidence.

The basic issue is this: Do we want a treaty? Do we want to ratify this treaty so that 23,000 Soviet tanks and other equipment will be destroyed? Or do we want to vote for an amendment that will kill the treaty and never see these 23,000 pieces of equipment destroyed?

Before answering it, I hope my colleagues will remember that the United States will not be required to destroy any equipment as a consequence of this treaty. This is what I would call a good bargain, Mr. President. The result of the treaty will be that the United States will destroy no equipment, and the Soviet Union will destroy 23,000 pieces of equipment. That is a good bargain by any standard.

Mr. President, to me, this is not a close call. Let us ratify this treaty. Let us trust President Bush to secure the additional reductions if we have the evidence. But let us not permit a bad intelligence treaty, a bad intelligence estimate to kill a good treaty.

Mr. President, I know of no other Democrat or Republican seeking to speak in opposition to the treaty this afternoon. And it is my understanding that there is 1 hour, evenly divided, on Monday to discuss this issue, one-half hour under the control of the Senator from Delaware.

The PRESIDING OFFICER. The Senator is correct.

Mr. BOREN. Mr. President, I am pleased to support the Senate's advice and consent to ratification of the CFE Treaty. Political and military relations in Europe are changing rapidly, and this treaty will help ensure that they evolve in a manner consistent both with U.S. interests and with the interests of world peace.

CFE is both a disarmament treaty and an arms control treaty. It will require the Soviet Union to destroy or convert over 23,000 tanks, armored combat vehicles and artillery. Another 12,000 pieces of Eastern European equipment will also be destroyed, as well as 10,000 items once owned by East Germany.

By 1995, when all that is done, Soviet military equipment in Europe will be reduced to roughly two-thirds the amount of NATO equipment in the region. Regional subzones will ban the massing of this equipment in those areas that NATO commanders have viewed as most threatening. The continuing data exchange and onsite inspection requirements imposed by the treaty, will work to prevent violations and to reassure all countries that no nation is preparing to take aggressive action.

Mr. President, the CFE negotiations began when the cold war was not quite over, and the treaty was designed primarily to prevent a general war between the Warsaw Pact and NATO. The Warsaw Pact no longer exists. NATO itself is in search of a new mission. But the fact is that this treaty will also perform important functions in the evolving new world order. The limitations on Soviet—or Russian—armaments in Europe will provide important reassurance to the Baltic States and to any newly independent states that may emerge from among the current Soviet Republics. Those limits and the right to participate in onsite inspection of Soviet or Russian forces will be, in turn, a strong incentive to newly independent states to accede to the treaty as well, thereby allowing them to enjoy the economic benefits of lower defense spending.

The CFE Treaty will be part of the structure of the new Europe. Adherence to it will be a major way in which new states can demonstrate their peace-loving nature and be welcomed into European statehood. Ratification by the United States will be a token of our continuing commitment to NATO and European security, even as that security changes from a matter of cold war alliances to one of cooperation in the peaceful settlement of disputes. So

I urge all of my colleagues to join me in supporting ratification of this treaty.

As chairman of the Select Committee on Intelligence, I would also like to call my colleagues' attention to the fact that our committee has reviewed the implications of CFE for arms control monitoring. My friend, the distinguished Senator from Alaska, FRANK MURKOWSKI, who serves as vice chairman of the committee, and I recently sent a letter to Chairman PELL and Senator HELMS summarizing our findings in this regard, and I ask unanimous consent that this letter be inserted in the RECORD.

Mr. President, we found that U.S. intelligence will be able to monitor the destruction or conversion of treaty-limited equipment in Europe with high confidence. We are less certain at this point in time regarding equipment that the Soviet Union has pledged to destroy east of the Ural mountains, but the CFE Treaty countries plan to work out measures to make such destruction visible to our national technical means of verification.

We also believe that U.S. intelligence should be able to detect any violation of the treaty of military significance, specifically, involving combat ready units well before it would endanger NATO forces. We are less sure regarding small-scale violations, or even larger violations if they merely involve the covert movement or storage of equipment. As a result of the committee's review of the treaty, we are urging the U.S. intelligence community to vigorously develop monitoring strategies to detect any small-scale violations that might affect the military balance among States and Republics in Eastern Europe.

One issue that has prompted particular attention among Members of the Senate is the manifestly incorrect declaration of equipment holdings that the Soviet Union provided when the treaty was signed on November 19, 1990. The vice chairman and I discussed the relevant intelligence on that issue a classified attachment to our letter to the Foreign Relations Committee. I understand that the attachment is among the materials available to my coleagues in room S-407.

Without getting into classified material, I would just like to make a couple of personal points on this issue. First, we all agree that the Soviet declaration was grossly in error. Some of that has been corrected through the legally binding agreements reached on June 14, 1991, between the Soviet Union and the other CFE parties.

Second, we all know that some of the equipment in question has since been destroyed, while most of it has shown up belatedly at storage areas east of the Ural mountains. The Soviet Union has agreed to destroy some of this equipment and to store the rest of it in a manner that is not conducive to the quick formation of offensive forces.

The vice chairman and I endorse continued efforts to arrive at an accurate accounting of what equipment the Soviet Union had in Europe on November 19, 1990. We also endorse efforts to gain agreement to Soviet destruction obligations proceeding from such an accurate accounting. Speaking for myself, I support the reservation on this subject that thas been proposed by the Foreign Relations Committee.

But personally, Mr. President, I do not believe that United States intelligence will ever be able to give us a precise count of what equipment the Soviets had west of the Urals on that day. I believe that it would be unwise to force the President to propound such a number. The result would be an invitation to come up with some unsupported figure, rather than an encouragement to pursue this issue in a reasonable manner with the Soviets. And we should remember that the data discrepancy problem was the product not of Mr. Gorbachev and Mr. Shevardnadze, but rather—as far as we can tell—of the very Soviet military that attempted last summer to overthrow the Gorbachev government.

Finally I would note that we on the Intelligence Committee did find some areas in the CFE Treaty that could result in compliance disputes down the road. The report of the Foreign Relations Committee cites these concerns, as well as some others that they noted. I hope that U.S. diplomats will make it a priority, with the other States Parties to this Treaty, to work out in advance whatever procedures and definitions are needed to avoid such disputes.

In my view, Mr. President, this is a fine treaty. I am delighted to support it. But experience has proven that no treaty is perfect. We on the Intelligence Committee have reviewed these matters and submitted our findings so that the Senate will have the benefit of full information as we cast our votes on advice and consent to ratification. I again invite my colleagues to read both our letter to the Foreign Relations Committee, which is contained in their report, and the classified attachment to our letter, which is available in room S-407.

Finally, Mr. President, I want to note the extraordinary efforts of my good friend and fellow Oklahoman, Ambassador Jim Woolsey in negotiating this treaty. He is truly among our best and brightest. Jim has always come forward to serve our Nation and Presidents of both political parties. His distinguised career is well known to my colleagues, but we would be remiss if we did not thank him for the contribution he has made in bringing this historic treaty forward for ratification by the U. S. Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, November 18, 1991.

Hon. CLAIBORNE PELL,
Chairman,
Hon. JESSE HELMS,
Ranking Minority Member,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR PELL AND SENATOR HELMS: In order to assist the Committee on Foreign Relations and the full Senate in their consideration of whether to advise and consent to the ratification of the Treaty on Conventional Armed Forces in Europe (CFE), the Senate Select Committee on Intelligence has undertaken a thorough review of the ability of U.S. intelligence to monitor the compliance of the signatories with the provisions of that Treaty. In particular, the Committee has addressed issues surrounding the interpretation and implementation of the Protocol on Inspection, the effectiveness of the on-site inspection regime, the counterintelligence and security implications of the Treaty, and the ability of U.S. intelligence to detect politically and militarily significant violations of the Treaty.

The Committee began its work in March, 1989, with the beginning of the CFE negotiations. Both members and staff received regular briefings on the objectives and progress of the negotiations. The Committee's arms control staff also visited the negotiators in Vienna immediately prior to signing of the Treaty to keep abreast of the final details. Staff counterintelligence specialists visited military units in Germany to review preparations for CFE inspections. The Committee held eight on-the-record staff briefings and reviewed hundreds of documents and answers to questions. It also held two closed hearings, where it received testimony from senior officials within the Departments of State and Defense, the Intelligence Committee, and the Arms Control and Disarmament Agency.

In anticipation of the Treaty, the Committee wrote to Judge Webster, the then-Director of Central Intelligence, and General Colin Powell, Chairman, the Joint Chiefs of Staff, requesting a National Intelligence Estimate on the ability of U.S. intelligence to monitor Treaty compliance. The Committee requested that Chairman Powell identify for the Intelligence Community those levels of cheating that he would consider militarily significant, and asked the Intelligence Community to assess its monitoring capabilities in light of the Chairman's concerns. The Estimate provided to the Committee and a subsequent Memorandum to Holders of the Estimate have been, in our view, highly useful and relevant.

The Committee also received several briefings on the problems associated with the Soviet data submitted at the time of Treaty signature on November 19, 1990. Based on the Committee's assessment of the issue, we, along with other members of the Senate, wrote to Secretary Baker and urged him not to send the Treaty forward for Senate consideration until these issues were resolved. We believe that the prompt action of the Senate helped to contribute to the June 14 agreements which have allowed the Senate to proceed with the Treaty ratification process.

This letter reflects the views of the Chairman and Vice Chairman of the Committee as they pertain to the subjects discussed below.

MONITORING JUDGMENTS

We believe that by a combination of on-site inspection, National Technical Means and cooperative measures, U.S. intelligence will be able to monitor the destruction or conversion of Treaty-limited equipment (TLE) in the Atlantic to the Urals (ATTU) region with high confidence. For the 14,500 pieces of equipment to be destroyed or converted east of the Urals and not subject to on-site inspection (pursuant to a political agreement of June 14, 1991), the ability of U.S. intelligence to minotor Soviet compliance will depend upon the form of cooperative measures that the Soviet Union has pledged to undertake to make the destruction visible to national technical means of verification. The specific cooperative measures are yet to be agreed upon by the signatories.

We also believe that U.S. intelligence is justified in having high confidence that it could detect any violation of the Treaty in which the Soviets attempted to move large quantities of TLE (i.e., thousands of pieces of equipment) as whole divisions, combat wings, or partial units back into the ATTU in a short period of time—weeks to months. U.S. intelligence would detect such cheating well before it reached the levels identified by the Joint Staff as militarily significant. Similarly, the formation of new, combat ready divisions within the ATTU from covert production facilities would also be detected before it achieved militarily significant levels by the Joint Staff's criteria.

While we believe that U.S. intelligence will detect any cheating that could threaten NATO forces (e.g., activity associated with combat ready units) before it becomes militarily significant, it will be more difficult to detect the covert transport and storage of equipment that is not integrated into combat units and to accurately characterize it as a CFE Treaty violation in a timely manner.

For example, the continued inability to resolve the issue of differences between the Soviet declaration of TLE holdings in the ATTU when the CFE Treaty was signed and the U.S. Intelligence Community's figures on Soviet holdings illustrates how difficult it can be to understand suspicious activity and to determine whether it is actually a violation. The Intelligence Community has detected numerous examples of equipment that appeared to have been improperly omitted from the Soviet data declaration. But even a year later, uncertainties remain regarding the amount of TLE that was improperly omitted and the possible impact of such omissions on the Soviet Union's equipment destruction obligations. It should be noted, however, that a major source of these ambiguities was the large-scale dislocation of Soviet forces as a result of equipment withdrawals and reductions preceding Treaty signature. Had the information exchange and on-site inspection provisions of the CFE Treaty been in place at the time, the Intelligence Community would have been better able to track the specifics of these changes.

The data discrepancy issue is discussed in detail in the classified attachment to this letter. We endorse continued efforts to arrive at an accurate accounting of what TLE the Soviet Union had in the ATTU on November 19, 1990, and to gain agreement to destruction obligations proceeding from such an accounting.

The movement of TLE east of the Urals underscores the fact that the CFE Treaty does not apply to the Asian portions of the Soviet Union. This puts a burden on U.S. intelligence to guard not only against the covert reinsertion of Soviet equipment into the ATTU region, but also against a force build-up east of the Urals that could threaten either a breakout from the Treaty or an aggressive movement on the U.S.S.R.'s eastern or southern borders. We will urge the Intelligence Community to devote whatever resources are needed to accomplish this task.

We must also emphasize that U.S. intelligence will have difficulty detecting small-scale violations of the Treaty. Such violations would not pose a significant military threat to NATO, but are politically significant for two reasons. First, they can weaken, over time, the integrity of the Treaty regime, thus paving the way for larger-scale violations. Second, such violations may, in fact, be militarily significant to a small, neighboring state whose TLE allocation is not large. With the end of the Cold War, the territorial integrity of many such states—from Poland, Hungary and the Czech and Slovak Republic to the Baltic states and possible new states in the Soviet Union—could potentially become an element of U.S. national interest sometime in the future. We therefore will urge the U.S. Intelligence Community to vigorously develop monitoring strategies and allocate resources to monitor compliance with small-scale violations in potential trouble areas.

COMPLIANCE ISSUES

The Treaty imposes two regimes—a disarmament regime lasting forty months after entry into force, and an arms control regime which regulates the distribution of this lower level of forces in perpetuity. Overall, we believe that the Treaty and related protocols are well-crafted and create a useful on-site inspection regime which will help to deter cheating and, in concert with National Technical Means, to detect it if it occurs. Nevertheless, we believe that, given the complexity of this Treaty and its protocols, there are likely to be compliance issues regarding interpretation which, though not of a magnitude to require changes to the Treaty or conditions to the resolution of ratification, should be brought to your attention for consideration in the report accompanying the resolution of ratification.

First, the definitions and provisions in paragraph 1 of Article II regarding armored combat vehicles include several gaps that could result in compliance disputes. For example, armored ambulances and armored vehicles that are not intended to transport troops, such as armored communication vans or ammunition trucks, are not limited. Furthermore, paragraph 2 of Section I of the Protocol on Existing Types permits certain lightly armored vehicles (the MT-LB) to be "exceptionally modified" into armored personnel carrier look-alikes (the MG-LB-AT) at locations other than reduction sites, rendering them no longer subject to Treaty limits, although paragraph 32 of Section VI of the Protocol on Inspection does provide for visual inspection of the interior of such a vehicle from outside the vehicle.

Second, the counting rules in Article III that except certain otherwise Treaty-limited equipment (TLE) are not well-defined. Equipment may be excluded if it is in the process of manufacture or manufacturing related testing; used exclusively for purposes of research and development; part of historical collections; awaiting disposal; awaiting export or re-export,; held by organizations designed and structured to perform in peacetime internal security functions; or in transit within the ATTU for no longer than seven days. In the absence of further definitions, all these rules invite monitoring difficulties or compliance disputes.

Third, the ability of any state party to increase its TLE in the Atlantic-to-the-Urals (ATTU) zone during the 40-month reduction phase is unrestricted. In most instances such changes would be reportable within five days if they exceeded a unit's reported holdings for a category of TLE by 10 percent or more, pursuant to Article XIII and to subparagraph 1(B) of Section VIII of the Protocol on Notification and Exchange of Information. There is no obligation, however, for TLE produced in the zone and attached to units that are not a "permanent change in the organizational structure of . . . forces within the area of application" pursuant to subparagraph 1(A) of Section VIII to be reported until the next annual report on holdings. Although non-permanent units may be interpreted to be those units in transit through the zone and thus subject to the seven-day transit rule, this is not made explicit in the Treaty or Protocol text. Thus, the discovery of an undeclared unit with TLE in the ATTU zone during the reduction phase may or may not indicate a violation has taken place. It could be a non-permanent unit, and the length of time it can stay in the ATTU without being reported could be as long as a year.

Aside from strict Treaty interpretation issues, we note that the pace and quantity of reductions required by the Treaty, the lack of restrictions on units and TLE in the ATTU zone during the reduction phase and the many notification requirements suggest that this phase of the Treaty's implementation will be confusing. In our view, information overload is likely to occur during the reduction phase and may reduce the effectiveness of notifications and inspections, although the experience gained through the INF Treaty and the lengthy period of preparation and planning for CFE will help to offset likely information exchange, logistic and coordination problems.

The level of confusion during the reduction phase will depend in part on the future status of Soviet republics that have recently become independent or are seeking new status. The Baltic states, which have not signed the CFE Treaty and therefore are now outside the ATTU region, continue to host TLE on their territory which the Soviets have agreed to limit according to the terms of the Treaty. Arrangements must be made to insure that the inspection provisions of the Treaty will be adequately implemented in cooperation with the Baltic states; we understand that such arrangements are forthcoming. Decisions taken by the Ukraine, however, particularly with respect to the creation of its own military, may complicate or delay implementation of the inspection regime and of data exchanges.

Finally, we note that the Treaty text does not discuss the status of U.S. or other NATO-member forces deployed to the territory of a member of the Group of Six at the latter's request. Such a deployment would be subject to the Treaty ceilings for the subzone to which forces are deployed, as well as for the whole ATTU region. Consequently, the flexibility of NATO countries to move forces into the recipient state without abrogating the Treaty would depend on whether they could do so without exceeding the subzone ceilings. This would not be a problem if the forces were already in the subzone (e.g., being deployed from Germany to Poland). To move forces into the subzone, however, would require that the total already in the subzone be less than its prescribed ceiling. If such leeway did not exist, it could be achieved by reducing some other forces within the zone. Any force deployed onto the territory of a member of the Group of Six would also be subject to on-site inspections by other CFE signatories.

TREATY IMPLEMENTATION

Compared to other arms control treaties, the implementation and security costs for the CFE Treaty will be relatively small. Because the CFE Treaty covers only the territory from the Atlantic to the Urals, the United States will not be required to host any on-site inspections on its own territory. Because the number of objects of verification declared by the Soviet Union was much lower than had been anticipated, the number of on-site inspections that the United States will conduct on Soviet territory will be significantly reduced.

The On-Site Inspection Agency projects costs of $16 million in fiscal year 1992, $12 million in FY 1993, and significantly lower costs beginning in FY 1996. Total Executive Branch costs directly attributable to CFE implementation and security should be about $25 million per year in the early years of the Treaty.

Some officials have questioned whether the U.S. Government would be able to field sufficient numbers of on-site inspection personnel with the needed linguistic capabilities and/or substantive background. The Director of the On-Site Inspection Agency assured the Committee that sufficient numbers of linguists have been found and trained for the inspection role, and that sufficient numbers of substantive experts have been identified and are available for service on inspection teams.

COUNTERINTELLIGENCE AND SECURITY

As with the INF and TTBT agreements, inspections under the CFE Treaty will allow foreign governments access to U.S. facilities and personnel that were previously denied on national security grounds. Unlike earlier bilateral Soviet-U.S. inspection regimes, however, CFE may give such access to the governments of various countries whose future military objectives are uncertain. While the Cold War threat of a conventional NATO-Warsaw Pact war is gone, U.S. military capabilities and activities in Europe will continue to require substantial protection against disclosure to foreign governments of information not required for verification of compliance with the Treaty. The Gulf War demonstrated that U.S. and allied forces in Europe may be called upon to deter conflicts and conduct military operations worldwide. Security for the most sensitive capabilities deployed in Europe remain integral to U.S. military strength.

We are satisfied that the relevant inspection provisions are appropriately balanced to meet U.S. security needs as well as verification requirements. The parties are allowed to restrict access to buildings with doors narrower than two meters, to shroud sensitive features of weapons systems, and to declare "sensitive points" that may not be inspected. The executive branch plans to exercise these rights so as to limit disclosure of sensitive information that is not necessary for verification of compliance.

In addition, we found that the Executive branch is preparing effective security countermeasures to protect sensitive facilities as permitted by the Treaty. Commanders of military installations must have operational security (OPSEC) safeguards that are tested by mock inspections, and Army and Air Force counterintelligence units in Europe will assist the commanders. The Committee has been assured that, despite overall drawndowns and restructuring of U.S. forces, the Defense Department's counterintelligence components will maintain resources in Europe needed to deal with attempts by foreign governments to exploit the CFE inspection process for intelligence purposes contrary to U.S. interests.

Sincerely yours,

DAVID L. BOREN,
Chairman.
FRANK MURKOWSKI,
Vice Chairman.

Mr. MURKOWSKI. Mr. President, I rise today in support of the Senate's advice and consent to ratification of the CFE treaty.

As a member of both the Senate Foreign Relations Committee and the Select Committee on Intelligence, I had the opportunity to review the treaty from several perspectives. All in all, it is a remarkable accord. When ratified by all parties and brought into force, it will accomplish what was unthinkable only a few years ago—consensual agreement that no single State will dominate Europe from the Atlantic to the Urals; and in arms control regime that renders major offensive war between east and west next to impossible.

The geographic scope and complexity of the arms control architecture created by this treaty is unprecedented. Huge quantities of equipment will be identified; thousands of sites will be inspected; substantial movements of equipment will be monitored; and volumes of information will be exchanged and processed as treaty-limited equipment in the eastern bloc is moved and destroyed.

During our deliberations in both the Foreign Relations and Intelligence Committees, the questions were asked, "How will this treaty, whose foundations were laid during the cold war, have relevance in a vastly changed Europe that continues to quickly evolve? How will continuing changes in the political structure of the Soviet Union affect this treaty and compliance by emerging new nations?"

We don't know with certainty what will transpire in Ukraine, Byelorussia, or any of the Soviet Republics. But this treaty creates an architecture for peace and stability by introducing an element of predictability to this otherwise chaotic environment. We believe there are clear incentives for these emerging new nations to participate in and accede to the treaty, and we hope and trust that they will do so.

The Senate Select Committee on Intelligence, on which I serve as vice chairman, also took a careful look at the burdens this treaty will impose on our intelligence services. We looked at compliance and verification issues in detail. We explored issues involving the interpretation and implementation of inspection protocols; the effectiveness of the on-site inspection regime; the implications of the treaty on counterintelligence and security; and our ability to detect militarily significant violations.

We found that, through a combination of on-site inspection, national technical means and cooperative measures, we can monitor the destruction and conversion of treaty limited equipment in the Atlantic to the Urals [ATTU] region with high confidence.

We believe we can detect any large scale, militarily significant cheating should it occur.

With respect to equipment moved or destroyed east of the Urals that is not covered by the treaty, the Soviets have pledged to make "east of Urals" destruction visible to national technical means, although specific cooperative measures have not yet been agreed upon.

While we did outline some concerns, I do not believe they are of sufficient magnitude to require changes to the treaty or conditions to the resolution of its ratification.

I know the chairman of the Intelligence Committee and my good friend, Senator BOREN, has already asked that the letter that he and I sent to Chairman PELL and Senator HELMS summarizing our committee's findings be placed in the RECORD, and I would invite all Senators to read it and the classified attachment available in room S-407.

Mr. President, this is a treaty worthy of our advice and consent, and I urge my colleagues to support its ratification.

Mr. COATS. Mr. President, although the CFE Treaty was negotiated at a time when the military and geopolitical situation in Europe was radically different than it is today, I am satisfied that this agreement can be adopted to the current environment. I agree that there are compelling reasons for ratifying the treaty. It will place a ceiling on armament holdings in Europe and create a legal framework that will help prevent the resumption of largescale military confrontation. The treaty's verification provisions also will contribute to openness and transparency in military affairs, and hopefully bolster mutual trust.

While I intend to support ratification of the CFE Treaty, I must express some grave reservations about the way the treaty was concluded and presented to the Senate. I believe that there are several unresolved issues that should be settled, if not before ratification then certainly before the United States is bound by the Treaty.

In particular, I am concerned about two issues. First, the data discrepancy between actual and declared Soviet holdings of treaty limited equipment at the time of treaty signature; and second, the procedure by which the United States responds to the emergence of independent countries in the former Soviet Republics who refuse to become parties to the CFE Treaty.

The resolution of ratification reported by the Foreign Relations Committee addresses these concerns in general terms, but I believe that the Senate must be more specific in conditioning its ratification of the CFE

Treaty. These concerns were addressed in a letter to the Foreign Relations Committee sent by the Republican Members of the Senate Armed Services Committee on November 18, 1991.

This letter urged the Foreign Relations Committee to adopt two additional conditions. First, a provision that would require the President to certify the actual amount of Soviet treaty limited equipment at the time of treaty signature, gain Soviet agreement with this estimate and, most important, get a Soviet commitment to destroy all equipment that was in excess of this level. Second, we recommended that the Foreign Relations Committee adopt a condition relating to the creation of new States in Russia, Byelorussia, and Ukraine—that if such States do not accede to the CFE Treaty the United States would either withdraw from the treaty or resubmit it for Senate ratification.

Mr. President, let me briefly discuss these two issues. While I am deeply concerned with both, the data discrepancy problem troubles me the most. On November 19, 1990, the day the CFE treaty was signed, the Soviet Union possessed in the treaty area of application substantially more treaty limited equipment than they had declared. Estimates of the actual discrepancy range from several thousand to tens of thousands of pieces of treaty limited equipment. The precise amount is less important than the fact that the Soviet Union attempted to cover up a treaty violation the very day the treaty was signed. Perhaps more important is the fact that the significance of this issue has been minimized by the United States.

I realize that the Soviet Union has made a unilateral political commitment to destroy equipment east and west of Urals to compensate for their excess possession. According to the Foreign Relations Committee report on the CFE Treaty: "Thus, the Soviets will have, at least, agreed to make amends." Making amends, however, is not really the issue. At stake here is not whether we get the Soviets to destroy some amount of equipment. This equipment may in fact not even be militarily significant. At stake is the integrity of the treatymaking and treaty-ratification process. By sweeping aside concerns about the data discrepancy issue we would be setting a terrible precedent for future arms control agreement. While a discrepancy in conventional equipment may be of little military consequence, a similar discrepancy relating to nuclear weapons certainly would be. To the extent that we are willing to allow a data discrepancy issue to go unsettled prior to ratification of the CFE Treaty, we will be in a worse position to deal with similar issues before start ratification.

Mr. President, I understand that Senator SMITH will offer an amendment on Monday to insert a condition to the CFE resolution of ratification similar to the one recommended by the Republican members of the Armed Services Committee. I will support this amendment and hope that the Senate will pass it. In considering this amendment the Senate must take into account that the data discrepancy issue arose only after the Soviets transferred some 57,000 pieces of treaty limited equipment from the area of application between January 1989 and November 1990. Also the Soviets transferred large amounts of equipment into naval and other units and claimed that it was exempt from the treaty. In other words, in anticipation of signing the CFE Treaty, the Soviets did everything within their power to circumvent the reductions that CFE would impose. With this as background, it seems even more unbelievable that the Soviet Union would then lie about their equipment holdings at the time of treaty signing. Thus I will support an amendment to settle the data discrepancy issue and require the Soviets to come into compliance with this understanding.

Mr. President, I am also concerned about the so-called successor State issue. In particular, the possibility that an independent Ukraine, Russia, or Byelorussia might refuse to become a party to the CFE agreement and thereby create a new and unexpected situation in Europe.

I acknowledge that the Foreign Relations Committee has already included a condition on this issue in its resolution of ratification. I have no argument with this condition, although I do believe that it should be strengthened to protect the Senate's treaty ratification role. The Foreign Relations Committee's condition states that if a new country emerges from a Soviet Republic and does not join the CFE Treaty, the President of the United States shall consult with the Senate, evaluate the new situation and consider whether treaty amendments are needed and submit such changes to the Senate for ratification.

The amendment offered today by the Senator from Maine [Mr. COHEN] addresses this issue. Specifically, this amendment would state that even if the CFE Treaty is not amended in response to the emergence of a new country that refuses to join the treaty, the Senate must provide its advice and consent as to whether the United States should remain a party. This provision would protect the Senate's ratification prerogative if changed circumstances alter the underlying assumptions of the treaty.

I do not believe this added condition is unreasonable or unconstitutional, as the administration has argued. If indeed a new situation emerges in Europe due to the independence of a large Soviet Republic such as the Ukraine, I believe that the Senate should review the continuing relevance of the CFE Treaty. Hence, I will vote to support the addition of this condition.

Mr. President, I support ratification of the CFE Treaty. As I said at the outset, however, I believe that we should settle the data dispute prior to ratification. Also, some additional time would help clarify many questions relating to successor States, especially the Ukraine, which will soon be holding an independence referendum.

I understand the administration's desire to have this important agreement ratified as soon as possible, but I also believe that it is more important to settle outstanding questions before the Senate renders its advice and consent. Since it is clear that we will not wait on these matters, I hope we will adopt the condition proposed by the Senator from Maine today and the condition by the Senator from New Hampshire on Monday.

SENATE ADVICE AND CONSENT TO RATIFY THE CONVENTIONAL ARMED FORCES IN EUROPE (CFE) TREATY

Mr. WARNER. Mr. President, I rise in support of Senate advice and consent to ratify the Conventional Armed Forces in Europe Treaty. The CFE Treaty represents the culmination of many years of negotiations on reducing conventional forces in Europe. While the CFE process itself was relatively short by almost any standard for arms control treaties, the genesis of the treaty can be traced back to the mutual and balanced force reductions, or MBFR, negotiations which started nearly 20 years ago in 1973. These arduous discussions lasted for over 15 years and ended formally in February 1989 as the CFE negotiations were about to begin. While no treaty resulted from the MBFR negotiations, they served as an important building block for the CFE process which began in March 1989 and ended with the signing of the CFE Treaty in Paris after less than 2 years of intense negotiations in Vienna.

Mr. President, this historic undertaking was accomplished with the very able talents of U.S. Ambassador James Woolsey. The Nation owes him a great deal of thanks for this important and historic document which awaits Senate approval.

Mr. President, the CFE Treaty is the first conventional arms control agreement since World War II. It was intended to significantly eliminate the overwhelming Soviet numerical advantage in conventional armaments that has existed in Europe since World War II, and the treaty still holds the promise of doing so. The problem we face today, however, is the fact that today's Europe bears no resemblance to the Europe which existed when the CFE mandate was drafted over 2 years ago. The military alliance structure which was present in 1989 is no longer in place in Eastern Europe. The dramatic events of the past 2 years have caused some to raise serious questions that the CFE Treaty was structured in another era—the cold war. Indeed, some of the former members of the Warsaw Pact have indicated a desire to become members of the NATO alliance.

Mr. President, this very question about the relevance of the CFE Treaty in a few European environment was a main issue that I pursued during the Senate Armed Services Committee hearings on the military implications of the CFE Treaty. First, my primary objective was to better understand how the CFE Treaty will contribute to maintaining, if not further strengthening, stability during the next few years in light of the historic changes we have seen in the security structure of Europe. And second, I felt it was important to better understand how the treaty will contribute to, and not detract from, building a new stable security structure, one that addresses the growing emergence of ethnic and nationalist tensions in Europe, as opposed to the ideological tensions of the former bloc alliance system.

In this regard, administration witnesses testified that the CFE Treaty was even more urgently needed in this emerging European security environment because of the limits it places on existing states and the limits it may potentially impose on prospective emerging states like Soviet Republics such as the Ukraine and Belorussia. The administration also assured the committee that the CFE Treaty is extremely flexible and can be adapted to deal with the emerging European state structure and any new sources of tension and conflict. Secretary Bartholomew stated in our hearing that:

> We believe, in fact, that the [CFE] Treaty is more advantageous to the U.S. and to all involved in the more fluid situation existing today than ever before. * * * In our view, we would be far better off during these unsettled times if CFE were in force—providing an internationally-recognized framework of contraints on military activities and a forum for addressing questions and disputes.

Mr. President, I accept administration assurance about the relevance and relative importance of the CFE Treaty even though the treaty and its mandate were formulated based on a very different security environment. On this basis and having received assurances on a number of other issues which are discussed below and based on the acceptance of the Foreign Relations Committee's five proposed conditions, I encourage strongly Senate advice and consent to ratification of the CFE Treaty.

In providing my strong support for the CFE Treaty, I wish to express a concern over recent suggestions by some that the treaty is a vital arms control agreement, and that the very treaty itself is the anvil upon which a new security structure will be forged. This suggestion has been made primarily with the recalcitrant Republics of the former Soviet Union in mine—Republics which have indicated a desire to maintain national armies, independent of central government control. I do not doubt the general merits of this argument, but I am concerned that those who make it may be overstating the ability of the treaty alone to forge a stable security structure.

Arms control has a very important place in national security planning. But we must be careful not to place arms control agreements above prudent military force capabilities and sound alliance planning. Arms control agreements which merely regulate levels of military equipment do not prevent conflicts or wars. We learned from our experiences during the interwar period that naval arms control agreements, like the 1922 Washington Treaty, the 1930 London Treaty, and the 1935 Anglo-German Naval Agreement, did nothing to halt the march of war in Europe. In other words, arms control agreements cannot stop a leader whose intention is to use armed force to implement foreign policy objectives. At best, arms control agreements limit or regulate the options of military planners which, in turn, may preclude the use of force as an option. But again, as history has shown, leaders intent on using force to implement foreign policy objectives find ways to circumvent or ignore arms control treaties when such treaties stand in the way of their objectives.

Mr. President, much has changed in Europe. European security requirements and threats are emerging from traditional sources of tension and conflict, such as the longstanding ethnic and nationalist disputes that have been the cause of wars in Europe for centuries. With this emerging European security structure in mind, and after careful review of the treaty itself, the Senate Armed Services Committee determined that the CFE Treaty is in the U.S. national security interest and that of our European allies and friends. I supoort that conclusion. But my support must be tempered by an important caveat, that is, the forging of a new security structure cannot be accomplished by the CFE Treaty alone. Security in Europe, and indeed the world, requires a commitment to a credible military force posture that deters aggression, but at the same time is also capable of defeating aggression should that deterrent force fail.

Mr. President, I am concerned about the trend in our Nation, and in Europe, to reduce defense spending to levels that, in my opinion, could bring into question the credibility and effectiveness of our military forces. The collapse of the Warsaw Pact and dramatic changes in the Soviet Union do not obviate the need for a credible defense posture. The emergence of a multipolar world and the Persian Gulf war, in particular, have shown that the world is becoming less, not more, stable than the bipolar security structure of just a few years ago. For these reasons, we must not only negotiate and implement effective arms control agreements, but also maintain credible military forces capable of dealing with the new security structure that is emerging from the ruins of the cold war.

Mr. President, in expressing my general support for and caveats to the CFE Treaty, I also wish to address two specific issues that were raised in the additional views attached to the Armed Services Committee's letter report to the Foreign Relations Committee, which were signed by the vast majority of the Republican members. Before addressing these additional views, I want to state my strong support for the committee's letter report on the CFE Treaty which I signed with Senator NUNN on behalf of the members of the committee. The committee's endorsement for Senate approval of the CFE Treaty was qualified with three recommended conditions to the resolution of ratification, and these recommended conditions are included in the Foreign Relations Committee's resolution of ratification, which is before us today.

Mr. President, the Republican additional views, with which I am associated, express our serious concerns on two issues. Both of these issues are addressed in the five conditions attached in the Foreign Relations Committee proposed resolution of ratification, but we do not believe they go far enough in protecting both Senate prerogatives in the treatymaking process and the national security interest of the United States. These two areas of concern deal with, first, serious discrepancies in the Soviet declaration of the amount of their treaty-limited equipment, or TLE, located in the territory covered by the treaty at the time the treaty was signed on November 19, 1990, and second, whether the continued viability of the treaty would be in question if republics within the former Soviet Union were in the future to achieve independence and not accede to the obligations of the CFE Treaty.

Mr. President, while the Foreign Relations Committee included a condition that directed the President to continue to seek clarification on the discrepancies in declared Soviet TLE and to seek additional reductions in Soviet military holdings, this is, for all practical purposes, only a declaration of U.S. position, not a condition that will require any action to protect U.S. national security interest. The issue, Mr. President, is that significant differences still exist between the Soviet data declaration at the time the treaty was signed and United States intelligence estimates of the number of actual Soviet TLE in the territory covered by the treaty. The United States intelligence community has not yet reached a consensus on the actual number of TLE in the area limited by the treaty, but these differences range from the low thousands above the number the Soviets declared at the time the treaty was signed to tens of thousands. This equipment includes tanks, artillery, and armored combat vehicles—critical military hardware necessary for conducting war.

Mr. President, we believe that this discrepancy raises a significant question about the probity and good faith of Soviet negotiators. While the administration has expressed its intention to continue to work to achieve a resolution of this data dispute, it has not been able to do so in the year since the treaty was signed. In raising this issue, however, I make no judgment as to the military significance of this equipment or which U.S. intelligence estimate of unreported TLE is most accurate.

For me, Mr. President, the issue is one of principle and precedent. In short, if we ignore this significant discrepancy in the Soviet declaration, we will only undermine the integrity of the arms control process. While the data discrepancy ranges in thousands of tanks, artillery, and armored carrier vehicles, the military significance of this discrepancy is debatable. But if a proportional percentage of strategic nuclear ballistic missiles were at issue, the military significance would be unquestionable. In other words, if we do not take seriously this issue, we will only encourage future parties to treaties to falsify data declarations, and retain equipment that is otherwise slated for destruction. This is a dangerous precedent.

For this reason, I believe it is important for the United States to resolve the data discrepancy question before the United States assumes responsibility for its obligations under the terms of the CFE Treaty. Our additional views included a draft condition to the treaty that would serve to protect U.S. national security interest in this regard.

Mr. President, our second concern relates to the prospect of Soviet Republics, like the Ukraine and Belorussia, becoming independent states while at the same time not acceding to the terms of the treaty. While I do not believe that it is important for all states in Europe to be party to the treaty, it is critical that certain states, that currently have large military holdings or could potentially acquire such military holdings, must be party to the treaty. In testimony before the Armed Services Committee, administration officials testified that:

> It is the view of the Administration that in order to safeguard the integrity of the Treaty regime, it almost certainly would be necessary for Ukraine and Belorussia, if they were not bound as part of the USSR or any successor state, and retained significant amounts of equipment in Treaty categories, to accede to the CFE Treaty.

I agree with this assessment. But as I stated above, the CFE Treaty was negotiated with the bloc-to-bloc security structure of the cold war in mind. With the dramatic changes that have taken place in Europe, particularly in the Soviet Union since the failed coup in August, the very future of the former Soviet Union is in question. While we have received assurances from certain Ukrainian officials of their intent to accede to the term of the treaty, we cannot be sure an independent Ukrainian would do so, given the uncertain course of events in that region.

For this region, Mr. President, we believe that the resolution of ratification should provide for very specific procedures to be followed in the event that the Ukraine, Belorussia, of the Russian Republic were to become independent and not agree to be bound by the terms of the treaty. We believe that the condition attached to the Foreign Relations Committee's resolution of ratification does not go far enough in the regard to protect Senate prerogatives given the administration's testimony that such a situation would constitute a changed circumstance from that which exists now as the Soviet debates its advice and consent to the treaty.

Mr. President, it is my understanding that a possible amendment on secessor states along the lines of the one recommended in our Additional views will be proposed today. I intend to support that amendment, for I believe that the Foreign Relations Committee's condition does not satisfy our concerns on this issue.

Mr. President, I wish to conclude with a restatement of my support for the CFE Treaty. While I have certain concerns and questions about the treaty given the historic changes that have taken place in Europe where this treaty applies. I accept administration assertions that the treaty will serve to help mediate the further evolution of the State and security structure in Europe. Thank you, Mr. President.

Mr. BIDEN. In light of the fact there is no one else seeking recognition, I am prepared to yield back the balance of the time that was allotted for debate on this subject under my control for today.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. I yield back the time.

Mr. DOLE. Is time yielded back on this side?

The PRESIDING OFFICER. That is correct.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 2035 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

STATEMENT ON NO. 1409 SPECTER-DOMENICI AMENDMENT

Mr. LEVIN. Mr. President, I am a strong and long-time supporter of individual retirement accounts. One of the reasons why I voted against the Tax Reform Act of 1986 was that it greatly reduced the availability of IRA's. I am a cosponsor of legislation to restore the full availability of IRA's.

However, I could not support the amendment before us last night offered by Senator SPECTOR. First, it creates the one year illusion that the money withdrawn from the IRA is tax free. In fact, this amendment offers the prospect of an "April 15 surprise" for the next 4 years. If, for example, an individual withdraws $10,000 for the purchase of a home and spends all of that money in the year it is withdrawn, he will have to find thousands of dollars from some other source over the next several years to pay the taxes owed on the amount withdrawn.

Second, I am concerned that this amendment could lead to substantial and sudden withdrawals from financial institutions at a time when we are making efforts to restore the financial industry to health. As a result, instead of creating confidence, this amendment could be counterproductive and lead to further uncertainty in the economy.

SPEEDING BANK CLOSINGS

Mr. DECONCINI. Mr. President, the October 30, 1991, Wall Street Journal carried a letter to the editor which I commend to my colleagues. Written by Joan Conway Waller of Dallas, it responds to a Wall Street Journal commentary piece on September 23, 1991 on speeding bank closings. Ms. Waller raises some interesting concerns about this approach to saving our banking system and I urge the administation and the House and Senate Banking Committees to consider the issues she raises. I ask unanimous consent that the entire text of this letter to the editor be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 30, 1991]

Letters to the Editor

AUDITOR, SPARE THAT BANK!

Your Sept. 23 Outlook column stated that faster bank closings will cut Federal Deposit Insurance Corp. losses. The conventional widsom, which you repeated, is that the earlier the FDIC closes a troubled bank, the less cost the taxpayers have to bear. In many cases, this is not true. I am an attorney, and I practice primarily in the regulatory area of bank law. Many of my clients are troubled banks, which come to me when they cannot be saved, and I have seen a number of them fail. Therefore, my evidence is empirical, although I deny that I am an empiric.

In many instances, a troubled bank will have had a change of management in the three years before the bank fails, usually precipitated when the board discovers the extent of the bank's problems. Therefore, the management in place when the bank fails is not the management that created the bank's problems. Usually new managers spend their time working out the bank's problem assets by collecting loans and selling off foreclosed real estate. Capital continues to decline before failure, as the bank recognizes losses. If the bank manages to cover its overhead, before provisions for losses, then the problem loans and real estate are being handled by the private sector, and we taxpayers do not have to pay the salaries of government employees to manage these assets. However, most failing banks not only cover their overhead, but also make enough money to pay some, although not all, of the losses they will face on their bad loans and foreclosed real estate.

When a bank in this condition is closed, the FDIC typically tries to transfer all liability for deposits as well as all assets to an assuming bank. However, during the examination that leads to the closure of the bank, the bank's assets are written down to "fire-sale" values. I have seen examiners cynically write off loans that are *current* in their payments and tell the bank "you can take [payments as] a recovery to your loan loss reserve" during an examination when the examiners know they will force a failure. When the bank fails, these loans are shown on the bank's books at artifically low values. In addition, the winner in the FDIC's bid process usually acquires the assets at a discount. In Texas, discounts of 20% to 30% are not uncommon, so the winning bidder pays only a fraction of book value for assets that already have been written down below their true value. Who pays for this double discounting? The FDIC, and ultimately the taxpayers.

The FDIC guarantees that it will suffer a loss every time it closes a bank. Doesn't it make sense to work with banks to keep them open if they have good management? Management certainly has a lot more incentive, and usually more experience, than the government employees who would take over trying to collect the bank's bad loans and sell its real estate.

Time and again, we see demonstrated the fact that private industry does a better, faster or less expensive job than the government. In light of that, it amazes me that newspapers continue to swallow the FDIC's claim that only by giving it more money and letting it step in earlier will the taxpayers be saved even greater losses. While statistics can be manipulated to support this claim, empirical evidence and common sense prove otherwise.

JOAN CONWAY WALLER.

DALLAS.

TECHNICAL CORRECTIONS TO FARM BILL—H.R. 3029

Mr. DURENBERGER. Mr. President, I rise in support of H.R. 3029 which will provide many important and significant changes to the 1990 farm bill.

I would especially like to commend Chairman LEAHY and the ranking member, Senator LUGAR, for their work on this bill. The efforts of the chairman and ranking member, as well as other members of the committee, to resolve the many highly technical issues surrounding exemptions of products from meat and poultry inspection requirements must be recognized.

The provisions for exemptions from inspection in this bill avoid the technical errors that are present in the House approved legislation. Furthermore, the House legislation—which only concerns meat-topped pizza—is too narrow in scope.

It would be short sighted for only a pizza exemption to be authorized by this legislation, as was authorized in the House. If we were to exempt pizza alone, the Senate would later have to consider burrito amendments, egg roll amendments, and others.

The provision in this bill directs the Department of Agriculture to assess the public health implications when considering exemptions from inspection. Based on those considerations, exemptions from inspection may be granted when the Secretary determines that the public health would not be jeopardized.

In those cases where the Department determines that exemptions from inspection requirements may be granted without any increased risk to public health, those noninspected facilities that manufacture product for resale must comply with good manufacturing practices established pursuant to 21 C.F.R. 110 et seq. Failure to apply those public health protections would pose a threat to public health and warrant revocation of the inspection exemption authorized herein. I believe this is fair.

This provision is a good one and will benefit everyone in the food and nutrition industry. It is supported by the Community Nutrition Institute, Consumer Federation of America, National Consumers League, Public Voice for Food and Health Policy, Consumers Union, Center for Science in the Public Interest, American Association of Meat Processors, American Meat Institute, International Food Service Distributors Association, National American Wholesale Grocers Association, National Association of Meat Purveyors, National Food Brokers Association, National Frozen Food Association, National Frozen Pizza Institute, and Western States Meat Association.

I strongly encourage my colleagues on the Senate Agriculture Committee to insist upon acceptance of the Senate language regarding exemptions from meat inspection.

I would also like to commend the Committee for their work on high moisture corn loans. The failure to authorize these loans in the 1990 farm bill has caused a great deal of concern in Minnesota and I am pleased that this problem has been corrected.

Again, I would like to reiterate my support for this bill.

THE GAG RULE

Mr. GORTON. Mr. President, yesterday the Senate passed for the second time the 1992 Labor, Health and Human Services, and Education appropriations. For nearly 6 months I have worked as a member of the Senate Appropriations Labor, Health and Human Services, and Education Subcommittee to complete this massive spending bill which includes funding for such important programs as the National Cancer Institute, the Corporation for Public Broadcasting, lead poisoning prevention, the Job Corps, and chapter 1 education. However, this bill is slightly different from the original appropriations bill we passed just a couple of weeks ago. The difference is the absence of a provision which would have prohibited funds for the Department of Health and Human Services to carry out the gag rule.

Last spring the U.S. Supreme Court in Rust versus Sullivan upheld the 1982 regulations prohibiting title X family planning clinics from counseling on abortion. The Senate responded by passing S. 323, the Pregnancy Counseling Act of 1991. That bill, sponsored by Senator CHAFEE would reverse the decision by the Court and allow health care providers at title X clinics to continue the long tradition of nondirective counseling. I supported that legislation and commend Senator CHAFEE for his efforts.

In addition to the Pregnancy Counseling Act of 1991, I opposed the gag rule during consideration of this appropriations bill. By not providing funds for the Department of Health and Human Services to enforce this regulation, the provision in the earlier bill would have effectively repealed the gag rule. Despite threats of a Presidential veto, I stood by the first appropriations bill because it contained this important provision.

On Monday, however, the President followed through with his threat to veto the bill. Despite efforts by those of us who oppose the gag rule to compromise with the administration, the bill was returned to the House of Representatives with a veto message clearly stating that the gag rule was the basis for nonsignature. This Senator deeply regrets that the veto occurred and that the House failed to override by 12 votes on Tuesday. I have stated several times to my constitutents that I would have supported a similar veto override effort in the Senate were it necessary.

Of the three counseling options: prenatal care, adoption, and pregnancy termination, I obviously find the last the most tragic and undesirable. However, as long as abortion remains a legally protected right, it should not be the role of the Federal Government to censor discussion of that right. I will continue to work with Members of the Senate and the administration to overturn the gag rule. I must respect and protect the professional duty of health care professionals to disclose fully, in a nondirective fashion, the legal and medical options to a woman requesting information.

Health care professionals who dedicate their lives to serve others, and women whose lives depend on their advice, deserve freedom to discuss their difficult decisions.

HOUSE IS HOLDING UP CONFERENCE ON OLDER AMERICANS ACT

Mr. McCAIN. Mr. President, on November 12 the Senate adopted the Older Americans Act reauthorization bill and appointed conferees in the hope that this important legislation might be conferenced and signed into law before Congress recesses for the year. It is of great concern to this Senator, who is a sponsor and strong supporter of the Older Americans Act reauthorization bill, that the House appears to be holding up final action on this critical legislation for our Nation's seniors by not appointing its conferees.

As my colleagues know, the Older Americans Act provides for a number of programs that are essential to the livelihood of our Nation's most vulnerable elderly. It provides for an array of programs on which millions of older Americans depend—vital services including nutrition programs, seniors centers, community and social services, legal services, nutrition and health promotion programs, and care for frail and homebound seniors. In addition, the act provides job opportunities and protects the basic rights of seniors.

While current law certainly will continue if the reauthorization bill is not signed into law before the end of the year, the effect of this bill's delay will be very serious. For example, delay blocks an additional $70 million in funding for the commodities program that is the nutritional life-line for low-income seniors. Delay also blocks a critical new home health care program that was to have served as an alternative to institutional care. And, delay blocks the critical new elder rights program that was to tackle the tragedy and disgrace of elderly abuse.

Mr. President, this reauthorization bill is critical to improving the lives and well-being of millions of older Americans. It is unconscionable, in my view, that this legislation is being held up as a result of the House not appointing conferees.

Perhaps the fact that House conferees have not been appointed is an oversight, but I fear it is instead a ploy to avoid having to deal with the Senate's proposal to repeal the last bastion of age discrimination—the Social Security earnings test.

Mr. President, this proposal was adopted unanimously in the Senate and enjoys the support of a majority in the House. What's more, just as is the case with the Older Americans Act reauthorization bill, this proposal enjoys the support of seniors all over this country and of virtually all of our Nation's major seniors organizations. Accordingly, Mr. President, it is my sincere hope that the House will soon appoint its conferees so that we can complete consideration of this critical legislation and sent it to the President for his signature before we recess for the year.

JULIE JOHNS TO BE HONORED BY 1991 NATIONAL CARING AWARD

Mr. DOMENICI. Mr. President, it is my pleasure to announce that 17-year-old Julie Johns of Albuquerque has been named one of America's most caring people by the National Caring Institute. Johns will be honored with the 1991 National Caring Award at a ceremony in Washington DC, in December.

I am very pleased that Julie has been recognized for her selflessness and commitment to reaching out and helping others. This is not only a special award because Julie has been recognized as one of the most caring people in America, but it is also very special because these awards mark the formal beginning of the Hall of Fame For Caring Americans in Washington DC.

My congratulations go out to Julie. Johns was recognized for her work of almost 4 years with abused and abandoned children. While a freshman at Albuquerque Academy, Johns volunteered with Casa Angelica, a home for children who have severe cerebral palsy. As a volunteer with all Faiths, a receiving home for children whose parents are incarcerated, Johns tutored, conducted therapy, organized, and participated in holiday events and parties.

During her senior year, Johns completed a 6-week internship with Peanut Butter and Jelly, a therapeutic preschool for developmentally disabled children and their parents. Johns is currently a freshman at Vanderbilt University in Tennessee.

Twenty-one Americans were chosen by the Caring Institute among hundreds of people nominated. Twelve adults and nine young people were selected.

Recipients of the award will be honored at a ceremony in Washington DC, on December 5. The ceremony will also be the dedication of the Frederick Douglass Museum: the Hall of Fame for Caring Americans. The museum is the former Capitol Hill residence of Frederick Douglass.

Each of the recipients will receive a bronze statuette specifically designed for the purpose by the sculptor Frank Eliscu, probably best well known for having designed the Heisman trophy.

Julie is a very special and exceptional individual. She represents a high standard of social responsibility and is thereby a role model for the community.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,443d day that Terry Anderson has been held captive in Lebanon.

THE COMMITTEE REPORTED BILL TO H.R. 3029

Mr. LEAHY. Mr. President, I ask unanimous consent that a joint statement prepared by myself and Senator LUGAR be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REGARDING THE COMMITTEE REPORTED BILL TO H.R. 3029 FOOD, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

The Committee on Agriculture, Nutrition, and Forestry of the Senate did not prepare a committee report to the bill reported on November 21, 1991, the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991", due to the short time remaining in the 1st session of the 102d Congress. Instead, the following statement reflects the intent of the Committee on the purposes and interpretation of the amendments which shall guide the Administration, in particular, the Department of Agriculture, in their implementation of the provisions contained in the Committee reported bill and additional guidance on other items contained in the Food, Agriculture, Conservation, and Trade Act of 1990 ("FACT Act").

The Committee reported bill contains a number of revisions and additions to the bill reported by the Committee on Agriculture of the House of Representatives. The amendments are largely technical or minor in their changes to the programs of the FACT Act. The subject areas of this bill include the agricultural commodities, conservation, trade and food aid, research, credit, crop insurance, Federal disaster assistance, rural development, agricultural promotion, food and nutrition, and miscellaneous technical corrections to agricultural authorities.

Cover Crops on Reduced Acreage. The Agricultural Act of 1949, as amended by the FACT Act, requires producers who participate in an acreage reduction program to plant an annual or perennial cover crop on fifty percent of the acreage that is required to be removed from production. Section 106 of this bill amends this cover crop provision by allowing voluntary annual or perennial covers to be maintained on these lands instead of having to establish such cover. The 1949 Act includes an exemption from this requirement for arid areas (including summer fallow areas), as determined by the Secretary, and this exemption is retained.

The Committee recognizes that the final seeding dates established by the Department for these cover crops in 1991 achieved a balance between the important goals of protecting soil and water resources and wildlife protection, while allowing farmers the flexibility to deal with weed control and other agronomic problems in their fields. The Committee believes the Department should continue to make similar determinations in 1992 and beyond, and achieve this same balance between these objectives.

Limited rainfall in certain geographical areas of the country, and especially in the Great Plains region, prevents producers from planting for harvest a crop in successive crop years. Instead, a portion of land must lie fallow each year for the primary purpose of conserving both topsoil and subsoil moisture. The subclause exempting arid and summer fallow areas from the cover crop planting requirement recognizes this common agronomic practice, and provides relief from the provision for areas where such a requirement may contradict prudent farming decisions.

The Committee intends that the 1991 determination of such arid areas shall apply to crop years 1992 through 1995.

Peanut Quota Fall Transfers. Section 358b(a) of the Agricultural Adjustment Act of 1938, as amended by section 803 of the FACT Act, permits so-called fall leasing of unfilled quota from one qualifying farm to another, provided sufficient acreage had been planted on the transferring farm to have produced under normal circumstances 90 percent of the basic farm quota. Previously, the law required plantings that under normal circumstances would have produced the quota of the transferring farm. The change was made to give greater flexibility to the program and to assure adequate production of quota peanuts to meet domestic needs. Certainly, it was the intent that producers be allowed to take full advantage of the fall leasing provision.

The Department, however, in regulations issued pursuant to the FACT Act, has placed a new restriction [7 C.F.R. 279.212(e)(iii)(B), 56 Fed. Reg. 16219, 38320] on fall transfers not intended by the FACT Act. The regulatory restriction, under certain circumstances, will not permit the fall transfer of unmarketed quota. The new regulations creates a particular hardship for many farmers who, because of last year's severe drought, were not able to produce their normal crops. The restriction could also work to limit the supply of peanuts for domestic food consumption in short crop years, such as 1990.

The change made by the Congress in the FACT Act relating to fall transfers did not intend any such restriction or limitation as the Department prescribed by regulation. The technical amendment to peanut title contained in section 124 of this bill would require the Department to revise the regulations by removing the limitation provided under 7 C.F.R. 729.212(e)(iii)(B) so as to bring the regulations into conformity with the FACT Act and the intent of Congress.

Integrated Farm Management. Section 201 of this legislation makes changes involving "traditionally underplanted acres" as they relate to the Integrated Farm Management (IFM) provisions of the FACT Act. The Committee intends that an IFM program participant may elect to assign traditionally underplanted acres, other than 0/92 acres, to the participant's "triple base" acres. This is the same treatment accorded producers with traditionally underplanted acres who are in the wheat, feed grain and other commodity programs, and it is the Committee's intent that producers receive the same treatment in this regard whether or not they enroll in the IFM program. Traditionally underplanted acres shall result in reduced payments only to the extent that total payment acres would otherwise exceed the net of total permitted acres minus traditionally underplanted acres.

The Committee also calls attention to the definition of "legume" and "grass" in the IFM provisions. It is the intent of the Committee that resource-conserving legume and grass crops include the full range of such crops used for soil building and nitrogen fixating purposes. It is further the intent of the Committee that such crops may be harvested for seed from permitted and setaside acres, except for bean crops. The Committee also intends that participants be permitted to incorporate existing cropland stands of perennial crops into the IFM farm plans.

Farms for the Future. In section 203, the legislation makes changes to the "Farms for the Future Act of 1990."

The Committee believes that under the terms of the FACT Act, USDA already has the authority to implement this program. However, the program was not implemented to provide funds to Vermont even though the Comptroller General has concluded that the State is entitled to the funds.

The changes in this legislation were made because the Department has issued draft regulations that are contrary to the intent and purposes of the Act.

The law requires, as the Conference Report on the FACT Act stated, that the Department of Agriculture was required to provide funding to the State of Vermont for farmland preservation. These changes make it clear that these funds are to be provided to the State of Vermont.

Alternative Agricultural Research and Commercialization Center. The intent of Section 1663(a)(2) of the FACT Act was to require the Secretary to establish regional centers once a fiscal year appropriation threshold of $5,000,000 was reached for the Alternative Agricultural Research and Commercialization Center. However, the statutory language was unclear, allowing an incorrect interpretation that the establishment of each of the regional centers would require an appropriation of $5,000,000 thus requiring that $30,000,000 be appropriated before six regional centers could be established. Section 405 of this bill clarifies the law to ensure that once $5,000,000 is appropriated, the Secretary shall establish at least two, but not more than six, regional centers. In addition, it will allow established regional centers to continue operating in years in which less than $5,000,000 is appropriated.

FmHA and Lands on Indian Reservations. Section 610 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985) was included because Congress intended to prevent Indian-owned land on a reservation from passing out of Indian ownership as a result of any action by the Secretary pursuant to a lien held by the United States under a Farmers Home Administration (FmHA) loan or loan guarantee. It was the intent of Congress that all such land that an Indian borrower-owner is forced to relinquish title to be placed in FmHA's inventory and disposed of as provided for in that section. However, the Committee has been informed that the intent of this provision has not been achieved because the provision did not make it clear that the Secretary is to place all such land into inventory, not just administer, pursuant to section 610 of the 1987 Act, that land which happens to end up in inventory. As a result, it appears that the Secretary is selling Indian reservation land at foreclosure sales or encouraging or assisting in such sales prior to foreclosure.

To halt such sales, Section 501(f) of this bill requires the Secretary to take real property into inventory by accepting a borrower-owner's offer to voluntary convey or by bidding the higher of the fair market value of the property or the outstanding principal and interest of the loan at the foreclosure sale, if the delinquent borrower-owner is an Indian tribe or member of the tribe and if the real property is located within an Indian reservation. It provides an exception to that requirement if there are hazardous wastes located on the property. In that case, the Secretary shall accept a voluntary conveyance or bid the higher of the fair market value of the property or the outstanding principal and interest of the loan at a foreclosure sale only if it is the best interest of the Federal government.

The Committee does not intend this exception to allow FmHA to circumvent the intent of this provision, which is to retain as much Indian reservation land within Indian ownership as possible. Thus, the Committee expects this exception to be rarely used, and only when there are significant hazardous wastes on a property, and the cost of cleaning up those wastes is significant in comparison to the fair market value of the property. For example, it is not the Committee's intent for the Secretary to determine that it is not in the best interest of the Federal government to accept a voluntary conveyance or bid at a foreclosure sale because there is a buried gasoline storage tank on the property, or a pile of rubber tires, pesticide jugs or batteries.

Packers and Stockyards. Section 1008 provides that auction businesses that sell cattle by video or satellite would be authorized to collect branding inspection fees. The terms 'market agency' or 'dealer' shall not include a feedyard buying or selling livestock on its own account or on behalf of a customer.

APHIS User Fees. Section 1014 of the bill authorizes the Secretary to use any funds collected from international air passengers to be used to fund commercial aircraft inspections. This may allow the proposed commercial aircraft inspections. This may allow the proposed commercial aircraft inspection fee to be significantly reduced. When actual passenger collections lag behind costs, the Secretary may still have to implement an aircraft arrival fee based on existing aircraft arrival data (currently 246,000 per year).

The industry and the Animal and Plant Health Inspection Service (APHIS) disagree over what is the correct traffic estimate. Because of this disagreement, the Committee believes APHIS should consider using the figures of an independent agency not having an economic interest in this matter such as the Immigration and Naturalization Service (INS). The Committee recognizes that the Customs Service and the Department of Transportation currently uses INS traffic figures when estimating incoming international traffic. The Committee urges APHIS to review its traffic estimate procedure to determine why there is such a large discrepancy between APHIS and INS figures.

The Committee also emphasizes that it is the responsibility of APHIS to fully collect user fees from all carriers in a timely manner. Implementing an aircraft inspection fee due to collection difficulties merely results in paying carriers subsidizing nonpaying carriers. The Committee is concerned that U.S. carriers could end up subsidizing foreign carriers, thereby reducing the economic competitiveness of domestic carriers.

AID Subcontractors. Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended by 1501 of the FACT Act, applies to freight agents used by the Agency for International Development (A.I.D.) under titles II and III without regard to whether the agent is engaging as a prime contractor or a subcontractor. The statute speaks of a single contract covering the services of freight agents, broadly described, which include both freight forwarders and charter brokers. This interpretation is consistent with A.I.D. practice.

GSM Export Credit Guarantees. The Committee is concerned about incidents where state trading enterprises (and former state trading enterprises) in nonmarket economies have failed to honor existig contracts with United States individuals and businesses. In light of such incidents, some members of the Committee believe that GSM export credit guarantees, made available to counties where a state trading enterprise (or former state trading enterprise) has failed to honor existing contracts or agreements with United States individuals and businesses should carefully be reviewed and considered.

Horse Protection. The Committee is aware that the National Horse Show Commission and APHIS are jointly developing written guidelines for inspections at horse shows, exhibitions, sales, and auctions. The Committee supports this improvement to the enforcement of the Horse Protection Act and urges the Department to work with the horse industry to make other necessary improvements to the enforcement program before the start of the 1992 show season.

Cost Estimate. Congressional Budget Office final cost estimates of the bill were not available at this time. The Congressional Budget Office has prepared a preliminary cost estimate of the bill, which indicates that the bill will not add to the Federal deficit, and will result in no change in direct spending.

LABOR-HHS APPROPRIATIONS BILL

Mr. CHAFEE. Mr. President, I supported the Labor-HHS appropriations bill approved by the Senate last night, but I did so with some reservation. Last week, we sent this bill to the President with a provision that would have delayed implementation of the gag rule for 1 year. The gag rule, as we all know, refers to 1988 HHS regulations which prohibit federally funded family planning clinics from providing any information to pregnant women about pregnancy termination, even when they ask for such information. The President vetoed this bill and the House failed by 12 votes to override the veto. In the interest of ensuring that the many programs in the Labor-HHS bill are funded, the measure before us no longer contains this critical delay of the gag rule. This is unfortunate.

Ever since this gag rule was imposed, I and many of my colleagues in the House and the Senate, have devoted a great deal of time and attention to trying to have it removed. I introduced legislation to overturn the regulations, and this measure was approved twice, once in the form of an amendment to the title X reauthorization legislation, and once a free-standing bill. Both the House and the Senate have approved, by large majorities, the provision which would delay implementation of the regulations, to give us time to try to work out a solution to this problem.

Since July of this year, I have been negotiating with representatives of the administration to try to reach some sort of acceptable compromise on this issue. After 4 months, we reached an agreement that I thought was fair. It was not optimal from my perspective, but after all, that is what compromise is all about. Unfortunately, that agreement was not acceptable to all parties in the administration, and thus we were unable to avoid the veto confrontation.

The President has assured me that he does not want to interfere with the free speech right of doctors, and that he does not want to impose any sort of gag on doctors. Pursuant to this objective, he issued a memorandum on November 5 to the Secretary of Health and Human Services, which says that the regulations will allow a woman to receive complete medical information about her condition from her physician. Secretary Sullivan, in turn, sent a memorandum to Dr. James Mason, Assistant Secretary for Health, instructing him to implement the regulations in accordance with the principles outlined in the President's memorandum. I ask unanimous consent that both of these documents be entered into the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. There has been a great deal of debate about the effect, if any, of these memorandums on the implementation of the regulations. Some say that they are completely extra-legal, and therefore have no effect—the gag rule is still intact. Others say that doctors will be able to discuss any topic freely with their patients—the gag has been removed for doctors. Looking just at the memos, there is some uncertainty as to what the result of the President's actions are.

The President has stated publicly and privately that his intention is, and I am quoting here, "to allow patients and doctors to talk about absolutely anything they want." The President so stated in a press conference on November 8 when he was in Rome. I ask unanimous consent that the contents of this press conference be entered into the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHAFEE. I am heartened by this statement. But I must also point out that it is not consistent with the regulations, which specifically prohibit free discussion about pregnancy termination. It is my hope that those responsible for implementation of these regulations will enforce them in the spirit of the President's remarks. This will at least solve part of the problem.

But I must point out that there is still much at issue. While doctors may be allowed to talk freely with patients, it is clear that other health care professionals such as nurses, physician assistants and trained clinicians are still gagged. It is well-known that the title X program relies heavily on these other medical professionals. While there is always a medical director of the clinic who is responsible for the program, that doctor is rarely available to counsel women.

Most often, when a woman comes into a family planning clinic, she sees a nurse or a physician assistant, not a doctor. By allowing only doctors to provide information to women, the administration is telling us that these other professionals are not capable of providing basic information to women about health care. This is an insult to these professionals who are a critical component in the provision of quality and affordable health care services for low-income women and their families.

In addition, the memorandum reinforces the regulations' prohibition on referral for pregnancy termination services. The regulations make it very clear that the women are to be referred only for prenatal care to full service health care providers. That full service provider may also provide pregnancy termination services, but it also may not provide such services.

I would point out that in my home State of Rhode Island, there is only one full service health care provider that also provides pregnancy termination services. That provider is Women and Infants Hospital in Providence, but they only provide pregnancy termination services when there are severe medical circumstances, not first trimester, uncomplicated pregnancy termination services. Under these regulations, a woman in Rhode Island who asks where she can go to terminate her pregnancy would be referred to Women and Infants Hospital. She would go over there and only to find out she cannot have her pregnancy terminated there. So she would have to go to yet another place. This is cruel. Why should these women be sent on a wild goose chase?

These issues remain unresolved. We may have resolved the issue for physicians, but clearly, that is not enough. The gag is still intact for the majority of health care providers in title X clinics, and poor women still will not get full information about what their legal and medical options are and where they can go for services.

So, I voted for the measure last night because I want to see these programs funded. But, I will be back with my legislation to overturn the gag rule when we reconvene in January. I will continue to bring this issue before the Senate until we can ensure that low-income women get the same quality of health care services that other women rightfully expect and receive from private health care professionals. A women who asks a medical question, whether she is rich or poor, deserves an honest answer. This is a simple and basic concept, and one that I intend to see carried out.

EXHIBIT 1

TRANSCRIPT OF PRESS CONFERENCE OF THE PRESIDENT, NOVEMBER 8, 1991

Q: Mr. President, those House and Senate leaders you just referred to got a bill passed in both houses this week which overturned your ban on abortion counseling and family planning clinics. Will you veto that, and why?

President BUSH. You know, the argument—this is a domestic issue here. The argument was the gag rule, the keeping patients from talking to their doctors about any array of options. That was the argument. That was the debate. You go back and look at the clips and look at some of the stories that were written, it is the patient-doctor relationship that people were arguing about. They were saying you are gagging doctors from giving a patient any solution they wanted.

That has been resolved by a directive from me to the secretary of HHS so it is no longer the question. Now they've got—somebody has some other ideas on that. But I will veto the legislation and get the veto sustained, and I already have taken care of quote, the gag rule, unquote, about which this was about.

Now, there are some other aspects of it on abortion where I have a difference with the Congress, a standing difference with them.

But on the gag rule, it is important to note that matter has been resolved. And clearly, under my directive, they can go ahead, patients and doctors can talk about absolutely anything they want, and they should be able to do that.

But let's not lose sight of what the argument was a few months ago when this first came out. It was the prohibition of a person to talk—the alleged prohibition of a person to talk to a doctor on—about abortion, or about having a doctor recommend abortion. That matter has been resolved.

So therefore, I think with that underway I will then go ahead and veto the bill and hope that it is sustained.

Q: Mr. President, you said that your ideas for an economic growth package are on the Hill and they won't do anything about them, the Democratically controlled Congress.

If that's the case, are you saying you can't do anything to help with the recession right now, you're helpless?

President BUSH. I think we're—I think you see these interest rates down, I think that will help tremendously. I think avoiding breaking the budget agreement will help.

* * *

EXHIBIT 2

THE WHITE HOUSE,
Washington, November 5, 1991.

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

Throughout the debate about the relationship of the Title X family planning program and abortion counseling, some have raised questions about the regulations dealing with services offered to pregnant women.

We must ensure that the confidentiality of the doctor/patient relationship will be preserved and that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care.

In order to clarify the purpose and intent of these regulations, I am directing that in implementing these regulations you ensure that the following principles, inherent in the statute, are adhered to:

1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.

3. If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.

4. Referrals may be made by Title X progress to full-service health care providers that perform abortions, but not to providers whose principle activity is providing abortion services.

I am determined to assure the integrity of the Title X program in its mission to provide family planning services to low-income individuals; adherence to this guidance will produce this result.

GEORGE BUSH.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, November 19, 1991.

To: James O. Mason, M.D., Assistant Secretary for Health.
From: The Secretary, Louis W. Sullivan.
Subject: Implementation of the Title X Regulations.

On November 5, 1991, the President expressed to me his decision that, in implementing the Title X regulations, the Department of Health and Human Services should adhere to the following four principles:

1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.

3. If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.

4. Referrals may be made by Title X programs to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services.

My General Counsel has advised me that the directive contained in the President's memo of November 5, 1991, is fully consistent with all relevant statutory and regulatory authorities. Accordingly, I direct you to interpret and enforce the Title X regulations in accordance with the four principles that President Bush has articulated. Moreover, before issuing interpretations or program instructions relating to Title X, you should obtain assurance from the General Counsel that your guidance is consistent with this directive.

I am committed to preserving the confidentiality of the doctor-patient relationship and ensuring that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care. I know that I can count on you and the entire Public Health Service to assist me with this mission.

ADDITIONAL REMARKS OF SENATOR GORE ON FINAL PASSAGE OF S. 272, HIGH-PERFORMANCE COMPUTING ACT

Mr. GORE. Mr. President, yesterday, the Senate approved without objection a House-Senate compromise version of S. 272, the High-Performance Computing Act. I would like to take a few minutes to discuss the difference between the version of S. 272 approved by the Senate on September 11 and the bill passed last night. For the most part, S. 272 and the House version of the bill, H.R. 656, were quite similar and the compromise is not radically different from the legislation approved previously by the Senate.

One of the most obvious differences between the House and Senate versions was that the House bill contained several so-called buy America provisions that would have made it more difficult for Federal agencies participating in the High-Performance Computing [HPC] Program to make procurements from foreign companies. Both the U.S. Trade Representative and Dr. Bromley, the Director of the Office of Science and Technology Policy, have written letters saying they would suggest to the President that he veto the bill if this language was included in the final version of the bill.

Since the Senate bill did not include these provisions, and because of opposition to the provisions in both the Senate and the administration, in the final version of the bill the buy America provisions were substantially softened. Rather than requiring congressional approval of any procurement from other than an eligible American company, the compromise bill would require an annual report listing all procurements over $1 million from foreign countries and all research grants to foreign institutions. In addition, the Technology Administration of the Commerce Department is required to report on the implementation of the United States-Japan supercomputer agreement. Lastly, there is a language making clear that nothing in the bill changes the applicability of the Buy American Act to procurements made under the HPC Program.

The buy America provisions added to S. 272 in the House do raise an important issue—how Federal procurements can be used to advance U.S. technology. Other countries have a clear policy whereby the Government uses its procurement dollars to stimulate homegrown industry. In many cases, if a given product is available in the home market, the Government would buy it, even at a substantially higher price. In other cases, the situation is less black and white, but the effect is the same—Government dollars directly or indirectly assist domestically owned firms.

In many cases, U.S. supercomputer companies have benefited from the early purchase of new models of supercomputers by Government agencies. Often, these new systems have hardware and software bugs that need to be fixed, and by working with researchers at the national labs, the NSF supercomputer centers, and elsewhere, these companies have been able to debug and upgrade their systems. Section 207(b) of the bill encourages such arrangements.

Many idealogues in the administration argue that the Federal Government should not make any distinction between United States and foreign firms—ever. In many high-technology fields that makes no sense whatsoever. Federally funded researchers need to do more, not less, to assist the U.S. high-technology industry. In addition, if a Federal agency is using supercomputers to develop software for designing the next generation of figher aircraft, for national security reasons it is best if the supercomputers used are American-made so that the software designers can freely discuss problems they might be having with the hardware. And they can work together on modifications that would make their software run more effectively. If the supercomputer is foreign-made, it is much more difficult for U.S. researchers to share their software and their technology.

The final version of S. 272 will provide Congress with a clearer picture of how procurements are being made under the HPC Program. The report called for in the bill will clearly identify procurements of foreign supercomputers and other technology. It will allow the Congress to determine whether monies authorized by the bill are helping U.S. high-technology industry to the maximum extent feasible. This is an important issue, one that, as chairman of the Science, Technology, and Space Subcommittee, I hope to explore in hearings next year.

There are a number of other significant differences between the Senate version of S. 272 and the final version. The House and Senate bills differed in the way they authorized funding for the HPC Program. The House authorized both existing and new programs—a total of almost $3 billion during the next 5 years—while the Senate bill authorized only new, additional funding—a total of $1.019 billion. It is worth noting that neither bill authorizes funding for the Defense Advanced Research Projects Agency at the Defense Department, which over the next 5 years will total over $1 billion. For fiscal year 1992, DARPA requested a total of $232.2 million for high-performance computing research and development. When both existing programs and the new initiative authorized by this bill are added together, funding for the High-Performance Computing Program will total over $4 billion for fiscal years 1992-96.

In the compromise bill, we used the House's approach and authorized both new and existing programs. In addition, the compromise includes language stating that the funding would be out of existing authorizations, which would include current and future NASA or NSF authorization bills, for instance.

Another important addition to the bill were House provisions authorizing high-performance computing efforts at the Department of Education, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration. Although these agencies are not the largest contributors to the HPC Program, each will play an important role. NOAA, and especially the National Weather Service, have been pioneers in using supercomputers for weather forecasting and climate prediction. EPA researchers have developed state-of-the-art computer models of the formation and transport of smog. And the Department of Education has begun to develop new ways to use computers and networks in education. Although the Senate version of S. 272 did not include provisions on the Department of Education for jurisdictional reasons, I was glad we could incorporate such provisions in the final version. Some of the most exciting applications of advanced computing are in education, and the Department of Education has a key role to play.

There are many, many minor changes that have been made to the bill that passed the Senate in September. Three new definitions were added under section 4. The definition of "high-performance computing" was added to make clear that the HPC Program is to accelerate development and application of all types of leading edge computers, as well as high-speed computer communications technology. At several of the hearings held on S. 272, witnesses testified that computing and communications had actually merged. In many cases, it is now difficult to determine where the computer ends and the network begins.

The word "Network" refers to the National Research and Education Network, a national computer network connecting millions of computers around the country. It is worth noting that there are many different ways to define a network.

There is the physical definition. Using that definition, the network is defined as an assembly of connected cables or optical fibers.

There is the bureaucratic definition. In that case, you delimit networks according to who controls them. So, an agency's network is defined as those communications links that the agency can turn off if it wishes.

And there is the functional definition. A network is defined as all the communications links that link one computer to all the other computers with which it can communicate. That is a practical, easy to understand definition, and it is the one assumed in this bill.

So the National Research and Education Network, as defined by the bill, will consist of hundreds, even thousands, of smaller subnetworks. These subnetworks will be controlled and paid for by more than a dozen Federal agencies, by the States, by colleges and universities, and by the private sector. Each subnetwork will use compatible communications protocols and equipment so that traffic from one network can be transmitted via other networks. In this way it will be like the national telephone network, which consists of subnetworks run by hundreds of local phone companies and long-distance carriers, all interconnected.

It is worth noting that the NREN will rely largely on the existing physical network of telephone cables. In many cases, the same fiber optic cable that carries telephone conversations will be carrying NREN traffic. The NREN will not require installing a wholly new fiber optic network.

It is also important to note what the NREN does not include. When the bill refers to the Network it is referring to the communications links and servers transmitting data between computers attached to the network, but not to the computers themselves.

Section 101 of S. 272 instructs the President to implement the National High-Performance Computing Program, lays out the goals and components of the program, defines the role of the Director of OSTP in carrying out the program, and mandates that the President establish an advisory committee on high-performance computing. There were only minor changes made to this section. The bill that passed the Senate stated that "The President shall establish and, though the Director of OSTP, coordinate a National High-Performance Computing Program." The final version reads, "The President shall implement" the Program, and "The Director shall provide for interagency coordination of the Program." The language is basically equivalent. Under the bill, the Director, though the Federal Coordinating Council for Science, Engineering, and Technology [FCCSET], which he chairs, will work with the agencies to ensure that OMB is presented with a comprehensive, balanced annual research funding request. In that way, the agencies themselves, and the people who know their programs best, will do the difficult work of setting priorities for the program and deciding the role of the participating agencies. This is much preferred to having each agency submit funding requests that duplicate or fail to take into account other agencies' programs.

This was one of the main reasons that the Congress created the Office of Science and Technology Policy in 1976. More and more, scientific and technical problems are so complex and broad that they cannot be addressed by one agency alone. Global change is an excellent example. Understanding the entire Earth system will require NASA satellite programs, university research funded by the National Science Foundation, oceanographic research funded by the National Oceanic and Atmospheric Administration, as well as programs at many other agencies. For more than 2 years, OSTP and FCCSET have been coordinating Federal global change research programs. The Committee on Earth and Environmental Sciences of FCCSET has prepared budget crosscuts showing how the different agencies' global change research programs relate to each other and contribute to the U.S. Global Change Research Program. Working together, the members of FCCSET have identified ways for researchers from their agencies to work together more effectively. They have succeeded in making the whole greater than the sum of the parts. The result has been a more cost-effective, more successful program.

Section 102 of the bill instructs NSF, the Defense Department, the Energy Department, the Commerce Department, NASA, and other agencies to support establishment of the NREN. It also makes clear that by 1996, parts of the network are to be capable of transmitting data at rates of at least one gigabit per second. Today, the fastest portions of the NSFNET and the Internet operate at 45 megabits per second. This represents a 30-fold increase in just 2 years. Even with this increase, the current network is fast becoming saturated; for the last 2 years, the amount of traffic on the NSFNET has grown at 10–15 percent per month. We need gigabit technology to deal with this ever increasing demand for bandwidth from the research, education, and business communities.

In the final version of the bill, section 102, which lists the characteristics of the Network, includes some small changes to the Senate's version of the bill. One provision states that the Network shall "link existing Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy within each component network." This means that the various networks must use compatible communications protocols and hardware. However, the bill makes clear that if a network provider determines it no longer wishes to be connected to the NREN, is has the option of disconnecting from the NREN.

This subsection of the bill also makes clear that most of the NREN will be built and run by the private sector. Much of the traffic on the NREN will be carried by lower-speed links which could be purchased from the private sector. On the other hand, the highest-speed links of the NREN are to be capable of transmitting data at a rate of billions of bits per second. At least initially, such high-speed networks will be experimental and will not be commercially available. In that case, the hardware and communications software needed will be developed and provided by industry and federally funded researchers at universities and government laboratories.

Title I of the bill also includes a provision on the key role that the Defense Advanced Research Projects Agency [DARPA] will play in developing gigabit networking technology for the NREN. DARPA has been developing computer networking technology for more than 25 years and is lead agency for developing NREN technology under the HPC Program. DARPA will also play a key role in developing the next generations of supercomputers. Even though DARPA will receive more funding for the HPC Program than any other agency, for jurisdictional reasons, S. 272 does not authorize funding for DARPA.

Title II of the bill defines the roles of the agencies participating in the HPC Program. Aside from the addition of provisions on the role of NOAA, EPA, and the Department of Education, and the new section 208 on fostering U.S. competitiveness, only minor changes were made to this title.

The language on NSF's role in the program makes clear NSF's prominent role in the program and the Network. NSF and DARPA account for more than two-thirds of the funding for the program. NSF is funding computing research at hundreds of colleges and universities throughout the country and manages NSFNET, the largest component of the Internet.

Section 203, which describes the Energy Department's role in the HPC Program and instructs the Secretary of Energy to establish collaborative consortia for high-performance computing research and development. These consortia will be like that being planned at Oak Ridge National Laboratory and involving the University of Tennessee and other universities, as well as industry. Unlike the Senate version of the bill, the final version includes specific authorizations for DOE, based on administration estimates.

Another significant change was made in section 204. The authorizations for the National Institute of Standards and Technology were somewaht reduced. Even with the reductions, authorizations for NIST rise from $3 million in fiscal year 1992 to $7 million in fiscal year 1996. This additional funding is essential if NIST is to carry out the responsibilities under the act for computer security, networking standards development, and basic and applied measurement research.

Once again, I thank my colleagues for their support of S. 272. I hope that this explanation clarifies some of the new language included in the final version of the High-Performance Computing Act.

SALUTE TO SENATOR ROTH

Mr. DOLE. Mr. President, this past week as we considered the unemployment bill, we witnessed a striking example of how well this system can work. We witnessed not only how it works when both sides of the aisle come together to resolve difficult legislative issues—but we also witnessed how one Senator can make a difference.

Of course, those who watched the process unfold last Thursday evening—and on into Friday—know that I am talking about BILL ROTH, the distinguished senior Senator from Delaware.

Last week's objective was to get an unemployment bill passed. Senator ROTH agreed with that objective, but he was not about to let it go through until he was satisfied that his home State of Delaware received its fair share of unemployment benefits.

I want to salute Senator ROTH for his dedication and for his key role on producing the compromise bill.

He is a solid legislator who is respected on both sides of the aisle on many issues.

Mr. President, I have to believe that this Thanksgiving a lot of unemployed Delawareans are going to be thankful for the leadership of BILL ROTH.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRENGTHENING EDUCATION FOR AMERICAN FAMILIES ACT

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader our interest in proceeding to consideration of S. 2, that is the education bill now on the calendar. I believe it to be an important bill, and hope that we can proceed to it.

And accordingly I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 69, S. 2, a bill to strengthen education for American families.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object—and I shall object—but I want to concur with the statement of the majority leader. This is an important bill. There are negotiations underway even as we speak, I believe, with the Education Department, Secretary Alexander, members on the Labor-Education Committee.

But I, having said that, am constrained to object at this time. But I would hope that by next year, early next year, we will be in a position to pass this bill very quickly.

Therefore, I object.

Mr. MITCHELL. Mr. President, I am disappointed at the objection, and I will now state my intention to make a motion to proceed to the bill and to file a cloture motion on that motion to proceed prior to the end of this session of this Congress.

So that the first order of business when the Senate reconvenes on, as it now expected, January 21, 1992, will be a vote on a cloture motion on a motion to proceed to the education bill. I think it is of great importance. I regret that we cannot deal with it in this session, in view of the objection just made. But I want to state that I intend it have the highest priority and, therefore, it will be the first order of business on the very first day that the Senate is back in session next year.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 471 and 472.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

NUCLEAR REGULATORY COMMISSION

E. Gail de Planque, of New Jersey, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30,1995.

ENVIRONMENTAL PROTECTION AGENCY

Herbert Tate of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

STATEMENTS ON THE NOMINATION OF HERBERT TATE

Mr. CHAFEE. Mr. President, I rise today in support of the confirmation of Mr. Herbert H. Tate, Jr., to the position of Assistant Administrator for the Office of Enforcement at the U.S. Environmental Protection Agency.

The position to which Mr. Tate has been nominated is an important one. The Environmental Protection Agency's Office of Enforcement is critical to the coordination of effective and efficient enforcement actions against violators of the environmental laws we pass. Laws passed to protect our environment, our health, and the health of our children.

Many of these environmental laws are complex. Their enforcement requires a working knowledge of separate and detailed laws on air, water, toxic substances, and solid wastes. But, perhaps most importantly, at a time when resources are in short supply, effective enforcement of these laws requires an ability to coordinate the myriad requirements applicable to all of our natural resources so that each suit filed by the EPA achieves the greatest amount of environmental benefit possible.

I have no doubt that Herb Tate is up to the task. Having spent nearly 5 years as the county prosecutor for New Jersey's largest county, Herb is accustomed to handling a large and difficult case load under the pressures of an ever-shrinking budget.

I am confident that Herb Tate will fulfill the responsibilities of his new position with distinction to the benefit of the EPA, the public and the environment.

Mr. LAUTENBERG. Mr. President, I rise to support the nomination of Herbert Tate to be the Assistant Administrator for Enforcement of the Environmental Protection Agency.

Mr. Tate is a fellow New Jerseyan who would bring to the position legal experience in both the private and public sectors. Of particular importance, he was the Essex County prosecutor where he managed a staff of 420, a budget of $18 million and 30,000 cases a year.

Herb Tate would be the first Assistant Administrator for Enforcement at EPA with prosecutorial experience. This experience clearly will be put to the test quickly at EPA. All too often over the past decade, Congress has labored hard to craft tough environmental laws, only to see the administration fail to enforce them. Herb Tate testified before the Senate Environment Committee that he would vigorously enforce the law.

Herb Tate made a number of specific commitments to enforce our laws.

We have seen some recent improvements in EPA's Superfund settlement efforts. EPA needs to keep the pressure on to get polluters to pay for high quality cleanups.

We need to be sure that in moving to settle cases with polluters, EPA does not settle for less than the level of cleanup that the public deserves.

We need to be sure that the EPA uses all the tools at its disposal—and we have given them some pretty good ones—to force polluters to cleanup.

Herb Tate testified about his commitment to prevent the compromising of cleanup quality, and to use aggressively Superfund's unilateral enforcement tools.

He also testified about his commitment to enforcing the Emergency Planning and Community Right to Know Act. That law is providing the people of this country the facts on what is being emitted into the environment, and it is creating incentives for industry to reduce pollution. It is critical that we take all necessary steps to enforce the law's reporting and emergency planning.

And EPA's clean water enforcement record needs significant improvement. The EPA IG says EPA is collecting penalties which are less than the economic benefit of violations. We are creating an incentive to pollute. This must stop. Herb Tate testified before the Environment Committee that he supported collecting penalties at levels which were at least as great as the economic benefit of the violation.

The Public Interest Research Group found that EPA frequently ignores violations, even when patterns of chronic violation appear. We need mandatory minimum penalties to stop these repeat offenders. Herb Tate promise to consider such penalties.

EPA's own statistics show that 12 percent of large factories are in significant violation of the act. It is inexcusable that 19 years after enactment of the Clean Water Act, so many large factories are still polluting our waters. Herb Tate committed to bringing all major facilities into compliance as quickly as possible.

And we see an OMB which is bottling up a congressionally mandated report to improve clean water enforcement. Herb Tate promised to review the causes of the delay and ensure that EPA was in compliance with legislation mandating this report.

The problems with clean water enforcement show what Mr. Tate will be up against, and how important it is that he succeed.

Our environmental laws are only as good as the administration's enforcement efforts. We need an Assistant Administrator for Enforcement at EPA who will move aggressively to stop providing incentives to pollute, to end chronic violations and to eliminate the level of significant violators. Herb Tate has promised to do the job.

Herb Tate has not only a huge responsibility, but also a major challenge. Herb Tate's testimony and record before the Environment Committee indicates that he is prepared for the challenge. So I support the nomination of Herb Tate to this important office. And I plan to work closely with Herb Tate to ensure that our environmental laws are enforced vigorously.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of calendar Nos. 311, 312, 313, and 314; that the committee substitute amendments and the committee amendments, where indicated, be agreed to, en bloc; that the several bills be deemed read a third time and passed; and that the motion to reconsider the passage of these items be laid upon the table, en bloc; that any statements relating to these calendar items appear at the appropriate place in the Record; and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF RESTRICTIONS ON CERTAIN LANDS

The bill (S. 807) to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF RESTRICTION.

Notwithstanding the Act of January 23, 1909 (chapter 37, 35 Stat. 589), the Secretary of the Interior shall execute such instruments as may be necessary to allow the Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease for use other than as a cemetery, for a period of not more than 70 years, any portion of the land described in the first section of that Act, excluding the tract of land granted to Salt Lake City, Utah, pursuant to the Act of April 3, 1952 (66 Stat. 36), so long as such additional use will not prevent future use for cemetery purposes.

FISHLAKE NATIONAL FOREST ENLARGEMENT ACT

The Senate proceeded to consider the bill (S. 1182) to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and BLM.

SEC. 3. TRANSFER.

(a) In General.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest.

(b) Map and Legal Description.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", **[**dated and**]** *dated March 16, 1989, and* filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) Boundary.—(1) The boundary of the Fishlake National Forest is hereby modified **[**to include the lands transferred by subsection (a).**]** *as indicated on the map referred to in subsection (b).*

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601—9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of theat national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) Valid Existing Rights.—Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) Authorizations To Use Lands.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

So the bill (S. 1182) was deemed read the third time and passed, as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and BLM.

SEC. 3. TRANSFER.

(a) In General.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest.

(b) Map and Legal Description.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", dated March 16, 1989, and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the Interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) Boundary—(1) The boundary of the Fishlake National Forest is hereby modified as indicated on the map referred to in subsection (b).

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of that national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) Valid Existing Rights.—Nothing in this Act shall effect valid existing rights of any person under any authority of law.

(b) Authorizations To Use Lands.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administrated by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

BONNEVILLE SALT FLATS PRESERVATION STUDY ACT

The Senate proceeded to consider the bill (S. 1184) to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources threatened by such loss, which has been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The part of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bonneville Salt **[**Flat**]** *Flats* Preservation Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Bonneville Salt Flats, Utah, is a unique natural national treasure;

(2) an unexplained salt loss from the salt flat crust is occurring at Bonneville Salt Flats; and

(3) this salt loss is causing irreparable damage to Bonneville Salt Flats, which is placing at risk numerous public resources, including scenic, historic, economic, and recreational resources.

SEC. 3. STUDY.

Not later than two years after the date **[**of the enactment of this Act,**]** *funds are made available,* the Secretary of the Interior *(hereinafter "the Secretary")* shall conduct a study to determine the nature and extent of the salt loss from the salt flat crust occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources (including scenic, historic, economic, and recreational resources) threatened by such salt loss. In conducting the study, the Secretary shall consider whether to *recommend that the Congress* designate the Bonneville Salt Flats as a national recreation area or a national conservation area. Within ninety days after the completion of the study, the Secretary shall submit **[**a report to the Congress concerning such study, together with recommendations, if any, of the Secretary.**]** *a report concerning the study, together with any recommendations, to the Congress.*

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for fiscal years 1992 and 1993 to carry out this Act.

So the bill (S. 1184) was deemed read the third time and passed, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bonneville Salt Flats Preservation Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Bonneville Salt Flats, Utah, is a unique natural national treasure;

(2) an unexplained salt loss from the salt flat crust is occurring at Bonneville Salt Flats; and

(3) this salt loss is causing irreparable damage to Bonneville Salt Flats, which is placing at risk numerous public resources, including scenic, historic, economic, and recreational resources.

SEC. 3. STUDY.

Not later than two years after the date funds are made available, the Secretary of the Interior (hereinafter "the Secretary") shall conduct a study to determine the nature and extent of that salt loss from the salt flat crust occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources (including scenic, historic, economic, and recreational resources) threatened by such salt loss. In conducting the study, the Secretary shall consider whether to recommend that the Congress designate the Bonneville Salt Flats a national recreational area or a national conservation area. Within ninety days after the completion of the study, the Secretary shall submit a report concerning the study, together with any recommendations, to the Congress.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for fiscal years 1992 and 1993 to carry out this Act.

RELEASE OF RESTRICTIONS ON CERTAIN LAND

The Senate proceeded to consider the bill (S. 1183) to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, UT, and for other purposes, which has been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That section 2 of the Act of June 8, 1926 (44 Stat. 708), is amended by striking the word "States." at the end of the first sentence, and inserting in lieu thereof the following: "States, except that the following shall not apply to those lands upon which communications facilities were located as of November 1, 1991, or prevent reasonable ingress and egress for the repair, maintenance, or improvement of such facilities, nor shall the foregoing prohibit the use of the lands described in section 1 for recreational purposes, so long as such recreational use is consistent with the protection of the watershed and water supply system of the city.".

NATIONAL FAMILY CAREGIVERS WEEK

NATIONAL POLICE OFFICER AND FIREFIGHTER RECOGNITION WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from further consideration of the following joint resolutions: Senate Joint Resolution 225 designating "National Police Officer and Firefighter Recognition Week," and House Joint Resolution 125 designating "National Family Caregivers Week," and that the Senate proceed, en bloc, to their immediate consideration; that the joint resolutions be deemed read three times and passed, en bloc, and the motion to reconsider be laid upon the table; and that the preambles be agreed to; further, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 125) to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week," was deemed read the third time and passed.

The preamble was agreed to.

So the joint resolution (S.J. Res. 225) to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 225

Whereas police officers and firefighters throughout the United States maintain a diligent and constant watch over our nation's communities;

Whereas police officers and firefighter unselfishly serve to preserve the domestic security of the United States on a daily basis; and

Whereas police officers and firefighters heroically display the spirit of true public service through the performance of life-threatening deeds for the protection of the citizens of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 3, 1992, through February 9, 1992, is designated as "National Police Officer and Firefighter Recognition Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities recognizing all police officers and firefighters in the United States.

JOINT RESOLUTION INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 99

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991 and November 22–28, 1992 as "National Family Caregivers' Week," the Senate companion to House Joint Resolution 125, and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 124, "National Visiting Nurse Associations Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 124) to designate "National Visiting Nurse Associations Week for 1992.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 124), with its preamble, is as follows:

S.J. RES. 124

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 422 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community serviced by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16 through February 22, 1992, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOUNT RUSHMORE COMMEMORATIVE COIN ACT AMENDMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 108, a bill to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress, and the Senate proceed to its immediate consideration; that any statements with respect to this legislation be inserted at an appropriate place in the RECORD; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 108) was deemed read the third time and passed is as follows:

S. 108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION OF SURCHARGES.

Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

SEC. 2. RETROACTIVE EFFECT.

If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act.

Mr. PRESSLER. Mr. President, S. 108 amends the Mount Rushmore Commemorative Coin Act to allow specified surcharges to be paid to the Mount Rushmore National Memorial Society to assist its efforts at renovating our shrine of democracy. Mount Rushmore National Memorial celebrated its 50th anniversary with a formal dedication by President Bush on July 3, 1991. On July 16, President Bush signed into law the Mount Rushmore Commemorative Coin Act, which directs the Secretary of the Treasury to mint a set of commemorative coins in recognition of Mount Rushmore's golden anniversary. This coin act provides that 50 percent of the total surcharges received from the sale of the coins shall be used to improve and renovate the monument.

At the time this legislation was enacted, it was anticipated the amount of surcharges received from the sale of the coins would total approximately $17 million. Up to the present time, however, total surcharges received have amounted to only $11.5 million; and 50 percent of such surcharges are to be retained by the Treasury. The act further provides that coins may not be issued beyond this calendar year.

The National Park Service has estimated the cost of the renovations will total approximately $36 million. The projected amount of total surcharges is far short of that required from this source of funds if work on the monument is to continue as planned. Most of these funds are to be raised through private sources, but the proceeds from the coin surcharge are essential for the overall project. Without that funding source, the renovation work would be jeopardized.

In view of these developments, it is critical that S. 108 be adopted by the Senate. My legislation would permit the coin surcharge funds held by Treasury to be used for continuation of the work at Mount Rushmore. I urge my colleagues to support this effort. The people of South Dakota, the Mount Rushmore Society, and our State's congressional delegation have been united in this effort.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 346

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers House Joint Resolution 346, approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics, the statutory time limitation be reduced to 1 hour, with the time equally divided and controlled between the chairman and ranking member of the Finance Committee; that when the time is used or yielded back, the Senate without intervening action or debate proceed to vote on the resolution; that immediately upon disposition of House Joint Resolution 346, the Senate companion measure, Senate Joint Resolution 215, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 349, 350, and 351; that the committee amendments where appropriate be agreed to; that the resolutions be agreed to; that the bills be deemed read a third time and passed and the motions to reconsider laid upon the table en bloc; that the preamble, where appropriate, be agreed to; that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPRISONMENT AND TRIAL OF DR. NGUYEN DAN QUE

The concurrent resolution (S. Con. Res. 78) regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trial, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

WITHDRAWAL OF SOVIET TROOPS FROM THE BALTIC STATES

The resolution (S. Res. 196) expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet Armed Forces from the Baltic States and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 196

Whereas the rightful independence of the Baltic States of Lithuania, Latvia, and Estonia from the Union of Soviet Socialist Republics has been recognized;

Whereas more than 100,000 Soviet military personnel continue to maintain a presence in the Baltic States; and

Whereas the continued presence of Soviet troops threatens the peace and independence of the Baltic States: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should call upon the President of the Union of Soviet Socialist Republics to begin immediately a prompt withdrawal of Soviet armed forces from the Baltic States and to undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

Mr. HATCH. Mr. President, I am pleased that the Senate has acted in an expeditious manner and adopted Senate Resolution 196 by unanimous consent. This sense-of-the-Senate resolution calls on the Soviet military to begin an immediate withdrawal of forces from the Baltic States, and undertake the appropriate discussions to facilitate that prompt withdrawal. In this effort, I was joined by Senators BRADLEY, DECONCINI, MCCAIN, GRASSLEY, DOLE, KASTEN, PRESSLER, D'AMATO, LUGAR, GARN, DIXON, DODD, and ADAMS.

Mr. President, this resolution demonstrates clearly that my colleagues in the Senate are strongly concerned about the continuing presence of large-scale offensive forces in the Baltic States and the highly destabilizing nature of these units. The Soviet Union has stationed approximately 135,000 troops in the Baltics, and unfortunately, they seem to be making themselves right at home.

The Soviets have maintained military installations in the Baltics since the end of World War II, and many thousands of troops have reportedly been sent to the Baltics after departing from East Europe. In addition, the Soviet military establishment in the Baltics appears to be playing some of its old games. On November 15, for example, Soviet military leaders stationed in the region proposed that military property in Latvia, Lithuania, and Estonia be privatized and sold to pay for the resettlement of Soviet troops. This tense situation has been exacerbated by reports filed by Estonian officials this week, which assert that the Soviets violated an agreement regarding the withdrawal of two paratroop units from Estonia. One unit has reportedly not moved and the other was redeployed to another base in Estonia. Such incidents are symptomatic of the far larger problem, that of Soviet forces violating the territorial integrity of the Baltics.

Mr. President, I hope that the Soviet leadership takes notice of Senate Resolution 196, because it not only complements the political and military objectives of the CFE agreement, but signals this Chamber's unswerving commitment to Baltic sovereignty.

FREEDOM OF EMIGRATION AND TRAVEL FOR SYRIAN JEWS

The concurrent resolution (H. Con. Res. 188) concerning freedom of emigration and travel for Syrian Jews, was considered and agreed to.

The preamble was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 26

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 26, a bill to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3576 regarding the reservation of assistance under the HOME Investment Partnerships Act for certain insular areas, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1434

(Purpose: To amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas, extend time for a certain jurisdiction to submit a CDBG statement, and to clarify the authority of the Secretary of Housing and Urban Development regarding low-income housing covenants)

Mr. MITCHELL. Mr. President, on behalf of Senator RIEGLE, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for Mr. RIEGLE, for himself and Mr. CRANSTON, proposes an amendment numbered 1434:

Strike all after the enacting clause and insert the following:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.".

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Petersburg under title I of such Act of fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

Mr. RIEGLE. Mr. President, I offer this technical amendment which refines a provision that has recently passed the House.

This amendment will accomplish three things, First, it will ensure that insular areas including the U.S. Virgin Islands, Guam, Northern Mariana, and American Samoa are able to participate in the HOME Investment Partnerships Program. HOME was enacted last year as part of the National Affordable Housing Act and is designed to spur the creation of affordable housing opportunities for low-income people.

Second, the amendment would provide a one-time waiver to the city of Petersburg, VA, to submit its required final statement of community development objectives under the Community Development Block Grant [CDBG] Program. Due to extenuating circumstances, the city failed to meet a required deadline. Although HUD would like to give the city an extension of the deadline, existing law prohibits such action.

Third, the amendment includes legislative language to carry out already established congressional intent that the Low-Income Housing Tax Credit Program and the Farmers' Home section 515 program work together. The amendment removes the possibility of misinterpretation by Farmers' Home that could frustrate the ability of these two programs to work together.

This last provision is of great importance to affordable housing in rural areas. In August, the Michigan Office of the Farmers' Home Administration halted the approval of section 515 multifamily loans that were combined with the low-income housing tax credit. A Farmers' Home lawyer interpreted current law in a way that created a conflict between the tax credit and regulations for the section 515 program.

As a result, hundreds of low-income housing units in rural areas have been thrown into question. The Department's actions have already resulted in a major interruption in the ability of the State and local jurisdictions to provide low-income housing to people in rural areas in Michigan. Farmers' Home actions have also threatened to prevent projects from closing across the nation. Housing opportunities for hundreds for families could be jeopardized as loans are left uncommitted, tax credits go unused, and project development is stalled.

Last month, language was included in the fiscal year 1992 Agriculture Appropriations Act that was designed to clear up the problem. Astonishingly, however, Farmers' Home lawyers are choosing to ignore this congressional directive. They claim the language was not explicit enough to require them to change their obstructive practices. Farmers' Home actions are in direct conflict with congressional intent to provide more affordable housing in rural areas.

This amendment will make it crystal clear that Farmers' Home must allow the tax credit and section 515 program to work together. This amendment will allow State housing finance agencies across the nation to resume their efforts to provide affordable housing to people in rural communities.

Mr. President, this amendment has no budgetary impact and has been cleared by Members on both sides of the aisle. I urge my colleagues to join me in support of this amendment to H.R. 3576.

Mr. CRANSTON. Mr. President, I want to thank the distinguished chairman of the full committee, Senator RIEGLE, for his efforts in bringing this measure to the floor for consideration.

This is a technical amendment to H.R. 3576, a measure recently passed by the House. Both the House-passed bill and the amendment offered today amend the National Affordable Housing Act—enacted by Congress last year by a wide margin. The amendment allows the United States Virgin Islands, Guam, Northern Mariana, and American Samoa, to receive collectively a share of funding under the HOME Investment Partnerships Program.

The HOME Investment Partnerships Program—a major component of the National Affordable Housing Act—is designed to foster a network of partnerships among the Federal Government, States, local communities and the private sector to expand the supply of affordable housing.

HOME Program funds are allocated to States and local communities throughout the country on the basis of a formula. This formula evaluates each jurisdiction's share of need among for an increased supply of affordable housing. In the case of the insular areas, however, two factors combined to make them ineligible under the HOME Program. This amendment seeks to correct the two problems.

First, although the National Affordable Housing Act included the insular areas as eligible jurisdictions for participation in the Home Program, it identified them individually. As a consequence, when the formula was applied to each of the areas individually, their small size precluded them from meeting the minimum allocation level established in law. the amendment allows the insular areas to be considered as a collective unit, for purposes of allocation of funds for the HOME Program.

Second, the full range of data used in the formula for the allocation of funds is not available for the insular areas.

This amendment recognizes this fact by providing the Secretary of HUD the flexibility to establish a formula for the insular areas based on the available data for these areas.

Mr. President, the Home Program is designed to help address affordable housing needs wherever they exist. This amendment will ensure that the insular areas receive their fair share of funding under the HOME Program.

This amendment also provides a one-time waiver of existing law to allow the city of Petersburg, VA, to submit its final statement of community development objectives. The submission of the final statement is a prerequisite to the receipt of Community Development Block Grant [CDBG] Program funds. Due to several factors, including personnel changes in the city administration, the city of Petersburg missed the established deadline by 30 days. Although the city requested a waiver of the deadline from the Department of Housing and Urban Development, existing law and regulations for the CDBG program preclude HUD from providing the waiver through administrative action.

Mr. President, this amendment has no budget impact and has been cleared by both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 1435 TO AMENDMENT NO. 1434

(Purpose: To permit the citizens of St. Charles Parish, Louisiana, to appeal a flood elevation determination)

Mr. MITCHELL. Mr. President, in behalf of Senator BREAUX, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. BREAUX, for himself and Mr. JOHNSTON, proposes an amendment numbered 1435 to amendment No. 1434:

At the appropriate place, insert:

SEC. . Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club States located in St. Charles Parish, Louisiana, not later than June 1, 1992.

Mr. BREAUX. Mr. President, the amendment that we have offered to this legislation would grant St. Charles Parish, LA, approximately 180 days to appeal a decision by the Federal Emergency Management Agency [FEMA] that would have a drastic affect on local communities.

Under the National Flood insurance Program, a community has 90 days to appeal any changes in base flood elevation determinations by FEMA. On August 29, 1991, FEMA issued a new flood insurance rate map for parts of St. Charles Parish which will require new structures to be built at a new minimum base flood elevation of 8–9 feet. The current base flood elevation for the area is approximately 2 feet.

The parish has worked to submit an appeal to FEMA using data that was provided to them on June 27, 1991. Missing from the data was information from the Army Corps of engineers that is, I am told, vital to the parish's appeal. The Corps of Engineers was responsible for assembling the report upon which FEMA's decision is based. It is my understanding that the needed information was turned over to the parish at the end of this week. The statutory period for filing an appeal runs out on November 27, 1991. FEMA maintains that it has no legal authority to extend the deadline. The circumstances make it impossible for the parish to file a complete appeal before the end of the statutory deadline.

The new base flood elevation requirements will have a serious impact on the area's future development and it would be patently unfair to cause such a disruption without the local community having an adequate amount of time to present a complete appeal.

Our amendment would simply give the parish the time it needs to make use of the completed data from the corps.

I want to thank the chairman of the full Banking Committee, Senator RIEGLE, and the chairman of the Housing Subcommittee, Senator CRANSTON, for their assistance in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as amended.

The amendment (No. 1434), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 244, H.R. 794, establishing the Silvio Conte National Refuge.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

[SEC. 101. SHORT TITLE.

[This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

[SEC. 102. FINDINGS.

[The Congress finds and declares the following:

[(1) The late Silvio O. Conte's many contributions to fish and wildlife conservation merit establishing a national fish and wildlife refuge in his honor.

[(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon, bald eagle, Puritan tiger beetle, dwarf wedge mussel, Jesup's milk vetch, and piping plover.

[(3) The Federal Government has spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

[(4) The Connecticut River Valley is home to over 2,000,000 people, and environmental education and natural resource based recreation opportunities that are of great value.

[(5) The environment of the Connecticut River Valley is under enormous stress as a result of increased pressure from commercial and industrial development.

[(6) The environmental degradation of the Connecticut River and its riparian lands would result in the permanent loss of unique social, educational, and environmental assets and would devalue the significant Federal investment made to clean up the river.

[SEC. 103. DEFINITIONS.

[For the purposes of this title—

[(1) the "Advisory Committee" means the Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee established under section 107;

[(2) the term "affected States" means the Commonwealth of Massachusetts, Vermont, New Hampshire, and Connecticut;

[(3) the term "refuge" means the Silvio O. Conte National Fish and Wildlife Refuge established by section 104;

[(4) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service;

[(5) the term "selection area" means the lands, waters, and interests therein of the Connecticut River basin from its source to the sea including its tributaries and watersheds; and

[(6) the term "Service" means the United States Fish and Wildlife Service.

[SEC. 104. ESTABLISHMENT OF REFUGE; SELECTION OF LANDS.

[(a) Establishment of Refuge.—There is hereby established the Silvio O. Conte National Fish and Wildlife Refuge, consisting of the lands, waters, and interests therein designated pursuant to subsection (c).

[(b) Purposes.—The purposes of the refuge are—

[(1) to conserve, protect, and enhance the Connecticut River Valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, and other native species of plants, fish, and wildlife;

[(2) to encourage the natural diversity of plant, fish, and wildlife species within the refuge and to provide for their conservation and management;

[(3) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

[(4) to preserve and enhance the water quality of aquatic habitat within the refuge;

[(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife; and

[(6) to provide opportunities for scientific research, environmental education, and recreational activities, to the extent compatible with the other purposes stated in this subsection.

[(c) Selection of Lands.—Within two years after the date of the enactment of this Act, and after consulting with the Advisory Committee, appropriate State and local officials and private conservation organizations, the Secretary shall—

[(1) define and designate the refuge boundaries, including all subunits, within the selection area; and

[(2) prepare a detailed map depicting the refuge boundaries designated under paragraph (1), which the Secretary shall keep on file and available for public inspection at the offices of the Service, and publish notice in the Federal Register of such availability.

[(d) Revisions.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under subsection (c)(1) as may be appropriate to carry out the purposes of this title or to facilitate the acquisition of property within the refuge.

[SEC. 105. ACQUISITION.

[The Secretary may acquire for inclusion in the refuge, by purchase, gift, or lease, such areas of land and waters, or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 104(c), as the Secretary determines to be suitable for the purposes of this title. All land, waters, and interests so acquired shall be part of the refuge.

[SEC. 106. ADMINISTRATION.

[(a) In General.—The Secretary shall administer all lands, waters, and interests therein acquired under section 105 in accordance with—

[(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k-4); and

[(2) the purposes of the refuge, as set forth in section 104(b).

[(b) Use of Other Authority.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of fish and wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104(b).

[SEC. 107. SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

[(a) Establishment and Functions.—There is hereby established a committee to be known as the "Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall advise the Secretary on matters relating to the—

[(1) identification of areas of special concern within the selection area, the conservation of which by cooperative agreement would further the purposes for which the refuge is established;

[(2) identification of activities within or related to the selection area that may adversely affect the purposes for which the refuge is established;

[(3) provision of education outreach and informational programs; and

[(4) establishment of cooperative agreements with private landowners, Federal, State, and local governments or agencies, and conservation organizations, with respect to wise use and management of areas of special concern and the conduct of activities identified under paragraphs (1) and (2) of this section.

[(b) Membership; Terms.—The advisory committee shall be composed of 15 members, each appointed by the Secretary for a term not to exceed 2 years, as follows:

[(1) 4 members, including 1 from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

[(2) 4 members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

[(3) 4 members, including 1 from each of the affected States, to be appointed from recommendations made by the Governor of that affected State; who shall represent nonprofit conservation organizations or citizens groups with a direct interest in the purposes of the refuge;

[(4) 1 member of the Long Island Sound Management Conference;

[(5) 1 member from the Department of the Interior; and

[(6) 1 member from the Department of Commerce.

[(c) Qualifications.—Members of the Advisory Committee shall have expertise or demonstrated interest in fish and wildlife conservation matters.

[(d) Chairman.—The Secretary shall designate 1 member of the Advisory Committee to be its Chairman.

[(e) Vacancies.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

[(f) Compensation.—A member of the Advisory Committee shall not receive any compensation for service on the Committee.

[(g) Majority Vote.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

[(h) Termination.—The Advisory Committee shall function during the two years necessary for the Secretary to establish the refuge boundaries, and shall cease to exist after that time.

[SEC. 108. INTERPRETATION AND EDUCATION CENTER.

[The Secretary is authorized to construct, administer, and maintain, at an appropriate site near or within the refuge, an aquatic resources and wildlife interpretation and education center, along with administrative facilities, to provide an opportunity for the study and enjoyment of aquatic resources and wildlife in its natural habitats.

[TITLE II—FISH HABITAT CONSERVATION ACT

[SEC. 201. SHORT TITLE.

[This title may be cited as the Fish Habitat Conservation Act.

[SEC. 202. FINDINGS.

[(a) Fishery resources are integral components of, and play an essential role in, ecosystems where they occur. Self-sustaining fish populations are far more biologically desirable than those substantially dependent on artificial production systems. Fish have specific habitat requirements that are essential for them to complete their life cycle.

[(b) Despite statutory mandates, regulations and programs to control harvest and prevent environmental degradation, destruction of fish habitat has played, and continues to play, a significant role in the decline of fish populations. Some fish populations are so depleted as to warrant protection under the Endangered Species Act.

[(c) The United States Fish and Wildlife Service has authority to acquire fish habitat to protect or manage it, to provide recreational opportunities, and for other purposes under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j) and the Refuge Recreation Act (16 U.S.C. 460k–460k-4) among other statutes, but has rarely used that authority.

[SEC. 203. PURPOSE.

[The purpose of this title is to protect, restore and conserve important fish habitat.

[SEC. 204. DEFINITIONS.

[For the purposes of this title—

[(1) the term "fish" means any freshwater, diadromous, and estuarine organism, other than a marine mammal or bird, and includes finfish, shellfish, crustaceans and other aquatic organisms, and the egg, spawn, spat, larval and other juvenile stages of all such organisms;

[(2) the term "fish habitat" means any area, landward of mean low tide, and adjacent wetlands, on which fish depend, directly or indirectly, to carry out their life processes, and includes—

[(A) any area used by fish for spawning, incubation, nursery, rearing, food supply, or migration; and

[(B) any area adjacent to the aquatic environment if such adjacent area—

[(i) contributes elements, such as the input of detrital material or the promotion of planktonic and insect populations providing food, which make fish life possible;

[(ii) protects the quality of water supplies on which fish are dependent; or

[(iii) protects the aquatic environment;

[(3) the term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service; and

[(4) the term "System" means the National Wildlife Refuge System administered under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

[SEC. 205. FISH HABITAT CONSERVATION PLANS

[(a) IN GENERAL.—The Secretary shall develop within one year after the date of enactment of this Act, and thereafter periodically review and revise, a national fish habitat conservation plan which shall specify the types of fish habitat which should be given priority with respect to Federal, State, and other acquisition. This plan shall identify types of fish habitats of concern, criteria for establishing acquisition priorities for each fish habitat type, and guidance for developing regional fish habitat conservation plans. The Secretary shall also develop, and periodically review and revise, regional fish habitat conservation plans that identify specific fish habitat to be acquired; determine whether Federal acquisition of specific areas is appropriate; identify, where appropriate, modifications in the management of fish habitat to help achieve the purposes of this title; and establish priorities for each region.

[(b) CONSULTATION.—The Secretary shall develop the plans required by subsection (a) after consultation with the following:

[(1) the Secretary of Commerce;

[(2) the chief executive officer of each State fisheries agency, and other appropriate representatives of each State;

[(3) Indian tribes; and

[(4) other interested entities that are knowledgeable about fish conservation.

[(c) FACTORS TO BE CONSIDERED.—The Secretary, in identifying fish habitats to be included in the plan required by subsection (a) and in establishing the basis for priorities for acquisition of those areas, shall consider—

[(1) the estimated cumulative loss, current rate of loss, and the threat of future losses of each fish habitat type;

[(2) the contribution of each fish habitat type to—

[(A) fishery resources;

[(B) commercial fisheries;

[(C) recreational fishing and other outdoor recreation; and

[(D) maintenance of biodiversity; and

[(3) other areas or concerns the Secretary considers appropriate.

[SEC. 206. IDENTIFICATION AND ACQUISITION OF FISH HABITAT.

[(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall begin identifying and acquiring in accordance with this title lands, waters, and interests therein that are appropriate for inclusion in the National Wildlife Refuge System for the purpose of protecting important fish habitat. Upon the completion of the fish habitat conservation plans prepared under section 205 of this title, the identification of lands to be acquired for the conservation of fish habitat shall be based on those plans.

[(b) ACQUISITION PRIORITIES.—In setting land acquisition priorities for the United States Fish and Wildlife Service, the Secretary shall give equal consideration to fish habitat as is given to other types of habitat, and shall modify the United States Fish and Wildlife Service Land Acquisition Priorities System Application Manual accordingly.

[SEC. 207. ADMINISTRATION OF ACQUIRED LANDS, WATERS AND INTERESTS.

[(a) IN GENERAL.—All lands, waters, and interests therein acquired by the Secretary pursuant to this title—

[(1) shall be included in existing national wildlife refuges or shall be established by the Secretary as new units of the System, and in each case, shall be known as a "National Fish and Wildlife Refuge"; and

[(2) shall be administered as part of the System by the Secretary in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k-4).

[(b) FISH HABITAT PROTECTION PURPOSES.—The purposes of any unit of the System in which are included any lands, waters or interests therein acquired pursuant to this title shall include the following, which shall be in addition to any other purposes of the unit:

[(1) the conservation and enhancement of fish, wildlife, plants and their habitats;

[(2) preservation and enhancement of the water quality of aquatic habitats;

[(3) protection of species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1513 et seq.);

[(4) conservation of migratory birds;

[(5) management of corridors for the migration and dispersal of fish, wildlife and plants;

[(6) fulfillment of the international treaty obligations of the United States with respect to fish and wildlife; and

[(7) provision of opportunities for scientific research, environmental education, and recreational activities, to the extent compatible with the other purposes of this subsection.

[(c) COMMERCIAL FISHING.—The Secretary shall not acquire, pursuant to this title, lands, waters, or interests therein on which occur commercial fishing activities which would be incompatible with the purposes set forth in this section.

[SEC. 208. ANNUAL REPORT.

[On the date on which the President submits a budget to the Congress each year pursuant to section 1105 of title 31, United States Code, the Secretary shall submit to the Congress a report—

[(a) listing all the lands, waters, and interests therein identified in the fish habitat conservation plans prepared pursuant to section 105 of this title—

[(1) for the acquisition of which amounts are included in the President's budget; or

[(2) which have been acquired; and

[(b) listing those areas of fish habitat which the Secretary believes are appropriate for inclusion in the System, but which may not be acquired under this title.

[TITLE III—COASTAL WETLANDS GRANTS

[SEC. 301. COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

[(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "from which the principal is not spent" and inserting in lieu thereof "consisting of monies from a recurring source".

[(b) EFFECTIVE DATE.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.]

TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

SECTION 101. SHORT TITLE.

This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

SEC. 102. FINDINGS.

The Congress finds and declares the following:

(1) The late Silvio Conte was a long-time champion of the preservation of natural resources, including the Connecticut River, shepherding through Congress legislation meant to restore the river and its wildlife to health.

(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon and bald eagle.

(3) Federal, State, and local governments have spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

(4) The Connecticut River valley is home to over two million people, and accordingly the river and riparian lands are of great value for environmental education and natural resource based recreation.

(5) The Connecticut River valley is threatened with spoilation, removal from public access, and ecological downgrading and is a significant source of energy and means of commerce for New England.

(6) Despoiling the Connecticut River and its riparian lands will result in the permanent loss of unique social, educational, and environmental assets and will devalue the significant Federal, State and local investments made to clean up the river.

SEC. 103. DEFINITIONS.

For the purposes of this Act—

(1) the term "affected States" means the Commonwealth of Massachusetts, and the States of Vermont, New Hampshire, and Connecticut;

(2) the term "refuge" means the Silvio Conte National Fish and Wildlife Refuge established under section 106 of this Act;

(3) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the term "selection area" means the lands and waters of the Connecticut River basin, including the main stem of the river and its tributaries from its source at Fourth Connecticut Lake to Long Island Sound.

SEC. 104. PURPOSES.

The purposes for which the refuge is established are—

(1) to conserve, protect, and enhance the Connecticut River valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants, fish, and wildlife;

(2) to conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystems upon which these species depend within the refuge;

(3) to protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.);

(4) to restore and maintain the chemical, physical, and biological integrity of wetlands and other waters within the refuge;

(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands; and

(6) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

SEC. 105. SELECTION OF LANDS.

Within three years after the date of the enactment of this Act, the Secretary shall—

(1) consult with appropriate State and local officials, including those representing State government natural heritage inventory agencies, the Long Island Sound Management Conference as established under the National Estuary Pro-

gram, private conservation organizations, and other interested parties in designating the refuge boundaries;

(2) define and designate the refuge boundaries, including all subunits, within the selection area that would fulfill the purposes set forth in section 104 of this Act; and

(3) prepare a detailed map depicting the refuge boundaries designated under paragraph (2), which the Secretary shall keep on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

SEC. 106. ACQUISITION AND ESTABLISHMENT OF REFUGE.

(a) ACQUISITION.—To the extent authorized under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws, the Secretary may acquire for inclusion in the refuge by purchase or donation such lands and waters or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 105 of this Act. All lands, waters, and interests therein so acquired shall be part of the refuge.

(b) ESTABLISHMENT.—When sufficient property within the boundaries defined and designated under section 105 of this Act have been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge, to be named the "Silvio Conte National Fish and Wildlife Refuge," by publishing a notice to that effect in the Federal Register and publications of local circulation.

(c) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under section 105 of this Act as may be appropriate to carry out the purposes of this Act or to facilitate the acquisition of property within the refuge.

(d) INTERIM REPORT TO CONGRESS.—Within one year of the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works in the United States Senate and the Committee on Merchant Marine and Fisheries in the United States House of Representatives a report describing those lands and waters that the Secretary proposes to acquire under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws for inclusion in the refuge at a subsequent time. The Secretary also shall include in the report an estimate of the total number of acres of lands or waters or interests therein that may be acquired for inclusion within the refuge boundaries under the authority of this Act and other existing laws and the approximate cost of such acquisition.

SEC. 107. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer all lands, waters, and interests therein acquired under section 106 pursuant to—

(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k–4); and

(2) the purposes for which the refuge is established, as set forth in section 104 of this Act.

(b) OUTREACH AND EDUCATION.—The Secretary shall work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purposes for which the refuge is established, as set forth in section 104 of this Act.

(c) USE OF OTHER AUTHORITY.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104 of this Act.

SEC. 108. SILVIO CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND FUNCTIONS.—Within three months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the "Silvio Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall assist the Secretary on community outreach and education programs that further the purposes of the refuge.

(b) MEMBERSHIP; TERMS.—The Advisory Committee shall be composed of fifteen members, each appointed by the Secretary within three months of the date of enactment of this Act for a term not to exceed three years, as follows:

(1) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

(2) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

(3) four members, including one from each of the affected States to be appointed from recommendations made by the Governor of that affected State, who shall represent nonprofit conservation organizations or citizen groups with direct interest in the purposes of the refuge;

(4) one member of the Long Island Sound Management Conference; and

(5) two members to be designated by the Secretary, including one who represents the energy and commerce interests associated with the Connecticut River.

(c) CHAIRMAN.—The Advisory Committee shall elect one member of the Advisory Committee to be its chairman.

(d) VACANCIES.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

(e) COMPENSATION.—A member of the Advisory Committee shall not receive any compensation for service on the committee.

(f) MAJORITY VOTE.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

[TITLE IV] ***TITLE II*—MORRIS K. UDALL NATIONAL WILDLIFE REFUGE**

SEC. 401. REDESIGNATION OF BUENOS AIRES NATIONAL WILDLIFE REFUGE.

(a) REDESIGNATION.—The Buenos Aires National Wildlife Refuge, located in the State of Arizona, is redesignated and shall be known as the "Morris K. Udall National Wildlife Refuge".

(b) REFERENCES.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the national wildlife refuge referred to in subsection (a) of this section is deemed to be a reference to the "Morris K. Udall National Wildlife Refuge".

[TITLE V] ***TITLE III*—CULEBRA NATIONAL WILDLIFE REFUGE**

SEC. 501. HEADQUARTERS FACILITY FOR CULEBRA NATIONAL WILDLIFE REFUGE.

The headquarters facility and residence for the Culebra National Wildlife Refuge may be constructed on lands leased from the Commonwealth of Puerto Rico on a long-term basis.

[TITLE VI—PUBLIC SAFETY ON NATIONAL WILDLIFE REFUGES

[SEC. 601. PUBLIC SAFETY ON NATIONAL WILDLIFE REFUGES.

[The Director of the Fish and Wildlife Service shall ensure that efforts to conserve and manage wildlife populations on national wildlife refuges are conducted with full regard to public safety.]

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. LIEBERMAN. Mr. President, the late Congressman Silvio Conte once said that there were two big events that he dreamed of: the Red Sox winning the World Series, and the salmon returning to the Connecticut River. We cannot legislate a victory for the Red Sox, but by passing this bill today, we have taken an enormous step toward granting Mr. Conte's wish.

The establishment of the Silvio Conte National Fish and Wildlife Refuge is a fitting tribute to a man who for most of his congressional career led the fight to restore the Connecticut River to health. This refuge would be comprised of critical habitat areas along the length of the river and within its watershed. The Connecticut River, 400 miles long and stretching from Vermont and New Hampshire through Massachusetts and Connecticut to Long Island Sound, is considered by many to be the backbone of New England. It is significant also as the only major river in North America without an industrialized city at its mouth.

My interest in this bill came initially from my concern for the health of Long Island Sound. The Connecticut River provides the sound with 70 to 80 percent of its freshwater. And because the river is tidal freshwater for 40 miles in Connecticut, it has spawned a wetlands complex of international significance, providing habitat to an astonishing array of rare and endangered plant and animal species. The bill we pass today is nearly identical to the one I introduced earlier this year, and it will provide critical protection for many of the species we hope to see flourish: the bald eagle and peregrin falcon, the important shad and salmon populations, the whorled begonia and golden club.

This bill is important in another way. Recognizing the hard work and commitment of local organizations such as the Connecticut River Watershed Council and the Nature Conservancy, the Connecticut River Advisory Committees established by the State legislatures of Vermont and New Hampshire, the Long Island Sound Study, and the significant contributions made by the power interests along the river, the bill establishes an advisory committee to assist the Director of the U.S. Fish and Wildlife Refuge. I am very pleased to note that the U.S. Fish and Wildlife Service has been receptive to this notion, and has already begun to work with and listen to the local organizations and State governments already involved in protecting the Connecticut River, as well as meeting with local landowners who may find their property within the boundaries of the refuge. Director John Turner has shown, I think, a tremendous sensitivity to our New England tradition of home rule, and I think that all of us who have worked so hard to see Sil Conte's dream become a reality owe Mr. Turner our gratitude.

Finally, Mr. President, I would like to note that this bill has served to unite New England in a way that should also serve as a tribute to Mr. Conte. The entire New England delegation to the U.S. Senate supports this bill. And some of Sil Conte's other friends in the Senate, Senators COCHRAN, JOHNSTON, AKAKA, SPECTER, PRYOR, GORE, and D'AMATO also joined as cosponsors of my original bill. I am hopeful that our colleagues in the House will act quickly upon receipt of this bill and that before the end of this session President Bush, another supporter, will sign the Silvio Conte National Fish and Wildlife Refuge Act into law.

Mr. KERRY. Mr. President, I rise today in support of H.R. 794, the Silvio O. Conte National Fish and Wildlife Refuge Act, the last bill introduced by Sil Conte.

Throughout his life, Silvio Conte worked to preserve and protect our Nation's, and the globe's, precious and fragile environment. He was a leader on many issues in Massachusetts, but took a special interest in preserving our Nation's natural treasures. Sil was an avid fisherman and knew the true enjoyment that was possible from recreational activities on our scenic rivers and streams. As is reflected in his work, Sil believed the Connecticut River Valley to be of singular importance. This broad valley bridges four New England States and provides diverse recreational opportunities to millions of people. The river's watershed is home to innumerable species of animals, including our endangered national symbol—the beautiful bald eagle.

This bill will establish the Silvio O. Conte National Fish and Wildlife Refuge. The refuge, only the second of its kind in the nation, will consist of blocks of land from all across the Connecticut River basin designated by the Secretary of the Interior as having unique national qualities. Together, these sections of land will provide a vital refuge for wildlife across the Northeast. The bill also directs the Secretary to establish a plan for the protection of fish habitats. I believe this effort is critical in these days of rapidly deteriorating water quality and harmful development. Additionally, the bill will amend the Coastal Wetlands Planing, Protection and Restoration Act to allow an increase in the percentage of funds for coastal wetlands preservation that the Federal Government may provide.

Finally the legislation establishes up to four aquatic resources and wildlife interpretation and education centers that will be aptly known as the Silvio Conte National Fish and Wildlife Refuge Education Centers. It seems appropriate that the first center be located along the Connecticut River in western Massachusetts, in Sil Conte's congressional district. I know my colleagues and the Fish and Wildlife Service agree. I also hope that the cooperative spirit between the interested Federal, State, local, and private nonprofit entities that brought this legislation to final passage today will continue as we begin to develop the educational centers. During this time of deep fiscal constraints at all levels of government, a creative partnership to finance these centers is crucial to our success.

The many components of this bill constitute important actions toward the preservation and enhancement of our environment and the ability of our citizens to enjoy its use. In addition, I believe that the passage of this bill and the creation of this exceptional wildlife refuge is a fitting tribute to my beloved colleague, Mr. Conte. Sil Conte worked diligently over the past 30 years to preserve our environment. The Silvio Conte Refuge will be a lasting and noble acknowledgment of his labors. For these reasons I ask my colleagues to join me in supporting this legislation.

Mr. SMITH. Mr. President, I strongly support the passage of legislation to establish the Silvio O. Conte Connecticut River National Wildlife Refuge, H.R. 794. Like many of my colleagues, I have more than one reason to urge quick passage of this important bill.

First, in the 6 years I spent as a Member of the House of Representatives, I came to know Silvio quite well. Not only was he one of the most respected Members of the House, but he was known as a true champion for the people of western Massachusetts. Yet, Silvio was not only fiercely dedicated to protection of the natural resources of Massachusetts, but he also strongly supported preservation efforts throughout New England.

Clearly, Silvio's passing has left a real void in Congress. I can think of no better tribute to his years of hard work and dedication than to name this wildlife refuge in his name.

Second, I believe that this legislation will ensure the protection of one of our Nation's most important and historical riverways. This river, which has its source in northern New Hampshire, flows over 400 miles from my home State until it spills into the Long Island Sound. The wildlife refuge which is established by this legislation will actually comprise a chain of refuges dotting the riverbanks of New Hampshire, Vermont, Massachusetts, and Connecticut.

Not only has the Connecticut River served as an important source of commerce and industry, but more importantly, the river and its adjoining lands provide a vital habitat for anadromous fish, endangered species, migratory waterfowl, and other wildlife species. The intention of this legislation is to protect a select amount of habitat areas which serve a particularly vital function in the continued health and preservation of these species.

When I first became acquainted with this legislation, I have to admit that I was concerned about the potential for the widespread Federal purchase of private landholdings in New Hampshire. Due to the diligent efforts of Senator LIEBERMAN and his staff, my concerns about this legislation have been satisfied. Further, I received a letter from the Director of the Fish and Wildlife Service, John Turner, stating that "private property rights within the proposed refuge are protected." He went on to state that "our longstanding acquisition policy is to work only with willing sellers within approved boundaries as funds become available * * * Landowners are under no obligation to sell their property to the service."

Mr. President, I believe that this bill is in the best interests of the people of New Hampshire, the people of New England, and the Nation as a whole. I urge my colleagues to support its adoption.

I ask unanimous consent that the letter of Mr. Turner be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC.

Mr. GEORGE W. MOULTON,
Mr. TOM LAURITSEN,
BRIDGES FOR TOMORROW,
Charlestown, NH.

DEAR MR. MOULTON AND MR. LAURITSEN: I have received a copy of your letter of July 9 to Senator Lieberman regarding the proposed Silvio O. Conte National Fish and Wildlife Refuge. We have a genuine and sincere interest in this project because we believe it has such enormous potential benefits—both environmental and economic—for the people of the Connecticut River Valley, so I would like to take this opportunity to provide the following assurances on the three important concerns you have expressed.

First, I agree that it is essential to recognize and respond to local concerns in order to have the Refuge come to fruition. Therefore, to ensure that your Joint River Commissions are fully involved in the decision-making process as a focal point for local concerns in the northern half of the Valley, I have instructed my Regional Office staff to continue to work with your two Commissions to assure that you are a part of this process.

Second, private property rights within the proposed Refuge are protected. Our long-standing acquisition policy is to work only with willing sellers within approved boundaries as funds become available. Over the past ten years, less than two-percent of such acreage was obtained through court action, while less than one-half-of-one-percent of the ownerships were acquired through the use of condemnation. We recognize the possible social and economic impacts of acquiring private property by exercising the Federal right of eminent domain, so we do our utmost to avoid using that approach. I wish to underscore this point: Landowners are under no obligation to sell their property to the Service.

Third, the same is true of conservation easement. The sale or donation of such an easement—which may regulate land use—is entered into willingly by a landowner, and any concerns must be resolved to the landowner's satisfaction before the easement is executed. And, of course, if a landowner does not want to sell an easement to the Service, the land will not be subject to any additional restrictions. The mere inclusion of property within the boundary of a refuge does not give the Service any authority whatsoever over how that property is managed or used.

Again, I want to assure the Commissions that we will do everything we can to affect a positive, productive, and cooperative atmosphere in which we can create this refuge together. Indeed, the authorizing legislation now before the Congress provides for full public participation in determining the boundaries of the new refuge, and all landowners will have an opportunity to participate.

The Service looks forward to working with your Joint River Commissions to enact and implement this legislation. If you have further questions or comments, please contact me or Regional Director Ronald Lambertson, at One Gateway Center, Newton Corner, Massachusetts 02158, (617) 965-5100.

Sincerely,

JOHN F. TURNER,
Director.

Mr. JEFFORDS. Mr. President, I rise in strong support of H.R. 794, the Silvio O. Conte National Wildlife Refuge Act. I am an original cosponsor of the Senate version of this legislation and am pleased to see that the Senate has seen the importance of acting quickly on this bill.

As my colleagues know, this bill would begin the process of creating a national wildlife along the Connecticut River in honor of my late good friend, Silvio O. Conte. No one devoted more time and effort to preserving the integrity of the Connecticut River than Silvio Conte.

During his service in the House of Representatives, Silvio Conte took on a tremendous task to repair the damage that the Connecticut River has incurred through 200 years of abuse and neglect. He saw Atlantic salmon were disappearing—this remarkable resource, which once abundantly ran freely through the river, was gone. Pollution had ravaged the river, and development was destroying its shorelines. Once the principle natural resource for New England, the Connecticut River was dying in the hands of neglect and mismanagement.

Silvio Conte set out to reverse this process, and the signs of his unyielding efforts can be seen today. The river is cleaner today, and the Atlantic salmon have returned. He fought hard to get fish ladders placed along the river, and these ladders were the first step in bringing the Atlantic salmon back. He was responsible for initiating the Connecticut River Atlantic Salmon Compact, an agreement between Vermont, Massachusetts, New Hampshire, Connecticut, and the Federal Government to promote the restoration of the Atlantic salmon run into the Connecticut River basin. In 1983, he directed through Congress the legislation required for the compact to take effect and to authorize the participation of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in the compact.

Mr. President, Silvio Conte's efforts can be felt in my home State of Vermont. He was instrumental in establishing the first and only salmon hatchery on the Connecticut River in Bethel, VT. This hatchery has played a vital role in restoring the Atlantic salmon runs to the Connecticut River.

Silvio Conte's efforts must be continued, and I commend the junior Senator from Connecticut, Senator LIEBERMAN, for carrying on these efforts. With the establishment of this refuge, we can be sure that Silvio Conte's efforts were not in vain. We can be sure that the Atlantic salmon will not again disappear. We can be sure that the Connecticut River will no longer be abused and neglected.

As Silvio Conte realized long ago, this Connecticut River and its watershed are too valuable to be destroyed. As the largest river in New England, it is the lifeblood of our natural resources. I am happy to support this important piece of legislation to establish this national wildlife refuge. I am proud at the same time to be able to bestow this well deserved honor on Silvio Conte by having the refuge named the Silvio Conte National Wildlife Refuge.

I urge my colleagues to support this important piece of legislation.

AMENDMENT NO. 1436

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senators BURDICK and CHAFEE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BURDICK, for himself and Mr. CHAFEE, proposes an amendment numbered 1436.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, strike lines 13 through 25, insert in lieu thereof the following, and re-designate titles II and III and the sections therein accordingly:

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized:

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devotion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University to Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) TERMS OF AGREEMENT.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall:

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other contributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with inkind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) AUTHORIZATION.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) TERMINATION OF AGREEMENT.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100–610 is amended by adding at the end the following new section: "Section 208. Wildlife Interpretation and Education Center.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

Mr. CHAFEE. Mr. President, I offer this amendment in recognition of the significant contribution former Congressman Silvio O. Conte made to the conservation of our Nation's fish and wildlife. I can think of no more fitting tribute to this champion of the natural environment than to establish a scholarship at the University of Massachusetts in his honor dedicated to training professionals in the areas of fish and wildlife conservation and natural resources policy.

Under this amendment, the Department of the Interior and the National Fish and Wildlife Foundation will make a small initial contribution which the university will be required to invest in interest-bearing accounts to fund the scholarships. The university is required to match all scholarship awards with inkind contributions of equal value to the award. The restrictions of OMB Circular A110 and A133 shall not apply to any interest earned on Federal funds provided for this program. This is necessary to allow the University of Massachusetts to award scholarships with funds from accrued interest to eligible candidates in fish and wildlife conservation advanced degree programs and will ensure that the program will continue to provide scholarship benefits in the future.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1436) was agreed to.

Mr. MITCHELL. Mr. President, I mov to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1437

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator SANFORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. SANFORD, proposes an amendment numbered 1437.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the appropriate place in the bill the following new section:

SEC. . COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof—

"has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:"

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees."

(b) EFFECTIVE DATE.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

Mr. SANFORD. Mr. President, I rise to offer an amendment to the Silvio Conte National Fish and Wildlife Refuge Act, S. 821. This amendment is of great importance to me and of concern to preservationists in other coastal States as well.

The Conte Refuge Act was significantly altered after its referral from the House. Specifically, I was concerned about the elimination of langauge passed by the House which extended favorable Federal matching fund support of 75 percent, under the National Coastal Wetlands Conservation Grants Program, to those States with trust funds, "consisting of moneys from a recurring source." Prior to the inclusion of this language by the House, only two States would have been eligible to receive the 75 percent Federal matching share. Only Michigan and Minnesota have trust funds qualifying under the original wetlands grant language; such language requires that States have funds "from which the principal is not spent."

My amendment to S. 821 will roughly replace, and clarify, the coastal wetland grants title that was stricken from H.R. 794, while also maintaining the original Coastal Wetlands Act langauge. My intent, as was that of involved House Members, is to allow States with recurring sources of funding dedicated to the acquisition of wetlands to receive the 75 percent Federal/25 percent State cost-share. My amendment should allow eight additional States to be eligible for the favorable Federal match. Each of these eight States has an annually recurring fund derived from either a real estate transfer tax, a cigarette tax, a tax check off or, as is the case in North Carolina, a license plate fee.

To avoid any misunderstanding as to what State funding mechanism might qualify as a recurring source, my amendment requires that a State have a fund "consisting of moneys from a dedicated recurring source." I certainly want to make it clear to my colleagues that my amendment does not apply to those States that might annually appropriate moneys for wetlands acquisition but do not have a dedicated source of funding for this purpose.

I understand that the National Coastal Wetlands Conservation Grants Program was designed to encourage States to establish dedicated funding sources in order to purchase coastal wetlands and open areas. My amendment is entirely consistent with this intent.

The grants program also gives priority to "coastal wetlands conservation projects in maritime forests on coastal barrier islands" (16 U.S.C. 3954(b)(2)). In my home State of North Carolina, authorities have recently filed for such a grant proposal to protect a substantial tract of rare evergreen maritime forest on the coastal barrier island of Bald Head. The plant community located here has a global rank of G–2, which means that 20 or fewer such communities remain in the world. Without a 75–25 cost share through the Wetlands Grants Program, conservation officials tell me that this fragile natural treasure, under threat of development, may well be lost forever. Critical projects may hang in the balance in the other States affected by my amendment, States that have made a long-term commitment to wetlands acquisition.

Mr. President, I am pleased that my amendment has been accepted as an appropriate part of S. 821. I am grateful to Senator LIEBERMAN, who has worked hard to bring this worthy piece of legislation to the floor, and Senators CHAFEE, BAUCUS, and others, who have been kind enough to agree to this amendment language.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1437) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1438

(Purpose: To delete Title II of the bill which proposes to change the name of the Buenos Aires National Wildlife Refuge to the Morris K. Udall National Wildlife Refuge)

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DECONCINI, proposes an amendment numbered 1438.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, strike lines 1 through 13.

Mr. DECONCINI. Mr. President, I am offering an amendment that will strike title II of this legislation. This title redesignates the Buenos Aires National Wildlife Refuge in Arizona as the Morris K. Udall National Wildlife Refuge. This title was included in the bill that was sent over from the House.

In the past, Mo has strongly indicated to me his reluctance to have things named after him indiscriminately. I have consulted with Mo's family, and it was concluded that it would be a better course of action to wait on renaming this refuge or anything else for that matter, until the family is better able to be involved in this process.

The Buenos Aires Refuge is something that I know Mo feels very strongly about. In fact, had it not been for his leadership, it never would have been established. Therefore, the House action in this regard is commendable. However, in deference to the wishes of Mo and his family, I think we should postpone action on this proposal at this time. Therefore, I ask that my amendment be adopted.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1438) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I rise today to express my support for H.R. 794, the Silvio Conte National Fish and Wildlife Refuge Act. This bill was originally introduced by the late Representative from Massachusetts. The bill has been properly amended to name the wildlife refuge after him to make it a living example of his legacy. Sil Conte was a friend of mine. He had good humor and a heart of gold. I worked closely with him for many years in the appropriations process and learned quickly that Silvio Conte cared deeply for the people of this country, always stood his ground, and fought like the devil for the causes in which he believed.

One of those causes was the environment. Like Silvio Conte, I came from a part of the country with a great outdoors tradition. In New Hampshire, like western Massachusetts, hunting, fishing, and just being outside is a way of life for many people. And so Sil and I shared common ground in both our personal enjoyment of the outdoors and our belief that they must be managed properly so that future as well as present generations might enjoy them.

Shortly before his death, Silvio Conte introduced legislation to protect the fish and wildlife habitat along the Connecticut River, a river that flows 410 miles and traverses four of the New England States from its headwaters in New Hampshire to New York's Long Island Sound. For 32 years, Silvio Conte worked on similar protection efforts. As a member of the Migratory Bird Conservation Commission, he played a critical role in the acquisition of 80 national wildlife refuges covering some 3 million acres of wetlands and other wildlife habitat throughout the Nation. It is, therefore, fitting that legislation of this nature will stand as a living memorial in his name. In this regard, I am proud to be a part of the enactment of H.R. 794.

Since coming to the Senate, I have strongly supported efforts to protect our Nation's natural resources. In New Hampshire specifically, I have worked on a number of Wild and Scenic Rivers study and designation bills. These successful measures have increased public awareness of these resources and encouraged cooperative efforts in maintaining clean rivers for recreational as well as commercial use. The establishment of a national wildlife refuge on the Connecticut River will help preserve critical habitat and assist the hundreds of volunteers who have been working to protect the river under both the New Hampshire and the Vermont river protection programs. The New Hampshire Connecticut River Valley Resource Commission, as well as the Vermont Connecticut River Watershed Commission, have jointly coordinated these local efforts to preserve the river. In addition, Governor Gregg, a number of conservation organizations, and commercial interests in my State have supported this bill.

Mr. President, specifically, H.R. 794 would require the Secretary of Interior within 3 years, in consultation with State and local officials and the residents of the region, to define and designate the boundaries of a national wildlife refuge within the lands and waters of the Connecticut River basin. The Secretary would also be required to establish an advisory committee to assist the Fish and Wildlife Service with community outreach and education programs that would further the purposes of the refuge. The Secretary must also establish four aquatic resources and wildlife interpretation and education centers. It should be noted that the Fish and Wildlife Service has existing authority to establish a refuge without Congress enacting enabling legislation. However, the acquisition of such lands and waters must proceed through existing statutes. In other words, the Secretary's acquisition authority is not expanded under this legislation. It is worth noting that until land is acquired through the appropriate channels, approved by Congress, the Service has no power to manage the land within the refuge area.

As much as I support the concept behind this legislation, I do have certain reservations about the advisory committee, in particular, the make up of the committee. However, this does not prevent me from supporting the measure.

The Connecticut River and its tributaries are a unique environmental resource which provide habitat for significant anadromous, migratory, and resident fish, migratory waterfowl, and other wildlife species, including species such as the bald eagle and shortnosed sturgeon which are listed under the Endangered Species Act. One of the reasons that the Connecticut is so beautiful is that it is the only major river in the country without a city at it's mouth. In recent decades the Connecticut has been recognized as something even more vital—the ecological thread that ties New England together. Although the Federal Government has put millions of dollars into cleaning up the river over the years, it is still threatened with spoilage and ecological downgrading. In this respect, I believe, as Mr. Conte did, that this legislation will further the local protection efforts to protect this vital resource in the Northeast. Accordingly, Mr. President, I rise to support this legislation and encourage my colleagues to support it as well.

Mr. KENNEDY. Mr. President, I rise in support of this bill to establish the Silvio Conte National Fish and Wildlife Refuge. Enactment of this legislation would be a fitting tribute to Sil Conte's lifelong efforts to protect and preserve our Nation's precious natural resources.

Sil Conte had a particular interest in the Connecticut River Valley, which supports a delicate ecosystem of fish, birds and other wildlife, such as endangered bald eagles. The last bill that Sil introduced in Congress was designed to ensure the protection of this critical habitat—and do so in a way that more people could enjoy its natural beauty.

The bill before us today will carry out the vision Sil Conte had for the Connecticut River, and will help honor one of the finest and most beloved legislators this Nation has even known. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 794), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The text of S. 543, a bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, as passed by the Senate on November 21, 1991, is as follows:

S. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

Sec. 101. FDIC borrowing authority.
Sec. 102. Recapitalizing the Bank Insurance Fund.
Sec. 103. GAO audit of recapitalization schedule.
Sec. 104. Emergency guarantee.

TITLE II—DEPOSIT INSURANCE REFORM

Sec. 201. Full faith and credit.
Sec. 202. Improving capital standards.
Sec. 203. Accounting and auditing reform.
Sec. 204. Annual examinations.
Sec. 205. Prompt corrective action.
Sec. 206. Standards for safety and soundness.
Sec. 207. Conservatorship and receivership amendments to facilitate prompt corrective action.
Sec. 208. Backup enforcement authority of FDIC.
Sec. 209. Capital maintenance commitments.
Sec. 210. Pass-through insurance coverage.
Sec. 211. Brokered deposits.
Sec. 212. Risk-based assessments.
Sec. 213. Risk-based reinsurance.
Sec. 214. Real estate lending standards.
Sec. 215. Restricting risky bank activities.
Sec. 216. Safeguards against insider abuse.
Sec. 217. Protecting depository institutions from abusive transactions with affiliates.
Sec. 218. Interbank liabilities.
Sec. 219. Reducing risk to payment system.
Sec. 220. Least-cost resolution.
Sec. 221. Early resolution.
Sec. 222. Federal Reserve discount window advances.
Sec. 223. Cross-guarantee liability.
Sec. 224. Granting deposit insurance.
Sec. 225. Disclosure by insured depository institutions and the Federal banking agencies.
Sec. 226. Consent to be bound by the Federal Deposit Insurance Act.
Sec. 227. Depository institutions lacking Federal deposit insurance.
Sec. 228. Uninsured wholesale banks.
Sec. 229. Study and report on core banking.
Sec. 230. Priority of claims.
Sec. 231. Sense of the Senate.
Sec. 232. Disclosure of certain information.
Sec. 233. Utilizing private sector.
Sec. 234. Sense of the Senate.

TITLE III—INTERSTATE BANKING AND COMBINATIONS

Sec. 301. Interstate banking.
Sec. 302. Conversion of banks to branches.
Sec. 303. Amendments to Federal Deposit Insurance Act and the Act entitled "An Act to Provide for the Consolidation of National Banking Associations".
Sec. 304. Acquisition of new interstate branches by national and State banks.
Sec. 305. Community Reinvestment Act evaluation of banks with interstate branches.
Sec. 306. State tax compliance.
Sec. 307. Use of names in host State.
Sec. 308. Consideration of displaced work force.
Sec. 309. Attorney General's determination on competitive factors.
Sec. 310. Regulations to prohibit branching for deposit production.

TITLE IV—JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT

Sec. 401. Short title.
Sec. 402. Coin specifications.
Sec. 403. Sources of bullion.
Sec. 404. Issuance of coins.
Sec. 405. Sale of coins.
Sec. 406. Financial assurances.
Sec. 407. Distribution of surcharges.
Sec. 408. Audits.
Sec. 409. General waiver of procurement regulations.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

Sec. 501. Short title.
Sec. 502. Findings and purpose.
Sec. 503. Definitions.
Sec. 504. Disclosure of yields and terms of accounts.
Sec. 505. Account schedule.
Sec. 506. Disclosure requirements for certain accounts.
Sec. 507. Distribution of schedules.
Sec. 508. Periodic statements.
Sec. 509. Payment of interest.
Sec. 510. Regulations.
Sec. 511. Administrative enforcement.
Sec. 512. Civil liability.
Sec. 513. Credit unions.
Sec. 514. Review of disclosure requirements for open-end management investment companies.
Sec. 515. Effect on State law.
Sec. 516. Effective date of regulations.

Subtitle B—Fair Lending Enforcement

Sec. 521. Short title.
Sec. 522. Appraisals.
Sec. 523. Consumer compliance programs.
Sec. 524. Enforcement of Equal Credit Opportunity Act.
Sec. 525. Home Mortgage Disclosure Act.

Subtitle C—Basic Financial Services Accounts

Sec. 531. Study and report on utilizing the United States Postal Service to provide Government check cashing services.
Sec. 532. Study and report on direct deposit program for Federal recurring payments.
Sec. 533. Government return of electronic payments.

Subtitle D—Miscellaneous

Sec. 551. Home Equity Loan Consumer Protection Act amendments.

Sec. 552. Directive to relieve regulatory burden.
Sec. 553. Expedited Funds Availability Act amendments.
Sec. 554. Truth in Lending Act amendment.
Sec. 555. Homeownership amendments.
Sec. 556. Discussion of lending data.
Sec. 557. GAO report on data collection under interstate branching.
Sec. 558. Notice of branch closing.
Sec. 559. Study and report on community lending.

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

Sec. 601. Short title.
Sec. 602. Regulation of foreign bank operations.
Sec. 603. Conduct and coordination of examinations.
Sec. 604. Supervision of foreign banks' representative offices.
Sec. 605. Reporting stock loans.
Sec. 606. Cooperation with foreign supervisors.
Sec. 607. Penalties.
Sec. 608. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 609. Penalties for failure to comply with agency subpoena.
Sec. 610. Clarifying managerial standards in the Bank Holding Company Act of 1956.
Sec. 611. Standards and factors in the Home Owners' Loan Act.
Sec. 612. Authority of Federal banking agencies to enforce consumer statutes.
Sec. 613. Criminal penalty for violating the International Banking Act of 1978.

Subtitle B—Regulation of Foreign Banks and Subsidiaries

Sec. 621. Amendments to the International Banking Act of 1978.
Sec. 622. Study and report on subsidiary requirements for foreign banks.

Subtitle C—Fair Trade in Financial Services

Sec. 631. Short title.
Sec. 632. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 633. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 634. Effectuating the principle of national treatment for investment advisers.
Sec. 635. Investigation and report on financial interdependence.
Sec. 636. Conforming amendments specifying that national treatment includes effective market access.

TITLE VII—BANK POWERS

Sec. 701. Short title.
Sec. 702. Limitations on certain nondeposit marketing activities in retail branches of FDIC-insured depository institutions.
Sec. 703. Limitations on certain nondeposit marketing activities in retail branches of federally insured credit unions.
Sec. 704. Insurance activities of national banks.
Sec. 705. Interstate insurance agency activities of banking subsidiaries of bank holding companies.
Sec. 706. Safeguards for sale of insurance.
Sec. 707. Insurance underwriting in bank restricted.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

Sec. 801. Short title.
Sec. 802. Streamlining conversion procedures.
Sec. 803. Retention of existing in-State branches by savings associations that convert to national banks.
Sec. 804. No recapture of thrift reserves on conversion.

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

Sec. 901. Short title.

Subtitle A—Termination of Charters, Insurance, and Offices

Sec. 911. Revoking charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 912. Terminating insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 913. Removing parties involved in currency reporting violations.
Sec. 914. Unauthorized participation.
Sec. 915. Access by State financial institution supervisors to currency transactions reports.
Sec. 916. Restricting State branches and agencies of foreign banks convicted of money laundering offenses.

Subtitle B—Nonbank Financial Institutions and General Provisions

Sec. 921. Identification of financial institutions.
Sec. 922. Prohibition of illegal money transmitting businesses.
Sec. 923. Compliance procedures.
Sec. 924. Nondisclosure of orders.
Sec. 925. Improved recordkeeping with respect to certain international funds transfers.
Sec. 926. Use of certain records.
Sec. 927. Suspicious transactions and financial institution anti-money laundering programs.
Sec. 928. Report on currency changes.
Sec. 929. Report on bank prosecutions.
Sec. 930. Anti-money laundering training team.
Sec. 931. Money laundering reporting requirements.

SUBTITLE C—MONEY LAUNDERING IMPROVEMENTS

Sec. 941. Jurisdiction in civil forfeiture cases.
Sec. 942. Civil forfeiture of fungible property.
Sec. 943. Administrative subpoenas.
Sec. 944. Procedure for subpoenaing bank records.
Sec. 945. Deletion of redundant and inadvertently limiting provision in 18 U.S.C. 1956.
Sec. 946. Structuring transactions to evade CMIR requirement.
Sec. 947. Clarification of definition of financial institution.
Sec. 948. Definition of financial transaction.
Sec. 949. Obstructing a money laundering investigation.
Sec. 950. Awards in money laundering cases.
Sec. 951. Penalty for money laundering conspiracies.
Sec. 952. Technical and conforming amendments to money laundering provision.
Sec. 953. Preclusion of notice to possible suspects of existence of a grand jury subpoena for bank records in money laundering and controlled sustance investigations.
Sec. 954. Definition of property for criminal forfeiture.
Sec. 955. Expansion of money laundering and forfeiture laws to cover proceeds of certain foreign crimes.
Sec. 956. Elimination of restriction on disposal of judicially forfeited property by the Treasury Department and the Postal Service.
Sec. 957. New money laundering predicate offenses.
Sec. 958. Amendments to the Bank Secrecy Act.

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

Sec. 1001. Short title.
Sec. 1002. Asset conservation and deposit insurance protection.

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Establishment.
Sec. 1104. Duties of the Commission.
Sec. 1105. Membership and compensation.
Sec. 1106. Powers of Commission.
Sec. 1107. Staff of Commission; experts and consultants.
Sec. 1108. Report.
Sec. 1109. Termination.
Sec. 1110. Authorization of appropriations.

Subtitle B—General Provisions

Sec. 1121. Credit unions.
Sec. 1122. Strengthening Federal banking agencies' authority to remove persons guilty of misconduct.
Sec. 1123. Emergency liquidity.
Sec. 1124. Disclosure of Securities Investor Protection Act coverage.
Sec. 1125. Hiring and compensation authority of Securities and Exchange Commission.
Sec. 1126. Limitation on securities private rights of action.
Sec. 1127. Conversions during moratorium.
Sec. 1128. Qualified thrift lender test.
Sec. 1129. Consumer lending by Federal savings associations.
Sec. 1130. Noncontrolling investments in banks and bank holding companies by certain investment funds.
Sec. 1131. Limiting liability for foreign deposits.
Sec. 1132. Certain wrongfully withdrawn deposits treated as insured deposits.
Sec. 1133. Providing services to insured depository institutions.
Sec. 1134. Study and report on reimbursing financial institutions and others for providing financial records.
Sec. 1135. Removing cost limitation on construction of Federal Reserve bank buildings.
Sec. 1136. $1 coins.
Sec. 1137. Purchased mortgage servicing rights.
Sec. 1138. Credit card interest rates.
Sec. 1139. Restatement and reorganization of section 5136 of the Revised Statutes.
Sec. 1140. Sense of the Senate regarding the repeal of the luxury excise tax on boats.
Sec. 1141. Act not to affect application of Internal Revenue Code.
Sec. 1142. Community development authority of national banks.
Sec. 1143. Immunity.

Sec. 1144. Creditability of service.
Sec. 1145. Delegated processing.
Sec. 1146. Low-income housing covenants.
Sec. 1147. Examination and supervision fees for national banks and savings associations.
Sec. 1148. Interagency sharing of information.
Sec. 1149. Application of State law for insurance purposes.
Sec. 1150. Additional whistleblower protections.
Sec. 1151. Real estate loan portfolios.
Sec. 1152. Sense of the Congress regarding the credit crunch.
Sec. 1153. Reports of information regarding safety and soundness of depository institutions.
Sec. 1154. Technical corrections to the Federal Deposit Insurance Act.
Sec. 1155. Discrimination against reorganized debtors.
Sec. 1156. Real estate appraisal procedures.
Sec. 1157. Sanction for financing the use or acquisition of chemical or biological weapons.
Sec. 1158. Sanction for financing Chinese slave labor.
Sec. 1159. Employment Retirement Income Security Act
Sec. 1160. Sense of the Congress regarding competitive solicitation of resolution proposals.
Sec. 1161. Real estate.
Sec. 1162. United States policy toward Yugoslavia.
Sec. 1163. Credit card sales.
Sec. 1164. Special insured deposits.

TITLE XII—WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

Sec. 1201. Short title.
Sec. 1202. Denominations.
Sec. 1203. Sources of bullion.
Sec. 1204. Design.
Sec. 1205. Sale of coins.
Sec. 1206. Issuance of the coins.
Sec. 1207. General waiver of procurement regulations.
Sec. 1208. Distribution of surcharges.
Sec. 1209. Audits.
Sec. 1210. Coinage profit fund.
Sec. 1211. Financial assurances.

TITLE XIII—WHITE HOUSE COMMEMORATIVE COIN ACT OF 1991

Sec. 1301. Short title.
Sec. 1302. Coin specifications.
Sec. 1303. Sources of bullion.
Sec. 1304. Selection of design.
Sec. 1305. Sale of coins.
Sec. 1306. Issuance of coins.
Sec. 1307. General waiver of procurement regulations.
Sec. 1308. Distribution of surcharges.
Sec. 1309. Audits.
Sec. 1310. Coinage profit fund.
Sec. 1311. Financial assurances.
Sec. 1312. Authorization of appropriations.

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

SEC. 101. FDIC BORROWING AUTHORITY.

(a) TREASURY LOANS.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking subsection (b); and

(2) by striking all that precedes the last sentence of subsection (a) and inserting the following:

"SEC. 14. BORROWING AUTHORITY.

"(a) TREASURY LOANS.—

"(1) AUTHORITY TO BORROW FOR INSURANCE COSTS.—The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury (hereafter referred to as the 'Secretary') is authorized and directed to make loans to the Corporation, in accordance with this section and subject to the limitations contained in section 15(c).

"(2) LOAN PURPOSES.—The Corporation may borrow from the Secretary under paragraph (1) only such amounts as are necessary, in the judgment of the Board of Directors—

"(A) to cover losses to the Corporation incurred in protecting depositors;

"(B) to cover administrative costs associated with resolving insured depository institutions; or

"(C) to cover such other costs as may be necessary to meet the Corporation's obligations under this Act.

"(3) PRIORITY FOR REPAYMENT OF LOSS BORROWING.—

"(A) IN GENERAL.—The Corporation shall apply amounts raised by semiannual assessments on members of a deposit insurance fund in the following order of priority:

"(i) Repaying as scheduled any borrowings under this subsection by that fund.

"(ii) Providing for the fund's expected operating expenses and any losses incurred by the fund in protecting depositors.

"(iii) Accumulating a cash reserve for the fund (which shall consist of cash and other liquid assets), except as provided in subparagraph (B).

"(B) ACCELERATED REPAYMENT REQUIRED.—After a fund's cash reserve reaches $5,000,000,000, all of the fund's assessment income in excess of amounts required under clauses (i) and (ii) of subparagraph (A) for that fund shall be used for accelerated repayment of borrowings under this subsection consistent with minimizing costs to that fund.

"(4) INTERIM RULE.—Until a risk-based assessment system becomes effective, if the Corporation has borrowings outstanding under this subsection on behalf of any deposit insurance fund or the reserve ratio of that fund remains below the designated reserve ratio, the semiannual assessment rate for that fund shall be not less than that in effect on July 15, 1991.

"(5) TERMS.—The Secretary shall make a loan under paragraph (1) only—

"(A) in accordance with a written agreement between the Secretary and the Corporation that—

"(i) sets forth a schedule for repaying the loan over a period not to exceed 15 years from the date of the loan; and

"(ii) provides that the loan shall bear interest at the current market yield (as of the date of the loan) on outstanding marketable obligations of the United States of comparable maturities; and

"(B) if the Secretary determines in writing that income to the fund on behalf of which the loan will be made will be sufficient to repay the loan in accordance with the agreement.

"(6) LIMIT ON TOTAL BORROWING FOR INSURANCE COSTS.—In no case shall the Corporation's aggregate outstanding loans under paragraph (1) exceed—

"(A) $30,000,000,000 at any time before the date on which the Bank Insurance Fund has first achieved the designated reserve ratio, as determined under section 7(b)(1), for any complete semiannual assessment period after December 31, 1991;

"(B) $10,000,000,000 at any time after the date described in subparagraph (A); and

"(C) $5,000,000,000 on behalf of the Savings Association Insurance Fund at any time.

"(7) PUBLIC DEBT STATUS.—All loans and repayments made under this subsection shall be treated as public debt transactions of the United States.

"(8) APPORTIONMENT OF LIABILITY.—A loan to the Corporation under paragraph (1) is a liability of a deposit insurance fund to the extent that the loan is used on behalf of that fund.

"(b) FEDERAL FINANCING BANK LOANS.—

"(1) AUTHORITY TO BORROW FOR WORKING CAPITAL.—The Corporation is authorized to borrow, and the Federal Financing Bank is authorized and directed to make loans in accordance with this subsection to the Corporation on behalf of the Bank Insurance Fund or the Savings Association Insurance Fund on terms prescribed by the Federal Financing Bank.

"(2) PURPOSES.—The Corporation, in any capacity, may borrow from the Federal Financing Bank under paragraph (1) only to—

"(A) directly or indirectly acquire, retain, maintain, liquidate, dispose of, or improve the assets of an insured depository institution, in the course of the Corporation's resolution activities; or

"(B) provide temporary liquidity to insured depository institutions, to the extent otherwise authorized by statute.

"(3) LIMITATION ON BORROWING FOR WORKING CAPITAL.—Aggregate loans to the Corporation under paragraph (1) may not exceed $45,000,000,000 at any one time on behalf of the Bank Insurance Fund.

"(4) REPAYMENT OF BORROWING.—Borrowing under this subsection shall be repaid by the sale of assets of failed institutions. In the event that the proceeds from the sale of assets are insufficient to repay an amount borrowed under this subsection to fund the acquisition of such assets, the amount of the shortfall shall be funded through borrowing under subsection (a), and shall be repaid through semiannual assessments in accordance with section 7(b).

"(5) EFFECT ON OTHER ENTITIES.—This subsection does not affect the eligibility of any other entity to borrow from the Federal Financing Bank.

"(c) APPROPRIATIONS.—".

(b) LIMITATION ON TOTAL OUTSTANDING OBLIGATIONS.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—The Corporation may not issue any note or similar obligation, and may not incur any liability under a guarantee or similar obligation, if the aggregate amount of the Corporation's outstanding obligations on behalf of either the Bank Insurance Fund or the Savings Association Insurance Fund would exceed the sum of—

"(A) the amount of cash held by the Corporation for that fund;

"(B) 90 percent of the Corporation's estimate of the fair market value of assets held by the Corporation for that fund (other than assets described in subparagraph (A)); and

"(C) the aggregate amount of outstanding loans to the Corporation under section 14(a) on behalf of that fund.

The Corporation's estimate of fair market value under subparagraph (B) shall be based on the most recent audit of the Corporation by the Comptroller General, subject to any adjustments described in paragraph (3) or (4), and taking into account any transaction occurring since the date of the audit.

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' means—

"(A) any guarantee issued by the Corporation, other than deposit guarantees;

"(B) any loans made to or notes issued by the Corporation under section 14; and

"(C) the expected cost of any other note, bond, or contract for which the Corporation has a direct or contingent liability for any amount.".

(c) CONFORMING AMENDMENT DEFINING DEPOSIT INSURANCE FUND.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) DEPOSIT INSURANCE FUND.—The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be.".

SEC. 102. RECAPITALIZING THE BANK INSURANCE FUND.

(a) IN GENERAL.—SECTION 7(B)(1)(C) OF THE FEDERAL DEPOSIT INSURANCE ACT (12 U.S.C. 1817(B)(1)(C)) IS AMENDED TO READ AS FOLLOWS:

"(C) ASSESSMENT RATES FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) SPECIAL RULES FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) RECAPITALIZATION SCHEDULES.—For purposes of clause (ii)(II), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating by the end of the period determined under clause (iv) in a reserve ratio that is equal to the designated reserve ratio.

"(iv) DATE FOR ACHIEVING DESIGNATED RATIO.—A schedule promulgated under clause (iii) shall provide for achieving the designated reserve ratio by the end of the period beginning on the date on which the schedule becomes effective and ending not later than the earlier of—

"(I) 15 years after that effective date, or

"(II) the number of years (rounded to the nearest whole number) after that effective date, determined as follows:

$$15 \times \left(1 - \frac{\text{reserve ratio}}{\text{designated reserve ratio}} \right)$$

"(v) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such amendments may not extend the period determined under clause (iv).

"(vi) PROCEDURE FOR EXTENDING SCHEDULE.—If, during the period determined in clause (iv), when the Bank Insurance Fund's reserve ratio is being restored to the designated reserve ratio, the Corporation determines that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of that period would significantly increase losses to the fund or would significantly impair the availability of credit, the following procedures shall apply:

"(I) REPORT REQUIRED.—The Corporation shall submit a report to the Congress that—

"(aa) sets forth a revised schedule of semiannual target reserve ratios for that fund, culminating in the achievement of the designated reserve ratio; and

"(bb) provides a detailed justification for the revision.

"(II) REQUIREMENT FOR CONGRESSIONAL CONSIDERATION.—The proposed revised schedule of semiannual target reserve ratios shall not be implemented unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the proposed revision.

"(vii) PROCEDURES FOR EXPEDITED CONGRESSIONAL CONSIDERATION.—

"(I) JOINT RESOLUTION DEFINED.—For purposes of this clause, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(b)(1)(C) of the Federal Deposit Insurance Act, the Corporation may implement revisions to the schedule of semiannual target reserve ratios, culminating in the achievement of the designated reserve ratio for the Bank Insurance Fund, as proposed in the report submitted to the Congress on ______.', with the blank space being filled with the appropriate date.

"(II) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under clause (vi)(I), a joint resolution with respect to the revised schedule specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on Banking, Finance and Urban Affairs, for himself and the ranking minority member of the Committee, or by the Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(III) REFERRAL TO COMMITTEE.—Any joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and any joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(IV) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(V) EXPEDITED FLOOR CONSIDERATION.—Any such joint resolution shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(VI) JOINT RESOLUTION RECEIVED FROM OTHER HOUSE.—In the case of a joint resolution described in this clause, if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(aa) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(bb) the vote on final passage shall be on the joint resolution of the other House.

"(VII) COMPUTING TIME PERIODS.—In computing the 60-day period referred to in clause (vi)(II) and the 30-day period referred to in subclause (IV), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

"(viii) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(I) IN GENERAL.—This paragraph shall apply if—

"(aa) the Corporation incurs a loss with respect to an insured depository institution; and

"(bb) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(II) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(aa) the amount that persons with foreign deposits at the institution received, and

"(bb) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by item (bb) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(III) TIMING OF SPECIAL ASSESSMENTS.—

"(aa) IN GENERAL.—Special assessments under subclause (II) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subclause (II) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(bb) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subclause (II) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(IV) DEFINITIONS.—For purposes of this paragraph:

"(aa) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(bb) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(cc) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(AA) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(BB) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(CC) A receiver or conservator is appointed for the institution.".

(b) Assessment Rate Changes.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) Rate changes.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 103. GAO AUDIT OF RECAPITALIZATION SCHEDULE.

Section 17(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(d)(1)) is amended—

(1) by inserting "(A) Funds Audit.—" before "The Comptroller General" and appropriately indenting that subparagraph; and

(2) by adding at the end the following:

"(B) Recapitalization audit.—As part of the audit required by subparagraph (A), the Comptroller General shall perform an audit of the Corporation's compliance with any recapitalization schedule promulgated under section 7(b)(1)(C) that is in effect at the time of the audit.".

SEC. 104. EMERGENCY GUARANTEE.

(a) Guarantee Authority for Repayment of State Borrowings.—Upon the written request of the State of Rhode Island and the Providence Plantations (hereafter referred to as the "State of Rhode Island") or the Depositors Economic Protection Corporation (hereafter referred to as the "Corporation"), established by the State of Rhode Island, the Secretary of the Treasury (hereafter referred to as the "Secretary") may guarantee the repayment of borrowing by the Corporation in an amount not to exceed $180,000,000, to assist in the repayment of depositors at certain State-chartered banks and credit unions in the State of Rhode Island that are in receivership and that were not federally insured at the time they were placed in receivership.

(b) Limitations on Guarantee Authority.—The Secretary may only guarantee Corporation borrowing under this section if the guarantee provided under subsection (a) has no cost to the United States Government, taking into account the guarantee fees assessed and collected under subsection (e).

(c) Borrowing Eligible for Guarantee.—The Secretary may guarantee only Corporation borrowing under this section that—

(1) occurs not more than 1 year after the date of enactment of this Act;

(2) will mature not later than 10 years after the date of such borrowing; and

(3) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such borrowing.

(d) Security and Rating Requirements for Guarantee.—

(1) In general.—The Secretary may not guarantee the repayment of any Corporation borrowing under this section unless the amount of the borrowing for which the guarantee is requested is fully secured—

(A) by the Corporation's grant in favor of the United States, as collateral for such borrowing, of a first mortgage lien on, and prior perfected security interest in, sufficient performing assets held or controlled by the Corporation, and any proceeds from the sale of such assets, so that the appraised market value of such pledged assets is equal to an amount that is not less than 2½ times the principal amount of such borrowing at the time of such borrowing; and

(B) by an irrevocable pledge by the Corporation of any revenue from the State of Rhode Island's sales tax which is dedicated to the Corporation under the laws of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State of Rhode Island or the Corporation issued before the date of enactment of this Act for the purpose described in subsection (a), to the payment of the principal of, and interest on, such borrowing.

(2) Investment grade rating.—The Secretary may not guarantee the repayment of any Corporation borrowing under this section unless each proposed borrowing has received the highest investment grade rating by a nationally recognized statistical rating organization.

(e) Additional Terms and Conditions.—In addition to security requirements under subsection (d), the Corporation shall be required to agree to the following terms and conditions in connection with the guarantee by the Secretary provided under this section:

(1) Pledge of certain income for repayment.—For each fiscal year of the Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from or attributable to the assets pledged to the United States under subsection (d)(1), in excess of the amount necessary to pay the interest or principal and interest on any Corporation borrowings guaranteed under subsection (a) that is payable in such fiscal year, shall be deposited into a sinking fund or defeasance fund maintained by the Corporation irrevocably pledged and dedicated to the repayment of the principal of such guaranteed borrowings in the inverse order of the maturity of such principal installments.

(2) Assessments and collection.—The Secretary shall assess and collect from the Corporation, in connection with the guarantee provided under subsection (a), not less frequently than annually, a guarantee fee computed daily at a rate that is not less than one-half of 1 percent per year on the outstanding principal amount of the guaranteed borrowing. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury.

(f) Authority To Prescribe Additional Terms and Conditions.—The Secretary may establish such additional terms and conditions in connection with the provision of a guarantee under this section as the Secretary may deem appropriate.

(g) Budget Status.—Notwithstanding the emergency need for the guarantee provided under this section, this section is subject to the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Budget Enforcement Act of 1990).

TITLE II—DEPOSIT INSURANCE REFORM

SEC. 201. FULL FAITH AND CREDIT.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended to read as follows:

"SECTION 1. ESTABLISHMENT.

"(a) In General.—There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the 'Corporation'), which shall insure the deposits of banks and savings associations in accordance with this Act.

"(b) Full Faith and Credit of the United States.—The full faith and credit of the United States is pledged to the Corporation's obligation to pay insured deposits under this Act.".

SEC. 202. IMPROVING CAPITAL STANDARDS.

(a) Periodic Review of Capital Standards Generally.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) Periodic Review of Capital Standards.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 37.".

(b) Review of Risk-Based Capital Standards.—

(1) In general.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) International discussions.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) Deadline for prescribing revised standards.—Each appropriate Federal banking agency shall—

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) Definitions.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) Conforming Amendment Defining Federal Banking Agencies.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) Federal Banking Agencies.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 203. ACCOUNTING AND AUDITING REFORM.

(a) Accounting Reform.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(p) Accounting Reform.—

"(1) Objectives.—Accounting principles applicable to insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the economic condition of those institutions; and

"(B) facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no loss or minimal loss to the deposit insurance fund.

"(2) IMPROVING ACCOUNTING PRINCIPLES APPLICABLE TO INSURED DEPOSITORY INSTITUTIONS.—The Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, shall facilitate the development of accounting principles for insured depository institutions that meet the objectives set forth in paragraph (1).

"(3) STRINGENCY.—Each appropriate Federal banking agency—

"(A) shall prescribe accounting principles applicable to insured depository institutions that are no less conservative than generally accepted accounting principles; and

"(B) may prescribe accounting principles that are more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no loss or minimal loss to the deposit insurance fund.

"(4) SECURITIES AND EXCHANGE COMMISSION'S AUTHORITY.—Paragraphs (2) and (3) shall not be construed as affecting the Securities and Exchange Commission's authority under the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934.".

(b) IMPROVEMENTS IN FINANCIAL MANAGEMENT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall annually submit to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State) a report that contains—

"(A) the information required to be provided by the institution's management under subsection (b);

"(B) the information required to be provided by an independent public accountant under subsections (c) and (d); and

"(C) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the institution's financial condition and management.

"(2) REPORT TO BE PUBLICLY AVAILABLE.—Annual reports required under paragraph (1) shall be made available for public inspection.

"(b) MANAGEMENT'S RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the institution's chief executive officer and chief accounting or financial officer, that—

"(A) states the management's responsibility for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with designated safety-and-soundness laws; and

"(B) assesses, as of the end of the institution's most recent fiscal year—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with designated safety-and-soundness laws.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—An insured depository institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in the internal control report required under subsection (b)(2).

"(2) ATTESTATION REQUIREMENTS.—Any attestation under paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the Federal banking agencies, shall prescribe regulations requiring each insured depository institution to have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) SCOPE OF AUDIT.—In auditing any insured depository institution under this subsection, an independent public accountant shall determine and report on whether the institution's financial statements—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under paragraph (1) may be satisfied for an insured depository institution that is a subsidiary of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF DESIGNATED SAFETY-AND-SOUNDNESS LAWS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to determine objectively the extent to which any insured depository institution or depository institution holding company has complied with designated safety-and-soundness laws.

"(2) ATTESTATION REQUIREMENTS.—Any attestation required under paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant under this section, and the procedures followed in preparing such report, shall satisfy generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—In implementing this subsection, the Corporation shall consult with the other Federal banking agencies.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution shall establish an independent audit committee consisting only of members of the board of directors of the institution who—

"(i) are not officers, employees, or major shareholders of the institution; and

"(ii) meet any additional requirements established by the Corporation.

"(B) DUTIES.—The independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for reports issued and audits made under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—The audit committee of each insured depository institution that the Corporation determines to be a large institution shall—

"(i) include members with banking or related financial management expertise;

"(ii) have discretion to retain independent legal counsel, at the institution's expense; and

"(iii) not include any large customers of the institution, as determined by the Corporation.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—The Corporation may require an independent public accountant retained by any insured depository institution that the Corporation determines is a large institution to conduct a review of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant shall provide to the audit committee of the insured depository institution a report on any review conducted under subparagraph (A). The audit committee shall provide copies of any such reports to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Any reports under subparagraph (B) shall be made only for the information and use of the insured depository institution, the Corporation, the appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—No insured depository institution shall retain an independent public accountant to perform services under this section unless the independent public accountant—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may, upon a showing of good cause, remove, suspend, or bar an independent public accountant from performing audit services under this section.

"(B) JOINT RULEMAKING.—The Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE IF ACCOUNTANT'S SERVICES TERMINATE.—An independent public accountant who ceases to perform services for an insured depository institution under this section shall promptly notify the Corporation in accordance with such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution that has retained an independent auditor to conduct an audit of the institution under this section shall provide the auditor a copy of the institution's most recent report of condition and most recent report of examination.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with the institution and any written agreement between the institution and any appropriate Federal banking agency or any appropriate State supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of a civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report not more than 15 days after receiving any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall notify the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor if the institution's independent auditor resigns or is dismissed, or if the institution engages a new independent auditor. Such notice shall—

"(i) state the reasons for the change; and

"(ii) be provided not more than 15 calendar days after the change occurs.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Any insured depository institution that is a subsidiary of a holding company may satisfy the requirements of this section, other than any audit requirements established under subsection (d), if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution's total assets, at the beginning of the fiscal year, are less than $5,000,000,000; or

"(B) the institution—

"(i) had total assets, at the beginning of the fiscal year, of not less than $5,000,000,000, nor more than $9,000,000,000; and

"(ii) when most recently examined by the Corporation or the appropriate Federal banking agency, had a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system).

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—If an insured depository institution's total assets at the beginning of a fiscal year do not exceed the greater of $150,000,000 or such amount (exceeding $150,000,000) as the Corporation may prescribe by regulation, this section shall not apply with respect to that institution during that fiscal year.

"(k) DESIGNATED SAFETY-AND-SOUNDNESS LAWS DEFINED.—For purposes of this section, the term 'designated safety-and-soundness laws' means statutes and regulations relating to safety and soundness that are designated under this section by the Corporation or the appropriate Federal banking agency.".

(c) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (b) shall apply with respect to fiscal years of insured depository institutions that begin after December 31, 1992.

SEC. 204. ANNUAL EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 37;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which is owned by a person or agency other than the Corporation.

"(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

SEC. 205. PROMPT CORRECTIVE ACTION.

(a) ESTABLISHING SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 37. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions—

"(A) with no loss or minimal loss to the deposit insurance fund; and

"(B) when loss cannot be avoided, at the least possible long-term loss to the deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS.—For purposes of this section:

"(1) CAPITAL CATEGORIES.—

"(A) WELL CAPITALIZED.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) ADEQUATELY CAPITALIZED.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) OTHER DEFINITIONS.—

"(A) AVERAGE.—

"(i) IN GENERAL.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) AGENCY MAY PERMIT WEEKLY AVERAGING FOR CERTAIN INSTITUTIONS.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day each week during that period divided by the total number of weeks in that period.

"(B) CAPITAL DISTRIBUTION.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) CAPITAL RESTORATION PLAN.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) COMPANY.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) COMPENSATION.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) RELEVANT CAPITAL MEASURE.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) REQUIRED MINIMUM LEVEL.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) CAPITAL STANDARDS.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) CAPITAL CATEGORIES GENERALLY.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.

"(3) CRITICAL CAPITAL.—

"(A) AGENCY TO SPECIFY LEVEL.—

"(i) LEVERAGE LIMIT.—Each appropriate Federal banking agency shall, by regulation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) OTHER RELEVANT CAPITAL MEASURES.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) CRITERIA FOR SPECIFYING LEVEL.—

"(i) IN GENERAL.—The level specified under subparagraph (A)(i) shall be high enough so that the problems of insured depository institutions can be resolved with no loss or minimal loss to the deposit insurance fund by carrying out subsection (h) when the institution becomes critically undercapitalized.

"(ii) LIMITS.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(I) not less than 2 percent of total assets; and

"(II) except as provided in subclause (I), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(2) MANAGEMENT FEES RESTRICTED.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e)PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING REQUIRED.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 30 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(E) GUARANTEE LIABILITY LIMITED.—

"(i) IN GENERAL.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall not exceed an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized.

"(ii) CERTAIN AFFILIATES NOT AFFECTED.—This paragraph does not require—

"(I) any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan; or

"(II) any person other than an insured depository institution to submit a capital restoration plan.

"(3) ASSET GROWTH RESTRICTED.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS, BRANCHING, AND NEW LINES OF BUSINESS.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution, establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines, upon a vote of three-fourths of all members, that the proposed action will further the purpose of this section.

"(5) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING INTEREST RATES PAID.—

"(i) IN GENERAL.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) RETROACTIVE RESTRICTIONS PROHIBITED.—This subparagraph does not authorize the agency to restrict interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) RESTRICTING ASSET GROWTH.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) RESTRICTING ACTIVITIES.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) IMPROVING MANAGEMENT.—Doing 1 or more of the following:

"(i) NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(ii) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS.—Requiring the institution to employ qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) REQUIRING CHANGE OF AUDITOR.—Requiring the institution to retain a new independent auditor.

"(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) REQUIRING DIVESTITURE.—Doing one or more of the following:

"(i) DIVESTITURE BY THE INSTITUTION.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) DIVESTITURE BY PARENT COMPANY OF NONDEPOSITORY AFFILIATE.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) DIVESTITURE OF INSTITUTION.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

"(J) REQUIRING OTHER ACTION.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) IN GENERAL.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) FAILING TO SUBMIT PLAN.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(g) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—

"(1) IN GENERAL.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) CONTENTS OF PLAN.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) PROVISIONS APPLICABLE TO CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—

"(1) ACTIVITIES RESTRICTED.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the appropriate Federal banking agency under subsection (i).

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—A critically undercapitalized insured depository institution shall not, beginning 30 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) EXCEPTIONS.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 30 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or "(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(B) REVIEW OF OTHER ACTION.—If a conservator or receiver is not appointed for the insured depository institution, the agency shall review its action under subparagraph (A)(ii) not less often than every 90 days and determine (with the concurrence of the Corporation) whether that action better achieves the purpose of this section than the appointment of a conservator or receiver.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) EXCEPTION.—Clause (i) does not require the appropriate Federal banking agency to appoint a receiver for an insured depository institution if—

"(I) on average during the calendar quarter described in clause (i), the institution has tangible equity in an amount not less than 60 percent of the level specified under subsection (c)(3)(A)(i), or the institution has submitted a plan in compliance with the requirements of subsection (e)(2) or section 5(t)(6)(A)(ii) of the Home Owners' Loan Act, the appropriate Federal banking agency has approved the plan, and the institution is in compliance with the plan;

"(II) the institution had significant operating earnings during that calendar quarter and the preceding calendar quarter;

"(III) the institution has made significant progress in correcting other deficiencies; and

"(IV) the Corporation determines that the appointment of a receiver would not further the purpose of this section.

"(i) RESTRICTING ACTIVITIES OF CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—To carry out the purpose of this section, each appropriate Federal banking agency shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the appropriate Federal banking agency's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation.

"(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

"(1) IN GENERAL.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

"(A) LOSS INCURRED.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) MATERIAL LOSS.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5); or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b).

"(B) EXCEPTION.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question, is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	The applicable percentage is:
July 1, 1993–June 30, 1994	7 percent
July 1, 1994–June 30, 1995	5 percent
July 1, 1995–June 30, 1996	4 percent
July 1, 1996–June 30, 1997	3 percent.

"(l) IMPLEMENTATION.—

"(1) REGULATIONS AND OTHER ACTIONS.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) WRITTEN DETERMINATION AND CONCURRENCE REQUIRED.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) JUDICIAL REVIEW.—

"(1) JURISDICTION AND VENUE.—

"(A) FILING OF PETITION.—A person aggrieved by an action of an appropriate Federal banking agency under this section may obtain review of that action by filing, not later than 10 days after receiving notice of the agency action, a written petition requesting that the action be modified, terminated, or set aside.

"(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit or the United States court of appeals for the circuit containing the home office of the insured depository institution whose condition is the basis for the agency action.

"(2) PERSON AGGRIEVED DEFINED.—For purposes of this subsection, a 'person aggrieved' by the action of an appropriate Federal banking agency under this section—

"(A) means any insured depository institution or company with respect to which action is taken under this section, and any company having control of that institution or company; and

"(B) includes any person dismissed pursuant to an order under this section requiring an insured depository institution to dismiss a director or senior executive officer.

"(3) SCOPE OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), action taken by an appropriate Federal banking agency under this section shall be modified, terminated, or set aside only if the court finds on the record on which the agency acted that the agency's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) ALTERNATIVE REVIEW OF CERTAIN AGENCY ACTIONS.—This subsection does not prohibit a person aggrieved by an order of an appropriate Federal banking agency appointing a conservator or receiver for an insured depository institution from pursuing any judicial review of the order that is otherwise available.

"(4) EXPEDITED REVIEW REQUIRED.—The United States courts of appeals shall expedite the review of petitions complaining of agency action under this section.

"(5) INJUNCTIVE RELIEF NOT AVAILABLE.—The commencement of proceedings for judicial review under this subsection shall not operate as a stay of any action taken by the appropriate Federal banking agency. No court shall have jurisdiction to stay, enjoin, or otherwise delay agency action taken under this section.

"(6) JURISDICTION WITHDRAWN.—Except as provided in this subsection, no court shall have jurisdiction over action taken by an appropriate Federal banking agency under this section.

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall, after notice and opportunity for comment, promulgate final regulations under section 37 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 240 days after the date of enactment of this Act, and those regulations shall become effective not later than 270 days after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 37" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 37" after "section".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.—

(1) DISMISSAL FROM OFFICE.—Section 37(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 37(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 37(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 37(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 37(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 270 days after the date of enactment of this Act.

SEC. 206. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 38. STANDARDS FOR SAFETY AND SOUNDNESS.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 37(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 37 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 37.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than March 1, 1993.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) July 1, 1993.

SEC. 207. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 37(b)) without Federal assistance.

"(H) Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) The institution ceases to be an insured institution.

"(K) The institution is undercapitalized (as defined in section 37(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 37(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 37(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 37(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 37(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR

OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 37.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 37.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 37(f)(2)(A)(iii).

"(13) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) CONFORMING AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective 270 days after the date of enactment of this Act.

SEC. 208. BACKUP ENFORCEMENT AUTHORITY OF FDIC.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) RECOMMENDING ACTION BY APPROPRIATE FEDERAL BANKING AGENCY.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the appropriate Federal banking agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) CORPORATION'S POWERS; INSTITUTION'S DUTIES.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 209. CAPITAL MAINTENANCE COMMITMENTS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) COMMITMENTS TO MAINTAIN THE CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—Any commitment made to any of the Federal banking agencies to maintain the capital of an insured depository institution may be enforced under this Act.

"(2) OTHER AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any other authority of the Federal banking agencies.".

SEC. 210. PASS-THROUGH INSURANCE COVERAGE.

(a) RESTRICTING CERTAIN PASS-THROUGH INSURANCE COVERAGE.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended—

(1) by striking "(m)(1)" and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—";

(2) in paragraph (1), by striking "except trust funds which shall be insured as provided in subsection (i) of section 7 of this Act";

(3) in the last sentence of paragraph (1), by striking "and subsection (i) of section 7 of this Act"; and

(4) in paragraph (2), by inserting "DEPOSIT IN BRANCH OF FOREIGN BANK.—" after "(2)".

(b) INSURANCE OF DEPOSITS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(a) INSURANCE OF DEPOSITS.—

"(1) IN GENERAL.—

"(A) DEPOSITS INSURED.—The Corporation shall insure the deposits in all insured depository institutions as provided in this Act.

"(B) AMOUNT INSURED.—The net amount of any depositor's insured deposits at any insured depository institution shall be $100,000."; and

(2) in subsection (a), by adding at the end the following new paragraphs:

"(8) PASS-THROUGH INSURANCE RESTRICTED TO INTERESTS IN TAX-QUALIFIED RETIREMENT PLANS AND CERTAIN IRREVOCABLE TRUSTS.—

"(A) In general.—Deposits may not be insured on a pro rata or pass-through basis except that—

"(i) in the case of a plan meeting the requirements of section 401(a) or 403(b)(9) of the Internal Revenue Code of 1986 that includes a trust exempt from tax under section 501(a) of that Code and is a type of plan that was eligible to receive pro rata or pass-through insurance coverage as of July 15, 1991, or a plan meeting the requirements of section 457 of that Code, deposits may be insured on a pass-through basis with respect to each participant in the plan in an amount equal to the lesser of the present value of the vested accrued benefit of such individual participant or $100,000, unless such deposit arises under a contract between an insured depository institution and an employee benefit plan, and the contract expressly permits benefit-responsive withdrawals or transfers;

"(ii) in the case of deposits of an irrevocable trust established pursuant to a statute or written trust agreement (other than a tax-qualified retirement plan or irrevocable trust described in clause (i)), the deposits may be insured on a pass through basis with respect to each known beneficiary of the trust whose interest is noncontingent in an amount not to exceed the lesser of the present value of the beneficiary's noncontingent interest or $100,000;

"(iii) in the case of a custodial account held on deposit in an insured depository institution if—

"(I) the principal or beneficiary does not control where the funds are deposited;

"(II) the account is not maintained for investment purposes; and

"(III) the account is not maintained principally for the purpose of increasing insurance coverage,

the custodial funds shall be insured in an amount not to exceed $100,000 for each principal or beneficiary represented; and

"(iv) in the case of a custodial account maintained by a deposit broker or its agents at an insured depository institution, the custodial funds shall be insured in an amount not to exceed $100,000 for each principal or beneficiary represented in each capacity in which the principal or beneficiary places the deposit through the deposit broker.

"(B) Special rules.—For purposes of this section—

"(i) amounts described in clauses (i), (iii), and (iv) of subparagraph (A) shall not be taken into account in determining the net amount due any participant, principal, or beneficiary, as appropriate, but

"(ii) amounts described in subparagraph (A)(ii) shall be taken into account in determining the net amount due any beneficiary.

"(C) Definitions.—For purposes of this paragraph—

"(i) Benefit-responsive withdrawals or transfers.—The term 'benefit responsive withdrawal or transfer' means any withdrawal or transfer of funds deposited at an insured depository institution that—

"(I) occurs during a period for which the institution has guaranteed by contract to pay the plan 1 or more rates of interest; and

"(II) is made to pay benefits provided by an employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance without substantial penalty or adjustment.

"(ii) Employee benefit plan.—The term 'employee benefit plan' has the same meaning as in section 3(3) of the Employee Retirement Income Security Act of 1974 and includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

"(9) Restrictions on pass-through insurance for deposits of trusts.—Notwithstanding paragraph (8)(A)(ii), deposits described in that paragraph may not be insured on a pro rata or pass-through basis—

"(A) if the trustee or an organizer of the trust solicits persons to transfer funds into the trust;

"(B) if interests in the trust are sold to beneficiaries;

"(C) if there are more than 10 settlors or grantors of the trust; or

"(D) in such other circumstances as the Board of Directors may prescribe.".

(c) Conforming Amendment.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) [Reserved].".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1993, except that such amendments shall not apply to any specific time deposit made before July 15, 1991, until the stated maturity of the time deposit.

SEC. 211. BROKERED DEPOSITS.

(a) In General.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized and does not have a CAMEL rating of 1 or 2";

(2) in subsection (c)—

(A) by inserting "which is adequately capitalized and has a CAMEL rating of 1 or 2" after "insured depository institution"; and

(B) by adding at the end "Any waiver granted under this subsection shall be effective for not more than 90 days. Any application for renewal of the waiver for an additional 90-day period shall be deemed to be granted unless the Corporation denies the application not more than 15 days after receiving the application.";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) Restriction on Interest Rate Paid.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) Notification and Recordkeeping.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) Notification.—

"(1) In general.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) Termination of deposit broker status.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) Form and content.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) Records.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) Periodic Reports.—

"(1) In general.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) Designated agent.—The Corporation may designate another entity as its agent for the purpose of receiving and maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) Deposit Solicitation Restricted.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) Deposit Solicitation Restricted.—An insured depository institution that is undercapitalized, as defined in section 37, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) Deadline for Regulations.—The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.

SEC. 212. RISK-BASED ASSESSMENTS.

(a) Risk-Based Assessment System.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)), as amended by section 102, is amended to read as follows:

"(b) Assessments.—

"(1) Risk-based assessment system.—

"(A) Risk-based assessment system required.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) Private reinsurance authorized.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) Risk-based assessment system defined.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) Separate assessment systems.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(E) Foreign deposits.—In carrying out this paragraph, the Corporation shall take into account the special assessment procedure for foreign deposits under paragraph (6).

"(2) Setting assessments.—

"(A) Achieving and maintaining designated reserve ratio.—

"(i) In general.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) Factors to be considered.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) Minimum assessment.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) Designated reserve ratio defined.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) Independent treatment of funds.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) Notice of assessments.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) Priority of financing corporation and funding corporation assessments.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) Minimum assessments.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the designated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) Transition rule for savings association insurance fund.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 212(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply with 'as provided in paragraph (3)' omitted; and

"(ii) subparagraph (E) shall apply with 'if section 7(b) as in effect on July 15, 1991 remained in effect.' substituted for 'if—' and clauses (i) and (ii).

"(G) Special rule until the insurance funds achieve the designated reserve ratio.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) Special rule for recapitalizing undercapitalized funds.—

"(A) In general.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) Recapitalization schedules.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating by the close of the period determined under subparagraph (C) in a reserve ratio that is equal to the designated reserve ratio.

"(C) Date for achieving designated ratio.—A schedule promulgated under subparagraph (B) shall provide for achieving the designated reserve ratio not later than the earlier of—

"(i) 15 years after the date on which the schedule is implemented, or

"(ii) that number of years (rounded to the nearest whole number) after the date the schedule is implemented, determined as follows:

$$15 \times \left(1- \frac{\text{reserve ratio}}{\text{designated reserve ratio}} \right)$$

"(D) Amending schedule.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (C).

"(E) Application to SAIF members.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(F) Expedited procedure for extending schedule.—

"(i) In general.—If, during the period, determined in subparagraph (C), when a fund's reserve ratio is being restored to the designated reserve ratio, the Corporation determines that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of that period would significantly increase losses to the fund or would significantly impair the availability of credit, the following procedures shall apply:

"(I) Report required.—The Corporation shall submit a report to the Congress that—

"(aa) sets forth a revised schedule of semiannual target reserve ratios for that fund, culminating in the achievement of the designated reserve ratio; and

"(bb) provides a detailed justification for the revision.

"(II) Requirement for congressional consideration.—The proposed revised schedule of semiannual target reserve ratios shall not be implemented unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the proposed revision.

"(ii) Procedures for expedited congressional consideration.—

"(I) Joint resolution defined.—For purposes of this clause, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(b)(3)(F) of the Federal Deposit Insurance Act, the Corporation may implement revisions to the schedule of semiannual target reserve ratios, culminating in the achievement of the designated reserve ratio for the

__________________ Fund, as proposed in the report submitted to the Congress on __________________.', with the first blank space being filled with the name of the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate, and the second blank being filled with the appropriate date.

"(II) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under clause (i)(I), a joint resolution with respect to the revised schedule specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on Banking, Finance and Urban Affairs, for himself and the ranking minority member of the Committee, or by the Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(III) REFERRAL TO COMMITTEE.—Any joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(IV) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(V) EXPEDITED FLOOR CONSIDERATION.—Any such joint resolution shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(VI) JOINT RESOLUTION RECEIVED FROM OTHER HOUSE.—In the case of a joint resolution described in this clause, if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(aa) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(bb) the vote on final passage shall be on the joint resolution of the other House.

"(VII) COMPUTING TIME PERIODS.—In computing the 60-day period referred to in clause (i)(II) and the 30-day period referred to in subclause (IV), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of adjournment of the Congress sine die.

"(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.

"(6) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(A) IN GENERAL.—This paragraph shall apply if—

"(i) the Corporation incurs a loss with respect to an insured depository institution; and

"(ii) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(B) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(i) the amount that persons with foreign deposits at the institution received, and

"(ii) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by clause (ii) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(C) TIMING OF SPECIAL ASSESSMENTS.—

"(i) IN GENERAL.—Special assessments under subparagraph (B) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subparagraph (B) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(ii) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subparagraph (B) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(ii) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(iii) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(I) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(II) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(III) A receiver or conservator is appointed for the institution.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of—

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 213. RISK-BASED REINSURANCE.

(a) RISK-BASED REINSURANCE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Federal Deposit Insurance Corporation (hereafter referred to as the "Corporation") shall establish a pilot program to assess the viability of using a system of reinsurance to assist the Corporation in establishing risk-based assessment rates.

(2) PROGRAM DESCRIPTION.—Under the pilot program established in accordance with paragraph (1) the Corporation shall be required to obtain reinsurance from eligible reinsurers, which shall provide reinsurance to the Corporation for a percentage of the insured risks, not to exceed 10 percent, posed by the participating banks to the Corporation.

(3) PROGRAM PARTICIPATION.—

(A) IN GENERAL.—The Corporation shall select not more than 50 bank holding companies that have not less than $1,000,000,000 each in aggregate assets at the time of selection for participation, the banking affiliates of which would be the participating banks in the pilot program.

(B) ADDITIONAL REQUIREMENTS.—The Corporation shall establish any additional criteria for the selection of participating banks that it determines appropriate for the protection of the insurance funds and the public interest.

(4) ELIGIBLE REINSURERS.—

(A) IN GENERAL.—For purposes of this section, an eligible reinsurer shall include any qualified insurer that—

(i) meets appropriate criteria (including capital standards that, in the Corporation's judgment, will ensure that the reinsurer will be able to pay claims when called upon to do so) prescribed by the Corporation, subject to the requirements of any applicable State laws, for the qualification of reinsurers to offer risk-based reinsurance; and

(ii) meets any other criteria that the Corporation determines appropriate for the protection of the insurance funds and the public interest.

(B) INSTITUTION AFFILIATION.—Notwithstanding any other provision of law, a reinsurer may be an affiliate of a bank holding company or a savings and loan holding company, except that an insurance affiliate of such holding company may not offer reinsurance coverage for an affiliated bank.

(5) REINSURANCE ASSESSMENTS.—Under the pilot program, the Corporation shall be solely responsible for paying reinsurance charges to participating reinsurers on behalf of each participating bank from each such bank's overall assessment under section 7(b) of the Federal Deposit Insurance Act.

(6) ANNUAL REPORT TO CONGRESS.—The Corporation shall submit a report to the Congress annually on the progress of the pilot program established under paragraph (1).

(7) CORPORATION'S DISCRETION TO IMPLEMENT NATIONAL REINSURANCE SYSTEM.—Upon the termination of the pilot program established under this section, the Corporation may, by vote of the Board of Directors of the Corporation, implement a reinsurance system for all insured depository institutions under section 7A of the Federal Deposit Insurance Act, if the Corporation determines, and reports in writing to the Congress, that—

(A) a reinsurance system would be viable for insured depository institutions;

(B) reinsurance rates established under a reinsurance system can be at least as effective in measuring the relative risk to the deposit insurance funds posed by the insured depository institutions which would be covered by the system as any risk-based assessment system established under section 7(b) of the Federal Deposit Insurance Act, particularly the risks posed by profitable institutions that are adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act, as added by section 205);

(C) the Corporation can adequately measure and monitor the financial health of reinsurers; and

(D) it is in the public interest to implement a reinsurance system to assist the Corporation in establishing deposit insurance assessments for large insured depository institutions.

(8) IMPLEMENTATION DATE; DURATION.—The pilot program established under paragraph (1) shall be implemented not later than the effective date of the risk-based assessment system established by the Corporation under section 7(b) of the Federal Deposit Insurance Act, and shall terminate 3 years after such effective date.

(b) RISK-BASED REINSURANCE FOR LARGE INSTITUTIONS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 7 the following new section:

"SEC. 7A. RISK-BASED INSURANCE FOR LARGE INSTITUTIONS.

"(a) PURPOSE.—The purpose of this section is to establish a risk-based deposit insurance assessment rate system through reinsurance coverage for a percentage of the insured risk of large bank or large savings association failures, not to exceed 10 percent.

"(b) COVERED INSTITUTIONS.—For purposes of this section, the term 'covered institution' means a member of a deposit insurance fund that the Corporation finds, in accordance with regulations implementing this subsection—

"(1) has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter; or

"(2) is owned by a bank holding company or a savings and loan holding company, respectively, that has total assets of more than $1,000,000,000 on December 31, 1991.

"(c) RISK-BASED ASSESSMENTS.—

"(1) TRANSITION PERIOD ASSESSMENTS.—After a covered institution enters into a reinsurance agreement under subsection (g), but prior to the date determination described in paragraph (2), each covered institution shall pay a deposit insurance assessment that is—

"(A) equal to the assessment determined under section 7(b); or

"(B) determined by scaling up the premium established by a reinsurance agreement under subsection (g) and applying that scaled-up rate to the institution's average assessment base,

whichever, in the judgment of the Corporation, better reflects the inherent risks of the institution, subject to adjustments authorized by subsection (d).

"(2) RISK-BASED REINSURANCE ASSESSMENTS.—After the Corporation determines that—

"(A) a sufficient number of covered institutions, as determined by the Corporation, are covered by reinsurance agreements; and

"(B) the risk-based premium based on scaling up the assessments charged under a reinsurance agreement, subject to adjustments under subsection (d), provides risk assessments that differentiate between banks according to risk at least as effectively as under the risk-based formula in section 7(b),

each covered institution, except for those that are not yet required to obtain a reinsurance agreement under the phase-in schedule established under subsection (e)(1), shall pay a deposit insurance assessment that is determined by scaling up the premium rate established by the reinsurance agreement under subsection (g) and applying that scaled-up rate to the institution's average assessment base, subject to adjustments authorized by subsection (d). A covered institution that fails to obtain a reinsurance agreement in a timely manner under the phase-in schedule established under subsection (e)(1) shall have its insurance assessments determined under the provisions of subsection (j)(1).

"(d) BANK INSURANCE FUND ADJUSTMENTS.—The Corporation shall make proportionate adjustments, under procedures established by regulation, to each covered institution's total deposit insurance assessment upwards or downwards, as necessary to ensure to the extent practicable and consistent with the public interest that all such assessments, in the aggregate, are sufficient to maintain the deposit insurance fund at or above the designated reserve ratio required by section 7(b)(1)(B), or to restore the deposit insurance fund to the designated reserve ratio within a reasonable period of time.

"(e) PHASE-IN SCHEDULE AND AMOUNT OF REINSURANCE.—

"(1) PHASE-IN SCHEDULE FOR OBTAINING REINSURANCE AGREEMENTS.—

"(A) ESTABLISHMENT; PUBLICATION.—The Corporation shall—

"(i) establish a timetable designed to ensure that, by the end of the phase-in period and to the maximum extent practicable, all covered institutions have obtained reinsurance under this section; and

"(ii) publish such timetable in the Federal Register.

"(B) CRITERIA.—The timetable established under subparagraph (A) shall—

"(i) require some covered institutions to begin to obtain reinsurance not later than 1 year following the end of the reinsurance pilot program established under section 213(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, if the Corporation recommends establishing a reinsurance system for setting risk-based premiums for certain institutions under the provisions of section 7A of the Federal Deposit Insurance Act;

"(ii) require all covered institutions to obtain reinsurance contracts over a period of not less than 5 years or not more than 10 years after such date, unless the Corporation determines that a shorter or longer period would be in the public interest; and

"(iii) provide ample opportunity for the development of a competitive reinsurance market.

"(C) Notification.—The Corporation shall notify each covered institution not less than 1 year before the institution will be required to obtain reinsurance.

"(2) Level of reinsurance.—The Corporation shall, in accordance with paragraph (3), establish a uniform reinsurance level that is not less than 3 percent nor more than 10 percent of the insured deposits of each covered institution.

"(3) Criteria for setting level of coverage.—For purposes of paragraph (2), the Corporation shall establish a level of reinsurance coverage that is sufficient to ensure—

"(A) that the assessment rates charged by reinsurers can be accurately scaled up to reasonably reflect the total insured risk of failure presented by each covered institution; and

"(B) that, over the transition period, there is a reasonable likelihood that enough reinsurance capacity is available to support a competitive reinsurance market.

"(4) Phase-in.—

"(A) In general.—The Corporation shall—

"(i) require reinsurers to provide the level of reinsurance established under paragraph (2) not later than 5 years after the phase-in period under subsection (d)(1) begins; and

"(ii) establish interim reinsurance levels applicable during the 5-year transition period described in clause (i).

"(B) Variations.—The Corporation may permit variations from the phase-in schedules established under paragraph (1) and this paragraph if—

"(i) a substantial change in a covered institution's circumstances hinders the institution from complying with the phase-in schedule established under paragraph (1); or

"(ii) a covered institution cannot obtain reinsurance coverage at the specified time due to lack of market availability.

"(f) Eligible Reinsurers and Reinsurance Contracts.—

"(1) In general.—For purposes of this section, an 'eligible reinsurer' shall include any qualified insurer that—

"(A) meets appropriate criteria (including capital criteria that, in the Corporation's judgment, will ensure that the reinsurer will be able to pay claims when called upon to do so) prescribed by the Corporation, subject to the requirements of any applicable State laws, for the qualification of reinsurers to offer risk-based reinsurance to covered institutions;

"(B) offers reinsurance terms that reflect a risk-based approach to pricing; and

"(C) meets any other criteria that the Corporation determines appropriate for the protection of the insurance funds and the public interest.

"(2) Institution affiliation.—An eligible reinsurer may be an affiliate of a bank holding company or a savings association holding company, except that an insurance affiliate may not offer reinsurance to an affiliated bank or savings association.

"(3) Terms of reinsurance contracts.—

"(A) The Corporation is authorized to establish general terms and conditions for reinsurance contracts, including, but not limited to, the length of such contracts, the amount of information pertaining to the reinsured institution held by the Corporation that the reinsurer will have access to, the frequency of price changes permitted, and the conditions for termination; and

"(B) The Corporation must approve all reinsurance agreements negotiated pursuant to subsection (g).

"(g) Reinsurance Agreements.—

"(1) Negotiations.—Eligible reinsurers shall negotiate directly with covered institutions to establish—

"(A) the price of reinsurance for that portion of the insured risk covered by the reinsurer; and

"(B) the rights of the reinsurer to review documents maintained by the covered institution in order to assess risk and determine the price.

Any agreements negotiated under this paragraph are subject to the approval of the Corporation under subsection (e)(3)(B) of this section.

"(2) Insurance for uninsured deposits.—An eligible reinsurer may offer insurance coverage for deposits that are not federally insured to any bank or savings association, whether or not it is covered by reinsurance with this section.

"(h) Reinsurance Requirements.—

"(1) Compliance extensions.—If the Corporation finds that—

"(A) there is a substantial shortage of private sector reinsurance capacity at any time after the end of the phase-in schedule established under subsection (e)(1); or

"(B) because of a significant period of financial stress, it is required in the public interest;

the Corporation is authorized to suspend the requirement for a covered institution to obtain reinsurance for periods of 6 months. During such 6-month periods, deposit insurance assessments for all covered institutions shall be made in accordance with section 7(b). The Corporation shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives each time it uses its authority under this subsection, setting forth the reasons for such use.

"(2) Reinsurance premiums.—If the Corporation—

"(A) finds that the risk-based premium based on a reinsurance agreement charged a covered institution is significantly less than the premium that would be charged under the section 7(b) risk-based formula; and

"(B) believes that the reinsurance agreement-based assessment does not with reasonable accuracy reflect the inherent insured risks of the covered institution,

the premium for such institution shall be assessed under the section 7(b) risk-based formula. The Corporation shall give a covered institution whose premium would be changed under this paragraph and the reinsurer involved an opportunity to comment on the Corporation's findings not less than 30 days before changing the premium assessment for such covered institution. The Corporation shall return the premium charged any covered institution to the level based on scaling up the assessment charged under the reinsurance agreement, subject to adjustments authorized by subsection (d), if the Corporation finds that subparagraph (B) no longer applies.

"(i) Payments.—The premium negotiated between a covered institution and a reinsurer in accordance with subsection (g) shall be paid by the Corporation to the reinsurer on a payment schedule established by the Corporation. Such schedule shall provide that covered institutions shall promptly pay, and reinsurers will promptly be paid for, any premium increases during the term of a reinsurance agreement. Assessments under this section shall be paid by the institution to the Corporation in accordance with subsections (b)(2) and (c) through (h) of section 7.

"(j) Failure To Obtain Reinsurance.—

"(1) Assessment penalty.—Except as provided in subsection (k), upon the failure of a covered institution to obtain reinsurance or renew a reinsurance agreement as required under this section, the Corporation shall make a deposit insurance assessment on the institution that is at least 8 basis points higher than the deposit insurance assessment rate that would be charged that institution under the section 7(b) risk-based formula, or equal to the highest assessment rate charged any covered institution with reinsurance having the same rating under the Uniform Financial Institutions Rating System (hereafter 'CAMEL rating') derived from an evaluation of an institution's capital adequacy, asset quality, management, earnings, and liquidity, whichever is higher.

"(2) Special examination.—For a covered institution that is subject to treatment under paragraph (1), the Corporation shall—

"(A) conduct an immediate full-scope examination of the institution; and

"(B) make adjustments to the institution's CAMEL rating, if appropriate.

"(3) Termination of insurance.—After the transition period in subsection (e)(1) has ended, the Corporation shall not provide deposit insurance to any covered institution that is unable to obtain reinsurance for more than 2 consecutive years, unless reinsurance requirements are suspended under subsection (h)(1).

"(k) Effective Date.—This section shall become effective on the date the Corporation, under the procedures established in section 213(a)(7) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, reports to the Congress that it is prepared to begin implementing a national reinsurance system.".

(2) Amendments to the Bank Holding Company Act of 1956.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(A) by redesignating paragraphs (9) through (14) as paragraphs (10) through (15), respectively; and

(B) by inserting after paragraph (8) a new paragraph as follows:

"(9) shares of any company, the activities of which are limited solely to providing reinsurance in accordance with the requirements of section 7A of the Federal Deposit Insurance Act;".

SEC. 214. REAL ESTATE LENDING STANDARDS.

(a) In General.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(u) Real Estate Lending.—

"(1) Uniform regulations.—Not more than 9 months after the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

"(2) STANDARDS.—

"(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) EFFECTIVE DATE.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.

"(4) LOAN-TO-VALUE RATIOS APPLICABLE IF REGULATIONS NOT ADOPTED AS REQUIRED.—The following provisions shall become effective 15 months after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 if the Federal banking agencies fail to adopt uniform regulations under paragraph (1) within the period specified in that paragraph:

"(A) IN GENERAL.—An insured depository institution shall not extend credit secured by real property if the extension of credit would exceed the following percentage of the appraised value of that property:

"(i) 1- TO 4-FAMILY DWELLING.—95 percent, if the extension of credit is to finance the purchase of, or to refinance outstanding indebtedness on, property improved by a completed 1- to 4-family dwelling.

"(ii) COMPLETED STRUCTURE.—80 percent, if the property is improved by 1 or more completed structures and—

"(I) none of the structures is a completed 1- to 4-family dwelling; or

"(II) the extension of credit is not described in clause (i).

"(iii) IMPROVED PROPERTY.—70 percent, if the property is improved but has no completed structure.

"(iv) UNDEVELOPED PROPERTY.—65 percent, if—

"(I) the property is undeveloped; and

"(II) the extension of credit is not an extension of credit to an active farming operation secured by agricultural land.

"(B) EXCEPTIONS.—Subparagraph (A) does not apply to any extension of credit on which the principal and interest are insured or guaranteed by a Federal agency, a federally related entity, or a State or local housing finance agency, as defined in regulations of the appropriate Federal banking agency.

"(C) REGULATORY AUTHORITY.—The appropriate Federal banking agency may adjust the limitations in subparagraph (A) if the agency determines that the limitation that would otherwise apply—

"(i) is unreasonable and limits safe and sound extensions of credit; or

"(ii) does not sufficiently curtail unsafe and unsound practices.".

(b) CONFORMING AMENDMENT.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(u) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 215. RESTRICTING RISKY BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. BANK ACTIVITIES.

"(a) FDIC MAY RESTRICT RISKY BANK ACTIVITIES.—The Corporation may, by regulation or order—

"(1) prohibit or restrict any activity of an insured bank that poses a significant risk to the deposit insurance fund;

"(2) require that activities not prohibited under this section be conducted through a subsidiary; and

"(3) impose such other restrictions and requirements as the Corporation determines to be necessary to prevent a significant risk to the deposit insurance fund.

"(b) EXERCISE OF STATE-AUTHORIZED POWERS EXCEEDING THE POWERS OF A NATIONAL BANK.—

"(1) IN GENERAL.—An insured State bank shall not, directly or indirectly, engage as principal in any activity that is not permissible for a national bank unless—

"(A) the State bank is adequately capitalized, as defined in section 37; and

"(B) the Corporation has, by regulation or order, determined that engaging in that activity—

"(i) would pose no significant risk to the deposit insurance fund; and

"(ii) would be consistent with the purposes of this Act.

"(2) EXCEPTION FOR WELL-CAPITALIZED BANKS.—Paragraph (1) does not prohibit an insured State bank from engaging as principal, directly or indirectly, in an activity not permissible for a national bank if—

"(A) the bank is well-capitalized, as defined in section 37;

"(B) the bank has filed with the Corporation a notice describing the activity;

"(C) the Corporation has not, before the expiration of the 90-day period beginning on the date on which the notice is filed, determined that engaging in that activity—

"(i) would pose a significant risk to the deposit insurance fund; or

"(ii) would be inconsistent with the purposes of this Act.

"(c) EQUITY INVESTMENTS BY STATE BANKS.—

"(1) IN GENERAL.—An insured State bank shall not, directly or indirectly, acquire any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) EXCEPTIONS.—Paragraph (1) does not prohibit an insured State bank from doing any of the following:

"(A) COMMUNITY DEVELOPMENT INVESTMENTS.—Acquiring or retaining investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs).

"(B) INVESTMENTS THROUGH SEPARATELY CAPITALIZED SUBSIDIARIES.—Acquiring an equity investment of a type or in an amount that is not permissible for a national bank if all of the State bank's investments in and extensions of credit to the subsidiary are deducted from the bank's capital.

"(C) RISK RETENTION.—Acquiring not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage, or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies.

"(D) SAVINGS BANK LIFE INSURANCE.—Acquiring shares of a savings bank life insurance company, if the insured State bank is organized under the laws of Connecticut, Massachusetts, or New York.

"(E) BANKERS' BANKS.—Acquiring or retaining shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution, and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

(F) CORPORATE EQUITY SECURITIES.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

"(d) CORPORATE DEBT SECURITIES NOT OF INVESTMENT GRADE.—

"(1) IN GENERAL.—An insured bank shall not, directly or indirectly, acquire any corporate debt security not of investment grade.

"(2) ACCOUNTING.—An insured bank retaining any corporate debt security not of investment grade shall account for that security as if the security were held for sale.

"(3) EXCEPTION.—Paragraphs (1) and (2) do not apply with respect to any corporate debt security acquired outside of the United States to the extent permitted by regulation or order of the Board of Governors of the Federal Reserve System under section 25 or 25A of the Federal Reserve Act.

"(4) DEFINITION.—The term 'corporate debt security not of investment grade' has the same meaning as in section 28(d)(4).

"(e) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring any investment.

"(f) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency or a State to impose more stringent restrictions.".

(b) EFFECTIVE DATE.—Section 24 of the Federal Deposit Insurance Act (as added by subsection (a)) shall become effective upon the date of enactment of this Act, except that subsections (b) and (c) of section 24 shall become effective 2 years after that date of enactment.

(c) TRANSITION RULE FOR INVESTMENTS IN CORPORATE EQUITY SECURITIES.—

(1) IN GENERAL.—Notwithstanding section 24(c) of the Federal Deposit Insurance Act (as added by subsection (a))—

(A) during the 2 years following the date of enactment of this Act, an insured State bank or subsidiary of an insured State bank may acquire or retain corporate equity securities to the extent permitted by State law on May 14, 1991;

(B) during each of the 3 years following the effective date of section 24(c), each insured State bank and each subsidiary of an insured State bank shall reduce by not less than one-third the corporate equity securities that—

(i) it held on that effective date; and

(ii) are of a type or in an amount not permissible under section 24(c); and

(C) during the first 5 years following the effective date of section 24(c), an insured State bank or subsidiary of an insured State bank may acquire or retain any investment in any publicly traded index of corporate equity securities, to the extent permitted by State law on May 14, 1991.

(2) ACCOUNTING TREATMENT.—In calculating compliance with paragraph (1)(B), corporate equity securities held for investment by insured State banks and subsidiaries of insured State banks shall not be required to be marked to market.

(3) STUDY AND REPORT.—

(A) STUDY REQUIRED.—The Comptroller General shall conduct a study regarding investments in corporate equity securities by insured State banks and their subsidiaries. Such study shall examine—

(i) the extent to which insured State banks and their subsidiaries have invested in corporate equity securities;

(ii) the risks and returns on those investments;

(iii) their contribution to profitability;

(iv) the extent to which States limit the types and amounts of such investments; and

(v) whether such investments are consistent with the purposes of this Act.

(B) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this section, the Comptroller General shall transmit to the Congress a report regarding the results of the study described in subparagraph (A), along with recommendations for such legislative or administrative actions as the Comptroller General deems appropriate.

(d) SAVINGS BANK LIFE INSURANCE GRANDFATHER RIGHTS.—Section 5(i)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(4)) is amended by adding at the end the following:

"(C) Any Federal savings association that acquires, or that results from the conversion of, a savings bank chartered by a State that by State law authorizes its State chartered savings banks to sell or underwrite savings bank life insurance may sell or underwrite such insurance to the same extent that any savings bank chartered by that State may do so under State law.".

SEC. 216. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) RECODIFICATION OF CURRENT LAW RESTRICTING EXTENSIONS OF CREDIT TO INSIDERS.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—

"(1) IN GENERAL.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) PREFERENTIAL TERMS PROHIBITED.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) PRIOR APPROVAL REQUIRED.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER OR PRINCIPAL SHAREHOLDER.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) OVERDRAFTS BY EXECUTIVE OFFICERS AND DIRECTORS PROHIBITED.—

"(A) IN GENERAL.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) EXCEPTIONS.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF CERTAIN AFFILIATES TREATED AS EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF MEMBER BANK.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) EXCEPTIONS.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) CONTROL.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) EXECUTIVE OFFICER.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) EXTENSION OF CREDIT.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) PRINCIPAL SHAREHOLDER.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) RELATED INTEREST.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) BOARD'S RULEMAKING AUTHORITY.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) REQUIRING DEPOSITORY INSTITUTIONS TO FOLLOW NORMAL CREDIT UNDERWRITING PROCEDURES WHEN EXTENDING CREDIT TO INSIDERS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) APPLYING TO DIRECTORS THE LIMIT ON LOANS TO ONE BORROWER.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) LIMITING DEPOSITORY INSTITUTION'S AGGREGATE EXTENSIONS OF CREDIT TO INSIDERS.—

(1) IN GENERAL.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ALL EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(A) IN GENERAL.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) MORE STRINGENT LIMIT AUTHORIZED.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) BOARD MAY MAKE EXCEPTIONS FOR CERTAIN BANKS.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) CONFORMING AMENDMENT.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) PROHIBITING INSIDERS FROM ACCEPTING UNAUTHORIZED EXTENSIONS OF CREDIT.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) PROHIBITION ON KNOWINGLY RECEIVING UNAUTHORIZED EXTENSION OF CREDIT.—No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) APPLYING UNIFORM RULES TO ALL COMPANIES CONTROLLING DEPOSITORY INSTITUTIONS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) APPLYING SAFEGUARDS TO INSIDER TRANSACTIONS WITH DEPOSITORY INSTITUTION'S SUBSIDIARIES.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) MEMBER BANK.—The term 'member bank' includes any subsidiary of a member bank.".

(h) APPLYING UNIFORM RULES TO ALL PRINCIPAL SHAREHOLDERS.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) LIMITING SAVINGS ASSOCIATIONS' EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL EXTENSIONS OF CREDIT THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) LIMITING STATE NONMEMBER BANK'S EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS; CLARIFYING THE PROHIBITION ON PREFERENTIAL EXTENSIONS OF CREDIT TO INSIDERS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) AVOIDING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.—

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

(l) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

(m) REGULATIONS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

(n) EXISTING TRANSACTIONS NOT AFFECTED.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 217. PROTECTING DEPOSITORY INSTITUTIONS FROM ABUSIVE TRANSACTIONS WITH AFFILIATES.

(a) AMENDMENTS TO SECTION 23A OF THE FEDERAL RESERVE ACT.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by striking "per centum" each place it appears and inserting "percent";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) No bank holding company shall permit an insured depository institution that it controls to engage in any covered transaction if the amount of the covered transaction exceeds 5 percent of the institution's capital stock and surplus, unless not less than 5 days prior notice is provided to the Board and the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, if different.";

(3) in subsection (b)(1)(D), by amending clause (ii) to read as follows:

"(ii) any investment company, commodity pool, or other company engaged in substantially the same activities as an investment company or commodity pool for which a member bank or any affiliate is an investment adviser as defined in section 2(a)(20) of the Investment Company Act of 1940, or a commodity trading adviser as defined in section 2(a)(1)(A) of the Commodity Exchange Act, or performs activities substantially equivalent to those of an investment adviser or commodity trading adviser; and";

(4) in subsection (b)(2)(A), by inserting "and of which the member bank owns at least 80 percent of the voting stock" after "member bank";

(5) in subsection (b)(5), by inserting "that is principally engaged in deposit taking or lending activities" after "trust company";

(6) in subsection (b)(7)—

(A) in subparagraph (D), by striking "or" at the end thereof;

(B) in subparagraph (E) by inserting "to, or" after "standby letter of credit,"; and

(C) by inserting after subparagraph (E) the following new subparagraphs:

"(F) the assumption by a member bank of a liability of any affiliate, whether directly or through the transfer of the affiliate to the member bank; or

"(G) any other financial arrangement that the Board by regulation determines to be substantially equivalent to a transaction described in this paragraph;";

(7) in subsection (c)(1)—

(A) by inserting "to, or" after "letter of credit issued"; and

(B) by striking "at the time of the transaction";

(8) in subsection (c)(4)—

(A) by inserting "the member bank or" after "issued by"; and

(B) by inserting "to, or" after "letter of credit issued"; and

(9) in subsection (d)(5), by inserting ", if the company provides services solely to affiliated member banks" before the semicolon.

(b) AMENDMENTS TO SECTION 23B OF THE FEDERAL RESERVE ACT.—Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(2)) is amended by inserting "officers, directors, or employees of" after "of the bank or".

SEC. 218. INTERBANK LIABILITIES.

(a) Reducing Systemic Risks Posed by Large Bank Failures.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"Sec. 23. (a) Purpose.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) Aggregate Limits on Insured Depository Institutions' Exposure to Other Depository Institutions.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) Exposure Defined.—

"(1) In general.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) Exemptions.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) Attribution rule.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) Insured Depository Institution.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) Rulemaking Authority; Enforcement.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

(b) Transition Rules.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) Effective Date.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 219. REDUCING RISK TO PAYMENT SYSTEM.

(a) Findings and Purpose.—The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions, directly and through clearing organizations;

(2) the efficient processing of those transactions is important to a smoothly functioning economy;

(3) those transactions can be processed most efficiently by netting obligations among financial institutions, consistent with applicable contracts;

(4) netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) to ensure that those netting procedures are effective, they must be recognized as valid and legally binding even if a financial institution participating in the procedures is closed.

(b) Bilateral Netting.—

(1) Netting contract to be enforced.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted under any applicable netting contract.

(2) Limit on obligation to make payment.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution arising under a single netting contract shall be equal to its net obligation under that contract to that other financial institution (and no such obligation shall exist if there is no net obligation).

(3) Limit on entitlement to receive payment.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution arising under a single netting contract shall be equal to its net entitlement under that contract with respect to that other financial institution (and no such right shall exist if there is no net entitlement).

(4) Failed financial institution is entitled only to its net entitlement.—Any net entitlement of a failed financial institution shall be paid to the failed financial institution under the applicable netting contract.

(c) Clearing Organization Netting.—

(1) Netting contract to be enforced.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted under any applicable netting contract.

(2) Limit on obligation to make payment.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract.

(3) Limit on entitlement to receive payment.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract.

(4) Failed financial institution is entitled only to its net entitlement.—Any net entitlement of a failed member shall be paid to the failed member under the applicable netting contract. The failed member shall have no recognizable claim against any member of the clearing organization for any amount based on the covered contractual payment entitlements other than the failed member's net entitlement.

(d) Preemption.—No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, and no other provision of Federal or State law shall limit or delay application of the netting provisions of an otherwise enforceable netting contract under subsections (b) and (c).

(e) Definitions.—For purposes of this section:

(1) Broker-dealer.—The term "broker-dealer" means a company that is registered or licensed under Federal or State law to act as a securities broker or dealer.

(2) Clearing organization.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization that provides clearing, netting, or settlement services for its members, and—

(A) that is registered as a clearing agency under the Securities Exchange Act of 1934 (12 U.S.C. 78q-1(b));

(B) that performs clearing functions for a contract market designated under the Commodity Exchange Act (7 U.S.C. 1); or

(C) in which all members other than the clearing organization are financial institutions or other clearing organizations.

(3) Covered clearing obligation.—The term "covered clearing obligation" means an obligation, subject to a netting contract, of a member of a clearing organization to make a payment to another member of a clearing organization.

(4) Covered contractual payment entitlement.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract, from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of that clearing organization.

(5) Covered contractual payment obligation.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract, to another financial institution; and

(B) a covered clearing obligation.

(6) Depository institution.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b));

(C) a corporation chartered under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.).

(7) Failed financial institution.—The term "failed financial institution" means a financial institution that—

(A) has failed to satisfy a covered contractual payment obligation when due;

(B) is the subject of insolvency, liquidation, bankruptcy, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) has failed to satisfy a covered contractual payment obligation when due;

(B) is the subject of insolvency, liquidation, bankruptcy, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker-dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered under Federal law to engage in the business of selling futures or options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which a financial institution's or member's covered contractual payment entitlements exceed its covered contractual payment obligations after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which a financial institution's or member's covered contractual payment obligations exceed its covered contractual payment entitlements after netting under a netting contract.

(14) NETTING CONTRACT.—The term "netting contract" means an agreement (including the rules of a clearing organization) between 2 or more financial institutions or members that—

(A) is governed by the laws of the United States or any subdivision thereof or any State;

(B) provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to those obligations or entitlements) among the parties to the agreement; and

(C) is not precluded by Federal banking, securities, or commodities laws.

(15) PAYMENT.—The term "payment" means a payment of United States dollars, another currency, or a composite currency, including a payment to liquidate an unmatured obligation.

(f) OTHER PAYMENT SYSTEMS NOT AFFECTED.—This section shall not affect the enforceability of a netting arrangement of any payment system not subject to this section.

SEC. 220. LEAST-COST RESOLUTION.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end the following new subsection:

"(l) LEAST-COST RESOLUTION REQUIRED.—

"(1) IN GENERAL.—The Corporation shall not, directly or indirectly, do any of the following with respect to any insured depository institution except to satisfy the Corporation's obligations to that institution's insured depositors at the least possible long-term cost to the deposit insurance fund:

"(A) Take any action under subsection (f)(1), (i)(3), (m), or (n) of section 11.

"(B) Take any action under subsection (c) or (k).

"(C) Expend any money from a deposit insurance fund, other than to pay for examination, supervision, and administration costs.

"(D) Assume or guarantee any liability.

"(2) DETERMINING LEAST-COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible long-term cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(A) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(ii) document that evaluation; and

"(iii) retain the documentation for not less than 5 years.

"(B) ECONOMIC CONDITIONS AND FINANCIAL STABILITY.—The Corporation shall not consider how the transaction would affect economic conditions or financial stability except insofar as the effects would result in quantifiable costs to the deposit insurance fund.

"(C) SPECIAL ASSESSMENTS ON FOREIGN DEPOSITS.—The Corporation shall not consider the proceeds of any special assessment on foreign deposits.

"(D) FOREGONE TAX REVENUES.—The Corporation shall treat Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund.

"(3) SYSTEMIC RISK.—

"(A) EMERGENCY ADVANCES BY TREASURY.—If, upon the written recommendation of the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of its members), the Secretary of the Treasury (in consultation with the President) determines in writing that—

"(i) the Corporation's compliance with paragraph (1) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(ii) an advance under this subparagraph would avoid or mitigate such adverse effects, the Secretary may advance to the Corporation the amount necessary to avoid or mitigate those effects.

"(B) FUNDS ADVANCED ARE NOT RESTRICTED BY PARAGRAPH (1).—Any action taken using funds advanced by the Secretary of the Treasury under subparagraph (A) is not an action taken under any subparagraph of paragraph (1).

"(C) REPAYMENT OF ADVANCES.—The Corporation shall recover the loss to the insurance fund, less any loss recovered through a special assessment on foreign deposits, arising from advances with respect to an insured depository institution under subparagraph (A) expeditiously from 1 or more special assessments on the members of the deposit insurance fund of which the insured depository institution is a member, equal to the product of—

"(i) an assessment rate established by the Corporation; and

"(ii) the amount of each member's average total assets during the semiannual period, minus the sum of—

"(I) the amount of the member's average total tangible equity;

"(II) the amount of the member's average total subordinated debt; and

"(III) the amount of the member's average total deposits that are deposits described in subparagraph (A) or (B) of section 3(l)(5).

"(D) INTEREST ON ADVANCES.—Advances under subparagraph (A) shall bear interest at a rate to be determined by the Secretary of the Treasury.

"(E) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(i) document any determination under subparagraph (A); and

"(ii) retain the documentation for review under subparagraph (F).

"(F) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under subparagraph (A), including—

"(i) the basis for the determination;

"(ii) the purpose for which the advance was used; and

"(iii) the likely effect of the determination and advance on the incentives and conduct of insured depository institutions and uninsured depositors.

"(G) NOTICE.—The Secretary of the Treasury shall provide written notice of any determination under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and each notice shall describe the basis for the determination.

"(4) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to do anything prohibited by paragraph (1) or (2), unless the provision of law expressly amends this subsection.

"(5) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The Corporation shall disclose documents referred to in paragraph (2)(A)(ii) upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5); or

"(ii) any information about the insured depository institution under paragraph (4) of section 552(b), other than trade secrets, or paragraph (8) of that section.

"(B) EXCEPTION.—Subparagraph (A) does not require the Corporation to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could be reasonably ascertained.

"(6) CLAIMS SETTLEMENT PROCEDURES.—The Corporation, in consultation with the other Federal banking agencies, shall establish procedures for resolving the claims of uninsured depositors and creditors other than depositors against a depository institution for which the Corporation has been appointed receiver. Such procedures shall—

"(A) ensure that insured depositors will have access to all insured funds as expeditiously as possible;

"(B) provide uninsured depositors and creditors other than depositors with early access to not more than 90 percent of the value of that portion of their claims that the Corporation determines is supported by the assets of the institution;

"(C) maintain the safety and effectiveness of the payment system; and

"(D) protect the stability of the deposit insurance system.

"(7) DISCRETIONARY DETERMINATIONS.—Any determination under this subsection shall be in the sole discretion of the Corporation or the Secretary of the Treasury, as the case may be. No court shall have jurisdiction to stay, enjoin, restrain, or otherwise delay action taken under this subsection or jurisdiction over any claim relating to any act or omission of the Corporation or the Secretary with respect to any determination under this subsection.".

(b) STUDY AND REPORT ON FDIC PAYMENTS ON UNINSURED DEPOSITS AND NONDEPOSIT LIABILITIES.—

(1) STUDY.—The Director of the Congressional Budget Office (hereafter referred to as the "Director") shall conduct a study on the effects of a reduction in payments by the Federal Deposit Insurance Corporation used to satisfy the obligations of depository institutions on the uninsured deposits of such institutions and to creditors of such institutions other than depositors. The study shall—

(A) include consideration of—

(i) any estimated savings accruing to the Federal deposit insurance funds as a result of such reduction;

(ii) the long-term benefits to insured depository institutions and the Federal deposit insurance funds of increased market discipline as a result of such reduction; and

(iii) any other relevant information on the effects of such reduction; and

(B) include an estimate of the total savings that would have accrued to the Federal deposit insurance funds during the years 1988 through 1991 if such payments by the Federal Deposit Insurance Corporation had been reduced by 10 percent.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the Director's findings and conclusions resulting from the study conducted under paragraph (1).

SEC. 221. EARLY RESOLUTION.

(a) IN GENERAL.—It is the sense of the Senate that the Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with section 13(l) of the Federal Deposit Insurance Act (as added by section 220).

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Senate contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should be adequately capitalized, as defined in section 37 of the Federal Deposit Insurance Act (as added by section 205).

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONSOLIDATION.—The transaction should involve consolidation to the maximum extent consistent with section 13(l).

(5) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(6) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(7) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(8) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

SEC. 222. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercap- italized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 37 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a (12 U.S.C. 348–52) as section 13A;

(2) by redesignating section 25(a) (12 U.S.C. 611–31) as section 25A; and

(3) by redesignating section 25(b) (12 U.S.C. 632) as section 25B.

SEC. 223. CROSS-GUARANTEE LIABILITY.

(a) IN GENERAL.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) by amending the caption of the subsection to read as follows:

"(e) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS AND CONTROLLING COMPANIES FOR LOSSES TO CORPORATION.—";

(2) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) LIABILITY ESTABLISHED.—Any insured depository institution, any subsidiaries of that insured depository institution, and any controlling company shall be liable for any loss incurred by the Corporation, or any loss that the Corporation reasonably anticipates incurring, after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—

"(i) in the case of an insured depository institution or any subsidiaries of that insured depository institution, in connection with—

"(I) the default of a commonly controlled insured depository institution; or

"(II) any assistance provided by the Corporation to a commonly controlled insured depository institution in danger of default; and

"(ii) in the case of a controlling company, in connection with—

"(I) the default of an insured depository institution controlled by such controlling company; or

"(II) any assistance provided by the Corporation to an insured depository institution in danger of default controlled by such controlling company.";

(3) by redesignating subparagraphs (B) and (C) of paragraph (1) as subparagraphs (C) and (D), respectively, and inserting the following after subparagraph (A):

"(B) LIMIT ON LIABILITY.—The aggregate liability of all controlling companies of an insured depository institution, other than insured depository institutions and subsidiaries of insured depository institutions, shall be not more than 5 percent of the insured depository institution's total assets at the time of the default or assistance described in subparagraph (A)."; and

(4) by adding at the end the following:

"(10) NO LIABILITY FOR CERTAIN AFFILIATES.—No affiliate of an insured depository institution, other than a controlling company or a commonly controlled depository institution (and any subsidiary of such insured depository institution), shall be liable, directly or indirectly, under this subsection.

"(11) LIABILITY NOT TO BE CONSTRUED AS CAPITAL MAINTENANCE COMMITMENT UNDER TITLE XI.—No liability under this subsection shall be deemed to be a commitment to maintain the capital of an insured depository institution under any provision of title 11, United States Code.

"(12) TRANSFER WITHIN ONE YEAR OF DEFAULT OR ASSISTANCE.—

"(A) PRESUMPTION.—Any transfer by a controlling company of an insured depository institution of assets to any affiliate that is not an insured depository institution, not more than 1 year before the insured depository institution controlled by such company defaults or receives assistance, shall be presumed to be an attempt to evade liability under this subsection and shall be invalid.

"(B) REBUTTABILITY.—If a controlling company described in subparagraph (A) transferred such assets on terms and under circumstances that would satisfy the standards of section 23B of the Federal Reserve Act as if the controlling company were a member bank, such transfer shall not be invalid under subparagraph (A).

"(C) REGULATIONS.—The Corporation may prescribe regulations to administer and carry out this paragraph."; and

(5) in paragraph (9)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking "COMMONLY CONTROLLED DEFINED.—" and inserting "DEFINITIONS.—

"(A) 'COMMONLY CONTROLLED'.—"; and

(C) by inserting at the end the following:

"(B) 'CONTROLLING COMPANY'.—For purposes of this subsection, the term 'controlling company' means any company having control of an insured depository institution.

"(13) PRESUMPTIVE SAFE HARBOR FOR CERTAIN PARTIALLY OWNED SUBSIDIARIES.—Except as otherwise provided by the Corporation, no subsidiary of an insured depository institution shall be liable under this subsection if the insured depository institution and its affiliates do not, in the aggregate, directly or indirectly control more of the subsidiary's voting shares, or have a greater aggregate ownership interest in the subsidiary, than does any 1 company not affiliated with the insured depository institution.

"(14) INSURED DEPOSITORY INSTITUTION SUBSIDIARIES.—For purposes of this subsection, other than paragraph (1)(A) the term 'insured depository institution' includes any subsidiary of an insured depository institution.".

(b) CONFORMING AMENDMENTS.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) in subparagraph (D) of paragraph (1), as redesignated, by inserting "and controlling company" after "insured depository institution";

(2) in subparagraph (E) of paragraph (1), as redesignated—

(A) by inserting "or controlling company" after "insured depository institution"; and

(B) by striking "institution" and inserting "insured depository institution or controlling company";

(3) in paragraph (2)(A)(ii)—

(A) by striking "commonly controlled insured depository institution" and inserting "insured depository institution or controlling company"; and

(B) by striking "commonly controlled depository institution's" and inserting "insured depository institution or controlling company's";

(4) in paragraph (2)(A)(iii) by striking "commonly controlled depository institution" and inserting "insured depository institution or controlling company";

(5) in paragraph (2)(B)(i)—

(A) by inserting "or controlling company" after "insured depository institution";

(B) by striking "such institution's" and inserting "such insured depository institution's or controlling company's"; and

(C) by inserting "controlled or" before "commonly controlled";

(6) in paragraph (2)(B)(ii)—

(A) by inserting "or controlling company" after "insured depository institution";

(B) by striking "such institution's" and inserting "such insured institution's or controlling company's"; and

(C) by inserting "controlled or" before "commonly controlled";

(7) in paragraph (2)(C)—

(A) by inserting "or controlling company" after "insured depository institution"; and

(B) by inserting "or controlling company" after "the depository institution" each place such term appears;

(8) in paragraph (2)(D)—

(A) by inserting "or controlling companies" after "depository institutions" each place such term appears; and

(B) by inserting "or controlling company" after "depository institution" each place such term appears;

(9) in paragraph (3)(B), by inserting "or controlling companies" after "commonly controlled depository institutions" each place such term appears in clauses (ii) and (iii);

(10) in paragraph (4)—

(A) by inserting "or controlling company" after "insured depository institution" each place such term appears;

(B) by inserting "or company's" after "institution's"; and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(11) in paragraph (5), by striking the catchline and inserting "(5) EXEMPTIONS.—";

(12) in paragraph (5)(A) by inserting "or controlling company" after "insured depository institution";

(13) in paragraph (5)(B)—

(A) by striking "and all other" and inserting ", all other";

(B) by inserting "and all affiliated controlling companies" after "such depository institution"; and

(C) by striking "regard to" and inserting "using the exemption contained in";

(14) in paragraph (7), by striking "Any depository institution shall not be treated as commonly controlled" and inserting "An affiliate shall have no liability";

(15) in paragraph (7)(A), by striking "1 depository institution controls another" and inserting "control was acquired";

(16) in paragraph (7)(B)—

(A) by striking "the controlling bank and all other insured depository institution affiliates of such controlling bank" and inserting "all insured depository institution affiliates"; and

(B) by striking "regard to" and inserting "using the exemption contained in"; and

(17) in paragraph (8), by inserting "or controlling company" after "depository institution" the first place such term appears.

(c) EXISTING LIABILITY NOT AFFECTED.—The amendments made by this section do not affect any rights of the Corporation under section 5(e) of the Federal Deposit Insurance Act, as in effect on the day before the date of enactment of this Act.

(d) CLARIFYING GENERAL APPLICATION OF DEFINITIONS OF AFFILIATE AND SUBSIDIARY.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (w)—

(A) by striking paragraphs (4) and (5); and

(B) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new subsections:

"(aa) SUBSIDIARY.—The term 'subsidiary'—

"(1) means any company that is owned or controlled directly or indirectly by another company; and

"(2) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(bb) AFFILIATE.—The term 'control' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

SEC. 224. GRANTING DEPOSIT INSURANCE.

(a) IN GENERAL.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended to read as follows:

"SEC. 4. ATTAINING INSURED STATUS.

"(a) INSURANCE PURSUANT TO CERTIFICATION BY OTHER FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—Any eligible depository institution shall become an insured depository institution when all of the following subparagraphs are satisfied:

"(A) APPLICATION.—The Corporation receives an application from the institution.

"(B) CERTIFICATE.—The Corporation receives from the certifying agency a certificate stating that—

"(i) the institution—

"(I) is authorized to transact the business of banking, in the case of a national member bank;

"(II) is a member of the Federal Reserve System, in the case of a bank described in subclause (II) or (III) of paragraph (2)(A)(ii); or

"(III) is authorized to transact business as a savings association, in the case of a Federal savings association; and

"(ii) the certifying agency has considered the factors enumerated in section 6, and determined that insuring the institution's deposits under this Act is in the public interest.

"(C) NO DENIAL.—Either—

"(i) any period for denying insurance referred to in paragraph (3)(D) expires; or

"(ii) the Corporation notifies the institution or the certifying agency in writing that the Board of Directors will not deny insurance under paragraph (3).

"(2) DENIAL OF INSURANCE BY CORPORATION.—

"(A) IN GENERAL.—The Board of Directors may, upon a vote of a majority of all members, deny insurance to any eligible depository institution if the Board determines that insuring the institution's deposits under this Act is not in the public interest.

"(B) STANDARD APPLICABLE.—In determining whether to deny insurance under subparagraph (A), the Corporation—

"(i) shall consider the factors described in paragraphs (1) through (6) of section 6; and

"(ii) shall give due deference to the certifying agency's determination with respect to those factors.

"(C) NOTICE REQUIRED.—If the Board of Directors denies insurance under subparagraph (A), the Corporation shall promptly notify the certifying agency, giving specific reasons for the denial.

"(D) DEADLINE FOR DENIAL.—The Board of Directors may deny insurance under subparagraph (A) only during the 120-day period beginning on the date on which subparagraphs (A) and (B) of paragraph (1) are satisfied, or such additional periods as the Corporation may prescribe by order.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) ELIGIBLE DEPOSITORY INSTITUTION.—The term 'eligible depository institution' means any depository institution that—

"(i) is engaged in the business of receiving deposits, other than trust funds; and

"(ii) is described in any of the following subclauses:

"(I) A national bank that is authorized to transact the business of banking.

"(II) A noninsured national nonmember bank that becomes a member of the Federal Reserve System.

"(III) A noninsured State bank that becomes a member of the Federal Reserve System (whether as a State bank or a national bank), except pursuant to section 9B of the Federal Reserve Act.

"(IV) A Federal savings association that is authorized to transact business as a savings association.

"(B) CERTIFYING AGENCY DEFINED.—The term 'certifying agency' means—

"(i) the Comptroller of the Currency, in the case of a national bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a depository institution described in subclause (II) or (III) of subparagraph (A)(ii); and

"(iii) the Director of the Office of Thrift Supervision, in the case of a Federal savings association.

"(b) INSURANCE FOR INTERIM DEPOSITORY INSTITUTIONS.—

"(1) INTERIM FEDERAL DEPOSITORY INSTITUTIONS.—Any interim Federal depository institution that will not open for business shall become an insured depository institution when the appropriate Federal banking agency issues the interim Federal depository institution's charter.

"(2) INTERIM STATE DEPOSITORY INSTITUTIONS.—Any interim State depository institution that will not open for business shall become an insured depository institution upon approval by the appropriate Federal banking agency.

"(c) CONTINUATION OF INSURANCE.—

"(1) IN GENERAL.—Any depository institution that was an insured depository institution on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 shall continue to be an insured depository institution after that date of enactment.

"(2) CHARTER CONVERSION.—Any depository institution that results from any of the following transactions shall continue to be an insured depository institution:

"(A) The conversion of an insured Federal depository institution to—

"(i) a State depository institution; or

"(ii) a Federal depository institution.

"(B) The conversion of an insured State depository institution to—

"(i) a Federal depository institution; or

"(ii) a State depository institution.

"(3) MERGER OR CONSOLIDATION.—Any depository institution that results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue to be an insured depository institution.

"(4) FEDERAL RESERVE MEMBERSHIP.—Any insured depository institution that becomes a member of the Federal Reserve System, or any insured State bank that becomes a national member bank, shall continue to be an insured depository institution.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 5.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(A) in subsection (a)(1), by striking "(1) NATIONAL AND STATE NONMEMBER BANKS; STATE SAVINGS ASSOCIATIONS.—";

(B) in subsection (a), by striking paragraphs (2) through (7);

(C) in subsection (b)(6), by adding "and" at the end; and

(D) in subsection (b)(7), by striking "and" at the end; and

(E) in subsection (b), by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

(2) SECTION 6.—Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

SEC. 225. DISCLOSURE BY INSURED DEPOSITORY INSTITUTIONS AND THE FEDERAL BANKING AGENCIES.

(a) REPORTS OF FINANCIAL CONDITION BY INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended—

(A) by striking "(3)" and inserting the following:

"(3) QUARTERLY REPORTS.—

"(A) IN GENERAL.—"; and

(B) by inserting after subparagraph (A) the following:

"(B) ADDITIONAL INFORMATION.—In accordance with regulations prescribed by the appropriate Federal banking agency, the report of condition required by subparagraph (A) shall, in the case of banks with total assets of more than $1,000,000,000, also contain—

"(i) to the extent feasible, estimates of the aggregate market value of assets and liabilities and the resulting estimated net worth and supporting data and assumptions used in preparing the estimates; and

"(ii) disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency.

"(C) REPORT ON SECURITIES HOLDERS AND NONBANKING ACTIVITIES.—Each depository institution shall submit to the appropriate Federal banking agency, concurrently with the report required by subparagraph (A), a report containing—

"(i) the names of the holders of more than 5 percent of the insured institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter; and

"(ii) a description of activities conducted by the institution and its subsidiaries that are not permitted for national banks, with data on the magnitude of the activity.

"(D) PUBLIC ACCESS TO REPORTS.—Each appropriate Federal banking agency shall make reports required under this subsection available to the public upon request pursuant to section 552 of title 5, United States Code. The provisions of paragraphs (4) and (8) of section 552(b) of such title shall not apply to any such request. For the purpose of this subparagraph, beginning 75 days after the reporting date for such reports, section 552(a)(6)(A) of such title shall apply with respect to statistical information contained in those reports by substituting 'five' for 'ten' and section 552(a)(6)(B) shall not apply.".

(2) EFFECTIVE DATES.—The appropriate Federal banking agency shall promulgate final regulations requiring insured depository institutions to submit quarterly reports containing the information described in the amendments made by paragraph (1) effective for quarterly reports submitted for the quarter ending March 31, 1993.

(b) DISCLOSURE GUIDELINES.—The Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, shall facilitate the development of disclosure guidelines to carry out section 7(a)(3) of the Federal Deposit Insurance Act, as amended by subsection (a).

(c) REPORTS BY FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by—

(A) redesignating subsections (b) through (g) as subsections (c) through (h); and

(B) inserting after subsection (a) the following new subsection:

"(b) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each of the Federal banking agencies shall submit an annual report to the Congress which shall contain, for all insured depository institutions for which the agency is the appropriate Federal banking agency—

"(A) estimates of the number and aggregate assets of institutions likely to fail during each of the 2 years following submission of the report and of the costs to the deposit insurance funds as a result of such failures, and supporting data and assumptions used in preparing the estimates;

"(B) a report on the conduct by institutions and their subsidiaries of activities not permitted for national banks or for bank holding companies, by State and Federal charter status;

"(C) a list of all cease-and-desist orders, supervisory agreements, and capital restoration plans entered into in the previous 12 months, and an analysis of the extent of compliance with outstanding orders, agreements, and plans; and

"(D) a report on the number and aggregate assets of institutions that are insolvent and insured depository institutions that are—

"(i) critically undercapitalized;

"(ii) significantly undercapitalized;

"(iii) undercapitalized;

"(iv) adequately capitalized; and

"(v) well capitalized,

assigning each institution to the single capital category that best describes the institution in accordance with the definitions established under section 37(b).

"(2) METHOD OF FILING.—Reports required by this subsection shall be submitted to the Congress in accordance with the requirements of subsection (a)(2) and shall be made available to the public.".

(2) EFFECTIVE DATE.—The reports required pursuant to the amendments made by paragraph (1) shall be filed annually, not later than June 1 of the following year.

(d) INSURANCE FUND REPORTS.—Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by—

(1) striking "and" at the end of subparagraph (E);

(2) striking the period at the end of subparagraph (F), and inserting a semicolon; and

(3) inserting after subparagraph (F) the following:

"(G) information pertaining to failed depository institutions, including—

"(i) the name and total assets of each insured depository institution that failed during the 12-month period preceding submission of the report, including those that received assistance under section 13(c), and the actual or estimated cost of resolution or assistance to each such depository institution;

"(ii) for each failed institution, the location by State, the State or Federal charter status, and Federal Reserve System membership status;

"(iii) a breakdown of the number and aggregate assets of all failed institutions by region, State or Federal charter status, and Federal Reserve System membership status; and

"(iv) a description of concentrations of liabilities and assets of failed institutions, including a breakdown by State or Federal charter status, and Federal Reserve System membership status;

"(H) the number and aggregate assets of depository institutions on the problem bank list or any similar list that identifies institutions that may fail or require assistance or resolution within the foreseeable future, by State or Federal charter status and Federal Reserve System membership status, at the time of submission of the report;

"(I) an estimate of the number and aggregate assets of institutions that are likely to be included on the problem bank list or other list described in subparagraph (H) in each of the 2 years following submission of the report, by State or Federal charter status and Federal Reserve System membership status, and supporting data and assumptions used in preparing the estimate; and

"(J) the estimated resolution and assistance costs which are likely to be expended in each of the 2 years following submission of the report,

including an explanation of all data and assumptions used in developing estimates required by this paragraph.".

(e) CONFIDENTIAL ACCESS TO INFORMATION BY CBO; GAO AND CBO REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. 39. REVIEW OF ESTIMATES; CONFIDENTIAL ACCESS TO CERTAIN INFORMATION.

"(a) IN GENERAL.—The Comptroller General and the Congressional Budget Office shall review the estimates by the Corporation under subparagraphs (I) and (J) of section 17(a)(1) and by the appropriate Federal banking agencies under section 17(b)(1)(A).

"(b) ACCESS TO INFORMATION.—To carry out subsection (a), each appropriate Federal banking agency shall, upon request, provide the Director of the Congressional Budget Office—

"(1) the agency's internal rating system and each institution's rating; and

"(2) a list, identifying individual insured institutions, of those institutions which the agency believes may fail within the foreseeable future or which the agency believes may require assistance or resolution.

"(c) SAFEGUARDS AGAINST DISCLOSURE.—The provisions of subsections (c) and (d) of section 714 of title 31, United States Code, shall apply to any information provided in response to a request made by the Director of the Congressional Budget Office under subsection (b), except that for the purpose of this section any reference in such subsections to the Comptroller General or the General Accounting Office shall be deemed to be a reference to the Director of the Congressional Budget Office.".

(2) CRIMINAL PENALTIES FOR DISCLOSURE BY CBO EMPLOYEES.—Section 1906 of title 18, United States Code, is amended—

(A) by inserting "or a Congressional Budget Office employee with access to information obtained under section 39 of the Federal Deposit Insurance Act" after "title 31" the first place it appears; and

(B) by inserting "or to which information obtained under such section 37 pertains" after "title 31" the second place it appears.

(3) REVIEWS AND REPORTS.—Section 17(g) of the Federal Deposit Insurance Act (12 U.S.C. 1827(g)), as redesignated by subsection (b)(1)(A), is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end the following:

"(2) The Comptroller General shall review the oversight of insured depository institutions by the Federal banking agencies to determine whether reports of conditions under section 7(a) require information to reasonably reflect the condition of institutions. The Comptroller General shall include in each report under paragraph (1) the results of such review and any recommendations to improve the reports so that—

"(A) the information required reasonably reflects the condition of depository institutions; and

"(B) the information provided facilitates regulatory actions, including prompt corrective action.

"(3) Each report under paragraph (1) shall also contain—

"(A) an audit of the failure estimates contained in the most recent reports under subparagraphs (I) and (J) of subsection (a)(1); and

"(B) an audit of the failure estimates contained in the most recent reports under subsection (b)(1).".

(f) THRIFT CALL REPORTS.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) PUBLIC DISCLOSURE.—Reports required under paragraph (1) and all information contained therein shall be available to the public upon request.";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(g) FDIC ANNUAL AUDIT.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by striking subsections (e) through (h), as redesignated under section 219(b), and inserting the following:

"(e) AUDIT.—

"(1) IN GENERAL.—An annual audit of the financial transactions of the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, administered and maintained by the Corporation, shall be conducted, and reports on such audit shall be issued, in accordance with sections 9105 and 9106 of title 31, United States Code.

"(2) RECAPITALIZATION AUDIT.—An audit of the Corporation's compliance with any recapitalization schedule promulgated under subsection (b)(1)(C) that is in effect at the time of the audit required under paragraph (1) shall be made as part of such audit.

"(f) REPORT OF AUDIT.—A copy of the report on each audit conducted under subsection (d) shall be provided to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the time that it is provided to the Corporation.".

(h) Government Corporation Treatment.—Section 21A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(2)) is amended by striking "9105, 9107," and inserting "9107".

(i) RTC Audit Costs.—Section 21A(k)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441(k)(1)(A)) is amended by adding at the end the following: "The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this paragraph, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General shall be deposited in the Treasury as miscellaneous receipts.".

(j) Resolution Funding Corporation Audit.—Section 21B(i)(2)(C) of the Federal Home Loan Bank Act (12 1441b(i)(2)(C)) is amended by inserting "or an independent external auditor" after "Comptroller General".

(k) Additional Reports.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) Additional Reports.—

"(1) In general.—In addition to the reports required under subsections (a), (b), and (c) of this section, the Corporation shall submit to the Congress not later than October 31 of each year, the annual report on the activities and efforts of the Corporation.

"(2) Contents of report.—Each annual report required under paragraph (1) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions for which the Corporation serves as a receiver or conservator:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 226. CONSENT TO BE BOUND BY THE FEDERAL DEPOSIT INSURANCE ACT.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) (as amended by section 201) is amended by adding at the end the following new subsection:

"(c) Insured Depository Institutions Consent To Be Bound by This Act.—By becoming or remaining insured under this Act, an insured depository institution consents to be bound by this Act and by other Federal statutes relating to the safety and soundness of insured depository institutions.".

SEC. 227. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) Annual Independent Audit of Private Deposit Insurer; Disclosure by Institutions Lacking Federal Deposit Insurance.—

(1) In general.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) Annual Independent Audit of Private Deposit Insurers.—

"(1) Audit required.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing procedures and generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) Providing copies of audit report.—

"(A) Private deposit insurer.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) Depository institution.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) Disclosure Required.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) Periodic statements; account records.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) Advertising; premises.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) Acknowledgment of risk.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) Manner and Content of Disclosure.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) Exceptions for Institutions Not Receiving Retail Deposits.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) Eligibility for Federal Deposit Insurance.—

"(1) In general.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) Authority of FDIC and NCUA not affected.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) Definitions.—For purposes of this section:

"(1) Appropriate supervisor.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) Depository institution.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) Lacking federal deposit insurance.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) Private deposit insurer.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) Enforcement.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) Effective dates.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

SEC. 228. UNINSURED WHOLESALE BANKS.

(a) VOLUNTARILY TERMINATING INSURED STATUS.—

(1) SECTION 8 DESIGNATIONS.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in the section heading, by inserting "**involuntary**" after "**sec. 8.**"; and

(B) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

(2) VOLUNTARILY TERMINATING INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARILY TERMINATING STATUS AS INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured bank may, in accordance with regulations of the Corporation, voluntarily terminate its status as an insured depository institution if the institution provides written notice of its intent to terminate its insured status—

"(1) to the Corporation, not less than 6 months before the effective date of the termination; and

"(2) to its depositors, not less than 6 months before the effective date of the termination.

"(b) EXCEPTION.—The option to terminate insured status under subsection (a) shall not be available to—

"(1) an insured savings association;

"(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978; or

"(3) any institution described in section 2(c)(2) of the Bank Holding Company Act of 1956.

"(c) ELIGIBILITY FOR INSURANCE TERMINATED.—A depository institution that voluntarily elects to terminate its insured status under subsection (a) shall not receive insurance any of its deposits or any other assistance authorized under this Act after the period specified in subsection (e)(1).

"(d) INSTITUTION MUST BECOME UNINSURED STATE MEMBER BANK OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any institution that voluntarily terminates its status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is an uninsured State member bank under section 9B of the Federal Reserve Act.

"(e) EXIT FEES.—

"(1) IN GENERAL.—Any institution that voluntarily terminates its status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of contingent and other liabilities of the relevant deposit insurance fund.

"(2) PROCEDURES.—The Corporation shall, by regulation, prescribe procedures for assessing any exit fee under this subsection.

"(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

"(1) TRANSITION PERIOD.—The insured deposits of each depositor in an insured bank on the effective date of the voluntary termination of the institution's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months nor more than 2 years, within the discretion of the Corporation. During that period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of the termination, shall be insured by the Corporation, and no early withdrawal penalties shall be charged on insured deposits with a term that exceeds the transition period provided by the Corporation under this paragraph.

"(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1), a depository institution shall—

"(A) continue to pay assessments required under this Act as if it were an insured depository institution;

"(B) be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act; and

"(C) if the depository institution is closed due to an inability to meet the demands of its depositors, be subject to the same powers and rights of the Corporation with respect to the institution as in the case of an insured depository institution.

"(g) ADVERTISING.—

"(1) IN GENERAL.—An insured bank that voluntarily terminates its insured status under this section shall not advertise or hold itself out as having insured deposits, except that it may advertise the temporary insurance of deposits under subsection (f) if in the same connection, it shall also state with equal prominence—

"(A) that additions to deposits and new deposits made after the effective date of the termination are not insured; and

"(B) the date on which all insurance will terminate, as determined under subsection (f)(1).

"(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by an insured bank after the effective date of the voluntary termination of its insured status under this section shall include a conspicuous notice that the instrument is not insured under this Act.

"(h) NOTICE REQUIREMENTS.—

"(1) NOTICE TO THE CORPORATION.—The notice to the Corporation of an institution's intent to terminate its insured status required under subsection (a) shall be in such form as the Corporation may require.

"(2) NOTICE TO DEPOSITORS.—The notice to depositors of an institution's intent to terminate its insured status required under subsection (a) shall be—

"(A) at such depositor's last address of record with the institution; and

"(B) in such manner and form as the Corporation finds to be necessary and appropriate to protect depositors.".

(3) APPROPRIATE FEDERAL BANKING AGENCY.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended by inserting "and any uninsured State member bank" before the comma.

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) EXEMPTION.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(j) SPECIAL EXEMPTION FOR HOLDING COMPANIES OF UNINSURED BANKS.—

"(1) EXEMPTION.—Except as provided in paragraph (2), if all of a bank holding company's subsidiary depository institutions are uninsured State member banks, as provided in section 9B of the Federal Reserve Act, that bank holding company may, notwithstanding subsection (a), acquire or retain direct or indirect ownership or control of—

"(A) shares of securities firms;

"(B) shares described in paragraphs (1) through (7) and (9) through (14) of subsection (c); and

"(C) shares of any company, the activities of which the Board, by regulation or order, has determined to be—

"(i) closely related to banking under subsection (c)(8); or

"(ii) financial, and appropriate for a bank holding company that is subject to this subsection.

"(2) SAVINGS PROVISION.—In the case of a bank holding company having control of any bank that voluntarily terminates its insured status under section 8A of the Federal Deposit Insurance Act, paragraph (1) shall not apply before the date on which all of the deposits of such bank cease to be insured in accordance with the transition period described in section 8A(f)(1) of the Federal Deposit Insurance Act.

"(3) APPROVAL REQUIRED.—

"(A) IN GENERAL.—The acquisition or retention of shares referred to in paragraph (1)(B) shall be subject to the same requirements, including any applicable Board approval or review, as would be applicable to a bank holding company that does not own any uninsured State member banks;

"(B) NONBANKING ACTIVITIES.—

"(i) PRIOR NOTICE REQUIRED.—No acquisition may be made under subparagraph (A) or (C) of paragraph (1) unless the company has provided the Board not less than 60 days prior written notice of the transaction, and during that period, the Board has not disapproved the transaction.

"(ii) EXTENSION FOR NEW ACTIVITIES.—Notwithstanding clause (i), in any case involving an activity for which the Board has not yet made a determination under paragraph (1)(C), the Board may extend the disapproval period for not more than an additional 90 days.

"(4) LIMITATION ON AFFILIATION OF UNINSURED STATE MEMBER BANKS AND OTHER DEPOSIT-TAKING INSTITUTIONS.—No uninsured State member bank may be an affiliate of—

"(A) any bank, other than an uninsured State member bank;

"(B) any savings association;

"(C) any institution described in section 2(c)(2); or

"(D) any institution that accepts initial deposits of $100,000 or less, other than—

"(i) on an incidental basis; and

"(ii) if the deposits—

"(I) are not insured under the Federal Deposit Insurance Act; and

"(II) are not more than 5 percent of the institution's total deposits.".

(2) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 184) is amended—

(A) by adding at the end the following:

"(n) UNINSURED STATE MEMBER BANK.—For purposes of this Act, the term 'uninsured State member bank' means any institution that is an uninsured State member bank in accordance with section 9B of the Federal Reserve Act."; and

(B) in subsection (c)(1), by adding at the end the following:

"(C) An uninsured State member bank.".

(c) EXEMPTIONS FOR NONINSURED BANKS AND THEIR AFFILIATES.—

(1) MCFADDEN ACT.—Section 5155(h) of the Revised Statutes (12 U.S.C. 36(h)) is amended by adding at the end the following: "For purposes of this section, such terms shall not include banks that have voluntarily terminated their insured status under section 8A of the Federal Deposit Insurance Act, effective upon the expiration of the transition period provided for in subsection (f)(1) of such section.".

(2) BANKING ACT OF 1933.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by adding at the end the following: "This section does not prohibit any officer, director, partner, employee, or individual described in the preceding sentence from serving at the same time as an officer, director, or employee of an uninsured State member bank, as defined in section 9B of the Federal Reserve Act.".

(3) INSURED BANKS.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: "This subsection does not apply to an uninsured State member bank that is controlled by a company that controls no banks other than uninsured State member banks.".

(d) UNINSURED STATE MEMBER BANKS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. UNINSURED STATE MEMBER BANKS.

"(a) APPLICATION FOR MEMBERSHIP AS UNINSURED STATE MEMBER BANK.—

"(1) APPLICATION REQUIRED.—Any bank organized under the general laws of any State, or incorporated by special law of any State, may apply to the Board of Governors of the Federal Reserve System to subscribe to the stock of the Federal Reserve bank organized within the district where the applying bank is located as an uninsured State member bank. Such application shall be treated as an application under, and shall be subject to, section 9.

"(2) APPROVAL OF MEMBERSHIP.—No bank may become an uninsured State member bank unless—

"(A) the Board has approved an application by the bank, under such regulations and subject to such restrictions or requirements as the Board may prescribe, to be an uninsured State member bank; and

"(B) in the case of a bank that is insured under the Federal Deposit Insurance Act, the bank has met all requirements under that Act for voluntary termination of deposit insurance.

"(b) GENERAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, uninsured State member banks shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that an uninsured State member bank may terminate membership under this Act only with the Board's prior written approval, and on terms and conditions that the Board determines are appropriate to carry out this Act.

"(2) PROMPT CORRECTIVE ACTION.—An uninsured State member bank shall be deemed to be an insured depository institution for purposes of section 37 of the Federal Deposit Insurance Act except that—

"(A) the relevant capital levels and capital measures for each capital category shall be those specified by the Board for uninsured State member banks under subsection (c);

"(B) the provisions applicable to well-capitalized insured depository institutions shall be inapplicable to uninsured State member banks;

"(C) the provisions authorizing or requiring a receiver to be appointed for an institution shall not apply to an uninsured State member bank, and the Board is authorized or required (as the case may be) to terminate the uninsured State member bank's membership in the Federal Reserve System; and

"(D) for purposes of applying section 37 of the Federal Deposit Insurance Act to uninsured State member banks, all references in that section to the appropriate Federal banking agency or to the Corporation shall be deemed to be references to the Board.

"(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), (u), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to an uninsured State member bank in the same manner and to the same extent as they apply to State member insured banks.

"(4) INTERNATIONAL LENDING SUPERVISION ACT.—For purposes of the International Lending Supervision Act, an uninsured State member bank shall be deemed to be a banking institution and the Board shall be the appropriate Federal banking agency for the bank and all of its affiliates.

"(5) BANK MERGER ACT.—An uninsured State member bank shall be subject to the Bank Merger Act in the same manner and to the same extent as if the uninsured State member bank were a State member insured bank.

"(c) SPECIFIC REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(1) LIMITATIONS ON DEPOSITS.—

"(A) MINIMUM AMOUNT.—Pursuant to regulations of the Board, no uninsured State member bank shall receive initial deposits of $100,000 or less, other than—

"(i) on an incidental basis; and

"(ii) if such deposits are not more than 5 percent of the institution's total deposits.

"(B) NO DEPOSIT INSURANCE.—Deposits at an uninsured State member bank are not insured deposits under the Federal Deposit Insurance Act.

"(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe regulations pertaining to advertising and disclosure by uninsured State member banks to ensure that such a bank notifies each depositor that deposits at the uninsured State member bank are not insured or otherwise guaranteed by the United States Government.

"(2) SPECIAL CAPITAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(A) MINIMUM CAPITAL LEVELS.—

"(i) IN GENERAL.—The Board shall, by regulation, adopt capital requirements for uninsured State member banks. The capital levels for uninsured State member banks shall be sufficiently higher than the capital levels for State member insured banks—

"(I) to account for the status of uninsured State member banks as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(II) to provide for the safe and sound operation of the uninsured State member bank without undue risk to creditors or other persons, including Federal Reserve banks, engaged in transactions with the bank.

"(ii) RELEVANT CAPITAL MEASURES.—The relevant capital measures for uninsured State member banks shall be the relevant capital measures described in section 37(c) of the Federal Deposit Insurance Act, except that the Board may specify different relevant capital measures applicable to uninsured State member banks than those applicable to insured depository institutions, as the Board determines appropriate to carry out this Act.

"(iii) MINIMUM LEVERAGE RATIO.—The minimum ratio of tangible equity to total assets of uninsured State member banks shall be not less than 150 percent of the corresponding ratio for insured State member banks.

"(B) CAPITAL CATEGORIES FOR PROMPT CORRECTIVE ACTION.—

"(i) IN GENERAL.—For purposes of applying section 37 of the Federal Deposit Insurance Act, the Board shall, by regulation, establish, for each relevant capital measure specified by the Board under subparagraph (A)(ii), the levels at which an uninsured State member bank is adequately capitalized, undercapitalized, and significantly undercapitalized by reference to the relevant minimum capital levels established for uninsured State member banks.

"(ii) CRITICAL CAPITAL LEVEL.—The Board shall, by regulation, establish the critical capital level for uninsured State member banks for purposes of section 37 of the Federal Deposit Insurance Act. The ratio shall not be less than 150 percent of the corresponding ratio for insured State member banks.

"(3) NONINTEREST-BEARING DEPOSIT.—Each uninsured State member bank shall maintain on deposit at the Federal Reserve bank in the district in which the member bank is located, a noninterest-bearing deposit in such amount of the uninsured State member bank's total deposits as the Board may prescribe. That deposit shall be in addition to any reserve, clearing balance, or liquidity requirements otherwise applicable to the uninsured State member bank.

"(4) ADDITIONAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—In addition to any requirements otherwise applicable to State member banks or otherwise applicable under this section, the Board may, by regulation or order, for uninsured State member banks—

"(A) establish a special discount rate above the rate applicable to insured depository institutions;

"(B) limit transactions with affiliates to prevent an affiliate from gaining access to, or the benefits of, credit (including overdrafts) from a Federal Reserve bank;

"(C) establish special clearing balance requirements;

"(D) limit the availability and use of credit, and on the frequency of borrowing, from a Federal Reserve bank, including limitations or prohibitions on overdrafts at a Federal Reserve bank;

"(E) limit or condition the use of payment or payment-related services obtained from any Federal Reserve bank; and

"(F) establish any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the uninsured State member bank, or

"(ii) protect creditors and other persons, including Federal Reserve banks, engaged in transactions with the uninsured State member bank.

"(5) EXEMPTIONS FOR UNINSURED STATE MEMBER BANKS.—The Board may, by regulation or order, exempt any uninsured State member bank from any provision applicable to a State member bank that is not an uninsured State member bank, provided that the Board finds that such exemption is not inconsistent with—

"(i) promoting the safety and soundness of the uninsured State member bank, and

"(ii) protecting creditors and other persons, including Federal Reserve banks, engaged in transactions with the uninsured State member bank.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed to limit the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(d) CONSERVATORSHIP AUTHORITY.—The Board may appoint a conservator to take possession and control of an uninsured State member bank to the same extent and in the same manner as the Comptroller of the Currency is authorized to appoint a conservator for a national bank under section 203 of the Bank Conservation Act.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'uninsured State member bank' means a bank whose application to become an uninsured State member bank has been approved by the Board of Governors of the Federal Reserve System under this section; and

"(2) the term 'State member insured bank' means a State member bank, the deposits of which are insured under the Federal Deposit Insurance Act.".

SEC. 229. STUDY AND REPORT ON CORE BANKING.

(a) CONGRESSIONAL COMMISSION ON CORE BANKING.—The Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leaders of the House and the Senate, shall appoint a Congressional Commission on Core Banking (hereinafter referred to as the "Commission") to review all major policy issues regarding core banking in order to assist the Congress in evaluating the potential effect of core banking proposals.

(b) MEMBERSHIP.—The Commission shall consist of 9 members, 5 to be appointed by the Speaker of the House of Representatives, and 4 to be appointed by the Majority Leader of the Senate. The Commission shall include—

(1) 1 representative each from the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

(2) 1 representative of organizations whose members consist of depository institutions insured by the Federal Deposit Insurance Corporation;

(3) 1 representative of consumer and public interest groups whose members are customers of such institutions;

(4) 3 independent banking experts; and

(5) 1 representative of the private sector who shall be designated Chairman of the Commission.

(c) PURPOSE OF THE COMMISSION.—The Commission shall evaluate the potential effect of core banking proposals on—

(1) the health and profitability of banks;

(2) limiting the scope of deposit insurance;

(3) the Bank Insurance Fund;

(4) credit availability;

(5) risk-taking;

(6) the flow of funds through banks, lending and loan losses, and deposit and loan spreads;

(7) industry consolidation; and

(8) institution size.

(d) CORE BANKING PROPOSALS DEFINED.—For purposes of this section, the Commission shall examine core banking proposals that include—

(1) limits on the interest rates that may be paid on deposits;

(2) limits on loans to 1 borrower that are more stringent than the limits under current law;

(3) net exposure limits; and

(4) changes in the bank holding company structure necessary to implement core banking.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the President and the Congress with recommendations regarding core banking proposals.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 230. PRIORITY OF CLAIMS.

(a) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(s) PRIORITY OF CERTAIN CLAIMS.—

"(1) IN GENERAL.—Subject to paragraph (2), in any proceeding brought by the Corporation, any claim acquired under this section or section 12 or 13 against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other person employed by or providing services to an insured depository institution shall have priority over any claim against that person by a depositor, creditor, or shareholder of the insured depository institution other than a claim by another Federal agency or the United States.

"(2) NOTIFICATION.—

"(A) IN GENERAL.—If the Corporation receives written notice that a depositor, creditor, or shareholder of an insured depository institution has asserted a claim in a proceeding described in paragraph (1), a claim of the Corporation shall not have priority under paragraph (1) unless the Corporation—

"(i) not later than 180 days after receiving the notice (or if the Corporation acquires its claim after receipt of the notice, not later than 180 days after acquiring the claim)—

"(I) files with the court a statement that the Corporation intends to pursue its claim; and

"(II) diligently pursues that claim; and

"(ii) files suit not later than 1 year after receiving the notice (or, if the Corporation acquires its claim after receiving the notice, not later than 1 year after acquiring the claim), unless the court extends that period in accordance with subparagraph (B).

"(B) REQUESTS FOR EXTENSIONS.—

"(i) IN GENERAL.—At the Corporation's request, the court shall extend the period for the Corporation to file suit, unless the court finds that granting the extension would result in prejudice to a person's ability to prove the person's claim that would outweigh any harm to the Government resulting from denial of the extension.

"(ii) CONSIDERATION OF CORPORATION'S DILIGENCE.—In making a finding under clause (i), the court shall consider the Corporation's diligence in investigating its claim.

"(3) EFFECT OF PRIORITY.—

"(A) IN GENERAL.—The Corporation's priority shall apply to—

"(i) the prosecution of any suit, claim, or cause of action; and

"(ii) the execution of any judgment resulting from that claim.

"(B) LIMITATION.—Paragraph (1) does not give the Corporation priority as to an asset adjudicated to be unavailable to satisfy any judgment resulting from the Corporation's claim.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to any claim of a depositor, creditor, or shareholder commenced before the date of enactment of this Act.

SEC. 231. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) one of the primary purposes of banking legislation is to restore the confidence of the American public in the soundness and equity of the United States banking system;

(2) public confidence in the soundness of the Bank Insurance Fund has been shaken by a Congressional Budget Office estimate that by the close of 1993, bank failures among large banks will cost the insurance fund approximately $15,000,000,000, compared to a $5,000,000,000 cost for the failures among small banks;

(3) public confidence in the equity of the deposit insurance system has been shaken by the too-big-to-fail policy—a policy which granted less Federal protection to the depositors in smaller banks, such as the Freedom National Bank in Harlem, than to depositors in larger banks, such as the Bank of New England;

(4) public confidence in the soundness and equity of the deposit insurance system has been shaken by the United States Government's practice of covering foreign deposits with Federal deposit insurance but not assessing those deposits with deposit insurance premiums;

(5) this practice has resulted in smaller community banks being charged deposit insurance premiums on a higher percentage of their deposit base than their larger competitors;

(6) foreign deposits are not insured deposits under the Federal Deposit Insurance Act; and

(7) this Act take important steps to address the too-big-to-fail policy and to end the unauthorized coverage of unassessed foreign deposits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final banking legislation should make it clear that foreign deposits are not covered by deposit insurance unless those deposits are assessed for that coverage.

SEC. 232. DISCLOSURE OF CERTAIN INFORMATION.

(a) PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.—

(1) IN GENERAL.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in subsection (e), or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(2) DELAY OF PUBLICATION.—

(A) THREATS TO SAFETY OR SOUNDNESS OF INSTITUTION.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in subsection (e). Such determination may be renewed on an annual basis.

(B) ONGOING INVESTIGATIONS.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in subsection (e), whichever is earlier.

(C) DELAY PENDING CRIMINAL INVESTIGATION.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in subsection (e), whichever is earlier. The Attorney General of the United States or of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(3) EXCLUSION OF OPEN INSTITUTIONS.—

(A) OPEN INSTITUTIONS.—This subsection shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(B) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this subsection shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

(b) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in subsection (e) shall be made available to the public.

(c) APPLICABILITY.—The requirements of subsection (a) shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance;

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in subsection (e), the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

(d) REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.—In making available reports of examinations under subsection (a), the appropriate Federal banking agency shall excise the following:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) INSTITUTION-AFFILIATED PARTIES.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) OPEN INSTITUTIONS.—The names and all other identifying information pertaining to open insured depository institutions.

(4) EXAMINERS.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

(e) DEFINITIONS.—For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

(f) ADDITIONAL DISCLOSURES BY FDIC, NCUA AND RTC.—

(1) BORROWERS.—Within 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(A) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b); and

(B) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(2) TRANSACTIONS.—Within 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in paragraph (1)), that caused a material loss to such institution or to the deposit insurance fund.

(g) GAO AUDITS.—The Comptroller General shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under subsection (a), and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under subsection (f), to assess compliance with the requirements of those subsections. The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this subsection.

SEC. 233. UTILIZING PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management of and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practical, efficient and cost effective recognizing all of the costs inherent in such contracts.".

SEC. 234. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) as the number of failed institutions and assets in liquidation managed by the FDIC and RTC has grown, the Legal Division's case load of legal matters has expanded to about 100,000;

(3) the FDIC and RTC are the largest purchasers of legal services in the United States today;

(4) two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1,000,000,000 this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(5) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

TITLE III—INTERSTATE BANKING AND COMBINATIONS

SEC. 301. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by striking "(d) Notwithstanding any other provision of this section, no" and inserting the following:

"(d) STATE BOUNDARIES.—

"(1) IN GENERAL.— Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF EXISTING BANKS.—Beginning 1 year after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, the Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire any voting shares of, interest in, or all or substantially all of the assets of an existing bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later.

"(B) EXISTING BANKS.—For purposes of this paragraph, a bank that does not open for business and has been chartered solely for the purpose of acquiring any voting shares of, interest in, or all or substantially all of the assets of an existing bank shall be deemed to be an existing bank and to have been in existence for the same period of time as the bank to be acquired for purposes of subparagraph (A).

"(C) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under subparagraph (A), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(D) STATE LAW.—A transaction approved under subparagraph (A) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(3) CONCENTRATION AND OTHER LIMITS.—

"(A) IN GENERAL.—The Board may not approve an application under paragraph (2)(A) if—

"(i) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board;

"(ii) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the insured depository institution deposits in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that a State may waive the applicability of this subparagraph; or

"(iii) the acquisition will result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time than is prescribed by the law of the State in which such bank is located in effect on the date the application is filed with the Board, only if such State law—

"(I) does not prescribe a period of more than 5 years: *Provided*, That, a law in existence on the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991 which prescribes a period of more than five years shall be deemed to provide a period of five years; and

"(II) does not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(B) EQUAL APPLICATION OF LAW.—In the case of a State referred to in subparagraph (A)(iii) that has in effect on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 a law that specifies a time period described in subparagraph (A)(iii) applicable to out-of-State banks, such State law shall apply to in-State banks until such time as the State either repeals such law or amends such law to apply equally to in-State and out-of State banks.

"(C) NO EFFECT ON ANTITRUST LAWS.—Nothing in this paragraph shall be construed to affect the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act; and

"(B) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 302. CONVERSION OF BANKS TO BRANCHES.

(a) IN GENERAL.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATIONS.—

"(1) IN GENERAL.—

"(A) COMBINATIONS AUTHORIZED.—Subject to paragraphs (6) and (7), on or after June 1, 1993, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction.

"(B) SURRENDER OF CHARTER AFTER COMBINATION.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the banks (other than that of the resulting bank) that have been combined in accordance with subparagraph (A) into the resulting bank shall be surrendered to the regulatory authority that issued the charters.

"(C) EFFECT OF STATE PROHIBITION OF COMBINATIONS.—If, during the period beginning on June 1, 1993, and ending on the expiration of 3 years after the date of enactment of this subsection, a combination authorized by subparagraph (A) is effected in a State that elects to prohibit interstate combinations under paragraph (6), then that State may require such branch to be promptly converted back into a bank as it existed prior to such combination.

"(2) APPLICABILITY.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken—

"(A) by a bank holding company that is adequately capitalized and adequately managed; or

"(B) by a bank holding company, subject to all other provisions of this subsection, that is critically undercapitalized if—

"(i) the transaction is approved as part of a capital restoration plan required under section 37 of the Federal Deposit Insurance Act;

"(ii) such plan contains not less than 1 element in addition to the transaction; and

"(iii) the transaction will result in a demonstrable and material improvement in the financial condition of the bank holding company.

"(3) ACTIVITIES OF THE RESULTING BANK.—

"(A) ADDITIONAL BRANCHES.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, and operate additional branches at any location where the resulting bank or a combined bank could have established or acquired and operated a branch under the applicable Federal or State law if it had not been a party to such combination.

"(B) INTRASTATE BRANCHING.—Except as expressly provided in this subsection, nothing in this subsection shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) CONDITIONS.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider the bank's rating under the Community Reinvestment Act of 1977 and the views of the appropriate State bank regulatory authorities regarding the bank's compliance with applicable State community reinvestment laws.

"(D) IMPOSITION OF SHARES TAX BY HOST STATES.—In order to assure that an out-of-State bank contributes a fair share to a host State's revenues, if any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof based upon an allocation of net income, capital or net worth, and other factors employed in computing such value pursuant to an allocation method adopted by the host State's taxing authorities, if such method does not unconstitutionally discriminate against out-of-State banks or bank holding companies.

"(4) ACTIVITIES OF BRANCHES.—A State bank that establishes a branch or branches in accordance with paragraph (1) or subparagraph (A) of this paragraph may not conduct any activity at such branch or branches located in the host State that is not permitted for banks chartered by the host State.

"(5) APPLICABLE LAW.—

"(A) IN GENERAL.—

"(i) NATIONAL BANK BRANCHES.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a national bank having its main office in that State.

"(ii) STATE BANK BRANCHES.—Any branch of a State-chartered bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a bank chartered under the laws of such State and having offices only in such State.

"(B) FILING REQUIREMENT.—

"(i) IN GENERAL.—A host State may require any bank having its main office in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) to comply with filing requirements that—

"(I) are not discriminatory in nature; and

"(II) are similar in their effect to those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(ii) FAILURE TO COMPLY.—The host State may preclude any bank referred to in clause (i) from establishing or operating a branch within the host State as the result of a combination authorized by paragraph (1) if that bank or its branch materially fails to comply with the filing requirements established by the host State.

"(6) STATE ELECTION TO PROHIBIT INTERSTATE COMBINATIONS.—

"(A) IN GENERAL.—Paragraph (1) does not apply to a bank holding company, the principle place of business of which is located in a State that has enacted, during the period beginning on January 1, 1990, and ending on the expiration of 3 years after the date of enactment of this subsection, a law that applies equally to all out-of-State national and all out-of-State State banks and that expressly prohibits interstate branching or the interstate combinations authorized under paragraph (1).

"(B) EFFECT OF PROHIBITION.—A bank located in a State that has in effect a prohibition described in subparagraph (A) may not be combined, and shall have no authority to be combined under paragraph (1), with a bank located outside of that State.

"(7) STATE ELECTION TO PERMIT INTERSTATE COMBINATIONS.—

"(A) COMBINATIONS PRIOR TO JUNE 1, 1993.—A combination under paragraph (1) may be undertaken before June 1, 1993, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located either has in effect on the date of enactment of this subsection or enacts prior to June 1, 1993, a law expressly permitting interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose other conditions on the branch of the resulting bank located in that State if—

"(i) the conditions do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies; and

"(ii) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) COMBINATIONS AFTER JUNE 1, 1993.—A State that originally elected to prohibit interstate combinations as described in paragraph (6) may elect at any later time to permit interstate combinations authorized under paragraph (1) if such State enacts a law expressly permitting interstate combinations by national and State-chartered banks.

"(8) LIMITATIONS.—Nothing in paragraph (1) affects the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(9) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the meaning given such term by section 37 of the Federal Deposit Insurance Act;

"(B) the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(C) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(D) the term 'critically undercapitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act;

"(E) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank has its main office and is engaging in the business of banking;

"(F) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(G) a bank shall be deemed to be 'located' in the State in which it was chartered or, in the case of a national bank, the State in which its main offices are located; and

"(H) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States.".

(b) TAXATION.—

(1) STATE FRANCHISE OR OTHER NONPROPERTY TAXES.—The amendments made by this section and section 301 do not in any way affect, limit, impair, or preclude the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

(2) STATE METHODS OF TAXATION.—Subject to the provisions of subsection (h)(3)(c) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, nothing in this section or section 301 shall be construed to either—

(A) prohibit or restrict any State or political subdivision of a State from applying any tax or method of taxation to a State bank or a national bank or branch thereof when such tax or tax method is otherwise permitted by or permissible under either the Constitution of the United States or any other Federal law; or

(B) allow any State or political subdivision of a State to apply any tax or method of taxation to a State bank or national bank or branch thereof when such tax or tax method is otherwise prohibited or restricted by either the Constitution of the United States or any other Federal law.

(c) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence by striking "A national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 303. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) in the first sentence of paragraph (1), by striking "No State" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, no State";

(2) by adding at the end the following:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—A host State bank supervisory or regulatory authority may examine a branch chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956 for the purpose of determining compliance with host State laws regarding banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities and to ensure that the activities of the branch—

"(i) are conducted in a manner that is consistent with sound banking principles; and

"(ii) do not constitute a serious risk to the safety and sound operation of the branch.

"(B) ENFORCEMENT.—In the event that a host State bank supervisory or regulatory authority determines that there is a violation of the law of the host State concerning the activities being conducted by the branch of a State bank or that such branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank supervisory or regulatory authority may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch in question were a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENT.—The State bank supervisory or regulatory authorities from 1 or more States are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—

"(i) INTERSTATE AGREEMENTS.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(ii) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have failed to reach an agreement under subparagraph (C), or that such an agreement fails to adequately protect the Federal Deposit Insurance Fund, the appropriate Federal banking agency shall not defer to State examinations of the out-of-State branches.

"(4) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a bank establishes or maintains a branch, other than the State in which the bank is chartered and engaging in the business of banking.".

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act To provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate acquisition or interstate combination undertaken in accordance with section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections";

(3) in the first sentence of section 2(a), by inserting "or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located within the same State,";

(4) in the sixth sentence of section 2(d), by inserting before the period ", except that the applicability of State law to the transaction undertaken pursuant to section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections"; and

(5) in paragraph (4) of section 3, by inserting "or within any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "within the same State,".

SEC. 304. ACQUISITION OF NEW INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) ACQUISITION OF NEW INTERSTATE BRANCHES BY STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following:

"(3) ACQUISITION OF NEW INTERSTATE BRANCHES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State national and State banks that are adequately capitalized and adequately managed to establish a branch in the host State other than by merger, consolidation, or other similar transaction. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956 and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(B) DEFINITION.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes a branch under subparagraph (A).".

(b) ACQUISITION OF NEW INTERSTATE BRANCHES BY NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS AUTHORIZED.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this section for a national bank to establish a branch in a State other than the State in which its principle place of business is located if the host State expressly permits, by statute and not merely by implication, all out-of-State national or State banks that are adequately capitalized and adequately managed to establish such a branch. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(2) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a national bank establishes a branch under paragraph (1).".

SEC. 305. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding the following subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c) of this section. If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) of this section separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(4) DEFINITIONS.—For purposes of this section:

"(A) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution with the ability to accept deposits located in any State.

"(B) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(C) STATE.—The term 'State' has the same meaning as provided in section 3(a) of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended by adding at the end the following sentence: "A written evaluation shall contain the information required by subparagraphs (A) and (B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 306. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by such State or political subdivision thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law which has its main office or any branch located in that State, to determine any State or local tax liability and to ensure compliance with the tax laws of the State or political subdivision thereof.".

SEC. 307. USE OF NAMES IN HOST STATE.

(a) Bank Holding Company Act of 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, is amended by adding at the end the following:

"(i) Use of Names in Host State.—

"(1) In general.—A bank holding company that seeks, directly or indirectly, to acquire or establish a bank in a host State shall provide the Board with the name or names under which the bank will operate in the host State.

"(2) Prohibition against same or similar names.—A bank holding company may not operate a bank in a host State if the proposed name of the bank is—

"(A) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(B) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(3) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Board shall revoke permission of a bank holding company to operate a bank in a host State if the bank holding company uses or changes the name of, or uses an additional name for any of its banks in the host State, and the new or additional name is described in subparagraph (A) or (B) of paragraph (2). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(4) Definition.—For purposes of this subsection, the term 'host State' means the State in which a bank holding company establishes or acquires a bank other than the State in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1996, or the date on which the company became a bank holding company, whichever is later.".

(b) National Banks.—Section 5155(d) of the Revised Statutes (12 U.S.C. 36(d)), as added by section 304, is amended by adding at the end the following:

"(3) Use of names in host state.—

"(A) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the Comptroller of the Currency with the name or names under which the branch will operate in the host State.

"(B) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(i) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(ii) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(C) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Comptroller of the Currency shall revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in clause (i) or (ii) of subparagraph (B). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(D) Definition.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes or acquires a branch other than the State in which the bank has its main office and is engaging in the business of banking.".

(c) Federal Deposit Insurance Act.—Section 18(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(3)), as amended by section 304, is amended by adding at the end the following:

"(C) Use of names in host state.—

"(i) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the appropriate State regulatory authority with the name or names under which the branch will operate in the host State.

"(ii) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(I) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(II) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(iii) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the appropriate State regulatory authority may revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in subclause (I) or (II) of clause (i). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

SEC. 308. CONSIDERATION OF DISPLACED WORK FORCE.

It is the sense of the Senate that in reviewing proposed mergers and acquisitions, the appropriate Federal regulator consider the impact on employees of the existing and proposed institutions, including whether the institutions plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees.

SEC. 309. ATTORNEY GENERAL'S DETERMINATION ON COMPETITIVE FACTORS.

(a) Attorney General's Report.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end the following: "In every case, before acting on any application described in subsection (a), the Board shall give notice of the application to the Attorney General. The Attorney General shall provide a report on any application that presents significant issues regarding competitive factors. The Board shall consider any report by the Attorney General on the competitive factors involved in the transaction, unless the Board finds that it must act immediately in order to prevent the probable failure of the institutions involved in the transaction that is the subject of the application. Any report shall be furnished not later than 30 calendar days after the date on which it is requested, or not later than 10 calendar days after such date if the Board advises the Attorney General that an emergency exists requiring executive action.

(b) Bank Holding Company Act Amendment.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) Report to the Congress on Approvals of Anticompetitive Transactions.—The Board shall submit a report to the Congress on the day on which any merger or transaction is approved under this section that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under subsection (c) may have an anticompetitive effect in any market or for any product. The Board's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

(c) Federal Deposit Insurance Act Amendment.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) Report to the congress on approvals of anticompetitive transactions.—The responsible agency shall submit a report to the Congress on the day on which any merger or transaction is approved under this subsection that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under paragraph (4) may have an anticompetitive effect in any market or for any product. The responsible agency's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

SEC. 310. REGULATIONS TO PROHIBIT BRANCHING FOR DEPOSIT PRODUCTION.

Not later than 180 days after the date of enactment of this Act, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate regulations to prohibit any person from using any authority to engage in interstate branching primarily for the purpose of deposit production.

TITLE IV—JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. 402. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) Design.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this title. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this title. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this title shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this title may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. 405. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this title shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 406. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994. All remaining funds from the sale of the coins authorized under this title shall be deemed as surcharges and promptly be transmitted according to section 407 of this title.

SEC. 407. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 408. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 407 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 407 of this title shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Truth in Savings and Investments Act".

SEC. 502. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that uniformity in calculating and disclosing the yields and basic terms of savings accounts and investment accounts would—

(1) better enable consumers to make informed decisions among savings and investment options; and

(2) increase competition among depository institutions and investment companies.

(b) PURPOSE.—The purpose of this subtitle is to require—

(1) standardization of the method of calculating yields which are payable on accounts and investments; and

(2) the clear and uniform disclosure of the key costs associated with such accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 503. DEFINITIONS.

For the purposes of this subtitle—

(1) ACCOUNT.—The term "account" means an account offered other than for a business purpose to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds. Such term includes a demand account, time account, negotiable order of withdrawal account, credit union share, share certificate, and share draft account.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method that the Board shall prescribe by regulation.

(3) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(4) DEPOSITORY INSTITUTION.—The term "depository institution" has the same meaning as in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(5) INTEREST.—The term "interest" includes a dividend paid with respect to a credit union share, share certificate, or share draft account which is an account under paragraph (1).

(6) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means an account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

SEC. 504. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (c), an advertisement, announcement, or solicitation initiated by any depository institution, or by any other entity, relating to any account—

(1) may not include a reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, other than a reference to the annual percentage yield; and

(2) shall, if it contains a reference to the annual percentage yield, state the information described in subsection (b) in a clear and conspicuous manner.

(b) INFORMATION REQUIRED TO BE DISCLOSED IF ANNUAL PERCENTAGE YIELD IS USED.—The information required to be disclosed by subsection (a)(2), to the extent applicable, is the following:

(1) The period during which such annual percentage yield is in effect.

(2) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(3) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(4) A statement that regular fees or other conditions could reduce the yield.

(5) A statement that a penalty shall be imposed for early withdrawal.

(c) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt—

(1) advertisements, announcements, or solicitations made by any broadcast or electronic medium,

(2) any outdoor advertising display not on the premises of the depository institution, or

(3) any advertising display on the premises of the depository institution or other entity offering the account or investment,

from any disclosure requirements described in paragraph (3) or (4) of subsection (b) if the Board finds that any such disclosure would be unnecessarily burdensome.

(d) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution or by any other entity may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(e) MISLEADING OR INACCURATE ADVERTISEMENTS PROHIBITED.—No depository institution or other entity shall make any advertisement, announcement, or solicitation relating to an account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 505. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, by regulation, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the circumstances under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON YIELDS.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(6) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(7) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from, or the closing of, the account will not be paid by the depository institution or credited to the account by reason of such withdrawal or closing.

(8) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 506. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this subtitle relating to annual percentage yields as may be necessary to carry out the purposes of this subtitle in the case of—

(1) accounts with respect to which the determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 507. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—Any schedule required under section 505 shall be—

(1) made available to any person upon request; and

(2) provided to any potential customer before an account is opened or a service is rendered,

beginning not more than 6 months after the regulations issued by the Board take effect.

(b) NOTICE TO CURRENT ACCOUNT HOLDERS.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 6 months after the regulations issued by the Board take effect, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

(c) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 505(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(d) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in

the schedule required under section 505(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect. This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(e) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 508. PERIODIC STATEMENTS.

For any account for which a depository institution provides a periodic statement, the depository institution shall provide to each of its account holders on or accompanying each periodic statement a clear and conspicuous disclosure of—

(1) the annual percentage yield;

(2) the amount of interest earned; and

(3) any fees or charges imposed.

SEC. 509. PAYMENT OF INTEREST.

(a) DETERMINATION OF BALANCE ON WHICH INTEREST IS CALCULATED.—Except as provided in subsection (c), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using—

(1) the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period, or

(2) the day of deposit to day of withdrawal method, as defined by the Board.

Each agency referred to in section 511 shall, in connection with its examination functions, examine the accuracy of depository institutions' balance calculations.

(b) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

(c) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(d) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this subtitle.

(e) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (d) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 510. REGULATIONS.

(a) IN GENERAL.—The Board, after consultation with each agency referred to in section 511(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this subtitle. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this subtitle, to prevent circumvention or evasion of the requirements of this subtitle, or to facilitate compliance with the requirements of this subtitle.

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this subtitle. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this subtitle may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this subtitle if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this subtitle; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 511. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this subtitle shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act, by the Office of Thrift Supervision in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS SUBTITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this subtitle shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this subtitle, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this subtitle does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this subtitle.

SEC. 512. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution or other entity offering an account that fails to comply with any requirement imposed under this subtitle or any regulation prescribed under this subtitle with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona Fide Errors.—

(1) General rule.—A depository institution may not be held liable in any action brought under this section for a violation of this subtitle if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this subtitle is not a bona fide error.

(d) Jurisdiction.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) Reliance on Board Rulings.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Notification of and Adjustment for Errors.—A depository institution shall not be liable under this section or section 511 for any failure to comply with any requirement imposed under this subtitle with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) Multiple Interests in 1 Account.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this subtitle shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) Continuing Failure To Disclose.—

(1) Certain continuing failures treated as 1 violation.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this subtitle with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) Subsequent failure to disclose.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this subtitle with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) Coordination with section 511.—This subsection shall not limit or otherwise affect the enforcement power under section 511 of any agency referred to in subsection (a) of such section.

SEC. 513. CREDIT UNIONS.

(a) In General.—No regulation prescribed by the Board under this subtitle shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) Regulations Prescribed by the NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this subtitle, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 514. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1993, and annually thereafter, the Commission and the Board of Governors of the Federal Reserve System shall consult with each other (and with any other agency they deem appropriate) to review the regulations prescribed under this Act and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to assure that such regulations are providing consumers the ability to compare savings and investments options effectively. If at any time as a result of such review, either the Commission or the Board finds that its regulations are not providing consumers the ability to compare savings and investments options effectively, the Commission or the Board, as the case may be, shall modify its regulations to assure that consumers have such ability.".

SEC. 515. EFFECT ON STATE LAW.

(a) In General.—The provisions of this subtitle do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist.

(b) Balance on Which Interest Is Calculated.—The provisions of this subtitle shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

SEC. 516. EFFECTIVE DATE OF REGULATIONS.

The Board shall issue regulations to carry out this subtitle in final form not later than 9 months after the date of enactment of this Act. Such regulations shall take effect not later than 6 months after publication in final form.

Subtitle B—Fair Lending Enforcement

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Fair Lending Enforcement Act of 1991".

SEC. 522. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 523. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 41. CONSUMER COMPLIANCE PROGRAM.

"(a) Establishment Required.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) Definitions.—For purposes of this section—

"(1) Consumer compliance examination.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) Consumer compliance examiner.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) Consumer Compliance Examinations.—

"(1) Frequency.—The appropriate Federal banking agency shall conduct on-site consumer compliance examinations of each insured depository institution. Beginning not later than January 1, 1995, the agency shall conduct such an examination of each institution not less than once every 2 years, or as frequently as the agency conducts a regular on-site safety and soundness examination of each institution, whichever is less frequent.

"(2) Conducted by consumer compliance examiners.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(3) EXAMINATION UPON REQUEST UNDER CERTAIN CIRCUMSTANCES.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) REPORTS.—Each consumer compliance program shall prepare a description of its activities which shall be included in the agency's annual report to the Congress.".

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) FREQUENCY.—The Board shall conduct on-site consumer compliance examinations of each insured credit union. Beginning not later than January 1, 1995, the Board shall conduct such an examination of each insured credit union not less than once every 2 years, or as frequently as the Board conducts a regular on-site safety and soundness examination of the institution, whichever is less frequent.

"(2) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from members or the public.

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to the Board concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) REPORTS.—The consumer compliance program shall prepare a description of its activities which shall be included in the Board's annual report to the Congress.".

(c) STATE CREDIT UNIONS.—Section 204 of the Federal Credit Union Act is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.

SEC. 524. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act, and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 525. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992.

Subtitle C—Basic Financial Services Accounts

SEC. 531. STUDY AND REPORT ON UTILIZING THE UNITED STATES POSTAL SERVICE TO PROVIDE GOVERNMENT CHECK CASHING SERVICES.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study examining current fees and practices of check cashing outlets and the potential for enhancing the access of low-income individuals to government check cashing services through the United States Postal Service.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall provide the Congress with a report regarding the results of the study described in subsection (a), along with any recommendations for Federal or State legislative or administrative action.

SEC. 532. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR FEDERAL RECURRING PAYMENTS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to assess the benefits and costs to the Federal Government of utilizing direct deposit versus paper checks to accomplish government payments. In conducting the study, the Comptroller General shall—

(1) consider the administrative cost savings, if any, to be accomplished through the utilization of direct deposit, such as reduced paperwork and personnel involvement, streamlined and cost-effective operations, and reduced postage expenses;

(2) consider the loss in interest earnings to the Federal Government as the result of the earlier relinquishment by the Government of directly deposited funds, using data on major beneficiary programs that utilize recurring Federal benefits payments;

(3) compare the relative costs and benefits to the Federal Government of direct deposit versus paper check payments of Government benefits; and

(4) identify societal costs and benefits of direct deposit with respect to safety, risk of loss to the individual and the Government, convenience, reliability, and timeliness of payments.

(b) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report containing the results of the study described in subsection (a), along with any recommendations for legislative and administrative action that should be taken.

SEC. 533. GOVERNMENT RETURN OF ELECTRONIC PAYMENTS.

Section 3712(a) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "or that an electronic funds transfer has been acquired by an unauthorized party" after "If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement";

(B) by inserting "or may reclaim the amount of such electronic funds transfer from the receiving institution or the unauthorized party that acquired the benefits" after "guarantee of endorsements";

(C) by inserting "for payments issued before January 1, 1995" after "date of payment" in subparagraph (A);

(D) by striking "or" at the end of subparagraph (A);

(E) by redesignating subparagraph (B) as subparagraph (C); and

(F) by inserting after subparagraph (A) the following:

"(B) the expiration of the 180-day period beginning on the date of payment for payments issued on or after January 1, 1995; or";

(2) in paragraph (2)—

(A) by striking the following:

"(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce" and inserting the following:

"(2) CIVIL ACTIONS.—

"(A) 1 YEAR LIMIT.—Except as provided in subparagraph (B), the United States may bring a civil action—

"(i) to enforce";

(B) by striking the period at the end of subparagraph (A) and inserting "; or

"(ii) against the institution receiving an electronic funds transfer of a Government benefit that has been acquired by an unauthorized party or against the unauthorized party that acquired the benefit, not later than 1 year after the electronic funds transfer is received by the receiving institution.";

(C) in subparagraph (B)—

(i) by striking "(B)" and inserting the following:

"(B) 3-YEAR EXTENSION.—";

(ii) by striking "an endorser"; and

(iii) by striking "against the endorser" and inserting "to the party against which it may bring a civil action under subparagraph (A)".

Subtitle D—Miscellaneous

SEC. 551. HOME EQUITY LOAN CONSUMER PROTECTION ACT AMENDMENTS.

(a) MARGIN DISCLOSURE REQUIREMENT.—Section 127A(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(A)) is amended by inserting after "rate will be computed" the following: ", including a statement of any margin that applies under the plan,".

(b) TERM CHANGED AFTER APPLICATION.—Section 137(d) of the Truth in Lending Act (15 U.S.C. 1647(d)) is amended by inserting after the first sentence the following new sentence: "If a creditor discloses different margins tied to the creditor's criteria for determining the consumer's creditworthiness, the failure to offer the consumer the lowest margin disclosed in connection with creditworthiness constitutes a changed term.".

(c) EFFECTIVE DATE.—Regulations implementing the amendments made by subsections (a) and (b) shall become effective on October 1, 1992.

SEC. 552. DIRECTIVE TO RELIEVE REGULATORY BURDEN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each appropriate Federal banking agency, in consultation with individuals representing depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies, procedures, and recordkeeping and documentation requirements used by the agency to monitor and enforce compliance with designated consumer laws;

(2) determine whether those policies, procedures (including examination procedures), and requirements are unnecessarily burdensome for insured depository institutions;

(3) identify any revisions of those policies, procedures (including examination procedures), and requirements that could reduce burdens on insured depository institutions without in any respect diminishing either compliance with or enforcement of designated consumer laws; and

(4) implement any such revisions.

(b) INNOVATIVE ARRANGEMENTS.—Each appropriate Federal banking agency, in consultation with individuals representing depository institutions, consumers, community groups, and other interested parties, shall identify, and disseminate information regarding, innovative arrangements that can assist insured depository institutions in meeting their obligations under the Community Reinvestment Act of 1977 and other consumer laws, including the use of centralized loan pools to serve the credit needs of low- and moderate-income neighborhoods and families.

(c) REPORT.—Each appropriate Federal banking agency shall submit to the Congress a report describing the actions taken under subsections (a) and (b) not later than 1 year after the date of enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "designated consumer laws" means the Community Reinvestment Act of 1977, the Electronic Fund Transfer Act, the Equal Credit Opportunity Act, the Expedited Fund Availability Act, the Fair Housing Act, the Home Mortgage Disclosure Act of 1975, the National Flood Insurance Act of 1968, the Real Estate Settlement Procedures Act of 1974, the Right to Financial Privacy Act of 1978, and the Truth-in-Lending Act.

SEC. 553. EXPEDITED FUNDS AVAILABILITY ACT AMENDMENTS.

(a) AVAILABILITY OF CASH DEPOSITS.—Section 603(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)) is amended—

(1) in paragraph (1)(A), by striking "staffed by individuals employed by such institution";

(2) in paragraphs (2)(B)(ii) and (2)(C)(ii), by striking "and is staffed by individuals employed by such institution";

(3) in paragraph (2)(F)—

(A) by striking clause (i); and

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

"(3) EXTENSIONS.—In the case of a deposit subject to paragraph (1)(A) or (2) of this subsection that is deposited in a facility that is not staffed by individuals employed by such institution, the Board may, by regulation or order, extend the time by which such funds must be available for withdrawal by 1 business day if the Board determines that, operational constraints imposed by the location of the facility make it unreasonable to expect the receiving depository institution to make the funds available for withdrawal as provided in paragraph (1)(A) or (2).".

(b) ATM DEPOSITS.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(1) in paragraph (1)(C), by striking "the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act" and inserting "September 1, 1994"; and

(2) in paragraph (2)(D), by striking "the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act" and inserting "September 1, 1994".

(c) SAFEGUARD EXCEPTIONS.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

(d) LOSS ALLOCATION.—Section 611(f) of the Expedited Funds Availability Act (21 U.S.C. 4010(f)) is amended—

(1) by inserting "or other entities participating in the payments system, including the States and political subdivisions thereof on which checks are drawn," after "depository institutions"; and

(2) by inserting "finance charges, reasonable attorneys' fees, and other expenses related to the check," after "amount of the check giving rise to loss or liability,".

SEC. 554. TRUTH IN LENDING ACT AMENDMENT.

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end the following:

"(7) Credit transactions involving a consumer whose average annual income is more than $200,000 or whose net assets exceed $1,000,000 at the time of such transaction if the consumer—

"(A) receives an oral explanation and a clear and conspicuous written explanation of the consumer's right to disclosure under this title; and

"(B) signs a waiver of his or her right to such disclosure.

The Board shall prescribe the form and content of explanations and waivers required by this paragraph.".

SEC. 555. HOMEOWNERSHIP AMENDMENTS.

(a) ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.—Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.".

(b) ADJUSTABLE RATE MORTGAGE CAPS.—Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

SEC. 556. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 557. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in title III of this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 558. NOTICE OF BRANCH CLOSING.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(r) NOTICE TO CUSTOMERS OF BRANCH CLOSING.—

"(1) IN GENERAL.—An insured depository institution that proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) including a notice in—

"(i) at least 1 of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.".

SEC. 559. STUDY AND REPORT ON COMMUNITY LENDING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to—

(1) determine whether there are regulatory impediments to sound bank lending in low- and moderate-income neighborhoods and inner cities;

(2) assess whether the risk-based capital standards discourage sound lending for multifamily housing;

(3) evaluate the policy implications of giving banks direct incentives for sound lending in low- and moderate-income neighborhoods and inner cities, through Bank Insurance Fund assessments, risk-based capital standards, other bank regulatory policies, lending from the Federal Home Loan Bank System, or tax policy incentives;

(4) determine whether the underwriting policies of the secondary market agencies could be revised to encourage bank lending in low- and moderate-income neighborhoods and inner cities; and

(5) recommend legislative or regulatory changes to encourage sound, profitable lending in low- and moderate-income neighborhoods and inner cities.

(b) CONSULTATION.—The Comptroller General shall consult with State and local governments, nonprofit developers, community groups, financial institutions with experience in community lending, State housing finance agencies, and others with expertise in community lending.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report containing the findings from the study under subsection (a).

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Act of 1991".

SEC. 602. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsections:

"(e) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without obtaining the prior approval of the Board.

"(2) POLICY CONSIDERATIONS.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country.

"(3) REQUIRED STANDARDS FOR APPROVAL.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(4) ADDITIONAL STANDARDS.—In acting on any application under paragraph (1), the Board may consider—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including its experience and capacity to engage in international banking and the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank;

"(C) whether the foreign bank has provided the Board with adequate assurances that it will make available to the Board such information on the operations or activities of the foreign bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal banking statutes; and

"(D) whether the foreign bank and its United States affiliates are in compliance with applicable United States law.

"(5) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraphs (2), (3), and (4), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(f) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State supervisory agency or the Office of the Comptroller of the Currency, may order a foreign bank that operates a branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Financial Institutions Supervisory Act of 1966.

However, in making its findings under this paragraph, the Board shall not make size the sole determinant factor and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country.

"(2) DISCRETION TO DENY HEARING.—The Board may take the action described in paragraph (1) without providing an opportunity for a hearing if it determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall become effective within 120 days of its issuance or such longer time period as the Board may direct.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or commercial lending company subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) ENFORCEMENT OF ORDERS.—The Board may in its discretion apply to any United States district court within a jurisdiction in which any office or subsidiary of the foreign bank against which the Board has issued an order under paragraph (1) is located, for the enforcement of any effective and outstanding order issued under this section, and the United States district courts shall have jurisdiction and power to order and require compliance therewith.

"(6) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

"(g) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank against which the Board has issued an order under subsection (e) or (f) may obtain a review of such order in the United States Court of Appeals within any circuit wherein such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing in the court, within 30 days after the entry of the order of the Board, a petition praying that the order be modified or set aside.

"(2) PROCEDURES FOR JUDICIAL REVIEW.—A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, as appropriate, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28.

"(3) SCOPE OF JUDICIAL REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm, modify or set aside the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) EXCLUSIVE JURISDICTION.—Judicial review of any order issued under subsection (e) or (f) shall be exclusively as provided for in this subsection. No other court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order under this section, or to review, modify, suspend, terminate, or set aside any such order.

"(h) CONSULTATION WITH STATE BANK LICENSING AUTHORITY.—The Board shall request and consider any views of the appropriate State bank licensing authority or the Comptroller of the Currency with respect to an application or action under subsection (e) or (f).

"(i) LIMITATIONS ON POWERS OF STATE BRANCHES AND AGENCIES.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) PRIOR APPROVAL REQUIRED.—

"(1) APPROVAL OF AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Board and the Comptroller of the Currency shall include any condition imposed by the Board under section 7(e)(1) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by striking "(h) A foreign bank" and inserting the following:

"(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(2) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The appropriate Federal banking agency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "(1) COMPETITIVE FACTORS.—" before "The Board shall" the first time it appears;

(3) by inserting "(2) BANKING AND CONVENIENCE AND NEEDS FACTORS.—" before "In every case";

(4) by inserting "(4) TREATMENT OF CERTAIN BANK STOCK LOANS.—" before "Notwithstanding"; and

(5) by inserting after paragraph (2) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board may disapprove any application under this section if the company or companies fail to provide the Board with adequate assurances that they will make available to the Board such information on the operations or activities of such company or companies and any affiliate of such company or companies that the Board deems necessary to determine and enforce compliance with this Act, or, in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended—

(A) by inserting "affiliate," after "the terms" the first time it appears; and

(B) by inserting " 'securities affiliate'," before "and 'subsidiary' ".

(2) REPRESENTATIVE OFFICE DEFINED.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) is amended by inserting at the end of the following new paragraph:

"(15) 'representative office' means any office of a foreign bank located in any State of the United States that is not a Federal branch, Federal agency, State branch, State agency or subsidiary of a foreign bank.".

SEC. 603. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Bank Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES AND AFFILIATES.—

"(A) IN GENERAL.—The Board may make examinations of each branch or agency of a foreign bank, of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, and of any other office or affiliate of a foreign bank conducting business in the United States or any territory or dependency of the United States. The cost of such examinations shall be assessed against and paid by such foreign bank or company, as the case may be.

"(B) Coordination of examinations.—The Board shall seek to coordinate its examinations under this paragraph with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State supervisory authorities, including requesting, when the Board deems appropriate simultaneous examinations of all offices of a foreign bank and its affiliates operating in the United States. Nothing in this subparagraph shall be construed to prevent the Board from conducting any examination under subparagraph (A) that it deems appropriate.

"(C) Annual on-site examination.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination. In connection with such examination, the Board shall review the worldwide capital level of the foreign bank in order to determine whether the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in the activities the foreign bank conducts in the United States. Any determination that the foreign bank meets the capital equivalency requirement shall be made after consultation with the Secretary of the Treasury. An examination by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State supervisory authority may be used to satisfy the requirements of this subparagraph.

"(D) Effect of failure to maintain equivalent capital.—If the Board finds at any time that any foreign bank does not have the required level of capital—

"(i) to engage in securities activities, the foreign branch or agency shall be treated as an insured depository institution under section 10(d) of the Bank Holding Company Act of 1956 in the same manner as an affiliated insured depository institution that becomes undercapitalized; and

"(ii) to engage in interstate banking operations, the Board shall—

"(I) review the operations of the foreign bank in the United States to determine whether the conditions for termination in subsection (f)(1)(C) are met or requirements for increasing capital or improving management should be imposed; and

"(II) to the extent that requirements imposed under subclause (I) can only be adequately verified if banking activities are carried out in a domestic banking subsidiary, require the foreign bank or company controlling the foreign bank to conduct all its banking activities in the United States through such a subsidiary."; and

(2) in paragraph (2), by inserting "Reporting requirements.—" before "Each branch".

(b) Coordination of Examinations.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Office of the Comptroller of the Currency shall coordinate examinations of the Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) of this Act and, to the extent possible, shall participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under section 7(c)(1) of that Act.".

(c) Participation in Coordinated Examinations.—Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)) is amended by adding at the end the following new sentence: "The Board of Directors shall coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978 and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board of Governors under that section.".

SEC. 604. SUPERVISION OF FOREIGN BANKS' REPRESENTATIVE OFFICES.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Prior Approval To Establish Representative Offices.—

"(1) In general.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) Standards for approval.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards for approval set forth in section 7(e) and may impose any additional requirements that are necessary to carry out the purposes of this Act.

"(b) Termination of Representative Offices.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the same standards, procedures, and requirements as apply under, and subject to judicial review as provided in, section 7(f).

"(c) Examinations.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) Compliance With State Law.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 605. REPORTING STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) Reporting of stock loans.—

"(A) Report required.—Any financial institution and any affiliate thereof that has credit outstanding to any person or group of persons secured or to be secured by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for the insured depository institution if such extensions of credit by the financial institution and its affiliates, in the aggregate, are secured or to be secured by 25 percent or more of any class of shares of the same insured depository institution.

"(B) Definitions.—For purposes of this paragraph—

"(i) Financial institution.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) Credit outstanding.—The term 'credit outstanding' shall include—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that provides credit or financing to the person or group of persons.

"(iii) Group of persons.—The term 'group of persons' shall include any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) Inclusion of shares held by the financial institution.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) Timing and content of report; copy to appropriate agency for the lending financial institution.—The report required by this paragraph shall be a consolidated report on behalf of the financial institution and all of its affiliates, and shall be filed in writing within 30 days of the time the financial institution or any of its affiliates believes that the 25 percent level referred to in subparagraph (A) has been met or exceeded. The report shall indicate the number and percentage of shares securing each relevant extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any of its affiliates. A copy of the report shall be filed with the appropriate Federal banking agency for the financial institution. Each appropriate Federal banking agency may require any additional information necessary to carry out its supervisory responsibilities.

"(E) Exceptions.—

"(i) Exception where information provided by borrower.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction under this paragraph if the person or group of persons has disclosed the amount borrowed from the financial institution and its affiliates and the security interest of the financial institution and its affiliates to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956 or the Savings and Loan Holding Company Act, or any other formal application that is filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) Exception for shares owned for more than 1 year.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction involving a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more or where the stock is that of a newly chartered bank prior to its opening.".

SEC. 606. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) Disclosure of Supervisory Information to Foreign Supervisors.—Notwithstanding any other provision of law, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if such disclosure—

"(1) is determined to be necessary or appropriate by such agency; and

"(2) would not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Prior to disclosure of any information to a foreign authority, the United States agency shall obtain as necessary the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.

"(c) INFORMATION OBTAINED FROM FOREIGN SUPERVISORS.—The Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency shall not be compelled to disclose information obtained from a foreign supervisor if—

"(1) the foreign supervisor has in good faith determined and represented to such United States agency that public disclosure of such information would violate the laws applicable to that supervisor, and

"(2) the United States agency obtains such information pursuant to—

"(A) such procedure as the United States agency may authorize for use in connection with the administration or enforcement of the banking laws; or

"(B) a memorandum of understanding.

For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 607. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.), as amended by section 606, is amended by adding at the end the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any branch, agency, other office, or subsidiary of a foreign bank that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING.—The foreign bank, branch, agency, other office, or subsidiary of a foreign bank, or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such foreign bank, branch, agency, other office, or subsidiary, or person submits a request for a hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) with respect to a foreign bank, or branch, agency, other office, or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States) shall not affect the jurisdiction or authority of the appropriate Federal banking agency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such foreign bank or branch, agency, other office, or subsidiary of a foreign bank (whether such date occurs before, on, or after the date of enactment of this section).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency pursuant to this Act, within the time period specified by the agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the appropriate Federal banking agency may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, whichever is less, for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraphs (1), (2), or (3) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subsection (a) of this section (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, against which any penalty is assessed under this subsection shall be afforded an agency hearing if such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this subsection.".

SEC. 608. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking the heading and replacing it with "ENFORCEMENT.—";

(2) by inserting "(1)" before "In"; and

(3) by adding at the end the following new paragraph:

"(2) POWERS RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.—

"(A) IN GENERAL.—In the course of or in connection with an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as appropriate, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or to cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum.

"(B) RULEMAKING AUTHORITY.—The Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall have the authority to issue rules and regulations to effectuate the purposes of section 13(b)(2)(A).

"(C) SUBPOENA POWER.—The attendance of witnesses and the production of documents provided for in this subsection may be required by subpoena or subpoena duces tecum from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

"(D) JUDICIAL REVIEW.—Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for the enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to require compliance therewith.

"(E) WITNESS FEES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid to witnesses in the district courts of the United States.

"(F) SERVICE OF PROCESS.—Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the agency may by regulation or otherwise provide.

"(G) ATTORNEYS' FEES.—Any court having jurisdiction of any proceeding instituted under this Act may allow to any party that succeeds in having an agency order modified or set aside such reasonable expenses and attorneys' fees as it deems just and proper.

"(H) PENALTIES FOR NOT COMPLYING FOR EACH DAY THAT SUCH FAILURE OR REFUSAL CONTINUES.—Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $10,000 for each day that such failure or refusal continues, or to imprisonment for a term of not more than 1 year, or both.".

SEC. 609. PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA.

(a) BANK HOLDING COMPANY ACT.—Section 5(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(f)) is amended in the last sentence by striking "$1000" and inserting "$10,000 for each day that such failure or refusal continues".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended in the last sentence by striking "$1,000" and inserting "$10,000 for each day that such failure or refusal continues".

SEC. 610. CLARIFYING MANAGERIAL STANDARDS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end of paragraph (2) (as redesignated by section 602(d)) the following new sentence: "Consideration of the managerial resources of a company or bank shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 611. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 612. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

"'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2).".

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 613. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.), as amended by sections 606 and 607, is amended by adding at the end the following:

"SEC. 17. CRIMINAL PENALTY.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) STATE NOT REQUIRED TO LICENSE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment or operation of a State branch or a State agency by a foreign bank.".

(b) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(c) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) GUIDELINES ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 5(a), subsection (k), and this subsection.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

"(k) EQUIVALENT CAPITAL AND OTHER FINANCIAL REQUIREMENTS.—

"(1) APPROVAL REQUIRED.—No foreign bank may engaged in the activities described in section 5(a)(5) without obtaining the prior approval of the Board.

"(2) DETERMINATION REQUIRED.—The Board shall disapprove an application under paragraph (1) unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities in accordance with section 3(d) of the Bank Holding Company Act of 1956, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(3) CRITERIA FOR DETERMINATION.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

"(4) REQUIREMENT FOR A SEPARATE SUBSIDIARY.—If the Board, taking into account differing regulatory or accounting standards, finds that adherence to capital requirements equivalent to those imposed on a domestic bank holding company under section 3(d) of the Bank Holding Company Act of 1956 can be verified only if banking activities are carried out in a domestic banking subsidiary within the United States, it may only approve an application under paragraph (1) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.".

SEC. 622. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), in consultation with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required, as a general rule, to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services; and

(8) the tax liability of foreign banks.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

(c) CHANGE IN POLICY.—If the participants in the study under subsection (a) agree that, in furtherance of the objectives set out in the study, foreign banks should be required to conduct their activities in the United States through a domestic banking subsidiary, the Board of Governors of the Federal Reserve System is authorized to implement the requirement by regulation. If individual participants expressing additional or dissenting views under subsection (b) conclude that changes in law or policy are needed to further the objectives set out in the study, those participants shall submit legislative proposals to the Congress within 30 days of the submission of the report under subsection (b).

Subtitle C—Fair Trade in Financial Services

SEC. 631. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1991".

SEC. 632. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"SEC. 18. NATIONAL TREATMENT.

"(a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries, and thereby end discrimination against United States banks and bank holding companies.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States banks and bank holding companies—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States banks and holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States banks or bank holding companies.

"(2) ACTION BY AGENCY.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, any Federal banking agency—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) among the factors the agency considers in evaluating any application or notice filed by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or disapprove the notice.

"(3) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency, after consultation with the State bank supervisor—

"(i) may include the determination under subsection (d)(1) and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) of this section among the factors the agency considers in evaluating the application; and

"(ii) may issue an order disapproving the activity in question based upon that determination and in consultation with the Secretary of the Treasury.

The period for disapproval under clause (ii) may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; or

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 633. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. NATIONAL TREATMENT.

"(a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States brokers and dealers that operate or seek to operate in those countries, and thereby end discrimination against United States brokers and dealers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States brokers and dealers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States brokers or dealers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States brokers and dealers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States brokers or dealers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE BROKER OR DEALER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) Exercise of Discretion.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(ii) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 634. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

The Investment Advisers Act of 1940 (12 U.S.C. 80b-1 et seq.) is amended by adding at the end the following new section:

"SEC. 223. NATIONAL TREATMENT.

"(a) Purpose.—This section is intended to encourage foreign countries to accord national treatment to United States investment advisers that operate or seek to operate in those countries, and thereby end discrimination against United States investment advisers.

"(b) Reports Required.—

"(1) Contents of report.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States investment advisers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) Submission of report.—

"(A) In general.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) Most recent report defined.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States investment advisers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect, to ensure that such country accords national treatment to United States investment advisers.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) Secretary's determination.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States investment advisers.

"(2) Actions by commission.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) Notice required to acquire investment adviser.—

"(A) In general.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) Commission may extend 60-day period.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) Effective date.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) Review.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) National Treatment Defined.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(f) Persons of a Foreign Country Defined.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) Exercise of Discretion.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(ii) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 635. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5341 et seq.) is amended by adding at the end the following new section:

"SEC. 3605. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE.

"(a) Investigation Required.—The Secretary of the Treasury, in consultation and coordination with the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), and any other appropriate Federal agency or department to be designated by the Secretary of the Treasury, shall conduct an investigation to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the United States, or whose persons have substantial ownership interests in United States financial services institutions, and the economic, strategic, and other consequences of that interdependence for the United States.

“(b) Report.—The Secretary of the Treasury shall transmit a report on the results of the investigation under subsection (a) within 2 years after the date of enactment of this section to the President, the Congress, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other appropriate Federal agency or department as designated by the Secretary of the Treasury. The report shall—

“(1) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

“(2) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

“(3) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial services activities conducted by United States financial services institutions;

“(4) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to those countries' domestic financial services institutions;

“(5) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, providing credit or other financial services, or otherwise;

“(6) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

“(7) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

“(8) describe the extent to which United States companies rely on financing by or through foreign financial services institutions, and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

“(9) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

“(10) contain other appropriate information relating to the results of the investigation under subsection (a).

“(c) Definitions.—As used in this section, the term 'financial services institution' means—

“(1) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

“(2) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

“(3) any depository institution or depository institution holding company (as such terms are defined in section 3 of the Federal Deposit Insurance Act); and

“(4) any other entity providing financial services.”.

SEC. 636. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) Quadrennial Reports on Foreign Treatment of United States Financial Institutions.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking “and securities companies” and inserting “, securities companies, and investment advisers”; and

(2) by adding at the end the following: “For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.”.

(b) Negotiations To Promote Fair Trade in Financial Services.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting “effective” after “banking organizations and securities companies have”.

(c) Primary Dealers in Government Debt Instruments.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking “does not accord to” and inserting “does not offer”;

(2) by inserting “(including effective market access)” after “the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country”; and

(3) by striking “as such country accords to” and inserting “as are available to”.

TITLE VII—BANK POWERS

SEC. 701. SHORT TITLE.

This subtitle may be cited as the “Depositor Protection and Anti-Fraud Act of 1991”.

SEC. 702. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) In General.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

“(h) Regulation of Certain Nondeposit Marketing Activities in Retail Branches of Insured Depository Institutions.—

“(1) Prohibition on selling certain instruments.—No financial institution may permit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

“(A) A domestic branch of that institution at which insured deposits are accepted.

“(B) That institution's head office, if it accepts insured deposits and is located in the United States.

“(2) Exceptions.—Paragraph (1) shall not apply with respect to any of the following:

“(A) A deposit in a financial institution.

“(B) A means of payment to a third party, such as a traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by financial institutions in the ordinary course of business.

“(C) An interest in an investment company registered under the Investment Company Act of 1940.

“(D) A sale of instruments in large dollar amounts to a sophisticated investor.

“(E) A sale of instruments pursuant to converting a financial institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

“(3) Regulatory exemptions.—The Commission may by regulation provide exemptions from paragraph (1) if it finds at a minimum—

“(A) the exemption is in the public interest;

“(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason; and

“(C) sales of the evidence of indebtedness or ownership interest would be subject to the sales practices rules or standards of self-regulatory organization.”.

(b) Regulations.—Not later than 180 days after the date of enactment of this Act, the Commission shall promulgate final regulations to administer and carry out the amendment made by this section.

(c) Effective Date.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated by the Commission under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. 703. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) In General.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following new subsection:

“(j) Regulation of Certain Nondeposit Marketing Activities in Retail Branches of Insured Credit Unions.—

“(1) Prohibition on selling certain instruments.—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in, any affiliate of that credit union to be sold or offered for sale in any of the following:

“(A) A domestic branch of that credit union at which insured shares are accepted.

“(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

“(2) Exceptions.—Paragraph (1) shall not apply with respect to any of the following:

“(A) An insured share in an insured credit union.

“(B) A means of payment to a third party, such as a traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

“(C) An interest in an investment company registered under the Investment Company Act of 1940.

“(D) A sale of instruments in large dollar amounts to a sophisticated investor.

“(3) Regulatory exemptions.—The Board shall by regulation provide exemptions from paragraph (1) if it finds at a minimum:

“(A) the exemption is in the public interest;

“(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

“(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling or offering to sell the instrument whether the instrument is appropriate for the purchaser;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1) of like kind or similar principal amount; and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) AFFILIATE DEFINED.—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) ANNUAL REPORTS REQUIRED.—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Securities and Exchange Commission under section 15(f) of the Securities Exchange Act of 1934. The report shall explain the reasons for any such differences, and shall be published in the Federal Register.

"(6) EFFECT ON SEC AUTHORITY.—Nothing contained in this subsection supersedes or limits the jurisdiction or authority conferred on the Securities and Exchange Commission, and no exemption from the provisions of this subsection shall affect the applicability of any of the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act, or the rules and regulations thereunder.".

(b) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 704. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) SUBSIDIARIES OF NATIONAL BANKS.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A)(i) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(ii) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(iii) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991; or

"(B) the insurance is provided as agent or broker to an individual to whom insurance was actually provided by the national bank as of November 21, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

(d) PROHIBITION ON MISREPRESENTATION AND NOTICE TO CUSTOMERS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) MISREPRESENTATION OF GUARANTEES AND CUSTOMER DISCLOSURE.—

"(1) MISREPRESENTATION OF GUARANTEES.—It shall be unlawful for any person selling or offering to sell insurance in accordance with section 771 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 or other authority to represent or imply in any manner whatsoever that such insurance—

"(A) is guaranteed or approved by the United States or any agency or officer thereof; or

"(B) is insured under this Act.

"(2) CUSTOMER DISCLOSURE.—

"(A) IN GENERAL.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that insurance products offered, recommended, sponsored, or sold by the institution—

"(i) are not deposits;

"(ii) are not insured under this Act;

"(iii) are not guaranteed by the insured depository institution; and

"(iv) are not otherwise the obligation of the insured depository institution.

"(B) PROHIBITION ON JOINT MARKETING ACTIVITIES.—No insurance products may be offered, recommended, or sold on the premises of an insured depository institution or to customers of the institution as part of joint marketing activities unless the person marketing such insurance products prominently discloses to its customers in writing, in addition to the disclosures required in subparagraph (A), that such person is not an insured depository institution and is separate and distinct from the insured depository institution with which it shares marketing activities.

"(3) ENFORCEMENT.—The provisions of this subsection shall be enforced in accordance with section 8.

"(4) REGULATIONS.—The appropriate Federal banking agencies shall promulgate regulations to implement this subsection not later than 1 year after the date of enactment of this subsection.".

SEC. 705. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) APPLICATION.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) DEFINITIONS.—

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) NO AFFECT ON BANK HOLDING COMPANY INSURANCE ACTIVITIES.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 706. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. _____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) NO SOLICITATION OF CERTAIN INSURANCE BEFORE PROVIDING LOAN COMMITMENTS.—

"(1) IN GENERAL.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) EXCEPTION FOR INSURANCE REQUIRED FOR CREDIT AGREEMENT.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) RESTRICTIONS ON USE OF NONPUBLIC CUSTOMER INFORMATION.—

"(1) IN GENERAL.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) EXCEPTION FOR CREDIT-RELATED INSURANCE.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) Records of customer consent.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) Definitions.—

"(A) Customer defined.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) Nonpublic customer information defined.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) Additional restrictions.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 707. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) In General.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Insurance Underwriting.—

"(1) In general.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) Continuation of existing activities.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) Exception for certain federally reinsured crop insurance.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) Effective Date; Transition Rule.—

(1) Effective date.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) Transition rule.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

SEC. 801. SHORT TITLE.

This title may be cited as the "Thrift-To-Bank Conversion Act of 1991".

SEC. 802. STREAMLINING CONVERSION PROCEDURES.

(a) Amendment to the National Bank Act.—Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended to read as follows:

"SEC. 5154. ORGANIZATION OF SAVINGS ASSOCIATIONS OR STATE BANKS AS NATIONAL BANKS.

"(a) Conversion Authority.—A savings association or State bank, as defined in section 3 of the Federal Deposit Insurance Act, including a bank or savings association owned in mutual form, may be converted into a national bank if—

"(1) the institution has capital sufficient to entitle it to become a national bank under applicable provisions of law; and

"(2) such conversion—

"(A) is approved by the vote of not less than 51 percent of the total outstanding votes of the institution's shareholders or members;

"(B) would not be in contravention of any applicable Federal or State law; and

"(C) is approved by the Comptroller of the Currency (hereafter in this section referred to as the 'Comptroller').

"(b) Post-Conversion Rights, Duties, and Authorities.—After the conversion of a depository institution into a national bank in accordance with subsection (a)—

"(1) the directors of the depository institution may continue to be directors of the national bank until others are elected or appointed in accordance with applicable Federal law;

"(2) the directors of the institution may execute the articles of association and organization certificate by a majority of the directors of the depository institution, and such certificate shall declare that the owners of 51 percent of the capital stock or 51 percent of the total outstanding votes, as the case may be, have authorized the directors to make such certificate and to convert the depository institution into a national bank; and

"(3) a majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a national bank.

"(c) Share Amounts After Conversion.—The shares of a depository institution that converts to a national bank in accordance with this section may continue to be for the same amount each as they were before the conversion.

"(d) Stockholder and Employee Rights.—When the Commission has given to a converting depository institution a certificate that the provisions of this title have been complied with, the converted depository institution, and all of its stockholders, officers, and employees shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as have been prescribed under Federal law for institutions originally organized as national banks.

"(e) Retention of Assets.—The Commission may, in its discretion and subject to such conditions as it may prescribe, permit a depository institution that converts to a national bank under this section to retain and carry, at a value determined by the Commission, such of the assets of the converting depository institution that do not conform to the legal requirements relative to assets acquired and held by national banks.

"(f) Inclusion of 'National' in Institution's Name.—The name of an institution resulting from a conversion under this section shall include the word 'national'.".

(b) Amendment to the Home Owners' Loan Act.—Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended—

(1) by redesignating paragraph (4) as paragraph (8); and

(2) by inserting after paragraph (3) the following new paragraphs:

"(4) Conversion of federal or state savings association to national bank.—

"(A) In general.—A Federal savings association or a State savings association may convert into a national bank if such conversion—

"(i) is agreed to by a vote of members or security holders, in person or by proxy, at a special meeting called to consider such action, as specified by section 5154 of the Revised Statutes; and

"(ii) complies in all other respects with the requirements of section 5154 of the Revised Statutes and any regulations issued thereunder.

"(B) Notice.—Notice of the meeting referred to in subparagraph (A)(i) shall be given in accordance with paragraph (3)(A)(iii).

"(C) Effective date.—A conversion under this paragraph shall be effective on the date that all the provisions of this Act and section 5154 of the Revised Statutes are fully complied with, and upon the issuance of a certificate of authority to commence banking by the Comptroller of the Currency in accordance with section 5169 of the Revised Statutes.

"(D) Regulatory authority.—The Comptroller of the Currency may prescribe such rules or regulations applicable to a national bank that results from the conversion of a Federal savings association or a State savings association under this paragraph, including any requirement that the resulting national bank assume and maintain any liquidation account obligations of the converting institution, that the Comptroller of the Currency determines to be appropriate.

"(E) Approval requirements.—

"(i) In general.—Except as provided in clauses (ii) and (iii), no approval is required under this section for the conversion of any savings association into a national bank, other than the approval of the Comptroller of the Currency, as prescribed by section 5154 of the Revised Statutes.

"(ii) Exception.—If a mutual savings association converts into a national bank, approval by the Comptroller of the Currency shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(iii) STATE SAVINGS ASSOCIATION CONVERSIONS.—Approval of a State savings association conversion to a national bank under this paragraph, shall be subject to any applicable laws of the State in which the home office of the State savings association is located.

"(5) CONVERSION OF FEDERAL SAVINGS ASSOCIATION TO STATE BANK.—

"(A) IN GENERAL.—A Federal savings association that is adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act) may convert into a State bank organized pursuant to the laws of the State in which the home office of such Federal savings association is located if—

"(i) the State permits the conversion of a Federal savings association into a State bank; and

"(ii) such conversion—

"(I) is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, as specified by the law of the State in which the home office of the Federal savings association is located, and

"(II) complies in all other respects with the requirements of such State law for the conversion of a Federal savings association into a State bank.

"(B) NOTICE.—Notice of the meeting referred to in subparagraph (A)(i) shall be given in accordance with paragraph (3)(A)(iii).

"(C) EFFECTIVE DATE.—A conversion under this paragraph shall be effective upon the date that all the provisions of this Act shall have been fully complied with, and upon the issuance of a new charter by the State in which the savings association is located.

"(D) REGULATORY AUTHORITY.—The appropriate State regulatory authority may prescribe such rules or regulations applicable to a bank that results from the conversion of a Federal savings association, including any requirement that the resulting bank assume and maintain any liquidation account obligations of the converting institution, that such regulatory authority determines to be appropriate.

"(E) APPROVAL REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), no approval shall be required for the conversion of any Federal savings association into a State bank other than the approval of the appropriate State regulatory authority of the State in which the home office of the Federal savings association is located.

"(ii) EXCEPTION.—If a Federal mutual savings association converts into a State bank, approval by the Office of Thrift Supervision shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(6) CONVERSIONS BY STATE SAVINGS ASSOCIATIONS TO STATE BANKS.—

"(A) NO APPROVAL FOR CONVERSION.—Except as provided in subparagraph (B), no approval shall be required under this subsection for the conversion of a State savings association, as defined in section 3(b)(3) of the Federal Deposit Insurance Act, into a State bank other than the approval of the appropriate State regulatory authority of the State in which the home office of the State savings association is located.

"(B) CONVERSION TO STOCK FORM OF OWNERSHIP.—If a State mutual savings association converts to a State bank under this paragraph, approval by the Comptroller of the Currency shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(7) DEFINITION OF STATE BANK.—For purposes of paragraphs (5) and (6), the term 'State bank' shall have the same meaning as in section 3(a)(2) of the Federal Deposit Insurance Act.".

(c) SAFEGUARDS ON CERTAIN SAVINGS BANKS.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) SAFEGUARDS ON CERTAIN SAVINGS BANKS.—The following provisions shall apply to any insured savings bank resulting from a conversion under section 5(i)(5) of the Home Owners' Loan Act and any savings bank that is a direct or indirect successor to that savings bank:

"(1) RISKY ACTIVITIES.—Section 28 shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a savings association.

"(2) LOANS TO ONE BORROWER.—Section 5200 of the Revised Statutes shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a national bank.

"(3) SEPARATE CAPITALIZATION REQUIRED FOR CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—In determining compliance with any applicable capital standards, all of the savings bank's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings bank's capital.

"(B) EXCEPTIONS.—

"(i) AGENCY ACTIVITIES.—Subparagraph (A) does not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(ii) MORTGAGE BANKING SUBSIDIARIES.—Subparagraph (A) does not apply with respect to the savings bank's investments in and extensions of credit to a subsidiary engaged solely in mortgage banking activities.

"(C) TRANSITIONAL RULE.—

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings bank's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings bank may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings bank's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings bank's investments in and extensions of credit to the subsidiary on the date as of which the savings bank's capital is being determined.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	**The acceptable percentage is:**
Prior to July 1, 1992 ..	75
July 1, 1992–June 30, 1993	60
July 1, 1993–June 30, 1994	40
Thereafter	0.

"(iii) FDIC'S DISCRETION TO PRESCRIBE LESSER PERCENTAGE.—The Corporation may prescribe, by order, with respect to a particular savings bank, an applicable percentage that is less than the percentage prescribed by clause (ii) if the Corporation determines, in its sole discretion, that the use of the greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the bank's being in an unsafe or unsound condition.

"(4) TRANSACTIONS WITH AFFILIATES.—The savings bank may not engage in any transaction that would be prohibited under section 11(a)(1) of the Home Owners' Loan Act if the savings bank were a savings association.

"(5) PARENT COMPANY SUBJECT TO BANK HOLDING COMPANY ACT OF 1956.—Section 10(*l*)(1) of the Home Owners' Loan Act does not apply with respect to the savings bank.".

(2) CONFORMING AMENDMENT TO HOME OWNERS' LOAN ACT.—Section 10(*l*)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(*l*)(1)) is amended by striking "other provision of law," and inserting "provision of the Bank Holding Company Act of 1956, but subject to section 18(t)(5) of the Federal Deposit Insurance Act,".

SEC. 803. RETENTION OF EXISTING IN-STATE BRANCHES BY SAVINGS ASSOCIATIONS THAT CONVERT TO NATIONAL BANKS.

Section 5155(b) of the Revised Statutes (12 U.S.C. 36(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following:

"(2) A national bank resulting from the conversion of a Federal or State savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) may retain and operate as a branch any office that was a branch of the savings association immediately prior to conversion if such office—

"(A) is located in the same State in which the national bank has its main office; and

"(B) was lawfully and continuously operated by the savings association as a branch for a period of not less than 2 years prior to such conversion.

"(3) Notwithstanding paragraph (2), a national bank resulting from the conversion of a Federal or State savings association that was, prior to such conversion, a subsidiary of a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), may not retain and operate as a branch any office that would otherwise not be permitted for a national bank.".

SEC. 804. NO RECAPTURE OF THRIFT RESERVES ON CONVERSION.

(a) IN GENERAL.—It is the sense of the Congress that it would be in the public interest to enact legislation as follows: Notwithstanding any other provision of law to the contrary, a domestic building and loan association, mutual savings bank, or cooperative bank to which section 593 of the Internal Revenue Code of 1986 applies which becomes a bank within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and continues to meet the requirements of section 7701(a)(19)(C) of the Internal Revenue Code of 1986 shall not be required to treat as income for Federal income tax purposes any amounts previously deducted by such institutions under section 593 of such Code because it ceases to meet any other requirement of section 7701(a)(19) of such Code.

(b) CONFORMING TAX LEGISLATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a draft of amendments to the Internal

Revenue Code of 1986 necessary to reflect the provisions of subsection (a).

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

SEC. 901. SHORT TITLE.

This title may be cited as the "Financial Institutions Enforcement Improvements Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 911. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Office of the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Office of the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Office of the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the bank, Federal branch, or Federal agency maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the bank or its holding company. If the institution is a Federal branch or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978) of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller of the Currency shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director of the Office of Thrift Supervision a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director of the Office of Thrift Supervision shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director of the Office of Thrift Supervision may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Office of Thrift Supervision shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director of the Office of Thrift Supervision, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the savings association or its holding company. The Office of Thrift Supervision shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1)(A) CONVICTION OF TITLE 18 OFFENSES.—If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be any losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 912. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(u) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 913. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution-affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove such party from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution. A copy of such notice shall also be served upon the depository institution.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution-affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 914. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 915. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 916. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended to read as follows:

"(d) Proceedings Related to Conviction for Money Laundering Offenses.—

"(1) Notice of intention to issue order.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary,

"(B) any State agency,

"(C) any State branch which is not an insured branch,

"(D) any State commercial lending subsidiary, or

"(E) any director or senior executive officer of any such foreign bank, agency, branch, or subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (f).

"(2) Definitions.—For purposes of this subsection—

"(A) Insured branch.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) Money laundering offense defined.—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or punishable under section 5322 of title 31, United States Code.

"(C) Senior executive officers.—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 921. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) In General.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1993, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in subparagraphs (H) through (Y) of section 5312(a)(2) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate State financial institution supervisory agencies for supervisory purposes.".

(b) Civil Penalty.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

(c) Chapter Analysis.—The chapter analysis for chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5327. Identification of financial institutions.".

SEC. 922. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) In General.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to—

"(1) the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeitures;

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 923. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 924. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) Nondisclosure of Orders.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 925. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

(a) In General.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following paragraph:

"(2) Transfers of funds.—

"(A) In general.—Before October 1, 1992, the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') in consultation with State banking departments shall jointly prescribe such final regulations as may be appropriate to require insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks, or other similar instruments to maintain records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks, or similar instruments;

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) Factors for consideration.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

(b) Conforming Amendments.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in the first sentence of subsection (c), by striking "the Secretary shall" and inserting "the regulations prescribed under subsection (b) shall";

(2) in subsection (d), by striking "regulations of the Secretary" and inserting "regulations issued under subsection (b)";

(3) in subsection (e), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require";

(4) in subsection (f), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require"; and

(5) in subsection (g), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require".

SEC. 926. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 927. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or the regulations thereunder" after "section 5313(a)" each place it appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require financial institutions to report suspicious transactions relevant to possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution that voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(1) the development of internal policies, procedures, and controls,

"(2) the designation of a compliance officer,

"(3) an ongoing employee training program, and

"(4) an independent audit function to test programs.

The Secretary may promulgate minimum standards for such programs.".

SEC. 928. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 929. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested agencies, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally, would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts. Such guidelines, if issued, shall reflect the standards for anti-money laundering programs issued under section 5318(h) of title 31, United States Code.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 930. ANTI-MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There is authorized to be appropriated not more than $1,000,000 to carry out this section.

SEC. 931. MONEY LAUNDERING REPORTING REQUIREMENTS.

(a) OBJECTIVE.—The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions. The President shall report annually to Congress on bilateral and multilateral efforts to meet this objective. This report shall be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961.

(b) CONTENTS OF REPORT.—The report shall include—

(1) information on bilateral and multilateral initiatives pursued by the Department of State, the Department of Justice, and the Department of the Treasury, and other Government agencies, individually or collectively, to achieve the anti-money laundering objective of the United States;

(2) information on relevant bilateral agreements and on the actions of international organizations and groups;

(3) information on the countries which have ratified the United Nations Convention on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted by governments and organizations to implement the money laundering provisions of the United Nations Convention, the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and similar declarations;

(4) information on the extent to which each major drug producing and drug transit country, as specified in section 481 of the Foreign Assistance Act of 1961, and each additional country that has been determined by the Department of the Treasury, the Department of Justice, the Department of State, and the Office of National Drug Control Policy, in consultation, to be significant in the fight against money laundering—

(A) has adequate mechanisms to exchange financial records in narcotics money laundering and narcotics-related investigations and proceedings; and

(B) has adopted laws, regulations, and administrative measures considered necessary to prevent and detect narcotics-related money laundering, including whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including large currency transactions;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets; and

(vi) addressed the problem of international transportation of illegal-source currency and monetary instruments;

(5) details of significant instances of noncooperation with the United States in narcotics-related money laundering and other narcotics-related cases; and

(6) a summary of initiatives taken by the United States or any international organization, including the imposition of sanctions, with respect to any country based on that country's actions with respect to narcotics-related money laundering matters.

(c) SPECIFICITY OF REPORT.—The report should be in sufficient detail to assure the Congress that concerned agencies—

(1) are pursuing a common strategy with respect to achieving international cooperation against money laundering which includes a summary of United States objectives on a country-by-country basis; and

(2) have agreed upon approaches and responsibilities for implementation of the strategy, not limited to the conduct of negotiations to achieve treaties and agreements.

Subtitle C—Money Laundering Improvements

SEC. 941. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 942. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 943. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 944. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 945. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 946. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 947. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 948. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 949. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 950. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 951. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 952. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 953. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 954. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 955. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 956. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 957. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 958. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1991".

SEC. 1002. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or mortgage lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or such mortgage lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.— An insured depository institution or mortgage lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A), based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the collateral before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of its extension of credit covenants, warranties, or other terms and conditions that relate to the borrower's compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires the borrower to cleanup the property prior to or during the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies at law or in equity may be available under applicable law for the borrower's breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—The limitations on liability provided under subsection (a)(1) and (a)(2) shall not apply to any person that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a)(1) and (a)(2).

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit that involves a security interest in such property. The regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) MORTGAGE LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that mortgage lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraph (1) shall be issued within 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or mortgage lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or mortgage lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its security interest.

Property is not acquired through foreclosure if the insured depository institution or mortgage lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) The term 'mortgage lender' means—

"(A) a company (other than an insured depository institution) that—

"(i) is regularly engaged in the business of making extensions of credit secured, in whole or in part, by property to nonaffiliated parties, and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that is regularly engaged in the business of buying and selling mortgage loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases mortgages (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the payment of an extension of credit to nonaffiliated parties, secured in whole or in part by real property, and extended by a mortgage lender (as such term is defined in subparagraph (A) of this paragraph), or an insured depository institution.

"(3) The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) The term 'extension of credit' includes lease transactions that are functionally equivalent to a secured loan.

"(5) The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a creditor under the terms of an extension of credit to secure the repayment of money, the performance of a duty or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.

"(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment, except that it shall not affect any administrative or judicial claims that have been formally filed as of such date.".

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 42. ASSET CONSERVATION.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability.

"(3) LIMITATION.—The immunity provided by paragraph (1) shall not apply to any entity that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1).

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Any property transferred pursuant to subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents;

"(2) the term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and

"(3) the term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.".

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Presidential Insurance Commission Act of 1991".

SEC. 1102. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under $1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established to carry out the duties described in section 1104.

SEC. 1103. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this subtitle referred to as the "Commission").

SEC. 1104. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 1108.

SEC. 1105. MEMBERSHIP AND COMPENSATION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) CONSULTATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission,

with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) ELIGIBILITY.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government may be appointed to be a member of the Commission pursuant to paragraph (6) of subsection (a).

(e) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission appointed pursuant to subsection (a)(6) shall be compensated at a rate equal to the annual rate of basic pay for GS–18 of the General Schedule.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL OF ACTIONS.—All recommendations and reports of the Commission required by this subtitle shall be approved only by a majority vote of a quorum of the Commission.

(h) CHAIRPERSON.—The President shall select 1 member appointed pursuant to subsection (a)(6) to serve as the Chairperson of the Commission.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 1106. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission,

for the purpose of carrying out this subtitle.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subtitle.

(c) SUBPOENA POWER.—

(1) In general.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) Administrative aspects of subpoena.—

(A) Attendance or production at designated site.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) Fees and travel expenses.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) No liability for other expenses.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) Confidentiality.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preceding sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) Failure to obey a subpoena.—

(A) Application to court.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) Jurisdiction of court.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) Failure to comply with order.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) Service of subpoenas.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) Service of process.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) Obtaining Official Data.—

(1) Authority.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) Procedure.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this subtitle.

SEC. 1107. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) Staff.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) Applicability of Certain Civil Service Laws.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Experts and Consultants.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Staff of Federal Agencies.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 1108. REPORT.

Not later than January 31, 1993, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 1124.

SEC. 1109. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 1128.

SEC. 1110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out the purposes of this subtitle.

Subtitle B—General Provisions

SEC. 1121. CREDIT UNIONS.

(a) Full Faith and Credit.—Section 201 of the Federal Credit Union Act (12 U.S.C. 1781) (hereafter referred to in this section as the "Act") is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Full Faith and Credit of the United States.—The full faith and credit of the United States is pledged to the obligation to pay to pay insured accounts under this title.".

(b) Investment in Other Financial Institutions.—

(1) Central credit unions.—

(A) In general.—Section 107(7) of the Act (12 U.S.C. 1757(7)) is amended—

(i) by striking subparagraph (G); and

(ii) by redesignating subparagraphs (H) through (K) as subparagraphs (G) through (J), respectively.

(B) Effective date.—This amendment shall take effect 1 year from the date of enactment of this section.

(2) Deposits.—Section 107(8) of the Act (12 U.S.C. 1757(8)) is amended to read as follows:

"(8) to make or maintain—

"(A) deposits in national banks, or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation, and

"(B) in the case of Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States, demand deposit accounts in banks located in those countries or trust territories, if such banks are correspondents of banks described in subparagraph (A) subject to such regulations as may be issued by the Board;".

(3) Corporate credit unions.—Section 120(a) of the Act (12 U.S.C. 1766(a)) is amended—

(A) in the second sentence by striking "central credit union chartered by the Board" and inserting "Corporate credit union as defined by the Board"; and

(B) by adding the following sentence at the end: "The Board shall by regulation establish (i) limits on loans and investments by a corporate credit union to a single obligor, and (ii) minimum capital requirements for corporate credit unions.".

(c) Strengthening National Credit Union Share Insurance Fund.—Section 202 of the Act (12 U.S.C. 1782) is amended—

(1) in subsection (c)(1)(A), by striking clause (ii) and redesignating clause (iii) as clause (ii);

(2) by amending subsection (c)(2) to read as follows:

"(2)(A) At such times as the Board prescribes (but not more than twice in any calendar year), each insured credit union shall pay to the fund a premium charge for insurance in an amount stated as a percentage of insured shares. The percentage shall be the same for all insured credit unions.

"(B) Premium charges assessed during a calendar year shall not, in the aggregate, exceed one-twelfth of 1 percent of insured shares, except upon a unanimous vote of the Board members.

"(C) The Board may assess a premium charge only if—

"(i) the equity level of the fund is less than 1.3 percent of the aggregate amount of the insured shares in all insured credit unions; and

"(ii) the premium charge does not exceed the amount necessary to restore the fund to that level.

"(D) If the equity level of the fund is less than 1.2 percent of the aggregate amount of the insured shares in all insured credit unions, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the fund to and maintain the fund at that level.

"(E) If the equity level of the fund is not less than 1.2 percent of the aggregate amount of the insured shares in all insured credit unions, the Board may assess a premium charge only—

"(i) upon a unanimous vote of the Board members; and

"(ii) in an amount not exceeding one-twelfth of 1 percent of insured shares.";

(3) by striking subsection (c)(3) and inserting the following:

"(3) If any loans to the fund from the Federal Government and the interest thereon have been repaid and the fund exceeds the normal operating level at the end of an insurance year, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of the maximum possible amount that does not reduce the fund below the normal operating level.'';

(4) in subsection (h)—

(A) by amending paragraph (2) to read as follows:

''(2) the term 'normal operating level' when applied to the fund, means an amount of fund equity as established by the Board and equal to not less than 1.2 percent and not more than 1.5 percent of the aggregate amount of the insured shares in all insured credit unions;'';

(B) by redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (2) the following:

''(3) the term 'available assets level', when applied to the fund, means an amount, determined as the sum of cash and unencumbered investments (as authorized pursuant to section 203(c) and carried at market value) minus direct liabilities of the fund and contingent liabilities for which no provision for losses has been made, stated as a percentage of the aggregate amount of the insured shares in all insured credit unions;

''(4) the term 'equity level' means the amount of fund capitalization (including insured credit unions' 1 percent capitalization deposits and the fund's retained earnings balance) stated as a percentage of the aggregate amount of the insured shares in all insured credit unions; and''; and

(5) by adding at the end the following:

''(i) Monitoring and Publishing Asset Level.—The Board shall closely monitor, and publish at least semiannually, the available asset level of the fund.''.

(d) Minimum Capital Requirement.—

(1) In general.—Section 116(a) of the Act (12 U.S.C. 1762(a)) is amended—

(A) in paragraph (1), by inserting before the period at the end the following: '', then (C) 3.5 percent of gross income until the regular reserve is equal to 7 percent of the total outstanding loans and risk assets''; and

(B) by adding at the end the following new paragraph:

''(4) A credit union in existence for more than 5 years and holding reserves and undivided earnings equal to less than a minimum capital level stated as a percentage of total assets and established by regulation of the Board, shall be subject to a formal written supervisory agreement with the Board. Such agreement shall include an operating plan to reach the minimum capital level within a period established by the Board. In establishing minimum capital levels under this paragraph, the Board shall consider the differences among credit unions, and shall give recently formed credit unions a reasonable time in which to build capital through retained earnings.''.

(2) Effective date.—The amendments made by paragraph (1) shall become effective on January 1, 1993.

(e) Loan to One Borrower Limit.—

(1) In general.—Section 107(5)(A) of the Act (12 U.S.C. 1757(5)(A)) is amended—

(A) in clause (viii), by inserting ''and'' after the semicolon; and

(B) in clause (ix), by striking the semicolon and all that follows through the end of clause (x) and inserting a period.

(2) Loan provisions.—Section 107(5) of the Act (12 U.S.C. 1757(5)) is amended by adding at the end the following new subparagraph:

''(F)(i) Loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to such member in an aggregate amount exceeding the greater of—

''(I) $100,000,

''(II) 20 percent of the credit union's reserves and undivided earnings, or

''(III) 1.5 percent of the credit union's assets.

''(ii) In calculating compliance with the limits in subclauses (I) through (III) of clause (i), any loan on which the United States, its agencies, or any State has fully guaranteed the principal and interest shall be disregarded, and with respect to any other loan guaranteed by the United States, its agencies, or any State, one-half of the portion guaranteed shall be disregarded.

''(iii) In the case of loans by a credit union for farming or fishing purposes to persons deriving their livelihood primarily from farming or fishing, where the membership of the credit union substantially consists of such persons, clause (i)(III) shall apply with '3 percent' substituted for '1.5 percent'.''.

''(iv) The Board may, by regulation, establish other limits for certain credit unions or classes of loans, consistent with protecting the share insurance fund.''.

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall become effective 180 days after the date of enactment of this Act.

(f) Amendment To Authorize NCUA Board To Place Federally Insured, State-Chartered Credit Unions Into Liquidation.—Section 207(a)(1) of the Act (12 U.S.C. 1787(a)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting the following after subparagraph (A):

''(B) Notwithstanding any other provision of this Act or other law, the Board shall have power and jurisdiction to appoint itself as liquidating agent of any State-chartered credit union insured under this title, and close such credit union, if it determines that the credit union is insolvent or bankrupt. In such cases, the Board shall have the power and duties specified in this section applicable to liquidations of Federal credit unions.

''(C)(i) Except as provided in clause (ii), the authority conferred by subparagraph (B) shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered credit union that the grounds specified for such exercise exist.

''(ii) If such approval has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.''.

(g) Central Liquidity Facility; Reduced Borrowing Authority and Prohibitions on Loans or Guarantees to Private Share Insurers.—Section 307(a) of the Act (12 U.S.C. 1795f(a)) is amended—

(1) in paragraph (4)(A) by striking ''twelve'' and inserting ''2'';

(2) by striking paragraph (16); and

(3) by redesignating paragraphs (17) and (18) as paragraphs (16) and (17), respectively.

(h) Strengthening Removal and Prohibition Authority.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

''(g) Removal and Prohibition Authority.—

''(1) Authority to issue order.—The Board may serve upon an institution-affiliated party a written notice of the Board's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured credit union, if the Board determines that—

''(A) the institution-affiliated party has, directly or indirectly—

''(i) violated—

''(I) any law or regulation;

''(II) any cease-and-desist order which has become final;

''(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

''(IV) any written agreement between such credit union and the Board;

''(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

''(iii) committee or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty; and

''(B)(i) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

''(I) such insured credit union or business institution has suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of that credit union;

''(II) the interests of the credit union's members have been or could be prejudiced in a manner that may have a significant effect on the financial condition of that credit union; or

''(III) such party has received financial gain or other benefit by reason of such violation, practice, or breach; or

''(ii) such violation, practice, or breach—

''(I) involves personal dishonesty on the part of such party; or

''(II) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured credit union or business institution.''.

(i) Repeal of Authority To Borrow From Farm Credit Banks.—Section 107(9) of the Act (12 U.S.C. 1757(9)) is amended—

(1) by inserting a semicolon after ''paid-in and unimpaired capital and surplus''; and

(2) by striking all that follows the semicolon.

(j) Effective Date.—The amendment made by subsection (c)(2) shall become effective on July 1, 1992.

SEC. 1122. STRENGTHENING FEDERAL BANKING AGENCIES' AUTHORITY TO REMOVE PERSONS GUILTY OF MISCONDUCT.

Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

''(e) Removal and Prohibition Authority.—

''(1) Authority to issue order.—The appropriate Federal banking agency may serve upon an institution-affiliated party a written notice of the agency's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution, if the agency determines that—

''(A) the institution-affiliated party has, directly or indirectly—

''(i) violated—

''(I) any law or regulation;

''(II) any cease-and-desist order which has become final;

''(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(IV) any written agreement between such depository institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty; and

"(B)(i) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(I) such insured institution or business institution has suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of that institution;

"(II) the interest of the insured depository institution's depositors have been or could be prejudiced in a manner that may have a significant effect on the financial condition of that institution; or

"(III) such party has received financial gain or other benefit by reason of such violation, practice, or breach; or

"(ii) such violation, practice, or breach—

"(I) involves personal dishonesty on the part of such party; or

"(II) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured depository institution or business institution.".

SEC. 1123. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 1124. DISCLOSURE OF SECURITIES INVESTOR PROTECTION ACT COVERAGE.

(a) Disclosure of Protections.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

"(i) Disclosure of Securities Investor Protection Act Coverage.—

"(1) In general.—It shall be unlawful for any broker or dealer required to be registered under this Act, or for any person associated with such broker or dealer (other than a natural person or financial institution), to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security by any customer in contravention of the rules and regulations prescribed under this subsection.

"(2) Disclosure rules.—The Commission shall, by rule, set forth standards for the disclosure by brokers and dealers required to be registered under this Act, and persons associated with such brokers or dealers (other than a natural person or financial institution), to customers of information concerning coverage under the Securities Investor Protection Act of 1970 (hereafter referred to as 'SIPA'). The rules of the Commission shall require every broker or dealer required to be registered under this Act—

"(A) to provide each customer with a written notification of SIPA coverage that discloses—

"(i) the current Securities Investor Protection Corporation (hereafter referred to as 'SIPC') membership status of such person; and

"(ii) a general description, prescribed by SIPC, of the operation of SIPA, the method and extent of customer protection provided under SIPA, the property that is protected under SIPA, and a statement indicating that SIPA does not protect against a decline in the market value of securities; and

"(B) to include conspicuously in any periodic statement sent to a customer regarding a securities transaction—

"(i) a clear statement as to the current SIPC membership status of such person; and

"(ii) any other information regarding SIPA coverage that the Commission finds necessary or appropriate in the public interest or for the protection of investors.

"(3) Exemptions.—The Commission, as it determines consistent with the public interest and the protection of investors, may exempt, by rule or order, any person or class of persons, or any transaction or class of transactions from the requirements of this subsection.

"(4) Definitions.—The Commission shall, by rule, define the terms used in this subsection, except that—

"(A) the term 'customer' shall not include a broker, a dealer, a municipal securities dealer, or other such persons as the Commission shall provide in such rule; and

"(B) the term 'security', for purposes of and as used in this subsection, shall not include any security as the Commission shall provide in such rule.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the earlier of 1 year after the date of enactment of this Act or the effective date of rules and regulations prescribed by the Commission to implement the amendment made by subsection (a).

SEC. 1125. HIRING AND COMPENSATION AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION.

(a) Amendment to the Securities Exchange Act of 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended to read as follows:

"(b) Appointment and Compensation of Staff.—

"(1) Appointment and compensation.—The Commission shall fix the compensation and number of, and appoint and direct, employees of the Commission. Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51, subchapters III and VIII of chapter 53, and chapter 54 of title 5, United States Code.

"(2) Additional compensation and benefits.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Commission, the Commission shall seek to maintain comparability with the Federal bank regulatory agencies. For the purpose of this paragraph, the term 'Federal bank regulatory agency' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration Board.".

(b) Conforming Amendments to Title 5, United States Code.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking "or" after the semicolon;

(B) in subparagraph (D), by inserting "or" after the semicolon; and

(C) by adding at the end the following:

"(E) the Securities and Exchange Commission;".

(2) Section 5373 of title 5, United States Code, is amended—

(A) in paragraph (3), by striking "or" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(5) section 4(b) of the Securities Exchange Act of 1934.".

(c) Effectiveness of Amendments.—The authority provided under subsections (a) and (b) of this section may be exercised at any time following the expiration of 180 days from the date of enactment, provided that the Chairman of the Commission shall in connection with such exercise certify in writing, with explanation, to the President and the Congress, after consultation with the Director of the Office of Personnel Management, that—

(1) the Securities and Exchange Commission, with the assistance of the Office of Personnel Management, has attempted to solve the Commission's difficulties in recruitment and/or retention of high-quality personnel through use of the flexibilities provided by the Federal Employees Pay Comparability Act of 1990; and

(2) despite such attempt, the Securities and Exchange Commission is faced with continuing or serious difficulties in recruitment and/or retention of high-quality personnel.

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) Effect on Pending Causes of Action.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that was commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) Effect on Dismissed Causes of Action.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) Definitions.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

SEC. 1127. CONVERSIONS DURING MORATORIUM.

(a) In General.—Section 5(d)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(C)) is amended—

(1) in clause (i), by striking "deposits of each" and inserting "deposits of the transferor".

(2) by striking "or" at the end of clause (ii);

(3) by striking the period at the end of clause (iii) and inserting "; or" and

(4) by adding at the end the following:

"(iv) in the case of a transaction described in clause (ii), (iii), or (iv) of subparagraph (B), the resulting or assuming bank or savings association agrees to make pro rata insurance premium payments to both the Bank Insurance Fund and the Savings Association Insurance Fund at the applicable assessment rates in effect for each Fund, with—

"(I) the percentage of deposits subject to assessment by each Fund equal to the percentage of the combined deposits assessable by such Fund at the time of the conversion transaction, as determined by the Corporation, and

"(II) the same percentage used to apportion any losses between the 2 funds arising from any failure of the combined institution.".

(b) FEES.—Section 5(d)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(E)) is amended by inserting ", other than a conversion described in subparagraph (C)(iv)," before "shall pay".

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 1128. QUALIFIED THRIFT LENDER TEST.

(a) REDUCING TEST FROM 70 PERCENT TO 65 PERCENT.—Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) is amended by striking "70" and inserting "65".

(b) INCREASING AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.—Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) is amended by striking "10 percent" and inserting "20 percent".

(c) INCREASING THE PERCENTAGE OF QUALIFYING CONSUMER LOANS.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) is amended by striking "5 percent" and inserting "10 percent".

(d) FEDERAL HOME LOAN BANK STOCK.—

(1) IN GENERAL.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following:

"(VI) Shares of stock issued by any Federal home loan bank.".

(2) DOUBLE-COUNTING NOT PERMITTED.—Section 10(m)(5) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(5)) is amended by adding at the end the following:

"(C) In determining the amount of a savings association's qualified thrift investments, the same asset shall not, directly or indirectly, be counted more than once.".

(e) MONTHLY AVERAGING PERMISSIBLE FOR CERTAIN SAVINGS ASSOCIATIONS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following:

"(8) MONTHLY AVERAGING PERMISSIBLE FOR CERTAIN SAVINGS ASSOCIATIONS.—If a savings association has total assets of less than **$1,000,000,000**, paragraph (1)(B) shall apply with 'monthly' substituted for 'daily or weekly'.".

(f) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following new paragraph:

"(8) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—For purposes of this subsection, if, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, any asset acquired from the bank that is not a qualified thrift investment shall not be treated as a portfolio asset of the savings association during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may, with respect to not more than 30 percent of the total assets acquired from the bank that are not qualified thrift investments, extent the 2-year period described in subparagraph (A) for not more than 1 year if the Director determines that the extension if consistent with the purposes of this Act.".

SEC. 1129. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

SEC. 1130. NONCONTROLLING INVESTMENTS IN BANKS AND BANK HOLDING COMPANIES BY CERTAIN INVESTMENT FUNDS.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(q) QUALIFIED INVESTOR.—The term 'qualified investor' means an investment company (whether or not registered under the Investment Company Act of 1940), investment partnership, endowment, pension fund, or any other company that the Board determines by order or regulation to be principally engaged in investing, that is not controlled by any company other than a qualified investor or a limited adviser as permitted in this Act.

"(r) LIMITED ADVISER.—The term 'limited adviser' means a company that—

"(1) has been determined by the Board, by order or regulation, to be principally engaged in investing and providing investment advice;

"(2) acts as an adviser to one or more qualified investors in connection with any investment by such qualified investor or investors in a bank or bank holding company;

"(3) does not, directly or indirectly, own or control for its own account 10 percent or more of any class of voting shares of the bank or bank holding company and does not, directly or indirectly, have power to vote, in any capacity, 25 percent or more of the voting shares of the bank or bank holding company;

"(4) does not have a direct or indirect economic interest in the bank or bank holding company equal to 25 percent or more of the profits of the bank or bank holding company or of the profits due to one or more qualified investors in connection with an investment in the bank or bank holding company;

"(5) does not have any director, officer, partner or employee in common with the bank or bank holding company and does not have any representative serving in any such capacity at the bank or bank holding company;

"(6) does not advise the bank or bank holding company regarding any management or policy decision, whether on behalf of a qualified investor or otherwise; and

"(7) does not have any significant business relationship with the bank or bank holding company, and no other company that is an affiliate of the adviser has any significant business relationship with the bank or bank holding company.".

(b) EXCEPTION FOR INVESTMENTS BY QUALIFIED INVESTORS.—Paragraph (5) of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by adding at the end the following new subparagraph—

"(G) QUALIFIED INVESTORS.—

"(i) Except as provided in clause (ii), no qualified investor is a bank holding company solely by virtue of its ownership or control of voting shares of a bank or bank holding company if the qualified investor—

"(I) directly or indirectly, owns, controls or has power to vote less than 25 percent of the shares of any class of voting securities of the bank or bank holding company, and less than 25 percent of the total equity of the bank or bank holding company;

"(II) is and remains at all times a passive investor in the bank or bank holding company, and does not participate in the management or operations of the bank or bank holding company, except that a qualified investor that is permitted under subclause (IV) to have director representation at a bank or bank holding company shall not be in violation of this subclause by virtue of having a representative serve as a director of the bank or bank holding company;

"(III) does not have any significant business relationship with the bank or bank holding company, and no other company that is an affiliate of the qualified investor has any significant business relationship with the bank or bank holding company; and

"(IV) does not have any director, officer, partner or employee in common with the bank or bank holding company and does not have any representative serving in any such capacity at the bank or bank holding company, except that a qualified investor that owns or controls less than 15 percent of the voting shares of a bank or bank holding company may have no more than one representative serving as a director of the bank or bank holding company.

"(ii) Notwithstanding clause (i), a qualified investor is a bank holding company if the Board determines, after notice and opportunity for hearing, that the qualified investor exercises a controlling influence over the management or policies of a bank or bank holding company.

"(H) LIMITED ADVISERS.—

"(i) Except as provided in clause (ii), no company is a bank holding company solely by virtue of its role as adviser to one or more qualified investors in connection with the acquisition of shares of a bank or bank holding company if—

"(I) the company is and remains a limited adviser with respect to the investment;

"(II) the qualified investors advised by the adviser, and the limited adviser, do not, directly or indirectly, own, control, or have power to vote, in the aggregate, 25 percent or more of any class of voting shares of the same bank or bank holding company of 25 percent or more of the total equity of such bank or bank holding company; and

"(III) in the case of a limited adviser that advises any number of qualified investors that, including the limited adviser, seek to own, control, or have power to vote, in the aggregate, 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of the total equity of such bank or bank holding company—

"(aa) each qualified investor advised by the adviser retains the right to vote and dispose of the shares the investor acquires in the bank or bank holding company;

"(bb) the limited adviser does not communicate in any way with the management or other shareholders of the bank or bank holding company regarding the management or policies of the bank or bank holding company;

"(cc) following the acquisition of shares by the qualified investors, the limited adviser does not provide any advice to, or communicate in any manner with, the qualified investors, or any person that holds an interest in any of the qualified investors, regarding any matter related to the shares or the management or policies of the bank or bank holding company; and

"(dd) following the acquisition of shares by the qualified investors, the limited adviser does not, directly or indirectly, own, control or have power to vote 5 percent or more of any class of voting securities of the bank, bank holding company or any qualified investor in the bank or bank holding company.

"(ii) Notwithstanding clause (i), a limited adviser is a bank holding company if the Board determines, after notice and opportunity for hearing, that the limited adviser, or any investor advised by the adviser, exercises a controlling influence over the management or policies of a bank or bank holding company.".

SEC. 1131. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"(t) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State.".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this Act.

SEC. 1132. CERTAIN WRONGFULLY WITHDRAWN DEPOSITS TREATED AS INSURED DEPOSITS.

(a) IN GENERAL.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following:

"(3) WRONGFULLY WITHDRAWN DEPOSITS.—In its capacity as conservator or receiver of a depository institution, the Corporation shall treat as an 'insured deposit' any deposit at the institution at any time prior to the Corporation's appointment as conservator or receiver—

"(A) which was, through the negligence or misconduct of the institution or any of its employees, permitted to be wrongfully or fraudulently withdrawn by a person other than the depositor, without the knowledge or consent of the depositor; and

"(B) for the recovery of which the depositor has diligently sought private relief against the perpetrator of the wrongful withdrawal, and would have received relief from the institution that had permitted the wrongful withdrawal, but due to acquisition of the institution by the Corporation, the institution is unable to satisfy the judgment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any wrongful or fraudulent withdrawal of deposits occurring after January 1, 1987.

SEC. 1133. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) CONTINUATION OF OBLIGATION TO PROVIDE SERVICES.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution, shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 1134. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepository licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1135. REMOVING COST LIMITATION ON CONSTRUCTION OF FEDERAL RESERVE BANK BUILDINGS.

The ninth paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 522) is amended to read as follows:

"No Federal Reserve bank shall have the authority hereafter to enter into any contract or contracts for the erection of any building of any kind or character, or to authorize the erection of any building without the prior approval of the Board of Governors.".

SEC. 1136. $1 COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence by striking "dollar,"; and

(2) by inserting after the fourth sentence, the following: "The $1 coins authorized under subsection (a)(1) shall be golden in color, shall have an unreeded edge, shall have tactile features on the surface that aid the visually handicapped to differentiate the $1 coin from other circulating coins, and shall be minted and fabricated in the United States. The $1 coin should have similar metallic anticounterfeiting properties as existing United States clad coinage.".

(b) CHRISTOPHER COLUMBUS $1 COIN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking the sixth sentence and inserting the following: "The obverse side of the $1 coin shall have a design symbolizing the 500th anniversary of the discovery of the New World by Christopher Columbus.".

(c) CIRCULATION DATE.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation $1 coins authorized by section 5112(a)(1) of title 31, United States Code, in accordance with the amendments made by subsections (a) and (b).

(d) SEIGNIORAGE.—Seigniorage from production of $1 coins referred to in subsection (a) shall be used to offset the reverse seigniorage resulting from the destruction of Susan B. Anthony $1 coins in Government storage. Additional seigniorage from production of $1 coins referred to in subsection (a) shall be used to retire the national debt.

SEC. 1137. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) IN GENERAL.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) DEFINITION.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1138. CREDIT CARD INTEREST RATES.

(a) Section 107 of the Truth in Lending Act (15 U.S.C. 1606) is amended by adding at the end thereof the following:

"(f) The annual percentage rate applicable to an extension of credit obtained by use of a credit card may not exceed by more than 4 percentage points the rate established under section 6621(a)(2) of the Internal Revenue Code of 1954, as determined by the Board.".

(b) Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(c) A card issuer shall clearly and conspicuously disclose on initial applications for a credit card—

"(1) the annual percentage rate applicable to extensions of credit by means of that credit card or means for determining that rate; and

"(2) any annual or other fee imposed for the issuance or use of that credit card.".

(c) This section shall have an effective date of January 1, 1992.

SEC. 1139. RESTATEMENT AND REORGANIZATION OF SECTION 5136 OF THE REVISED STATUTES.

(a) RESTATEMENT AND REORGANIZATION OF SECTION 5136 OF THE REVISED STATUTES.—

(1) IN GENERAL.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended to read as follows:

"SEC. 5136. CORPORATE POWERS OF NATIONAL BANKS.

"(a) GENERAL POWERS.—Upon filing articles of association and an organization certificate, a national bank shall become, as of the date of the execution of the organization certificate, a corporation which shall have, in the name designated in that certificate, the following powers:

"(1) CORPORATE SEAL.—To adopt and use a corporate seal.

"(2) SUCCESSION.—To have succession from February 25, 1927, or from the date of the execution of the organization certificate (if that date is later than February 25, 1927) until—

"(A) such time as the bank is dissolved by an act of shareholders owning not less than ⅔ of the stock of such bank;

"(B) the franchise is forfeited—

"(i) by reason of violation of law; or

"(ii) by a general or special Act of Congress; or

"(C) the bank's affairs are placed in the control of the Federal Deposit Insurance Corporation, as receiver, and finally wound up by that Corporation.

"(3) CONTRACTS.—To enter into contracts.

"(4) LITIGATION.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the national bank in any court of competent jurisdiction.

"(5) OFFICERS.—To elect or appoint directors to the bank's board of directors and, by that board of directors, to—

"(A) appoint a president, vice president, cashier, and other officers;

"(B) define the duties of officers;

"(C) require bonds of those officers and fix the penalty of those bonds; and

"(D) dismiss any officer at the pleasure of the directors and appoint another to fill the position.

"(6) BYLAWS.—To prescribe, by the board of directors, bylaws not inconsistent with law regulating the manner in which—

"(A) stock of the bank may be transferred;

"(B) the directors of the bank are appointed or elected;

"(C) the officers of the bank may be appointed;

"(D) the property of the bank may be transferred;

"(E) the general business of the bank may be conducted; and

"(F) the privileges granted to the bank by law may be exercised and enjoyed.

"(7) BANKING POWERS.—To exercise, by the board of directors or officers or agents authorized by that board and subject to any other provision of law, all such incidental powers as shall be necessary to carry on the business of banking, including the following:

"(A) Discounting and negotiating promissory notes, drafts, bills of exchange, and other evidence of debt.

"(B) Receiving deposits.

"(C) Buying and selling exchange, coin, and bullion.

"(D) Loaning money on personal security.

"(E) Obtaining, issuing, and circulating notes according to the provisions of this title.

"(8) CONTRIBUTIONS.—To contribute to community funds or charitable, philanthropic, or benevolent instrumentalities conducive to the public welfare, such sums as the board of directors may determine to be expedient and in the interests of the national bank if that bank is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

"(9) INVESTMENT IN TANGIBLE PERSONAL PROPERTY.—To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis. The investment may not exceed 10 percent of the national bank's assets.

"(b) BANKING POWERS RELATED TO SECURITIES ACTIVITIES AND COMMERCIAL PAPER.—

"(1) SECURITIES UNDERWRITING PROHIBITED.—Except as otherwise provided in this subsection or any other provision of law, no national bank may underwrite any issue of securities.

"(2) BUYING AND SELLING SECURITIES AS AGENT FOR CUSTOMER.—Except as otherwise provided in this section or any other provision of law, no national bank may purchase or sell any security unless the purchase or sale is made—

"(A) for the account of a customer;

"(B) by the bank—

"(i) upon the order of the customer; or

"(ii) in the bank's capacity as trustee, executor, administrator, custodian, managing agent, or guardian of estates with respect to the account of the customer; and

"(C) without recourse.

"(3) EXCEPTIONS.—

"(A) BANK SECURITIES AND BANK INVESTMENTS FOR THE BANK'S OWN ACCOUNT.—Paragraph (2) shall not apply to the purchase or sale by a national bank of—

"(i) any security of which the national bank is the issuer; or

"(ii) any investment security or other security which the bank is purchasing or has purchased in accordance with subsection (c).

"(B) ISSUANCE AND SALE OF CERTAIN GNMA GUARANTEED SECURITIES.—Notwithstanding paragraph (2) or any other provision of this section, a national bank may issue and sell securities that are guaranteed by the Government National Mortgage Association under section 306(g) of the National Housing Act.

"(C) BANK-ELIGIBLE SECURITIES.—Paragraphs (1) and (2) shall not apply with respect to any bank-eligible security, subject to the limitations contained in subsection (c)(3)(B).

"(c) BANKING POWERS RELATED TO PURCHASING INVESTMENT SECURITIES FOR THE BANK'S OWN ACCOUNT.—

"(1) LIMITED AUTHORITY TO BUY FOR BANK'S OWN ACCOUNT FOR INVESTMENT.—Except as provided in paragraphs (2) through (10), a national bank's authority to purchase investment securities or other securities for the bank's own account under this section shall be subject to the following limitations:

"(A) CORPORATE STOCK.—Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation.

"(B) MAXIMUM INVESTMENT AMOUNT FOR SECURITIES ISSUED BY ANY SINGLE ISSUER.—The total amount of investment securities held by the bank (for the bank's own account) which were issued by any 1 person, or for which such person is the obligor, may not exceed at any time the amount which is equal to the sum of—

"(i) 10 percent of the capital stock of the bank which is actually paid in and unimpaired; and

"(ii) 10 percent of the bank's unimpaired surplus fund,

except that this subparagraph shall not require any bank to dispose of investment securities lawfully held by the bank on August 23, 1935.

"(2) BANKERS' BANKS.—

"(A) ACQUISITION OF SHARES ALLOWED.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account shares of an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) or a bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956), if—

"(i) the outstanding shares of the bank or company are owned exclusively (except to the extent of directors' qualifying shares required by law) by depository institutions (as defined in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) or depository institution holding companies; and

"(ii) the bank or company, and all subsidiaries of the bank or company, are engaged exclusively in providing services for other depository institutions and officers, directors, and employees of those depository institutions.

"(B) MAXIMUM INVESTMENT AMOUNT.—The total amount of stock held by any national bank in any bank or holding company referred to in subparagraph (A)—

"(i) may not exceed, at any time, the sum of—

"(I) 10 percent of the national bank's capital stock; and

"(II) 10 percent of the national bank's paid in and unimpaired surplus fund; and

"(ii) may not include more than 5 percent of any class of voting securities of that bank or company.

"(3) BANK-ELIGIBLE SECURITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a national bank may purchase or sell bank-eligible securities for the bank's own account.

"(B) MAXIMUM INVESTMENT AMOUNT IN THE CASE OF CERTAIN SECURITIES.—The total amount of bank-eligible securities described in subparagraph (N), (O), (P), or (Q) of subsection (d)(2) that may be held by a national bank at any time—

"(i) in connection with being an underwriter of those securities or buying and selling, as principal, those securities under subsection (b); or

"(ii) for the bank's own account,

shall not exceed an amount equal to the sum of 10 percent of the capital stock of the national bank actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.

"(C) SPECIAL RULE FOR CERTAIN COMMITMENTS.—For purposes of subparagraph (B), any bank-eligible securities referred to in that subparagraph as to which any national bank is under a commitment shall be deemed to be held by the national bank.

"(4) MORTGAGE RELATED SECURITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account—

"(i) securities offered and sold pursuant to section 4(5) of the Securities Act of 1933; or

"(ii) mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934).

"(B) REGULATIONS.—Any purchase by a national bank of securities under subparagraph (A) shall be subject to such limitations and restrictions as the Comptroller of the Currency may prescribe by regulation, including regulations concerning—

"(i) the minimum size of the issue (at the time of initial distribution) with respect to any such security; and

"(ii) a minimum aggregate sales price with respect to any such security.

"(5) SAFE-DEPOSIT BUSINESS.—

"(A) ACQUISITION OF SHARES ALLOWED.—Notwithstanding paragraph (1), a national bank may, in connection with the bank's carrying on the business commonly known as the 'safe-deposit business', purchase the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business.

"(B) MAXIMUM INVESTMENT AMOUNT.—The total amount of stock held by any national bank in any corporation referred to in subparagraph (A) shall not exceed an amount equal to the sum of—

"(i) 15 percent of the capital stock of the national bank actually paid in and unimpaired; and

"(ii) 15 percent of the bank's unimpaired surplus fund.

"(6) NATIONAL HOUSING CORPORATIONS.—Notwithstanding paragraph (1), a national bank may—

"(A) purchase for the bank's own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968; and

"(B) invest in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act.

"(7) STATE HOUSING CORPORATIONS.—

"(A) ACQUISITION OF SHARES AND OTHER INVESTMENTS ALLOWED.—Notwithstanding paragraph (1), a national bank may—

"(i) purchase for the bank's own account shares of stock issued by any State housing corporation incorporated in the State in which the national bank is located; and

"(ii) invest in loans and commitments for loans to any such corporation.

"(B) MAXIMUM INVESTMENT AMOUNT.—The total amount of stock held by a national bank in any corporation referred to in subparagraph (A) and the amount of investments in loans and commitments for loans to such corporation by the bank shall not exceed an amount equal to the sum of—

"(i) 5 percent of the national bank's capital stock actually paid in and unimpaired; and

"(ii) 5 percent of the bank's unimpaired surplus fund.

"(8) AGRICULTURAL CREDIT CORPORATIONS.—

"(A) ACQUISITION OF SHARES AND OTHER INVESTMENTS ALLOWED.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including breeding, raising, fattening, or marketing livestock.

"(B) MAXIMUM INVESTMENT AMOUNT.—Unless the national bank owns at least 80 percent of the stock of an agricultural credit corporation described in subparagraph (A), the total amount of stock held by the national bank in any such corporation shall not exceed an amount equal to 20 percent of the unimpaired capital and surplus of the national bank.

"(9) QUALIFIED CANADIAN GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—A national bank may deal in, underwrite, and purchase for its own account qualified Canadian Government obligations, to the same extent that it may deal in, underwrite, and purchase for its own account obligations of the United States or general obligations of any State or of any political subdivision thereof.

"(B) DEFINITIONS.—

"(i) QUALIFIED CANADIAN GOVERNMENT OBLIGATIONS.—For purposes of this paragraph, the term 'qualified Canadian Government obligations' means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, the State, or the political subdivision. The term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

"(I) the obligation of the agent is assumed in the agent's capacity as agent for Canada or the Province or the political subdivision; and

"(II) Canada, the Province, or the political subdivision on whose behalf the agent is acting with respect to the obligation is ultimately and unconditionally liable for the obligation.

"(ii) PROVINCE OF CANADA.—For purposes of this paragraph, the term 'Province of Canada' means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.

"(10) ADDITIONAL LIMITATIONS PRESCRIBED IN REGULATIONS.—The authority of a national bank under this section to purchase investment securities for the bank's own account shall be subject to such additional limitations and restrictions as the Comptroller of the Currency may prescribe by regulation.

"(d) DEFINITIONS.—

"(1) INVESTMENT SECURITIES.—For purposes of this section, the term 'investment securities' means marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, and/or debentures commonly known as investment securities under such further definition of the term 'investment securities' as may by regulation be prescribed by the Comptroller of the Currency.

"(2) BANK ELIGIBLE SECURITY.—For purposes of this section, the term 'bank-eligible security' means any of the following investment securities:

"(A) Obligations of the United States.

"(B) General obligations of any State or any political subdivision of any State.

"(C) Obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

"(D) Obligations issued—

"(i) under authority of the Federal Farm Loan Act; or

"(ii) by the thirteen banks for cooperatives, any bank for cooperatives, or the Federal Home Loan Banks.

"(E) Obligations insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act.

"(F) Obligations insured by the Secretary of Housing and Urban Development pursuant to section 207 of the National Housing Act, if the debentures to be issued in payment of those insured obligations are guaranteed as to principal and interest by the United States.

"(G) Obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association.

"(H) Mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act.

"(I) Obligations of the Federal Financing Bank.

"(J) Obligations of the Environmental Financing Authority.

"(K) Obligations or other instruments or securities of the Student Loan Marketing Association.

"(L) Such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Secretary of Housing and Urban Development in which the local public agency agrees to borrow from the Secretary, and the Secretary agrees to lend to that local public agency, moneys in an aggregate amount which (together with any other moneys irrevocably committed to the payment of interest on those obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of those obligations, which moneys under the terms of the agreement are required to be used for those payments.

"(M) Such obligations of a public housing agency (as defined in the United States Housing Act of 1937) as are secured—

"(i) by an agreement between that agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of those obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on those obligations) will suffice to pay the principal of those obligations with interest to maturity thereon, which moneys under the terms of that agreement are required to be used for the purpose of paying the principal of and the interest on those obligations at their maturity;

"(ii) by a pledge of annual contributions under an annual contributions contract between that agency and the Secretary of Housing and Urban Development if that contract contains the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937, and if the maximum sum and the maximum period specified in that contract pursuant to such section 6(g), shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on those obligations; or

"(iii) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary of Housing and Urban Development which is authorized by section 6(g) of the United States Housing Act of 1937, and a loan under an agreement between that agency and the Secretary in which the agency agrees to borrow from the Secretary and the Secretary agrees to lend to the agency, prior to the maturity of the obligations involved, moneys in an amount that (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on those obligations) will suffice to provide for the payment when due of all installments of principal and interest on those obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on those obligations at their maturity.

"(N) Obligations issued by the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation.

"(O) Obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account.

"(P) Obligations issued by the Tennessee Valley Authority.

"(Q) Obligations issued by the United States Postal Service.".

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1)—

(A) may not be construed to make any substantive change in the meaning of any provision of section 5136 of the Revised Statutes (as in effect on the day before the effective date of the amendment); and

(B) shall not affect any regulation prescribed, any order issued, any interpretation provided, or any action taken before the effective date of the amendment under or pursuant to that section (as in effect on the day before that date).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) FEDERAL RESERVE ACT.—The 20th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by striking "paragraph 'Seventh' of" and inserting "subsections (b), (c), and (d) of".

(2) NATIONAL HOUSING ACT.—Section 514 of the National Housing Act (12 U.S.C. 1733) is amended by striking "paragraph seventh of" and inserting "subsections (b) and (c) of".

(3) INTERNATIONAL BANKING ACT.—Section 4(g)(1) of the International Banking Act of 1978 (12 U.S.C. 3102(g)(1)) is amended by striking "paragraph 'Seventh' of" and inserting "subsection (c) of".

SEC. 1140. SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

SEC. 1141. ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.

Any reference in the Internal Revenue Code of 1986 to a bank holding company shall not include any bank holding company that—

(1) engages (directly or indirectly) in any activity that was not permitted, and that the Board of Governors of the Federal Reserve System could not have permitted, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act; or

(2) owns or controls (directly or indirectly) shares of any company if the holding of those shares was not permitted, and could not have been permitted by the Board of Governors of the Federal Reserve System, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act.

SEC. 1142. COMMUNITY DEVELOPMENT AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24), as amended by section 716, is further amended by adding at the end of subsection (a) the following new paragraph:

"(10) COMMUNITY DEVELOPMENT.—To make investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs). The national bank may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. The Comptroller shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 1143. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1144. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

SEC. 1145. DELEGATED PROCESSING.

(Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713, note) is amended in the first sentence, by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 1146. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as specified in such covenant described in subparagraph (B) of section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay approval of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 1147. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the fourth undesignated paragraph and inserting the following:

"The Comptroller of the Currency is authorized to impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of his or her office. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expenses thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statutes is amended in the second undesignated paragraph (12 U.S.C. 481)—

(1) by striking the second sentence;

(2) by striking the third sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the fourth sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the fifth sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 1148. INTERAGENCY SHARING OF INFORMATION.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PRIVILEGES.—

"(1) IN GENERAL.—The transfer or use of any information by, between, or among—

"(A) any appropriate Federal banking agency;

"(B) the Resolution Trust Corporation;

"(C) the Farm Credit Administration;

"(D) the Farm Credit System Insurance Corporation; or

"(E) the National Credit Union Administration,

and any other agency of the Federal Government, in any capacity, shall not constitute a waiver of any privilege applicable to such information.

"(2) DEFINITION OF PRIVILEGE.—For purposes of this subsection—

"(A) the term 'agency of the Federal Government' has the same meaning as in section 6 of title 18, United States Code; and

"(B) the term 'privilege' includes any work product, attorney-client, or other privilege recognized under Federal or State law that is available to an agency of the Federal Government.".

SEC. 1149. APPLICATION OF STATE LAW FOR INSURANCE PURPOSES.

Section 5136A(c)(4) of the Revised Statutes, as added by section 771, is amended to read as follows:

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch and any State bank or branches providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.".

SEC. 1150. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency that employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsection (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Office of Thrift Supervision.".

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union or the Administration;

"(B) any director, officer, or employee of any credit union; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(c) COVERAGE FOR EMPLOYEES OF RTC AND RTC CONTRACTORS.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation in such corporation's capacity as manager of the Corporation or any personnel referred to in subsection (b)(9)(B)(ii)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person that committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.''.

SEC. 1151. REAL ESTATE LOAN PORTFOLIOS.

No Federal financial regulatory agency shall criticize an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless the loan or investment may affect the institution's safety and soundness.

SEC. 1152. SENSE OF THE CONGRESS REGARDING THE CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date, the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade from dramatic changes in tax rules.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) immediate and carefully coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors, and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate bad debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) foster a balanced regulatory environment among supervisors and examiners in the field with respect to commercial, multifamily and single-family real estate by ending market-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) promote a rational tax system for real estate owners and operators.

SEC. 1153. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS; SAFETY OF GOVERNMENT INVESTIGATORS.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to aragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1154. TECHNICAL CORRECTIONS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

(2) in section 7(a)(8), by striking "the the" and inserting "the";

(3) in section 7(*l*)(7), by striking "the value of";

(4) in section 7(m)(5)(A), by striking "institution" the second time it appears;

(5) in the third sentence of section 8(a)(7), by striking "the period" the first time it appears;

(6) in paragraphs (3) and (4) of section 8(b), by striking "subsection (u)" and inserting "subsections (u) and (v)";

(7) in section 8(b)(6)(F), by inserting "appropriate" before "banking";

(8) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(9) in section 8(g)(2), by striking "depository institution" each time it appears and inserting "bank".

(10) in section 8(o), by striking "board of directors" each time it appears and inserting "Board of Directors";

(11) in section 8(r)(2), by striking "therof" and inserting "thereof";

(12) in section 11(a)(2), by striking the designation "(b)" and inserting the designation "(B)";

(13) in section 11(c)(6)(B), by striking "Owner's" and inserting "Owners'";

(14) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(15) in section 11(d)(8)(B)(ii), by inserting "provide" after "disallowed,";

(16) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(17) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(18) in section 11(i)(3)(A), by striking "or" the last time it appears and inserting "of";

(19) in section 11(q)(1), by striking "decided" in the second sentence and inserting "held";

(20) in section 13(f)(6)(A), by striking "has in default" and inserting "is in default";

(21) in section 13(i), by redesignating paragraphs (11) and (13) as paragraphs (10) and (11), respectively;

(22) in section 18(k)(4)(C)(ii), by striking "Board" and inserting "Corporation";

(23) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(24) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; and

(25) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or".

SEC. 1155. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

SEC. 1156. REAL ESTATE APPRAISAL PROCEDURES.

(a) EXTENSION OF EFFECTIVE DATE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended—

(1) by striking "July 1, 1991" and inserting "January 1, 1993"; and

(2) by striking paragraph (2) and inserting the following:

"(2) STATE REQUIREMENTS.—No State may require that appraisals in connection with federally related transactions be conducted by State certified or licensed appraisers prior to the date contained in paragraph (1).".

(b) WAIVER BASED ON SHORTAGE OF APPRAISERS.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "Subject to the approval of the Council";

(2) by inserting at the end of the first sentence the following: "or that there are other relevant reasons for such action";

(3) by striking the last sentence and inserting the following: "A waiver may be granted upon the motion of the State, a Federal agency, or a unit of general local government."; and

(4) by adding at the end the following:

"(2) TIMING.—The Appraisal Subcommittee shall determine whether to grant a request by an agency, State, or unit of general local government for a waiver under paragraph (1) not later than 60 days after such request is submitted.

"(3) DURATION.—A waiver granted under this subsection shall remain in effect for a period of 1 year.

"(4) DUPLICATIVE REQUESTS FOR WAIVER.—If a State is granted a waiver under this subsection, the Appraisal Subcommittee is not required to consider similar requests by units of general local government.

"(5) REGULATIONS RELATING TO WAIVERS.—The Appraisal Subcommittee shall promulgate and implement regulations to carry out this subsection not later than March 31, 1992.".

(c) DE MINIMUS EXCEPTION.—

(1) IN GENERAL.—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In determining"; and

(B) by adding at the end the following:

"(b) DE MINIMUS EXCEPTION.—The Federal financial institutions regulatory agencies shall exempt from the requirement for an appraisal by a State certified or by a State licensed appraiser—

"(1) any 1- to 4-unit single family residential transaction having a value of $100,000 or less; and

"(2) any other transaction having a value of $200,000, or less;

except that such agencies may establish a different value for the purposes of paragraph (1) or (2) if such agencies determine that unique economic conditions, geographic considerations, or other factors make such action appropriate.

"(c) HOME EQUITY LOANS.—The Federal financial institutions regulatory agencies shall establish and implement a separate de minimus standard applicable to home equity loans not later than 6 months after the date of enactment of this subsection.".

SEC. 1157. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTION.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

SEC. 1158. SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) SANCTION.—A foreign person which is a bank, financial institution, or insurer, and any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) TERMINATION OF SANCTION.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) WAIVER.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) DEFINITION.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 1159. EMPLOYMENT RETIREMENT INCOME SECURITY ACT.

Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

SEC. 1160. SENSE OF THE CONGRESS REGARDING COMPETITIVE SOLICITATION OF RESOLUTION PROPOSALS.

(a) IN GENERAL.—It is the sense of the Congress that in order to minimize the cost to the Insurance Fund, the FDIC when resolving troubled insured depository institutions, should vigorously solicit competing proposals from a wide spectrum of potentially interested acquirers and investors and, in so doing, should use a competitive bidding framework that affords a fair and impartial opportunity for participation by qualified and interested acquirers and investors and that is designed to produce the lowest-cost transaction with respect to each particular institution.

(b) DOCUMENTATION.—The FDIC should document its evaluation of proposals by qualified acquirers or investors. Such documentation should include, but is not limited to—

(1) reducing all last offers to comparables;

(2) comparing all last offers using the same principles;

(3) describing the assumptions used to compare, accept and/or reject any offer or last offer;

(4) stating the reason(s) for cessation of negotiations with any potential acquirer or investor, if any; and

(5) stating why the final agreement is the best obtainable by the FDIC.

SEC. 1161. REAL ESTATE.

(a)(1) The Senate believes that the responsibility to establish national banking policy should rest with the Congress and not Federal financial regulatory agencies.

(2) The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage.

(3) The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto".

(4) The Senate believes that real estate activities, other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act.

(5) Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

(b) It is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" for section 4(c)(8) of the Bank Holding Company Act of 1956.

SEC. 1162. UNITED STATES POLICY TOWARD YUGOSLAVIA.

(a)(1) Since attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community.

(2) Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires.

(3) Since attacks against the Republic of Croatia represent an effort to change post-war borders by force.

(4) Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force.

(b) The sense of the Senate that, if the Croatian Government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals";

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory United Nations Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

SEC. 1163. CREDIT CARD SALES.

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

"(14) CREDIT CARD SALES.—

"(A) NOTIFICATION.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

"(i) not in compliance with the minimum applicable core capital requirements; or

"(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Return and Taxpayers Protection Act of 1991.

"(B) WAIVER BY THE CORPORATION.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

"(D) NO BREACH OF DUTY.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

"(E) EFFECT OF WAIVER ON SUCCESSORS.—Where the Corporation has waived its right to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution: *Provided, however*, That nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

"(F) CREDIT CARD CUSTOMER LIST.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customers list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

"(G) FRAUDULENT TRANSACTIONS EXCLUDED.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.".

SEC. 1164. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

TITLE XII—WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

SEC. 1201. SHORT TITLE.

This TITLE may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 1202. DENOMINATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 1203. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 1204. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation on the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(d) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 1205. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 1206. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 1207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 1208. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 1209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 1208.

SEC. 1210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 1211. FINANCIAL ASSURANCES.

(a) NOT NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1202 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE XIII—WHITE HOUSE COMMEMORATIVE COIN ACT OF 1991

SEC. 1301. SHORT TITLE.

This title may be cited as the "White House Commemorative Coin Act of 1991".

SEC. 1302. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 500,000 one dollars coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the 200th anniversary of the laying of the cornerstone of the White House. On each such one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words, "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 1303. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 1304. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 1305. SALE OF COINS.

(a) SALE OF COINS.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to their issuance. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 1306. ISSUANCE OF COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title—

(1) shall be issued beginning not later than May 1, 1992; and

(2) may not be issued after November 1, 1993.

(b) PROOF AND UNCIRCULATED QUALITIES.—The coins authorized under this title shall be issued in uncirculated and proof qualities, except that not more than 1 facility of the Bureau of the Mint may be used to strike any particular quality.

SEC. 1307. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out this Act. Nothing in this section relieves any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 1308. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins in accordance with section 5 shall be promptly paid by the Secretary to the White House Endowment Fund (hereafter referred to as the "Fund")—

(1) to supplement the Fund for an endowment to be used as a permanent source of support for the White House collection of fine art and historic furnishings; and

(2) to be used for the maintenance of the historic public rooms of the White House.

SEC. 1309. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Fund as may be related to the expenditure of amounts paid under section 1308.

SEC. 1310. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized to be paid to the Fund under section 1308 from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 1311. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1302 shall not result in any net cost to the Federal Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured under the Federal Deposit Insurance Act or the National Credit Union Act.

SEC. 1312. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

MESSAGES FROM THE HOUSE

At 9:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the Speaker has made the following modification in the appointment of the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference: Mr. CONYERS and Mr. HORTON.

ENROLLED BILL SIGNED

At 12:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 3:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian".

The message also announced that the House has passed the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses, and appoints Mr. GONZALES, Mr. ANNUNZIO, Mr. NEAL of North Carolina, Mr. HUBBARD, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. ERDREICH, Mr. CARPER, Mr. TORRES, Mr. KLECZKA, Mr. WYLIE, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. BEREUTER, Mr. RIDGE, Mr. ROTH, Mr. MCCANDLESS, and Mr. BAKER as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3031. An act to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes;

H.R. 3365. An act to amend title 31, United States Code, to restrict the authority of newly established Government-related corporations to borrow from the Treasury and to require an annual evaluation of the impact of public borrowing by such corporations on the public debt;

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary;

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; and

H.J. Res. 376. Joint resolution designating December 1, 1991, as "World AIDS Day."

At 4:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; with amendments, in which it requests the concurrence of the Senate:

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1104. An act to declare certain portions of Pelican Island, Texas, nonnavigable.

ENROLLED JOINT RESOLUTIONS SIGNED

At 6:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian".

MEASURES PLACED ON THE CALENDAR

The Committee on Banking, Housing, and Urban Affairs was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 26. An act to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2130. An act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 23, 1991, he had presented to the President of the United States the following enrolled bills:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes; and

S. 1568. An act to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 461. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102-230).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 549. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System (Rept. No. 102-231).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 606. A bill to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102-232).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1552. A bill to amend the Wild and Scenic Rivers by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102-233).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 1770. A bill to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes (Rept. No. 102-234).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S.J. Res. 23. A joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920 (Rept. No. 102-235).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 543. A bill to establish the Manzanar National Historic Site in the State of California, and for other purposes (Rept. No. 102-236).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 990. A bill to authorize additional appropriations for land acquisition at Monacacy National Battlefield, Maryland (Rept. No. 102-237).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2370. A bill to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes (Rept. No. 102-238).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3387. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes (Rept. No. 102-239).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 476. A bill to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102-240).

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3595. A bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

Mr. BENTSEN. Mr. President, I would like to file a measure that was approved by the Finance Committee on Friday, November 22—a committee amendment, in the nature of a substitute, to H.R. 3595, the Medicaid Moratorium Amendments of 1991.

Mr. President, I ask unanimous consent that the text of the amendment and an explanatory statement be printed in the RECORD following my remarks.

Yesterday, the Finance Committee also reported another measure, without recommendation, to implement an agreement reached between the administration and the National Governors' Association regarding State sources of funding for the Medicaid program. Final language for that bill is not yet available, but I will file it on behalf of the committee as soon as it is available.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. MORATORIUM ON THE ISSUANCE OF FINAL REGULATIONS AND ON THE USE OF DONATIONS AND PROVIDER-SPECIFIC TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(A) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS.—

(1) DELAY IN CHANGES IN REGULATIONS CONCERNING DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is amended by striking "December 31, 1991" and inserting "April 1, 1992".

(2) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—Such section is further amended by—

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(B) by adding at the end the following new subsection:

"(b) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary shall not issue any regulation prior to April 1, 1992, that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act, including the treatment of such funds as a source of State share of financial participation under such title notwithstanding the fact that the public agency contributing the funds provides services under the State plan under such title.".

(3) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—Such section is further amended by adding at the end the following new subsection:

"(c) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall not issue any regulation prior to April 1, 1992, regarding standards for qualification as a disproportionate share hospital or payment adjustments for such hospitals under title XIX of the Social Security Act".

(b) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—

"(1) DETERMINATIONS OF FEDERAL MATCHING PAYMENTS DURING MORATORIUM PERIOD.—

"(A) IN GENERAL.—For purposes of determining the amount to be paid to a State under section 1903(a)(1) of the Social Security Act for the period of January 1 through March 31, 1992, the total amount expended during such period as medical assistance under the State plan shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount determined under this subparagraph shall be such amount of revenues from provider-specific taxes and provider donations as exceeds the sum of—

"(i) the total amount of any revenues received by the State (and by any units of local government in the State) during such period from provider-specific taxes pursuant to State or local legislation as enacted or adopted on or before November 22, 1991; plus

"(ii) the total amount of any revenues received by the State (and by any units of local government in the State), from provider donations under donation programs in effect on September 30, 1991, that do not exceed 25 percent of such revenues received in Federal fiscal year 1991.

"(2) MORATORIUM ON STATE TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—For the period of January 1, 1992, through March 31, 1992, a State may not—

"(A) designate as a disproportionate share hospital any hospital that is not so designated pursuant to a State plan amendment that was submitted on or before September 30, 1991; or

"(B) change the formula or rates upon which Federal reimbursement is based for disproportionate share hospitals during such period.".

(c) RELATED PROVISIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) RELATED PROVISIONS.—

"(1) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—In estimating under section 1903(d)(1) of the Social Security Act the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of such Act for a quarter beginning on January 1, 1992, and ending on and including March 31, 1992, the Secretary may not withhold any amounts estimated to be expended during the quarter (or reduce any amount so estimated pursuant to section 1903(d)(2)(A) of such Act) solely because the amounts are attributable to provider donations, intergovernmental transfers, or provider-paid taxes.

"(2) PROHIBITION ON PENALTIES AND OTHER REGULATORY ACTIONS PERTAINING TO PERIOD OF MORATORIUM.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of provider donations, intergovernmental transfers, or taxes (whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title for quarters beginning on or after January 1, 1992, and ending on or before April 1, 1992.".

(d) DEFINITIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (c), is further amended by adding at the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'donation' means any voluntary payment, in cash or in kind, including any gift, contribution, presentation, or award;

"(2) 'health care provider' means any individual or entity that furnishes health care items or services for which it receives remuneration;

"(3) 'provider' includes any—

"(A) health care provider;

"(B) corporation, partnership, association, or organization formed by or on behalf of health care providers;

"(C) person who has an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in a health care provider;

"(D) employee, spouse, parent, child, or sibling of an individual described in subparagraph (A) or (C); and

"(E) individual or entity that is a major customer or supplier of a health care provider;

"(4) 'provider donation' means a donation by or on behalf of a provider;

"(5) 'provider specific tax' means a tax assessed under State or local law whose applicability is limited to health care providers or health care services (a tax is limited to health care providers or health care services if no other entity, item, or activity is subject to the identical tax); and

"(6) 'tax' means any mandatory payment imposed by a State or unit of government subordinate to a State, including any assessment, fee, charge, or duty.".

(e) BUDGETARY TREATMENT.—

(1) NO SEQUESTRATION.—Notwithstanding any other provision of law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

(2) NO ASSUMPTION WITH REGARD TO REGULATION.—The budget submitted pursuant to section 1105 of title 31, United States Code, shall be prepared in a manner that does not assume any effects (including potential effects) on Federal expenditures resulting from the issuance of any regulation that relates to—

(A) provider-specific taxes;

(B) provider donations;

(C) intergovernmental transfers; and

(D) standards for qualifying as a disproportionate hospital or payments for such hospitals under title XIX of the Social Security Act, and

that is not a final regulation by the submission date of such budget.

Amend the title so as to read: "An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid."

COMMITTEE AMENDMENT TO H.R. 3595. THE MEDICAID MORATORIUM AMENDMENTS OF 1991

The Committee amendment (in the nature of a substitute) to H.R. 3595, would do the following:

(A) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of provider donations until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of provider-specific taxes until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of intergovernmental transfers until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulation on payments to or designation of disproportionate share hospitals until April 1, 1992.

(B) FREEZE ON STATE DONATION AND TAX REVENUES

For the period from January 1, 1992 to April 1, 1992, States would be prohibited from increasing the amount of the State share of Medicaid expenditures derived from voluntary donations above one-fourth of the amount derived from such donations during FY 1991 pursuant to programs in effect on September 30, 1991.

For the period from January 1, 1992 to April 1, 1992, there would be no Federal matching for the State share of Medicaid expenditures derived from taxes on any type of Medicaid provider that were not established pursuant to State or local legislation as enacted or adopted on or before November 22, 1991. There could be no additional types of entities taxed or increase in the tax rate during the moratorium.

For the period from January 1, 1992 to April 1, 1992, States could not designate as a disproportionate share hospital any hospital that is not so designated pursuant to a state plan amendment submitted on or before September 30, 1991, or change the formula or rate for determining reimbursement to disproportionate share hospitals.

(C) RELATED PROVISIONS

Prohibition on penalty actions related to moratorium period HCFA would be prohibited from taking any disallowance, penalty, compliance, or other action to recover Federal matching funds paid to a state solely because the State's expenditures on which the matching funds were based were paid for with revenues derived from voluntary donations, provider-specific taxes, or intergovernmental transfers. The prohibition would apply for State expenditures made during the period of the moratorium.

Prohibition on revision of estimated amounts with respect to the moratorium period, HCFA would be prohibited from reducing quarterly expenditure estimates submitted by the States or from withholding amounts paid in quarterly grants to the States solely because the expenditures would be paid for with revenues derived from voluntary donations, provider-specific taxes or intergovernmental transfers.

(D) BUDGETARY TREATMENT

No sequestration would be imposed under Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

The Office of Management and Budget would be prohibited from assuming, for purposes of the President's FY 1993 budget baseline, any effects or potential effects on Federal expenditures resulting from any regulation that is not a final regulation relating to provider-specific taxes, voluntary donations, inter-governmental transfers, disproportionate share payments, or designation of disproportionate share hospitals until Title XIX.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 2032. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. DASCHLE:

S. 2033. A bill to expand the exclusion of services of election officials and workers from social security earnings; to the Committee on Finance.

By Mr. McCAIN:

S. 2034. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Select Committee on Indian Affairs.

By Mr. DOLE:

S. 2035. A bill to amend the Federal Election Campaign Act of 1971 to tighten the prohibition of fraudulent misrepresentation of campaign authority; to the Committee on Rules and Administration.

By Mr. KASTEN:

S. 2036. A bill to improve the access of all individuals to health care and long-term care and to provide cost control through the reform of procedures relating to medical malpractice, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2032. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Select Committee on Indian Affairs.

ANCSA LAND TRANSFER EQUITY ACT OF 1991

• Mr. MURKOWSKI. Mr. President, this year marks the 20th anniversary of the Alaska Native Claims Settlement Act. ANCSA, as it is commonly referred to, granted Alaska's Natives 44 million acres of land in Alaska and monetary compensation for the loss of title to their ancestral lands.

Enactment of this legislation in 1971 was a watershed event for the State of Alaska and Alaska Natives. The land grants and compensation contained in ANCSA are unprecedented. This law created business corporations based on existing Alaska Native communities instead of the old-style reservation system. These Alaska Native corporations became responsible for investing their monetary compensation and managing their lands and natural resources to the benefit of their all-Native shareholders. It set up a system whereby Alaska Natives could determine their own successes.

Many in Congress thought ANCSA would fail when it was passed 20 years ago. The settlement was a unique and untried model. Since 1971 the bill has been amended 38 times in efforts to fine tune it.

NEED FOR LEGISLATION

Mr. President, I rise today to introduce legislation that will fine tune this dynamic law once again. The ANCSA Land Transfer Equity Act of 1991 will correct a longstanding situation that has inhibited the ability of many of these Native corporations to realize the full value of their lands as was intended by Congress.

Native corporations have already received title to 34 million acres of their original 44 million acre entitlement. Unfortunately, it has come to light that the Federal Government has transferred parcels of land to Native corporations that are contaminated with hazardous and toxic materials.

Mr. President, the Federal Government entered into a contract with Alaska Natives when ANCSA was enacted and the Federal Government has violated this contract by transferring land with hazardous waste on it. That was not supposed to be part of the deal. The whole point of ANCSA was to provide Native corporations with the means to provide for their people. The burden of hazardous waste liability seriously undermines the intent of this law and places great financial hardship on Alaska's Natives.

IMPACT ON NATIVE LANDS

Native corporations in Alaska are just starting to discover the size and scope of hazardous wastesites on lands transferred by the Federal Government. The Shee Atika Native Corporation in Sitka, AK, received the old Fort Ray site on the Alice and Charcoal Islands. There are 15 old transformers containing PCB-laden oil on the site and many of the buildings on the site are unusable due to asbestos contamination.

Twenty-two sites contaminated with hazardous waste are already listed on a preliminary Bureau of Land Management report. Old lighthouses, old Army and Navy sites, old mining sites, old Bureau of Indian Affairs schools, old canneries, and other problems make up the list. All of these sites contained this contamination before the land was transferred to the Native corporation.

LEGISLATION

Mr. President, my legislation will address this situation in a simple and equitable manner.

An affected Native corporation will be required to notify the Secretary of the Interior of contaminated sites. Within 1 year of notification, the Secretary is required to reach a settlement with Native corporation under which the Government either removes the hazardous substances or replaces the land with other contaminant-free lands of equal value. If the Native corporation contributed or generated hazardous wastes, they would be responsible for their actions.

CONCLUSION

The purpose of ANCSA is to come to fair and just settlement of all aboriginal land claims by Native groups of Alaska. Transfers of contaminated lands could hardly be construed as fair or just. The Department of Interior has indicated that they have some problems with my bill, however, they have not yet advised me of specific concerns or if, as I believe they should, even agreed that this is a serious problem. I believe that it is time to address this issue and I believe this is a fair way to satisfy Native corporations' rights and the Federal Government's responsibility under ANCSA. I look forward to working with the Department to resolve this issue and hope we can accomplish what is in the best interest of both the Department and the Alaska Native corporations.•

By Mr. DASCHLE:

S. 2033. A bill to expand the exclusion of services of election officials and workers from Social Security coverage; to the Committee on Finance.

EXPANSION OF EXCLUSION OF ELECTION OFFICIALS AND WORKERS FROM SOCIAL SECURITY COVERAGE

• Mr. DASCHLE. Mr. President, I rise today to introduce legislation to increase the Social Security exemption for election officials and election workers employed by State and local governments.

When Congress passed the Omnibus Budget Reconciliation Act of 1990, it extended Social Security requirements to include all election officials who earn $100 or more annually. These workers must be a member of a retirement plan operated by the State or local government or be required to pay the full Social Security tax.

Most election officials will exceed this $100 limit in just 2 days. Election officials in South Dakota and throughout the country are remarkably dedicated individuals who work 14- to 16-hour days while earning only minimum wage. The average election official in Minnehaha County, SD, earns approximately $120 to $225 a year, depending on the number of elections held. It is estimated that very few election officials anywhere in the country will actually earn more than $500 per year.

Many election supervisors anticipate the imposition of the Social Security requirements on election officials will have severe consequences for recruiting. It is expected that the reduction in income coupled with the requirement to fill out additional paperwork will deter many from serving in the election process. Moreover, retired volunteers, who make up a large portion of the work force, may fear that working on election day will jeopardize the benefits they currently receive from Social Security.

I have been informed by the secretary of state in South Dakota and numerous county auditors that the Social Security tax on election officials will not only negatively effect recruitment, but it will also increase the overall cost of administering elections. According to county auditors, Minnehaha County employs over 300 election officials on election day and, because their income is so near minimum wage, it pays both the employer and the employee share of the Social Security tax. This is estimated to cost Minnehaha County $10,000 in 1992. For more populated counties, the additional cost could reach well over $100,000. Moreover, counties will also face additional costs in accounting and paperwork required to implement the Social Security tax for election officials.

As a result, I am introducing a bill that will increase the Social Security exemption for election officials and election workers employed by State and local governments from $100 to $500. If counties in South Dakota and throughout the country are expected to continue recruiting an ample number of qualified individuals as election officials, it is imperative that we raise their Social Security exemption to $500. By so doing, we ensure the integrity of the election process and eliminate any undue administrative costs incurred by our counties that are responsible for its implementation.•

By Mr. McCAIN:

S. 2034. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Select Committee on Indian Affairs.

ENVIRONMENTAL CLEANUP AT THE PHOENIX INDIAN SCHOOL

Mr. McCAIN. Mr. President, today, I'm introducing legislation which will require the Secretary of the Interior to remove asbestos bearing buildings and infrastructure constructed by the Federal Government on the Indian school property located in Phoenix, AZ.

Pursuant to the provisions of the Arizona-Idaho Conservation Act—Public Law 100-696—the Indian school property will be transferred from Federal ownership through a land exchange and purchase agreement.

Consummation of the agreement will provide significant benefits to the city of Phoenix, through the acquisition of important parkland and economic development; to the Federal Government, through the acquisition of land to expand the Big Cypress National Preserve; to Arizona's Native American population, through the creation of an Indian education trust fund; and to needy veterans, through the construction of a State veterans nursing home facility.

The only remaining obstacle to the finalization of this vital exchange and its associated benefits is a question over who will clean up asbestos within Federal buildings located on the Indian school property.

Mr. President, under the laws of this Nation, asbestos is considered to be a hazardous substance. In the case of the Indian school buildings, the Federal Government was responsible for putting the asbestos in place. By any measure of fairness, the Government should also be responsible for removing it.

I remind my colleagues, remediation of asbestos is a commitment we have made at military bases which will be closed or realigned. We have the same obligation as we transfer land held by the Department of the Interior.

I'm disappointed that the Secretary of the Interior does not appear to agree with that analysis. The Department refuses to remove asbestos from the Federal buildings on the Indian school property. While I hope that ongoing discussions with the Secretary will produce a fair and equitable resolution, until such time as we can resolve this matter, this legislation is necessary.

Clearly, accepting Federal responsibility for asbestos removal at the Indian school site is fair and in the national interest. Proper removal of asbestos will avoid potential Federal liability should the material cause sickness or injury. In addition, if the cleanup issue is not resolved and the land transfer and purchase agreement is vacated, the significant national benefits I mentioned previously will be lost. Recovering those losses will cost us a price far in excess of what would be required to complete the asbestos cleanup.

I hope that the Secretary will fully consider the implications of the Department's reluctance to accept responsibility. An unyielding adherence to an unfortunate policy threatens the public good.

We have an historic opportunity to create a large park and economic development for a major city, to protect vital wetlands, to provide significant resources for Indian education, and to construct facilities to care for aging veterans. Seizing that opportunity, as we must, requires the highest level of flexibility and cooperation, not reckless brinkmanship.

Again, this legislation will require the Secretary to demolish unwanted Phoenix Indian School buildings and remove asbestos from those structures and infrastructure which will remain on the site. Doing so will eliminate a health hazard, fulfill a Federal responsibility, and secure this important exchange and the many associated benefits for all concerned.

My colleague Congressman RHODES is introducing a companion bill in the House. I urge both the House and Senate to act expeditiously on this important matter.

By Mr. DOLE:

S. 2035. A bill to amend the Federal Election Campaign Act of 1971 to tighten the prohibition of fraudulent misrepresentation of campaign authority; to the Committee on Rules and Administration.

PROHIBITION OF FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

Mr. DOLE. Mr. President, the 1992 Presidential election campaign is now underway. Candidates are spreading out through the States, money is being raised, and, if 1988 is any indicator, many Americans who think they are contributing to a candidate are being hoodwinked.

This is a lesson that I have learned the hard way. During my 1988 Presidential campaign, many Americans received a mailing from a group calling themselves Americans for Dole. The mailing urged its readers to take their place in history, and to send a check to Americans for Dole at P.O. Box 90271 in Washington, DC.

At the bottom of the letter, in very small type, no doubt unnoticed by the addressee, many of whom are elderly, was a disclaimer saying that Americans for Dole was "not authorized by any candidate or candidates' committee."

Those were about the only words on the letter that were truthful, Mr. President. Neither myself nor my committee authorized or had anything to do with Americans for Dole; nor did my campaign receive any of the reported $4 million they received from contributors who thought their money would go to support my campaign.

You see, Mr. President, Americans for Dole was really an effort to deceive Americans for someone else's gain. I have seen heartbreaking videotapes of elderly people, convinced they were giving to someone they respected, only to learn that they had fallen into a fundraising fraud. It is not right, and it ought to stop.

The scam did not stop with Americans for Dole. In fact, just a few P.O. boxes down from what many were led to believe was my campaign address was an organization called Americans for Bush.

And this group sent out an eloquent four-page letter urging Americans to help then Vice President Bush.

Again, small type on the bottom explains that the committee is not authorized by any candidate or candidate's committee.

With the number of Presidential candidates in the Democratic Party, you can bet that groups out to make a quick buck will soon be preying upon the American public once again.

Mr. President, it is my belief that, before the end of the year, Congress can send a bill to President Bush which would take a major step in putting these fly-by-night operations out of business.

So, I am introducing legislation to do just that. My bill would amend the Federal Election Campaign Act of 1971 by requiring anyone representing that they are soliciting or accepting a contribution on behalf of a candidate or political committee to actually pay any contribution received to the candidate or committee, and to inform them of the name of the contributor.

This proposal is similar to others that have been debated in Congress in recent sessions, but I was concerned that they did not go far enough. I was concerned that those sending misleading mailings would simply point to the small disclaimers at the bottom of their letters and say that these disclaimers mean they should be let off the hook.

Therefore, my legislation also requires that any such disclaimer will not be admissible in evidence in a legal proceeding unless the disclaimer is printed in the same size and given the same prominence as the most prominent display of a candidate's or political committee's name.

Mr. President, this is not a partisan proposal. Democrats, as well as Republicans, have been bilked—and will continue to be bilked—unless something is done.

We ask ourselves, "why are the American people so cynical about politics these days?"

Just look at some of these scams, and you will know the reason why.

Mr. President, my legislation is simple and straightforward. I believe it will get the job done and restore a little bit of respectability to the political process.

Mr. President, I send the bill to the desk and ask for it as an appropriate referral.

Mr. President, I might say that I have discussed this amendment with the distinguished chairman of of the Judiciary Committee, Senator BIDEN, and others, and there is still maybe some way to include it in some bill yet this year because, sure as I am standing here, there are going to be Americans for Senator HARKIN, Americans for KERREY, Americans for Wilder, and all the time they will be raking in the money; the candidates will never see it and a lot of well-intentioned people are simply being ripped off by someone and they ought to be severely penalized.

By Mr. KASTEN:

S. 2036. A bill to improve the access of all individuals to health care and long-term care and to provide cost control through the reform of procedures relating to medical malpractice, and for other purposes; to the Committee on Finance.

ACCESS TO HEALTH CARE FOR ALL AMERICANS ACT

• Mr. KASTEN. Mr. President, I rise today to introduce a strategy to address the serious health care problems facing my State and the rest of the country.

Action needs to be taken soon to address soaring health care costs which are depriving people of adequate health care. Health care costs are already eating up 12 percent of our gross national product, and this figure is jumping rapidly. Up to 37 million Americans are without health care insurance.

The magnitude and complexity of this problem requires that Congress, the administration, and the American people work aggressively to form a consensus on how to move ahead. While many of us can agree that an overhaul of America's health care system is needed, we are divided over the solution and realize that comprehensive reform is not achievable during this Congress.

I believe strongly that there are certain actions we can take immediately to expand the access and availability of health care and control the escalating costs. Before the 102d Congress concludes, Congress should take action on small employer insurance market reform and on certain cost control measures in the area of medical malpractice and managed care.

Mr. President, I would hope that we will not wait until next year to extend the current tax deduction for health insurance costs of self-employed individuals and farmers. I would prefer that we pass legislation which I have sponsored the last two Congresses that increases permanently this deduction from 25 to 100 percent. But at the very least, if Congress is not going to afford the self-employed the same treatment given to large employers then it should extend the current deduction scheduled to expire at the end of this year.

Earlier this year, I joined with Senator BENTSEN, Senator DURENBERGER, and others in cosponsoring legislation to address the availability and cost of health insurance offered to small business owners. As ranking member of the Senate Small Business Committee, I hear often from small business owners in my State and across the country about the skyrocketing premiums which are hindering them from offering health insurance to their employees or else forcing them to drop coverage. This legislation is similar to a bipartisan small business initiative that overwhelmingly passed the Wisconsin State Assembly and is working its way through the State senate.

The GOP Health Care Task Force proposal, S. 1936, sponsored by Senator CHAFEE and the other members of the task force, including myself, contains similar small business health insurance language. This bill also contains needed cost control measures, such as medical malpractice reform and managed care initiatives. While I have reservations about certain provisions of the bill, I believe that this proposal provides an important contribution to the ongoing debate.

The legislation I am introducing today builds on these efforts. It contains four titles: Small employer market reform; cost control proposals; rural health improvement initiatives; and long-term care incentives.

SMALL EMPLOYER INSURANCE REFORM

Between 31 and 37 million Americans are without health insurance and in Wisconsin, approximately 500,000 residents lack coverage—65 percent of the uninsured are employed by small firms. According to surveys conducted by small business groups while small employers want to offer health care coverage they often simply can't afford it. A 1991 survey conducted by the Metropolitan Milwaukee Association of Commerce found that 80 percent of the respondents cited rate increases of up to 80 percent in the last year.

Several factors drive up the cost of health insurance policies: Expensive State mandates, unequal tax treatment, and certain insurance practices. My bill would establish basic health insurance policies that insurers would be required to offer—policies which would be free from State mandates. In addition, self-employed individuals and farmers would be allowed to deduct 100 percent of their health care costs—the same tax treatment offered to large businesses. This legislation would also establish Federal standards governing the sale of health insurance to small firms.

COST CONTROL CONTAINMENT

Managed care plans offer the hope of controlling runaway health care costs. Instead of reimbursing providers retrospectively on a fee-for-service basis, these plans allow employers and insurers to contract prospectively with providers and therefore exercise greater control over health care expenditures.

This bill would require the Secretary of Health and Human Services to develop standards for managed care plans that insurers would be required to meet. In addition, this legislation would preempt State antimanaged care laws for plans that meet these standards.

For years, I have fought for product liability reform in order to reduce the destructive impact excessive liability costs have on our economy. In keeping with these efforts, this bill contains medical malpractice reform provisions to reduce the cost of malpractice premiums and defensive medicine. The cost of medical liability is estimated to cost $15 billion annually and is estimated to account for roughly 15 percent of total expenditures on physician services.

RURAL HEALTH CARE INITIATIVES

Unfortunately, the quality of rural health care is reaching a critical point in Wisconsin. According to the University of Wisconsin's Office of Rural Health, almost 1 in 5 Wisconsin residents live in health professional shortage areas, with less than 1 medical professional for every 3,500 residents. People do not have ready access to primary care and must travel as much as an hour to reach the nearest doctor.

This legislation addresses the access problem by expanding the National Health Service Corps, which is staffed by health providers who agree to serve in exchange for financial assistance with their educational expenses. After their education, they agree to practice in a health professional shortage area.

In addition, my bill increases funding for area health education centers which have proven to be effective in providing education and clinical instruction in underserved areas.

LONG-TERM CARE

Finally, this legislation addresses the long-term care crisis we are facing in this country. My bill would provide senior citizens and other Americans with tax-based assistance to purchase long-term care insurance. It would also allow individuals to roll over funds held in IRA's to long-term care insurance without penalty

Mr. President, this legislation contains proposals that Congress could enact now to provide immediate relief to the uninsured and medically underserved people in this country. I hope that Congress and the administration will be able to work together next year on these initial steps to improve the access and affordability of health care for this country.●

ADDITIONAL COSPONSORS

S. 644

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 644, a bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories.

S. 1725

At the request of Mr. DIXON, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1886

At the request of Mr. MCCONNELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 99, a joint resolution designating November 24-30, 1991, and November 22-28, 1992, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 125

At the request of Mr. PACKWOOD, his name was added as a cosponsor of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

AMENDMENTS SUBMITTED

TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE

COHEN EXECUTIVE AMENDMENT NO. 1432

Mr. COHEN proposed an amendment to condition No. 5 of the resolution of ratification to Treaty Doc. No. 102–8, the Treaty on Conventional Armed Forces in Europe, as follows:

In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:

"(C) shall, if he has made the determination and decision described in subparagraph (B)—

"(i) submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstances and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or

"(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence of the Treaty would serve the national security interests of the United States, seek the Senate's advice and consent to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

SMITH (AND WALLOP) EXECUTIVE AMENDMENT NO. 1433

Mr. SMITH (for himself and Mr. WALLOP) proposed an amendment to the resolution of ratification to Treaty Doc. 102–8, supra, as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) U.S. OBLIGATION TO THE TERMS OF THE TREATY.—The United States shall not be bound by the terms of the Treaty unless and until the Congress has received, pursuant to public law 99–145, the President's Soviet Noncompliance with Arms Control Agreement report and the President has certified through the report that the Soviet Union is not in violation or probable violation of the terms of the CFE Treaty and protocols thereto.".

RESERVATION OF CERTAIN HOUSING ASSISTANCE

RIEGLE (AND CRANSTON) AMENDMENT NO. 1434

Mr. MITCHELL (for Mr. RIEGLE, for himself and Mr. CRANSTON) proposed an amendment to the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.".

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Petersburg under title I of such Act for fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

BREAUX (AND JOHNSTON) AMENDMENT NO. 1435

Mr. MITCHELL (for Mr. BREAUX, for himself and Mr. JOHNSTON) proposed an amendment to amendment No. 1434 proposed by Mr. MITCHELL (for Mr. RIEGLE) to the bill H.R. 3576, supra, as follows:

At the appropriate place, insert

SEC. . Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club Estates located in St. Charles Parish, Louisiana, not later than June 1, 1992.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE

BURDICK (AND CHAFEE) AMENDMENT NO. 1436

Mr. MITCHELL (for Mr. BURDICK, for himself and Mr. CHAFEE) proposed an amendment to the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes, as follows:

On page 26, strike lines 13 through 25, insert in lieu thereof the following, and redesignate titles II and III and the sections therein accordingly:

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized:

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context to the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devotion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University of Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) Terms of Agreement.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall:

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other conributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with in-kind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) Authorization.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) Termination of Agreement.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100-610 is amended by adding at the end the following new section:

"Section 208. Wildlife Interpretation and Education Center.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

SANFORD AMENDMENT NO. 1437

Mr. MITCHELL (for Mr. Sanford) proposed an amendment to the bill H.R. 794, supra, as follows:

Add at the appropriate place in the bill the following new section:

SEC. . COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) Federal Share.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof—

"has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:"

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax checkoffs, or motor vehicle license plate fees."

(b) Effective Date.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

DECONCINI AMENDMENT NO. 1438

Mr. MITCHELL (for Mr. DeConcini) proposed an amendment to the bill H.R. 794, supra, as follows:

On page 27, strike lines 1 through 13.

ADDITIONAL STATEMENTS

NEW PHYSICIAN FEE SCHEDULE

• Mr. CRAIG. Mr. President, as this session of the Congress draws to a close, many problems remain unresolved. One problem, that I am very concerned about is the new physician fee schedule. The final regulations for the new fee schedule will not be out until Monday, November 25, leaving no time for any problems to be resolved prior to implementation in January.

I have received numerous letters from senior citizens in my State sharing their problems about finding a doctor, because they are on Medicare. Health care providers in Idaho are on the low end of the reimbursement scale already. Therefore, any further reduction only enhances the access problem for seniors in my State.

Mr. President, I have also received many letters from doctors who are outraged at the continual cuts in reimbursements, and fed up with the paperwork hassles of Medicare. Some of those letters have been from doctors who say they simply cannot afford to take new Medicare patients. Idaho has a shortage of health care providers. The problems that have occurred with the new physician fee schedule have only aggravated this situation. Not only do we have the worst doctor-to-patient ratio in the Nation, but now some of those doctors are limiting or refusing to take Medicare patients. Our rural doctors work long hours and cover large, under-served areas. The Government cannot expect them to continue to participate in a program that continues to cut reimbursements while piling on additional paperwork hassles.

Mr. President, I met with Dr. Wilensky to discuss various aspects of the regulations. Let me take a moment to say that I greatly appreciate her efforts in trying to resolve the problems in the preliminary regulations. We discussed various concerns that doctors from Idaho had expressed to me, to include the behavioral offset which is the most onerous problem to the doctors—especially for those who have no control of their patient flow and depend on referrals. It is my understanding, after our conversation, that in order to keep the fee schedule budget neutral, HCFA is required to keep the behavioral offset at 6 percent. It frustrates me that because of budget rules, the intent of Congress cannot be carried out and now we must look at legislative ways of resolving remaining problems.

Legislation has been introduced, S. 1810, which addresses a number of the problems that were highlighted in the proposed regulations. I support the intent of this legislation but have grave reservations about its cost. Mr. President, after a long and careful review of this bill I have decided not to cosponsor S. 1810 at this time. Not only is the cost of the bill almost $6 billion, but no offset has been found in the budget, and this flaw prevents the legislation from moving. Therefore, it is no solution. I agree with the message the bill is sending, but I cannot cosponsor this bill without an offset to cover the price tag.

Mr. President, it is my hope that when the final regulations are published, most of the problems with the new fee schedule will be resolved. However, should that not be the case, this Senator will be looking for solutions that can win passage, and are fiscally responsible.•

S. 1942—THE REGULATORY REVIEW SUNSHINE ACT

• Mr. GLENN. Mr. President, the Committee on Government Affairs, of which I am chairman, is responsible for overseeing the process by which the executive branch implements law. The committee has a long and proud record, going back many years, of making sure that process is as open and fair as possible. The Federal Advisory Committee Act and the Government in the Sunshine Act are two excellent examples of how this committee has contributed to greater openness and accountability in the executive branch.

In 1980, Congress created OMB's Office of Information and Regulatory Affairs [OIRA], through enactment of the Paperwork Reduction Act [PRA]. The act gave OIRA the responsibility of reducing the Government paperwork burden and increasing the efficiency of Government information activities.

The arrival of a new administration created a new set of priorities for OIRA. President Reagan issued Executive orders 12291 and 12498 which gave OIRA major responsibility for regulatory review. The 1980 act did not anticipate these Executive Orders and therefore did not establish procedures for public participation in OIRA regulatory review.

Members of the committee recognized the importance of shedding light into the shadows of OIRA regulatory review. In 1982, Senator RUDMAN and LEVIN proposed a floor amendment that would have brought the light of day to OIRA regulatory review. In 1986, an administrative agreement was reached in conjunction with reauthorization of the Paperwork Reduction Act that required partial public disclosure of the OIRA process.

That agreement did not pull the curtain back far enough. In 1989, Senator BINGAMAN introduced legislation to reauthorize the Paperwork Reduction Act that contained extensive sunshine provisions to cover regulatory review. Those provisions were in the legislation reported out by this committee on June 7, 1990.

When the administration threatened a veto of the legislation, we negotiated a compromise with them to put regulatory review procedures in an Executive order to be issued upon passage of the PRA. Well, as many know, this bipartisan agreement was killed in the waning moments of the session by a series of anonymous Republican rolling holds.

I was satisfied with last year's compromise agreement and I wanted to move the legislation when the Senate reconvened early this year. But when I went to reintroduce our compromise, the administration backed away from its support.

In addition, I learned this year that at the same time we were negotiating with the administration on regulatory review procedures for OMB, the White House was establishing the Council on Competitiveness as the new overseer of agency rulemaking.

On April 17 of this year, Senators LEVIN, KOHL, and I wrote the Vice President inquiring as to the Council's role in regulatory review. We received a response back from Al Hubbard, Executive Director of the Council, that included only fact sheets and press releases on the Council. The three of us then sent another letter requesting that our original inquiry be properly answered.

However, it was not until October 22, after Senator LEVIN and I met with Vice President Quayle and alerted him of our October 24 hearing, that we received a response to our questions addressed some 6 months before. Even then, that response did not fully answer our questions.

The committee held hearings on regulatory review on October 24 and November 15. Both times we invited a representative of the Council to testify. Both times we were refused.

I heard just the other day that the Council's Deputy Director, David McIntosh, recently spoke before the Chamber of Commerce on the Council's role in regulatory review. There is some irony in the fact that while Mr. McIntosh is willing to speak before the Chamber of Commerce, he is not willing to do so before a Senate committee.

It is clear to me that the council has taken the scepter of regulatory review from OMB. It is also clear to me that the Council has not respected this committee's repeated requests for information about its participation in agency rulemaking.

In response to repeated stonewalling by the administration, I introduced legislation, S. 1942—the Regulatory Review Sunshine Act, on November 7 that would open up the Council and OMB's regulatory review activities to the public eye. The committee marked up the bill on November 22 and reported it out by a vote of 8 to 3.

I have been burned twice by the administration and certain Republicans on regulatory review. I want to move this bill to the Senate floor as expeditiously as possible. The issues of openness and accountability resonate powerfully with the American public and they deserve a response to the Council's secretive decisions on rules that literally impact thousands of lives.•

S. 243, THE OLDER AMERICANS ACT REAUTHORIZATION AMENDMENTS OF 1991

• Mr. BROWN. Mr. President, I rise today to express concern about the status of S. 243, the Older Americans Act Reauthorization Amendments of 1991. The Senate passed S. 243 on November 12 and appointed conferees. In the past 11 days, the House of Representatives has not acted to appoint conferees.

The programs reauthorized by this act are crucial to the well-being of millions of older Americans. It is important that the House appoint conferees to meet with Members of the Senate to resolve the remaining two points of difference which exist on this bill—the McCain amendment on Social Security earnings test repeal and the Brown amendment to secure continuation of the toll free lines for Medicare beneficiaries and providers.

It is my hope that a conference on S. 243 will be held before we adjourn.•

W.S. WHITE, JR., CHAIRMAN OF AMERICAN ELECTRIC POWER CO., RETIRES

• Mr. GLENN. Mr. President, an internationally recognized leader in the electric utility industry, W.S. White, Jr., is retiring from his position as chairman of the American Electric Power Co. at the end of this year.

Mr. White is the sixth chairman of the board in the 85-year history of American Electric Power, an office he has held since 1976. He also served as chief executive officer of AEP and all its subsidiary companies from 1976 until the end of 1990. Under his direction, the Columbus, OH, headquartered American Electric Power has been a valuable corporate citizen of Ohio and the six other States that comprise the operating area of the AEP system.

In 1984, Mr. White became the first American to be elected president of CIGRE, the Paris-based International Conference on Large High-Voltage Electric Systems. CIGRE fosters the technical exchange of new information on literally every aspect of research, development and operation of high-voltage transmission systems throughout the world.

Mr. White's international credentials were again recognized in 1989, when he was named by President Bush to a Presidential delegation to Poland in order to assist in its economic reform and to support its transition to a democratic government.

In 1989, Mr. White received the James H. McGraw Award for Electric Utilities from Electrical World magazine. According to the citation, Mr. White received the honor "for the continued leadership he provides for his company and the utility industry; for his championing of innovation; and for his high standards." In addition, the award stated, "Under his leadership, AEP has continued and extended the company's long-held reputation for innovation in technical and management areas."

Under Mr. White's leadership, AEP has achieved another international first by successfully converting the Wm. H. Zimmer Generating Station near Cincinnati, OH, from a nuclear to a coal-fired facility, using a high percentage of the equipment intended for the original nuclear plant. This was accomplished ahead of schedule, under budget, with the most modern pollution abatement equipment so the plant meets the very stringent environment requirements set by the Clean Air Act of 1990.

With his direction, AEP has also become a national leader in the development of clean coal technology. AEP is demonstrating the capability of its pressurized fluidized bed combustion [PFBC] process at its Tidd PFBC demonstration plant near Steubenville, OH. This method has the capability of burning high-sulfur coals while eliminating 90 percent of the sulfur dioxide emissions and approximately half of the nitrogen oxide emissions.

During his years as chairman, American Electric Power [AEP] has constructed and placed in service four 1,300-kilowatt generating units—including the one at Zimmer—that are the largest and most efficient coal-fired units in the world. During that time, AEP has also completed its 2,022-mile network of 765,000-volt transmission lines, and now operates more miles of 765,000-volt lines than all other U.S. electric utility companies combined.

A member of the National Academy of Engineering, Mr. White is also president of Ohio Valley Electric Corp., and its subsidiary, Indiana-Kentucky Electric Corp. Together, these two utilities, which are owned by a consortium of electric utilities in the Midwest, supply all of the electric energy requirements of the U.S. Department of Energy's uranium-enrichment plant at Piketon, OH.

A native of Norfolk County, VA, Mr. White is a U.S. Navy veteran of World War II and an electrical engineering graduate of Virginia Polytechnic Institute and State University. He earned a master's degree from Massachusetts Institute of Technology, where he was a Sloan fellow.

In addition, Mr. White has been particularly active in civic and community affairs in his home city of Columbus, OH, where he has served as general chairman of the United Way Campaign; director and member of the executive committee of the Columbus Area Chamber of Commerce, and a director of the Riverside Methodist Hospital. He is also chairman of Greater Columbus Convention Center Board of Trustees, a trustee of Battelle Memorial Institute, a director of the Bank of New York, and a director of Methodist Theological School of Ohio.

Mr. White's dedicated 43-year career with the AEP system has been highlighted by many significant contributions to the reliability and dependability of our Nation's electric energy supply. His contributions also extend to the enhancement of international developments in the supply of electric energy. His leadership, expertise, and good counsel will be missed and Mr. White is deserving of our Nation's gratitude for his efforts on behalf of our country's electric utility industry.•

WE MUST REFLECT THE CHANGING WORLD

• Mr. KERRY. Mr. President, in the past 2 years, we have seen tumultuous changes in the world order that few, if any, would have predicted a year or two in advance of their occurrence. The cold war, and the confrontation of the two nuclear superpowers, which had the Iron Curtain as its symbolic and actual focal point, is over.

The Eastern European nations that had been captive satellites of the Soviet Union rapidly experienced democratic spontaneous combustion.

The much-feared Communist bulwark, the Soviet Union, has ceased to exist as a meaningful entity, destroyed by the centrifugal forces of individual liberty, revulsion over totalitarian abuses, and disgust and impatience with the abject failure of the state-controlled economic system to provide an acceptable standard of living for its people.

Mr. President, for 40 years our fear of Soviet expansionism was arguably the most significant force in determining how this Nation would spend a substantial portion of its gross national product. While those expenditures had some beneficial spinoff effects for civilian America, in the largest measure what we spent for increasingly expensive and complex armaments represented amounts we could not spend to improve our standard of living, and to combat social problems and meet human needs.

In previous years, many felt that the ultimate course of the changes in the Soviet Union was uncertain. But it is now clear—following the abortive coup in the summer—that the changes in the Soviet Union are irreversible, and that the Soviets no longer possess the will to threaten or harm the United States.

To be sure, there are still thousands of nuclear weapons and a sobering conventional arsenal located on the territory of the former Soviet Union. It is vital that we do all we can to hasten the disposal and deactivation of as much of this weaponry as possible. And, while it remains in existence and useable, we cannot, and must not, become complacent and dismiss the harm it could wreak should circumstances change dramatically among the Republics of the former Soviet Union.

Nonetheless, the great majority of close observers of the Soviet system and culture agree that the cold war is now a relic. It is a wonderfully appealing prospect—a joyous prospect—that our nation finally can cease the investment of massive resources—financial, intellectual, and other—in defending against the Soviet threat. To be sure, we continue to have—and will have for the foreseeable future—very significant national security needs. The world is an uncertain place, and can pose significant threats. Saddam Hussein aptly demonstrated this reality. We must be ready and equipped to deal with such threats. But the nature of that threat, and the nature of the force structure and armaments we must have to be ready for it—and, further, to deter those who would challenge the interests of the United States or the principles of international relations and conduct it values and honors—is very different today than it was even a year ago.

Mr. President, the Defense appropriations bill on which we voted today is, in many respects, a relic even as we vote on it. The Federal budget process necessarily entails significant lead time. It is a sheer impossibility to develop and enact a nearly $300 billion budget in a brief period of time. It is equally impossible to turn an ocean liner on a dime. The fact is that the dramatic events to which I earlier referred altered the world's fabric—after the complexion of this bill had already been determined.

If we were just beginning to write this bill today, rather than many months ago, I am fully confident it would be a different bill. But as much as I wish this institution and this and other bills could be instantly reflective of major changes in the world, it would be entirely unrealistic and unreasonable to insist that be the case. Insistence on the impossible is certain to be disappointing.

Unquestionably the Senate's Subcommittee on Defense, its distinguished chairman, Mr. INOUYE, and ranking Republican, Mr. STEVENS, and its capable staff, and the full Appropriations Committee, worked diligently to produce this bill. They deserve our appreciation and the Nation's appreciation for the effort they have invested.

And some of the changes in this bill from last year are appealing. While the bill could not, in fact, be turned on a dime, in many key respects it acknowledges that change is occurring and begins to make adjustments. Funding is reduced for the MX missile and eliminated for Tomahawk nuclear cruise missiles. Funding is reduced for research and development on kinetic energy antisatellite weapons. No additional B-2 bombers will be procured unless both Houses of the Congress affirmatively vote for such procurement.

The bill also has some important assistance for Massachusetts at a time when my State is in difficult economic shape and so many people are out of work or underemployed, or at risk.

The bill includes $6 million for Northeastern University to build an Advanced Materials Research and Development Center. The center will be extremely important for United States defense needs, especially fighter aircraft, weapons programs, and logistical support systems.

Most of the over $30 million necessary to build the center is going to come from the university and private sources even though it will be extremely useful to the national interest. But, in order to insure that it gets built it needs this Federal support as well.

The bill also includes $2 million to fund the Center for Complex Systems at Brandeis University in Waltham, MA. This center has previously received Federal appropriations of $7 million. The university expects to offer several million in a matching grant to complete the project.

Researchers at the center specialize in basic and applied brain research, which has application to medical problems such as Alzheimer's disease, drug addiction, and learning disabilities. Their study of the brain involves multidisciplinary efforts in neurosciences, linguistics, computer science, psychology, chemistry, and physics. At the center, Brandeis has included more relevant disciplines under one umbrella than any other institution attempting to work on the brain and nervous system.

The bill also provides $15 million for the Woods Hole Oceanographic Institution to refurbish two WHOI research vessels and get them out of dry dock. The vessels are operated jointly by the WHOI, the Office of Naval Research [ONR], and Scripps Oceanography Institute in La Jolla.

These ships are vital to oceanographic research and will greatly enhance U.S. capabilities in the fields of biological, physical, and chemical oceanographic research.

And the bill also includes $29 million for Boston University to build a research facility.

Thus, on balance, I believe the work of the committee warrants support as it finishes the process begun a year ago, especially given the committee's willingness to take advantage of Massachusetts' special resources to strengthen our long-term national research capabilities.

While I am therefore supporting this bill, it is essential that the Congress recognize, and with respect to defense expenditures, that the Armed Services Committees and the Defense Appropriations Subcommittees in particular recognize, that the world has changed. As work begins in the near future to fashion the fiscal year 1993 defense authorization and appropriations bills, recognition of the changing world order must be reflected in those bills.

Business as usual no longer can be accepted, and this Senator no longer will accept it.

Mr. President, we have no need for additional strategic nuclear weapons or delivery systems. We have more than enough tactical nuclear weapons and delivery systems. Next year's defense bills must so reflect.

While I have always supported and will continue to support reasonable research and development efforts to be certain our defense know-how remains second to none, we have no further need for applied research aimed at creating a star wars system to defend against a Soviet nuclear attack that will never come—a system, I might add, that could not have been workably implemented in any event. The 1993 bills should so reflect.

We have reason to celebrate, Mr. President—because of the sweeping and welcome changes we have witnessed in the Soviet Union and Eastern Europe in the past 2 years, because the world is a safer place as a result, and because we can now reduce the share of our national wealth we invest in national security programs and reinvest some of that wealth in ways that will improve the health, the education, and the living standards of our people while reducing, as well our overwhelming national debt.

Today is the line of demarcation. This Defense appropriations bill is the last in a long line. Within it can be seen signs of the tremendous changes that can and must come in future years.●

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. CRANSTON]. Without objection, it is so ordered.

ADJOURNMENT FOR 10 SECONDS

Mr. MITCHELL. Mr. President, I now move that the Senate stand in adjournment for 10 seconds; that upon reconvening, the Journal of the proceedings be deemed approved to date; the call of the calendar be waived; that no motions for resolutions come over under the rule; and that the morning hour be deemed to have expired; and that the time for the two leaders be waived.

The motion was agreed to, and at 7:05 and 36 seconds p.m. on Saturday, November 23, 1991, the Senate adjourned until 7:05 and 46 seconds p.m., the same day.

AFTER ADJOURNMENT

SATURDAY, NOVEMBER 23, 1991

The Senate met at 7:05 and 46 seconds p.m., pursuant to adjournment, and was called to order by Hon. ALAN CRANSTON, a Senator from the State of California.

MEDICAID MORATORIUM AMENDMENTS ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 353, H.R. 3595, Medicaid Moratorium Amendments Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 353, H.R. 3595, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to H.R. 3595, the Medicaid Moratorium Amendments of 1991.

George Mitchell, Lloyd Bentsen, Paul Simon, Pat Leahy, Alan Cranston, Edward Kennedy, Al Gore, Daniel P. Moynihan, Claiborne Pell, Wendell Ford, Dale Bumpers, Frank R. Lautenberg, Kent Conrad, Jim Sasser, Max Baucus, and Daniel K. Inouye.

MOTION TO PROCEED TO H.R. 3595 WITHDRAWN

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 3807

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers Calendar No. 342, H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991, that it be considered under the following limitations:

That no motion to commit be in order; that the only first-degree amendments in order to the bill be the following, with relevant second-degree amendments in order to the Nunn-Lugar-Boren amendment and the Boren-Cohen and others amendment.

And the first-degree amendments are: a Nunn-Lugar—Boren authorizing amendment subject to appropriations regarding $500 million for dismantling nuclear weapons in the Soviet Union, subject to verification; a Boren-Cohen and others amendment regarding emergency military airlift to Soviet Union for humanitarian purposes; a Cranston-Pell amendment regarding nuclear weapons enhancing security through the promotion of democracy in the Soviet Union; and a Danforth amendment regarding TWA [PBGC]; and further that this agreement may be vitiated by the majority leader after consultation with the Republican leader prior to 10 a.m., on Monday, November 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, NOVEMBER 25, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. Monday, November 25; that following the prayer, the Journal of Proceedings be deemed approved to date; the time for the two leaders be reserved for their use later in the day; and the Senate proceed immediately to the consideration of Calendar No. 342, H.R. 3807, an act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, et cetera, to NATO member countries in conjunction with implementation of the CFE Treaty; that at 12 noon, H.R. 3807 be temporarily laid aside, the Senate have 1 hour of debate on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid Moratorim Amendments of 1991, immediately preceding the 1 hour of debate from 1 p.m. to 2 p.m. reserved under the previous order for debate on the CFE Treaty; and that the votes in relation to the matters just listed occur in the following order at 2 p.m. on Monday;

First, the Smith condition to the resolution of ratification of the CFE Treaty; second, adoption of the resolution of ratification of the CFE Treaty; and, third, waiving the mandatory live quorum under rule XXII, on the motion to invoke cloture on the motion to proceed to H.R. 3595.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, NOVEMBER 25, 1991, AT 10 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, and if the distinguished Republican leader has no further statement, I ask unanimous consent that the Senate stand in recess until 10 a.m. Monday, as under the previous order.

There being no objection, the Senate, at 7:15 p.m., recessed until Monday, November 25, 1991, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 23, 1991:

NUCLEAR REGULATORY COMMISSION

E. GAIL DE PLANQUE, OF NEW JERSEY, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 1995.

ENVIRONMENTAL PROTECTION AGENCY

HERBERT TATE, OF NEW JERSEY, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

A CELEBRATION OF PUERTO RICAN HERITAGE MONTH

HON. JOSÉ E. SERRANO

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Saturday, November 23, 1991

Mr. SERRANO. Mr. Speaker, I rise today on the occasion of the celebration of Puerto Rican Heritage Month. In the last century, Puerto Rico has played a particularly significant role with regard to the United States. It is the many contributions that Puerto Rico has made to our Nation throughout the past 100 years that I would like to celebrate today.

While the United States has been developing these close ties with Puerto Rico, New York City has been a principal beneficiary. Puerto Ricans settled primarily in New York City and it is there that most of their successes and contributions have come to fruition.

In 1910, there were only 500 Puerto Ricans living in New York. Today there are 1 million. The great majority arrived shortly after World War II. Like so many of our poor people at that time, my family left its beloved island in search of a better life in New York. This was a major decision and the transition from life in Puerto Rico to the world of New York City was not easy. It was quite different from the immigration of foreigners in the preceding century. By the time Puerto Ricans started to arrive, the institutions originally set up to assist new arrivals adapt to life in New York City had begun to disappear, due in part to the passage of legislation earlier in the 20th century severely restricting immigration. Thus the New York City to which Puerto Ricans journeyed in the late 1940's and early 1950's was, in many respects, a much less welcoming city than it had been a century earlier.

But regardless of the difficulties with which they were faced, our Hispanic forefathers were determined to pursue the goals and seek the opportunities of which they had dreamed. And in this process, they made their own unique contributions that helped render New York City the brilliant mosaic of which today's New Yorkers are justifiably proud.

They revived the latent multicultural spirit by bringing with them the traditions of a culture brimming with gaiety and color. People of different nationalities and languages had lived in New York City for many years, but English still dominated unchallenged. Puerto Ricans learned and spoke English, but unlike the other newcomers, they never abandoned their native Spanish. They in fact chose to retain their total cultural heritage and most especially their beloved music. Latino music is today extremely popular in New York City and elsewhere in the Nation as a result.

Loyalty and respect for their Puerto Rican heritage has helped make New York a much more international city than it was 50 years ago. The Puerto Rican presence has also created a productive relationship between New York and all of Latin America. As the principal commercial center of the United States, New York City has benefited substantially from increased trade with its southern neighbor nations. Similarly, as an important cultural center, New York City has experienced heightened travel by Latin Americans to the city.

One thing is certain. Puerto Ricans have established that people can continue to observe and maintain their heritage without conflicting with their role as loyal American citizens. Consider the thousands of patriotic Puerto Ricans who served faithfully and selflessly in the gulf war. And consider the many Puerto Ricans who have merged the interests of their heritage and the interests of the United States in the service of the general public: Angel Cordero, Chi Chi Rodriguez, and Roberto Clemente in sports; Jose Feliciano, Tito Puente, and Tony Orlando in music; Rita Moreno, Jose Ferrer, and Raul Julia in drama, a number of distinguished individuals in public service organizations and a host of appointed and elected officials at all levels of government.

For nearly a century, Puerto Ricans have actively participated in the historical evolution of the United States, maintaining a perfect balance in their loyalty to their roots and their loyalty to the Nation to which they inadvertently became attached. In maintaining this balance, Puerto Ricans have helped to transform this great Nation of ours—perhaps that is their most important contribution. They revived multiculturalism in a nation that was becoming fearful of diversity. They encouraged the development of a nation that would be proud of all of its people, with the language, culture and history those people brought with them in their search for a better life. Puerto Ricans opened doors not just for other Puerto Ricans, but for all minorities and for generations to come. It is thus with joy and great pride that I rise today to celebrate the contributions Puerto Ricans have made to the United States and the honor of being a member of this exceptional community of people.

NEW TRADE RULES FOR A NEW WORLD ORDER

HON. DONALD J. PEASE

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Saturday, November 23, 1991

Mr. PEASE. Mr. Speaker, I am today introducing legislation calling for the rules of international trade to be updated and amended to allow the United States and all other trading nations to uphold threshold environmental, labor, and public health and saftey standards, especially when other multilateral organizations have brought into force international agreements spelling out such standards.

The United Nations has established a deadline of June 1992 for the halting of driftnet fishing by all Nations in order to protect endangered dolphins. In the absence of effective multilateral cooperation and enforcement, the United States enacted, through the Marine Mammal Protection Act [MMPA], a ban on tuna imports from countries whose fishing fleets persist in using driftnets.

Mexican tuna fishermen still use driftnets and Mexico brought a formal complaint under the General Agreement on Tariffs and Trade [GATT] seeking to have United States law nullified on the grounds that it violates several GATT provisions. Regrettably, a three-nation GATT panel in mid-August reached a preliminary judgment that the MMPA is not in keeping with existing GATT provisions. If President Bush simply folds our tent in this challenge and asks the Congress to amend or repeal the MMPA, then a very short-sighted and harmful GATT precedent will have been set that militates against an open trading system that promotes international respect for environmental, labor, and public health and safety standards as well as commercial and investment standards.

There is another way to go. When drafting its report the three-nation GATT panel reached two very important preliminary findings. They found the current wording of article XX of the GATT to be so fuzzy pertaining to when member nations may adopt national laws to "protect human, animal, or plant life or health or to preserve exhaustible natural resources" to be useless. Instead, they relied upon drafting history from 1948, long before environmental challenges like global warming or ozone depletion became apparent. Also, they concluded that if GATT member nations want to be allowed, under certain circumstances, to adopt trade laws to protect human, plant, or animal life, scarce resources, or environmental standards, then "it would be preferable to do so not by interpreting article XX, but by amending or supplementing the provisions of the GATT or waiving obligations thereunder".

The legislation I am sponsoring today seeks to build upon the important openings presented last August by the GATT panel's preliminary findings in the complaint brought against the United States in the tuna-dolphin case.

First, it calls upon U.S. negotiators at the GATT to simply defer any consideration of the report submitted to the GATT Council that declares the U.S. Marine Mammal Protection Act not to be in keeping with article XX of the GATT until the Uruguay round of multilateral trade negotiations is concluded. After 6 years of contentious, protracted negotiations, the Uruguay round has certainly reached its climax. There are two outs in the bottom of the ninth inning, so to speak, and the conclusion of this trade round is very near. It is unrealistic for environmental groups and others in the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States and abroad to expect the complex and controversial issues that have been brought into focus by the tuna-dolphin dispute to be effectively resolved during what little time remains in this GATT round.

Second, my legislation, at the same time, emphatically calls upon President Bush to initiate and complete negotiations to amend article XX to make crystal clear that differences in environmental, life, or health protection standards and worker rights policies of producers will be taken into serious consideration in determining justifiable exceptions to the general obligations of GATT member nations, especially when other multilateral organizations such as the United Nations or the International Labor Organization have concluded binding international agreements to uphold certain threshold environmental, health and safety standards and fundamental worker rights. The GATT must be brought into concert with other requirements of international law.

Third, my legislation states that the U.S. Congress will not support implementing legislation for any free trade agreement that impairs U.S. authority to uphold, strengthen, and enforce existing laws and standards that protect fundamental worker rights as well as environmental, labor, consumer, agricultural, and public health and safety standards. Since any free trade agreement between the United States and any foreign country goes well beyond GATT obligations in furtherance of trade and investment liberalization, it makes sense to bind the signatory countries to respect for such rights and standards within the terms of the agreement itself and the corresponding implementing legislation. In so doing, our free trade agreements can point the way for the GATT to be updated to promote global respect for internationally recognized rights and standards in the conduct of trade and investment.

Mexico has done the United States, in particular, and the international community, as a whole, a service by complaining to the GATT about the MMPA. Many more policymakers and activists in America and around the world, who were previously asleep, have awakened now to the need to negotiate free trade agreements and to revise the GATT to make certain that trade and investment dynamics in the emerging new world order promote respect for the environment and for mobility of capital.

CORVALLIS DOES IT AGAIN

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KOPETSKI. Mr. Speaker, Corvallis has done it again. Recently, the Honorable R. Charles Vars, mayor of Corvallis, OR, declared November 24, 1991, as a "Community Day of Fasting and Celebration." I realize most of my colleagues have never been to Corvallis but Mr. Speaker I want my colleagues and this country to know Corvallis is a community with a conscience, a community that cares for its neighbors and a community I am proud to represent. At this point, I would like to enter into the RECORD the proclamation, "A Community Day of Fasting and Sharing."

PROCLAMATION: A COMMUNITY DAY OF FASTING AND SHARING, NOVEMBER 24, 1991

Whereas, In a substantially Christian population, this is the season to donate food to feed the community's hungry and the 1991 Community Holiday Food Drive began November 13 and runs through November 27; and

Whereas, Monetary donations are needed to provide turkeys, chickens and perishables to fill an estimated 1,000 holidays baskets (as compared to 1984, when about 400 baskets were given), with most of the baskets going to families who have employed members who cannot meet their monthly costs of living due to increased housing and medical costs; and

Whereas, An average of 82 families show up every day at the emergency food pantries which distribute food boxes which feed families for three days and the number of hungry families seeking help is up 15 percent over 1990, with an increase in requests from people working for low wages and no benefits and from those with temporary jobs; and

Whereas, There are 18 pantries as well as three soup kitchens and seven shelters that serve meals; and

Whereas, Any Community Holiday Food Drive funds remaining after baskets are delivered and expenses paid will be turned over to Linn-Benton Food Share.

Now, Therefore, I, R. Charles Vars, Jr., Mayor of Corvallis, Oregon, do hereby proclaim Sunday, November 24, 1991, to be A Community Day of Fasting and Sharing in the City and urge all citizens to join together in a day of going without eating and to contribute the money saved through fasting to the Community Holiday Food Drive (in care of Town & Country Realty, 455 Tyler Street) or to Stone Soup, the community soup kitchen (in care of Saint Mary's Catholic Church, 501 NW 25th Street).

FXI TRUCKING COMPANY HONORED FOR STRONG FAMILY TRADITION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KANJORSKI. Mr. Speaker, I am pleased to bring to the attention of my colleagues a remarkable family-owned company which makes its home in my district and provides 480 jobs to the community. Friedman's Express, Inc., in Wilkes-Barre, PA, may very well be the oldest continually family-owned trucking business in the United States.

Friedman's Express, Inc., or FXI, was founded by Simon Friedman in 1910. Emigrating from Russia a few years earlier, Simon began with nothing more than a wheelbarrow which he used to pick up goods at the train station and deliver to local merchants. Soon, he had enough money to purchase a horse and wagon and open a small warehouse. As demand for his services grew, Simon expanded his operation and eventually motorized the business. As his business grew, so did his family. Before long, Simon had the help of two sons, Harry and Norman.

At the same time, three brothers were operating a trucking firm in New York City known as Rapid Delivery Service. Simon met these brothers, Joseph, Leonard, and Harry Frank, while on a trip to New York. The four men agreed to merge Rapid Delivery with Friedman's Express. This joint venture expanded their freight business service throughout Pennsylvania, New York, and New Jersey.

Today, FXI is a multimillion dollar operation and has 21 service centers located throughout the Middle Atlantic States and southern New England. The company continues to prosper under the leadership of Simon Friedman's grandson, Daniel Friedman, president and CEO. Leonard Frank's son, Morton Frank, is secretary-treasurer and Morton's son, Alec Frank, serves as administrative vice president.

Mr. Speaker, it is no small feat that this third generation business has survived more than 80 years of economic change and upheaval. I am pleased to commend these two families of entrepreneurs for their success and am sure that the future members of the Friedman and Frank families will continue to reap the benefits of carrying on the family business.

CONGRATULATIONS FIFTH DISTRICT ATHLETES

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KOPETSKI. Mr. Speaker, each fall as school begins again, millions of Americans participate in fall athletic activities. This is true all across our country, from Salem, MA to Salem, OR in my district. These activities add to the academic atmosphere and the sense of community that we all take pride in.

Today, I rise to congratulate all Fifth District residents who participated in and supported fall athletic activities. These include the individual athletes, their families, the coaches, the school administrators and teachers, the cheerleaders, the bands, the booster clubs, the officials, and the community supporters.

Mr. Speaker, recently in Oregon the playoffs began for fall athletics. I would like to congratulate those teams from my district who qualified for the playoffs. In women's volleyball; Clackamas High School, South Albany High School, Corvallis High School, Lake Oswego High School, Estacada High School, Molalla High School, Silverton High School. In men's soccer; Lakeridge High School, Lake Oswego High School, Corvallis High School, and Gervais High School. In women's soccer; West Linn High School, Crescent Valley High School, Lake Oswego High School and Gladstone High School. In men's football; Oregon City High School, McNary High School, Milwaukie High School, North Salem High School, Lakeridge High School, Silverton High School, Salem Academy and St. Paul School. I would also like to congratulate my alma mater, Pendleton High School, for qualifying for the football playoffs.

Mr. Speaker, in recognizing athletic excellence I do not want to overlook the importance of academic achievement. I challenge each student athlete in my district to duplicate and exceed their athletic achievements in the classroom. True excellence begins in the classroom.

SENATE—*Monday, November 25, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore, Mr. BYRD.

The PRESIDENT pro tempore. The Senate will be led by the Reverend Dr. Richard C. Halverson today, as we give praises to the living Lord.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O the depth of the riches both of the wisdom and knowledge of God! how unsearchable are his judgments, and his ways past finding out! For who hath known the mind of the Lord? Or who hath been his counsellor? Or who hath first given to him, and it shall be recompensed unto him again? For of him, and through him, and to him, are all things: to whom be glory for ever. Amen.—Romans 11:33–36.

God of creation, as we anticipate Thanksgiving, help us appreciate what motivated our forebears to set aside this day to celebrate their gratitude to God for protection, provision, and prospects for those who had survived the ordeal of settling a new continent. Grant that this spirit of thanksgiving will pervade Capitol Hill this week. It certainly will not hinder Your servants from completing their business, and it may help.

Be glorified by our gratitude, O God our Father.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has already been approved and the time for the leaders reserved?

The PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Mr. President, under a previous order, printed on page 2 of today's calendar, the Senate will now proceed to consideration of H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991.

There will be only five amendments in order to this legislation, pursuant to the order, and they are printed in the calendar. We will be debating that legislation and one or more of those amendments for a period of 2 hours.

At noon on today, there will then be 1 hour of debate on the motion to proceed to H.R. 3595, the Medicaid moratorium amendments of 1991.

Mr. President, the Senate, then, at 1 p.m., will turn to 1 final hour of debate on the CFE Treaty itself and the remaining condition to that treaty.

At 2 p.m. the Senate will vote, first on the remaining condition to the treaty, then on the treaty itself, and then on the cloture motion on the motion to proceed to the Medicaid Moratorium Act.

We do not know which of the amendments to the CFE Treaty Implementation Act will be offered this morning. There may be votes on one or more of those amendments as well.

We are continuing our efforts to complete action on the business before us prior to Thanksgiving and, therefore, Senators can expect a long Senate session today and tomorrow, with votes possible at any time during the day, evening, or night.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, pending the attendance of our distinguished managers of the treaty, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDENT pro tempore. Would the Senator withhold that request momentarily.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of H.R. 3807, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. Will the Senator from South Carolina now repeat his request.

Mr. HOLLINGS. Mr. President, pending the attendance of the managers of the treaty here, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina is recognized for 5 minutes.

LET'S GET REAL

Mr. HOLLINGS. Mr. President, this country is in trouble and we need to go to work. We all know what the trouble is. We have been on a 10-year binge of spending, deregulating and getting rid of the Government. Now we have wrecked the economy.

Let me emphasize spending. When you borrow from yourself, you spend. We have been engaging in a polemic around here, one charging, "tax and spend," the other charging, "borrow and spend." But the truth is, we have been spending with abandon because we have been rewarded at the ballot box for not paying the bill. "Read my lips" has been the cry while we ravished the trust funds and quadrupled the national debt. With election time nearing, the balanced budget amendment babble begins again—even the line item veto which we have been championing to no avail. Now the leader of this off budget, rape-the-trust funds procedure has finally confessed. In the debate on providing unemployment compensation where supposedly we had some $50 billion in the unemployment trust and needed only $6½ billion for extended benefits, the distinguished Senator from Texas, Mr. GRAMM, stated:

> . . . we are going to have Members here who will hold up a chart that shows all this money that we are supposed to have in this unemployment trust fund. But let me note that we have already spent that money on something else and now we want to spend it again.

So the unemployment trust is gone and what did we do? We taxed the people who had already paid for the benefit a second time. By way of emphasis, at the end of the decade we will owe the Social Security trust fund one trillion dollars. And we will be taxing the same people a second time in order to pay benefits. There is no trust. There is no fund. We get by with bumper sticker quips, pointing fingers at each other. The people are not so much angry because we have not paid a restaurant bill or because we are overdrawn at the bank. They are angry because we have not paid their bill; because we have depleted all the trust funds and now blindly set about buying their vote once again by mailing everybody $300

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

we do not have. The country is broke. We do not have any money to do anything. In the meantime, this fiscal recklessness has the interest costs eating us alive. Just to keep the doors open, just to pay the interest cost—not the debt, not the deficit, just the carrying charges—the first thing we did this morning at 8 o'clock and the first thing we are going to do each morning, except Sunday, in the United States is go to the bank, borrow another billion—billion I said—and add it to the debt. And we have the audacity to tell the American people, "The recession is over." "We are headed in the right direction." We chant such nonsense as, "The deficit is only a small percentage of the GNP." "Don't worry, we owe it to ourselves." Thomas Jefferson warned 200 years ago: "I, however, place the economy among the first and most important of Republican virtues, and public debt as the greatest of the dangers to be feared."

Mr. President, it is too late to play the game of "budget reform," "summit agreements" while swigging the political elixir of "growth." There was a cry aboard ship in World War II: "When in danger, when in doubt, run in circles, scream and shout." The White House and the Congress are running in circles crying "tax cut, tax cut," and once again Washington is ready to take another swig of "Old Deficit Barleycorn." There is a drug problem, all right. Deficit spending.

Let us get real. First we must put our financial house in order; next, jump-start the economy; finally, position America for competition in the production and trade war.

It will not be easy, but at the same time it is not so radical. One I have been harping on for 10 years: Freeze this year's budget for next year. Any mayor caught in these hard times would call in his city council and say we do not want to cut services or fire the policemen—let us just take this year's budget for next year. If we do that at the Federal level, excluding Social Security and other COLA recipients, we immediately save $36 billion.

Next, let us cut the Washington bureaucracy 10 percent—the White House, the Congress, and the various departments. We did that when President Reagan took office and it did not hurt a thing. At that time, we exempted the Defense Department. This time we can cut 5 percent from Defense, saving another $15 billion. Now with $51 billion saved, this is $51 billion we do not have to borrow. So we save another $2 billion in interest costs, cut spending $53 billion and the people will know we are serious. The financial markets will know we are serious. Long-range interest rates will drop, and we can fix responsibility—I know the distinguished Chair is not for this one—but we can fix responsibility with a line-item veto.

Now that we have saved $53 billion, we can afford some initiatives not just for a jump-start but for a new battery to propel this economy. We begin by encouraging savings and investment. People are not worried about spending and consuming. They are worried about saving and investing. They are worried about a job. A $300-tax cut with a $300-tax increase to another segment of the population is no stimulant. And a $300-tax cut for middle America is not going to jump-start a $5.6 trillion economy. This is the same old game of buying the vote with deficits. The way to create jobs is to give business and industry incentives so they can invest, so they can hire, and give people jobs. Next, restore the individual retirement account which was repealed in the 1986 Tax Reform Act. Restore passive restraints for real estate, restore investment tax credits, accelerated depreciation and capital gains. Just as Europe fortifies itself for the trade war with incentives to production, we take incentives from American industry and remove ourselves from the playing field.

Finally, we must sober up from the delusion that we are in charge of the global economy. For 45 years now, the United States deemed that its responsibility was to democratize and free market the world. With the fall of the wall and the breakup of the Soviet Union, with Europe and the Pacific rim taking the democratic route, democracy is prevailing. But the capitalization of these economies has been far from free. Recovering economically on a fast track, both Europe and the Pacific rim have used their governments to a fare-thee-well. In the United Kingdom, a car must contain 50 percent domestic content; in France, it takes a year to inspect an imported car; in Korea, the domestic industry must first agree to license imports; and in Japan, there is no idea of abandoning the Kereitsu system of taking over world markets. In the meantime, we have saddled our domestic industry with the burden of developing a high standard of living. Our competition subsidizes their industry for market share. We tax our industry for a minimum wage, the environment, safety, Social Security, health care, and plant closing notice ad infinitum. Our competition sacrifices these concerns in order to gain economic power. In the face of this sacrifice our call for "fair trade" is considered one of weakness, or a sick call. We must support and protect our standard of living. And we must have confidence in our capitalistic system. Market forces do operate. Government policies are fundamental to the market. Our high standard of living cannot be maintained with policies and diplomacy. The big banks, the multinationals and the retailers all who have been crying "free trade" while making a killing at the expense of our economic strength must be put to rout. We are in a production and trade war. America's industry must be protected from prison labor from China, child labor from Thailand, monopolistic practices of Korea and Japan, slave wages and pollution from Mexico, and dumping below cost from every country. These assaults on our industrial backbone, these assaults on our economic security will continue and grow so long as we permit them to work. We must put a stop to them by making them cost. The United States is the most sought after market. We need to use this position of strength—reciprocity, said Cordell Hull—and make it to the economic interest of our trading partners. Then we can do business. Then can we start rebuilding our United States.

One last point, Mr. President. Let us once and for all stop this sing-song in Washington that the American worker has got to get more productive. At the State level, we sing this regularly—and should. At home we know that we are not going to attract industry unless we beef up our education, our technical skills, and provide an economic environment for industrial investment. This is the principal task of every Governor. The Governors and State legislatures are out there digging, working, opening up overseas offices, traveling, soliciting, and paying the bill. We do not need the Washington politician to tell us about productivity. In fact, Washington should know that the most competitive, the most productive industrial worker in the world is the United States industrial worker. Year before last, the Baldridge Award for quality work, for the most productive industry in the United States went to a South Carolina textile industry—Milliken.

The same year that the President vetoed this, the industry was saying it was not competitive, and was not productive.

Mr. President, what is not producing, what is not competing, what is totally confused is our Central Government. One of the signers of our Declaration of Independence was Stephen Hopkins of Rhode Island. Hopkins was a diligent worker and contributed to this great document. But when the time came for signing—he was bedridden with Parkinson's disease—the doctors in Providence counseled him not to leave his bed because it would cost him his life. But in the dark of night with the assistance of two of his sons, he left his bedside, boarded a ship in Providence, and arrived in Philadelphia on July 2, 1776. Seated at the table and ready to sign, he stated "My hand is not steady, but my heart is strong."

Mr. President, today America's hand is not steady, but our heart is strong.

I yield the floor.

I thank the distinguished Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been stated. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, what is the business before the Senate?

The PRESIDENT pro tempore. The business before the Senate is H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991.

Mr. BIDEN. Thank you very much.

Mr. President, first, I will make a few comments on the underlying bill—the so-called cascading legislation. And then I would like to turn promptly to the key issue of the Nunn-Lugar amendment, pertaining to legislative authorization which I regard as critically important.

Mr. President, we are acting on the underlying bill at the behest of Secretary of Defense Cheney and the Bush administration.

This implementing legislation for the CFE Treaty is designed to minimize the impact of the treaty on United States equipment in Europe. If we pass this legislation, the United States will not be required to destroy any tanks or other equipment as a result of the treaty.

I repeat, if we pass the bill, the CFE Treaty will not require the United States to destroy any equipment, of course, we will reduce our forces, but by choice, not by legal requirement.

Without this legislation, the United States would be required to dismantle according to treaty procedures about 2,000 battle tanks, 400 armored vehicles, and 100 artillery pieces.

Instead, with the authority contained in the legislation, the United States can transfer to allies on the flanks—Turkey, Greece, Spain, and Portugal—all the equipment we would have to destroy and more.

Improving the military capability of the flank countries has been a longstanding goal of the United States. In testimony before the committee, General Galvin, NATO's Supreme Allied Commander urged us to pass this legislation in order that the flank countries modernize their equipment in the way that General Galvin has been seeking for some time.

Mr. President, some of my colleagues may wonder whether our NATO allies will pay for this equipment. The answer is no, but I hope my colleagues will appreciate that if these countries don't agree to take this equipment we will have to destroy the equipment. Since Greece, Portugal, Spain, and others know that it is cheaper for us to give them this equipment, I dare say they are smart enough to avoid paying for it, and it would cost $40 million for us to destroy this equipment according to treaty procedures.

In other words, Mr. President, without this legislation, the United States will be flushing $40 million down the drain, while forgoing a chance to modernize NATO's military forces in a way that General Galvin has been urging.

I trust my colleagues will join me in urging the passage of this legislation, lest we forego an important military modernization and waste $40 million.

THE MOST COST-EFFECTIVE NATIONAL SECURITY EXPENDITURE IN AMERICAN HISTORY

Mr. President, the so-called cascading legislation will provide the authorities necessary to facilitate timely U.S. implementation of the CFE Treaty. It is itself noncontroversial.

The key issue for the Senate today is whether we will add a further authorization—the Nunn-Lugar amendment—under which the President could reallocate one-sixth of 1 percent of the Defense budget to provide technical assistance in the former Soviet Union.

But let us be clear: Assistance is a misnomer.

This authority would target U.S. defense resources at the prompt, safe dismantlement of nuclear and chemical weapons in the Soviet arsenal. And if that can be done successfully, it would constitute nothing less than the most cost-effective national security expenditure in American history.

I commend the chairman of the Armed Services Committee, and this is not a passing courtesy. He has preserved to ensure that the United States meets the opportunity and challenge now before us.

I have been—and will continue—working with him in that regard, for the purpose is compelling.

We suddenly find ourselves in the historical transformation to a world without communism, a goal for which the American people labored and sacrificed for a half century. The policy of containment worked, but the transition—from communism to what follows it—will be uncertain and profoundly perilous.

We need a new American policy—based on new precepts to see us through that transition. We need a policy geared to promote a safe and orderly destruction of the very military juggernaut we successfully contained.

A long-standing defense policy of threat containment must be replaced by an active policy of threat reduction.

The Nunn-Lugar amendment is the first step in the creation of that new policy.

There should be no doubt about the urgent need for this amendment. The collapse of the Soviet Empire has unleashed long-suppressed forces of ethnic rivalry and nationalism across the length and breadth of that vast domain.

Amidst these unpredictable forces, the disintegrating Soviet Empire is bequeathing a dangerously perverse legacy: A vast nuclear arsenal—some 27,000 nuclear weapons—centered in Russia but dispersed among three other major constituent Republics—Ukraine, Byelorussia, and Kazakhstan—which may or may not choose to remain affiliated with the Russian Republic.

A major focus of uncertainty is the Ukrainian Republic. On December 1, 6 days from now, the Ukrainian people will vote in a referendum that will surely register overwhelming support for independence.

Regardless of that vote and others, we can predict with no confidence whatsoever the political, economic, and military relationships that will develop among the former constituent Republics once they have expressed and confirmed their own separate sovereignties.

In Ukraine as elsewhere, the outcome will emerge from a mix of conflicting forces: Centrifugal forces of nationalism, fed by pride and bitterness over past wrongs, and centripetal forces pulling the Republics back together in a confederation that could yield practical benefits of trade and cooperation among regional neighbors.

The outcome is unknowable. What we do know is that amid this jumble of forces are thousands of nuclear weapons, and also highly lethal chemical weapons, which are far from isolated or immune from the political strife now underway.

Just 5 days ago, the Soviet Defense Ministry in Moscow felt it necessary to issue a formal warning that the Union Army will defend its equipment and installations—by force, if necessary, against attacks by independence-minded groups and Republic governments.

Making clear that such episodes have already occurred, the Soviet Defense Ministry declared that these attempts "cannot be tolerated any longer."

"In certain areas," according to the defense ministry "military equipment and property of army units have been stolen. Only the restraint of army officers has made it possible to avoid bloodshed and numerous victims."

Mr. President, we in this body may not instinctively sympathize with those in Moscow who are struggling to hold the former Soviet Union or its army together, far from it.

But we must also face squarely the likely consequences of a wholesale disintegration of the Soviet Armed Forces. The clear likelihood is civil war.

We cannot know if that will occur. I pray it will not, but until all elements of the Soviet arsenal are dismantled or brought under rigid and reliable controls, the menace created by Soviet communism will not have been laid to rest and the world will remain at risk.

The severity of this risk is compounded by the large cadre of scientific experts—literally thousands of scientists—who have built and serviced the Soviet nuclear arsenal.

With Soviet state employees being fired in droves, these scientific skills, unless they are quickly engaged in constructive activity, could become available to the highest bidder at home or abroad.

The resultant danger presents a specter we have feared since the first atomic blast at Alamogordo, a specter we simply cannot ignore: a nuclear weapons capability in the hands of a group or a government—within the former Soviet Union or outside it—that is willing to use that capability.

I can easily empathize with the Senator from Georgia when he complains of the misrepresentations he experienced concerning his initiative on the DOD authorization. I empathize because of my own experience in promoting so-called seed legislation over the last 18 months, in an effort to help convert the Soviet Empire to free-market democracy.

Winston Churchill counseled magnanimity in victory. What I have been advocating in the seed legislation and what Senators NUNN, LUGAR, and others of us are advocating today is nothing so grand as magnanimity.

What we are seeking is the continued, purposeful pursuit of American national security interests.

Indeed, if I had a criticism of the Nunn-Lugar language, it would be to say that I find it illogical to create a list of what are called exclusions—reasons that could disqualify the Soviet side from receiving this misleadingly labeled assistance.

My view is that if we have an opportunity to dismantle the Soviet nuclear arsenal, we should seize it, regardless of any issues that might arise about human rights violations, or arms control treaty violations, and anything similar.

We are not assisting the Soviet Union. We are assisting ourselves. History would mark it as one of mankind's most tragic follies if, at this juncture—this ironic coincidence of victory and danger—we failed to act decisively to help eliminate the Soviet nuclear arsenal that has for so long threatened our very survival.

Officials in what remains of the Soviet Central Government—and officials in the Republics—are now literally begging for American help in beginning the dismantlement process.

They too sense the danger. And they know they lack the skill and resources to deal with the problem.

It is a remarkable feature of the cold war, in which both superpowers expended hundreds of billions to develop and deploy nuclear arms of incredible complexity and sophistication, that neither superpower acquired a substantial body of expertise in how to dismantle and safely dispose of nuclear weapons, once created.

But this gap in knowledge is even greater on the Soviet side. And the gap is compounded by the enormous expenditures that would be involved in such wholesale conduct of a highly complicated technological process.

Indeed, a high-ranking aide to President Gorbachev recently told United States authorities that, given their existing capabilities, the Soviet military would require 40 years to dismantle the Soviet nuclear arsenal.

Some might reasonably ask, will the Soviets disarm unilaterally? The answer is that beyond a certain point they will not.

At some stage in the arms reduction process, new bilateral agreements between Washington and Moscow, or multilateral agreements involving other powers such as Britain, France, and China—would almost surely be necessary.

But such agreements are not the first order of business. The first priority is to get the arms reduction process started, focusing on weapons the elimination of which has already been negotiated or unilaterally pledged.

President Gorbachev has already declared a unilateral action under which the Soviet military will destroy all its nuclear artillery shells, nuclear mines, and nuclear warheads for tactical surface-to-surface missiles, as well as a large percentage of its nuclear anti-aircraft missile warheads, tactical nuclear weapons on ships, and gravity bombs carried by land-based naval aircraft.

Additionally, President Gorbachev declared that the Soviet reductions under the newly signed START treaty, covering strategic-range weapons, would be carried, by unilateral action, to a level 1,000 weapons below the START-mandated ceilings.

Thus, through decisions and agreements already reached, Moscow has on its immediate agenda the destruction of fully one-half of its current nuclear arsenal.

Moreover, President Gorbachev has called for early negotiation of a START 2 treaty that would cut the current START levels sharply, so that the reductions begun under START 1 would continue without interruption to just a few thousand at most, the precise level to be determined by negotiation.

We have an important longer range task to negotiate those lower levels, but our urgent task is to help the Soviet Union get the reduction started and to accelerate the process of actual weapons elimination.

Mr. President, the question before the Senate—the question put to the Senate by the Nunn-Lugar amendment—is whether, having won the cold war, we will now join with our former adversary to eliminate the armageddon arsenals to which the cold war gave genesis. Or do we do nothing, hoping the Soviet arsenal will somehow safely disappear without our involvement?

To defeat the Nunn-Lugar amendment would, in my very strong belief, be a reckless gamble with history.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Under the order entered on Saturday, November 23, only the following first-degree amendments are in order:

A Nunn-Lugar-Boren authorizing amendment, subject to appropriations, regarding $500 million for dismantling nuclear weapons in the Soviet Union, and subject to verification;

A Boren-Cohen, et al., amendment regarding emergency military airlift to Soviet Union for humanitarian purposes;

A Cranston-Pell amendment regarding nuclear weapons security;

A Dole-Levin-Lugar, et al. sense-of-the-Senate amendment regarding enhancing United States security through the promotion of democracy in the Soviet Union;

A Danforth amendment regarding TWA [PBGC].

No motion to recommit is in order, and the only relevant second-degree amendments in order will be those that are in order to the Nunn-Lugar-Boren amendment and the Boren-Cohen, et al. amendment.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. NUNN] is recognized.

Mr. NUNN. I thank the Chair for the explanation.

Mr. President, I rise today to propose an amendment. I understand from the Chair this amendment is in order on behalf of myself and Senator LUGAR.

The PRESIDENT pro tempore. The amendment is in order.

AMENDMENT NO. 1439

(Purpose: To provide for the use of Department of Defense resources for destroying Soviet nuclear and other weapons)

Mr. NUNN. Mr. President, I send to the desk an amendment on behalf of myself; Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr. LIEBERMAN, Mr. MACK, Mr. DOLE, Mr. KERRY, Mr. GORTON, and Mr. MCCONNELL.

The PRESIDENT pro tempore. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself, Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr.

LIEBERMAN, Mr. MACK, Mr. DOLE, Mr. KERRY, Mr. GORTON, and Mr. MCCONNELL, proposes an amendment numbered 1439.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7, below line 6, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(A) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among emerging political structures of the territory of the former Soviet Union that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know how outside of the territory of the former Soviet Union that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings stated in the preceding section, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C using funds appropriated for the Department of Defense for fiscal year 1992.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics (including those which may gain independence after the enactment of this Act) to (1) destroy nuclear weapons, (2) transport, store, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon Untied States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—(1) The President may, to the extent provided in appropriations Acts, transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, such amounts as may be provided in appropriations Acts, not to exceed $500,000,000, for reducing the Soviet nuclear threat under part B.

(2) Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—Notwithstanding any other provision of law, the Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other departments and agencies of the United States under this subsection for costs of participation, as directed by the President, only in a program established under part B.

(d) CHARGES AGAINST FUNDS.—The value of assistance from existing stocks and inventories of the Department of Defense or any other Federal department or agency may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

PART D—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to Congress a report on the proposed obligation. Each report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to Congress a report on the activities to reduce the Soviet nuclear threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of departments and agencies other than the Department of Defense in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

Mr. NUNN. Mr. President, Senator LUGAR and I are on the floor today to offer an amendment that will provide for the use of Department of Defense resources to assist the Soviet Union and its republics to destroy nuclear weapons, chemical and other weapons. No one would have imagined 2 years ago, 3 years ago, 5 years ago, 10 years ago that Soviet authorities would ask the United States to give our assistance in helping them transport, store safely, and then destroy on the order of 15,000 nuclear weapons over the next several years.

That includes, as the Senator from Delaware has already said so articulately, all Soviet nuclear artillery shells, all Soviet nuclear mines, all nuclear warheads for Soviet tactical ballistic short-range missiles, hundreds of Soviet nuclear warheads for surface-to-air missiles, hundreds of Soviet tactical nuclear weapons based at sea, hundreds of nuclear gravity bombs carried by Soviet land-based naval aircraft, several thousand Soviet strategic nuclear weapons whose destruction is required by START, 1,000 Soviet strategic nuclear weapons that President Gorbachev has pledged to destroy beyond those whose destruction is required by START.

Mr. President, I am convinced that we are at a critical moment in history. The Senate from Delaware has done a spendid job of guiding through the Senate the CFE Treaty, which I anticipate will pass with a resounding vote sometime today. This is major legislation. I consider this amendment that we have just sent to the desk a very important amendment, perhaps, as the Senator from Delaware has said, one of the most important amendments in terms of our national security, indeed the security of the world, that has been before this body in many years.

The reason I say that is that we are given an opportunity now to help not only destroy specific weapons but to help engage Soviet technicians and scientists who are going to be working on this project themselves in something constructive. We are on the verge of either having the greatest destruction of nuclear weapons in the history of the world or the greatest proliferation of nuclear weapons, nuclear materials, and scientific know-how on how to make these weapons, as well as chemical weapons, ballistic missiles, even biological weapons the world has ever seen.

Our duty, as I see it, and our opportunity is to do everything we can to make sure that we take advantage of this opportunity and do everything we can to discourage the proliferation danger that we may be engaged in at the moment and that will grow in the months and years ahead unless we do something constructive now.

This legislation embodies a new approach to enhancing our national security, an approach which fits a dramatically new national security environment. This amendment proposes to use a small part of our $291 billion defense budget—in fact, considerably less than one-half of 1 percent of the overall budget—for a cooperative program with the Soviet Union and its republics to reduce the Soviet military threat at its source, within the Soviet Union itself.

Mr. President, Senator LUGAR and I believe that the basic premise of the amendment is that the former Soviet Union, still a nuclear superpower, is coming apart at the seams. The danger of proliferation of existing weapons, weapons materials and weapons know-how is growing as both the Soviet economy and traditional Soviet control mechanisms lose effectiveness. Soviet leaders are anxious to destroy nuclear and chemical weapons and have asked our help. We should act now, and this amendment will allow us to do so.

The amendment I am proposing is the product of extensive consultations with colleagues on both sides of the aisle. It provides discretionary authority and funding for a program to assist the Soviets to transport, store, safeguard and destroy nuclear, chemical and other weapons. It would also authorize assistance in establishing verifiable safeguards against weapons proliferation. This assistance could involve planning and resolving technical programs associated with weapons destruction and proliferation. It could also involve funding for critical short-term requirements related to weapons destruction. In that regard, the amendment specifies that such assistance should to the extent feasible utilize U.S. firms and U.S. technicians.

Funds for this program would come from transfers from existing Department of Defense accounts.

The actual expenditure, which would be capped at $500 million, would be totally discretionary. Similarly, all program activities would be totally discretionary.

And I know we have occupying the Chair today the chairman of the Appropriations Committee. I make it abundantly clear to the chairman of the Appr족riations Committee in the Chair at the moment that this is subject to appropriations and would have to be appropriated by the Appropriations Committee also, and we certainly hope that that would be done in the closing hours of the Congress.

In short, Mr. President, this provision gives the administration the authority and the funding to protect our most basic security interests by helping the Soviets to destroy some 15,000 tactical nuclear weapons and tons of chemical weapons. Cooperation with Soviet authorities on destroying nuclear and chemical weapons should not be postponed. The benefits of responding are too great, the dangers of inaction too severe.

The program foreseen by this amendment cannot completely eliminate the dangers posed by Soviet weapons and weapons know-how. It can, however, provide focus and priority to the destruction of a large part of these weapons. It can also, most importantly, engage Soviet weapons experts and underscore the importance of preventing the export of weapons and weapons expertise to the Saddam Husseins and the Mu'ammar Gadhafis of the Third World.

The dangers of inaction, Mr. President, are both real and immediate. I recently entered into the RECORD the conclusions of a just-published study by the Harvard University Center for Science and International Affairs on "Control of the Nuclear Arsenal in a Disintegrating Soviet Union." Let me just highlight the key conclusion of the study, which is that the profound changes underway in the Soviet Union pose three types of dangers:

First, the ultimate disposition of nuclear weapons among emerging political structures on the territory of the former Soviet Union may not be conducive to weapons safety or to international stability;

Second, there is a danger of seizure, theft, sale or use of nuclear weapons or components; and

Third, there is a danger that any weakening of control over weapons or components could result in transfers outside of the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

If these dangers seem abstract, just imagine the depth of international concern if Yugoslavia, also plagued with domestic turmoil, had thousands of nuclear weapons and tons of chemical weapons located throughout its territory. Mr. President, we should consider carefully the recent declaration of a Russian nationalist leader who received 6 million votes in last June's Presidential elections in Russia and from all reports probably would do even better today. He recently told a Western news correspondent that he would be President of Russia in 6 months, after the failure of Yeltsin's economic reform plan. As this Russian nationalist leader put it:

> I will—then—introduce an economic blockade to force the Baltic region to return to Russia. I would use military means to solve the problem of Kazakhstan. Against the Ukraine I would use some military means and some economic measures.

While the dangers are real, so is the opportunity for the greatest reduction of weapons of mass destruction in history. Nonetheless, United States assistance to the former Soviet Union in this amendment is not a blank check. With this in mind, the amendment specifies that no assistance be provided unless the President first certifies to Congress that the potential recipient is committed to do the following:

Making a substantial investment of its own resources to dismantle or destroy nuclear, chemical, and other weapons;

Foregoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

Foregoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

Facilitating U.S. verification of weapons destruction carried out under this provision.

I think this is an important addition that has been suggested by the Senator from North Carolina [Mr. HELMS] which is now a part of our amendment.

Complying with all relevant arms control agreements, including START, CFE, and the Non-Proliferation Treaty; and

Observing internationally recognized human rights, including the protection of minorities.

Mr. President, some criticized an earlier version of this legislation as ill-considered because, allegedly, according to the critics, it would help a potential adversary and, allegedly, according to the critics, they said it was ill-timed because it would use U.S. taxpayer money that should be applied to more pressing problems here at home. Mr. President, let me make it clear this is money from the Defense Department, not from domestic sources. I believe both criticisms are without merit.

This amendment would help a still dangerous former adversary to become significantly less dangerous and less adversarial to us and to our allies. It is far from a blank check. To me it is not foreign aid, it is self-defense.

The criticism that the funds for assisting Soviet weapons destruction would be better spent at home in my view seriously underestimates the wisdom of the American people. The American people will understand that by making a limited, carefully conditioned investment today, we will clear the way for much larger reductions in defense spending tomorrow. After all, our multibillion-dollar defense budget exists primarily to deter the very threat that this amendment will enable us to reduce, not only in the Soviet Union but most important, Mr. President, to avoid proliferation of these systems throughout the world.

I cannot think of a better way to help the American people than reducing the potential military threat that we will have to face in the years ahead—not just in the former Soviet Union but potentially around the world.

As the auto mechanic on television used to tell us, holding a new oil filter in one hand and a huge bill for engine overhaul in the other, we can pay now for modest preventative measures, or we can pay later for major, expensive defense and deterrence programs.

Mr. President, the American people, I believe, will understand that if we let this historic opportunity pass, we may soon confront new threats from an unprecedented proliferation of weapons and weapons know-how. This is an opportunity squarely in our vital interests. This is an opportunity we must not miss.

Mr. President, I ask unanimous consent that Senator JOHN KERRY of Massachusetts be added as an original cosponsor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I thank the Chair, and I thank my friend from Indiana for his leadership on this amendment. His vigorous support of this concept has brought a great deal of support to the concept from both sides of the aisle. And I am delighted he is a cosponsor.

Mr. LUGAR addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. LUGAR] is recognized.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Georgia, the chairman of the Armed Services Committee. It has been a real pleasure to work with him and to work with our colleagues to fashion a very strong bipartisan amendment that he has proposed in our behalf this morning.

Mr. President, great dangers are posed to nuclear safety and stability in the Soviet Union by the profound changes in that disintegrating entity, as Senator NUNN has so accurately described.

Our amendment represents one effort to come to grips, on an emergency basis, with a problem whose severity and lethal consequences can only grow.

These dangers are threefold and very clear:

First, the process of devolution of political authority that is taking place in the Soviet Union creates the danger that the ultimate disposition of nuclear weapons in the new political system will not be conducive to their safety or to international stability.

Second, there is a danger of seizure, theft, sale, or use of nuclear weapons or components during the period of transition, particularly if a widespread disintegration of the custodial system should occur.

Third, there is a danger that any weakening of control over weapons and components could spill outside the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

All three of these dangers warrant immediate consideration of the sources of United States influence to achieve preferred outcomes as the Soviet Empire dissolves and its nuclear weapons complex devolves to the successor states.

Nonstrategic nuclear weapons within the former Soviet Union are a source of major concern because of their great number and variety and because they are more widely dispersed among the republics than strategic weapons. Moreover, the system of procedural and technical safeguards that has prevented unauthorized seizure or use of these weapons for over 40 years offers no guarantees in the face of widespread social disorder of the kind on the horizon in the Soviet Union. Thus, removal of these weapons to central storage and ultimately destroying them is of critical importance.

Leaders of the Soviet Union and of individual republics have stated a willingness to destroy thousands of strategic and tactical nuclear weapons that fall outside existing or prospective arms control regimes. President Gorbachev has announced that the Soviet Union would destroy its nuclear artillery shells and mines, its nuclear warheads for tactical surface-to-surface missiles, as well as part of its stockpiles of nuclear antiaircraft missile warheads, tactical nuclear weapons on board ships, and nuclear bombs carried by land-based naval aircraft.

At the republic level, Ukrainian officials have called for the destruction in place of strategic nuclear weapons that otherwise could be retained, and the Russian President has urged the central authorities to eliminate strategic weapons permitted under START as opposed to transporting them to Russian soil.

In recent conversations here in Washington, Soviet officials have pointed to nearly 15,000 nuclear weapons that they would like to destroy with our help. In response to Gorbachev's proposal for joint activities involving "technologies and procedures for the dismantling of nuclear explosive devices," President Bush suggested that the two countries explore cooperative ventures designed to implement the storage, transportation, dismantling, and destruction of nuclear weapons and to enhance existing arrangements for the physical security and safety of nuclear weapons.

The chairman of the Armed Services Committees in both Houses made an effort to address the issue. The reactions in both Houses were such that provisions dealing with the problem were stripped from the conference report. But that political response to a growing strategic danger does not absolve the Congress from its responsibilities. The problem will not wait until January of next year.

Soviet and republic leaders have come to recognize that these nuclear weapons are a greater threat to them than to any potential external adversary.

But nuclear weapons do not simply fade away; they must be disabled, they must be dismantled, they must be destroyed. But as the chairman of the Senate Armed Services Committee pointed out on the floor last week and today, the dismantling and destruction of nuclear weapons require two things currently unavailable to Soviet and republican leaders—technology and resources. In addition to technical know-how, the Soviets desperately need centralized nuclear storage facilities, transportation networks, dismantling plants.

We can either seize the opportunity for cooperative efforts in this field now or witness a quantum leap in the proliferation of weapons of mass destruction in the next few years. The time to establish an antiproliferation regime is now and an appropriate place to start again is with the former Soviet Union and its republics, seemingly willing partners in destroying weapons before they can proliferate.

The United States is not in a position to call the shots either as to the dissolution of the Soviet Union and eventual forms of successor states, or as to the devolution or dispersal of Soviet nuclear forces among them. But the United States does have some important leverage if its preferences and influences are identified early and acted upon quickly and coherently.

Mr. President, Senator NUNN and I hosted a breakfast last Thursday morning involving 16 Members of the Senate on this issue. There was a remarkable consensus that we needed to rise above the so-called 30-second sound bite mentality and work to initiate emergency legislation to deal with the nuclear dangers associated with the disintegration of the Soviet Union.

The amendment before the Senate this morning represents the product of the labors of some 20 Senators. It was encouraging to witness such a group pool its efforts to produce this legislation.

Mr. President, this amendment is narrow in its focus. It contains appropriate conditions that must be met and Senator NUNN has outlined those in his address this morning, before our assistance in this matter will be forthcoming. It addresses a specific and pressing matter—the need to assist in the dismantling and destruction of Soviet nuclear weaponry before political and economic circumstances undermine further the Soviet nuclear command and control system. It covers not only the nuclear weapons themselves but associated issues involving storage of materials and transportation of nuclear weapons.

And last, Mr. President, I want to emphasize two points:

This is not foreign aid; our amendment is part of a national security package.

This amendment provides discretionary authority to the President to utilize appropriate funds to implement this program.

Mr. President, I understand that a delegation headed by the Soviet Deputy Minister of Atomic Power and Industry will be in Washington this week for consultations. This ministry has responsibility for both production and dismantlement of nuclear weapons. Passage of this amendment would constitute a major agenda item for that delegation in its talks, and discussions concerning implementation of the amendment could commence immediately.

Mr. President, the danger of a form of nuclear meltdown exists inside the former Soviet Union, as the Soviet nuclear command and control system is subjected to the stresses and strains of political, economic, and social disintegration. Combined with an equally ominous Soviet "nuclear fire sale," designed to replenish Soviet coffers with hard cash from the highest bidders on the open market, without adequate safeguards, these tendencies and trends only heighten concerns regarding the consequences of instability inside the U.S.S.R.

The obvious advantage of substantial Soviet denuclearization is that it would eliminate a major portion of the nuclear threat to United States security and survival, as well as that of its allies. The nuclear problem in the Soviet Union is one without precedent and therefore without settled guidance. It calls for the initiation of specific auction now.

Soviet officials have recognized the problem and they have asked for help. The question is: Will we recognize the problem and respond accordingly.

Mr. President, I ask my colleagues to support the amendment and to answer the question in the affirmative.

The PRESIDENT pro tempore. The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. I thank the Chair.

First, Mr. President, I want to extend my gratitude to the chairman of the Armed Services Committee, Senator NUNN, for the persistence he has shown. The wisdom of this amendment is, I believe, manifestly clear. But it took a tremendous amount of persistence on the part of our chairman to put together a bipartisan coalition in support of this amendment. I felt so badly about the fact that it was dropped from the defense authorization bill that I decided I would vote against that bill principally for that reason, that a similar amendment to this one was dropped because it did not have adequate support at that time.

Our chairman has been extraordinary in his persistence. He always is. It is reflected in this amendment as well as any effort that he has made. I also want to thank, of course, our friend from Indiana, Senator LUGAR, for his work on this amendment. It makes this a bipartisan amendment and that is critical to its adoption and critical to its support by the American people.

Mr. President, this is obviously a step which is taken in America's security interest. It is a step to respond to Soviet appeals for technical assistance in securing their nuclear warheads and to assist them in storing and dismantling those warheads.

These are revolutionary times around the world, and we just cannot allow ourselves to hold onto old, outmoded notions about what makes us more secure. It is time for a little new thinking in this body as to how to prevent security threats to our country before they develop.

This amendment attempts to prevent the wholesale proliferation of nuclear weapons and weapons technology to more parties within the former Soviet Union and to countries outside of that region who would pay dearly to get their hands on these weapons. What could be more clearly in America's security interest? This is not a handout to the Soviet Union. It is America using a strong hand to prevent nuclear proliferation which could threaten us, our people here in America.

After the billions of taxpayers' dollars that we have spent and are still spending to buy nuclear weapons to counter Soviet nuclear weapons, this investment, at the discretion of the Appropriations Committee and the discretion of the President, directly helps to control and dismantle Soviet weapons. That is a modestly targeted, cautious investment in America's security.

Our people understand that renewal at home will not happen if we have to face a newly aggressive military adversary with nuclear weapons in one or more of the former Soviet republics or if we have to face an Iran or an Iraq that has bought nuclear weapons from the Soviets. Our people understand; they know this is not a foreign aid package. This is an American security package targeted toward the security of our own people. I hope the Senate will give this a very strong bipartisan vote. It deserves it.

Mr. President, I have spoken out for their approach repeatedly over the past few months. It is time now to pass this measure and to make this very modest crucial investment for Soviet nuclear disarmament and against nuclear proliferation.

Again, I want to thank our chairman and Senator LUGAR, both, for the energy that they have displayed, for their creativity that they have shown in putting together an amendment which I now believe is going to command broad bipartisan support in the Senate.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, I wish to join with my three previous colleagues in supporting and lauding this amendment. Since 1945, this Nation has spent some $4 trillion on its national security, primarily in providing for a strong national defense. In the view of this Senator, Mr. President, that money has been wisely and well spent. The dividends which it has paid are evident not only in the growth and security of this Nation during that more than 45-year period, but in the fact that it succeeded in its most significant goal, which was the prevention of a nuclear conflict, of a nuclear holocaust.

In addition, that tremendous expenditure on the part of the United States has so broken the back of the Soviet Union and of its form of societal and economic organization that union can now no longer properly be called a union and is in a free fall, a disintegration not only in economics but in social cohesion and in the control over its defense forces.

So what was a concern a relatively few years ago for possible massive Soviet attack, either on Western Europe or perhaps even a nuclear war, now has resolved itself into overwhelming concerns over who controls the tens of thousands of nuclear weapons in the Soviet Union; can they be seized by splinter groups or by terrorists; can they be sold in order to meet some of the desperate crises in the Soviet Union?

To the credit of the leaders of both the Soviet Union and its principal republics, that group is as concerned with these potentialities as we are and is crying out for help in gaining control over its own nuclear weapons and, most particularly, over its destruction.

For 1992, the United States will be spending something over $250 million on its national security through the Department of Defense. This amendment represents less than one-fifth of 1 percent of that amount in return for which we will come far closer to the destruction of literally thousands of those nuclear weapons in the Soviet Union than we can in any other fashion.

Mr. President, this amendment is not one which ignores our domestic needs. It is not foreign aid. It is a true grand bargain and is perhaps as effective a way to spend a share of our budget for national defense as any which could possibly be adopted.

I wish to join my other colleagues in congratulating the distinguished chairman of the Armed Services Committee, and my friend, the senior Senator from Indiana, for their persistence in pursuing this goal and their persistence in putting together a broad cross-section of Republicans and Democrats in this body for an imaginative and constructive idea which will contribute significantly to the national security of this Nation as well as to the potential of a future, more peaceful Soviet Union or set of successor States.

Mr. NUNN. Mr. President, will the Senator yield just for a brief comment?

Mr. GORTON. I will be delighted to.

Mr. NUNN. Mr. President, I want to thank the Senator from Washington for his very valuable support on this amendment. He told me last week he is in favor of this. He helped our colleagues in working this on both sides of the aisle. I thank him for his support.

I also want to thank the Senator from Michigan for his support. He has been invaluable and absolutely superb from the very beginning. He has been very much a part of it. I thank both my friends.

Mr. GORTON. I appreciate the comments of my distinguished colleague, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I am quite sure that in the months to come, it is kind of like the winds and the tides. The focus in our country will be, to be sure, on domestic issues, domestic needs, domestic problems, economic recovery and jobs, education, and health care: A new American order, if you will. But I want to argue today on the floor of the Senate that what happens in what used to be called the Soviet Union, whether or not the forces for democracy triumph in that part of the world or not, is going to crucially affect the lives, the quality of the lives or lack of the quality of the lives of our children and grandchildren as anything that is happening in the world.

So I rise for just a minute or two to commend Senator NUNN and Senator LUGAR for their leadership on this amendment. I cannot think of anything that we could do that would be more important than enabling the Soviet Union to dismantle their nuclear weaponry. I think it is a national security issue. I think it is so important that we not sit on the sidelines and I hope that, above and beyond this amendment, there will be other amendments agreed to today and that we will be moving forward in the months to come to establish a positive working relationship with the country.

It is all very much up in the air right now, Mr. President. Cold winter sets in in what was my father's country, what used to be called the Soviet Union. This could be such a better world if the forces for democracy are able to triumph. There are so many good people there to support, and this amendment is an important step in the right direction, and I am very proud to support it.

I think there are some other amendments that are going to be very important as well and, as I said before, I look forward to the time when we help this country dismantle its nuclear weaponry. That is first and foremost, when we establish a relationship of economic assistance where we think about human talent and the kind of cross-fertilization that we can have of Americans going to that country, to the different republics and vice versa.

Right now we have a prohibition on the Peace Corps being active in what used to be called the Soviet Union. I hope, next session, to offer an amendment or introduce a bill to make sure we can send the Peace Corps to that part of the world. It is fine to focus on our own country, but I say to my colleagues, Senator NUNN and Senator LUGAR, that they have done a great service for both our parties, for the Congress and for the people in the country.

I thank the Senators for this amendment. I am so pleased it is now before the floor of the Senate and very proud to support it.

Mr. SARBANES addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Maryland [Mr. SARBANES] is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of this amendment. I congratulate Senators NUNN and LUGAR for developing it and for pressing forward with it.

I ask unanimous consent I be added as a cosponsor of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, this issue is not really a question of helping somebody overseas as opposed to helping our own people. This is helping ourselves. I cannot think of a clearer instance where we have the opportunity to advance our own fundamental interests than with this proposal that is before us.

What this proposal seeks to accomplish is in effect to speed up the dismantlement of Soviet weaponry. In other words, to assist them in stepping down their level of nuclear weaponry.

What could be more in America's interests or to our advantage—not only our interest and advantage, but the whole world's interest and advantage—than accomplishing this objective. This is a very carefully worked out amendment, and I commend the authors of this proposal, Senators NUNN and LUGAR, for the skill which they have shown.

First of all, they have indicated the types of dangers about which we are concerned as far as nuclear safety and stability are concerned. These include the disposition of this weaponry amongst the various political structures in the territory of the Soviet Union, the possible danger of seizure, theft, sale, or the use of these nuclear weapons or components, or the transfer of such weapons outside the territory of the Soviet Union.

There is one other danger that is possible, and that is what we saw in August; we had coup and the possibility of a reversion, then—at least we were apprehensive about such a prospect—to the old Soviet Union, so to speak. That danger has not been totally and completely removed. So another danger, of course, is that something of that sort, a radical reversion to the past, could take place, and then this weaponry would still be in their arsenal. It clearly is in our interests to get this weaponry out of the arsenal of the Soviet Union, and to do it as quickly as possible.

Another condition being proposed here, which I think is very important, is that before we provide any assistance in destroying nuclear and other weapons, the President has to certify to the Congress that certain Soviet Republic, or former Soviet Republic has to make a substantial investment of its own resources for these purposes. In response, we are going to take some of the money from our defense budget, in effect, to reduce the weaponry of the other side—we are going to take some of that money, and very directly help in reducing the weaponry of the other side. This means that then we can look to a future where we do not have to make the same kind of investment in weaponry on our side.

We are going to bring their level of nuclear and other weaponry down. One of the reflections of the care of this amendment is that the President, before he can move ahead to use this authority—and it is a discretionary authority—must certify to the Congress that the potential recipient is committed, one, to making a substantial investment of its own resources for dismantling or destroying. So it is not going to be in lieu of the recipient providing resources.

The Soviets and the republics have limited resources; but we want them to move more quickly. We want to accomplish this objective as soon as is humanly possible, but they must make a substantial investment of their own resources. They must forgo any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction. Think about it. What a significant condition that is in terms of assuring ourselves that there is not going to be some other commensurate buildup in military capability. The recipient must forgo any use of fissionable or any other components of destroyed nuclear weapons, in new nuclear weapons.

In addition, they must facilitate our verification of weapons destruction. They must comply with all relevant arms control agreements and they must observe internationally recognized human rights, including the protection of minorities.

Mr. President, I think this is an enormously and positively constructive amendment. It has been very carefully developed. It gives us an opportunity to take a very significant step to speed up the timetable that this weaponry will be destroyed.

I think it is a very wise commitment of the limited amount of money that is called for in this bill—which is money that is in the defense budget, as I understand it. It is money in the defense budget that would be used for the purpose of assisting the adversary or the potential adversary destroy their own weaponry. It is a very imaginative proposal, and I am very strongly in support of it.

I urge my colleagues to support this very significant proposition.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I commend the Senator from Maryland, not only for his remarks this morning, but also because when this proposal was under a great deal of fire, the Senator from Maryland personally told me that we should continue the fight. He has been a leader in this area, and I am very grateful to him for his remarks.

Mr. SARBANES. Mr. President, I thank the Senator from Georgia for his kind statements. I must say that he has been interested in this for a long time as has Senator LUGAR and Senator BIDEN, who has chaired a number of hearings in the Foreign Relations Committee on this subject and who is managing the CFE Treaty. We are all in agreement that this represents a major step in helping to achieve a very important result.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I was going to stand to see if anyone was going to seek recognition on the issue. I see our friend from Wyoming is here, so I will refrain and yield the floor.

The PRESIDENT pro tempore. The Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I thank the Chair. If I could, I would like to engage either the Senator from Georgia or the Senator from Indiana in a series of questions about this amendment.

I begin by saying, Mr. President, that I do not know anybody who is not interested in finding a way to eliminate any proliferation of nuclear weapons, to eliminate any unnecessary threat, or do any of the sort of noble deeds that are contemplated by this amendment. What I am curious to determine is if anybody can determine if that is going to be the result of it.

I think you begin by an understanding of the basic economic fact that money is fungible, that money provided for an act here relieves the obligation for money from some other place to perform the requirements of that act.

The Soviets, to the extent that they exist anymore, have undertaken these obligations to destroy their weapons. I understand the whole series of findings, that President Gorbachev has requested Western help in dismantling nuclear weapons and that there are changes underway. We, of course, would have had to have been dead for the last couple of years not to understand that.

And the third is that it is in the national security interests of the United States. Those are all givens and obvious and acceptable.

The exclusions—this is where I would like to direct some questions, through the Chair, to the Senator from Indiana. It says:

> The United States' assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet Republic, or former Soviet Republic unless the President first certifies to the Congress that the potential recipient is committed to, (1) making a substantial investment of its resources to dismantle or destroy such weapons.

Could the Senator explain who defines "substantial" and who otherwise might be able to question whether it is substantial or not?

Mr. LUGAR. Mr. President, I respond to the distinguished Senator from Wyoming by saying that the President of the United States will have to make this determination. My presumption is the President of the United States will certify that substantial investment resources have been made.

The purpose of the exclusion is an obvious one, and that is, although we believe it to be in the best interest of the United States to see the weapons destroyed, in fact the Gorbachev-Bush understanding was that both of our countries would move in a very concerted way toward these destructions. And we believe that the Soviets, or the entities that may be their successors, ought to fulfill that idea. We will have to make a determination—at least I would say "we" and in behalf of the President. He can make the determination as to whether, in fact, the Soviet effort is a substantial one.

Mr. WALLOP. Mr. President, may I ask either of the authors if they have a definition of what constitutes substantial? It is a vague word at best, and it has grave meaning when applied to something as serious as this.

Mr. LUGAR. Mr. President, in response to that, on my own—the distinguished Senator from Georgia may have an additional thought—clearly, we have outlined that the problem is twofold, and that is that the Soviets lack the resources, and they lack sufficient expertise either in quantity or quality to do the job. As a result, the presumption of this amendment is that we will have to supply a good bit of both.

I simply go back to my earlier thought, and that is the President of the United States—in our interest, the United States' interest—will have to make a determination of what the term "substantial" means.

Mr. WALLOP. I say to my friend, we just have been through the Gates hearings, in which everybody was talking about politicizing intelligence judgments. I am suggesting that the inadvertent effect of this is we emphasize the word "substantial." Some will suggest that substantial has not been quite achieved and others will suggest that it is substantial; and why not let the President act?

It seems to me that the authors of the amendment might be able to provide us with at least their view of what constitutes substantial.

Mr. NUNN. I say to the Senator from Wyoming, if the Senator will yield—Mr. President, I will say that one of the things that is paradoxical is that one way of looking at it is that the Soviets continue to modernize their nuclear forces. That is, I am sure, a matter of concern to the Senator from Wyoming. It is a matter of concern to me.

I also have had enough conversations with a number of people in the Soviet Union coming from different aspects and a number of people in the Russian Republic, including democratic reformers, to conclude that one of the reasons they are continuing to do this, No. 1, is because they do not know anything else to do; No. 2, they have a view to the amount of employment involved; No. 3, they do not really know how to convert their military industry now; No. 4, the West has not been very assertive in going in and giving them advice on conversion, although I believe that effort is picking up.

It is my view, based on the conversations I have had, that, we are going to see by the spring of this next year a very large—and I mean by "substantial" the word "large"; substantial, to me, is a synonym—a very large cutback in Soviet efforts on modernization of forces because, primarily, the republics are cutting off the money.

I believe that the President has to have discretion in this respect.

I do not believe that Congress can write a word in that is more meaningful than "substantial." We believe, those of us who authored this amendment, that it is manifestly in our interest to help destroy those tactical nuclear weapons and those that the Soviets are willing to destroy, even if there is some continued military production going on. But I hope that it will be on a down scale, and my definition on "substantial" would be a significant reduction from where we are now in terms of our intelligence analysis.

I believe that in January, or February, or March, or April of next year we should see—for the President to move forward in this area—significant reductions from the level of production activities going on now. I think the President will have to make that determination.

It is also my view, though, that it could vary from one republic to the other. The Senator I think would agree with the way this is constructed. It does not go through the Central Government necessarily, although that is not excluded. It could go to Kazakhstan if Kazakhstan were meeting those conditions and willing to have us help them, assist them in the storage and destruction.

It could go to the Ukraine. If the Ukraine decides, after voting and if they do declare themselves independent, if they decide they want to undertake at that moment to get rid of a lot of those weapons or most of them, it might go to the Ukraine.

So, there could be a discretion here for the President to distinguish between Russian republic, the Ukraine, Kazakhstan, or other republics that might have tactical nuclear weapons. So we do give the President discretion.

But my own definition, depending on the republic, would be that we would see some continued scaleback from the production activities we have seen in the last year or two. I believe that is going to happen. I think it is already happening.

I really do not believe that the intelligence has yet quite caught up with the resource allocation, because resources are being taken away from the center. The production committees in charge of production have been dismantled. There are hundreds of thousands of people who were in defense who are now out looking for jobs. There are a lot of other factories and plants there that are on the verge of closing down.

None of us know how this is going to all play out. But it is my view that if we wait until we get the intelligence community coming over and saying this production facility is down, this one is down, this one is down, and this one is down, they also might be telling us at the same time, "We have seen evidence of nuclear scientists going to Libya, we have seen evidence of nuclear material going to North Korea, we have seen intercepted shipments of nuclear material and chemical material going into Iraq."

I do not want that news to come at the same time. So it is my view we had better get out in front of this. This is one time when the Congress of the United States should have some faith and confidence in the President of the United States.

I believe the President of the United States and the Secretary of Defense are not going to use their discretion in this respect unless they have received it and unless these general conditions have been met. I think that we should all have confidence in that respect. I do myself have confidence in that respect.

I say to my friend from Wyoming that this is a long answer. The way I view this—the Senator and I have worked together on the SDI issue this year—I view this as SDI up close. This is the ability to basically destroy an awful lot of weapons with a hammer, so to speak, rather than with an interceptor missile. This is a chance to really do something very positive in that respect. So that is the way I view it. That it my general approach to it.

Mr. WALLOP addressed the Chair.

Mr. BIDEN. If the Senator will yield, I want to make a point on the same point. I will take only 30 seconds. There is already a substantial cut, as the Senator knows. He sits on the Intelligence Committee. There is already a significant change in weapons production, from the year before, of tanks and nuclear material, et cetera. This is an inevitability. It is impossible to look down the road and see how anything, even the present level, can be sustained, let alone increased.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. One of the things that worries the Senator from Wyoming is that, while it is improbable—improbable—I do not think it impossible to look down the road and see even sustaining the level, I do not want the taxpayers of the United States to subsidize that probability, which is one of the things that is worrying the Senator from Wyoming.

I say again that money is fungible, resources are fungible, that devoted to one thing relieves pressures on it from some other place. It is an obligation that this Nation has, which brings me to the second part of it.

The President certifies to the Congress the potential recipient is committed to forgoing any military modernization program that exceeds legitimate defense requirements.

Who is to determine what is a legitimate defense requirement? The President of the United States? Is it the Republic? Or is it the Soviet Union?

Mr. NUNN. The President of the United States would have the duty and discretion to make that determination.

Mr. WALLOP. I say again, Mr. President, that we have seen such a politicization of intelligence, just through the nomination and confirmation of the Director of Central Intelligence, that this worries me, because the President can be criticized for doing everything or nothing under the terms of this. And the second part of that clause is that the potential recipient is committed to forgoing, as I said, "any military modernization program that exceeds legitimate defense requirements * * *"

Mr. President, here is where it bothers the Senator from Wyoming: "* * * or is designed to replace destroyed weapons of mass destruction."

Why should we be willing to pay them to replace destroyed weapons of mass destruction?

Mr. NUNN. Mr. President, I say to the Senator that I think the way it is intended to be worded—and perhaps it can be sharpened—is that they are forgoing any kind of replacement of destroyed weapons.

If you read it, it says:

> Foregoing any military modernization program that exceed legitimate defense requirements or is designed to replace destroyed weapons of mass destruction.

So the words "forgoing any military modernization program," that is designed to replace destroyed weapons of mass destruction. That is exactly the Senator's point, that things intended to get to.

Mr. WALLOP. I say, Mr. President, that it perhaps could use a little wordsmithing. It can be read in either direction. It would sound as though the taxpayer would be obliged to perhaps fund a legitimate defense requirement. That would include——

Mr. NUNN. I say to the Senator, would he feel better if we had this read: "Forgoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed weapons of mass destruction?"

Mr. WALLOP. I think that is a stronger statement and less debatable.

Mr. NUNN. Mr. President, I ask to so modify the amendment, and I send the modification to the desk.

The PRESIDENT pro tempore. The amendment is so modified.

The modification is as follows:

> (3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

The PRESIDENT pro tempore. Does the Senator wish his modification to be read?

Mr. NUNN. Yes.

Mr. WALLOP. Mr. President, perhaps that would be wise. I am sure it reflects what the Senator just said.

The PRESIDENT pro tempore. The clerk will read the modification.

The legislative clerk read as follows:

On page 3, line 19, after the words "defense requirements" on line 18, strike "or is designed to replace" and insert in lieu thereof, "and forgoing the replacement of destroyed weapons of mass destruction."

The PRESIDENT pro tempore. The Senator from Wyoming has the floor.

Mr. WALLOP. Mr. President, I am still wandering through this area of the fundamentals of economics, and I say that I share the goals of the Senators. That is not a problem to me. But I wonder why, in this instance, through one, two, and perhaps three, we would not be paid to, rather than pay for this destruction.

Mr. LUGAR. Mr. President, if I could respond by saying that the dilemma is clearly that the Soviet Union is committed to the destruction of these weapons. But the timetable in which the 15,000 weapons we mentioned are to be destroyed would be a matter of the fungibility. The question is, is it in the best interest of the United States to facilitate that destruction? In our judgment, it is.

Let me respond to the thought raised by the Senator in an earlier question by saying that the moneys must finally be identified by the President. He must determine the rates at which they are expended and, furthermore, as opposed to being fungible with the Soviet Union, it may be that the President will want to contract with the contractors of the United States for this destruction.

I understand the Senator's point, that the Soviet Union might finally get around to doing this, or its successors, over the course of the years, and therefore they might finally pay the money without our having to lift a finger. I simply say to the distinguished Senator that we believe it is in our interest to accelerate it. That is in the discretion of the President, too.

Mr. WALLOP. Mr. President, I thank the Senator from Indiana. I must say that I think there can be two views on that. I hold another, which is that the intelligence still indicates strong continued modernization of Soviet strategic weaponry, in particular, but no particular reduction of their efforts in conventional nuclear weapons.

So what worries me is that the taxpayer is being asked to foot a bill that ultimately will be directed, or could ultimately be directed against him. So when the whole purpose has been to relieve the taxpayer of that threat, the consequence may be the opposite. That is why I am trying to find some means by which the Senate, at least, could feel assured that this was going to be the case. I do not see it.

Mr. LUGAR. If the Senator will yield, Mr. President, I see no possibility that American taxpayers would be building armaments on behalf of the Soviet Union. The purpose of the amendment is clearly destruction of weapons. I understand the Senator's point that relief of this cost of destruction could lead, if there were funds in the central government or the republics, to the production of other weapons through the fungibility issue. I am simply——

Mr. WALLOP. If I may say, Mr. President, I am not suggesting that it would lead to it. I am suggesting that it relieves this necessity of stopping it. It is, today, going on. I am sure the Senator would agree with me that the intelligence indicates that there is a modernization program of substantial portions still going on in nuclear strategic weaponry.

Mr. LUGAR. Mr. President, the Senator from Georgia has affirmed that point in his comment. He made the point that observation also indicates that it is winding down in large part through lack of funds in the Soviet Union, either for destruction of what they have built in the past, or if they are building anything more. Clearly, the President has to be clear-eyed in observing that process.

Mr. WALLOP. Mr. President, a third requirement is that they would be forgoing any use of fissionable or other components of destroyed nuclear weapons and new nuclear weapons.

May I ask either of the sponsors how we propose to determine that?

Mr. LUGAR. Mr. President, if the Senator will yield, I would simply indicate that our ability to be on the ground literally watching and participating in the destruction of Soviet nuclear weapons gives us a much better observation point historically for verification than we ever had before. That really has to be the way we make that determination.

Mr. WALLOP. Again, I would say that perhaps a particular way of doing this would be for the United States to acquire the fissionable material, take title to it, and remove it from the Soviet territory, and, in fact, oversee a relatively simple separation of parts of nuclear weapons. But the more important point is that it still is not an answer, that while we hope they will stop building or modernizing their strategic arsenal, they are not. Until they are absolutely not, I do not see that the taxpayer is really doing anything but, in fact, subsidizing that modernization.

The PRESIDENT pro tempore. The Chair will call to the attention of the Senator from Wyoming [Mr. WALLOP], the order of Saturday which requires that at the hour of 12 o'clock noon, H.R. 3807 be temporarily laid aside for a 1-hour debate on a motion to proceed to H.R. 3595.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to continue this debate for another 30 minutes.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, the Senator from Nebraska has been waiting to speak on this very important matter. I think the extension is a good request. I wish to have put in the unanimous-consent request to include 5 minutes at a minimum set aside for the Senator from Nebraska.

The PRESIDENT pro tempore. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, and I do not, I think it shall depend upon how long the answers are to the questions I have yet to proffer whether we can get to that moment. I think they will not be that long but I have two more questions which I wish to address. If the Senator is willing to take his chances on that, I am certain that he will be obliged. I do not know how long Senators are going to take to respond.

Mr. EXON. Mr. President, reserving the right to object, I have not had a response from the managers of the bill to the request of the Senator from Nebraska.

Could I be assured of 5 minutes before the vote on the measure presently pending?

Mr. NUNN. Mr. President, I say to the Senator from Nebraska and the Senator from Wyoming there is no time agreement, so there is no reason the Senator cannot have whatever time he desires either between now and 12:30 if the unanimous consent goes in effect, or if we do not dispose of the amendment by 12:30, the other matter will be disposed of before this matter.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMON. Mr. President, reserving the right to object, just an inquiry, and I shall not object.

The PRESIDENT pro tempore. The Senator reserves the right to object.

Mr. SIMON. When we finish with the Medicaid situation will we then return to this amendment; is that the sequence?

The PRESIDENT pro tempore. The Senate would then proceed to the consideration of the CFR Treaty.

Mr. SIMON. At what point will we return to this amendment, then?

The PRESIDENT pro tempore. There is nothing included in the order that deals with that situation. The Chair will state, however, there are three rollcall votes scheduled back-to-back beginning at 2 o'clock, the last of which deals with the cloture. If cloture is invoked, of course, under the rule, then the Senate will remain on the matter of cloture to the exclusion of all other business until the time under the cloture rule has expired or the matter has been disposed of.

Mr. SIMON. With the cloture vote that does change the situation. I have no objection, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Delaware that there be 30 additional minutes? The Chair hears none.

Without objection, it is so ordered.

The Senator from Wyoming retains the floor.

Mr. WALLOP. Mr. President, I thank the Chair, and I assure my friend from Nebraska I do not think we have a whole lot more. But one of the problems I have had on last Friday and last Saturday with the CFE Treaty is that before we are even about to enter into that, it is known that the Soviets are not in compliance with it. The Secretary of State has as much as confirmed it. Intelligence briefings have as much as confirmed it. The proponents of the treaty have as much as confirmed it.

Now I want to check with my distinguished friends from Georgia and Indiana as to how serious they are about the condition No. 5, which is complying with all relevant arms control agreements. It has not been the habit of this country to insist on compliance.

Are they talking, may I ask either of them, of full compliance or short of compliance, or compliance that is not threatening? What is the basic criteria which they wish to have attached to this commitment?

Mr. NUNN. Mr. President, I would say to my friend from Wyoming that if the language says the President first certifies to the Congress that the potential recipient is committed to—the key words "committed to"—complying with all relevant arms control agreements, I believe those words speak for themselves. The President would have to make that determination that the individual republic that is going to be engaged in this kind of cooperative effort to destroy weapons is committed to arms control agreements.

For instance, if the Ukraine becomes independent in December when they vote, then I think it is enormously important for the President to, basically, make it clear to them that not only is this particular section dependent on the Ukraine being willing to sign up with this treaty we have before us now, the CFE Treaty, but also even if the provision were not to pass the food aid that is already in the pipeline is subject to that. If we have people in the republics that are violating the arms control agreement or indicating they are not committed to them, then I think the President has an obligation here, under this section, to not cooperate with them in other programs. I hope he would apply that as a general principle in other areas.

I would say food aid we are sending over there now. The President announced another $1½ billion the other day. As the Senator indicates that is fungible also.

Mr. WALLOP. I agree.

Mr. NUNN. That relieves them in certain other areas. I happen to agree with them. But the Senator's basic point on the food aid would also lie. So this is a discretion to the President of the United States as we often give the President in terms of arms control, and he would make this judgment, which will be a judgment based on intelligence assessment.

Mr. WALLOP. I thank the Senator from Georgia.

But I would say that according to the February 1991 Presidential Report on Soviet Noncompliance With Arms Control Treaties, that they remain in violation with the ABM Treaty, and the Biological and Toxic Weapons Convention, and I am certain that this is a criteria. They are as well, though, they are not yet bound by this, in violation of the terms under the CFE Treaty.

The problem the Senator from Wyoming has now and has always had with arms control is that it is a matter of convenience for a democracy and a President, a Congress or no one else dares let convenience stand in the way of compliance.

I do not accuse anybody of any specific intention in this. I am only reciting that the history, Mr. President, of arms control is that it is very inconvenient when we find whoever we have these agreements with in violation of them and wish to do other business. Every time we wish to do other business, we set aside the very concerns over which we entered into these theoretically binding agreements in order to get on with the next little piece of convenience, more often than not, a matter of domestic political reaction rather than international security.

So, may I direct one final question to the Senator from Georgia through the Chair: The other arms control agreements are pretty serious but the one in particular is a violation of the 1972 Biological and Toxic Weapons Convention and we have determined that they have maintained an active offensive program since the thirties. But now we have determined an unclassified statement that they are in violation of that.

Does the Senator believe that being in violation of that or of the CFE Treaty would be sufficient to cause the President to pause in the delivery of this?

Mr. NUNN. I would say to my friend from Wyoming——

The PRESIDENT pro tempore. The Senator will please address his responses through the Chair.

Mr. NUNN. Mr. President, I would say to my friend from Wyoming that I hope the President would consider these matters and consider them very carefully. I also hope that perhaps some of the republics that may find they have certain plants going on and production going on, they may not fully be aware of that, they, the republics as opposed to the central government, may very well decide that they would like under this provision to cooperate with us in destroying some of that basic weaponry including possible biological. If that is the case, this provision may help cure the problems that the Senator from Wyoming is concerned about.

It would be a paradox if we had a republic take over and find that biological weapons were being produced in contravention of various agreements and treaties over the years and then basically did not have the wherewithal, the technology, to be able to get rid of those because we did not have the foresight to provide for the President having discretion for this kind of program.

I would also say the Krasnoyarsk radar, it is my understanding that that is being dismantled. It has not been completed. I think the Senator is correct on that. So the key words here are "committed to" and the key to this is the President himself would have the discretion under this, and we would expect him to consider all of those things the Senator from Wyoming has enumerated.

Mr. WALLOP. Mr. President, I thank the Senator from Georgia. Let me conclude by saying that I understand what it is that they are trying to do and I think that the goal is laudable. It strikes the Senator from Wyoming it is a particular time for prudence. And the problem that we have in our democracies—and Lord knows we would not trade them for the systems against which we have been deployed since the end of World War II—that the words "committed to" and others are words of convenience for democracies dealing with domestic reactions at home. They are no binding words.

The words of this amendment are substantial and legitimate and designed to and committed to complying with relevant arms control agreements. And the problem is that each of those is peculiarly vulnerable to subjective judgments in the political arena. I say to my friend they are peculiarly vulnerable to subjective judgments in the political arena from both sides, the right as well as the left.

I mean, we have all seen it, saying you know that you were soft on the enemies or you are not soft enough. If you, in fact, read the op-ed pieces of the last several days, you see precisely whereof the Senator from Wyoming speaks.

I have heard that this is a time when we ought to take a risk for peace. Mr. President, I would conclude by saying the American public has taken their risk for peace and I think they have done it rather well and, in fact, circumstances that the world sees now are the direct results of the steadfastness of the United States of America and her allies arrayed and allied against the forces of communism. And we have not come so far yet, Mr. President, in the judgment of the Senator from Wyoming, that we ought to risk using American taxpayer dollars to subsidize Soviet behavior, which is in their interest as well as ours, while Soviet behavior which is only in their interest continues on even though it may be abated.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, we are not asking the American public to take a risk for peace. We are asking the American public to avoid a risk. We are not taking any risk. I find the reasoning of my friend from Wyoming, which is always compelling, a bit confusing when he speaks about whether or not the Soviets will abide by the arms control agreement.

Let me reduce it to terms that people who do not deal in arms control, as we do all the time, I think would understand. It is a little like my saying: Look, you have got a gun pointed at my head. You may blow my brains out. And you do not know how to unload that gun. But I am not going to show you how to unload that gun. Do you know why? Because you promised me that you were going to get rid of that dynamite you had in your garage and you did not. So I am going to teach you a lesson. I am not going to help you unload that gun which you have pointed at my head.

Now is that not brilliant reasoning? My goodness, we get so caught up in this sort of lingering ideological conflict that no longer has much relevance that we sometimes suggest we act against our own interest.

There is no risk here, Mr. President. Would any man or woman in the world not help a felon unload a gun pointed at them because the felon was going to continue to commit another crime or because the felon may come back with a new weapon the next day?

There is an immediate concern, as the Senator from Georgia has pointed out. They are going to do something with these weapons, Mr. President. They do not have the money to transport them. They do not have the money to put them in storage. They do not have the money to keep them out of the hands of people they are concerned about.

If only they could get the money, Mr. President, they could be transported. I am sure the Iraqis would pay to transport some of them. I am sure the Libyans would pay to transport some of them, as well.

But, Mr. President, we are not asking the American people to take a risk. We are asking them to avoid a risk. As we lawyers say, let us argue an alternative. Let us assume everything the Senator from Wyoming states is correct; that the Soviets continue to be bad guys; they do not abide by agreements; they are continuing their weapons programs. So, to teach them a lesson, we are not going to dismantle nuclear and chemical weapons that they either do not know how to dismantle or do not have the wherewithal to dismantle because we would rather spend money on producing exotic systems that would dismantle them in flight at much greater threat to the American people.

If the Senator from Indiana and the Senator from Georgia succeed here—and it comes as no surprise to the Senator from Wyoming, I do not think we had to put any of these conditions in here. I did not do that. I am just a supporter of the legislation. I do not think we need any of the conditions at all.

We have a chance here, Mr. President, to help get rid of in excess of 10,000 nuclear warheads, whether they are nuclear mines or shells or beyond. And we are going to sit here and say: No, we are not going to do that. We are going to teach you a lesson. We will take our money and spend it other places. You dismantle them.

One other point I might add, even if they had the money, Mr. President, they do not have the technology. They do not know how to do it as well as we do.

And one last point, you have in these republics, Mr. President, a new awakening to their environmental fragility, and the environmental damage that is already done.

There is an old joke my grandfather used to tell. He used to say: Talk about an oxymoron—I am from the Federal Government, and I am here to help you.

Americans out there understand that, with the Federal Government not very much in vogue these days.

Can you imagine, you are living in the republics, and the central government leadership comes to you and says: Hey, we are going to destroy chemical weapons on your territory. Trust us; we know how to do it.

On the other hand, Mr. President, what we do know is, if the folks over there know that American technology and Americans are helping them, ironically enough in the Soviet Union and its constituent republics, our technicians and our environmental experts will have even greater credibility than they do here.

So, for all those reasons, I sincerely hope that the Senator from Wyoming, although some substantive elements of each of the individual arguments he makes have some merit, they fall under their own weight, in my humble opinion, when measured against the risk we are being asked to avoid—avoid—avoid—not take.

I see my friend from Nebraska is here. I know he has been seeking recognition.

Mr. President, before I yield the floor, I ask unanimous consent that the vote on the Nunn-Lugar amendment occur upon the return to legislative session, immediately following the disposition of the resolution of ratification of the CFE treaty.

Mr. WALLOP. Mr. President, that has been cleared on the Republican side, without objection.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMON. Reserving the right to object, Mr. President; I will not. I want to make sure I get 3 minutes in here to talk on the Nunn amendment briefly.

Mr. BIDEN. I promise the Senator, Mr. President, I promise the Senator he will get 3 minutes to talk on the Nunn amendment, and I will stay here and listen; and everyone else will, too, I am sure.

Mr. SIMON. That is a double pleasure, and I thank the Senator.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. Is there objection to the request? Would the Senator from Delaware include the Senator from West Virginia [Mr. BYRD], in that request, for not to exceed 5 minutes?

Mr. BIDEN. Surely.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears no objection. It is so ordered.

The Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I am going to be very brief in my remarks in support of what I think is a tremendously important amendment, probably best known as the Nunn amendment. I have attended several meetings in this regard. Out of those meetings has come the Nunn-Lugar amendment, which is before us.

While there are not a great number of Senators on the floor now, and even fewer members of the press in the press gallery, I think this is a tremendously important amendment that needs adoption. And I hope it will receive an overwhelming vote of approval.

I started out by saying what I have said in defense of this type of an amendment previously on the floor of the U.S. Senate.

While there are some legitimate concerns, and some legitimate concerns expressed here—and I think some good questions have been asked, and I hope satisfactorily answered—the fact of the matter, I think, is best summed up by a statement this Senator made on the Senate floor in this regard way back on November 7, on page S 16184, where I said:

> Mr. President, let me take a few moments, if I can, to try to put into some logical perspective what looks like a new firestorm breaking out in the U.S. Senate and the House of Representatives with regard to the defense authorization bill.

There was debate ongoing at that time with regard to a similar but not exact proposal that came out of the conference between the House and the Senate on the defense authorization bill. What we are doing here, and what we tried to do then, which was stripped out of the defense authorization bill, is merely to give the President of the United States, the Commander in Chief, some tools that he can work with if he sees fit.

I think we have to trust the President of the United States, as I do, to use any money that he thinks should be expended, to spend it wisely, and to not spend it if he thinks it would not be wise or in the national security interests of the United States.

I have simply been astonished during the last 3 weeks at the views expressed on the Senate floor, which are extremely isolationist in nature. And I think probably it is the greatest understatement that I have ever made when I said that I felt rampant isolationism has emerged, and there is a lack of long-range view as to what really is in the national security interests of the United States. So much so that sometimes, in contemplating this, I wondered if some Members unthinkingly had been so much consumed with isolationism since the recent Pennsylvania elections, that maybe we could even consider going back to that old principle or theory that the world, indeed, is really flat instead of round.

The bill we have before us is one which allows the President to exercise some jurisdiction. Certainly, Mr. President, anyone who has been reading the widespread articles in the press of recent days, the television features and interviews that have shown very knowledgeable people, including our very distinguished Ambassador to the Soviet Union, should recognize that as of today, there is a major crisis of catastrophic proportion taking place in the Soviet Union.

I simply say that a hungry bear who has lost control of his nuclear devices is a very dangerous bear. I think the President knows that. I think those of us who look beyond the horizon and beyond political expediency know that. Whatever we do here, it generally "costs the taxpayer" something. I feel that the national security interests of the United States and the taxpayer will be served very dramatically in the longrun if the President of the United States is given the authority and the tools to move speedily in a whole series of areas.

I once again salute Senator Nunn for bringing this up originally in the defense authorization bill. I salute him and Senator Lugar and others for their leadership now. I hope we have the wisdom to eliminate shortsightedness and political expediency, to pass the bill that is before us.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, the Senator from Virginia would like to make a unanimous-consent request to have no more than about 3 or 4 minutes, for purposes of having a colloquy with the Senator from Wyoming, relating to the amendment the Senator from Wyoming and the Senator from New Hampshire [Mr. SMITH], are going to bring up, in the hopes they could accept a recommendation from the Senator from Virginia. It is in the form of an amendment.

I ask unanimous consent now if I might proceed for no more than 4 minutes.

Mr. NUNN. Will the Senator withold that for 30 seconds?

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, I say to the Senator from Nebraska that I appreciate his comments and leadership. I noted a few moments ago, we are spending $4 billion on SDI, and I think we have a very important consensus on SDI.

The way I view this amendment now pending, it is SDI up close. It is SDI up close because we have an opportunity to destroy some 15,000 weapons in cooperation with the Soviet Union, plus a lot of chemical weapons.

I thank the Senator for his leadership. He has been a strong supporter and proponent of this from the very beginning. I thank him for his words of support. I thank the Senator from Virginia.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Virginia that there be 5 minutes during which he may engage in a colloquy with other Senators? The Chair, hearing no objection, the Senator is recognized for 5 minutes for that purpose.

Mr. WARNER. I thank the Chair and thank all Members present.

First, I would like to associate myself with the amendment of the Senator from Georgia. I am a cosponsor. And I likewise associate myself with the Senator from Nebraska, [Mr. EXON] and his remarks. We have been part of the working group together for some time. I think you might say I was one of the first to support the version of the amendment way back in the Senate Armed Services Committee.

Mr. NUNN. I say to the Senator from Virginia, if he will yield, he has been a supporter of this amendment. He supported it back when the fire was hot and there were people against it and felt very strongly against it. I thank him for that support and am delighted he is a cosponsor.

Mr. WARNER. I thank the Senator from Georgia. I think, like so many other things in life, it is distilled to where I hope it will be accepted by a majority of the Senate.

Mr. President, turning to the amendment which is sponsored by the Senator from Wyoming and the Senator from New Hampshire, as I view this, in consultation with the negotiators of the treaty and others, I recommend that they take into consideration an amendment which would provide as follows, and I shall read it:

> Add after Condition (a)(5)(C), the following condition:
>
> "(6) PRESIDENTIAL CERTIFICATION ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a report to ________ whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

It seems to this Senator and others that that would enable the President's report to refer to that point in time as when the report is made. I think there would be certain advantages to that.

I now yield the floor—I will not yield the floor, because I have 5 minutes, but I yield to the Senator from Wyoming.

The PRESIDENT pro tempore. Does the Senator from Virginia yield the floor?

Mr. WARNER. Mr. President, I am not sure of the parliamentary situation.

The PRESIDENT pro tempore. The Senator yields to the Senator from Wyoming.

Mr. WARNER. For a question and answer.

Mr. WALLOP. Mr. President, I say to the Senator from Virginia that in all probability the Senate would get a more honest report with this than with the language suggested by Senator SMITH. It is necessary to point out, however, that it requires no response on the part of the President other than to give a report. If he reports that they are in violation, there is nothing that slows down the process of ratification of the treaty. It will, I think, verify what is the view of Senator SMITH and my view that this is a political document and not a military strategic document because the President will have no choice but to certify that they are in violation or probable violation of certain of the undertakings that they have on this and yet we will not then be able to slow down the process of completing these arrangements between our countries.

But I will say, in all honesty, I think we would get a report that was closer to the truth if the President and his people were not forced to act on the contents of that report. My inclination is to suggest or to hope that Senator SMITH would see it that way, too. I point out that this is essentially his amendment and he has a choice in that.

Mr. WARNER. Mr. President, I thank the Senator from Wyoming, and I thank the Senator from New Hampshire [Mr. SMITH]. I hope, by the time the amendment is presented to the Senate for further debate, that this matter will be included. I yield the floor and I thank the Chair.

Mr. SIMON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I ask unanimous consent that I may proceed for 3 minutes on the Nunn-Lugar amendment.

The PRESIDENT pro tempore. There being no objection, the Senator may so proceed.

Mr. SIMON. Mr. President, first, I ask unanimous consent to be listed as a cosponsor of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I commend our colleague from Georgia, Senator NUNN, Senator LUGAR for their leadership on this. There is a tendency right now in our country to look inward, understandably, because of the overwhelming problems that we have in each of our States. But we also have to be aware of the rest of the world, and if, after spending literally trillions of dollars to take care of this Communist menace, we have now, through surgery and through a variety of ways, that has been taken out of the body politic, we have to be careful how we move. For us to permit the Soviets to have a situation where they can sell weapons, nuclear weapons, chemical weapons, biological weapons to Third World countries is inviting disaster.

Second, it seems to me, beyond that, showing an interest in what is taking place in the Soviet Union is in our best interest. We do not want a left-wing dictatorship ultimately to be replaced by a right-wing dictatorship. The security interests of the United States is best served when we have free countries. It is interesting that historically no two self-governing nations have ever attacked each other.

World stability and U.S. security is tied in with that. I think the Nunn-Lugar amendment is clearly in the best interest of the United States, and I hope we follow through on it very, very quickly. I yield the floor, Mr. President.

Mr. NUNN. Mr. President, I thank the Senator from Illinois for his support and encouragement back when this amendment was under great fire. I recall very well his encouragement to continue on this.

Mr. President, I ask unanimous consent that the Senator from Kentucky, Mr. MCCONNELL; the Senator from New York, Mr. MOYNIHAN; and the Senator from Virginia, Mr. WARNER, be listed as original cosponsors.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair and thank my friend from Texas.

MEDICAID MORATORIUM AMENDMENTS OF 1991—H.R. 3595

MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, H.R. 3807 is temporarily laid aside. There will now be 1 hour debate on the motion to proceed to H.R. 3595. Who seeks recognition?

Mr. BENTSEN. Mr. President, it is important that the Senate proceed to the consideration of the Finance Committee amendment to H.R. 3595, the Medicaid Moratorium Amendments of 1991. The committee ordered this amendment to be reported out last Friday with only one dissenting vote. The substance of the committee amendment is a 90-day moratorium limiting the administration's authority to issue controversial regulations on State mechanisms for financing the Medicaid Program. The bill would also prohibit States from expanding the financing mechanism that issued during that period of the moratorium.

In effect, what we are trying to do, Mr. President, is to put on a bilateral freeze. In all candor, I would rather the Governors and the administration work out their differences and finally resolve that. We reported out of the committee without recommendation that part of it. The reason it was reported out without recommendation is that we did not know the final terminology. So I am offering to the Senate in effect a dual procedure as we go over the language of the agreement between the National Governors Association and the administration.

The problem is if you do not accept one of these, then we are stuck with the regulation proposed, and that is a very serious problem for many of the States across the country. So in these closing days I do not want to see that finally being the result. That is the reason as chairman of the committee I propose the dual procedures.

The regulation in question was issued only 3 weeks ago and as many of my colleagues know who have been very involved in this process—the Senator from Florida, the Senator from Connecticut, the Senator from West Virginia—almost every Member of this body is concerned about the regulation. There have been very contentious negotiations between administration officials and representatives of the Nation's Governors. The negotiations have been constructive in that they have resulted in a draft agreement that is under review by parties to the discussions.

However, the time is short and implementation of the administration NGA proposal to supersede the earlier regulations requires legislative approval. Unless we act on the NGA and the administration proposal, or on the 90-day moratorium approved by the committee, the regulation goes in effect January 1. I think you would have chaos in the Medicaid Program in approximately 40 of the States in this country.

I and many people have urged Secretary Sullivan to withdraw the regulation, to work with us to enact early next year any legislation that might be needed. However, the administration is adamant in its refusal to withdraw the regulation and make it imperative that the Congress take action before we adjourn for the year.

I hope Senators will think that through and see what that means, what we face in the States, what we face with the providers. If Senators will allow us to move to the consideration of H.R. 3595, Members will have the opportunity then to vote on the 90-day moratorium proposal approved by the Committee on Finance. That measure being fully amendable could also serve as the vehicle for consideration of the NGA administration proposal.

But at this late hour failure to move to the consideration of H.R. 3595, as amended, will effectively stalemate any further legislative action, thereby allowing regulation to go into effect with all the results and chaotic conditions you are going to have with the providers and all of the poor folks who are going to be turned aside.

Let me take a few minutes to describe the problem facing States if we fail to act. First, since the regulation arguably violates congressional intent because it restricts severely States' ability to use provider-specific revenues to raise their Medicaid matching funds, States face ambiguity in attempting to determine which Federal requirements to follow in operating their programs.

Second, the rule's effective date of January 1 falls in the middle of most States' fiscal years. I know that is true in the case of the State of the majority leader and apparently most States across the Nation.

Thus States that relied on the provider-specific taxes in preparing their budgets will be unable to raise the revenues they need to keep current policies going. Since most State legislatures will not meet before the rule's effective date, they will not have a chance to conform their laws to the rule or find an alternative financing source before that rule takes effect.

Speaking for the administration, HCFA Administrator, Dr. Gail Wilensky, has acknowledged that the rule if allowed to go into effect will be disruptive, and that is a very mild term as to what will actually happen.

In the Finance Committee meeting last week, representatives of GNA, State legislators, counties, children's hospitals, public hospitals, as well as the children's defense fund expressed grave concerns about the rule's effect on the ability of States to maintain needed health care services for 25 million women, infants, children, elderly, and disabled who are allowed Medicaid for their health care. If we fail to stop this regulation but instead wait to act until after it has gone into effect in January, a tax increase or Medicare veterans services and other entitlement program cuts of nearly $6 billion—$6 billion—will be required in order to offset the savings from the regulation that we expect the President to assume in his budget for fiscal year 1993.

Mr. President, I urge my colleagues to vote to proceed to this measure. It is the only way to prevent the detrimental effects of the regulation from going into effect on January 1. If we fail to proceed, then we risk sending State Medicaid programs into chaos and jeopardizing access to care for the most vulnerable members of our society, the pregnant women, the infants, the children, the elderly, and the disabled individuals who rely on Medicaid for their health and their long-term care.

I urge my friends who would resist this to fully understand and appreciate the consequences if we do not proceed.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Maine.

Mr. MITCHELL. Mr. President, there originally had been 1 hour scheduled for debate on this subject, and as the Members of the Senate now know that time was reduced to accommodate additional time for debate on the implementing legislation with respect to the CFE Treaty.

In view of the number of persons who have requested the opportunity to speak, I would like to suggest to the distinguished manager, the chairman of the Finance Committee, or raise the question whether or not it would be desirable instead of having the vote on the cloture motion immediately following the last vote in sequence, as is now scheduled, to permit a period of debate in that time to make up for the time lost now so that Senators who wish to do so can speak.

Mr. BENSTEN. If I understand the majority leader, he is talking about getting back to the original hour agreed to, that amount of time.

Mr. MITCHELL. That is correct.

Mr. BENSTEN. I am pleased to do that. I see some of my colleagues on the floor and I am sure there will be more. They ought to be given a chance to express themselves. So I agree with the request.

Mr. MITCHELL. Mr. President, since I intend to make a statement now that will use up much of the time period, I am going to ask the staff to clear and attempt to clear with our Republican colleagues adding an addition 45 minutes immediately prior to the cloture vote, which would give those Senators present an opportunity to be heard immediately prior to the vote, if that is agreeable to the Senators concerned, rather than going directly to the vote.

I am trying to accommodate the Senators who are here. It is important to them and their States. Is that agreeable? Is there a Senator who would prefer not do that, who would prefer to have the vote immediately, with further debate after the last vote this evening?

Mr. ROCKEFELLER. Mr. President, if the Senator from Maine will yield, I assume the majority leader is talking about discussion before the motion to proceed but not in any way is the majority leader suggesting the curtailing of debate after the motion to proceed on the matter of the moratorium.

Mr. MITCHELL. The Senator from West Virginia is correct. What I am suggesting has nothing to do with what occurs after the vote. Under the original agreement, there was to be 1 hour for debate prior to the vote on the cloture motion on the motion to proceed. Because of events which have occurred that were not foreseen; namely, a longer time was used for debate on another subject, only about 15 or 20 minutes will have been available. I am suggesting that we add 45 minutes prior to the vote to restore the substance of the original agreement. This has no effect on what happens after the vote.

Mr. ROCKEFELLER. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Maine was recognized.

Mr. DURENBERGER. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes; I yield.

Mr. DURENBERGER. Having participated with the chairman of the Finance Committee in both the presentation of the moratorium resolution and the alternative, let me say that I think it would be most appropriate to give us least that hour, and to have it comes, just before the vote I think will give everyone the time and the opportunity to consider their objections and hopefully the argument made by the chairman of the Finance Committee in favor of letting us go ahead and argue this issue on the merits and to pass that moratorium agreement as well. I would be pleased to provide that.

Mr. MITCHELL. Mr. President, what I am going to now do is make my statement on the subject during which time I have asked the staff to prepare a cloture agreement, and give notice to the Republican leader and to see if it can be cleared on that side. I think it is something that will be cleared. I hope it will be. I will therefore upon the completion of my statement propound the motion. That will give the Senators the opportunity to be heard in a little while.

Mr. President, I rise today to support the motion to proceed to the Medicaid Moratorium Amendments of 1991, which will delay the issuance of final regulations on the use of donations and provider-specific taxes by States to receive Federal matching funds under Medicaid from January 1, 1992 until April 1, 1992.

On September 12, the Bush administration issued an interim final rule that will prohibit States from using revenues from voluntary donations, provider-specific taxes, and intergovernmental transfers to pay for their Medicaid programs.

The implementation of this regulation will cause fiscal chaos and result in a serious erosion of the Medicaid Program in many States, including Maine. Health care services to poor women, children, and the elderly will be jeopardized if these regulations go forward.

I repeat my previous call upon President Bush to withdraw these regulations. They violate both the statute and the intent of the Omnibus Budget Reconciliation Act of 1990.

The use of provider-specific taxes was clarified in that act. It allows States to use revenues from taxes applied to hospitals or other health care providers as part of the State share for Federal matching payments. That reconciliation bill made one exception: Matching funds are not available for costs attributable to provider-specific taxes in cases where States reimburse hospitals and other facilities on a cost basis. The administration's September 12 rule expands this exception into a broad prohibition of the use of most revenues from provider-specific taxes. If implemented it would cause real hardship in many States including the State of Maine.

Since the September 12 rule was issued there has been a great deal of confusion about the impact of the regulations on individual States. The administration admitted that the regulations were unclear and confusing and promised to issue a clarification. On October 29, a clarification was issued, but the impact of the regulations in the States continues to be unclear.

For the last several weeks the National Governors Association and the administration have been trying to reach a compromise on this issue. The status of that effort is unclear. Several States have serious problems with the legislative language of the proposed agreement.

The administration argues that State donation and tax programs have the potential to undermine a basic premise of the Medicaid Program, that funding be shared through a Federal match of State moneys.

The Governors argue that the Federal Government has no authority to dictate to a State government how it may raise State revenues to be used in meeting Federal matching funds requirements.

There are some abuses in some States which should be corrected. However, the administration is trying to gain a broad-based prohibition against all tax plans in States. This goes far beyond what is needed to deal with the problem and clearly violates the congressional intent contained in the 1990 Reconciliation Act.

The administration, the States and the Congress are equally concerned about the rising costs of the Medicaid Program. But we must also be concerned about the legitimate need to provide access to basic health care for our Nation's poorest citizens through the Medicaid Program.

HCFA Administrator Gail Wilensky made the following statement in an October 16, 1991 letter to Representative WAXMAN:

> I know that many States, for the most part, have been using the increased Federal funding to support legitimate and often necessary expansions to their Medicaid Programs.

In the past 5 years, the number of Maine Medicaid recipients and their costs have grown dramatically; in just the past 18 months, due to a severe downturn in the State's economy, the number of Medicaid recipients has grown over 25 percent, more than 36,000 additional Maine citizens.

Maine's Medicaid Program expenditures have doubled since 1986. The State's share of spending in the Medicaid Program has risen 35 percent in proportion to overall general fund expenditures in the same period.

The Maine Department of Human Services, working with HCFA region I, developed a provider specific tax plan as a responsible way to meet the health care needs of Maine's most vulnerable citizens.

The result of the HCFA regulation will be to prevent use of Maine's tax plan after January 1, 1992, even though it was developed in consultation with HCFA. The financial impact of the interim final regulation jeopardizes over $62 million in fiscal year 1992 and creates a shortfall of over $48 million in the State's fiscal year 1993 budget. Clearly, it is in the best interest of all to continue to work toward a compromise among the Governors, the administration and the States, but time is running out.

Given the short time remaining before January 1, the Congress cannot assume that these negotiations will result in an acceptable agreement before the end of the year. It is therefore necessary that Congress enact a moratorium to delay these regulations in order to give the Governors and the administration more time to resolve the matter.

As we work to delay the administration's regulations we must we cognizant of the budget implications of such a delay and of a possible agreement in the next few months.

Chairman BENTSEN and others have been working with the Office of Management and Budget to develop acceptable language which will protect both the Congress and the administration during the period of the moratorium. It is my understanding that differences still exist between the administration and the Congress on this issue. Because I am concerned about the impact of the expiration date of the Finance Committee-passed moratorium on my State and other States, I have reserved the option of offering an amendment to this moratorium which would extend the deadline until June 30, 1992. That will coincide with the end of the fiscal year in the State of Maine and many other States. Last Thursday, during the Finance Committee markup of this legislation, I asked the administration to provide me with an analysis of the budget implications of delaying the date of the Finance Committee-passed moratorium from April 1, 1992, until June 30, 1992.

The response on this question from the administration is unclear.

Last week, the House overwhelmingly passed legislation which would prevent HCFA from implementing the September 12 rule by extending the moratorium until September 30, 1992. While the Congressional Budget Office scores this legislation at zero cost, the Office of Management and Budget scored the bill at $1.5 billion a few weeks ago and recently increased its estimate of the cost to $5.8 billion.

If an acceptable compromise is not reached very soon, legislation will be necessary to delay the implementation of the rule until such a compromise can be reached.

If we are to continue to provide basic health care services under the Medicaid Program to our Nation's most vulnerable citizens, the Medicaid Moratorium Amendments of 1981 must be enacted by the Senate and a compromise reached with the House before our scheduled adjournment this week.

I urge my colleagues to vote to proceed to this important legislation.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am going to propound a unanimous-consent request, which I understand has been cleared on the Republican side of the aisle. I am advised by staff that the Republican leader has approved this.

I now ask unanimous consent that immediately upon the disposition of H.R. 3807, the CFE implementing legislation, that there be 45 minutes for debate on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid moratorium legislation, with the time controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTOR ACT OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 543.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House insist upon its amendments to the bill (S. 543) entitled "An Act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.
>
> *Ordered*, That Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Mr. Hubbard, Mr. LaFalce, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Erdreich, Mr. Carper, Mr. Torres, Mr. Kleczka, Mr. Wylie, Mr. Leach, Mr. McCollum, Mrs. Roukema, Mr. Bereuter, Mr. Ridge, Mr. Roth, Mr. McCandless, and Mr. Baker be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I now move that the Senate disagree to the House amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. CRANSTON, Mr. GARN, Mr. D'AMATO, Mr. GRAMM, and Mr. BOND; from the Environment and Public Works Committee for title X only: Mr. BURDICK, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CHAFEE, and Mr. DURENBERGER; from the Labor Committee for consideration of section 1159 only: Mr. KENNEDY, Mr. METZENBAUM, and Mr. HATCH, conferees on the part of the Senate.

Mr. ROTH. Mr. President, the bill S. 543, the Comprehensive Deposit Insurance Reform and Taxpayers' Protection Act, as reported from the Banking Committee, contained an amendment which I offered whose purpose was to help both taxpayer and tax collector by imposing some stability in the area of State taxation of interstate branching. It was my concern that the new fact patterns Congress was creating by allowing banks to branch interstate would become the predicate, perhaps the pretext, on which precedents in the area of permissible State taxation would be relitigated. If so, the unsettling effect would dissuade banks from exercising their new branching authority. And as in any interstate taxation case, if one State is able to increase its revenues, that creates political pressure for other States involved with the same taxpayer to give tax credits. It was my concern that the legislation might somewhat inadvertently create many tax winners and losers among the States.

Recognizing that a change in corporate form from a bank to a branch may legitimately carry tax consequences, I sought a more limited scope for my neutrality principle. It seems to me entirely fair and impartial to suggest that the very fact of a conversion of a bank into a branch in the host State should not affect the tax status of another bank that did not branch into the host State. That clearly is true where the other bank is completely unrelated. But what about banks commonly owned by a bank holding company? It seemed to me, unlearned as I am in the specialty of State taxation, that there might be a problem, that is, that the conversion of a bank into a branch could serve as a basis for the host State to tax another part of the same bank holding company not previously taxed.

Mr. President, I have a chart that helps to clarify the issue. In example No. 1 a bank holding company in State A owns a bank subsidiary in State B which in turn owns a bank subsidiary in State C. The bank holding company also owns a bank subsidiary in State D. In example No. 2, all facts are the same except that in State C there is a branch in lieu of a bank. The bank is whether that difference has significance in the tax treatment of a bank subsidiary in State D.

Since I proposed my amendment, I have received an unwanted education in State taxation. Tax lawyers representing taxpayers and tax collectors have led me to conclude that the presence of a branch in the taxing State A, as compared with the presence of a bank, has no real tax significance when determining whether there is a nexus to tax another bank—the one in State D—not involved in branching which is part of the same bank holding company. I should note that the Multistate Tax Commission has been particularly emphatic in making that point. I ask unanimous consent that a letter from the Multistate Tax Commission be printed in the RECORD.

If there is no basis for different tax treatment of the bank in State D depending on whether there is a bank or a branch in State A, and that is what they tell me, then I see no need for my amendemnt. While my amendment has none of the mischievous purposes that have been wrongly attributed to it, it is the better course that it be removed from the bill for two reasons. First, whatever language is used to convey the meaning of my amendment, it must be remembered that State taxation is a very complicated matter and courts may misinterpret my words. Second, the area of State taxation is not one often addressed by Congress. There may be several reasons for this. Respect for the doctrine of federalism is one which is important to this Senator.

In the present parliamentary situation, my amendment has been superceded by the Senate's decision to accept Senator FORD's substitute for the Banking Committee's version of title III, the title dealing with interstate branching. The Senate's decision, therefore, obviated the need for me to strike my tax language.

Although the Multistate Tax Commission, in its letter, recommends that "no other language should be substituted" for mine, language which the Commission had offered me in our earlier discussion does now appear in title III. Section 302(b)(2) seems to embrace the principle of federalism that a State may do what is not prohibited by Federal law, including the Constitution. That seems to me the obvious intent. But that is not exactly what it says.

Article VI of the Constitution tells us that Congress can pass laws pursuant to the Constitution that have the effect of being the supreme law of the land. Thus a Federal statute may limit a State activity just as may the Constitution.

However, section 302(b)(2) says that nothing in the various provisions referred to shall be construed to restrict a State tax or method of tax "permitted by or permissible under either the Constitution of the United States or any other Federal law * * *"

Literally, this cannot be so. Congress by statute cannot amend article VI. While some State activity may be permitted by or permissible under the Constitution, that is not the end of a State's inquiry. It must also determine whether the activity is permitted by or permissible under Federal law. It must do both—not "either," as the section seems to suggest. Where the Constitution is silent on a subject and thereby permissive, one is still obliged to determine what other Federal law says.

The section would be literally correct if the section referred to a State tax or method of taxation that was not prohibited (rather than permitted) by either the Constitution or other Federal law. But as it now is written, it does not comport with the requirements of the Constitution. The letter from the Multistate Tax Commission advises that State taxation amendments have been "misconstrued by the courts" and that "all language carries certain risks." With language such as that in section 302(b)(2), it is easy to understand why.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MULTISTATE TAX COMMISSION,
NOVEMBER 13, 1991.
Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
104 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ROTH: This letter is in response to your request for our opinion regarding the need for statutory language to address certain State taxation issues you believe may arise upon the enactment of title III (interstate branching) of S. 543, the comprehensive banking reform legislation.

Having received your most recent draft of statutory language, a copy of which is enclosed for reference, we believe there are three distinct issues raised. First, in the absence of any Federal prohibition in the bill, the State laws of taxation and existing Federal laws will continue to apply to banks and whatever branches they may establish. There is not need for new Federal authorization of State taxation in this areas, except as to State taxation of Federal obligations and state visitorial powers which are addressed in separate provisions of S. 543.

Second, your draft language also prohibits State taxation which is discriminatory, otherwise unconstitutional, or unlawful. Such a prohibition appears redundant to us. What is unlawful is unlawful. The constraints of the Constitution—the due process and commerce clauses—are effective without statutory support. Further, States are constitutionally and/or statutorily prohibited from discriminating against national banks as opposed to State banks or against out-of-state banks as opposed to domiciliary banks. Discriminatory taxation is, therefore, a form of unconstitutional or unlawful taxation as you yourself suggest by using the word "otherwise" before the word "unconstitutional." Thus the above prohibition would appear unnecessary.

The third issue concerns the tax treatment accorded two similar fact patterns which differ only through the presence in the taxing State of a branch in lieu of a bank. In the first situation, a bank holding company in State A owns a bank subsidiary in State B which in turn owns a bank subsidiary in State C; in addition, the bank holding company owns a bank subsidiary in State D. In the second situation, in State C there is a branch present in place of the bank subsidiary. State C uses separate entity formula apportionment, not combined reporting. The remaining factors are identical.

Having discussed the purpose of your amendment with your staff, we understand your purpose to be to insure that the tax treatment by State C of the subsidiary in State D be the same regardless of whether the economic presence in State C is through a branch or a subsidiary. For our part, we do not understand how there would be different tax treatment by State C of the subsidiary in State D. Absent industry's description to us of an operational circumstance where this issue would be raised in the context of modern banking practices, we cannot conceive of an argument for dissimilar treatment. In our opinion, your amendment addresses a nonproblem and is, therefore, unnecessary.

In sum, we believe that all three facets of your amendment are unnecessary. While some might suggest that unnecessary amendments are harmless, we would take vigorous exception. It has been our unfortunate experience to see State taxation amendments misconstrued by the courts. So all language carries certain risks. Where the amendment is unnecessary, the risk is imprudent. Moreover, out of respect for federalism, Congress seldom seeks to limit State taxation authority. Such efforts should not be undertaken lightly. For those reasons, in response to your request, it is our opinion that it is preferable that the bill be silent regarding your concerns. The Roth amendment, as it currently appears in the form of two sentences in both Sections 302 and 303 of S. 543, should be removed from the bill and no other language should be substituted in place of those sentences.

We thank you for the opportunity to express our views and wish to express our appreciation for the cooperation of your staff.

Sincerely,

DAN R. BUCKS,
Executive Director.

Enclosure.

ROTH AMENDMENT—OCTOBER 11, 1991

Any branch, located in the host State, established or acquired under subparagraph (A) shall be subject to State laws of taxation except that no State may impose any tax on any such branch which is discriminatory in purpose or effect or otherwise unconstitutional or unlawful. The fact that an out-of-state bank has a branch in a host state shall not provide any greater or lesser basis for the host state to impose a tax on any other bank, or subsidiary of a bank holding company, that has not branched into the host state, than would exist if such out-of-state bank had a bank subsidiary in the host state.

Mr. MITCHELL. Mr. President, am I correct that under the prior order the Senate will now resume debate on the CFE Treaty, and the pending Smith-Wallop condition thereto?

EXECUTIVE SESSION

TREATY OF CONVENTIONAL ARMED FORCES IN EUROPE

The PRESIDING OFFICER. The Senate will go into executive session to consider the resolution of ratification on the Treaty of Conventional Armed Forces in Europe.

The clerk will report the resolution.

The assistant legislative clerk read as follows:

Treaty Document No. 102-8, Treaty on Conventional Armed Forces in Europe [CFE].

The Senate continued with the consideration of the treaty.

Pending: Smith-Wallop executive amendment No. 1433, to establish U.S. obligation to the terms of the treaty.

The PRESIDING OFFICER. The pending question is the amendment offered by the Senator from New Hampshire, Mr. SMITH, to the resolution. The time between now and 2 p.m. is equally divided and controlled in the usual form.

Who yields time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

The PRESIDING OFFICER. The Chair wishes to notify the Senator from New Hampshire and other Senators that the time between now and 2 p.m. is equally divided and controlled in the usual form.

Mr. SMITH. How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator has approximately 25 minutes.

Mr. SMITH. Mr. President, I yield such time as I may consume for myself.

Mr. President, during debate on the CFE Treaty this past Saturday, Senator WALLOP and I offered what I believe is a very important amendment. For those of my colleagues who may have not had the opportunity to review that amendment, let me say that is it very simple and straightforward.

It says that the United States shall not be bound by the terms of this treaty, unless and until the President submits to Congress his annual report on Soviet noncompliance, and certifies in the report that the Soviet Union is not in violation or probable violation of the CFE Treaty.

That is the amendment, Mr. President. It is neither lengthy nor is it complicated, but it cuts directly to a core issue in our consideration of this treaty: Whether the Soviets are violating the accord before it even enters into force. That is the question.

As my colleagues know, I have some very strong concerns over the manner in which the Senate is executing its advice and consent role on CFE. They involve issues of national security, constitutional prerogative, and precedent.

While the Foreign Relations Committee, I believe, has made a good-faith effort to address some critical issues, the committee-reported resolution of ratification simply falls short, in my view. Mr. President, the Smith-Wallop amendment focuses the Senate's attention on both substance and precedent. The amendment would condition Senate advice and consent to ratification on Soviet compliance with the treaty.

Frankly, I cannot imagine how anybody could oppose this amendment. Without compliance, a treaty is worth no more than the paper it is written on. If the Senate is expected to ratify an arms accord, the very least we should demand is that it is complied with. What is happening in the Senate, Mr. President, is that we are saying that regardless of whether the Soviets adhere to the conditions of the treaty, we are still going to rubber-stamp that agreement; this Senate is going to ratify the CFE Treaty, whether the Soviets comply or not.

I would say at this point, Mr. President, that the historical record is replete with Soviet treaty violations. I am not going to go into them all. But we certainly know that the ABM Treaty, SALT I, SALT II, the Geneva Protocol on Chemical Weapons, the Helsinki Final Action, the Biological Weapons Convention, the Limited Test Ban Treaty, and the Intermediate Range Nuclear Forces Treaty [INF] have all been violated by the Soviets.

So this is nothing new. Each year the President is required to submit to Congress a formal report on Soviet noncompliance with arms control agreements. The report assesses Soviet treaty obligations and provides a valuable perspective on the efficacy of verification regimes. The report is due on December 1—Mr. President. That is not very far away.

I understand that if we recess for the year and come back after the holidays, several weeks time will have passed. But surely the Senate, in advising and consenting to this treaty, ought to be interested in reviewing that report prior to ratification.

That is the point of my amendment. Should we ratify a treaty before we find out if the Soviets are already cheating, and what those violations are? And make no mistake, they are violating it. And, yet, we are saying: Let us ratify it anyway; do not worry. Well, that is a dangerous precedent. It is a dangerous precedent for the Strategic Arms Reduction Treaty ratification process and all future treaties, as well.

The Smith-Wallop amendment states that the United States will not be bound by the CFE Treaty unless the President submits the Soviet noncompliance report, and in it certifies that the Soviets are not in violation of the accord. I believe that action by the Senate in this regard would be very important, because it would send a message to the Soviets that we will not accept violations. Abide by the treaty, or the United States will not be bound by it. That is the issue.

Undoubtedly, some of my colleagues will probably say that this is an amendment designed to kill the treaty. That is just not the case. I am not opposed to the CFE Treaty. What I do oppose is hastily rushing consideration purely for appearances' sake. This treaty, Mr. President, off and on, has taken some 15 years to put together. Events have taken place in the last 2 years that none of us could ever have dreamed would happen—positive events. Perhaps those events moved faster than the treaty. I think it is pretty obvious they did.

I do not think that the proposed treaty is responsible for the positive developments such as the fall of the Berlin Wall, the Warsaw Pact dissolution, and now the breakup of the Soviet Union. We know it is not.

Nonetheless, if the Senate's will is to ratify the accord prior to Thanksgiving, which it is apparently, we owe it to national security and our constituents to hedge U.S. obligations under the accord to a certification that the Soviet Union is honoring their commitments. That is all I am asking.

Mr. President, the intent of this amendment could not be clearer. If it is adopted, I hope the administration would not exploit some legal loophole to circumvent what is obviously intended through the certification. The process by which the Senate has considered the CFE Treaty is wrong. The constitutional advise-and-consent process has been severely undermined here by both hasty and superficial consideration of the accord.

To speak out against hasty approval is not to speak out against the treaty. It is not to speak out against those who have worked for years to formulate this accord. It is not to speak out against the administration. It is not to speak out against those in this Senate who strongly support the treaty.

It is simply saying let us find out what the violations are, and demand that the Soviets clear up those violations before we consent to ratification. What is wrong with that?

A report is due on December 1, days away. If we wait, true, we cannot ratify this treaty until January, perhaps February. But what will we have lost? A couple more months, after 15 years?

The Senator from Delaware said last Saturday—or hinted—that the intent of the sponsors of the amendment was to kill the treaty. Again, this is not true. The intent is to make the treaty worth something; to give it legitimacy and meaning.

This amendment does nothing to delay or prevent ratification. It merely sends the message that the United States will not be bound by the accord until the President certifies that the Soviets are not already cheating. In my view, this is the minimum which the Senate should insist upon in providing its advice and consent to the treaty and exercising its constitutional prerogatives.

To do otherwise is simply irresponsible and, I believe, damaging to our institution and damaging to the concept and precedent that it would set for advice and consent.

Mr. President, at this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, when we were last here a half hour ago, the Senator from Virginia had proferred a potential compromise. Is there any word from the sponsors on their inclinations, if not the final disposition?

Mr. SMITH. May I ask the Senator from Delaware, has he approved that and will he accept it?

Mr. BIDEN. I have not seen the language.

Mr. SMITH. Let me see if I can find it. Does the Senator have a copy of it?

Mr. BIDEN. I now have a copy.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. WALLOP. Just an observation: I think that Senator WARNER from Virginia is on his way over to discuss that with both the Senator, as the distinguished manager of this bill, and with the Senator from New Hampshire, who had only just seen it.

Mr. BIDEN. Maybe I should withhold any further discussion of that potential compromise, until it is appropriate to speak more generally to the amendment as it now is proposed by the Senator from New Hampshire.

Mr. WALLOP. Mr. President, if the Senator will yield, what is the time situation? May I inquire of the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has 15 minutes and 51 seconds.

Mr. WALLOP. Will the Senator yield 5 minutes to the Senator from Wyoming?

Mr. SMITH. I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, once again I return to the floor to suggest that this is more in the nature of a political document than a document that has any military significance. It will be touted and embraced by the administration and those who espouse it as having military significance, but, if it did, the amendment that has been offered by the Senator from New Hampshire and myself would have been adopted. If it made a military difference to the United States, it would surely make a military difference to the United States to know whether or not the party with whom we are entering into this agreement would be in compliance. It cannot be argued, Mr. President, that this treaty has consequence to the American people in terms of our military safety or our allies' and at the same time be argued that it is of no consequence whether the other side is in compliance.

Now, there is disagreement in the intelligence community on the issue, but everyone agrees that the treaty limited equipment that was in the zone at the time of signature of the treaty. And the estimates range from several thousand to some 18,000 pieces.

The Senator from Delaware stated that the lower range was some 800 pieces of treaty-limited equipment. That is simply not true. That is not the lower range. And were we to have a classified session, other Senators could assure themselves of that.

The problem, Mr. President, is that this treaty is probably, because of the passage of time, already irrelevant. It is certainly relevant to ask the question whether the principal entity with whom we enter this treaty exists any longer, namely, the Soviet Union. But if the argument is made that they do exist, then somebody has to make an argument, Mr. President, that the purpose of these treaties is to comply the terms with them. Neither party can trust the other party's will unless both parties are willing to do that.

Now, the treaty that is going to be relevant is arriving in the Senate probably next year early, namely, the START Treaty. And if the precedent set here today is that it does not make any difference how lawful the behavior of either party is to the treaty, then, Mr. President, the Senate is abdicating its rightful role in the process. And that is what I think is the worry that the Senator from New Hampshire and I have.

Again, I say, it cannot be argued that there is military significance to this treaty and at the same time argue that it makes no difference whether or not they are in compliance. I wish that my friend from Delaware and I could debate this issue in front of the full Senate in classified session because the figures are significant, I will say to the Senate. They are not militarily insignificant unless the whole thing is militarily insignificant.

One begins to have the idea when one sees that the amendment we will be voting on later also requires that the people of the United States pay to dismantle the weapons that were constructed to destroy them. We will be asking, now, the taxpayers of the United States to pay for the dismantlement of those, at the same time that a modernization program is going on.

Mr. President, until the Senator from Virginia arrives with his suggestion, I yield the floor and hope that the manager might use some time on their side so that we might be able to discuss that proposal when he arrives.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, while both the Senator from New Hampshire and the Senator from Delaware have different perspectives in deciding whether or not the proposal that is being suggested by our friend from Virginia here is acceptable, I would like to speak to a few points that have been made thus far.

In the resolution of ratification that is at the desk now, condition 2 relates to data and the data discrepancy. It says:

> Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—
>
> (A) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and
>
> (B) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

The purpose of that is to accomplish the end being sought by the Senator from New Hampshire. But let me read from a letter that I received just this morning from the President of the United States. It is dated November 25, 1991.

> DEAR MR. CHAIRMAN: I am pleased that the Senate will vote on the CFE Treaty today and appreciate what you and your colleagues on the Foreign Relations Committee have done to bring the Treaty to this point. After months of work by the Foreign Relations, Intelligence and Armed Services Committees, the CFE Treaty is on the verge of being approved by the Senate.
>
> Unfortunately, the positive results of years of work could be lost if the Senate approves an added condition such as that to be voted upon today that ties U.S. compliance with the Treaty to the Soviet data problem. Such a condition could not be implemented and would cause this complex, multilateral—and extremely advantageous—Treaty regime to collapse.
>
> A key element of the dispute over Soviet underreporting was their failure to count ground-based equipment assigned to the Navy. In resolving this issue, we also dealt with Soviet withdrawals of equipment beyond the Urals. Ultimately, after seven months of negotiation, in which President Gorbachev and I were directly involved, all 22 Treaty participants reached a legally-binding agreement that the Soviets would reduce some 3,700 more pieces of equipment now in the CFE zone, and a political commitment that they would reduce 14,500 additional pieces beyond the Urals.
>
> These June agreements did not, of course, resolve all outstanding data questions. But it was the view of all CFE Treaty signatories that there was sufficient progress to make it possible to proceed toward ratification and implementation. Indeed, your Committee, in its analysis of the data issue, saw in the 14,500 reduction an effort by the Soviets to "make amends."
>
> I take the issue of Soviet underreporting very seriously, and work on these issues continues in Vienna. Our dialogue with the Soviets, especially since the August coup, has been encouraging. But we would destroy all these efforts, and indeed the Treaty as a whole, if the Senate imposed a unilateral U.S. solution to this complex issue. The condition already recommended by your Committee gives me a way to continue work on remaining data questions within the 22-nation framework.
>
> I sincerely hope that the Senate will consent today to this vital Treaty based on the Resolution of Ratification as it now stands.
>
> Sincerely,
>
> GEORGE BUSH.

I did say to my colleague from New Hampshire in the discussion we had last week that we could not afford to wait. And my good friend from New Hampshire a moment ago stated that we waited this long, what difference would 2 months make which is the amount of time the Senate would be out of session, before we are able to reconsider this resolution of ratification?

I suggest that, in light of what has happened in the last 2 months, Lord only knows what is going to happen in the next 2 months. We have a circumstance now where all of the 22 nations have agreed to the details of the resolution that is before the Senate. Not the conditions, but the details that they were required to sign onto.

And further, we have a clear understanding on the part of the Republics which may become independent nations, that it is their intention to be bound by the conditions of this treaty. And we put in a condition dealing with the prospect for a republic becoming an independent nation.

My concern is, if we let this languish for 2 months, we in fact do not have any idea what the lay of the land will be, come February; come mid-February, or March, or whenever we would get back to this treaty if we were to delay. The end result of this is, as we are dealing with an attendant piece of legislation, the so-called cascading legislation, would require the Soviet military to destory thousands and thousands of pieces of equipment of dire consequence to us, when in fact we will not have to destroy any at all.

To wait for that bargain to be remade, for it to be altered so that the conditions of the Senator from New Hampshire would be met, would put us in such a position, that we would be operating at our own risk because of the rapidity with which the Soviet Union is disintegrating and with which the rest of Eastern Europe is emerging.

I see my friend from Virginia is on the floor, the architect of this potential compromise. In order to accommodate his schedule and all of ours, I will yield the floor at this moment.

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. WARNER. Parliamentary inquiry, the time allotted to each side remaining is what?

The PRESIDING OFFICER. The Senator from New Hampshire has 11 minutes and 23 seconds, and the Senator from Delaware has 14 minutes and 57 seconds.

Mr. WARNER. Mr. President, I wonder if—I make a proposal that such time as I may take, 3 or 4 minutes, be allocated equally between the two sides?

Mr. BIDEN. That is fine. Up to 4 minutes. Equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank all Senators present here, particularly the sponsors of this amendment and the distinguished Senator from Delaware. I do suggest a proposal. It is one that has basically been structured with the consultations of the Senator from New Hampshire and the Senator from Wyoming. I shall read it. But before doing so I would like to give some background.

As I examined this amendment and the work by the Senators from Wyoming and New Hampshire, their work is consistent with what this body has repeatedly done time and time again in the area of compliance with the treaties with the Soviet Union. It is not really breaking any new ground, except that we have done it first in bills which eventually became statutory law. Now it is a question of treaty.

So I think there is a certain consistency that can be achieved. I suggest the following language might well be that vehicle to achieve consistency between the actions taken by this body in recommending to the President for his signature, which became law, certain statutes and now the treaty. I will read it.

The amendment would read:

> Add after Condition (a)(5)(C), the following condition:
>
> (6) Presidential Certification on Soviet Compliance. Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in the President's Soviet Noncompliance With Arms Control Agreements Report, required pursuant to Public Law 99-145, whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto.

I believe this modification would allow the Senate to register its very deep concern about the possibility of Soviet violation of this CFE Treaty at the time of signature relating to the date, while at the same time recognizing changes that have occurred since that time.

Mr. President, I ask unanimous consent to expand my remarks, and I yield the floor.

Mr. WALLOP. Could I direct a question to the Senator from Virginia?

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. I yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, this contains additional language over that which was discussed prior to lunch. I might inquire of the Senator, what was it the law citation requires?

Mr. WARNER. Public Law 99-145.

Mr. WALLOP. It requires?

Mr. WARNER. It is the annual report.

Mr. WALLOP. It is the same annual report that is due on December 1?

Mr. WARNER. That is correct.

Mr. WALLOP. And which never arrives until sometime in June?

Mr. WARNER. It is correct it is due December 1.

Mr. WALLOP. That is the report, the only report the Senate would receive with regard to Soviet compliance or noncompliance with this amendment?

Mr. WARNER. Under the proposal of the Senator from Virginia, Mr. President, that would be the only report.

Mr. WALLOP. I ask the Senator if he thought that the administration and others might suggest that that report—time is of the essence with regards to that report. Whereas the other ones might be less so. That is one of the reasons why the Senator's first suggestion to us was acceptable. But if we have to wait for all other chemical and toxic weapons, it really sort of takes away the basis.

Mr. WARNER. The Senator makes an observation. He is correct, in my personal judgment. The amendment that the Senator is recommending to be two sponsors is—the Senator from Virginia's amendment—it does not imply this meets all of the judgments that are present in the administration at this time. I have spoken to several of the principles and I believe there is a consensus that this would be helpful. But I am not representing that this is an administration amendment.

The PRESIDING OFFICER. The 2 minutes of the Senator from Wyoming have expired.

Mr. WALLOP. Could I have 1 additional minute?

Mr. SMITH. I yield to the Senator from Wyoming, 2 additional minutes.

Mr. WALLOP. What I would like to try to achieve is you get this report separated out from the report on arms control compliance, so that at least it was a report to the Senate. Keep in mind this does not require any responsive behavior on the part of the administration. Even if they say they are in compliance with no part of it we will still have authorized the ratification and I assume they will have already ratified that as a treaty. So keep in mind it does not ask us to back out of the treaty or take any other action other than to report to the Senate the status of compliance with regard to this treaty and its protocol.

Could we try to find a way? Does the Senator think we could separate that piece out?

Mr. WARNER. Mr. President, I am open to suggestion. I suggest the two principal sponsors see if they can reconcile their views on that point. I am merely trying to resolve this in such a manner that the amendment would garner greater support in the Senate.

I think with some modification in that vein, the amendment would.

Mr. WALLOP. Still on the time yielded to me, I inquire of the Senator from Delaware if he has any information to work toward a resolution that would be satisfactory to that side?

Mr. BIDEN. I apologize for not being able to answer immediately. That is what we are trying to do right now.

But I am disinclined at the moment to accept the compromise. I know you are not offering it, but if you could give me at least another moment, that is what I am considering right now. I am trying to make sure I understand everything.

Mr. WALLOP. Could I suggest the absence of a quorum with the time to be charged to both sides?

Mr. BIDEN. I object to that, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BIDEN. I object only for the following reason, I say to my friend. We have only 12 minutes left. The Senator from Tennessee has a good 40 minutes of questions for me. We are going to try to get it in in 7 minutes. I do not know how that is possible if we let the quorum call run.

Mr. SMITH. May I suggest the Senator from Delaware take a little time with his side and discuss it.

Mr. WARNER. Will the Senators forebear and give me 30 seconds?

As I examine this, I believe the recommendation—and it is a recommendation. I am, under parliamentary procedure, not able to send an amendment to the desk, so it is up to the two sponsors. But I believe the language that is now being discussed with the Senator from Virginia would go directly to that concern expressed, in the letter from the White House, by the President which "ties U.S. compliance with the treaty to the Soviet data problem." That is the purpose of the language of the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 7 minutes to my distinguished friend from Tennessee.

Mr. GORE. Mr. President, there are a lot of legitimate questions about what we are doing. Before I put some of them I would like to compliment the distinguished manager of this matter for his patience and diligence and understanding of these questions. Most of the debate and discussion relating to the Senate's action with respect to the CFE have centered about essentially constitutional questions. I would like to make sure we understand what we might be getting into in the extremely likely event that the Ukraine does, in fact, declare itself to be independent.

I tried to reduce my uncertainties to questions and they are sincerely meant. I have come to the floor in search of knowledge on these points. In light of the short amount of time that we have, I would like to have an elaborated answer for each of these questions for the record. I would like to just put them aside and explain my understanding of them and why I think the Senate should proceed to ratify this treaty in spite of the tremendous uncertainty that surrounds it.

I do think that the Senate's amendment makes it possible to ratify the treaty, uncertainties notwithstanding. But based on what I take to be a great deal of ambiguity about the situations we may find ourselves in after the Ukraine announces its independence, I hope that we all realize that there is a difference between ratifying a treaty and being able to sustain a treaty. It may very well be, in fact I think it is in the best interest of the United States of America to ratify this treaty, for the Senate to do so. But whether or not it can be sustained will depend upon how we react to the events we are going to see unfold after the Ukraine's announcement of independence.

We have to be absolutely clear that there are limits to how far we can tolerate being yanked around as a result of protracted maneuvering and disagreement between the Ukraine and the rest of the former Soviet Union. They have to realize that the stakes are very high, and interfering with this treaty's operation will carry with it the risk of severely damaging all other forms of U.S. cooperation. Frankly, I would feel better if that point were made pretty forcefully by the President.

One set of questions involves the United States view of the obligations held by the Ukraine at the moment it declares its independence. Will it be bound even though it is not a party to the treaty? And if that is our assertion, how solidly based is that in international law? If it is based on the Vienna Convention, does the fact that the United States has not ratified that convention complicate our reliance upon it?

I will invite the distinguished floor manager to respond for the RECORD. But let me state that it is my understanding, having searched for the answers to these questions, that there is no clear and definitive answer available, and we are asked to vote on this even though there is uncertainty about such important points as these.

I do believe, let me repeat, that it is nevertheless in our interest and in the country's interest to ratify this treaty. But, again, the way the Ukraine and the rest of the former Soviet Union interprets these questions and the way we interpret these questions and answer them will determine whether or not this treaty is sustainable.

The next set of questions are as follows: Is the Senate's amendment saying any future state formed in the region covered by the treaty is expected to accept the obligations of the treaty? And if that is the case, then when is the Ukraine considered to be a state? When it declares itself to be one? When the United States officially recognizes it? When all of the CFR signatories recognize it?

Again, these questions, important as they seem to be, have not yet been answered and remain shrouded in uncertainty.

Is it irresponsible for the Senate to go forward and ratify this while these questions remain unanswered?

Under normal circumstances, I would say, yes, that is irresponsible. But the world is changing so rapidly, perhaps as rapidly in the former Soviet Union as in any other part of the globe, that a choice to withhold ratification would be a worse option. And so again we come to this distinction between the extent to which a treaty is ratifiable and the extent to which it is sustainable after ratification.

I would simply say, as one Senator, I would like to serve notice that I believe it is in the best interest of the United States not just to ratify it but to review its sustainability afterwards in light of the way we, the Ukraine, and the rest of the former Soviet Union respond to these expected developments.

Finally, suppose the Ukraine states that it is ready to accept the obligations of the treaty but continues to assert its intention to form a 400,000-man army and suggests that the Soviets or the Russian Republic absorb that by reducing their forces accordingly. At what point do we consider the treaty to be actually breached? Do we wait until the actual number of troops by our count exceed overall totals? Is it correct that under the treaty there could be a period of as long as 30 months before a material breach could be declared?

To that latter question, it is my understanding that the answer is yes, there could be a period of as much as 30 months before a material breach could be declared. The answers to the other questions in this set of questions will be up to the Ukraine and the rest of the former Soviet Union.

But, Mr. President, it is of no small consequence when a new nation the size of France with an army that might be larger than that of Germany's is suddenly an independent nation. These questions remain; they represent significant uncertainties. In my view again, to close, we should ratify this treaty in spite of them and then constantly monitor it to see that it is sustainable afterwards.

I hope the floor manager will respond to these questions in more detail for the RECORD.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. How much time does the Senator from Delaware have?

The PRESIDING OFFICER. The Senator has 5 minutes 19 seconds remaining.

Mr. BIDEN. Let me say to my friend from New Hampshire and my friend from Wyoming with regard to the potential compromise offered by the Senator from Virginia, both my staff and I have been in contact with the White House. The only condition upon which they would be willing to accept the proposal being put forward by the Senator from Virginia is as I believe the Senator from Wyoming was informed. If the language was changed to report to the Senate whether or not the Soviet Union is in violation, as opposed to the language that was proposed which includes that report in the President's Soviet noncompliance, et cetera. I just ask whether or not the proponents of the amendment would be willing to accept that. If not, I think we should just vote on the amendment.

Mr. SMITH. Mr. President, I yield 2 minutes to the Senator from Wyoming. How much time do I have?

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes remaining.

Mr. WALLOP. Just 1 minute will suffice.

I would say that the reason for the language is twofold: One is that there is no reason for an entirely new reporting mechanism. The Congress lays enough bureaucracy on the administration and the Government, and second, a mere report can be a letter from the President saying, "I think they are probably in compliance."

That is not what is sought here. We are seeking a specific report. I am speaking for myself. The Senator from New Hampshire is the offeror of the amendment.

Mr. BIDEN. I ask my friend from New Hampshire what his disposition is. Again, I am not trying to encourage him to accept this. I just wish to know what it is.

Mr. SMITH. I have consulted with Senator WALLOP and with Senator WARNER and am prepared to accept the language that Senator WARNER suggested which includes certification. My preference would be, if that is not acceptable to the Senator, to go ahead, I would want the certification language as suggested by the Senator from Virginia.

Mr. BIDEN. Mr. President, on my time, I am not merely speaking for myself. It is unusual for me to be speaking on behalf of the administration. But in this case I am speaking in support of the administration. They feel very strongly that such language would be very damaging. They would not accept the language. So when our time is expired, I would suggest we vote the Senator's amendment.

Mr. SMITH. Mr. President, it is my understanding that the Senator has the right to object to a unanimous consent to modify the amendment. If I were to offer to modify the amendment as suggested by Senator WARNER.

Mr. BIDEN. I would object.

Mr. SMITH. Would the Senator object?

Mr. BIDEN. Yes; I would object to that modification on behalf of the administration.

Mr. SMITH. Under those circumstances, I have no choice but to remain with my original amendment. I sincerely regret that the Senator from Delaware would object to that. I think at this point, Mr. President, just to get it on the record, I am going to offer the modification in an effort of good faith, and if the Senator chooses to object, he has that right.

Mr. President, I ask unanimous consent that I may now modify my amendment with the modification which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Mr. President, on my own behalf but also on behalf of the administration, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 3 minutes and 48 seconds remaining.

Mr. SMITH. I yield another minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I regret that. Let me just say categorically that the amendment was not a departure from tradition. The report that is required under it is a certification. The administration is indulging in absolute pettifoggery by thinking that they have some kind of constitutional loss here if they have to certify that the people they are asking the Senate to enter into an agreement and a treaty with are in compliance with the terms of that treaty.

Mr. President, it is absolutely untrue to say that this is a killer amendment, and it is especially untrue to say that a report such as suggested in the unanimous consent of the Senator from New Hampshire merely requiring the administration to certify the status between the two parties, requiring no response or reaction to them, they could have said they are in violation. We certify they are in violation of everything and done nothing about it, is a killer amendment. It requires no Soviet behavior. It requires no behavior on the part of the administration with regards to the treaty, only the report to be certified as to the status.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. BIDEN. Mr. President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. The Senator from Delaware has 3 minutes and 28 seconds remaining.

Mr. BIDEN. Mr. President, I know if is not really the time he needs, but I yield 30 seconds to my friend from Oklahoma, who has much more to say about this and other matters, but I need to reserve 3 minutes.

Mr. BOREN. I thank my colleague from Delaware.

Mr. President, we will soon be voting on the sequence of votes on the Nunn-Lugar amendment. I strongly support that amendment. What we have learned from intelligence sources and from briefings of all of those with strong expertise in the Soviet Union is that there is a genuine threat of the proliferation of nuclear weapons; those weapons falling into the wrong hands if we do not begin to work together cooperatively right now.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. BOREN. Therefore, I hope my colleagues will join me in voting for that amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, after further consultation with the administration, I would ask whether my friends could live with the following language, and that is that "the President shall certify in a report to" so it would contain the word "certify" and it would be a report.

Mr. SMITH. Will the Senator please repeat that.

Mr. BIDEN. Yes. I will read the whole thing:

> Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto.

Mr. SMITH. The Senator said report. Would he accept Presidential Report on Soviet Noncompliance?

Mr. BIDEN. I say, Mr. President, no. The administration would not accept that language. We will say "certify in a report" but not specify which report. The administation will certify through a report transmitted to the Senate containing only this information.

Mr. WALLOP. Could the Senator say what the information is?

Mr. BIDEN. I do not know what the information is.

Mr. WALLOP. Not what it will be but what information is required in the report?

Mr. WALLOP. Whether or not the Soviets are in violation or probable violation.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, since this is a highly unusual circumstance, I ask unanimous consent that we have an additional 5 minutes, pushing the entire vote process back 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask the Senator whether I could have 1 minute of the remaining time.

Mr. BIDEN. I will be delighted to yield 1 minute of time.

Mr. DOMENICI. Mr. President, on Tuesday or Wednesday of last week, when Senator NUNN came to the floor to discuss the very issue that is in the Nunn-Lugar amendment, I came to the floor and indicated then that I supported that approach, and today I want to repeat that. For those who think this is a foreign aid issue, I submit it is a domestic issue of the highest magnitude and I say if you do not do something like that, just wait and see; when those weapons become dangerous because they are in the hands of the wrong people or are even on the market somewhere, or their managers are on the market somewhere to produce more proliferation, wait and see if it is not right in the front rooms of every home in America where they begin to ask, "What is this all about?"

I think that makes it a very serious domestic issue, and I compliment those who started that issue. I was an original cosponsor. I am pleased to be and I hope it passes overwhelmingly today.

I thank the Senator for yielding.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, how much leader time do I have?

The PRESIDING OFFICER. The Senator's 10 minutes of leader time has been reserved.

Mr. WALLOP. Mr. President, will the majority leader yield for a quick inquiry?

Mr. MITCHELL. Certainly.

Mr. WALLOP. We would like, we think, to be able to modify this amendment with the agreement from the Senator from Delaware. Could we be assured enough time to see if that would be the case?

Mr. BIDEN. Mr. President, how much time does the senior Senator from Delaware have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 36 seconds remaining.

Mr. MITCHELL. Mr. President, might I suggest that I will make my statement and Senators can continue their discussions and perhaps we will be in position to do that upon completion of that time.

Mr. President, in light of developments in Eastern Europe and the former Soviet Union, some have argued that the Treaty on Conventional Forces in Europe has become an anachronism.

In some respects it has been overtaken by the startling pace of political change, but it remains an important benchmark and building block for ensuring the future security of the European continent.

I commend President Bush, Secretary of State Baker, and former CFE negotiators James Woolsey and Stephen Ledogar for achieving this significant treaty.

Signed last November by the members of NATO and the now-defunct Warsaw Pact, the treaty was submitted to the Senate by the administration this July. It has been the subject of hearings and debate in the Senate Foreign Relations Committee. The Intelligence and Armed Services Committees also conducted hearings and submitted their views to the Foreign Relations Committee. There has been a thorough review of the many aspects of the treaty's provisions and their ramifications.

The CFE Treaty was designed to reduce the conventional armies of the opposing forces of NATO and the Warsaw Pact. It aimed to reduce the likelihood of a conventional Soviet attack on Western Europe and to lessen the threat of war on the continent.

Yet, as we all know, the Warsaw Pact has dissolved itself.

Most of the Communist nations against whom the West armed are now on their way to becoming democracies.

Soviet troops have left or have begun leaving East European territory.

Some East European countries would like to joint the European Community and even NATO.

The Soviet Union itself remains a Union more in name than in fact. Many of the republics have begun assuming independence. The Baltic States are free.

The Soviet Government is preoccupied with winning a war against economic decline, not a war against the Western powers it now seeks to emulate.

The Treaty on Conventional Forces in Europe is an historic document that exemplifies the enormity of these changes.

The very signing of a treaty involving 22 nations, tens of thousands of arms, and 2½-million square miles is in and of itself an accomplishment. The treaty's massive cuts in weapons both spurred and reflect the positive transformation of Eastern Europe.

Moreover, the agreement's verification and transparency measures are themselves valuable and set an important precedent for further arms control measures.

The CFE Treaty will require the destruction of thousands of weapons in order for both sides to reach equal levels of weaponry. Although it obviously forces the far greater burden of destruction on the countries of the East, its limits on conventional arms may now seem too high given the pressures for disarmament in those formerly Communist countries.

But the ratification of the CFE Treaty by all parties will provide additional assurance of adequate warning of any arms buildup and an effective block against any country's ability to launch a large-scale attack.

The treaty was signed a year ago. Continuing political turbulence among the nations of Eastern Europe has since raised possible complications for the treaty as drafted.

I am pleased that the Senate Foreign Relations Committee has added to the resolution of ratification conditions that anticipate some of these eventualities.

Specifically, I commend the committee and the senior Senator from Maine, my colleague Senator COHEN, for anticipating the possibility that an emergent state might decline to accept the obligations of the treaty.

It is important to recognize that a newly independent state could ignore responsibility for upholding the CFE Treaty's provisions, thereby upsetting the stability and transparency of arms that the treaty is designed to ensure.

It is also critical that the Senate be involved in the decision whether or not to stay in the treaty or to renegotiate its provisions under such circumstances.

I am satisfied that the resolution of ratification adequately protects both the security interests of the United States and the Senate's role in the event that a potentially militarily significant state might choose to abrogate the treaty.

I also support the resolution of ratification's conditions that several treaty-related assurances, known as side agreements, be considered to have the same legal force as the treaty itself.

It is important for preserving both the constitutional powers of the Senate and the integrity of the treaty process to insist on this point.

The executive branch cannot make freestanding agreements to resolve problems inherent in the treaty and then expect Congress to ignore the relevance and legal standing of these agreements. To have any relevance, side agreements must have the same weight and binding quality as the provisions of the treaty itself.

It is therefore important that the resolution of ratification clarifies this point regarding both the Soviet statement of June 14, 1991, and that of October 18, 1991.

I believe that the most important aspect of CFE is the baseline it establishes for additional arms control and confidence-building measures. CFE is a building block for future steps toward a stable and peaceful security regime for Europe.

The CFE Treaty represents both the end of an era and the beginning of a new phase in arms control and security regimes.

It was a result of the cold war and a divided continent.

It will be implemented in the context of a new Europe in which integration and mutual advantage—rather than suspicion and conflict—can be the guiding principles.

The new era offers great possibilities for Europe, the Soviet Union, and the United States to move toward a more far-reaching and permanent concept of arms control.

President Bush's unilateral arms reductions, and the subsequent unilateral initiative by Soviet President Gorbachev, demonstrate that the new climate of cooperation can yield great dividends in moving toward reduced arms.

Now is the time to press forward and realize the full potential of this new period in bilateral relations.

The administration has said it will shortly send the already signed START agreement regarding strategic arms to the Senate for consideration.

But the administration has been silent on what it once termed START II, a follow-on agreement to make even deeper cuts in the bulk of the two nations' nuclear arsenals.

Equally disappointing has been President Bush's silence in the face of new Soviet offers to negotiate more comprehensive arms control agreements.

President Gorbachev has called for negotiations to halt the production of all weapons-grade fissionable materials.

The great environmental hazard of nuclear production facilities, the excess plutonium, and highly enriched uranium available from retired warheads, and the lack of a need for even more nuclear warheads, all make this a compelling goal.

I hope President Bush will agree to at least explore this offer from President Gorbachev.

President Gorbachev has renewed his offer to negotiate a comprehensive test ban. The Soviet Union has now instituted a unilateral 1-year testing moratorium.

It has been longstanding U.S. policy to pursue a halt to nuclear testing. Now is the time to renew this commitment. I plan to join in introducing legislation to require a 1-year mutual testing moratorium as a step toward this goal.

Finally, President Gorbachev has pledged to unilaterally reduce Soviet strategic forces to 5,000 warheads. This is 1,000 fewer than the agreed upon 6,000 START-accountable limit. Gorbachev also proposed to begin negotiations on further reductions to approximately half of the 6,000 accountable warhead START limit. This is an offer that also deserves immediate attention.

It is unfortunate that President Bush has yet to respond to any of the Soviet President's new arms control initiatives.

The possibility to achieve such far-reaching agreements may not always exist.

I believe it is in our interest to explore them now.

I am pleased that the Senate today will fulfill its constitutional responsibility by providing its advice and consent to ratify the Conventional Forces in Europe Treaty.

I hope that the treaty will not just be a benchmark of the progress that has been made in enhancing European security.

I hope the CFE Treaty will serve as a catalyst, spurring the administration to work vigorously to realize the enormous opportunities before us today.

Mr. President, I reserve the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that a section of the committee report dealing with data discrepancy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

F. DATA DISCREPANCY

The administration told the committee in July that some of the equipment the Soviets claimed had been withdrawn from the ATTU by November 19, 1990, had, in fact, not been removed by that data. Evidence of destruction in the ATTU and information available on holdings now located east of the Urals indicates that nearly all the TLE in question is now no longer present in the ATTU, but the baseline OSIs could, of course, prove otherwise.

In July, Senator Biden asked Ambassador Ronald Lehman, Director of ACDA, about the amount of TLE withdrawn from the ATTU after November 19, and about the general conditions of the Soviet departure from the ATTU. Ambassador Lehman testified that "it would appear that what the Soviets have given us is their projection of what they expected to have in the zone at the time * * * we are continuing to pursue this issue in the JCG." A week earlier, Richard Kerr, the Acting Director of Central Intelligence, stated: "At this time, our best judgement is that the Soviet 19 November figures reflected what they intended to have in the zone when the Treaty entered into force—if not before."

Senator Biden then followed up with further questions on the actual amount of unreported TLE that was still in the ATTU on November 19, and "about the efficiency and the capability of the Soviets to either, (A) move; (B) know whether it was moved; and (C) know where it was in transit."

Ambassador Woolsey responded as follows: "* * * we believed based on information that has been provided to us by the intelligence community that there were problems, * * * concrete data problems with a somewhat smaller level of equipment * * * there were approximately 1,000 aircraft, much of it in storage at air fields, looking to us as if it were older aircraft, that the Soviets did not try to hide, but did not declare. And we raised this issue in the Joint Consultative Group and after discussions there, they increased their notified holdings by between 100 and 200 aircraft. There were still 800 or so aircraft that they did not notify. Now some of that aircraft appeared to have been in the process of being destroyed at the beginning of the period (and) * * * much of it has been destroyed since. * * * There were also * * * on the order of 800 pieces—of ground-based equipment, which we have * * * [with] reasonably good confidence [determined] were not declared properly and we continue to raise that issue in the Joint Consultative Group * * *."

Ambassador Woolsey also mentioned possible further undeclared ground equipment "in the very low thousands." This "several thousand" TLE did not actually arrive at destinations east of the Urals until after November 19, 1990, but it cannot be proven to have been in the ATTU on that date.

By observing the date of arrival, one can estimate how many of these late-arriving TLE may have still been in the ATTU on November 19, 1990, and that number is about 3,000.

Also, some destruction of older tanks and aircraft in the ATTU appears to have been underway on November 19, but not completed until after that date. The Soviets have agreed that about 800 to 1,000 aircraft were in the ATTU on November 19, but they assert that these aircraft were older and did not meet the definition of "aircraft" in the Treaty. It now appears that some 1,500 additional older tanks and aircraft have been or are being destroyed.

As part of their June 14, 1990, unilateral political commitment, the Soviets declared that they would destroy "an additional 6,000 battle tanks, 1,500 armored combat vehicles and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals." Thus, the Soviets will have, at least, agreed to make amends. The unilateral destruction of 14,500 TLE, plus the reduction of 3,738 TLE pursuant to the Article III dispute (in addition to the reduction obligations under the Treaty already accepted by the Soviets), is clearly welcome.

Other observers have suggested that there may have been as many as 18,000 more pieces of equipment in the zone on November 1990 than the Soviets declared. Based on open and closed testimony by the intelligence agencies, it seems fair to conclude that we will never be able to confirm whether 18,000 extra TLE were in the ATTU on November 19, 1990.

In light of the importance of this issue to committee members, a summary of available classified information will be available to all Senators in S. 407 during the consideration of the Treaty by the full Senate. Thereafter, the summary will be retained in the committee's files.

COMMITTEE CONDITION

Senators Biden and Helms both expressed concern over the data discrepancy issue. In response to questions from Senator Biden, representatives from the intelligence community confirmed that "we have found some undeclared equipment in the zone." Intelligence community representatives confirmed that this number is about 800. Furthermore, the intelligence community stated that it "cannot negate the possibility" that additional equipment was moved out of the zone after the date of treaty signature.

The committee condition makes clear that a discrepancy does exist between U.S. estimates and Soviet declarations. The condition goes on to require that the United States "shall continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990."

Perhaps most important, the committee condition states that the United States "shall seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990."

In other words, the committee strongly believes that if the Soviet Union did fail to declare equipment, such equipment should be treated as if it were covered by the agreement. Although most administration officials believe that the treaty calls for calculating destruction requirements on the basis of each state's declaration, the committee believes that if Soviet declarations are lower than actual holdings, the United States should seek to obtain additional reductions. The Soviet Union should not be permitted to benefit from incorrect data declarations.

Mr. BIDEN. Mr. President, today, the Senate takes up the CFE Treaty. This treaty has been a long time in the making. Indeed, this historic treaty was signed in Paris by 22 nations 1 year ago this week. If the Senate acts in the coming days, the United States will help lead the West and the East in shaping a new Europe.

In my view, ratification of the CFE Treaty will mark a watershed in American and European history. It will eliminate a fundamental cause of tension in Europe since the end of World War II: The huge numerical advantage of Soviet conventional forces.

Ending this superiority will serve to eliminate a threat to the security and prosperity of Western Europe and Eastern Europe, and it will eliminate a fundamental cause of the nuclear arms race.

In short, this treaty's ratification will set the first foundation stone for a new and more secure Europe.

As far as numbers are concerned, this treaty overwhelmingly serves American security interests. That fact was emphasized over and over again in our hearings. Secretary of Defense Cheney made this point. Chairman of the Joint Chiefs, General Powell, said it. Each of the Chiefs of the four services said it. And General Galvin, the Supreme Allied Commander in Europe, said it.

These distinguished officers explained that this treaty will required the former Soviet Union to destroy 23,000 tanks, armored vehicles, artillery pieces, and other equipment. Meanwhile, if we proceed with planned transfers of equipment to our NATO allies, the United States would not be require to destroy any equipment as a result of the treaty.

Such a ratio of Soviet to United States reductions—23,000 to 0—has never before been accomplished in arms control and probably never will be again.

This fact bears repeating: The former Soviet Union must destroy 23,000 pieces of conventional equipment and the United States none. The committee report details at great length the military advantages of this treaty. But I think this ratio—23,000 to 0—speaks for itself.

Let me say to my colleagues that this fact cannot be overemphasized. Because it is this fact that convinced me to recommend Senate consent to the treaty despite the uncertain political situation in the former Soviet Union.

While President Mikhail Gorbachev retains some power as head of the new Union Government in Moscow, clearly the fate of the treaty now lies in the hands of the leaders of Russia, Ukraine, Belorussia, Armenia, Azerbaijan, and Georgia.

I am optimistic that leaders of the three most important republics—Russia, Ukraine, and Belorussia—will choose to accept the obligations of the treaty. Indeed, I would note that the new Director of Central Intelligence has advised the committee that he believes these republics will join the treaty.

The classified rationale for this judgment is available to all Senators in S. 407.

But it is possible that new states will be formed in the former Soviet Union, and that those new states will not join the treaty regime.

Because the treaty imposes no real constraints on the United States, I would argue that the downside risk of new states refusing to join the treaty regime is virtually nil.

The question of whether large republics—like Ukraine—join the treaty is an important one. Therefore, the committee developed, in close consultation with the administration, a condition that sets up a flexible procedure for such a circumstance.

What the condition does is this. If a large republic with a substantial army becomes independent and chooses not to join the treaty, three things happen:

First, the administration will consult with the Senate as to the how the United States should proceed;

Second, if the President chooses not to withdraw from the Treaty, he will call for an extraordinary conference to discuss the effect on the treaty of this new circumstance;

And third, if any changes are made to accommodate the new circumstance, the President, will forward those changes to the Senate for its advice and consent.

In my view, this condition resolves the problem of Senate consent to a treaty when the other main party—the former Soviet Union—may soon disappear. I hope my colleagues will agree.

The resolution of ratification also protects the prerogatives of the Senate by making clear that several side agreements will be deemed as equivalent to the treaty in their legal significance.

Finally, let me say a word about verification. I asked all the Joint Chiefs of Staff whether the Soviet Union had any incentive to cheat on this agreement. Their answer was no. We heard testimony from all the Joint Chiefs on this issue, from all the intelligence agencies, and from the Secretary of Defense. Each assured the committee that this treaty is effectively verifiable.

The reasons why we can effectively verify this treaty are laid out in extensive detail in section 5 of the committee report and I will not repeat them here.

I urge all my colleagues to examine the report. If they do, they will see that militarily significant violations cannot occur without our intelligence community knowing about them well before they become dangerous. In short, this threshold verification test has been met.

Mr. President, let me point out to my colleagues that before the committee markup I received a letter from an unprecedented array of former Cabinet and top officials: Three former Secretaries of State, six Secretaries of Defense, three Chairman of the Joint Chiefs of Staff, three Directors of Central Intelligence, two National Security Advisers, and five Directors of the Arms Control and Disarmament Agency.

Their letter urges us in the strongest possible terms to act favorably on this treaty.

In other words, if we vote yes for this treaty, we will be in pretty solid company. I ask unanimous consent that this unprecedented letter of support be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. BIDEN. In closing, let me say that by acting now we will be helping to create a new, more stable European security order, where Soviet Republics can become independent and still use this treaty to join the European security regime which the other Nations of Europe have already joined.

I hope and expect my colleagues to agree.

(EXHIBIT 1)

THE ARMS CONTROL ASSOCIATION,
Washington, DC, November 18, 1991.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Subcommittee on European Affairs, Committee on Foreign Relations, Washington, DC.

DEAR SENATOR BIDEN: In response to your request on behalf of the Senate Foreign Relations Committee, I am transmitting a statement endorsing the Conventional Armed Forces in Europe [CFE] Treaty and urging the Senate to act promptly in providing its advice and consent to ratification of the Treaty. The statement has been agreed to by 33 former senior U.S. government officials and military officers who have had special knowledge and responsibility relating to the subject matter of the treaty.

I hope you will find this statement useful in the committee and Senate action on this very important treaty.

Sincerely yours,
SPURGEON M. KEENY, JR.,
President & Executive Director.

STATEMENT ON THE CONVENTIONAL ARMED FORCES IN EUROPE [CFE] TREATY FOR THE SENATE FOREIGN RELATIONS COMMITTEE

We, the undersigned, believe that the Conventional Armed Forces in Europe [CFE] Treaty, concluded last year between the 22 nations of NATO and the former Warsaw Pact, will make a substantial contribution to the continuing security interests of the United States and its Western allies and should be ratified as soon as possible.

Recent events in the Soviet Union, including and subsequent to the failed hardline coup, have not only underscored the dangers of delay in implementing the CFE Treaty but have demonstrated the importance of having in place a structured set of obligations on the successor state or states of the Soviet Union. The CFE Treaty will require the successor state(s) to make deep, asymmetrical cuts in European-based conventional weapons to levels that will essentially eliminate the threat of a conventional attack on Europe. The existence of a formal Treaty with extensive on-site verification provisions will also provide an unprecedented degree of access to, and information about, military activities on the territory of the Soviet Union west of the Urals.

In the face of an uncertain political future, the security interests of the United States will be much better served under the Treaty than without it. Nothing will be gained by delaying the ratification process. Moreover, if ratification is delayed, the rapidly evolving political situation might require the Treaty's renegotiation which would be far more difficult than adapting an existing Treaty to subsequent political changes.

For these reasons, we urge the United States Senate to act expeditiously to provide its advice and consent to ratification of the CFE Treaty.

Hon. Harold Brown, Hon. Zbigniew Brzezinski, Hon. McGeorge Bundy, Gen. William F. Burns, Hon. Frank C. Carlucci, Hon. William E. Colby, Adm. William J. Crowe, Hon. Lloyd N. Cutler.

Amb. Jonathan Dean, Amb. Ralph Earle II, Gen. Andrew J. Goodpaster, Gen. David C. Jones, Hon. Max M. Kampelman, Hon. Spurgeon M. Keeny, Jr., Hon. Melvin R. Laird, Hon. Robert S. McNamara, Gen. Edward C. Meyer.

Gen. Robert E. Pursley, Amb. Stanley R. Resor, Hon. John B. Rhinelander, Hon. Elliot L. Richardson, Amb. Rozanne L. Ridgway, Hon. Eugene V. Rostow, Hon. Dean Rusk, Hon. James Schlesinger.

Hon. George P. Shultz, Amb. Gerard C. Smith, Gen. W.Y. Smith, Adm. Stansfield Turner, Hon. Cyrus R. Vance, Gen. John W. Vessey, Amb. Paul C. Warnke, Gen. John Wickham.

Mr. BIDEN. Mr. President, I ask unanimous consent that a collection of reports prepared by the British-American Security Council on European Arms Control, chronicling crucial developments in the CFE negotiations, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Basic Reports on European Arms Control, Nov. 4, 1991, No. 18]

FUTURE CSCE ARMS CONTROL AGENDA BEGINS TO TAKE SHAPE

The broad outlines for arms control negotiations among the 38 CSCE member states are beginning to emerge after a series of consultations within NATO. NATO leaders are expected to make a general statement of support for post-CFE talks at their summit in Rome this week, but diplomats are pointing toward the CSCE Helsinki review conference in March 1992, where a more concrete set of goals will be adopted. Preliminary discussions have focused on the establishment of a set of permanent "security forums," in which various subjects can be addressed. The future negotiations are usually referred to as "post-Helsinki arms control" or "Security Forum 38."

In an interview, a Pentagon official described a four-forum format being discussed within the administration:

An arms control forum to follow through on the agenda of the CFE IA and CSBM talks;

An "information dialogue" forum would cover new possible transparency measures to open up budget and force planning data to international scrutiny;

A forum on non-proliferation would harmonize national regulations on export control;

And a forum on regional arms control would sponsor talks among sets of neighbors.

The Pentagon official stressed that each of the forums was designed with "separate terms of reference." Under this conception, the arms control forum would develop limits and measures (with attendant verification inspections) that would apply to the Atlantic-to-Urals region of Europe whereas the information dialogue would extend to U.S. based Forces. Eager for inspections of Soviet territory East of the Urals, France and the U.K. would like the option of inspections of U.S. territory held open.

The Charter of Paris signed by CSCE heads of state a year ago called for "new negotiations on disarmament and confidence and security building open to all participating states." The CFE agreement only covers the 22 members of the NATO and the erstwhile Warsaw Pact. One of the first tasks of SF-38 is expected to be the extension of certain CFE and CFE IA provisions to the neutral and non-aligned states.

The CFE IA negotiations currently underway in Vienna will set national ceilings on the troop levels. While little progress has been made in these talks so far (see below), negotiators feel the CFE IA structure could be a good model for further limits on equipment levels. Rather than compelling countries with small forces to cut, the Pentagon officials pointed out, such discussions could focus on the major military powers. While the limits themselves would be national, the talks could have the aim, he suggested, of reducing the overall number of certain armaments (tanks, artillery) to a lower level.

The German foreign ministry is developing proposals on a broad range of arms control ideas. A German diplomat, in an interview, urged "cooperative measures" such as more regular liaison between military officers and "operational" arms control regimes that would govern the readiness level of forces.

WHAT ABOUT THE UKRAINE?

Moves toward sovereignty by the Ukraine have raised questions about the impact on arms control of the changes in the Soviet Union. As the USSR's second most populous republic, the Ukraine is home to roughly 1.5 million troops and 6,000 tanks. The government of the Republic has promised to abide by the provisions of the CFE Treaty; it has also called for the formation of a 450,000 troop Ukrainian army.

Government leaders in the newly and would-be sovereign republics are unexperienced in such technical foreign policy issues as arms control. As the Pentagon official put it, "when new leaders in the Ukraine talk about honoring obligations, they don't know what that means." The official is in Kiev with a U.S. delegation this week to discuss these issues.

The Ukraine's plans to form such a large army may prompt concerns among its neighbors; the Republic shares borders with Poland, Czecho-Slovakia, Hungary, Romania, the Soviet Republic of Moldavia, and the Russian Federation. Under a provision of CFE negotiated at the eleventh hour, Poland, the CSFR, Hungary, and Romania will be able to conduct on-site inspections of units in the Ukraine.

The Pentagon official pointed out that a security forum for regional arms control could also help address such concerns. "You need structures to allow the Eastern countries to start arguing with each other," he said.

CFE IA OFF TO A SLOW START

The CFE IA talks have made little progress toward an agreement limiting personnel levels of the 22 CFE signatories. Negotiators are still working on establishing the scope and definitions for the talks. Positions vary widely over what kinds of forces should be counted under an agreement. The Soviet delegation has insisted on a narrow definition covering only troops in units with CFE-limited equipment. According to its chief negotiator in Vienna, Ambassador Istvan Gyarmati, Hungary is calling for the inclusion of "anything that has a conventional war-fighting capability," including border guards and other internal security forces exempted from CFE. Dr. Gyarmati, characterized the current discussions as "a talk shop, not a negotiation." But he was nonetheless confident that an agreement would be reached in time for the Helsinki summit.

[BASIC Reports on European Arms Control, Sept. 23, 1991, No. 17]

No Major Adjustments to CFE Required by Changes in U.S.S.R.

The Bush administration is urging the speedy ratification of the CFR Treaty without modifications. Content to accept the guarantee of the Soviet central authority. Administration officials want to put the Treaty into force before individual republics take a more independent line. "If we don't ratify, and [instead] wait to see what the final political structure of this part of the world is, we will doom the Treaty," said a Pentagon official in an interview.

Soviet republics have so far offered strong support for CFE. The 10 republics that are forming a confederation have authorized the center to coordinate arms control and other aspects of foreign policy. The Pentagon official is eager to pocket these commitments; he expressed a desire to "get everybody who's anybody to say they love the Treaty."

Administration officials are willing to wait until after treaty ratification for details of how the Treaty's numerical limitations would be apportioned among the republics. Referring to the equipment allotments agreed among the former members of the Warsaw Pact, a State Department official said, "you might need an intra-republic understanding the way you had a group of six understanding."

CONFEDERATION SEEN AS "SUCCESSOR STATE"

According to this source, State Department lawyers who looked in to the implications for the Treaty of the changes in the Soviet Union concluded that the central authority for the confederation could be considered a "successor state." The official said, "If the confederation of sovereign states subscribes to the Treaty obligations of the the USSR, you can go ahead and assume the limits apply."

The Bush administration is wrestling with the issue of whether the newly independent Baltic states should be encouraged to sign the CFE Treaty. Some in the government feel such a move would necessarily prolong links between the Baltics and the USSR. But others are concerned that if the Baltics are left out of the Treaty regime, it would set a bad precedent for republics with larger forces on their territory.

[Basic Reports on European Arms Control, Aug. 20, 1991, No. 16]

Senate Hearings Delve Into CFE Details

Between July 11 and July 25, the Senate Foreign Relations Committee held four hearings on the ratification of the Treaty on Conventional Armed Forces in Europe. Much of the discussion focused on the accuracy of the data presented by the Soviet Union in mid-November when the CFE Treaty was signed. There is still substantial confusion over how much equipment the USSR moved out of the Treaty zone by November 18 and how much was left within the Atlantic-to-the-Urals (ATTU) area. The Soviet military is suspected of understating the size of their holdings in the ATTU at that time.

WITNESSES PROVIDE WIDE RANGE OF DATA DISCREPANCY ESTIMATES

Estimates of the discrepancy provided during the hearings ranged from 1,680 to 18,000 pieces of treaty-limited equipment. A State Department official explained that the various estimates rested on different levels of evidence: "There are the smoking guns, the warm barrels, and what we would come up with if we had to do a bottom line best estimate."

Chief U.S. negotiator Ambassador James Woolsey discussed the figures for which there is the strongest evidence. He said there were roughly 880 aircraft, much of it apparently awaiting destruction, "that the Soviets did not try to hide, but did not declare." Woolsey said another 800 pieces of ground equipment were in the ATTU but not disclosed in the data exchange. Testifying separately, CIA officials explained that they observed 800-1,000 pieces of equipment arriving at storage depots behind the Urals in mid-December. From this they inferred that it has been moved after the data was presented. In addition to these weapons, Ambassador Woolsey also spoke of equipment—numbering in the "low thousands"—that "we have some evidence to suggest were not destroyed in time and/or alternatively did not get out in time."

In his testimony General John Galvin, NATO's Supreme Allied Commander, explained that the 18,000 figure represents the unaccounted-for portion of the equipment the USSR claims to have withdrawn (57,000), destroyed (10,000), or converted (7,000). "We, with our ability to overfly the Soviet Union with satellites and to do other things with our intelligence systems, have not been able to account for every single one of these pieces of equipment. There are about 18,000 pieces of equipment that we have not been able to specifically note," Galvin said. A Pentagon official pointed out, in an interview, that his figure also matches the discrepancy between the Soviet data and Western calculations of Soviet strength in 1988.

General Galvin, however, explained that the actual figure may be significantly lower. He said much of the transferred equipment is kept in covered storage—where it cannot be readily observed—and that it is distributed widely within the Soviet Union. The NATO commander also argued that the confusion over Soviet data is "a very strong argument for the treaty, itself, and for the verification regime that will work with the treaty."

The Pentagon official portrayed the Administration's decision to proceed in spite of the data questions as a judgement call: "The cheating is real and it is troubling. We figured if we could get the limits in place and cover everything by working out the Article III problem, that would put them in a tremendous force structure bind and would be worth it." He said the real test would be future compliance with the agreement. "We'll have to watch them every day to see how they're living up to the Treaty limits and the political declarations. If this [the discrepancy] is one blip, and they live up to those obligations, then we made a good bet," he said. He also pointed out that the decision was based in part on the high regard for Gorbachev.

The performance of the intelligence community in this area has come under scrutiny since early leaks last winter put the data discrepancy as high as 40,000. Senator Helms charged that senior administration officials applied pressure for the estimates to be revised: "I am told the word went out to the U.S. intelligence analysts that this gap was just a little bit embarrassing and that the intelligence people ought to get rid of this gap by what they call 'creative re-analysis.'" Testifying on behalf of the intelligence community, Deputy CIA Director Richard Kerr offered a candid assessment of its efforts: "We essentially lost our place as they [the USSR] began to move and draw forces out and were unable to keep that database up to date."

QUESTION OF BALTIC STATUS IN TREATY DISCUSSED

A number of senators pressed the issue of how CFE treats the Baltic republics. Under the Treaty, forces in the Baltics are counted under the Soviet Union's allotted equipment entitlements, prompting concern that this amounts to tacit acknowledgment that the republics lie within the Soviet Union. Secretary of State James A. Baker III took issue with this interpretation: "This treaty does in no way alter or reduce our position that we do not recognize the incorporation of the Baltics into the Soviet Union."

Chairman of the Joint Chiefs General Colin Powell explained how the Treaty handles this issue—and how any secession would affect CFE: "The holdings [in the Baltics] are owned by the Soviet Union. They own the entitlement, and whether the individual seceding republics would ask that the Soviets move the equipment that's in that particular republic to somewhere else within the Soviet Union [is] a matter between the republic government and the government of the Soviet Union."

Even before the current coup—which is apparently aimed at quashing the aspirations of breakaway republics—senators were concerned that the Treaty permits a buildup in the Baltics. Senator Helms raised the question of whether armored combat vehicles (ACVs) belonging to the Soviet Strategic Rocket Forces that have been exempted could be used to crack down. Administration witnesses reassured the committee that very few such ACVs were in the Baltics. Steven Lilly-Weber of the Institute for Defense and Disarmament Studies in Cambridge said that according to their calculations, the regional limits in the CFE Treaty would prevent rather than permit a buildup in the Baltics.

NATO CHIEF ASSESSES MILITARY CAPABILITY OF WITHDRAWN FORCES

General Galvin assessed the military threat from the forces moved East of the Urals. He said only one-third (or roughly 20,000) of the withdrawn equipment is being kept in a usable condition. The rest, Galvin said, "was parked . . . [in] the closest place that could be found to park it. It was not put there because somebody was going to exercise it, preserve it, take care of it, worry about it."

Galvin pointed out that even the 20,000 systems that are being maintained are not organized into military units and are not associated with any troops. According to the General, reintegrating this equipment into a capable force would be a large task. "What you would have to do is you would have to organize the people and train the people . . . We would not be talking about weeks; we would be talking about months."

The NATO commander also gave details of the Alliance's "cascading" program, through

which excess U.S. and other weapons are transferred to Norway, Denmark, Portugal, Spain, Greece, and Turkey so that they can upgrade their forces. Galvin said 2,000 tanks (mostly M-60s), 600 ACVs (M-113s), and 180 8-inch artillery pieces would be shifted.

SENATE EXPECTED TO ATTACH CONDITIONS

According to a Senate Foreign Relations Committee staffer interviewed after the hearings, Committee members plan to express their views on the Treaty by attaching a number of conditions to the Senate's resolution of consent to ratification. He said there would probably be conditions on the Baltics, Article III, and equipment East of the Urals.

Secretary Baker, predictably, denied the need for any conditions. But he left the door open, saying, "talk to the experts . . . and if you still have a problem, we're prepared to sit down and try and work through it with you."

STATEMENT OF THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE JOINT CONSULTATIVE GROUP

[The following is a politically binding declaration covering equipment East of the Urals. It was presented alongside the USSR's legally binding statement on issues raised under Article III (see issue #15 of BASIC Reports). The numbers given here replace figures presented in a table in the last issue.—Editor]

In order to promote the implementation of the Treaty on Conventional Forces in Europe of November 19, 1990, (the Treaty) I have been instructed by the Government of the Union of Soviet Socialist Republics to state the following.

1. The Union of Soviet Socialist Republics will, during 1991–1995, destroy or convert into civilian equipment no less than 6,000 battle tanks, 1,500 armoured combat vehicles and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals, in addition to the numbers of armaments subject to destruction and conversion specified in the Statement of the Government of the Union of Soviet Socialist Republics of (date of Statement) concerning obligations outside the framework of the Treaty.

These armaments will be destroyed or converted under procedures that will provide sufficient visible evidence, which confirms that they have been destroyed or rendered militarily unusable. Advance notification and information will be provided to the States Parties to the Treaty regarding the locations and numbers of battle tanks, armoured combat vehicles and pieces of artillery undergoing destruction or conversion.

Elimination of armaments in the Treaty-limited categories will also be carried out subsequently as their operational and service life is expended.

2. The Union of Soviet Socialist Republics, in the period between January 1989 and signature of the Treaty on November 19, 1990, in connection with activities related to unilateral reductions of the Soviet armed forces, the withdrawal of Soviet troops from countries of Eastern Europe and adaptation of the armed forces to the new defensive doctrine, withdrew beyond the Urals the following numbers of conventional armaments and equipment in the Treaty-limited categories: 16,400 battle tanks, 15,900 armoured combat vehicles and 25,000 pieces of artillery.

Of these numbers of armaments and equipment, 8,000 battle tanks, 11,200 armoured combat vehicles and 1,600 pieces of artillery have been turned over to military units and subunits in the eastern Soviet Union for the purpose of re-equipping them and supplementing their armaments.

Another part of the conventional armaments and equipment in the Treaty-limited categories, which have been transferred beyond the Urals (8,400 battle tanks, 4,700 armoured combat vehicles and 16,400 pieces or artillery), has been placed in storage. In addition, 7,000 pieces of artillery are being used for replacement and repair.

These stored conventional armaments and equipment withdrawn beyond the Urals will be used up in the process of replacing obsolete armaments and equipment that have expended their established operational and service life and, in the eastern Soviet Union, also in supplementing units.

With respect to the armaments and equipment transferred beyond the Urals before signature of the Treaty that have been placed in storage or are used for replacement and repair beyond the Urals, upon entry into force of the Treaty information will be provided to all States Parties about the locations and numbers of battle tanks, armoured combat vehicles and pieces of artillery at such locations as of July 1, 1991. Armaments in each of these categories (battle tanks, armored combat vehicles and pieces of artillery) will be stored separately.

3. The conventional armaments and equipment in the Treaty-limited categories withdrawn beyond the Urals prior to signature of the Treaty will not be used to create a strategic reserve or operational groupings, and will not be stored in a way permitting their rapid return to the area of application of the Treaty, that is, such armaments and equipment withdrawn beyond the Urals will not be stored in sets for military formations.

Military formations and units deployed within the area of application of the Treaty will be organized in line with the Soviet defensive doctrine and taking into account the sufficiency levels of armaments established by the Treaty for a single State.

Note.—News of the hard-line coup in Moscow broke as BASIC Reports was going to press. The State Emergency Committee claiming power promised to honor all international accords and treaties, and President Bush said the ratification of CFE should go forward. All interviews quoted in this issue were conducted before the coup.

[BASIC Reports on European Arms Control, June 17, 1991, No. 15]

CFE DISPUTES RESOLVED: RATIFICATION WILL PROCEED

Final resolution of lingering CFE controversies was achieved Friday when Soviet representatives in Vienna presented a set of binding promises on forces which have been at the center of a seven-month dispute with the other Treaty signatories. The 22 signatory nations will now go ahead with ratification proceedings, which were held up by the disagreement.

The Soviet declarations were worked out during several rounds of high-level U.S.-Soviet consultations since the Treaty was signed in November. The compromise was concluded at a June 1 meeting in Lisbon between Secretary of State Baker and Foreign Minister Alexander Bessmertnykh, but major progress was achieved during an earlier visit to Washington by Chief of the General Staff Mikhail Moiseyev.

The negotiators skirted a laborious legal debate over whether the language of the Treaty covers ground forces under naval command. Instead they focused on practical measures to protect the integrity of the Treaty's limits. A State Department source explained in an interview that the declaration "brings the Soviet Union into practical conformity with all the ceilings and subceilings."

The Soviet Union's legally binding statement (reprinted on pp. 3-4) specifies how it will comply with these ceilings and prevent any similar controversies over interpretation. To compensate for equipment in its coastal defense and naval infantry units, the USSR will cut tanks by 933, armoured combat vehicles (ACVs) by 1,725 and its artillery by 1,080.

U.S.S.R. WILL BE ALLOWED TO MOVE MORE EQUIPMENT EAST

A compromise agreed by the U.S. allows the Soviet Union—contrary to the provisions of the CFE Treaty—to carry out half of these reductions (or 1,500) outside the Atlantic-to-the-Urals (ATTU) geographic area covered by the treaty. This provision will enable the Soviet military to preserve some of its most modern armaments, rather than destroy it. The USSR is expected to move newer pieces of equipment to units East of the Ural Mountains and destroy or convert an equivalent number of obsolete pieces. NATO has a similar program (referred to as "the cascade") under which it has shifted arms from modern armies such as the U.S. to less well-equipped forces like Turkey. Commenting on the concession made by the U.S., a Pentagon source said, "their [the Soviet military's] whole world fell in, and these are minor adjustments in comparison."

Destruction and conversion carried out East of the Urals will not be subject to the same on-site inspection rights provided in the treaty, but will be observable by U.S. spy satellites. In its declaration, the USSR said it would destroy such equipment, "in accordance with procedures which provide sufficient visible evidence that [it has] been destroyed or rendered militarily unusable. The States Parties to the Treaty shall be notified in advance, giving the location, number and types of conventional armaments and equipment to be destroyed or converted."

The statement's language on coastal defense and naval infantry equipment was couched in a way that allows the Soviet military to save face on the treaty interpretation dispute. It pledges that the level of Soviet equipment in regular army units will be lower than the Treaty ceilings—with the difference equalling the holdings of the naval infantry and coastal defense units. Those units will, according to the Soviet declaration, not grow beyond their current level. Under this formula, all the equipment is effectively counted, but the Soviet Union is able to keep at least a separate rhetorical accounting of the forces it claimed wasn't covered by the Treaty.

The third controversial category, strategic rocket forces, was also capped at the current level (1,701 ACVs) and was excluded from Treaty limits under an exemption in the agreement for internal security forces. Ethnic tensions within the Soviet Union have prompted concerns over the security of the Soviet strategic nuclear arsenal.

In order to prevent any similar controversies, the USSR stated that aside from the agreed exceptions, all other forces "irrespective of assignment" would be counted. This language was crafted to insure that new types of military commands were not created to shield forces from treaty limits. As a U.S. official put it, "the Boy Scouts won't get tanks."

Any inspections of the naval infantry or coastal defense units would fall under the "challenge inspection" provisions of the treaty, rather than the somewhat stricter rules for "declared sites." The naval infantry units had already been considered undeclared sites in the Treaty, and the coastal defense divisions were given this status under the new compromise.

SEPARATE STATEMENT COVERS EQUIPMENT ALREADY BEHIND URALS

The Soviet declaration resolving the interpretation dispute was presented at a special meeting called by France, which used a Treaty clause providing for "extraordinary conferences." At a special session of the Joint Consultative Group on the same day, the USSR tabled a separate set of promises covering equipment that had been moved East of the Urals before the Treaty was signed. Because these armaments are not covered by treaty limits, the second declaration is considered politically (rather than legally) binding.

Between 1988 and November 1990, the Soviet Union shifted slightly less than 60,000 tanks, ACVs and artillery guns behind the Urals. Roughly 11,000 of these weapons have since been destroyed or converted. On Friday the USSR promised to destroy or convert an additional 14,500 armaments: 6,000 tanks, 7,000 artillery, and 1,500 ACVs.

According to the Defense Department source, the Soviet military has already placed 29,100 pieces of equipment in storage—much of it in the open, where it can be seen. [The USSR has provided detailed data on the disposition of equipment East of the Urals. The Soviet statement presented in Vienna Friday promises that none of the equipment moved East will be stored in unit sets or used to create new large formations. Another U.S. official explained, "they won't store it in ways where guys can jump in it and drive off." This pledge conforms with a longstanding Soviet policy that forces from Europe will not be used for a military build up in the Asian portion of the country.

VISIT BY SOVIET MILITARY CHIEF PAVED WAY FOR AGREEMENT

On May 19–21, General Mikhail A. Moiseyev, chief of the Soviet General Staff, visited Washington for a round of meetings with senior Bush administration officials. The visit was taken as sign of how stubborn the Soviet military had been on the CFE disputes. The Foreign Ministry usually handles such negotiations, but the Kremlin decided to have the General Staff deal directly with the U.S. administration.

Early in the discussions with an American delegation headed by Undersecretary of State Reginald Bartholomew, however, the Soviet General showed new flexibility. Reflecting on the meetings, the Pentagon official said, "the Moiseyev visit was more productive than I ever expected. . . . He came and right in the beginning made a concession on the principle [of counting the naval infantry equipment]." In March the Soviet Union agreed to count coastal defense equipment but held out on naval infantry.

The General's visit did not, however, resolve the dispute. While in Washington, Moiseyev complained that if he was going to make additional reductions, it would be difficult to comply with Treaty ceilings for active unit equipment in the ATTU and in the Flanks region. He requested that new, higher limits be set (with increases of 100–200 tanks and artillery and 750 ACVs). The U.S., unwilling to renegotiate provisions of the Treaty, rejected this proposal. At the Lisbon ministerial, the position was withdrawn, and the USSR said it would cut the 750 ACVs by using a procedure in the Treaty for conversion to look-alikes.

Resolution of the CFE disputes will clear the way for progress on the CFE IA follow-on talks. At their Copenhagen meeting on June 7, NATO foreign ministers promised to table a new proposal on personnel limits by the end of the current round in Vienna.

[BASIC Reports on European Arms Control, April 8, 1991, No. 14]

BUSH ADMINISTRATION READYING CFE COMPROMISE

The Bush administration is preparing a response to Soviet proposals on controversies that have blocked ratification of the CFE Treaty, according to U.S. officials. At the center of the dispute are Soviet ground forces, under naval command, that the USSR argues fall outside the treaty's limits.

The U.S. government is clearing the way for a compromise by shifting its focus from the legal to the numerical dimensions of the dispute. Earlier statements by officials have insisted that the Soviet Union abandon its legal interpretation of the treaty. But senior policy makers are now developing compromise measures that would bring the controversial forces into line with the numerical limits in the treaty. One U.S. official described the administration's approach in an interview, saying "there are issues of principle involved . . . [but] there may be practical solutions around that might have the same effect."

There are three main types of forces at issue—coastal defense, naval infantry, and strategic rocket guards. (A small number of arms in civil defense units are also in discussion.) The USSR has insisted that none of the equipment associated with such units is covered by the Treaty. Moscow bases its case for the exemption of naval units on the CFE negotiations mandate, which excludes naval forces from the talks. The Treaty does, however, cover all ground equipment deployed within the Atlantic to the Urals, and there is no treaty language distinguishing ground equipment in naval units from those assigned to the army. Article III of the Treaty does list seven clearly defined exceptions for other categories.

In a political agreement outside the treaty text, the parties set separate ceilings for land-based naval aircraft and land-based naval helicopters. The Soviet Union had originally insisted on keeping these systems unconstrained, but a compromise was negotiated by the U.S. and Soviet foreign ministers themselves. The USSR was thus allowed special treatment for its aircraft, and the U.S. insured that these systems were capped. A Pentagon source drew a parallel between these provisions and the proposals being developed which he said would "take everything that's under dispute and work it in a way analogous to land-based naval aircraft."

The Soviet position on these issues is a refinement of a proposal first presented by Foreign Minister Alexander Bessmertnykh during a January Washington ministerial. Bessmertnykh promised that the equipment in these categories would not be increased. In mid-March, the Kremlin offered to withdraw forces equaling the holdings of the coastal defense units from the ATTU. A March 25 letter from President Gorbachev promised that the withdrawals would be taken from the same regions where the controversial units are, which would bring the levels into compliance with both the overall and geographic subregion ceilings. The prospect of a buildup in the northern and southern flanks of the USSR was a strong concern of Norway and Turkey during the talks. Testifying at a Senate hearing, Ronald Lehman, director of the U.S. Arms Control and Disarmament Agency, highlighted this point: "the issue of the flanks was very vigorously negotiated."

According to the administration officials, the U.S. will press for similar assurances on the other disputed categories. A Pentagon official said "we need coastal defense and naval infantry [marines] treated the same." There is speculation that strategic rocket forces will be frozen but not compensated by withdrawals. These forces have aroused less concern because they are widely scattered and do not possess the most capable equipment.

NAVAL SHIFT CLAIMED PART OF GENERAL RESTRUCTURING

Commenting on the naval ground forces issue in an interview, a Soviet diplomat said "I wonder why these questions weren't discussed in the negotiations." The diplomat claimed that the Soviet military began restructuring its coastal defense units in 1989. This claim raises questions about whether the Soviet military, as has been charged, suddenly begun the restructuring to create an issue that could scuttle the Treaty. The diplomat also told of military plans to make the controversial units, which had been switched from an army command, more clearly oriented to shore defense. The divisions are located near major naval bases at Kalingrad, Murmansk, and Sevastapol. The diplomat said that like units in Soviet Asia, the divisions would have fewer tanks, and their artillery would be stationary.

The Soviet proposals to withdraw equipment do not include an offer to destroy the systems as would be required under the Treaty. The difficulty of meeting the three-year destruction timeline is often cited as a reason for the massive movement of weapons East of the Urals. The 5,457 pieces of equipment being debated comprise roughly 6% of Soviet forces West of the Urals.

DATA AND WITHDRAWN EQUIPMENT NO LONGER STUMBLING BLOCKS

Two other issues that had been cited by the Bush administration as stumbling blocks are no longer seen as obstacles. A dispute over the accuracy of Soviet data was downgraded in February when it was revealed that U.S. intelligence estimates had overstated the size of Soviet forces. Secretary Baker acknowledged the mistake in a letter on CFE to Senator Joseph Biden (D-DE): "It now appears that the magnitude of these discrepancies may be less than we had originally believed." The administration is also taking a more relaxed attitude toward the question of what will happen to Soviet equipment moved out of ATTU before the treaty took effect. While this withdrawal was perfectly legal, some in the U.S. government had wanted solid assurances that the arms would not be used to build up elsewhere. A U.S. government source said, "We have gotten lots of information, and it seems to add up now. And we have assurances about what they're going to do. They're not building up in Asia or creating new units. We've gotten about as much as we can."

If President Bush sends President Gorbachev a counterproposal, as he is expected to do, it will be the first major U.S. move toward compromise since these issues first arose in November. A Pentagon official expressed some frustration at having to negotiate new provisions after the treaty has been signed. But the source was also glad the treaty will not be sacrificed over these issues: "In the end I'd rather have the agreement."

[BASIC Reports on European Arms Control, Feb. 19, 1991, No. 13]

CFE RATIFICATION STALLED BY DISPUTES WITH U.S.S.R.

Disputes between the Soviet Union and the other CFE signatories have indefinitely delayed ratification of the treaty. Meanwhile the schedule of the forum where these issues are being discussed has also been left open-ended in the hope that the differences can still be resolved. Last Sunday (February 17) marked the end of a 90-day period during which countries were supposed to submit revisions in their data for the size of their forces, but the Joint Consultative Group, which was set up to review compliance and interpretation questions, will remain in session.

There are three main areas of controversy. The one that has aroused the most concern involves a Soviet claim that three of its motorized rifle divisions near the Baltic and Black Seas have been reassigned to Naval command and are thereby exempt from treaty limits. The Soviet position is widely seen as a move to dramatize the lack of constraints on naval forces, which the Soviet military has pressed for and the United States has opposed.

While the CFE Treaty does not cover naval forces, it does limit all ground equipment deployed within the Atlantic-to-the-Urals (ATTU). Article III of the Treaty lists six exceptions for equipment not deployed with military units and one covering paramilitary forces. The Treaty sets separate ceilings for land-based naval aircraft and helicopters; there is no treaty language specially treating naval units with ground equipment. Soviet Foreign Minister Bessmertnykh proposed negotiating ceilings on such units during his late January meetings in Washington. There is concern that allowing the exemption of the three "shore defense divisions" would set a precedent for further "resubordination" of ground units.

According to a Western European negotiator, Chief Soviet CFE Representative Oleg Grinevsky acknowledges ongoing debate in Moscow and, "hints that there are problems of interpretation within the Soviet government." The rigid Soviet positions are widely seen as reflecting military discomfort with CFE, but the Western diplomat said other Soviet officials are "not unsympathetic to the interpretation of the other countries."

Giving his own assessment of the issue, the diplomat said that "from a clearly legalistic standpoint, you can not say that it is a clear breach of contract. It is a debatable thing." While the diplomat was careful not to paint the Soviet Union into a corner, he affirmed the case against the resubordination loophole, pointing out that the negotiating record is clear on the point.

The second issue concerns the fate of Soviet arms moved east of the Urals and therefore out of the area covered by the Treaty. These forces are not legally covered by the agreement, but the U.S. and its allies are asking the Soviet Union to provide a detailed plan for what will be done with the systems. In October, then Soviet Foreign Minister Eduard Shevardnadze gave rough figures for tanks that had already been destroyed, or were slated to be converted or exchanged for Far Eastern forces that would in turn be destroyed.

The one dispute on which the sides have narrowed their differences is the accuracy of Soviet data for its forces in the ATTU.

U.S. LOWERS ESTIMATE OF U.S.S.R. LEVELS

On February 2 The Manchester Guardian reported that the U.S. had reduced its estimate of the size of the Soviet force. In December the Bush administration accused the USSR of understating its holdings by 40,000, but in late January the figure was lowered to under 10,000. The Guardian reported that the earlier charge was based on information collected in early October rather than after the November 19th date on which the Treaty took effect.

A former U.S. official who dealt with these issues acknowledged the difficulty in an interview with BASIC Reports. Referring to the massive withdrawals of Soviet forces, this source said "we simply did not have the capability to track the changes as they were happening."

Since raw intelligence typically takes a few weeks to analyze, there is some question over why the U.S. was so quick to base its accusation on the higher figure. Wishing to keep these issues from becoming too politically charged, the administration has sought to downplay the disputes. Officials refrain, for instance, from portraying the controversies as violations.

A State Department source explained, "we want to give them room to pull back and admit they were wrong and do it with some dignity." This attitude underlies the patient approach to the data revision deadline: "there's nothing really magical about the 17th," said the official.

NEW DATA FAILS TO RESOLVE ISSUE

Ambassador Grinevsky presented limited revisions to the Soviet data on February 14. The USSR raised the figures for their equipment holdings by a total of 700—including 160 combat aircraft, 150 attack helicopters, 30 tanks, 250 armored combat vehicles, and 110 artillery. The revisions leave a large gap between Soviet and U.S. reckonings.

According to a Pentagon source, the forces added to the data fall into a different category than those comprising the bulk the data discrepancy. This official says the U.S. has identified Soviet army units with more treaty-limited equipment (TLE) than they are listed in the data as having. The 700 TLE in the new data, however, are in paramilitary units the USSR now recognizes come under the treaty.

Officials are reluctant to specify the size of the alleged discrepancy, (which they place between 3–10,000) in part out of a desire not to reveal the intelligence methods on which the charges are based. The data controversies center on the amount of equipment that was in the ATTU on November 19 when the Treaty was signed. There is also concern that withdrawal of equipment since November may circumvent the Treaty. But a Western diplomat said it is hard to resolve data disputes without the Treaty's verification provisions, which only take effect after ratification: "once [the USSR] has removed the evidence by removing the equipment from the ATTU, there is not much that can be done."

FOLLOW-ON TALKS OPEN

Meanwhile, the first plenary meeting of the CFE IA follow-on talks was held on February 14. The substantive agenda of CFE IA is held up by the disputes with the USSR, but it was seen as symbolically important to begin them formally. A State Department official explained in an interview the desire to "make it clear that we're not walking away from the process and want to go forward."

Most analysts predict that it will take an intervention by President Gorbachev to shift the Soviet positions on the disputed issues. In early February President Bush sent a letter on these issues to the Soviet leader.

GERMANS ALSO REVISE DATA

The German delegation also presented new figures in Vienna. The original German data counted forces not covered by the treaty; most of the new numbers are, therefore, lower. Another reason for the revisions is that the November figures for East German forces were estimates. The total reduction was 922 TLE.

Roughly 130 pieces of equipment in research and development at military test sites were removed; the Treaty only covers forces deployed with military units. 42 artillery pieces fall into this category. Of 130 tanks removed from the accounting, 61 were test models, and the rest were miscounted GDR equipment. The aircraft count was reduced by 46 (30 in R&D, 14 due to error, and 2 destroyed in accidents since November).

Germany took 600 Soviet-made BTR–40 from the GDR off the list, claiming they are look-alikes. 99 BO–105 helicopters were also removed because that variety is not considered an attack helicopter. Germany added 20 objects of verification.

[BASIC reports from Vienna—A regular update on the CFE and CSBM negotiations from the British American Security Information Council, Dec. 17, 1990, No. 12]

HIGH LEVEL DISCUSSIONS FOCUS ON SOVIET FORCE DATA

With the CFR Treaty negotiated and signed, officials have now focused on differences over the data exchanged in Vienna on November 18th, the day before the agreement was signed in Paris. The U.S. and its NATO allies have raised questions about the accuracy of Soviet data. If the differences are not resolved in the coming weeks, Senate consideration of the Treaty for ratification could be delayed. (Data for all countries is given on pp. 2–4.)

The low Soviet figures presented in Vienna are only partially explained by the massive withdrawal of forces to the Eastern USSR; territory beyond the Ural Mountains is not covered by the Treaty. Pentagon sources told BASIC Reports that the USSR has more forces in the Atlantic-to-the-Urals (ATTU) area than it acknowledges in the data.

U.S. and Soviet officials have met to discuss this issue twice since the Paris summit. Chief U.S. CFR negotiator James Woolsey led an American delegation to Moscow December 6–7, and Woolsey talked about the matter with Soviet officials at the December 10–12 ministerial in Houston. The problem was also taken up at in the Joint Consultative Group, a body established by the Treaty to discuss compliance issues, which ended 3 weeks of meetings on December 13.

None of these meetings yielded significant progress. Pentagon officials point to the stubbornness of the Soviet military; one said "there was no interest on the part of the General Staff to move at all." Expressing his hope that the question would be settled soon, another Pentagon official said "it isn't a good idea to make this a big political issue." The Treaty itself provides for the revision of data within 90 days (or before February 18), but officials point to the next Joint Consultative Group meeting, which opens January 19, or the possibility of a U.S.-Soviet ministerial within the next month.

In contrast to the apparent hard-line of the Soviet military, representatives of the foreign ministry have acknowledged inaccuracies in the data (attributing them to error) and promised to correct them. The Soviet defense and foreign ministries had difficulty coordinating their positions in the closing months of the CFR talks, and there is speculation that Gorbachev is building closer political ties to the military. In response to the suggestion that the Soviet military may be trying to undermine the Treaty, a Soviet diplomat said "it's just the difficulty of handling the restructuring of forces." The diplomat provided a figure for Soviet artillery holdings that was slightly higher (by 168) than the official data exchange. (The reason for the difference was unclear.)

Another explanation offered by a Defense Department official is that the Soviet military is trying to claim credit in advance for withdrawals from Eastern Europe not yet carried out. Referring to the low tank figure in the data, the official said the Soviet army "had every intention of taking out 20,000 tanks [from the ATTU] by the time the treaty was signed, but they didn't make the deadline. They gave us data that reflects a projection rather than actual holding." According to this source, the discrepancy in each category is in the thousands and in some cases is over 10,000. The only category in which the Soviet data is described as accurate is attack helicopters. The American charges are based on the surveillance of Soviet forces by U.S. intelligence agencies carried out in late November.

"NAVAL" FORCES AND APC LOOK-ALIKES AT ISSUE

The data dispute is focused in part on three Soviet divisions that the USSR calls "shore defense divisions." Since the CFR Treaty does not limit naval forces, the Soviet Union argues that these divisions are not covered by treaty limits. A Pentagon official claims, however, that the units are motorized rifle divisions within the normal structure of Soviet land forces. The official says, "they are located where they have always been."

The issue of limits on naval force has been highly charged; naval arms control has been resisted by the U.S. military while it is known to be a priority of the Soviet military. The two sides resolved a dispute over limiting land-based aircraft in the Soviet Navy by setting a politically binding ceiling outside the formal treaty.

Another data issue centers on the MT-LB armored personnel carrier. The Treaty contains a paragraph describing how this vehicle can be transformed into a non-combat look-alike, which would not be counted under treaty ceilings. The two sides differ over how many MT-LBs currently in the Soviet arsenal be counted as look-alikes and how many are still combat-capable. The Soviet diplomat said 12,800 are look-alikes used for towing artillery and as ambulances.

WHITHER THE WITHDRAWN SYSTEMS?

The CFE Treaty requires the Soviet Union to destroy any equipment being removed from the ATTU to reach the treaty ceilings. That equipment would have to be destroyed within three years of the Treaty's entry into force. Neither of these requirements applies to equipment that was already beyond the Urals when the Treaty was signed. The USSR acknowledges having accelerated its withdrawal of equipment behind the Urals in the final months before Treaty signature. But Soviet officials resist the charge that they are trying to avoid destroying their arms, claiming instead that they would have had difficulty carrying out all of their destruction on the Treaty's 3-year timeline.

Even though equipment that had already been moved to the Eastern USSR by November 18 is not legally covered by the CFE Treaty, the United States is seeking assurances that these forces will present no threat. In an October 13 letter, Soviet Foreign Minister Eduard Shevardnadze detailed Soviet intentions for the 20,000 tanks it had planned to withdraw. 4,000 had already been converted, destroyed, or exported. Another 8,000 tanks are slated for future destruction or conversion—mostly to fire-fighting equipment. The other 8,000 were being moved to the Far Eastern part of the USSR to replace aging weapons that will in turn be destroyed. A Soviet diplomatic source said that 500 artillery pieces from Europe have also been destroyed and that 16,400 artillery pieces have been moved to the Asian Soviet Union, along with 4,700 armored combat vehicles.

U.S.S.R. EXPLAINS LOW VERIFICATION SITE FIGURES

One of the elements of the Soviet data that most surprised Western officials was the short list of objects of verification provided. In early October, Soviet officials told U.S. counterparts that the USSR had 1,560 such sites, but the data lists only 895. The issue is important because the number of on-site inspections a country is required to host is based on the number of objects.

A Soviet diplomat explained why the figure is so low. According to this source, Eastern and Western negotiators agreed in the final weeks of the talks that 120 Soviet regiments and battalions in Eastern Europe would not be counted as objects because all of their treaty-limited equipment (TLE) had already been removed. The USSR also claims that an additional 80 sites were removed from the list due to withdrawal of forces from Eastern Europe.

The diplomat also said that 100 training centers were discounted; these sites are said to have less than 30 total TLE or less than 12 items of any one category. In restructuring of its forces, the USSR claims to have removed all TLE from its chemical and communications and control units, thereby eliminating 360 objects of verification.

Acknowledging that many of these changes had indeed been made, a Pentagon official commented that "we'll probably have to live with the object of verification numbers." The issue is understood to be of greater concern to some of the United States' NATO allies.

NATIONAL DECLARATIONS AND RESIDUAL MAXIMUM LEVELS

	Declared	Residual
OOV:		
Belgium	53	
Canada	12	
Denmark	618	
France	286	
Germany	45	
Greece	109	
Iceland	0	
Italy	158	
Luxembourg	0	
Netherlands	99	
Norway	56	
Portugal	61	
Spain	90	
Turkey	120	
United Kingdom	228	
United States	164	
Total NATO	1,947	
Bulgaria	84	
CSFR	250	
Hungary	55	
Poland	118	
Romania	167	
U.S.S.R	895	
Total WTO	1,569	
Tanks:		
Belgium	359	334
Canada	77	77
Denmark	419	353
France	1,358	1,306
Germany	7,133	4,166
Greece	1,725	1,735
Iceland	0	0
Italy	1,912	1,348
Luxembourg	0	0
Netherlands	913	743
Norway	205	170
Portugal	146	300
Spain	854	794
Turkey	2,888	2,795
United Kingdom	1,198	1,015
United States	5,904	4,006
Total NATO	25,091	19,142
Bulgaria	2,416	1,475
CSFR	3,035	1,435
Hungary	1,345	835
Poland	2,850	1,730
Romania	2,851	1,375
U.S.S.R	20,694	13,150
Total WTO	33,191	20,000
APC:		
Belgium	833	N/A
Canada	277	N/A
Denmark	316	N/A
France	2,692	N/A
Germany	6,072	N/A
Iceland	0	N/A
Italy	3,591	N/A
Luxembourg	0	N/A
Netherlands	749	N/A
Norway	81	N/A
Portugal	812	N/A
Spain	1,142	N/A
Turkey	1,554	N/A
United Kingdom	2,553	N/A
United States	3,545	N/A
Total NATO	25,065	N/A
Bulgaria	1,771	N/A
CSFR	2,929	N/A
Hungary	1,219	N/A
Poland	928	N/A
Romania	2,566	N/A
U.S.S.R	11,334	N/A
Total WTO	20,747	N/A
AIFV:		
Belgium	236	731
Canada	0	169
Denmark	0	210
France	817	1,635
Germany	3,264	3,282
Greece	96	1,719
Iceland	0	0
Italy	0	2,220
Luxembourg	0	0
Netherlands	718	718
Norway	53	153
Portugal	0	292
Spain	0	1,078
Turkey	0	2,121
United Kingdom	339	1,335
United States	2,202	2,337
Total NATO	7,725	18,000
Bulgaria	148	1,110
CSFR	1,430	1,430
Hungary	494	1,020
Poland	1,391	1,700
Romania	139	500
U.S.S.R	17,692	12,250
Total WTO	21,294	18,000
HACV:		
Belgium	213	133
Canada	0	0
Denmark	0	0
France	616	535
Germany	262	135
Greece	65	75
Iceland	0	0
Italy	0	0
Luxembourg	0	0
Netherlands	0	0
Norway	12	0
Portugal	77	77
Spain	117	117
Turkey	0	93
United Kingdom	301	335
United States	0	0
Total NATO	1,663	1,500
Bulgaria	91	100

NATIONAL DECLARATIONS AND RESIDUAL MAXIMUM LEVELS—Continued

	Declared	Residual
CSFR	0	103
Hungary	7	85
Poland	58	107
Romania	430	105
U.S.S.R	602	1,000
Total WTO	1,188	1,500
ACV:		
Belgium	1,282	1,099
Canada	277	277
Denmark	316	316
France	4,125	3,820
Germany	9,598	3,446
Greece	1,639	2,534
Iceland	0	0
Italy	3,591	3,339
Luxembourg	0	0
Netherlands	1,467	1,080
Norway	146	225
Portugal	259	430
Spain	1,259	1,588
Turkey	1,554	3,120
United Kingdom	3,193	3,176
United States	5,747	5,372
Total NATO	34,453	29,822
Bulgaria	2,010	2,000
CSFR	4,359	2,050
Hungary	1,720	1,700
Poland	2,377	2,150
Romania	3,135	2,100
U.S.S.R	29,628	20,000
Total WTO	43,229	30,000
Artillery:		
Belgium	376	320
Canada	38	38
Denmark	553	553
France	1,330	1,292
Germany	4,644	2,705
Greece	1,941	1,878
Iceland	0	0
Italy	2,222	1,955
Luxembourg	0	0
Netherlands	838	607
Norway	532	527
Portugal	334	450
Spain	1,373	1,310
Turkey	3,202	3,523
United Kingdom	636	636
United States	2,601	2,492
Total NATO	20,620	18,286
Bulgaria	2,474	1,750
CSFR	3,485	1,150
Hungary	1,047	840
Poland	2,300	1,610
Romania	3,819	1,475
U.S.S.R	13,828	13,175
Total WTO	26,953	20,000
Combat aircraft:		
Belgium	191	232
Canada	45	90
Denmark	106	106
France	700	800
Germany	1,064	900
Greece	480	650
Iceland	0	0
Italy	584	650
Luxembourg	0	0
Netherlands	196	230
Norway	90	100
Portugal	96	160
Spain	252	310
Turkey	589	750
United Kingdom	842	900
United States	704	784
Total NATO	5,939	6,662
Bulgaria	387	235
CSFR	369	345
Hungary	110	180
Poland	654	460
Romania	407	430
U.S.S.R	6,445	5,150
Total WTO	8,372	6,800
Attack helicopters:		
Belgium	0	46
Canada	12	13
Denmark	3	12
France	429	352
Germany	357	306
Greece	0	18
Iceland	0	0
Italy	169	142
Luxembourg	0	0
Netherlands	91	69
Norway	0	0
Portugal	0	26
Spain	28	71
Turkey	0	43
United Kingdom	368	384
United States	279	518
Total NATO	1,736	2,000
Bulgaria	44	67
CSFR	56	75
Hungary	39	108
Poland	29	130
Romania	104	120
U.S.S.R	1,330	1,500
Total WTO	1,602	2,000

Notes: 1. Residual Holdings shown are for 1994. 2. The actual Soviet declared total for ACVs is 29,348. This appears to be an incorrect addition of their APC, AIF and HAVC declarations. 3. Polish data is stated to be valid for January 1, 1991, not treaty signature.

[Basic Reports From Vienna, a Regular Update on the CFE and CSBM Negotiations From the British American Security Information Council, Nov. 8, 1990, No. 11]

VERIFICATION REGIME TAKING SHAPE

The area of the CFE Treaty requiring the largest amount of last-minute negotiation, according to officials involved in the talks, is the Treaty's verification regime. During meetings in Washington to prepare for the early-October New York ministerial, U.S. and Soviet officials resolved differences over the conceptual framework for verification.

The two sides had been using different methods to calculate the number of on-site inspections that a country would be required to host (its so-called passive quota). They disagreed over what unit of measurement would be used to determine the quota. The West had resisted the Soviet concept of "objects of verification", feeling the USSR was trying to protect its bases from full inspection by dividing them into "objects."

But at the Washington meetings, Soviet negotiators provided clarification and reassurance. According to a Soviet diplomat who took part, "anything contiguous to an object can be inspected, except for another object [which would count as a separate inspection under the quota]." The Soviet official elaborates that "you can look at the whole site (or division) within which a regiment lies, but you have to use another inspection to look at another regiment." The diplomat recounted that negotiators needed to use donuts in their meetings to demonstrate these concepts.

Having agreed on the conceptual framework, the sides still need to set quotas. The inspections will be divided chronologically into four periods: baseline, implementation, closeout, and duration. Baseline inspections will verify the starting point levels from which a country will be reducing and will last 120 days. The next phase will observe the reductions taking place over 3 years to determine whether they are on schedule. Closeout inspections, also lasting 120 days, are meant to ensure that countries have reached the ceilings mandated by the treaty. Inspections for the duration of the treaty will monitor compliance until the accord is no longer in effect.

Countries will be required to host inspections of a certain percentage of its objects during each of these periods. According to an American military official, the U.S. is proposing 20 percent of objects be inspected during the baseline period; 10 percent annually during implementation; 15 percent during closeout; and 15 percent annually for the duration. The official said there are 1,930 Soviet objects. According to an Eastern diplomat the only figure with which the USSR differs is the baseline quota for which they suggest 15 percent. The difficulty will now come in convincing the NATO allies to accept these quotas; the major West European allies have resisted intrusive verification since early in the negotiations.

A variety of other technical issues still need to be worked out. Many of these stem from the adoption of Soviet concepts. A U.S. official who is enthusiastic about the shift to the Soviet approach commented that "we still got what we want, but it's in rubles instead of dollars. All of the other concepts—like team days—need to be converted from the one currency to the other." "Team days" refers to the amount of time inspectors will have to conduct each inspection.

COMMENDATION OF MEMBERS OF THE ADMINISTRATION

Mr. President, before we vote on this treaty, I want to pay tribute to those members of the administration who made the treaty possible. These are the public servants we never hear about. These are the people who worked day and night for the last several years negotiating with the Soviet Union, with our NATO allies, and with the East European nations, to write the language of this treaty. Sometimes these men and women also had to fight against the recalcitrant bureaucracy in Washington.

These men and women deserve our praise, our respect, and our thanks. At the risk of omitting some, I would like to at least name a few: Ms. Janet Andres, a fine and highly professional Foreign Service Officer; Bill Parsons, a capable and determined lawyer in the Arms Control and Disarmament Agency; and three other highly competent administration officials: Craig Chellis from the National Security Council, Doug Maceachin from the Central Intelligence Agency, and Tom Graham from the General Counsel at ACDA.

Finally, Mr. President, I want to acknowledge the critical role of Ambassador Jim Woolsey, who is known to many of us for his consummate skills, knowledge, and capability.

Without his skill in working with the committee, and without his understanding of the constitutional role of the Senate, Speedy action on this treaty would not have been possible.

It was Ambassador Woolsey who was able to overcome the almost impassable channels of communication which the administration has set up between the Foreign Relations Committee and the State Department.

Let me not put too fine a point on it, Mr. President. If we had relied solely on those channels, we would still be waist deep and sinking in the quicksand of controversy. There were key issues to resolve—issues involving considerable complexity—and only by setting up direct channels of communication were we able to resolve these issues in a timely manner.

I commend Secretary Baker and General Scowcroft for designating Ambassador Woolsey to speak for the administration on this matter. If they had not, I do not believe the committee would have voted unanimously for the treaty, and I do not think the full Senate's deliberations would have gone as smoothly as they have.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes, 3 seconds.

Mr. SMITH. Mr. President, I ask unanimous consent that Vicki Stack, a health fellow on the staff of Senator DOLE, be granted the privileges of the floor during the consideration and votes concerning H.R. 3595, the Medicaid rules bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1433, AS MODIFIED

Mr. SMITH. Mr. President, I ask unanimous consent that I may now modify my amendment with a modification which I believe is at the desk and has been agreed to between the Senator from Delaware and myself.

Mr. BIDEN. Reserving the right to object, will the Senator ask for a rollcall vote on this amendment?

Mr. SMITH. It is not my intention.

Mr. BIDEN. On the condition that there will be no rollcall vote, I will not object.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1433), as modified, is as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) PRESIDENTIAL REPORT ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a classified and unclassified report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

Mr. SMITH. Mr. President, I would like to have the modification read into the Record, as there has been considerable debate over the specific language. I want to make certain that everybody understands what the amendment is.

The PRESIDING OFFICER. The clerk will read the modification.

The assistant legislative clerk read as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) PRESIDENTIAL REPORT ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a classified and unclassified report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

Mr. SMITH. Mr. President, I think we have concluded the debate from our side. The purpose of my amendment was to advise my colleagues in the Senate, before they offer their advise and consent, that the Soviets have been in violation and likely remain in violation of the treaty at precisely the same time that we are approving ratification. I find this situation extremely disturbing, and our failure to adequately address this matter reflects poorly on the integrity of this institution. I yield the floor.

Mr. BIDEN. Mr. President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. Forty-eight seconds.

Mr. BIDEN. Mr. President, I want to make it clear that the administration has agreed to this compromise. They think that it makes sense as it has been compromised. I also thank Senator PELL, the chairman of the full committee, for his leadership on this entire CFE Treaty debate. I, again, compliment Ambassador Woolsey for an incredibly fine job in the interest of the United States. I also want to thank Jamie Rubin and John Ritch of my staff for their efforts, and Dave Sullivan of Senator HELMS' staff for his fine efforts.

The PRESIDING OFFICER. All time has either expired or been yielded back. Under the previous order, the question is on agreeing to the Smith-Wallop amendment, as modified.

The amendment (No. 1433), as modified, was agreed to.

Mr. ADAMS. Mr. President, I rise today to support ratification of the Conventional Armed Forces in Europe [CFE] Treaty. This landmark agreement took almost 20 years to negotiate. It marks a great step forward in arms control agreement and verification. The treaty will greatly improve international security.

We are in the midst of an extremely fluid situation. The Soviet Union continues to struggle with its identity. The Republics continue to weigh their need for sovereignty against their need for independence. Such volatility makes verifiable arms control measures imperative.

The CFE Treaty is not perfect. We are all aware of Soviet attempts to move equipment beyond the Urals. Outside the geographic area governed by the treaty. We know that there have been discrepancies regarding the actual count of Soviet equipment to be destroyed or converted.

No one can say with certainty how emerging states in the U.S.S.R. might fit into the arms control agreement we are considering today.

These are legitimate areas of concern. The resolution before us addresses each of these concerns.

The conventional force gap in Europe has been eliminated. Furthermore, both the United States and the Soviet Union have drastically cut their nuclear arsenals, including tactical weapons in the European theater. United States troops are no longer needed as a nuclear tripwire intended to discourage a nuclear attack on Western Europe.

The resolution of ratification was approved unanimously by the Committee on Foreign Relations last week. It includes a list of Soviet actions that the Senate would consider to contravene the treaty. These conditions are based on specific Soviet statements made after the treaty was negotiated. The administration must adhere to these conditions in implementing the agreement.

The resolution also includes language addressing the possibility of new states arising on Soviet territory.

Ratification of the CFR will make a significant contribution to international security as well as to the strengthening of multilateral regimes. The concrete benefits strongly outweigh the risks of potential cheating and the emergence of new states that may or may not choose to adhere to the treaty. The language of the treaty, combined with the Senate conditions, enable us to deal with those contingencies should they arise.

Mr. President, there is a domestic component of this treaty beyond the international security implications. I have expressed my deep concern about the amount of money this Nation continues to spend on outdated and unnecessary weapons systems. I do not make these remarks lightly. I am as committed as any Member of this body to a strong and effective national defense.

But once again, I must ask my colleagues: Has nothing changed over the course of the last year? Whether it is exotic weapons systems that are over budget and do not work, or $65 billion to keep U.S. troops in Europe, we are wasting vital resources.

We have a national debt of $3.7 trillion. The deficit this year will be nearly $279 billion. We have been in a recession for 2 years. More than 8 million Americans are out of work, out of savings, and out of patience. We cannot afford to continue to prepare for world conflicts which are simply not possible.

I support and will vote to ratify the Conventional Forces in Europe Treaty. This treaty is a positive step—in my opinion only a first step—in changing our defense posture to reflect the present state of the world.

Mr. DIXON. Mr. President, we are considering an historic treaty today. For over 20 years the United States has pursued efforts to reduce military tensions in Europe. This included efforts to significantly reduce armaments deployed by the Warsaw Pact countries and members of the NATO alliance. The CFE Treaty accomplishes this goal.

The treaty will not only help to reduce the likelihood of war between the East and West, it will also put a halt to the conventional arms race between the superpowers. The treaty also has significant implications for the Soviet

Union because it will indicate to Soviet leaders that the United States is very serious about ending the arms race and that it poses no threat to the Soviet Republics.

By ratifying the treaty we are also sending a signal to Eastern Europe and the rest of the world that political and ideological differences can be resolved peacefully without resort to armed conflict. Another benefit that will result from the treaty will be that the European Community may now assume a greater responsibility for the defense of Europe. This factor should reduce the amount of money we spend on European defense affairs.

The CFE Treaty is also very complementary to our efforts of reducing strategic arms as well. The President has undertaken a broad range of arms control initiatives and this is one of the most important treaties that we will ratify in this decade.

In the past, the Soviet Union and Warsaw Pact countries had a very significant advantage with regard to conventional force strength. The Soviets had more tanks, armored personnel carriers, artillery pieces, and troops in the region. It has cost the United States and our European allies billions of dollars to be prepared to defend against this threat. With the ratification of the CFE Treaty, this major imbalance will no longer exist, and cost savings will realistically be achieved.

The treaty will provide for limits on force levels in each country and will limit both sides to 20,000 tanks, 30,000 armored personnel carriers, 20,000 pieces of artillery, 6,800 combat aircraft, and 2,000 attack helicopters. These levels should provide both sides with a feeling of security but will give neither side an advantage against the other.

Most importantly, the treaty would prevent any single country from having more than one-third of the total forces on each side and it contains vital verification provisions. It will cause the dramatic action of requiring the Warsaw Pact countries to destroy or remove 54,000 units of military equipment while the allies will only be required to do this with 16,000 pieces of equipment. These cuts are a result of the political changes in the Soviet Union and the new political situation in Eastern Europe. From a military point of view, this treaty is unprecedented. We all know full well the historic instability that has plagued European relations. This treaty will help to ensure that stability will be the new world order and not instability. This will then be the rule as we enter the next century.

While there are many positive aspects about the treaty, there are also some potential pitfalls ahead. We do not know exactly what will happen in the Soviet Union with regard to the Soviet Republics. It is possible that certain non-Russian Republics may not agree to the terms of the treaty. However, if this does occur, it does not mean that the NATO countries will be threatened. More than assuredly it would cause some discomfort within the Soviet Union. However, I firmly believe that the administration and the Senate have the latitude to deal with this type of circumstance as it arises in the future.

The major benefits of the treaty more than outweigh any possible negatives. The implications for world security and peace are tremendous and ratification by the Senate will send a very powerful message to the world that peace and security in Europe are no longer just goals—but are truly the new realities.

Mr. THURMOND. Mr. President, on November 19, 1990, when the Conventional Forces in Europe Treaty was signed, it was a historic event. The treaty marked, in the words of Secretary of State Baker, "a fundamental shift away from the cold war to a Europe whole and free. Not only is it an essential foundation for the new Europe, but it will be a bulwark against a return to cold war dangers and animosity."

Now almost a year later, the events in the Soviet Union, Eastern Europe, and in this country have diminished the euphoria that accompanied the signing of the treaty. There is a question about the relevance of the treaty now that the Warsaw Pact has disintegrated and the Soviet Union is fracturing as a nation. In addition, our own budgetary problems are forcing us to make decisions that may have a significant impact on both the equipment and manpower forward deployed in Europe.

Although I support the ratification of the treaty, there are two issues which have the potential of significantly impacting on future arms agreements and the success of this treaty. The first, and in my judgment, the most important issue is that of the inaccuracy in the data provided by the Soviet Union on the treaty limited equipment in area of application at the time the treaty was signed in 1990. The administration has attempted to resolve the differences with the Soviet Union, however, substantial differences still exist between what the Soviets say and what our intelligence agencies estimate. I am advised that the range in these estimates is in the thousands of pieces of treaty limited equipment above the amount included in the Soviet declaration.

Prior Soviet violations of agreements, such as the INF Treaty and the ABM Treaty radar violation, which were acknowledged by the past two administrations, should raise grave concerns in regard to this treaty. It is unfortunate that this treaty, for which everyone has such great expectations, will go into effect with doubts on the validity of the base data. I expect that the provisions in the resolution of ratification will force the administration to resolve this data difference before the Nation assumes its obligations under the Conventional Forces in Europe Treaty.

Mr. President, my second concern is the applicability of the Conventional Forces in Europe Treaty to follow on states. This concern is heightened by the current situation in the Soviet Union. The central government is at the verge of collapse and the Republics are declaring their independence on a daily basis. Republics, such as the Ukraine, have military forces that are greater than those of Germany. Yet there is a question on whether these new states, such as the Ukraine, Belorussia, or Russia, will be bound by the treaty. Although I understand that these Republics have indicated that they would comply with the treaty, I believe it is important that there be a strong statement requiring the President to review the treaty in case they do not comply. Senator COHEN's amendment to the resolution of ratification, which I supported, provides sufficient assurances to resolve this concern.

Mr. President, in his testimony on the CFE Treaty, Admiral Jeremiah, the Vice Chairman, Joint Chiefs of Staff, told the Armed Services Committee:

> * * * that no responsible military officer can see any advantage in delaying. To the contrary, delaying U.S. ratification only delays the advantages that will be gained when the treaty comes into force. If we fail to promptly ratify we will fail to set the leadership example needed to encourage potential successor states to the Soviet Union to enter the new European security and stability order.

Mr. President, I support ratification of this treaty and urge my colleagues to join me in giving it their support.

Mr. LEVIN. Mr. President, this treaty is overwhelmingly in the United States' security interest.

Mr. President, the CFE Treaty is a historic accomplishment that would have been absolutely unimaginable just a few years ago. The American people should be proud of our Nation's role in this achievement and of the results: A stunning reduction in military forces that could threaten our national interests in Europe and the establishment of a political process that renders such military forces entirely unnecessary.

Mr. President, it is true that the treaty has, in some senses, been overtaken by political events in Europe during the last 18 months. It was conceived and negotiated when there was still a Soviet Union and a Warsaw Pact, and before the process of democratization took root in Eastern Europe.

It is not, however, irrelevant. Indeed, it is exactly what is needed at this moment to guarantee that the positive events in Europe are not reversed by a return of armaments that are unwanted, unneeded, and destabilizing. The CFE Treaty represents a long-awaited farewell to some arms at least.

But given the extraordinary changes and developments in Europe over the last 2 years, we must go beyond the CFE Treaty. We must not, Mr. President, let the CFE Treaty be the end of military reductions or security improvements in Europe or elsewhere. If we are to harvest the rewards of increased security and democratization we must do more.

NATO has just unveiled a new strategic concept that changes dramatically the focus of this military alliance to the political and economic sphere. The new concept declares that the Soviet military threat has disappeared and that the greatest risks now come,

> * * * from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes, which are faced by many countries in Central and Eastern Europe.

Mr. President, this political transformation of NATO is both appropriate and necessary. NATO recognizes the need of having regular, direct high-level dialog and interaction between itself and the nations of the former Warsaw Pact. The North Atlantic Cooperation Council was recently established for exactly that purpose. The security of NATO, and of U.S. interests in Europe, are now inextricably linked with the security of all nations in Europe. The situation requires an unprecedented level of cooperation.

But it also requires that the United States not retain the vestiges or burdens of the cold war. That would be politically unwise and economically unaffordable. We should seek to reduce our military manpower in Europe to the low level consistent with the new political and military situation there.

Mr. President, if there is no military threat to NATO there is also no need to keep a huge fighting force stationed in Europe. We should remove those U.S. forces from Europe that are not considered essential and let the European nations provide for a greater share of their own defense responsibilities. This will permit a considerable reduction in the costs of keeping hundreds of thousands of personnel in Europe while maintaining security at an appropriate level.

The current U.S. plan is to reduce our military forces in Europe to a level of 150,000 by the year 1995. Next year alone we will bring back over 55,000 of our troops. Mr. President, I believe we should continue that pace of withdrawals for several years and continue to reduce to a level well below 100,000. At that level we should be able to keep the vanguard of a fighting force in place with the ability to reinforce it as necessary.

Mr. President, lest anyone be concerned that such a withdrawal would be precipitous, let me reassure my colleagues that our allies in Europe are also planning to make significant reductions in their military forces and defense spending. This is mandated by the new situation in Europe. We can be sure that the result will be much lower levels of forces than at present, thanks in part to the CFE Treaty and to the follow-on CFE 1A negotiations that aim to produce an agreement on manpower limitations by March of next year.

So, Mr. President, as we ratify the CFE Treaty, let us also look forward to the new security possibilities in Europe and make appropriate changes to our force structure and defense budget. That is the way to assure a healthy U.S. economy which is the bedrock of our security.

Mr. KERRY. Mr. President, a vote consenting to ratification of the Treaty on Conventional Armed Forces in Europe may be the easiest vote I am called upon to cast this year.

The proposed treaty meets nearly every test a nation could reasonably ask an arms control agreement to meet. It reduces the risk of war; it lowers the level of armaments; it requires far greater sacrifices on the part of other treaty signatories than it does of the United States; it is verifiable; and it sets a valuable precedent for future negotiations.

The central provisions of the treaty are well known. It applies to the 16 members of NATO and the 6 members of the former Warsaw Pact. Geographically, it will limit armaments from the Atlantic Ocean to the Ural Mountains. It applies to five major categories of conventional weapons, including battle tanks, armored vehicles, artillery, combat aircraft, and attack helicopters. The treaty limits the number of weapons any country subject to the treaty may have in any one category, a limitation that requires substantial reductions only from the Soviet Union. Those weapons that remain must be distributed in a manner that will make offensive military actions more difficult. No nation is permitted to station forces on the territory of another nation without the permission of the host government. Finally, both sides are required to place roughly 20 percent of their ground weapons in designated permanent storage sites, thereby reducing further the capability for surprise attack.

The treaty includes the most far-reaching verification and inspection provisions in the history of arms control. On-site inspections, exchanges of information, and notification requirements are all included.

Europe, under CFE, will bear little resemblance to the Europe even of 4 or 5 years ago. Instead of a NATO force vastly outnumbered by massive, heavily equipped, and threateningly deployed forces from a united Warsaw Pact, we will see a total Soviet withdrawal of forces from Eastern Europe; we will see an aggregate reduction in non-NATO forces in Europe of more than 50 percent; we will see large quantities of armaments destroyed, others put in storage, and still others deployed in less threatening ways. We will see, in short, an end to the threat of a major surprise attack in Europe by any side, not simply for a short period of time, but for as long as the provisions of the treaty are observed.

It has become a cliche to suggest that the CFE has already been overtaken by events. Certainly, the major aspirations of the Western signators of the treaty were realized with the overthrow of Communist regimes in eastern Europe and the Soviet decision to begin unilateral withdrawals of equipment and troops. Certainly, the stark cold war division between NATO and Warsaw Pact nations that lies at the center of CFE is now obsolete. Certainly, the liberation of Lithuania, Latvia, and Estonia was not anticipated when CFE negotiations began. Certainly, the erosion of Federal control throughout the Soviet Union has accelerated dramatically over the past 3 months. Certainly, the Europe of the 1990's will differ enormously from the Europe of the cold war whether CFE is ratified or not. But none of these facts leads us to the conclusion that CFE is unneeded or unwise or irrelevant to our security or to our goal of building a more peaceful and stable world.

If the events of the past several years prove anything, it is that the world can change dramatically, unpredictably, and with astonishing speed. Just as the Europe of today differs markedly from the Europe of yesterday, so may it differ from the Europe of tomorrow. We can hope—even believe—that the road ahead for Europe will be largely peaceful, but we cannot assume it and we cannot take it for granted.

Implementation of the CFE will establish legal rules governing the size and deployment of armed forces that are designed specifically to minimize the likelihood of war. Any future government anywhere in Europe that disregards these rules will be quickly identified and subjected to the kind of scrutiny and pressures that potentially aggressive behavior demands. The governments of newly independent states—in Belorussia or Ukraine, for example—will understand that accession to CFE will help them to achieve full acceptance within the family of nations. Remaining hardline elements within the Soviet military will understand that their capacity to intimidate others through the use and threatened use of force is dwindling rapidly and will soon fade away. And the United States will have the assurances we need to reduce the deployment of our own forces in Europe, thereby saving taxpayers an estimated $10 to $15 billion a year.

Ratification of this treaty was delayed by disagreements between our Government and the Soviet Government over weapons-counting, the number of weapons to be destroyed, and the categorization of three Soviet infantry divisions. In each instance, the United States position was correct and, in each case, the Soviets either accepted the United States position or offered a compromise that was acceptable to the administration. These issues were settled through a side agreement on June 14 of this year and are incorporated in the resolution of ratification as if they were part of the treaty itself. In other words, Soviet failure to live up to the terms of the side agreement will be interpreted by the United States as failure to live up to the CFE Treaty, and will prompt the same United States response.

The independence of the Baltic States raised another important question that has since been resolved. Because substantial amounts of Soviet military equipment remain on Baltic soil, it was necessary to clarify that this equipment would be included in the Soviet totals under CFE. This clarification was included in a statement by the CFE joint consultative group on October 18, 1991. Again, the resolution of ratification makes it clear that this agreement will be considered as if it were part of the treaty itself.

Ratification and implementation of the CFE Treaty will help ensure that the post-cold war world is, in fact, more stable and secure than the balance of terror it has replaced. The treaty constitutes, however, only one step along that road. We must work to persuade newly independent Republics, especially Ukraine, to accede to the treaty. We must go forward with efforts to limit nuclear arms, through formal treaty and voluntary action. We must maintain sensible limits on the deployment of antiballistic missile systems. We should negotiate a verifiable agreement further limiting or banning nuclear tests. And we should continue working with the international community to control nuclear proliferation, to ban chemical and biological weapons, and to regulate trade in advanced conventional arms. In all of these areas, the principles of reduced armaments, verification, and consultation that are at the heart of the CFE agreement will stand us in good stead.

Mr. President, this treaty is a good treaty. The resolution to provide our advice and consent was carefully worked out by the Committee on Foreign Relations, in consultation with the administration and with other appropriate committees of the Senate. The rapidly changing times have perhaps reduced the urgency of our need for this treaty, but they have not altered its capacity in the long term to serve our Nation, and our world, exceedingly well.

Mr. ROTH. Mr. President, the ratification of the Conventional Armed Forces in Europe Treaty may appear to some to be a pointless undertaking. After all, the press of events has already led many CFE signatories to reduce their conventional forces below levels laid down in the treaty.

Moreover, since the treaty was signed by its various parties, several new European nations have come into being. Lithuania, Latvia, and Estonia all may choose to establish armed forces of their own. Meanwhile, some of the former Soviet Republics are moving toward full sovereignty and Ukraine, in particular, is discussing the possibility of its own armed forces.

Clearly, any treaty which presumes to stabilize levels of conventional forces in Europe will have to take these new nations into account.

However, none of these factors, in my opinion, fundamentally undercuts the rationale for ratifying the CFE Treaty. That treaty may not constitute the final step toward military stability, but it certainly does constitute a very useful first step. Let us not forget that this is the first—the very first—time that we have managed to negotiate any type of agreement limiting the size of conventional forces in Europe. Certainly, more needs to be done, but that should not lead us to overlook the value of this primary treaty.

In addition, Mr. President, I should remind my colleagues that, while most of Europe is now at peace, that region has twice been the cockpit of war in this century. The breakup of the Soviet Empire, while it is broadly welcomed, could easily facilitate the reemergence of the ethnic conflicts which, in the past, have fueled the build up of large military forces and, ultimately, broad military conflicts. Anyone who believes that a repetition of these sorry events is impossible would do well to consider the current situation in Yugoslavia. That type of situation could spread. In short, Mr. President, this CFE Treaty might, in the present context, appear to allow for an unnecessarily high level of forces, in coming years it could act as a vital brake on nations with aggressive attentions on their national agenda.

In closing, Mr. President, I believe that we should all congratulate the men and women who have spent so many hours, so many late nights, negotiating this treaty. So often, when we consider these treaties, we credit the Ambassadors with the honors of success. This is perfectly correct, but the Ambassador is only the head of a team, a team which, in this case was drawn from the ranks of the Armed Forces, the State Department, the Arms Control and Disarmament Agency and our various intelligence agencies. All of these men and women deserve our heartiest congratulations for their successful negotiations of this treaty. The Senate's ratification of this CFE Treaty will constitute an appropriate recognition of their work.

Mr. HATCH. Mr. President, while the Conventional Forces in Europe [CFE] agreement is an important treaty that will be augmented by a fairly comprehensive onsite verification regime, it should be noted that this accord is far from perfect. I have two specific problems with the current accord.

First, the Soviet Union has traditionally violated arms control agreements, both in spirit, and in fact, and the Senate should not have any illusions about the Soviet penchant for cheating on this occasion. With respect to the CFE agreement, the accuracy of Soviet data declarations of TLE in the area of application on November 19, 1990, is still a serious issue, and raises questions about the ability of the Soviets to negotiate in good faith. This data CFE discrepancy problem was and remains a serious concern of mine, and a number of my colleagues. The Senate Foreign Relations Committee inserted a provision in the Senate resolution of ratification, which goes a long way in addressing this important problem. However, I also support the Wallop-Smith provision that requires tougher provisions on data discrepancy. While the administration has crafted an extensive onsite verification regime, in conjunction with our NATO allies, we should resolve the numerical differences in data submitted by the Soviets as soon as possible. I further believe that the Bush administration should pursue this data discrepancy problem vigorously in future negotiations with Soviet leaders, because it is a subject that should not be overlooked permanently by the administration for reasons of political expediency.

A second concern of mine is that this agreement does not pay enough attention to the current deployment of Soviet troops in the Baltics, which is in the range of 135,000 troops. While the Soviets have started to remove and disengage some units from East Europe, the Soviet Military Establishment seems a bit too well entrenched in the Baltics. In my opinion, Soviet forces in the region constitute a clear violation of Baltic sovereignty. This prompted me to introduce Senate Resolution 196, expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet Armed Forces and undertake discussions with the Governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal. This bipartisan resolution passed on November 23, 1991, and illustrates the concern in the Senate over Soviet troops in the Baltic States.

Mr. President, these are important reservations and criticisms of the CFE agreement. However, after a great deal of deliberation, I have decided to support the overall ratification of the CFE Treaty. While I believe that the Wallop-Smith amendment would send a strong signal to the Soviets, I would contend that the conditions and various declarations attached in the resolution of ratification are sufficient to justify support for this treaty. I also believe that the CFE Treaty is still a useful accord, and that the agreement should be ratified for two reasons.

First, the CFE agreement is politically significant because it codifies, in treaty form, the removal of Soviet offensive forces from East Europe. The geographic proximity and preponderance of Soviet forces on the European continent during the last four decades represented the most fundamental challenge to the security of the United States and to our NATO-European allies. It also provided the Soviet Union with the ability to impose authoritarian control over East European States. CFE Treaty implementation could therefore help promote political stability on the European continent through explicit declarations and numerical limits on Soviet force deployments in the region.

Second, the CFE agreement is militarily important because it will require substantial unilateral reductions in Soviet military forces and improve the transparency of Soviet military operations from the Atlantic to the Urals [ATTU]. NATO defense planners sought to eliminate the disparities that existed between the West and the Soviet Military Establishment and the CFE agreement focuses on the disposition of military equipment in five separate categories: tanks, armored combat vehicles, artillery, combat aircraft, and helicopters. These five categories were not chosen at random. NATO officials targeted a specific weapons systems, in which the Soviets had maintained a distinct numerical advantage, and that could be utilized in future Soviet offensive operations. The CFE agreement will help to reduce highly destabilizing military asymmetries in these categories. Soviet treaty limited equipment [TLE] in the ATTU region will decline from a figure of about 152,000 in 1988 to 53,000 under CFE. The Soviets will be forced to scrap 20,000 tanks and artillery pieces alone, whereas NATO reductions would be minimal.

Mr. President, in conclusion, I reiterate my support for CFE ratification due to its political and military importance, but fervently hope that the specific problems dealing with data discrepancy, and Soviet forces stationed in the Baltics, are resolved by all parties in the near future.

Mr. GLENN. Mr. President, I rise in support of Senate advice and consent to ratification of the Treaty on Conventional Armed Forces in Europe. While the collapse of the Warsaw Pact and the fragmentation of the Soviet Union have diminished the significance of this historic agreement, it is still a formidable achievement in arms control, virtually eliminating the threat of a surprise attack by the Soviet Union against our allies in Western Europe.

As a member of both the Senate Select Committee on Intelligence and the Senate Armed Services Committee which have held hearings on this treaty, I have concluded that our national interest would be served by ratifying CFE. In particular, I concur with the Senate Select Committee on Intelligence's conclusion that U.S. intelligence should be able to detect any militarily significant violation of this treaty.

Mr. President, I believe that this treaty must be examined in the context of the unique international environment in which it is being ratified. The last several years have seen an extraordinary transformation in United States-Soviet relations. We have witnessed the conclusion of the INF Treaty, the CFE Treaty, START, the liberation of Eastern Europe, the democratization of the Soviet Union, and indeed, the end of the cold war. However, with these positive developments have come problems as well.

There is no question that the fragmentation of the Soviet Union and the dissolution of the Warsaw Pact raise unique issues for the CFE Treaty. For example, treaty implementation will be impacted by such uncertainties as who will ultimately exercise command and control authority over Soviet forces and how treaty obligations will be shared within the new union as well as with the former republics that are gaining their independence.

Some may argue that it would be prudent to delay implementation of the CFE Treaty until we have a better idea of what national entities and alliances replace the Soviet Union. I believe, however, that on balance, it is best to act expeditiously to ratify this agreement. As turmoil rises in what remains of the Soviet Union, implementation of the CFE agreement will provide us with a useful, legally binding framework to closely monitor changes in the Soviet military that are certain to accompany the political changes taking place.

In short, I believe that enactment of the CFE Treaty will provide a useful measure of predictability and stability to an inherently unpredictable and unstable situation—the dissolution of the Soviet Empire. As Secretary of State Baker has recently state: "* * *[w]e need the CFE regime in place as a framework for security decisions during this time of dramatic political transformation."

Mr. President, I support the CFE Treaty and urge my Senate colleagues to do the same.

Mr. RIEGLE. Mr. President, the Treaty on Conventional Forces in Europe, the result of lengthy negotiations, represents a successful entry of arms control into conventional armaments.

Until Lithuania, Latvia, and Estonia gained their independence, I was seriously concerned that the inclusion of the Soviet Baltic Military District, which included the three Baltic Republics, in the area of application of the treaty, could encroach upon the longstanding United States policy of nonrecognition of Soviet sovereignty over the Baltic States. Which the failed coup in the Soviet Union, however, the fate of the Baltic States took a wonderful turn as they regained their lost independence.

As sovereign nations which had not ratified the CFE Treaty, Estonia, Latvia, and Lithuania no longer were parties to the treaty and their territories were no longer considered part of the area of application (art. II, sec. B). Thus, there was a serious question as to whether the Soviet Union would reduce its forces in the territory of the newly sovereign Baltic Republics. On October 18, 1991, this issue was laid to rest.

In a legally binding agreement, the Soviet Union, the United States, and the other parties to the CFE Treaty agreed that while Estonia, Latvia, and Lithuania were not parties to the treaty, the Soviets would follow the reduction targets in the treaty as if Baltic territory was part of the area of application.

I ask unanimous consent that the statement of the chairman of the Joint Consultative Group of October 18, 1991, be placed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE CHAIRMAN OF THE JOINT CONSULTATIVE GROUP

1. I hereby record that:

(a) The States Parties to the Treaty on Conventional Armed Forces in Europe of 19 November 1990, hereinafter referred to as the Treaty, acknowledge that in view of the sovereignty of Estonia, Latvia and Lithuania, the area of application defined in Article II of the Treaty does not include the territories of Estonia, Latvia and Lithuania.

(b) I have today received a statement from the Representative of the Union of Soviet Socialist Republics as follows:

"In order to fulfill the legally-binding obligations of the Treaty on Conventional Armed forces in Europe and of the agreements entered into by the States Parties on 14 June 1991, the Union of Soviet Socialist Republics shall treat all its conventional armaments and equipment in the categories defined in Article II of the Treaty present, on or after 19 November, 1990, on the territories of Estonia, Latvia and Lithuania as subject to all provisions of the Treaty and associated documents. In particular, conventional armaments and equipment in the categories limited by the Treaty shall be notified as part of Soviet holdings and shall count towards the Soviet reduction liability.

> This statement shall be legally binding and shall have the same duration as the Treaty."
>
> (c) I have also received statements from the representatives of the Kingdom of Belgium, the Republic of Bulgaria, Canada, the Czech and Slovak Federal Republic, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, the Republic of Iceland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Kingdom of Spain, the Republic of Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America that, in accordance with the legally-binding statement made by the Union of Soviet Socialist Republics, all Soviet conventional armaments and equipment in the categories defined in article II of the Treaty present, on or after 19 November 1990, on the Territories of Estonia, Latvia and Lithuania shall be treated as subject to all provisions of the Treaty, its associated documents and the legally-binding commitment entered into by the Union of Soviet Socialist Republics on 14 June 1991. In particular, conventional armaments and equipment in the categories limited by the Treaty shall be notified as part of Soviet holdings and shall count towards the Soviet reduction liability.
>
> (d) The States Parties acknowledge that arrangements for inspection of the abovementioned conventional armaments and equipment on the territories of Estonia, Latvia and Lithuania will require the consent and cooperation of those States.
>
> 2. This Chairman's statement, recording the above legally binding agreement among the States Parties, which will not be considered a precedent, will be recorded in the Journal, transmitted to the Depositary and deposited together with the instruments of ratification.

Undersecretary of State Reginald Bartholomew, testifying on November 4, 1991, before the Senate Armed Services Committee, described the agreement:

> The parties to the Treaty agreed to a legally binding statement establishing that Soviet equipment in the Baltics is subject to all provisions of the Treaty, that it will be notified as part of Soviet holdings and will count toward the Soviet reduction liability. It also established that the Baltic states were fully sovereign and the inspections on their territories could only take place by their consent.

While much was solved by this legally binding agreement, I was also concerned that the limits on Soviet force levels in Estonia, Latvia, or Lithuania would be seen by a future Soviet Government not as restrictions, but as ceilings up to which it was permitted to keep its forces. This is not the case. On November 20, I asked the State Department whether the CFE Treaty or the October 18, 1991 agreement give the Soviet Union permission to keep treaty limited equipment [TLE] in the independent Baltic Nations. Assistant Secretary of State of Legislative Affairs Janet Mullins explicitly answered no.

Moreover, Assistant Secretary Mullins confirmed that the Soviet Union may only keep TLE or other military equipment in Estonia, Latvia, or Lithuania if those countries explicitly consent. She stated:

> As sovereign states, Lithuania, Latvia, and Estonia have the right under international law to request and have removed any and all Soviet forces stationed on their territory without their explicit permission.

Mr. President, I ask unanimous consent that Secretary Mullins' cover letter, the questions I posed for the record on November 20, 1991, and the answers of Assistant Secretary Mullins be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, November 22, 1991.

DEAR SENATOR RIEGLE: Enclosed please find responses to the questions you addressed to the Administration concerning the Treaty on Conventional Armed Forces in Europe (CFE) and the Baltic States.

We of course stand ready to respond to any further queries you may have.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

QUESTIONS FOR THE RECORD POSED BY SENATOR RIEGLE—NOVEMBER 20, 1991

Question. Does the CFE Treaty or the legally binding agreement of October 18 relating to the Baltic States extend or imply permission for the Soviet Union to keep TLE or other military forces in Lithuania, Latvia or Estonia?

Answer. Neither the CFE Treaty nor the legally binding agreement of October 18, 1991, relating to the Baltic States extend or imply permission for the Soviet Union to station Treaty-limited armaments and equipment or other military forces in Lithuania, Latvia, or Estonia.

Subparagraph 1(a) of the October 18 agreement makes clear that the Baltic States are sovereign states and that they are located outside of the Treaty's area of application. Furthermore, subparagraph 1(d) of the agreement provides that any inspections of Soviet forces on Baltic territories must have the content and cooperation of the Baltic States. These legally binding provisions serve to highlight that the CFE Treaty Signatories, including the Soviet Union, recognize the Baltic countries as independent, sovereign states. As sovereign states, Lithuania, Latvia and Estonia have the right under international law to request and have removed any and all Soviet forces stationed on their territory without their explicit permission.

Question. In response to a question by Senators Nunn and Warner, Undersecretary Reginald Bartholomew stated: "Conversations with Baltic officials to date have indicated that the continued presence on their [Baltic] territory of Soviet forces remains one of the greatest concerns. They are seeking complete withdrawal as soon as possible. . . . Any actions taken in conjunction with ratification and implementation of the CFE Treaty should ensure the sovereignty of these nations."

Is it the policy of the United States that the Soviet Union may keep TLE or other military forces in the sovereign nations of Lithuania, Latvia, or Estonia only if Lithuania, Latvia, or Estonia consents to the presence of TLE or other Soviet military forces on its territory?

Answer. Yes. It is a principle of customary international law that, with certain exceptions (e.g., as part of a United Nations Security Council enforcement action carried out in accordance with Chapter VII of the UN Charter), no nation may station forces on another nation's territory without the permission of that nation. The United States supports this principle.

Finally, according to Assistant Secretary Mullins, the CFE Treaty and the October 18 agreement "serve to highlight that the CFE Treaty signatories, including the Soviet Union, recognize the Baltic countries as independent, sovereign states."

Mr. President, the CFE Treaty is an important step forward in the history of arms control and the security of Europe. It goes a long way toward cementing the momentous changes the world has witnessed in Europe by reducing armaments to their lowest levels in nearly half a century. With the assurance that neither the CFE Treaty nor the legally binding agreement of October 18, 1991, permit the Soviets to keep military forces in Estonia, Latvia, and Lithuania, I wholeheartedly support the CFE Treaty and will vote to ratify it on the Senate floor.

The PRESIDING OFFICER. Under the previous order, the question now occurs on the adoption of the resolution of ratification with declarations and conditions of the Executive Calendar No. 16, Treaty Document 102-8. The Chair informs the Senators that the yeas and nays have not been ordered.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA], and the Senator from Illinois [Mr. DIXON] would each vote aye.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 90, nays 4, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—90

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux

Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—4

Craig
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

The PRESIDING OFFICER. On the resolution of ratification, the yeas are 90, the nays are 4. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate now returns to legislative session.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Mr. BYRD, is recognized for a period of time up to 5 minutes.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senator from West Virginia has the floor. Senators who desire to converse are encouraged to retire to the cloakrooms to do so, so the Senator from West Virginia who has the floor may be heard.

The Senator may proceed.

Mr. BYRD. Mr. President, the Senate is not in order. I hope the time is not being charged against me.

The PRESIDING OFFICER. The Senator is correct. Time is not being charged to him until the Senate is in order.

Mr. BYRD. Mr. President, I thank the Chair.

The distinguished Senator from Georgia has developed an important, far-reaching proposal which should be considered on an urgent basis. I sat in the Chair earlier today and listened to the debate on the proposal and I was very much persuaded to support that proposal. The Soviet nuclear weapons inventory is vast, mindless, and dangerous. In some cases, I understand that the integrity of the command-control system may be in question, and the security of the weapons cannot be guaranteed.

We cannot afford to leave opportunities for the black market sale of such weapons to terrorist organizations, unreliable nations, and thereby set into motion nightmare scenarios of blackmail and threats that could ensue from the diversion of these weapons.

Mr. SARBANES. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order. The Senator from West Virginia retains the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland, and I thank the Chair.

The amendment pending by Mr. NUNN, Mr. LUGAR, and Mr. BOREN, I believe, gives the Soviet Union an opportunity to use our help to destroy these weapons and reduce the threat of proliferation and instability. It provides an opportunity to take weapons that may exist in areas where compromise or diversion might occur, and transport them to secure sites.

The issue of nuclear proliferation is an extremely worrisome one in the present circumstances of instability present in the areas of the Soviet Union and its former and present Republics.

This is a question of vital practical importance and I commend the vision of the Senators from Georgia, Oklahoma, and Indiana, for offering the proposal.

Mr. President, I also found appealing the argument that this could hasten the day when we could see a further considerable, very considerable reduction in our own defense appropriations which I think is important, extremely important, as we look across the country and see the deteriorating infrastructure in our own country.

Now, originally the amendment would, in essence, have constituted an earmark on Defense Department funds. But that language has been changed now so that the appropriations process would be followed.

I would like to ask the distinguished Senator from Georgia, in view of the fact that we are nearing the end of the session, that there is only one appropriations bill that will go to the President other than the foreign operations bill, and that will not be until February, probably—there is only one appropriations bill still available for action and that is the supplemental appropriations bill which passed the Senate last Friday night and will be going to conference—I would like to ask the distinguished Senator if he would comment on the urgency of this matter from the standpoint of the appropriation of the money not to exceed $500 million; and whether or not this is a matter that can or ought to wait until next year. Or is it so urgent that action should be taken now, before Congress adjourns?

Mr. NUNN. Mr. President, first I thank the Senator from West Virginia for his support of this concept. Second, I would say in response to his question, I believe this is urgent. That is the reason, in spite of opposition when I first introduced this concept, I kept trying, because I do not know whether we will be able to accomplish the same things next February-March that as we might accomplish in the next 4, 5, 6, or 8 weeks.

We believe it is most urgent. We wrote a letter to the Senator from West Virginia and the Senator from Oregon stating it is most urgent and requesting that funding for this be allowed in the supplemental appropriations bill which the Senator has alluded to. So I would certainly agree that it is urgent.

I would say in further response, Mr. President, to the Senator from West Virginia, that the reason that original legislation was worded the way it was, was because I had intended to have it as an amendment to the supplemental appropriations bill. And the Senator is certainly correct, it is an amendment to another bill which is not an appropriations bill. The wording should be changed. And when the Senator suggested that, I agreed to that. I thought it was a good suggestion. But it is subject to an appropriation, and that means if it is put on the appropriations bill I think that adds to the urgency of the appropriations bill.

The PRESIDING OFFICER. The Chair informs the Senator from West Virginia the 5 minutes under the previous consent order has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield at that point for just one item?

Mr. BYRD. Yes.

Mr. STEVENS. Mr. President, those of us on the arms control observer group hosted a group of the Soviet scientists who came to this country looking for assistance in the dismantling of the weapons they have already agreed to dismantle. They were led by the Deputy Minister of Atomic Energy and Industry, and they made a very, very compelling case that they do need assistance, technical assistance and financial assistance.

I would state to the Senator from West Virginia, the distinguished chairman, that I would be happy to join with him in seeking to amend the supplemental to achieve the goal that is sought by the Senator from Georgia. There is no disagreement, I think, among those of us who have served on the observer group that this is a very compelling matter that ought to be dealt with before we recess.

Mr. BYRD. Mr. President, I take it that the administration supports this?

Mr. DOLE. We do not yet know.

Mr. STEVENS. Mr. President, I am sorry to say I do not know of that. I did notify those in the administration that I would normally contact concerning this, and exposed them to those Soviet scientists. But I do not know whether there is an administration position on the matter. I just know that this Senator reached the conclusion that it is an issue that should be supported and we should act before we recess.

Mr. LEAHY. May the Senate be in order, please?

Mr. BYRD. May I say to the distinguished Senator from Georgia I have not yet received the letter. Would he produce it? I would like to show it in the RECORD at this point.

Mr. NUNN. I would be glad to. In fact, I just signed it. It is on the way. Senator LUGAR and I joined together in that letter and I will put it in the RECORD.

Mr. MOYNIHAN. Will the Senator yield?

Mr. BYRD. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I certainly hope we will do this. The Senator from Alaska is absolutely correct. In this rarest of possible moments, the people of the Soviet Union see their nuclear arsenal as a threat to themselves, to their internal stability.

They have been sending this signal for at least 6 months. Thanks to the Senator from Georgia and others, we are responding.

I thank the Senator from West Virginia. This is rare—the rarest conceivable moment.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I now have the copy of the letter that has just been delivered to me and I ask unanimous consent that letter, with the approval of the Senator from Georgia and the Senator from Indiana, Mr. LUGAR, be included in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 25, 1991.

Hon. ROBERT C. BYRD,
Chairman.
Hon. MARK O. HATFIELD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR ROBERT AND MARK: Later this afternoon, we hope the Senate will give overwhelming approval to an amendment concerning U.S. assistance in destroying Soviet nuclear weapons that we and 24 other Senators have offered to H.R. 3807, the "Conventional Forces in Europe Treaty Implementation Act of 1991." We have attached a copy of the amendment.

Sec. 221 of the amendment provides as follows:

"(a) FUNDING. (1) The President may, *to the extent provided in appropriations Acts,* transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, *such amounts as may be provided in appropriations Acts,* not to exceed $500,000,000, for reducing the Soviet nuclear threat under part B." (emphasis added)

We would respectfully request that you consider action to provide the appropriations authority and funding required to implement this critical program. In our view, the deteriorating situation in the former Soviet Union is of such urgency that we could well miss an historic opportunity to reduce the Soviet threat if, prior to adjournment sine die later this week, we do not complete the process of providing the President with full legislative authority to conduct this program. We would, therefore, urge you to incorporate relevant appropriations authority and funding in the course of your on-going conference on H.J. Res. 157, the Dire Emergency Supplemental Act.

Sincerely,
SAM NUNN,
RICHARD G. LUGAR,
U.S. Senators.

Mr. BYRD. Mr. President, I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I simply want to engage and join in this colloquy. I agree with the comments made by the Senator from Georgia in response to the comments of our distinguished President pro tempore that the matter is urgent. Without going into any classified matters on the floor, I say to my colleagues that we are investigating significant warnings from the intelligence community about the instability of the Soviet Union and the dangers of the proliferation of weapons.

And, in addition to that particular problem, there will be a second amendment that will be offered by myself and Senator COHEN, and also Senators NUNN and LUGAR, immediately following the disposition of this amendment, which will provide the President with emergency airlift capability to go to pinpoint locations in the Soviet Union where there is social and political unrest.

I say to my colleague from West Virginia, this also would need to be considered in the same fashion. We met with Mr. Primakov, Mr. Yakovlev, and others this week and last week from the Soviet Union. There is an extreme threat that food shortages could bring about a social and political disruption that would simply be beyond the ability of the current Government to control. This could actually cause a change of Government in the Russian republics or the Soviet Union, as well, if not dealt with.

So these two matters, I simply say to my colleague, I believe, having listened to the evidence both from the Republics and Soviet sources, word coming through diplomatic sources, Ambassador Strauss and former Ambassador Matlock, and what I have been hearing from the intelligence community over the last several days, in particular, we face a very urgent situation and that we need to, before we go out of session, give the tools necessary to the President, both on the issue of proliferation, and also on the issue of emergency supplies, the transportation capability for emergency supplies to prevent a breakdown of order in key locations, particularly in the Capital City and elsewhere, in the weeks that we will not be in session.

So I was very pleased to hear the comments of my distinguished colleague from West Virginia. I can only underline that I believe this is the gravest of situations and one that we will fail to heed at our peril. I would urge that appropriate action be taken on both of these amendments if they are, indeed, both adopted by the Senate later today.

Mr. BYRD. Mr. President, I thank my friend from Oklahoma.

Mr. President, I do not know what the sentiments of the House conferees will be on the supplemental appropriations bill, as to whether or not they will be supporting this amendment. But I think that we ought to take advantage of the opportunity at this point to at least lay the matter before them.

I would like at the conference to know what the position of the administration is, whether or not it is supportive of this amendment, and if it is agreeable with the distinguished Senator from Georgia and others, I would like to offer an amendment to the Nunn-Lugar-Boren amendment.

It is my understanding that an amendment in the second degree, if such amendment is relevant, is in order under the order that was entered. And my amendment, which I would offer—I will be happy to show to the Senator from Georgia, if he would like to offer it himself—it is a sense-of-the-Senate amendment. It reads as follows:

At the end of the pending amendment, add the following: It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in the conference agreement.

Mr. President, I think with that language, it would be a matter for the conferees; they could consider it. I would be hopeful that they would agree to it, and I would do whatever I could do in the conference to persuade others to agree to the amendment. It is a needed situation of persuasion.

I hesitate to sit here supinely and see the last opportunity go by to fund this amendment, in the event the Senate agrees to it. And I take it there is overwhelming support for the Nunn, and others, amendment here. I would not want it to be said that the amendment was adopted, but 2 months went by and nothing was done for lack of an appropriation.

The PRESIDING OFFICER. The Chairs informs the Senator from West Virginia that time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, if I could say in response to the Senator from West Virginia, I am delighted with his support. It is enormously important. It is a true emergency. I believe this second-degree amendment would not only be acceptable, but I welcome it as an amendment to our amendment.

I also say in response to the Senator from West Virginia that the administration knows about this amendment. I have sent copies of it to the State Department, Defense Department, down to the White House, and the National Security Council; I talked to most of the high-level officials in the executive branch about it. I am not trying to speak for them, but I believe I know their position. Their position is they have no opposition, but I have not had an affirmative support position from them on this.

I believe if there is a resounding vote on the floor of the Senate, the administration will join in supporting it. That is my belief.

Mr. BYRD. Does the Senator wish me to yield to him?

Mr. BOREN. Yes.

I say to the Senator from West Virginia, before I send to the desk a second amendment that will be offered in line with the original amendment, it will make the modification that he has suggested in the first amendment so that the two will track in terms of the appropriations language.

Mr. BYRD. Will the Senator visit with me about that modification? I am not familiar with his second-degree amendment.

Mr. BOREN. I will be happy to do that.

AMENDMENT NO. 1440 TO AMENDMENT NO. 1439

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. NUNN, myself, and other Senators who wish their names added.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. NUNN, proposes an amendment numbered 1440 to amendment No. 1439.

At the end of the pending amendment, add the following:

It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that conference agreement.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I wonder if I may use 2 minutes of my leader's time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DOLE. Mr. President, I support the Lugar-Nunn amendment. I also support the second-degree amendment offered by the distinguished chairman of the Appropriations Committee. I am not certain what the administration position is.

I think it is fair to say at this point, President Bush is getting a little tender from being beaten up for trying to be of help to people who are in need overseas, and I hope this debate and this vote may end some of that unfair criticism. If he is going to be criticized now for spending any of this $500 million, if it is appropriated, after Congress, particularly the Senate, goes on record substantially in favor of it, then I think that would certainly be unfair criticism. I think it is time we called a time out.

There are certain foreign policy needs and foreign policy considerations, and I think it is unfair to say if you live anywhere else but in America, President Bush will help you; if you live in America, you are out of luck. That is not the case, but that has been some of the rhetoric we have been hearing from some Members on the other side and some Members in the other body.

So I intend to support the amendment. I do want to say for the President, if we want to be responsible, then it ought to be complete responsibility.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not want my constituents in West Virginia to labor under any misunderstanding that this is an amendment to provide aid for other countries in the usual sense. I voted against foreign aid for a good many years, for the most part, and probably will again. I do not look upon this particular amendment as a foreign aid amendment.

I just want to say that for the record, so there will be no misunderstanding among my constituents in West Virginia. I see this as an amendment that is offered to enhance the security of the United States of America, to prevent the proliferation of nuclear weapons, and to usher in the day when not only the Soviet Union will be spending less money on defense, but more important, or as importantly, the day when we ourselves will be spending less money on defense and more money on infrastructure, both human and physical.

Mr. SARBANES. Will the Senator yield?

Mr. NUNN. Will the Senator yield?

Mr. BYRD. I yield to Senator NUNN.

Mr. NUNN. As one of the principal authors of the amendment, I say I completely agree with the Senator's interpretation. I do not consider this aid. I think this is in the direct security interests of the United States.

Mr. BYRD. I yield to the Senator from Maryland.

Mr. SARBANES. I point out, as the Senator indicated, a failure, in fact, to destroy these weapons may require us to spend more in the defense budget—well beyond this figure—than would otherwise be the case.

This is an opportunity to lower the level of armaments of our adversary and, therefore, is a very important national security measure.

Mr. BYRD. I agree with the Senator.

Mr. BUMPERS. Will the Senator yield? Does the Senator have additional time?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. BUMPERS. I ask unanimous consent I be allowed to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I strongly support the Nunn proposal and the amendment of the Senator from West Virginia for all the obvious reasons that have just been made by the Senator from Maryland. That is, here is a chance where the United States may very well receive a 100-percent dividend on its investment. I intend to support the sense-of-the Senate resolution of the Senator from Kansas when it comes up.

I want to tell you this little story, and you think about it. In 1980, I told the Nevada County Cattlemen's Association in Arkansas that I would never vote for another grain embargo against the Soviet Union short of war; it was a mistake. An 80-year-old cattleman in the back stood up. He said, "You know, Senator, I've always said that a fat, happy Russian is a lot less threat to us than a starving Russian. And I think we ought to send them anything we can afford to send if it's to eat." The resolution of the Senator from Kansas goes in that direction.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. BUMPERS. I thank the Senator.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia controls 26 seconds.

Mr. GORE. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. GORE. With the clarification provided by the President pro tempore and the Senator from Georgia that this is not aid in the traditional sense, nevertheless, I would like to say I agree with the remarks of the Republican leader that should the President decide to proceed with the spending of the money authorized by this measure, he should not fairly be subject to partisan criticism of the kind which occasionally is levied elsewhere and has been fair, in my opinion. But with respect to this matter, the President should not fear such partisan criticism.

The PRESIDING OFFICER. The time allocated has expired. The question is on agreeing to the Byrd amendment.

The amendment (No. 1440) was agreed to.

AMENDMENT NO. 1439, AS AMENDED

Mr. DOLE. Mr. President, I am pleased to join in cosponsoring the Lugar-Nunn amendment, as well as the Boren-Cohen amendment which will be offered later. I want to take this opportunity to comment briefly on both amendments.

Recently, we've had a lot of rhetoric on foreign aid, in general, and aid to the Soviet Republics, in particular. Most of the rhetoric has been highly partisan, and not particularly helpful.

We could all probably do some finger pointing about who is responsible for the politicization of these issues. My own view is that President Bush has gotten a very bad rap, and has been the subject of some very cheap shots.

But I think it is time to put all of that behind us, and for all of us to begin taking a rational and informed look at the national interest.

It is very much in our national interest for the Soviets to dismantle large numbers of weapons of mass destruction.

The Lugar-Nunn amendment would provide authority for the President to expend a very modest sum from the defense budget to help the Soviets rapidly and safely dismantle those weapons. It also has, built in, all the appropriate safeguards and conditions.

It is also very much in our national interest to help prevent a food or energy crisis in the Republics of the former Soviet Union this winter. Nothing would jeopardize the achievements of Boris Yeltsin and his democratic allies more than widespread public disorder—food and energy riots—even as the fledgling democratic governments are faced with the tough, bite-the-bullet problems of moving from a Communist to a democratic, free-market system.

The Boren-Cohen amendment would provide the President standby authority to utilize our airlift capacity to meet real emergencies in the former Soviet Union; to provide urgently needed food and medical supplies on a timely basis.

Both of these amendments—as their principal cosponsorship suggests—are bipartisan in nature. Both of these amendments are very much in the national interest.

Both of these amendments—as well as the amendment the distinguished Senator from Michigan, Senator LEVIN, will be offering later—represent an important turning point in our consideration of the issue of aid to the Soviet Union. The amendments put the national interest first, where it must be.

They advance the national interest in important ways.

They do the right thing, in a moral and humanitarian sense.

And they put us back on the track of bipartisanship—where we should be when we are talking about helping people in real need, and advancing the national interest of the United States.

I commend the principal sponsors—they have taken an important initiative; I am happy to cosponsor both amendments; and I urge all Senators to vote for them.

Mr. CHAFEE. Mr. President, we have spent tens of billions of dollars since World War II on strategic weapons systems designed to deter nuclear war. Now, at a fraction of the cost, we have the opportunity to help the Soviet Government actually destroy many of the nuclear weapons we have feared for so long. I certainly hope that we will give the President the resources and authority necessary to seize this historic opportunity.

As a member of the Senate Intelligence Committee, I have been carefully considering the future of the Soviet Republics and the impact of events there on our intelligence and defense posture. I must say that I have become increasingly concerned about the prospects for unrest, rebellion, and even civil war among the Soviet Republics.

All of us have seen grim photographs in the papers depicting the recent fighting in Yugoslavia. I hope that this will not prove to be a portent for the future of the Soviet Republics, but the parallels are both obvious and ominous. In both cases, a patchwork quilt of ethnic and religious groups was held together for decades by an oppressive Communist regime. Now that these regimes have been discredited and lost power, long-suppressed animosities and irridentist claims are gathering momentum in an environment of instability, uncertainty, and economic hardship. As tragic as the consequences in Yugoslavia have been, the potential for a disaster in the Soviet Union is far greater. As my colleagues know, there are an estimated 30,000 nuclear weapons in the Soviet Union. The Soviet Union also possesses far more chemical weapons than any other nation. Today, the forces that control these weapons are riven by ethnic strife and torn in their loyalties between the republics in which they reside and the Soviet general staff and the central government.

The Soviet Government recognizes these problems and appears to be taking some steps to consolidate and improve security over nuclear and chemical weapons. But they have told U.S. officials—and I believe them—that when it comes to dismantling and destroying these dangerous weapons, they are lacking in both resources and expertise. This amendment does not require the President to provide assistance to Soviet authorities, but it makes available up to $500 million of DOD funds so that he can respond to Soviet requests if he determines that it is in our national interest to do so. The amendment also stipulates, however, that such assistance can only be provided if the Soviets are themselves heavily investing in this process, are in compliance with relevant arms control agreements, and are not simultaneously engaged in nuclear weapons modernization.

As my colleagues know, I have consistently supported efforts to reduce funding for the strategic defense initiative. In my view, cooperative arrangements such as this, between the United States and our former Soviet adversary, offer a far more effective and inexpensive means of reducing the risk of the accidental or unintended launch of nuclear missiles. I hope the President will succeed in making arrangements with either the Russian Republic or Soviet central government to destroy tactical nuclear weapons, as provided for by this amendment. I also hope the administration will purse negotiations to further reduce the risk of nuclear war through the installation of mechanisms to ensure greater control over nuclear missiles and make possible their destruction in the event of an accidental launch.

In closing, Mr. President, I would simply like to observe that I do not believe the American people will complain about the expenditure of Defense Department funds for this purpose. Although President Bush has been castigated by some for spending too much time on foreign affairs, I think the American people recognize that the collapse of the Soviet Union is not an event that we can prudently ignore. The President needs and deserves the flexibility to respond to the mounting crisis in that vast land, and this amendment will help to give him that flexibility.

In sum, I think this is a very timely and worthwhile amendment. If we can help Soviet authorities destroy the thousands of tactical nuclear weapons in their arsenal, that strikes me as a tremendous bargain that will help ameliorate the danger of nuclear proliferation and nuclear war. I think the President needs and deserves the authority to seize this unique opportunity, and I urge my colleagues to support this amendment.

Mr. MACK. Mr. President, I am an original cosponsor of the Nunn-Lugar amendment for one simple reason: we have the opportunity to actually reduce the number of Soviet nuclear weapons, and thus their threat to Americans. This is a legitimate aim of U.S. defense spending.

As the Soviet Union undergoes dramatic political change, we have a unique chance, and perhaps a limited window of opportunity, to effect equally profound change in their nuclear posture. Leaders of the central Soviet Government and the individual republics have expressed willingness to guarantee the control and destruction of many nuclear warheads and have asked for help from the United States. They need our expertise and money to make good on their promises of reduced threat. We owe it to ourselves to make that investment.

Moreover, the specter of Societ nuclear weapons falling into irresponsible hands also now rears its ugly head. The danger of theft or sale of these terrible weapons to terrorist states is real. Controlling and safeguarding them until they can be destroyed are immediate priorities.

Thus, we must now take bold steps to help our former enemy ease his finger from the trigger, put down his weapon and rejoin the company of civilized nations.

A moment ago, I defended this plan as a legitimate defense expenditure. Consider the billions, even trillions of dollars we have spent to counterbalance Soviet strategic nuclear missiles in the last half century. We can now spend $500 million and, in return, actually eliminate some of the weapons aimed at our own heart.

We have pared down and focused the scope of this amendment, and thereby made it workable and worthwhile. We have eliminated the retraining of soldiers and workers in Soviet military industrial complex. We have eliminated humanitarian aid. We have constrained the Soviet Union from replacing destroyed weapons, building more conventional military equipment than the absolute minimum that its own national defense requires, and reneging on the arms control agreements which it has already signed. The President must certify to Congress that the Soviets have met these obligations and more before any money can be spent.

Furthermore, any spending under this amendment is absolutely discretionary for the President: he and Secretary of Defense Cheney will make the judgment of how much, if any, we should appropriately spend on Soviet nuclear reduction to help guarantee America's freedom and safety.

For these reasons I have cosponsored the Nunn-Lugar amendment.

Mr. GORTON. Mr. President, the greatest obstacle to a peaceful transition to representative governments within the emerging democratic republics will be the availability of adequate supplies of food. A major reason for current food shortages is the poor itself on helping others to become self-sufficient. Thus, we should assist these emerging democracies to develop an infrastructure and food distribution system that will reduce crop losses from spoilage.

Agricultural reform and the development of permanent, modern infrastructure will take many years. Nonetheless, we believe that we can start this process now through the use of an important and economical tool: the portable grain storage silo.

Presently, the Soviet Union does not have adequate storage capacity for its crops. The Foreign Agricultural Service reports that Soviet storage capacity can accommodate only 68 percent of an average crop. This lack of proper storage wastes both foreign food assistance and crops grown in the Soviet Union. The European Bank for Reconstruction and Development estimates that 28 percent of the Soviet Union's grain crops are lost each year because of spoilage.

The existing Soviet grain storage system was designed to accommodate a centralized command economy. Its large facilities are not well distributed throughout the countryside, and Soviet farmers do not trust their operation. Given the massive need for additional storage capacity and the present difficulty and expense of creating the infrastructure necessary to support permanent silos, the United States should directly provide or finance the purchase of portable grain storage silos.

These storage facilities have four major benefits: First, portable silos can be put into service very quickly. They require minimal site preparation and infrastructure development. With rapid deployment of portable silos, we can reduce crop losses during this critical political transition period and enable the people to be better fed throughout the coming year. Second, portable silos are significantly less expenseive than conventional grain storage systems. Thus, our assistance will be used more productively. Third, these storage facilities can be used in coming years in different geographic areas to address changing needs. For example, they can be relocated from areas with weak crops to areas with bumper crops, or they are installed to lesser developed areas. Finally, the American people deserve our best efforts to spend their tax dollars wisely on aid programs. These storage facilities are vital in making the food distribution system work efficiently and in preventing waste of food. In fulfilling these functions, they buttress the case for a rational food assistance program.

In summary, the United States should provide, as part of its assistance package to the Soviet Union and the emerging democratic republics, portable grain storage silos. Such a step will help our food assistance reach more people, decentralize Soviet agriculture, and reduce food spoilage now and in the future.

Mr. LIEBERMAN. Mr. President, I want to salute the fine work done by Senator NUNN in launching an initiative to assist Soviet military authorities to dismantle many of their nuclear weapons. The Soviets have approximately 27,000 nuclear warheads and some of those may fall into the wrong hands if the Government's authority breaks down. We have to assist the Soviets in reducing their numbers as quickly as possible. I am therefore, proud to join as a cosponsor of the amendment offered by Senator NUNN.

Key Soviet and Republic leaders have also asked us to help them reduce their elephantine military-industrial complex, which is still eating away at the Soviet economy, devouring as much as 25 percent of the gross national product. Its giant factories are still producing weapons that are no longer needed, for a war that will not be fought. As long as the Soviets continue to channel inordinate resources into their military-industrial complex, they will not be able to raise the living standard of their people, and if their standard of living does not improve, the chances of chaos will increase.

Under President Boris Yeltsin's economic reform plan, there is finally a willingness to shake off this albatross from the Communist past. We can help President Yeltsin in ways that involve modest financial expenditures, but invite a major financial return. For once the Russians come to grips with their military production behemoth and begin to reduce their defense expenditures, we can procede with own efforts to cut the defense budget.

In addition to providing assistance in dismantling their nuclear warheads, the United States should encourage exchanges with Soviet Government officials that will be involved in this process. Many American defense companies have already started down this painful road and have much to teach their Soviet counterparts. We must also reach out to Soviet military officers. If large numbers of these officers are discharged, as they almost certainly will be, they could form a disgruntled group of political activists bent on promoting authoritarian political parties. We need to establish exchanges between United States and Soviet military officers to promote the American principles of civilian control over the military, legislative oversight, and private market economies.

We should also extend existing investment support programs to American firms that want to invest in former Soviet defense facilities that are going down the difficult but essential path toward civilian production.

Mr. President, it is in our national interest to provide assistance to the

Soviets in order to transform their military-industrial complex. We do not want political chaos to occur in a country with thousands of nuclear warheads. Nor do we want tens of thousands of military engineers trying to market their skills to radical Third World states like Iraq and North Korea. It would be a terrible irony if the fall of communism actually increased the dangers of proliferation as Soviet nuclear scientists left their native land out of economic desperation.

The alternative to this nightmare is slow but steady economic progress toward a market economy that produces competitive, commercial goods. We cannot lead this effort, but we can assist it. The Russia of Boris Yeltsin wants to join the democratic free market world. They have been freed from the burden of the Communist Party and the Communist security apparatus. We must now help them to grapple with one of the last holdovers of the Communist system, its military-industrial complex.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the Nunn-Lugar amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BINGAMAN). The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The result was announced—yeas 86, nays 8, as follows:

{Rollcall Vote No. 274 Leg.}

YEAS—86

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—8

Brown
Craig
Nickles
Pressler
Seymour
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1439), as amended, was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill?

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I will very shortly send an amendment to the desk on behalf of myself, Senator COHEN, Senator NUNN, Senator DOLE, Senator LUGAR, Senator PELL, Senator MURKOWSKI, Senator RUDMAN, Senator BRADLEY, Senator LEVIN, Senator DANFORTH, Senator CHAFEE, Senator CRANSTON, and Senator LIEBERMAN, which will provide authority for the President, in emergency circumstances, to utilize our military airlift capability to provide emergency supplies, whether it is food, medicine, or other supplies, to locations in the Soviet Union or other Republics of what has previously been known as the Soviet Union, on an emergency basis.

Mr. President, we have been receiving, as I indicated briefly during the discussion of the previous amendment, very clear warnings that the situation inside both the Russian Republic, and other parts of the previous Soviet Union, is deteriorating at a very rapid rate. I am often in a situation, after some crisis occurs, of answering this question: Why did the intelligence community not warn us that we were facing a very dangerous situation and a possible crisis?

Mr. President, for obvious reasons, I cannot go into detailed classified information on this floor. But I want to make it very clear to my colleagues that the Intelligence Committee has been briefed by the intelligence community about the situation in the Soviet Union and its various Republics, and that we have been told that the situation there is very unstable, and potentially dangerous.

Mr. President, we have also heard from those observers inside the Soviet Union—keen observers, who have been right time and time again—that there is a very real possibility of an emerging dictatorship again within those territories. There is a possibility that even the Government of Mr. Yeltsin and the Russian Republic, and that of Mr. Gorbachev in the central government, could be changed by force or social disorder during the next few weeks and months, especially if there were to be a hard winter and a severe shortage of food and medicine.

I saw indications, in terms of the ability of the Soviet Union to produce needed medical supplies, and in some cases we are now projecting that they will only be able to produce 1 percent of certain items necessary for medical services in their country.

We have heard from the distinguished American economist, Mr. Samuelson, and from the Soviet Union, like Mr. Popov, and others, that the gross national product of the Soviet Union this year will decline by some 30 percent. By comparison, in the worst year of the Great Depression, the American GNP declined by a maximum of 8 percent.

We are seeing a catastrophic, a catastrophic breakdown in what has been the Soviet Union in the past. Those observers, including Mr. Yakavlev and Mr. Shevardnadze who issued the warning prior to the attempted coup by Mr. Kryuchkov and others that such a coup attempt would take place—and they were absolutely right in those predictions—are among those who once again sounded the alarm to us about what could happen in the Soviet Union.

We were visited this last week by Mr. Primakov who has just been made head of the external part of the intelligence service, what was the KGB, previously a diplomat in the Soviet Union, and Mr. Stankevich, the vice mayor of Moscow, who indicated again to us that they are gravely concerned about the possibility of social and political disintegration even in the Russian Republic during these winter months that will soon be upon us.

Our former Ambassador from the United States, Matlock and current ambassador from the United States, Mr. Strauss, have also sent us a very strong warning signal about what could take place.

We know there has been a shortage of food, even to military units, and there is no doubt about morale in military units—it has been widely reported in the news media, both in written reports and in televised reports, that the moral within the Soviet military is at an all-time low, that there are hundreds of thousands of military personnel returning from Eastern Europe and other locations to inside what was the Soviet Union where they have no place to live. Some are being quartered in tents. And, again, there is very little food for them and for their families.

Mr. President, without being overly alarmist—and we hope this situation will not develop—I must say candidly with my colleagues that it is not beyond question that there could be a breakdown of social order brought on by a shortage of food and medicine and other necessary supplies that could in fact bring down the current government which is struggling to be friendly to the United States and end the arms race, willing to enter into such negotiations and technical exchanges as were spoken about on this floor as we considered the Nunn-Lugar amendment to bring about the destruction and dismantling of nuclear weapons that threaten the United States.

There is a possibility that other factors in the next few weeks, especially during the time that we are out of session, other factors could make it impossible for those leaders to stay in power or even begin that process of the dismantling of nuclear weapons that are aimed at the United States.

Mr. President, this is not a foreign aid issue. This is a national security issue. We are not talking about any country in the world. We are talking about the Soviet Union. We are talking about the Republics like the Russian Republic and other former parts of the Soviet Union where there are still 30,000 nuclear warheads, at least 12,000 of which can hit the United States of America.

Mr. President, I think we would underestimate the intelligence of the American people if we were to say we are afraid to take action to protect their security because we think they might not understand the reason why we would want to reach out to preserve social and political order in key cities in the Soviet Union and the Russian Republic during this winter.

We have spent hundreds of billions, into the trillions of dollars, on the arms race. If we have an overthrow of the Government now in power in the Soviet Union and the central government and in the Russian Republic and other key Republics, reformers who are committed to a process of partnership, a reduction of weaponry and end to the arms race with the United States, and see them replaced by dangerous nationalistic, ethnic governments with a dislike for all outsiders, including the United States, again in alliance with those elements within the military which are most hard line and in the previous establishment, we could again have a very dangerous situation.

In 1930—and let us not forget it—the world was threatened not by a Communist, not by a person who called himself a Communist, but by someone who called himself an anti-Communist nationalist. Just because Adolph Hitler did not march under the Communist banner does not mean he was not a threat to the rest of the world.

In many ways the conditions we now face in this world are more like the conditions we faced in the 1930's than the conditions we faced in the 1970's and 1980's.

We would be derelict in our duty in terms of our responsibility to protect the American people and the national security interests of this country if we do not, on a bipartisan basis, give the President the authority to move with our military transport capability to bring emergency supplies to pinpoint locations in Eurasia where trouble might erupt so we can help preserve political stability.

When we talk about costing the American taxpayers, when we talk about making it difficult to meet our needs at home for the homeless, for those who need education, for those who need other help in our own society, I need not remind my colleagues what will happen to our ability to deal with those needs at home if we are once again threatened by a successor government in the Russian Republic or the Soviet Union which controls this vast nuclear arsenal and which might well reignite the arms race.

It is a very, very dangerous situation, Mr. President. All of us should face this situation with our eyes wide open. It would, again I say, be foolish, and it would really be a dereliction of duty for us not to give the President standby emergency authority to move supplies to critical points that would be necessary to preserve order and social and political stability this winter inside the Soviet Union and the Russian Republic.

That is exactly what this amendment does. It does not appropriate any dollars as of this moment. It simply authorizes the President to move to use our military capabilities and other capabilities to transport emergency supplies if an emergency does develop. It requires that the President would have to give prior notice to the relevant committees of Congress on an emergency basis. It provides that while we are giving him this authority today, he should have to declare an emergency himself. He would be accountable for his actions under this provision. He would be required to declare an emergency in order to make such a transfer. He would have to report back within 10 days and on an ongoing basis any transfers which he made under this emergency power.

Mr. President, I urge my colleagues to join with the Senator from Maine, me, and several other colleagues who have offered this and will offer this amendment very shortly so that we can have a very strong show of support for decisive action if an emergency does indeed develop. We are all too often reacting. We wait until it is too late because we do not know if a political consensus is present to take a certain kind of action.

But for once, being armed with warnings that have already come to us from our own experts in our own Government, from the keenest observers inside the Soviet Union itself, from our own intelligence community, that we face a very serious situation, let us put emergency powers in place now to protect the national interests of the United States if this situation should develop.

Mr. President, as I said, I will send the amendment forward just shortly. We are making one or two small technical changes in it so we make sure we conform with both the Appropriations Act and the Budget Act.

I will yield the floor. But first, before I yield, let me first yield for a question from the distinguished chairman of the Budget Committee.

Mr. SASSER. Will the Senator yield for a question here of the amendment itself and how it would be funded?

Mr. BOREN. I yield.

Mr. SASSER. Now, as I understand it, we have not heard from the President as of this time and the President has taken no position one way or the other with regard to this amendment.

Mr. BOREN. The Senator is correct in the formal sense. Let me say that I have had discussions with several of the President's advisers, including the National Security Adviser, on this matter. It is my belief—and without any authority to speak for them in a formal sense—that if the Congress were to give this emergency power to the President to respond in this kind of situation, it certainly would not be resisted by the White House, and I think that the President would be prepared to use it if such an emergency did develop.

Mr. SASSER. As I understand the amendment that will shortly be offered by the distinguished Senator from Oklahoma, he does direct in the amendment that in the event the expenditure is made, the funds will come out of the 050 or Department of Defense account, and that this expenditure can only be made upon the President declaring an emergency and expending the funds, directing the expenditure of the funds out of that account.

Mr. BOREN. The Senator is correct on all of the matters he just raised. Yes, it would come out of the defense accounts. Again, we view this not as a foreign aid question, but as a national security question. We are talking about preserving the national security of the United States. I think it would be appropriate if it did come out of the defense accounts. It would not be competing, therefore, with any other domestic programs, for example. But in order that we make certain we do not set a precedent that we would regret later, I very much admire the work of the distinguished chairman and his colleagues on the Budget Committee to make sure that we are responsible for a budgetary point of view.

I know that my colleague on many occasions has resisted efforts to undo the budget agreement, to stay with it, to be fiscally responsible. We would require that the President would have to declare an emergency under the terms of the Budget Act and budget agreement, so that the funds would be expended in this way. So it would take, in essence, action by both branches of Government.

We would in advance, since we are not going to be in session, be saying that we consent in advance to a declaration of an emergency by the President. But he would still be required to make that declaration.

So you would have, in essence, a dual declaration of both branches of Government of a state of emergency as required by the Budget Act to make this kind of exception.

Mr. SASSER. Mr. President, just to make the point crystal clear, you can differentiate between the amendment that the Senator from Oklahoma will offer shortly and those amendments that were offered earlier to transfer funds from defense to domestic spending or to international spending. You can make a difference here or differentiate between those amendments that were defeated earlier this year and the amendment of the Senator from Oklahoma, in that the spending is to be directed out of the DOD account, but can only be expended out of that account if and when the President acts jointly with the Congress in declaring this an emergency.

Mr. BOREN. Mr. President, the Senator is absolutely correct. I think we can draw that distinction. It would require the Presidential declaration of emergency, in addition to the action by the Congress, which we would be taking today. And also, I think, again, it is very clearly not a matter of transferring defense funds to a nondefense use. I think we would all be in this situation that if we were to stand by and, let us say, rioting and a breakdown of order took place in certain key cities in the Soviet Union, the military did not respond, and the government was replaced by a government hostile to the United States, now controlling all of those nuclear weapons, I think the American people would say: Why did you not look after our national security needs?

So I think there is a very clear distinction here. This is a national security issue, the gravest of national security issues. The funds would come within the defense budget itself, and would not be transferred out of defense to some other area of Government. And it would require this Presidential declaration of emergency.

Mr. SASSER. Mr. President, just let me say this to my friend from Oklahoma. I do not disagree with the considerations that are driving the offering of this amendment. I think that the Senator from Oklahoma makes a clear and convincing case for his amendment on policy considerations.

My earlier reservations were premised on the fact that this might do damage to the budget agreement that we entered into last year. And I was vigilant to the notion of keeping intact the fences between defense spending, domestic spending, and international spending. As I said earlier, a number of Senators have offered amendments to try to take funds from the defense accounts and put them into domestic spending accounts, including the distinguished Senator from New Jersey, Mr. BRADLEY, who I see is now on the floor.

But in this instance, what we are doing is keeping the budget agreement intact, as I understand it, by requiring the President and the Congress to declare an emergency. And that is the difference between the amendment offered by my friend from Oklahoma and previous amendments offered on prior days that would have sought to use defense money for another purpose.

Mr. BOREN. Mr. President, I thank the Senator from Tennessee. He is absolutely right. I understand the great pressure under which he has been operating all through this session. He has had the responsibility of keeping the budget agreement intact, and making sure that the provisions of the Budget Act are followed.

We all know that is a very difficult task, to make sure that Congress behaves in a way that is budgetarily responsible. I salute him for that. I respect him for that. I think virtually in every case this Senator has supported the chairman of the Senate Budget Committee in holding that line and it has been a very hard one to hold.

I would say, I think here we have a clearly different proposal that in no way would set a precedent that would give a green light to those kinds of transfers that would not meet this kind of test. I think, both from the point of view of substance and the point of view of procedure, by here requiring the President to enter into a declaration of emergency, and by us with this action, in essence, giving our concurrence to this declaration, so this would also be an action by this body declaring an emergency, I think we have clearly set forth a very different procedure.

So on both procedure and substance, I think we are very clearly not setting a precedent that would violate the position that the Budget Committee and many of us have taken, throughout the remainder of the session.

I thank the chairman of the Budget Committee for calling this matter to my attention, and for helping us technically make sure that we did not set a precedent that we would later regret from a budgetary point of view.

Mr. President, I will send the amendment to the desk very shortly. I now yield to the principal cosponsor, who served with me for so many years as vice chairman of the Senate Intelligence Committee, and I am privileged to have him as a cosponsor.

I yield the floor to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, will the Senator yield for just a minute?

Mr. COHEN. Yes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, as in Executive Session, I ask unanimous consent that the President be notified of the Senate's action on the CFE Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I will be very brief. I see the Senator from New Jersey is also on the floor. He played a major role in this entire effort. I know he wants to speak, as do several other Members.

Let me say first to my colleague from Oklahoma that when the minority leader mentioned that some Members of this body, and indeed, some in the other body, were charging the Bush administration with neglecting domestic affairs in favor of international or foreign affairs, my colleague and friend from Oklahoma has not been among them.

He has, throughout his career in the Senate, attempted—and I believe been successful in that attempt—to act in the best interests of this country, especially in the field of foreign policy. He has been one of the true leaders in every bipartisan effort, not only to establish a sound intelligence community, but a sound national defense, on a completely bipartisan basis. I believe that is the way in which he approaches this particular issue.

Mr. President, several years ago, I conceived of a fictional account in which the Soviet Union began to disintegrate, President Gorbachev was thrown out of office, Boris Yeltsin was removed violently by members of the KGB, and a new leader emerged who was authoritarian in nature, who said that: "We tried democracy; we tried capitalism. And look what it got us. It brought anarchy, food riots, and very little else."

And those forces who were driven back by the democratic aspirations of the reformers returned with a vengeance. They promised order; they promised security; they promised food. And there was only one thing they had to sacrifice and that was liberty.

Well, we can see from today's headlines and unfolding news accounts, that fact is not very far away from fiction. Now it may be Mr. President, that some of the realities that are being influenced upon the Russian people and the Soviet people's today has been a case of self-infliction.

The other day, I believe on Saturday, I quoted from one Soviet commentator who supported what the Soviet military has done with respect to the equipment located in Europe. That commentator commended the military generals who, in fact, succeeded in circumventing the CFE Treaty by removing from Europe well over 50,000 pieces of equipment before the Treaty was signed in order to circumvent the provisions of the treaty. If not the provisions, certainly the spirit. The quote was:

> It is unfortunate, of course, that all of this coincided with a record harvest occupying badly needed rail cars and making the job of transport more difficult. But who was to blame for that? First and foremost, the Foreign Ministry, which was rushing full steam ahead toward a treaty.

So, what they were saying is, "Thank God we have the military officers here to put a halt to what the Foreign Ministry is trying to do by signing treaties with the United States. We need guns; we do not need butter."

So they had a record harvest a year ago. That harvest has never made it to the marketplace because they were so busy trying to circumvent the CFE Treaty they did not take the harvest to the marketplace. So some of that is self-inflicted.

Nonetheless, Mr. President, I do not know anyone, Republican or Democrat, who wants to see the kind of hardships that are not too far away from the Soviet peoples unfold in that way. The chairman of the Intelligence Committee and perhaps Senator BRADLEY may wish to elaborate on this. But there are potentially health problems coming this winter, be it in the form of the spreading of diphtheria, tuberculosis. We talk about an AIDS epidemic in this country. I think they are on the verge of experiencing an AIDS epidemic that will make ours pale by comparison because they do not have the capacity to even manufacture the necessary needles for their hospitals and they are reusing them over and over again. We are going to see an AIDS epidemic, I think, that is going to shock not only the Soviet Union but this country as well.

Mr. President, I said I would not take much time, and I do not intend to. I am going to yield the floor in just a moment. I think this particular provision is absolutely essential. I think it is actually more important than the one we just passed to help the Soviets dismantle their nuclear, biological, and chemical weapons. I believe this is more imperative because it is more pressing. It may take weeks, months, maybe even years to achieve the other. There is not much time before help is going to have to be given to the people of the Soviet Union in order to prevent the kind of catastrophe that we see looming on the horizon. So I hope we will have strong bipartisan support.

I commend the chairman once again and also the Senator from New Jersey and the Senator from Michigan, who is not on the floor right now but who I know will be speaking on this issue, and I hope we have a very broad level of support for this amendment.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 1441

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself, Mr. COHEN, Mr. NUNN, Mr. DOLE, Mr. LUGAR, Mr. PELL, Mr. MURKOWSKI, Mr. RUDMAN, Mr. BRADLEY, Mr. LEVIN, Mr. DANFORTH, Mr. CHAFEE, Mr. CRANSTON, and Mr. LIEBERMAN, proposes an amendment numbered 1441.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"SEC. . AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of hostile, anti-American leaders in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union and its republics.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, shall be authorized during fiscal year 1992 to transfer sufficient funds from those appropriated to the Department of Defense for fiscal year 1992 to the extent provided in the Appropriations Act, not to exceed $200 million, in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, as determined by the President. Any funds which are transferred pursuant to this provision shall be drawn from the Operations and Maintenance or working capital accounts of those funds appropriated to the Department of Defense for fiscal year 1992. The Congress designates all funds in this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds in this section shall be available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this provision to the emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) PRIOR NOTICE.—Before any funds are transfered for the purposes as authorized in section (b), the President shall notify the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(d) REPORTS TO THE CONGRESS.—Within ten days of directing the Secretary of Defense to transfer funds pursuant to subsection (a), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, which shall at a minimum, set forth—

(1) the amount of funds transferred under this section, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the type and purpose of such assistance; and

(4) the locations, organizations, and political institutions to which the assistance was delivered.

(e) It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

Mr. BOREN. Mr. President, this is the amendment which I have just been discussing. It has also been discussed by my colleague from Maine and also by the Senator from New Jersey. This is the amendment which would allow for the President to have emergency authority to transfer Department of Defense funds, up to a maximum amount of $200 million, to provide emergency airlift transportation of supplies necessary in the event of crisis within those areas that have previously been under the designation of the Soviet Union. As I have indicated, we could very well face that kind of situation this winter.

I appreciate very much the kind comments just made by my colleagues. And I want to thank my colleague from Maine for the comments which he made about my efforts, the efforts of this Senator to approach these kinds of problems in a bipartisan fashion.

This is no time for partisan politics. As the Senator from Indiana and I said on the floor last week, it is time for us, when it comes to the vital national security interests of the United States, to call a truce on partisan politics. This is no time to be trying to be scoring political points by one side of the aisle against the other or by one party against the other, even though it is the season in which we are going to be approaching a Presidential campaign. We are dealing here with a matter of great importance to the national security interests of the United States. And when you face a situation like that, there can be but one appropriate designation for all the Members of the Senate and all of those charged with policymaking responsibility for this country, whether they are in the legislative branch or the executive branch, and that designation must be American. We must put aside politics and look at what is in the best interest of this country.

And, clearly, if we were to have a situation develop, one in which the United States could have played a part in trying to sustain in power a government in the Soviet Union or in the Russian Republics or elsewhere in that land mass favorable to the United States, one which controls thousands of nuclear weapons, and we stood on the sidelines and did nothing only to see that Government replaced by one which would want to reignite the arms race and threaten the security of this country, the citizens who sent us here to act as their trustees would demand to know of us why we were not alert to the danger, why we did not listen to the clear warnings that have already been given to us, why we did not look after their interests.

Mr. President, that is why it is my hope that this amendment will be adopted by a very large majority. It is in the national security interests of the people of the United States. It deserves to be supported in a bipartisan way, strongly, on both sides of the aisle and to be implemented decisively by the President of the United States without regard to political considerations if this kind of emergency situation does indeed develop.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. SIMON). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Will the Senator yield?

Mr. BOREN. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before my distinguished friend from Oklahoma leaves the floor, I have a question that I was curious about. In this matter, is it correct to assume that the President and the administration is requesting this or is this something that we have just decided to offer them?

Mr. BOREN. Mr. President, I say to my colleague, in the formal sense, I am not prepared to say this is something that the President has requested. I am not authorized to speak for the administration. I have had numerous conversations with members of the administration, including the National Security Adviser, the Director of Central Intelligence, and others, about this matter.

I think we have all understood that we have been into a political situation over the last several weeks in which there has been a lot of discussion about whether the President was paying sufficient attention to domestic matters. I think this debate, and certainly this Senator does not disagree with some of the points that have been made. We have to take care of our own at home if we are going to help anyone in the world. I think it has created something of a climate where both those in the Congress and the White House have been hesitant to act.

This Senator, the Senator from Indiana, the Senator from Maine, and many others, have come to the floor to say let us not confuse this with the debate about foreign aid or paying attention to other countries versus paying attention to the needs at home. This is a national emergency and we ought to view it as that. It is dealing with our national security. We are not talking about any country, we are talking about a country that has 30,000 nuclear warheads.

Mr. President, I will say this. In my discussions, I feel certain, this is certainly not opposed by the White House. I think that certainly if this situation did develop as an emergency that the President undoubtedly would declare an emergency, he would be required to do so; that in essence they would have to have both branches of Government working together. We would be giving them the authority by our action today. He would have to come forward and join us and say, "I need to activate this authority. I find there is an emergency existing." That way there would be a partnership effort by the Congress, by a bipartisan action of the Congress and the President for us to move forward.

I had hoped that the President would explicitly say that he authorized us to say that he requested this authority. He is not in a position to say that yet.

Mr. DODD. Let me ask an additional question of the distinguished chairman of the Intelligence Committee.

Just out of curiosity, what is left of the Soviet Union—I am not quite sure who I ought to make the request of as to who might make the request, whether it is Mr. Yeltsin, President Gorbachev, or someone else. Has there been any indication at all from the potential beneficiary of this that they are seeking this kind of assistance as well? Normally we get some sort of request for aid.

Mr. BOREN Yes; I can say to my colleague, I think it is pretty clear that they do request this kind of assistance and would be very reassured by this kind of an emergency authority for the President. I had discussions about 10 days ago with Mr. Yakovlev who, as you know, is the personal representative of President Gorbachev. He also is the chairman of the democratic reform movement in the Soviet Union. I also had conversations last week with Mr. Primakov and the vice mayor of Moscow, Mr. Stankevich all of whom have come to Washington to have discussions about the internal situation and their needs.

I explicitly asked those three, among others, from the Soviet Union and the Russian Republic who have visited with us, if they felt that if such an emergency developed and we gave this kind of authority to the President, would they be prepared to make such a request, including the granting of use of Soviet and Russian republic air space to move our military transport to key locations where there was grave need?

They said they had no doubt that the authority would be given. They felt it was a certainty the authority would be given, the permission would be given. And if that kind of circumstance developed, they also indicated to us there was no small possibility, there was certainly a serious possibility that these kinds of conditions could occur, that they would welcome this authority be given to the President and that they had no doubt whatsoever that the authority would be utilized and permission would be given.

So I wish that I were in position to say, and it is somewhat frustrating for this Senator not to be able to say that in the formal sense I can say to you I know the President of the United States and the administration want this authority. I wish I could say to you in the formal sense, and it is a little bit difficult now with the situation in the Soviet Union that there has been a formal request, but I think I can tell you that in the informal conversations that have occurred, there is not opposition, but there is general support for this, both in the executive branch and in the Soviet Union, the Russian Republic and other key locations.

Mr. DODD. If my colleague will yield further, I assume, Mr. President, that a request was made of the administration to make a request or at least to indicate their support of this; is that the case? And if so what has been the response? I mention this to my colleague purposely, Mr. President, because I am inclined to be supportive of this and it makes some good sense, but I also went through—I remember watching the last couple of weeks when the issue was up about money being included in the defense authorization bill that there were members of the administration who indicated their support of that program, the minute anyone raised any questions about it they sort of proverbially headed for the hills on this issue.

They may be a bit skittish but before we all buy into this, I would feel a lot more comfortable if the Secretary of Defense, or the Secretary of State, if not the President, would say we like what you are doing here. It has our imprimatur approval.

I see the Senator from Maine here.

Mr. BOREN. If I could yield to my colleague from Maine and then I want to make a comment following his comment to your question.

Mr. COHEN. If the Senator would yield, let me respond to my colleague from Connecticut. He raises a legitimate point: Why has not the administration expressed its enthusiastic support for this particular measure?

This had its genesis, this was part of a larger measure that was fashioned by the Senator from Georgia several weeks ago during the consideration of the DOD authorization bill. At that time, it came to the attention of the full committee at the last moment with very little notice to or participation by the minority, and there were objections because of the scope of the proposal. It dealt not only with the dismantlement of the nuclear, chemical, and biological weapons, with transportation of needed medical and other types of necessities, but also helping to convert military installations into more commercial factories, to train scientists and military officers, and so on. So it was quite broad in scope and was drafted with very little participation by the minority.

At that time, there were conversations between the chairman of the Armed Services Committee and members of the administration and, again, there was some hesitancy there because the administration was being beaten day after day after day in this body and elsewhere about its alleged preoccupation—I say alleged preoccupation—with foreign policy and not domestic policy. So there was an inclination to back away.

Now as a result of the scope of the amendment that was originally drafted by the Senator from Georgia and the reluctance on the part of the minority of the Armed Services Committee to fully support it, Senator NUNN, Senator BOREN, and others went back to the drawing board and said let us get very specific and very narrow. As a result, Senator NUNN, LUGAR, BOREN, and others brought the measure before the Senate earlier today that would deal with the dismantlement of the nuclear materials.

With respect to this amendment addressing the transportation of medication and food and the transport of other types of humanitarian relief, this was brought about by the leadership of the Senator from Oklahoma, with my support. I believe he is correct in defining this as a national security interest.

Just as you have legitimate questions as to why the administration has not expressed its enthusiastic support for this, I think the Senator should have the assurance because of the bipartisan nature of this initiative, with Senator BOREN, myself and others, he should have no fear that the administration tomorrow or the next day is going to turn around and point an accusatory finger at this body and say: "Look what they are doing down there; they accuse me of being preoccupied and then they foist this off on to me. I will not touch it." The Senator should have little fear of that particular possibility because there is strong bipartisan support. And were that to take place, I think that he will find us being very, very vigorous and vocal in our expression in response.

So I think the Senator can rest assured that this initiative is coming from the Senate.

Mr. DODD. Yes.

Mr. COHEN. It is coming from the Senate on a bipartisan basis. If the administration chooses to ignore it, I say it will do so at its peril. If they then seek to point an accusatory finger at the Senate or the House, I think you will find many people defending the actions of this body.

Mr. DODD. Mr. President, if I may further inquire. I appreciate very much the response of my colleague from Maine to the question. I am not even asking for enthusiastic support. I would feel a little more comfortable if they were at least indicating some support.

The question that also comes to my mind as I read the amendment—and I supported the last amendment and intend to support this one as well, but it struck me in looking at this one particularly—the last one, it seems to me, because we are talking about dismantling missiles, we may be charting new territory, new ground there. But does not this authority exist in law already? My point would be is that it seems to me emergency authority like this under the Budget Act is already given to the President if he wanted to utilize it, and our action really is not necessary.

Mr. COHEN. There is a limitation. I was under the same impression as the Senator from Connecticut. There is a dollar limitation in terms of the use of the military aircraft, I am told. I think the total is $13 million.

Mr. BOREN. The Senator is correct. After Operation Comfort and other operations which have taken place this year, while there is a general authority for the President as Commander in Chief, obviously, to commit military resources, there is a real question as to whether or not there is sufficient funds.

So perhaps even more important than the granting of authority under this amendment is the granting of the right to, without additional action by us, declare an emergency and transfer up to $200 million to carry this out. Because if we did get into a really serious situation, obviously, the small amount that is perhaps now available simply would not be sufficient. When we think about the kinds of expenditures we are talking about here compared to the $3 trillion we have spent on the arms race, obviously, we are talking about a wise expenditure of funds.

Let me say to my colleague from Connecticut, I share his frustration about the political situation that we have had. I share his frustration that we have not been able to get a clear cut, formal, as I say, statement from the administration on this matter after a lot of informal consultation.

I, myself, have had consultations with numerous people within the administration on this matter. I have not had anyone speak a discouraging word to me about it. I had hoped that we could have had a bipartisan meeting of the leadership, and Senator LUGAR and I proposed that last week, of the congressional leadership, both sides of the aisle, those particularly interested in foreign policy and national security down to the White House to discuss this matter. I was told such a meeting would probably take place. I held my schedule open for it for several days. It has not taken place. I think we are in this—and that is disappointing to me, having been a Senator that time and time again has tried to behave in a bipartisan fashion. I think my credentials are clear on that. They are so clear that sometimes colleagues on my side of the aisle wonder if I am not too bipartisan. So I am disappointed in the fact, to be candid about it, that the White House has not entered into this kind of formal setting of negotiation or a formal statement about this amendment and the amendment that immediately preceded it that we just adopted.

But I think we have to set that aside when you understand there are bruised feelings, as the Senator from Maine has said. We are all human beings and we all understand the political risks that are involved.

I would simply say to my colleague, I think there comes a time, no matter what others may do in this body or what others may do in the White House or anyplace else, we have to set aside political considerations and say, all right, whether we have a formal word from the President or we do not have a formal word or whether we have a formal endorsement by the congressional leadership on each side of the aisle or we do not, this is right for the United States and we are simply going to be responsible enough to go ahead and do what is right for this country.

When I go home the thing I hear most often from my constituents is a statement that goes something like this: With all of the terribly important problems facing this country, with the terrible economic problems here at home, with the dangers that confront us in the world, why cannot you people in Washington stop playing party politics, partisan politics, personal politics, quarreling like a group of children, and get down to really do the work of the country and concentrate on not who gets the credit or the blame but doing what is right for the country.

I think that they are absolutely right in making that point. I think that that is the perception. It is not exactly an incorrect perception. It is my hope that today we will prove to our constituents that we can do something for a change, not because it has a political content but because it is right, it is right for their national security interests, it is right in terms of protecting them and the next generation of Americans that we hope will not have to involve themselves in an arms race or a cold war with another hostile superpower.

So I would say to my colleague I understand his frustration, the frustration that I read between the lines of his questions. This is a frustration that I share. It is a frustration I know my colleague from Maine shares because he has conducted himself time and time again in a bipartisan fashion on this floor. I would simply say this is an opportunity for all of us to simply do what is right for the national interests of this country, step forward and do it.

I do not have any doubt but what the President would utilize that authority if we put it in place. I think he would. I have no doubt but what those on the receiving end, be it in the Russian Republic or other Republics of what was the Soviet Union would be readily agreeable to accepting—in fact, pleading to accept—whatever would be required in terms of permissions for it to be delivered because we really do have the safety and stability of the government at stake which controls these weapons of mass destruction. We do not want them to fall in the wrong hands. We have heard all the discussion before about the dangers—if there is a collapse of political authority, people simply taking weapons to some other location in other countries, selling this technology. There are all sorts of things that can happen when order breaks down and when people are desperate. I think for the sake of our own people and the security of the whole world, we simply do not want to allow that to happen if we have any way to prevent it.

Mr. COHEN. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. COHEN. Let me make one other point.

I think what has changed has been the tone and the attitude, certainly, here on Capitol Hill in the last several weeks. Two weeks ago, it was quite different and there was legitimate fear, I might say, on the part of the White House and Members on this side of the aisle that this was something of a Trojan horse that was being wheeled into the White House. That $1 billion the number that was being contemplated at that time, was a substantial amount of money certainly, but in terms of the scope of the problems facing the disintegrating Soviet Union and all of the health problems associated with it as well, it was not going to make a very significant dent in those problems. And that there was some calculation, or at least perceived calculation that they were giving the President the authority to use up to $1 billion to deal with these problems. It was not nearly enough to cope with them. And then if he decided to do something and failed, he would be accused of not being aggressive enough; if he did not use it at all, he would be accused of failing to have recognized the handwriting on the wall, that it was not a forgery.

So there was apprehension, given the tone that existed up here a couple weeks ago. That has changed. As a result of that change, I think you will see a corresponding change at the White House itself and among the Members on this side of the aisle.

Mr. DODD. I thank the Senator.

Mr. President, if I could reclaim my time, I thank my colleagues from Oklahoma and Maine for their responses to the questions. I commend them as well for fashioning and putting together this proposal, Mr. President. I say that in all sincerity. I think it is an extremely worthwhile effort.

I guess I am just lamenting a bit, Mr. President, in the sense that I wish we could achieve sort of the same sense of bipartisanship on some of these other issues we face around here that involve our own economic difficulties.

There are those who want to demagog on these issues and suggest somehow that these dollars could end up being better used here at home, and one could make the case I suppose of where the authority here of the $200 million could be applied—I assume, as I look around the Chamber here, Georgia, Oklahoma, Maine, or any other State for that matter, and that argument could always be made.

I guess the frustration people sometimes feel is that when you see us go through a 4-month debate about unemployment benefits—granted, it involved more money than this, substantially more than this—we end up sort of in a gridlock and yet often a matter like this where obviously it is extremely important, things seem to move much more smoothly. And there is I think the fear—it may be unwarranted but nonetheless the fear people express that when it comes to trying to resolve some of the questions that affect the economic condition domestically, we seem to be incapable of getting out of our own way.

Yet when it comes to sometimes dealing with the legitimate foreign policy crises—this is certainly one—it would be a great historical tragedy if at the exact moment in history when communism fell and Marxism collapsed and there was the opportunity to nurture the tender roots of democracy from what remains in the Soviet Union, and we failed to step up. I agree with those who are making that case.

So I am just using this opportunity as a suggestion that there are additionally some pretty serious problems at home, without stating the obvious. My hope is this message of comity we are reaching in a foreign policy matter might spread out on other issues as well and an effort would be made to achieve some sense of comity as we try to address some of these other issues.

I would also feel much more comfortable with the administration for them to at least indicate their support for this particular effort. It seems to me not a great deal to ask for them to support, at least conceptually, what we are trying to do, what the Senator from Georgia has crafted, and others. I hope that will be forthcoming. I suspect it may be.

The Senator from Oklahoma and the Senator from Maine are correct. It may be because of a feeling some tenderness about the accusations that have been leveled in terms of the administration's failure to focus at least as much attention.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. DODD. Let me finish my thought, and then I will yield.

My perception is not that people object to something like this. They really do not. It is that sense that sometimes they are not given the same amount of consideration and effort and time.

That is I think what grates on some people's nerves—that they do not understand the importance of trying to help out, and play an active leadership role when it comes to the plight of people around the globe that are suffering.

That is something that I find Americans are generally supportive of. It is not their opposition to that. It is the failure to understand why we are not doing more in these other areas.

I do not want to belabor this point. It is a well-crafted amendment. I think it does what its authors designed it to try to achieve. Again, I hope the President will step up and join with us in this effort because clearly that will really be supportive, as I stated to my colleague from Georgia, as I raised the point earlier.

Mr. NUNN. Mr. President, I just would like to thank the Senator for supporting this very important provision, and I am delighted the Senator from Oklahoma and Senator from Maine have taken a lead on this amendment. I vigorously support it. I will make a statement in a moment giving the reasons that I do support it.

But I also will say I share the frustration of the Senator from Connecticut that there has been no White House leadership on this matter or on the earlier amendment.

As I said in the earlier debate, someone asked if I believe the White House was going to support this, and I said once we passed it overwhelmingly I think they will. But it is a little late.

Because if we had waited on the White House, there would not be this kind of a decision, and I think that is regrettable.

I think the message at least goes to the White House that we need leadership in foreign policy. I am not one of those who believes that it is either domestic policy or foreign policy that the White House has to lead on, that Congress has to lead on. It is both. They are interrelated.

I think it is a bad mistake for people in the Democratic Party, while legitimately criticizing the White House for inactivity on the domestic side—I think it is a mistake to frame the debate so it appears that when the President does take a leadership position on foreign policy it is automatically criticized. I do not agree with that.

I think we have to get across the point that the President has to lead on both foreign and domestic policy. Domestic issues are critical now. There is no doubt about that. Unemployment—the need to take initiatives, short-term, and fundamentally to address the long-term economic issues.

On all of those we have not seen the leadership that we desire from the White House. But it is not going to cure those problems for the White House to also sit on its hands on foreign policy. That is not going to help anybody. I am afraid that is what is going on now.

It seems to me that on the Democratic side we need to make it clear that what we want is the President to lead the country on critical matters of the economy, and domestic policy, but we also want him to lead on foreign policy. He has done that until recently. But I have dealt with the administration on this amendment for the last 3 weeks, and we have a traumatized situation, to put it mildly.

Everyone I have talked to in the administration—and I have talked to many of them—basically is in favor of this initiative individually, but collectively the best they have been able to muster is they do not oppose it. That is really not leadership.

We have managed to reach a consensus here in the Senate which has been demonstrated I think on that last vote, after a great deal of struggle and some leadership on both sides of the aisle. The Senator from Maine, the Senator from Indiana—there are many Republicans who join in this and many Democrats who join in.

But we did not pass it because the White House was involved. We passed it with a very inactive and inert White House. And I hope by passing both of these measures today we will be sending a signal to the White House that in spite of the fact we are going into an election season, in spite of the fact there is going to be inevitable criticism on the domestic side, that does not mean we do not trust the President to lead our country as he has done in so many cases in foreign policy so well. We want him to continue to be vigorous in foreign policy. We would like to have vigorous domestic leadership as well.

I hope that is the message we can get across because it is not one or the other. It is both. I thank the Senator from Connecticut for making that point.

Mr. LEAHY. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. LEAHY. Mr. President, I find we are in an interesting situation. I first would say while the Senator is on the floor, I commend him, and the Senator from Oklahoma, the Senator from Maine, the Senator from Indiana, the Senator from Georgia, and others who are working on this issue.

But I find the present situation both extraordinary and in some ways troubling. By troubling, I mean the colloquies I heard back and forth. We have yet to hear from the White House that this is really what they want.

I hope we are not being led down the primrose path. We will do what we feel is necessary to lower the threat of nuclear weapons on the soil of the Soviet Republics, and show the humanitarian side of the United States to try to keep people from going hungry.

But I look at the price tags of these initiatives. It is strange to me that on an issue where you are talking about several hundred millions of dollars to remove nuclear warheads and reduce the nuclear threat, that we have to take the extraordinary step, we collectively in the Congress, to do that. But yet with the stroke of the pen the administration has sent $4 billion in foreign aid to the Soviet Union in the form of agricultural credits that will never be repaid, to buy food, much of which, as the New York Times and others pointed out yesterday, will lay rotting on the docks or will go on the black market. It will never reach the people that it is intended to help.

I recall being criticized by a Member on the other side of the aisle when I was asking for minor amounts for the agricultural program on the supplemental. The issue was raised that I support foreign aid. I happen to be the chairman of the subcommittee that must handle all the money for foreign aid. My colleague blasted back that I was offering a dairy amendment and I support foreign aid. I note, however, that he is one of the people who cosponsored this amendment.

Are we being led down a primrose path here? What I am saying, Mr. President, on a matter so critically important that it might involve starving people on the one hand and nuclear weapons on the other, that maybe there should be a postcard from the White House saying it is a good idea.

I ask unanimous consent that an oped piece by Leslie Gelb in Sunday's New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The New York Times, Nov. 24, 1991]

THE U.S.: A PATHETIC NATION?

(By Leslie H. Gelb)

With the trillions spent to win the cold war, it will be pathetic if the U.S. fails to find $1 billion to combat famine and the danger of nuclear chaos in the Soviet Union.

Famine in Soviet cities this winter could kill the Soviet democratic experiment, and there is only one way to prevent starvation. That is by loading up U.S. military aircraft with food, flying to cities and overseeing the distribution. But aside from a few Democratic Representatives such as Les Aspin and Lee Hamilton, Washington sits on its hands.

The spread of Soviet nuclear weapons could present the greatest threat to world peace, and there is only one way to guard against their misuse, theft or sale. That is a crash joint effort by U.S. and Soviet specialists to secure them. But apart from an encouraging bipartisan group of senators joined by Mr. Aspin and Mr. Hamilton, Washington shows no urgency.

The risks of inaction and delay are clear and grave. Yet legislators, fearful of being accused of helping Soviets at the expense of Americans, shrink from doing what they know is right. And President Bush, who above all understands what must be done, is also frozen by such accusations and remains inexcusably silent.

The one thing Mr. Bush has done—his now $4 billion "food aid" program—raises serious questions about his competence and motives. Senator Patrick Leahy is not alone in charging that the President "is playing a deceptive game with American taxpayers."

The Bush $4 billion plan sounds good. It provides U.S. credit guarantees for the Soviets to borrow money from banks to purchase American grain. Marlin Fitzwater, the White House spokesman, said the program "is aimed at alleviating food shortages and other dire humanitarian consequences . . . this winter."

But much of the grain won't even reach Soviet seaports in time to make a difference this winter. Much of what does arrive is bound to rot on the docks or find its way into the black market, if past experience with Soviet distribution is any guide. Most of the cargo is feed grain, destined for farms and animals, not people. This grain will help sustain livestock. But it will do very little to alleviate hunger in Soviet cities now.

This is no secret. Which is why Mr. Leahy and many others see the $4 billion as aimed more at raising American farm incomes than at helping needy Soviets.

Mr. Leahy is also rankled by what he sees as Mr. Bush's budgetary sleight of hand. The President is not asking Congress to appropriate $4 billion, and says the Soviet Union is creditworthy and will pay its bills. Mr. Leahy argues that there is little chance the Soviets will find the cash, and that the American taxpayer will eventually have to pick up the tab. The Senator is by all odds correct.

Here another fundamental issue is joined. If the $4 billion is essentially a gift to the Soviet Union and mainly a boon to American farmers, and if it won't do much to relieve famine this winter, why spend it at all? Or why not use the money to provide emergency relief for needy Americans?

Put this way, the Leahy stance is not frivolous or isolationist. Politicians could say in honesty that they would rather use the funds for America's emergencies than make a grand, but largely ineffectual gesture abroad.

But the choice should not be between a questionable food aid effort and American domestic priorities. It ought to be between those priorities and a food relief program that can work.

Mr. Aspin has put together a list of already-bought and ready-to-go foodstuffs, including $165 million in free food already allocated by Mr. Bush, and tons of food leftover from the Persian Gulf war. Europe is also loaded with excess stocks.

What is needed is transportation and reliable distribution inside the Soviet Union. U.S. forces fed the Kurds after the gulf war and could do it again on a much larger scale. They are also ready to help their counterparts gather and destroy Soviet nuclear weapons. The $1 billion needed for these vital talks would come from existing Pentagon funds, not new money.

A nation loses its soul and spirit if it cannot act to protect its most basic interests and values. Soulless and spiritless we will enter our future if we fail to do what we can to forestall new dangers and dictatorship in the Soviet Union.

Mr. LEAHY. That article expresses many of my views, Mr. President. We have done one extraordinary thing this afternoon by a sense-of-the-Senate resolution. We have, in effect, taken a supplemental appropriations bill already approved by the Senate and amended it while it is floating somewhere down the corridor toward a conference committee.

We just approved a sense-of-the-Senate resolution to amend it. It is extraordinary. I wish we had thought of it before. We ought to probably do that more often. It certainly does away with a sense of finality when something goes out of here.

My second point is whether we are going to get into a position where if the President wants to do something in foreign aid, he is going to be criticized by Democrats.

I happen to be one Democrat who stood out here, in a very lonely fashion with a very major issue, supporting the administration on foreign aid. I have done this over and over again. The President would not have passed any of these foreign aid issues without very substantial Democratic support. We have stood up for him time and time again, and helped him on some very difficult issues where sometimes even Members of his own party abandoned him.

I am also concerned that we can find money immediately for the Soviet Union, or what is left of it, and at times, we are told there is no money for much smaller but equally significant programs here in the United States. When sponsors of domestic assistance such as dairy are criticized, for even supporting the President's budget on foreign aid, we are getting ourselves tied into some political knots that may take a long time to unsnarl, Mr. President.

I just warn my colleagues. We saw it last week when I offered the dairy legislation. I was criticized for supporting the President's budget on foreign aid. But yet, here, the same people come forward with amendments like this. I may vote for this amendment. But we need a plan before spending millions in the Soviet Union.

The President just approved $4 billion in foreign aid to the Soviet Union in the form of agricultural credits. I say it is foreign aid because nobody really thinks they have the creditworthiness to pay this money back. We sent it in a sort of a "shovel it over there in a hurry, because you do not have to vote on it" attitude. There was no plan about where it is going to go, who gets it, or what is done in return. There are no market reforms, distribution reforms, and the expertise along with it.

A number of commentators, Republican and Democrat alike, have pointed out that it means there will be a lot of food wasted, a lot of U.S. taxpayer money wasted, without accomplishing significant goals.

Again, I commend the sponsors of this. I know they are concerned with stability, world peace, and humanitarian reasons. I commend them for doing the work.

But let us hope that, in the weeks between the time we go out of here and the time we come back, the administration will seek the same kind of bipartisan help they have sought before and received from this body. We need to work out a plan to see where our tax money is going to be spent, we must ensure that it is spent in the best way to achieve world peace and humanitarian purposes.

Mr. DODD. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I want to address the issue being discussed here. The Senator from Connecticut and I stood on this floor together to fight for the extension of unemployment insurance benefits. We pointed out at that time that the President had found it in his perspective to define emergencies overseas in order to provide assistance, to meet these critical situations, but he could not declare an emergency here at home in order to help unemployed Americans.

We said the time that we supported the President when he came to us earlier in the year and said: There is an emergency overseas, and we need to provide some help.

So it was not a question of our not recognizing the emergency overseas and the need to respond to the emergency. The problem was the President's refusal to recognize an emergency at home. Can we only deal with one problem on the agenda at a time?

The Senator from Georgia is absolutely right. This administration is traumatized in recognizing what serves the national interests. Clearly, if we can bring down the level of nuclear weaponry in the Soviet Union, we are serving the national interest. The question is, does the President have the capacity to bring a vision that recognizes both—the need to deal with a rapidly changing world and the economic needs of our own citizens.

At the time that we fought for the extension of unemployment insurance benefits to millions of deserving Americans it was not my position that the President should not have found an emergency overseas in order to provide some needed assistance. It was my position that, having done that, having been supported by the Congress in doing that, he ought to have the vision to recognize that there was an emergency here at home, and he needed to provide some assistance here as well.

Frankly, the problem here at home, in terms of the economy, is that we have a President and a national administration who will not even recognize that there is a problem. Everyone says, what is the administration's proposal? They say to the Democrats: What is your proposal? Well, the majority leader has put out an economic growth package and enunciated a proposal. But, in my own view, the first proposal that we should have, the first hurdle that has to be crossed, is for the President of the United States and the administration to recognize that there is a serious economic problem in this country. How are you going to deal with a problem if you will not even recognize that there is one?

On September 22, Budget Director Richard Darman stated on national television: "I think the economy turned in May."

He continued to maintain that position throughout the summer and fall. On October 30, he told the Washington Post that the economy was recovering. He said: "I think it will stay up. It is not coming up as strongly as we would want."

On November 1, the initial claims for unemployment dipped slightly. The Secretary of Labor said in a statement that the new data were "a positive sign that the country's economic recovery continues to move ahead."

Last week, the initial unemployment claims were the highest they have been since last spring, almost 500,000. It is anticipated that they will drop back down a little bit in the coming week. On November 8th the President said: "I am not prepared to say we are in a recession."

The Secretary of the Treasury stated much the same thing, saying that. "We are coming out of a recession."

Meanwhile, the people out in the country know far better what is the reality. They know they are facing a recession. When Secretary Brady was asked on a recent news program, about what kind of measures the administration had, he responded:

> I am not going to jump start the President's State of the Union legislation, but it will be dynamic. It will portray change, and it will address the problems before the country at the time.

The State of the Union Message is coming at the end of January. That prompted David Broder to say, "If there is a need for a stimulus package next January or February why isn't there a need for one now?"

The question is not whether we should do something of the sort that has been proposed here today by the very able Senator from Georgia and the Senator from Oklahoma, which clearly serves our national interest, or whether to address these pressing problems at home. The question is do we have the capacity to do both of these things when our national interest is at stake? Why will not the administration come forward and say, "We think this is a good idea; we need to move on this"? That is what one would call leadership. Yet they are not even able, once this initiative had been proposed, to support it publicly.

On November 20, the President told a group of businessmen the following:

> Some fundamental points to a good recovery. We ought to get it in perspective. Inflation is down, interest rates are way down, personal debt is down, inventories are down, quality is up, and exports are up.

First of all, inventories are not down. Inventories are up over recent months. They are down from what they used to be, but they are going back up. The rate of export growth has slowed from the beginning of this year. Personal debt is up, even though the rate of growth has declined substantially.

We had an article this morning on Michael Boskin, the chairman of the Council of Economic Advisers. A friend of his says his philosophy on economic policy is: "Don't just do something; stand there."

That is what we are up against here. I do not make any apologies. I came out on the floor and was strongly critical of the administration because they would not declare an emergency to pay unemployment insurance benefits. I said at the time that I had supported the President earlier in the year when he came to the Congress and asked for an emergency declaration in order to send some help overseas because I thought the case warranted our doing so.

But, at least let us treat Americans equally. That is really the issue. Let us at least treat them equally. I think we have an opportunity here to serve our national interest—a very important national interest. Our fundamental national security interests are going to be served by this proposal. I do not make any apologies for supporting this proposal and at the same time saying there is something missing with the national administration that not only has not submitted an economic package but will not even recognize that there is an economic problem.

To the credit of the Republican leader, whom I see on the floor, he recognized the unemployment insurance benefit problem back in the summer. My perception of it, and maybe I am wrong, is that the Republican leader, Senator DOLE, of Kansas, was trying all along to drag the administration along to recognize a problem which he perceived. The administration kept saying, no, there is no problem. It is like you saying to someone, "You have to do something about this. What is it you are going to do?" They say, "Oh no, no problem."

Mr. President, there is a problem. There is a problem in the Soviet Union with respect to dismantling these nuclear weapons which the Senator is trying to address by his amendment. But also there is a problem here at home with respect to the economy, which the administration ought to address. In fact, in this situation they are not addressing either one of them—the problem in the Soviet Union and our domestic problem at home. Talk about being traumatized. They are not addressing either one of them. They do not have the capacity to come to us on the nuclear weapons problem in the Soviet Union and say, "Yes, this is a real opportunity to do something," and they do not have the perception to recognize a problem here at home and try to do something about the economy. All the President says is, "The economy is recovering." Meanwhile people out on the street say, "What planet is he living on? Does he realize what is happening here at home? Why doesn't he address this problem here at home?"

So I want to commend the Senator for offering his amendment. I support his amendment, and I do so while at the same time saying to the President he needs to recognize the problems here at home as well. He is not recognizing either one of these problems. As I understand it, the administration's position on these amendments is, "We do not oppose them." That is about it. Is that correct? I do not think they can get beyond that. Their position essentially on the economy here at home is that there is not a problem, we are coming out of this recession. Bear with us because at January, we are going to give you some kind of economic package.

Mr. DODD. Mr. President, if I could reclaim the time, and I will yield the floor here. I know others want to speak on this matter.

I thank my colleague from Maryland. I will just say, in conclusion, Mr. President, I hope that we might even before this discussion ends, which I presume it will in the next few minutes or so, we might hear from the administration there would be an effort. Obviously, it will not happen. We have to take leadership and decide to do this. If that is the case, I will support it. But nonetheless——

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. DODD. I wish to finish a thought and I will yield the floor. I have been standing here for an hour.

There is a need here, it seems to me, and the authors of this amendment have done a good job, I say to my colleagues from Maine and Oklahoma, and others, who are sponsors of this amendment. It would, I think, make a lot more sense to have some indication of support. Maybe that will be forthcoming after the amendment is adopted, but certainly it will be vitally helpful to achieve that.

I just say, in conclusion, that there is a concern out there that we are not addressing aggressively enough, Mr. President, the concerns of people in this country, and I think you need to do both. As the Senator from Maryland indicated, that leadership requires that you pay attention to both if you are going to be truly a great nation.

So I commend again the authors of the amendment. My intention is to support it, with the regret that the administration is being silent on this, and I hope that silence does not continue for long. Leadership is required in this matter as well.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I rise in strong support of the Boren-Cohen amendment.

Congressman ASPIN and I had hoped to put a similar provision before the Senate, in connection with the conference report on the Defense authorization bill. I felt then, and I continue to feel, that it is in our national security interests to help avert social instability in a nuclear superpower that is crisscrossed with fault lines of potential domestic crisis.

I do not favor using Department of Defense funds to purchase food and medicine. Other Government and private programs exist for that purpose. I do favor authorizing the administration to use Department of Defense funds for the transportation and distribution of emergency humanitarian assistance to the Soviet people, should the President find this to be in our national interests.

As it ably demonstrated during Operation Provide Comfort on behalf of the Kurds in northern Iraq, the Department of Defense has unique logistic capabilities. Our military services have excellent commanders and well-trained, highly motivated men and women who can do the job well.

The provision we are now considering would provide the clear authority, and adequate funding, to make possible the transportation of emergency humanitarian assistance to the peoples of the former Soviet Union. Some related authorities and funding exist in current law. But I believe it wise to give the President unambiguous authority and adequate discretionary funds specifically for this purpose.

I believe it is wise because throughout the territory of the former Soviet Union—a country undergoing political, economic and ethnic strife—sit tens of thousands of nuclear weapons and tons of chemical weapons. Throughout the territory of the former Soviet Union are military units filled with disaffected, poorly paid, and poorly housed officers and soldiers.

Ethnic tensions have produced a swelling number of refugees from areas of ethnic strife. Heightened unrest caused by widening shortages of food and medicine is a real possibility, particularly during the coming winter months. Such shortages could spark civil turmoil and even armed violence. They could lead to weakened control and physical security of the 30,000 nuclear weapons and the tons of chemical weapons on the territory of the former Soviet Union. They could bring to power nationalistic, authoritarian, militaristic leaders for whom such weapons are symbols of power and prestige.

The Boren-Cohen amendment affords us the opportunity to diminish this danger by getting humanitarian assistance where it is most needed in the former Soviet Union in a timely fashion. The failed coup of August 1991 improved the prospects for democracy, economic transformation, and a less threatening Soviet defense policy. However, without Western assistance, there is a real possibility that these prospects could disintegrate into a heightened threat to Western national security interests.

The amendment gives the administration flexibility to respond effectively to an emergency Soviet need for humanitarian aid. It amounts to prudent insurance against a serious risk that could put into question the security of nuclear and chemical weapons. This amendment is in the national security interests of the United States and our allies. It merits our support, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized

Mr. BOREN. Mr. President, I know others want to speak. I believe this has been cleared by the leadership on both sides of the aisle.

I ask unanimous consent that the vote on or in relationship to the Boren-Cohen amendment occur immediately on completion of the debate on the Dole amendment, which will begin just momentarily, with no second-degree amendments in order to the Boren-Cohen amendment, and that, upon disposition of the Boren-Cohen amendment, the Senate without any intervening action or debate, vote on or in relation to the Dodd-Bradley et al. amendment, and, further, that the vote on or in relation to the Boren amendment occur at 5 o'clock today.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I am not certain how much debate the Boren amendment had, an hour and half. I think Senator LEVIN would like a few minutes. It is his original idea, and I am happy to join as cosponsor.

Mr. BOREN. Five-thirty. I think it can be terminated briefly.

The PRESIDING OFFICER. There is a unanimous-consent request from the Senator from Oklahoma. Is there objection?

Mr. DOLE. If I could reserve 15 minutes on that Levin-Dole amendment, I do not think it will take much time. I think Senator LEVIN did want to make remarks.

The PRESIDING OFFICER. Is there objection to the request? The Republican leader has suggested that 15 minutes should be reserved for the Dole-Levin amendment.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Is there unanimous consent before the body?

The PRESIDING OFFICER. There is a request from the Senator from Oklahoma.

Mr. BIDEN. Would the Senator mind restating the request?

The PRESIDING OFFICER. The Senator from Oklahoma can apparently modify his request if he could restate that.

Mr. BOREN. Mr. President, I ask unanimous consent that the vote, as I mentioned before, on or in relation to the Boren-Cohen amendment occur immediately upon completion of the debate on the Dole amendment; that there be, not be exceed—well, let me just say with no second-degree amendments in order to the Boren-Cohen amendment; that, upon disposition of the Boren-Cohen amendment, the Senate, without any intervening action or debate, vote on or in relation to the Dole-Levin-Bradly amendment; further, that the vote in relation to the Boren amendment occur no later than 5:15.

Mr. BIDEN. I object.

The PRESIDING OFFICER. There is objection.

Mr. BOREN. Mr. President, I think there are others seeking recognition on the debate. So I will just withdraw the request and, hopefully, be able to renew when I understand the reason for the objection.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I simply would conclude the debate. As far as I know, on our amendment, I do not know others wishing to speak on this amendment.

Mr. President, I understand the comments and frustrations that have been expressed on both sides. Certainly, this Senator understands the need to take care of the domestic agenda and the need for us urgently to come together in a bipartisan way to work on serious problems that confront us. As I said during the debate on the unemployment bill, which I consistently supported since it has been several times through this Chamber, I am acutely aware of the problems we face at home. Even in my own small home community in Oklahoma, two or three weekends ago, when I was there, I saw people standing out in the ice and snow, which occurred earlier than any other year since 1911 in my State this year, begging for an opportunity to work for food and shelter for their families. We need to work on all these problems, and we need to come together in a bipartisan way to do it. We need leadership from the White House and bipartisan leadership from the Congress. The problems are serious, and we need to set aside politics even in an election year to deal with them.

Mr. President, I simply say that the issue here that we are dealing with is one of grave importance to this Nation, as I said in the beginning. It is a national security issue. This amendment does not transfer any funds out of domestic programs or programs to take care of domestic need.

This amendment would authorize, if the President declares an emergency, if he joins the Congress in declaring an emergency, it would authorize the President of the United States to deal with an emergency inside those areas that have previously been called the Soviet Union, if it is necessary to do so to preserve social and political stability there.

If we were to have a breakdown of order because of a dire shortage of food and medical supplies or other necessities, we could have a collapse of the political structure as well very shortly thereafter. We have been told that by observers in our own Government. We have been told that by those whose opinion we respect within the Soviet Union. We have been told that by our intelligence community.

I need only remind my colleagues that those governments now in power which are seeking a new cooperative, constructive, friendly relationship with the United States, seeking to join with us in ending the arms race, in the destruction of nuclear weapons, I need only warn my colleagues and say to them again that if the wrong people came to power in those localities, they would then assume control of those weapons of mass destruction.

This is simply a threat that we cannot ignore. The American people understand it. The American people would rightfully hold us accountable if we did not have an emergency plan in place to prevent that kind of political collapse from occurring which would lead again to that kind of military threat.

So, Mr. President, I would urge that the amendment be agreed to.

I see the distinguished minority leader on the floor. I think he is prepared to offer his amendment.

I would simply ask unanimous consent that the vote on the Boren-Cohen amendment occur immediately upon the conclusion of the debate on the Dole-Levin, et al, amendment, and that the vote on the Boren-Cohen amendment occur upon completion of the debate on the Dole amendment without intervening motions or amendments, and that the vote on the Dole-Levin, et al, amendment would then occur immediately following the vote on the Boren-Cohen amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise as an original cosponsor of the resolution to be offered by Senators DOLE, LEVIN, myself and others. Mr. President, imagine a country split apart by tumultuous political upheaval, fracturing into new, unformed entities, without capital, without the means to generate it, and without the institutions to absorb and multiply it.

This country needs help. If its parts yearn to be democratic and free, they deserve the help of those who can give it. Such aid would be of benefit to both the giver and the recipient, for democratic nations fuel each others' freedoms and perpetuate peace and stability far beyond the sum of their individual contributions.

So stand the former Soviet Union and the United States. The collapse of Soviet communism, one of the most significant political developments of this century, has created untold opportunity for both the United States and for the people of the former empire. These opportunities, however, are not only being missed at this time, they are being substituted for by policies which may do more harm than if nothing were done at all.

The administration's approval of new grain credits to the Soviet Union defies logic. President Bush wants to guarantee loans to a country that does not exist, to be repaid by banks that do not exist, so that food can be distributed by a distribution system that does not exist. Of course, these loans would be backed by American taxpayer dollars. But they also do not exist.

Mr. President, the emerging republics of the Soviet Union need help. But even they do not really exist yet. And therein lies the challenge for our Government. If the United States is to respond to the collapse of communism, it must be guided by the realization that we are in the business of creating, not fine tuning. The Soviet republics, fractured, poor, unformed, most need what America can best offer, our expertise in the formation and growth of political economies.

Helping to create and sustain political economies in the republics will require a multilateral effort, channeled through existing international institutions—the IMF, World Bank, and the like. It will require scores of international experts working directly with the nascent republics to facilitate the emergence of market economies through the creation of trade, banking, taxation, legal, and other systems. It will require multilateral loans, aiming not at American agribusiness profit margins but at the establishment of vital currency stabilization funds. It will require whatever technical assistance can be delivered to those Republics that commit themselves to market economies, minimal barriers to interrepublic trade, and full integration to the world economic and political community.

And, yes, it will require humanitarian assistance, especially, when necessary. We have to be prepared to prevent a catastrophe in the short term, this winter, with food and medicine directed to the areas of greatest need. But we will invite a catastrophe in the long term if the range of our vision is as narrow and ill-conceived as the administration's embrace of grain credits. We can help the people in the republics without dumping billions of American dollars on their former repressive government.

This resolution, the resolution to be introduced by Senators DOLE, MITCHELL, LEVIN, BOREN, COHEN, myself and others, is, in my view, a plan to do that. But, above all else, it represents our call for the long-term vision that is needed to grasp the historic opportunities that are before us. It is imperative that President Bush formulate the plan called for in this resolution.

Several Senators address the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 1443

(Purpose: To express the sense of the Senate that the President should promptly consult with Congress for the purpose of preparing a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet Republics to avoid social chaos and achieve economic and political stability)

Mr. LEVIN. Mr. President, I send an amendment to the desk on my behalf, along with Senators MITCHELL, DOLE, BRADLEY, LUGAR, NUNN, DOMENICI, BOREN, and LIEBERMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BRADLEY, Mr. LUGAR, Mr. NUNN, Mr. DOMENICI, Mr. BOREN, and Mr. LIEBERMAN, proposes an amendment numbered 1443.

At the appropriate place in the bill, add the following new section:

SEC. . POLICY TOWARD THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union is undergoing a transformation which opens the possibility of democracy, the development of free markets, new individual freedoms, and integrating the former Soviet republics into the global economy;

(2) if that transformation is not successful, there is a real threat of economic and social collapse, the emergence of totalitarian, security-threatening states, and the proliferation of nuclear weapons, components, and weapons technology;

(3) the national security interests of the United States are best served by stable, democratic societies and free markets in these republics;

(4) the economic interests of the United States are best served by the full integration of the Soviet republics, either individually or collectively, into world markets;

(4) the transformation into working democracies with open market economies is mostly the responsibility of these republics themselves, but the rest of the world can make significant contributions to this effort, linking those contributions to a well-planned reform program; and

(6) the success of structural reforms can best be facilitated by the immediate, coordinated actions of the United States, other nations, and international institutions such as the International Monetary Fund, the International Bank for Reconstruction and Development (also known as the "World Bank"), the European Bank for Reconstruction and Development, and the United Nations which have the skills and resources to assist that transformation without increasing the direct exposure of the United States Government to the debt of Soviet republics.

(b) POLICY.—It is the sense of the Congress that—

(1) it should be the goal of the United States policy toward the former Soviet Union to help the Soviet republics to avoid social chaos and achieve economic and political stability;

(2) that goal can best be achieved by facilitating the transformation of the Union of Soviet Socialist Republics into stable democratic states with free market economies and clearly defined economic and constitutional relationships with each other, binding agreements to minimize tariffs and other barriers of inter-republic trade, full integration into the world economic and political community, and manageable debt burdens;

(3) the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and political stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions;

(4) the International Investment for Democracy plan should include expeditious action—

(A) to provide prompt humanitarian assistance when necessary to prevent life-threatening shortages of food and urgently needed medical supplies;

(B) to combat the proliferation of nuclear weapons, components, and weapons technology, and to facilitate safe control, storage, and dismantlement of nuclear weapons;

(C) to provide technical assistance to facilitate the emergence of a market economy;

(D) to facilitate a dramatically increased number and intensity of contacts between Americans in the private sector and citizens of the Soviet Union;

(E) to help Russia and other Soviet republics to draft laws, establish political and legal structures, and build institutions that facilitate open, democratic, market societies; and

(F) to articulate clear conditions under which a currency stabilization fund could be used to facilitate the goals in paragraph (1), and, at the appropriate time, encourage international institutions to establish such a fund with contributions from leading industrial nations;

(5) assistance should be provided to republics that are establishing viable political, legal, and economic structures, including free and open markets, that agree to minimize barriers to inter-republic trade and that, individually or collectively, agree to participate in macroeconomic stabilization programs designed by international institutions and the delivery of such assistance must be fully consistent with the sovereignty, laws, and independence of participating republics;

(6) bilateral programs within this plan should efficiently pursue the goals of paragraph (1) and minimize the cost to the taxpayer and the debt exposure of the United States Government; and

(7) where currency and debt stabilization programs further the goals in paragraph (1), they should be provided through existing international financial institutions, rather than through direct United States Government assistance.

Mr. LEVIN. Mr. President, first, let me thank the cosponsors of this amendment. We have a very broad bipartisan coalition that supports this amendment, and I think that support is a very significant portion of the amendment, as well as the language that is in it.

Those cosponsors include Senator MITCHELL, Senator DOLE, Senator BRADLEY, Senator LUGAR, Senator NUNN, Senator BOREN, Senator LIEBERMAN, and Senator LEAHY.

I particularly want to express my gratitude to Senator BRADLEY who has spoken a little earlier this afternoon on this amendment, who has worked so hard on this issue for so many months. Our offices, together with a number of other offices of Senators I have mentioned, have been able, now, to put together an amendment which represents a broad, bipartisan approach to an issue very critical to American security.

What we seek here is urgent action to protect American security through a comprehensive, coordinated plan, crafted by the President and Congress together to help preserve democracy in the Republics of the former Soviet Union.

It has been 3 months since the August coup in the Soviet Union. When that coup failed, we all hailed the victory of Democrats over the forces who wanted to turn back to Central State control instead of open markets, and to repression instead of freedom.

But the failed coup was part of a chain of events that could lead to a larger failure. Chaos is on the rise in the fledgling Republics of the former Soviet Union. Food shortages, hyperinflation, ethnic unrest, violent nationalism—all in a land where 30,000 nuclear weapons are still located.

It is time to work together to do what we reasonably can do to help stem that chaos and the security threat it poses for the people of the United States.

This amendment says the goal of United States policy toward the former Soviet Union is that the Republics avoid social chaos and achieve economic and political stability. The people of those Republics must do the lion's share of the work, just as they are doing the suffering. But we and our allies can help them avoid new dictatorships which would threaten us. We can help those Republics transform into stable democratic states with free market economies, and clearly defined economic and constitutional relationships with each other.

Our amendment urges the President to promptly consult with Congress to prepare a comprehensive plan for achieving this goal, an "International Investment for Democracy" that would lay out step-by-step actions the Republics could take and the supporting actions that the United States and other nations would take in response.

Some elements of the plan can be bilateral: humanitarian assistance to prevent life-threatening shortages of food and urgently needed medical supplies; technical assistance to prevent nuclear weapons proliferation and facilitate safe control, storage, and dismantlement of those weapons; and expertise in establishing political, legal, and economic structures.

Other elements should be multilateral, with the majority of contributions from other nations, and coordinated by the international institutions with expertise and experience.

For instance, this amendment says the comprehensive plan should articulate clear conditions under which a currency stabilization fund could be established with contributions from leading industrial nations, and the conditions a Republic must meet in order to use such a fund. The potential for such a currency stabilization arrangement could provide a powerful incentive for Republics to institute economic reforms and survive the transition from a Communist state to a free economy.

The amendment is a statement about the importance of bipartisanship in this critical area of policy.

The amendment is a bipartisan attempt to take real action and prevent chaos in the Soviet Republics, before it is too late. It is not a giveaway. And it is not an attempt to divert attention from serious problems at home.

This action and the plan which it urges be put into place is truly in America's own interest. And to act in our own self-interest does not mean we need to be self-centered. Yes, it is long overdue that we put our own house in order. I believe that deeply, and it has been neglected. But putting our house in order does not mean building a fence, or pulling down the blinds to shut out the world. We have to be engaged in the world to enhance our own security.

The American people understand how important it is for our own security that we prevent a return to totalitarian dictatorships in the former Soviet Republics. Many of us have donned a soldier's uniform to protect this country's freedom—some bear the scars of battles fought to stop dictators. As taxpayers, we have spent trillions of dollars to fight the cold war. Now we can certainly muster a tiny fraction of those resources to participate in an international investment for democracy that protects the gains freedom has made in the land of our former adversary so it does not collapse into a new dictatorship.

We are not talking about giveaways. We are talking about an investment in our own security. And, in some important areas, we really can do a lot with very little. Programs to promote bilateral trade, investment, and business between American companies and enterprises in the Soviet Republics can be initiated efficiently and inexpensively—but they can yield great results.

Peace Corps volunteers can help people help themselves. A volunteer managers corps can share the expertise of American businesses directly with a new generation of entrepreneurs in the former Soviet Republics. Let us get judges and lawyers over there to help set up property laws and fair judicial systems. Let us get our technicians and laboratory scientists over there to actually take apart the nuclear warheads that have been pointed at us. Let us get our Commerce Department to analyze Soviet enterprises the way they do in other countries, so American companies can identify joint venture opportunities.

But let us not just watch and hope that this all happens. We need a comprehensive plan, a coordinated effort designed by the administration and Congress together, and we need it urgently. We do not need a Marshall Plan in terms of dollars. We do need the breadth of vision that the Marshall plan reflected.

The odds are tragically against democracy surviving in the Soviet Republics through this winter and beyond. Our own ambassador to the Soviet Union, Robert Strauss, is warning us about the surge of popular discontent. "There's an awful lot of people who'd like to swap what they have now and go back to the security of knowing what two rubles would buy—knowing all they have to give up would be a little freedom of speech. * * * out of that kind of climate, demagogues are made." Ambassador Strauss added that without some kind of help we could "end up looking at a real fascist-type situation."

A recent KGB report said that emerging social conditions are ripe for "a fascist coup."

Newly reinstalled Foreign Minister Eduard Shevardnadze warned that dictatorship may return, and he is the one who accurately predicted the August coup. You can hear the conditions that breed fascism in the voices of the Soviet people:

A woman standing in line for boots in the snow says "My optimism is running out. It is down to zero * * * I have no future."

A woman and her child waiting in line for food says: "My kitchen is empty, my kids are hungry." She wonders aloud about the new leaders of her country, "have we made a mistake?" We all ought to be haunted by those words. We should tell her strongly, as strongly as we can, that whatever contribution we can reasonably make that will be efficiently and effectively delivered, "You have not made a mistake."

A 63-year-old man, waiting in the snow to buy bread says, "We are not living * * * we are dying from within."

A Moscow engineer says, "We just want to live our normal lives * * *."

Let us remember what normal lives were in the Soviet Union and how that normalcy threatened the West.

Yet we go to the stores and we see that the shelves are empty. People at my job say the government gave us freedom of speech and took away the food."

In yesterday's Washington Post, we read the assessment of Ella Yudrina, the deputy head of a Moscow city district organization responsible for food supplies. She says:

> There is a time factor. The people who made the coup are still sitting out there and waiting, waiting until things get bad.

Mr. President, let us heed those kinds of warnings from our Ambassador, from Eduard Shevardnodze, and others. We should end the mischaracterizations when it is our future security that is the issue. We should end the arguing about jurisdiction between congressional committees and end the competition between the Departments of State and Defense and others about who should be in charge of this effort. We should come together, now, and assemble a comprehensive plan to help preserve the Soviet Republics as democracies, and foster them as allies and peaceful members of the family of nations, and to prevent them from falling back into the hands of repressive dictators who will threaten our security, and cost us trillions more.

If we squander the opportunity—if we fail to join together and take action now—we will never forgive ourselves.

Let us pass this amendment; let us get to work immediately with the President on this plan. It is an essential element of the larger task of getting our own house in order and keeping our own house in order.

The Chairman of the Joint Chiefs of Staff, Colin Powell, said recently that it is in our national security interest to see that democracy prevails in the former Soviet Union and that the causes of civil unrest be addressed.

The new NATO doctine—this is a formally adopted doctrine now by NATO, our own alliance—says that the biggest risks for the alliance now come "from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes," in the Soviet Union.

We have a window of opportunity we never expected this quickly. But it can close as quickly as it opened.

These events may take place a long way from here. But they affect us drastically, as drastically as Hitler affected us when he burned down the German parliament, and as drastically as Stalin affected us when he signed a pact with Hitler. Those events took place thousands of miles away also, but what seems a long distance away sometimes can affect us very fundamentally and be manifested at home.

There are tens of thousands of nuclear weapons at stake which could be scattered around the world, from Libya to North Korea, if Soviet collapse and chaos lead to nuclear proliferation. The American people understand that, and we should not be so blinded by fear of political attacks that we cannot see what they see.

Mr. President, let me close by again thanking the cosponsors of this amendment for all the help that they have provided in crafting it, for bringing it to the floor; again, particularly, the Senator from New Jersey, Mr. BRADLEY. I want to thank the Democratic leader, Mr. MITCHELL, for cosponsoring this; Mr. DOLE, Mr. LUGAR, and all the other cosponsors of this.

It has been a long process in drafting this amendment. I do hope the amendment can be adopted and we can then, on a bipartisan basis, get on with adopting a bipartisan plan in America's interest.

Mr. DOLE. Mr. President, before I get into my statement on the amendment, which will take only a few moments, I want to say that I am a bit disappointed by the last moments of debate on the Boren amendment.

We started this morning with an effort to forge a bipartisan approach to some important foreign policy issues. Senator NUNN, who was the author of the first amendment we dealt with; and Senator BOREN, who authored the amendment we just debated—made that point.

I made it, too, in a statement I put in the RECORD on those two amendments.

And I thank those Senators for their good faith effort at bipartisanship.

But now—even as we debate these bipartisan initiatives—we have had to sit through a series of new potshots on President Bush. That is just not the way those of us who have entered into this effort envisioned that it would go.

The ground rules for some seem to be—Republicans join us, and hold their partisan fire; but we are free to keep throwing the bombs at President Bush.

Well, that is not the way the game is played. We are not going to play it very much longer that way. We will find out whether we are going to have partisanship or whether we are going to settle down and do the business of the Senate.

So I hope all of us, on both sides of the aisle, can get back to the spirit that we claimed to be embracing when we started this debate. We are either going to have bilateral rhetorical disarmament or we are going to continue a partisan rhetorical arms race.

We are either going to be bipartisan—or we are not. And we cannot be selective.

People were jumping up this morning saying this is not an aid program, so I am going to vote for this, but I am not going to take anything away from anybody in America.

Well, nobody wants to take away anything from anyone in America. But I have said on this floor time and time again, the Soviet Union, or former Soviet Union, is pretty important to all Americans, and if there is a collapse, or if there is another coup, or if there are riots, or if somebody brings up and causes a lot of problems, the $2, $3, $4, $5 billion we may invest now may save us $10, $20, $30, $40, $50 billion later on next year.

I know some of us who come from farm States are accused, well, they vote for that because that helps the price of rice, or the price of wheat, or the price of something. I must tell you that many farmers in the United States share the same views of a majority of other Americans. We want to be paid back. We have extended credit guarantees to the Soviet Union. What does that mean? That means if they do not pay back their loans on the first $2 billion we are going to pay about 98 cents on the dollar, and the last $2 billion of export credit guarantees we are going to pay 100 cents on the dollar, we the taxpayers. So we want to be paid back. And I think we have made that clear.

So I just suggest that when I hear statements, or read statements, or watch TV, and somebody says, "If you live in America, President Bush doesn't care about you. But if you live anywhere else in the world just call him up, he will send you a check, or he will send you anything he wants," that we can play that game for so long. But it is not responsible.

I am hoping now we are getting back on a bipartisan track and we are addressing this concern because it does affect the interests of every American. I suggest that we are doing the responsible thing, and I hope we will continue.

IN AMERICA'S INTEREST

Mr. President, I am pleased to join Senator LEVIN as an original sponsor of this important amendment.

As I noted in our discussion of earlier amendments to this bill, the issue of aid to the so-called former Soviet Union has been obscured by a blizzard of political rhetoric.

In a pell-mell pursuit of partisan advantage, the national interest has been left far behind. Now we are trying to regain it. And I commend those who are doing that.

Tragically, in the process, we have run the risk of losing a historic opportunity to advance the national interest of the United States.

Just a few short weeks ago, free men everywhere rejoiced as a revolution of freedom swept across the Soviet Union.

Here in this country, we celebrated not only because freedom won, and tyranny lost—though that, in itself, is cause for celebration.

But we celebrated, too, because the new reality in the former Soviet Union brought so many important concrete and potential benefits to the United States, and to the American people: A reduced threat of Soviet aggression; improved prospects for even further arms reductions; slashing of Soviet support for Kremlin clients such as Castro's Cuba; enhanced Soviet cooperation in managing regional crises; and dramatically expanded prospects for mutually beneficial investment and trade relations.

But, even as the celebrations continued in Moscow, here in Washington, and around the world—harsh reality also began to set in.

The fact is, we cannot take for granted that the experiments in freedom and free markets in the former Soviet Union will succeed.

We cannot take for granted that Boris Yeltsin's government in the Russian Republic, or any of the other fledgling democratic governments, will survive and prosper.

We cannot take for granted that we in the United States will enjoy any of the substantial benefits I have just outlined, over the long haul.

Freedom has won its first "battles" in the Soviet Union; but a hard winter of ongoing struggle lies ahead.

And—while the outcome of the struggle will largely be up to the people of Russia and the other Republics to decide—there is a big American stake, and a potential American role, in determining the outcome.

It is very important to us how this game comes out, and we cannot afford to just stand on the sidelines and hope for the best.

We should do what we can to bolster the forces of freedom, to help them survive and prosper, for one very simple reason—it is in our interest, the American interest, to do so.

From that perspective, those things we can do to help represent not only "aid," in the traditional sense, but an "investment," in a very real sense—an investment in America's security, economic opportunities, and overall national interest.

That is why this bill calls for a program of "international investment in democracy." Because modest, well-thought out, and well-managed programs of support for freedom and free markets in the former Soviet Union are the best and most cost-effective long-term investment we can make in America's well-being.

Now, do not get me wrong, and do not misread this resolution. Since August, I have been debunking the notion advanced by some that we ought to start writing out "big bucks" checks to anyone in the former Soviet Union. We can not afford to do that, and it would not make much sense.

That is not what we are talking about in this amendment.

This resolution does not—repeat not—call for some kind of new multibillion dollar "Marshall plan for Moscow."

Instead, it mandates the formulation of a six-part package of low-cost/high-impact programs, aimed at real and urgent needs; and tied to concrete, identifiable benefits to the United States.

Specifically, the package would include:

First, of course, is urgent humanitarian assistance, of the kind envisioned in the Boren-Cohen amendment we will deal with soon; and in the President's proposed food credit guarantee package announced last week.

Second, support to dismantle nuclear weapons and missiles, such as we have mandated in the Nunn-Lugar amendment. We have had that vote earlier today.

Third, technical assistance to help develop free markets.

Fourth, support for expanded contacts between the private sectors and people of the United States and the Republics of the former Soviet Union.

Fifth, advisory assistance in developing democratic institutions and legal systems.

And, sixth, an analysis of the Soviet financial situation, aimed at producing a gameplan for the establishment, and utilization of any currency stabilization support deemed effective and affordable.

The amendment also makes it clear that any of this aid would be conditioned on a continuation of progress toward democracy and free market economies.

The amendment mandates an American strategy coordinated with our allies, and depending on them to bear their fair share of any costs.

Finally, the amendment strives to take this whole issue beyond the partisan pot-shotting that so many have been engaged in. It urges the President to engage in prompt, quiet, comprehensive dialog with the Congress—aimed at formulating a national strategy, in the national interest, on this very important issue.

Mr. President, this amendment says a lot in a relatively few words.

More important, it says the right things—in a clear and straightforward way.

It outlines a very comprehensive, solid, and sensible strategy.

It is a strategy I believe the President will welcome, in important part because it represents support for just the kind of approach he has already been pursuing.

So I commend the distinguished Senator from Michigan, Senator LEVIN, for his leadership on this issue. I commend his colleague from New Jersey, Senator BRADLEY, who has made important contributions to this amendment.

And I urge all Senators to join us in passing the amendment at the earliest opportunity.

Mr. NUNN. Mr. President, I want to congratulate the Senator from Michigan for this initiative. What he has done is recognize we are indeed at a historical moment in history. I do not know if this is the most important event of this century in terms of developments in the Soviet Union, but it certainly is the most important series of events we have seen in the Soviet Union and Eastern Europe since World War II.

When one considers, the chemical weapon component, the nuclear weapon component, the opportunity for destruction of weapons of mass destruction is before us, and also the unprecedented danger of proliferation, a greater danger of proliferation than ever faced before in the history of mankind.

Our role in the Senate is to start a process in this country, and hopefully the Western world, to recognize both the opportunity and the dangers and to basically take advantage of the opportunity and diminish the dangers.

The Senator from Michigan and the Senator from Kansas and others who have sponsored this amendment have basically come up with an amendment which urges the President to understand the historical nature of where we are, and to come up with a comprehensive plan to deal with this situation.

We started on that today. But it has a long way to go, and it is going to be a matter of years; it is not going to be a matter of weeks or months.

I congratulate the Senator from Michigan for his leadership in this respect. I am a cosponsor, I believe, of the amendment. I believe it is a very important message to the President, as we said a few minutes ago, that we really need leadership from the White House. We need leadership and we need a comprehensive approach to it which we can begin to address as a Nation, and hopefully to join together with our allies in the world.

Mr. BIDEN addressed the Chair.

Mr. LEVIN. Mr. President, I am going to yield the floor. If I could just thank our friend from Georgia before the manager is recognized.

His amendment today, I believe, was a courageous step. It was the first step, critical step, in addressing what is really an opportunity we never thought we could have this quickly, and now we have to take full advantage of that opportunity. The tenacity and courage of the Senator from Georgia in pressing forward his amendment is an important step on this road. I thank him again for his efforts and for his remarks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN], is recognized.

Mr. BIDEN. Mr. President, I compliment the Senator as well for urging this plan. But I must tell you, I am frustrated. The Foreign Relations Committee 2 years ago suggested this. The Foreign Relations Committee 2 years ago held extensive hearings. It was suggested that no one could expect this a year ago. We did expect it a year ago, and we drafted legislacion a year ago called SEED II. It did and does authorize the President to be able to do everything that is mentioned here and more: exchange programs of all kinds, technical assistance constituting Western-style financial systems between bank and stock markets, advice on creating an agricultural extension service, agricultural distribution system, business centers to promote United States business in the Soviet republics, promotion of sister institution activities between United States colleges, United States libraries, and other institutions.

The reason I am frustrated, Mr. President, is because it is as if we all of a sudden discovered this. My criticism is, with all due respect to this administration, it has no foreign policy. We are behind the curve on everything.

Mr. DOLE. Gulf crisis.

Mr. BIDEN. The Senator said the gulf crisis. We still have a crisis. The guy named Saddam Hussein is still there, so obviously we have a continuing crisis.

The point I want to make here is that we are in a circumstance whereby the authority the President needs to be able to do all we say we want him to do we have already passed out of this body. But there is continued resistance to giving the President that authority.

I would respectfully suggest that the one way we are going to get a plan out of the President is when, in fact, the President knows he is authorized to do everything that has been asked for and more. And then he cannot fail to come up with a plan, because he cannot suggest that he does not have the authority to do the things we are all saying need to be done.

And lastly, if my friend from Kansas, the minority leader, will listen to this, I believe it will satisfy him a bit. I think it is time the Democrats also stop talking about whether or not the President should be involved in these foreign policy matters. What we should be discussing is the foreign policy matters. What we should be discussing is the point Senator SARBANES made. There is much to be done abroad, much to be done that is not being done, much in which the administration should take the lead. However, there is much to be done a home.

So I ask unanimous consent that at this moment, at the end of my comments, the entire SEED II bill be printed in the RECORD.

I will cease and desist discussing this any longer, except to say it has been frustrating. For 2 years—2 years now—I have been meeting with the administration. Secretary Eagleburger signed off a year ago on all this. We agreed on it. Several of my colleagues delayed progress on it. Then, finally, our colleagues agree upon it. And then the administration was responsible for the delay. At last our colleagues and the administration agree upon it. Now we act as though we have discovered something new today.

This needs to be acted upon and needs to be acted upon urgently. I hope that we finally will get all of our colleagues, the administration, and the House on board to do what everyone is acknowledging needs to be done, because the Senator from Kansas and the Senator from Michigan are absolutely right: Time is of the essence. And it does not lend itself to us suggesting that there is any benefit or lack thereof in one party or another suggesting what ought to be done.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3595

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 3595, the Medicaid moratorium bill, occur at a time today or tomorrow to be determined by the majority leader after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection? Hearing none, that will be the order.

Mr. DOLE. I was going to ask the majority leader if he might give us some indication, if we could wrap this measure up fairly soon, what might happen the next few hours?

Mr. MITCHELL. Mr. President and Members of the Senate, I remind Senators that we are here on the day before we expect to adjourn for the year. It is imperative that we complete action on this measure, on which we have now spent most of the day, and I would hope that the votes which are scheduled, I believe on two amendments, can occur promptly.

There will then follow a period for debate on the Medicaid moratorium bill, but I do not intend that that vote occur immediately, because we want to try to finish the unemployment insurance bill, which is of vital importance to virtually every Member of the Senate. And following on that, the Soviet MFN bill.

I will be meeting with the Speaker, the majority leader, and the minority leader of the House, along with the distinguished Republican leader of the Senate, in approximately an hour in an effort to assess the progress we have made and to determine what steps are necessary to complete action on the several important measures before us to adjourn by Wednesday morning.

We have made a good bit of progress, but we have a number of items that we are right on the verge of completing but we have to get done.

I hope very much that we will be able to complete action quite promptly on this bill. This bill has been debated all day. Senators have been acting as though this is the second day of the session rather than the next-to-the-last day of the session.

We do have to have a period of debate on the Medicaid moratorium bill; 45 minutes are scheduled.

A lot of Senators are interested in that. That is a critical matter on which we must act, and we want to try to act, if possible, this evening on the unemployment insurance bill and on the Soviet MFN; perhaps later this evening vote on the cloture motion on the motions to proceed to the Medicaid moratorium bill, or tomorrow under the authority just granted to me following consultation with the Republican leader.

Mr. DOLE. That would still leave, just so nobody thinks tomorrow is a piece of cake, the highway bill, the crime bill, the RTC, and the banking bill, just to name four major ones.

Mr. BUMPERS. And a supplemental appropriations.

Mr. DOLE. And a supplemental appropriations, which may or may not survive.

Mr. MITCHELL. Mr. President, that is correct. It is going to be extremely difficult, under the best of circumstances, for us to complete action on all the measures that we have and adjourn prior to Thanksgiving. It will become impossible if we have to debate every measure for a full day. There are just too many measures and not enough days.

So I urge my colleagues, unaccustomed as we may be on brevity, to attempt to do so, attempt to exercise self-restraint during this period so we can get all of these measures done beforehand and are able to leave by Thanksgiving.

Mr. DOLE. If I could just mention one other matter, I think once we get to the Medicaid problem, it could take several hours. So I do not want to leave anybody under the impression that it will be just 45 minutes; it is going to take several hours unless we can reach some accommodation. The sooner we can dispose of this matter, which is very important—I want to congratulate everyone for their contributions—it will take some time once we get to Medicaid.

Mr. MITCHELL. Mr. President, I do not want to leave the impression that by mentioning several things here the distinguished Republican leader or I have established an exclusive list and that nothing else will be considered. There may well be other things. The Finance Committee reported out legislation to extend the expiring tax provisions, and there may be other things.

So I do not want to create an incorrect impression that by mentioning several important things we intended to establish that as an exclusive list.

Mr. DOLE. Mr. President, we have also been notified by the Labor Department that unless we complete action on the unemployment bill tonight, there are about 200,000 unemployed people in 18 States who are going to have great difficulty getting their reachback. So it is very important that we complete action on that tonight. I think that can be done by a voice vote. I do not know of any objection.

But I just say to all of my colleagues, some who represent one of those 18 States, we hope to do that this evening.

Mr. MITCHELL. I want to yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to ask the majority leader if he previously sought a time agreement on this amendment.

Mr. MITCHELL. I have not. But is there any problem with proceeding to a vote right now? I think this would be the best time.

Mr. BUMPERS. As soon as I get my 10 minutes, I am ready to vote.

Mr. DOMENICI. I need 2 minutes.

Mr. LEVIN. Senator WOFFORD wanted a minute; DOMENICI wanted 2; BUMPERS wanted 7 or 8. About 15 minutes should do it, equally divided.

Mr. DOMENICI. I do not need 2.

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 15 minutes more debate on this amendment, with the time equally divided under the control of Senator LEVIN or Senator DOLE and Senator BIDEN; that the time be equally divided and controlled by Senators DOLE and LEVIN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, reserving the right to object, I just a moment ago said I would like to have about 6 or 7 minutes. The time is going to be controlled by Senator DOLE and Senator BIDEN? No objection.

Mr. DOLE. I reserve 3 minutes on this side and 12 minutes to the Senator from Delaware.

The PRESIDING OFFICER. There being no objection, without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I expect we will have a vote in 15 minutes on this, and then that will be followed by a vote immediately on the—Boren will be first and then this amendment, and I hope we do not need a vote on final passage, that no Senator will request it, so we get moving on these other things.

I want to repeat. We have to pass this unemployment insurance bill. We have to get to that. That is a matter that is of critical importance to hundreds of thousands of people all over this country. We have to get that done.

I thank my colleagues. I yield the floor.

Mr. SASSER. Mr. President, I support the motion to proceed.

The interim final regulation that is now on the books and will take effect on the 1st of January, cannot be allowed to go forth.

Many States, including Tennessee, have severe problems in financing their Medicaid programs. If this regulation is not blocked, there will be fiscal chaos in Tennessee and many other States. State legislatures will be thrown into disarray as they seek to revise their Medicaid matching programs in very short order.

The fiscal situation in my own State of Tennessee is instructive. Tennessee now maintains a $2.3 billion Medicaid Program. Yet, if the current regulations are allowed to go into effect on January 1, 1992, Federal Medicaid payments to Tennessee could be cut by some $380 million in the first 6 months of 1992. This would mean that the State legislature would have to come up with a $380 million tax plan levied on Medicaid providers, taxpayers in general, or both.

The Tennessee Legislature and other legislatures around the country should not be put under the gun to rush forward with new tax legislation which they may not well be able to afford.

Moreover, thousands of low-income women, pregnant women, and children would likely lose their eligibility for Medicaid and see their services cut. Many hospitals may revise their Medicaid admissions procedures, further curtailing access to Medicaid services. Therefore, taxpayers, Medicaid beneficiaries, and Medicaid providers all have a major stake in not permitting these final regulations to go into effect.

Mr. President, States are now trying very hard to find an equitable solution to this problem. They are looking for alternative funding means to finance their Medicaid programs.

States are making an effort, but they are under tremendous fiscal pressure. To date State governments have raised taxes by some $25 billion in 1990 and 1991, and they still have had to cut State spending by some $7 billion in 1991. Clearly State fiscal coffers are bare and they have very little leeway to raise additional taxes to support a higher proportion of medical spending, a good deal of which has been mandated by Federal law.

We simply cannot solve this problem by regulation. The remedy to this Medicaid financing dispute must be through the legislative process.

But we need more time to arrive at that legislative solution. And we cannot put States at such fiscal risk during that process.

Mr. President, we have all heard that a legislative solution may be at hand. The National Governors Association and the administration believes that they have found a solution. But a number of States have still said they want to take a look at the detailed legislative language of this compromise before they sign on, hence the need for a legislative moratorium.

It may take a little longer to bring everyone on board, but in the meantime we need to proceed with this legislation. We have to give the States, the administration, and the Congress, a chance to work things out.

Mr. President, I want to make it clear that the National Governor's Association compromise seems to have many constructive elements. The Governor of Tennessee, the Honorable Ned Ray McWherter, has indicated that he supports such a compromise in this broad outline. But most of us have only seen that compromise in draft form and I think we all need a little more time to digest it.

We may be able to carefully study the Governor's compromise later—maybe even before we adjourn. It may be even possible to legislate the compromise in very short order. But only if we move forward with this motion to proceed.

I urge all my colleagues to vote for the motion to proceed. We need to get this issue solved before we recess in order to avert fiscal chaos in the Medicaid Program beginning in January 1992.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 7 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the distinguished floor manager very much.

First, I want to say this is really not a debate. This has been a time for Senators to make statements, which in my opinion have been extremely eloquent, extremely well reasoned. I can remember during the debate in January on Desert Storm, I thought that was the best debate I had ever heard in the Senate, and, whether you were for going to war immediately or not, most of the American people, even those who disagreed, for example, the people on my side, found that debate to be edifying and in the highest traditions of the U.S. Senate.

Here we have an issue that I just heard Senator LEVIN and Senator NUNN discuss with what I thought was acute perception about what we are really doing here.

Bear in mind those who may have some fear of their own rhetoric or especially the rhetoric of others or those who are terrified by the prospects of a 30-second spot, that what we are doing here is calling on the President, if you seek cover, to submit a proposal to the Congress using all the financial resources of various world organizations and possibly the resources of the United States to make certain that what is a very distinct possibility does not occur. To call on George Santayana, once more—as has been done thousands of times on this floor—that is, those who cannot remember the past are condemned to repeat it. This is a classic case. Do you not remember studying that Hitler came to power in 1932 as a result of economic chaos in Germany, where it took a wheelbarrow full of German marks to buy a loaf of bread? Do you not remember a dictatorship flying of the hammer and sickle in 1917 capitalized on the tremendous economic disparity in what had been or became the Soviet Union, then Russia?

Mr. President, what we are saying here is that this is a sense-of-the-Senate resolution and we ought to support it unanimously. There are some people who simply cannot acclimate themselves to the end of the cold war. I said on the Senate floor many years ago that, if the Soviet Union were to agree to unilaterally disarm and let the New York Times editorial board watch the whole thing, there would be a lot of people in this body voting no.

The Senator from Georgia has already offered an extremely meaningful proposition for us to help the Soviet Union dismantle their war machine, particularly their nuclear weapons. He was in a meeting with me the other day with a high-ranking Soviet official. This is what they want more than anything else. Even they are frightened of the proliferation of their own weapons because of the volatility and the instability of the republics of the Soviet Union.

For every nuclear weapon we can help them dismantle, you think about what we have done for ourselves. If I were to offer the Members of this body, Mr. President, an opportunity to make a $5 investment and tell them that this is a little bit dicey, but it holds the possibility of returning $100, $200 on the investment in a few years, there are not many people here who would not take advantage of that. And consider the fact that in 12 years we have spent $3 trillion on the cold war, and it is over—the most monumental event of this century, and maybe ever, has occurred, and here we are having a very difficult time acclimating ourselves to that reality.

Mr. President, we have an opportunity to make an investment with an unbelievable return. The Senator from Michigan has appropriately said trillions. Incidentally, the Soviet Union bankrupted themselves staying up with us—I hesitate to use the word "bankruptcy" for us, but we do have a $3.5 trillion debt to show for a lot of things, not the least of which is the cold war.

Those who do not seize the moment deserve their fate.

So not to take advantage of the chance of a century, and maybe forever, would be the height of irresponsibility. It may be, as one Senator said to me a moment ago, that ethnic strife is too deep in the Soviet Union, they cannot make it.

Look at Yugoslavia. Most people never realized the ethnic differences that were so deep and so pervasive in Yugoslavia, and now that country is being literally destroyed before our eyes because of it.

Maybe that is what will happen to the Soviet Union. Maybe the Russians will be fighting the Ukrainians, or the Kazakhstanis will be fighting the Uzbeks.

I think that is the big danger in that part of the world. It may be that they may not make it, and it may be that if we put a few billion in, or if the President comes with us on a very bold initiative on our part to try to make certain that the Soviet Union heads into a free market, into a democracy, into a viable economic entity that will in fast be buying our goods a few years from now, that will be allowing American entrepreneurs to assist them. Think about the unprecedented opportunities that present themselves.

Make no mistake about it, there are certainly dangers. The danger is, as our Ambassador to the Soviet Union points out, no matter what we do, he said he feared a fascist future for the Soviet Union.

We all know there is always some charlatan coming down the pike looking for this kind of opportunity—you see it happening in a few States in this country—seizing on the discontent and the malaise of the people. And that certainly can happen there.

Mr. President, I just wanted to say to my colleagues, and I think this is going to pass with a very healthy margin, but there is one thing for sure. If we can get together with the President to do the things this resolution calls for, and the Soviet Union still does not make it, you will have the satisfaction as a U.S. Senator of knowing you did everything you knew to do; that you were rational, thoughtful, and you tried to prevent it. If you do nothing for this country, historians have a right to hold you responsible.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I think we have 3 minutes. I yield myself 3 minutes out of what Senator DOLE has reserved.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise in support of the Conventional Force in Europe Treaty and its implementing legislation.

As we look back over the past decade we see concrete signs that the world is steadily moving toward democracy. Around the globe, people are resisting and peacefully overthrowing repressionist governments. Nowhere has this revolution, this surge toward democracy, been more dramatic than in Europe. We have witnessed Germany's joy as the Berlin Wall fell, and that divided country reunited in a commitment to democratic principles. We are witnessing the courage reunited in a commitment to democracy and a free market economy. We are witnessing the countries of Bulgaria, Czechoslovakia, Romania, Hungary, Yugoslavia, and Albania make the same transition.

The United States is offering aid to these transitional countries. While technical advice and monetary aid is of great assistance, nothing can facilitate the rush toward democracy more than the ratification of and adherence to the Conventional Forces in Europe [CFE] Treaty. This treaty ends the military standoff that has existed in Europe for the last 40 years. At the height of the cold war over 80,000 tanks and 5 million ground troops faced off against each other. With the CFE Treaty, the tanks are reduced to 20,000 each.

There have been many unilateral gestures to reduce the tensions in Europe. The Soviet Union has withdrawn its forces from Hungary and Czechoslovakia, and has agreed to withdraw from Germany by the end of 1994. The United States has announced its plans to withdraw 50,000 air and ground troops from Europe, The CFE Treaty codifies these withdrawals and provides each side with tremendous insight into the other's military structure and composition. The transparency of forces has been unheard of till now.

THE HORRORS OF ETHNIC STRIFE OVERSHADOW CFE

As we vote today on the CFR Treaty, we are shadowed by the horrors of ethnic strife—some call it a new thirty years war—that is spreading throughout the lands of the country we know as Yugoslavia. We cannot take too much pride in the CFR Treaty as we recall the ongoing atrocities of Vukovar and Dubrovnik.

Nothing in his treaty will heal the million families that include persons of mixed Croatian, Serbian ancestry. When one parent has to choose between remaining with spouse and child to face almost certain death or abandoning his or her family to seek refuge with fellow nationals, the surviving members of that family will never be the same. That is what is happening now in the nation we once called Yugoslavia. And there is nothing in this treaty that will necessarily end the use of conventional forces in Europe in civil war.

Implementation of the CFE Treaty may reduce the number of European tanks, artillery, planes, and warships that could be used against fellow Europeans. It could discourage the Russian Federation, Ukraine, Armenia, the Czech and Slovak Federated Republic, Romania, Bulgaria, and the Central Asian republics from following the terrible path of civil war undertaken by Serbia and Croatia. Those would be unanticipated benefits of this treaty, for it was negotiated in a bygone era.

This CFE Treaty, like the once famous Washington Naval Treaty of 1922, addresses yesterday's problems. Just as that treaty could not anticipate the aircraft carriers that dominated the Second World War, this CFE Treaty does not address the use of conventional forces—much less nuclear forces—within nation states that are breaking apart. Ethnic strife, more than anything else, is today's security threat to Europe and, less directly, to the United States.

THE SIGNIFICANCE OF THIS TREATY

This treaty will not contribute to a significant reduction in the United States defense budget. CFE compliance and verification costs, could range from $25 to $75 million per year, and will be absorbed within the defense budget. The equipment reductions we need to make in compliance with the CFE Treaty are relatively minor. The Congressional Budget Office estimates the treaty will yield no direct savings in addition to those resulting from NATO restructuring and United States unilateral withdrawals from Europe.

However, we all would agree that the significance of the CFE Treaty is not its budget impact. This treaty does not lead us into the end of the cold war. It is a symbol—a gravestone marking the end of the superpower standoff. This treaty cannot ensure stability within countries facing ethnic unrest. This treaty cannot do much to alleviate the unemployment and poverty that threaten Eastern Europe as it wrestles with the harsh realities of a free market economy. Ratification of this treaty, does not solve these immense problems. It is just a legal instrument assuring adherence to weapons reduction already underway.

THE NUNN PROPOSAL

Mr. President, I spoke on the Senate floor last Tuesday in support of what Senator NUNN was then saying. At that point in time, there were few people supporting his Soviet aid proposal. I was very pleased to join him then. I am proud to be a co-sponsor today.

I do not think that because we have problems at home, we ought to be paralyzed.

We have some weaknesses with reference to our social fiber and perhaps, as some would say, with reference to our economy, the production of goods and services and wealth for our people.

We have some weaknesses with reference to our social fiber and perhaps, as some would say, with reference to our economy, the production of goods and services and wealth for our people. Nevertheless I do not think we ought to hide from the reality that in winning the cold war, we have taken on a special responsibility. Instead of hiding, we ought to be glad to undertake a program of support for democracy and free market economies in Russia and the other former Soviet republics.

SOME HISTORY

Just think how much better the world is today than when we began serious disarmament across the board. Just think of today's world as compared with 10 years ago, as compared with the months and years after the Cuban missile crisis when Khrushchev decided to match us, and we got into an incredible nuclear armament competition. And even though America and the Soviet Union never used them, we greatly weakened each country in terms of our fiber and capability for the future, because we spent untold amounts of money on that cold war.

Obviously, the world then was at a crossroad. We could have gone their way and all lost our freedom, or we could have forced others to go our way and expected the world to share our freedoms. All of a sudden, out of the blue, it fell our way. Now we understand that that was not an accident. That occurred because the American people, the taxpayers, average citizens, and a few leaders, decided we were going to peacefully, and sometimes not so peacefully, meet and contain Marxist-Leninism.

Truman is a good example. He was the first American President to put out the challenge. He spent a lot of money, when we had the Berlin blockade, and he had to deliver food and fuel to Berlin in American airplanes. Think of every one since then. Those were tough decisions, loaded with danger.

What do we have today? Several choices: whether or not we want to put something together to help Russia, Ukraine, and the others with our tremendous capabilities. A decision to organize, put something together with the other free countries, to help meet some—not all, but some—of the needs of the Soviet peoples. Decisions about how to balance a Soviet government with new republican governments as they move toward freedom and toward completely different styles of living than they have lived under since they had their first revolution in 1917–18.

Frankly, I never did hide from the Nunn proposal, so I am not worried about what my constituents will say. I have been suggesting to my friends in little old New Mexico for 6 or 7 months that America had a real opportunity, and we better not shrink from it.

MORE AMERICAN PRESENCE IS NEEDED

Frankly, we ought to have more American presence in the Soviet Union right now, because they look up to Americans. Sure, you can send the Japanese in, but right now they are saying we want to know what the Americans are going to do.

They are not asking for billions of dollars. Why would we not do what Senator NUNN proposed? I say to my good friend from Georgia, who came to the Senate with me 19 years ago, we will have the most ludicrous situation in our 19 years if we hide from the Russian opportunity. We will have had a chance to befriend the Soviet Union and help their people. If we don't they will end up our enemies, because we in Washington dropped the ball and decided that we better come home now—home to America. Two weeks ago we were ready to hide out and had decided we really cannot afford to help Russia and the others. If we had taken that route, we would have demonstrated that we do not have the leadership capability. That would have been absurd.

THE DOLE-LEVIN RESOLUTION

This resolution says to our President, you start down that path on working with the former Soviet Union, and, if I read it right, we will be with you, and we will help you. It says the President and the legislative branch together will begin to move in the direction of leading the free world to begin to help the ex-Soviets in discrete but compatible ways. I think we need a major American presence, so that Russians, Americans, Turkamen, et cetera know we are there. We can keep better tab on things outside of Moscow, and understand events. The expanded presence can assist Americans who want to join. They can tell us where things are going and where things are needed. In that regard, I think the sooner the President exercises some of these authorities the better.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware controls the remaining time.

Mr. BIDEN. I yield the Senator from Pennsylvania 1 minute.

Mr. WOFFORD. Mr. President, I salute the Senator from Michigan, not just for his eloquence and wisdom, but for his practical and thoughtful initiative along with that of the Senators from Kansas, Georgia, and Oklahoma, and the other cosponsors of this resolution.

I hope we will pass this resolution from a comprehensive bipartisan response to the challenge of a historic change in the Soviet Union. How to respond to that challenge is one of the great problems facing this country. So today let us take this initiative, and tonight, and tomorrow, and the days ahead, let us show the same kind of initiative and comprehensive bipartisan response to the critical problems of our domestic economy which also call for action.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, when my father was 17 years old, he left Russia, a Jewish immigrant, because of the Czar's suppression. Then there was a revolution. And he thought he would go back. And his family told him never to come back because the Bolsheviks took over. He never saw his family again. We know that part of history.

And then there was a cold war. I love languages, but I do not speak Russian, because my father was terrified to speak Russian in our home during the McCarthy era.

Then there was all of the money spent on the weapons of death and destruction. We have a chance now—a real chance—to end that.

What is happening in the Soviet Union, or what used to be the Soviet Union, I will say one more time on the floor of the Senate today, crucially defines the quality or lack of quality of the lives of our children and grandchildren, and I think all of God's children.

I believe that the Senator from Michigan, Senator LEVIN, and Senator DOLE's sense-of-the-Senate resolution is so important.

And I want to just finish up by echoing the words of Senator LEVIN.

It is not a question of a Marshall plan. We may not have the resources for a Marshall plan. It is a question of the spirit, the breadth, and the vision of a Marshall plan. There are so many steps that we can take that can make a huge difference. This sense-of-the-Senate resolution points in that direction.

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 21 seconds remaining.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senators BUMPERS, SIMPSON, and COHEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, this outpouring of support is heartening because I think the Senator from Michigan and the Senator from New Mexico who just spoke made very clear what is at stake. I would hope, having listened to all of this, when we return in February and we come forward with specific legislation, not a resolution, authorizing and seeking appropriations for implementing what we say we believe, I hope at that time there will be equally as much enthusiasm for doing what clearly must be done in the naked self-interest of the people of Delaware, of Michigan, of Connecticut, of this entire Nation.

I compliment my friend from Michigan on his initiative, and I yield back the remainder of the time, but before I do that, I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I have one other unanimous consent. Mr. President, I ask unanimous consent that Senator WELLSTONE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank my friend from Delaware for his support, and if I may say in 30 seconds, I believe this kind of coming together in a bipartisan way is a critical step toward what the Senator from Delaware has just outlined, which is the fact that we must go and should go in our own interest. I thank him for his support.

Mr. BIDEN. I yield back the remainder of time and am ready to vote.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1441

The PRESIDING OFFICER. Under the previous order, the Senate will return now to the amendment offered by the Senators from Oklahoma and Georgia.

The question is on agreeing to the amendment. On that question the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—87

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—7

Glenn
Grassley
Kasten
Roth
Seymour
Smith
Thurmond

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1441) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1443

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Michigan.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I annnounce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—87

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon

Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—7

Craig
Gramm
Grassley
Nickles
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1443) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I commend the Senator from Georgia [Mr. NUNN] and the Senator from Indiana [Mr. LUGAR] for putting together the bipartisan initiative to help the Gorbachev government bring about the destruction of the Soviet nuclear weapons arsenal.

Banishing the threat of nuclear devastation has been one of the most overriding goals of my entire public career.

The dramatic changes in the Soviet Union in the past year have, for the first time, made this a real possibility.

One of the most pressing problems that faces us now is how to make sure the weapons already in existence—particularly in the Soviet Union—are eliminated.

Tragically, just as we are politically on the threshold of ending the nuclear arms race, the economic problems besetting the Soviet Union could well impede the actual elimination of nuclear weapons the Soviets have already agreed to render useless.

For the past several months, I have been working on proposals to help assure that economic barriers do not stand in the way of finally eliminating the nuclear threat which has hung over us for so many decades. In addition, I am troubled by the prospect of dangerous and growing stockpiles of weapons-usable fissile materials which might be reused or sold on an uncontrolled world market.

Last week, the distinguished chairman of the Foreign Relations Committee, the Senator from Rhode Island [Mr. PELL], who is on the floor to my right, and I introduced legislation, the Nuclear Warhead Security and Plowshares Act of 1991, designed to address this problem.

This legislation which I am now introducing in amendment form would provide a way for the United States and Soviets to work together to gather, dismantle, and safeguard the materials in nuclear weapons that have been rendered surplus by the START Agreement and recent unilateral arms reduction efforts.

AMENDMENT NO. 1444

(Purpose: To eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons usable materials from United States and Soviet warheads)

Mr. CRANSTON. Before saying more, Mr. President, I send to the desk this amendment I am discussing on behalf of myself, the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. ADAMS], and the Senator from Minnesota [Mr. WELLSTONE].

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mr. CRANSTON] for himself, Mr. PELL, Mr. ADAMS, and Mr. WELLSTONE, proposes an amendment numbered 1444.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new Title:

"TITLE .—ELIMINATION OF WEAPONS-USABLE FISSILE MATERIALS

SECTION 1. SHORT TITLE.

This title may be referred to as the "Nuclear Weapons Security and Plowshares Act of 1991".

SEC. 2. PURPOSES.

The purposes of this Act are:

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons-usable materials from United States and Soviet warheads.

SEC. 3. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) DETERMINATION OF PURCHASE PRICE OF SOVIET FISSILE MATERIALS.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) COLLECTION, DILUTION, AND SAFEGUARDING OF SOVIET FISSILE MATERIALS.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) MUTUAL REDUCTION IN INVENTORIES AND IMPLEMENTATION OF SAFEGUARDS.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) PROPOSED AGREEMENT WITH IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency (IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification;

(2) to discuss the advisability and feasibility of an agreement to place all civilian fissile materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 4. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949, or

(2) agricultural commodities or other essential commodities purchased at market prices.

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 5. STORAGE SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution of enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b):

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the plutonium accumulating in spent civilian-power reactor fuel.

SEC. 6. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium of separated plutonium.

SEC. 7. TRANSFER OF FUNDS CUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Departments of Defense as he may designate during fiscal years 1992 through 1996 such funds as may be necessary to carry out the purposes of section 4:

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A) (5) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" included all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (a) any uranium that is enriched to more than 20 percent in U-235 or U-233, or both, or (3) (B) any mixture of plutonium isotopes containing less than 88 percent Pu-238.

Mr. CRANSTON. Mr. President, I believe that our amendment is entirely complementary to the purposes pursued by the Senators from Georgia and Indiana with their approach. By adopting this proposal, the first four of the five concerns raised by the exclusion section of the Nunn-Lugar amendment would be taken care of.

Adoption of this amendment would give the cash strapped Soviet Union the possibility of investing its own resources to dismantle or destroy its weapons of mass destruction.

Our amendment would also substantially reduce any modernization program designed to replace or upgrade nuclear weapons, rendering their warheads useless and available only for peaceful purposes.

It would also ensure that the fissionable and other components of destroyed nuclear weapons would not reappear in new nuclear weapons—a key issue left open by the Nunn-Lugar proposal.

And finally, it would go a long way to assure Soviet compliance with relevant arms control agreements, providing as it does for mutually verifiable compliance under international safeguards.

I was pleased to give my strong support to the Nunn-Lugar initiative, but I also want to make it clear that enactment of this initiative should not be the end of our efforts in this area.

I believe that much more will need to be done, not only to ensure the dismantlement of the Soviet nuclear arsenal, but to ensure that nuclear weapons-grade material does not make its way into the black market for potential reuse by outlaw nations or renegade terrorist groups.

Our amendment would make the uranium harmless by requiring the mixing of the 90 percent enriched uranium with normal uranium. Both the uranium and plutonium would be placed under safeguards.

The second key part of the amendment is that the Soviet Union and the Republics would receive United States agricultural commodities in return for accepting this plan.

If enacted, this legislation could provide a needed next step to current arms reduction agreements that call for the elimination of some nuclear delivery systems but do not require the dismantling of warheads or safeguarding of nuclear weapons materials.

Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons-grade uranium diluted to civilian reactor-grade could eliminate a critical threat to nonproliferation efforts and consolidate democratic and free-market reform.

Mr. President, this proposal allows the United States to use the commercial value of uranium derived from Soviet weapons to offset the cost of sending food to the people of the former Soviet Union, but also includes an incentive for the Soviet Republics, which have made it clear that they, too, want a say in nuclear weapons policy.

An additional 25 percent of the commercial monetary value of Soviet fissile materials acquired under the provisions of this bill would be given to the Republics in the form of financial aid. These moneys would be earmarked for the creation of regional and local development banks.

This amendment also expresses the sense of Congress that reductions in the Soviet weapons-usable fissile stockpile should be accompanied by a parallel decrease in our own inventories, and by implementation of bilateral, multilateral, or international safeguards on these materials.

It is the intention of this amendment to help stabilize the transfer of Soviet weapons uranium to civilian use through the United States Department of Energy, and also to focus attention and provide resources for safely storing and ultimately disposing of plutonium inventories.

Funds for carrying out the provisions of the amendment would come from unobligated Department of Defense moneys.

As we are well aware, the Soviet Union is in desperate need of food aid. The centralized economy has fallen apart and no new system has emerged to replace it.

The Republics are facing a grave economic depression characterized by food shortages, declining exports and lack of foreign currency.

Further, the small size of the middle class, the lack of autonomous civil and economic institutions, and the existence of a parasitic administrative caste makes reform in the Soviet Union a difficult challenge.

It is definitely in the United States' best interest to help speed reform along and to promote stability in a country that still controls half the world's nuclear potential.

Last week, when we introduced our bill, Senator PELL noted the chilling words of Dr. Valeri Davydov, of the Soviet Institute of U.S. and Canada Studies, as he described one recent near-tragedy involving the Soviet nuclear arsenal;

> There was at least one incident, in Azerbaijan in which a band of rebels briefly broke into an installation at which nukes were stored. That is why a majority of experts underlined the necessity to destroy the tactical nukes and welcome the new Bush proposals on arms control.

As our own envoy to Moscow, Ambassador Robert Strauss, has just remarked, "I'd rather risk a couple of billion bucks out here for our country * * * than fail to risk a couple of billion bucks and end up looking at a real fascist type situation."

Mr. President, this amendment provides for both United States security and economic interests, while at the same time helping the former Soviet Union on its path to democracy and the benefits of the free market.

I yield the floor at this point.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I am very pleased to be a cosponsor of the Nuclear Warhead Security and Plowshares Act of 1991, and congratulate the Senator from California, Mr. CRANSTON, for his initiative in introducing this legislation, and thank him, all of us, for the initiatives he has taken over the years in arms control matters, and the leadership he has shown in that field.

What we are talking about today is to avoid a recurrence of history. Let's think back to the time of the original Russian revolution, the Kerensky, Menshevik revolution, which at that time was ignored and frozen out by the rest of the world. By not helping and ignoring the first stage of that revolution, the rest of the world opened the doors for the second stage, the Lenin-Bolshevik revolution of the early 1920's. If we ignore what is going on in the Soviet Union today, we could see the same thing happen. A harder, tougher, and more a forbidding group could take over Russia; whereas if we helped this present Russian Government, helped them in what they are doing, we would be better off in the long run.

The Soviet Union today faces a very real challenge that this bill addresses. I cosponsored the Nunn-Lugar bill amendment because of the present uncertainties in the Soviet Union. It is clear we should assist the destruction of the weapons because it is in our interest and their interest to disable them.

However, the Cranston bill goes further. It would help ensure that the highly enriched uranium and the plutonium these weapons contain would not be placed on the international market or otherwise be diverted. After the CFE Treaty has passed the Senate today, the administration submitted the START Treaty to the Senate. It has just arrived and the unprinted START Treaty and the section-by-section analysis are about 2 feet thick, and the printed treaty is about 300 pages long. So we can see a busy month or two ahead.

If ratified, START would lead to the elimination of several thousand warheads. The START Treaty, taken together with the unilateral decisions of Presidents Bush and Gorbachev to eliminate many tactical nuclear warheads will lead to the elimination of additional thousands of warheads, possibly as many as 10,000 or so.

These warheads contain 200 tons of highly enriched uranium and 50 tons of highly toxic plutonium. Because of the uncertain relationship between the Soviet Union's Central Government, the remaining 12 Republics and various ethnic groups, there is a significant possibility that these weapons or the nuclear materials could become items of commerce on the black market. If these nuclear weapons fall into the hands of dictators or terrorists, the world could be held hostage to criminals.

This bill would make the uranium harmless by requiring the mixing of the 90-percent enriched uranium with normal uranium. Both uranium and plutonium would be placed under safeguards. Soviet officials have stated that the Soviets will not be able to dismantle their weapons, at best, before the turn of this century. A decade or more is too long a time for the vast amounts of material to be in an uncertain state.

The second key part of this bill is that the Soviet Union and the Republics would receive American agricultural commodities in return for accepting this plan. This makes a lot of sense to me, and it tremendously benefits all involved.

I repeat, by way of background, to think back in history as Santayana said, "Those who ignore the lessons of history are condemned to repeat them."

In 1919-20, we ignored what was going on in Russia that precipitated from the Menshevik origins of that revolution to the Bolshevik revolution a few years later, which have taken 70 years before it could rot away.

I also would thank the Senator from Delaware, Mr. BIDEN, for taking on the load of managing the CFE Treaty and the subsequent cascade legislation, and compliment him on his skillful handling. I much appreciate his help, and look forward to continuing to benefit from it, working together through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I would like to speak very briefly to the Cranston amendment and suggest at least two things about the amendment.

First of all, the Cranston-Pell amendment is an extremely innovative notion dealing with an area and a concern that is critical to the interests not only of the United States but of the world.

I can assure the Senator, because the chairman of the full committee is a cosponsor of this, that I do not have the slightest doubt in my mind that the Senate Foreign Relations Committee will give this its full and urgent attention if, in fact, it is withdrawn upon our return to the Senate.

The Senator has touched upon a concern of grave concern, of significant interest, to this Nation and has offered an approach that is truly innovative. But I would respectfully suggest that it would be better handled with the committee directing its attention to this issue upon our return and, possibly, if the chairman of the full committee wished to, prior to us returning, reconvening the Senate.

Mr. PELL. I think I prefer to wait until we reconvene.

Mr. BIDEN. In whatever manner the chairman of the full committee would like to proceed, I am just merely chair of one of the subcommittees as the Senator from California is. But I participate and I will be involved in any way that the chair would like me to be, but I think it is an extremely innovative idea, addressing the concern of no greater consequence to this country at the moment, and I compliment him for raising this issue.

Mr. CRANSTON. Mr. President, I thank the manager of the bill for his kind words and for his recognition of the importance of this approach, for his commitment to working with the chairman of the full committee, Senator PELL, and myself, to bring this idea to fruition as early as possible in the next session of Congress.

I think, therefore, that we should withdraw the amendment, pursuant to that advise, but keep it before the body as a freestanding bill and endeavor to work it over, make whatever changes are in order, and bring it before the full Senate as early as possible in the next session of Congress.

Time cannot be wasted on this important matter. I understand also that the Budget Committee wants to be involved in the consideration of the measure, and we will be consulting with it, as well as the Foreign Relations Committee, as we prepare for action early next year.

I thank the distinguished chairman of the committee for his partnership in this effort and, with his help and that of the Senator from Delaware, I am very confident that we can move this along in the next session.

For those reasons, I will now withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1444) was withdrawn.

Mr. PELL. Mr. President, I look forward to working with the Senator from California with this project and once again thank him for his leadership of many years on matters of disarmament and arms control.

Mr. BIDEN. Mr. President, I will take only 30 more seconds. We mentioned innovation. And in the context of the Senator from California, in arms control there has been no Member of the Senate who has been as effective, as persistent, and prescient when it came to issues relating to arms control, and what was likely to happen than the Senator from California. I think it is appropriate at the moment that I recognize that fact. I look forward to continuing to work with him.

Mr. CRANSTON. I thank the Senator from Delaware very much, and I also thank the Senator from Rhode Island very much.

Mr. BIDEN. Mr. President, I said prescient. I meant the Senator knew what he was doing for a long time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of H.R. 3807, the CFE implementing legislation, that the Senate then proceed to Calendar No. 347, House Joint Resolution 346, on which there will be 30 minutes of debate with the time equally divided and controlled between Senators BENTSEN and PACKWOOD; that when the time is used or yielded back, the joint resolution to be temporarily laid aside, and that the Senate then proceed to the consideration of H.R. 1724, the MFN-unemployment insurance supplemental conference report, with 30 minutes to debate on that conference report, with the time equally divided and controlled between Senators BENTSEN and PACKWOOD; that when all the time is used or yielded back on H.R. 1724, the Senate without intervening action or debate proceed to vote on adoption of the conference report on H.R. 1724; that upon disposition of the conference report, the Senate without intervening action or debate proceed to vote on House Joint Resolution 346; and that upon disposition of House Joint Resolution 346, the Senate companion joint resolution, Senate Joint Resolution 215 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, we have had no request for rollcall votes on either of these two measures. If there is not a request for rollcall vote, it is my intention that they will be adopted by voice vote.

Furthermore, I understand from the staff—and I ask the managers, the distinguished chairman of the Judiciary Committee—whether I am correct, that there is no request for a rollcall vote on final passage of the pending matter, H.R. 3807, the CFE implementing legislation.

Mr. BIDEN. That is my understanding, Mr. President. I know of no one who has thus far asked for, and I hope they will not ask for, a vote on final passage.

Mr. MITCHELL. I inquire of the distinguished Republican leader whether he has any requested rollcall votes on any of the three measures to which I have referred?

Mr. DOLE. No requests on this side at this time. Somebody might drop in, but I do not know of anyone. We hope we can voice vote these. We have a number of members on both sides busily engaged in conferences, others are on official business, and it would certainly expedite the evening if we could voice vote these three measures.

Mr. MITCHELL. Mr. President, in whatever form they are disposed of, it is my intention upon the disposition of all three matters which I now hope will occur within approximately an hour, to then proceed to the debate on the cloture motion on the motion to proceed to the Medicaid Moratorium Act; that under the order now in effect there will be 45 minutes for debate on that measure; and the majority leader, after consultation with the Republican leader, has authority to set the time for that cloture vote at any time today or tomorrow.

The distinguished Republican leader and I will be meeting during the next hour with the House leadership to assess where we are with respect to the progress toward adjournment prior to Thanksgiving.

I hope to be in a position to announce the decision on the Medicaid cloture vote at approximately the time that these measures are disposed of and the Medicaid debate beginning which I expect to be sometime in about an hour or perhaps a little later.

But in any event, we will go to the Medicaid moratorium debate following the disposition of the three matters to which I have referred—the pending bill, the CFE implementing legislation, the unemployment insurance/MFN legislation to which I earlier referred, and the House joint resolution which also will be disposed of. The distinguished chairman of the Finance Committee will be managing both of those matters.

The PRESIDING OFFICER. Are there further amendments to the bill?

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall the bill pass?"

So the bill (H.R. 3807), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Later this evening, we will be considering the trade agreement to provide most-favored-nation status for the Soviet Union. That agreement was signed in June 1990 when the country was called the Union of Soviet Socialist Republics. Since then, we have witnessed the decentralization of economic and political power to the republics. In fact, it is no longer possible to speak of the Soviet Union. The nation no longer exists.

Yet, we are ratifying a trade agreement with the Soviet Union as if nothing has happened. In fact, much has changed. The Baltic States are independent nations and will have their own separate MFN. Many Republics have declared their independence. In Ukraine, there will be a referendum on December 1, 1991, and I anticipate that the vote will overwhelmingly be in favor of independence. President Gorbachev has said that without Ukraine, there can be no union; yet, we are voting on a trade agreement with that union.

It is clear that in this case, the granting of MFN has more political than economic implications. When he had hearings on this issue in September, the witnesses said that our trade with the Soviet Union was not likely to grow far beyond the $4 billion level where it was last year in the short-term. But they emphasized that the agreement was an important step toward the normalization of the relations with the Soviet Union and thus had positive political consequences.

What are those consequences? As I see them, they are validation of the existence of a center, validation of something that no longer exists. The Deputy Assistant Secretary of State, Curtis Kamman, told the Finance Committee in September that "We believe that this agreement, others like it concluded by the Soviet Union, will be an element encouraging the Soviet Republics, whatever their ultimate political relationship may be, to cooperate on economic issues. This, we believe, is in the interest of the Soviet Republics and their peoples as well as of the United States and United States business."

Well, Mr. President, I believe that it is in the interest of the United States, United States business and, most importantly, the people of the United States that the Soviet Union complete its transformation into a stable, democratic, free market—the Soviet Union being not the former Soviet Union, but the Republics that used to compose that Soviet Union. I believe that the economic changes that are necessary are much more likely to take place in the Republics than the center.

Mr. President, I find it very ironic that we are now granting MFN to the Soviet Union, because in July, just before the failed coup, I introduced legislation that would have granted the Baltic States MFN status separately from the Soviet Union. This action was intended to ensure that establishing an economic relationship with the Soviet Union would not damage the Baltic States' struggle for independence.

The administration, in response to this effort on my part, refused to assert the Baltic States' rights to a separate MFN, even though there were existing in-force MFN treaties between each of the Baltic States and the United States, and even though we never recognized the incorporation of the Baltic States into the Soviet Union.

The administration said that the Baltic States could not have MFN because they did not control their borders and could not regulate trade within their customs territory. They were de jure states under American and international law, but not de facto ones, the administration argued, and we could not grant MFN status to a de jure state.

Mr. President, I am, of course, very glad that with the recognition of Estonian, Latvian, and Lithuanian independence, those nations will soon be granted MFN, and that this agreement with the Soviet Union will have no validity on their territories.

In other words, we are granting MFN to the Soviet Union and, at the same time, granting MFN to the Baltic States. Only one MFN will apply to each territory. The Baltic State's MFN will apply on the Baltic's territory.

Mr. President, only a few months later—after this episode, after being told you could not grant MFN status to the Baltic States, because it was only a de jure state at the time, and laying out the criteria they laid out—we are being asked to approve a trade agreement with something called the Union of Soviet Socialist Republics.

It seems to me that the argument the administration used to deny MFN to the Baltic States now applies to the Soviet Union. The Soviet Union is a de jure state, not a de facto state. The Soviet Union that is being granted MFN cannot, for example, effectively determine its borders. Does the customs territory of the Soviet Union include Ukraine, Moldavia, Georgia, Armenia? Will goods shipped out of the port of Odessa, in a country called Ukraine, be subject to the MFN tariffs? Unanswered.

The Soviet Union cannot effectively determine trade laws. Economic decisions are being made at the republic level. Both Ukraine and Russia have, in recent weeks, outlined plans to privatize the economy, establish sound convertible currencies, and regulate external economic relations. It is not even clear what Soviet political institution will ratify this agreement. In September, Mr. Kamman told the Finance Committee that "the Soviet of the Republics, or upper chamber of the newly created Supreme Soviet, is now charged with ratifying international treaties of the U.S.S.R. I would anticipate that this body would be responsible for ratification of the trade agreement." That was in September, when there was a theoretical possibility that this body would have some real authority in the future. As we approach December, it has become clear that not only is there no real power vested in the Soviet of the Republics, there is not even full representation, since many Republics did not send delegates to participate in this body.

So, Mr. President, I voted against this trade agreement in the Finance Committee, and, although I will not ask for a rollcall vote today, I cannot support a trade agreement whose most significant immediate impact is to encourage the existence of a potemkin central government in the Soviet Union. I cannot support an agreement between the United States and a nation that only exists in the minds of a handful of economists and politicians in Moscow. I cannot support a trade agreement that is based on the notion of a central structure that no longer exists. I cannot support an agreement that ignores the Republics. I cannot support a trade agreement that is not in the interests of the American people, who deserve to see the transformation of the former Soviet Union completed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MOST-FAVORED-NATION STATUS FOR THE PRODUCTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of House Joint Resolution 346, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 346) approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Under the previous order, there are 30 minutes to be equally divided between the Senator from Texas, Mr. BENTSEN, and the Senator from Oregon, Mr. PACKWOOD.

Mr. BENTSEN. Mr. President, I yield 5 minutes to myself.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President. This resolution would approve the extension of most-favored-nation treatment to the Soviet Union and the trade agreement the President forwarded to us earlier this fall.

Unquestionably, the political relationship between the United States and the Soviet Union has changed dramatically. I think it is high time that our economic relations also began to reflect those changes. Granting MFN to the Soviets—and approving this trade agreement—is an important step in that direction.

For the Soviets, MFN will be the first step in normalizing our commercial relations. It will not be a panacea for the Soviet Union, but it should help that country integrate its economy more with the West—and at least provide some encouragement to those free market reformers who are taking some painful steps toward economic reform.

At the same time, our companies will benefit from improved access to the Soviet market. And while I am under no illusion that there are great sales opportunities in the Soviet Union at this time, our companies want to position themselves to do business there once the Soviet economy gets back on its feet. Let me assure you that our Japanese and European competitors are doing just that.

This trade agreement will make it easier for American firms to conduct their routine business. It should make it easier for them to put on trade shows, hire employees, find and lease office space and even participate in drafting and reviewing proposed regulations that might affect their business. And the Soviets committed in this agreement to make significant improvements to their intellectual property laws: In fact, any of these improvements are already in place.

Of course, the situation in the Soviet Union is still uncertain. We do not know which of the Republics will ultimately participate in the economic community. And we do not know at this point what that economic community will ultimately look like. And it's true that the party that negotiated this trade agreement with us in June 1990 is not the same party that's on the other side of this trade agreement now.

But in my view, this uncertainty is not a reason for us to continue to deny MFN to the Soviet Union. It is, however, a reason for us to insist that the administration consult with us regularly and closely on the operation of this trade agreement and any problems that may arise.

For that reason, I wrote Secretary of State Baker last month proposing that we establish a consultative mechanism to monitor the agreement. The State Department has agreed—and I expect to be hearing often and in detail from the administration about what is going on in the Soviet Union, and what that means for the operation of this agreement.

Our companies are willing to live with some uncertainty. They want to get on with their business—to start to explore the opportunities that might exist in the Soviet republics. And I do not think we should stand in their way.

I want to pass on to you the comments of my good friend Bob Strauss—our former trade negotiator and now our Ambassador in Moscow. He wrote to urge this body to move quickly on the agreement. He said that he knows that there has been a lot of debate in Washington about the ability of this country to influence events in the Soviet Union in a positive way, and that there's some reluctance to spend the taxpayers' dollars to do so. But his conclusion was this: Approving this agreement will not cost the taxpayers a cent, and it will improve trade opportunities for American business as well as for the Soviets.

That is a pretty persuasive argument, and that is why I believe that we should move quickly to approve this agreement.

The PRESIDING OFFICER. The Chair will note that under the previous order, the time has been allocated to the Senator from Oregon, which is now under the control of the Senator from Kansas.

SOVIET AND BALTIC MFN

Mr. DOLE. Mr. President, in the course of the evening, if all goes as planned, we will complete action on legislation providing MFN to both the so-called former Soviet Union, and the Baltic States.

These actions are very important, both symbolically and substantively.

Symbolically, nothing will send a clearer signal that the United States wants to welcome these nations into the community of democratic and free market nations. The Baltics, of course, are already there—to the great satisfaction of all of us. Many of the Republics of the former Soviet Union are there, too, or firmly on the road to being there.

Certainly one of the central elements of the revolutions that have swept these countries and Republics has been the determination, at long last, to do away with decades of bankrupt Communist economics—and substitute free market principles and practices. So it is fitting that one of the important first steps we take in responding to the revolutionary changes we have seen is to fully normalize trade relations, through the granting of MFN.

But, as I said, these actions are not only important symbolically, but substantively, too.

The remarkable forward strides taken in the Baltics and the former Soviet Union are not irreversible. As so many of us commented in our debate on several amendments to the CFE implementing legislation, the Baltics and the Soviet Republics face a very hard winter; and even if they get through this winter with their democractic revolutions intact and on track—they still face a long, tough road of full transition to stable democracy and fully developing free market economies.

They're going to have to bite the bullet of austerity—and the only way they're going to be able to sell that to their long suffering people is if they can also offer a credible prospect for longer term stability, growth and reasonable prosperity.

They can't do that unless their economies grow, both domestically and in terms of their relations with other economies around the world.

In short, to survive in the short run, and to develop and prosper in the longer run, the Baltics and the Soviet Republics will need rapidly expanding trade with the United States and the rest of the industrialized West. So providing MFN is one of the best, soundest, and most cost-effective ways we can help these fledgling democracies. It also happens to be one of the best ways we can help America.

Free and fair trade among free market economies is, by definition, mutually beneficial—or else it wouldn't happen in the first place. Providing MFN is an essential step in establishing the environment for rapidly expanding free and fair trade.

Mr. President, earlier today the distinguished majority leader, Senator MITCHELL, and I met with the Foreign Minister of the Russian Republic, Mr. Kozyrev. While expressing great appreciation for the actions of the Senate earlier today in passing the Nunn-Lugar, Boren-Cohen, and Levin-Dole amendments—he also stressed how important it would be to his Republic, and his President, President Yeltsin, for the Senate to act this evening to extend MFN.

I am pleased that we are at that point now. And I hope all Senators will join in approving these measures, which truly represent a two-fer. Because passage will do a great deal to benefit the Baltics and the Republics of the former Soviet Union—and will, at the same time, bring great long-term benefit to the United States.

Mr. DOLE. Mr. President, I underscore my agreement with the chairman of the Finance Committee, and indicate this is no panacea. But there has been a sea of change in the former Soviet Union the past several months, and it seems to me that this may be of benefit, not in the immediate future, but in the near future and in the years to come. And it is certainly a step in the right direction.

I have no further requests for time on this side of the aisle. I am prepared to yield back.

Mr. BENTSEN. I have no further request for time on this side, and I yield back the remainder of my time.

Mr. PELL. Mr. President, I rise to support the extension of MFN status to the Soviet Union. This afternoon, a consensus emerged in the Senate that the United States has a stake in helping the Soviet Union and the republics to avoid social chaos and achieve economic and political stability, and we passed several measures toward achieving that goal.

I believe that by extending MFN treatment to the Soviet Union, the United States will take one more step to help the Soviet Union in its transition to a market-based economy. For example, through increased Soviet exports to the United States, the Soviet Union will generate the hard currency necessary for the Soviet Union to import more goods and improve its productivity and standard of living.

As Ambassador Strauss recently pointed out, the implementation of the trade agreement with the Soviet Union "will not cost the taxpayers a cent, and it will enhance trade opportunities for American business as well as for Soviets." Mr. President, I believe that this is a compelling reason for us to support the extension of MFN to the Soviet Union.

NO MFN TO SOVIET UNION

Mr. DECONCINI. Mr. President, while I did not demand a rollcall vote, I want to register my opposition to the resolution to extend MFN to the Soviet Union. I have two main reasons for doing so:

First, I cannot, in good conscience, vote for extending MFN to the Soviet Union when there has been virtually no movement on resolving longstanding emigration cases. Both Presidents Gorbachev and Yeltsin had every opportunity during the September Moscow CSCE human rights meeting to let these refuseniks go, once and for all, yet they took virtually no action. In September, we presented case lists personally to both Soviet and Russian officials in Moscow and virtually no cases have been resolved since that time. How can we responsibly deal, let alone consider extending aid, with governments that still deny citizens the right to leave based on knowledge of computer or other technology that was obsolete 20 years ago?

There are more than 90 families on the Helsinki Commission's case list. Those families represent hundreds of individuals. If Gorbachev and Yeltsin are really serious about abolishing cynical Soviet emigration practices once and for all they would pick up the phone and tell OVIR to issue everyone on our list an exit visa within 24 hours. I will be more receptive to MFN when that happens. I would favor extending MFN to whatever successor state or union that may emerge from what we have known as the U.S.S.R. as a result of negotiations between the center and those republics that choose to stay within a union. But frankly, I am at a loss to understand how we can extend MFN to a union which is yet to be defined.

The action proposed in this measure is ill-timed given the upheaval in what remains of the former Soviet Union. It is inappropriate given continued human rights abuses as I have mentioned. Finally, it fails to recognize the new political realities of an empire which no longer exists.

I implore my colleagues in the Congress not to forget about the refuseniks who are still waiting for the Kremlin to apply democracy to them.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BENTSEN. Mr. President, notwithstanding the previous order, I ask unanimous consent that we now proceed to passage of the resolution.

The PRESIDING OFFICER. Without objection, the vote occurs on passage of House Joint Resolution 346.

The joint resolution (H.J. Res. 346) was ordered to a third reading, read the third time, and passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, Senate Joint Resolution 215 is indefinitely postponed.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. Mr. President, I ask unanimous consent to speak as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT

Mr. SEYMOUR. Mr. President, as we know, the Surface Transportation Act remains with the conference committee. I would like to speak for a moment as one of the donor States, along with other States who fall in the same category.

As we know, donor States are those whose citizens and taxpayers who have paid more in gas tax than they have received in return. In fact, you go to the bottom line of my State of California, Mr. President, in 1989 alone, California exported $437.7 million to recipient States. And since we have many donor States under this unfair and inequitable formula, we in California have paid out over $5 billion to other States.

Now as the conference committee winds down its work, we, as other donor States, are finding it most difficult to get any information from the conference committee as to what the new formula might be. We had hoped that, in fact, the donor States, including California, might be the recipient of 90 cents on the dollar as opposed to what I last heard, Mr. President, which was 84 cents on the dollar—not dollar for dollar, not 95 cents on the dollar, but merely 90 cents. The last word we had was perhaps we will receive 90 cents on the dollar for 75 percent of all appropriations in that bill which, if you mathematically work that out, may be somewhere around two-thirds.

So, Mr. President, I merely rise to add my voice to Senators from other donor States, including Texas, Florida, Missouri, and others, to say that I am hopeful that having waited all day today to get a computer printout as to what machinations or formulas might be included in the conference report, should that come soon now from the conference committee, that we might at least be able to look at those numbers to understand just what kind of status our States will be in. I am hopeful that it is going to be positive news.

On the other hand, as the hours go by and the inability to get this kind of information so we can see what is in that bill, I cannot help but tell you I feel more like the mushroom, that is, somebody who has been kept in the dark and covered with fertilizer. I would hope that soon now we will hear from the conference committee and have concrete data and numbers so we can see how our States will fare.

Thank you, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate for 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

INTERNATIONAL ANTITRUST ENFORCEMENT

Mr. GRASSLEY. Mr. President, I am concerned that American companies have to live within our antitrust laws but most of our foreign companies do not play by the same rules. So I rise today to voice my concerns about the fact that American companies are competing in American markets with foreign companies that do not have to follow the same rules of free competition.

It has been 101 years since Congress decided that trust should not be allowed in our society. They agreed at that time that large horizontally integrated affiliations of companies with monopoly or oligopoly power for a given market was bad for our economy and bad for a society. So Congress passed the Sherman Act, having concluded that excessive concentration of economic power was, in fact, harmful to competition and to American consumers.

Since the Sherman Act was passed in 1890, the Federal courts and Congress have together developed a veritable common law of antitrust. It is a rich system of principles of competitiveness designed to protect and sustain the rigorously competitive free market economy that is the foundation of our society.

The free market philosophy that motivated the authors of American antitrust law is as valid today as it was 100 years ago. But many in other countries do not seem to agree. While a number of industrialized and developing countries have laws intended to promote competitiveness, in most nations the law is tolerant of monopolies and restraints of trade—particularly if it improves their ability to compete in the international arena. I am particularly concerned about the Japanese, but not just the Japanese. The Japanese have had an antitrust code similar to ours since the end of World War II, but it is rarely enforced, while in the United States we have scores of cases each year.

I doubt that the authors of the Sherman Act contemplated an economy as internationally linked as the one we now have. The trusts that were the subject of public concern in the late 19th century were the first corporate organizations that transcended State boundaries.

One hundred years later ours is truly an international economy. Our markets are flooded with goods and services manufactured by foreign companies and their U.S. subsidiaries. My concern is that those goods benefit from unfair trade practices overseas, practices which would be illegal under American law if conducted within our borders, and which give foreign companies an unfair advantage in our markets.

For example, the Finance Committee recently held hearings on Japanese business practices and their impact on American markets. Similar hearings were held in the House last year. We were informed that the Japanese economy is dominated by highly integrated and collusive economic structures, called Keiretsus. Keiretsus include highly vertically integrated operations, in which every link in the chain of production, from the miners of the metals to the manufacturers of components to the retailers, are represented in an enterprise. They also include horizontally collusive arrangements among companies that produce the same product, such as auto manufacturers. The effect of such collusion can be the exercise of market power to allocate markets and control prices, which harms both American and Japanese consumers and competitors.

We also heard from the mid-America group, which is concerned that the Keiretsus structure is being imported into the United States automobile industry by Japanese subsidiaries. It has strong evidence that Japanese-owned manufacturers engage in collusive arrangements with downstream dealers, controlling the parts market. The FTC has been investigating these allegations, and I will be very interested to see the result of their inquiry. I applaud the FTC for their investigation.

While these companies have unfair advantages in American markets due to anticompetitive conduct in their home countries, those same anticompetitive practices often operate to exclude American—and other "foreign"—companies from the competitors' native market.

Such practices are not limited to Japan. Many nations tolerate collusion and concentration among their domestic industries. Often, the government endorses such practices, mindful that control on competition at home makes it easier to develop an export strategy for competing in international markets.

When Americans criticize such practices, they are usually told that the difference in nations' economic structures reflects differences in culture. That may be. But if we are going to have a truly international economy, we need to have international standards of competitiveness. With that goal in mind, the United Nations General Assembly in 1980 resolved to pass a restrictive business practices code. The administration has been working hard in this arena, and recently entered into an antitrust cooperation agreement with the European Economic Community. The Justice Department's Antitrust Division has been working with a number of other countries on the development of domestic competitiveness codes similar to our antitrust laws. I applaud such efforts.

However, I think we all recognize that it will be years before international standards of competitiveness are implemented and consistently enforced. There has been talk of an international antitrust code since as early as 1948, when the ill-fated Havana Charter was put together. So I have concluded we should not hold our breath waiting for other nations to impose on themelves the same antitrust restrictions we imposed in 1890.

For that reason, I urge my colleagues to join me in pushing for stricter enforcement of the antitrust laws on foreign enterprises that compete in American markets. If our foreign competitors understand the depth of our commitment to the principles of competitiveness that our own companies adhere, perhaps they can be convinced to adopt and follow similar laws in their own jurisdictions. If they choose to compete in our marketplace, they must understand that they have to play by the local rules. Participants in our marketplace must not be allowed to profit from collusive practices and exercises of market power that restrain free trade.

In the coming months, I plan to consider a number of approaches to this issue.

I will urge Attorney General Barr to follow his instinct to implement a more aggressive international antitrust policy, bringing suit against foreign companies that engage in unfair trade practices that have a direct effect on American companies and consumers.

I will look into codifying existing principles of law allowing private litigants to challenge anticompetitive conduct by foreign companies, including the possibility of clarifying by statute the rules of extraterritorial subject-matter jurisdiction and personal jurisdiction over foreign traders in U.S. markets, and expanding the rules of foreign discovery.

I will urge the FTC to continue its aggressive investigation of the business practices of foreign subsidiaries operating in the United States.

I will investigate the creation of a new cause of action, which would build on the nexus between the trade laws and the antitrust laws. Currently, American law treats foreign anticompetitive conduct in a piecemeal fashion. The antitrust and trade laws are inconsistent, and enforced by different agencies without sufficient coordination. We should consider clarifying in our law the principle that goods sold in the United States must not benefit from unfair business practices overseas which would be illegal if done in the United States. American consumers and companies should be able to challenge such conduct in court, utilizing the court's injunctive power to fashion exclusionary remedies where appropriate, as well as money damages.

It is time that we stop allowing our free and competitive markets to be infiltrated by sellers who engage in practices back home that would be illegal under our laws, giving them an unfair advantage in our markets. This is not protectionism. It is promoting competition by ensuring that our longstanding antitrust principles are not eroded by the globalization of our economy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask that I be able to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDED UNEMPLOYMENT INSURANCE

Mr. KENNEDY. Mr. President, in just a few moments the Senate will consider the legislation to provide extended unemployment benefits to millions of our fellow citizens.

With this legislation, Congress marks the end of a long struggle to provide extended unemployment benefits to deserving men and women across America. It has taken us far too long to accomplish this goal, but we have persevered, and the American people are the beneficiaries.

These extended unemployment benefits are essential, but they represent the minimum that the Federal Government should do. The economy is still mired in recession, and this recession comes at the end of a long period of economic stagnation for the majority of the American people.

In recent weeks, new claims for unemployment insurance have risen to a 7-month high, and many analysts fear that unemployment will continue to rise in the months ahead. America's trade deficit is now at its highest level in 8 months, and has been growing for the last 3 months; 62 percent of last month's trade deficit is with one country—Japan.

Business failures continue to rise by 51.5 percent in the first 7 months of this year, with 17 consecutive months of increases. Across the United States, there were more business failures in the first 7 months of this year than in all of 1989.

This grim economic news comes against a backdrop of a continuing "squeeze" on the middle-class and working Americans; 44 percent of all family income goes to the top 20 percent of families, and that gap has widened throughout the 1980's. Parents cannot afford to send their children to college. More and more families fear the loss of their health insurance if they lose their job.

In Massachusetts, we have lost 275,000 jobs—10 percent of our jobs—in the last 2 years. That is the worst loss of employment since the Great Depression. Our people, and people throughout the Nation, need a comprehensive program to bring this economy back to health, and to make the benefits of economic growth available to all Americans, not just the wealthy few.

In response to America's economic difficulties, some of our Republican colleagues have advocated a so-called growth package, with emphasis on the so-called. Their package is nothing more than the same tired old capital gains tax cut that would give two-thirds of the benefits to those with incomes over $200,000, and do nothing to get this economy growing.

We have seen the result of these trickle-down economics. The message is always the same: reward the rich, and the economy will grow. But we have had these policies for almost 12 years, and the results are plain to see: rising deficits, increasing inequality, more and more benefits targeted on the wealthy, and more and more taxes shifted onto the middle-class and working Americans.

A true plan for economic growth and prosperity must include real tax relief for the middle class, increased investments in infrastructure, a world-class education and job training system, and an end to the credit crunch that is choking our small businesses. That is what America's economy needs, and that is what the American people need.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, when does the time start to run on the employment bill?

The PRESIDING OFFICER. The conference report has not been laid before the Senate. The time will begin to run as soon as the conference report is laid before the Senate. At that time there will be half an hour evenly divided.

Mr. DOLE. Mr. President, I am pleased to see that we are taking action on the unemployment compensation bill. We received several calls about it today, about the delay, and I am glad to report that the Labor Department and States will be able to proceed very shortly. At least that is my hope.

Mr. President, I would like to take a moment to address a technical issue which has been the subject of controversy during the debate. I am referring to the use of the insured unemployment rate, the IUR versus the use of the total unemployment rate, or TUR.

The distinguished chairman of the Finance Committee, Senator BENTSEN, brought the issue to our attention. I feel that we need to understand how these statistics are developed.

To begin with, the unemployed are helped by three programs. First there is a regular State program. Under this program, each State covers 100 percent of the benefit payments. That means States pay unemployment benefits, not the Federal Government. Each State determines who is covered, the duration of the program, the level of benefit payments, and the tax rates to fund the program.

The Federal Government is limited to providing the funding for administrative grants, general oversight of timeliness and accuracy of payments, and assuring conformity with Federal requirements.

We have never used the total unemployment rate as a measure for unemployment benefits. It is an untargeted measure, a broad measure that includes those who have little work experience and those who voluntarily quit their jobs.

The TUR comes from a Census Bureau sample of households. The question these households are asked is quite simple: Who is not working in your household right now? This approach gives data on all aspects of the unemployed.

For example, a student could be included in this count if he or she has decided to take a semester off. I do not believe we intend that these students would enter into our decisions to extend unemployment benefits.

The IUR, on the other hand is a measure taken from State records. The rate reflects those who are actually receiving benefits. It is a ratio of the number of workers receiving benefits to the number of workers that a State insures. This is the only measure that we have ever used. It is the only measure we have found reliable, to date, for this purpose. This does not mean that we should not, and cannot, consider other measures or modifications.

In my bill, which did not pass, I asked for a study on the use of the IUR versus TUR. I am writing the Secretary of Labor, Secretary Martin, to ask for such a study. I hope that my colleagues, the distinguished chairman of the Finance Committee at this time, Senator BENTSEN, and ranking member, Senator PACKWOOD, will join me in my request.

We hope to have that letter available for signature, if not tonight, sometime tomorrow.

ANDEAN TRADE INITIATIVE

Mr. President, also in reference to the unemployment bill, when we finally agreed in the Senate to send over a separate resolution, it was amended by the House. It then included five trade provisions. One was the so-called Andean trade initiative. It is an initiative which President Bush requested some time ago.

As we all know, President Bush has declared the war on drugs to be an urgent national priority. Daily we face the heavy toll of personal and economic loss. Everybody is tired of the violence, the crime, the addiction, and the corruption caused by illegal drugs and drug trafficking.

So the Andean trade initiative was very important with reference to the war on drugs. The Andean countries are Boliva, Colombia, Peru, and Ecuador. For all the world's cocaine production, the Andean countries' coca leaf production is what Saudi Arabia is to oil. It is estimated Americans are spending $17½ billion a year on cocaine.

The Andean effort proposed by President Bush was a modest effort, and with it we have the opportunity to help the Andean countries invest in lawful products. In an effort to make certain that even though it covers 6,100 products, the administration also sought not to have an adverse impact on American producers. Such items as textiles, footwear, petroleum, and petroleum products were not included. These items tend to cause the most controversy in these types of agreements.

I think what concerns me, and as I said to the chairman of the Finance Committee, I have had no contact from anyone in the administration with reference to this provision—except I did discuss it with the OMB Director Secretary Darman, who was working on the unemployment bill. But the President did meet with the Presidents of the Andean countries, and did make a promise to accelerate access to U.S. markets in an effort to give them some other hope for income other than cocaine, drugs.

The President participated in the drug summit and urged us back in October of 1990 to support his efforts. And since that time, Ambassador Hills, U.S. Trade Representative, and Bob Martinez, Director of Office of national drug control policy, reminded us of the urgency in a letter this past July.

And, following action by the House Ways and Means Committee, there was a motion by Congressman CRANE from Illinois to instruct the conferees to insist that the Senate accept the Andean Trade Preference Act. The vote was 416 to zero.

I am not certain what will be the final outcome, but there will be another conference here in February. I would just say that what I think the administration is concerned about is we would go to that conference empty-handed after a year and a half or 2 years. I hope that, if it is not going to be resolved this evening, it will be resolved early next year, not just with hearings—anybody can have a hearing; not just with a markup—but some promise to make certain that the provision gets swift consideration by the House and the Senate.

Mr. President, as I have said to the distinguished chairman of the Finance Committee, we are prepared to act on unemployment tonight, with or without the Andean provision. It is not something that would hold up the unemployment bill. I made that statement to Senator BENTSEN, and I will make it now publicly.

If we do not complete action on the unemployment bill, I am told there are about 200,000 unemployed individuals in 18 States who will not receive their benefits. In other words, they will be delayed. They will get them finally, but they will wait until we act, because they have already exhausted their benefits. They desperately need our help.

Eighteen States and the Virgin Islands were provided 6 weeks of benefits without reachback. The Senate action we took provides reachback now, to bump those States up to 13 weeks. The Labor Department completed processing the agreements of each State with the Federal Government on Saturday, November 16. That has been over a week. Those States without reachback have not notified their respective unemployed, and are awaiting our action.

So I am pleased that this is going to be before us this evening. I hope the House will act yet this evening, so that there will not be one more delay in getting employment benefits to unemployed workers in America.

Again, I want to commend my colleagues on both sides of the aisle for finally coming to grips with a very sensitive issue. The question at the start has not been benefits, not even the duration of benefits. The question at the start is paying for it. Now we are going to pay for it. That is the only serious question President Bush ever raised: Should we add to the deficit $6.2 billion or more; or should we pay for it?

Once there was a consensus that we ought to pay for it, and not charge it up to future generations, or other workers who may not be unemployed at this time, or their children, then it was very easy. It was a matter of figuring out the duration; how much money we could raise to pay for it.

I believe after the debate in the Senate, and after consideration by the House, we have a fair agreement.

I urge my colleagues to support the conference report. To me, it is very important.

MOTION TO PROCEED TO MEDICAID BILL

Mr. DOLE. Mr. President, as I understand, after we complete action on the unemployment insurance bill, there is going to be debate on a motion to proceed to Medicaid, bill number H.R. 3595. I do not know of any reason to have a cloture vote. There is no request on this side, any longer for a cloture vote.

It is also my understanding that representatives at HHS are working directly with Governors and Senators and Members of Congress to try to work out any differences or any problems some States may have.

So I am prepared to indicate that, on this side of the aisle, we do not need a cloture vote. We do not need any more votes at all this evening.

I hope that we can just move to proceed to H.R. 3595, and hopefully work out our problems, and pass that bill; if not tonight, if a rollcall is required, have that rollcall vote tomorrow morning.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE UNEMPLOYMENT BILL

Mr. CONRAD. Mr. President, I wanted to express my very strong support for the unemployment benefits bill that we have before us this evening.

The occupant of the chair will recall that when this Chamber was presented with a formula a week ago that some of us protested very strongly. We protested strongly because the formula that was being presented was not fair. It was a formula that did real injustice to the workers in many of the States, including mine, who were already given the least number of weeks of additional benefits.

And then were asked to take a further cut; and also we were told that the benefits would not apply retroactively to our States, while it did apply retroactively to other States.

Mr. President, we were told we were going to take an additional cut in order to give additional benefits to other States that already had more. That was wrong. That was unfair.

So for 2 days, we engaged in strenuous debate, both on and off the floor, in an attempt to get a formula that was fair to all of the workers in the country.

I am pleased to see that we have now accomplished that goal. And the formula that is before us tonight is fair. It will mean that 3,800 workers in my State and some 200,000 workers around the country are going to be treated more fairly than under the formula we were presented with 1 week ago.

Mr. President, I want to thank all of those who participated in the effort to get this result.

I can remember very well the Senators from Arkansas, Senators PRYOR and BUMPERS; the Senators from Oklahoma, Senators BOREN and NICKLES; the Senator from Kentucky, Senator FORD; the Senator from Wisconsin, Senator KASTEN, and so many others who participated. I would be remiss if I left out Senator ROTH, who objected at a critical point, in order for us to achieve the result that is before us this evening. Mr. President, I want to also thank the majority leader, who showed great patience as we struggled over this issue. And, certainly, I thank Senator BENTSEN and the ranking member, Senator PACKWOOD, Senator DOLE, the Republican leader, as well, who participated in those negotiations.

The result, for my State, is that instead of having only 6 weeks and no retroactive benefits, tonight our workers will get retroactive benefits, as will workers in every other State, and we will get 13 weeks of additional coverage instead of only 6.

Mr. President, the fight we waged a week ago needed to be fought, because the result as it was presented to us had been cooked in a room in which those who baked the cake, cut the cake and put it on their plate. That provided a result that was simply unfair.

Mr. President, there is one other item I want to mention. I believe Senator DOLE touched on it, and that is simply this: The program is legislatively effective on November 17. Technically, people who are eligible for extended benefits for the week of November 17 through 22 needed to file by Friday, November 22. However, since the legislation had not passed, eligible unemployed in North Dakota and 18 other States could not be notified to apply in a timely fashion.

I might indicate to those who are on the floor that the Senator from Colorado represents a State that is also in this category, as is the occupant of the chair, the Senator from North Carolina. I notice, also, my colleague from Wyoming. His State is also affected, as is the State of the Senator from Utah. All of those States are among the 18 who are in this catch 22 category.

I have been informed by the staff of the Finance committee that the Labor Department has indicated that they are giving instructions to those States that they are to make certain that the workers qualify and are provided the benefits intended by this Congress.

Mr. President, I hope that message is being sent loud and clear to the affected States. We are not going to find a situation in which workers are told, well, Congress meant for you to be included, but there are technicalities that preclude it and prevent it. That would be wrong. So, Mr. President, I hope the record is very clear that the workers in these States, including North Carolina, Colorado, Wyoming, Utah, and in my own State of North Dakota, do qualify even though there has been some delay in providing these benefits.

Mr. President, let me conclude by, again, thanking all of my colleagues who stood and fought last week when we needed to wage the fight in order to achieve a more fair result. I thank the Chair and yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I wanted to take a few minutes to praise the extraordinary work and bravery of Senator CONRAD. This becomes an institution where, at times, there are reward structures of various sorts, and there are some where if you go along, you are successful and do not rock the boat. And there are times, as well, where it is absolutely essential to take a piece of dynamite, put it in there, light it, and watch it go off and be prepared to do so.

Last week, the Senator from North Dakota did exactly that. And the citizens of his State should know what a wonderful, wonderful job he did, with the power of the institution arrayed against him. He stood up almost with a lone voice and said, "This is wrong." He knew what was in this piece of legislation. He found out what was in there, and he found out how the cake had been made, how the cake had been baked, and who was cutting it up and who was going to get the cake and the frosting, and where the crumbs were going to go. And his State was going to get a few crumbs. My State was going to get a few crumbs, and a number of other States were going to get a few crumbs. The State of the occupant of the chair, I believe, was getting a few crumbs. It was wrong. This was one of the midnight specials, almost, coming up here, and the Senator from North Dakota took the top off of that can, opened it up, and it was pretty lousy inside. It was not a cake at all.

I thank him both on behalf of the citizens of his State, who probably do not know about this, and citizens of my State, who also have the same reachback benefits and longer benefits, and who, through no fault of their own, became unemployed. He led that battle and did it very well.

The occupant of the chair currently has the most thankless job in the institution, and that is chairing the Ethics Committee. He also takes on a job that demands this kind of standing up and saying no. You have to do that from time to time here. We see evidences of that. We saw it the day before yesterday, and I hope we stick to it on another example of a choice issue, where people for the most part would rather that issue go away. But we are going to keep bringing it up until the right thing is done.

The right thing was the issue related to the equal treatment of women. Finally, the Senate passed that on a vote of 57 to 40 last week. I hope that stays in the conference report on the dire emergency supplemental appropriation. If it does not, we will be back with another example of that, on which the distinguished occupant of the chair and the Senator from North Dakota have joined me, the issue of disclosure. We have these enormous amounts of taxpayer money being spent for the savings and loan institutions, $216 billion being spent, and you cannot find out where the money went. You cannot find out, because it is a lot more convenient not to have that information out. It is a lot more convenient for the regulators to say this is classified. But that amendment now is part of the banking bill that passed in the Senate, and I hope the conferees keep that in, so we can find out what these settlements were, we can find out who made out with the cake in that circumstance rather than having it being hushed up and private business; $216 billion of public funds have been spent, and you cannot find out where. Why not? If this does not stay in the conference report, we are going to come back and bang on that as well, even though that makes a number of people extremely uncomfortable.

Mr. CONRAD. If the Senator will yield, I just wanted to thank my colleague from Colorado for his kind words and also to say to him that I found, in the 5 years that I have served in this Chamber, that the Senator from Colorado has never been afraid to stand up. And this issue of disclosure, I believe, is one of the most important issues that we have before this Chamber in the dying days of this session. It is something that the American public ought to demand. We ought to know where has the money gone? How has it been spent? What are the deals that have been made?

I believe, on the basis of some of the initial audit reports that I received last week, people would be pretty shocked at what is happening, not only in terms of the deals that are being made, kinds of expenditures that are being made, but in terms of the legal fees. We received some audits last week that showed absolutely outrageous legal fees now, a billion dollars a year in just legal fees, to clean up this mess. And when you start lifting up the rocks and seeing where it is going and how it is being spent, you find some remarkable things, double billing, $250,000 to one firm, overcharged on photocopying expenses, $80,000, one firm; and on and on it goes.

Thank goodness there are some people, like the Senator from Colorado, who stand up and say we insist that all of this be revealed for the American people to make a judgment.

I thank my colleague.

Mr. WIRTH. I thank the distinguished Senator from North Dakota. I had not intended to get into this mutual praising situation, but sometimes it gets pretty lonely on these issues and it is nice to have kindred experiences.

We had another example of this, as the distinguished Senator from North Dakota will remember, only yesterday on the issue of the military appropriations bill. Here we were happily going on as if it is the height of cold war, spending $290 billion on a defense program when the peacetime average for the cold war is $235 billion. We are spending $290 billion, and the peacetime average is $235 billion. We are spending $55 billion more on defense than we were at the height of the cold war.

I mean that does not make any sense to me. And I will tell the Senator I do not think it makes any sense to the American public. It certainly does not make any sense to my constituents. And what we have to do is continue to come back even though you got this sort of enormous bow wave mowing down of all the contractors and all the momentum for spending all this money, and I say, "Stop, we have to change."

Mr. CONRAD. Mr. President, will the Senator yield on that point?

Mr. WIRTH. I am happy to yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, I had not intended to carry on this discussion further, but the Senator from Colorado makes the point that I wanted to make the other day on the floor with respect to the expenditures in the military budget.

I do not know how many people noticed last year that the Germans announced they were going to spend billions of dollars over the next several years paying to keep the Soviet troops in what was Eastern Germany, because there was no place for them to go back in the Soviet Union; no housing, no jobs. So they are going to spend billions of dollars—Germans keeping Soviet troops in Germany. At the very time they are spending billions to keep the Soviet troops there, we are spending tens of billions to protect them against those Soviet troops.

If that is not the height of irrationality, I do not know what is.

Mr. WIRTH. Maybe an even higher irrationality is the fact that we are in this budget about to build an advanced tactical fighter, to be a stealth fighter, and the purpose of that fighter, as the distinguished Senator from North Dakota knows, is to fend off the developing Soviet stealth threat, because the Soviet Union which no more is developing, is putting a vast amount of money which they do not have, with technicians who are rapidly leaving the country, using materials which have not been developed, to build a fighter which they are not going to do.

We are building, going to spend tens of billions of dollars to counter the Soviet advanced tactical fighter which is not there, do not have money, and so on.

Now we learn from our own Central Intelligence Agency that they missed the boat on the breakup of the Soviet Union, by about probably $100 billion. I think their budget is about $30 billion a year. They missed it by about 3 years, by about $100 billion. We could have saved a lot of that money and also saved a great deal of money if we would just say, stop, to the advanced attack fighter, or the *Sea Wolf* submarine, or the B-2 bomber.

As the distinguished occupant of the chair, who is a wonderful educator knows, for two B-2 bombers, the cost of two B-2 bombers, we could fully fund all of the eligible Head Start kids in the country. We know that Head Start is the most effective educational program we have ever had. The most effective—and yet one child in four who is eligible is enrolled in Head Start. Three out of four are not. The cost of enrolling those other three out of four, the best investment this country can make, preventative medicine dealing with these kids, the cost of enrolling those three out of four is the cost of two B-2 bombers.

Now, Mr. President, the facts of this suggest to me that we in the Senate have a very, very significant job to do. And that job to do is say we have to change the course. We have the responsibility. We are being asked by our constituents to come in here, as the Senator from North Dakota did on the unemployment insurance deal, and say we have to bake this cake in a different way. We have to make this different wedge. We have to change the temperature. We have to change the configuration. We have to change the budget. We have to do it differently.

Finally, Mr. President, a final example of this was brought up by the distinguished Senator from Pennsylvania, Senator WOFFORD. Senator WOFFORD brought up in his recent successful campaign a very interesting vignette related to health care. He had an ad when he stood in front of a chair and said that if some Member of the Senate gets sick he comes in and gets paid-for health care. Nobody else has that particular access to health care.

I paraphrased the ad very badly, but it was a very powerful ad related to a sense of insulation that often exists here.

The health care issue is obviously one that the country is feeding on, the country is concerned about, the country is more and more concerned about each passing day, and asking us to move on it.

I think we have to show, as the distinguished Senator from Pennsylvania suggested, that we are willing not only to move on that but to show that we are willing to put our money where our mouth is. The Senator from Pennsylvania has suggested that all Members of the United States Senate have our health care covered as most Americans do; if we have health insurance buy that health insurance—not to become a free entity. That I know is very controversial among many of our Members, but I think this is probably as interesting a vignette or maybe a metaphor for all of the items that I have been talking about.

I think we should all be serious about supporting the legislative initiative of the Senator from Pennsylvania on health care for members of the United States Senate, just as I think we were finally successful in turning around the unemployment insurance under the leadership of the Senator from North Dakota, just as last week, or yesterday, we finally made the right decision on the choice issue, and that has to stay in the conference report. That was the issue related to the treatment of women in the military.

It is also just as on the disclosure issue, we now have gotten that in the banking bill, and let us hope the banking conferees keep that in so the American public will know as the budget priority we made a little bit of progress this past year. We have a long way to go.

Mr. President, I again thank the Senator from North Dakota for the job that he did on unemployment insurance, and many others joined in, but he was the person leading the way. He was right in there. He got hammered off the bat doing what he did, but he did a terrific job. And I initially got up to speak just simply to thank him and make sure that the people of North Dakota know what a job he has done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

UNEMPLOYMENT COMPENSATION

Mr. GRASSLEY. Mr. President, I hope that we are able to get the unemployment compensation bill before the Senate, hopefully even this evening, and get it passed because there are 16,000 Iowans who are unemployed and their benefits have run out, and without this legislation they will not benefit from the previously so-called compromise that has passed the Senate and now is being signed by the President.

That compromise would not covered these 16,000 Iowans. It would cover Iowans who are employed today, and when their unemployment runs out they would get additional weeks of unemployment. But for those 16,000 Iowans who have run out of unemployment and have not been able to establish a new record for unemployment compensation, the legislation that has been signed by the President would do no good.

So, for all of us who made an effort to make that point when the original compromise came up 10 days ago, we are thankful that we had the leadership accept the reasonableness of our arguments and for the legislation that will soon be before this body to help Iowans who would not otherwise be covered, actually all people in all 50 States who would not otherwise be covered. We are glad that that has come forth.

We look forward to it being passed shortly, and being signed by the President.

THE URUGUAY ROUND

Mr. GRASSLEY. Mr. President, I want to remind my colleagues that there is some very delicate negotiations going on right now in the existing Uruguay round discussions on the GATT compromises. There are a lot of things in there that concern me about agriculture, whether or not agriculture will be adequately defended, our interests adequately protected by our negotiators on this round.

We have been told many times throughout the course of 1991 by Carla Hills, our special Trade Representative, that agriculture would not be sold out for the benefit of an agreement on services and intellectual property rights, and other things that are being negotiated there. I take her at her word. I do not have any question about her sincerity or her desire to do that.

But I guess I am also fearful that, as we get down to the late hours of negotiating on this round, that maybe things that have been thought reasonable to expect for agriculture may not come out as originally projected, and for the sake of an agreement, people, even though that there is not bad faith intended, may end up with an agreement in agriculture that may not be good for America.

So I compliment Senator BENTSEN because, just this past week, he had before the Senate Finance Committee, hearings on the progress of the Uruguay round. The success or failure of the talks that are proceeding now are going to have a significant effect on all segments of the U.S. economy, not just agriculture.

Over the last couple of weeks, the press has begun to report significant movement toward agreement in all areas, after President Bush's personal intervention. One can doubt the stimulating effect a fair agreement will have on the world economy, and I hope our deams will not be trashed yet again by intransigence on behalf of the European Community, particularly with regard to agriculture.

With regard to agriculture, indications are that several issues have yet to be resolved. The major controversies include:

Subsidy levels, both internal and export;

Base years from which to make cuts when they come about;

Rebalancing of tariffs among commodities;

Minimum access commitments;

Export subsidies measurements, dollars and quantities.

Farm commodity and agribusiness groups are concerned that the administration will become so enamored with agreements in services and intellectual properties, that it will let agriculture go without significant reductions in competitors' programs.

Some of the comments that I have read in various articles in which the authors are monitoring the GATT negotiations give credence to this fear.

Although I note with approval that the two Senators with the most responsibility in monitoring the GATT negotiations, Senator BENTSEN and Senator PACKWOOD, have reiterated, in a letter to the administration, the message that no agreement is better than a bad agreement.

Based on what I have seen and heard discussed in the media, I remain skeptical of how far the EC has moved in relation to the U.S. position, particularly on agriculture.

For instance, the EC would like to use a more favorable base period—1986—from which to measure cuts and to define cuts in subsidies in terms of cash amounts. The United States should hold to its position of using an average of the period of 1986–1988, during which United States supports dropped from $27 billion to $9 billion, while the EC supports climbed to $30 billion.

In a similar vein, the EC wants to base export subsidy cuts in terms of budgetary outlays rather than in quantity of produce shipped. However, because of currency fluctuations, the EC will be able to meet its commitment without significant actual reductions. Thus, the United States is properly pushing for export cuts to be measured by a formula combining budget outlays and quantities of commodities in international trade.

Rebalancing and minimum access commitments are closely linked. Because of the threat to corn gluten and other commodities, I and many other Members of the Senate have held that rebalancing of tariffs among commodities would be an unacceptable compromise. The EC wishes to assuage this by guaranteeing base levels of imports of corn gluten from the United States I feel it is likely that this floor would, in fact, also be a ceiling. I think that is a very legitimate fear.

I have several more concerns. First of all, much of the movement has been done by the United States. This has reduced the level of required subsidy cuts that it is demanding from 75–90 percent to 30–35 percent. The EC has given in to a shorter time frame—down from 10 years to 5 or 6. While we would not likely need to make further substantive cuts in the United States farm programs, we should refrain from celebrating over the EC's newfound willingness to seriously negotiate for a change.

To a degree, this discomfort revolves around the emphasis of the stories in the popular press; "breakthrough in agricultural tied to movement in services and intellectual property."

That is, Mr. President, agriculture, it seems to me, rather than being a linchpin to a successful GATT round, is becoming a secondary factor, a throwaway concession to enable a larger agreement to be reached.

That is a fear that I previously spoke to, that Mrs. Hills has promised us would not happen. But when I see the specialized media covering GATT speaking otherwise, then I begin to worry, and I want to call the attention of my colleagues to it.

I have been telling farmers that it is difficult to conceive of an agreement being reached in other areas that would be so beneficial to the country that it would outweigh a bad agreement in agriculutre. I still stand by that assessment, although it may become necessary to remind the administration of our commitment to success in the agriculture sector and our willingness to vote against any agreement which does not allow for U.S. farmers to exploit.

I might say to my colleagues here in this body, if they think that our opinion on what ought to be done at GATT is unimportant to negotiators, both American and foreign, who are negotiating there, I think they should take heed of rumors that I picked up from American business people following the negotiations over there on-site—that the opinion of people in Congress is carrying a much larger voice over there than even the opinion of the administration. Because they know that, constitutionally, the Congress has control over foreign trade and they know that we have to approve whatever agreement is arrived at. And, that what the administration says might get through Congress is one thing, but what has a majority vote here in Congress is quite another thing.

So I think I should remind my colleagues of—not CHUCK GRASSLEY'S point of view—but what I report to you from businessmen on the scene over there following the negotiations, the views of us in the Congress are sought and analyzed and considered to a greater degree than maybe most of us here in the Congress would appreciate.

A third major concern is that we may be signing off on something that calls for further cuts to be discussed in the future. That is further cuts in agricultural subsidies. I am not sure that is even worth putting on paper. One need only to look at the EC actions on oilseeds to see that they will use every opportunity to stonewall, delay, obfuscate, and divide.

They fought the formation of the original GATT panel, then took their time in deciding, finally, to accept its ruling against the oilseeds regime, then delayed coming up with a plan which is completely unacceptable—then somehow allowed for the convening of a new GATT panel—which gives the stamp of approval to further delays. The burden of proof is on the EC to show that they really intend to sit down in 5 or 6 years to negotiate further cuts.

That, Mr. President, directly relates to the fact that originally we were proposing 75- to 90-percent cuts over a 10-year period of time. We have reduced that down to 30- to 35-percent cuts. The EC has come down to 5 or 6 years for those cuts to take place, telling us they will negotiate further cuts later on. I think we take what is on paper, agreed to as the only thing certain. Any promise of further cuts at this time, I have to say, I am suspicious will happen.

Mr. ROTH. Mr. President, this is an important victory for two concerns: First, it is a victory for the men and women who through no fault of their own find themselves unemployed and in real need of these extended benefits. For these people, what we have done today will make their Thanksgiving a little brighter, their home life a little more secure, and their self-confidence to find employment a little stronger.

The second victory, I believe, is a victory for the parliamentary process itself. With this extension of unemployment benefits, Members of this distinguished body did nothing short of stopping a runaway freight train. We retied its load in a more equitable manner, and then put the train on the right track.

By restoring equity and fairness to a bill that grossly favored some States over others in the distribution of unemployment benefits, we proved that this body is capable of laying aside special interest politics and legislating in a way that does what is right and not what is politically expedient. We showed that people come before politics. And I thank all my colleagues who came toether, with the assistance of our distinguished leadership, to rework the bill.

As we received it from the House, the bill to extend unemployment benefits was unfair. It offered some States up to 20 weeks of extended benefits while offering others only 6 weeks. It offered some States full retroactivity—or reachback—by which the unemployed of those States could become eligible for extended benefits as long as their benefits expired any time after February 28, 1991—other States were completely denied any reachback. The unemployed in these disadvantaged States could not receive any extended benefits unless their regular benefits expired after November 17.

Under the bill as it came to us from the House, some States were receiving up to 333 percent more than other States—as if a distinction or judgment had been made between the value of the unemployed in States like Maine and Massachusetts and those in States like Delaware and North Dakota.

Today the bill is fair. We can return home this Thanksgiving and tell our neighbors—especially those who are unemployed—that they are being treated with equal concern as those suffering similar economic setback in other parts of our country. We can tell them honestly that the bill is fair. And we can use this experience as an example of how the system is working here in Washington.

This body can lay special interest politics aside and come together to do what is in the best interest of America. I hope when we reconvene after this upcoming adjournment—I hope when we get down to the business of improving America's economic future, of strengthening America's competitive edge in the global economic community—I hope that when we turn our attention to real tax reform and health care legislation—we will remember what we were able to do with the extension of unemployment benefits.

I hope—like we have now—that on those other important issues we can come together to do not what is politically expedient—or what places one group at an advantage over another—but that we can come together and do what is right.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today—at long last—Tom Sutherland returns to the United States. We rejoice with the Sutherland family as they prepare to spend their first Thanksgiving together in six years.

But our joy is not complete. Terry Anderson, Joseph Cicippio, and Alann Steen remain captive in Lebanon. In fact, today marks the 2,445th day that Terry Anderson has lived as a hostage. Mr. President, I call on the hostage holders to release the men they continue to hold, and I ask unanimous consent that an Associated Press article reporting Tom Sutherland's remarks upon his release be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUTHERLAND PLEADS FOR RELEASE OF AP JOURNALIST TERRY ANDERSON

DAMASCUS, SYRIA.—Freed U.S. hostage Thomas Sutherland pleaded for the release of Terry Anderson, the longest-held hostage in Lebanon, who he said served as an inspiration to his fellow captives.

"Without Terry Anderson, I couldn't have made it for 6 years," Sutherland told a news conference shortly after being freed November 18.

He said Anderson, chief Middle East correspondent for The Associated Press, was in good health and good spirits. "He's taken to writing poetry, which he hopes to publish," Sutherland added.

Terry Waite, the Church of England envoy freed with Sutherland, said one of his captors had said he expected Anderson and the two other American hostages, Joseph Cicippio and Alann Steen, to be freed soon.

Anderson's sister, Peggy Say, said she was "thrilled" for the families of Sutherland and Waite, but no longer questioned why it seemed her brother would be the last American released.

"I don't think it's attributable to any specific reason other than my feeling that God has a job for him to do and that is to help the others endure and survive, and when that job is over with, he will come home," she said from her home in Cadiz, Ky.

Anderson, 44, was kidnapped in mostly Muslim west Beirut on March 16, 1985 by the fundamentalist Islamic Jihad movement.

His daughter was born and his father and a brother died during his captivity. Iranian-backed Shiite Muslim leaders in Lebanon have said that Anderson was considered the kidnappers' most valuable prisoner and would likely be the last freed.

Both Sutherland and Waite were kept in the same windowless room with Anderson. Over the years, at least seven other hostages had spent time with him.

Waite talked about the hostages being chained to a wall 23 hours and 50 minutes every day. "We've been under shellfire constantly," Waite said. "To be under shellfire when you are chained to the wall is not pleasant."

Sutherland said that when he last saw Anderson he was no longer manacled. "But he is still in a room that has very little fresh air and no daylight whatsoever."

Sutherland, dean of agriculture at the American University of Beirut, said Anderson was an inspiration to his fellow prisoners.

"I would just simply say to all of the friends of Terry Anderson: he is a man of whom all of you can be proud," he said.

Sutherland disclosed that Anderson has begun to write poems.

"How he does it I don't know, but he kept all of them in his head," Sutherland said. "You'll undoubtedly have a chance to read some of them sometime."

He added: "He's a man who never should have been kidnapped. He was, as I hope some of the rest of us were * * * doing his very best for the world and for Lebanon, reporting objectively about what was happening in Lebanon. And they never should have picked him up. They never should have picked any of us up."

IN HONOR OF CHARLES WOLFF

Mr. DIXON. Mr. President, on November 8 the State of Illinois and the United States lost a great man—a man made great not only by his achievements, but also by his legendary devotion to his fellow man. This selfless devotion makes him a role model for all of us, Mr. President.

His name was Charles Wolff. Charles died after a long bout with cancer on November 8 at the young age of 44. I rise today to pay tribute to his legacy.

Charles Wolff was a true renaissance man. His career was marked by tremendous accomplishments in both government and the private sector. All of these achievements are characterized by a lifelong devotion to improving the political process, accountability in government and helping the less fortunate.

Charles worked as a special assistant to my predecessor, U.S. Senator Adlai Stevenson III, D-Ill., from 1973 to 1979. After a stint as a Special Assistant for Intergovernmental Affairs at the U.S. Commerce Department in 1979 and 1980, Wolff returned to Illinois.

Over the next decade, Wolff established himself as a friend of good government, education, and health care in Illinois and the Nation. He served as head of the Chicago-based Roosevelt Center for American Policy Studies analyzing domestic policy in America from 1982 to his death.

Wolff continued his lifelong interest in education and became a member of the University of Illinois' board of trustees in 1987. He was elected president of the board in 1989 and oversaw many exciting and challenging advances in the university system at his alma mater.

Throughout the eighties, Wolff also served as a political adviser to the presidential bid of Arizona Governor Bruce Babbitt, and advised former Vice President Walter Mondale and my colleagues Senator ROBERT KERREY and BILL BRADLEY. All of them have attested to his honesty and their admiration for his compassion and devotion to the causes of the less fortunate in our great country.

Somehow, Charles Wolff found time for yet another endeavor. Along with philanthropist Richard Dennis, Charles raised millions of dollars to provide shelters for victims of domestic violence and to programs assisting people with AIDS.

In the years prior to his death, Charles devoted more and more time to the issue of health care. Charles realized the direct correlation between a strong America and an America that provides basic health care programs to all its citizens. Charles worked tirelessly for the poor of Chicago and was integral in the reopening of the Mile Square Neighborhood Health Center which provides care to Chicago's impoverished West Side.

When Charles Wolff died on November 8, all Americans, from Senators to students to the poor, lost a friend. We will all miss him very much. My condolences go out to his wife Sheryl, his son Matthew, and his daughter Abigail.

H.R. 3595—THE MEDICAID MORATORIUM AMENDMENTS

Mr. COATS. Mr. President, the Health Care Financing Administration's recent ruling, effective January 1, 1992, would be a severe blow to the capability of health professionals in my State of Indiana to provide important medical services to children, the poor, and the elderly.

Indiana hospitals face extreme financial difficulty because of the substantial amount of charity and uncompensated care they provide. For this reason, Indiana's General Assembly passed legislation, in 1991, which puts in place a limited tax on certain disproportionate share hospitals. This financing mechanism generates additional resources to meet the needs of pregnant women, child care programs, and other Medicaid services for citizens from my State without adequate health care.

Mr. President, we simply cannot pass the buck on Medicaid. Funding must be shared by both Federal and State governments. I am a cosponsor of the 1-year moratorium offered by my colleague from Kentucky, Senator MCCONNELL.

I rise today in strong support of the Bentsen amendment which provides a window of opportunity—a responsible 90-day bilateral moratorium—to work out a reasonable compromise on the Federal matching requirement for provider-specific funds.

This provides needed time for State legislators to work out ways to eliminate the abuse found in some State provider donation programs and would not unduly penalize States who have well-fashioned Medicaid plans.

Time, on this issue, is of the essence, the Bentsen approach will provide time for State legislatures, who would not meet before the deadline set forth by HCFA, to work out the right financing mechanisms. The Bentsen amendment will allow for reform without sending State Medicaid systems into financial chaos.

NOMINATION DISCHARGED FROM COMMITTEE AND PLACED ON THE CALENDAR—ARNOLD R. TOMPKINS

Mr. LIEBERMAN. As in executive session, I ask unanimous consent that the nomination of Arnold R. Tompkins to be chief financial official of the Department of Health and Human Services be discharged from the Committee on Governmental Affairs and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session, and that the Committee on Commerce, Science and Transportation be discharged of the following nomination: James B. Busey IV, to be Deputy Secretary of Transportation.

I further ask unanimous consent that the Senate proceed to its immediate consideration; that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF TRANSPORTATION

James B. Busey IV, to be Deputy Secretary of Transportation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a treaty.

(The treaty received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1891) to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesian military; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1193) to make technical amendments to various Indian laws; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian irrigation project in the State of Arizona, and for other purposes;

H.R. 1592. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit;

H.R. 2141. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes;

H.R. 2431. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System;

H.R. 2502. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3245. An act to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a native American cultural center in Oklahoma City, OK;

H.R. 3495. An act to declare certain portions of Wappinger Creek in Dutchess County, New York, as nonnavigable waters; and

H.R. 3881. An act to expend the boundaries of Stones River National Battlefield, TN, and for the other purposes.

At 2:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. FAZIO, Mr. HEFNER, Mr. MCDADE, Mr. MYERS of Indiana, Mr. MILLER of Ohio, Mr. PURSELL, Mr. GREEN of New York, and Mr. SKEEN as managers of the conference on the part of the House.

The message also announced that, pursuant to the provisions of section 141(a) of Public Law 101-649, the Speaker appointed the following individuals from private life to the Commission on Legal Immigration Reform on the part of the House: Mr. Bruce A. Morrison, of New Haven, CT; and Mr. Warren R. Leiden of McLean, VA.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes;

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 8:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes.

The message further announced that the House has passed the bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Select election campaigns, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2263. An Act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; and

H.R. 3327. An Act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

At 8:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard Budget; with an amendment, in which it requests the concurrence of the Senate.

At 10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, annouced that the House has passed the following joint resolution, without amendment:

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans' health care programs; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1688. An act entitled the "Omnibus Insular Areas Act of 1991";

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes; and

H.R. 3359. An act to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on November 23, 1991, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3031. An act to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second time by unanimous consent, and placed on the calendar:

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 2431. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; and

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore [Mr. BYRD] reported that on today, November 25, 1991, he had signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 25, 1991, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2197. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on a violation of law involving the obligation or expenditure of funds in excess of an apportionment or a subdivision of an apportionment; to the Committee on Appropriations.

EC-2198. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the Commission on Consolidation and Conversion of Defense Research and Development Laboratories; to the Committee on Armed Services.

EC-2199. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the ninth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-2200. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, a notice of designation for the Flower Garden Banks National Marine Sanctuary; to the Committee on Commerce, Science, and Transportation.

EC-2201. A communication from the Acting Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, a report describing Strategic Petroleum Reserve planning criteria; to the Committee on Energy and Natural Resources.

EC-2202. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 21, 1991; to the Committee on Foreign Relations.

EC-2203. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the twenty-fifth 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-2204. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential determination relating to assistance to Senegal; to the Committee on Foreign Relations.

EC-2205. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

EC-2206. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report under the Program Fraud Civil Remedies Act for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2207. A communication from the Chairman of the Nuclear Waste Technical Review Board, transmitting, pursuant to law, a report on the internal controls and financial systems in place during fiscal year 1991; to the Committee on Governmental Affairs.

EC-2208. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the annual audit report of the Corporation under the Inspector General Act Amendments for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2209. A communication from the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Labor Relations Board, for the period April 1 through September 30, 1991; to the Committee on Governmental Affairs.

EC-2210. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-260. A resolution adopted by the City Council of Seattle, Washington, relative to the development of a national long range energy policy; to the Committee on Energy and Natural Resources.

POM-261. A petition from a citizen of Belle Mead, New Jersey relative to foreign aid; to the Committee on Foreign Relations.

POM-262. A resolution adopted by the City Council of Pembroke, North Carolina supporting the application of a resident to the United States Air Force Academy; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 39. A bill to amend the National Wildlife Refuge Administration Act (Rept. No. 102–241).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1577. A bill to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes (Rept. No. 102–242).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2927. A bill to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes. (Rept. No. 102–243).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1944. A bill to amend the Public Health Service Act to strengthen the Nation's health promotion and disease prevention activities, and for other purposes (Rept. No. 102–244).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 3322. A bill to designate the Wellston Station facility of the United States Postal Service in St. Louis, Missouri, as the "Gwen B. Giles Post Office Building".

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2037. An original bill to amend title XIX of the Social Security Act to clarify the treatment of voluntary contributions and provider-specific taxes to obtain Federal financial participation under the medicaid program and to limit aggregate payment adjustments under the program for disproportionate share hospitals.

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2042. An original bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

• Mr. BENTSEN. Mr. President, one dozen tax provisions are due to expire at the end of this year. These provisions, among other things, encourage research and development, promote the construction of low-income housing, improve the availability of mortgages, and help the employment prospects of those with special employment needs. It is to prevent the imminent expiration of these provisions that the Finance Committee unanimously reported a bill today on an emergency basis. Not only are these important provisions that can provide a sorely needed economic stimulus, extension at this time avoids the disruption and uncertainty in the affairs of taxpayers that occurs if the provisions are allowed to expire only to be later extended retroactively.

Under this bill, the expiring provisions would be extended for 6 months, through June 30, 1992. The revenue loss from this action would be entirely financed by one provision, a provision that would require large corporations to pay their tax liabilities more currently during the course of the year. Specifically, the proposal would require large corporations—those with over $1 million in taxable income—to pay estimated taxes based on 95 percent of the current year's tax liability, instead of 90 percent as current law allows. This provision would be phased in gradually over 5 years and sunsetted after 1996.

Another markup to extend the expiring provision occurred today in the Ways and Means Committee. A bill identical to the Finance bill was reported out, without amendment. In so doing, the two committees have complied with an agreement to have identical bills without amendments. Now we must turn to action on the Senate floor. Senator DANFORTH has obtained signatures from a super majority of the Senate to oppose any amendments to a bill extending the 12 expiring provisions. If just one amendment is adopted, then the deal is off both with the House and, I believe, on the Senate floor, and we can proceed no further. The expiring provisions would then have to expire. For this reason, the extension of these provisions must be accomplished by unanimous consent or not at all. There is no opportunity for conference on this bill—the House and Senate bills must remain identical. I am sure amendments could be offered that many of us, including myself, would want to vote for in the abstract. But to adopt an amendment in this context would mean that the bill will fail.

I ask for unanimous consent that the full text of the bill and a committee explanation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Extension Act of 1991".

(b) AMENDMENT OF 1986 CODED.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Title I—6-Month extension of Certain Expiring Tax Provisions

SEC. 101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to the taxpayer's first 3 taxable years beginning after August 1, 1989, and on or before August 1, 1992.

"(B) REDUCTION.—Notwithstanding subparagraph (A), in the case of the taxpayer's first taxable year beginning after August 1, 1991, this subsection shall only apply to qualified research and experimental expenditures incurred during the first 6 months of such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1991" each place it appears and inserting "June 30, 1992", and

(2) by striking "January 1, 1992" each place it appears and inserting "July 1, 1992".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 104. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for coverage for the employee, his spouse, or his dependents, under a qualified group legal services plan for periods before July 1, 1992, shall be taken into account in determining the amounts excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 1991.

SEC. 106. ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

SEC. 107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking ", for any calendar year after 1991",

(B) by inserting before the comma at the end of subparagraph (A) "to any amount allocated after June 30, 1992", and

(C) by striking "1991" in subparagraph (B) and inserting "June 30, 1992".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "1992" each place it appears and inserting "July 1, 1992",

(B) by striking "December 31, 1991" in subparagraph (B) and inserting "June 30, 1992",

(C) by striking "December 31, 1993" in subparagraph (B) and inserting "June 30, 1994", and

(D) by striking "January 1, 1994" in subparagraph (C) and inserting "July 1, 1994".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "June 30, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

SEC. 110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992—

(A) only amounts paid before July 1, 1992, by the individual for insurance coverage for periods before July 1, 1992, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of subparagraph (A) of section 162(l)(2) of such Code, the amount of the earned income described in such subparagraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before July 1, 1992, bears to the number of months in such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 112. CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of a contribution made before July 1, 1992, in a taxable year beginning in 1992, such term shall not include any tangible personal property."

TITLE II—MODIFICATION TO CORPORATE ESTIMATED TAX PROVISIONS

SEC. 201. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installment) is amended by adding at the and thereof the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after 1991 and before 1997—

"(A) Paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting for '90 percent' each place it appears the current year percentage determined under the following table:

"In the case of any taxable year beginning in—	The current year percentage is:
1992	93
1993 or 1994	94
1995 or 1996	95.

"(B) Appropriate adjustments to the table contained in subsection (e)(2)(B)(ii) shall be made to reflect the provision of subparagraph (A)."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6655(e) is amended by striking "modified by subsection (d)(2)" and inserting "modified by paragraphs (2) and (3) of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

COMMITTEE EXPLANATION OF S. 2042—THE TAX EXTENSION ACT OF 1991

I. GENERAL REASONS FOR CHANGE

In order to minimize the disruption to individuals and businesses by the expiration of certain tax provisions at the end of 1991, the Committee believes it appropriate to enact a short-term extension of expiring provisions. A modification to the manner in which corporations make estimated tax payments is adopted to finance the cost of this short-term extension.

II. DESCRIPTION OF TAX PROVISIONS EXPIRING IN 1991

1. Allocation and apportionment of research and experimental expenditures (sec. 101 of the bill and sec. 864(f) of the Code)

Present law

Foreign Tax Credit and Source Rules

Under the Code, each item of income is assigned either a U.S. source or a foreign source. The foreign tax credit for foreign taxes paid on foreign source income is limited to the amount of U.S. tax otherwise payable on foreign source income. The foreign tax credit is not available against U.S. tax on U.S. source income. (This is known as the foreign tax credit limitation.) A shift in the source of income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation.

In determining foreign source taxable income for purposes of computing the foreign tax credit limitation, and for other tax purposes, taxpayers are required to apportion expenses between foreign source income and U.S. source income (Code secs. 861–864). A shift in the apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income. This decrease may increase U.S. tax by reducing the foreign tax credit limitation.

Research and Experimental Expense Allocation Regulation

Treasury regulation section 1.861-8 (promulgated in 1977) sets forth detailed rules for allocating and apportioning several categories of expenses, including deductible research and experimental expenditures ("research expenses"). The regulation provides that research expenses are ordinarily considered definitely related to all gross income reasonably connected with one or more of 32 product categories based on two-digit classifications of the Standard Industrial Classification ("SIC") system. Research expenses are not traced solely to the income generated by the particular product which benefited from the research activity. Instead, these expenses are associated with all the income within the SIC product group in which the product is classified.

The Treasury regulation contemplates that taxpayers will sometimes undertake research solely to meet legal requirements imposed by a particular governmental entity with respect to improvement or marketing of specific products or processes. In some cases, such research cannot reasonably be expected to generate income (beyond de minimis amounts) outside that governmental entity's jurisdiction. If so, the deductions allowable for such associated research expense are allocated solely to gross income from the geographic source that includes that jurisdiction.

After research expenses incurred to meet legal requirements are allocated under the above rule, any remaining research expenses are generally apportioned to foreign source income based on the ratio of total foreign source sales receipts in the SIC product group with which the expenses are identified to the total such worldwide sales receipts in that product group (the "sales" or "gross receipts" method). In computing this fraction, sales by a party controlled or uncontrolled by the taxpayer may be taken into account if the party can reasonably be expected to benefit from the research expense. However, the regulation provides that a taxpayer using the sales method may first apportion at least 30 percent of research expense remaining after allocation to meet legal requirements exclusively to income from the geographic source where over half of the taxpayer's research and development is performed.

Thus, for example, a taxpayer that performs 50 percent or more of its research and development in the United States may automatically apportion at least 30 percent of its remaining research expense to U.S. source income. A taxpayer can choose to apportion to the geographic source where research and development is performed a percentage of research expense significantly greater than 30 percent if the taxpayer establishes that the higher percentage is warranted because the research and development is reasonably expected to have a very limited or long-delayed application outside that geographic source.

Alternatively, subject to certain limitations, a taxpayer may elect to apportion its research expense remaining after any allocation to meet legal requirements under one of two optional gross income methods. Under these optional methods, a taxpayer generally apportions its research expense on the basis of relative amounts of gross income from U.S. and foreign sources. If a taxpayer makes an automatic place-of-performance apportionment, the taxpayer may not use either optional gross income method.

The basic limitation on the use of the optional gross income methods is that the respective portions of a taxpayer's research expense apportioned to U.S. and foreign source income using these methods can not be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance apportionment methods.

If this 50-percent limitation is satisfied with respect to both income groupings, the taxpayer may apportion the amount of its research expense that remains after allocation under the legal requirements test ratably on the basis of foreign and U.S. gross income. If the 50-percent limitation is not satisfied with respect to one of the income groupings, then the taxpayer must apportion to that income grouping 50 percent of the amount of its research expense which would have been apportioned to that income grouping under the sales and place-of-performance methods. A taxpayer electing an optional gross income method may be able then to reduce the amount of its research expense apportioned to foreign source income to as little as one-half of the amount that would be apportioned to foreign source income under the sales method.

For example, consider a taxpayer with $110 of U.S.-performed research expense and equal U.S. and foreign sales. Assume that $10 of the research expense is to meet U.S. legal requirements and is allocated to U.S. source income. Of the remaining $100, 30 percent ($30) is exclusively apportioned to U.S. source income under the automatic place-of-performance rule and the remaining $70 is divided evenly between U.S. and foreign source income, using the sales method. Thus, under this method $35 would be allocated to foreign source income and $75 would be allocated to U.S. source income. Under the optional gross income methods, the $35 of research expense allocated to foreign sources can be reduced as much as 50 percent, to $17.50. This can occur, for example, if the foreign sales were made by a foreign subsidiary that did not repatriate earnings to the U.S. corporation, and thus a disproportionately high fraction of the U.S. corporation's income is from U.S. sources.

The optional gross income methods apply to all of a taxpayer's gross income, not gross income on a product category basis.

Statutory Allocation of Research and Experimental Expenses

The Economic Recovery Tax Act of 1981 (ERTA) provided that, for a taxpayer's first two taxable years beginning within two years after the date of its enactment (August 13, 1981), all research and experimental expenditures (within the meaning of sec. 174) paid or incurred in those years for research activities conducted in the United States were to be allocated or apportioned to income from sources within the United States (sec. 223 of ERTA).

This two-year moratorium was effectively extended for two additional years by the Tax Reform Act of 1984 (the "1984 Act"). Under section 126 of the 1984 Act, for taxable years beginning generally after August 13, 1983, and on or before August 1, 1985, all of a taxpayer's research and experimental expenditures (within the meaning of sec. 174) attributable to research activities conducted in the United States were to be allocated to sources within the United States for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States.

One reason Congress cited for enacting the original two-year moratorium was that some foreign countries do not allow deductions under their tax laws for expenses of research activities conducted in the United States. Taxpayers argued that this disallowance caused U.S.-based research to be disadvantaged. First, U.S.-based research expense is deemed to be allocated to a foreign country which may not recognize that such amount is deductible as an expense. The allocation of this U.S.-based research expense to foreign sources had the effect of reducing the foreign tax credit of U.S. taxpayers. Because those taxpayers could take their deductions if the research occurred in the foreign country, taxpayers argued that there was an incentive to shift their research expenditures to those foreign countries whose laws disallow tax deductions for research activities conducted in the United States but allow tax deductions for research expenditures incurred locally.

Accordingly, Congress concluded that the Treasury Department should study the impact of the allocation of research expenses under the 1977 regulation on U.S.-based research activities and on the availability of the foreign tax credit. Pending the outcome of the study, Congress concluded that expenses should be charged to the cost of generating U.S. source income, regardless of whether such research was a direct or indirect cost of producing foreign source income.

On the ground that a reduction in research and development might adversely affect the competitive position of the United States, the 1983 Treasury report recommended the two-year extension of the moratorium that was ultimately enacted by Congress to consider further the results of the Treasury study.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") extended the moratorium on the application of the research and experimental expense allocation rules of the 1977 regulation generally for one additional taxable year beginning after August 1, 1985, and on or before August 1, 1986.

The Tax Reform Act of 1986 (the "1986 Act") permitted the moratorium on application of the research expense allocation rules in regulation section 1.861–8 to expire. However, for taxable years beginning after the August 1, 1986, and on or before August 1, 1987, application of the regulation was liberalized by the 1986 Act in three respects, which were intended by Congress to provide an additional tax incentive to conduct research in the United States while Congress analyzed whether any additional permanent incentive was necessary.

The first liberalization under the 1986 Act was that for the specified one-year period, 50 percent of all remaining amounts allowable as a deduction for qualified research and experimental expenditures (that is, research and experimental expenditures within the meaning of section 174 that are attributable to activities conducted in the United States) after allocation of legally required research expenses could be apportioned to U.S. source income and deducted from such income in determining the amount of taxable U.S. source income. The 1986 Act thus had the effect of increasing the automatic place-of-performance apportionment percentage for U.S.-based research expense from 30 percent to 50 percent.

The 1986 Act further provided that, for the specified one-year period, the portion of those amounts allowable as a deduction for qualified research and experimental expenditures that remained after any legal requirements allocation and the 50 percent automatic place-of-performance apportionment were apportioned either on the basis of sales of gross income. Thus, the 1986 Act's second effective liberalization of the regulation was to allow the automatic place-of-performance apportionment temporarily to taxpayers who elected to apportion expenses using the optional gross income method, rather than only to taxpayers that used the standard sales method of apportionment. Third, the 1986 Act had the effect of temporarily suspending the regulatory rule that prohibits taxpayers from using the optional gross income method to reduce allocation of research expense to foreign source income by more than 50 percent of the amount that would be allocated to foreign source income under the sales method.

The temporary modifications made by the 1986 Act to the research expense allocation rules in regulation section 1.861–8 applied for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States. The modifications applied only to the allocation of expenditures for research and experimental activities conducted in the United States, and only for the purposes of geographic sourcing of income; the modifications did not apply for other purposes, such as the computation of combined taxable income of a FSC (or DISC) and its related supplier. Also, the modifications did not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation.

The Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") further modified, again on a temporary basis, the rules for sourcing research expenditures. These modifications were effective only for the first four months of a taxpayer's first taxable year beginning after August 1, 1987 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Under the 1988 Act, the treatment of research and development expenditures incurred to meet certain legal requirements was unchanged. After applying the legal requirements rule, however, the 1988 Act modifications provided that 64 percent of the U.S.-based research expenses remaining to be allocated and apportioned were allocated to U.S. source income and 64 percent of the remaining foreign-based research expenses were allocated to foreign source income. The remaining research expenditures treated as having been incurred during this four-month period were allocated and apportioned either on the basis of sales or gross income. However, if the gross income method of apportionment was utilized, the amount apportioned to foreign source income could be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

Generally, for the remainder of a taxpayer's first taxable year beginning after August 1, 1987 (and for subsequent taxable years), the rules set forth in regulation section 1.861–8 were applicable with respect to sourcing research and experimental expenditures.

The Omnibus Budget Reconciliation Act of 1989 (the "1989 Act") extended, again on a temporary basis, the rules for sourcing research expenditures that were contained in the 1988 Act. The 1989 Act also codified these statutory allocation rules in section 864(f) of the Internal Revenue Code. As codified in 1989, these rules were effective only for the first nine months of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Under the 1989 Act, for the remainder of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (and for subsequent taxable years), the rules set forth in regulation section 1.861-8 would have applied with respect to sourcing research and experimental expenditures.

The Omnibus Budget Reconciliation Act of 1990 (the "1990 Act") further extended the statutory allocation rules that were codified in the 1989 Act. Under the 1990 Act, the rules of section 864(f) apply to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991.

President's budget proposal

Under the President's fiscal year 1992 budget proposal, the statutory R&D allocation rules of section 864(f) would be extended for one year, so as to apply to all R&D expenses paid or incurred in taxable years beginning after August 1, 1991 and on or before August 1, 1992.[1]

Explanation of provision

The bill temporarily extends the period for application of Code section 864(f), which provides statutory allocation rules that supersede the Treasury's research and experimentation expense allocation regulation for purposes of determining the source of taxable income. Following the period for which the statutory allocation rules are made applicable by the bill, the Treasury regulation would again apply.

Effective date

The provision is effective for research expenses paid or incurred during the taxpayer's third taxable year beginning after August 1, 1989, and on or before August 1, 1992. In the case of the taxpayer's first taxable year beginning after August 1, 1991, however, the statutory allocation rule would apply only to research expenses paid or incurred during the first six months of that year.

2. Tax credit for qualified research expenditures (sec. 102 of the bill and sec. 41 of the Code)

Present law

General Rule

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after December 31, 1991.

A 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.[2]

Computation of Allowable Credit

Except for certain university basic research payments, the credit applies only to the extent that the taxpayer's qualified research expenditures for the taxable year exceed its base amount. The base amount for the current year is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years.

If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Relation to Deduction

Deductions for qualified research expenditures allowed to a taxpayer under sec. 174 or any other provision are reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

Legislative background

The research credit initially was enacted in the Economic Recovery Tax Act of 1981 as a credit equal to 25 percent of the excess of qualified research expenses in the current year over the average of qualified research expenses in the prior three taxable years. The research credit was modified in the Tax Reform Act of 1986 which (1) extended the credit through December 31, 1988, (2) reduced the credit rate to 20 percent, (3) tightened the definition of research expenditures eligible for the credit, and (4) modified the university basic research credit.

The Technical and Miscellaneous Revenue Act of 1988 extended the credit for one additional year, through December 31, 1989. The 1988 Act also reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 50 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months (by prorating qualified expenses incurred before January 1, 1991). The 1989 Act also modified the method for calculating a taxpayer's base amount and further reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 100 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991 (and repealed the special rule to prorate qualified expenses incurred before January 1, 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would make permanent the 20-percent research tax credit for qualified research expenditures and university basic research payments.

Explanation of provision

The tax credit for qualified research expenditures (including university basic research payments) is extended for six months (i.e., for qualified expenses incurred through June 30, 1992).

3. Exclusion for employer-provided educational assistance (sec. 103 of the bill and sec. 127 of the Code)

Present law

An employee's gross income and wages for income and employment tax purposes do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements (sec. 127). This exclusion, which expires for taxable years beginning after December 31, 1991, is limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of the section 127 exclusion, an employee generally would be required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

Legislative background

The section 127 exclusion was first established on a temporary basis by the Revenue Act of 1978 (through 1983). It subsequently was extended, again on a temporary basis, by Public Law 98-611 (through 1985), by the Tax Reform Act of 1986 (through 1987), by the Technical and Miscellaneous Revenue Act of 1988 (through 1988), by the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and by the Omnibus Reconciliation Act of 1990 (through 1991). Public Law 98-611 adopted a $5,000 annual limit on the exclusion; this limit was subsequently raised to $5,250 in the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 made the exclusion inapplicable to graduate-level courses. The restriction on graduate-level courses was repealed by the Omnibus Reconciliation Act of 1990, effective for taxable years beginning after December 31, 1990.

Explanation of provision

The exclusion from income for employer-provided educational assistance is extended through June 30, 1992. The exclusion is available with respect to amounts paid by the employer on or before June 30, 1992.

4. Exclusion for employer-provided group legal services; tax exemption for qualified group legal services organizations (sec. 104 of the bill and secs. 120 and 501(c)(20) of the Code)

Present law

Under present law, certain amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion is limited to an annual premium value of $70.

The exclusion for group legal services benefits expires for taxable years beginning after December 31, 1991.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expires for taxable years beginning after December 31, 1991.

Legislative background

The section 120 exclusion and the section 501(c)(20) exemption were enacted initially on a temporary basis by the Tax Reform Act of 1976 (through 1981). They subsequently were extended, again on a temporary basis, by the Economic Recovery Act of 1981

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[1] The Treasury Department's *General Explanations of the President's Budget Proposals Affecting Receipts* erroneously describes the effective date of the proposal as "taxable years beginning after August 1, 1991 and *ending* on or before August 1, 1992."

[2] Expenditures paid or incurred for university basic research after December 31, 1991, are not eligible for the credit.

(through 1984), Public Law 98-612 (through 1985), the Tax Reform Act of 1986 (through 1987), the Technical and Miscellaneous Revenue Act of 1988 (through 1988), the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and the Omnibus Reconciliation Act of 1990 (through 1991). The Technical and Miscellaneous Revenue Act of 1988 imposed the $70 annual limit on the amount of premium that may be excluded by the employee.

Explanation of provision

The exclusion from income for employer-provided group legal services is extended through June 30, 1992. The exclusion is available with respect to amounts paid by an employer before July 1, 1992, for coverage under a qualified group legal services plan for periods before July 1, 1992. In addition, the tax-exempt status for organizations providing qualified group legal services is extended through taxable years beginning before July 1, 1992.

5. Targeted jobs tax credit (sec. 105 of the bill and sec. 51 of the Code)

Present law

Tax Credit

The targeted jobs tax credit is available on the elective basis for hiring individuals from nine targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expires for individuals who begin work for an employer after December 31, 1991.

Authorization of Appropriations

Present law authorizes appropriations for administrative and publicity expenses relating to the credit through December 31, 1991. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

Legislative background

The targeted jobs tax credit was enacted by Congress in the Revenue Act of 1978 to replace an expiring credit for increased employment. As originally enacted, the targeted jobs tax credit was scheduled to apply to qualified wages paid before 1982.

The availability of the credit was successively extended by the Economic Recovery Tax Act of 1981 (ERTA) for one year (through 1982), by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) for two years (through 1984), and by the Deficit Reduction Act of 1984 (DEFRA) for one year (through 1985). The Tax Reform Act of 1986 (TRA 1986) extended the targeted jobs tax credit for three additional years (through 1988), with modifications. The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) extended the credit for one year (through 1989), with modifications. The Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) extended the credit for nine months (through September 30, 1990). Most recently, the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) extended the credit for fifteen months (through 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the credit for one year. Therefore, the credit would be available for workers who begin work for the employer before January 1, 1993.

Explanation of Provision

The targeted jobs tax credit is extended for six months, so that it is available with respect to wages paid for employees who begin work for an employer before July 1, 1992.

6. Business energy tax credits for solar and geothermal property (sec. 106 of the bill and sec. 48(a) of the Code)

Present law

Under present law, nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment which produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[3]

The business energy tax credits are currently scheduled to expire with respect to property placed in service after December 31, 1991.

Legislative background

Ten-percent tax credits for qualifying solar and geothermal energy properties were enacted in the Energy Tax Act of 1978, effective after April 20, 1977, through December 31, 1982. In the Windfall Profit Tax Act of 1980, the solar and geothermal credits were extended through 1985, and the rates of these credits were increased to 15 percent. In the Tax Reform Act of 1986, the solar and geothermal credits were extended for three additional years (through 1988), at rates which phased down to 10 percent. An additional one-year extension (through 1989) of the solar and geothermal credits was provided in the Technical and Miscellaneous Revenue Act of 1988.

The solar and geothermal credits were extended for the nine-month period through September 30, 1990, in the Omnibus Budget Reconciliation Act of 1989. In the Omnibus Budget Reconciliation Act of 1990, these credits were extended for fifteen months through December 31, 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the 10-percent business credits for solar and geothermal property for one year, through December 31, 1992.

Explanation of provision

The bill extends the business energy tax credits for qualifying solar and geothermal property placed in service through June 30, 1992.

7. Tax credit for low-income rental housing (sec. 107 of the bill and sec. 42 of the Code)

Present law

A tax credit is allowed in annual installments over ten years of qualifying newly constructed or substantially rehabilitated low-income rental housing. For most qualifying housing, the credit has a present value of 70 percent of the cost of low-income housing units. For housing receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost of existing housing (e.g., costs other than the required rehabilitation expenditures), the credit has a present value of 30 percent.

To qualify for the credit, a building owner generally must receive a low-income housing credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation. The annual credit ceiling for each State is $1.25 per resident per year.

The low-income housing credit is scheduled to expire after December 31, 1991.

Legislative background

The low-income housing credit was enacted by the Tax Reform Act of 1986, with an expiration date of December 31, 1989. The credit was substantially revised and extended through December 31, 1990, by the Omnibus Budget Reconciliation Act of 1989 (the 1989 Act). To implement the equivalent of a partial-year extension of the credit, the 1989 Act reduced the annual low-income housing credit ceiling for 1990. In years prior to 1990, the credit ceiling for each State was $1.25 multiplied by the State's population. For calendar year 1990, that amount was reduced by 25 percent from $1.25 to $0.9375.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Act) restored the State credit ceiling applicable for 1990 to $1.25 per resident of the State, and extended authority to allocate the credit through December 31, 1991. In addition, the 1990 Act made technical and other modifications to the credit.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the current low-income housing credit for one year, through December 31, 1992.

Explanation of provision

The low-income housing credit is extended through June 30, 1992. The credit ceiling for each State is $1.25 per resident of the State for the period during 1992 for which the credit is extended.

8. Qualified mortgage bonds and mortgage credit certificates (sec. 108 of the bill and secs. 143 and 25 of the Code)

Present law

Qualified Mortgage Bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used (net of costs of issuance and a reasonably required reserve fund) to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds (sec. 143). The QMBs must meet purchase price, income eligibility limitations, and other restrictions.

Mortgage Credit Certificates

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates ("MCCs") (sec. 25). MCCs entitle home buyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in QMB volume authority to issue MCCs expires after December 31, 1991.

Legislative background

The Mortgage Subsidy Bond Tax Act of 1980 first imposed restrictions on the ability of State and local governments to issue tax-exempt bonds to finance mortgage loans on single-family, owner-occupied residences. These restrictions included many of the rules applicable under present law.

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[3] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (Code sec. 613(e)(2)).

Under the 1980 Act, the authority of State and local governments to issue QMBs expired on December 31, 1983. The Deficit Reduction Act of 1984 extended this authority (with modifications) through December 31, 1987), and enacted the MCC alternative to QMBs.

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for one year (through December 31, 1988) by the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 extended the authority to issue QMBs and the election to trade in bond volume authority to issue MCCs for another year (through December 31, 1989), with substantial modifications. The Omnibus Budget Reconciliation of 1989 extended the expiration date of this authority nine months (through September 30, 1990).

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for 15 months, (through December 31, 1991) by the Omnibus Budget Reconciliation Act of 1990. The 1990 Act also made several modifications to the recapture provisions. These modifications were effective as if enacted in the Technical and Miscellaneous Revenue Act of 1988 (the Act which originally enacted the recapture provisions).

Explanation of provision

The authority of State and local governments to issue QMBs and to elect to trade in bond volume authority to issue MCCs is extended through June 30, 1992.

9. Qualified small-issue manufacturing bonds (sec. 109 of the bill and sec. 144(a) of the Code)

Present law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the bond proceeds is used to finance manufacturing facilities or certain land or property for first-time farmers ("qualified small-issue bonds"). Qualified small-issue bonds are issues having an aggregate authorized face amount of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. Special limits apply to these bonds for first-time farmers.

Authority to issue qualified small-issue bonds expires after December 31, 1991.

Legislative background

Substantial modifications to the tax treatment of exempt small-issue industrial development bonds were made by the Tax Equity and Fiscal Responsibility Act of 1982. The 1982 Act also provided that the authority to issue exempt small-issue bonds would expire after December 31, 1986. The deficit Reduction Act of 1984 limited the small-issue bond exception to financing for manufacturing and farming facilities, effective after December 31, 1989.

The Technical and Miscellaneous Revenue Act of 1988 clarified the definition of manufacturing to provide that up to 25 percent of the proceeds of qualified small issue bonds may be used to finance ancillary activities which are carried out at the manufacturing site. The Omnibus Budget Reconciliation Act of 1989 extended the expiration date to September 30, 1990. The Omnibus Budget Reconciliation Act of 1990 extended that date to December 31, 1991.

Explanation of provision

The authority to issue qualified small-issue bonds is extended through June 30, 1992.

10. Deduction for health insurance costs of self-employed individuals (sec. 110 of the bill and sec. 162(l) of the Code)

Present law

Under present law, an employer's contribution to a plan providing accident or health coverage is excludable from an employee's income (sec. 106). No equivalent exclusion is provided for self-employed individuals (i.e., sole proprietors or partners in a partnership).

However, present law provides a deduction for 25 percent of the amounts paid for health insurance for a taxable year on behalf of a self-employed individual and the individual's spouse and dependents. This deduction is allowable in calculating adjusted gross income. The 25-percent deduction is also available to a more than 2-percent shareholder of an S corporation.

No deduction is allowable for any taxable year in which the self-employed individual or eligible S corporation shareholder is eligible to participate (on a subsidized basis) in a health plan of an employer of the self-employed individual (or of such individual's spouse).

The 25-percent deduction expires for taxable years beginning after December 31, 1991.

Legislative background

The 25-percent deduction for the health insurance costs of self-employed individuals was enacted on a temporary basis by the Tax Reform Act of 1986 (for taxable years beginning before January 1, 1990). Certain technical corrections to the provision were made by the Technical and Miscellaneous Revenue Act of 1988. The Omnibus Budget Reconciliation Act of 1989 extended the deduction for 9 months (for taxable years beginning before October 1, 1990) and clarified that the deduction is available to certain S corporation shareholders. The Omnibus Reconciliation Act of 1990 extended the deduction through 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend for one year the 25-percent deduction for health insurance costs of self-employed individuals.

Explanation of provision

The 25-percent deduction for health insurance costs of self-employed individuals is extended through June 30, 1992. The deduction is available with respect to amounts paid before July 1, 1992, for insurance coverage for periods before July 1, 1992.

For purposes of the earned income limitation on the deduction, in the case of any taxable year beginning in 1991 the amount of earned income taken into account is the amount that bears the same ratio to the total amount of earned income for such taxable year as the number of months in the taxable year ending before July 1, 1992, bears to the total number of months in such taxable year.

11. Tax credit for orphan clinical drug testing expenses (sec. 111 of the bill and sec. 28 of the Code)

Present law

A 50-percent nonrefundable tax credit is allowed for a taxpayers's qualified clinical testing expenses paid or incurred in the testing of certain drugs, generally referred to as orphan drugs, for rare diseases or conditions. Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Legislative background

This provision was enacted initially in the Orphan Drug Act of 1983, and was scheduled to expire after 1987. The credit was extended for three years in the Tax Reform Act of 1986, through December 31, 1990. The Omnibus Budget Reconciliation Act of 1990 extended the credit for one year, through December 31, 1991.

Explanation of provision

The provision extends the orphan drug tax credit for six months (i.e., for qualified clinical testing expenses incurred through June 30, 1992).

12. Minimum tax exception for gifts of appreciated tangible property (sec. 112 of the bill and sec. 57(a)(6) of the Code)

Present law

In computing taxable income, a taxpayer generally is allowed to deduct the fair market value of property contributed to a charitable organization.[4] In the case of a charitable contribution of tangible personal property, however, a taxpayer's deduction for regular tax purposes is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the dedication for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis. However, in the case of any taxable year beginning in 1991, this rule does not apply to contributions of tangible personal property.[5]

Legislative background

The Tax Reform Act of 1986 treated the amount by which the value of a charitable contribution of capital gain property exceeded the basis of the property as a minimum tax preference.

The Omnibus Budget Reconciliation Act of 1990 provided that, in the case of any taxable year beginning in 1991, this rule does not apply to a contribution of tangible personal property.

Explanation of provision

The rule that charitable contributions of tangible personal property are not treated as a minimum tax preference item is extended for six months (i.e., for contributions made through June 30, 1992).[6]

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[4] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). Special rules also limit the amount of a charitable contribution deduction to less than the contributed property's fair market value in cases of contributions of inventory or other ordinary income property and short-term capital gain property.

[5] With respect to contributions made during any taxable year beginning in 1991, *see* Rev. Rul. 90-111, 1990-2 C.B. 30.

III. DESCRIPTION OF REVENUE-RAISING PROVISION

1. Modify estimated tax payment rules for large corporations (sec. 201 of the bill and sec. 6655 of the Code).

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 90 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 90 percent of the tax liability attributable to such annualized income.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Explanation of provision

For taxable years beginning in 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its esimated tax payments will be required to base its estimated tax payments on 93 percent (rather than 90 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. The applicable percentage will be 94 (rather than 93) percent in 1993, 94 percent in 1994, 95 percent in 1995, and 95 percent in 1996.

The provision does not change the present-law availability of the 100 percent of last year's liability safe harbor for small corporations. In addition, as under present law, the first quarter's estimated tax payment for a large corporation may be based on 100 percent of the prior year's tax liability.

Effective date

The provision will be effective for estimated tax payments with respect to taxable years beginning after December 31, 1991, and before January 1, 1997.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To Be Brigadier General

Col. George P. Cole, Jr., [redacted], Regular Air Force.

Col. Eldon W. Joersz, [redacted], Regular Air Force.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. Moynihan):

S. 2038. A bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. Levin, Mr. Akaka, Mr. Pryor, Mr. Kohl, Mr. Lieberman and Mr. Sasser):

S. 2039. A bill to amend the Federal Advisory Committee Act; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 2040. A bill to suspend for a 3-year period the duty on certain sheet glass; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2041. A bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2042. An original bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. SIMON:

S. 2043. A bill to prohibit certain motor fuel marketing practices; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. McCain, Mr. Simon, Mr. Akaka, Mr. Burdick, Mr. Wellstone, Mr. DeConcini and Mr. Murkowski):

S. 2044. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages; to the Select Committee on Indian Affairs.

By Mr. BINGAMAN:

S. 2045. A bill to authorize a study of the prehistoric Casas Grandes Culture in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN:

S. 2046. A bill to authorize humanitarian, technical, and enterprise fund assistance for the Baltic states and the Soviet republics, and for other purposes; to the Committee on Foreign Relations.

By Mr. SANFORD (for himself, Mr. Mitchell, Mr. Adams, Mr. Akaka, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Bradley, Mr. Breaux, Mr. Bryan, Mr. Bumpers, Mr. Burdick, Mr. Byrd, Mr. Conrad, Mr. Cranston, Mr. Daschle, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Exon, Mr. Ford, Mr. Fowler, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Harkin, Mr. Heflin, Mr. Hollings, Mr. Inouye, Mr. Johnston, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Metzenbaum, Ms. Mikulski, Mr. Moynihan, Mr. Nunn, Mr. Pell, Mr. Pryor, Mr. Reid, Mr. Riegle, Mr. Robb, Mr. Rockefeller, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Simon, Mr. Wellstone, Mr. Wirth and Mr. Wofford):

S. 2047. A bill to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States; considered and passed.

By Mr. MOYNIHAN:

S. 2048. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study of the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

By Mr. LIEBERMAN:

S. 2049. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperation research organizations; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. Hatch):

S. 2050. A bill to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes; considered and passed.

By Mr. FORD:

S.J. Res. 235. Joint resolution designating May 7, 1992, as "National Barrier Awareness Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for Mr. Mitchell (for himself and Mr. Dole)):

S. Res. 232. A resolution relating to recess appointments; considered and agreed to.

By Mr. GRASSLEY (for Mr. Dole):

S. Res. 233. A resolution designating room S–238 in the United States Capitol Building as the "Strom Thurmond Room"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself and Mr. Moynihan):

S. 2038. A bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY AMENDMENTS OF 1991

● Mr. BENTSEN. Mr. President, today I am introducing S. 2038, the Social Security Amendments of 1991. This bill will ease substantially the Social Security earnings test, improve benefits for certain disabled individuals and for widows and widowers, and help rebuild confidence in the Social Security system by establishing the Social Security Administration as an independent agency.

A primary objective of the bill is to reduce significantly the burden of the Social Security earnings test on those individuals who choose to work after they attain age 65. It increases the amount of earnings exempt from any reduction in Social Security benefits in every year through 1996. The exempt amount will be nearly doubled, going from a projected yearly amount of $12,600 in 1996 under present law to $24,120 under my bill. By 1996, the bill will enable an individual to earn almost 2½ times more than the $9,720 he or she can earn this year without any reduction in benefits.

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[6] The bill does not affect the present-law treatment of contributions made in taxable years beginning before 1992.

Today, when a person earns over the exempt amount, benefits are reduced by $1 for every $3 of earnings—a tax rate of 33⅓ percent. The bill would lower this rate of 25 percent on the first $5,000 of earnings above the exempt amount, reducing benefits by $1 for every $4 of earnings.

The primary purpose of the Nation's Social Security Program must be to provide income protection to older workers who have retired. In order to target its benefits on that population, the program has always included an earnings test to determine whether a person is retired. Unfortunately, that test has too often served to severely penalize many beneficiaries age 65 and over who need to or would like to supplement their retirement income by continuing to engage in employment. Over the years, I have supported many legislative changes that have helped to ease the severity of the test and allowed beneficiaries to earn more without losing their benefits.

When I first came to the Congress, the rule was that you lost your Social Security benefit in any month that you earned over $15. When I began my service in the Senate in 1971, a retiree could earn $1,680 a year with no loss of benefits. But the next $1,200 of earnings reduced benefits at a 50-percent rate, and any earnings over that caused a dollar-for-dollar reduction in benefits. That's a 100-percent tax rate.

In that Congress, I cosponsored legislation to substantially ease these tough earnings test rules. What I proposed then would have about doubled exempt earnings, indexed the exempt amount for the future, and eliminated the 100 percent reduction rate. Over the years, I have worked to see that proposal like this were enacted into law. As a result, the earnings test today is much less burdensome than it was 20 years ago.

Nevertheless, I am not satisfied that the earnings test we have today is equitable, or that it is designed to meet the real needs of retirees now and in the future. The percentage of the work force covered by private pensions has been slowly declining since 1980. The rate of savings declined by half during the 1980s and is not at rock bottom, barely 3 percent of household disposable income. In order to maintain their standard of living—or even to meet their basic needs—some current retirees must work to supplement their income from Social Security benefits and from other sources. Many more may need to do so in times to come.

But there's more to it than simple financial need. Our society has come to recognize that work is an essential part of the lives of many older people. The ability to continue to work at some level is vital if we are to maintain our health and sense of well being. And its a two-way street. Our economy—all of us—benefit from having the experience and skills of older workers in the work force. Yet today's earnings test is a serious work disincentive for many elderly retirees, and penalizes most those who want to or need to continue some form of meaningful employment.

I believe the changes in the test that I have proposed in this bill are ones that are necessary to meet the very real needs of today's and tomorrow's Social Security retirees—and ones that will benefit our society as a whole.

The bill also makes important improvements in the Social Security program that affect the disabled, widows and widowers, and election workers.

One long-overdue change is indexing the measure of substantial gainful activity, or SGA, used to determine disability. The Social Security definition of disability requires that a person be unable to engage in any "substantial gainful activity." Individuals who work and earn more than the SGA amount cannot be considered disabled for Social Security purposes. This means that they are not eligible for Social Security disability insurance benefits or supplemental security income disability payments.

For 10 years, from 1980 to 1990, SGA for people who are not blind was frozen at $300 a month in Social Security regulations. During this period, average wages increased by 68 percent. Failure to adjust the SGA level had the effect of substantially reducing the amount of work a person could perform and still be considered disabled. So the definition of disability, which should be relatively constant over time, instead became progressively more restrictive.

SGA for the blind, in contrast, has since 1978 been set by law at an amount equal to the earnings test exempt amount for persons who are 65 to 69 years old. This amount is indexed, and goes up annually by the rate of increase in average wages.

The special Disability Advisory Council, which was mandated by the Congress in 1985 and issued its report in 1988, looked carefully at SGA. For people who are not blind, it recommended that:

> SGA should be adjusted to reflect the average wage growth since the SGA level was last increased and should be indexed to average wage growth in future years.

The Council saw these changes as an important part of the effort to create work incentives for disabled individuals.

SGA for the non-blind was increased by regulation to $500 in 1990, an amount that reflected the growth in wages since it was last increased in 1980. However, no provision was made to keep this amount current with wage increases. S. 2038 would correct this flaw, providing in law for the indexing of SGA for the non-blind by the annual increase in average wages. SGA for the blind would continue to be indexed as under present law, and would not be affected by the changes I have proposed in the earnings test.

The bill also corrects an inequity affecting one particular type of disabled person, the so-called disabled adult child. Disabled adult children are individuals who were disabled before they reached age 22 and are entitled to Social Security benefits as dependents or survivors of retired, disabled, or deceased workers. Most of those receiving benefits today are in the 20 to 50 age group. Under current law, if these disabled individuals marry persons who are not also Social Security beneficiaries, they permanently lose all of their Social Security benefits. They also lose their Medicare benefits.

We used to talk about the "marriage penalty" in the income tax law, but this provision of the Social Security law lends new meaning to the term. Senator BREAUX has introduced legislation to eliminate the penalty for disabled adult children in the future. My bill would build on this approach. It would both eliminate the marriage penalty for all disabled adult children who marry in the future, and allow those who lost their benefits in the past because they married to reapply for benefits. If someone who reapplies is found to be still disabled, he or she will immediately begin receiving benefits again.

I have long been concerned that some groups of Social Security beneficiaries—particularly elderly widows and widowers—receive benefits that are considerably lower than average, and frequently have little in the way of other, non-Social Security income. The average widow age 70 and older, for example, must depend on her Social Security benefit for 70 percent of her income. The average retiree age 70 and older, in contrast, derives almost half of his income from sources other than Social Security.

The benefits the widow receives are based on the often incomplete earnings record of her husband and, for widows age 70 and older, average about $70 a month lower than those of retirees in this age group. The widow may have had little choice but to take benefits at the earliest possible time, or her husband may have elected to retire early. In either of these cases, the benefits she receives are permanently reduced because of "early retirement," sometimes by as much as 28.5 percent.

S. 2038 includes two provisions to assist the neediest widows and widowers. First, it would lessen the reductions for " early retirement" that now apply to the benefits of many widows and widowers who are 85 years of age and older. These are individuals who have lived beyond the life expectancy on which the reductions were based, yet must continue to rely on their reduced benefits for the rest of their lives. This change will provide a permanent benefit increase averaging between $10 and $20 a month for over 250,000 of the most elderly widows and widowers.

Second, the bill would establish a new, fixed minimum benefit amount that would be paid to widows, widowers, and surviving disabled adult children who are receiving a benefit of less than $253 a month. It is designed to help this limited group of survivors who, by any standard, are receiving extremely low benefits.

The final program change include in S. 2038 increases the amount temporary election workers can receive and still be exempt from Social Security and Medicare coverage. Many Senators have heard from their State and local governments about this issue. It was not the intent of the Social Security law to cover these workers, who often work only a few days a year. This is what can happen, however, because the current $100 a year exemption in the law is now obsolete and inadequate.

Election workers are frequently newly hired for each election, and this type of occasional work may be their only attachment to the work force. Their coverage would present cumbersome record keeping problems and create unnecessary costs for State and local governments. I am proposing to solve the problem by raising the exemption for election workers to $1,000, effective in 1991.

As Senators know, the 1990 budget agreement requires that any cost increases or revenue losses to the Social Security program must be offset. However, I would propose an offset even if it were not required, because I believe that one of the most important obligations we have as Members of Congress is to protect the fiscal integrity of the Social Security trust funds. Social Security is a program vital to all Americans, and we must do nothing to put it at risk or weaken public confidence in its integrity.

S. 2038 pays for the costs of the program improvements proposed by increasing the Social Security contribution and benefit base by a modest amount. The base establishes the amount of annual wages or self-employment income subject to the Social Security payroll tax. It is indexed and increases every year as average wages increase. The 1977 Social Security Amendments were intended to increase the base so that taxes were paid on 90 percent of all covered wages, restoring coverage to the level in the early days of the program. But this level has not been maintained in recent years because wages of high earners have increased more rapidly than the average wage index. Today, only about 88 percent of wages are subject to the FICA tax.

S. 2038 puts us back on the track toward 90 percent coverage. In so doing it has a progressive effect, affecting only individuals with earned incomes next year of over $55,500. It provides for a $3,000 increase in the taxable base by 1996, phased-in in increments over the next 5 years. The 1992 increment would add $1,200 to the 1992 present law base of $55,500. Under fiscal year 1992 budget projections, the 1996 base would be raised from a present law estimated level of $69,600 to a proposed level of $72,600.

In addition to these changes in the Social Security program and its financing, the bill proposes a fundamental change in the Social Security administrative structure. It removes the Social Security Administration from the jurisdiction of the Department of Health and Human Services and establishes it as an independent agency.

This independent agency proposal is almost identical to the proposal introduced earlier this year by Senator MOYNIHAN, which I cosponsored. The differences are minor, perfecting changes.

The proposal follows the recommendations made by the Staats Panel in 1985. This was a Panel created by the Congress as part of the Social Security Reform Amendments in 1983. After thorough study, this Panel of experts, headed by former Comptroller General Elmer Staats, recommended that an independent Social Security agency should have a strong single administrator and a permanent bipartisan advisory board.

The bill provides that the agency would be headed by a single Commissioner, appointed by the President and confirmed by the Senate. The Commissioner's 4 year term would coincide with that of the President.

The creation of an independent agency with a single administrator should produce the kind of strong leadership that is needed to protect the long-term interests of the Social Security program. The bill elevates the status of the agency, which is now buried in the bureaucracy of the Department of Health and Human Services, and makes the position of Commissioner comparable in status and pay to the heads of other executive departments. These changes should make it possible to attract highly qualified individuals to the job of Commissioner by providing them with the stature and authority needed to manage what is one of the most important and complex organizations in our Government.

The agency would have a seven member, bipartisan advisory board. Three members, including the Chairman, would be appointed by the President, and two each would be appointed by the Senate and the House of Representatives. The Board would meet periodically during the year to advise the Commissioner on policy. It would not be involved in the day-to-day operational management of the agency. The Board is intended to help produce a more deliberative and balanced decisionmaking process on important Social Security policy issues, and to deter actions that might undermine the integrity and stability of the Social Security system.

I believe that making the Social Security Administration an independent agency is a necessary step in assuring public confidence in the long term viability of the Social Security program, and in improving the quality of service to more than 40 million beneficiaries and 133 million workers who pay Social Security taxes. When the American Association of Retired Persons [AARP] testified before the Finance Committee in 1989, the witness told the Committee that establishing the Social Security Administration as an independent agency: "would be a clear signal to the American people that Congress is committed to protecting the Social Security program for the long term and ensuring that the daily functioning of the Social Security program would be stabilized."

In my view, Mr. President, the provisions of this bill focus on the most important improvements needed in Social Security in 1991. We need to ease substantially the earnings test for beneficiaries 65 and older. It is time—in fact, long past time—to make Social Security an independent agency. I hope that these changes, combines with the improvements included in the bill for the disabled, for needy widows and widowers, and for others, will be approved by this 102d Congress.

Mr. President, I ask unanimous consent that a more detailed description of the bill be printed in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

S. 2038, THE SOCIAL SECURITY AMENDMENTS OF 1991

EARNINGS TEST

Present Law.—Social Security beneficiaries age 70 and older receive full benefits without regard to any earnings they may have. Those under age 70 are eligible for full benefits only if their earnings are lower than the earnings test exempt amounts determined by law. The exempt amounts are indexed and increase annually by the rate of average wage growth in the economy. In 1991, the annual exempt amount for retirees and other beneficiaries age 65 to 69 is $9,720. It will increase to $10,200 in 1992, and is projected to reach $12,600 in 1996. Individuals with higher earnings will have their benefits reduced by $1 for every $3 of earnings above the exempt amount.

Proposed Change.—The proposal would increase the amount of earnings totally exempt from reduction and modify the rate of benefit reduction for earnings above the exempt amount for individuals age 65 to 69. The age 65–69 exempt amounts would be increased to $11,760 in 1992, $13,800 in 1993, $16,680 in 1994, $20,760 in 1995, and $24,120 in 1996. The proposed 1996 level would be almost double that projected under present law. Following 1996, annual indexing of the exempt amounts would resume.

In addition, starting in 1993 the rate of benefit reduction for the first $5,000 of earnings above the exempt amount would be lowered to $1 of benefits for every $4 of earnings. The present law rate of $1 for every $3 of earnings would continue to apply to earnings above that level.

SUBSTANTIAL GAINFUL ACTIVITY

Present Law.—The Social Security definition of disability requires that, to be found disabled, an individual must be unable to engage in any "substantial gainful activity." An individual who works and earns more than the monthly dollar amount defined as substantial gainful activity (SGA) is considered to be capable of substantial work effort, and cannot meet the threshold test of disability in either the Social Security Disability Insurance program or the Supplemental Security Income program for the disabled. The concept of SGA is defined in law, but the precise dollar amount of SGA for persons who are not blind is established by regulation. This regulation also establishes a dollar measure for determining whether a disabled Social Security beneficiary who attempts to work a limited amount is engaged in a trial work effort which, if successful, can lead to his returning to work and leaving the benefit rolls.

Between 1980 and 1990, SGA for persons who are not blind remained fixed in regulations at $300 per month. It was raised by regulation to $500 per month in 1990, but there is no provision for increasing it to keep pace with the growth of average wages in the economy. The amount of a trial work month was set at a non-indexed amount of $200 by the 1990 regulation.

SGA for the blind is, by law, equal to the earnings test exempt amount applicable to persons age 65 to 69 ($810 per month in 1991). This amount is indexed annually by the increase in average wages.

Proposed Change.—Beginning in 1992, the proposal would index the $500 SGA amount for the non-blind so that it increases annually by the rate of growth of average wages. The $200 measure of a trial work month would also be indexed. SGA for the blind would remain at the annual dollar levels produced under the present law earnings test. The proposal provides that SGA for the blind would not be affected by the increases in the earnings test exempt amounts proposed in this bill.

MARRIAGE OF DISABLED ADULT CHILDREN

Present Law.—Disabled adult children are the children of retired, disabled, or deceased workers who became disabled before the age of 22. They receive reduced Social Security benefits based on their deceased parents' Social Security earnings records, and are eligible for Medicare benefits after a two-year waiting period. Disabled adult children continue to receive benefits until they cease being disabled, die, or marry a person who is not a Social Security beneficiary. In the latter case, benefits are permanently lost due to marriage; they cannot be regained if the marriage ends.

Proposed Change.—The proposal would permit a disabled adult child to marry any person (beneficiary or non-beneficiary) in the future without losing his or her Social Security and Medicare benefits. Those who have already lost their benefits due to marriage would be entitled to reapply for benefits. The proposal would require that the Social Security Administration make all reasonable efforts to locate these individuals and promptly inform them of their reapplication rights. Those who reapply and are found to be still disabled would again be eligible for Social Security benefits. The amounts of their Social Security benefits would be updated to include all cost of living increases granted since they last received benefits. Disabled individuals who were previously eligible for Medicare benefits would receive them immediately. Those who were not would receive Medicare after completing the time remaining in the 2-year waiting period.

MINIMUM BENEFIT

Present Law.—The minimum benefit provision has been eliminated in present law. Prior to 1982, the minimum benefit was applicable to all beneficiaries whose regular benefit amount, based on their own or someone else's Social Security earnings record, would have been lower. It was frozen at $122 a month in 1978 and eliminated after 1981 because of its limited applicability, and because of concern that it would be aid to individuals who had primarily worked in and received pensions from employment not covered by Social Security. Since that time, provisions have been enacted that prevent windfall benefits for government retirement pensions.

Proposed Change.—A new minimum benefit of $253 a month would be established in 1992, applicable only to widows, widowers, and disabled adult children who are the survivors of a deceased wage earner. The amount of the new benefit would be equal to the amount that will be paid in 1992 to current beneficiaries who received the old minimum benefit in 1978 or before and had that benefit increased by annual cost of living adjustments. The new minimum benefit would apply both to individuals currently receiving lower benefits and to future beneficiaries. It would be fixed at $253 for future new beneficiaries, but after receiving it individuals would be entitled to the regular, annual Social Security cost of living increases.

Any widows or widowers affected by the proposal who also receive government pensions would be subject to the applicable provisions of law for offsetting such pensions. Under the proposal, persons who are currently eligible for Medicaid based on their eligibility for Supplemental Security Income (SSI) payments would retain their Medicaid eligibility even if the increase in their Social Security benefits eliminated all SSI payments.

EARLY RETIREMENT ADJUSTMENTS FOR ELDERLY WIDOWS AND WIDOWERS

Present Law.—The basic Social Security benefit for widows and widowers who first claim benefits at age 65 is 100 percent of the amount their deceased spouse would have received had he or she retired at age 65. However, widows and widowers are eligible to claim benefits as early as age 60. Those who claim benefits before age 65 have their basic benefit permanently reduced for every month in which they received early benefits. The reduction amounts to 5.7 percent per year, for a maximum reduction of 28.5 percent at age 60. The reduction is intended to compensate for the additional years of benefits they will receive in comparison to people who first take benefits at age 65. In addition, if the deceased spouse of a widow or widower received a reduced retirement benefit because he or she retired before age 65, the widow or widower cannot receive a benefit that exceeds the higher of the spouse's reduced benefit or 82.5 percent of the benefit the spouse would have received had he or she retired at age 65.

Proposed Change.—The proposal would apply only to widows and widowers age 85 and over. It would change the reduction for those who claimed benefits before age 65 to an amount equal to 4 percent for each year of early benefits. It would also limit the benefit reduction for widows and widowers whose spouses retired early to a benefit level no lower than 90 percent of the spouse's full, age 65 benefit. Widow and widowers currently eligible for Medicaid based on their eligibility for Supplemental Security Income would retain their Medicaid eligibility under this provision, even if the increase in Social Security benefits caused the loss of all SSI payments.

COVERAGE EXEMPTION FOR ELECTION WORKERS

Present Law.—The 1990 reconciliation legislation requires State and local governments to cover under Social Security any of their employees who are not covered by a State or local government retirement program. Earlier legislation required them to cover newly hired employees under Medicare. However, other provisions of law allow State and local election workers who are paid less than $100 per year to be excluded from this coverage.

Proposed Change.—Concerns have been expressed by many States that the $100 coverage exclusion is no longer adequate to prevent Social Security and Medicare coverage of some State and local government election workers. The proposal would increase the coverage exclusion so that election workers who are paid less than $1,000 per year would not be required to be covered under Social Security and Medicare.

CONTRIBUTION AND BENEFIT BASE

Present Law.—The amount of annual earnings subject to Social Security taxes and creditable for benefits is limited by a "contribution and benefit base." Wages and earnings in excess of the base are not subject to Social Security FICA and SECA taxes. The base is indexed by the annual rate of increase in average wages. It will be $55,500 in 1992, and under fiscal year 1992 budget assumptions is projected to reach $69,600 in 1996.

Proposed Change.—The proposal would finance the changes in the earnings test and the other changes proposed in Social Security benefits and coverage by gradually raising the contribution and benefit base in the period 1992–1996. The base would be raised by $1,200 above the present law level in 1992, $900 in 1993, $2,100 in 1994, $2,400 in 1995, and $3,000 in 1996.

INDEPENDENT SOCIAL SECURITY AGENCY

Present Law.—Responsibility for administration of the Old Age, Survivors, and Disability Insurance (OASDI) programs is vested in the Secretary of Health and Human Services. The programs are administered by the Social Security Administration, a component of the Department of Health and Human Services. SSA is headed by a Commissioner appointed by the President. SSA also administers the Supplemental Security Income (SSI) program.

Proposed Change.—The proposal would establish the Social Security Administration as an independent agency with responsibility for the Old Age, Survivors, and Disability Insurance programs, and for the Supplemental Security Income program.

The agency would be headed by a Commissioner appointed by the President for a 4-year term coinciding with the term of the

President, and subject to confirmation by the Senate. The Commissioner would be compensated at the rare for level I of the Executive Schedule (equivalent to the pay of Cabinet officers). The Commissioner would be selected on the basis of proven competence as a manager, and would be responsible for the exercise of all powers and discharge of all duties of the Social Security Administration, have authority and control over all personnel and activities of the agency, and serve as a member of the Social Security Board of Trustees.

The Commissioner would be advised by a 7-member, part-time Advisory Board. Members of the Board would be appointed for 6-year, staggered terms. Three members, including the chairman, would be appointed by the President and confirmed by the Senate; no more than 2 could be from the same political party) would be appointed by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and by the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority Member of the Committee on Finance).

Specific functions of the Board would include: studying and making recommendations on the most effective methods of providing economic security through the Social Security and Supplemental Security Income programs; making recommendations relating to the coordination of such programs with other programs providing economic and health security; making an independent assessment of the annual report of the Board of Trustees and advising the President and the Congress on the implications of the assessment; recommending to the President candidates to consider in selecting his nominees for the positions of Social Security Commissioner and Deputy Commissioner; reviewing and assessing the quality of service that the agency provides to the public; periodically assessing the adequacy of the agency's computer technology; reviewing and assessing the agency's progress in developing needed management improvements; increasing public understanding of the Social Security system; reviewing the development and implementation of a long-range research and program evaluation plan for the agency; reviewing and assessing any major studies of social security; and conducting such other reviews and assessments as may be appropriate.

In addition to the Commissioner, the President would also appoint a Deputy Commissioner, who would be subject to Senate confirmation. Other positions established within the agency (and appointed by the Commissioner) include: a Beneficiary Ombudsman to sponsor and support beneficiary interests; a Solicitor of Social Security to provide legal advice to the Commissioner and to manage the agency's litigation workload; and a Chief Administrative Law Judge. An independent panel would nominate candidates for the latter position. In addition, the proposal establishes in law the positions of Chief of Computer System Operations, Director of Research, Inspector General, and Chief Actuary. The Chief Actuary will consult, on an ongoing basis, with the Commissioner, the Chairman of the Committee on Finance in the Senate, and the Chairman of the Committee on Ways and Means in the House of Representatives, concerning the financial status of the Social Security trust funds.

The Commissioner would be directed to consult on an on-going basis with the Secretary of Health and Human Services to ensure coordination between the programs administered by the Social Security Administration and the Medicare and Medicaid programs, and to ensure that adequate information about benefits under Medicare and Medicaid is available to the public.

The Commissioner, jointly with the Director of the Office of Personnel Management and the Administrator of General Services, as appropriate, would be directed to carry out various demonstration programs. These programs would be focused on improving methods for recruiting, paying, and retaining computer specialists and other employees, and on improving procedures for the acquisition, operation, and maintenance of facilities and automated data processing equipment.

The Director of OPM would be directed to authorize for the Social Security Administration a substantially larger number of Senior Executive Service positions than were authorized on the date of enactment. In addition, at no time could more than ten positions in the agency be excepted from the competitive service because of their confidential or policy-determining nature.•

By Mr. GLENN (for himself, Mr. LEVIN, Mr. AKAKA, Mr. PRYOR, Mr. KOHL, Mr. LIEBERMAN, and Mr. SASSER):

S. 2039. A bill to amend the Federal Advisory Committee Act; to the Committee on Governmental Affairs.

FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 1991

• Mr. GLENN. Mr. President, I join with my distinguished colleagues on the Governmental Affairs Committee, Senators LEVIN, AKAKA, PRYOR, KOHL, LIEBERMAN, and SASSER, to introduce the Federal Advisory Committee Act Amendments of 1991. This bill represents a modified version of legislation the committee favorably acted on in the 101st Congress (S. 444) to amend the Federal Advisory Committee Act as part of its comprehensive review of the operation of this important open Government law.

The Federal Advisory Committee Act, popularly known as FACA, was enacted 19 years ago to provide a means for the Federal Government to account for and manage Federal advisory committees. In 1971, when the FACA legislation was first introduced, Congress didn't even know how many advisory committees there were, how much they cost, or what they did; and there was no way to find out. Educated guesses on the number of advisory committees in existence ranged from 1,000 to 3,000 and no agency had responsibility to monitor them.

In addition, there were no guarantees of public access to the deliberations of these advisory committees. Some met in closed sessions, and there was no requirement that public notice be given of advisory committee meetings. Concern was voiced that special interests, acting through advisory committees, could exercise undue influence on Government decisions without scrutiny.

These issues were addressed in FACA. The act originally provided for the Office of Management and Budget to conduct an annual review of all advisory committees, whether they were created by the executive branch or the Congress, and for OMB to review the charters of agency-created committees before they were established. President Carter transferred this responsibility to the General Services Administration in 1977. FACA required that advisory committee meetings be open to the public, subject to certain exceptions which are set forth in the Government in the Sunshine Act. FACA also required that advisory committees be terminated after 2 years unless their charter was renewed by the parent agency. This was intended to slow the proliferation of unnecessary and duplicative committees, which were perceived as the largest problem area with advisory committees.

I think it is fair to say that FACA has served the Government and the public quite well. The real costs to the public have been held reasonably stable, as evidenced by a few very telling statistics. For instance, the total number of chartered advisory committees has remained relatively constant since 1979 with approximately 1,000 committees, councils, and advisory groups of one type or another in existence at any one time. During fiscal year 1990 alone, 22,391 individuals served on 1,128 committees providing advice and recommendations to 64 departments and agencies. The total committee costs have fluctuated, rising from $25 million in 1972 to over $112 million in 1990. However, when we convert these cost figures to account for inflation, the increase is much smaller.

However, the story of FACA is not contained in the number of committees, their costs, or the number of people involved. There is still, even after 19 years, considerable confusion concerning the interpretation of the most fundamental provisions of the act. I am disturbed to find continued litigation over basic questions such as: Whether a specific group is an advisory committee as defined by the act; whether the group meets the act's balanced membership requirement; and whether, and to what extent, advisory committees utilized but not established by an agency are subject to the act.

Over the years portions of the act have been criticized by several Federal court judges called upon to interpret its provisions and ascertain Congress' legislative intent. Indeed, one Federal judge commenting on FACA described it as "obscure, imprecise, and open to broad interpretations." He added that:

> If more expertise were applied to such enactments to ensure that Congress states with more precision what it intends, the rules of the game would be more sharply drawn and court involvement could be less.

In another case involving a dispute over balanced membership, a federal district court judge commented that the requirement of FACA that advisory committees be fairly balanced "embodies inherent conceptual and practical difficulties." Most recently, the courts have virtually interpreted out of existence the act's provisions dealing with "utilized" advisory committees.

Judicial decisions such as these very clearly put the burden on Congress to clarify its intent and resolve the ambiguities in the act.

Over the last 15 years the Governmental Affairs Committee has held a number of hearings on FACA, which identified similar problems with the language of the act as well as some practical problems in its implementation. In 1976, the committee heard testimony from James Lynn, Director of OMB. He raised questions about attaining an appropriate balance of membership on an advisory committee, the requirement for open meetings, and the proliferation of advisory committees created by Congress. These comments were echoed again in 1984 by Joseph Wright, Deputy Director of OMB. In his testimony before the committee's Information Management and Regulatory Affairs Subcommittee, he said:

> Some of the Act's provisions are not drawn, we see in retrospect, with great clarity. Some are written in a fashion that permits lawyers to argue over their meaning almost endlessly. And they have. There is also criticism of the way that the Act has been interpreted by the courts, and the effect that these decisions and the ambiguities of the Act have had on the ability of agency officials to obtain advice promptly or even to meet with members of the public.

Mr. Wright went on to cite specific problems with the language of FACA, including the definition of "balanced membership," the lack of a definition of "meeting," and the applicability of FACA to subcommittees of an advisory committee.

In response to this record, the Governmental Affairs Committee held two oversight hearings during the 100th Congress on compliance with FACA by the President's AIDS Commission (S. Hrg. 100–538, December 3, 1987) and the Department of Defense (S. Hrg. 100–681, April 19, 1988). At both hearings the Committee received many specific suggestions as to how the act should be clarified and improved. Again, the main areas of concern were the definition of balanced membership, the definition of advisory committee, the openness of meetings and availability of documents, and the need to ensure that members of advisory committees do not have conflicts of interest.

One area of particular concern to me that was highlighted at our oversight hearings is the proliferation of advisory committees created by Congress. So often our response to a problem is to create a committee or commission to study it. While that may be the correct thing to do in many cases, a number of these committees linger on because Congress has made the committee permanent, or has given it too long a life span, or has exempted it from FACA altogether. Mr. Paul T. Weiss, Associate Administrator for Administration of GSA, testified at our 1987 hearing:

> The number of committees directed by the Congress, as a percentage of the total inventory, had doubled over the past 10 years. While the majority of these committees no doubt serve useful purposes, many are established with no fixed date for termination. Consequently, when such groups have accomplished their missions, Federal departments and agencies are hindered in their efforts to comply with FACA's provisions for terminating unneeded advisory committees by the necessity of entering an oftentimes protracted process of seeking legislative relief.

The comments and suggestions received from the witnesses at these hearings formed the basis for the legislation I introduced on August 10, 1988 (S. 2721). S. 2721 was the subject of a hearing before the Governmental Affairs Committee on October 5, 1988 (S. Hrg. 100–945).

On February 23, 1989, early in the 101st Congress, I introduced a new bill (S. 444) to amend FACA. With minor changes, S. 444 was similar to the previous legislation, S. 2721. On March 15, 1989, the Governmental Affairs Committee held a hearing on S. 444 (S. Hrg. 101–38). The witnesses at the 1989 hearing focused on essentially the same problem areas and issues that were identified in our previous hearings.

The committee revised S. 444 substantially, and, in March 1990, voted to report the bill favorably with an amendment in the nature of a substitute. However, the Department of Justice and the General Services Administration submitted written comments to the Committee expressing opposition to S. 444. The executive branch comments disagreed in substance with several of the bill's provisions and questioned the mechanics, but not necessarily the objectives, of other provisions. Rather than pushing forward with S. 444, we decided to take another look at the bill in light of the executive branch comments.

The bill I am introducing today represents the product of that effort. In the spirit of compromise, the new bill inlcudes a number of changes from S. 444 which address most of the executive branch objections to that version. At the same time, the new bill retains the basic objectives of the prior bills. I don't think that there is any significant disagreement over these basic objectives, although there have been differences over exactly how to achieve them.

The bill accomplishes three main objectives. First, it reorganizes the act and makes logically consistent the administrative provisions which address the establishment, chartering, and management of advisory committees, as well as the responsibilities of Congress, the President, agency heads, and the Administrator of GSA. Second, the bill clarifies a number of concepts, such as "balanced membership," "meeting," "subcommittee or other subgroup," and "utilized" committee, which have been problematic throughout FACA's history. Third, it clarifies the status of advisory committee members and strengthens the financial disclosure requirements and ethics controls that apply to them. I will describe each of these areas in a little more detail.

ADMINISTRATIVE PROVISIONS

The bill does not make fundamental changes in the way the FACA system is implemented, but is designed to help the current system function much more efficiently. It spells out more clearly the duties of parties responsible for creating, managing and terminating committees. Perhaps the most significant change is that agencies are given the authority to terminate statutorily created committees in their agencies before the statutory termination date of the committee, after giving 180 days notice to the authorizing committees in both Houses. Congress could during that 180-day period reauthorize the existence of the committee. This mechanism could not be invoked before 5 years if a committee is authorized to exist for 5 years or longer.

Another significant change is that for the first time each agency will issue its own annual report, and the President will issue a summary annual report. This is designed to give the committee management secretariat, located in GSA and charged with managing advisory committee functions, more time to selectively monitor agency performance rather than merely collecting and tabulating information from each agency.

DEFINITIONAL CHANGES

The most problematic aspects of FACA that have developed over the years concern the meaning and application of a number of concepts embodied in the act. As noted previously, the absence of clear definitions of many operative terms in FACA has led to a great deal of litigation and created practical difficulties.

One of the most troublesome areas concerns "utilized" advisory committees. FACA's definition of advisory committee now includes not only committees established by the Federal Government, but also committees having some existence outside the Government which are "utilized" as a source of advice by the President and executive agencies. The act draws no distinction between established and utilized committees. The executive branch maintains that applying FACA's requirements to outside committees used by the President is unconstitutional. In order to avoid deciding this constitutional issue, the courts have adopted an extremely narrow interpretation of what constitutes a "utilized" committee for purposes of FACA. In addition to the constitutional issues, there are practical difficulties in applying FACA's substantive requirements, such as balanced membership, to utilized committees. The bill addresses these problems by creating a separate section in FACA to deal with utilized committees. This section supplies a definition of the term "utilized" a committee, which is absent from the current act. It exempts utilized committees from most of FACA's substantive requirements, such as balance, public access and financial disclosure, but includes provisions designed to ensure some accountability for their use.

With respect to "balance," the bill deletes the requirement, contained in S. 444, which mandated the inclusion of representatives of public and private sector interests on all advisory committees unless a waiver was granted. Instead, the bill requires that consideration be given to including representatives of interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee, in developing the balance plan. Further, the balance plan and the actions taken to implement it must be included in the advisory committee's report.

The bill's definition of "meeting" includes any "hearing before or deliberation among" committee members. This definition is intended to achieve broad coverage and supplant past administrative interpretations that may have been unduly restrictive. At the same time, it responds to Executive Branch objections that the definition in S. 444, which included any "interaction" among committee members, was too broad.

The definition of "subcommittee or other subgroup" makes clear that an advisory committee remains subject to FACA when it conducts its business through subcommittees or similar groups that report to the parent committee.

The definition of "advisory committee" retains S. 444's exemption from FACA for any committee composed wholly of full-time officers or employees of State or local governments acting in their official capacities who are required by statute to meet with Federal officials regarding programs that are shared by Federal, State, and local governments or that are administered by State or local governments.

ADVISORY COMMITTEE MEMBERS

The Governmental Affairs Committee hearings on FACA document the need to ensure that members of advisory committees know what their status is—whether they are to act as representatives of particular interests or to provide independent advice, and whether they are Federal employees. Therefore, the new bill requires that the statute or determination establishing an advisory committee indicate in general terms whether any committee members are to represent interests other than the United States. For example, there might be a provision for one member to represent agricultural interests or consumer interests. The bill further requires an appointment letter for all committee members. The letter must identify those individuals, if any, selected as representational members and specify the interests they are to represent. The letter for nonrepresentational members would appoint them as Federal employees and specify their category of employment—for example, "special Government employees" who serve for limited periods.

The bill contains revised financial disclosure requirements for advisory committee members. The executive branch had objected that the financial disclosure requirements of S. 444 were too broad and were more stringent than those applicable to regular Federal employees. The new bill provides that all committee members who are Federal employees shall file statements which disclose their interests to the extent and in the manner prescribed by the Office of Government Ethics. This will enable OGE to maintain consistency between these advisory committee members and other Federal employees. For non-Federal employee members, the bill adopts the disclosure requirements recommended by the Administrative Conference of the United States. These requirements will provide agencies with sufficient information about the interests of the members to decide whether there is a problem with their participation in advisory committee business. The requirements will not, however, subject these nonemployee members to the Federal conflict-of-interest laws. In addition to the basic features described above, the bill includes provisions that enhance public access to advisory committee records, expressly confer standing on litigants challenging compliance with FACA and its implementing regulations, and authorize the award of attorney fees to litigants who prevail in their challenges.

By passing FACA in 1972, Congress recognized the merits of allowing the Government to draw upon the knowledge and experience of public experts, and at a reasonable cost. In return, the public is given an opportunity to participate actively in the Government's decisionmaking process. These are excellent goals, and FACA has to a large extent furthered them, but we need to ensure that the system continues to improve so that the Government receives the best advice possible, in an open and efficient manner.

Mr. President, the improvements to FACA in this bill address those problem areas that have come up consistently in recent years. I believe that there is a broad consensus on what the problems are and the general objectives of the corrective legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Advisory Committee Act Amendments of 1991".

REFERENCES

SEC. 2. All references in this Act are to the Federal Advisory Committee Act (5 U.S.C. App.), unless otherwise provided.

FINDINGS AND PURPOSES

SEC. 3. Section 2(b) of the Act is amended—

(1) in paragraph (1) by amending such paragraph to read as follows:

"(1) the need for each existing advisory committee should be periodically reviewed;";

(2) in paragraph (2) by inserting after "essential" the following: "and only when the information to be obtained is not already available through another advisory committee or source within the Federal Government,";

(3) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively, and inserting after paragraph (4) the following new paragraphs:

"(5) the composition of any such committee should be fairly balanced in membership in terms of the points of view represented and the functions to be performed by the advisory committee; and

"(6) the purpose for and objectives of the committee should be clearly delineated in the charter of such committee;";

(4) in paragraph (7) (as redesignated by paragraph (3) of this section) by striking out "and" after the semicolon;

(5) in paragraph (8) (as redesignated by paragraph (3) of this section) by amending such paragraph to read as follows:

"(8) the function of advisory committees should be advisory, and determinations of action to be taken and policy to be expressed with respect to advisory committee reports or recommendations shall be made solely by the President or an officer or employee of the Federal Government; and"; and

(6) by adding at the end thereof the following new paragraph:

"(9) to the greatest extent practicable, an advisory committee should conduct all business furthering the purpose and objectives of the committee through meetings open to the public.".

DEFINITIONS

SEC. 4. Section 3 of the Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'advisory committee' means any committee, board, commission, council, conference, panel, task force, or any similar group (including any subcommittee or other subgroup thereof), which is—

"(A) established or authorized by statute;

"(B) established by the President; or

"(C) established by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies, officers or employees of the Federal Government, except that such term excludes—

"(i) the Advisory Commission on Intergovernmental Relations;

"(ii) any committee established or utilized by the Central Intelligence Agency;

"(iii) any committee established or utilized by the Federal Reserve System;

"(iv) any committee composed wholly of full-time officers or employees of State or local governments acting in their official capacities who are directed by statute to meet with Federal officers and employees regarding programs that are shared by Federal, State, and local governments, or which are administered by State and local governments;

"(v) any committee which is composed wholly of full-time officers or employees of the Federal Government;

"(vi) any local civic group whose primary function is that of rendering a public service with respect to a Federal program; and

"(vii) any State or local committee established to advise or make recommendations to State or local officials or agencies."; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively, and inserting after paragraph (2) the following new paragraphs:

"(3) The term 'subcommittee or other subgroup' as used in paragraph (2) means any group composed in whole or in part of members of the committee which is established by the committee to assist it in carrying out its functions. Subcommittees or subgroups shall not provide advice or recommendations directly to a Federal official.

"(4) The term 'meeting' means any hearing before or deliberation among—

"(A) a majority of the members of an advisory committee;

"(B) a majority of members of a subcommittee or other subgroup; or

"(C) any smaller number of members which is authorized to act on behalf of the committee, or subcommittee or other subgroup thereof.".

PROHIBITIONS AND APPLICABILITY

SEC. 5. Section 4 of the Act is amended to read as follows:

"PROHIBITIONS AND APPLICABILITY

"SEC. 4. (a) No advisory committee shall be established by the President or by one or more agencies of the Federal Government, unless the establishment is—

"(1) specifically authorized by statute or by the President; or

"(2) specifically determined as a matter of formal record, by the head of the agency involved, after consultation with the Administrator, to be in the public interest in connection with the performance of duties imposed on that agency by law.

"(b) No advisory committee shall meet or take any action with respect to its purpose and objectives unless a committee charter has been filed in accordance with section 8.

"(c) The function of advisory committees shall be advisory only, unless otherwise specifically provided by a statute or Presidential directive. Recommendations are reports by an advisory committee shall be nonbinding and determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer or employee of the Federal Government.".

ESTABLISHMENT OR AUTHORIZATION OF ADVISORY COMMITTEES BY CONGRESS

SEC. 6. Section 5 of the Act is amended—

(1) by amending the section heading to read as follows:

"ESTABLISHMENT OR AUTHORIZATION OF ADVISORY COMMITTEES BY CONGRESS";

(2) by amending subsection (a) to read as follows:

"(a) The Congress may by statute establish or authorize the establishment of an advisory committee.";

(3) in subsection (b)—

(A) in the first sentence by—

(i) striking out "In" and inserting in lieu thereof "When";

(ii) striking out "each standing committee" and inserting in lieu thereof "a committee";

(iii) striking out "determine" and inserting in lieu thereof "consider"; and

(iv) striking out "such determination";

(B) in paragraph (1) by amending such paragraph to read as follows:

"(1) contain the clearly defined and detailed purpose for and objectives of the advisory committee;"; and

(C) by amending paragraphs (2) through (5) to read as follows:

"(2) indicate whether any members of the committee shall be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(3) contain provisions to indicate the appointing authority for members of the advisory committee and to assure that the advice and recommendations shall not be inappropriately influenced by the appointing authority or by any special interest, but shall instead be the result of the advisory committee's independent judgment;

"(4) contain provisions dealing with authorization of appropriations, the duration of the advisory committee if other than the two-year period provided for under section 18(a), and dates for the completion and publication of any reports; and

"(5) contain provisions to assure that the advisory committee shall have adequate staff, quarters, and funds to meet necessary expenses, and for Presidential advisory committees and committees reporting to more than one agency, to indicate the agency responsible for providing support services (as defined in section 16(c))."; and

(4) by amending subsection (c) to read as follows:

"(c)(1) Such legislation also shall contain a plan to assure that the membership of the advisory committee is fairly balanced in terms of the points of view represented and the committee functions to be performed by the advisory committee. In developing the balance plan, consideration shall be given to including members from representatives of interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee.

"(2) The balance plan and a description of the actions taken to implement it shall be included in the final report issued by the advisory committee.".

RESPONSIBILITIES AND ADVISORY COMMITTEE PROCEDURES

SEC. 7. The Act is amended by—

(1) striking out section 15;

(2) redesignating sections 12 through 14 as sections 16 through 18, respectively; and

(3) striking out sections 6 through 11 and inserting in lieu thereof the following new sections:

"ESTABLISHMENT OF ADVISORY COMMITTEES BY PRESIDENT OR AGENCY

"SEC. 6. (a) The President or an agency head may establish an advisory committee pursuant to a statute, Presidential directive, or agency directive. Any agency directive shall be a matter of formal record, subsequent to consultation with the Administrator.

"(b) In establishing any advisory committee the President or agency head shall consider whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee in existence, or by enlarging the mandate of an existing advisory committee. At the time any advisory committee is first established, the President or agency head shall make a determination in writing which shall—

"(1) contain the clearly defined and detailed statement of purpose for and objectives of the advisory committee;

"(2) contain the plan for achieving a fair balance in committee membership;

"(3) contain provisions to indicate the appointing authority for the members of the advisory committee and to assure that the advice and recommendations of the advisory committee shall not be inappropriately influenced by the appointing authority or by any special interest, but shall be the result of the independent judgment of the advisory committee;

"(4) indicate whether any members of the committee shall be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(5) contain provisions dealing with authorization of appropriations, the duration of the committee if for a duration other than the two-year period provided for in section 18(a), and dates for the completion and publication of any reports; and

"(6) contain provisions to assure that the advisory committee shall have adequate staff, quarters, and funds to meet necessary expenses, and for Presidential advisory committees and committees reporting to more than one agency, to indicate the agency responsible for providing support services (as defined in section 16(c)).

"(c)(1) The membership of an advisory committee shall be fairly balanced in terms of the points of view represented and the committee functions to be performed, in accordance with the plan required by subsection (b)(2) of this section. In developing the balance plan, consideration shall be given to including members from interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee.

"(2) The balance plan and a description of the actions taken to implement it shall be included in the final report issued by the advisory committee.

"(d) The information required under subsection (b) shall be contained in—

"(1) the Presidential directive in the case of an advisory committee established by the President; or

"(2) a timely notice published in the Federal Register in the case of an advisory committee established by an agency.

"UTILIZATION OF ADVISORY COMMITTEES BY PRESIDENT OR AGENCY

"SEC. 7. (a) As used in this section, the term 'utilized committee' means a committee or other group composed in whole or in part of other than full-time officers or employees of the Federal Government, with an established existence outside the Government, and which the President or one or more agencies or officers of the Federal Government adopts, such as through institutional arrangements, as a preferred source from which to obtain advice or recommendations on a specific issue or policy within the scope of their responsibilities.

"(b) The President or an agency head may utilize an advisory committee pursuant to a statute, Presidential directive, or agency directive. Any agency directive shall be a matter of formal record, subsequent to consultation with the Administrator.

"(c) When considering utilizing any advisory committee, the President or agency head shall consider whether the functions of the proposed committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

"(d) At the time any committee is first utilized, the President or agency head shall make a determination in writing which shall—

"(1) contain a clearly defined and detailed statement of purpose for and objectives of the committee;

"(2) contain provisions to assure that the advice and recommendations of the committee shall not be inappropriately influenced by the appointing authority or by any special interest, but shall be the result of the independent judgment of the committee; and

"(3) indicate whether and how the membership of the committee is fairly balanced, and if it is not, why it is necessary to obtain advice from a committee lacking such balance.

"(e) Each utilized committee shall have a charter which conforms to the requirements of section 8 of this Act, except paragraphs (4)(C), (6), (7), and (9) of subsection (a) thereof.

"(f) To the greatest extent practical and consistent with their functions, utilized committees should conduct their business through public meetings and make their records available for public inspection and copying.

"(g) Utilized committees shall be subject to this section and sections 4, 9, 10 (except subsection (c)(2)), 11 (except subsections (c)(5) and (f)), 12, 15, 17, and 18 of this Act.

"CHARTERING OF ADVISORY COMMITTEES

"SEC. 8. (a) The charter of an advisory committee shall contain at least the following information:

"(1) the name of the committee;

"(2) whether the committee is—

"(A) established or authorized by statute;

"(B) established or utilized by the President; or

"(C) established or utilized as a matter of formal record by the head of the agency involved;

"(3)(A) the date the charter is filed;

"(B) whether such charter is an original charter or a renewal; and

"(C) if a renewal charter, the date when the committee was first chartered;

"(4)(A) the agency responsible for providing support services to the committee;

"(B) the agency or official to whom the committee reports; and

"(C) which agency or official shall be responsible for reviewing members' disclosure forms and counseling advisory committee members on Federal ethics rules and criminal conflict of interest statutes;

"(5) the clearly defined and detailed purpose for and objectives of the committee;

"(6) the appointing authority for the advisory committee members;

"(7) whether any committee members are or will be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(8) the estimated number and frequency of committee meetings and the estimated total period of time necessary for the committee to complete all tasks;

"(9) the location of the records and documents of the committee during its existence and for at least one year after the committee ceases to exist;

"(10) the estimated annual operating costs in dollars and person-years for such committee; and

"(11) the termination date of the committee, if other than the two-year period provided for in section 18(a).

"(b) For each advisory committee, a charter in accordance with this section shall be filed with—

"(1) the Administrator;

"(2) the head of the agency which established, utilizes, or provides support services for such advisory committee or in the case of an advisory committee not assigned to an agency for support services, the advisory committee itself; and

"(3) the standing committees, in the Senate and the House of Representatives, having jurisdiction over such advisory committee.

"RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

"SEC. 9. In the exercise of its legislative and oversight functions, each standing committee of the Senate and the House of Representatives may review the activities of each advisory committee under its jurisdiction to determine whether—

"(1) such advisory committee should be terminated or merged with any other advisory committee;

"(2) the responsibilities of such advisory committee should be revised; and

"(3) such advisory committee complies with this Act and any other rule, order, regulation, or policy governing advisory committees.

"ADDITIONAL RESPONSIBILITIES OF THE PRESIDENT

"SEC. 10. (a) The President may delegate responsibilities for evaluating and taking action, where appropriate, with respect to all formal recommendations made to him by Presidential advisory committees.

"(b) Within one year after the date on which a Presidential advisory committee submits formal recommendations to the President, the President or a delegate shall submit a report to the Congress describing either proposals for action or reasons for inaction, with respect to such recommendations.

"(c)(1) The President shall ensure that committee charters required by this Act for Presidential advisory committees are filed in accordance with section 8.

"(2)(A) The President shall also ensure the following prior to participation by members in any meeting or work of a Presidential advisory committee:

"(i) All members shall receive letters formally appointing them to the advisory committee. The appointment letter for members who do not represent parties or interests other than the United States shall also appoint such members as Federal employees and designate their category of employment. The appointment letter for members who are to represent parties or interests other than the United States shall specifically so indicate and shall identify such parties or interests.

"(ii) All members who are appointed as Federal employees shall receive counseling on the Federal ethics rules and criminal conflict of interest statutes.

"(iii) All Federal employee members who are not required to file a public financial disclosure report under section 101 of the Ethics in Government Act of 1978 shall sign and date a statement disclosing their affiliations and financial interests to the extent and in the form and manner prescribed by the Office of Government Ethics. The Office of Government Ethics shall, to the greatest extent practicable, conform such disclosure requirements to the disclosure requirements applicable to regular Government employees and to the disclosure requirements applicable to non-Federal employee advisory committee members under subsection (c)(2)(A)(iv) of this section.

"(iv) All advisory committee members who are not appointed as Federal employees shall disclose in the form and manner prescribed by the President—

"(I) the identity of their principal employment;

"(II) a list of positions held (whether paid or unpaid) and any contractual relationships for the performance of services with any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution whose activities or purposes may be (or may foreseeably become) relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter;

"(III) the identity, but not the value or amount, of any other sources of income or any interests in a trade or business, real estate, or other asset held for investment or production of income, exceeding $1,000 in value which are relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter; and

"(IV) any other interests, affiliations, or arrangements which are or may be affected by the work of the committee.

"(B) The disclosure statements required under subparagraph (A) (iii) and (iv) shall be revised prior to the renewal of the advisory committee's charter under section 17(c) and within 30 days after a member's acquisition of a new affiliation or financial interest which is or may be affected by the work of the committee.

"(C) The information required under subparagraph (A)(iv) (I) and (II) shall be made available to the public upon request.

"(3) The President may delegate the responsibilities described under paragraphs (1) and (2).

"(d)(1) No later than February 1 of each year, the President shall make an annual summary report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year. The report shall be a summary and analysis of information contained in the annual report of each agency which established or utilized an advisory committee during that period. The summary report shall include—

"(A) the name of every advisory committee and the total estimated annual cost to the United States to fund, service, supply, and maintain such committees;

"(B) a summary and analysis of data regarding the establishment and termination of advisory committees during the preceding fiscal year;

"(C) whether such committees are ad hoc or standing committees;

"(D) the membership of such committees;

"(E) the frequency and openness of meetings;

"(F) the number of reports submitted;

"(G) a list of the advisory committees which terminated or were abolished by the President or an agency during the preceding year;

"(H) in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished before their specified termination dates, together with the reasons therefore and the statutory authority for their creation;

"(I) the number and results of the comprehensive reviews conducted by the Administrator under section 12(d) during the preceding fiscal year; and

"(J) any issues of concern in the functioning of advisory committees or this Act.

"(2) The President may exclude from the annual summary report any information which the President determines should be withheld for reasons of national security, and in lieu thereof shall include in such report a statement that such information has been excluded.

"ADDITIONAL RESPONSIBILITIES OF AGENCY HEADS

"SEC. 11. (a)(1) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees. Such guidelines and controls shall be consistent with this Act and any rule, order, regulation, or policy of the Administrator under sections 12 and 13.

"(2) Each agency head shall conduct annual reviews of committees or other groups established, utilized or contracted for by the agency to determine whether any are advisory committees subject to this Act and, if so, to bring such committees or groups into compliance with the requirements of this Act.

"(b) Each agency shall maintain systematic information on—

"(1) the nature, functions, and operations of each advisory committee (including each subcommittee or other subgroup as defined in section 3(3)) within the jurisdiction of the agency; and

"(2) the agency's compliance with this Act and with its own rules for advisory committees.

"(c) The agency head shall—

"(1) designate an Advisory Committee Management Officer for the agency;

"(2) comply with section 6 in establishing any advisory committee;

"(3) file a charter in accordance with section 8 of this Act for each advisory committee—

"(A) which is established by the agency; or

"(B) for which the agency has been delegated this responsibility by the President;

"(4) appoint a designated Federal official for each such advisory committee;

"(5) ensure the following prior to participation by members in any meeting or work of an advisory committee (other than a Presidential advisory committee):

"(A) All members shall receive letters formally appointing them to the advisory committee. The appointment letter for members who do not represent parties or interests other than the United States shall also appoint such members as Federal employees and designate their category of employment. The appointment letter for members who are to represent parties or interests other than the United States shall specifically so indicate and shall identify such parties or interests.

"(B) All members who are appointed as Federal employees shall receive counseling on the Federal ethics rules and criminal conflict of interest statutes.

"(C) All Federal employee members who are not required to file a public financial disclosure report under section 101 of the Ethics in Government Act of 1978 shall sign and date a statement disclosing their affiliations and financial interests to the extent and in the form and manner prescribed by the Office of Government Ethics. The Office of Government Ethics shall, to the greatest extent practicable, conform such disclosure requirements to the disclosure requirements applicable to regular Government employees and to the disclosure requirements applicable to non-Federal employee advisory committee members under subsection (c)(5)(D) of this section.

"(D) All advisory committee members who are not appointed as Federal employees shall disclose in the form and manner prescribed by the Administrator of General Services, in consultation with the Office of Government Ethics—

"(i) the identity of their principal employment;

"(ii) a list of positions held (whether paid or unpaid) and any contractual relationships for the performance of services with any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution whose activities or purposes may be (or may foreseeably become) relevant to the purposes and functions of the advisory committee as determined by the appointing authority; and

"(iii) the identity, but not the value or amount, of any other sources of income or any interests in a trade or business, real estate, or other asset held for investment or production of income, exceeding $1,000 in value which are relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter;

"(6) publish timely notice of committee meetings in the Federal Register, oversee timely completion of detailed committee minutes and otherwise oversee committee compliance with the procedures in section 13; and

"(7) abolish advisory committees before their specified termination dates when appropriate.

"(d)(1) The disclosure statements required under subsection (c)(5) (C) and (D) shall be revised prior to the renewal of the advisory committee's charter under section 17(c) and within 30 days after a member's acquisition of a new affiliation or financial interest which is or may be affected by the work of the committee.

"(2) The information required under subsection (c)(5)(D) (i) and (ii) shall be made available to the public upon request.

"(e)(1) No later than December 1 of each year, the head of each agency which establishes, utilizes, or provides support services to an advisory committee shall submit an annual report to the Administrator on the activities, status, and changes in the composition of such advisory committees during the preceding fiscal year. The Administrator shall make such reports available to Congress upon request.

"(2) The agency head shall follow guidelines set forth by the Administrator for such annual report by the agency head.

"(3) The report shall include—

"(A) the name of each advisory committee which the agency has established, utilized, or provided support services during the preceding year;

"(B) the date of establishment, authority for creation, and expected termination of each committee;

"(C) whether such committee is an ad hoc or standing committee;

"(D) a list of each subcommittee or other subgroup (as defined in section 3(3)) in existence for each advisory committee;

"(E) the functions of each such committee;

"(F) the number and dates of meetings of each such committee during the preceding year;

"(G) the names and occupations of the current members of each such committee;

"(H) the total estimated annual cost to the United States to fund, service, supply, and maintain each such committee;

"(I) a list of the advisory committees which terminated or were abolished by the agency head during the preceding year;

"(J) in the case of advisory committees established by statute, a list of those advisory committees which the agency head recommends be abolished before their specified termination dates, together with the reasons therefor and the statutory authority for their creation; and

"(K) any issues of concern in the functioning of advisory committees or this Act.

"(4) The agency head may exclude from such annual report any information which such agency head determines should be withheld for reasons of national security, and in lieu thereof shall include in such report a statement that such information has been excluded.

"(f) Each advisory committee management officer shall—

"(1) exercise control and supervision over the establishment, operation, and procedures of advisory committees established by that agency;

"(2) assemble and maintain the reports, records, and other papers of any such committee during the existence of the committee;

"(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers;

"(4) coordinate with the designated agency ethics official to ensure appropriate counseling on ethics issues and timely completion of any written disclosure obligations;

"(5) maintain in a single location a complete set of the charters and membership lists of each of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agency;

"(6) maintain information on the nature, functions, and operations of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agency; and

"(7) provide upon request copies of minutes of meetings and reports of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agencies.

"(g) Within 1 year after the date on which an advisory committee submits formal recommendations to an agency, the agency head shall submit a report to the Congress describing either proposals for action or reasons for inaction with respect to such recommendations.

"RESPONSIBILITIES OF THE ADMINISTRATOR OF GENERAL SERVICES

"SEC. 12. (a) The Administrator shall establish and maintain within the General Services Administration a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

"(b) The Administrator may from time to time request such information as the Administrator determines necessary to carry out the functions under this section. Each agency head and advisory committee members shall cooperate by providing such information to the Administrator.

"(c) The Administrator shall—

"(1) promulgate regulations to prescribe administrative guidelines and management controls applicable to advisory committees and to interpret the provisions of this Act;

"(2) to the maximum extent feasible, provide advice, assistance, and guidance to the President, agency heads, advisory committees, and committee members to ensure compliance with this Act;

"(3) establish guidelines for the annual report required of each agency under section 11(d);

"(4) review committees or other groups established, utilized, or contracted for by an agency to determine whether any are advisory committees subject to this Act and, if so, to bring such committees or groups into compliance with the requirements of this Act; and

"(5) when designated by the President, appoint a designated Federal official for Presidential advisory committees.

"(d)(1) The Administrator shall periodically conduct a comprehensive review of each existing advisory committee to determine whether—

"(A) such committee is carrying out its purpose;

"(B) consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised;

"(C) such committee should be merged with other advisory committees; or

"(D) such committee should be abolished before its specified termination date.

"(2) Upon the completion of a review, the Administrator may make recommendations to the President, an agency head, or the Congress with respect to any action that should be taken.

"(e)(1) The Administrator shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

"(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the maximum rate specified under section 5376 of title 5, United States Code;

"(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service; and

"(C) services may be provided pursuant to section 3102 of title 5, United States Code, for members while in performance of advisory committee duties who—

"(i) are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)); and

"(ii) do not otherwise qualify for assistance under section 3102 of title 5, United States Code, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such title).

"(2) Nothing in this subsection shall prevent—

"(A) an individual who (without regard to service with an advisory committee) is a full-time employee of the United States; or

"(B) an individual who immediately before service with an advisory committee was such an employee, from receiving compensation at the rate at which such individual otherwise would be compensated (or was compensated) as a full-time employee of the United States.

"(f) If there is disagreement on a material matter between the Administrator and an agency head regarding the establishment, management, or termination of advisory committees, the agency head shall have final authority, but a notice and description of the areas of such disagreement may be placed in the annual summary report required under section 10(d).

"ADVISORY COMMITTEE PROCEDURES

"SEC. 13. (a)(1) Each advisory committee meeting shall be open to the public and held—

"(A) at a reasonable time and in a place reasonably accessible to the public; and

"(B) in a meeting room sufficient to accommodate advisory committee members, committee or agency staff, and interested members of the public.

"(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Administrator may prescribe regulations to provide for other types of public notice to ensure that all interested persons are notified of such meeting prior thereto.

"(3) Interested persons shall be permitted to attend meetings of, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe.

"(b) An advisory committee may not report advice or recommendations to the President or one or more agencies or officers or employees of the Federal Government without first holding a meeting at which a majority of the committee members approve the advice or recommendations to be reported.

"(c)(1) Subject to the provisions of section 552(b) of title 5, United States Code, records of an advisory committee, including reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other recorded information, shall be available for public inspection and copying—

"(A) at a single location in the offices of the advisory committee or the agency which established or provides support services to the advisory committee during the existence of the advisory committee; and

"(B) at a single location to be specified in the committee's charter for at least 1 year after the committee ceases to exist.

"(2) Any record that is to be discussed or acted upon at a public meeting of an advisory committee shall be made available for public inspection and copying at least 48 hours in advance of such meeting.

"(3) Notwithstanding the provisions of paragraph (1), the provisions of section 552(b)(5) of title 5, United States Code, shall not apply to withhold the disclosure of any advisory committee record.

"(4) The disposition of such records, including transfer to the National Archives and Records Administration, shall be scheduled and carried out in accordance with the National Archives and Records Administration Act of 1984.

"(d) Detailed minutes of each meeting of each advisory committee (including each subcommittee or other subgroup as defined in section 3(3)) shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified by the chairman of the advisory committee, or if appropriate, the chairman of the subcommittee or other subgroup, within 45 days after the meeting.

"(e) Subsections (a) (1) and (3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552b of title 5, United States Code.

"(f)(1) Unless otherwise provided by statute, Presidential directive, or agency directive, the designated Federal official appointed under section 11(c)(4) or section 12(c)(5) shall attend the meetings of an advisory committee and no advisory committee shall conduct any meeting in the absence of such official. The designated Federal official is authorized to—

"(A) adjourn the meetings when such official determines that adjournment is in the public interest;

"(B) approve or call the meeting;

"(C) chair the meeting when so determined by the involved agency head; and

"(D) except for Presidential advisory committees, approve the agenda of the meeting.

"AVAILABILITY OF TRANSCRIPTS

"SEC. 14. (a) Agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts and minutes of agency proceedings or advisory committee meetings.

"(b) As used in this section 'agency proceeding' means any proceeding as defined in section 551(12) of title 5, United States Code.

"PRIVATE RIGHT OF ACTION AND ATTORNEYS' FEES

"SEC. 15. (a)(1) Whenever any advisory committee is not in compliance with any provision of this Act, or any rule promulgated thereunder, any person may bring a civil action against the agency which has established, chartered, or utilized the advisory committee and the district courts of the United States shall have jurisdiction over such actions.

"(2) In the case of Presidential advisory committees that have not been chartered, established, or utilized by any agency, any person may bring an action against the President in order to obtain compliance with this Act, and the district courts of the United States shall have jurisdiction over such actions.

"(b) Venue in actions brought under this section lies in either the United States District Court for the District of Columbia or the district court of the United States in the district in which the complainant resides or has his principal place of business.

"(c)(1) Prior to filing any action under this section, the complainant shall make a request for relief, in writing, to the agency that has chartered, utilized, or established the advisory committee as to which relief is sought, and such request shall also be sent to the General Services Administration.

"(2) In the case of Presidential advisory committees which have not been chartered, established or utilized by an agency, such requests shall be made to the Counsel to the

President and the General Services Administration.

"(d) The court may assess against the United States reasonable attorneys' fees and other litigation costs reasonably incurred under this section in any action in which the complainant has substantially prevailed.".

ADMINISTRATIVE PROVISIONS

SEC. 8. Section 16 of the Act (as redesignated by section 7(2) of this Act) is amended—

(1) in the third sentence of subsection (b) by inserting "on a reimbursable basis" before the period; and

(2) by adding at the end thereof the following new subsection:

"(c) For purposes of this section, the term 'support services' means the provision of office space, telephone and computer service, and other administrative or clerical services that the advisory committee may need.".

RESPONSIBILITIES OF THE LIBRARY OF CONGRESS

SEC. 9. Section 17 of the Act (as redesignated by section 7(2) of this Act) is amended in the first sentence by striking out "at least eight" and inserting in lieu thereof "one copy of each advisory committee charter and at least four".

TERMINATION OF ADVISORY COMMITTEES

SEC. 10. Section 18 of the Act (as redesignated by section 7(2) of this Act) is amended—

(1) in subsection (a) by—

(A) striking out paragraph (1);

(B) by redesignating paragraph (2) as subsection (a) and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) striking out "established after such effective date" in the first sentence of subsection (a) (as redesignated in subparagraph (B) of this paragraph); and

(2) by striking out subsections (b) and (c) and inserting in lieu thereof:

"(b)(1) In the case of an advisory committee established by statute with a specified duration longer than the two-year period provided for in subsection (a), the President or an agency head may abolish such committee after five years and before its specified termination date if—

"(A) the President or agency head gives 180 days written notice of the intention to abolish such committee to the standing committee in each House of the Congress with jurisdiction over such advisory committee; and

"(B) the President or an agency head first makes a finding that—

"(i) the tasks assigned to such committee are complete or obsolete;

"(ii) the primary functions of such committee have been assumed by another entity; or

"(iii) the termination of such committee is otherwise in the public interest.

"(2) If the Congress determines that the committee is necessary, the Congress may reestablish it within the 180-day period.

"(3) The President or an agency head may not abolish any advisory committee under the provisions of subsection (b)(1) that—

"(A) has been in existence for less than five years before the date of the enactment of the Federal Advisory Committee Act Amendments of 1991; and

"(B) does not have a total period of existence of at least five years.

"(c)(1) To renew an advisory committee established or utilized by the President or an agency, the President or an agency head shall file, before the date of the scheduled termination of the committee, a committee charter in accordance with section 8.

"(2) An advisory committee may be renewed for a period not to exceed two years from the date a new charter is filed.

"(3) Subsequent renewals may be achieved in the same manner before the date on which such advisory committee would otherwise terminate.

"(4) A committee charter shall be filed in accordance with section 8 on behalf of each advisory committee established by statute prior to the expiration of each successive two-year period following the date of the enactment of the Act establishing such advisory committee.".•

By Mr. GRASSLEY:

S. 2041. A bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes; to the Committee on the Judiciary.

PETROLEUM MARKETING COMPETITION ENHANCEMENT ACT

• Mr. GRASSLEY. Mr. President, I am today introducing the Petroleum Marketing Competition Enhancement Act, a bill to ensure rigorous competition in the sale of gasoline. This bill amends the Petroleum Marketing Practices Act to prohibit major oil companies from charging one set of customers more than another set of customers. In other words, they will be prohibited from charging their customer/competitors—the independent gasoline wholesalers, retailers and convenience store operators—a higher price for gasoline than they charge consumers at their own company-operated gasoline stations.

Mr. President, during the past several months, those of us concerned about the price of gasoline and competition within the oil industry witnessed an alarming exercise of tremendous market clout. Major oil companies were charging more to their wholesale independent marketers, than they were charging the customers of their own company-operated retailers! How long do you think it would take to drive America's independents out of the gasoline business when they have to pay more for gasoline than our Nation's drivers? And once independent competition has been driven out of business, what prices will oil companies be able to extract from American consumers then.

This phenomenon is called price inversion. And in view of the superior operating efficiencies of independent wholesalers, retailers and convenience store operations, there exists no legitimate reason for it to occur. It represents a blatant, anticompetitive pricing practice which will harm competitors and consumers.

There may be instances, during times of great market turmoil, such as when Iraq invaded Kuwait in August 1990, that temporary price inversions may be understood. The fact is, however, long after the petroleum markets stabilized following the invasion, these price inversions kept reoccurring well into the spring of 1991.

Mr. President, we cannot sit idly by letting America's consumers be forced to pay higher and higher prices as more and more independent petroleum marketers are driven out of business with incredible tactics such as price inversions. Therefore, the bill I am introducing today, requires basically two things to assure a fair market environment.

First, it prohibits oil companies from charging their wholesale customer/competitors more than the retail prices offered at company-operated stations, adjusted for the cost of doing business. Thus, this provision simply ensures that operating efficiencies remain relevant to competition in the retail gasoline market.

Second, no oil company will be allowed to pressure or coerce their franchised dealers to sell at certain, company set prices. This will prohibit oil companies from controlling market share by setting maximum prices at their dealerships.

Mr. President, the Petroleum Marketing Competition Enhancement Act is critical to the survival of tens of thousands of independent petroleum marketers throughout the United States. And it's enactment is essential if we hope to preserve for America's consumers a competitive gasoline market.

I have heard from hundreds of Iowans who support this bill. In addition to the thousands of Iowa independent gasoline dealers, consumers will benefit greatly from this bill. I think this is particularly obvious in rural areas that have fewer gasoline station options. The number of firms operating gas stations in Iowa has dropped to less than half of what it was in the mid-seventies. Today, many Iowa towns have only one gas station. Obviously, other market forces enter the arena, but clearly the passage of this legislation should exert a strong pull in the opposite direction which is leading us to an alarming increase in market concentration.

Mr. President, upon return next year, I will be seeking cosponsors to this important legislation. My colleagues can expect to hear from many of their constituents who strongly favor this legislation in the meantime.•

By Mr. SIMON:

S. 2043. A bill to prohibit certain motor fuel marketing practices; to the Committee on the Judiciary.

MOTOR FUEL MARKETING COMPETITION ACT

• Mr. SIMON. Mr. President, I introduce today the Motor Fuel Marketing Competition Enhancement Act, a bill to address a serious and growing problem facing the petroleum industry and American consumers.

Our Nation depends on an energy distribution system that reaches a broad and diverse range of consumers and commercial enterprises. This system of distribution must provide energy to small towns and rural areas, to small businesses, to industry, to agricultural users and to motorists. Our energy distribution system is complex and multifaceted. At numerous stages of this complex system there is a danger that one sector may accumulate too much market power and exercise control over other sectors of the industry. It is critical to the well being and maintenance of this system that competitive pricing takes place at all levels and in all areas.

The bill I am introducing today seeks to address a growing problem in motor fuel distribution, a problem that threatens in the short run to do serious harm to small business motor fuel distributors, and in the long run to drive up prices and reduce supply of motor fuel to small towns and rural areas traditionally served by small business marketers.

Increasing numbers of small business marketers are facing rising bankruptcy rates, reduced profits and increases in actual operating losses. These losses are not due to the industry wide stress that accompanied the supply shock of the Persian Gulf war. These problems have continued and accelerated in the months since the Persian Gulf war ended and the supply of Persian Gulf oil to the United States returned to prewar levels.

Rather, the major cause of the ills facing the small business marketers are pricing and marketing practices by petroleum refiners that undermine competition—mainly, selling motor fuel directly to motorists at prices lower than those charged wholesalers or retailers, or selling at prices that, in effect, squeeze independent marketers out of business.

My legislation is simple and straightforward. It prohibits refiners from selling motor fuel at the retail outlets they operate at prices below those charged small business marketers. It prohibits selling at a lower price to some reseller customers than to others unless the lower price can be cost-justified. It requires the wholesale function of distributors to be justly compensated. It prohibits refiners from forcing marketers to sell at prices established by refiners. It requires that during times of short supply, fuel will be shared fairly among all classes of customers. Finally, it eliminates discrimination between branded and unbranded customers.

Mr. President, it has become evident that some action must be taken if our energy distribution system is to be preserved. This bill is similar to legislation introduced in the House and has adopted much of the substance of that proposal. This bill draws upon consultations with numerous small business marketers and attempts to balance the needs and concerns of branded and unbranded marketers, wholesale and retail operators, as well as the needs of consumers. This bill seeks to extend equitable protections to all sectors of this industry, assure fair treatment to consumers and to avoid imposing unduly harsh or unrealistic measures upon refiners.

Mr. President this bill is realistic and attempts to address a serious problem facing consumers and small business marketers of motor fuel. If current trends continue we may see the elimination of small business marketers. This would be a severe loss for the consumer, commercial and agricultural customers in rural areas and small towns who rely on small business marketers for their motor fuel. Congress needs to act on this bill, promptly.●

By Mr. INOUYE (for himself, Mr. McCAIN, Mr. SIMON, Mr. AKAKA, Mr. BURDICK, Mr. WELLSTONE, Mr. DeCONCINI, and Mr. MURKOWSKI):

S. 2044. A bill to assist native Americans in assuring the survival and continuing vitality of their languages; to the Select Committee on Indian Affairs.

NATIVE AMERICAN LANGUAGES ACT OF 1991

● Mr. INOUYE. Mr. President, I rise to introduce a bill to authorize the Administration for Native Americans to make grants to American Indian tribal governments and other native American organizations to assist them in assuring the survival and continuing vitality of their many languages.

This bill is modeled upon a bill introduced by Senator MURKOWSKI of Alaska to provide grants to Alaska Natives for language preservation, a bill that will soon be favorably reported by the Select Committee on Indian Affairs. It is a very good bill for Alaska Natives, and I applaud my colleague for his leadership on this issue. What my bill would do is to make such grants available to all tribal governments and native American organizations.

Mr. President, unlike languages brought to these shores by people from the East and West, languages indigenous to this hemisphere are spoken nowhere else. Since Europeans first arrived on these shores in the 16th century, hundreds of languages of indigenous peoples have been lost. Each year, additional languages are threatened with extinction.

As the Congress pointed out in the Native American Languages Act in 1990, "the traditional languages of native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions and values." In the act, Congress was explicit in its declarations of the rights of native Americans to use their languages, and among other things, to encourage that their languages be employed in instruction and be afforded respect in college curricula and in all settings.

Mr. President, what is needed now is a means of implementing the goals enunciated in the Native American Languages Act, and the bill I introduce today is intended to make a beginning for all Native Americans.

Under this bill, tribal governments and other Native American organizations presently eligible under the Native American Programs Act could apply for grants to establish native language training programs, to develop written materials, to compile oral records, to establish community language programs, and to construct facilities, if required. As with other programs administered by the administration for Native Americans, grants would be awarded on a competitive basis.

I am hopeful that this bill will be enacted during the 102d Congress in order that funding can be made available for Native American language programs before 1992 draws to a close. It is important that the Congress move ahead to implement the Native American Languages Policy Act.

I ask unanimous consent that the text of my bill and a section-by-section analysis be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Languages Act of 1991".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO ASSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected pursuant to subsection (c) of this section;

for the purposes of assisting Native Americans in assuring the survival and continuing vitality of their languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) the construction of new facilities or the conversion of existing facilities into centers for the preservation and enhancement of Native American languages;

"(2) the establishment of community language programs to bring older and younger Native Americans together to facilitate the transfer of language skills from one generation to another;

"(3) the establishment of training programs to train speakers of Native American languages to teach such languages to others;

"(4) the development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;

"(5) the establishment or support of training programs to train Native Americans to produce or participate in television or radio programs to be broadcast in their native languages; and

"(6) the compilation of oral testimony to record or preserve Native American languages.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the project for which a grant is sought; and

"(2) a statement of objectives that are consonant with the purposes of this section.

"(d) AMOUNT OF FUNDING.—Notwithstanding any other provision of this Act, the costs of programs that are awarded grants pursuant to this section shall be paid in accordance with the following paragraphs:

"(1) 90 PERCENT OF COSTS.—The grants awarded pursuant to this section shall provide funding for not more than 90 percent of the costs of the programs that are recipients of such grants.

"(2) REMAINING 10 PERCENT OF COSTS.—The remaining 10 percent of the costs of programs that are awarded grants under this section shall be paid by the grant recipient either in cash or through the provision of property or services.

"(3) LIMITATION—The amount referred to in paragraph (2) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(e) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 for the purpose of carrying out the provisions of section 803B of this Act.".

SECTION-BY-SECTION ANALYSIS OF A BILL TO ASSIST NATIVE AMERICANS IN ASSURING THE SURVIVAL AND CONTINUING VITALITY OF THEIR LANGUAGES

Section 1. Short title.

Section 2. Amends the Native American Programs Act by authorizing an additional program of grants to tribal governments and Native American organizations.

Section 2(a). Provides that all governments and organizations eligible under existing law will be eligible applicants in the new program.

Section 2(b). Prescribes the purpose for which grants may be used, including construction of facilities, establishment of community language programs and training programs, development of materials, support of training programs related to broadcasting, and compilation of oral testimony.

Section 2(c). Provides that grant applications must include detailed description of projects, objectives consistent with this act, and a plan to preserve materials developed.

Section 2(d). Provides that grants awarded are to cover 90 percent of the costs, the other ten percent to be provided by the applicant (but allows the use of Federal funds if not provided under the Native American Programs Act).

Section 2(e). Provides that Section 803B will be administered by the Administration for Native Americans.

Section 3. Clarified that funding for this program is to be separate from the general appropriation for the social and economic development grant program; authorizes such sums as are necessary for fiscal years 1993 through 1997.•

By Mr. BINGAMAN:

S. 2045. A bill to authorize a study of the prehistoric Casas Grandes culture in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

CASAS GRANDES CULTURE STUDY ACT OF 1991

• Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to authorize the study of the prehistoric Casa Grandes culture in the State of New Mexico. This study will be done to determine the significance of this culture and how best to illustrate and commemorate this portion of the prehistory of the Southwest.

Around A.D. 1150, a prehistoric culture spread northward into what is now northwestern Chihuahua, Mexico, southwestern New Mexico, and southeastern Arizona. This culture was a regional version of the Meso-American civilization known today as the Casas Grandes culture. The Casas Grandes culture centered at the major town site of Casas Grandes, Chihuahua, but hundreds of other sites with ties to this cultural center spread out along regional drainages. The core area of this great prehistoric culture spreads into the United States primarily in southern Hidalgo County, New Mexico. The sites in Hidalgo County were labeled the "Animas Phase" by archaeologists in the early 1930's. But they are a little different from Casas Grandes sites immediately to the south in Chihuahua, Mexico in that they reflect the same cultural influence by Casas Grandes. Any differences present could reflect perhaps the geographic position on the Casas Grandes frontier. The study of frontier outposts of advanced cultures can tell us a lot about spheres of cultural influence and the impact of distance and environmental constraints on the export of culture traits and patterns. The Hidalgo County sites are at the northern most extension of Casas Grandes culture influence and would contribute to understanding these relationships.

Up until at least A.D. 1400, Casas Grandes functioned as a sort of cultural connecting point between the rest of Meso-America to the south, and the Anasazi and other puebloan cultures to the north. Study of this cultures' archaeological sites is key to understanding the relationships between these two great culture areas during a critical period when the modern Pueblo Indian cultures were developing.

The abandoned sites at the extreme northwestern corner of the Casas Grandes region have tremendous research potential. Many of these are large and complex sites, containing extraordinary polychrome pottery, detailed metal work, including rare copper bells, and other artifacts that bring a high market value. Sites are pothunted and vandalized both north and south of the border for this reason. Erosion is slowly washing other sites away. We are losing scientific information daily to these natural and manmade acts of destruction.

There are only 25–30 of these Casas Grandes-related sites in the whole of the United States; this small number of threatened sites makes it imperative that we quickly determine a course of action. This bill provides us with an excellent opportunity to carefully consider the significance of this prehistoric culture to the greater Southwest. The study will give us the facts we will need to better discuss and determine what preservation and interpretive measures are needed to care for this piece of our country's heritage.

My goal is to foster public understanding of this Nation's rich and varied cultural heritage—we are still just scratching the surface in understanding the complexities of prehistoric cultures in the Southwest. What a terrible shame it would be to lose the material evidence of these cultures before our understanding becomes clearer and can be shared.

I urge my colleagues to join me in supporting this legislation to study this important part of our past for the benefit of present and future generations.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Casas Grandes Culture Study Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) about A.D. 1150, a prehistoric culture spread northward into what is now northwestern Chihuahua, Mexico, southwestern New Mexico, and southeastern Arizona;

(2) this culture was a regional version of the Mesoamerican civilization known as the "Casas Grandes Culture";

(3) While this culture was centered around the major town site of Casas Grandes, Chihuahua, Mexico, hundreds of other sites developed along regional drainages;

(4) the core area of this great culture extends into the United States, primarily into southern Hidalgo County, New Mexico;

(5) for more than 200 years, until at least A.D. 1400, the Casas Grandes Culture was situated at the connecting point between the rest of Mesoamerica to the south and the

Anasazi and other puebloan cultures to the north;

(6) this culture represents a key aspect of understanding the relationships between the cultures of the American Southwest and of Mesoamerica;

(7) there are more than 25 known Casas Grandes sites in Hidalgo County, New Mexico, which are in varying conditions; and

(8) these sites contain extraordinary polychrome pottery, detailed metal work, including rare copper bells, and many other types of artifacts that bring a high market value when sites are vandalized.

SEC. 3. AUTHORIZATION OF STUDY.

(a) IN GENERAL.—The Secretary of The Interior, acting through the Director of the National Park Service, may conduct a study of the Casas Grandes Culture in southwestern New Mexico to determine its significance in illustrating and commemorating the prehistory of the Southwest.

(b) CONTENTS.—

(1) IN GENERAL.—The study shall examine—

(A) the geographic extent of the Casas Grandes Culture;

(B) the significance of the Casas Grandes Culture and remaining Casas Grandes sites in the context of Southwestern prehistory;

(C) the integrity of Casas Grandes sites;

(D) the relationships between the Casas Grandes Culture and the Mogollon Culture; and

(E) potential interpretive opportunities.

RECOMMENDATIONS.—The study shall include recommendations with respect to—

(A) measures for the preservation of cultural resources associated with the Casas Grandes Culture located in and around Hidalgo County, New Mexico;

(B) a broad range of interpretive opportunities involving the National Park Service, other Federal and State agencies, the Mexican government, and The Nature Conservancy; and

(C) general facility needs (including general location and anticipated costs), including road improvements that would be required for public enjoyment and interpretive use of Casas Grandes sites.

(c) COOPERATIVE WITH MEXICO.—

(1) PARTICIPATION.—Representatives of the State of Chihuahua, Mexico, shall be invited to participate in the study process.

(2) COOPERATIVE RELATIONSHIPS.—The study shall recommend potential cooperative relationships with Mexico for interpretation and visitor use.

(d) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committed on Energy and Natural Resources of the Senate not later than 2 years after the date on which funds are appropriated for the study.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. LIEBERMAN:

S. 2046. A bill to authorize humanitarian, technical, and enterprise fund assistance for the Baltic States and the Soviet Republics, and for other purposes; to the Committee on Foreign Relations.

ECONOMIC DEVELOPMENT AND SECURITY ACT OF 1991

• Mr. LIEBERMAN. Mr. President, I am introducing today, the Business Development and Economic Security Act of 1991, that will promote our Nation's economic security by helping the people of the Baltic States and the Republics of the former Soviet Union develop market-based economies and by facilitating business opportunities for American companies.

The American attitude toward the former Eastern bloc seems to have changed dramatically in recent months. Our euphoria over the fall of the Berlin Wall, the freedom of the Baltic States, and the collapse of communism in the Soviet Union has subsided and been replaced by timidity as we turn inward and away from one of the most important opportunities of our time: Bringing capitalism and democracy to the former Communist world.

The irony, of course, is that the people of these nations want us to teach them the ways of Adam Smith and Thomas Jefferson. They want People's Drugstore, not the people's commissariat for pharmaceutical supplies. We hesitate to reach out to them because we feel we can't afford to. We want to fix things at home first.

I agree we must focus now on what ails our own economy. We have much work to do to improve things at home. But our future is also linked to the future of the nations of the Baltic States and the former Soviet Union.

The political and security interests at stake are clear; we have based our entire post-war foreign policy on containing the Soviet Union and its satellites.

And this policy has cost us. According to Senator SAM NUNN, the United States has spent over $4 trillion since the end of the Second World War defending Europe and protecting our national security from the Soviet threat. We won the cold war at great economic sacrifice, but we could lose the peace by ignoring the economic opportunities in the former Soviet bloc. They want and need our help; there is money to be made and jobs to be created back home if we encourage and assist our businesses to get involved in the emerging markets of the Baltic States, and the Soviet Union.

We are beginning to invest and trade with the Baltic States. The hard work and eagerness of the people of these new nations to embrace the West is inspiring. The Baltics can serve as a bridge to the markets of the former Soviet Republics, and offer good investment and trade opportunities in their own right.

The Republics of the Soviet Union present a much more difficult proposition. But business can be done there if we are imaginative and patient. Many of the Republics of the former Soviet Union, particularly the Russian Republic, are rich in natural resources. They will be able to prosper with time, hard work, and help from us. If we don't move in, the Japanese, Koreans, and the Germans surely will. Can we afford to lose another market to these nations?

The Soviet Union is in a state of economic freefall today. GNP is down by 13 percent, industrial output is down by 9 percent, agricultural output is down by 11 percent, capital investments are down 20 percent, oil output is down 20 percent, retail prices are up 96 percent, and inflation is rampant—some estimates are as high as 300 percent annually.

The threat of famine this winter brought on by hoarding, poor distribution, a poor harvest, and political chaos is very real. As one witness stated in a hearing I chaired recently on doing business in the Soviet Union "The first rule of marketing is to keep the client alive." We cannot take advantage of the potential that the vast Soviet market offers if the various Republics fall into a state of anarchy because they have no food and medicine.

This bill attempts to deal with the problem of these shortages by sending food assistance, medical assistance, and feed for livestock in order to reverse the drop in meat production, and reverse the drop in dairy output in the Baltic States and the Republics of the former Soviet Union. This legislation contemplates that international relief organizations like Americares or the International Red Cross would distribute this aid directly to the Republics in order to overcome some of the distribution problems posed by other options.

The bill also requires the President to appoint a Coordinator for Economic Development, with the rank of Ambassador, to oversee all programs described in the legislation. This is to avoid duplication and to get the maximum benefit out of existing programs.

We need a strategy for dealing with the former Soviet Union that goes beyond the near term. The bill establishes a blue ribbon, bipartisan, public-private sector commission to develop a long-term strategy for helping both the former Soviet Union and American companies wanting to do business there. The Republics of the Soviet Union offer a vast market for U.S. goods and services. We need to have a plan to help our companies enter this market intelligently and successfully.

Throughout the postwar period, our foreign policy has been based on political and security concerns. Now, we must develop a strategy that uses our foreign assistance programs to strengthen our national economic security. In the 1990's, the race to capture new overseas markets will replace the arms race; trade agreements will take the place of arms control agreements. The United States must position itself well by developing a strategy to gain access to new markets.

If we help the Baltic States and the Republics of the former Soviet Union to expand their middle class, we can, at the same time, position ourselves to take advantage of this new market. These people lack consumer goods, services, and infrastructure. The Federal Government can help American companies tap into the vast market potential by aiding the people of the Baltic States and the Republics of the former Soviet Union with the rebuilding of their economies.

We should not send billions of dollars to the region. We can't afford to. Instead, we should develop cost-effective programs using existing Government agencies and programs, as well as multilateral organizations, like the IMF and the OECD, to leverage our resources. That is the premise of the bill that I introduce today.

In addition to granting short-term humanitarian assistance and establishing a commission for a long-term strategy for the former Soviet Union, the bill helps facilitate and protect business investment in the former Soviet Union and the Baltic States by aiding in the process of institution building. For example, experts from the Department of the Treasury and the Federal Reserve Board would help with the establishment of a banking system, the Environmental Protection Agency will continue with its efforts to help with the cleanup of the environment, and the Census Bureau will aid with the collection and analysis of statistical data.

The bill also sets up working groups between the U.S. Government and officials from the Baltic States and the Republics of the former Soviet Union to aid in the development of programs that will help them build a market economy and the institutions necessary to protect and nurture that market.

The energy sector within the former Soviet Union offers a real opportunity both for those republics with large oil reserves, and for U.S. companies that want to take advantage of these markets as suppliers of equipment and as developers of new and existing fields.

The Soviet oil industry is in a startling decline, which might lead the Soviet Union to become a net importer of oil by 1993. From a high of a little over 12 million barrels per day production, Soviet oil production could fall to as low as 7.7 million barrels, not enough to meet domestic needs. The effect that this would have on world oil markets could be substantial, and that would, in turn, hurt the already troubled American economy.

This bill addresses that problem by establishing a special Department of Energy [DOE] task force made up of Government and industry officials to assist the oil industry of the Republics of the former Soviet Union. A national interest account would be established at the Export-Import Bank to permit the Bank, on a limited basis, to use its programs to develop the Soviet oil industry without a sovereign guarantee.

Normally the Bank must have a sovereign guarantee to finance a transaction. A national interest account, used by the export credit agencies of many other developed nations, would allow the Eximbank to help American companies invest in the oil industry of the Republics of the former Soviet Union using other methods of protecting their investment.

To help with the development of the business community in the Baltic States and the former Soviet Union, enterprise funds, similar to the funds set up for Poland, Hungary, and the Czech and Slovak Federal Republic, would be established. These funds are to focus their efforts on developing small and medium-sized businesses, as well as assisting American small and medium-sized businesses to do business in the region.

The Baltic States are treated separately from the former Soviet Union in this bill, as well they should be. There was never a true union between these nations and the Soviet Union, and the bill recognizes that they are much more a part of Eastern and Central Europe by making them eligible for SEED programs.

The bill also puts strict, but reasonable, conditions on all assistance programs. Those conditions are: Compliance with the Helsinki accords, progress toward establishing a democratic state, and progress toward establishing a market-based economy.

Mr. President, we are faced with the historic opportunity of being able to contribute to our economic destiny, while helping the people of the Baltic States and the former Soviet Union rebuild their nation from the ravages of communism. Their prosperity could benefit us, if we put forward a strategy that promotes the trade and investment opportunities of American companies. I hope this bill will be a step toward reaching that goal.

I ask unanimous consent that a copy of the bill and bill summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Development and Security Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the failed coup in the Soviet Union offers new opportunities for the United States;

(2) given the difficult economic problems confronting the United States, the United States should not send significant amounts of financial assistance to the Soviet Union;

(3) all United States aid programs to the Soviet Union should be cost-effective, biased in favor of technical assistance, and structured to help the people of the Soviet Union use their vast natural resources to help themselves with the building of a market-based economy and a functioning democracy;

(4) for more than forty years, the United States has supported the struggle for independence in the Baltic states;

(5) now that independence has been achieved in the Baltic states, the United States should assist these nations with the building of democracy and a market-based economy;

(6) it is in the interest of the United States to help establish a democratic process and institutions that will promote democracy and a market-based economy;

(7) there are economic opportunities for the American companies both with exports and investment in the Soviet Union; and

(8) the "peace dividend" will only be fully realized if the Baltic states and the Soviet Union are able to build and sustain democracy and market-based economies integrated into the world economy.

SEC. 3. PURPOSE.

The purpose of this Act is—

(1) to assist the Baltic states and the Soviet republics to build institutions that will promote and sustain democracy and a market-based economy; and

(2) to ensure that all aid programs described in this Act shall be cost-effective and shall have as a goal—

(A) the maintenance of United States security;

(B) the pursuit of United States economic interests; and

(C) the promotion of the interests of the United States business community in order to create jobs and, generally, to promote economic growth in the United States.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the countries of Latvia, Lithuania, and Estonia;

(2) the term "Commission" means the Commission on Economic Security established by section 101;

(3) the term "Coordinator" means the Coordinator for Economic Development appointed under section 201;

(4) the term "humanitarian assistance" means food, medicine, clothing, and other assistance for humanitarian purposes, but such term does not include the provision of weapons, weapons systems, ammunition, or any equipment, vehicles, or material for use by military units or organizations; and

(5) the term "Soviet republics" means each of the following republics, individually or in any combination thereof:

(A) Armenia.
(B) Azerbaijan.
(C) Byelorussia.
(D) Georgia.
(E) Kazakstan.
(F) Kirghizia.
(G) Moldavia.
(H) Russia.
(I) Tajikistan.
(J) Turkmenistan.
(K) Ukraine.
(L) Uzbekistan.

TITLE I—COMMISSION ON ECONOMIC SECURITY

SEC. 101. ESTABLISHMENT; COMPOSITION.

(a) ESTABLISHMENT.—There is established the Commission on Economic Security.

(b) COMPOSITION.—

(1) The Commission shall consist of 11 members, appointed as follows:

(A) Five members who shall be appointed by the President (including one senior official each from the Department of State, the Department of Commerce, and the Department of the Treasury), one of whom shall serve as Chairman, who shall have been drawn from the private sector.

(B) Three members who shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader.

(C) Three members who shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader.

(2) The Commission shall include members of each of the two major political parties, and at least 6 members of the Commission shall be drawn from individuals in the private sector having experience in the fields of economics and business, including international business.

(3) Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment and an individual appointed to fill a vacancy shall be appointed to serve for the remainder of the term. A member may be reappointed upon expiration of his or her term.

(c) Meetings.—A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least quarterly or as frequently as may be necessary to carry out its duties.

(d) Compensation.—(1) Members of the Commission—

(A) except as provided in paragraph (2), shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions above GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(3) The Secretary of State is authorized to provide for necessary secretarial and staff assistance for the Commission.

SEC. 102. RESPONSIBILITIES.

The Commission shall—

(1) consider a wide range of political and economic issues, including the provisions of this Act, and shall develop a long-term economic strategy for dealing with, the Baltic states and the Soviet republics; and

(2) develop a long-term comprehensive efficient economic cooperation and assistance program for the Baltic states and the Soviet republics for use in guiding executive and legislative branch policy, including the coordinator.

SEC. 103. REPORTS.

(a) Interim Report.—Not later than 3 months after the date of enactment of this Act, the Commission shall send a report to the President and the Congress describing the status of its activities under this title.

(b) Final Report.—Not later than one year after the date of submission of a report under subsection (a), the Commission shall submit to the President and the Congress a final report of its activities.

TITLE II—APPOINTMENT OF COORDINATOR FOR ECONOMIC DEVELOPMENT AND WORKING GROUPS FOR THE BALTIC STATES AND REPUBLICS OF THE SOVIET UNION

SEC. 201. APPOINTMENT OF COORDINATOR.

(a) Appointment.—The President, by and with the advice and consent of the Senate, shall appoint a Coordinator for Economic Development to coordinate activities of all United States Government agencies in offering humanitarian or technical assistance to the Soviet republics.

(b) Rank and Status.—The Coordinator shall hold the rank and status of Ambassador Extraordinary and Plenipotentiary, shall hold office at the pleasure of the President, and shall be entitled to receive same allowances as a chief of mission.

(c) Duties.—The Coordinator shall—

(1) have primary responsibility for developing, in conjunction with the bilateral working groups, and in cooperation with the Commission a plan for United States humanitarian and technical assistance for the Soviet republics;

(2) have primary responsibility for coordinating the implementation of United States assistance for the Soviet republics;

(3) provide his good offices as a clearinghouse for business and other private sector initiatives designed to assist the Soviet republics;

(4) serve as the principal advisor to the President on United States humanitarian and technical assistance for the Soviet republics;

(5) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international negotiations regarding humanitarian and technical assistance for the Soviet republics;

(6) issue and coordinate policy guidance to departments and agencies of the United States on basic issues of policy and interpretation to the extent necessary to assure the coordination of United States humanitarian and technical assistance to the Soviet republics and consistent with any other law;

(7) act as the principal spokesman of the President on humanitarian and technical assistance to the Soviet republics; and

(8) be responsible for such other functions as the President may direct.

SEC. 202. WORKING GROUPS.

(a) Establishment.—(1) The Secretary of State is authorized to enter into an agreement with each of the Baltic states and the Soviet republics for the establishment of a bilateral working group for such state or republic, consisting of members drawn from governmental agencies and the private sector.

(2) The purpose of each working group would be to develop a plan of action for the economic development of the respective state or republic.

(3) The working group would develop an action plan in close consultation with the public and private sector in the individual states and republics.

(b) United States Delegation.—(1) Pursuant to each agreement executed under subsection (a), the Secretary of State is authorized to establish the United States delegation to the respective bilateral working group.

(2) Each such United States delegation shall consist of representatives from the Department of State, the Department of Commerce, and the Department of the Treasury, as well as business leaders from the private sector, appointed by the Secretary in consultation with the Congress.

(c) Role of Coordinator.—The Coordinator shall oversee and coordinate the activities of the working groups and report to Congress on those activities annually.

TITLE III—ELIGIBILITY FOR ASSISTANCE

SEC. 301. ELIGIBILITY.

In order to be eligible for assistance under this Act (other than emergency or humanitarian assistance described in title IV), the Baltic states and the Soviet republics shall—

(1) be in compliance with the Final Act of the Conference on Security and Cooperation in Europe, particularly the Copenhagen and Bonn documents of 1991;

(2) be making marked progress toward establishing a democratic state;

(3) be making marked progress toward establishing a market-based economy;

(4) be in compliance with all applicable United States laws; and

(5) be certified by the President under section 302.

SEC. 302. CERTIFICATION REQUIREMENT.

The President shall certify to the Congress each country meeting the eligibility requirements of paragraphs (1) through (4) of section 301.

SEC. 303. SUPERSEDING EXISTING LAW.

Upon receipt by Congress of the certification described in section 302 with respect to any of the Baltic states or Soviet republics, such state or republic shall be eligible for assistance under this Act notwithstanding any other provision of law.

TITLE IV—EMERGENCY ASSISTANCE AND HUMANITARIAN ASSISTANCE

SEC. 401. GENERAL POLICY.

The President, acting through the Coordinator, is authorized immediately to begin the process of sending food assistance and medicine to the Soviet Union through the Agency for International Development and international and national organizations such as the Red Cross, Project Hope, and Americares. Such programs shall include—

(1) grants of food assistance to arrest the drastic drop in living standards;

(2) livestock feed to avert mass slaughter of breeding herds, restore normal meat production, and reverse the drop in dairy output; and

(3) medical assistance, including all forms of clinical supplies and equipment.

SEC. 402. HUMANITARIAN ASSISTANCE.

(a) Development of Plan.—The Coordinator, in consultation with the Secretary of Defense, shall develop a plan for humanitarian assistance to the people of the Soviet Union, which would include making available to the Soviet Union Department of Defense supplies of nonlethal equipment, commodities, and other materials excess to the needs of the Department and making arrangements for the Department to airlift medicine and food to those areas in need.

(b) Policy Regarding Distribution and Hoarding Problems.—As part of such plan, the Coordinator, after consultation with public and private sector experts, shall make recommendations on ways to improve the distribution of agricultural commodities and to attempt to resolve the problem of hoarding.

TITLE V—TECHNICAL ASSISTANCE

SEC. 501. COORDINATION OF PRIVATE SECTOR GROUPS.

In order to develop programs that would facilitate the process of democracy-building and the creation of market-based economies in the Baltic states and the Soviet republics, the Coordinator shall—

(1) consult with private sector groups, including—

(A) Citizen's Democracy Corps;

(B) International Executive Service Corps;

(C) Experiment in International Living;

(D) the American Field Research Committee; and

(E) the American Bar Association; and

(2) monitor and cooperate with the activities of private groups or individuals funded under the National Endowment for Democracy, the Fulbright Scholarship Program, and the National Academy of Sciences.

SEC. 502. COORDINATION OF UNITED STATES AGENCIES.

The Coordinator shall coordinate long-term technical assistance programs among all relevant departments and agencies of the United States for the Baltic states and the Soviet republics, including—

(1) the Department of Commerce, in particular the United States Census Bureau, for purposes of improving all forms of data collection and statistical analysis;

(2) the Department of Education;

(3) the Department of Labor, in particular the Bureau of Labor Statistics;

(4) the Department of the Treasury, with a special emphasis on assistance with the gathering of any financial statistics and the establishment of a banking system;

(5) the Peace Corps;

(6) the Department of Energy;

(7) the Federal Reserve Board;

(8) the Environmental Protection Agency; and

(9) the Office of Management and Budget.

SEC. 503. MEDIUM-TERM TECHNICAL ASSISTANCE.

The President is authorized to conduct medium-term technical assistance programs for the people of the Baltic states and the Soviet Union, which programs shall utilize, wherever appropriate, United States private sector firms and experts and shall include—

(1) training for central and commercial bankers;

(2) training and assistance in administration of all aspects of privatization programs;

(3) programs that address the problem of deregulation and promote competition among enterprises;

(4) programs to assist with the process of public administration, including—

(A) assistance with the development of improved data gathering and statistical analysis;

(B) assistance with the development and implementation of a new tax system; and

(C) the development of a new social security system, private insurance system, and the privatization of the delivery of social, health, and education services;

(5) programs to assist entrepreneurs and to develop small businesses and franchising;

(6) programs to assist with the restructuring of large-scale industry, including developing cooperative alliance programs, agriculture extension programs, and agribusiness and farmer exchange programs;

(7) programs to develop agricultural training and private agribusiness, and the development of an efficient agricultural market;

(8) short-term business training education programs of a duration from a few weeks to a few months with an emphasis on management and executive training;

(9) programs that will help attract foreign investment, including the drafting of laws and the creation of institutions designed to promote and protect such investment;

(10) programs to aid with the development of a customs and a border control system with an aim toward developing standardized procedures, to the extent practical, among the Baltic states and among the Soviet republics;

(11) programs to assist with the dissemination of public information and to improve the public information capability of the governments of the Baltic states and the Soviet republics;

(12) programs designed to assist with the development of the harmonization of tax and regulatory standards in line with those already used by the United States and the European Community;

(13) programs to assist with the development of cooperation among the Baltic states and among the Soviet republics; and

(14) programs to assist with the establishment of a functioning system of law, including the development of a constitution and a system of commercial law.

SEC. 504. COORDINATION AND PROMOTION OF EXCHANGE PROGRAMS.

It is the sense of the Congress that the Coordinator should coordinate and promote short- and long-term exchanges between public and private sector groups in the United States and their counterparts in the Soviet Union, particularly business and economic organizations.

TITLE VI—GOVERNMENT-TO-GOVERNMENT PROGRAMS FOR THE PROMOTION OF PRIVATE ENTERPRISE

SEC. 601. EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) In General.—The Export-Import Bank of the United States (hereafter in this Act referred to as the "Eximbank") shall establish and carry out—

(1) a special program to facilitate guarantees, direct loans, and insurance for the Soviet republics and the Baltic states; and

(2) special programs to assist United States exporters better to understand the new markets in the Soviet republics and the Baltic states.

(b) Administrative Provisions.—In carrying out subsection (a), the Eximbank shall coordinate its activities with the Coordinator, the Secretary of State and the Secretary of Commerce.

SEC. 602. ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION ACTIVITIES.

Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting "the Baltic states, the Soviet republics," after "any other East European country".

SEC. 603. SPECIAL PROGRAM ADMINISTERED BY EXIMBANK AND OPIC.

Eximbank and OPIC shall establish a special program to assist with the development of the oil sector for the Soviet republics, as follows:

(1) The Eximbank shall develop a National Interest Account (hereafter in this Act referred to as the "Account") for the development of the oil sector that will not require a sovereign guarantee in order for Eximbank to transact business.

(2) OPIC shall provide a portion of its guarantee authority to aid with investment in the oil sector.

SEC. 604. AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) Special Program.—The Administrator of the Agency for International Development shall establish a special program to assist, in cooperation with American-owned firms, with the infrastructure needs of the Baltic states and the Soviet republics. This program shall include—

(1) the energy sector, consistent with the provisions of section 901;

(2) the telecommunications sector;

(3) the power generation sector; and

(4) the transportation and distribution sector of the economies of the Baltic states and the republics of the Soviet Union.

(b) Coordination With Eximbank and TDP.—The Agency for International Development shall work with Eximbank and the Trade and Development Program (TDP) to put together transactions that help the Baltic states and the Soviet republics and American exporters.

SEC. 605. REPEALS OF LIMITATIONS IN EXISTING LAW.

(a) Repeal of Byrd Amendment.—Section 613 of the Trade Act of 1974 (19 U.S.C. 2487) is hereby repealed.

(b) Repeal of Stevenson Amendment.—Section 7(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 640(b)) is hereby repealed.

SEC. 606. POLICY TOWARD INVESTMENT AND ECONOMIC TREATIES.

The Congress hereby expresses its support for the President to begin negotiations on investment and economic treaties with the Baltic states and the Soviet republics.

SEC. 607. GENERALIZED SYSTEM FOR PREFERENCES.

It is the sense of the Congress that the President should designate the Baltic states and the Soviet republics as beneficiary developing countries under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) for purposes of according duty-free treatment to the eligible articles of such states and republics under such title.

SEC. 608. ELIGIBILITY FOR UNITED STATES QUOTAS UNDER THE INTERNATIONAL TEXTILE AGREEMENTS.

It is the sense of the Congress that the Baltic states and the Soviet republics should be made eligible by international agreement for United States quotas under existing international textile agreements.

TITLE VII—MULTILATERAL INITIATIVES

SEC. 701. MEMBERSHIPS IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) Support for Memberships.—The Secretary of the Treasury shall direct the United States executive directors to the International Monetary Fund and the International Bank for Reconstruction and Development—

(1) to support immediate membership in the Fund and the Bank of the Soviet republics which have been certified pursuant to section 301; and

(2) to recommend the availability of emergency and immediate relief for the Baltic states and the Soviet republics through the Fund and the Bank.

(b) Proposal for Currency Stabilization Fund.—The Secretary of the Treasury shall direct the United States Executive Director to the International Monetary Fund to propose the establishment within the Fund of a currency stabilization fund, to the extent practicable, using Special Discovery Rights (SDRs) to help make the currency or currencies of the Baltic states and the Soviet republics transferable.

SEC. 702. ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

It is the sense of the Congress that the President should—

(1) call for the Organization for Economic Cooperation and Development (OECD) to include the Baltic states and the Soviet republics as part of their "Partners in Transition" program within the Center for Cooperation for European Economies in Transition (CCEET) (established in March 1990); and

(2) request that the CCEET immediately undertake a study of the economies of the Baltic states and the Soviet republics.

SEC. 703. MEMBERSHIP IN GATT.

It is the sense of the Congress that the President should call for the full membership in the General Agreement on Tariffs and Trade (GATT) of those Baltic states and Soviet republics which have been certified pursuant to section 301.

SEC. 704. EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Treasury shall direct the United States Executive Director to the European Bank for Reconstruction and Development—

(1) to support the lifting of all limits on borrowing restrictions on the Soviet republics imposed on the Soviet Union by the Bank;

(2) to request the Bank to set up special programs to help the Soviet republics and the Baltic states to develop their private sector, and to act as a clearinghouse for aid and technical assistance programs from the various international and private sector organizations trying to help them; and

(3) to propose the establishment of an international payments union among the Baltic states, the Soviet republics, and Eastern European countries.

(b) DEFINITION.—For purposes of subsection (a)(3), the term "international payments union" means an international centralized agency that offsets, on a periodic basis, the claims of each of two countries for the currency of the other country based on trade.

SEC. 705. POLICY ON PARTICIPATION IN CSCE.

It is the sense of the Congress that the United States should support the admission into the Conference on Security and Cooperation in Europe (CSCE) of those Soviet republics and Baltic states which have been certified pursuant to section 301 .

SEC. 706. COORDINATION WITH G-7 NATIONS.

(a) ACTIVITIES COORDINATED.—

(1) It is the sense of the Congress that the President should coordinate activities with the other members of the Group of Seven (G-7) major industrialized nations in order to maximize effects of aid both short-term (emergency) and long-term, including shared contribution for relief efforts and avoidance of duplication of assistance efforts, and enter into discussions with the other members of the group of seven to establish a formal mechanism for coordinating aid.

(2) Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the progress of these efforts to coordinate with the other members of the Group of Seven.

(b) DEFINITION.—For purposes of this section, the term "Group of Seven (G-7) major industrialized nations" refers to Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

TITLE VIII—PRIVATE SECTOR DEVELOPMENT

SEC. 801. ENTERPRISE FUNDS FOR THE BALTIC STATES AND THE SOVIET REPUBLICS.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the private sectors of the Baltic states and the Soviet republics, including small businesses and joint ventures with the United States, including matching joint venture partners, and host country participants, and

(2) policies and practices conducive to private sector development in the Baltic states and the Soviet republics,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) to support the Baltic-American Enterprise Fund, $45,000,000 for the 3-fiscal year period beginning October 1, 1991; and

(2) to support the Soviet-American Enterprise Fund, such sums as may be necessary. Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—

(1) The funds appropriated under subsection (b) may be made available to the Baltic-American Enterprise Fund and the Soviet-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(2) Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Baltic-American Enterprise Fund and the Soviet Republic American Enterprise Fund (hereafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress, including the leadership of the appropriate congressional committees, before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) ASSISTANCE FOR THE SOVIET PETROLEUM INDUSTRY.—Funds available to the Soviet-American Enterprise Fund may be used to assist the Soviet petroleum industry.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(k) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(l) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(m) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(n) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31, each year, beginning in 1993.

TITLE IX—UTILIZATION OF ENERGY RESOURCES

SEC. 901. TASK FORCE ON SOVIET ENERGY RESOURCE UTILIZATION.

(a) ESTABLISHMENT OF TASK FORCE.—(1) There is established a Task Force on Soviet Energy Resource Utilization (hereafter in this section referred to as the "Task Force").

(2) The Task Force shall consist of—

(A) eight Federal energy development experts, consisting of one representative from each of the following agencies of the United States, as designated by the head of the respective agency:

(i) the Department of Energy;

(ii) the staff of the Coordinator;

(iii) the Department of Commerce;

(iv) the Department of State;

(v) the Agency for International Development;

(vi) the Overseas Private Investment Corporation (OPIC);

(vii) the Export-Import Bank of the United States;

(viii) the United States Geological Survey; and

(B) such energy development experts from United States private sector oil, coal, and natural gas development companies as may be selected by the Secretary of Energy.

(3) The representative of the Department of Energy shall serve as Chairman of the Task Force.

(4) The Task Force shall communicate with and assist energy development agencies, firms, senior officials, and development experts from cooperating Soviet republics.

(b) PURPOSES.—The purposes of the Task Force are to develop United States policies and plans with respect to the Soviet Union—

(1) to promote the development of energy resources within those Soviet republics, including Russia, which possess major energy resources so that those republics can return to and exceed production levels achieved before 1989, thereby assisting in the creation of transferable currencies and internally generated funds to support sustainable economies;

(2) to promote economic development opportunities for United States energy firms; and

(3) to promote competition in world energy production to help assure reasonable domestic prices and stable energy markets.

(c) FUNCTIONS.—The Task Force shall—

(1) develop an in-depth understanding of resource development needs and production problems in participating republics;

(2) provide advice to participating republics and officials regarding such needs and problems;

(3) develop and implement a plan for the appropriate Federal agencies to provide technical assistance for resource development in participating republics;

(4) assist in developing and implementing a plan for resource development in cooperation with participating republics; and

(5) promote business alliances and cooperation between United States energy firms and equivalent entities in participating republics consistent with the prompt and efficient development of energy resources.

(d) REPORTS.—Not later than 6 months and 12 months after the date of enactment of this Act, the Task Force shall submit a report to the Congress, including appropriate congressional committees, on its progress in carrying out this section.

BILL SUMMARY

SHORT TITLE

"Economic Development and Security Act of 1991"

FINDINGS, PURPOSES, AND DEFINITIONS

The findings emphasize the need for the Soviets to rebuild their economy and for American aid programs to help create opportunities for U.S. businesses. They emphasize that the U.S. is not in a position to provide any new significant economic assistance. Existing programs are to be utilized in order to make cost effective use of our resources. The purpose of the bill is to help maintain American security concerns by aiding the Soviets, to pursue American economic interests, and to promote the interests of the U.S. business community.

TITLE I

Establishes a Commission on Economic Security consisting of 11 members appointed by the President and Congress to develop a long term plan for aiding the Baltic states and the republics of the Soviet Union.

TITLE II

Requires the President to appoint a Coordinator for Economic Development with the rank of ambassador and to establish working groups to help the Baltic states and the republics of the Soviet Union. The Coordinator shall develop in coordination with the working groups a plan for technical and humanitarian assistance for the republics and Baltic states. He will also act as a coordinator for public and private sector programs.

A separate working group shall be established for each republic and the Baltic states. The working group shall consist of U.S. government representatives and representatives from the Baltic states and the republics. They will develop an action plan for economic development.

TITLE III

Outlines eligibility for assistance for programs described in the Act. In order to receive assistance, the republics must be: in compliance with CSCE agreements; making marked progress toward establishing a democratic state; making marked progress toward establishing a market-based economy; in compliance with all applicable U.S. laws; and the President must certify that the aforementioned conditions are met.

TITLE IV

Outlines an emergency and humanitarian assistance program, including food and medical assistance.

TITLE V

Outlines a technical assistance program from both the public and private sector. The Coordinator will oversee and coordinate all efforts by the various public and private sector groups providing technical assistance to the republics.

TITLE VI

Outlines government-to-government programs for the promotion of private enterprise, including Eximbank, OPIC, and AID. The title also sets up a special program to help the Soviet oil industry. It also repeals the Byrd and Stevenson amendments which limit Eximbank programs in the Soviet Union. In addition, it encourages the U.S. to negotiate investment and economic treaties with the Soviet republics, expresses support for their products to benefit from the generalized system for preferences (GSP), and expresses support for their products to be eligible for access to the U.S. markets under international textile agreements.

TITLE VII

Expresses Congressional support for a number of multilateral initiatives to help the Soviet republics, including full membership to the IMF and World Bank. It also expresses support for the OECD and the new European Bank for Reconstruction and Development to help the Soviet republics. In addition, the title suggests that the President should coordinate with the G-7 in providing aid for the Soviet republics.

TITLE VIII

Establishes enterprise funds for the Baltic states and the republics of the Soviet Union. There is no specific authorization for the Soviet enterprise fund but there is $45 million authorized for the Baltic states over a three year period.

TITLE IX

Sets up a special energy task force consisting of a number of government agencies and the U.S. energy firm representatives to help the republics of the Soviet Union with their energy sector. The task force shall report to the Congress on what can be done to help increase production in the oil and energy industries in the republics, and promote a role for U.S. firms in that process.

By Mr. MOYNIHAN:

S. 2048. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study on the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

RECORDS OF DISPOSITION OF AMMUNITION

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a measure to improve our information about the regulation and criminal use of ammunition. It has two components. The bill would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition, including the amount, caliber, and type of ammunition imported or manufactured. It would also require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition.

While there are enough handguns in circulation to last well into the 22d century, there is only a 4-year supply of ammunition according to the best estimate. But how much of what kind of ammunition, where does it come from and where does it go? There are currently no reporting requirements for manufacturers and importers of ammunition—earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual uniform crime reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or amount of ammunition used in crime. In short, our data base is woefully inadequate.

I am a supporter of the Brady bill, which would require a waiting period before the purchase of a handgun, and have supported bills to stem the flow of automatic and semiautomatic firearms to criminals. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, guns do not kill people; bullets do.

Ammunition control, while a new idea, is not unknown. In 1982 Phil Caruso of the Patrolmen's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and an additional five Los Angeles County telephone books. They were of doubtful sporting value, and came to be known as "cop-killer bullets." I introduced legislation to ban the bullets in the 97th, 98th and 99th Congresses. The bills enjoyed the overwhelming endorsement of law enforcement groups and tacit support from the National Rifle Association. The Law Enforcement Officers Protection Act was finally signed into law by President Reagan on August 28, 1986.

Local jurisdictions are aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. The city of Los Angeles beginning in 1990 banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air.

Such efforts, while well-meaning and effective, are isolated attempts to solve a national problem. But to do more, we need information to guide policymaking. This bill would fill that need by requiring annual reports to BATF by manufacturers and importers and directing a study by the National Academy of Sciences. I urge my colleagues to cosponsor this measure, and ask unanimous consent that its full text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at his place of business for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 1, 1993, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.•

By Mr. LIEBERMAN:

S. 2049. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperative research organizations; to the Committee on Finance.

CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS

• Mr. LIEBERMAN. Mr. President, I rise today to introduce the Cooperative Research and Development Credit Act of 1991. This bill would provide extra incentive for R&D consortia to work together on developing cutting edge technology.

According to a Business Week survey, R&D spending went up only 2.2 percent from 1989 to 1990—the smallest, annual increase since the mid-seventies. There is a slowdown in R&D spending that must be stopped. If we are to get our economy moving again, we cannot afford to spend less on the research and development of new products.

What makes the situation even more disturbing is that OECD statistics, which are calculated on an inflation and currency adjusted basis, indicate that U.S. corporate R&D spending may have actually declined in 1990 by 1.6 percent, while corporations in other OECD nations have increased their R&D spending.

We must act now to correct this situation. One way we can do this is to use our tax system to encourage collaboration among companies in order to cut R&D costs. Under cooperative research, our companies can share their costs and then make their own product development decisions based on the research findings.

This leveraging of R&D dollars will help American companies compete against firms from other nations that are spending more on their product research and development efforts. If we want to build a better computer or a more efficient car, it will take lots of expensive R&D to do so. Individual American companies cannot always afford to put that kind of money into product development. Our system of corporate governance and incentives puts emphasis on the short term, not long term capital intensive projects. A tax credit for consortia R&D should encourage companies to join together in a way that can help each of them.

This bill will promote cooperation in all phases of R&D, reduce duplicative R&D efforts, and let the collaborators in this effort decide which findings can be commercialized.

The bill provides that qualifying payments and contributions to cooperative research organizations will be eligible for a tax credit of up to 50 percent. The bill includes a number of qualifying definitions and restrictions on R&D expenditures to avoid multiple credit and to clarify interaction with other credit provisions of the Tax Code. For example, a qualifying cooperative research organization must be registered under the National Cooperative Research Act of 1984 and must have at least five members, four of which make significant financial contributions in support of the research effort.

This bill is not intended to replace the existing R&D tax credit but to complement it. We need to offer our companies a menu of options in order to get them to do more R&D spending.

The Center for Manufacturing Sciences, one of the largest of existing research consortia, reports that it leverages membership R&D dollars by as much as 10 to 1 and shortens the development cycle by 2 to 5 years. Extra R&D incentives should increase those ratios considerably.

I ask unanimous consent that a copy of the bill be included in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS.

(a) GENERAL RULE.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 30. CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit percentage of the taxpayer's qualified cooperative research expenditures to any qualified cooperative research organization during the taxable year.

"(b) QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—For the purposes of this section—

"(1) QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—

"(A) IN GENERAL.—Except as otherwise limited or reduced in this section, the term 'qualified cooperative research expenditures' means the qualified amounts which are paid or contributed by the taxpayer during the taxable year to any qualified cooperative research organization.

"(B) QUALIFIED AMOUNT.—

"(i) For the purpose of subparagraph (A), cash, property, or other in-kind contributions received from the taxpayer by a qualified cooperative research organization shall be considered a 'qualified amount' with respect to the taxpayer if it is cash, or an in-kind contribution, including the use of the taxpayer's real property, personal property, intangible property or employees; to the extent that such amounts are verifiable from the qualified cooperative research organization's records; and if project specific, are necessary and reasonable for proper and efficient accomplishment of project objectives.

"(ii) For the purpose of determining qualified amounts with respect to the use or license of property from the taxpayer to the qualified cooperative research organization, such qualified amount shall be limited to the fair value for such usage of such property by the qualified cooperative research organization during the taxable year and, in any event, shall not exceed the amount of depreciation or amortization otherwise allowable to the taxpayer under this chapter allocable to such usage.

"(iii) For the purposes of determining qualified amounts with respect to the contributions of the services of any of the taxpayer's employees, such services shall be valued at the pro rata portion of the salary and benefits that the taxpayer pays for such employees and an appropriate portion of overhead with respect to such persons (but in no event shall such overhead exceed 25 percent of the salary and benefit amount allocated for such services).

"(iv) For the purposes of determining qualified amounts with respect to the noncash payment or contributions from the taxpayer to a qualified cooperative research organization (including amounts described in clause (ii)), such qualified amount shall not exceed the amount of the taxpayer's cash payments or contributions to such organization that constitute qualified amounts.

"(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified cooperative research expenditures' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by any government entity.

"(D) EXCLUSION OF CERTAIN PROJECT SPECIFIC AMOUNTS.—To the extent the taxpayer pays or contributes cash, property, or other in-kind contribution to a qualified cooperative research organization, the use of which is designated or restricted to a specific project to be conducted by the qualified cooperative research organization, then such project specific payment or contribution shall be considered a qualified amount only to the extent of ⅓ of the amount the qualified cooperative research organization receives for or allocates to such project from other nongovernmental sources.

"(2) QUALIFIED COOPERATIVE RESEARCH ORGANIZATION.—

"(A) IN GENERAL.—A qualified cooperative research organization means an organization that meets the registration requirement of subparagraph (B) and the membership requirement of subparagraph (C).

"(B) REGISTRATION.—An organization meets the requirements of this subparagraph if it qualifies for registration and has filed its registration with the Attorney General of the United States and the Federal Trade Commission under the National Cooperative Research Act of 1984 and its registration has been published in the Federal Register on or prior to the last day of the organization's taxable year (and such registration has not been withdrawn, suspended, or revoked).

"(C) MEMBERSHIP.—An organization meets the requirements of this subparagraph if it has 5 or more members and if any 4 members have provided payment or contributions in the prior fiscal year of the organization equal to at least 20 percent of the amount of payments or contributions provided by the nongovernmental contributor who provided the largest amount of payments or contributions to such organization (determined without regard to the provisions of subsection (c)).

"(3) DETERMINATIONS.—

"(A) LIMITATION.—The taxpayer's qualified cooperative research expenditures for which a credit can be claimed under subsection (a) shall be equal to the lesser of the taxpayer's qualified cooperative research expenditures for the current taxable year or the sum of—

"(i) the taxpayer's qualified cooperative research expenditures for the current taxable year multiplied by .5;

"(ii) the taxpayer's qualified cooperative research expenditures for the taxpayer's first preceding taxable year multiplied by .3; plus

"(iii) the taxpayer's qualified cooperative research expenditures for the taxpayer's second preceding taxable year multiplied by .2.

For purposes of this subparagraph, the taxpayer's qualified cooperative research expenditures shall be determined as if this section were in effect in each such year, without application of this subparagraph.

"(B) APPLICABLE CREDIT PERCENTAGE.—The credit allowable under subsection (a) shall equal the taxpayer's qualified cooperative research expenditures with respect to each qualified cooperative research organization during the taxable year multiplied by such organization's applicable credit percentage for the taxable year of such organization ending in or with the taxable year of the taxpayer, which shall equal the sum of such organization's private source funding ratios for the previous 3 taxable years determined as follows—

"(i) the qualified cooperative research organization's private source funding ratio for such organization's first preceding taxable year multiplied by .25;

"(ii) the qualified cooperative research organization's private source funding ratio for such organization's second preceding taxable year multiplied by .15; plus

"(iii) the qualified cooperative research organization's private source funding ratio for such organization's third preceding taxable year multiplied by .10.

For the purpose of this subparagraph, the private source funding ratio for a qualified cooperative research organization for any taxable year shall equal a fraction, the numerator of which shall equal the total amount of such organization's gross receipts for the taxable year excluding all governmental grants or support and the denominator of which shall equal the total amount of such organization's gross receipts for the taxable year from all sources. For any year in which a qualified cooperative research organization failed to meet the requirements of paragraph (2), its private source funding ratio shall equal 0.

"(c) ELECTION AND COORDINATION.—

"(1) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may prescribe) to have this section apply for such taxable year.

"(2) CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.—No credit shall be allowed under subsection (a) for any qualified amount for which the taxpayer elects to claim a credit pursuant to section 28.

"(3) CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

"(A) No credit shall be allowed under subsection (a) for any qualified amount that is or has been taken into account for the purposes of determining the credit allowable under section 41 for such taxable year; except that at the same time the election is made under paragraph (1), the taxpayer may elect not to have any of its qualified amounts taken into account for the purposes of determining the credit allowable under section 41 for such taxable year.

"(B) Any qualified amounts which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

"(C) To the extent the taxpayer receives any funds under a grant, contract, or otherwise from another person and such funds are taken into account for the purposes of determining the credit allowable under subsection (a), such other person shall not be entitled to take such funds into account for the purposes of determining the credit allowable to such person under section 41 for any taxable year.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29; over

"(B) the tentative minimum tax for the taxable year.

"(5) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for the purposes of this section.

"(d) REPORTING REQUIREMENTS.—

"(1) REPORTS TO SECRETARY.—Each qualified cooperative research organization shall file a report with the Secretary containing—

"(A) a verification of the organization's qualification for its current taxable year as a qualified cooperative research organization pursuant to subsection (b)(2);

"(B) a determination of the organization's applicable credit percentage for its current taxable year determined pursuant to subsection (b)(3)(B); and

"(C) such other information as the Secretary may require by regulations.

"(2) REPORTS TO CONTRIBUTORS.—Each qualified cooperative research organization shall provide each person who paid or contributed any amount to the organization during the taxable year a copy of the report provided to the Secretary under paragraph (1) and such other information as the Secretary may require by regulations.

"(3) TIME AND MANNER OF REPORTS.—Such reports and information required in paragraphs (1) and (2) shall be filed or provided at such time and in such manner as the Secretary may require by regulations."

(b) COORDINATION OF CREDIT WITH DEDUCTIONS.—Section 280C of such Code is amended by adding at the end thereof the following new subsection:

"(d) CREDIT FOR QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified cooperative research expenditures (as defined in section 30(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 30 (determined without regard to subsection (c)(4) thereof).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

"(A) the amount of the credit allowable for the taxable year under section 30 (determined without regard to subsection (c)(4) thereof), exceeds

"(B) the amount allowable as a deduction for the taxable year for qualified cooperative research expenditures (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or businesses within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 41(f)(1)."

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 53(d)(1)(B) of such Code is amended—

(A) by striking "or not" and inserting ", not", and

(B) by inserting before the period at the end thereof the following: ", or not allowed under section 30 solely by reason of the application of section 30(c)(4)(B)."

(2) Clause (iv) of section 53(d)(1)(B) of such Code is amended—

(A) by striking "or not" and inserting ", not", and

(B) by inserting before the period at the end thereof the following: ", or not allowed under section 30 solely by reason of the application of section 30(c)(4)(B)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.●

By Mr. FORD:

S.J. Res. 235. Joint resolution designating May 7, 1992, as "National Barrier Awareness Day"; to the Committee on the Judiciary.

NATIONAL BARRIER AWARENESS DAY

Mr. FORD. Mr. President, I rise today to introduce a joint resolution to declare May 7, 1992 as National Barrier Awareness Day, a resolution to increase public awareness of the many barriers disabled individuals encounter in their daily lives. This day has been set aside to enhance opportunities for the disabled community in the areas of employment, education, housing, and transportation. It is important that we realize that barriers do exist for the 43 million disabled Americans and that we begin to work together to ensure these barriers no longer inhibit the lives of these individuals.

As we all know, it is difficult to comprehend the full effect of living with a disability unless we have done so. The problems that exist for individuals with disabilities run the gamut—from architectural, communication, employment to legal and attitudinal barriers. Of the five barriers, the one labeled "attitudinal" is the most detrimental. Attitudinal barriers are those which deter public acceptance of the physically impaired. This lack of understanding fosters stereotypes and creates attitudes which can bar people with disabilities from mainstream life just as much as physical barriers.

Mr. President, I find it most troubling that of the 12 million Americans who are disabled but employable, only 8 million of these individuals actually have jobs. Quite simply, we can and must do better. Only by increasing awareness and removal of the many barriers that exist, can we begin to remedy the situation. It is time to celebrate the many remarkable qualities and talents of disabled individuals and possess positive attitudes toward them.

To date, we have made great strides in improving the quality of life and opportunities for disabled individuals and we must continue to move forward. The passage of the Americans With Disabilities Act last year was a monumental step in protecting the rights of persons with disabilities and affording them the same, equal access to a wide array of public accommodations. However, our responsibility today is to ensure that the provisions in the legislation are fully implemented and to facilitate compliance for business, transportation systems, and other public accommodations.

As the Americans with Disabilities Act becomes effective in January 1992, I find it appropriate to honor the millions of disabled Americans this year. I would like to encourage my colleagues to join me in passing this joint resolution to declare May 7, 1992, as National Barrier Awareness Day and to encourage all Americans to create an environment free from all artificial barriers.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2, a bill to promote the achievement of national education goals, to establish a National Council on Educational Goals and an Academic Report Card to measure progress on the goals, and to promote literacy in the United States, and for other purposes.

S. 33

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 33, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 240

At the request of Mr. SASSER, his name was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 488

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 488, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 843

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 1372

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1491

At the request of Mr. MITCHELL, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1491, a bill to establish a partnership among the United States Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through non-consumptive activities.

S. 1533

At the request of Mr. BRYAN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1726

At the request of Mr. DIXON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1726, a bill to amend the Immigration and Nationality Act to restore authority in courts to naturalize persons as citizens.

S. 1732

At the request of Mr. DASCHLE, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1732, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of leased employees, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1830

At the request of Mr. WOFFORD, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1830, supra.

S. 1851

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1944

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1944, a bill to amend the Public Health Service Act to strengthen the Nation's health promotion and disease prevention activities, and for other purposes.

S. 1979

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1979, a bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes.

S. 2011

At the request of Mr. CRANSTON, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2011, a bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics.

S. 2018

At the request of Mr. MCCONNELL, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. DANFORTH], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2018, a bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal Agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands.

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 217

At the request of Mr. GORE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Resolution 217, a resolution urging the Administrator of the Environmental Protection Agency to accelerate the scheduled phaseout of ozone-destroying substances in the United States as required pursuant to the Clean Air Act Amendments of 1990; calling on the President to urge the Contracting Parties to the Montreal Protocol to modify the Protocol in order to accelerate the phaseout of such substances; and for other purposes based on scientific findings concerning the degradation of the stratospheric ozone layer.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 232—RELATING TO RECESS APPOINTMENTS

Mr. LIEBERMAN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 233—DESIGNATING ROOM S-238 IN THE CAPITOL AS THE "STROM THURMOND ROOM"

Mr. GRASSLEY (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 233

Whereas Senator Strom Thurmond has served in the United States Senate with great distinction for thirty-seven years, six of which he served in the position of President Pro Tempore;

Whereas Senator Thurmond has served as Chairman of the Senate Judiciary Committee and as a senior member of several other committees and he has authorized hundreds of vital legislative measures;

Whereas Senator Thurmond has also served on numerous Federal commissions and other Federal bodies;

Whereas Senator Thurmond's service to the Senate has been characterized by diligent work for the citizens of the United States, sincere dedication, boundless energy, and immense loyalty;

Whereas on December 5th, 1991, Senator Thurmond will celebrate his 89th birthday; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Thurmond as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S-238 in the United States Capitol Building is hereby designated as, and shall hereafter, beginning December 5th, 1991, be known as, the "Strom Thurmond Room", in recognition of the selfless and dedicated service provided by Senator Strom Thurmond to our Nation and its people.

AMENDMENTS SUBMITTED

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT

NUNN (AND OTHERS) AMENDMENT NO. 1439

Mr. NUNN (for himself, Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr. LIEBERMAN, Mr. MACK, Mr. GORTON, Mr. DOLE, Mr. MCCONNELL, Mr. KERRY, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. MITCHELL, Mr. STEVENS, Mr. COHEN, Mr. MURKOWSKI, and Mr. MOYNIHAN proposed an amendment to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the

North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, as follows:

On page 7, below line 6, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among emerging political structures on the territory of the former Soviet Union that is not conducive to weapons safety or to international stability: (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the former Soviet Union that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings stated in the preceding section, may establish a program as authorized in subsection (b) to assit Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C using funds appropriated for the Department of Defense for fiscal year 1992.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics (including those which may gain independence after the enactment of this Act) to (1) destroy nuclear, weapons, chemical weapons, and other weapons, (2) transport, store, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—The President, may, to the extent provided in appropriations Act, transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, such amounts as may be provided in appropriations Act, not to exceed $500,000,000 for reducing the Soviet nuclear threat under part B.

(2) Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—Notwithstanding any other provision of law, the Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other departments and agencies of the United States under this subsection for costs of participation, as directed by the President, only in a program estalished under part B.

(d) CHARGES AGAINST FUNDS.—The value of assistance from existing stocks and inventories of the Department of Defense or any other Federal department or agency may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

PART C—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under Part B, the President shall transmit to Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget, activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal year 1992 and 1993, the President shall transmit to Congress a report on the activities to reduce the Soviet nuclear threat carried out under part B. Each such report shall set forth, for the preceeding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of departments and agencies other than the Department of Defense in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

BYRD (AND NUNN) AMENDMENT NO. 1440

Mr. BYRD (for himself and Mr. NUNN) proposed an amendment to amendment No. 1439 proposed by Mr. NUNN (and others) to the bill H.R. 3807, supra, as follows:

At the end of the pending amendment, add the following:

It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for Fiscal Year 1992 should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

BOREN (AND OTHERS) AMENDMENT NO. 1441

Mr. BOREN (for himself, Mr. COHEN, Mr. NUNN, Mr. DOLE, Mr. LUGAR, Mr. PELL, Mr. MURKOWSKI, Mr. RUDMAN, Mr. BRADLEY, Mr. LEVIN, Mr. DANFORTH, Mr. CHAFEE, Mr. CRANSTON, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 3807, supra, as follows:

"SEC. . AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of hostile, anti-American leaders in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union and its republics.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, shall be authorized during fiscal year 1992 to transfer sufficient funds from those appropriated to the Department of Defense for fiscal year 1992 to the extent provided in the Appropriations Act, not to exceed $200 million, in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or is Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, as determined by the President. Any funds which are transferred pursuant to this provision shall be drawn from the Operations and Maintenance or working capital accounts of those funds appropriated to the Department of Defense for fiscal year 1992. The Congress designates all funds in this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds in this section shall be available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this provision to the emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) PRIOR NOTICE.—Before any funds are transfered for the purposes as authorized in section (b), the President shall notify the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(d) REPORTS TO THE CONGRESS.—Within ten days of directing the Secretary of Defense to transfer funds pursuant to subsection (a), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, which shall at a minimum, set forth—

(1) the amount of funds transferred under this section, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the type and purpose of such assistance; and

(4) the locations, organizations, and political institutions to which the assistance was delivered.

(e) It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

FEDERAL LANDS AND FAMILIES PROTECTION ACT

PACKWOOD (AND OTHERS) AMENDMENT NO. 1442

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. PACKWOOD (for himself, Mr. HATFIELD, and Mr. GORTON) submitted an amendment intended to be proposed by them to the bill (S. 1156) to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes, as follows:

On page 7, line 2, strike "V" and insert "VI".

On Page 67, between lines 19 and 20, insert the following new title:

TITLE V—FOREST ECOSYSTEMS HEALTH AND RECOVERY

SEC. 501. SHORT TITLE.

This title may be cited as the "Forest Ecosystems Health and Recovery Act of 1991".

SEC. 502. PURPOSES.

The purposes of this title are to—

(1) promote the expeditious recovery of forest ecosystems suffering the effects of natural resource disasters, including catastrophic fire, insect infestations, disease, or other natural or human-caused events;

(2) minimize deterioration or adverse environmental damage to forests from fire, insects, and disease;

(3) minimize the risk to human safety from forest catastrophes such as wildfire; and

(4) minimize the economic losses due to forest health problems of communities that depend on units of the National Forest System or the public lands.

SEC. 503. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))); and

(B) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))).

(2) LAND MANAGEMENT PLAN.—The term "land management plan" means—

(A) a land and resource management plan prepared by the Forest Service for a unit of the lands described in paragraph (1)(A), pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared by the Bureau of Land Management for a unit of the lands described in paragraph (1)(B), pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(3) SALVAGE.—The term "salvage" means the removal of insect-infested, diseased, dead, damaged, or downed timber on Federal lands.

(4) SECRETARY.—Except as otherwise provided, the term "Secretary" means—

(A) with respect to lands described in paragraph (1)(A), the Secretary of Agriculture, or a designee; and

(B) with respect to lands described in paragraph (1)(B), the Secretary of the Interior, or a designee.

SEC. 504. USE AND LEVEL OF SALVAGE.

(a) IN GENERAL.—The Secretary shall authorize salvage and rehabilitation in a timely manner, as necessary—

(1) to promote the expeditious recovery of forest ecosystems;

(2) to provide for public safety; and

(3) to prevent further deterioration or future environmental damage to a forest.

(b) CONSIDERATIONS.—In determining the appropriate use and level of salvage and rehabilitation, the Secretary shall consider all potential impacts on soil, watershed, wildlife, and the economic well-being of communities that depend on Federal lands.

(c) COSTS.—In deciding whether to offer and award timber that is subject to salvage, the Secretary shall not preclude the offer and award of a particular sale because the anticipated total costs are greater than the anticipated revenues.

SEC. 505. SALVAGE-RELATED ACTIVITIES.

From the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)), the Secretary of Agriculture may use such sums as are necessary to permit the use of salvage- and rehabilitation-related activities, including controlled burning, thinning, and spraying, on lands described in section 503(1)(A).

SEC. 506. NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.

(a) IN GENERAL.—A salvage activity not inconsistent with the long-term management goals and objectives of a land management plan for the administrative unit in which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) EXCLUSIONS FOR CERTAIN SALVAGE.—The Secretary shall establish by regulation a policy establishing categorical exclusions from requirements established pursuant to such section for certain types of salvage, based on the extent to which the salvage includes selective thinning, minimal building of new roads, minimum loss of healthy standing timber, and other justifying factors.

SEC. 507. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—Unless the Secretary specifically provides for administrative review, citizens of the United States may seek immediate judicial review of decisions to permit salvage made by the Secretary in the district court of the United States for the district in which the salvage action is to occur.

(b) STANDING.—If the Secretary provides an opportunity for administrative review, standing to bring an administrative appeal shall be available only to persons who have submitted written or oral comment during the preparation of the action for which administrative review is sought.

(c) DEADLINE FOR FILING.—An action brought pursuant to this section may be filed not later than 30 days after the final decision of the Secretary to permit salvage.

(d) DEADLINE FOR DECISION.—In an action brought pursuant to this section, a district court shall render a final decision and dissolve any restraining order or preliminary injunction not later than 30 days after the date of the filing of the action.

On page 67, line 20, strike "V" and insert "VI".

On page 67, line 21, strike "501" and insert "601".

On page 68, line 3, strike "502" and insert "602".

• Mr. PACKWOOD. Mr. President, I am today submitting, on behalf of myself and Senators HATFIELD and GORTON, legislation to promote the prompt recovery of forest ecosystems suffering from the effects of insect infestation, disease and wildfire.

The problem of declining forest health is particularly evident in our home State of Oregon. East of the Cascade Range—especially in the Blue Mountains region—there are thousands of acres of trees which are dead or dying. In fact, the Forest Service estimates that over half of the total acreage of the three national forests in Northeast Oregon contain predominantly dead or dying trees. The combined effects of fire suppression, selective harvesting of the most valuable species of trees, prolonged drought, and successive insect epidemics have led to this alarming situation.

The Pacific Northwest is in a crisis situation. The amount of timber reaching Oregon's mills has hit a critical low. Since last year's listing of the Northern spotted owl, thousands of jobs have been lost, and many more layoffs are expected. However, forest stand mortality presently occurring in many of Oregon's forests provides an avenue, through timely salvage operations, to offer relief to Oregon's timber communities.

The amount of timber lost annually to insects and disease in Oregon's public and private forest land is equal to about 1.6 billion board feet. This is enough timber to build about 150,000 homes. We cannot afford to ignore this potential.

I was pleased to note that in its last session, the Oregon State House of Representatives, recognizing the urgency of putting the health of our forests back on track, passed a resolution urging the Forest Service and the Bureau of Land Management to development a comprehensive plan to salvage this usable wood. This resolution echoes the feelings of many Oregonians desperately seeking expedient action on this issue.

Mr. President, salvage reduces the spread of insects and the potential for catastrophic fire and accelerates the process of regeneration. It is also designed to capture as much of the value which is still in the timber as possible. Salvage alone will not solve the forest health problem, but it is clearly the right first step.

My amendment, the "Forest Ecosystems Health and Recovery Act of 1991," takes this first step in recognizing this valuable opportunity to:

First, utilize decaying timber before it dies;

Second, promote the rehabilitation of deteriorating areas;

Third, ensure the health and stability of future Northwest timber growth; and

Fourth, reduce the threat to human safety posed by catastrophic wildfire.

Mr. President, it is my hope that the Senate will act quickly to take steps which will remedy the severe effects of catastrophic fire, insect infestation, and disease by permitting timely salvage dead and dying timber. We can no longer stand idly by while the health of our forest ecosystems deteriorates.

I ask unanimous consent that, House Joint Memorial 8 passed by the Oregon State House of Representatives, be placed in the CONGRESSIONAL RECORD. I also submit for the RECORD some letters I have received from community leaders in my State attesting to the urgency of this situation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE JOINT MEMORIAL 8

Whereas the National Forest System has historically provided 80 percent of Oregon's timber supply needs, economic support for regional and local economics and funds for county government and Oregon schools; and

Whereas timber receipts from the Federal Government in 1989 accounted for nearly $300 million and have totaled $1.8 billion over the past decade, benefiting the public by delivering government services to people at the county level; and

Whereas the land allocation decisions made in recent federal forest plans have reduced the amount of land available for forest management to less than 40 percent of the land managed by the Federal Government; and

Whereas both the United States Forest Service and Bureau of Land Management recognize there are opportunities to salvage some of the forest stand mortality presently occurring, and increasing, due to drought conditions, insect outbreaks and disease infestations throughout the State of Oregon; and

Whereas, because salvaging forest stand mortality historically has been a byproduct of active forest stand management, it should be elevated to equal status with normal green timber harvesting operations to help provide a stable timber supply, to promote vigorous healthy forests, to use dead and dying wood in a timely manner, to protect adjacent healthy forests from disease, insects and catastrophic fire exposure and to expedite rehabilitation of other resource values; and

Whereas the State Forestry Department of Oregon has identified that 1.6 billion board feet of timber are lost annually to insects and disease in Oregon's public and private forestland; and

Whereas, because biological concepts such as maintaining biological diversity, recruiting wildlife trees and leaving large woody material may be in direct conflict with salvaging, any public policy that promotes forest salvaging should strive to reduce such conflicts by leaving a reasonable level of such materials for the health of the forest, yet be consistent with safe logging operations; and

Whereas sound forest management and prudent public policy should prevent the waste of usable wood by salvaging such forest stands in a timely manner and also promote the conservation of other forest resouces: Now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon; That—

(1) The United States Forest Service and Bureau of Land Management are urged to adopt, as part of a sound forest conservation strategy, a comprehensive program to salvage usable wood that is dead or dying in the national forests of Oregon and the Northwest, recognizing that such a program:

(a) Will promote not only mortality salvage but forest sanitation and resource rehabilitation, resulting in enhanced forest and watershed growth, vigor and health; and

(b) Shall be compatible with existing state and federal land management plans that protect and conserve all forest values, including water quality, wildlife habitat, harvestable timber, natural beauty and recreation.

(2) A copy of this memorial shall be sent to the Chief of the United States Forest Service, to the Director of the Bureau of Land Management and to each member of the Oregon Congressional Delegation.

NORTHWEST TIMBERWORKERS
RESOURCE COUNCIL,
La Grande, OR, August 14, 1991.

SENATOR PACKWOOD: We must look to the health of our forests. Our forests are in need of a rejuvenating experience, and either we can provide that, or mother nature will provide it thru fire.

This a major crises, our future is dying. We are already too late.

Please help us in our efforts to remedy this situation.

Thank you for coming to La Grande.

MARK SIMMONS.

UNION COUNTY,
BOARD OF COMMISSIONERS,
August 13, 1991.

SENATOR BOB PACKWOOD,
SW Main Street, Portland, OR.

DEAR SENATOR PACKWOOD: Your presence here today signifies to us your concern of the many forest implications within the Blue Mountains Forest.

As you may well know by now, the dominate species of the Blue Mountain Forest has changed from the Larch and Pine stands to the White and Douglas fir stands because of past harvest practices and the retention of fire. This has created the major outbreak of the spruce bud worm and now the reoccurrence of tussock moth followed by the bark beetles.

However, planning to solve these problems will take time and strong leadership within the Forest Service to make swift decisions of new management plans for the Blue Mountain Forests.

Union County has been at the forefront along with Wallowa County in raising concerns of forest health in the past years and has supported new approaches in dealing with forest health concerns.

Union County is very supportive of a "New Perspectives in Forest Health." Our recommendation is that time is of the essence to make the right decision for major salvage projects and return the forest to the original dominate species.

Union County would also recognize and support the leadership of a U.S. Forest Service Region 6 Forester John F. Butruille and Bob Richmond Supervisor of the Wallowa Whitman National Forest.

Speaking to you as the District 1 Chairman of Eastern Oregon Counties and Chairman of the Board of Directors for the Blue Mountain Natural Resources Institute, congressional support in leadership and federal revenue to assist the forest service managers and scientists could not come at a greater time than the present.

Sincerely,

JOHN H. HOWARD,
Chairman.

CONFEDERATED TRIBES OF THE
UMATILLA INDIAN RESERVATION,
Pendleton, OR, November 21, 1991.

STATEMENT ON FOREST HEALTH

The Confederated Tribes of the Umatilla Indian Reservation have a vital interest in the health of the Blue Mountains. Tribal members rely upon the output of products from the Blue Mountains National Forests, including fish, wildlife, roots and berries, and lumber.

As you know, Senator Packwood, the health of the Blue Mountains Forests is currently at a dismally low level. Certainly the dead and dying fir and spruce trees are an example. However, other aspects of forest health were in poor condition prior to the time when we noticed our forests were dying. For instance, in the upper Grande Ronde River, one of the Tribe's ceded lands fisheries, stream temperatures approach 80 F; lethal to salmon. The U.S. Forest Service has documented the loss of nearly 70% of the pool habitat needed for salmon reproduction.

The Confederated Tribes supports active and immediate efforts to put the health of our forests back on track. The Tribe's are supportive of using a number of tools, including accelerated harvests of dead trees, the reintroduction of fire, restoration of riparian zones, and road closures. It is imperative that these actions take into account that serious mistakes have been made in the science of forest management, and that this recognition guide our efforts.

Of equal importance, the road to forest health recovery, must focus on the health of the rivers and streams of the Blue Mountains. Protection and restoration of degraded fish habitat should guide both the intensity of efforts to convert the Forests from fir back to pine and larch and the manner in which the conversion is attempted. The watersheds in the worst conditions, including the upper Grande Ronde River, Catherine Creek, South Fork Umatilla River, and the Joseph Creek watershed, should receive the highest priority for watershed restoration. Light touches in these areas, precluding further water quality or fish habitat degradation, emphasizing the restoration of these areas, should be the rule.

The Tribe supports many of the ideas the Regional Forester is currently assessing. These include, focusing salvage harvest in areas with road systems now in place, precluding the harvest of green trees and thus maintaining a seed source for future conversion to ponderosa pine and larch, and accelerating the efforts to initiate a healthy forest for the next generation. Protecting and restoring the health of our salmon and steelhead rivers is an integral part of restoring forest health. Water quality and ultimately, the return of salmon to places like the upper Grand Ronde, is an infallible barometer of forest health. The Confederated Tribe's GBB a need for greater emphasis on protection and restoration of Blue Mountain watersheds, so that the return of the salmon will be a reality.

Sen. Packwood thank you for your attention to this vital issue.

Sincerely,

ELWOOD H. PATAWA,
Chairman, Board of Trustees.●

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT

LEVIN (AND OTHERS) AMENDMENT NO. 1443

Mr. LEVIN (for himself, Mr. DOLE, Mr. MITCHELL, Mr. BRADLEY, Mr. LUGAR, Mr. NUNN, Mr. DOMENICI, Mr. BOREN, Mr. LIEBERMAN, Mr. BUMPERS, Mr. SIMPSON, Mr. COHEN, and Mr. WELLSTONE) proposed an amendment to the bill H.R. 3807, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . POLICY TOWARD THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union is undergoing a transformation which opens the possibility of democracy, the development of free markets, new individual freedoms, and integrating the former Soviet republics into the global economy;

(2) if that transformation is not successful, there is a real threat of economic and social collapse, the emergence of totalitarian, security-threatening states, and the proliferation of nuclear weapons, components, and weapons technology;

(3) the national security interests of the United States are best served by stable, democratic societies and free markets in these republics;

(4) the economic interests of the United States are best served by the full integration of the Soviet republics, either individually or collectively, into world markets;

(5) the transformation into working democracies with open market economies is mostly the responsibility of these republics themselves, but the rest of the world can make significant contributions to this effort, linking those contributions to a well-planned reform program; and

(6) the success of structural reforms can best be facilitated by the immediate, coordinated actions of the United States, other nations, and international institutions such as the International Monetary Fund, the International Bank for Reconstruction and Development (also known as the "World Bank"), the European Bank for Reconstruction and Development, and the United Nations which have the skills and resources to assist that transformation without increasing the direct exposure of the United States Government to the debt of Soviet republics.

(b) POLICY.—It is the sense of the Congress that—

(1) it should be the goal of the United States policy toward the former Soviet Union to help the Soviet republics to avoid social chaos and achieve economic and political stability;

(2) that goal can best be achieved by facilitating the transformation of the Union of Soviet Socialist Republics into stable democratic states with free market economies and clearly defined economic and constitutional relationships with each other, binding agreements to minimize tariffs and other barriers of inter-republic trade, full integration into the world economic and political community, and manageable debt burdens;

(3) the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and political stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions;

(4) the International Investment for Democracy plan should include expeditious action—

(A) to provide prompt humanitarian assistance when necessary to prevent life-threatening shortages of food and urgently needed medical supplies;

(B) to combat the proliferation of nuclear weapons, components, and weapons technology, and to facilitate safe control, storage, and dismantlement of nuclear weapons;

(C) to provide technical assistance to facilitate the emergence of a market economy;

(D) to facilitate a dramatically increased number and intensity of contacts between Americans in the private sector and citizens of the Soviet Union;

(E) to help Russia and other Soviet republics to draft laws, establish political and legal structures, and build institutions that facilitate open, democratic, market societies; and

(F) to articulate clear conditions under which a currency stabilization fund could be used to facilitate the goals in paragraph (1), and, at the appropriate time, encourage international institutions to establish such a fund with contributions from leading industrial nations;

(5) assistance should be provided to republics that are establishing viable political, legal, and economic structures, including free and open markets, that agree to minimize barriers to inter-republic trade and that, individually or collectively, agree to participate in macroeconomic stabilization programs designed by international institutions and the delivery of such assistance must be fully consistent with the sovereignty, laws, and independence of participating republics;

(6) bilateral programs within this plan should efficiently pursue the goals of paragraph (1) and minimize the cost to the taxpayer and the debt exposure of the United States Government; and

(7) where currency and debt stabilization programs further the goals in paragraph (1), they should be provided through existing international financial institutions, rather than through direct United States Government assistance.

CRANSTON (AND OTHERS) AMENDMENT NO. 1444

Mr. CRANSTON (for himself, Mr. PELL, Mr. ADAMS, and Mr. WELLSTONE) proposed an amendment to the bill, H.R. 3807, supra, as follows:

At the appropriate place in the bill, add the following new Title:

"TITLE .—ELIMINATION OF WEAPONS-USABLE FISSILE MATERIALS

SECTION 1. SHORT TITLE.

This title may be referred to as the "Nuclear Weapons Security and Plowshares Act of 1991".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dan-

gerous weapons-usable materials from United States and Soviet warheads.

SEC. 3. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) DETERMINATION OF PURCHASE PRICE OF SOVIET FISSILE MATERIALS.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) COLLECTION, DILUTION, AND SAFEGUARDING OF SOVIET FISSILE MATERIALS.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) MUTUAL REDUCTION IN INVENTORIES AND IMPLEMENTATION OF SAFEGUARDS.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) PROPOSED AGREEMENT WITH IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency (IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification;

(2) to discuss the advisability and feasibility of an agreement to place all civilian fissile materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 4. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949, or

(2) agricultural commodities or other essential commodities purchased at market prices,

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 5. STORAGE, SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution of enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b):

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the plutonium accumulating in spent civilian-power reactor fuel.

SEC. 6. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium of separated plutonium.

SEC. 7. TRANSFER OF FUNDS OUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Department of Defense as he may designate during fiscal years 1992 through 1996 such funds as may be necessary to carry out the purposes of section 4:

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A) (5) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" includes all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (A) any uranium that is enriched to more than 20 percent in U-235 or U-233, or both, or (B) any mixture of plutonium isotopes containing less than 80 percent PU-238.

COPYRIGHT RENEWAL PROVISIONS

LEAHY AMENDMENT NO. 1445

Mr. LIEBERMAN (for Mr. LEAHY) proposed an amendment to the bill (S. 756) to amend title 17, United States Code, the copyright renewal provisions, and for other purposes, as follows:

On page 20, strike out lines 21 through 23, and insert in lieu thereof:

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Tuesday, November 26, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on an original bill providing for an amendment to the 1956 Lumbee Act to be followed immediately by a hearing on S. 1602, the Fort Peck Indian Tribes-Montana Compact Act of 1991.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 25, 1991, at 10 a.m. on the nomination of James B. Busey IV, to be Deputy Secretary of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed/executive session on Monday, November 25, 1991 at 2 p.m., to consider the nomination of Lt. Gen. Thomas J. Hickey, USAF, to be placed on the retired list in the grade of Lieutenant General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 25, 1991, at 10 a.m. on the nomination of Jerry R. Curry to be administrator of the Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Monday, November 25, at 2 p.m. to hold a hearing on the threat of North Korean nuclear proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 25, 1991 at 3:30 p.m. to consider a bill to extend certain expiring tax provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HUMAN RIGHTS PROBLEMS IN ROMANIA

• Mr. LIEBERMAN. Mr. President, the liberation of Central and Eastern Europe from communism could usher in a new era of peace and prosperity, but only if the old ethnic antagonisms, which plagued Europe before World War II, are controlled. Unfortunately, this has not thus far been the case. The world has watched with concern as ethnic hatreds have torn apart Yugoslavia, leading to the first armed conflict in Europe since World War II.

Old antagonisms have also plagued Romania. Romania's Hungarian minority, which represents about 10 percent of the country's population, has come under attack by Romanian nationalists. Many of these attacks have focused on one of the great heroes of recent years, Bishop Tokes, the Hungarian pastor who led a long and lonely fight against persecution against the Hungarian minority under the Ceausescu regime. Bishop Tokes was the target of frequent harassment, which culminated in November 1989, when masked men entered his church in Timosoara and beat him in front of his wife and child. Government authorities tried to evict him and his family the following month, but were prevented from doing so by friendly town's people. This was the beginning of the anti-Ceausescu revolt.

Instead of being treated as a national hero by the national authorities, Bishop Tokes has come under unfair criticism by Romanian extremists within the government. Within recent months, a senator from the National Salvation Front, the ruling party, called on the Romanian Secret Police to investigate the so-called "anti-State, anti-Romanian" activities of Bishop Tokes. Another Romanian senator read aloud a letter of abuse directed against Bishop Tokes, written by the same securitate officer, who directed the Ceausescu regime's persecution of Bishop Tokes.

Nor have attacks been limited to Bishop Tokes:

Members of the Romanian Senate have called for the banning of the Hungarian Democratic Alliance, the second largest political party.

Other members have called for the imposition of martial law in the two counties of Romania with a majority ethnic Hungarian population.

The Romanian Senate has passed an article of the draft Romanian Constitution which removes provisions for the use of the Hungarian language in public administration.

An official of the National Salvation Front has brought a lawsuit for anti-Romanian activities against five of the best known democratic leaders in Romania, four of whom are ethnic Hungarians, and the fifth being Mrs. Doina Cornea, the prominent Romanian dissident.

I realize that the Romanian Government officials are not always in a position to control all members of their party and government. Nor are they always in a position to control bigotry outside of the government. But Romanian Government officials must be more vocal in denouncing this ethnic antagonism.

Senator DODD and I introduced an amendment last July that condemned ethnic intolerances in Romania. Among other things, we called on the Government of Romania "unambiguously to condemn those organizations promulgating anti-Semitism and animosity toward ethnic Hungarian, Gypsies, and other minorities." Since then, we have also signed a letter to Secretary Baker asking that most-favored-nation status not be granted to Romania until free elections are held and the human rights situation, notably its treatments of minorities, improves.

We have leverage over Romania. Trade with the United States has dropped precipitously since 1987 from a high of $715 million in 1987 to $231 million in 1990. This has occurred at a time when the Romanian economy has also declined dramatically; the GNP of Romania was approximately $81 billion in 1987 and fell to about $66 billion in 1990.

Mr. President, I look forward to the day when we can support most-favored-nation status for Romania. Romania has much to contribute to the new Europe that is slowly being built. But to fully rejoin the community of European democracies, the Romanian Government must lead the fight against ethnic divisions. The ghost of Nicolai Ceausescu will not be fully exorcized until that is done.•

HEALTH CARE: FIRE OUT OF CONTROL

• Mr. SIMON. Mr. President, Congressman HARRY JOHNSTON of Florida, one of the really fine, relatively new Members of the Congress, recently had an op-ed piece in the Washington Post comparing fire protection and health protection.

While any analogy always has its limitations, I thought it was a superb comparison.

I urge my colleagues in the Senate and their staffs to read this excellent column by Congressman HARRY JOHNSTON, and I ask that it be printed in the RECORD at this point.

The column follows:

HEALTH CARE: FIRE OUT OF CONTROL

(By Harry Johnston)

Imagine if fire departments were modeled on our current health care system. Your access to the fire department services would depend on the quality of your fire insurance. If private market forces operated as they do in health care, 37 million people would not have fire insurance, and 60 million more Americans would have only limited fire insurance. Moreover, if you were previously a victim of fire, your fire insurance agent would raise your premium due to your preexisting condition of bad luck.

While it is possible you could feel secure if you had quality fire insurance, you might begin to wonder when your neighbor's house sets ablaze. Is his employer still providing his fire insurance, or is he one of the 29 million working uninsured? Absurd, isn't it?

Fortunately, our society has decided that protection from fire is a community responsibility; it is time that we made the same distinction for health care. It is a historic accident that health care coverage has fallen to the responsibility of business. After World War II, America continued a policy of wage controls as our troops returned home and flooded the labor market. Facing labor shortages and unable to increase wages, businesses competed for workers by offering benefits such as health insurance.

Relying on employers to manage health insurance has resulted in a piecemeal system of coverage that is inefficient and ineffective. With business affiliation providing the basis of forming insurance pools, private insurance companies have isolated pockets of our population that can be manipulated to generate a profit. There is no rationale why two individuals with the same health status may face drastically different insurance costs because of their business affiliation or lack of it.

Our health insurance system's moral deficiencies translate into economic inefficiencies. The complexity of our current system is a nightmare for health care providers. Picture a firefighter searching through files to determine whether a desperate caller is insured and if so what services are covered. This is what our physicians face every day, and this inefficiency has contributed to the highest administrative cost of any health care system in the industrialized world.

The American economy suffers from a stranglehold of these soaring health care costs. Businesses that provide health insurance for their employees are crippled in the international market. Currently, Chrysler's health insurance costs force the price of its automobiles up by $700 compared with the $300 expense incurred by a comparable German car company.

Responsibility for insuring health care is misplaced; it is as if we were telling businesses that they must manage the provision of fire insurance in our community. America's health care crisis derives from a core misconception, and incremental solutions will not deliver a cure. Increasing coverage in this inefficient system will exacerbate our runaway health costs and, therefore, lead to poorer access to services.

As a pretext to any serious reform, we must resolve that health care is a community responsibility. First, we must declare that providing health insurance entails an obligation to cover a comprehensive population dispersing our shared risk of illness in a large insurance pool. We can no longer provide private insurance for the healthy and the affluent and leave the ill and the poor for a public program.

Second, we must establish a structure of health care budgets at the state, district and institutional level. Hospitals should receive a budget target with which to provide an expected level of services. District and state health boards would review each institution's performance with respect to its budget target rewarding efficient providers and weeding out inefficient practices. Physicians, not insurance companies, would have greater responsibility for managing our health care.

America deserves a better health insurance system. I find it sadly amusing that amid our talk of the community of nations, we have forgotten to safeguard the foundations of our own communities. The fires are burning.•

THANKS TO ARLENE ALTMAN

• Mr. DECONCINI. Mr. President, as we approach Thanksgiving Day, it is most appropriate that we take a few moments to express our thanks and appreciation to members of our Senate community who give of their talents and abilities to make our lives in and around the Senate run more smoothly.

One such outstanding member who recently left our Senate family is Arlene Altman who, since 1985, has served as the Director of the Senate Employees Child Care Center [SECCC]. Arlene is truly among our Nation's most dedicated child care professionals. Under her leadership, the Senate Employees Child Care Center became a model center for the many Federal agency child care centers in the Washington, DC area, as well as for child care centers across the Nation.

Arlene Altman is a pioneer in promoting and establishing quality child care programs, especially work-site child care. Long before the Congress and national and State policymakers recognized the pressing need that working parents have for first-rate child care options, Arlene had already built a distinguished career in directing child car programs, and was an accomplished professional in the field of early childhood education and development.

In 1985, Arlene became the second Director of the Senate Employees' Child Care Center. Under her able leadership, the SECCC Program grew and blossomed into one of the country's finest child care programs. Working with the center's board of directors, Arlene had responsibility for the management, administration, and program development of the center. During her tenure, she fostered a supportive and warm environment for the families who belong to the SECCC, reflecting her philosophy that "a family-oriented child care center can provide quality education, and a sense of joy from working together toward a common goal—our children's well-being."

Parents must be fully confident that the care they choose for their children while they work is of the highest quality. Because of Arlene's dedication, our employees whose children attend the SECCC have had the security of knowing that their children are cared for in a nurturing, loving setting, and are receiving a solid foundation for their education in the future.

Recently, Arlene left the SECCC to pursue other goals and explore other facets of the child care and early childhood education field. She is truly missed by parents, staff, and other members of the SECCC family who have been deeply touched by her vision, her tireless devotion to the children, and her attention to the needs of parents and families.

My wife Susan and I have known Arlene as a friend since she came to the SECCC, and we join with all those who have been part of the SECCC community in thanking her for her years of services, and for all that she has done for our children.•

BANKING REFORM LEGISLATION

(S. 543)

• Mr. KERREY. Mr. President, late last week the Senate passed by voice vote the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 (S. 543). I support passage of this legislation because it is imperative that we recapitalize the Bank Insurance Fund [BIF]. Recapitalizing the insurance fund is important if we are to maintain confidence in our financial system. The bill also gives regulators early intervention powers that are necessary to address problem institutions and lessen the cost of bank failures on the insurance fund. However, we need to be completely honest with ourselves and the American people as to the fact that the situation is much more serious than we have let on.

The legislation also included an important provision that instructs the FDIC to develop and institute risk-based deposit insurance premiums. Such a system would, in my view, shift the burden from well-capitalized and well-managed banks to those institutions that are most likely to draw on the insurance fund. This would reduce risky practices by banks and would put the insurance fund on a firmer basis over the long run.

I am pleased that the Senate narrowed the administration's original proposal to reform our bank system because I am not convinced by the argument that the main problem facing our country's banking sector is a lack of big banks. Further, I believe this is not the time to provide banks with the authority to sell new products and services.

I was disappointed by the Senate's inclusion of the D'Amato amendment on credit card interest rate caps. It is bad policy and it runs the risk of reducing credit to millions of Americans. It will have precisely the opposite effect of what the authors intended. The amendment has sent an important signal, and I believe that it has provoked a worthwhile debate and examination of this issue. I hope that it is dropped during conference with the House.

The Senate reached a compromise on the interstate banking issue with the Ford amendment. I would have preferred the Bumpers amendment preserving the "opt-in" approach to interstate banking. As a former Governor, I believe that States should be able to decide what types of banking activities will occur within their borders.

Although I had previously opposed the requirement for Government checking cash, I believe that the Banking Committee had sufficiently modified these provisions in a manner that addressed a number of the concerns raised by bankers in the past. Many Nebraska banks already provide similar services, and I was pleased that the legislation allowed them to be grandfathered into the law.

The need for a recapitalization of the BIF indicates the importance of banking to create an atmosphere of stability. The policies of the last decade have undermined public confidence in the financial system. Reversing this is vital to our long-term economic growth.•

SPECIAL EVENING AT DETROIT INSTITUTE OF ARTS

• Mr. LEVIN. Mr. President, each year "Bal Africain" is held at the Detroit Institute of Arts to raise money for scholarships for African-American students and to purchase major African and African-American art works for the museum and 1991 marks the 29th anniversary of this event which has become a highlight of the museum's fall social schedule.

But the December 7, 1991 "Bal Africain" will take on special significance, because a very important collection from the Barbier-Mueller Museum in Geneva, Gold of Africa, will be exhibited. A dazzling array of finely executed royal art, primarily dating from the late 19th and early 20th centuries, will be displayed. There will be ornaments and jewelry, some ornate, some whimsical, many of the objects depicting animals and scenes from daily life. Often the themes illustrate proverbs that allude to the power of the rulers.

And finally, to make the evening the most memorable in history, "Bal Africain" will welcome as its guest of honor His Royal Highness Odeefuo Boa Amponsem III, King of Denkyira, Ghana. The King will sit in state in traditional regalia, adding a feeling of excitement and glamor to the evening.

Mr. President, it is indeed a pleasure to welcome the King and Gold of Africa to the Detroit Institute of Arts, a very important cultural institution in our city, and I want to congratulate all those who have planned and carried out "Bal Africain" this year and for over a quarter of a century.●

DEFENSE EXPORTS

● Mr. LIEBERMAN. Mr. President, I would like to bring to the attention of my colleagues an important article from the Journal of Commerce on defense exports by Mr. Lawrence Lesser, a professor of business management at the University of Maryland. Mr. Lesser points out that United States firms are at a disadvantage in exporting their products in comparison with their European, Latin American, and Asian rivals. These countries receive major support from their governments; our firms receive much less support. This must change if we are going to compete successfully for international markets.

At the same time, we must be sure that weapons not be exported in ways that destabilize military balances in the Third World and increase the chances of war. This is the balance we must strike by supporting our defense firms when they are selling exports for legitimate defense needs. Earlier this year I introduced legislation that would help our defense exporters by establishing a program at the State Department to supply our defense exporters by establishing a program at the State Department to supply our defense exporters with necessary financing. Senator DODD introduced similar legislation, and we have both worked hard to see that our defense firms are not at a competitive disadvantage.

I commend Mr. Lesser's article to my colleagues.

The article follows:

[From the Journal of Commerce, Sept. 25, 1991]

STRATEGIC DEFENSE OF EXPORTS

(By Lawrence M. Lesser)

With the Cold War over and the defense budget on a downward spiral, major American defense manufacturers are closing plants and reducing expenses wherever possible in an effort to streamline operations.

At the same time, many firms have embarked on major diversification programs, shifting excess production capacity of nonmilitary markets such as aerospace, commercial aviation and motor vehicles.

If present trends continue, Federal outlays for defense will decline by at least 22% over the next five years. And defense spending as a percentage of the gross national product will drop to its lowest level since the end of World War II.

In order to strengthen their ability to withstand the smaller military marketplace of the 1990s, U.S. firms also are looking to overseas markets for defense-related business. In spite of their technological supremacy, however, they often find themselves at a competitive disadvantage because of the financial backing foreign exporters receive. Defense firms of the United Kingdom, France, Japan and Canada can gain concessional financing from their governments through national export-import banks. American companies have no such resource.

The U.S. military sales program, which offers financing for weapons sales, only applies to government-to-government sales and is not generally available for private sales to most European countries. The result is lost sales, lost jobs and a deteriorating U.S. defense industrial base.

For example, Westinghouse was a finalist in 1987, along with Thomson-CSF of France, to build a mobile radar for a ground-based defense system in Turkey. Thomson, one of Europe's largest defense firms, offered an attractive financing package including a 10-year grace period and a 3.5% interest rate. But Westinghouse was unable to obtain similar financing from the Export-Import bank and so lost the sale.

Another American firm, FMC Corporation, won a contract to supply more than 1,000 armored combat vehicles to Turkey. But when FMC went to its banks to secure financing for the deal, its requests were denied. The Ex-Im Bank also said no. FMC eventually located financing in Europe through the export-import banks of the Netherlands, Belgium and the United Kingdom. But to gain financing, FMC had to agree to build the vehicles in these countries.

FMC did win the contract. But jobs that would have gone to Americans instead went abroad because there was no U.S. government commercial financing available.

Congress should initiate an incentive financing program to help American defense manufacturers boost international sales at a time when geopolitical changes have sharply reduced the demand for military goods and services at home.

Under legislation now pending, NATO countries such as Greece and Turkey and key non-NATO allies Japan, Israel, Australia and New Zealand, would be offered commercial bank financing backed by U.S. government guarantees. The goal, which has been endorsed by President Bush, is to encourage these nations to meet their military requirements from American sources.

The Senate in late July approved a bill that would authorize a new export financing program administered by the State Department. But the House rejected a plan in June that would have placed the Ex-Im Bank in charge of the program.

Ex-Im Bank supporters worried that with new duties the bank would become embroiled in controversy and that its ongoing programs would be jeopardized. In 1968, Congress banned most Ex-Im Bank financing of arms sales following the disclosure of covert loans to developing countries during the Vietnam War.

But the Senate measure overcomes many of the flaws inherent in the old program. It would be run by the State Department, not Ex-Im Bank, and would be limited to selected U.S. allies, all stable democracies.

Nonetheless, opponents still question the justification for any program of military export financing. They argue that capital investment should be diverted toward more pressing domestic needs. And besides, they maintain, federal programs already exist to cushion the blow for displaced workers, communities and businesses affected by cutbacks in defense spending.

To be sure, we live in a world in which the threat of global conflict has receded. But our nation's strategic interests are still jeopardized by ongoing regional conflicts. The president and Congress have an obligation to assure that the United States has an adequate defense industrial base to meet future contingencies.

America also has economic interests at stake. Today, U.S. exports equal about 15% of real GNP and have become a major source of growth for the economy. The nation's trade deficit for the first seven months of the year has fallen to its lowest level in eight years. An increase in export growth, coupled with a reduction in the trade deficit, would be a significant counterweight to recessionary pressures.

Unfortunately, the fears of U.S. defense firms were heightened recently when European manufacturers, in a push to strengthen their own finances, signaled their willingness to cast American partners aside in favor of cooperative joint ventures with former rivals. Thomson-CSF just canceled a large missile venture with LTV Corporation and instead joined forces with Euromissile, its foremost competitor. Other similar ventures are being concluded by firms in Britain and France, Germany and France, and Italy and Spain.

In today's highly competitive global marketplace, the ability to offer favorable financial terms is as vital to successful exporting as quality and price are. If U.S. defense suppliers are unable to be competitive because of inadequate financing, the needs of foreign purchasers will be met by products made in London, Paris or Rome instead.

American defense firms believe that excellent opportunities exist to sell their products in overseas markets, if only they have a fair chance to compete. The least our government can do is to create a level playing field to give them that opportunity.●

STATE'S TOP FINANCIAL WATCHDOG: ROBERT CRONSON

● Mr. SIMON. Mr. President, one of the finest public officials I have known in my years of public life is a person who is retiring soon as the auditor general of Illinois, Robert Cronson.

He has played it straight, and with great courage.

Somehow, I hope his public service will continue. Precisely how, I am not sure.

It could be that the General Accounting Office could take advantage of someone with his skills.

Precisely where he will continue to serve, I don't know, but he is too valuable a person to simply be playing golf in Florida.

I ask that the Chicago Tribune article by Rick Pearson about his retirement be printed in the RECORD at this point.

The article follows:

STATE'S TOP FINANCIAL WATCHDOG IS BOWING OUT AFTER 17 YEARS

(By Rick Pearson)

SPRINGFIELD.—Auditor General Robert Cronson, whose critiques of state spending brought him into frequent conflict with the last two governors, said Tuesday he will retire at year's end from the watchdog post he has held for 17 years.

"Edgar hasn't been around long enough," Cronson said. "[Democrat] Dan Walker accused me of being a Republican, and [Republican] Jim Thompson accused me of being a Democrat, and I'm kind of proud of that fact."

Cronson, 66, the only non-elected constitutional officer in state government, becomes the most noteworthy name to take advantage of the state's new early retirement program, created this year as part of an effort to cushion state spending in fiscal 1992.

But Cronson, who will leave Dec. 31 with three years remaining in his second 10-year term, acknowledged that he will miss the ability to provide stringent oversight during a period of tenuously balanced state budgets.

"In my opinion, the state's fiscal condition is just as bad, if not worse, as anyone's willing to admit," he said.

"To a large extent, budget balancing has been done with mirrors and without reference to a lot of the underlying problems no one wants to make reference to."

One example, he said, was the state's pension system, of which he is soon to become an annuitant, where unfunded liabilities have increased to $11 billion from $3 billion in the last decade.

"There are a lot of problems, and they can't be dealt with politically," he said.

"Until the state is willing to face up to its fiscal problems, things won't improve."

Known for his candor, Cronson has been a frequent critic of the Illinois Toll Highway Authority and gained Thompson's wrath for an audit that assailed the job-incentive efforts at the Department of Commerce and Community Affairs.

"Nobody elected the auditor general governor, and if he wants to be the governor, he ought to run," Thompson responded to the 1989 audit.

But Cronson's most raging battle, which went to the U.S. Supreme Court, involved the Illinois Supreme Court and whether he had the right to audit the Attorney Registration and Disciplinary Commission, funded by attorneys' fees.

Cronson argued that the fees were public funds, but the courts disagreed.

Cronson has been in state government through four decades, serving in the early 1950s as state securities commissioner and, later, as an assistant secretary of state under Charles Carpentier.

He was elected by a three-fifths majority of the General Assembly in 1974 to serve as the state's first constitutional auditor general and was re-elected in 1984.

The legislature's bipartisan Legislative Audit Commission will conduct a search for Cronson's replacement and make recommendations to the General Assembly, which will make the final determination.•

TRIBUTE TO HOLMES ADAMS

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Holmes Albert Adams, the mayor of Neptune City whose 37 years of public service has enriched his community and all of us touched by his selflessness and leadership.

On January 18, 1992, the borough of Neptune City will honor Mr. Adams for his unparalleled dedication to improving the quality of life in New Jersey. I join in paying tribute to Mr. Adams and am proud to bring this occasion to the attention of my colleagues.

Holmes Adams enlisted in the U.S. Army during World War II and after a 3 year tour of duty, he was elected to the Neptune City Council. Mr. Holmes served as councilman until his appointment as mayor of Neptune in 1968.

During his tenure as mayor, Mr. Adams reached far beyond the responsibilities of his elected office. His dedication to serving the youth of his community has spurred his involvement with many important educational and recreational organizations. As president of the local P.T.A., advisor to the Methodist Youth Fellowship, founder of a local Cub Scout pack and chairman of both the Helping Hands Nursery School and the Neptune City Playground Committee, Mr. Adams has displayed compassion, generosity and wisdom in shaping a better tomorrow for the children of Monmouth County.

In his capacity as mayor, Mr. Adams has been singled out by his colleagues for his professional accomplishments as well as his high personnel standards. Mr. Adams was selected as president of the Monmouth County Mayor's Association and the Monmouth County Municipal Association. He also served as director of the board of New Jersey Mayor's Association.

After nearly four decades of tireless work and leadership in Monmouth County, Mr. Adams will retire from public office on December 31, 1991. Monmouth County and all of New Jersey will miss his contributions, which touched and changed so many lives. Mr. President, I am honored to join the borough of Neptune City in paying tribute to a man who has given so much of himself and to wish him many healthy, and happy years of retirement. I know he will enjoy the extra time with his beloved wife of 48 years, and his children and grandchildren. Holmes Adams is a deserving recipient of our praise and recognition.•

VERMONT PEARL HARBOR VETERANS RECEIVE COMMEMORATIVE MEDALS

• Mr. JEFFORDS. Mr. President, last Saturday, November 23, 1991, 24 Pearl Harbor veterans from Vermont received the Congressional Pearl Harbor Commemorative Medal. I ask that my remarks from the ceremony and the following article, which includes the names of the surviving Vermonters who received the medals, be included in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, November 23, 1991.

GENTLEMEN, YOUR FAMILIES AND FRIENDS: At Pearl Harbor, when enemy planes appeared out of the Sunday morning sky to hit our prime Pacific military base, Vermonters were there. One hundred thirty years ago, when Confederate cannons opened on Fort Sumter, Lincoln asked the governor of Vermont for help. Gov. Erastus Fairbanks called the Legislature into session, in this very chamber, and the state responded by rushing six regiments off south to war and by appropriating the then-staggering sum of one million dollars to support the war effort.

When it was all over, Philip Sheridan stood at the speaker's rostrum in this room to say that he never served with finer soldiers than the Vermonters. And the tradition continued at Manila Bay and over there to Belleau Wood and at Pearl Harbor and across the Pacific and in Europe and North Africa. And it continued in Korea and Southeast Asia and in the sands of Iraq. Vermonters, though peaceloving people, have always done their part when the nation called.

Where have 50 years, half a century gone? I remember THE day almost as if it were yesterday, though I was only seven years old. We were at home on Kingsley Avenue in Rutland when my father drove in from his Sunday card game and told us we were at war. We went inside and turned on the big floor model radio in the livingroom and heard the unbelievable reports. And here today, a half century later, are men from Vermont who were there in the smoke and fire while we, a quarter of the world away, listened.

The years have gone by, but the memories remain vivid, certainly more so for you than for those of us who only listened. And while there certainly is pain in the memories, there is also reasons for pride. Once again Vermonters had stood to the duty station and done what was asked of them. So it has always been since, even before, there was a State of Vermont, a United States of America.

Congratulations to you, our Pearl Harbor veterans. I wish I could be there to join in honoring you. But know I'm thinking of you at this hour and remembering a long ago day by the radio as you remember a day of thunder and deadly rain on an Island then so far away.

Most sincerely,
JAMES M. JEFFORDS,
U.S. Senator
(Captain, USNR, retired).

[From the Sunday Rutland Herald and the Sunday Times Argus, Nov. 24, 1991]

PEARL HARBOR VETERANS FROM VERMONT RECEIVE COMMEMORATIVE MEDALS

(By Maura Griffin)

MONTPELIER.—Alfred Hinton remembers where he was 50 years ago on Dec. 7 when the Japanese attacked Pearl Harbor. So did many others at a ceremony Saturday.

"I was at the end of a runway at Fort Kamamkaii," he said Saturday after receiving a congressional Pearl Harbor Commemorative Medal. "I was a motor sizer and in charge of command and fire control systems."

Hinton and 23 others received the medals at a ceremony in the well of the State House that drew about 60 people.

"It's fantastic, a once-in-a-lifetime thing to get this medal," Hinton of Newport, said. "It doesn't bring back any of the boys we lost over there, but it gives us something to remember them by." He will return to Pearl Harbor in December for the first time since World War II.

Sen. James Jeffords, R-Vt., also remembered where he was, far away from Hawaii in Vermont.

"I remember the day almost as if it were yesterday, though I was only seven years old," Jeffords said in a letter read by a representative. "We were at home in Rutland when my father returned and told us we were at war. We went inside and turned on the big floor-model radio in the living room and heard the unbelievable reports."

"Jeffords, along with Sen. Patrick Leahy, D-Vt., and Rep. Bernard Sanders, I-Vt., were in Washington and not able, to attend. Leahy also sent a letter with a representative, as did Gov. Howard Dean.

A copy of the Honolulu Star Bulletin of 60 years ago was displayed in the lobby in the

State House, spurring memories and reflections. Dean has proclaimed Dec. 7 to be Pearl Harbor Remembrance Day.

"Our motto is 'Remember Pearl Harbor and keep America alert,' " said Arnold Tibbitts, an Army veteran who is head of the Vermont chapter of the Pearl Harbor Survivors Association "Aloha."

"I'm very proud of all the veterans," he said. "And of the Norwich cadets. This is a military thing."

A Norwich University color guard participated in the military ceremony.

Herbert Hunt said he has letters that he sent to his mother the week before the bombing of Pearl Harbor, explaining how he expected an attack by the Japanese.

"The bombing wasn't really a surprise," he said. "We were unprepared militarily, but we weren't that surprised."

Hunt, who was a private when war broke out and a full commander when he retired, said every perspective of the attack is different.

"We only saw what was in our vision. A person a block away could have experienced something quite different," he said.

Brigadier Gen. Joseph Potter, a Pearl Harbor expert and commander of Norwich University, spoke to the crowd.

"Pearl Harbor galvanized the American people like no other event," he said. "There were innumerable acts of heroism and courage. Today those battle scars are carefully preserved and they serve as a constant reminder to never be caught unawares again."

SURVIVORS FROM VERMONT

MONTPELIER—Here is a list of the Vermonters who on Saturday received congressional Pearl Harbor Commemorative Medals:

Lester J. Alberghini, Army Air Corps, of North Troy.

Walter Robert Amadon, Navy, of Chester.

The late Joseph L. Bagriewicy, Navy.

The late James Jarvis Belvin, Navy.

Earl C. Bennett, Army, of Newport.

The late Lucien E. Boldue, Army.

Chester Franklin Brooks, Army, of South Burlington.

The late Winston Churchill, Navy.

Wendell O. Godin, Army, of Enosbury Falls.

The late Joseph N. Finnegan, Navy.

Merle I. Hamilton, Army, of Burlington.

Alfred C. Hinton, Army, of Newport.

Herbert Hunt, Army, of Graniteville.

Silas Hamilton Jewett, Army, of Morrisville.

Edgar Warren Johnson Jr., Army, of Manchester Center.

Joseph Charles Karwan, Army, of Milton.

Carman F. Landy, Army, Readsboro.

Frederick Lawrence, Army Air Corps, of Barre.

Robert C. Lawrence, Army, of Troy.

Athol E. Manning, Army, of Ludlow.

Eugene Gilbert Murphy, Navy, of Ryegate.

Arthur Maurice Partridge, Navy, of Barre.

George Ratcliffe, Army, of Wilder.

Arnold Tibbitts, Army, of Plainfield.•

USDA PLAN TO AID SOVIETS SHOULD BE DROPPED

• Mr. HELMS. Mr. President, last week the Department of Agriculture announced a $1.5 billion aid program for the Soviet Union. Most of these funds will be used to buy American commodities from American farmers. About one quarter billion dollars may be used for noncommodity aid.

While I can understand why U.S. farm organizations want to extend loans to the Soviet Union to purchase American farm products, I do not believe that USDA should start a major foreign aid program for the Soviet Union without any congressional debate or specific authorization.

There may well be programs of assistance for the Soviet Union we can all support. But from what I have seen of the new USDA plan, it needs to go back to the drawing board for rethinking.

Mr. President, one of the major elements in the plan, according to news reports, is for USDA to create a "model farm outside of St. Petersburg." The people of the former Soviet Union are probably thinking: "Oh great, just what we need—another state-run farm." They have made it clear that they are sick and tired of model farms, model factories, and all of the other models they have lived with under 75 years of communism.

I suppose, but you can never be sure, that the United States Department of Agriculture can run a better model farm than the bureaucrats at the Soviet Ministry of Agriculture. But this comes across as simply an expensive bureaucratic game of one-upsmanship or international bureaucratic rivalry. One State farm is as much of a disaster as another, and being run by the U.S. Government does not make it an exception to this rule.

There is a private agriculture sector in the Soviet Union and there is a growing body of aspiring private sector entrepreneurs there. If the administration is going to give aid to the Soviet Union, it needs to come forth with a real plan—one that addresses the real needs in the Soviet Union for economic and political freedom—and present that plan to the Congress for approval. Using back-door tactics of invading funds appropriated for helping American farmers is not the way to go about making a major foreign policy decision such as aid to the Soviets.

Mr. President, to date, Congress has wisely rejected the administration's efforts to get a blank check for billions of dollars for aid to the Soviets. The administration seems to be spending its time trying to find money for an unspecified Soviet aid program and neglecting the real work of coming up with a supportable program.

This is not an ideological matter. I would urge the administration to devote its time to come up with a specific plan for us to consider as soon as possible. However, if the plan is no better than the USDA plan for a model American State farm—which is simply trying to show that communism could work with better technology—I will oppose the plan.•

S. 1220, THE NATIONAL ENERGY SECURITY ACT

• Mr. LAUTENBERG. Mr. President, as we approach the end of this session of Congress, I want to address one of the major unfinished pieces of business before the Senate, energy legislation. This Nation needs a new comprehensive energy policy. Earlier this year I voted to oppose the motion to proceed to S. 1220, the National Energy Security Act. That legislation fell short of what we need. The chairman of the Energy Committee, Senator JOHNSTON, worked very hard to develop a bill. While my statement will make clear we disagree on major aspects of such a policy, we share the same desire to see the Congress address national energy policy. Today, I'd like to provide my views on the type of energy legislation which the Congress must pass during the next session.

Mr. President, S. 1220 served us more of the gluttonous menu of environmentally destructive energy development programs we now have when we need to go on an energy diet and develop cleaner, nonpetroleum-based fuels. It would have continued our existing misplaced energy priorities and it misses important energy conservation opportunities.

We often hear about the energy crisis. But the United States doesn't have a shortage of energy. Rather, we are too dependent on petroleum-based liquid fuels and too reliant on foreign oil—a reliance which adversely effects our national security and our balance of trade. Too much of the world's oil is under the control of Mideast countries—37 percent of the world market, and 24 percent of U.S. imports. And U.S. oil imports are too high—around 50 percent of our oil use or roughly 8.5 billion barrels per year. Oil imports account for 54 percent of our trade deficit.

Energy use has another important dimension, its effect on our environment. Some sources of energy cause significant, adverse environmental impacts—on local, regional, and global scales.

Motor vehicles are responsible for much of our smog, carbon monoxide, and air toxics problems. And power plants are a large source of pollutants which cause acid rain. We comprehensively addressed these air pollution problems last year in the Clean Air Act.

Of particular remaining concern is the release of carbon dioxide which contributes to global warming. I'll have more to say about the relationship between energy use and global warming.

So, in establishing energy policy, we must reduce our reliance on unstable sources of oil and stimulate sources of energy which minimize environmental impacts. We need a four pronged approach to address our energy crisis.

The heart of our policy should be energy conservation. The United States has an enormous potential to conserve energy. With less than 5 percent of the world's population, and about 2.5 percent of the world's oil reserves, the United States uses 25 percent of the world's energy output. If the United States used energy as efficiently as Japan, we could lower our national fuel bill by $200 billion every year. Per capita energy use in the United States is more than double that of Japan, France, and Italy and close to double that of the United Kingdom and West Germany. We must tap into our energy conservation potential.

Second, we must develop our enormous reserves of renewable energy like solar energy. According to the Department of Energy, the annual renewable energy resource base is five to eight times the size of our total recoverable domestic coal reserves.

Third, we also must increase our use of clean alternative fuels like natural gas. According to CRS, alternative fuels programs established in the Clean Air Act and proposed in S. 1220 would displace 7 to 10 percent of total motor fuel use by the year 2010.

Finally, we must increase efforts to better utilize our existing oil resources. According to administration estimates, enhanced oil and gas recovery from existing oil fields would result in additional oil production of 1.4 million barrels of oil per day by 2005 and increased oil reserves of 20 to 65 billion barrels of oil.

Mr. President, such a policy is not only feasible, it is environmentally preferable and economically desirable. A new study, "America's Energy Choices: Investing In a Strong Economy and a Clean Environment," makes this clear.

The study, which was prepared by the Alliance to Save Energy, the American Council for an Energy Efficient Economy, the Natural Resources Defense Council, and the Union of Concerned Scientists, outlines a variety of measures to address our energy situation. While I don't agree with every recommendation, most of the recommendations are based on programs which I support and will discuss.

The study concludes that under a variety of scenarios, relying mainly on energy conservation and renewable energy, we can significantly change the level of energy use that is predicted for 2030 based on current policies, practices, and trends. We could: Reduce our use of energy by one-third to one-half; double our use of renewable energy; reduce our use of oil by 40 to 60 percent; reduce emissions of carbon dioxide by 50 to 80 percent; significantly reduce emissions of smog and acid rain causing pollutants; and provide savings of roughly $2 trillion over the period between now and the year 2030.

Unfortunately, S. 1220 failed to implement the report's recommendations. Much like the President's national energy strategy on which it is based, S. 1220 focused on environmentally damaging energy production like oil development in ANWR and off our coasts and gives short shrift to energy conservation and renewable energy.

S. 1220 would have done little to reduce our dependence on foreign oil. In fact, the President's own analysis shows that the United States would be as reliant on foreign oil in the year 2010 as it is now if the national energy strategy were implemented as provided for in S. 1220. And while we must reduce our emissions of carbon dioxide, S. 1220 would have led to an increase in those emissions.

CARBON DIOXIDE EMISSIONS

Mr. President, our profligate use of energy has resulted in increases of carbon dioxide which threaten our society. Carbon dioxide, which is released by the burning of fossil fuels, accounts for almost half of the gases that contribute to the greenhouse effect. Scientists believe that as greenhouse gases become trapped in the Earth's atmosphere, temperatures will increase around the globe.

Earlier this year, the National Academy of Sciences found that the average global temperature already has increased between 0.5 and 1.1 °F this century. And it concluded that without efforts to reduce greenhouse gases, there will be an increase of greenhouse gas concentrations equivalent to a doubling of the preindustrial carbon dioxide levels by the middle of the next century. This will lead to an increased average global temperature between 1.8 and 9 °F. For the first time ever, human actions are disturbing our environment in ways leading to significant changes in the Earth's climate.

The impacts could be far reaching. Mass extinction may result as species are unable to adapt to rapidly changing environmental conditions. Reduced soil moisture and altered weather patterns would disrupt United States and world agricultural cycles. Rising sea levels due to melting of the polar ice caps would inundate coastal areas around the world, resulting in loss of low lying coastal lands where millions of people reside. This is of particular concern to New Jersey where so many people live close to the coast.

Although there is some disagreement as to the rate and magnitude of change, there is a remarkable degree of scientific consensus that global climate change is upon us; 1990 was the hottest year this century. The next 4 hottest years all occurred in the 1980's. Some scientists believe this may be the first evidence of global warming. And if we wait for certainty about the magnitude of global warming, it may be too late to take any remedial action.

So our energy policy must reduce emissions of carbon dioxide. Even the administration's own national energy strategy says:

> Despite large uncertainties regarding potential climate change, there is sufficient credible scientific concern to start acting to curb the buildup of so called greenhouse gases—several of which are related to production and use of energy.

The National Academy of Sciences agrees. It concludes that notwithstanding scientific uncertainties regarding global warming, "* * * greenhouse warming poses a potential threat sufficient to merit prompt response." The Academy said that investment in mitigation efforts is a cheap way to insure against the scientific uncertainties.

In 1988, then candidate George Bush promised to address the greenhouse problem by using the White House effect. But this White House effect has turned out to be nothing but more hot air to heat up our Earth.

The President's national energy strategy actually contemplates a 25 percent increase in carbon dioxide emissions over the next 25 years. The President plans to offset these increases with reductions in CFC emissions that have already been required under the Montreal protocol and the Clean Air Act.

A recent report shows the fallacy of this policy. Last month, the U.N. Environmental Programs and the World Meteorological Organization reported that CFC's are not a major greenhouse gas. This undercuts the administration's policy of relying on the CFC reductions to address global warming. The report also showed that CFC's have produced a cooling effect in the lower atmosphere, masking the true level of warming we are committing ourselves to. And it reemphasizes the need to implement policies which reduce rather than increase carbon dioxide emissions.

The administration's carbon dioxide position stands in stark contrast to the policies of the rest of the industrialized world. Eighteen industrialized nations already have committed to stabilizing or reducing carbon dioxide emissions by the year 2000. None propose counting CFC reductions toward these goals. Some are proposing even greater reductions.

And this past summer, the British Prime Minister Major wrote to the White House criticizing the United States position on global warming and urging the United States to join Britain in setting limits on carbon dioxide.

So the self-proclaimed "Environmental President" stands alone in failing to act to reduce carbon dioxide emissions. The administration even successfully lobbied the Senate Energy Committee to delete a requirement in S. 1220 requiring the Department of Energy to identify policies to stabilize and reduce emissions of carbon dioxide.

These policies are particularly embarrassing because the United States emits a disproportionate amount of the world's carbon dioxide, about 20 percent of the world's CO_2 emissions. The

United States emits 5 tons of carbon dioxide per person while the West German rate is 3 tons and Japan is 2 tons per person. So we should be taking a leadership role in reducing carbon dioxide emissions as called for by Senate Resolution 53 which I have cosponsored.

And the administration has opposed the provision in S. 1278 which I introduced which would require the Council on Environmental Quality to promulgate regulations requiring Federal agencies to address relevant global warming concerns in their environmental impact statements.

Can we reduce carbon dioxide emissions? We have already. If the United States operated at 1973 efficiency levels, we would have emitted 50 percent more carbon dioxide. But it's clear we can do more.

The National Academy of Sciences concluded earlier this year that the United States could reduce its greenhouse gas emissions by between 10 and 40 percent of the 1990 level at very low cost. And the Office of Technology Assessment concluded this year that the United States can decrease carbon dioxide emissions 35 percent below the 1987 level within 25 years by adopting an aggressive package of policies requiring no technological breakthrough. Much of this reduction can be achieved through the use of energy conservation techniques.

So we need to establish a policy of stabilizing and reducing greenhouse gas emissions and identify the programs we need to achieve this goal. This was rejected in S. 1220.

We need to take the leadership in addressing the global warming problem as was called for in Senate Resolution 53.

We need to focus our energy policy on energy conservation which can reduce carbon dioxide emissions. S. 1220 had a weak energy conservation program and instead creates a program to promote the use of coal, the energy source with the greatest global warming impact.

And we need to require Federal agencies to address global warming issues in their environmental impact statements as called for in S. 1278.

ENERGY CONSERVATION

Mr. President, we've been presented with two approaches to energy conservation, a tepid approach which was found in S. 1220 and an aggressive approach along the lines suggested by Senator WIRTH in S. 324, the National Energy Policy Act of 1991 which I have cosponsored, and S. 741, the National Energy Efficiency and Development Act of 1991, also introduced by Senator WIRTH.

According to analyses prepared by the Alliance To Save Energy and the American Council for an Energy-Efficient Economy, the aggressive approach suggested in the Wirth bills can achieve significant energy savings over S. 1220. While S. 1220's energy conservation provisions would have saved 1.4 quadrillion Btu's of energy—quads—a year by the year 2000, the Wirth bills would save 6 quads of energy a year by the year 2000, almost four times the savings of S. 1220. Likewise, in 2010, S. 1220 would have saved 3.4 quads of energy while the Wirth bills would save 14.4 quads of energy, the equivalent of 7 million barrels of oil per day. To put this in some perspective, the United States used 84.6 quads of energy in 1989. Between 1933 and 2010, while S. 1220 would have saved 29 quads of energy, the Wirth bills would save 130.9 quads of energy.

And it's clear that we can conserve energy without harming our economy. From 1973 to 1990, the ratio of energy use to the GNP declined by 2 percent, reducing energy use by 30 quads and saving the United States $180 billion.

So an aggressive energy conservation program is feasible, and essential to reducing our dependence on foreign energy sources and our emissions of carbon dioxide. In addition, energy conservation makes industry more efficient and more competitive in the world market.

The single most important step we can take in addressing this energy crisis is to increase automobile fuel efficiency standards. Over 60 percent of our use of oil is for transportation. So if we're going to reduce our dependence on oil, we must focus on the transportation sector. We must increase automobile fuel efficiency, and encourage people to increase their use of mass transit and reduce their use of automobiles.

That's why I'm a cosponsor of S. 279, the Motor Vehicle Fuel Efficiency Act. It expands on the original 1975 Corporate Average Fuel Economy [CAFE] Act which resulted in an approximate doubling in automobile fuel efficiency.

Unfortunately, average auto efficiency has stagnated since 1987 when it reached 28.1 miles per gallon. The 1992 average auto efficiency rating declined to 27.5 miles per gallon. So without Government intervention, we will continue our inefficient use of oil for automobiles.

The increased CAFE standards in S. 279 would result in an additional savings of over 2 million barrels of oil every day by 2005. That's 2 million barrels of oil which don't have to be imported—each and every day. A renewable source of 2 million barrels of oil a day.

Increased CAFE will reduce emissions of carbon dioxide. The United States emits more CO_2 than any other nation. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions. Mr. President, United States autos produce more carbon dioxide than is produced by all sources in Japan or all sources in all of Latin America. So if we're going to be serious about reducing emissions of greenhouse gases as was recommended by the National Academy of Sciences, we're going to have to increase our fuel efficiency.

Mr. President, at a hearing on the original CAFE law in 1974, a representative of Ford Motor Co. testified that meeting the 27.5 miles per gallon CAFE standard "would require a Ford product line consisting of either all sub-Pinto-sized vehicles or some mix of vehicles ranging from sub-subcompact to perhaps a Maverick."

Yet, despite the auto company's fears that the standards were unachievable, they managed to meet those standards.

Mr. President, the auto industry made similar statements about its inability to meet the original air pollution standards in the 1970 Clean Air Act. Let me quote what the former executive vice president of Ford Motor Co., Lee Iacocca, said back in 1970 concerning the auto standards in the 1970 clean air legislation.

> Some of the changes in this bill could prevent continued production of automobiles * * * Even if they do not stop production, they could lead to huge increases in the price of cars. They could have a tremendous impact on all of American industry and could do irreparable damage to the American economy. And yet, in return for all of this, they would lead to only small improvements in the quality of the air * * *. (T)his bill is a threat to the entire American economy and to every person in America.

Yet despite this claim the auto industry achieved the air pollution standards.

Mr. President, we hear the same claims of gloom and doom today about increased CAFE standards. History shows that we should treat these claims skeptically.

I have a strong faith in the ingenuity of American automakers and American autoworkers. They have met clean air, fuel efficiency, and safety challenges before. I am convinced that they can meet the fuel efficiency challenges ahead.

And a report just issued by the Office of Technology Assessment makes clear that increasing CAFE is feasible. OTA says that using the maximum feasible current technology with a 1987 car would result in a CAFE of 38.2 miles per gallon by the year 2001. That's over 10 miles per gallon greater than the existing CAFE standard. So it's clear that large increases in CAFE are achievable even with current technology.

And by 2010, using technologies that most automotive engineers agree would be commercialized by 2000, and a 1987 model car, OTA says CAFE would be 45 miles per gallon.

The OTA and the GAO also debunk arguments about downsizing of cars and automobile safety. OTA concludes that these CAFE standards can be achieved without downsizing cars and without decreasing auto safety. And the GAO found that smaller cars have not led to more highway deaths.

Mr. President, S. 1220 doesn't require an increase in fuel efficiency standards. It merely gives the administration the authority to set a higher standard. That's like letting the fox guard the chicken coop. This administration has done little to hide its disdain for an increase in CAFE standards.

Senator JOHNSTON proposed a CAFE amendment which he asserted was the maximum feasible increase in fuel economy. The Johnston amendment would have increased CAFE to 30.2 miles per gallon in 1996, 34 miles per gallon in 2001 and 37 miles per gallon in 2006.

But the OTA analysis makes clear that these levels are not the maximum feasible. And the Johnston amendment included CAFE credits for alternative fuels and airbags and gave the Secretary of Transportation some authority to rollback CAFE limits. After considering these credits and rollback authority, the Johnston amendment guaranteed a CAFE of only 28 miles per gallon in 1996. CAFE for new cars in 1988 was 28.6 miles per gallon more than the Johnston limit for 1996. And the Johnston amendment guaranteed a CAFE standard of only 29.5 miles per gallon in 2001 and 30.8 miles per gallon in 2006. These CAFE levels are hardly designed to require auto manufacturers to make the feasible fuel efficient cars we need.

Mr. President, we also must decrease the growth in vehicle miles traveled or VMT. Total motor vehicle registrations in the United States have increased 69 percent between 1970 and 1988. The number of vehicle miles traveled nationally is increasing by about 25 billion miles per year. Without efforts to reduce the increase in vehicle miles traveled, the increase in vehicle miles will overwhelm any increase in automobile fuel efficiency and our use of oil will increase.

That's why as chairman of the Transportation Appropriations Subcommittee, I've led the fight to oppose administration budget cuts for mass transit and Amtrak. I've cosponsored S. 26, which amends the Internal Revenue Code to allow the same gross income tax exclusions for employer provided subsidies for mass transit and van pooling—up to $60 per month—that are provided for employer provided subsidies for parking. The clean air bill, which I helped write, requires States with air pollution problems to implement VMT growth control programs.

And I coauthored S. 1204, the Surface Transportation Efficiency Act of 1991. This bill would give the States greater flexibility to use highway trust funds for mass transit and provide additional funds for those States which control growth in vehicle miles of travel per capita and penalizing affected States that do not.

But we must also address energy conservation in the utility, residential and industrial sectors. The energy conservation provisions of S. 1220 need to be strengthened to achieve the energy reductions obtainable through implementation of the programs proposed in Senator Wirth's legislation.

We should institute industry energy use reporting requirements and voluntary efficiency targets for energy intensive industries. This type of program previously existed and resulted in documented energy savings.

We need to expand the provisions on equipment efficiency standards to include motors, faucets, and more types of commercial HVAC equipment, include initial energy efficiency standards for equipment and require the Department of Energy to periodically review and upgrade all equipment standards. This requirement would build on previous efforts like the 1990 bill we approved, which I cosponsored, to establish energy conservation standards for fluorescent lamp ballasts.

We need to require States to reform their utility regulations so that utilities are not financially penalized for their energy efficiency investments. My State of New Jersey last month adopted a new policy to reward utilities which spend funds to conserve energy rather than build new energy facilities.

We must require utilities to demonstrate to the Federal Energy Regulatory Commission that proposed long-term interstate power sales are consistent with State least cost planning requirements. Since conservation initiatives are cheaper than building new powerplants, least cost planning requirements will ensure that conservation measures are implemented.

We need to provide incentives to utilities to increase energy conservation efforts. This will save consumers money because it is cheaper to conserve energy than it is to generate it, and reduce the impact on our environment. That's why we've provided sulfur dioxide emission offsets for using renewable energy and energy conservation technologies in the Clean Air Act. These additional requirements would provide utilities with additional incentives to use these technologies.

According to the Edison Electric Institute, utilities spent more than $1.3 billion on 1,300 energy conservation programs in 1990 and saved the equivalent amount of energy which would be generated by 42 midsized powerplants. We need to encourage these energy conservation initiatives.

And we need to increase Federal efforts to reduce the Government's own energy use. The Office of Technology Assessment has estimated that the Federal energy bill could be reduced by $900 million per year if cost effective, energy conservation measures were implemented in Federal buildings. That's why I've cosponsored S. 147, the Federal Energy Management Amendments Act of 1991 and S. 1040, the Government Energy Efficiency Act, both of which contain numerous programs to reduce the Federal Government's use of energy.

Mr. President, we also need to increase energy conservation R&D and funds for State energy conservation efforts. As a result of Reagan administration budget cuts, R&D funding for energy conservation declined in constant dollars from $322 million in fiscal year 1981 to $129 million in fiscal year 1989. The GAO has reported that these budget cuts have delayed development of energy conservation technologies. Energy conservation R&D is second only to solar R&D at the bottom of the Federal energy R&D budget. Spending for nuclear R&D is three times higher than conservation R&D.

Total Federal energy conservation spending, including R&D and funding for State energy conservation programs, declined from $1.2 billion in fiscal year 1979 to $286 million in fiscal year 1988, a 76 percent decline. I've fought to reverse this decline by cosponsoring the State Energy Efficiency Programs Improvement Act, enacted in the last Congress, which updated expiring goals for State efficiency improvement while increasing spending authorizations. I've also supported higher appropriations for the Department of Energy's State and local energy conservation assistance programs. As a result, we provided $226 million for energy conservation R&D and almost $500 million for State and local energy conservation efforts in fiscal year 1991, a significant increase over the previous years.

Mr. President, there are other energy conservation initiatives which are very important.

We can reduce energy use by stimulating the recycling of materials. For example, energy savings to produce equivalent output using recycled materials rather than virgin materials is 96 percent for aluminum, 87 percent for copper, 72 percent for iron and steel, 64 percent for paper and 80 percent for plastic. The Senate Environment Committee on which I serve will be reporting amendments to the Resource Conservation and Recovery Act [RCRA] which will stimulate recycling. And I have introduced S. 615, the Environmental Marketing Claims Act which requires EPA to establish standards for terms including "recyclable" and "recycled content." This bill will encourage manufacturers to increase their use of recycled materials.

Inexplicably, EPA Administrator Bill Reilly testified before the Environment Committee last month that the administration opposed any additional regulatory efforts to stimulate recycling.

The administration appears to have the attitude of the phony music teacher from the movie, "The Music Man;" no work, no effort, just wish hard enough and you can achieve your goal. This attitude demonstrates the administration's lack of commitment to environmental concerns and energy conservation.

Finally, we must not penalize consumers whose energy conservation efforts are subsidized by public utilities. That's why I have cosponsored S. 679, the Residential Energy Efficiency Policy Act of 1991 which would amend the Tax Code to exclude from gross income those payments made by public utilities to residential customers to subsidize the cost of energy conservation.

Mr. President, we simply cannot afford to continue to ignore the enormous benefits which energy conservation presents to our Nation. Our national security, our environment, and our economy will suffer if we fail to implement an aggressive energy conservation program—the kind of program lacking in the energy bill presented to the Senate in the first session.

RENEWABLE ENERGY

Renewable energy from solar, wind and other sources provides us with an enormous amount of nondepletable energy reserves. Eight percent of our existing energy demand is provided by renewable energy. A 1985 Department of Energy report estimated that the annual renewable energy resource base at 5 to 8 times the size of our entire recoverable domestic coal reserves. We hear so much about our enormous coal reserves. Yet here is an energy source which can give us 5 to 8 times the energy of our entire coal reserves each and every year.

Renewable energy is not finite like fossil fuels, and not subject to the whims of foreign suppliers. It generally results in minimal environmental impact, and is responsible for significantly lower amounts of carbon dioxide and air pollutants than fossil fuels. And renewable energy doesn't generate radioactive waste which needs to be disposed.

Mr. President, we have taken a number of actions to increase our use of renewable energy. I want to highlight a couple of the most significant.

In 1989, the Congress enacted the Renewable Energy and Energy Efficiency Technology Competitiveness Act which I cosponsored. This bill requires the Department of Energy to establish renewable energy demonstration programs and reauthorizes renewable energy export promotion programs.

The Clean Air Act provides sulfur dioxide emission offsets for using renewable energy and energy conservation technologies. This provides utilities with an incentive to use these technologies.

And in 1990, we passed legislation to amend the Public Utilities Regulatory Policies Act [PURPA]. Under PURPA, electric utilities are required to purchase power produced by renewable power facilities less than 80 megawatts in size. In 1990, we removed this size limitation providing a further incentive to renewable energy development.

But the two most critical needs to enhance renewable energy development were not addressed in the legislation presented to the Senate and should be addressed in energy legislation in the next session.

First, we need to reorient our energy research and development priorities to give greater consideration to renewable energy. In fiscal year 1991, the Congress reversed the trend initiated by the Reagan administration to reduce funds for renewable energy R&D. Renewable energy R&D declined by 90 percent in real terms between fiscal year 1979 and fiscal year 1990. In fiscal 1991, the Congress reversed this trend and provided a 40-percent increase in renewable R&D funding.

Mr. President, with the size of the cuts initiated by the Reagan administration, the administration didn't cut fat. It cut the heart out of the program. A 1990 Department of Energy report shows why.

It concluded that the extent of Federal support for renewable energy can greatly influence the rate of increase of renewable energy's market share and the success of the U.S. domestic renewable energy industry. DOE estimates that if R&D were to double or triple, the contribution of renewable energy would increase from the 1988 level of 6.7 quads to as much as 57 quads in the year 2030. At this level, we would reduce our annual carbon dioxide emissions by 4.4 billion tons by 2030. So we need to significantly increase our investment in renewable R&D.

Yet, for fiscal year 1992, the Bush administration proposed only a 4 percent increase in renewable R&D while proposing a 30 percent increase in nuclear R&D. The Congress added $40 million to this request providing a 24-percent real increase in spending. But even with congressional action to reverse the renewable energy R&D budget cuts, the fiscal year 1992 funding level is still 84 percent below the peak level of funding reached in fiscal year 1979. Renewable energy R&D remains far below R&D levels for nuclear energy and fossil fuels. We need to increase renewable energy R&D to levels of these other energy sources.

Unfortunately, S. 1220 did nothing to reverse the existing relative underfunding of renewable energy R&D.

We also need to extend the existing business tax credit for renewable energy which expires at the end of this calendar year. This credit allows producers of renewable energy to expand the market enough to create economies of scale and bring renewable electricity generation costs down below those of competing fuels. It also would correct market forces which do not properly account for the environmental, national security, and balance of trade benefits of renewable energy. I have cosponsored S. 141, which would extend for 5 years the business energy tax credits for investments in solar and geothermal facilities and S. 1157, which would permit business energy tax credits to be taken against the alternative minimum tax for those businesses subject to its provisions.

Mr. President, development of renewable technologies is being hampered by the general negative economic climate, the low level of fossil fuel prices, and the lack and uncertainty of tax incentives. In July, Luz, the world's largest solar energy producer, laid off half of its work force and postponed construction of its 10th solar plant in the United States. Luz officials cited a lack of Government support for renewable energy. Mr. President, we must not allow renewable energy to wither on the vine. We must initiate an age of Aquarius and let the Sun shine in.

S. 1220 did attempt to encourage hydroelectric dam projects but it did so in a way which threatens our environment. Currently, FERC regulates these projects because they impact waters which flow between the States and because they can adversely affect fish and wildlife resources.

But S. 1220 would have allowed States to take over regulation of roughly two-thirds of currently licensed projects. It provided virtually no standards or directions to States for such regulation. Existing licensees could choose between Federal and State regulation. So the bill removed these projects from Federal environmental protection and could have resulted in damage to fisheries and wildlife. This is not the way we should be encouraging energy development.

ALTERNATIVE FUELS

If we are to reduce our reliance on foreign oil resources, we must increase our use of alternative fuels like natural gas.

Last year in the Clean Air Act, we took a major step in increasing our use of alternative fuels. We required the use of oxygenated fuels in carbon monoxide nonattainment areas and reformulated gas in the nine worst ozone nonattainment areas which will include almost all of New Jersey. Alternative fuels will replace a portion of the petroleum in the gasoline for these areas. We authorized California to develop a program requiring low-emission and ultra-low-emission vehicles. Other States may adopt this program. These cars will require clean fuels or electricity. And we required centrally fueled fleets of 10 or more vehicles in certain cities to be clean fueled vehicles which will require the use of alternative fuels.

According to a CRS analysis, these requirements will mean that 40 percent of U.S. gasoline will be reformulated or made cleaner through the use of alternative fuels by 1998. EPA expects these programs to displace between 310,000 and 700,000 barrels per day by 2010 resulting in a 3- to 7-percent displacement of gasoline. And these fuels generate less air pollution than gasoline.

We need to build on the provisions in the Clean Air Act. S. 1220 would have expanded the fleet program to cover more than 100 additional cities. CRS estimates that with the expansion of the alternative fuel fleet program, alternative fuels would replace 7 to 10 percent of the total motor fuel by the year 2010. And S. 1220 included the provisions of S. 768, the National Electric Vehicle Act, which I cosponsored, which establishes an electric vehicle R&D program.

But it included a provision which deviate from the strong cost-effective alternative fuels program we need.

The bill included provisions which would restrict the importation of gas from Canada. S. 1220 provided that FERC cannot authorize natural gas imports unless it agrees to redress anticompetitive impacts on U.S. gas producers.

This restriction would have adversely affected the northern portion of the country including New Jersey which utilizes low-cost Canadian gas. Mr. President, we need to increase our use of natural gas which is clean burning, generates significantly less carbon dioxide per unit of energy, is low cost, currently at the equivalent of $12 per barrel of oil, and in plentiful supply. Imports of natural gas from Canada doubled between 1986 and 1990. We need to encourage the use of natural gas produced in both the United States and in Canada.

OIL EXPLORATION AND PRODUCTION

Mr. President, I support oil and gas development in areas which are not environmentally sensitive. In particular, we need to increase our production of oil from enhanced recovery technologies applied to existing oil fields.

According to a report prepared by the Texas Bureau of Economic Geology, using new recovery techniques, up to 48 billion barrels of oil in existing reserves could be recovered cost effectively. And the administration's national energy strategy predicts that enhanced oil and gas recovery would result in additional oil production of 1.4 million barrels of oil per day by 2005 and increased oil reserves of 20 to 65 billion barrels of oil. In contrast, the mean estimate of oil from ANWR, if oil is even found, is 3.6 billion barrels of oil.

We must not, however, allow our existing domestically produced oil shortfall to shelter the risks of development in environmentally sensitive areas like ANWR and our offshore waters.

ANWR

S. 1220 would have opened the Arctic National Wildlife Refuge to oil and gas drilling. It would have had us try to produce our way out of our oil shortage.

But Mr. President, we can save almost 10 times more oil each and every day by 2005 through increased CAFE standards than we can through drilling in ANWR. And even if oil is found in ANWR, it's a finite resource. It will run dry.

Mr. President, the administration's national energy strategy makes clear that ANWR is not essential for our national security. There is only a one in two chance of finding any oil. Even if oil is found in ANWR, it is estimated that the oil fields will produce oil equal to only 4 percent of U.S. oil use at its peak in 2005 and down to 1 percent by 2010 with less thereafter. This is a minor amount of oil in terms of U.S. oil demand, providing only 6 months worth of oil. And it's a trivial amount, less than 1 percent, in terms of world oil resources. ANWR won't change the world oil balance.

If ANWR is our largest remaining untapped oil reserve, then it should be clear we can't produce our way out of our oil shortage. In fact, even if oil is found at ANWR, its reserves are dwarfed by our potential reserves for increasing production through further research of enhanced oil recovery at existing fields. And ANWR's estimated 3.6 billion barrels of reserves is far less than the 16 to 23 billion barrels of reserves in existing fields on the Alaskan North Slope.

But even more is at stake in ANWR than energy development. After the *Exxon Valdez* spill 2 years ago, I visited both the spill and the coastal plain of ANWR.

What I saw was the best of nature and the worst of man.

I saw the best of nature in the Arctic Refuge, an area which even the Department of the Interior says, "is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the Arctic ecosystems in North America." An area which biologist George Schaller calls unique and irreplaceable, not just on a national basis, but also on an international basis.

Beauty, wilderness, pristine, these words simply fail to capture what I saw, and what is at stake if we allow oil and gas drilling to proceed.

Unfortunately, in seeing the spill in Prince William Sound, I saw the worst of man. I saw how carelessness despoiled a rich ecosystem. Dead wildlife and oil coated beaches.

This devastation by man stands in stark contrast to the beauty of nature I saw.

And that's what's at stake as we consider energy legislation. Do we want to preserve that unique beauty of nature? Or do we want to create an industrial complex of drill sites, waste pits, roads, airports, marine facilities, solid waste dumps, sewage treatment plants, pipelines, spills, and pollution? A complex that according to the Department of the Interior's own report would affect 12,650 acres of this unique wilderness area.

Do we want to develop the ANWR, to keep feeding our fossil fuel appetite, or do we want to conserve fuel resources, develop alternative sources of energy, and preserve our pristine lands?

If we drill for oil in ANWR, we may find oil for a few years, but ANWR will never be wilderness again.

If we develop ANWR we threaten this unique wilderness system. And if we destroy the wilderness values in ANWR, we also threaten an undisturbed ecosystem with its polar bears, musk oxen, and porcupine caribou.

And if we destroy our own wilderness areas, what credibility will we have in telling other countries to preserve their forests, wetlands, and biological diversity?

That's why I am an original cosponsor of S. 39 which would make the ANWR coastal plain a wilderness area. This would preclude oil and gas development on the coastal plain of ANWR and preserve this unique resource for future generations.

OFFSHORE OIL PRODUCTION

Mr. President, the waters offshore of New Jersey and the other mid-Atlantic States are another fragile environment which we should protect from oil development. I have led the fight in the Appropriations Committee to fight oil drilling off our coast.

In 1988, then-candidate George Bush visited the New Jersey shore. He called the pollution of our coastal waters and beaches a national tragedy, and promised to protect the Nation's shores. Yet in his June 1990, OCS moratoria decision, the President protected only a portion of the Nation's coastline. Although he recommended moratoria for most of the west coast, much of New England and certain areas off western Florida, the President flatly ignored New Jersey and the other mid- and South-Atlantic States. The decision effectively discriminates against the mid- and South-Atlantic States by saying that other offshore areas are somehow more sensitive and more deserving of protection.

It took the National Academy of Sciences 3 years and the President's OCS Task Force another year just to conclude that the areas placed under moratoria needed further study. And the President's decision called for an additional 6 to 10 years of study to determine the environmental impacts on these States. How can the administration already have all the answers for New Jersey and the other unprotected States? The answer is, Mr. President, it can't.

Obviously the President does not believe that these States deserve protection. But the economies of these unprotected States rely heavily on their coastal resources. The New Jersey coastal tourism industry alone is worth $8 billion per year. Oil and gas development can have severe impacts on a State's commercial and recreational industries, not to mention the damage it can inflict on its marine and estuarine systems.

The waters off New Jersey are just as precious as those covered by the President's ban; our beaches deserve equal treatment. Since the June 1990 decision, I have sent several letters to the President, and have met with the Director of the Minerals Management Service. In each instance, I have urged that New Jersey receive the same type of environmental reviews as those States which obtained moratoria. Unfortunately, my attempts to resolve this problem administratively have failed—the MMS is now proposing to hold our vast acreage off the eastern seaboard for oil and gas leasing. So I've fought in the Appropriations Committee to instill some justice into the OCS planning and leasing processes.

The Department of the Interior estimates that our offshore areas could provide 8.9 billion barrels of oil or the equivalent of 1.4 years of oil. But 55 percent of this oil would come from the Gulf of Mexico. The Atlantic Coast would provide only 200 million barrels or around 10 days' worth of oil. These are meager benefits in the face of the potential economic and environmental risks posed to our vulnerable coastal States, and OCS development would do little to affect our reliance on the volatile world oil markets.

While S. 1220 provided a welcome 10-year moratorium of oil and gas activities off New Jersey, it would have established a program biased toward OCS development. And New Jerseyites can be affected by oil and gas operations off other mid-Atlantic States just as if they were off our coast.

S. 1220 would have required the administration to review existing moratoria decisions. It biased this review by requiring a comparison of oil spilled from OCS operations to that spilled by shipping imported oil to the United States. But it did not compare the environmental effects of OCS operations with the effects of energy conservation and expanding our use of alternative fuels and renewable energy. This review would be little more than an excuse to justify eliminating existing moratoria.

S. 1220 also would have made it more difficult to cancel a lease once it has been issued even if new information demonstrated that drilling should not proceed. And it takes money from the Federal Treasury to give to those States which already are accommodating OCS activities.

Mr. President, I believe we need to increase the role of States in OCS development activities. In the last Congress I cosponsored the Coastal Zone Management Act amendments which reversed a Supreme Court decision and required that OCS lease sales be consistent with State coastal zone management plans. And this year I have cosponsored S. 736 which would expand the role of States in OCS lease-sale plans by allowing a Governor to override a Federal OCS leasing decision unless the Federal Government could show that the Governor's action was arbitrary and capricious or based on a factual error.

Increasing domestic oil production from our ocean waters, like drilling for oil in ANWR, is a short-term fix to our shortage of oil. The United States simply does not possess large enough reserves—on or offshore—to satisfy this Nation's insatiable appetite for oil. We must reject the kind of OCS development that was suggested by S. 1220.

OIL IMPORT FEES

Mr. President, we have seen many proposals in this and past Congresses to impose an oil import fee. This year we saw a proposal to impose an in-kind storage requirement levy on imported crude oil or refined petroleum products which has the effect of an oil import fee. That's why I cosponsored Senate Resolution 98 which would state the sense of the Senate to oppose these proposals.

An oil import fee or proposal with a similar impact would increase the costs of production and manufacturing for industries that use petroleum products and impair the ability of those industries to compete in international markets. In these economic times, our economy cannot afford this additional burden.

These proposals also would be borne disproportionately by regions like the Northeast that are dependent on petroleum products. It would disproportionately hurt those dependent on oil to heat their homes. At the same time, it would provide a subsidy to oil producing regions.

This is unfair and must not be enacted by the Congress.

CLEAN AIR EMISSIONS

S. 1220 would have weakened the Clean Air Act by allowing utilities to extend the life of old polluting powerplants and thereby escape meeting standards for new plants. These refurbished plants could increase emissions of air pollutants rather than reduce emissions if they had to meet stricter controls as new plants. Senator JOHNSTON indicated his intent to delete this provision from S. 1220. I agree that this provision should be deleted and that we should maintain the course we adopted last year in the Clean Air Act to protect the health of our citizens from polluted air.

NUCLEAR ENERGY

Nuclear energy has been the stepchild of energy alternatives. More than 100 reactors have been canceled in the last two decades including every reactor ordered since 1973. No commercial powerplants have been ordered since 1978. We have made too little progress in finding a way to safely dispose of high-level radioactive waste. And in a recent poll, 62 percent of Americans oppose building more powerplants in the United States.

It's clear that nuclear energy will not play a significant role in our future energy strategy unless the public regains confidence in nuclear energy and we solve the high-level radioactive waste problem. And nuclear energy has a very limited role in addressing our shortage of oil. Less than 5 percent of U.S. oil is used to generate electricity. So a switch to nuclear energy would have little impact on our imports of oil.

Until 1989, the public had a right to a hearing to address nuclear safety issues prior to both construction and operation of a nuclear powerplant. Concerns were raised that issues were not being raised and addressed early in the nuclear licensing process. So in 1989, the Nuclear Regulatory Commission streamlined the licensing process. The Commission required that all issues that can be addressed before construction should be resolved then. This makes sense.

Public interest groups challenged two sections of this regulation which provided that the NRC itself would not review, and the public would have no right to a hearing on, a variety of nuclear safety issues arising between the time that a construction permit is awarded and the time that operation of a plant is about to begin. A three judge panel of the U.S. Court of Appeals for the District of Columbia, including then Judge Clarence Thomas, struck down these two sections as contrary to the plain language and intent of the Atomic Energy Commission.

S. 1220 would have overturned the Court of Appeals decision and eliminated the right to a hearing prior to operation on nuclear safety issues that could not have been raised prior to construction. These issues could include significant new scientific data bearing on the safety of the nuclear plant's design, significant new information of the susceptibility of the site and plant design to extraordinary events, changes in population density and other factors which could complicate emergency planning and evacuation in the event of an accident as well as quality control problems in the construction of the plant itself.

And S. 1220 would have eliminated the requirement that the NRC make a formal finding not only that the plant has been built to specifications but that the plant complies with the safety requirements of the Atomic Energy Act. This NRC finding is essential because a plant may be built to specifications but may not adequately protect the public safety. New information developed after the specifications for a powerplant are completed may show that the specifications are no longer adequate to protect the public. S. 1120 would also have eliminated judicial review of this finding.

Mr. President, by eliminating the public's right to a hearing, prior to operation, to raise significant safety issues which could not have been raised prior to construction, and by narrowing the NRC's responsibility to make a determination that the plant will be operated safely, we undermine nuclear reactor safety and public confidence which the nuclear industry needs to restore.

Nuclear licensing issues are within the jurisdiction of the Environment, not Energy Committee. I plan to work with Senator GRAHAM and other Senate Environment Committee members in correcting the flawed regulatory approach contained in S. 1120.

Unfortunately, S. 1120 would have provided a bailout for the uranium-enrichment industry. It requires the Federal Government to write off 95 percent of more than $10 billion of uncovered costs of the Department of Energy's uranium-enrichment programs and would have repealed the existing provision requiring full cost recovery.

Mr. President, nuclear energy will have a limited role in our energy future unless public confidence in it is restored and a solution to high-level radioactive waste disposal is developed. S. 1220 addressed neither of these problems.

NATIONAL ENVIRONMENTAL POLICY ACT

Mr. President, S. 1220 contained a number of provisions relating to the implementation of the National Environmental Policy Act or NEPA. NEPA falls under the jurisdiction of the Subcommittee on Superfund, Ocean and Water Protection which I chair. Many of these provisions conflict with NEPA as it has been implemented since the Council on Environmental Quality issued regulations in 1979.

The most troubling provision concerned the proposed legislative determination in S. 1120 that the Department of the Interior's environmental impact statement is adequate. Mr. President, this is a virtually unprecedented provision. It is the Interior Department's responsibility to prepare an environmental impact statement which meets the requirements of NEPA, the responsibility of the courts to determine whether this requirement has been adhered to and the responsibility of the Congress to use the information provided in an adequate environmental impact statement to determine what to do about drilling and wilderness designation in the ANWR coastal plain.

S. 1220 turned this process on its head. It takes away authority to the courts to determine the adequacy of the impact statement and gives it to the Congress. Yet it is the judicial process where litigants address specific allegations of inadequate action and the courts, using established review standards, determine whether the impact statement is adequate. The Congress has not had the benefit of these focused judicial arguments.

The purpose of NEPA is to ensure that the decisionmaker, in this case the Congress, is made aware of the environmental impacts of a particular action. Public participation allows the public input into the process and requires the authors of the impact statement to respond to concerns raised about the impact statement. The NEPA process has been described by the administration as "an outstanding success in getting Federal decisionmakers to consider and document environmental issues early in the planning stages for Federal projects."

The problems which can arise if Congress makes a determination on NEPA adequacy are demonstrated by a recent decision by U.S. District Court Judge June Green. Judge Green determined that the Interior Department violated NEPA by its recent revision of oil and gas estimates for the refuge. The Interior Department ignored serious potential environmental effects such as the estimated 400 additional tanker trips from the Port of Valdez which could result in a possible *Exxon Valdez*-type oil spill. And it failed to provide public participation in reviewing this report as required by NEPA.

Judge Green ordered the Interior Department to issue a supplemental impact statement and to circulate the statement for public comment. And Judge Green refused to grant the Government's motion to dismiss the lawsuit challenging the adequacy of the impact statement prepared by the Interior Department to lease ANWR for oil and gas development. Judge Green will soon be deciding whether the environmental impact statement is adequate.

Mr. President, the Congress was asked to make a decision on ANWR without the complete information we requested in the original Alaska Lands Act in 1980. We should let the NEPA process proceed and not make the determination on the adequacy of the impact statement provided by S. 1220.

S. 1220 would have had the Congress determine that the ANWR impact statement is adequate notwithstanding Judge Green's finding of failure to comply with NEPA and prior to her ruling on the adequacy of the impact statement. Mr. President, this provision is simply an attempt to short circuit the well established and well justified NEPA process.

Mr. President, S. 1220 included a number of provisions which establish procedures for the Federal Energy Regulatory Commission's implementation of NEPA. These would deal with problems in FERC's implementation of NEPA. But the problems are not due to NEPA. They result from FERC's failure to abide by the Council on Environmental Quality's NEPA regulations.

FERC has argued that because it is an independent agency, it is not bound by CEQ's regulations. To eliminate this argument, S. 1278, which I introduced, would make clear that FERC is bound by CEQ's regulations.

S. 1220 included many provisions from CEQ's regulations. These provisions would be unnecessary if it were clarified that the existing regulations apply to FERC as I have proposed.

But in some cases S. 1220 went beyond the CEQ regulations. It eliminated FERC's existing responsibility to consider the effects of a gas pipeline when those effects are not under FERC's jurisdiction. Under CEQ regulations, effects outside the jurisdiction of the lead agency must still be analyzed in an EIS if they are reasonably foreseeable.

S. 1220 appeared to authorize FERC to act when an expert Federal agency fails to provide comments to FERC on an EIS within FERC prescribed timeframes. Under CEQ regulations, a lead agency could risk publication of an inadequate NEPA document if it proceeded unilaterally.

And it mandated preparation of a single environmental impact statement by FERC which would satisfy NEPA compliance for all Federal agencies. While CEQ regulations call for consolidated review and documentation to the fullest extent possible, the regulations do not allow one agency to mandate preparation of one EIS. And the regulations do not provide that other Federal agencies must rely on the FERC EIS. S. 1220 would have given FERC unprecedented control over the development of the record for a project.

Mr. President, we should avoid establishing different NEPA provisions for different agencies. We should mandate instead that FERC comply with the existing NEPA regulations.

CFC'S

Mr. President, S. 1220 also undercut the CFC Elimination Program we adopted just last year in the Clean Air Act. And it did it as new information showed that depletion of the ozone layer is far more widespread than previously believed.

Mr. President, the destruction of the Earth's protective stratospheric ozone layer is well documented. This layer protects all living things from harmful ultraviolet radiation from the Sun. Destruction of the ozone layer will lead to increases in skin cancer, and cateracts, and damaging crops and marine organisms. Since the late 1980's, we have seen a dramatic hole in the ozone layer over Antarctica.

So in the Clean Air Act amendments which we passed last year, we included a phaseout of ozone-depleting substances. The phaseout is similar to restrictions imposed internationally by the Montreal protocol. But the Congress recognized the seriousness of ozone depletion and went farther than required by the Montreal protocol. We imposed a faster and deeper interim reduction schedule, an earlier phaseout of another ozone depleter, methyl chloroform, and a freeze and eventual elimination of production of HCFC's by the year 2030. And we gave the EPA Administrator authority to speedup the process if new information showed that a more stringent schedule was necessary to protect public health.

Unfortunately, just a few weeks ago, new findings that depletion of the ozone layer is far more widespread than previously expected were announced by the U.N. Environmental Programme and World Meteorological Society. These findings showed ozone depletion in spring and summer months, not just the winter as previously believed, and widespread depletion over the globe, not just Antarctica. Even industry has responsibly responded to this new information by calling for an acceleration of phaseout efforts for CFC's.

But S. 1220 would have undercut the Clean Air Act by requiring that CFC reductions comply with the Montreal Protocol unless Congress enacts legislation to speed up the phaseout. This would have eliminated the authority we provided to the EPA Administrator to accelerate the CFC elimination program.

Mr. President, we shouldn't address CFC phaseouts in an energy bill. We shouldn't undercut the Clean Air Act which we passed just last year. And we certainly shouldn't limit the EPA Administrator's authority to accelerate the phaseout of ozone depleting substances as new evidence shows that an accelerated phaseout is necessary to protect public health and the environment.

CONCLUSION

Mr. President, S. 1220 failed to establish the energy policy that we need—a policy that relies on energy conservation, renewable energy, alternative fuels, and enhanced oil recovery. Instead, it would have continued outdated energy practices which cause adverse environmental impacts.

Mr. President, New Jersey recently adopted a new energy policy which calls for a 25-percent reduction in energy use by the year 2000. But New Jersey would not achieve its goal if S. 1220 were enacted.

Mr. President, S. 1220 would establish an energy policy which the American people don't want. A poll taken by the Alliance to Save Energy and the Union of Concerned Scientists last December, shows that people want our energy efforts to focus on energy conservation, renewable energy, and alternative fuels. Specifically, the poll shows:

That 75 percent of Americans believe reducing demand makes more sense than increasing supply for reducing U.S. dependence on foreign oil supplies;

That 70 percent want the United States to join with other industrial countries and limit carbon dioxide emissions from fossil fuels rather than wait for more evidence regarding the accuracy of global warming predictions;

That 84 percent support increasing fuel economy standards to 40 miles per gallon by the year 2000;

That 75 percent would give renewable energy the largest or second largest share of Federal energy research dollars with energy conservation research running a close second; and

That the public strongly opposes building more nuclear power plants and using coal or oil from public lands if this might cause some environmental damage.

I will be working with my colleagues to develop energy legislation which provides the emphasis on energy efficiency, alternative fuels, renewable energy, and enhanced oil recovery which we need. This is legislation which the Congress must consider in the next session.•

OUR VETERANS, OUR HEROES

• Mr. D'AMATO. Mr. President, I rise today to honor our Nation's veterans. As we approach the 50th anniversary of the bombing of Pearl Harbor, we honor those who lost their lives in this dastardly attack. We also honor the survivors of Pearl Harbor, we honor their widows, and we honor their children.

So many children in the America of World War II, lost their fathers. They were taken away from them forever. Sons and brothers were also taken away. Generations of children grew up never having played ball with their father or going to the movies with their brother.

The attack on Pearl Harbor drastically changed America. This attack changed the world. No longer could America live in isolation. No longer could we remain untouched by world events. The men and women we honor share something in common with every veteran who has served in America's wars. From Lexington and Concord to the Persian Gulf, those bearing the brunt of war fought to ensure a better life for their children.

Our veterans, all of them, need our support and our help. They deserve proper medical care and their just benefits. They deserve the honor due to them for their service to their Nation and their people. Our veterans fought for freedom of religion, freedom from tyranny, freedom from fear, and freedom from want. They fought against dictators and demagogs. They fought against murder and oppression.

In an age in which we look for heroes, here they are. These men and women went on to fight the most vicious war known to man. They defeated the worst enemies America has known. They defeated tyranny. We honor them for their courage, their devotion to freedom and their service to mankind. Hail to the heroes of Pearl Harbor. Your deeds will not be forgotten.•

POLLUTION PROBLEMS ON INDIAN RESERVATIONS

• Mr. SIMON. Mr. President, I want to congratulate Bill Lambrecht and the St. Louis Post-Dispatch for an excellent series of news stories on the serious pollution problems on Indian reservations.

The first article, "Poisoned Mandate," illustrates the Federal Government's failure to live up to its trust responsibility to protect Indian lands. Today, Indian reservations across the country are becoming the new dumping grounds for American cities and the Federal Government. This is happening because of the unique status Indian reservations have as domestic sovereign entities not subject to many Federal and State laws.

Unemployment rates on Indian reservations range between 60 and 87 percent, and tribal governments are being solicited by private waste management companies to place landfills on this land as one way to reduce unemployment on reservations. Mr. President, we cannot allow Indian lands to become our cities' new dumping grounds because of our failure to help tribal governments provide jobs for their tribal members.

The second article "Poisoned Water," illustrates how companies along the St. Lawrence river are destroying the lives of residents of the St. Regis Mohawk Reservation.

Because of the polluted water of the St. Lawrence River, hundreds of jobs in fishing and farming on the reservation have been lost. Without fishing and farming, the Mohawks have turned to supporting gambling activities to provide the funds so desperately needed by the tribal government.

Congress and the U.S. Environmental Protection Agency have failed to protect native American lands from private polluters. The Federal Government for the past 20 years has not provided funds of any kind or technical help to tribal governments in controlling the pollution on Indian lands. I quote here from Bill Lambrecht's article about the Mohawk reservation: "'Those people have ruined it all,' said Tom Barnes, whose fishing-guide business has dwindled to nothing, referring to neighboring industrial plants that have polluted the St. Lawrence. 'And nobody seems to care,'"

Mr. President, the St. Louis Post-Dispatch has done a great service by informing its readers of this scandal. It is time the Federal Government fulfills its treaty obligation to protect the lands of the first Americans.

I ask that these articles be placed in the Record.

The articles follow:

[From the St. Louis Post Dispatch, Nov. 18, 1991]

Poisoned Water—Pollution of St. Lawrence River Is Destroying Old Ways of Life on Reservation for Mohawks

(By Bill Lambrecht)

Massena, N.Y.—As the Mohawk "King of the Muskies," Tony Barnes lured anglers from as far away as Europe to the fishing hotspots on the St. Lawrence River.

All that changed in the mid-1980s amid disturbing reports of widespread pollution that gave once crystal-pure inlets names like Contaminant Cove and Dead Clam Cove. The King's once brisk business dropped to a trickle when it became clear no one wanted to take home coolers of infected perch and walleye.

Instead of catching whopper muskies with alligator jaws, Barnes today lands nightmarish specimens of the laboratory—fish with open sores and beavers with fur slickened from chemicals.

At age 69, Barnes still lives in a cabin on the water's edge, but he rarely sports fishes. He took out only three fishermen last year. In the summer of 1984 before the water turned bad, he guided about 21 a week.

Since his recent retirement as a deputy sheriff, Barnes has another job.

The King of the Muskies has become an unofficial pollution hunter for the St. Regis Mohawk reservation.

"Those people have ruined it all," Barnes said, referring to neighboring industrial plants that have polluted the St. Lawrence. "And nobody seems to care."

Amid the seeping chemicals, unsanitary landfills, and radioactivity that have blighted American Indian reservations, the Mohawk's troubles with pollution stand as a monument to the destruction of a land and its people.

Indians who settled these parts in the 1750s in the company of Jesuit missionaries were content to live off the rich and swift St. Lawrence. The peace-loving tribe refused to take part in either the Revolutionary War or the War of 1812.

With the polluted St. Lawrence no longer able to sustain the Mohawks, some have turned to smuggling and casino gambling. There have been well-publicized and deadly shootouts.

About 9,000 Indians live on the reservation called Akwesasne—Mohawk for 'land of the partridges." It borders the St. Lawrence River in northern New York and in southern Ontario.

Forests of maple, mixed hardwood and a few gaunt pines cover the hills that slope toward the St. Lawrence on both sides of the border. The woods are full of deer, fox, skunks and raccoon.

The St. Lawrence Seaway, built in 1953, brought the hydroelectric power that brought the factories that brought the pollution, Indians say.

General Motors once manufactured Corvair engines in a plant adjacent to the reservation, then converted to a dye-casting operation that produces metal parts. For 14 years the plant used fire-retardant PCBs (polychlorinated biphenyls), chemicals that have seeped into the river.

The debate has recently renewed over just how toxic PCBs are. They remain banned by the federal government as probable carcinogens.

A few miles upriver, two aluminum smelters—Reynolds Metals Co. and Aluminum Co. of America—have helped foul the reservation's air and water with fluoride, PCBs and other chemicals.

In 19th-century treaties, the U.S. government promised to protect Indians. Court decisions and federal laws over 150 years have established a trust responsibility by which the government is required to protect not only the Indians but their land and its environment.

Until recently, however, federal agencies rarely clamped down on the polluters near the Mohawk Reservation. The Indians believe that the cleanup solutions proposed by the U.S. Environmental Protection Agency are unsatisfactory.

In fact, they say the evidence from the St. Lawrence shows that the pollution is getting worse.

Samples of St. Lawrence River sediment taken by the Post-dispatch and tested at a laboratory in Baltimore showed 12 parts per million PCBs. That is 12 times what a proposed settlement agreement involving the government, Indians and industry would allow in sediment after it's been cleaned—and 120 times the standard set by the Mohawks.

In June, a fish taken from the St. Lawrence showed PCBs in levels of 113 ppm when tested by a state of New York lab. The federal government has a maximum limit of 2 parts in fish.

Turtles' flesh has contained PCBs 1,000 times the permissible levels. This is particularly troubling to Mohawks; in Indian teachings, North America is known as Turtle Island, and the turtle is often depicted in old drawings supporting the Earth on its shell.

Tests show that ducklings along the St. Lawrence are loaded with chemicals. Frogs are too contaminated to manage more than a feeble jump or two, Mohawks say.

"Sometimes, the frogs are so lethargic that they don't even move at all. You can just pick them up," said Patti Franks, an environmental specialist for the Mohawk tribe.

Indians themselves also feel the effects. The Akwesasne (pronounced Ahk-wuh-SAHSS-nee) Freedom School for traditional Mohawk teachings moved a few years ago because of worry about pollution. It had been situated next to the General Motors site.

Indian children conclude every school day with a thanksgiving prayer, spoken in Mohawk, in praise of the trees, Earth and water. Now, the school is moving a second time because tests show that nearby soil is polluted with chemicals.

Preliminary findings of a recent state study indicate that Indian mothers who eat St. Lawrence fish have 50 percent higher levels of PCBs in their breast milk than do other women on the reservation.

Pete Franks, Patti's husband and a Mohawk policeman, recalled that Mohawks drank water from the St. Lawrence as recently as the 1970s.

"Now we can't even swim in it. We're not even supposed to touch it," Franks exclaimed.

He made the comment as he piloted his skiff on the inlet known locally as Dead Clam Cove.

It wasn't unusual in pre-pollution days for more than 100 Indians to fish commercially on the St. Lawrence. Now only a handful of Mohawks bother to travel the necessary 10 or so miles downriver away from the pollution to set out their nets.

Farms also have disappeared. Fewer than 25 Indian families till the rich soil deposited by glaciers long ago; 20 years ago, there were at least four times as many. But many of the Indians say they quit farming when their cattle became ill mysteriously.

The likely culprit was fluoride. Tests showed traces of the chemical in the air emissions of the aluminum smelters. Mohawk cattle, according to a 1989 study by the New York State College of Veterinary Medicine, suffered from severe fluoride poisoning that stunted their growth and caused dental disease.

"After a while, the animals won't drink water because the nerve endings are sticking out inside their mouths. They get skinny and die on you after a few years," said Noah Point, who continues to farm on Cornwall Island, on the Canadian side of the reservation.

Mohawk fishermen and farmers once traded among themselves. Indians scouted the riverbanks for sweetgrass for basket-weaving and herbs for medicine. No more.

"They've totally destroyed the reservation lifestyle as it was," said Mohawk Head Chief L. David Jacobs.

The character of Indian tribes has changed for many reasons, among them the departure of better-educated young people from the reservation. Indians, in general, have increasingly become assimilated. Many go to malls to shop. About 650,000 Indians live on the nation's 280 reservations. Another 1 million live elsewhere.

At Akwesasne, some of the changes—many for the worst—came with the pollution. And as their means of livelihood vanished, Mohawks attempted to survive in desperate ways. They agreed to allow waste to be dumped on their land for relatively small amounts of money.

The Mohawks stopped letting brokers of waste in the door after some of the material proved to be more hazardous than advertised. But Chief Jacobs still gets dumping proposals over the phone.

Cigarette smuggling provides reliable, low-risk income for some Mohawks. With prices at $6 a pack in high-tax Canada, an Indian can make hundreds of dollars a week selling lower priced American cigarettes to Canadians.

Gambling, which could almost be called a survival economy in Mohawk country, brought violence to the reservation last year. The Mohawks and others believe that as self-governing entities they are free to allow gambling. It started with high-stakes bingo. Then came the casinos.

Last year Canadians by the busload started arriving from Montreal, 90 minutes away. They came to play blackjack and hit the slot machines at casinos that had sprouted like fast food restaurants on the Mohawk's main strip in New York state.

The fundamental issue of who was entitled to the gambling proceeds sparked trouble—as did the broader question of whether gambling should be allowed on Indian land at all. In May 1990, two Indians from opposing factions were shot to death. The casinos were closed by the state of New York, and the courts will determine when they will reopen—if at all.

A diver sent into the St. Lawrence along the Mohawk reservation to retrieve Loran Thompson's 50 horsepower outboard spotted something disturbing—but not surprising.

Waste drums.

The response this summer by the EPA also seemed typical to many Indians. After a quick check, EPA officials couldn't find the drums and haven't been back for another look.

For Thompson, a member of the armed, semi-secret Warriors Society, the episode was more proof of the industrial pollution that has damaged the river and changed the lives of Mohawks.

"Their progress has been our condemnation," Thompson said, standing beside the inlet unaffectionately known as Contaminant Cove.

The ocean-going tankers and freighters plying the St. Lawrence glide by within view of Thompson's land. The belching stacks of the sprawling Reynolds complex are also visible. His eight children have played on land laced with PCBs.

Thompson eventually recovered his motor, which had slipped from its mounting and fallen into the water. But he is angered by the destruction that he sees around him. Fellow warriors talk aggressively of keeping dumpers and polluters off Indian land.

The Warriors fought with automatic weapons to keep the casinos open last year. Before some were indicted or imprisoned, they held off state police in a gunfight and waged a battle to stop construction by non-Indians of a golf course in southern Ontario near Indian land.

One subject, however, unites the Warriors Society with the anti-gambling forces and local police—pollution.

Thompson, who has been called a Warrior general, has 40 acres alongside the contaminated General Motors landfill. Since the 1800s, his family farmed the land, cattle grazed on it. After the pollution was found, Thompson quit farming and fishing and sold his cattle.

"All we have left is this dirty place that we can't use for anything," he said, as he stood in a bed of black-eyed Susans.

Thompson, 44, vows not to leave his land or his tribe even though he worries about the health of his eight children.

His wife, who remained at home while he traveled the country as a steelworker, died of cancer.

Wherever he went, Thompson said, the reality of what was happening back home stayed with him.

"The pollution is everywhere on the reservation," he said. "No matter how far I ran, I couldn't get away from it."

[From the St. Louis Post-Dispatch, Nov. 18, 1991]

INDIANS SAY EPA NOT DOING ENOUGH

(By Bill Lambrecht)

WASHINGTON.—In 1986, Congress ordered the U.S. Environmental Protection Agency to draw up a list of toxic problems on Indian reservations across the country.

The EPA never did.

A year later, when the EPA finished writing new rules for garbage and solid-waste control, copies were sent to states so that they could be ready when the rules took effect.

But the nation's 310 Indian tribes didn't get copies.

"The EPA always seems to forget us. And when they remember us, all we seem to get from them is the bureaucratic runaround," said Everett Vigil, health coordinator for the Jicarilla Apaches, a tribe in New Mexico that has pollution troubles from oil wells on the reservation.

Indians have been left out in the cold since the nation's pollution-fighting mechanisms were born. Congress mistakenly omitted Indians from most environmental laws passed in the early 1970s.

Most of those errors were corrected in the mid-1980s. But it was too late for Indians, because for many years they had been unable to qualify for grants like states had received to set up pollution-control offices.

So Indians find themselves nearly 20 years behind the rest of the country in fighting pollution. Now, they are forced to deal with a tight-fisted federal bureaucracy that is just beginning to understand the problems on reservations. Throughout Indian country, tribal leaders point to serious problems in dealing with the EPA. For instance:

In Montana, Indians on the Fort Belknap reservation watch in horror as peaks of the Little Rockies disappear before their eyes, pulverized by miners blasting for gold next to their reservation.

If that weren't bad enough, the mining company extracts the paydirt with a cyanide mixture that Indians say contaminates their water.

"The EPA should be up here monitoring all this, looking at the destruction to our mountains, our water and our wildlife. We ask them, but they don't do anything to help us," said tribal chairman Donovan Archambault.

In eastern Oklahoma, Cherokees have asked the government for help in stopping the poultry industry from allowing insecticides and chemicals wash into streams. But Indians say that neither the EPA nor state officials have responded.

A stream inspected by the Post-Dispatch in Cherokee territory near Jay, Okla., carried feathers and frothy evidence of chemical contamination washed out from chicken houses.

In Idaho, Nez Perce Indians say that they have unsuccessfully tried since the early 1980s to get EPA help in studying possible health threats from living downwind from a federal nuclear waste dump at Hanford, Wash.

"We went to determine the causes of illness and cancer that have been on the increase among our people. But the EPA doesn't seem to listen," said Allen Slickapoo Sr., a member of the tribal executive committee.

EPA officials in Washington contend that Indians expect too much.

"Some of the tribes want us to come in and restore their ecology, but they don't understand that the laws don't allow us to do that," said Martin Topper, the coordinator for EPA Indian programs.

Yet some of EPA's own experts believe that the EPA has authority to do much more to help Indian tribes.

Last year, the EPA's failure in Indian country precipitated an uprising within the agency.

At an extraordinary meeting in Denver attended by some of the EPA's top officials, Indian experts in the agency laid it on the line: Unless the EPA changed course swiftly, they were going to fan out and tell Indian tribes the truth—that EPA programs were a shambles and their spending a joke.

"The EPA was doing practically nothing while waste sites and problems on reservations grew worse by the day," said a highranking EPA official who took part in the meeting.

F. Henry Habicht II, the EPA's No. 2 official and a participant in the meeting, later authorized about $1.6 million to be spent in grants that enable Indians to tackle dumping, water contamination or other problems as they see fit.

The EPA has requested $3 million from Congress for more such no-strings programs next year. But that isn't even one-tenth of the $35 million that Indian experts inside the agency say is needed for Indians to begin catching up.

[From the St. Louis Post-Dispatch]

PLAN TO CLEAN GM SITE ASSAILED—EPA PROPOSAL INADEQUATE, MOHAWKS FEAR

(By Bill Lambrecht)

MASSENA, NY.—Angry Mohawks pack tribal meetings to protest a plan to clean up pollution at the General Motors complex adjacent to their reservation.

Many Indians believe the U.S. Environmental Protection Agency's proposal to cover a contaminated landfill and make other improvements at the carmaker's huge plant is woefully inadequate.

"There is a real fear that once the EPA is done here, that's it, and we'll be stuck with this contamination forever," said James Ransom, a tribal environmental specialist.

Ransom could be right.

"We're construing this as a permanent remedy," said Richard Cahill, an EPA spokesman in New York,

Cahill did, however, leave open the possibility for a further cleanup if and when new methods of dealing with PCBs are developed.

Specifically, the EPA plan would require GM to contain and cover 424,000 cubic yards of contaminated material at a GM landfill rather than have it hauled away. A wall would be built around the site and wells dug to watch for seepage in the St. Lawrence River.

Elsewhere on GM property, badly polluted soil containing more than 500 parts per million PCBs would be removed. But much of the PCB contamination, including sediment from river dredging, probably would be neutralized with chemicals. It then would be buried on General Motors property.

"Everybody is working and cooperating," said Ben Ippolito, a spokesman for General Motors. "We want to get started on the cleanup and get it behind us."

The Mohawks remain skeptical, as do some New York state officials.

"EPA is backing off; how much we don't know," said Ward Stone, a wildlife pathologist for the state of New York. "But it appears that they're not taking into consideration the birds and the wildlife here, and they're not taking into account the unique needs of the tribe."

POISONED MANDATE—GOVERNMENT FAILS IN ITS LEGALLY ESTABLISHED ROLE AS PROTECTOR OF INDIANS

(By Bill Lambrecht)

WASHINGTON.—For the American Indian, pollution may be the last stop on the trail of tears.

Reservations have been poisoned by trash, chemicals, hospital waste—even radioactivity. Indians who mystically revere Mother Earth now fear that their contaminated rivers, air and woodlands could bring an end to what remains of their fragile culture.

"We were moved from our homelands to these isolated areas that we now find filled with pollution," said Wilma Mankiller, chief of the Cherokee Nation of Oklahoma. "And nobody in Washington is paying much attention."

After years of warfare and broken treaties, Indians were given some of the poorest, most unforgiving land in this country and told to stay there—often at gunpoint. In exchange, the "White Fathers" repeatedly promised to protect them and safeguard their reservations.

Those promises, like so many others, have been broken. They have been broken through negligence, confusion and, even worse, through indifference.

An investigation by the Post-Dispatch has uncovered repeated failures by the federal government to live up to its legal responsibility to protect the environment on Indian reservations.

In interviews with more than 150 leaders from 70 tribes, many spoke angrily of their experiences.

The trashing of the reservations has occurred from Alaska to Florida. Hunting grounds that were seldom happy after the Indian Wars of the last century have become dumping grounds.

Industrial waste that was dumped into the water in Mohawk territory has turned the St. Lawrence River from a bountiful source of fish into a gumbo of pollution. All across the arid breadth of the Navajo nation land in New Mexico and Arizona, desert wind has transformed uranium tailings into radioactive sand dunes.

In Oklahoma, Cherokee-owned land has been contaminated from a plant that processes uranium to make fuel. Far to the north, in Alaska, natives had hoped to preserve their lifestyle by recovering vast tracts of land from the federal government. Instead, they've inherited health threats and legal hazards left over from oil, mining and military operations.

Impoverished tribes have become easy targets for million-dollar offers from unscrupulous waste companies looking for dump sites. The era of the forked tongue is still alive and well on the reservation.

Waste company executives, Mankiller said, "wear Rolex watches and call themselves the solution to the pollution problem. You can spot them a mile away."

A plan is even afoot to consider storing the highly radioactive spent fuel rods from the nation's nuclear power plants—about 20,000 tons of it—on Apache land in New Mexico.

Indian lands have such poor sanitation that they resemble Third World nations. More than 160 substandard garbage dumps fester on the country's 280 reservations and as well as on other Indian lands. But federal agencies have done little to help clean them up.

UNKEPT PROMISES

There are roughly 90 million acres of Indian land, including 35 million acres owned outright by Alaskan natives. The government holds title to most reservation land outside of Alaska, a claim hotly disputed by many Indians. Few of the nation's 310 tribes own their own land.

Beginning in the late 1700s, the United States government promised in treaties to watch over Indians. By the 1830s the Supreme Court had established that the United States has a trust responsibility with the tribes. By 1871, more than 600 treaties reflecting that fact had been signed. That duty has been expanded by federal laws and recent court rulings that refer to the government as trustee over Indian reservations.

But evidence strongly suggests that the government has broken that trust.

The Post-Dispatch investigation reveals:

The Bureau of Indian Affairs, part of the Interior Department, has little interest in—or money for—the fighting of pollution. It has a five-member environmental staff to cover 53 million acres in the lower 48 states.

Last spring, George Farris, the bureau's environmental director, photographed trucks dumping waste on land owned by the Agua Caliente Tribe in California. By this fall, Farris had yet to turn over the evidence to law enforcement agencies or to take steps to crack down on dumpers.

Environmental Protection Agency programs are ill-suited to tribes. Financing is minimal. Things were so bad last year that some of the EPA's own experts threatened to blow the whistle on the government's failures. A secret meeting in Denver led to only minor changes.

The Department of Energy suspended cleanup of uranium mines in Arizona and Utah and now threatens indefinite delay. Outraged Navajos recall how the federal government chose not to warn Indian miners years ago of potentially life-threatening danger.

The Bureau of Land Management, part of the Interior Department, has refused to help track down polluters in Alaska who fouled federal land being returned to Eskimos, Aleuts and other indigenous people.

Congress excluded Indians from the nation's main hazardous waste law—the Resource Conservation and Recovery Act of 1976, an omission that stands to this day. Initially, neither the Clean Air, Clean Water, Safe Drinking Water laws nor any of the antipollution laws from the early 1970s covered Indians.

The Nuclear Regulatory Commission never warns Indians when nuclear materials are transported across their land. The NRC always notifies states. But the tribes aren't told when waste-laden trucks and trains roll across their land.

Given the government's track record, many Indians worry they won't be protected from new threats. U.S. and Japanese interests are seeking permits to mine uranium—the fuel for nuclear plants—adjacent to Indian land near the Grand Canyon.

In August, the U.S. Circuit Court of Appeals in San Francisco rejected the Havasupai tribe's claim that development of a uranium mine near the Grand Canyon violated Indians' access to religious sites.

Some in the tribe feel that they have nowhere to turn. And history has shown repeatedly the long trail of tears when Indians turn to the government.

A CULTURE STRUGGLES TO SURVIVE

Rampant alcoholism and low self-esteem are sad, familiar stories in Indian country, as are poverty and unemployment, which averages 58 percent among America's Indian tribes. About 650,000 Indians live on reservations; 1 million live elsewhere.

Less palpable but no less tragic is the effect on Indians when the bedrock of their existence—their land—becomes polluted. Indians have deep cultural and religious ties to the soil, wind and water. Many of them celebrate the divine presence of the Earth within themselves.

"The destruction of our land by others is comparable to us taking a jackhammer to the cathedral at the Vatican," said Manuel Pino, a New Mexico Pueblo Indian who teaches at Arizona State University.

New contamination has awakened memories of the disease and poisoning that their ancestors suffered.

Entire villages were wiped out by epidemics of smallpox and cholera brought up the Missouri River by traders. White settlers in Sioux territory in the Dakotas used to leave behind food saturated with wolf poison to kill Indians.

American Indians withstood massacres, deceit and forced relocations during the late 1800s. Until the 1930s, the officially announced aim of the government's assimilation policies was to destroy Indian tribes. After that came the "termination" policy—a formal government effort to end protection of Indian tribes. This policy persisted to the 1960s.

Now, although the government's stated policy is to allow Indians to determine their own future, pollution is heavily encroaching on the Indian world, leaving Indians estranged from their land and separated from their culture. The conflict has occasionally erupted in violence. Smuggling, gambling and gunbattles have been the legacy on Mohawk land in New York.

As the Indians see it, their struggle with a dirty environment is nothing short of a struggle for survival.

Said Chris Peters, a Hoopa Indian from California: "The destruction of our culture is a sentence to everlasting death."

GOVERNMENT LAWYERS FIGHT "TRUST RESPONSIBILITY"

(By Bill Lambrecht)

WASHINGTON—Through bloody experiences that forever linked the words "broken" and "treaty," American Indians learned how easy it was to have the law on their side and still come out losers.

Many argue that the same thing is happening today as Indians have the best of the law but the worst of the deal as they struggle to clean up pollution on their land.

Since the Trail of Tears death march of the Choctaw Indians in 1830, federal laws and court rulings have firmly established the responsibility of the federal government to protect the land of American Indians.

And yet, government lawyers fight against carrying out that responsibility and against admitting liability when it comes to Indian land.

Legal experts doubt whether Indians could win broad, class-action suits on environmental grounds because the courts have grown stricter in cases involving the liability of the federal government.

All of this, of course, would have a familiar ring to the Choctaw Indians, who originated in what is now Mississippi. As a result of the Treaty of Dancing Rabbit Creek in 1830, 20,000 of them lost their land and 12,000 lost their lives on the long march to Oklahoma to claim new land.

"There probably isn't a treaty with Indians that has not been broken," said Carl Shaw, a Cherokee who is the main spokesman for the U.S. Bureau of Indian Affairs.

The legal underpinnings of the Indians' claim to a clean environment started in 1831, the year after the Choctaws' tragedy. The government tried to take still more land—this time from Indians in Georgia. The case made it to the Supreme Court, which decreed that the United States has a "trust responsibility" with Indians.

In this landmark ruling, Chief Justice John Marshall wrote that the relationship "resembles that of a ward to his guardian."

Since then, treaties, federal laws and more court rulings have established the government's responsibility to provide for the health and well-being of Indians. The General Allotment Act of 1877, among others, designated the government as trustee for reservations and required it to maintain land values.

Many Indians contend that the federal government has broken the trust, first by allowing reservations to become polluted, an now by delaying their cleanup.

Government officials don't disagree.

"I think they're 100 percent right that the trust has been broken when it comes to dumping and some of these things," said Shaw.

The Indians have won a few legal skirmishes over the environmental issue.

In the Blue Legs case (it was named after a Sioux Indian woman), a U.S. District Court in South Dakota ordered the federal government three years ago to pay most of the initial cleanup costs for garbage dumps on the Pine Ridge Reservation.

In 1983, the Supreme Court found the federal government liable for failing to properly manage timber interest of the Washington state's Quinault Tribe.

By nearly every reading. The government is responsible for Indian land.

"The U.S. is obliged to make sure that land is there for future generations. From a moral point of view, the government ought to be liable if they've allowed Indian lands to be used and not cleaned up," said Reid Chambers, the principal Indian affairs lawyer during Republican administrations in the 1970s.

President George Bush himself spoke to the issue this summer, promising that the government will do nothing "that will adversely affect or destroy those physical assets that the federal government holds in trust for tribes."

Just rhetoric, say Indians who note how federal lawyers repeatedly have fought liability in pollution cases.

When the Environmental Protection Agency issued its first Indian policy in 1984, government lawyers sought to delete references to the trust. The lawyers lost, and a strongly worded document signed by William D. Ruckelshaus, who was then the EPA administrator, broadly committed the agency to a trust responsibility on Indian land.

New proposals to store hazardous and nuclear wastes on tribal land have poured gasoline on the debate over who will be responsible if something goes wrong.

For Indians like Suzan Shown Harjo, executive director of the Morning Star Foundation, which protects Indian art and culture, the past can't be forgotten.

"Our ancestors gave up all that land in return for protection and for the right to continue being Indians. That was the deal," Harjo said. "But what the 'trust relationship' seems to mean is that we don't trust them and they don't trust us."

Illegal Dumpers Scar Indian Land

(By Bill Lambrecht)

SYRACUSE, N.Y.—Grisly knots of bandages, syringes and other hospital refuse stretch 50 yards through a thicket on the Onondaga Reservation near Interstate 81, a getaway route for that modern scourge of the reservations—the midnight dumper.

A few miles away, a stubborn fire ignited by another dose of illegal dumping burned 25 feet underground this summer, scorching a two-acre-patch on the reservation.

Nearby, midnight dumpers struck again, dropping 400 bags of asbestos into a ravine. And down yet another road, an Indian accepted $50 last spring to let dumpers deposit tons of "black beauty," a granular lead-filled material left over from sandblasting bridges. It would have cost $25,000 to bury the material properly in a landfill.

"Indian land is the easiest place in the world to dump your wastes," said Ward Stone, a wildlife pathologist for the state of New York as he toured tribal dump sites.

The remoteness of Indian reservations and an indifference among federal authorities have created a final frontier for waste-toting criminals.

POISON IN ARIZONA

Traditional teachings call for Indians to plan seven generations ahead. As they look around their reservations, they are disturbed by what just one or two generations have brought.

The Gila River Reservation near Phoenix, Ariz., is another favorite spot for hit-and-run dumpers. The tribe has averaged 17 serious cases of dumping annually. Federal authorities are investigating the recent dumping of 30 truckloads of crushed automobile parts. The waste contains lead and other contamination from heavy metals.

In 1988, an incident that began with the discovery of a dead coyote and dead birds near some chemical drums ended with four Indians in the hospital. One by one the tribal officials keeled over after investigating the drums, which contained pesticides. Also, Lee Ballard, the tribe's hazardous waste expert, collapsed after inhaling the fumes even though he was wearing a respirator.

A year earlier, Sally Jones, an Indian, landed in the hospital with lung damage and rashes after trying to wash out an old barrel. An Indian firefighter was overcome by intensely toxic fumes and went to the hospital.

"People rent U-Hauls, load them up and come out and dump on us," said Ballard, a non-Indian who was hired by the tribe as a hazardous waste specialist with a one-of-a-kind EPA grant.

Ballard led an investigation that produced what is believe to be the only federal conviction for dumping on reservations. The violators had forgotten to scratch off the serial numbers from one of the 28 drums of toxic chemicals that they had dumped. That led to a conviction of a company in Phoenix.

The EPA earmarked $30,000 this year to train a handful of Indian people in handling hazardous material. But Ballard says little has been achieved.

TOXIC WASTE PITS

Dumpers have turned garbage dumps into more than eyesores; many are now toxic waste pits. Landfills in the Devil's Lake Sioux Reservation in North Dakota and the Oneida Reservation in Wisconsin are laced with arsenic, mercury and other illegally dumped chemicals.

Neither could qualify for the Superfund cleanup priority list, which applies mainly to cities rather than Indian land or other rural areas.

On Cherokee land in Oklahoma, 27 "wildcat dumps" cropped up in the mid-1980s. Despite the Cherokee's requests to the federal government for help, little has been done. Wilma Mankiller, chief of the Cherokee Nation of Oklahoma, complained that her tribe has pushed for an arrest, hoping that publicity might deter dumping. Nothing happened.

The Bureau of Indian Affairs sent along $870,000 this summer to help the Cherokees. But that money will clean up only three of the 27 waste sites.

"I think that the bureau quit functioning about five years ago," said Frank H. Farrell, the Cherokee's natural resources director and a former official of the Bureau of Indian Affairs.

RUNAWAY GARBAGE

The picture is just as gloomy on the sprawling Pine Ridge Sioux Indian reservation in South Dakota. Mattie Blue Legs became so angered and sickened by a garbage dump near her home that she sued the federal government. The dump wasn't far from the wind-scoured mass grave at Wounded Knee, where the 7th Cavalry shot down more than 350 Sioux 101 years ago.

An outraged federal judge ordered the Bureau of Indian Affairs and the Indian Health Service to pay three-fourths of the initial $370,000 cost of cleaning up 14 dumps and of opening new landfills.

The Indians had won what they thought was a rare victory.

Three years later, the Sioux in this rugged landscape of buttes, prairie and vast horizon are still afflicted by rotting garbage and the smell of burning tires. Landfills gouge the hillsides.

Under federal supervision, the tribe covered the old dumps with dirt rather than clean them out. When it rains, garbage pokes up through the earth.

At nearby Porcupine, one of the new landfills is a 20 foot-wide trench that is about the length of a football field. The landfill contains rotting garbage and smoldering tires. Acrid smoke wafts through an Indian graveyard and into the adjacent homes of some of the poorest people on the reservation.

"Some of these new dumps are as bad or worse than before," said Jo Ann Tall, a Sioux from Porcupine.

SUBSTANDARD DUMPS

Documents show that the Indian Health Service has identified 650 sites on Indian land where trash is deposited, most of them open dumps. More than 100 were built in the last 30 years with the help of the Indian Health Service.

But only a handful would meet federal standards that apply on non-Indian land.

Indians, admittedly, share the blame. Despite a reverence for the environment, many tribes are careless with garbage. Only a few have tried to control refuse.

But problems run far deeper than Indian shortcomings. Inspections and interviews show a pattern of federal neglect, unsuitable laws and an absence of coordination by federal agencies in charge of Indian land.

It would cost at least $66 million to build minimally safe dumps for Indians, according to estimates from the Indian Health Service. Based on upcoming EPA rules for landfills, the cost could rise to more than $100 million.

The Bureau of Indian Affairs, which has the primary trust responsibility for Indian land, will spend about $2 million on the problem this year. The Indian Health Service is contributing another $4.5 million; the U.S. Environmental Protection Agency is contributing less than $500,000.

Money is just part of the problem. Nobody is sure which federal agency has jurisdiction.

Said Bill F. Peterson, chief engineer for the U.S. Public Health Service. "All of us would admit that everything we're doing has been inadequate."

Reservations Live With Third World Sanitation Systems

(By Bill Lambrecht)

PINE DALE, N.M.—When Tom Lewis was a young bronco-busting Navajo, the thunder and rain came often, and the Puerco River flowed bountifully through the New Mexico desert.

Lewis, 87, is now a tribal medicine man. Despite his prayers, the rain seldom beats down any more, punishment in his mind for Navajos who dug the yellow rocks—uranium.

On those rare moments when the drought lifts and there's a trickle in the Puerco, the water is too contaminated with radioactivity from uranium mining for even sheep to drink. So, Lewis' grandsons strap barrels onto their pickup and drive 60 miles roundtrip for water.

"I sit on my porch, and I wonder why things have got worse for my people and not better," Lewis said, speaking in Navajo through a translator.

The medicine man's desperation is typical of Indians who have problems with running water, sewage disposal and garbage. Besides pollution, most Indian reservations are afflicted with chronic sanitation difficulties that resemble those in Third World countries.

The federal government promised in its treaties with Indians to look out for their health and welfare. That duty was later interpreted by the courts as a legally binding trust responsibility.

The Indian Health Service—the federal advocate for Indians' health—is operating under orders from Congress to improve Indians' sanitation.

"It is the policy of the United States," the law reads, "that all Indian communities and Indian homes, new and exiting, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible."

And yet serious sanitation problems remain for Indians and Alaskan natives.

A Post-Dispatch investigation found that:

On Navajo land alone, more than 11,000 Indian homes lack running water and sewage disposal. Across Indian country, more than 27,000 homes have no piped water or sewage disposal, according to Indian Health Service records.

More than 15 percent of Indian homes lack basic sanitation—nearly eight times worse than the rest of the country. Improvement is needed to two-thirds of the Indian homes that have plumbing.

Few Indian reservations have modern garbage disposal.

The Indian Health Service estimated two years ago what it would take to cure Indians' desperate sanitation problems—$1.6 billion.

According to the report, $882 million is needed to provide water for Indian homes; $577 million for sewers; and $135 million for garbage collection.

Since then, the Indian Health Service pared the total figure to about $600 million, mainly by dropping difficult engineering projects in Alaska.

Meanwhile, the federal Office of Management and the Budget has steadfastly recommended that nothing be spent to correct reservation sanitation problems.

Few would dispute the close connection between sanitation and health. In 1989, more than half of the 56 infant deaths reported on Navajo land occurred in homes without running water, according to a new report commissioned by the Indian Health Service.

In Alaska, infant mortality rates among natives have averaged at least 50 percent higher than for Americans in general in recent years, state health records show. Nationally, the tuberculosis death rate for Indians was five times the rate for other races combined.

The Indian Health Service will get about $70 million next year for sanitation, an amount that depends on the still unapproved federal budget bill. But the $35 million earmarked for new projects, experts say, falls far short of what is needed to give Indians the kind of sanitation enjoyed by the rest of the country.

WHERE IS OUR EDUCATION PRESIDENT?

• Mr. ADAMS. Mr. President, I rise today to ask: Where is our Education President? Usually, he can be found on a plane leaving the United States. Today, he is on a plane to talk about education in Ohio. Many sound bites. Lots of trips. But nothing that makes our children better at math and science, literate, and able to get a job after they graduate.

The President's education plan is like Swiss cheese. The holes are where assistance for public schools should be. The large holes are where Head Start and other early childhood programs should be.

George Bush is not an Education President. His is not an education plan that helps our children. We must provide more resources today to all Americans, including early childhood programs, public schools, and higher education. What we fail to do today, we will require our children and our Nation to pay dearly for tomorrow.

I voted in committee to pass Democratic legislation that would improve our neighborhood public schools and made Head Start available for all eligible children. I introduce legislation to help middle and lower income families afford college and to increase the quality and training of child care staff.

I am committed to making a good education a national priority. Americans demand it. All Americans deserve it. The Democrats' proposals will put us on the track to do it.•

OREGON'S SILETZ TRIBE: CREATING A FUTURE

• Mr. HATFIELD. Mr. President, it was a pleasure to read in this morning's New York Times, an article entitled "Back From Oblivion, a Tribe Forges a Future." This article was written primarily about an Oregon Indian tribe—the Siletz Tribe—which has, for the past two decades, been engaged in a constant battle to regain its identity and economic self-sufficiency.

Since 1855, the Siletz Tribe has lost the 1.2 million-acre reservation to which it was guaranteed in its treaty with the U.S. Government. This land has been displaced primarily through misguided Federal Indian policies and powerful and covetous economic interests. The most significant blow to the status and centuries-old heritage of the Siletz and many other American Indian tribes, however, was the Termination Act of 1954.

In my own State of Oregon, the Termination Act attempted to erase the heritage and culture of the Siletz and a number of other Oregon tribes—one of which was mentioned in this morning's New York Times article, the Coquille Tribe. These two tribes, among nine federally recognized Indian tribes in the State of Oregon, are currently engaged in a healing process to piece back together the culture and heritage stripped by the Termination Act, while at the same time attempting to achieve the economic self-sufficiency which will allow them to compete and flourish in the free-enterprise world.

Mr. President, the Senate has before it now, legislation designed to be a significant piece of the Siletz Tribe's economic self-sufficiency puzzle—the Siletz Reservation Addition Act of 1991 (S. 1561). This legislation, introduced on July 25, 1991, and referred to the Senate Select Committee on Indian Affairs, would return approximately 11,500 acres of timberland in Western Oregon to the Siletz Tribe for multiple-use management. Although S. 1561 has a number of problems which must be worked out, I am hopeful this innovative piece of legislation can be considered by the Select Committee during the next session of the 102d Congress.

The significant accomplishments made to date by the Siletz Tribe, as described in the New York Times article, are a model for tribes whose status has been restored. I must agree with this assessment, Mr. President. In fact, the Siletz Tribe's greatest achievement, in my view, is their cultivation of hope for so many other tribes throughout our Nation also attempting to climb the steep and slippery slope of tribal restoration and self-sufficiency. I salute the Siletz and pledge my continued assistance and support toward the completion of their most difficult quest.

Mr. President, I ask that the text of the following New York Times article of November 25, 1991, be placed in the RECORD following my remarks.

The article follows:

BACK FROM OBLIVION, A TRIBE FORGES A FUTURE

(By Timothy Egan)

SILETZ, OR, November 21.—Deep inside the coastal forest of Oregon, a small American Indian tribe is building the reservation of the future.

After clearing a swath in the woods, the Siletz Indians have constructed a new community of big homes and broad streets. Unemployment is well below the national average. Drugs and alcohol are not allowed. And the budget, enriched by tribal businesses and a portfolio of outside investments, is showing a healthy surplus.

But what is most remarkable about the Siletz is the simple fact that they exist, still holding millennium-old ties to this land. The Siletz, like nearly 70 other tribes and bands of American Indians, were officially abolished in the 1950's as a part of a Government policy known as termination, which took their land, their sovereign status and their tribal identity. In return, the Government made cash payments to the Indians.

Since then, the 2,000-member tribe has waged a 35-years struggle for the restoration of what was taken. Reflecting the consensus view that the policy, which the Government said was intended to move Indians into the American mainstream, was a dismal failure, the Siletz say they are far better off with a reservation, even a tiny one.

But as they work to build a new reservation from the ground up, the Siletz are determined to avoid the mistakes of the past. There are no handouts or cash payments to individuals; they limit budget growth to 2.5 percent a year. They make some use of the old economic standbys, forests and fish, but are not afraid of trying new business ventures or investing in the stock market. And they still have ceremonies to the salmon God and teach children how to speak the tribal language.

"This tribe is a real prototype for the future because they are trying to take the best of both worlds," said Nelson Witt, an Oglala Sioux who was hired to manage the tribal business interests here. "They are a part of the outside world, but they have not driven the Indian from their hearts."

Most major tribes that were abolished from 1954 to 1970 have been restored through acts of Congress. The Menominee, in Wisconsin, were the first to be brought back, in 1973. The Siletz, in 1977, were the second. Two tribal groups that were terminated, one in South Carolina and the other in California, have yet to win back their status as nations within a nation.

As they rebuild their nations, in some cases starting with nothing more than a one-room office in places where they used to own a third of a state, the tribes are trying to avoid the old cycles of despair. Many of the long-established Indian reservations, situated on land that was considered worthless by the Government, have unemployment rates in excess of 70 percent, bleak housing, and minimal prospects for the future.

To the south of here, the Coquille Tribe, restored in 1989, has but a single acre of land and a small tribal office in Coos Bay, a depressed Oregon mill town on the Pacific. The 600-member tribe adopted a new constitution in August and is working on a plan to be economically self-sufficient.

CHANGE IN POLICY

"It goes without saying that restoration will lead to a better life," said Don Ivy, a Coquille tribal leader. "But the fact is, we live in the 1990's and we need to try a modern approach. The Siletz, for us, have been an education."

There is widespread feeling that the Siletz are a model for tribes whose status has been restored, like the Ponca Indians in Nebraska. The 1,200-member tribe had its status restored last year but has no land. Some of its leaders were on the Oregon coast this week studying the Siletz and the Coquille.

Since 1960, the number of American Indians counted by the Census Bureau has tripled, to a current population of 1.8 million, mainly because the number of Americans who declare themselves as Indians has grown. A majority still live on or near reservations.

But it wasn't so long ago that Federal Indian policy favored removing reservations altogether. Oregon was particularly affected by that policy, as tribes like the Klamaths and the Siletz, who once had huge tracts of reservation land, were given cash payments and told that they no longer existed as a tribe. In the early years of termination, this was done without the consent of a majority of tribal members.

In their treaty of 1855, the Siletz were granted a reservation of 1.1 million acres. But the treaty was never ratified by the Senate, and land that was to have been set aside for them was given away in a series of Presidential decrees. This land includes some with the most spectacular scenery on the Oregon coast, where four-star resorts and art galleries now hug the cliffs of Highway 101.

When the Siletz were terminated in the 1950's, the Government gave each tribal member $560. In turn, the tribe lost 60,000 acres it still owned from the original 1.1-million-acre reservation. The tribe retained a small cemetery atop a hill in this town, the only visible landmark of a people who once lived from Northern California to halfway up the Oregon coast.

From the start, many in the tribe did not agree to give up its reservation, although some who lived in nearby towns told Federal agents they favored the idea.

"You never quit being an Indian just because your tribe has been terminated," said Delores Pigsley, the Siletz tribal chairwoman.

"Termination was a disaster, stripping us of language, culture, land, everything," she added. "It looked good to people who didn't live on reservations, so the Government would go to Indians outside the reservation to get their permission."

The Siletz spent two decades trying to get a Congressional declaration restoring the tribe. After 1970, when Congress and President Richard M. Nixon formally denounced termination, the path was cleared to bring back the tribe.

Parcels totaling 3,600 acres of Federal land were given to the tribe, and in 1977 it started anew. Members sold timber, built a community center next to the cemetery and made plans to construct new houses for Indians who began to move to the new reservation. They also revitalized the local community, non-Indians in the area acknowledge, where Siletz children attend public schools.

"Our goal was to build for the future, to always look ahead," said Manuel Rilatos, who is on the tribal council.

The Siletz decided, against the wishes of some here, not to give out individual payments from the proceeds of tribal enterprises. Instead, they elected to put the money into a community trust, and invest for the future. The timber enterprise grew, as did a business that sells native plants to nurseries. Money was put into the stock market. Last year, revenue of about $2 million was four times the size of the budget.

This year has been the best yet. The Siletz started a smokehouse that sells salmon to tourists in Depoe Bay. A medical clinic, serving Indians and non-Indians alike, has just opened. The tribe realized a longstanding dream and built 54 new houses, some of them with five bedroom, bay windows and two-car garages.

More than almost any other tribe that has been restored, the Siletz have prospered. But even tribes that have not done as well say coming back from termination has been a second chance at life.

"The significance of restoration is that this is the first time in American history that a major Indian policy actually began with Indian people," said Aida Deer, an educator at the University of Wisconsin who was instrumental in helping her native Menominee Indians regain their reservation in Wisconsin. "We achieved a very historic reversal of policy."

Given the history of Federal policy, many Indians never thought they could get their tribual status or reservation returned, Ms. Deer said.

"The small tribes pulled this off, through strength and courage, and I think everybody was surprised," she said. "When termination occurred, what people forgot was that Indians wanted to be Indians."

Don Miller, a lawyer with the Native American Rights Fund in Boulder, Colo., said restoration has been a rare success story in Indian country, but it should be placed in perspective.

"The tribes that were terminated have benefited greatly from restoration," Mr. Miller said. "But, of course, this doesn't mean they got very much of their land back. Only a sliver."

Looking at the big new houses here in Siletz, Mr. Rilatos, who was born here in 1923, said: "We went from a million acres to a graveyard, to this here. We are just now seeing some light."●

S. 543, THE BANKING REFORM BILL

● Mr. BROWN. Mr. President, on November 21, 1991, the Senate passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, by voice vote. I would like to go on record that had there been a recorded vote on the banking bill my vote would have been "no."

I opposed the bill because it relies on taxpayers to bail out the banking industry. The bill provides $70 billion in loans from the U.S. Treasury to the Federal Deposit Insurance Corporation [FDIC]. This loan is to be repaid by the banking industry through deposit insurance premium assessments and selling assets of failed institutions. If, however, the banking industry is unable to repay, taxpayers will be forced to pick up the tab for insolvent banks. Taxpayers should not be required to pay 1 cent for losses.●

A TRIBUTE TO PEARL HARBOR VETERANS

● Mr. ADAMS. Mr. President, I rise today to pay tribute to those veterans of the attack on Pearl Harbor who live in my State of Washington.

At this occasion, the 50th anniversary of the attack on Pearl Harbor, we have all taken time to reflect on the events of that important day. In the matter of a few moments, as the Japanese launched an early morning attack on our Pacific Fleet, 2,403 of our courageous servicemen and women gave their lives, 1,178 were wounded, and all of our lives changed forever. President Roosevelt told us that December 7, 1941, would be a "day that will live in infamy." Indeed, this day has proven a constant reminder of the heroism and sacrifice by so many young men and women in defense of our freedom and liberty.

We must never forget Pearl Harbor. This one, unique defining moment in our history serves as testimony to the courage and conviction of a generation of Americans. When asked to serve their country to preserve our way of life, they did so willingly and selflessly. The United States emerged once again as a positive force for freedom and democracy in the world. The example set by the United States gave many people all over the world hope for a more promising future. The service and sacrifice of young service men and women provided that message of hope.

My State of Washington calls itself home to more than 600 Pearl Harbor veterans. All across the State of Washington, on December 7, 1991, in places like Port Angeles, Oak Harbor, Spokane, Seattle, and Vancouver, families and friends will gather to pay tribute to these brave men and women who served at Pearl Harbor.

We all remember where we were on that day. We knew what a terrible blow we had taken at Pearl Harbor. As a World War II veteran myself, I know of the hardships and sacrifice given by those who served. While this is a fitting and well-deserved gesture, it can never fully repay the debt owed those who served.

Be assured that as we commemorate the 50th anniversary of the attack on Pearl Harbor, the bravery, valor, and service of these men and women in defense of their country and its ideals are not forgotten.●

REMOVAL OF INJUNCTION OF SECRECY FROM THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS—TREATY DOCUMENT NO. 102-20

Mr. LIEBERMAN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the START Treaty) signed at Moscow on July 31, 1991. The START Treaty includes the following documents, which are integral parts thereof:

—the Annex on Agreed Statements ("Agreed Statements Annex");

—the Annex on Terms and Their Definitions ("Definitions Annex");

—the Protocol on Procedures Governing the Conversion or Elimination of the Items Subject to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Conversion or Elimination Protocol");

—the Protocol on Inspections and Continuous Monitoring Activities Related to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, with 12 annexes ("Inspection Protocol");

—the Protocol on Notifications Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Notification Protocol");

—the Protocol on ICBM and SLBM Throw-weight Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Throw-weight Protocol");

—the Protocol on Telemetric Information Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Telemetry Protocol");

—the Protocol on the Joint Compliance and Inspection Commission Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Joint Compliance and Inspection Commission Protocol"); and

—the Memorandum of Understanding on the Establishment of the Data Base Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, with 10 annexes ("Memorandum of Understanding").

In addition, I transmit herewith, for the information of the Senate, the Report of the Department of State and documents associated with, but not integral parts of, the START Treaty. These documents are of four types: separate executive agreements related to the Treaty; letters embodying executive agreements on various aspects of the Treaty; declarations regarding specific systems that do not fall within the scope of the Treaty; and a variety of statements and correspondence concerning aspects of the negotiation of the Treaty. Although not submitted for the advice and consent of the Senate to ratification, these documents are relevant to the consideration of the Treaty by the Senate.

The START Treaty represents a nearly decade-long effort by the United States and the Soviet Union to address the nature and magnitude of the threat that strategic nuclear weapons pose to both countries and to the world in general. The fundamental premise of START is that, despite significant political differences, the United States and the Soviet Union have a common interest in reducing the risk of nuclear war and enhancing strategic stability.

The United States had several objectives in the START negotiations. First, we consistently held the view that the START Treaty must enhance stability in times of crisis. The strategic nuclear forces remaining after implementation of START—as well as during the period when weapons are reduced—should be such as to reduce Soviet incentives to provoke a crisis or to strike first during a crisis. Stability in times of crisis will remain important even in the post-Cold War era; no one can predict the future, and the purpose of this Treaty is to regulate the strategic threat for many years to come. Among the many measures we sought to fulfill this objective, the most important were the preferential treatment given to stabilizing systems, such as bombers and cruise missiles, the stringent limits on deployed ballistic missiles and their reentry vehicles, and the special, restrictive limits on heavy ICBMs, the most destabilizing weapons in existence.

Second, we sought an agreement that did not simply limit strategic arms, but that reduce them significantly below current levels. A successful combination of this objective with that of a stabilizing force structure can serve for many years as a linch-pin in shaping our strategic posture, and, if appropriate, can serve as a basis for future agreements that will lead to further reductions. Moreover, in order for the Treaty to work smoothly over many years, its terms must be as precise and unambiguous as possible. Neither Party should have any doubt as to the limitations and obligations that are imposed by the terms of the Treaty.

Third, we sought a Treaty that would allow equality of United States forces relative to those of the Soviet Union. Again, the emphasis is to reach equality in order that the resulting levels will be stabilizing. Equality does not require identical force structures; rather, it demands limits that allow the Parties to have equivalent capabilities.

Fourth, we sought an agreement that is effectively verifiable. Effective verification is necessary to ensure that U.S. national security is not jeopardized under the Treaty. Effective verification also acts as an inducement to the Soviets to comply because they are aware that their behavior will be closely monitored.

Finally, the United States placed great emphasis during the negotiations in seeking an agreement that would be supported by the American and allied publics. This objective means that U.S. policies regarding strategic forces must not only sustain deterrence, but will also serve to assure the American people and allied publics that the risk of war and crisis instability is low and is being further reduced.

I am fully convinced that the START Treaty achieves these objectives.

START will be the first Treaty that actually reduces strategic offensive arms. START will lead to stabilizing changes to the composition of, and reductions in, the deployed strategic offensive nuclear forces of both countries. The overall strategic nuclear forces of both countries will be reduced by 30–40 percent, with a reduction of as much as 50 percent in the most threatening systems. The Treaty will have a 15-year duration, and can be extended for successive 5-year periods through the agreement of the Parties.

Force reductions under START will be asymmetrical due to currently higher Soviet levels, and will result in equal limits on deployed strategic offensive arms at the end of each of three phases over the first 7 years that the Treaty is in force. Moreover, I believe that the reduction of ICBMs should be accomplished even more rapidly than the Treaty would require. On September 27, as a part of my statement on the future of U.S. nuclear weapons, I said that those ICBMs that the United States would reduce pursuant to START would be eliminated more rapidly than required by the Treaty. Today, I reiterate that pledge.

More specifically, the central limits of START require reductions down to ceilings of 1,600 on deployed strategic nuclear delivery systems (i.e., deployed ICBMs, deployed SLBMs, and deployed heavy bombers), 6,000 accountable nuclear warheads that those missiles and bombers would carry, and 3,600 metric tons of aggregate ballistic missile throw-weight. Aggregate throw-weight—a measure of the total weight of weapons and related objects that a ballistic missile can deliver—is limited to approximately 54 percent of the current aggregate Soviet throw-weight level.

Within these aggregate limits, the United States and Soviet Union have agreed to observe certain subceilings in specific weapon categories. Reductions and limitations on those weapon systems that could most threaten crisis stability are emphasized in these subceilings. Under START, neither Party may have more than 4,900 deployed ballistic missile warheads of which no more than 1,100 warheads can be on deployed mobile ICBMs. Moreover, the Soviet Union is required to reduce by 50 percent their heavy ICBM force. The Soviet Union will eliminate no fewer than 22 SS–18 launchers every year during the 7-year reduction period to a ceiling of 1,540 warheads on 154 heavy ICBMs.

To assist in verifying compliance with these limits, START incorporates the most extensive verification regime in history, which includes the exchange of ballistic missile telemetry tapes, the permanent monitoring of mobile ICBM assembly facilities, 12 kinds of on-site inspections, special access visits, cooperative measures, and data exchanges to complement our national technical means of verification. Moreover, many of the Treaty provisions, such as its definitions, counting rules, conversion or elimination procedures, notifications, and numerous data exchanges, will help to verify whether the Soviet Union is in compliance with the central limitations. Thus, I am convinced START is effectively verifiable.

START represents a critical watershed in our long-term effort to stabilize the strategic balance through arms control. Stabilization of the strategic balance will help cement one of the most fundamental tenets of our preferred world order—that conflict must not and shall not be resolved through the use of nuclear weapons. Moreover, recent events underscore the need to ensure stability and to broaden the dialogue between our countries. Implementation of START would reinforce these efforts.

In sum, the START Treaty is in the interest of the United States and represents an important step in the stabilization of the strategic nuclear balance. I therefore urge the Senate to give prompt and favorable consideration to the Treaty, including its Annexes, Protocols, and Memorandum of Understanding, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *November 25, 1991.*

RECESS APPOINTMENTS

Mr. LIEBERMAN. Mr. President, I have a resolution which I offer on behalf of Senators MITCHELL and DOLE, which I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 232) relating to recess appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 232) was agreed to, as follows:

S. RES. 232

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BICENTENNIAL OF THE ESTABLISHMENT OF THE DEMOCRATIC PARTY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed now to the immediate consideration of S. 2047 introduced earlier today by Senators SANFORD, MITCHELL, et al., regarding the bicentennial of the establishment of the Democratic Party of the United States.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2047) to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) it is generally acknowledged that the evolution of the political party system in the United States provided life and flesh for the framework of democratic governance that was established by the Constitution;

(2) Thomas Jefferson founded the first political party in the United States, the Democratic Party, which was originally known as the Republican Party, in order to accommodate the honest differences of our emerging Nation's people, to ensure that freedoms provided would be honored, to guarantee that complaints against the government could be redressed, and to effectuate the choice of the electorate in the peaceful transfer of political power;

(3) in 1992, the Democratic Party of the United States will celebrate the 200th anniversary of its establishment on May 13, 1792;

(4) an understanding of the historical development of the Democratic Party is crucial to an understanding of the history of the United States; and

(5) it is appropriate and desirable to provide for the observation and commemoration of the 200th anniversary of the Democratic Party.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is hereby established a Commission on the Bicentennial of the United States'

Democratic Party (hereafter in this bill referred to as the "Commission") to coordinate ceremonial events and related activities as appropriate during the calendar year of 1992.

SEC. 3. MEMBERSHIP OF COMMISSION.

The Commission shall be composed of the following members:

(1) 4 members to be appointed by the Majority Leader of the Senate, who may be Members of the Senate.

(2) 4 members to be appointed by the Speaker of the House of Representatives, who may be Members of the House of Representatives.

(3) 4 members to be appointed by the Chairman of the Democratic Governors' Association, who may be current or former members of the Democratic Governors' Association.

(4) 2 members of the Democratic National Committee to be appointed by the Chairman of the Democratic National Committee.

(5) As many as 6 additional members to be appointed by the Commission once the 14 members have been appointed pursuant to paragraphs (1) through (4).

SEC. 4. CHAIRPERSON.

The Majority Leader of the Senate shall designate with the concurrence of the Speaker of the House of Representatives and the Chairman of the Democratic Governors' Association, 1 of the members of the Commission to serve as Chairperson of the Commission.

SEC. 5. VACANCIES.

Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

SEC. 6. DUTIES OF COMMISSION.

The Commission shall—

(1) educate the American public about the creation and growth of political parties in the United States, the importance of political parties to the founding and preservation of democracy, and the operation of political parties in the governmental process;

(2) oversee the planning and development of all events, activities, and studies, that are organized to commemorate the establishment and development of political parties in the United States;

(3) plan and implement the observance of the bicentennial of the Democratic Party during the calendar year of 1992;

(4) seek to involve private organizations in the bicentennial activities; and

(5) serve as a vehicle for the collection and dissemination of information about bicentennial activities and events.

SEC. 7. REPORTS TO CONGRESS.

The Commission shall submit periodic reports, and a final report at the time of its termination, on its activities to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 8. FUNDING.

(a) PRIVATE SOURCES.—Funds for the Commission shall be raised through private sector sources.

(b) DISCLOSURE.—The Commission shall disclose the sources and amounts of such funds in its interim and final reports.

(c) DONATIONS.—The Commission is authorized to accept donations of money, personal services, and property related to the commemoration of the Democratic Party.

(d) VOLUNTEER SERVICES.—The Commission may accept such volunteer services of private individuals or companies as the Commission determines are necessary to carry out the purposes of this joint resolution.

(e) DISSOLUTION.—Upon its dissolution, the Commission shall distribute any remaining funds to any organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 that is dedicated, among other purposes, to educating the public about the democratic political process.

SEC. 9. TERMINATION.

The Commission shall cease to exist on February 13, 1993, unless otherwise provided by law.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF COPYRIGHT RENEWAL PROVISIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 278, S. 756, relating to copyright renewal provisions.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 756) to amend title 17, United States Code, the copyright provisions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

TITLE I—COPYRIGHT RENEWAL PROVISIONS

SECTION 101. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author,

shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in its first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

SEC. 102. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

TITLE II—FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made widely available to the American public in their Registry versions.

SEC. 203. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 204. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 205—

(1) after completion of the study required under section 212, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

(A) coordinating activities to assure that ongoing efforts of archivists and copyright owners, and others in the public and private sector are effective and complementary;

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 211(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 205. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers and the International Photographers Guild, appointed in accordance with paragraph (2)(B);

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2)(A) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(B) The American Society of Cinematographers shall nominate 3 candidates, each of whom shall be a member of the International Photographers Guild.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 206. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Librarian and Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 207. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this title shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 208. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which bears a seal as described under section 204(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 204(b).

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 209. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 208 upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this title, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this title or any other Federal or State law, regarding the use of the seal as described by section 204(a)(7).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 211. DEFINITIONS.

For purposes of this title:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 204 can compile.

SEC. 212. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this title, but in no fiscal year shall such sum exceed $250,000.

SEC. 214. EFFECTIVE DATE.

The provisions of this title shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this title shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this title.

SEC. 215. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

AMENDMENT NO. 1445

(Purpose: To make a technical amendment)

Mr. LIEBERMAN. Mr. President, on behalf of Senator LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for Mr. LEAHY, proposes an amendment numbered 1445.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, strike out lines 21 through 23, and insert in lieu thereof:

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1445.

The amendment (No. 1445) was agreed to.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COPYRIGHT RENEWAL PROVISIONS

SECTION 101. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author,

shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in its first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

SEC. 102. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

TITLE II—FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made widely available to the American public in their Registry versions.

SEC. 203. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 204. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 205—

(1) after completion of the study required under section 212, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

(A) coordinating activities to assure that ongoing efforts of archivists and copyright owners, and others in the public and private sector are effective and complementary;

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 211(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 205. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers and the International Photographers Guild, appointed in accordance with paragraph (2)(B);

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2)(A) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 206. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Librarian and Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 207. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this title shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 208. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which bears a seal as described under section 204(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 204(b).

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 209. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 208 upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this title, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this title or any other Federal or State law, regarding the use of the seal as described by section 204(a)(7).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 211. DEFINITIONS.

For purposes of this title:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 204 can compile.

SEC. 212. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this title, but in no fiscal year shall such sum exceed $250,000.

SEC. 214. EFFECTIVE DATE.

The provisions of this title shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this title shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this title.

SEC. 215. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA NATIVE LANGUAGES PRESERVATION AND ENHANCEMENT ACT

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 319, S. 1595, the Alaska Native Languages Preservation and Enhancement Act of 1991, that the substitute amendment be agreed to, the bill as amended be deemed read a third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1595) deemed to have been read the third time and passed is as follows:

S. 1595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native Languages Preservation and Enhancement Act of 1991".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO PRESERVE AND ENHANCE ALASKA NATIVE LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any—

"(1) Alaska Native village;

"(2) consortium of Alaska Native villages;

"(3) regional corporation established by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(4) urban Alaska Native organization;

that is selected pursuant to subsection (c), for the purposes of enhancing, encouraging, preserving, and facilitating the ability of Alaska Natives to speak their native languages, and to preserve and expand knowledge about such languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) the construction of new facilities or the conversion of existing facilities into centers for the preservation and enhancement of Alaska Native languages;

"(2) the establishment of community language programs to bring older and younger Alaska Natives together to facilitate the transfer of language skills from one generation to another;

"(3) the establishment of training programs to train speakers of Alaska Native languages to teach such languages to others;

"(4) the drafting and printing of materials to be used for the teaching and enhancement of Alaska Native languages;

"(5) the establishment or support of training programs to train Alaska Natives to produce or participate in television or radio programs to be broadcast in their native languages; and

"(6) the compilation of oral testimony to record or preserve Alaska Native languages.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the project for which a grant is sought;

"(2) a statement demonstrating that a principle objective of the project is to preserve or enhance the knowledge or use of Alaska Native languages; and

"(3) a plan to preserve the results of the project (such as tapes, textbooks, or transcripts) in a central location for the benefit of future generations of Alaska Natives and other interested persons.

"(d) AMOUNT OF FUNDING.—Notwithstanding any other provision of this Act, the costs of programs that are awarded grants pursuant to this section shall be paid in accordance with the following paragraphs:

"(1) 90 PERCENT OF COSTS.—The grants awarded pursuant to this section shall provide funding for not more than 90 percent of the costs of the programs that are recipients of such grants.

"(2) REMAINING 10 PERCENT OF COSTS.—The remaining 10 percent of the costs of programs that are awarded grants under this section shall be paid by the grant recipient either in cash or through provision of property or services.

"(3) LIMITATION ON FUNDS TO PAY THE REMAINING 20 PERCENT OF COSTS.—The amount referred to in paragraph (2) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(e) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated $2,500,000 for each of the fiscal years 1992, 1993, 1994. 1995, and 1996, for the purpose of carrying out the provisions of section 803B of this Act.".

WAIVER OF CERTAIN RECOVERY REQUIREMENTS WITH RESPECT TO REMODELING OF FACILITIES

Mr. LIEBERMAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1891.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1891) entitled "An Act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction of remodeling of facilities, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking out "(a)(2)" and inserting "(a)".

SEC. 2. USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Mr. LIEBERMAN. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STROM THURMOND ROOM

Mr. GRASSLEY. Mr. President, I send to the desk a resolution on behalf of Senator DOLE and ask that it be considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 233) designating Room S-238 in the United States Capitol Building as the Strom Thurmond room:

Whereas Senator Strom Thurmond has served in the United States Senate with great distinction for thirty-seven years, six of which he served in the position of President Pro Tempore;

Whereas Senator Thurmond has served as Chairman of the Senate Judiciary Committee and as a senior member of several other committees and he has authored hundreds of vital legislative measures;

Whereas Senator Thurmond has also served on numerous Federal commissions and other Federal bodies;

Whereas Senator Thurmond's service to the Senate has been characterized by diligent work for the citizens of the United States, sincere dedication, boundless energy, and immense loyalty;

Whereas on December fifth, 1991, Senator Thurmond will celebrate his 89th birthday; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Thurmond as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S-238 in the United States Capitol Building is hereby designated as, and shall hereafter, beginning December 5th, 1991, be known as, the "Strom Thurmond Room", in recognition of the selfless and dedicated service provided by Senator Strom Thurmond to our Nation and its people.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to take 3 minutes of the Senate's time to suggest two things. First, there is already a Strom Thurmond room in the Capitol. My staff happens to think it is my office.

But this will officially name a room after STROM THURMOND. I would suggest based on not only the diligence but the incredible perseverance of the Senator from South Carolina that we will probably see a half dozen cities named after STROM THURMOND before this is over.

I think it is highly appropriate that the room be named after STROM THURMOND, but I might suggest that in his ninth term he may not settle for a room. He is moving into his eighth term next time out. In his ninth term I suspect we may be back here having to talk about a building. But I am delighted he is settling for only a room right now, because I want to tell you: He can fill that room with all of us whenever he decides he needs us.

On a serious note, the Senator from South Carolina has been the single most enjoyable person I have had the honor of working with in my years in the U.S. Senate. There have only been 19 years, a mere drop in the bucket compared to the Senator from South Carolina.

I want to congratulate him. He deserves a room to be named after him. He deserves to know that all of us in this body, any of us who have worked with him, look to him for not only guidance but the fact that he has been able to be the quintessential legislator.

He is a man that is easy to deal with. He has incredible honor when he deals with you. You never have to wonder where he is. And I admire him a great deal, and am delighted to see the Senate naming a room after him.

I thank my colleagues for indulging me in allowing me to make those references.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, this is the first I ever heard of this. I am shocked and surprised that this action was taken. Ordinarily you hear some rumors about things. I knew nothing about this at all. But I deeply appreciate the thoughtfulness of the Senate in doing this.

I did not know who inspired it, authored it, or anything about it. But I do appreciate the kindness of the Senate. I thank whoever the author is; who did it.

I thank Senator BIDEN for his kind remarks; and all the rest of the Senators.

I enjoyed being here for 37 years, and I do not know that I will be here for 37 more. [Laughter] Certainly several more years, I hope.

I want to express my deep gratitude and appreciation for this kindness that you have conferred upon me.

Thank you very much.

[Applause, Senators rising]

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LONG-TERM HEALTH CARE

Mr. SIMON. Mr. President, Saturday, or maybe it was Friday, I introduced a bill that moves us in a direction that I think we have to move in terms of long-term care.

This is one of the basic problems. It is not a substitute for a comprehensive health care bill. Obviously, we have to move in that direction. But it is going to take some time before we move in that direction of a comprehensive health care bill.

So I introduced a bill that is composed of two parts. Part of it is a bill that the late Congressman Claude Pepper and I introduced some time ago to take care of at-home care. About 30 percent of the people who go to nursing homes do not need to go to nursing homes.

So we provide some assistance for people who are at home in terms of people who cannot bathe themselves, cannot feed themselves, or who have lost some of these functions, or the ability to go to a toilet, or some of the things that are simple tasks that some people have lost in terms of long-term care.

When I say long-term care, more than 90 percent are those over the age of 65. But it could happen that the Presiding Officer, Senator TOM DASCHLE, or PAUL SIMON, could walk out here and get hit by a truck. I hope it does not happen to either one of us. But the need for long-term care can hit any of us.

The second thing we do is, and we do it on a pay-as-you-go basis, as I will explain in a moment, is we say for those who have to go to nursing homes—and those numbers if I had a graph in front of you would be going up like this. Nine years from now there will be a million more people in nursing homes than there are right now. That is an astounding reality that we face.

When Social Security passed the average American lived to be 58. We now live to be an average of 75. Those numbers are going up.

But the second thing this bill does is it says if you have to go to a nursing home, the first $500 of the expenses you have to pick up. Then the difference between a $500 and the average cost of a nursing home, which is $2,400, would be picked up by the Federal Government.

And beyond that $2,400, if you want to go to a nursing home that costs $3,000 a month, you have to pick that up. But no longer would families have to be devastated. No longer would we have—as I read in an article just the other day—middle-income families maneuvering around so that their parents turn over their bank accounts and property to them so they would be eligible for Medicaid. We would save some money in Medicaid.

How do we pay for this long-term care, which is going to be a growing problem? We pay for Medicaid by an increase of a half percent in the Social Security tax, and we pay for this program by taking the cap off of the Medicare cost, the 1.3 percent that we pay that is now limited to the first $125,000. I think it makes sense. And it is very interesting to me that I have tried this out in all kinds of town meetings and groups everywhere, and I have yet to find a group that is not overwhelmingly for it. And if I were to ask—just among the pages, the staff, and the people here right now—how many of you have relatives who are in a nursing home right now, you would be surprised at the number of hands raised.

In the strange way we can monitor on TV, the other day I spoke to three high school groups in Illinois and asked them to raise their hands if they had a relative who is in a nursing home. You would be surprised at the number of high school students who raised their hands.

This, again, is not comprehensive legislation, in terms of dealing with the health care problem. It deals with only one aspect of it, but it is an aspect that is doable. My hope is, again, that we can do it.

Let me summarize once again. It provides at-home care up to 50 percent of the cost of nursing home care for people who have two functions that are missing, such as maybe bathing, maybe eating or, whatever the functions are. The second thing it does is to say that the first $500 of nursing home care that you need, you have to pay for it yourself. Most people have that $500. The difference between $500 and $2,400, which is the average cost of nursing home care, the Federal Government would pick up. Then if you want to go to a fancier nursing home, or maybe one near your home that costs $3,000, you or your family have to pick up that extra amount between $2,400 and $3,000. It is, I think, a step in the right direction. I hope we will not wait until we have a comprehensive bill before we move on this.

I am a cosponsor of the Mitchell-Kennedy bill. The Mitchell-Kennedy bill deals with many of our problems. It does not deal with the long-term care problem. This is a problem that is going to be growing fairly dramatically in the near future, and I hope we deal with it, and I think we have to deal with it on a pay-as-you-go basis.

Mr. President, if no one else seeks the floor, I suggest absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for a brief period of time as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have been a strong advocate of aggressively moving to seize economic opportunities in the Soviet Union. I welcome the President's modest proposal to provide the Soviets credit for purchases of American food products. This is good news for American farmers. I suspect that as the winter wears on, more may need to be done.

The Soviet Union is in a period of painful transition. There is hardly an American product produced which that Nation does not need. The problem of course, is how to get paid for those products. The irony is that the Soviet Union is among the world's richest nations in terms of natural resources and energy resources. The challenge is to think creatively and find ways to extract value from those resources to pay for exports from the United States. A creative export strategy for these new markets could get American farms and factories producing for consumers starved for American products. Such a strategy could be a lasting recession ender.

Soviet consumer needs should be treated as an opportunity to expand trade, rather than a burden, which challenges an old order. While perhaps risky in the short term, trade with the Soviet Union holds unprecedented promise for the United States in the long term.

Over the last several months, I have frequently discussed the economic potential of a long-term food for oil agreement between the United States and U.S.S.R. While the Bush administration replied to my suggestions with the reasons why such a deal could not work, just 2 weeks ago, the French Government concluded a food for oil agreement with the Soviet Government.

Today, I rise to report another example of a lost opportunity because our Government is clinging to the old thinking of the cold war while our competitors are seizing economic opportunities.

Over a year ago, the executives of US West briefed me on their plan to lead a consortium of firms to upgrade the Soviet telecommunications infrastructure with a trans-Siberian fiber-optic network.

I offered my support and discussed the matter with fellow Senators. It is my belief that the project which used relatively modest fiber-optic technology would have had congressional support. Unfortunately, citing Cocom restrictions, the Bush administration blocked the fiber project.

After the end of the Soviet coup, in an address to this body, I called on the Bush administration to reconsider its opposition to the Trans-Siberian fiber optic project and to target telecommunications exports to the Soviet Union and Eastern Europe.

I regret to report that not only did that call apparently go unheeded, the Bush administration has been fighting legislation in Congress to amend U.S. law to permit American participation in the Trans-Siberian fiber optic project.

In light of the administration's persistent stubbornness on this issue, I call to the attention of my colleagues an article published in today's issue of Inside U.S. Trade which reports that an East German firm, operating under the German grandfather clause of the Cocom rules, is shipping optical fiber to the U.S.S.R. While there may be some question about the quality and capabilities of the East German fiber, this report should send the United States a clear warning signal.

In international trade the old saw is appropriate "he who hesitates is lost." In terms of developing exports to Eastern Europe and the Soviet Union, the United States is hesitating.

I again renew my call for an end to the fiber optic deadlock. If United States firms are successful in their bids to build Soviet and East European telecommunications infrastructures, there will be a ground floor advantage for United States telecommunications exports for years to come. If the German firms, Japanese firms or any other nation's firms build the new infrastructure, then exports from those nations win the advantage.

The urgency is clear. Not only will a developed telecommunications network itself facilitate the development of business and markets, telecommunications improvements are at least partially self-financing since hard currency is earned on each incoming international call.

The United States must develop a long-term bipartisan export strategy for the U.S.S.R. and Eastern Europe or be left out of one of the world's most exciting economic expansions. Legislation I introduced earlier this fall to create a U.S.-U.S.S.R. peace and prosperity commission would provide a forum to craft an American strategy.

In the meantime, the United States should not lose sight of the real opportunities which are day by day slipping out of our fingers because of a present lack of vision.

The East German sale of optical fiber is a wake up call to those who have been standing in the way of an export oriented telecommunications trade policy. In a growing recession, the United States can not afford to hang up on any new customers for American products.

Mr. President, I ask unanimous consent that the article entitled German firm in Eastern half said to export fiber cable to Soviet Union, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GERMAN FIRM IN EASTERN HALF SAID TO EXPORT FIBER CABLE TO SOVIET UNION

A firm located in former east Germany has sold fiber optics cable to the Soviet Union that exceeds the specifications laid out for such sales of high-technology telecommunications equipment by the U.S. and its allies in the Coordinating Committee for Multilateral Export Controls (CoCom).

In doing so, the firm Carl Zeiss Jena Optik is taking advantage of a "grandfather clause" negotiated in CoCom during the unification of Germany that allows exports from that region of any products capable of being made with indigenous east German technology prior to unification, industry and government officials said. Reports from U.S. industry sources, confirmed by an informed U.S. official, indicate that Jena Optik has contracted to sell 130,000 kilometers of optical fiber, which when bundled together would produce about 1600 kilometers of fiber optic cable.

U.S. industry and government sources immediately differed on the implications of the sales, which an informed government official acknowledged had been notified to CoCom as required under the grandfather clause. Industry sources warned of far-reaching consequences, as it would allow a German company an initial foot in the door at providing fiber optics technology to the Soviet Union. They pointed out that the provision of such technology runs directly contrary to stated U.S. policy, as adopted by CoCom last May. That policy forbids the sale of high-speed fiber optics equipment or technology to the Soviet Union because it could interfere with Western intelligence collection capabilities and bolster the survivability of Soviet military communications in time of war.

The licensing of such a sale by Germany could be an "opening shot across the bow" in a renewed push for more liberal parameters for telecom sales under threat of abandoning CoCom, U.S. industry sources said. They also noted that the sale could renew congressional backing for a controversial telecom provision opposed by the Administration that is currently contained in H.R. 3489, the House version of the Export Administration Act (EAA) bill waiting to be conferenced with the Senate. That measure would liberalize telecom sales to the Soviets to allow them to buy equipment up to the level that China is currently allowed to purchase.

But a U.S. government official reached on Nov. 21 downplayed the significance of the sale. The cable that is being produced by Jena Optik is of such poor quality that it could not be used for long distances such as a trans-Siberian cable. Moreover, he noted, it is the transmitters and boosters that are the critical part of fiber optics technology that allows transmission at high rates, and there is no indication that those units are part of this sale.

While the U.S. is not pleased by such a sale, the U.S. official said, it recognizes that it is legitimate if produced with indigenous east Germany technology as notified to CoCom. The government earlier had decided that it could not press Germany to adopt a unification-era export controls policy that would shut down certain factories that produce high-tech goods for export. Jena Optik is one of "about a half dozen" east Germany firms that have the capability to produce a limited amount of low-quality fiber. He added that officials would be checking to ensure that the production is actually being done with pre-unification technology that was not obtained illegally from the West.

The official did not dispute that the cable at issue would allow a transmission at a frequency of 1370 nanometers, which is considerably above the 100-nanometers level that CoCom determined last May to be the point beyond which sales should require a multilaterally approved license.

Separately, prospects for the Senate to pass companion legislation to H.R. 3489 waned this week as Sen. Malcolm Wallop (R-WY) refused to lift a Nov. 13 hold he had placed on procedures that would have allowed a quick vote on a bill largely similar to S. 320, the bill passed by the Senate last spring. Wallop is indicating that he believes a rapid effort to conference any bill with the House could harm national security given provisions on telecommunications and nuclear exports in the House bill, an informed congressional source said.

In addition, the House this week passed the Chemical and Biological Weapons Act, which would require the President to impose sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons. The President could waive the requirement to impose sanctions for at least 1 year if such a waiver were "essential" to national security. If the President, waived import sanctions, he would have to notify the committees on ways & means and senate finance, not the foreign affairs and foreign relations committees, according to an amendment proposed by Rep. Sam Gibbons (D-FL) at a Nov. 19 committee markup. The CBW bill is part of a package of bills the House Ways & Means Committee passed on Nov. 19. It contains a bill allowing the sale of Soviet gold coins in the U.S., a measure to extend Most Favored Nation (MFN) treatment to the Baltic states and a bill to extend duty free treatment of certain goods from the Andean nations. The bills were attached to H.R. 1724 as passed by the Senate, which extends MFN treatment of Czechoslovakia and Hungary and extends unemployment compensation benefits. It was moved to the House suspension calendar along with the bill extending MFN to the Soviet Union, where it passed on Nov. 20. However, the bill may face difficulties in the Senate over the Andean trade initiative, which has not been the subject of hearings in the Senate. It was likely that the Senate would push to kill the Andean trade initiative in conference, but the situation was complicated on Nov. 21 when the House passed a motion to instruct the conferees to accept the Andean trade initiative. That motion was approved by more the 400 House members, according to a congressional source.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise today to support the conference report for H.R. 1724, which provides additional emergency unemployment benefits. This bill represents a compromise which provides a fair level of benefits to all States.

The measure we will be considering tomorrow builds upon a measure which the Congress considered last week and President Bush signed into law. Under that bill, States would receive either 6, 13, or 20 weeks of additional unemployment benefits. That bill was enacted into law in order to allow these much needed unemployment benefits to begin flowing to those persons who have exhausted their regular benefits. However, during Senate consideration of the measure, strong concern was expressed that the benefit formula used to determine the number of weeks of additional benefits a State would receive was not equitable. I shared this concern and was pleased when the Senate passed the compromise measure included in the conference report. Under the compromise bill, all States would receive up to 13 weeks of additional benefits. Nine states that have the highest rates of unemployment would receive up to 20 weeks.

These benefits will be available to eligible persons who have exhausted their regular benefits since March 1, 1991. This temporary program will end on June 13, 1992. These additional benefits will be paid for by permanently extending the program allowing the Internal Revenue Service to collect nontax debts owed to Federal agencies, changing the requirements for filing of quarterly estimated income tax payments, extending for an additional year the current unemployment tax rate paid by employers, and allowing the Department of Education to garnish the wages of people who default on student loans. While it is important to lend a helping hand to those who are out of work, it is imperative that we pay for these benefits. Today, when the Federal debt is over $3 trillion and the Federal budget deficit is $268 billion, we must not pass measures which will add to the deficit. I am pleased that the above mentioned provisions were included to pay for these urgently needed benefits.

Mr. President, this bill will increase the available benefits for persons in some States such as my home State of South Carolina. I am pleased that we will be considering this measure in order to assist unemployed persons as they continue their search for work. I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH EDUCATION ASSISTANCE LOAN CEILING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2050, a bill to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes, introduced earlier today by Senators KENNEDY and HATCH; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was deemed read the third time, and passed, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled an Act "Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes".

NATIVE AMERICAN CULTURE CENTER

Mr MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3370, a bill directing the Secretary of the Interior to carry out a study regarding a native American cultural center in Oklahoma City, OK, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3370) to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3370) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AMENDMENTS TO INDIAN LAWS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S.1193.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendent of the House to the bill (S. 1193) entitled "An Act to make technical amendments to various Indian Laws", with the following amendment:

Page 5, after line 14 of the Senate amendment, insert:

SEC. 7. AMENDMENTS TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT.

The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Public Law 100-512) is amended in sections 7(a), 7(d), 10(a)(1)(A), 10(a)(1)(B), and 12(b), by striking out "December 31, 1991" and inserting in lieu thereof "June 30, 1992".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SAN CARLOS INDIAN IRRIGATION PROJECT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1476, the San Carlos Indian irrigation bill just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1476) to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 1476) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3595

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid Moratorium Amendments of 1991 be vitiated and that at 10:30 a.m. tomorrow, Tuesday, November 26, the Senate proceed to the consideration of H.R. 3595.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time proceed to the consideration of H.R. 1724, the MFN/unemployment insurance supplemental conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Minnesota be recognized to address the Senate, and that upon the conclusion of his remarks the Senate stand in recess as under the order until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I thank my colleagues.

MEDICAID MORATORIUM AMENDMENTS

Mr. DURENBERGER. Mr. President, I intend to take just a few minutes to discuss the issue of the Medicaid moratorium amendments.

The leader has already indicated that the motion to invoke cloture has been vitiated and that this matter will be addressed in the form of H.R. 3595, as amended by the Senate Finance Committee and hopefully in conjunction with that on an amendment by this Senator, an agreement that was reported out of the Finance Committee without recommendation which has been subsequently modified during the course of the last day or two, an agreement entered into between members of the National Governors Association and others in negotiation with the administration to try to deal with an issue which has been plaguing both sides for the last 12 months that deals with provider taxes and voluntary donations.

Mr. President, about a month ago many of the Nation's Governors came to Washington to meet with a number of the leaders of the House and Senate, particularly the people who were most interested in health care reform. States are probably having a more difficult time than we meeting their obligations under Medicaid, general medical assistance, and a variety of other programs. The Governors came with a very imaginative, I thought as one of the participants, platform for health care reform.

Among the recommendations made to us by the Nation's Governors was that we do something about the relationship between the Federal and the State system. Among other things, they recommended to us that the Medicaid system was broke and in fact this is their words:

> The Governors believe the Medicaid system is broken. It has become a rigid and overly complex program. Its institutional bias prevents State from providing preventive and primary care in settings most appropriate for its clients. Eligibility for the program is dominated by arcane rules that penalize providers, clients and administrators.

The Governors in their program then go into what they call their long-term vision for changes in the Medicaid Program, changes that recommend special provisions for the elderly and people with disabilities, changes in the public program for low-income people. Then they go into a set of recommendations on short-term realities and recommendations and they speak to the issue of financing the Medicaid Program.

This is what they say, and I quote from their recommendations.

> Financing is the major obstacle to achieving consensus on the best long-term use of current Medicaid resources. The options, therefore, are for each side to try to shift the disproportionate burden to the other or to work cooperatively to develop a way to achieve a rational system over time.

I will repeat that: The options appear to be "for each side to try to shift a disproportionate burden to the other or to work cooperatively to develop a way to achieve a rational system."

For several years we have been in the business of shifting burdens toward the States. We have come up with a variety of very important mandates in the area of young mothers and children but we have not provided the adequate resources for the States to implement those mandates.

The States seem to be in the process of getting even. In the last 12 months they have increased what are called provider taxes or voluntary donations by 100 percent, thus shifting their matching financial contributions for Medicaid onto the Federal Government. In the process, many of the States are on the verge of converting this 26-year-old Federal-State Medicaid financing partnership into a sole proprietorship financed 100 percent by the Federal Government.

I will take just a minute to describe perhaps three examples for my colleagues. I am sure my colleague who is in the Chair now from South Dakota does not represent a constituency that is practicing any of these examples. In fact, I think South Dakota is one of few States, maybe six States in this country, that do not do any of these kinds of schemes.

But here is what one State did. This particular State's hospitals historically added a surcharge to their regular service charges to cover projected uncompensated care costs. The State government converted the surcharge program into a tax program. The hospitals transferred the tax over to the State. The State then returned the money to the hospitals in the format of increased Medicaid payments and then claimed Federal matching funds for the increased payments. The State in this case estimates that this paper transaction will generate more than one-half billion dollars in additional Federal funds but not a single dime of additional cost to the State treasury.

Here is a second example. This one involves a so-called donation. This State had a $208 million shortfall in its Medicaid hospital budget so a group of hospitals in the State formed a nonprofit corporation which borrowed $365 million from a bank and then donated the funds to the State. The State increased its disproportionate share payments to these hospitals from a maximum of 2½ percent of Medicaid reimbursement to the 53 percent. That enabled the State to return the $365 million donation to the hospitals in the form of disproportionate share payments. The State then claimed the $365 million payment for Federal matching was reimbursed $208 million by the Federal Government and that enabled the State to use the Federal funds to eliminate its $208 million Medicaid hospital budget shortfall.

Finally, Mr. President, I will describe an innovative new tax program that effectively converts one State's Medicaid Program into a 100-percent federally financed program. One of the reasons this State is able to convert its Medicaid Program to a 100-percent Federal program is because for every dollar it claims it pays for Medicaid, the Federal Government provides more than $3 of matching funds. In this case, the State adopted a tax—and I use that word with caution—on noninstitutional providers participating in Medicaid. The revenue from the tax precisely equals the State's share of costs for Medicaid. The State then will raise payments to the providers in an amount that again precisely equals the revenue derived from the tax.

When the cost of the tax is subtracted from the increased Medicaid payment to the provider, the provider continues to receive the same payment that they had received prior to the imposition of the tax.

The effect for the U.S. taxpayer is that the Federal Government pays 100 percent of the costs of this State's

Medicaid budget. And to make matters even worse, by declaring nearly 100 percent of a State's hospitals as disproportionate share hospitals, all the restraint on hospital charges to Medicare or Medicaid patients is eliminated and the Federal taxpayers pay whatever the hospital wants to charge and the State is willing to pay with Federal dollars.

Mr. President, in the past year alone the cost to the Federal Government of investigating donation and PAC schemes has increased by more than 1,100 percent. A year ago these payments totaled $500 million. This year they are $5.5 billion.

What is clear is that few legislators think that these transactions are right. But if one or two States get away with it, every State must inevitably join in the feeding frenzy. Thirty-eight already have, and our colleagues from the other 12 will have to make a place for them at the trough.

Mr. President, I recognize that every State is under severe budgetary pressure. With the economy slow to recover, with more citizens seeking State assistance, the pressure on the States to balance their budget is enormous.

Morever, annual double-digit increases in the cost of health care, along with an endless series of Federal Medicaid mandates, only serves to exacerbate that pressure. But that is not justification to allow the States to shift their statutory costs to the Federal Government.

The authors of the Medicaid law never intended the Federal Government would be solely responsible for financing Medicaid. It was assumed each State would have to use some of its fiscal resources to share in the cost of the program.

Congress, in setting up the formula, recognized the fiscal disparities that existed between the States. It adopted a Federal matching formula that increased the Federal match for States with lower per capita incomes. Currently the matching rates for provider payments can range from 50 to 83 percent.

Let me give you an example. The matching rate for the State with the largest Federal contribution is Mississippi, 80–20. For Arkansas the matching rate is 75–25. For Minnesota, it is 54–46. And for New York, 50–50. What that means is that for every Medicaid dollar expended by the State of Mississippi the Federal Government will pay $4 to the State for its share. That is legitimate. For every Medicaid dollar paid by the State government in New York, the Federal Government provides $1.

If Mississippi wanted to federalize its Medicaid Program, and so far it has not, all it would have to do is raise Medicaid fees to its providers by about 20 percent, then impose the tax on Medicaid of about 20 percent. The providers would continue to receive reimbursement at current rates, but the State would have generated enough additional Federal matching money to finance 100 percent of the State's program.

Until recently every State had to factor in State Medicaid costs in their annual budgets. But what we are seeing is that some very creative State officials have found a way to eliminate Medicaid as a cost item in their budgets. These States no longer have to make the difficult decision of cutting services or raising taxes to help finance Medicaid. Instead, they send the bill to Washington where the State's Medicaid bill is paid for by the Nation's taxpayers.

Mr. President, Minnesotans gladly accept the 54 percent Federal Medicaid match. They do not resent the idea that poorer States receive a higher match. We are proud to the wealth of our State, and we are pleased that the Federal Government is more generous to poorer States. But the donation and tax schemes that shift Medicaid costs from the State to the national taxpayers have nothing to do with the fiscal capacity of a State. Wealthy States that receive the minimum 50 percent match have adopted some of the most creative of the tax schemes.

So the issue is not the fiscal capacity of a State. It is simply a matter of the fiscal creativity of State budget officials and the moral integrity of the same.

When Minnesota's new Gov. Arne Carlson entered office at the beginning of this year he faced a $2 billion budget shortfall. After months of agonizing over the issue, Minnesota adopted a modest provider tax program. State officials really did not want to adopt such a program because they knew it was a matter of fiscal chicanery. But their attitude was simply that all the other States are doing it, why should not we get in the game?

Obviously, at the same time, they had pressure from providers of care to raise the reimbursement the State was providing for the provision of these services.

So, Mr. President, the issue is not do you protect your State's Medicaid financing scheme. It is will we take responsibility for Federal Medicaid spending or will we delegate that to the 50 State legislatures?

If the Federal deficit can be increased by $5 billion in just 1 year by the creation of these schemes, just the beginning of these schemes, think of these schemes, think of what all 50 States could do to the Federal budget next year.

We must take that responsibility, and we must do it now, Mr. President. On tomorrow we will have an opportunity to do that. We will certainly have had the help of our colleagues from the Governors' Association. At least at this stage, as I understand the negotiations, all but one or two of the Governors—others who have been consulted with—have indicated that appropriate changes have been made in the agreement so that they would be satisfied with the recommendations which we will make tomorrow in the form of an amendment.

For those who have not yet decided to be part of the agreement, I will just go back to where I began with the very, very fine statement put together by all of the Governors—John Ashcroft of Missouri is the Chairman, Roy Romer, Governor of Colorado, is vice chairman of the committee—and restate their proposition.

Medicaid is broken. It has to be fixed. There are long-term ways of doing it, and there are short-term ways of doing it. The options the Governors say are for each side to try to shift the disproportionate burden to the other or that both sides work cooperatively to develop a way to achieve a rational system over time.

The agreement which I hope to be able to present on behalf of both the Governors and those of use who participated in the last several days in this I trust adopt that second route that we work cooperatively with the Nation's legislatures and Governors, and develop a way to achieve a rational system.

Mr. President, I yield the floor.

ORDER FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow; and that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10:30 a.m. tomorrow, during which Senators may be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12:30 to 2:15 PM

Mr. MITCHELL. Mr. President, I ask unanimous consent that on tomorrow the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate stands in recess until 10 a.m., Tuesday, November 26.

Thereupon, the Senate, at 10:11 p.m., recessed until tomorrow, Tuesday, November 26, 1991, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate November 25, 1991:

DEPARTMENT OF TRANSPORTATION

James Buchanan Busey IV, of Illinois, to be Deputy Secretary of Transportation.

HOUSE OF REPRESENTATIVES—*Monday, November 25, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are appreciative, O God, that in so many places in our world people are securing the realities of freedom. We know that nearly every day we hear of new liberties to nations, of hostages released, of reconciliations attempted, of families reunited. We pray, gracious God, that as we see others gaining renewed spirit and vigor, we will not lose ours through lack of determination or purpose. May we commit our hearts and minds and souls to justice, to personal dignity, and to respect between every person so the soul of our Nation is strong from within. Grant, O living God, this our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. PAXON] please come forward and lead the House in the Pledge of Allegiance.

Mr. PAXON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and a concurrent resolution of the House of the following titles:

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week"; and

H. Con. Res. 188. Concurrent resolution concerning freedom of emigration and movement for Syrian Jews.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes; and

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes."

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 108. An act to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years;

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes;

S. 1183. An act to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, Utah, and for other purposes; and

S. 1184. An act to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, UT, and how best to preserve the resources threatened by such salt loss;

S.J. Res. 124. Joint resolution to designate "National Visiting Nurse Associations Week" for 1992;

S.J. Res. 225. Joint resolution to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week"; and

S. Con. Res. 78. Concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

APPOINTMENT AS MEMBERS OF COMMISSION ON LEGAL IMMIGRATION REFORM

The SPEAKER. Pursuant to the provisions of section 141(a) of Public Law 101-649, the chair appoints the following members to the Commission on Legal Immigration Reform on the part of the House: Mr. Bruce A. Morrison of New Haven, CT; and Mr. Warren R. Leiden of McLean, VA.

MOTION TO INSTRUCT CONFEREES ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. WYLIE. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WYLIE moves that the Managers on the part of the House at the conference on the disagreeing vote of the two Houses on the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, be instructed to insist on the House provisions, due to the dire need to replenish the Bank Insurance Fund.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of my motion to instruct conferees with reference to the recapitalization of the bank insurance fund. Simply stated, the motion would instruct House conferees to insist on the House provisions due to the dire need to replenish the deposit insurance fund immediately.

The need for this unusual procedure, it seems to me, ought to be obvious to the Members. The bank insurance fund needs to be recapitalized immediately. The Senate-passed banking bill would involve nine other committees of the House and make the process of going to conference so cumbersome as to be unworkable.

The Senate banking bill, for instance, deals with crop insurance, the Lampf decision regarding limitations for securities and fraud cases, the TWA pension fund, Chinese slave labor, lender liability under public works, fair trade and financial services, repeal of the luxury tax, and CIA reporting requirements.

We have met with Senate leaders, and I think they have agreed to drop most of these so-called controversial nongermane amendments, but time is not on our side, Mr. Speaker.

To consider all of these extraneous amendments would be contrary to the central need now and that is to recapitalize the bank insurance fund. The Senate bill also includes a cap on interest rate charges on credit cards. The author of this amendment has put a hold on the appointing of conferees until he can get some sort of an agreement in this regard.

I think it is fair to say that most of the conferees would want to drop this amendment, too. I received an urgent

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

letter from Secretary Brady this morning and another one from Chairman Alan Greenspan, FDIC Chairman Bill Taylor, and Paul Volcker, all having written strong letters in opposition to the imposition of arbitrary interest rates on credit cards.

Mr. Speaker, I think I have made my point that the time to get on with the recapitalization of the bank insurance fund is now.

These other issues are important, but they can be taken up later on. The issue of the recapitalization of the bank insurance fund cannot be taken up later on. We need to restate the House position in the strongest possible terms as to the urgency of the recapitalization of the bank insurance fund.

I urge support of my motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

I agree with my distinguished colleague from Ohio. I agree on this motion to instruct the conferees when and if we have them.

Clearly there is no margin for error in the House. We have had votes ad nauseam, both full committee, subcommittee, full committee and the House. Unrestrained, three times. And it just seems to me that I, for one, would not ask the Members of the House to walk the plank four times whereas the other body did not send us a bill until about noon Saturday.

And then it was so chock full of disparate elements, that I think my colleague from Ohio has brought out, including the proviso as to slavery in China, to such things as a pension plan for the Federal Deposit Insurance Chairman, Bill Taylor, to relief for the banks, for the relief of the bankruptcy troubles of Robert Campaul, the guy that shattered the bond business and the so-called junk bond world.

□ 1210

So what we got was a bill so chock full of irrelevancies, as a mangy hound dog is full of fleas, and it just simply is not possible to proceed in a rational manner. It is impossible for the House to proceed. We would have to have had at least nine different committees from the House all the way from the Committee on Foreign Affairs, the Committee on Ways and Means, and Intelligence if we were to have a suitable and a proper arrangement for conferees from the House to meet that kind of action from the Senate.

I might disclose to my colleagues so that they will understand why it is that I support this strongly; the Speaker, in his wisdom, convened almost 10 hours Friday, brought the Senators over, the Secretary of the Treasury, various and sundry committee chairmen from the House, all the committee chairmen and the committee members from the Senate. The Treasury brought in an army of staff. In fact, I guess on Friday, the Treasury must have closed the doors for business because all of their staff were over here. He met to try to reason.

What happened? Nobody can say that we were trying to be confrontational. I want to thank the Speaker for that effort. I think that what it has done is shown that the House has acted most responsibly, most honorably, and above all responsibly to the urgent need.

I pointed out in general debate when we brought up the banking bill this third time that a month from now when we are in the vacation time and on the verge of Christmas the deposit insurance fund for the banks is insolvent, and if anybody who gets up here and emotionally says, "Let us be honest," if we want to be honest then what we ought to tell our folks is "We don't have the insurance fund in a position to honor the commitment of the Government for our little funds or big funds, up to $100,000." That is the bald truth.

Now, it is almost criminal negligence. If there were such a thing as malpractice for negligence in legislative procedure, I think that the actions here that we face in trying to structure at this late hour a conference would certainly make somebody vulnerable there.

Mr. Speaker, I yield such time as he may use to the gentleman from Illinois [Mr. ANNUNZIO], the distinguished chairman of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance of the Committee on Banking, Finance and Urban Affairs of the House.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to support the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and to support the gentleman from Ohio [Mr. WYLIE] for the motion to instruct. I associate myself with the remarks of the gentleman from Texas [Mr. GONZALEZ] and those of the gentleman from Ohio [Mr. WYLIE].

For over a year now we have been warning the American people that the BIF is broke, it is insolvent, it is out of money. I urge the Members of this Congress to vote for this motion to instruct because if we do not do that, all we need is one more large bank to fail in the United States and we are going to have blood on the streets of America. The people will finally realize that their deposits are not insured.

Some of us have short memories. Do we remember what happened in the State of Maryland? Do we remember what happened in the State of Ohio? Do we remember what happened in the State of Rhode Island, where the Governor, I understand, is still riding around in a limousine with two bodyguards because those savings and loans shut down?

These institutions in those States were not federally insured. They were privately insured in those States where the S&L's went down. So I urge the Members today to vote on the Wylie motion and to vote "aye."

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time.

I join him and the other Members that have spoken here this morning in strong support for this motion to instruct the conferees. We have worked on this bill for months, and I compliment all the Members that have worked so hard, the chairman and the subcommittee chairman and the ranking member, and all the members of the Banking Committee. This motion is really the only avenue that is available. We have faced this issue in committee for months. We have gone over all of the amendments and the version passed by the House is the only bill that we can enact, at this time. Many, including myself, have questions in our minds about this bill. However, we realize that this is the only way for us to proceed, that we have to recapitalize the FDIC, we have to be responsible.

At least one House has to be responsible. The Senate with a voice vote put everything in their bill including the kitchen sink, including all the dirty dishes. A voice vote totally ducking this issue is, in my opinion, irresponsible action. Now is the time for us to act, and I would plead with all the Members of the House to join in this motion and back the Wylie motion.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his contribution. Again I want to urge Members to vote for this motion to instruct conferees. As I said a little earlier, the bank insurance fund recapitalization is urgently needed. The New York Times reported this morning that "Federal regulators have had to move more slowly in seizing weak banks because of the depletion of the deposit insurance fund," which will ultimately cost taxpayers money.

The news media has not been treating us kindly on this issue, Mr. Speaker. The motion to recommit will restate our position as to how urgent we feel this recapitalization of the bank insurance fund really is and, therefore, I would urge adoption of the motion, Mr. Speaker.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Ohio [Mr. WYLIE].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum in not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 3, answered "present" 1, not voting 32, as follows:

[Roll No. 423]

YEAS—398

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—3

Burton
Quillen
Solomon

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—32

Alexander
Clay
Collins (IL)
Crane
Engel
Foglietta
Ford (TN)
Hatcher
Hertel
Horton
Hutto
Mfume
Mrazek
Oberstar
Oxley
Parker
Payne (NJ)
Ray
Rostenkowski
Russo
Savage
Sharp
Shaw
Sikorski
Smith (TX)
Stokes
Sundquist
Towns
Weber
Weldon
Wilson
Wolpe

□ 1241

Mr. QUILLEN changed his vote from "yea" to "nay."

Mrs. COLLINS of Michigan and Mr. NICHOLS changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING ORDERING OF VOTE ON H.R. 3638, KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

Mr. GUNDERSON. Mr. Speaker, I ask unanimous consent to vacate the ordering of a vote on the bill (H.R. 3638) modifying the boundaries of the Alaska Maritime National Wildlife Refuge.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 157, CORRECTING ERRORS IN ENROLLMENT OF H.R. 2251, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION TO INSTRUCTION OFFERED BY MR. MCDADE

Mr. MCDADE. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion

The Clerk read as follows:

Mr. MCDADE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.J. Res. 157, be instructed that if there is a choice between a cleaned-up Desert Storm and dire emergency package that offers substantial assistance to those affected by natural and farming disasters that is likely to be signed into law, and a product containing extraneous and non-emergency items that is likely to be vetoed, resulting in a delay in further consideration of this measure until well into 1992, the conferees should choose the former, in order to get assistance to those in need in the shortest time possible.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes in support of his motion to instruct conferees and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes

The Chair recognizes the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this supplemental, which we have been working on for some 5 months, left the House, it was in deep trouble. It had been loaded up with a myriad of provisions, from changing the Federal Election Commission law on financing Presidential campaigns to providing drug testing for Members of Congress.

Funding had grown to the level of over $7 billion, and if enacted, would have resulted in a sequester of 2.7 percent against all domestic programs to pay for it.

When I offered a motion to recommit, which received 180 votes, the chairman rose and most uncharacteristically in a weak moment said, "Don't worry. The Senate will take care of it."

Of course, the Senate did not take care of it. The funding levels passed by the Senate are just as high. And they loaded it up even more, taking some 30 amendments on the Senate floor, with provisions ranging from recognizing the Ukraine to monitoring domestic uses of imported grain to space missions to looking at comets.

The only saving grace in the Senate bill was an emergency provision that said that the only funding in the bill that would be made available is whatever the President chose to declare an emergency. A bill containing such a provision could be signed by the President, but the likelihood that the House would accept such a provision is minuscule.

So here we are, going to conference on this long-suffering supplemental, and still in a muddle. But there is a ray of hope, Mr. Speaker; a ray of hope for all the Members in this House who are hoping that we can find a way to provide needed disaster assistance to the east coast, and the west coast, and many places in between, and to pay for costs of Desert Storm.

That ray of hope is a letter sent by the administration on Saturday, which goes a long way toward defining what would constitute an acceptable package. If we can produce a clean bill consisting of funding for Desert Storm, FEMA disasters and agriculture disasters, the administration would be willing to designate a significant amount of funding as emergency.

For FEMA, while up to now the administration has been willing to designate $151 million as emergency, while both House and Senate have passed funding in the amount of $943 million, the administration would be willing to designate a substantial amount of the current $693 million backlog in funding as an emergency. The exact amount still needs to be negotiated out, but it will be a substantial amount.

For agriculture disasters, previously the administration's position was to agree to up to $1 billion if it was offset. Now the administration is willing to designate up to $900 million as an emergency.

That is a substantial and significant offer, Mr. Speaker. It puts the House conferees and the House to a decision point.

Do we want a bill that will get assistance to those affected by disasters, or do we want a veto that will put off consideration of the issue until the next session of Congress?

My motion to instruct would put the House on record in support of getting a substantial and significant supplemental that the President can sign. There is a real chance to do so.

It will take some restraint on the part of the Congress, but we have the opportunity to do the right thing—get a lean, clean supplemental that addresses the real needs that are out there, with the assurance of the administration that it will sign a bill.

My motion to instruct instructs the conferees that if they have a choice between a cleaned up bill that will be signed, and a Christmas tree that will be vetoed, they ought to take the responsible position and get a signable bill.

I urge my colleagues to support this motion. If it fails, and we get a supplemental that is vetoed, it will be at the fault of Congress.

When you go back to your constituents and explain to them why they are not getting paid for their backlogged claims to FEMA, or why they are not getting any agriculture disaster assistance, you will not be able to blame the administration. They have mercifully put forth a way to get out of the quagmire that we have created for ourselves.

The choice between a supplemental that will be enacted and a supplemental that will be vetoed is now up to the conferees and up to the Congress.

I urge Members to do the responsible thing and the right thing—to vote for this motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I call the attention of my colleagues to the fact that I differ with the views that have been stated by my good friend and colleague on the conference committee and on the Appropriations Committee.

We provide by law that the Congress can say what is a dire emergency, and also the President can say what is a dire emergency. I call attention to the fact that we had $1 billion $100 million determined by the executive branch as being a dire emergency for foreign countries. I call attention to the fact that in the bill before us, our colleagues on the other side of the Capitol provided section 202, which gives to the executive branch the right of item veto, and certainly that was not mentioned in support of the instruction.

So I would have to say that I differ with the facts. As the chairman of the conference, I differ with the facts as related. I differ with the efforts to provide that the executive branch shall have the power to control the Congress' action, though it has the power of veto.

We have three branches of Government, the legislative, the judicial, and the executive, and I am proud to say that since I have been chairman of the Appropriations Committee, the White House has signed 180 bills of the 193 appropriations bills we have passed. We have worked the others out.

I have said many, many times that we try to run a bipartisan committee. We try to realize, as has been said before, that we have a government of three branches, which is like a Russian chariot with three horses; we have to pull in the same direction if we are to get anywhere. But I say we have reached a point here now where the Office of Management and Budget is telling us what the President will do, not merely what they will recommend. I do not know whether he has authorized them to do that or not. I do have a letter from the Director of OMB in which he says the President will do this and that he will do that, but that he will not do this and will not do that. I do not know how sound his claims may be, but I will say that on an earlier bill when I talked to the OMB Director about a sequester and went over the various activities of the Government in the bill, he said he wanted to work it out, and then the next thing, I knew, he had issued an order of sequestration for thirteen ten-thousandths of 1 percent.

So I say to the Members, they can adopt this if they wish, but we on the committee expect to do our own interpretations, and certainly we are not in a position to turn it over to the executive branch. May I say that my personal relations with the President are excellent. He is a fine person, and we have been friends for a long time. That does not mean we agree. Certainly we should not give the executive branch item veto and the right to run everything.

Mr. Speaker, let me read the language that has been put in here by our friends on the other side of the Capitol:

> SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

May I say that I served on the Budget Committee. I was the one who made the mistake of recommending it. I recommended, as chairman of the committee, that we have five members of the Ways and Means Committee, five from the Appropriations Committee, and that the five others be from the legislative committees. Instead, they weighted it in favor of the legislative committees. So the budget we started with as a target, ends up being a ceiling:

I point out again that our committee has held the total of appropriations bills to $680,800,000,000, below the recommendations of Presidents since 1945.

Be that as it may, I am not willing at this time to bind myself to anybody that will claim that the Congress has turned over to the executive branch, the right and power to item veto. That just means a dictatorship. That is what it means, and I have too high a regard for the President to think that he will use it that way. But that is what the provision passed by the other body on the other side of the Capitol would provide. It would provide that in section 202. So I cannot suggest that is his interpretation, and I have not heard the interpretation before, but if it is interpreted as OMB has written it down here, and they seem to follow that, I cannot agree with it. The Members may do whatever they want to do, and there are instructions I have seen in the past that are ignored, and we will have to do our own interpretation on what this instruction means for that is not only our right but our duty.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. McDADE. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Speaker will appoint conferees on his return to the chair.

A NOVEMBER POEM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I have today a November poem written by me which I submit on behalf of myself and Mr. Reyes to Mr. Gordon, Officer Brazwell, and Ms. Sampson, and other people who have not yet found themselves right with the Lord:

A NOVEMBER POEM

(By Dick Armey)

Oh, how the mighty have fallen
Irvin and Smith left Redskins sprawlin'.
Roused from the undefeated dream
By that oh-so-hated Dallas team!
The 'Skins saw Johnson's bag of tricks
Hail Mary passes, on-side kicks!
And wasn't it a sight to see,
That heroic, second-string Q.B.?
The loss took place at R.F.K.
But evokes the words of J.F.K.
Cowboys fans chant this one-liner,
Say it loud; "Ich bin ein Beuer-leiner!"
Add to the rivalry one more game,
Beside those of Landry-Allen fame.
It's a tough loss, but don't be too sore,
Wait 'til play-offs, when we beat you once more!

TEXAS VENISON CHILI DAY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I want to join my colleague, the gentleman from Texas [Mr. ARMEY], on behalf of the Cowboys. I was not just sure what he said, but it was about the great victory over the Redskins yesterday.

I have asked for this time, Mr. Speaker, to remind the Members that today is the day we give chili away, Texas venison chili. So if any Member has not availed himself or herself of it, a cup of red hot chili is available for you in either the Democratic or the Republican cloakrooms or in room H-137 or in the dining room.

Mr. Speaker, this is only really one-alarm chili. If I had given you two-alarm chili, none of you gringos could handle it.

☐ 1300

I think this chili is good, based on the comments so far. I want to remind Members that this is about the 25th year that I have served venison chili for House Members. So help yourself. This is a great occasion, and it prepares us well for Thanksgiving.

PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part 1 of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendment printed in part 2 of the report of the Committee on Rules accompanying this resolution. The amendment shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. The amendment shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendments adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendment thereto final passage without intervening motion except one motion to recommit. After passage of H.R. 3750, it shall be in order to move to take from the Speaker's table the bill S. 3 and consider said bill in the House. It shall then be in order to offer a motion to strike out all after the enacting clause of S. 3 and insert in lieu thereof the provisions of H.R. 3750 as passed by the House. It shall then be in order to move that the House insist on its amendment to S. 3 and request a conference with the Senate thereon.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, I make a point of order against the consideration of this resolution.

Mr. Speaker, this resolution violates House rule XI, clause 4(b), which states that:

> The Committee on Rules shall not report any rule or any order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

Here we go again, throwing the rules out the window. This must be some kind of new martial law that we started dealing with, according to the majority leader, last Friday.

The relevant portion of clause 4, Mr. Speaker, of rule XVI states that:

> After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such permission to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, on January 3 of this year I wrote to you, the majority leader, and the chairman and members of the Committee on Rules. With that letter, I transmitted a 48-page report prepared by the Committee on Rules minority staff entitled "The Motion to Recommit in the U.S. House of Representatives: The Rape of a Minority Right."

Mr. Speaker, that paper carefully traced the legislative history and intent behind what is now clause 4(b) of rule XI and clause 4 of rule XVI. In essence that report demonstrated beyond any doubt that the whole purpose of the two rules was to give the minority a final vote on its legislative position.

The House already had another provision in rule XVII, dating back to 1880, which provided for one motion to recommit with or without instructions, pending the adoption of the previous question or after it is ordered.

Mr. Speaker, this new rule, which applies only to bills and joint resolutions after the previous question is ordered, was specifically set apart from that to clearly reserve to the opponents the right to offer the motion and get a vote on the final amendment in the form of instructions, if the opponents so desire.

That is the way this House has always operated.

As the author of the new rule, Representative John Fitzgerald, a Democrat from their side of the aisle and from New York, my State, put it on offering the language back on March 15, 1909, and I quote this for Members back in their offices who ought to be listening.

> Under our present practice, if a Member desires to move to commit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit.

And Representative Fitzgerald concluded:

> Under our practice, the motion to recommit might better be eliminated from the rules altogether.

Mr. Speaker, the author left no doubt that he was specifically offering this new House rule to give the opponents a final vote on a proposition in the form of instructions. I will not quote at length all the speakers who have subsequently reiterated this purpose of the new rule. Let me just give one example.

Quoting from Cannon's Precedents, volume 8, section 2727, Speaker Gillett, on October 7, 1919, said the following in ruling on a point of order:

> The fact is that a motion to recommit is intended to give the minority one chance to fully express their view so long as they are germane. The whole purpose of this motion to recommit is to have a RECORD vote on the program of the minority. That is the main purpose of the motion to recommit.

And it is the democratic way of doing things.

Mr. Speaker, the Chair has previously relied on a 1934 precedent to uphold the right of the Committee on Rules to restrict the minority's right to recommit.

In that 1934 instance, a rule prohibited amendments to a particular title of a bill during its consideration, meaning in the House and in the Committee of the Whole. And the Chair upheld a point of order against a motion to recommit with instructions that attempted to amend that title.

Mr. Speaker, as the research paper I submitted to you last January made clear, that 1934 point of order was wrongly decided.

The ruling was wrong because if the Committee on Rules could prohibit some amendments from being offered in a motion to recommit, by logical extension it could prohibit all amendments from being offered. And that would clearly nullify the whole intent of the rule, which was to guarantee to the minority the right to offer an amendment and a motion to recommit with instructions, if they so wished, provided they were opposed to the bill.

The central issue, Mr. Speaker, is not whether the Committee on Rules has preserved the right of a straight motion to recommit but, rather, if it has preserved the minority's right to a motion to recommit. In the words of the rule, "as provided in clause 4 of rule XVI," the rules of our House.

And what that rule's author provided was the right to offer amendatory instructions. About that there should be no question after reading the history and precedents surrounding that rule.

Mr. Speaker, the rule before us does not protect the right to offer a motion to recommit with amendatory instructions because it makes in order an amendment in the nature of a substitute as the base bill for amendment purposes. And the adoption of that substitute by the House would preclude any further amendments in a motion to recommit unless the rule had included the words "with or without instructions."

Everybody upstairs in the Committee on Rules knew that. Nobody was being fooled. That has been the traditional language included by the Committee on Rules, dating back to 1909, for the specific purposes of protecting the minority's prerogatives whenever a committee substitute is made the base text.

The gentleman from California [Mr. DREIER] pointed this out during the Committee on Rules markup of this rule and offered the appropriate corrective language. That motion was rejected on a party line vote after it was made quite clear that the majority was intentionally denying this minority right because it did not want the minority to offer a further amendment.

I cannot believe this. As the chairman put it, we were already given a substitute we could offer during consideration in the Committee of the Whole. It is clear from the record and this rule that the majority has purposefully denied this historic minority right which dates back over 90 years ago.

□ 1310

I therefore urge, Mr. Speaker, that you uphold my point of order and the important principle involved here of preserving and protecting the right of the minority to have a final vote on its program in the motion to recommit. To do otherwise would be to render this rule meaningless and to turn the clock back a century on this fundamental minority right.

I ask you, Mr. Speaker, to be fair and to rule in my favor.

The SPEAKER. Does the gentleman from Texas [Mr. FROST] desire to be heard?

Mr. FROST. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER. The gentleman from Texas is recognized.

Mr. FROST. Mr. Speaker, the gentleman from New York [Mr. SOLOMON] makes the point of order that the rule limits the motion to commit and therefore, according to the minority, violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: "would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI addresses the simple motion to recommit a bill or joint resolution and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure. Nowhere are instructions mentioned.

The Rules Committee, therefore, may report a rule that limits but does not prohibit the motion to recommit or to commit—without violating clause 4(b) of rule XI.

Mr. Speaker, so long as a simple motion to commit can be offered, a rule does not prevent the motion to recommit from being made as provided in clause 4 of rule XVI. This is a well-established parliamentary point.

Speaker Rainey so ruled in 1934 and was sustained on appeal. He said then:

> The Chair will state that the Committee on Rules may, without violating this clause, recommend a special order which limits, but does not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, such as precluding the motion from containing instructions relative to certain amendments.

Mr. Speaker, the parliamentary point was reaffirmed on October 16, 1990, and once gain on June 4, 1991, on the civil rights bill the first time the House considered it.

In October 1990, the Rules Committee reported a resolution making in order one motion to recommit which may not include instructions. The Speaker pro tempore [Mr. MURTHA] on that occasion ruled:

> Clause 4 of rule XVI does not guarantee that a motion to recommit a bill must always include instructions.

On June 4, 1991, the same point of order was raised against the rule on the civil rights bill. The Speaker overruled the point of order, stating:

> A special order that does not preclude a simple motion to recommit does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

In summary, Mr. Speaker, the precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to commit or recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI.

Mr. Speaker, I urge that the point of order be overruled.

The SPEAKER. Does the gentleman from New York [Mr. SOLOMON] seek to speak further on the point of order?

Mr. SOLOMON. If I might, Mr. Speaker.

The SPEAKER. The gentleman from New York is recognized.

Mr. SOLOMON. Mr. Speaker, earlier this year, quite early in the beginning of the year when the same situation occurred, the minority was outraged that this right would be taken away from us, and it was on a very important bill at the time when we really needed to expedite measures and get it through the House.

At that time, you, Mr. Speaker, were good enough to call a meeting consisting of you and the majority leader, Mr. GEPHARDT, and Chairman MOAKLEY, myself, and ROBERT MICHEL, our Republican leader, into your office where we discussed this issue, and at that time we received assurances from you and from the majority leader that we would look into this and we would try to have as much comity as we could and that we would try to work together.

Now here we are at the end of the session starting all over again. Mr. Speaker, I know myself in good faith did not go back out on the floor and use dilatory tactics or, working under the rules of the House, try to slow down measures in order to try to get our way. We took you at your word and the majority leader at his word that we would try to resolve these problems so they would not recur. Now here we are again, and I for one am disappointed that this is happening.

The SPEAKER. The Chair is prepared to rule, but let the Chair say to the gentleman from New York, because he has mentioned the Chair's previous statements, that consideration of ways to accommodate this disagreement have continued but so far there is no consensus on how to resolve it. The Chair hopes the gentleman understands that that does not preclude further efforts. But in the meantime the Chair would not suggest that the gentleman foreclose any rights available to the gentleman under the circumstances.

Does the gentleman from Texas [Mr. FROST] desire to speak further on the point of order?

Mr. FROST. No, Mr. Speaker, I do not. I believe the matter has been summarized well to this point.

The SPEAKER. The Chair is ready to rule.

The gentlemam from New York makes a point of order against House Resolution 299 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule 16.

Clause 4 of rule XVI provides for one motion to recommit a bill or joint resolution after the previous question is ordered on final passage, with preference in recognition going to a Member who is opposed to the bill or joint resolution.

Under the terms of the pending special order, the option of including instructions to amend in the motion to recommit H.R. 3750 pending the question of its passage might be precluded if the bill were entirely rewritten by the House's adoption of an amendment in the nature of a substitute. But the rule would allow not only a simple motion to recommit but even a motion to recommit with nonamendatory instructions.

On October 16, 1990, and more recently on June 4, 1991, the Chair was called upon to rule on similar points of order. On each occasion the Committee on Rules had reported a special order of businesss that would directly or indirectly preclude the inclusion of instructions in the motion to recommit the bill pending the question of its passage. On each occasion the Chair overruled the point of order, relying on precedents of the House—specifically the ruling of Speaker Rainey on January 11, 1934—holding that the Committee on rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. On this point the Chair would refer to page 471 of the House rules and manual.

Under the precedents a special order that does not preclude a simple motion to recommit does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." Clause 4 of rule XVI does not guarantee that a motion to recommit after the previous question is ordered on passage of a bill or joint resolution may always include instructions.

Although the pending resolution could indirectly preclude recommittal with instructions to amend, it would not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." For this reason the Chair is constrained to abide by the rulings of January 11, 1934, October 16, 1990, and June 4, 1991, and to overrule the point of order.

The gentleman from New York [Mr. SOLOMON] is recognized.

Mr. SOLOMON. Mr. Speaker, as I did not do before, you just cited the precedent, I will not out of respect to you ask to challenge the Chair on this ruling. But I would point out, Mr. Speaker, that during that meeting that we discussed before where you and the majority leader had said that the situation would not be established as a precedent, yet I believe I heard you cite the earlier precedents this year.

I again am not going to take up the time of the House this afternoon, because we have pressing matters we have to deal with. But Mr. Speaker, I hope that you, repeating your own words, would continue to pursue this and that we would resolve this matter before we convene in January. I would appreciate your consideration.

The SPEAKER. The Chair will exercise his best efforts to that end, and thanks the gentleman from New York.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 157, CORRECTING ERRORS IN ENROLLMENT OF H.R. 2251, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs: WHITTEN, NATCHER, SMITH of Iowa, YATES, OBEY, BEVILL, MURTHA, TRAXLER, LEHMAN of Florida, FAZIO, HEFNER, MCDADE, MYERS of Indiana, MILLER of Ohio, PURSELL, GREEN of New York, and SKEEN.

There was no objection.

□ 1320

PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on House Resolution 299, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 299 provides for the consideration of H.R. 3750, the House of Representatives Campaign Spending Limit and Election Reform Act of 1991. H.R. 3750 is a comprehensive, meaningful, and workable reform of the Federal Election Campaign Act of 1971, and is the product of nearly 1 year of detailed study, thorough discussions, and open negotiations. Because of the complexity and interdependence of each of the issues in this legislation, the Committee on Rules recommends a rule which will allow the House to make a choice between two different approaches to campaign finance reform in order to fulfill our commitment to the American people to clean up the election process.

Mr. Speaker, House Resolution 299 waives all points of order against the consideration of H.R. 3750 and provides for 1 hour of general debate on the bill. The 1 hour of general debate time is to be fully divided and controlled by the chairman and ranking minority member of the Committee on House Administration. Following general debate, the rule provides that the bill shall be considered for amendment under the 5-minute rule and that during such consideration, that it shall be in order to consider the text of the amendment in the nature of a substitute printed in part 1 of the report accompanying House Resolution 299 as an original bill for the purpose of amendment under the 5-minute rule. The rule provides that the substitute shall be considered as having been read and waives all points of order against it.

The amendment in the nature of a substitute made in order in the rule consists of the text of H.R. 3750 with some compromise language which was added to the bill after further extensive consultation within the House. The compromise substitute, drafted by House Administration Committee Chairman CHARLIE ROSE and the chairman of the Task Force on Campaign Finance Reform of the committee, SAM GEJDENSON, retains the cornerstone of the reform package—a cap on spending—while adding other provisions which will ensure that this legislation directly responds to the wishes of the American people in a responsible manner.

Mr. Speaker, before I detail the rest of the rule, I would like to take a few minutes to explain the provisions of H.R. 3750 and the Rose substitute. Both proposals establish a voluntary cap on congressional campaign spending at $600,000, require that no more than $500,000 of the total may be spent on a general election, and provide that if a candidate accepts the voluntary spending limits, his or her campaign will be eligible for matching funds up to $200,000.

Both proposals place an aggregate limit on political action committee and large donor contributions by providing that no campaign may receive more than one-third, or a maximum of $200,000, of the spending limit from PAC's, and that no campaign may receive more than one-third, or $200,000, of the spending limit from large donors who give contributions in excess of $200. However, both proposals provide that in the event a candidate opts out of the voluntary spending limitation and matching funds provision, both he and his opponent are still limited to the aggregate sublimit on PAC and large donor contributions. In other words, if your opponent chooses to disregard the $600,000 spending limit, you are still limited to total receipts of $200,000 from PAC's and $200,000 from large contributions.

Both proposals provide a means for candidates to combat negative independent expenditures by providing matching funds for any candidate who has $10,000 spent against him or her. Finally, both proposals provide for long overdue controls on so-called soft money expenditures by placing a spending limit on the amount political parties may spend to assist their Federal candidates.

The Rose substitute adds several critically important provisions to H.R. 3750, as reported by the Committee on House Administration. The Rose substitute, like H.R. 3750, does not provide money for the matching funds pool, a new make-democracy-work fund; however, it does require that private donations be used to finance the new fund and specifically bans the use of taxpayer dollars for matching funds purposes.

The Rose substitute also contains a provision which addresses those instances in which a wealthy individual uses his or her own money to finance a congressional campaign by providing 3-to-1 matching funds from the make-democracy-work fund to the opposing candidate, who has agreed to the voluntary spending limits, once any one candidate has spent $250,000 of his or her own money.

Mr. Speaker, the only amendment made in order in the rule to the Rose substitute is the amendment printed in part 2 of the report accompanying House Resolution 299. This amendment, which will be offered by the minority leader or his designee, shall be considered as having been read and shall be debatable for 1 hour, with that time to be equally divided and controlled by the proponent and a Member opposed thereto, and shall not be subject to amendment. Mr. Speaker, consideration of this amendment, which represents the minority response to calls for campaign finance reform, along with the Rose substitute, will present the House with a clear choice on how we are going to conduct congressional elections.

House Resolution 299 also provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute. The previous question shall be considered as having been ordered on the bill and amendment thereto to final passage without intervening motion, except for one motion to recommit.

Finally, Mr. Speaker, the rule provides that after passage of H.R. 3750, it shall be in order to move to take from the Speaker's table the bill, S. 3, and to consider that bill in the House. It shall then be in order to offer a motion to strike out all after the enacting clause of S. 3 and to insert in lieu thereof the provisions of H.R. 3750 as passed by the House and to then move that the House insist on its amendment to S. 3 and request a conference.

Mr. Speaker, every Member of this House knows full well that we as an institution have been taken to task for the endless money chase that is congressional electioneering. The gentleman from Connecticut [Mr. GEJDENSON], and his task force, have labored long and hard to craft a fair and equitable way to finance Federal congressional campaigns. As a member of that task force, I am well aware of the long hours and hard bargains that were required to bring this legislation before the House today, and I believe H.R. 3750, and the Rose substitute deserve the overwhelming support of the Members of this body. This legislation has been created in the open and with the assistance of countless Members of the House. I commend it to my colleagues and urge support of House Resolution 299 in order that we may proceed to this most urgent issue.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides for the consideration of a bill which should be entitled the Democrat Incumbent Protection Act of 1991. And the way the rule is structured there will be almost no realistic chance to modify the proposal.

Republican Members have been largely excluded during the final key steps of the process, resulting in a bill which the President will almost certainly be forced to veto, and in the end there will be no solution to the problem through this process.

For the record I would like to lay out how the action in the Rules Committee contributed to this result.

Shortly before the Rules Committee convened at 11 a.m. on last Saturday morning we saw for the first time the text of a new substitute version of the bill. It was not the version reported out by the subcommittee, or the full Committee on House Administration. It was a significantly different version which apparently had been put together the night before because of concern that the committee bill did not have sufficient support to pass the House.

Even the ranking Republican member of the House Administration Committee and its Task Force on Campaign Finance Reform, the very able gentleman from California [Mr. THOMAS] was not given the courtesy of seeing a copy before coming to the Rules Committee. Mr. Speaker, this is not the way to achieve bipartisanship.

After hearing testimony and taking a brief break for lunch, the Rules Committee returned at 1:30 p.m. to find a new version of the substitute which had been further modified.

Mr. Speaker, campaign finance reform is an important issue. It goes to the very heart of the way the American people choose their Representatives. The proposal brought to this floor should be a well-thought-out product, not something put together at the last minute in a back room.

In the Rules Committee on Saturday, Mr. Speaker, there were a total of 20 other amendments or substitutes proposed on the subject of campaign finance reform. In the end only one alternative was allowed to be considered on the House floor. It is to be offered by the distinguished gentleman from Illinois [Mr. MICHEL] or his designee.

The other 19, many of them well-thought-out improvements to the bill, and to current law, will not be allowed to be considered by the House under this rule.

Even more disturbing, Mr. Speaker, this rule denies the minority its traditional right to recommit with instructions to amend the bill and report back forthwith. This is the last chance before final passage for the minority to offer its best alternative.

That basic minority right should never be taken away.

Mr. Speaker, the bill made in order by this rule is as bad as the rule.

First the bill provides for limits on spending. To some this sounds like a reasonable idea at first, until you stop to consider that the real effect is to lock in an advantage for incumbents. And as it happens, most incumbents around here are Democrats and have been since 1954.

Those of us on the minority side are the ones who are going to have to try to preserve a level playing field for challengers.

Each incumbent has about one-half million dollars a year for staff and office expenses, plus free mailing, plus name identification. If you then by law ensure that no challenger can raise more than the incumbent to offset these advantages, the odds of a challenger's success became very small.

In addition, the new back room substitute bill promises matching funds for candidates up to $200,000 each, but the bill fails to specify exactly how this taxpayer money is going to be raised. The bill also promises reduced postage rates to candidates who agree to abide by the spending limits, and this money ultimately will have to come from the taxpayers.

Mr. Speaker, under the provisions of this rule the House is permitted to consider one alternative to the back room substitute.

It is the substitute to be offered by the Republican leader, Mr. MICHEL. The provisions of the Michel substitute were introduced as H.R. 3770 back on November 14 by a number of Members, including this Member. Unlike the back room substitute which constitutes the base bill, the Michel substitute has been available to Members in printed form for some time now. It is not an incumbent protection plan, and it will not cost the taxpayers any money.

The Michel substitute will let the voters in the district set the spending limits by requiring that the majority of campaign funds be raised in the Member's district. This is a distinct difference from the Democrat back room substitute which does not require even $1 to be raised in the district. It could all come from people with a special interest in Washington or New York or Hollywood.

In order to reduce the impact of special interest money, PAC contributions under the Michel substitute would be limited to the same $1,000 level permitted for individuals.

Finally, the Michel substitute would ban soft money contributions to political parties for use in Federal elections. Soft money is money from unions, corporations, and individuals who make Federal contributions over $25,000 that would be illegal if given to a candidate. The ban on soft money would ensure that only funds raised under Federal rules could be used to influence Federal elections.

Mr. Speaker, of the two alternatives allowed under this rule today the only one which can be signed into law is the Michel substitute. If we are serious about cleaning up the problem of special interest political money, it is the only way to go.

If Democrats are not prepared to vote for the only alternative which can be signed into law, then they should join with Republicans in voting "no" on this rule so we can take time in the next session to have a full and balanced discussion of the complex issue.

It is not to the benefit of either party to be stuck with a deal cut in secret at the last minute which may produce consequences even its drafters did not intend.

Mr. Speaker, on behalf of the American taxpayer, vote "no" on this public financing rule and bill.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I think my record on campaign finance is clear and long. Before last year, the last campaign finance reform bill that passed the House was my bill, the Obey-Railsback bill. I remain committed to campaign finance reform.

I am going to vote no on this rule because I think that by the time this bill is finished both parties will have done a disservice to the facts.

I think the Republican substitute is simply not real because under the guise of pretending to attack PAC's, that package really would move the center of gravity in campaign financing very much over into the hands of the wealthiest people in this society. That is exactly where that party wants to be. I understand that.

I happen to think that is wrong.

Second, I think that the Democratic alternative is also deficient simply because it reminds me of the movie that Ronald Reagan starred in some time ago called "Kings Row." After he had been run over by a train and had his legs amputated, he woke up in the hospital and the first question he had was, "Where's the rest of me?"

That is the question I would ask about the Democratic package because this bill claims that it puts a $200,000 limit on PAC's; it claims that it puts a $200,000 limit on what it can raise from large contributors, and it claims that it provides a system under which you can have matching funds for small contributions.

But in fact it has no credible way, at least at this stage, to actually provide that matching money. I understand why it does not have that funding, because the fact is that the Republican Party has so savagely taken advantage of the public's lack of understanding about the necessity for public financing that they have created a situation in which no public financing bill can actually pass.

I think that is unfortunate and I think the blame for that lands clearly on the shoulders of the minority party.

But nonetheless, I am not willing to say that at this point we ought to go on and choose between these two alternatives, because I think the Democratic alternative panders to massive public misunderstanding about the realities of campaign finance.

It does not, in my view, take sufficiently into account the danger that you will drive underground the money trail if you try to limit PAC spending without providing other legitimate ways in which you can provide funds to match small contributions.

I think it also treats campaign surpluses in a very strange way. It protects the megasurpluses, it protects the $800,000 and $1 million surpluses built up by a few people around here, provided that those surpluses are expended for a purpose other than that for which they were raised. But it does not allow other Members to use small surpluses in a way which enhances their ability to remain independent of single or special interests. I think that is a major mistake in the bill.

I also think what is missing from both of these options is a recognition of our obligation to finally confront the American people and say hey, folks, if you want the system to be better, if you want to take the system back from single and special interests, then you need to exercise your individual responsibility by engaging in an act of individual citizenship.

I think we ought to give the public an opportunity, not to deduct what they pay from their taxes, but to add, on a voluntary basis, to add up to $10 when they file their tax return, to add up to $10 which would be deposited into either the democracy fund or, if they wanted, given to the Republican campaign committee, the Democratic campaign committee, so that they exercise their own individual responsibility to help provide funding that will help substitute for traditional big money campaign sources.

The Democratic bill may possibly have that option open to it, but only if a second subsequent step is taken in the Committee on Ways and Means with respect to revenues. Because it does not meet our obligations to provide a full package, because it does not confront the Supreme Court in the way they have totally screwed up our ability to bring any dignity to the campaign finance system, I am going to urge a vote against the rule until both parties have produced a better package.

Mr. SOLOMON. Mr. Speaker, I yield 6½ minutes to the distinguished ranking member of both the Committee on House Administration and the task force, the gentleman from California [Mr. THOMAS].

□ 1340

Mr. THOMAS of California. Mr. Speaker, I rise today more in the form of a public service announcement than in any other form because I think it is absolutely necessary.

To my colleagues on this side of the aisle: I think you heard the ranking member of the Rules Committee in his point of order about our desire to be treated in a fundamentally fair way being rejected, and if that isn't sufficient reason for you to vote against the rule, you need to know that there were a dozen of your colleagues who offered thoughtful and meaningful amendments in the Rules Committee. All of those were rejected as well.

So, Mr. Speaker, I would ask my Republican colleagues to vote "no" on the rule.

And for my Democrat colleagues, I think you need to know that six very well thought out alternatives were presented by the Democrats. All of those were rejected as well. A number of them had complete conceptual packages for public financing. The gentleman from California [Mr. BEILENSON], along with the gentleman from Iowa [Mr. LEACH], was to offer one. The gentleman from Wisconsin [Mr. OBEY] was to offer one.

Finally, I want to tell my colleagues in the form of a public service announcement: All of those Dear Colleagues that you have been receiving over the last several weeks from SAM GEJDENSON, you can simply throw away. They do not apply to the bill that was voted out of the Rules Committee. Those Dear Colleagues talked about a bill which is not in front of you. That was a bill that late Thursday night, behind closed doors and in the shadows, was fundamentally altered. Fundamentally altered in what ways? You can see it in H.R. 3750.

Here is the bill of the gentleman from Connecticut [Mr. GEJDENSON] as described in the Dear Colleagues:

The gentleman from Connecticut said there are going to be new cost obligations. There are going to be postal subsidies for those who come under the bill, somewhere between $50 and $75 million, as roughly estimated by CBO. There are going to be matching funds, and here it is difficult to determine how many candidates would qualify since they have had this incentive, but somewhere between $50 and $300 million in terms of matching funds. They had a provision for new funding sources in that bill. First of all, they wanted to talk about eliminating tax deductions for lobbying. They then talked about an FEC user fee on PAC's, and they talked about voluntary donations.

In front of the Committee on Rules, a rose by any other name, or, if my colleagues will, the Son of Sam emerged, and what we have in this new package is an additional cost obligation. They kept the matching funds, they kept the postal subsidy, but they added, quote, unquote, from the bill, an incentive. My understanding from the scuttlebutt and the rumors around the floor is that the incentive, not identified in the bill, is to be a tax credit, a $50 tax credit.

In fact, the Joint Tax Committee has estimated the cost of a $50 tax credit of Federal candidates. Over the next 5 years the cost would be $780 million. In 1992, the cost would be $74 million; in 1993, $238 million; in 1994, $107 million; in 1995, $205 million; and in 1996, $155 million.

That is somewhere between $100 and $200 million additional new annual average cost obligation for which tax revenues will have to be found.

But then what they also did, and this is the point that the gentleman from Wisconsin [Mr. OBEY] pointed out so clearly; what they also did was then removed the only two funding sources from the bill other than voluntary contributions, and what they are going to do today in front of us is to ask us to vote on H.R. 3750, as amended. The Son of Sam will have three tax obligations, about $500 million in obligations, and the funding source is going to be voluntary donations.

Come on. This is one hand clapping, and it was done, not at the 11th hour, but, in fact, at 5 minutes until midnight behind closed doors.

In addition, briefly I do want to let people know exactly what they are voting on because apparently the majority is unwilling to do so. In all of the Dear Colleagues that went out, this bill has continued as a $600,000 spending limit package. That just is not true. It is not so. The bill itself says, "It isn't so."

Yes, originally there was a $600,000 limit; I am not talking about the add-ons in terms of special elections, or in close primaries, or all the gimmickry things they have put into micromanaged campaigns. I am talking about the fundamental package as contained in the amended version. The $600,000 is in there, but late at night, or early in the morning, they decided to add another 5 percent for fundraising activities. That is an additional $30,000 in the package. There was no discussion of that at all in front of any group, and, as a matter of fact, no discussion in the Committee on Rules as to what that additional $30,000 was all about.

Also, Mr. Speaker, my colleagues need to know that, although they want to move this bill now, it is not to apply to an election until 1994. Now we have two intervening years—1992 and 1993. Take conservative CBO estimates of inflation: 3.9 percent for 1992, 3.8 percent for 1993. This bill actually in its fundamental form is a $680,000 spending limit package. Again, not talking about the $150,000 that for some reason somebody gets to spend if they have a race in which the people back home really challenge them, and do not like them very much, and they win by less than 10 percent. They get an additional $150,000. That would put the figure way off the chart.

Mr. Speaker, I am talking about those changes that have been made in just the last 48 hours in front of the Committee on Rules, and I would tell my colleagues, when you try to determine just exactly what this package is, and we've had some difficulty with the amendments. What we find is the fact that at one time apparently the gentleman from Connecticut thought he had the pulse of the Nation, because he kept arguing that the public opinion polls showed that the people were for taxpayer finance; and that's why he went ahead with it, but at the 11th hour. Apparently the gentleman from Connecticut didn't even have the pulse of the Democratic caucus because he pulled that aspect as well. But, more importantly, they have the effrontery to present to you a package which will spend between $300 and $500 million, and they propose to finance it out of voluntary contributions.

Mr. Speaker, they deserve to be voted down on this rule to save them from themselves.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, for those who will be watching the debate over the next 3 hours, I think, first of all, we ought to have some rules. The first rule is we can make perfect the evil of good. I think all of us, as Members of Congress, would have written a different bill from what the Republicans or Democrats will be offering today if we were writing it individually. Both bills are a product of what was an attempt to try to build a consensus within our respective parties. Today we are going to have a complete debate on the future of this country's needs with respect to elections.

Mr. Speaker, I would like to respond to the gentleman from Wisconsin [Mr. OBEY], a dear friend of mine who has indeed been a champion of campaign finance reform for over a decade in this House of Representatives. He said that one of his major concerns of the Democrat proposal was in fact the failure to take into account surplus funds and the inability to move those surplus funds into an account where someone could use them in the future. We did that for a specific reason. Those surplus funds give an incumbent an unfair advantage against a challenger. It would be unfair for those challengers because they are incapable of really building up surpluses.

This is one of the things that we are going to find as we debate this today. There are going to be tough reforms in this bill. The surplus provisions in the Democrat bill clearly are trying to level that playing field to make these races more competitive.

With respect to the gentleman from California [Mr. THOMAS], my dear friend, he seems to be making the argument that the cost of this bill could be anywhere from, I think he used the number $150 million, and then he went on to $270 million, and finally he is estimating that the potential cost of this bill could be $500 million. Well, the facts are a little bit different because CBO has estimated that the total cost of the Democrat bill over a 2-year period will be somewhere in the neighborhood of $40 to $90 million.

The other thing I find interesting in Mr. THOMAS' argument is that the Republican Party is adamantly opposed to public financing.

□ 1350

It really kind of ignores reality. It ignores the reality that Republican Presidential candidates have requested and accepted over $212 million in public funds to run for President. It ignores the reality that both Mr. Bush and Mrs. Bush checked the box yes on their Federal tax return and have received $60 million in 1980 and 1988 in public funds. It ignores the fact that Ronald Reagan himself accepted $92 million of public financing to run for President. It ignores the fact that the Republican National Committee has requested and accepted nearly $24 million in public funds to finance their Presidential conventions since 1976, and it ignores the fact that the Republican Campaign Committee, along with the Democratic Campaign Committee, have accepted literally millions of dollars in postal subsidies in political mailings to help their candidates.

So let us try to keep the debate focused on really what true reform is. I think if we do that, we will not make perfect the evil of good, and I think we will have a good debate.

Mr. Speaker, I ask my colleagues to support the rule so we can begin for the final time, hopefully, in all our tenure here, the final resolution of true campaign reform for our country.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to a distinguished Member of the committee, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the rule.

As I testified before the Rules Committee on Saturday and as several of my colleagues have already expressed, more especially, the gentleman from California [Mr. THOMAS], the campaign reform bill that is now being brought to the floor is not only poor legislation but the process that is being pursued by the majority does not serve campaign reform well. This has been a real example of the majority's handling of campaign finance. Little effort has been made to consider the views of the minority either in the Committee on House Administration or the Committee on Rules.

I was personally testifying before the Rules Committee on the Boehner-Roberts amendment in regard to the voter registration lists and targeted congressional mailings. It was discovered by the minority at that particular time that not only had the original legislation, as approved by the House Administration Committee, been modified, but in fact the bill had gone through a complete change, a real metamorphosis, and the changes were continuing as the Rules Committee met. I have just finally received—I say to all interested parties—11 new changes in the bill. This bill continues to change like a chameleon as we talk and as we debate. There have been no hearings, and there has been no opportunity for the minority or the public to review or to attempt to understand this bill. There has been no chance for any Member, either from the majority or the minority, and the gentleman from Wisconsin [Mr. OBEY] has already spoken to that. He is the god-prince of reform around this place.

Twelve Republican amendments were to be offered, and six Democratic amendments were to be offered. There is no opportunity to really recommit the bill. As this rule is written, as the gentleman from New York [Mr. SOLOMON] says, the minority will have only one true opportunity to offer a substitute should this rule be approved. Even a simple amendment by the gentleman from Ohio [Mr. BOEHNER] and myself to get the House out of the business of using voter registration lists for congressional mailing purposes was not given an opportunity by the Rules Committee.

Mr. Speaker, I urge my colleagues on both sides of the aisle to oppose this rule.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

Mr. SOLOMON. Mr. Speaker, I yield two additional minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I yield to my colleague, the gentleman from Ohio [Mr. BOEHNER], who is the author of reform legislation in regard to the voter registration lists.

PARLIAMENTARY INQUIRY

Mr. SMITH of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Florida. Mr. Speaker, would I be correct in this: The gentleman from New York [Mr. SOLOMON] controls the time and can yield to anyone he so chooses, but that Member to whom he has yielded cannot yield that time to some third party?

Mr. SOLOMON. Absolutely not. That is perfectly in order, Mr. Speaker. It happens all the time.

The SPEAKER pro tempore. The Chair believes that if the gentleman from Kansas [Mr. ROBERTS] stays on his feet, he could yield to the gentleman without yielding a block of time.

Mr. SMITH of Florida. I am not trying to prevent it. Mr. Speaker, I just want to get a clarification of it because it works both ways. I appreciate the ruling.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. ROBERTS. Mr. Speaker, I yield to my friend, the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I thank my friend, the gentleman from Kansas [Mr. ROBERTS] for yielding, and I rise also to oppose the rule.

One of the major issues in bringing campaign finance reform to the floor today is fairness, fairness for challengers. We all know that incumbents have a lot of advantages. They have an easier time raising money, they have closer contacts with special interests, and they even have staff in their offices to do research, but the greatest advantage incumbents have is the congressional frank.

One of the issues that has been raised in the last several months is the use of voter registration lists in Members' offices, so although we can direct our mail to everyone in our districts, we can also direct mail only to those people in our districts who are registered to vote.

What is it we are saying to those people in our districts? "If you vote, you count. If you don't vote, I guess you don't count."

I think that is ethically wrong, and it ought to be eliminated. There should be no use of voter lists of any kind in any Member's office.

The gentleman from Kansas [Mr. ROBERTS] and I wanted to offer that amendment today, but, no, we are not going to talk about that because the Rules Committee would not make it in order.

In addition to the amendment the gentleman from Kansas [Mr. ROBERTS] and I would have offered, I have another amendment that says we should only use our free mailing privileges to respond to contracts made by our constituents to our offices, whether they phone or whether they mail.

In my case, I get $170,000 a year to do mailing in my district. I need $20,000. That is $150,000 this year and another $150,000 next year that I can use to put my face out there and to put all the words I want to use on all the mail in my district. That is the greatest incumbency protection tool that Members of this House and Members of this Congress have, and if we are serious about having campaign finance reform and giving challengers a real opportunity to compete against us as incumbents, I do not think we can start anywhere without first starting with the use of the frank in this Congress.

So, Mr. Speaker, I urge my colleagues to join the gentleman from Kansas [Mr. ROBERTS] and me in opposing the rule we have before us today.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in strong support of the rule. If Members vote against the rule, they vote against debate on campaign reform.

I think we had better start listening to the American people. The American people are saying to us that they want a limit on spending in campaigns. The fact is that there is a perception that some can buy campaigns and indeed buy Congress.

Why do we not want a debate on campaign reform? What is in the bill that I support? It places spending limits on congressional races. It limits PAC contributions. It has limits on soft money. It has a strong statement urging us to continue some constitutional limits.

No taxpayer dollars are involved. It requires that private donations be used in financing these campaigns.

Why not allow the debate? It is high time we did it, and I really think we ought to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WALSH], a distinguished member of the Committee on House Administration.

Mr. WALSH. Mr. Speaker, I rise in opposition to this rule.

For the past year I have traveled around the country and met with members of the task force and individuals around the country who are interested in this issue, and this bill was never discussed. It was never mentioned in 1 year of testimony on the task force.

A bipartisan group of Members in the Rules Committee on Saturday asked that this bill and other bills be given a full opportunity for discussion, and that was denied by this rule.

□ 1400

This is a critical issue. America is angry at us for the way we run our campaign.

I offered a bill, it was a tough bill, that would have required 100 percent of the money raised within that congressional district. The only influence on that election would be from that congressional district; $200 maximum contribution, $25,000 allowed to be rolled over to the next election. That is all. No contributions 2 weeks prior to the election, and a tax credit for those who contribute.

This bill that we have before us has a cap of $600,000, when the average election in this country is $400,000. What kind of a cap is that? It is an increase of 50 percent.

PAC's are still allowed to contribute over $100 million in these elections. That is special interest money, a special allowance made for them.

Public financing, how can you get voluntary contributions for public financing when less than 20 percent of America's taxpayers will contribute $1? How can you fund a voluntary contribution effort that way?

The gentleman from Oklahoma [Mr. SYNAR] gave us some dollar estimates as to the costs to the American taxpayer. Those figures were good last Saturday, but they are no good today because we have a brandnew and different bill before us.

Mr. Speaker, I urge a strong no vote on this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the whole question of campaign finance reform is about the basic issue of reducing the influence of money in the election process. That is what it is all about.

Today, my friends, we are going to hear a lot of ideas about how to achieve that laudable objective. I would just submit, Mr. Speaker, that there is one simple idea we will not be debating here today whose time has come, and that is the idea of 4-year terms for Members of Congress.

Mr. Speaker, that is right, 4-year terms. I would just urge Members to think about some basic facts.

Today in this country we elect county commissioners to 4-year terms; we elect city commissioners to 4-year terms; we elect Governors to 4-year terms; we elect State officers all over this country to 4-year terms. But we elect Members of Congress to 2-year terms, and we put us all in the position of being involved in this mindless money chase we are trying to pretend like we are going to legislate out of existence with this kind of legislation. That is not going to happen, Mr. Speaker.

The one thing we can do is change our 2-year term to a 4-year term. You cut the money chase in half, but, more important, you also will hopefully enable the Members of this institution to take a longer term view of some of the problems facing this country.

Mr. Speaker, I submit it is going to be increasingly difficult for this body to do that, given the 2-year term and given the mindless money chase we are all involved in.

Mr. Speaker, as we deal with this issue I hope that we will keep in mind some of the ideas contained in House Joint Resolution 311 which I introduced earlier this year, which provides for a 4-year term. Some will say you will never get it through the Senate. I would submit that the provision in this resolution which requires a Member of Congress to resign at the time they announce their candidacy for another office will win the approval, hopefully, of the Senate, and avoid the kind of problem we have had in the past with the Senate in that regard.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I would just state to the gentleman from New York [Mr. SOLOMON] that my previous parliamentary inquiry had nothing to do with the debate. I wanted to settle a question I had in mind.

Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I came to this floor frankly very much torn about supporting this rule. My staff worked long and hard over the last few weeks on fashioning a substitute that would try to some degree salvage public financing, which I think is an important component of trying to take the evil view that Americans have of campaign financing in general out of campaigns. But it appears that the well has been poisoned about public financing.

The President of the United States, Mr. Bush, could take $46 million in

1988, for campaign financing from the public, but now all of a sudden even Republicans do not like campaign financing out of the public Treasury.

In any event, it seems that this bill has gone along in that direction, abandoning what would have been the best way to take the sting out of the way we raise money to a large degree.

Mr. Speaker, I have been in favor of public financing for some time. So we tried to fashion a compromise that would do something else by giving people lower broadcast rates, lower funding for mailers and for other kinds of publicly used mailing.

The problem is the Committee on Rules made none of it in order. But sitting here and listening to the debate, frankly, and with apologies to my staff, quite honestly, who still feel very strongly about this, I have come to the conclusion that we need to put this debate on the floor.

The gentleman from Connecticut [Mr. GEJDENSON], with whom I agree on many issues and disagree with on some, and the other side of the aisle on that task force, have worked awfully hard. I think debate needs to be brought to the floor. I think the American public are entitled to that debate. I think we ought to put it on the floor, and the absence of certain provisions in here are not so compelling to vote this rule down.

Mr. Speaker, I urge Members to let us look at what we can do to change campaign financing and change the perception that the American public has, in many instances the wrong perception.

Mr. Speaker, I urge support of this rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I rise in opposition to this rule and would just like to make several quick points with regard to three potential pieces of legislation, two of which were allowed to be offered—the Republican bill and the Democratic bill—and a bipartisan approach that the gentleman from California [Mr. BEILENSON] and I had hoped to offer, but which the Committee on Rules did not allow.

Mr. Speaker, the Beilenson-Leach bill speaks for itself. It would have provided a $400,000 spending limit. It would have eliminated all PAC contributions. It would have limited contributions to $500, and it would have provided matching funds for small contributions triggered at a $30,000 floor.

Mr. Speaker, I consider these provisions to represent substantial, real reform. I do not have any confidence that the majority might have voted for it, but I do believe we should have had the right at least to offer it as a package, and more importantly, as amendatory components to the principal legislative vehicle.

The Republican alternative represents modest but serious reform. It cuts PAC spending from a $5,000 limit to $1,000. Fifty percent of campaign money raised has to come from people who can actually vote for a candidate seeking support. It blocks certain soft money contributions.

The Democratic bill also speaks for itself, loud and clear. It is surreal reform. The spending limits were described a minute ago as $680,000, but in reality they are much higher. On top of the $600,000-plus ceiling may be added $150,000 for a primary, plus fundraising costs, plus legal expenses, plus office expenses, plus cost of living adjustments. The real spending limit in the Democratic bill is closer to $1 million than $600,000.

Mr. Speaker, as a Member I am disappointed that the reform approach of Mr. BEILENSON and I could not be offered. I frankly am rather proud that my party has offered a bill that at least is substantive and not fake. In this context I must tell this body, it is hard to be anything but disappointed at this Democratic approach, which is the lowest common denominator package. It gives the word "reform" a bad name. It is hard not to conclude that the party that claims to be of the poor wants to run its campaigns with the clanging jingles of coins brought in from moneyed interest groups—that is, the rich.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would announce that the gentleman from New York [Mr. SOLOMON] has 9 minutes remaining and the gentleman from Texas [Mr. FROST] has 8½ minutes remaining.

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, in the 3 years I have served on the House Rules Committee, I have never before spoken out against a rule on the House floor. Although I have frequently argued in committee against proposed rules I disagreed with, I never wanted to undercut our committee's position on the floor once its decision had been made.

But today, we have before us a rule that is terribly wrong—wrong for the subject matter it covers, wrong for this institution, and wrong for the people we serve. It ought to be defeated.

I want to make it very clear from the outset that my protest against the rule is not a move to avoid considering campaign finance legislation. Quite the contrary; as a Member who has sponsored legislation providing public funding and spending limits for campaigns for years, I want us to pass campaign reform legislation.

I am opposed to the rule because it does not do justice to the subject it covers. Campaign finance is an issue that goes to the very heart of our democratic system of Government. The laws governing campaign finance determine who has power to influence our legislative process and who does not; and they determine how competitive our elections are and whether voters have a true choice in who represents them in Congress. We all know, and the voters all know, that there are many problems with the system as it exists now. How we solve those problems is far too important to cover it in just 1 hour of general debate, with just one alternative to the committee bill from which to choose.

If we pass this rule today we will be repeating last year's attempt at reform, with the same result. We will be pushing through a bill in the minimum amount of time possible, at the last moment of the session, when everyone is focused on getting done and getting out. As a result of this truncated debate, we will not have a product to send to conference with the other body that can truly be said to reflect the will of this body. Rushing through a bill that was introduced only a couple of weeks ago is a recipe for failure.

What we ought to do on this issue is have a debate that lasts 2 or 3 days, and have larger range of amendments from which to choose. It may well be that a lengthier process will bring the same result as a shorter process; we may well end up with H.R. 3750 just as it is. But every Member of the House has such strong views about what needs to be done in this area that we have to have a way to express support for other ways to change the system, even if it turns out that there is no majority for any alternative. We have to have the chance to work through that process. That process will ultimately result in a bill with much stronger support than H.R. 3750 has at the moment, and a much better chance of getting through conference.

Unlike many other Members who oppose this rule, I do support public financng—strongly. But after listening carefully during the Rules Committee deliberation of this bill on Saturday, I am not sure that I will be voting for public financing by voting for H.R. 3750 as amended by the Rose-Gejdenson agreement—which is made in order as original text under this bill. It doesn't bother me, as it bothers some Members, that H.R. 3750 counts on passing a revenue-raising measure in the future. What does bother me is that it is unclear whether this new compromise measure contains a plan for raising funds for the matching public funds. In the limited debate that is afforded, we are not likely to get a good answer.

Nor are we likely, in 1 hour of debate, to get a full airing of many important provisions of this bill. The gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from North Carolina [Mr. ROSE] deserve a great deal of credit for the work they have done to try to ensure that the Membership fully understands this bill, but that does not substitute for having a full public airing of it.

For those who fear we cannot pass a bill if it is considered in a more open fashion, we need only look to the Senate, which did pass a reform bill earlier this year after lengthy floor consideration.

Passing this legislation today will not get it to conference much sooner than if we come back to it early next year. We ought to defeat this rule, so that we can give this the full consideration it deserves.

☐ 1410

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], a member of the committee.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I certainly hope that this rule is rejected. I agree with the speaker that preceded me but for different reasons. It is a bad rule, though. It should allow full and open discussion on an issue of such monumental importance.

I would have liked to introduce a little amendment that simply requires any taxpayers' dollars that go into commercials means that those commercials carry a tag line "Paid for wholly or in part with taxpayers' dollars," but that would not be in order. Nor would some 19 other amendments which were offered by the Committee on Rules. All we get is one Republican substitute. It is a good substitute, but frankly this issue deserves a lot more debate.

I oppose this whole concept of public financing. I am concerned about it. I think it needs a heck of a lot of debate.

I notice in the Democratic bill version of this bill that they talk about a fund they would create and name the "Make Democracy Work Fund." Frankly, I would rename it. I would call it the "Implementation of Marxist Egalitarianism of the American Political Process Act." Because that is basically what we are about here.

If this rule passes, if this Democratic alternative passes, we are going to impose Marxism and communism on the American people's political process, notwithstanding its remarkable lack of success in the Soviet Union or anywhere that it has been implemented and notwithstanding the fact that only 19 percent of the American people support the Presidential checkoff system, and only 29 percent of them supported it at its peak 10 years ago.

This is a terrible, terrible concept, and it promotes advocacy by the lunatic fringe among which are Lyndon LaRouche, who got $1.3 million in the checkoff system last year and qualifies for up to 13 million bucks this time around on the Presidential system. Or Lenora Fallini, whose new Alliance Party supports Mu'ammar Qadhafi. Or David Duke; if we get public financing, listen to this, Mr. Speaker. The Times-Picayune, November 17, 1991.

> The Grand Wizard of David Duke's old Klan group says he's building a training ground deep in the Ozarks' for white supremacists who want to follow Duke's lead into mainstream politics.
>
> "Louisiana has one David Duke," said Thom Robb, Grand Wizard of the Knights of the Ku Klux Klan. "We plan to give America a thousand of them."

And they will be paid for with taxpayers' dollars in this bill that these Members want to pass.

Mr. Speaker, I include for the RECORD a copy of the article from which I just quoted.

> KKK PLANNING CLONES OF DUKE
>
> ZINC, ARK.—The grand wizard of David Duke's old Klan group says he's building a training ground deep in the Ozarks for white supremacists who want to follow Duke's lead into mainstream politics.
>
> "Louisiana has one David Duke," said Thom Robb, grand wizard of the Knights of the Ku Klux Klan. "We plan to give America a thousand of them."
>
> Duke was grand wizard of the Knights for about five years until he left in 1980.
>
> Robb said he doesn't work with Duke, now a Republican who says he has repudiated his neo-Nazi and Klan past.
>
> But Robb said they share a similar political strategy: replace racist rhetoric and violence with well-packaged campaigns against affirmative action, quotas, welfare, AIDS patients and drugs.
>
> Robb is turning two oak-rimmed acres in northern Arkansas into a Klan camp. About 200 Klansman gathered there in October for the KKK Congress, which Robb normally showcases in Pulaski, Tenn.
>
> He wants to build a dormitory to house students during summer camp.
>
> Robb said students will learn the historical Klan beliefs; whites, not Jews, are the true descendants of the House of Israel; blacks and whites should live in separate societies.
>
> Potential leaders "will be taught to avoid statements that sound hateful and turn people off," he said. Their dress and speech will be honed.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the average contested election in the United States for Congress costs about $600,000 right now. Is it not amazing that the Gejdenson bill authorizes spending at the level of $600,000. PAC's still can contribute $5,000 and $5,000. Individuals can still contribute $1,000 and $1,000. And if we like our elections recently, this will lock them in, and it will lock them in with public money.

What have our elections consisted of most lately? Negativism, negative campaigning, turning off the American electorate. People coming away with the impression that no candidate is honest, no candidate is capable, and turning off from the process.

As long as there is big money in the election process, we are going to have professional marketers involved, and they do not care what happens to the American electoral system. They have one thing in mind and one thing in mind only, and that is win at all costs.

It is a lucrative thing for them, if they are successful. They get paid big dollars.

Gejdenson locks this in. It locks it in not just for the next election cycle. It is indexed. It locks it in forever, and it uses public money to do it.

Is this reform? I do not think so. I had an amendment that I wanted to offer that the Committee on Rules did not make in order that would have cut all of the limits in half and another that would have prevented indexation so that the $600,000 would shrink over time. That was not in order either.

Even more significantly, the really good amendment, the Leach-Beilenson amendment that would have limited spending to $400,000, would cut PAC's way back, would increase the importance of individual contributions, this was not made in order either.

Mr. Speaker, this is not reform. I cannot support it. I cannot support the rule, and I cannot support the bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS]

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in opposition to the rule. If I have even seen a subject matter that I think deserves an open rule, it is the subject of campaign finance reform. But how do we arrive at that point with what is tantamount to a closed rule?

If anybody has any questions, I would refer them to yesterday's Washington Post, a very interesting article on our select committee, our super committee known as the Committee on Rules.

> With nine out of 435 votes, Moakley, the distinguished chairman of that committee, tells the House how to debate.

This article goes on to quote our ranking Republican, the gentleman from New York [Mr. SOLOMON] as saying that there are three or four situations each year where partisanship take over the rulesmaking process. This is one, because all the testimony that we have heard so far on this rule has indicated that there were lots of substantive progressive amendments that Members from both sides of the aisle wanted to offer in this amendment. But instead we are getting a restrictive rule again.

I had an amendment that I offered up in the Committee on Rules that I thought was almost a logical one, and that is to say that anyone who accepts public financing must agree to debate their opponent or opponents in both the primary and the general election. It got some favorable response from the other side. I see the gentleman from California [Mr. BEILENSON] here who was favorable, but it was defeated because the fix was in and the understanding was already there in place that our amendments would be limited to the one that is going to be offered by the minority leader.

I also am concerned that the bill contains an inherent restriction on an individual candidate's right for freedom of expression under the first amendment. And that is the limit on what an individual candidate can give of their own funds to his or her own campaign. The bill, as I understand it, contains a limit of $60,000, which again is a constraint on the individual candidate's first amendment right and a further advantage for incumbents.

I can positively attest to my colleagues that if that restriction was in place with the last campaign cycle, I would not be here today. So I rise in opposition to the rule. I think it ought to be an open rule permitting free and open debate.

It is too important a subject to give it this short shrift in the 11th hour.

□ 1420

Mr. SOLOMON. Mr. Speaker, does the gentleman from Texas [Mr. FROST] have only one remaining speaker?

Mr. FROST. That is correct. I have the chairman of the task force, who is going to conclude debate.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. SOLOMON] is recognized for 2 minutes.

Mr. SOLOMON. Mr. Speaker, I would just say to the Members that they have heard Members from both sides of the aisle complain about the terrible procedure that brought this bill to the floor. This procedure gags Republicans and Democrats alike; it makes in order a bill that was never even considered by any committee, a bill that has so many back room changes in it that 90 percent of the Members, 90 percent of whom are out of this Chamber right now, have no idea what is in it.

The Members have heard some criticism that public financing was stripped out of the bill. Members have heard others say that public financing is still in it.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

There has been some discussion about the financing under the bill. The gentleman from Ohio quoted some numbers. I am sure he is aware that those are CBO numbers based on the former structure of the bill and not on the current structure of the bill.

If in fact there is a tax credit to be included, it is in fact some kind of a gift to the very rich. It would be only for those who can file the long form, unless of course they want to make the tax credit on the 1040 EZ; if that is the case, CBO, as estimated in the past, puts the cost somewhere between $50 million and $150 million for the tax credit alone. So the subject of $200 million to $300 million, even $500 million, is a realistic figure.

I would tell the gentleman that he has a right to be as confused as the rest of us, because there is no CBO estimate on this bill.

Mr. SOLOMON. Mr. Speaker, if Members remember that they did not know what was in the thrift deregulation bill back in 1980, which got us into this awful banking mess, and yet they all voted for it, wait until they vote for this bill and then try to tell their constituents, "I did not know what was in it."

Vote "no" on this rule and on the bill, like I am.

Mr. FROST. Mr. Speaker, I would inquire of the Chair if all of the gentleman's time has expired.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 39 seconds remaining.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, let me first start by thanking my colleagues and members of the Committee on House Administration, the Committee on Rules, particularly the gentleman from Texas [Mr. FROST], who serves on both committees, the gentleman from North Carolina [Mr. ROSE] of the full Committee on House Administration, the Speaker for his support throughout this entire process, the majority leader, who has worked with us, and his staff, almost on a day-to-day basis, the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Michigan [Mr. BONIOR], the whip, the gentleman from California [Mr. FAZIO], the gentleman from Wisconsin [Mr. KLECZKA], who did yeoman's work on the committee on our side, the gentleman from Maryland [Mr. HOYER], the gentleman from Alabama [Mr. BROWDER], and so many others who put time into what is one of the toughest tasks of this Congress.

We have worked on a bill that tries to reform the process by which we live, and that has a double problem in it. It is problematic in that each of us imagines our own circumstances and each of us has a better way to make a fair system in our own districts. I will give Members the benefit of the doubt that what they are trying to produce is the best and fairest system for their own particular district. But none of us has the knowledge of all the districts in the Congress and how to write a law that works best across this country for Members of Congress.

For my part, when I started this process, I was for reform. It was broadly defined and, frankly, I did not know as much as I needed to. Maybe if I knew that much I would not have accepted the appointment from the Speaker.

So we started with hearings, and I think these hearings on campaign finance reform are probably unequaled, at least in my memory, in this Congress. We went through public hearings until no Member of Congress was ready to come forward at another hearing. We gave every Member in this institution a chance to come and tell us how it is done in their district. We had public hearings which included 107 public witnesses.

We held two hearings, one in Minnesota and one in Wisconsin, because for my money they have the best systems in the country, the most progressive, the most tested. We had planned to hold hearings in Connecticut and California and the inability to coordinate the schedule of the ranking members and myself precluded those hearings.

At the end of the hearing process I went to the Republican leader on this task force and I asked him whether he wanted to work on a joint bill, a bill that both Democrats and Republicans could agree on, and then we would have Democrat and Republican amendments to that, one core bill with a Democratic amendment and a Republican amendment, or would he prefer to have simply a Republican versus Democratic bill.

The Republican leader of the task force for his side said he wanted to make sure that his option was protected to present what he wanted on the floor. That was later checked by the gentleman from North Carolina [Mr. ROSE], the chairman of the full committee. So the rule here today gives the minority exactly what they asked for. They asked for the ability to offer whatever they want on the floor of the House.

Now, for all those Members on the Republican side of the aisle that have complaints with what is before us, I suggest they talk to the gentleman from Illinois [Mr. MICHEL] or the gentleman from California [Mr. THOMAS], because the rule—and we told them this well in advance of this day on the floor—would provide for whatever the Republicans wanted to present to us.

What they have offered us is also instructive. The Republican plan is the wealthy individual protection act of 1991. If this was 1215 and we were passing the Magna Carta we could say it was a step forward, because what the Republican plan does is it protects the wealthy and wealth alone. If the Members represent 90 percent of their district, if they represent the poor and the working people in their district but they do not represent the wealthy, do not bother running for election, because unless they can get those wealthy individuals in their district to finance their campaign, then they cannot enter the debate.

What do we want to achieve here? Do we want to rig the system so only those who appeal to wealth and power in this society get to participate? We repealed poll taxes. This country ended a process where we needed money to play. Now the Republican alternative, the central theme they have chosen, is to make sure that unless they appeal to the wealthiest individuals in their district they cannot play. That says to women, to blacks, to minorities, and to challengers "Do not get in the game."

If the Members want to protect incumbents then they say the money has to be collected in that local neighborhood. Why? Here is the incumbent. He is on the Committee on Ways and Means, he is on the Committee on Approriations.

Mr. SOLOMON. Mr. Speaker, I yield my remaining 39 seconds to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I come to this well having never opposed in my 5 years in this body a rule. In fact, I would defy anyone to find a more loyal Member of my party in that regard. But I, like the gentleman from California [Mr. BEILENSON], have mixed emotions about this rule because I do not believe it encourages the best bill possible. I think to some extent it discourages it.

Let me just say that I have the utmost respect for the gentleman from Connecticut [Mr. GEJDENSON], for all of his work and I believe that the words be just uttered are correct. But those in many respects do not have to do with the rule.

This issue is too important to have such limited debate. It is too far reaching to be dealt with with just one amendment, and it is too crucial to the democratic process to be held hostage for any kind of partisan politics whatsoever.

So I urge Members of this body to vote against the rule. I would hope that the Committee on Rules would come back with something that encourages a greater participation among its Members, and I urge a "no" vote.

□ 1430

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 180, not voting 8, as follows:

[Roll No. 424]

YEAS—246

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—180

Allard
Allen
Anthony
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Morrison
Myers
Nagle
Nichols
Nussle
Obey
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal
Santorum
Savage
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skeen
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Fields
Foglietta
Ford (TN)
Ireland
Mrazek
Ray
Stokes
Towns

□ 1450

Mr. VOLKMER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 543) entitled "An Act to reform Federal insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institution, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. CRANSTON, Mr. GARN, Mr. D'AMATO, Mr. GRAMM, and Mr. BOND;

From the Committee on Environment and Public Works, solely for title

X: Mr. BURDICK, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CHAFEE, and Mr. DURENBERGER;

From the Committee on Labor and Human Resources, solely for consideration of section 1159: Mr. KENNEDY, Mr. METZENBAUM, and Mr. HATCH; to be the conferees on the part of the Senate.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 299 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3750.

□ 1452

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 30 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when I established the Task Force on Campaign Finance Reform, I saw the mission of the task force as designing a complete and comprehensive package of reforms which would restore the public's trust and confidence in Federal campaigns.

Any criticism that the current version of H.R. 3750 somehow unfairly disadvantages either my Republican colleagues on the Committee on House Administration or the Republican Party itself is misplaced. From the beginning, the Republican Party has in its conference, agreed on certain principles for campaign finance reform. Thus, the Republican conference has been locked into an approach that has never considered overall campaign spending limitations as necessary. I have consistently said that my goal was to address the concerns of the American people, and, as I read those concerns, all Americans want an end to high-priced congressional races. There is also a great deal of concern regarding the use of taxpayer dollars in congressional races, and H.R. 3750 addresses both of these concerns in a responsible and fair manner.

The bill we have before us today, H.R. 3750, which contains my compromise substitute, is a giant step in the right direction. I want to commend all of the members of the Campaign Finance Reform Task Force, especially Chairman SAM GEJDENSON, for all of their efforts in bringing us some fresh, new ideas on campaign finance reform.

The cornerstone of this package is a $600,000 spending limit for congressional races. No more than $500,000 of the total may be spent in the general election. To compensate for those States which have runoffs, we provide for an additional $100,000. To assist those candidates who have close primary results, we provide an additional $150,000 to those who win their primaries by a margin of 10 percent or less. However, not more than $500,000 in the general election may be spent by congressional candidates.

No one can deny that their constituents are fed up with high-priced campaigns. These campaigns, like the Senate races in my State, for example, involve enough spending to feed the residents of some of the smaller countries in the world for a year. And my friends, the costs of campaigns continue to spiral out of control. We must address this issue, and H.R. 3750 does this in a very reasonable, and fair fashion.

Criticism of the role of political action committees, known as PAC's, has also been addressed by H.R. 3750. Eliminating PAC's is not the answer because many small contributors, average working people, must have a role to play in the political process. By contributing to a PAC, the small contributor has a strong voice in the process, and the playing field levels out for the small contributor as compared to wealthy individuals.

By placing an aggregate limit on the amount PAC's may give in any particular race, and by placing an aggregate limit on the amount wealthy individuals may contribute in any political race, all contributors are given an equal chance to be heard.

H.R. 3750 emphasizes the importance of spending limits, and includes a title providing a sense of Congress that the issue is of such importance that it should be addressed in subsequent legislation, perhaps including a constitutional amendment, by committees of appropriate jurisdiction.

With respect to the source of funding, my substitute provides a mechanism for the volunteerism which the President has promoted throughout his term. Any individual or group can contribute to the make-democracy-work-fund.

Thus, H.R. 3750 as reported by the Rules Committee, removes any reference to taxes and requires funding from private contributions. At this time, the public clearly feels that private contributions, rather than increased taxes or Federal spending, is the way to go.

There are other important reforms in this legislation, which will also be discussed during this debate. H.R. 3750 addresses the wishes of the American people to curtail limitless campaign spending. It does so in a responsible manner, in a budget-neutral and party-neutral manner. I urge my colleagues to vote for a limit on campaign spending, by voting for H.R. 3750.

□ 1500

Mr. Chairman, let me point out something to my friends about the Committee on House Administration. The Members are all well aware that during this year my ranking member and I have accomplished in a togetherness fashion, that has never been seen around here before, a lot of good things for the House of Representatives. But occasionally, like today, we come upon an issue where we have to put on different hats and go at it from the aspects of what our parties feel about it.

So I do not want the Members to think that the ranking member of my committee and I have suddenly stopped working together for their benefit. That is not the case. We just have a little different role today, and Members are going to see something like they have never seen before take place today between us as we get into this issue to discuss how we feel about this bill. But when it is over, we will go back as a committee to serve the Members of Congress.

Mr. Chairman, I hope that the Members will support the bill.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS], a long and ardent participant in campaign finance reform.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as I testified before the Task Force on Campaign Finance Reform in April of this year and as I have said many times before, the most crucial issue we face in Congress may be the fact too many of our citizens are losing faith and confidence in government. Simply put, we must restore public confidence.

Now when Congress usually takes a look at what is allegedly broke and fixes it, we usually try to sell political perception under the banner of reform. This result is long on politics and short on practical results. As case in point: the obvious need for campaign reform.

Now, let me stress at the outset that I strongly favor changes in the Federal campaign laws. That is why I have introduced reform legislation in the last two sessions of Congress. We must make the election process fair. We must ensure openness and public disclosure—the key to all reforms around this place. And we must restore public confidence in the system.

Sadly the Democratic reform posse is headed down a different, and what I believe to be a wrong, trail to change the current system. The package before us today is molded along these lines.

First, it further erodes the two-party system;

Second, it provides for taxpayer financing for congressional elections; and

Third, it proposes spending limits that fail to address regional differences in the United States.

Over the years, one of the greatest threats to our political system has been allowing the influence of the political parties to wither. This has followed too much reliance on PAC's, too many incumbent perks and protections, emergence of the so-called professional politician, and elimination of discipline and accountability in Congress.

The alternative to a strong two-party system is at best confusion and at worst chaos that immobilizes government. How many people today complain that Congress is incapable of any concerted action. We even have trouble deciding when to adjourn.

However, many in Congress are reluctant to turn power back to parties due to self-preservation and because they have their sights on getting taxpayers to foot the bill for their campaigns.

Last year, $445 million was spent on campaigns for the U.S. Senate and House of Representatives. While no one is proposing to have the taxpayer finance the total cost, it should be clear that American taxpayers do not want and do not need even part of this cost.

Even worse, so-called public financing would further undermine the influence of individual contributors and political parties in the election process. Taxpayer financing of campaigns doesn't further the worthy goal of making challengers more viable. However, it does ensure that the voters will be hit with a cacophony of rhetoric for myriad candidates who may or may not have more than a handful of supporters.

The Democratic bill creates an opportunity for candidates in some cases to receive up to $3 in public financing for every $1 raised from contributors. It is an abomination of the election process and a raid on the U.S. Treasury.

Why, why, why should taxpayers be asked to foot the bill to publicize the views of every special interest with a candidate and a mailing list to match?

And who is going to enforce all the standards, thresholds, and paper requirements of the Democractic bill? Is the FEC to double or triple in size? Will that improve the effectiveness of reporting or will this sleeping giant be forced to grow even more and crumble beneath its own weight? And, how much more will all this cost in the end?

Let me end by saying, as I said during discussion on the rule for this bill, that I am distressed and disheartened with the methods used by the majority to bring this legislation to the floor. The rights of the minority have been ignored and trampled upon by the majority—and that fact alone is reason enough for this legislation to be defeated.

Mr. Chairman, let us bring comity to the House by defeating this proposal and returning it to the House Administration Committee where a bipartisan package should be drafted.

I urge my colleagues to oppose this bill and support the minority substitute to be offered later in this debate.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, let us take a look at the top 50 recipients of PAC contributions during the 1990 election cycle.

There were 5 Republicans in the top 50—and 45 Democrats. There was 1 Republican in the top 25.

PAC contributions to Democrats in that category outstripped Republicans by $18 million.

The top Democrat received approximately $763,000. The top Republican who was ninth on the list—received approximately $519,000.

The second highest Republican who was 26th on the list—only received $433,000. In the top 50 recipients, $20,980,103 was received by Democrats. Only $2,144,850 was received by Republicans in the top 50. This is a factor of 10 to 1.

Today's challenger has to overcome all the advantages of incumbency—plus a $300 or $400,000 edge to the incumbent supplied by PAC's. I know. In 1988, I was one of those challengers.

This bill evens those odds a little. We should do more, but the majority won't let us. If Republicans oppose this bill—if the President vetoes it—we will truthfully say we oppose public financing. The Democrats will say we're in the pockets of big business. The Democrats will be believed.

Republicans, let us surprise them by voting yes.

This is not a perfect bill, but it is a step forward.

On a nonpartisan basis, Mr. Chairman, the $200,000 limit on PAC's in this bill strikes a reasonable balance.

A balance between the right of citizens to band together to elect likeminded candidates and the right of voters to have their Representative selected locally—not in Washington.

In other words, PAC's have a right to play in the political process, they don't have the right to star.

Let us limit the power brokers in Washington who now move half a million dollars or more to rescue incumbents who lost the support of their own constituents.

Let us back this needed reform.

Mr. THOMAS of California. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I do not oppose public campaign financing in principle, but I reluctantly must oppose this bill because it simply does not provide meaningful campaign finance reform.

The way I see it, the primary objective of campaign finance reform should be to eliminate the possibility for one contributor to make a contribution to a candidate that is so large that it creates an actual or apparent obligation on the part of the recipient.

The soft money loophole of the existing law is the principal means by which contribution limits can currently be evaded, making it possible for enormous contributions of Keating 5 proportions to be pumped into congressional and senatorial campaigns. As Common Cause itself has noted, H.R. 3750 will do virtually nothing to close the soft money loophole.

The other current legal conduit for the largest contributors is the $5,000 PAC contribution limit. I know that H.R. 3750 does impose a $200,000 aggregate PAC limit, but that limit is hardly restrictive because most incumbents do not receive much more than that now.

□ 1510

Meanwhile, the bill does absolutely nothing to limit the amount that any single PAC can give.

As a result, powerful incumbents will be able to raise their $200,000 PAC allotment with ease from a mere 20 PAC's, because each PAC could still give $5,000 for the primary and $5,000 for the general election.

Each of those lucky PAC's will have more, not less, relative importance to the canadiate than it does now.

Another serious flaw in the bill is its spending caps. Spending caps are inherently pro incumbent. I understand that the caps in this legislation are relatively generous, they are somewhat flexible, and they are voluntary, but they still put a challenger at a tremendous disadvantage, because no challenger has the assets that an incumbent has, the asset of the franking privilege, the asset of Government space and office expenses, and the asset of greater access to the media. Nor do these limits take into account the dramatic differences in the cost of running a campaign in different media markets.

One way to give a break to challengers would be to allow political parties to give a larger campaign contribution to challengers. As the gentleman from Kansas [Mr. ROBERTS] said, such a provision is not in this legislation. It is an unfortunate omission.

Finally, H.R. 3750 will not go into effect until after next year's election. This provision reminds me of the prayer of young St. Augustine, who said, "Give me chastity and continence, but not yet."

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a number of the incumbents said this should not be done, and a number of our critics, those inside and outside the institution, said it could not be done. But I think we really do in this bill vastly increase competition for public office, competition for the House of Representatives.

Mr. Chairman, I do not say restore competition, because I do not believe it has ever been absent. But we do increase it in this bill. For that I congratulate the gentleman from Connecticut [Mr. GEJDENSON], certainly the chairman of the committee [Mr. ROSE], and the others like the gentleman from Oklahoma [Mr. SYNAR], who invested so much time in this legislation.

Mr. Chairman, the minority party has attempted to sell the American people on the concept that this is an institution that replicates itself, that perpetuates itself; that somehow it is wired for incumbency.

I think it does not take much analysis to conclude that if the Republican Party had held every seat that it has wanted at one time during the 1980's, during a period in which it was in ascendancy, electing Presidents Reagan and Bush to overwhelming margins of victory, the Republican Party would today be in charge of this institution. The gentleman from Illinois [Mr. MICHEL], our good friend the minority leader, would be the Speaker.

So there is competition here. The average Member serves only 10 years. But reelection rates have been slightly higher in recent years than they have historically been. They are slightly beyond the norm.

Mr. Chairman, I think this legislation goes a long way to restoring a more level playing field for candidates of both parties to challenge incumbents. Certainly it will be difficult at any time to vote on anything that smacks of public financing, but under the system that has been put together in this bill, for the first time individuals who do not have a lot of personal wealth, who do not have access to PAC's, who typically know and support incumbents of both parties, are going to be in a position to gather the resources to become competitive candidates for Congress.

The American people are frustrated by the perception that this place does not turn over sufficiently. That is a perception, but we all know in politics it becomes a reality. This legislation goes a long way to meet the frustration of people that are leading them to sign petitions for term limits, that are pushing them into positions to unseat incumbents.

Mr. Chairman, I would urge Members to support this bill if they want to take a step in the direction of a more fair and competitive political system.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WALSH], a hard-working member of the task force who attended virtually every one of the hearings and was, of course, denied the opportunity to have input on the legislation because there were no meetings over the bill.

Mr. WALSH. Mr. Chairman, as my distinguished ranking member on the task force mentioned, we met hours and days and weeks and months, almost a year, and this bill was never brought before the task force. It was never even discussed. It was put together over the last week in a shadowy, smoke-filled room somewhere in this building, and it was never finalized until perhaps even as we speak this moment.

Mr. Chairman, I am amazed at my colleagues on the other side of the aisle. They rail day after day about the President and his inability to put together a domestic policy, when they cannot even run their own House 2 days in advance. They do not know what a bill is going to look like until the next day, and then it changes again.

This bill is called reform. It says there is a cap on spending, a $600,000 cap. Well, Members have described it as $1 million. The average race in this country costs only $400,000, so how could that be a cap?

PAC's, hundreds of millions of dollars will be allowed to be raised by special interests. The only special interest that we should have, my colleagues, is those people we represent. The Republican bill says that the money should be raised within the district.

Matching funds, the scheme for matching funds I referred to as gossamer. There is no substance. The dictionary defines gossamer as a fine film of cobwebs with delicate glistening dewdrops.

Mr. Chairman, when the Sun comes out on this matching funds scheme and shines upon this gossamer of make-democracy-work fund, it will disappear.

Mr. Chairman, I urge a "no" vote on the Democratic bill, and support of the Republican substitute.

Mr. ROSE. Mr. Chairman, how much time do the parties have remaining?

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] has 21 minutes remaining, and the gentleman from California [Mr. THOMAS] has 23½ minutes remaining.

Mr. ROSE Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE Mr. Chairman, I rise today in support of H.R. 3750, the Campaign Finance Reform Act.

I must first compliment SAM GEJDENSON, the chairman of the Task Force on Campaign Finance Reform, and CHARLIE ROSE, chairman of the parent House Administration Committee, for crafting a responsible bill under difficult circumstances. I have also benefited from discussing this issue with BILL THOMAS, ranking minority member of both the task force and the committee.

The task force has been inclusive in its approach, offering Members the chance to testify in hearings and then to comment on early drafts of this legislation. As one who has taken full advantage of these opportunities, I want to commend the task force's leadership for making them available.

So I rise in support of this carefully crafted product and want to comment on several of its features.

Some may approach this bill from the standpoint of what it lacks, or what it does not do, or how it fails. And indeed it is not a perfect bill; I too intend to work for further changes as the bill goes to conference and, no doubt, further reform in future years. But this bill is a major step forward, and I support it for what it does:

First, it limits spiraling campaign spending—it provides for realistic cost containment, but still permits full and effective campaigns. It caps spending at $600,000 per election cycle, but also reduces the costs associated with the mailings and television appeals that are necessary to reach the mass of voters.

Second, it provides for a healthy diversity of funds.

It is not enough simply to limit the amount spent or raised, unless we resign ourselves, in the age of television, to not reaching thousands of our voters. We must have full and effective campaigns, but ensure that they have broadly based and diverse funding.

H.R. 3750 doesn't eliminate or stigmatize any class of donors, but provides for a better balance among small contributors, large contributors, PAC's, and parties. And by placing a 10-percent limit, $60,000, on the amount a candidate can contribute to his or her own campaign—and by taking that amount out of the $200,000 overall limit for large contributions—it ensures that a candidate cannot offset this diversity of sources using personal wealth alone.

Third, the bill encourages small contributors and widespread financial participation in politics.

Candidates will be encouraged to pursue small donors since only small contributors will be eligible for matching funds from the make-democracy-work fund. And the bill sets in motion a process by which tax incentives will be provided for small individual contributions to candidates, parties, and the make-democracy-work fund.

Fourth, it moves effectively to clean up a number of existing and potential abuses: it eliminates bundling; it eliminates leadership PAC's; it lowers the threshold of contributions the FEC is tracking to $50 to provide more accountability; and it deals with independent expenditures—probably the most glaring loophole in present law—with some innovative disincentives and protections.

It also enacts safeguards against soft money abuses. This is an especially difficult area, where we are in danger of throwing out the baby with the bathwater. I concentrated on soft money in my own testimony before the task force, both because of my experiences as a State party chairman and because of my concern that legitimate grassroots party activity be protected and encouraged.

As I told Chairman GEJDENSON and other members of the task force, it will surely be a perverse result of campaign finance reform if, in our quest to deal with abuses of soft money, we discourage legitimate grassroots party activity that represents politics at its best or if we shut down the most important things that parties do: registering voters, getting people out to vote, and encouraging participation.

So I am a strong advocate of the thoughtful way that H.R. 3750 deals with this issue.

First, we restrict soft money by setting an overall limit of $.50 per voter for combined activities. This is a healthy but limited allocation that will allow State and local parties to conduct vigorous coordinated campaigns on behalf of their slate of Federal, State, and local candidates.

Second, the bill dictates that a large percentage of spending for combined activities must come from hard Federal dollars—that is, dollars restricted by Federal donation limitations and subject to Federal reporting standards. And it raises that limit of Federal dollars for both national party committees and State and local party committees in Presidential election years, when an increased level of activity on behalf of Federal candidates would be expected.

Third, it gives responsibility for tracking and filing these consolidated reports to the State party. I can tell you as a former State party chair, that tracking and accounting under these provisions will be no picnic. But State parties that are accounting in a good-faith manner now should generally be able to verify that these expenditures fall within the designated limits.

There is a real danger here, and I believe the task force has recognized it. To place further restrictions on combined political activity as some advocate, would merely set up the real possibility that such activity would leave party channels altogether, completely escaping our scrutiny and our accounting. Or we might find that, because we have erected such formidable barriers, State and local parties simply choose to leave Federal candidates out of their campaign efforts.

I believe these reasonable restrictions on soft money will have a positive effect in combating soft money violations—but they will not do so at the expense of vigorous and vital coordinated campaigns by national, State and local party organizations.

Finally, a word about the Republican substitute. No detailed critique is required, for it meets almost none of the criteria for reform. It conspicuously refuses to put a cap on spending. But it does very little to encourage a diversity of funding either. No tax incentives for small contributors are to be found in the Republican substitute.

It manages, at the same ime, to be profoundly antiparty. Its soft money provisions are totally indiscriminate; they would give State and local parties the unhappy and unacceptable choice of either sharply curtailing their grassroots activities or eliminating Federal candidates and races from those efforts. And while the substitute overreaches in dealing with soft money abuses, it is largely silent on the other abuses addressed by H.R. 3750.

Mr. Chairman, I support H.R. 3750 for the thoughtful ways that it limits spending, promotes diversity of funding sources, encourages participation, and corrects many flaws in our present system. I urge my colleagues on both sides of the aisle to support it.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the ranking member on the Subcommittee on Elections of the Committee on House Administration.

Mr. LIVINGSTON. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I am the ranking member on the Subcommittee on Elections, but this topic was taken out and put into a special task force of which I am not a member. But if I were a member of this task force that met religiously over the last year, frankly, I would be upset. I would be very unhappy.

□ 1520

Because all of the work that went into that task force was promptly thrown in the wastebasket, and this bill from the majority emerged in the last 48 hours to guide how America is going to run its political process for years to come. Nobody really understands what is in this bill.

I can tell my colleagues that the Republicans do not understand what is in it, because they just found out about it in the last few hours. And I do not think the Democrats understand what is in it either.

In fact, I do not think they know that this bill calls for financing limits of as much as $600,000 per candidate, or that some portion of that, perhaps as much as 50 percent, comes from public financing.

I do not think they know that the bill could cost the American Treasury some $350 million and by some estimates, maybe a half billion dollars. And what is worst for my friends from Louisiana, I do not think they know that runoffs in the Louisiana primary situation entitles a candidate not to $600,000, but only to $100,000 in campaign spending.

Anybody who understands the Louisiana process, which admittedly is different from others, knows that our main race is in the runoff. It is not in the primary. And by my reading of this act, we Louisiana candidates would only have $100,000 of spending per candidate.

All of that is just icing on the cake. The real crux of this bill is the public financing section which no one has adequately been able to determine or understand. And when we consider that under the current public financing scheme that has been in place in the President's checkoff system since 1974, Lenora Fallini, a Qadhafi proponent, will qualify for up to $13.8 million. Lyndon LaRouche, who believes that the Queen of England and Henry Kissinger conspired with the KGB to put dope around the world, can qualify for up to $13.8 million. And, under this bill, the Ku Klux Klan, which says they are going to sponsor some 1,000 new white supremacists to run for Congress around the country, and run with taxpayers' money. These people are going to qualify for taxpayers' money under this act. It just boggles my mind that this could happen, no matter how extreme the views of a participating candidate may be.

We have not had an opportunity to debate this issue. We have not had an opportunity to discuss it in the committee. We do not know whether this is a reasonable bill, but I would suggest to my colleagues that the probable ramifications of it are awesome.

We ought to look at it much longer and much larger before we consider passing it.

Mr. ROSE. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, we often, in this Chamber, have talked of crossroads. A choice between an aye or no vote is often pictured with this image—of one road which leads upward to the new Jerusalem golden on the horizon, and of another, sharply in the other direction, which leads down toward a dark decay and doom.

But, as we all know, the choices we make in this Chamber rarely have such dramatic consequences. Today we must decide whether to rescue the jewel in the crown of our democracy—the free election of the Congress by the citizens of the United States—from the unsavory and sordid decay in which it is now mired.

A vote to reject the reforms, which we are bringing you today, will have no immediate consequence. We will return here tomorrow to this Chamber, the flags will fly over the Capitol and its bright white dome will show to the city of Washington and to the world that the Republic still stands.

But I urge my fellow Members to pause before casting a "no" vote and to cast their minds back into history and far into the future. Over 200 years ago, on the edge of the then known world, a scattering of exiles from the tyrannies of Europe conceived of the most reckless, audacious, radical, and revolutionary idea to burst upon Western civilization—that of a government, not of kings or despots or priests or nobles, but of the people who, freely and without hindrance, would choose those who would make the laws and govern. Somewhat over 100 years ago in this very building, half-finished as it was, the Congress presided over the rivers of blood and the years of desolation of the Civil War, resolved that government of the people, by the people, and for the people shall not perish from the Earth.

We are now, once again, turning to consider that grand and glorious experiment of representative democracy which, fragile as it is, has withstood, and outlived the now shattered empires and despotisms that attended its birth. That experiment is now in serious danger. The voice of the people is muted and muffled, not by enemies without but by money within. We are now the servants of contributions and not of constituents. We are yoked to steering committees and receptions and the political bonds which bind us to those who elected us are frayed and frail and snapped in places.

We do not know to the exact hour when the glory that was Greece began to fade and when Rome turned toward decline. But, should this Chamber reject the reforms we proffer today, I like to imagine, that in the distant future, some traveler from a faraway land, might step down, not far from here, off the stump of an elm tree, where he had been photographing the ruins of the Capitol and read on a small bronze tablet, of the vote today, of a dimly remembered House of Representatives, not to return to the tenets of democracy.

Mr. Chairman, I urge my colleagues, I implore my colleagues, support this reform for the people.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time to me.

I tell my colleagues, the rhetoric up here today has been beautiful. New Jerusalem? Our forefathers? Public trust? Boy, that is pretty deep. Can my colleagues imagine our forefathers George Washington and Thomas Jefferson and John Adams, who believed in very little government involvement in our lives, saying, We want you to spend $270 million to help us get elected?"

This has got a $270 million minimum, more like $350 million and up taxpayers' dollars to help us get reelected. Can my colleagues imagine our forefathers talking about that?

The gentleman from North Carolina [Mr. ROSE], chairman of the committee, a few moments ago talked about public trust. I tell my colleagues, over 70 percent of the people in this country, according to polls, are against public financing, well over 70.

When we go out to our town meetings, ask them what they think about that. And then say, "What do you think about public trust?" And they are going to say, "You are putting your hands in my pocket for $270 million to get reelected." And that is public trust?

I think the American people do not want us putting our hands in their pockets anymore. Members have heard me say this before—one of my colleagues from Colorado says I sound like a broken record because I keep saying this over and over again—but the deficit this year alone is going to be $400 billion. The national debt is $4 trillion, up 400 percent in 10 years. And we are going to take $270 million out of the taxpayers' pocket to pay for this legislation?

I tell my colleagues, the American people do not want it. I think we should vote against it.

☐ 1530

Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield for 20 seconds?

Mr. SWIFT. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I do not want to embarrass the former chairman for this effort, but I would like to publicly thank him for all the assistance he gave me and the subcommittee staff throughout this process. I do not think we would be here today without his efforts a year ago, 2 years ago, and without the assistance he gave this committee. I just want to applaud him for all those efforts.

Mr. SWIFT. Mr. Chairman, I thank the gentleman, but the fact is that we would not be here today without the efforts of the gentleman from Connecticut [Mr. GEJDENSON], and I thank him.

People differ about spending limits. Just before the last election there was a mailer that came out to all the media that savaged me for the bill that I introduced because Mr. Nader of Congress Watch said that I had placed the spending limits too high, at $550,000. The thing is, I agree with him. I thought it should have been lower, too, but that is as low as I could get them.

However, Fred Wertheimer of Common Cause told me $600,000 was as low as we possibly could have them, perhaps they should be higher.

My point is, people disagree, even Fred Wertheimer and Ralph Nader. It has occurred to me that it would be very interesting to see those two gentleman debate those issues, because, being as both speak ex-cathedra, it would be the greatest holy war since the Crusades. But the bottom line is that people disagree on this issue, and those of us at a less sacred level, we politicians, disagree as well.

The President says he will veto a bill that reaches his desk with spending limits. We have heard a good statement from the other side opposing spending limits. Let me tell the Members why I have always believed spending limits are the essential reform. I do not believe they are an incumbent protection provision at all. In fact, under our current system an incumbent can always spend substantially more than a challenger.

The fact is the argument that you must in fact let a challenger spend more, and therefore spending limits that would keep it equal are an advantage to the incumbent, falls on its face in terms of practicality, simply because challengers never get anywhere near as much. Spending limits at least limit the size of the field. It gives a challenger a greater chance of getting into the same ballpark with the Members.

Spending limits will significantly cure, in my judgment, every other wrong people perceive to be associated with the way we fund our campaign: The amount of time we spend, the amount we have to take from specific sources, and so forth and so on. Spending limits are the solution.

But let me give one last reason we should vote for this bill and adopt spending limits. Every single poll I have ever seen shows that when we ask the American public, "What reform do you think will solve the problem in campaign finance," it comes out inevitably "spending limits."

I urge my colleagues to support this bill.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the bill.

It is bad enough that this body is accused of writing rubber checks and running up restaurant tabs; now some misguided members of the Democratic Party are suggesting we restore Congress' image with the taxpayers by having them pick up the tab for our elections. What a high opinion these people must have of themselves.

Mr. Chairman, this is a typical Democrat solution to a problem. Instead of getting to the root of why people are disenchanted with Congress, the Democrats propose to throw money at the problem. Sound familiar? Public financing of elections is the ultimate example of the welfare mentality.

No one can argue that we have to make changes to our current election laws. People are not participating in the electoral process; they are losing faith in their leaders. Fewer and fewer talented people are deciding to enter public service. And who can blame them? They find themselves spending more time pursuing money than debating the issues.

There aren't easy solutions to this problem. When you propose to change the election process, you are going to the very heart of our Constitution. And a problem as complex as this deserves a better solution than a quick-fix proposal like public financing.

In my original remarks on this bill, I was prepared at this point to discuss the make-democracy-work provisions in the bill. But, mysteriously, whole sections of this so-called landmark legislation disappeared between full committee and the Rules Committee. It is a shame we aren't going to be here another week. At the rate this bill changes, the Democrats may end up proposing corporate or labor union sponsorship of elections like we see with college bowl games or touring rock bands. For example, instead of the Sunkist Fiesta Bowl, we can have the Sunkist Third District of Iowa election.

The Michel substitute doesn't need to hide behind a maze of tax writeoffs, voluntary funds, registration fees, and matching funds. The Republican alternative requires a majority of a candidate's funds be raised from local resources—from the people he or she will be serving in Congress. The Republican proposal reduces the allowable PAC contribution to $1,000—the same as individual contributions, and the Republican alternative would become effective in 1992, rather than forcing Americans to wait another 3 years for real reform. The Republican alternative restores power over the election process to the individual. If the American people once again feel they have control over choosing their representatives, we'll see a rebirth of involvement in the democratic process.

We have a serious problem on our hands. The term limit movement has caught on like a wildfire across America because Congress cannot deal maturely and effectively with serious problems. Instead, we waste time with silly proposals like this one. This is not a serious proposal, it is a boldfaced partisan effort designed to make President Bush look bad.

I warn my colleagues to beware. The joke may be on Congress. You may wake up one day and find that term limits have cost you a seat in Congress. The people who elected us expect and deserve better than this partisan game.

I know that well-meaning people from both sides of the aisle can arrive at a solution. But I cannot support a proposal that would, in essence, say to the very people who are disenchanted with us, "stick'em up."

I urge my colleagues to oppose the bill and support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, there is a growing feeling in this country that our institutions of government, and particularly the Congress, are out of touch with the American people. There is even a stronger feeling that access to government by average Americans is inhibited by their lack of dollars to influence the system. Most Americans believe that public policy is determined not by what is good for America but by how many dollars can be contributed to the politicians of their choice. Most Americans feel that incumbent politicians have a lock on campaign spending, being able to raise unlimited campaign dollars and squeeze out any meaningful amounts of money that their challengers might be able to raise.

All of this has led to a feeling of cynicism and alienation by the American people, that their government does not belong to them anymore and that the current system does not work. That is one of the reasons why people like David Duke have had the success they have had in the American political system.

This bill is a reasonable attempt to deal with a problem. It sets aggregate campaign limits so we can restore some sanity to the millions and millions of dollars spent in campaigns; frankly, so that we can stop spending so damn much money on campaigns. And it sets some limits to special interest money, doing so in a reasonable way.

It is not a perfect bill but it moves the process along to get us a more perfect bill, and it moves us a long way toward restoring participatory democracy in this great country of ours.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield to me?

Mr. GLICKMAN. I am glad to yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding. I know he is concerned about the success of the David Dukes, but I would suggest to the gentleman that under a public financing situation the David Dukes of the world, the extremists on all sides, will get free funding from the taxpayers' dollars.

Mr. GLICKMAN. The gentleman totally misreads the bill and is inaccurately characterizing it.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman I rise in strong opposition to this bill. We have experimented with taxpayer finance politics at the presidential level and it has been a complete failure. Why, then, do we want to give every congressional candidate a $200,000 campaign slush fund out of the U.S. Treasury? Eighty percent of the American people have already rejected taxpayer-financed politics when given the opportunity. In 1989, less than 20 percent of the American people checked yes on their tax forms. Given the low regard in which the Congress is held, even fewer will support tax funds for congressional candidates.

□ 1540

My constituents are outraged about the S&L bailout and certainly do not want to have a congressional incumbent bailout as well.

The current public financing program funds extremist candidates, such as convicted felon Lyndon LaRouche. I am sure he cannot wait to run a slate of candidates for congressional seats if this bill were to pass.

I would remind my colleagues that we have a $350 billion deficit.

There are rural counties in my northern California district with almost 20 percent unemployment. The people in these counties do not believe for one moment that the solution to our Nation's problems is $200,000 in political welfare for professional politicians paid for with tax dollars. They know the solution is jobs, but the only jobs that this bill creates are for lawyers and accountants and campaign consultants.

Mr. Chairman, I encourage my colleagues to oppose this legislation.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, Halloween has come and gone, yet some in this body continue to play tricks on the American people by introducing self-serving legislation like H.R. 3750—what I like to call the Taxpayer-Funded Public Finance Campaign and Incumbent Job Security Act of 1991. This country is experiencing an economic slowdown, so what does the majority party bring to the floor, a bill that costs the American taxpayers $270 million or more just to pay for congressional campaigns. The majority party seems to be more interested in bringing legislation to the floor that they feel can score political points with the public, rather than tackle the tough issues, like jump-starting this sluggish economy.

I'm not saying that campaign finance reform legislation is not important; but this legislation does little to make elections more competitive, and by placing spending caps it could serve to further secure incumbents. We are not going to obtain real campaign finance reform in this body until we scale back the many incumbent advantages that have already been built into the system.

I ask each of you to look in the mirror knowing what you know, would you run against yourself? True reform will only come when we put an end to soft money and bundling, eliminate the role of PAC's, restrict the use of leftover campaign funds, and give elections back to the people in each district, by permitting tax deductions for small district donations. None of these proposals are included in this bill.

The most recent example of how Congress abuses the taxpayer for its self-serving interests, is the private contract the House Administration Committee entered into earlier this year for the purpose of providing Members of Congress with lists of their district's registered voters. The American people are sick and tired of these types of incumbent protection programs and they must end if Congress is truly interested in campaign finance reform.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, can you believe this? I ask the people up here in the audience and people watching, can you believe that we are here today on the House floor talking about how to spend the taxpayers' money to help us get elected?

Now, the people on the other side will tell you that is not what we are doing. What we are doing here is to make sure that elections are fair. This comes to you from the party of the perks, from the party of the bank scandal, the restaurant scandal, leased cars and other perks in Congress. This comes to you from a party who just earlier this year said that they were not going to cut the franking accounts of Members of Congress for next year, even though we were not even going to use half the money this year. The reason was, well, we have a tendency around here to mail a little bit more during election years. I wonder why that is?

Now, they are coming to the floor today to say to the American people, "Trust us, trust us. This is going to level the playing field. We have a 100-vote majority in the Congress, but we want to level the playing field because we want to be fair."

Now, do you really believe that? I do not believe that.

What they tell you is this substitute is bad that the Republicans want to offer because it makes people raise their money within their own districts.

You have to raise your money within your own district? You mean the people in your home community have to support you? What a terrible un-American thing we are talking about here.

I just was elected to Congress last year. I defeated a 14-year incumbent, outspent 3 to 1, and I got here because the people in my district rose up and supported me. I was outspent 3 to 1 and yet I got more money from individuals within my district than he did. What is wrong with that?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. THOMAS of California. Mr. Chairman, I yield 30 additional seconds to the gentleman.

Mr. SANTORUM. Mr. Chairman, what is wrong with having the people in your own community determine who is elected from that community? Why do we need taxpayers across this country reaching into their pockets that are very, very thin right now, giving us money to reelect us? Where have we gone in this country when we can even consider this with a straight face?

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, we have heard some good speeches today against taxpayer-funded campaigns to Congress, great speeches—wrong bill. If this bill contained provisions for taxpayer-funded campaigns for Congress, this Member and most of the conservative Democrats would be joining you in opposing it.

Read the bill. There is no taxpayer-funded campaign for Congress in the bill anymore. The compromise struck with the chairman, and I do want to congratulate Chairman ROSE for his excellent work in compromising this bill, was that the fund for democracy no longer contains tax supports, surely voluntarily contributions.

Furthermore, the chairman has agreed to a provision in the bill which now says that that fund does not go into effect until the Ways and Means Committee comes up with the ways and means to provide a system whereby individual donors to the candidate of their choice can get a tax credit to encourage small contributions in political campaigns.

The authors of the bill have gone a country mile to take out our concerns about taxpayer-funded congressional elections. That is gone, folks.

Great speeches, wrong bill.

We may not be able to guarantee clean elections in America. We may not be able to guarantee clean politics for America, but one thing we know for sure, there is too much money in politics in America.

The bill we propose today with taxpayer funds eliminated, with voluntary spending limits in it, with instructions to work toward tax credits for donors to choose the candidates of their choice, to make their donations to, is the right approach at the right time when Americans want cleaner politics in America.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH], a Member who has been involved in campaign finance reform for years.

Mr. LEACH. Mr. Chairman, one of our distinguished colleagues earlier today suggested that this body has been presented a campaign reform bill that is an oxymoron. I do not know if that is the case, but I do believe the Democrats must believe the country is moronic if it believes their approach is reform.

At best it esconces the status quo. Rather than reducing individual PAC limits, the Democratic bill keeps them. Rather than empowering the electorate, it encourages candidates to accept out-of-State, out-of-district funds.

Rather than plugging the soft money loophole, it turns the other cheek, or more aptly opens the other pocket.

□ 1550

And rather than establishing prudential spending limits, it sets close to a $1 million ceiling. If this is reform, then up is down.

What, then, does the Republican substitute do? It reduces individual PAC limits from $5,000 to $1,000.

I would like to eliminate PAC's entirely, but an 80-percent reduction must be understood as substantial real reform.

The Republican bill requires candidates to receive half of their money from people who can actually vote for the candidate. I would like to say 100 percent.

But, 50 percent is a progressive step.

After all, one of the tragedies of our system is that elections have become nationalized through out-of-State special-interest giving. Our Founding Fathers envisioned a legislative system where people of various parts of the country would, unencumbered, come to Washington to represent their constituents' interests.

Instead, in recent decades those who influence the political process through campaign giving have come to be more important than those who cast the ballots. This is not representative democracy; it is obligarchic representation.

Finally, on the spending limit issue, the question of judgment is clearcut. Democrats suggest that in establishing a ceiling of approximately $1 million for a congressional race they are advancing progressive spending restraint. Republicans suggest that cutting individual PAC's giving 80 percent, by requiring that half of the money candidates receive come from their prospective constituents, and by getting rid of soft money, that the effective ceiling will be much lower. It's difficult for me to believe that any impartial observer could conclude anything except that the Republican approach will cut campaign costs far more effectively than the Democratic one, and give challengers a far better chance to run competitive campaigns.

In a system where 85 percent of PAC money goes to incumbents, where 97 percent of labor money, and just over half of business resources, go to the establishmentarian majority party in Congress, ensconcing legislatively the status quo isn't good enough. In fact, the majority party's legislative initiative is disheartening because it wears the mask of reform.

Nevertheless, while I intend to support my party's more progressive alternative, I expect to support this sham of a legislative package on final passage in the slimmest of hopes that sincerity of intent will prevail in House-Senate deliberations. In this case, I'm not convinced something is better than nothing. But I do recognize the House needs pieces of paper to go to conference.

After all, Mr. Speaker, what this country needs is arms control between business and labor, the establishment of a system where the individual citizen, not the moneyed interest groups, is dominant, where the challenger has a fair and reasonable chance.

The Republican approach is not near as comprehensive as I would like, but it is a clear step in the right direction. The Democratic approach, on the other hand, is a dicey dodge, a high-kicking polka when the country wants a straightforward waltz.

It's time Congress musters the political courage to discipline itself, rededicating energies to tapping America's soul rather than pocketbook.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage the chairman of the Committee on House Administration in a colloquy.

Mr. Chairman, as you know, we have had a lot of discussion on H.R. 3750, particularly on the idea of public financing of election campaigns, and I believe it is important to place on the record how it resolves the concerns many of us share.

Mr. Chairman, does the bill we are now debating provide for any funds from the U.S. Treasury for matching funds for political campaigns?

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. BROWDER. I yield to the chairman.

Mr. ROSE. I thank the gentleman for yielding.

Mr. Chairman, no, it does not.

Mr. BROWDER. It does require that the make democracy work fund be financed by voluntary contributions?

Mr. ROSE. That is absolutely correct.

Mr. BROWDER. Mr. Chairman, am I correct in noting that the matchingfund provisions of this bill do not become effective unless incentives are enacted that encourage individuals to contribute to the candidate of their choice?

Mr. ROSE. The gentleman is correct.

Mr. BROWDER. Mr. Chairman, the revisions are more important than just a technical change. H.R. 3750, with these changes, ensures that the American public will have the choice over whether to make campaign contributions and control over those contributions. Keeping individual choice and control over campaign funding ensures greater participation by the general public and it is in keeping with democratic principles that the people control their government. Let me add that I will not support campaign funding schemes that reduce choice and control, and I will oppose any attempt at a later date to give tax dollars directly to candidates for office.

H.R. 3750 is a balanced, reasoned approach to enacting spending limits that will ensure more choices and better representation for the American people in their Congress. It will force candidates out of their beltway mentality on campaign fundraising and send them back to the people who elect them. I urge my colleagues to support this bill.

Mr. THOMAS of California. Mr. Chairman, how much time is remaining.

The CHAIRMAN. The gentleman from California [Mr. THOMAS] has 7 minutes remaining, and the gentleman from North Carolina [Mr. ROSE] has 6 minutes remaining.

Mr. THOMAS of California. Mr. Chairman, I yield myself 5 minutes.

After that colloquy, Mr. Chairman, I can only tell the gentleman from Alabama [Mr. BROWDER] that he had better vote against this bill if he wants to vote against taxpayer financing in political campaigns. It is as simple as that. That is a flat statement, and it cannot be challenged.

Title I of this bill says expenditure limitations, contribution limitations, matching funds and reduced third-class mail rate for eligible House of Representatives candidates, that money comes from the taxpayer. If you vote in favor of this bill, you are voting in favor of taxpayer financing of campaigns, only for those who are willing to come under the limits.

If you will visit with me once again what we have in front of us—and if anyone wants to challenge these statements on their time, I would certainly like to have them show me in the bill where the specificity is that no matching funds can be from taxpayer dollars, because the bill does not say that.

Those of you who are smiling had better read the bill rather than rely on somebody else's judgment as to what is in the bill. First of all, the only funding in the bill is for voluntary contributions. There are three obligations that must be met. The postal subsidy, somewhere between $40 million and $70 million; and the matching funds that are in the bill. And a new obligation which was put in by the Committee on Rules, which is called incentive under the bill, but which the gentleman from North Carolina called a tax incentive; and finally, truth-in-packaging, the gentleman from Louisiana called a tax credit.

Where in the world do you think you get the revenue for a tax credit? That is called an increased revenue obligation.

If someone gets a tax credit, they owe less, the Government gets less. You are spending taxpayer dollars in an election.

What is the matter with you people? I read SAM GEJDENSON'S Dear Colleagues. The first one started out with the battle cry, "We are going to bite the bullet. We are going to have public financing. We are going to have taxes to cover it." And what happened in the Committee on Rules? You are now gumming a political lollypop.

Not only have you backed off of an upfront, honest commitment to put money in the bill, as you had in the original one—whether we disagree with you or not is the point; you had enough courage to cover your costs.

You had a bill that probably paid for itself if you believed the CBO estimate in terms of money, and it simply cannot be believed because we have no practice with people getting free money to run in campaigns.

But at least you had the money in there.

This is nothing more than a sham. The gentleman from Wisconsin [Mr. OBEY] said that, the gentleman from California [Mr. BEILENSON] said that, the gentleman from Maryland [Mr. MFUME] said that, on the rule.

You ought to own up to the fact—and I am more than willing to be challenged here—there is not a requirement for matching funds, not a requirement for postal subsidy and an incentive which has been told to be a tax credit? And then the bill goes on to say that it does not go into effect unless, under the Budget Act, there are sufficient revenues.

That means Committee on Ways and Means has to raise taxes to finance campaigns under this bill. Whom are you kidding? Apparently, only those Members on your side of the aisle who have been given assurances, which certainly are not written in the bill.

In addition to that, from the beginning you have failed to address soft money. Soft money is money which is illegal in Federal campaigns if it were given to a candidate.

You continue to allow it to be given to the political parties for a building fund, to buy a computer. It is very seductive money. It is and should be banned.

You do not do it in your bill. The Republican substitute bans it.

But most damning, I think, is the fact that you are arguing, you are wearing this hairshirt of spending limits that is very, very difficult under the bill to carry out the kinds of activities that we think we should need, a give-and-take on your side of the aisle in terms of the amount that should be spent.

Up until Saturday you are still carrying on a Turkish bazaar hanging on how many freebies would be slipped into the bill. You added an additional 5 percent for fundraising. You have no limit whatsoever on legal costs, you have no limits whatsoever on accounting costs. And when you take a look at the cost-of-living adjustment automatically built into this bill, before you have one campaign under the limits, it is now $600,000. Without the ups and extras, it is over $700,000 just to begin with.

When you add the ups and the extras and the other gimmicks that you have built into it, it is well over a million dollars, and not one line in this bill addresses the franking subsidy that American taxpayers already pay to political financing but only to incumbents.

The CHAIRMAN. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. THOMAS of California. Mr. Chairman, I yield myself 1 additional minute.

□ 1600

Mr. Chairman, if someone would take a look at this bill in terms of what it was and what it is now, it is clearly nothing more than a shell, an expedient offering to those people who could not open up to the fact that even these phony limits are not enough, that we had to go ahead and be phony about the fundamental financing portion of this bill as well.

Make no mistake. There is nothing in this bill, nothing in this bill, that takes away from the taxpayer financing on postal subsidies, on matching funds and on tax credits, if those are, in fact, the incentives that we are going to have in the bill.

So, through the back door some of my colleagues may think they are getting away from public financing of campaigns, but they better read the bill instead of taking a hope and a promise or someone's interpretation of what is in the bill. This bill is and remains taxpayer financing of campaigns.

Mr. ROSE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, as a member of the task force and also the Committee on House Administration, I rise in strong support of H.R. 3750.

Mr. Chairman, I would like to take a few moments to share with my colleagues some thoughts on the campaign finance reform bill we are now debating.

As a member of the task force which has been examining this issue for the past 9 months, I would first like to compliment the chairman, SAM GEJDENSON, and ranking member, BILL THOMAS, for all of their efforts in this very complex area of the law, as well as CHARLIE ROSE, chairman of the full House Administration Committee.

While the gentleman from Connecticut and the gentleman from California quite often had legitimate differences of opinion on how to approach this topic, I believe the task force successfully completed its mission of examining the countless suggestions as to how we can restrain the power of money as a force in our electoral process.

Mr. Chairman, when the task force held its first hearing back in March, I stated that the goal of this process should be to craft a new system of campaign financing which will meet three goals. First, curtail the campaign money chase; second, reduce the influence of special interests; and third, stimulate vigorous campaigns. I believe H.R. 3750 meets these goals, and this legislation has my full support.

To say this bill has my support is not to say this is a perfect bill. This is not a perfect bill, and I doubt anyone, including the gentleman from Connecticut, would argue that it is. The most resounding lesson we learned from our Member day hearings—during which every Member was invited to share their views with the task force—is that there are 435 people in this Chamber who are experts in campaign financing, each having their own ideas on how to improve the system.

Despite differences of opinion, it is clear that comprehensive reform with spending limits is long overdue. H.R. 3750 is a solid first step. Since 1972, total expenditures in congressional elections has increased by more than 600 percent. During the last election cycle, average winning House candidates in competitive races had to spend more than $500,000. This high cost not only eliminates your average citizen from running for office, but it forces many elected officials to engage in perpetual fundraising.

Mr. Chairman, yesterday's Washington Post contained a brief article on newly released census data showing that voter participation is continuing to drop. It has become clear that the large sums of money spent in congressional elections have tarnished the public's view of the electoral process. The general public is falling under the assumption that dollars at a fundraiser are more important than their votes on election day.

H.R. 3750's limit of $200,000 in PAC contributions and $200,000 in large contributions, allows for competitive races while reducing the influence of special interest money.

Unfortunately, we are considerably restricted by the 1976 Supreme Court decision, Buckley versus Valeo, which ruled that limitations on campaign contributions and spending were constitutional only when voluntary. The only effective way to induce candidates to accept these limits, therefore, is to provide them with incentives—namely matching funds.

A system of spending limits and public financing is not some radical idea the authors of this bill thought up. This is the system which now funds our Presidential elections. It has also worked in elections for legislative, executive, and judicial seats in my home State of Wisconsin since the early 1970's. Although not perfect, this system has helped reduce the influence of money on these elections.

Some of my colleagues are charging that a public financing system will be perceived as the ultimate in congressional perks—using taxpayer dollars to pay for their campaigns. Let me state very clearly, nothing could be further from the truth.

The President has already stated he will veto legislation containing public financing. I find this disturbing, given the fact he used taxpayer dollars and public financing to win in 1988, and will most likely accept public financing in 1992.

The public is justifiably concerned over the way elections are run in this country. Low voter turnout and the extraordinary talk of limitations on the terms of Members of Congress signal the erosion of the confidence the American people have in our electoral process.

A vote for H.R. 3750 is a vote to restore this confidence.

A vote for H.R. 3750 is a vote to return congressional campaigns to barbecues and rallies and a $10 contribution from the guy down the street, rather than $500 a plate breakfasts for special interests.

A vote for H.R. 3750 is a vote for fairness for incumbents, fairness for challengers, but most importantly, fairness for the American people.

I hope Members will join me in supporting this legislation.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, I am supporting this legislation today for some very basic reasons.

First, Americans are tired of politics as usual. They are tired of the influence of big money in our elections and in our Government. I am supporting this because we have got to stop the runaway train of campaign financing and spending, and break the logjam of inaction in Washington to clean up this mess and restore the confidence of the American people in this system.

Mr. Chairman, elections should be contests of ideas, and of values, and of vision, not of one's ability to raise money. This legislation does the basic thing that needs to be done. It is the only chance we have today to do what needs to be done, and that is to draw the line on the influence of money in our elections.

Mr. Chairman, that is what this bill does, and that is what this Congress needs to do to restore the confidence of the American people and to restore democracy in this country.

I urge my colleagues to vote for this legislation and draw the line on big spending once and for all.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from North Carolina [Mr. ROSE], the chairman of the Committee on House Administration, for yielding this time to me.

Mr. Chairman, do we want to derail the move to term limits which would throw out the good among us, as well as the bad? Do we want to increase voter turnout, which in Kentucky just 2 weeks ago was only 30 percent of the eligible adults? Do we want to increase grassroots activity which has waned and which is almost nonexistent in some sectors of the country? And last, but not least, do we want to increase public confidence in the political system?

Mr. Chairman, I think most of us would answer, "Yes," to all of those questions, and one way to accomplish all this is to today pass the bill before us which is the Campaign Finance Reform Act.

Mr. Chairman, this is not a perfect bill, and the defects and flaws in it have been pointed out, as the defects and flaws in the bill offered by the gentleman from California [Mr. THOMAS] will be pointed out.

But this is a step in the right direction. This does give the people of this great country who have in many cases almost given up hope in this system, who have just about reached a point of despair about this system, a hope for the future. This gives us the matrix, this gives us the raw material, to make improvements in the years ahead. This puts a limit on spending, which is so very important and about which we hear so much from our constituents. It eliminates to some extent the heavy hand of political action committees, of special interest money. It does make some effort to restore the role of the people, the small donor in campaigns.

All in all, Mr. Chairman, this is a great step forward. I urge its passage by this body.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I would like to ask the chairman of the Committee on House Administration to enter into a colloquy with me. First, I commend the gentleman from North Carolina [Mr. ROSE] for bringing this legislation to the floor.

The primary concern of the American people is to limit campaign spending. In 1974, Congress passed legislation to cap campaign expenditures, but these limits were ruled unconstitutional in the 1976 Supreme Court decision, *Buckley* v. *Valeo*.

Is it the gentleman's understanding that language included in this bill states that the Congress should consider legislation which would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections?

Mr. ROSE. Mr. Chairman, will the gentlewoman yield?

Mrs. PATTERSON. I yield to the gentleman from North Carolina.

Mr. ROSE. Yes. I would invite the gentlewoman's attention to title XIII of the bill.

Mrs. PATTERSON. Again, I want to commend the gentleman's leadership and that of the task force chairman in crafting meaningful reform.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the very distinguished and respected chairman of the Committee on House Administration, the gentleman from North Carolina [Mr. ROSE], for yielding this time to me.

Mr. Chairman, last year more than $2 million was raised and spent in the Eighth District of Virginia. This bill would set limits that would cut that amount in half, and that is why I support this bill.

Mr. Chairman, I never want a future challenger of mine to have to go through what I had to go through for the right to sit in this esteemed body, to be part of this process that I respect so much. What is happening is poisoning the process. It is no longer enough to understand the issues, to be able to articulate our position, to be willing to get up at the crack of dawn and shake thousands of hands. We also have to be willing and able to raise $1 million every other year.

Mr. Chairman, that is wrong. That is not a qualification for statesmanship, and this is the first, the most important, in fact, the only first step we can take today toward the process of reforming this system, of giving the political process back to the people.

Mr. Chairman, 1 year ago I was elected to the House of Representatives because the citizens of the Eighth District of Virginia wanted change in Congress. One of the fundamental changes they wanted was the way we elected Members to Congress, and at the root of that change is the way we fund our campaigns.

I had to spend $1 million to run for Congress against an established, well-financed incumbent, and the total campaign cost of $2.2 million made my race one of the most expensive House races ever.

One-third of the $1 million I raised came from the individual contributions of thousands of workers who alone would not have been able to participate in my win, but through political action committees were able to stay toe to toe with the much wealthier executives of their employing corporations—who tended to contribute to my incumbent opponent.

I was fortunate to be able to raise enough money to compete with my opponent, but I do not want to maintain my seat in Congress merely because it will cost too much for anybody but a multimillionaire to challenge me in the future.

The major advantage incumbents have over their challengers is access to financial resources, and it is time to remove this unfairness.

The bill under consideration makes several substantial and much-needed improvements to the comprehensive election law reforms made in the 1970's:

It limits the amount candidates can receive from organized special interest groups and lobby organizations.

It limits the amount candidates can receive from wealthy individuals.

It sets forth more stringent regulations for so-called loopholes in current laws—independent expenditures and soft money expenditures of political parties and, most importantly, this legislation encourages candidates to adhere to spending limits.

I believe the spending limit specified, $600,000, is sufficient for every candidate to communicate his platform, if both candidates are so limited—and I am in one of the most expensive media markets in our country.

Without competition the democratic process becomes undemocratic. Our goal today is to secure public confidence in this institution, and thereby strengthen the integrity of our Nation's representative government.

Mr. ROSE. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in support of the bill, H.R. 3750.

Mr. ROSE. Mr. Chairman, I have no further requests for speakers, and I reserve my right to close the debate.

Mr. THOMAS of California. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, it is interesting that the gentleman from Virginia [Mr. MORAN] gets exercised over million-dollar campaigns. This legislation would provide for upward of million-dollar campaigns.

It is interesting that people say that there has to be a spending limit when in fact there is no change from the current amount that political action committees can give in a campaign. It was $10,000 in an election cycle; it is $10,000 in an election cycle. There is no fundamental change in the way in which we campaign. Still not one dime needs to come from a constituent, and I say to my colleagues, believe me, when you take a look at the totals in this bill, and you take a look at current campaign practices, no one will have to fundamentally change the way in which they campaign.

Mr. Chairman, the question of spending limits is bogus. This bill does not really limit overall spending when there are open-ended requirements for a number of services under the bill. It is not as advertised.

Mr. ROSE. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, the American people have told us loud and clear that they want to place a cap on the costs of campaigns. This bill, H.R. 3750, puts a cap on campaign spending at $600,000. There is no cap on the substitute that is about to be offered by the gentleman on the other side.

Mr. Chairman, we also put a limit of $200,000 on the amount of money that can be spent coming from political action committees.

□ 1610

This is something else the American people have told us they want. We know that there are other things we would like to do. We have crafted, I think, a good bill that the American people think is necessary.

Mr. Chairman, I urge my colleagues to support H.R. 3750.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 3750, and commend Mr. GEJDENSON, the chairman of the House Administration Task Force on Campaign Finance Reform, for his efforts in bringing this legislation before the House today. I would like to focus my remarks on section 802 of this bill, which relates specifically to the cost of broadcasting political advertising, which lies within the jurisdiction of the Committee on Energy and Commerce and the Subcommittee on Telecommunications and Finance, which I chair. The explosion in the cost of campaigns in recent years, with rising television costs weighing heavily, makes this issue a very important piece of the broader package of campaign finance reform.

The Committee on Energy and Commerce has been involved with this particular issue for more than a year now. Last year, the committee attempted to bring to the House floor a bill identical to the language contained in section 802 of the legislation before us today. Just like section 802, it would have required broadcasters to sell political candidates fixed and nonpreemptible spots at the lowest preemptible rate. On June 13, 1991, the Telecommunications and Finance Subcommittee held a hearing during which a number of distinguished witnesses, including former Democratic and Republican National Committee Chairmen Paul Kirk and William Brock, spoke in support of the legislation.

All of us in public life must be sobered by recent trends in the public's perception of and participation in electoral politics. A recent study by the Markle Commission on the Media and the Electorate found that "American voters do not seem to understand their rightful place in the operation of American democracy" and see themselves as "distant outsiders with little personal consequences at stake." Last year, 64 percent of eligible voters failed to participate in the midterm congressional elections. Thus, at a time when our country should be an exemplary beacon of light leading the way for the world's newly emerging democracies, we may be threatened by dimmed participation in our own electoral process.

Clearly, many factors have contributed to the perception of disenchantment with voters, from the decline in the strength of political parties to the attention focused on the power of political action committees and the burdens of fundraising. But as the single most powerful form of communication today, television's role as a medium for speaking to voters is critical.

The agreement to purchase air time made between a political candidate and a television or radio station is more than a private contract between individuals or corporations. Because broadcasters operate through the use of the public airwaves, they assume the legal responsibility of safeguarding the public interest. As part of this subcommittee's continuing oversight of the effectiveness of broadcasters in meeting their public interest responsibilities, we have sought the existence of a fair and effective system through which candidates communicate their ideas. On the other hand, given the growing competitive pressures on broadcasters from cable and video sources, we have also sought a solution which respects the importance of free, over-the-air television in the provision of information to the public.

During and following the 1990 elections, there has been an increasing confusion and frustration over the currently existing lowest unit charge rules, both from candidates and broadcasters. We are seeing a burgeoning list of court disputes concerning alleged overcharging by broadcasters and, more recently, the intent of the FCC to step in and preempt many court determinations. All of this further bolsters the need for the reform contained in section 802.

As the committee report accompanying H.R. 3750 notes, section 802 amends section 315 of the Communications Act by clarifying the lowest unit charge provision. It requires broadcasters to charge candidates for public office the lowest charge of the station, rather than the lowest unit charge, for the same amount of time for the same period on the same date during pre-election periods. This section also reduces the preelection period during which the lowest charge provision is effective from 45 days to 30 days for primary elections and from 60 days to 45 days for general or special elections. Decreasing preelection periods will reduce candidates' broadcast advertising expenses, and mitigate the potential adverse impact that compliance with this section may have on station revenues.

I hope that the consideration and even the passage of these changes to the political broadcasting rules will not end the exploration of the entire issue of the link among telecommunications technology, political candidates, and voters. I would hope, in the not-too-distant future, for a broader examination of the impact of new technologies in shaping the political process itself.

In closing, I again want to commend Mr. GEJDENSON, who testified before my subcommittee in June, and recognize the leadership of Chairman DINGELL on this issue. I hope it is a provision all of my colleagues can support.

Mr. HOYER. Mr. Chairman, I rise today in support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act. I want to commend House Administration Committee Chairman CHARLIE ROSE and the task force Chairman SAM GEJDENSON for their excellent work on this legislation.

The American people are showing their increasing distrust and disillusionment with the American political process. Voting participation is down and citizens feel that their voices and their concerns are of less and less importance to the politicians. One of the reasons for their concerns is a perception that the special interests and the big money people are the only ones with any sway in Washington, DC, and that theirs are the only voices that count.

Now, each and every one of us in this House knows that we represent our constituents better than that. We know of the time, effort, and commitment that each of us puts into representing his or her district to the best of our ability. Yet, unless we enact the reform bill before us today, we will have failed in our jobs and in our responsibility to prove to the American public that we hear their concerns and that we can respond.

I believe that the bill before us today is meaningful reform which will help the average American again feel part of the process. H.R. 3750 implements meaningful reform without playing political gamesmanship and provides the type of reform that the American public is asking for.

H.R. 3750 will help control the increasing cost of campaigns, will encourage the full participation of all citizens in the electoral process, and will allow candidates to spend their time not just on a money chase, but on a chase to win the respect and support of the voters. Most important, H.R. 3750 sets a $600,000 spending limit for House candidates. This is a fair limit which will allow both challengers and incumbents to run competitive races. The American public is watching with increasing disgust at the costs of political campaigns. We must put an end to the spiraling costs of elections. H.R. 3750 does that.

Furthermore, the matching funds and the discounted mailings will provide substantial additional revenues for challengers and will help make the election process a more equitable process. I am also pleased that the bill before us today will encourage candidates to raise money within their home communities. A candidate is only eligible for matching funds if he or she has raised $60,000 from individual contributions.

Finally, contrary to assertions on the floor today, the bill before us today contains no public financing. Many listening to the debate today, may be surprised to learn that President Reagan is the top recipient of public funds from the checkoff system—$92 million; and that President Bush has requested and accepted a total of $60 million in 1980 and 1988. Clearly, public financing is a popular idea among some candidates. But, again, the bill before us today does not contain public financing. Rather, the legislation before us today would provide matching funds from a fund that is financed solely by voluntary contributions.

I urge my colleagues to support today's bill which I believe takes the best ideas of reform and combines them into a fair and effective bill. Americans are concerned about public financing, and as I just stated, there is none in this bill. Americans are concerned about the spiraling costs of campaigns; there is a spending limit in this bill. Americans are concerned about the disparate influence of a few wealthy individuals; there is a limit in this bill. Americans are concerned about the influence of PAC's; there is a limit in this bill. In fact, Mr. Chairman, what's in this bill is real reform and real competition. I urge my colleagues to vote for the bill and vote against the substitute.

Mr. HAYES of Illinois. Mr. Chairman, as this debate on money is politics swirls around us, I want to focus the discussion on some relevant issues.

First, I feel strongly that we must not further erode the political power of poor or working people. When I testified before the House Administration Task Force on Campaign Finance Reform, I pointed out that poor people often are clustered in certain rural and urban districts such as mine. While we may laud the contributions of individuals to campaigns, it is very difficult to raise individual contributions from people who do not have enough money to provide their children with three meals a day. Any formula for funding campaigns, such as that offered by some of my Republican colleagues, which increases the power and influence of big donors would concentrate too much power in the hands of the rich at the expense of working people. We must remember that the less fortunate have just as much right to determine their future as any other citizen.

For example, many of my constituents are blue collar. They take pride in giving to their union's political action committee, or any PAC which represents their interests. They take pride in their PAC involvement and tell me that it helps them compete in the same ballpark with the big donors. Somehow, Mr. Chairman, I hope we can take their interests to heart. Perhaps we need to distinguish between two types of PAC's: One represents the common cause of thousands of members, whether it be labor, environment, or some other interest, each of whom contributes a modest amount. The other type of PAC represents a small, often corporate interest. It gets a few hefty contributions from the CEO, his or her board of directors, and their relatives. The former represents the will of many people while the latter reflects the narrow interest of its members. The two types of PAC's should not be treated equally.

My second observation is that we need to stop the precipitous drop in voter participation. One of the main obstacles to increased voter participation. One of the main obstacles to increased voter turnout is the series of hurdles we construct for citizens to climb before they can register to vote. While registration varies from State to State, some States act as if voter registration were not a right but a privilege for those who can navigate the bureaucracy. Such impediments stand in stark contrast to many other nations which go out of their way to encourage registration and hold elections that are most convenient for their citizens. In order to increase access to registration forms in this country, I introduced H.R. 2668 and H.R. 2669, which make such forms available at local post offices and with postal change-of-address forms. The Postal Service provides a convenient location which is easily accessible to all.

Finally, it is my experience that the primary culprit for the rising cost of campaigns is the high cost of media—particularly TV. Media is the single most expensive item in a campaign. I was disgusted to learn that some local outlets gouged candidates in 1990 with unreasonably high fees. I would hope that the industry could develop guidelines to prevent any future occurrence.

Mr. HUGHES. Mr. Chairman, I rise today in support of H.R. 3750, the Campaign Finance Reform Act of 1991. I am pleased to commend the members of the House Task Force on Campaign Finance Reform, and Chairman SAM GEJDENSON in particular, for their efforts in developing this important legislation.

While I intend to support this legislation, however, I do so with great reluctance. This bill does not go nearly as far as I would like to restore competition and public confidence in the campaign system. It is my hope that this legislation is only a first step in what will be an ongoing process to truly reform our campaign finance system.

It's been more than a decade since the last significant campaign finance reform legislation passed the Congress and became law. As my colleagues well know, the costs of running a successful campaign for Congress have more than doubled during that period.

In fact, we have reached the point where campaigns are being driven more by the candidates' ability to raise and spend money than by their qualifications or positions on the issues. That's just not right.

The costs of running for Congress have gotten so out of hand that the parties are having a difficult time recruiting qualified candidates. This has seriously diminished the competitiveness which has always been the hallmark of our democratic process.

The skyrocketing costs of political campaigns have also vastly increased the influence of PAC's and other special interest organizations which have the ability to turn out large and frequent donations. In so doing, they have squeezed out the average voters who used to contribute $50 or $100 to a campaign, but who no longer believe their contribution makes a difference.

Perhaps most important of all, the high costs of campaigns have undercut the fundamental confidence of the American people in our system of government. Many people believe their elected officials are beholden to the PAC's and other special interests, and it's hard to blame them when they see hundreds of thousands of dollars pouring into their districts from out of State to help elect their Congressman.

That doesn't mean that the system alone is to blame for all the problems. There has also been a growing lack of restraint on the part of candidates who take full advantage of the system to raise and spend far more money than necessary.

In my own case, I have always raised the vast majority of my campaign funds in small donations from my own constituents in southern New Jersey, and I have sought to limit my PAC contributions to no more than a third of my total receipts. We could go a long way toward restoring order to the campaign process if other candidates voluntarily adhered to these or similar guidelines.

Unfortunately, not everyone is in a position to do so, and we really have little choice but to overhaul the entire system. In that regard, H.R. 3750 is as good a way as any to start. Under this bill, a spending cap of $600,000 will be imposed on House candidates, with flexibility for those candidates whose opponents do not agree to the spending limits.

I would much prefer a spending cap of $400,000. That is a more realistic figure for challengers to attain and would put them on a more level playing field with incumbents. I regret that we will not have an opportunity to consider a lower ceiling as part of this legislation.

H.R. 3750 also limits the amount of PAC contributions which candidates can accept, both in terms of dollar amounts and as a percentage of their total receipts, and requires candidates to raise at least one-third of their campaign funds from small individual contributors. While I agree with the limit on PAC contributions, I would have preferred that candidates be required to raise at least 50 percent of their funds from small donors in their own districts.

The bill also takes important steps which I support to control independent expenditures, bundling, and so-called soft money which serve no purpose other than to get around the restrictions of Federal election law.

I am very concerned about the provisions in H.R. 3750 to make up to $200,000 in public funds available to candidates in the form of matching donations. In theory, I believe that public financing may be the only constitutional remedy available to put a cap on campaign spending.

However, I am not at all convinced that the American public is prepared to support limited public financing—even where no tax dollars are involved—at this time. I'm not certain that we will be able to raise enough money through voluntary donations to finance the matching funds. Without a full complement of matching funds, the whole system outlined in this legislation could fall apart.

Mr. Chairman, H.R. 3750 is not a perfect bill but at least it's a start, and it does move us in the right direction. We just can't continue to put the problem of campaign finance reform off any longer. By limiting the overall costs of campaigns, we can begin to restore fairness and competition to the process.

Just as importantly, we can begin to regain the public confidence in our system by shifting the emphasis away from the special interests and back to the average voter. That's the direction we need to go.

Mr. CONYERS. Mr. Chairman, I rise today in support of the House Campaign Spending Limit and Election Reform Act. As a Member of this body over the last 26 years, I have personally witnessed the following trends in the election process: The fundraising money chase which has spiralled upward in the last dozen years; the dwindling percentage of Americans who cast their votes on election day; and the complete collapse of public confidence in the political process, and in particular the Congress. The statistics are alarming—poll after poll has demonstrated that the average American not only believes that their vote is meaningless, but also that the Members of this Congress are being corrupted by big-money special interests groups. And, regardless of whether or not these beliefs are well founded, the fact remains that the political process is being dragged through the mud by the appearance of impropriety and corruption. This perception of wrongdoing is the single most damaging factor to public confidence, and we have seen its effects with the recent grassroots movements in favor of congressional term limitations. Even the Supreme Court has stated that the appearance of corruption is a compelling State interest in limiting campaign contributions and expenditures—Buckley versus Valeo.

In past Congresses, many of my colleagues and I have endorsed serious campaign finance reform, only to be met with ineffectual

Republican amendments and counterproposals, and the threat of a Presidential veto. Again this year, the President has vowed to veto a meaningful reform bill. And again this year the Republican substitute would do nothing toward limiting total campaign spending, and would actually encourage the growth of thousands of new special interest PAC's. I urge my colleagues to reject this campaign finance reform charade which is designed to fool the American public. Instead, we have an opportunity today to support real reform—reform which will remove the power that's been given to those people with the biggest checkbooks, and return it to the constituents we are sworn to represent. And most importantly, this bill will allow us all to stop chasing after campaign dollars, and focus on the tremendous social and economic problems plaguing our country.

H.R. 3750 may not be the ultimate solution to our political ailments, but it is a milestone first step which has gained the overwhelming support of grassroots citizens' groups and the nonpartisan National League of Women Voters. This bill, along with a National Voter Registration Act which I will reintroduce in January, will go a long way toward empowering all of our citizens and improving the political process. As public confidence in this institution continues to disintegrate, I urge my colleagues to send a positive message to the American public by supporting H.R. 3750.

Mr. COSTELLO. Mr. Chairman, I am hopeful that we in this House can come together today and pass a comprehensive campaign finance reform package. The people of my State and this country want us to act quickly to change the way congressional elections are conducted.

I am pleased that provisions of this bill offered today relating to public financing have been changed to reflect that no taxpayer dollars will be used to finance congressional elections. Given these changes, I believe this bill is a step in the right direction to bring about important and meaningful campaign finance reform.

As my colleagues know, I have opposed public financing for campaign finance reform. Last year, I voted against the Synar amendment to replace the $1 Presidential fund checkoff with a $3 checkoff, designed to funnel taxpayer dollars directly into congressional elections. The Presidential checkoff system has not worked effectively and there is no reason to believe a congressional checkoff system would have been any more effective.

This bill contains several elements that represent important changes to the campaign process: It caps spending limits, reduces the influence of political action committees, limits the ability of wealthy donors to monopolize the process, and restricts the use of soft money in congressional campaigns.

I would like to point out that I do not feel individual contributions are negative elements of the congressional election process, especially from constituents in one's own district. Nor do I believe that political action commitee contributions are inherently bad. They allow members of an organization—coal miners, school teachers, or senior citizens—to pool their funds and have a larger voice in the political process. However, I do believe the steps included in this bill to reduce the influence of wealthy, individual contributors and huge PAC donations are what the public desires.

Many of my constituents are upset with the campaign finance process in regard to the issue of soft money, or funds funneled by political parties to a particular candidate. Soft money only further reduces fairness in congressional races due to large get-out-the-vote expenditures by national and State parties. This bill will address the hidden expenditures posed in races by greatly restricting the use of soft money by political parties.

In addition, and in many ways the greatest benefit about this legislation, H.R. 3750 through its spending limits will serve to reduce the huge costs of congressional campaigns. With the average congressional race now costing almost $500,000, we must lower the amount of money spent on congressional elections.

I urge my colleagues to vote in favor of this bill today, so that we can begin to make the appropriate changes to the congressional election process before the end of the 102d Congress.

Mrs. LLOYD. Mr. Chairman, I'm pleased to support this campaign reform legislation. It is a responsible, workable package to improve the ways campaigns are financed and conducted. Passage of this legislation should ensure fairness for all incumbents and challengers in the election process.

The people of my district have told me repeatedly that they want campaign finance reform. They feel very strongly that spending should be limited. But just as strongly, they oppose public financing.

I've heard from many small contributors who feel they should not be forced to support political candidates whose philosophies they may oppose. I am pleased that an agreement has been reached which answers many of these concerns about direct public financing.

The core features of H.R. 3750 include: Spending limits in congressional races; limits on political action committee contributions; the means to combat escalating so-called independent expenditures; spending limits on soft money; a strong statement urging the adoption of specific constitutional limits to campaign spending; the requirement that no taxpayer dollars may be used to finance congressional campaigns; the stipulation that private donations must be used to finance congressional campaigns; and a specific recommendation encouraging the consideration of measures designed to encourage contributions by small donors to congressional candidates.

The specification that no taxpayer dollars may be used to finance congressional campaigns is a key provision of the compromise reached on this bill. The compromise retains the provision for matching funds to candidates as an encouragement to abide by the spending limits. However, the funds from which the match is made will be built on voluntary contributions, not tax money.

This is essential because I do not feel that public money should be used to subsidize congressional campaigns, particularly when so many State and local governments are suffering from budgetary shortfalls which have caused them to cut their spending to the bone. Adding public financing of campaigns to the Federal expenditures would only increase the burden of debt we are already carrying.

Moreover, direct public financing of candidates does not give the electorate control over the release of their taxdollars to candidates whom they may find highly objectionable.

Judging from the substantive lack of public support for the Presidential election campaign fund, it appears that the majority of the American public agrees. At present, less than 20 percent of all Americans choose to designate support for Presidential candidates through the checkoff on their tax returns.

This is understandable given that political extremists such as Lyndon LaRouche have received a substantial amount of public money and that David Duke has already established a Presidential campaign committee that could qualify for taxpayer funds. Americans want control over whom their political contributions go to. Public financing does not afford them that latitude.

Given this established lack of support for public financing, I feel that the compromise worked out in this area of the bill is timely and appropriate. American taxpayers want their taxdollars used as wisely and efficiently as possible. Public financing of political campaigns is neither. This bill recognizes that and reflects the consensus that American taxpayers want responsible spending limits and accountability for all campaign expenditures.

I urge my colleagues to join with me in supporting the Campaign Spending Limit and Election Reform Act.

Mr. ATKINS. Mr. Chairman, thank you for the opportunity to speak in support of this important legislation.

I also wish to express my appreciation to both the chairman of the House Administration Committee CHARLIE ROSE and the chairman of the Campaign Reform Task Force SAM GEJDENSON for putting together an ambitious bill that will have a dramatic effect on the way future campaigns will be waged.

We have heard a lot of discussion thus far on the so-called controversial aspects of the Gejdenson-Rose bill.

We have heard Members say that the matching funds do not have the support of the American people, and that the bill is either too restrictive or too forgiving of PAC's and is not a reform bill at all.

Don't be swayed by these arguments.

I have received 695 letters on campaign finance reform in the last year, and every single letter is in support of a major overhaul in the campaign finance system.

Not one voter has written to me in opposition to public financing, to a restriction on PAC's or to voluntary spending limits.

My constituents realize that this is not a bill for Members of Congress, but for the voter.

They want to clean up the special interest bidding war that accounts for much of today's fundraising; and they want competitive elections.

This bill delivers on all counts.

This ambitious legislation will forever change the way we raise money and will change it for the better.

It will change the way we advertise and will change it for the better.

It will give challengers a fair shot at beating an incumbent, and yes, that is a change for the better.

Voters are skeptical.

They believe Congress is unable or unwilling to pass comprehensive campaign finance reform legislation.

They believe that Congress will act only in its own interest.

I believe differently.

In the 7 years that I have been a Member of Congress, the House has been mired in partisan battles. But I have never doubted any Member's commitment to work in the national interest nor any Member's pride in this institution.

Fair and competitive elections are in the best interest of all citizens and of this institution.

Don't be swayed by arguments that public financing is an entitlement for politicians.

It is an entitlement for the voter.

They are entitled to fair, competitive congressional elections. That is what democracy is all about.

Mr. POSHARD. Mr. Chairman, I rise in support of H.R. 3750, a bill to reform the campaign finance system for congressional elections.

I believe money has nearly corrupted our system. It certainly has tainted it, and produced something very different from what I used to teach my students in high school government classes. From the model of citizen-legislator we have come to the model of politician-fundraiser, where the money chase exhausts our energy to pursue meaningful achievement in education, health care, and the many other issues we all came here to address.

This bill, as many others will no doubt repeat, is not perfect. And despite my support for this bill, I believe we could go much further. The $600,000 voluntary spending limits are still extremely high. We should seriously consider eliminating political action committees, and if not, then lower even further their donation limits. And we should take a more serious look at how our congressional offices help further a permanent incumbency. I stand ready to assist in that effort.

But before I throw too much cold water on this bill, let me thank the leaders who bring it before us today. It does have voluntary spending limits, reductions in PAC donations, and an element of public participation, not financing, which moves us down the road of reform.

I urge this House to pass this bill, but not to rest on this issue. The public has a tremendous lack of confidence and faith in us, in our public institutions, and that is terribly damaging to us as a country. We cannot afford to lose touch. I know there is not a single Member who comes here with that expectation, and I don't for a minute believe it happens through purposeful intent. But it does happen, and we do become less responsive to the merchants of Main Street we are here to serve. We lose touch with the millions without health care. And we can hardly find time to address the concerns of the family in crisis.

This bill is a landmark achievement, a bold step in the right direction, and I hope, a sign of things to come.

Mr. DREIER of California. Mr. Chairman, most Members of this body agree that an effective campaign reform package is necessary for the future of the U.S. Congress. There are many merits to making elections more equitable and cost effective.

However, there are several inequities within the Democrat version of the bill that deem further debate. I would like to take this opportunity to touch on one particularly blatant partisan effort to restrict the effectiveness of our President.

Often referred to as the Air Force One amendment, this section of the bill prohibits those seeking Federal office from using Government-owned aircraft to travel to an event related to a Federal election. This language does not specifically mention Air Force One, but its intent is clearly evident.

Mr. Chairman, it is highly hypocritical of the U.S. Congress to mandate that the President use campaign or personal funds for trips related to campaign evens when Members of Congress routinely use their allocated travel budgets to travel home during the campaign season.

If we were truly serious about reforming the entire system, we would take a hard look at the current practices of the U.S. Congress and include them in any reform plan. This is just another example of the all too prevalent mindset that Congress is above reproach.

Mr. OWENS of Utah. Mr. Chairman, I rise today in strong support of H.R. 3750, the House Campaign Spending Limit Election Reform Act. As the chairman of the task force knows, I have long advocated a similarly balanced plan with voluntary spending limits. I commend my good friend, SAM GEJDENSEN, for his patience and diligence in crafting this plan before us, and I commend Chairman ROSE for his important contributions.

I may be one of the few House Members who wishes there were public financing in the bill. If there ever were a bargain for the taxpayer, this would be one. With significant public financing, the special interests would lose power to attempt to influence legislation. But this bill is the next best thing, with a balanced mix of PAC's individuals, and the "make democracy work" fund. We need at least partial public financing if challengers are to have any chance at all.

In a war of words and wallets, we have been escalating toward uncontrollable cost proliferation. It is time for a mutually verifiable campaign-spending freeze. In my first election for the House in 1972, I raised $130,000. In 1990, I was forced to raise a million dollars.

Nearly $3 billion was spent in 1988 on all elections in the United States—more than five times what was spent in 1976. House and Senate races alone cost $450 million in 1990, a fourfold increase since 1976. Like the Federal deficit, campaign costs are spiraling out of control. But unlike the Federal deficit, campaign costs are relatively easy to control—if we simply exercise the collective will to do so.

We are exercising that will today. Public confidence has been eroded by our costly political battles. We waste too much of our legislative time on fundraising. The institution of Congress is exposed to undue influence. Last year, we took some faltering steps toward reform. This Congress, we must do better.

Being in Congress is a great, usually rewarding honor. But fundraising is another story. Like most of you, I dislike it. I have even introduced legislation extending the terms of Congressmen to 4 years by constitutional amendment in order to put a stop to the perpetual campaign, but that effort has so far not been seriously considered here. In the same legislation, I also proposed a constitutional amendment allowing a firm legal cap on spending on congressional races—the same concept that is endorsed in the Democratic proposal today.

Campaign finance reform is long overdue. We are spending too much. We are collecting too much. We are wasting too much time on fundraising. The system now in place is an insurance policy for incumbents, so this effort today represents a leap of faith and fairness. But self-interest and special interest must give way to the public interest. The Democratic alternative, with its balance and voluntary limits, will be an effective tool in achieving that goal. I urge my colleagues to reject the substitute and vote for H.R. 3750.

Mr. DICKINSON. Mr. Chairman, during consideration of the campaign finance reform bill in the House Administration Committee, I offered a straightforward and simple right to know amendment. The amendment addressed a fundamental issue—American workers who pay dues and fees to unions have the right to know their money is being spent on political activities.

Quite simply, the amendment would have required labor organizations to file a report with the FEC, and simply give a copy to those workers represented by that union. The report would have shown how much of their dues and fees are spent on political causes and activities. Under current law, American workers have no such access to that information. Indeed, no one outside the union hierarchy knows exactly how much money from a union's general treasury fund is spent on politics.

This amendment was not burdensome in any way. It would have provided basic information that unions at every level, even at the local level, keep away.

Some members of the committee raised a point—if we include the unions, shouldn't we include corporations. Mr. Thomas then offered a modification to my amendment to address that concern, and the same members objected. They wanted more time to consider the amendment. I redrafted my amendment to impose the same requirement on corporations as they requested. I offered to work out the problems to the members that objected in committee—and received no response.

NOVEMBER 15, 1991.

Hon. SAM GEJDENSON,
Rayburn Building, Washington, DC.

DEAR SAM: I am writing with regard to the Dickinson Amendment offered in the House Administration Committee yesterday. The Thomas Amendment to the Dickinson Amendment addressed your objection to the original amendment. As per Chairman Rose's request, we will work with you on this matter to resolve any misgivings you may have before going to the House Rules Committee next Tuesday. The amendment is as follows:

AMENDMENT TO H.R. 3750 OFFERED BY MR. DICKINSON OF ALABAMA AS MODIFIED BY MR. THOMAS OF CALIFORNIA

At the end of title V, add the following new section:

SEC. 506. LABOR ORGANIZATIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 104 the following new section:

"Disclosure of Information Concerning Expenditures for Political Activities

"SEC. 304A. (a) IN GENERAL.—Each labor organization shall, not later than January 30 of the year following the end of each Federal election cycle, provide to the Commission and to each employee within the labor organization's bargaining unit or units a written report disclosing the portion of the labor organization's income from dues, fees, and assessments that was expended directly or indirectly with respect to activities that, in whole or in part, were in connection with an election for Federal office during that election cycle.

"(b) CONTENTS.—(1) The report under subsection (a) shall disclose information on the dues, fees, and assessments spent at each level of the labor organization and by each international, national, State, and local component or council and each affiliate of the labor organization showing the amount of dues, fees, and assessments spent—

"(A) on direct activities, such as cash contributions, to candidates, and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the labor organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates, and political parties, and get-out-the-vote campaigns.

"(2) For each of the categories of information described in paragraph (1) (A), (B), (C), and (D), the report shall identify the candidate for public office on whose behalf expenditures were made or the political cause or purpose for which expenditures were made.

"(3) The report under subsection (a) shall also list all contributions or expenditures made by separated segregated funds established and maintained by each labor organization.

"(c) DEFINITION.—For the purposes of this section, the term 'in connection with an election for Federal office' has the meaning that it has under section 325(b).

"(d) Publicly-held corporations shall be required to provide to their shareholders, and nonprofit organizations shall be required to provide to donors of more than $100, a report as specified in subsection (a) above disclosing the amount spent for purposes listed in subsection (b)(1) (a) through (d)."

We look forward to working expeditiously on this matter. With best regards, I am

Sincerely yours,

WM. L. DICKINSON.

Before I offered my amendment in House Administration Committee, Mr. CLAY offered one of his own. Three members that supported Mr. CLAY'S amendment argued, and I quote:

"What's wrong with disclosure, we need it."

"We should support this 'Right-to-Know' Amendment."

"I believe in sunshine."

Five minutes later, these three members opposed my "Right-to-Know Amendment," my "Sunshine Amendment," my "Disclosure Amendment." Why were those members afraid of having the dues-paying, honest workers of this country find out what unions are using their dues money for when it relates to political activities.

Billions of dollars in forced dues are collected by union officials every year, and much of the money finds it way into campaign coffers in the form of unlimited and unreported in-kind contributions to Federal candidates such as phone banks, get-out-the-vote drives, and subsidies to union PAC's. Passage of so-called campaign reform without ending this corrupt practice would be a sham.

As long as the union bosses shower Members of the Democrat majority with their forced dues contributions, the House leadership will not allow meaningful debate and a clear cut vote on the right-to-know of American union members. The heavy-handed fashion in which the leadership is ramming its bill through the House proves my point.

It is a simple issue—should working men and women be allowed to know how their union dues and fees are being spent? As long as union leaders are allowed to spend untold millions of dollars on politics without the knowledge of their members, campaign reform is illusory.

Members that support my "Right-to-Know" amendment favor union democracy and full disclosure. Those that oppose my amendment have no interest in protecting union workers, they only want to protect union bosses from having to disclose to union members how their hard-earned money is being spent.

It is the height of hypocrisy when Democrats claim to be "for the working man" and at the same time deny these honest, hard-working citizens the right to know how their money is being spent. Are the Democrats really trying to protect our country's workers or are they simply protecting the hand that feeds them—labor bosses?

I would also like to comment on one other aspect of the Democrat bill regarding the establishment of taxpayer financing for congressional election campaigns.

The use of tax dollars to fund congressional elections makes a travesty of the public's right to elect the Representatives of their own choosing. The voters know this. They have demonstrated their objections to public funding through their unwillingness to designate a portion of their tax dollars to the Presidential Election Campaign Fund. That fund is almost depleted, and tomorrow the Democrat leadership will bring an innovative concept to the floor to correct that problem—debt financing. This concept is brought to you by the same party of Congress that created a $320 billion budget deficit, but that is another matter.

Now the Democrats have brought a bill to the floor that has no funding mechanism in place. They want to pass a bill and let the Ways and Means Committee raise taxes to pay for this sham next year. They say it doesn't cost anything until Ways and Means looks at the issue. Don't be fooled. Without the funding provisions in the bill, it will still cost $1 million annually for the FEC to administer. If the funding mechanisms are enacted—and they will have to be—it will cost the American taxpayer over $225 million a year. How will the Democrats pay for this—you guessed it—debt financing. Who foots the bill? The U.S. taxpayer.

Any vote now to give to congressional candidates what the voters have refused to give to Presidential candidates would further undermine public faith in our Government. Instead, we must ensure voters that they have the freedom to exercise both their electoral and economic rights and powers in the election process. The American voter should be as free to contribute or not to a campaign as he or she is to vote for the candidate of choice. Taxpayers should not be compelled to pay, even indirectly, for political campaigns of candidates they do not support. If we vote for public funding, we will be telling American citizens that we are more interested in their money than in their concerns.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise today in support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act. Mr. Chairman, for years the costs of Federal election campaigns have spiraled up and up. The high price of television advertising, computers, and polling is forcing candidates to spend increasing amounts of time on raising money, rather than focusing on the issues.

This proposal is an excellent step forward toward reforming a system that is in serious need of change. Most important, it places a cap on campaign financing, a limit that should be adhered to by all candidates. While many Americans view campaign finance reform as an arcane issue, in all the polls of Americans' opinions on this matter, there is only one area of strong agreement: Cap campaign spending. It is disappointing that our colleagues across the aisle have not yet heard this plea.

In addition to overall spending limits, I strongly favor limitations on political action committees, or PAC's. This measure will cap PAC contributions at $200,000, or one-third of the total limit. While political action committees are valuable tools for all citizens to pool their money to become involved in the political process, the Congress must recognize the perception in the public's eye that PAC's exert undue influence on the process.

This bill achieves a fair balance in this area by dividing the contribution areas into thirds: One-third from PAC's, one-third from individual contributions, and one-third from matching funds.

Finally, I must commend the House Administration Committee and the Campaign Finance Task Force for producing a bill that will never extract one thin dime from the average taxpayer to pay for the matching funds. I must say, in all honesty, that I could not have supported a bill that included a large element of taxpayer-financed matching funds.

The bill before us today has many other laudable elements. The bill regulates so-called independent expenditures, prohibits bundling, and adds requirements that candidates must take credit for their own television ads by appearing in them.

Mr. Speaker, Americans have sent a signal that our political system is in a mess. It is the responsibility of the U.S. Congress to clean up that mess. A vote today in favor of this measure is a step in the right direction. I urge the adoption of H.R. 3750.

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 3750, the House Campaign Limit and Election Reform Act. This progressive, reform legislation is long overdue, and it is one of the most important pieces of legislation this body will vote on this year.

Our colleagues on the other side of the aisle are fond of pointing out how disenchanted Americans are with Congress, and the House of Representatives in particular. They say the House is controlled by big spenders and special interests. Yet for all their rhetoric, the Republicans do little to solve these problems. Their campaign finance proposal is largely business as usual.

The Democratic proposal does much to address the crucial problems of election finance and to change the image that the Congress is up for sale. Most importantly, this legislation would remedy two critical sources of voter resentment.

First, Americans feel that congressional elections are too expensive. It is unconscionable that a House campaign can cost over $1 million. These high costs are not only a disincentive to potential candidates, but they skew candidates' time and energy from pressing issues to fundraising.

In addition, the high costs of political campaigns are an embarrassment, given that the Nation is in the midst of a recession and millions of Americans are being thrown out of work.

But the Republicans turn their back to this. They want to eliminate the limits on campaign expenditures, apparently satisfied with the high-cost status quo.

Second, voters are concerned that big-money donors and large PAC donations play too big a role in fundraising, elbowing the small, individual donation aside. H.R. 3750 would reduce the big-money chase by limiting the amount that could be received from wealthy sources and encouraging smaller donations with a tax credit.

What's more, many Americans suspect that special interests—like the Charles Keatings—have too much influence on the decision-making process in Congress. The fact is that big money, special interests should not exert any more influence over Members than any other constituent. That is inherently undemocratic.

But the Republicans would do little to reduce the pressure of big donors, permitting large, local contributors to give up to $5,000 from unlimited sources. Even worse, the Republicans do nothing to curb wealthy candidates from contributing as much as they want to their own campaigns. Thus, a wealthy candidate would have an unfair advantage over any opponent.

In short, the Republican position on campaign finance reform is more of the same. They say if you can get the big money, wealthy donors to finance your campaign, then you can spend as much as you please. But if you represent working Americans who can't afford to contribute thousands of dollars to a campaign, then tough luck in funding your election. The Republicans' proposal not only denies political reality, but is unacceptable. It is time to take down the for sale sign in front of the Capitol. H.R. 3750 would do just that.

First, H.R. 3750 limits campaign spending to $600,000 per election. The limit on spending is entirely voluntary, and it caps spending in the general election at $500,000 and in a runoff at $100,000. This limit would cover the costs of 90 percent of all campaigns. To encourage participation, the bill provides lowered mail costs and matching funds for individual contributions to candidates who accept the caps. It also establishes a make democracy work fund, which would consist of voluntary contributions to finance the matching funds.

Second, it caps PAC and large individual donations at $200,000. This cap is in effect regardless of whether the candidate participates in the voluntary system.

Finally, the bill makes important campaign reforms by closing loopholes that allow unfair independent expenditures, bundling and soft money. Participating candidates would have their spending limits eliminated, if independent expenditures against them totaled at least $10,000. Also, if participating candidates were faced with at least $60,000 in opposing independent expenditures, they would be eligible for an equal amount of Federal matching funds.

Two other changes are noteworthy. The bill requires broadcasters to charge candidates the lowest advertising charge for the station, rather than the lowest unit charge. H.R. 3750 also requires that candidates appear prominently in the television advertisement and a statement must be made by the candidate that acknowledges responsibility for the contents of the ad.

Although I am an original cosponsor of H.R. 3750, I would have preferred a bill with even lower limits on campaign spending and tighter limits on PAC and large individual contributions.

Unfortunately, such a proposal did not have broad enough support in the House. Thus, I am willing to support H.R. 3750. The American public has been clear about campaign finance reform, as the recent drive for term limitation suggests. They are tired of the status quo that permits those who can afford to contribute to campaigns to have the most influence on the political process. That is unfair and undemocratic. The practical effect of the current system of campaign finance is that we have a system of government more akin to a plutocracy than a democracy.

Finally, for those Members who are concerned about the potential costs of H.R. 3750, I would remind them that the current savings and loan scandal will cost the taxpayers hundreds of billions of dollars. Could we have prevented, or even mitigated, this bailout if we had a different system of campaign finance? I think so. In light of this, can we afford not to have campaign finance reform?

Although the bill is not perfect, I urge my colleagues to support H.R. 3750.

Mr. HOUGHTON. Mr. Chairman, I rise in opposition to this bill for several reasons:

First, public financing. In a word, I'm against it. H.R. 3750 provides up to $200,000 in Federal matching funds for each candidate. It also allows a postal subsidy of $112,000 per candidate. This does not include any extra funds that would flow to a candidate should he find himself in a close primary—extra $150,000. Candidates can ask for matching funds to offset independent expenditures and can receive unlimited Government funding if his or her opponent fails to abide by the voluntary $600,000 spending limit.

It's difficult to say how much all this will cost the taxpayer. If every candidate takes advantage of the matching funds and postage subsidies, the taxpayers' bill would be $270,000. Once again, that figure does not include additional Federal funds available to candidates under certain conditions.

H.R. 3750 creates a make democracy work fund to offset the costs of public financing. My judgment is that voluntary contributions won't be enough; 70 percent of the constituents I serve oppose public financing. I understand those numbers hold true nationwide. Not coincidentally, the percentage of taxpayers signing yes on the $1 check off for Presidential elections has dropped to 19 percent.

So Mr. Chairman, the bottom line is that for this bill to take effect, the Ways and Means Committee is going to have to craft a revenue raising package to pay for public financing of elections. That means more taxes to pay for politicians' campaign expenses. This, frankly, makes no sense at all. I'm against it.

The second area I would address is the bill's treatment of PAC's. PAC spending overwhelmingly favors incumbents. In 1990, only 8 percent of PAC money went to challengers. In fact, PAC's gave more money to incumbents than challengers were able to net in total receipts.

H.R. 3750 sets a $200,000 sublimit on PAC receipts. But in 1990, the average candidate received only $209,000 in PAC funds. Given this reality, the bill's limit on PAC spending is no limit at all.

The GOP substitute to be offered by Minority Leader MICHEL reduces the amount a PAC can give to any one candidate in an election cycle from $5,000 to $1,000. The Michel proposal provides a real limit on PAC's. It is a serious reform in the way we do business in Washington.

Finally, I'd like to talk about another provision in the Michel substitute which was not included in H.R. 3750. The Michel amendment requires that at least 50 percent of a candidate's campaign funds should come from within his district. H.R. 3750 does not. It's time that our campaigns reflect the interests of Ames, IA, or Corning, NY, rather than those expressed by K Street or within the fundraising banquet rooms of the Capitol Hill Club, the DNC headquarters and the American Trucking Association.

Mr. Chairman, is it not the purpose of campaign reform should to reflect the interests of the American people? This bill does not. It forces them to pay for a flawed system. Oppose H.R. 3750 and support the Michel substitute.

Mr. WOLPE. Mr. Speaker, I rise in strong support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act.

The very first bill I agreed to cosponsor when I entered the Congress some 13 years ago was a campaign finance reform bill. Even then it was clear to me that the integrity of our entire political system was being seriously compromised by the huge amounts of money that were pouring into political campaigns and by the disproportionate influence wealthy individuals and well-financed special interests had come to exercise on our political process. I was convinced then—as I am convinced now—that nothing would go further in restoring public confidence in our political institutions than to clean up the system by which we finance our campaigns.

Whatever feelings I had on this matter 13 years ago have only been intensified by my experience in the Congress. Our present system of campaign finance is demeaning to all candidates. We all spend far too much time pursuing campaign funds when we should be legislating, and too many Members have become far too dependent upon wealthy contributors and special interests. Even when Members of Congress are voting their consciences and expressing their best policy judgments, the current system invites the cynical conclusion that their votes are being influenced by those campaign contributions upon which they have come to rely.

The time for fundamental reform of our system of campaign finance is long overdue. There are two keys to true reform. The first key is to put limits on campaign expenditures. In too many instances, elections have become auctions—with offices available to the highest bidder or the most successful fundraiser. This practice must stop. There can be no meaningful reform that does not place effective limits on total campaign expenditures.

The second key to true reform is to decrease the ability of special interests and the wealthy, whether they operate individually or in groups, to exercise disproportionate influence on the political process—influence beyond their numbers or the merits of their arguments.

Mr. Speaker, in my judgment the House Campaign Spending Limit and Election Reform Act before us passes both critical tests of true campaign finance reform. It places a voluntary spending limit of $600,000 on all House campaigns, which includes a $200,000 limit on PAC contributions, a $200,000 limit on individual contributions, and Federal match of the first $200 of each individual contribution, up to $200,000. There are also a number of provisions that are vital to increasing the competitiveness of elections, including reduced mail and broadcasting costs.

Mr. Speaker, I will not take the time here to detail the elements of the Republican substitute that is being offered by Mr. MICHEL. But I do find it remarkable that a campaign finance reform bill would be offered that contains no spending limits whatsoever. Without such limits, there simply is no reform. Without spending caps, the games will continue. The money chase will go on. And the new limits on PAC's the Republican substitute proposes will do little but to invite campaign operatives to find new and different back-door methods to fund their candidates. The American people will continue to be sacrificed on the altar of the wealthy and the powerful. Our colleague, DAVID OBEY, once said:

> The major test of any campaign reform legislation in determining whether it serves the public interest should not be whether money is given individually or collectively, but whether the rules of the game allow the well-off and well-connected to have influence on Government that far surpasses the influence of average American families.

Unfortunately, the Republican substitute before us simply does not pass this test.

Mr. Speaker, the time has come to reform our system of campaign financing, to end the money chase and to restore the confidence of the American people in the integrity and independence of their elected officials and political institutions. I urge immediate adoption of this vital legislation.

Mr. HOAGLAND. Mr. Speaker, full participation in the processes of government is a fundamental tenet of our democratic form of government. The right to vote, the right to petition one's government are rights cherished by Americans. Yet in today's climate, many people question the amount of influence they actually have in the political process in Washington. People perceive that under the current system, those groups and individuals with large amounts of money to contribute to candidates have more influence than those who do not. They are correct.

The bill before us today goes a long way toward restoring the voice of the average American in Congress. The Campaign Spending Limit and Election Reform Act, H.R. 3750, makes fundamental changes in the way we raise and spend money in Federal elections. It has several important changes: First, it limits spending on congressional campaigns to $600,000 in each 2-year cycle. Second, it limits PAC contributions to $200,000. Third, it tightens rules on independent expenditures and the use of soft money by State parties in Federal races.

Due to limits placed by the Supreme Court on the ability of Congress to legislate in this area, participation must be voluntary. I believe most will volunteer because the bill now contains incentives that make participation attractive.

Why is this a good bill? First and foremost, the bill reduces the influence of the moneyed special interest groups. It places tough new limits on what candidates for Congress can receive from special interest groups. It closes the soft money loopholes that groups can use to evade current contribution limitations.

It also lessens the importance of contributions from those who are able to give candidates over $200, up to $1,000. The bill makes more important contributions of $200 or less.

Second, by limiting the total amount that can be spent in a 2-year cycle, the bill cuts down on the money chase. It frees up more time for official duties. Members and candidates will not have to spend so much time raising money. The lid will relieve the constant pressure to raise money for the next campaign. Thus, with the amount of necessary money reduced, the influence of money is diminished.

Third, the bill should help equalize the advantages held by incumbents. According to Common Cause, incumbents outspent challengers by a factor of nine in the 1990 congressional elections. By placing an overall lid of $600,000, the bill will allow challengers the potential to raise as much money as incumbents.

Another important feature of this bill is that its new Federal matching fund does not increase taxes or push up the deficit. The fund is created by a registration fee on PAC's, a reduction in the Federal income tax deduction for lobbying expenses, and solicitation of contributions like the current Presidential election fund contribution on tax returns.

In 1980, the average House candidate spent $160,000 to get elected. In the last congressional election cycle, the average congressional campaign cost $410,000. In 1990, $445 million was spent on House and Senate races, a nearly fourfold increase from the $115.5 million spent in 1976. PAC contributions continue to grow steadily. A substantial percent of House and Senate general election funds came from PAC's in 1990. In fact, from 1980 to 1988, PAC contributions increased by 175 percent, while small contributions grew only 12 percent.

The time has come to reform our system of campaign finance, and I fully support the effort.

Mr. GREEN of New York. Mr. Chairman, the American people have long been concerned about the enormous influence of PAC's and the soaring costs of congressional campaigns. In addition, poll after poll reveals that over 70 percent of Americans are fed up with Congress and its inability to enact credible campaign finance reform legislation. I believe that campaign finance reform is long overdue and it is high time we vote to remedy public skepticism as well as reinvigorate electoral competition. Therefore, I shall support the Republican campaign reform substitute. If, however, it is defeated, I shall vote for H.R. 3750, the Campaign Spending Limit and Election Reform Act of 1991.

Simply put, if adopted, the Republican campaign reform substitute can become law and take effect immediately for the 1992 campaign cycle. My colleagues know that the President supports the Republican substitute, while he has vowed to veto H.R. 3750 because of its spending limit and public financing provisions. Moreover, my colleagues know that we do not have the numbers in the House to override a Presidential veto. Therefore, if H.R. 3750 is adopted, it is very unlikely that it will ever become law.

The Republican campaign reform substitute sharply reduces the current limit on PAC contributions from $10,000 to $2,000 per election cycle. It also requires candidates to raise at least half of their funds from residents within a county in which a Member's district is located. By requiring that a majority of a candidate's funds are raised from local sources, candidates can devote more time to campaigning in the district and less time chasing down money around the country. Such reform would give candidates with strong, broad-based support within a congressional district an advantage over those who are controlled by out-of-State interests, as well as force challengers to build grass roots support. The substitute also contains a ban on so-called soft money, which is currently contributed to parties of PAC's and used for certain political activities. Finally, the Republican substitute takes effect immediately for the 1992 campaign cycle. After all, the American people should not have to wait until 1994 for campaign finance reform.

If, however, the Republican campaign reform substitute is defeated, I shall vote for H.R. 3750, the Campaign Spending Limit and Election Reform Act. Unlike a majority of my Republican colleagues, I have long advocated campaign reform based on voluntary and limited public financing. I believe that public financing can be instrumental in increasing competition and reducing public cynicism by creating a competitive electoral system that will give little-known challengers some of the advantages of incumbents. Public financing is an important concept. It opens up the opportunity to seek office to people of all economic backgrounds and political ideologies. It protects Americans from having their ballots filled with the names of only the wealthy and those who owe tremendous legislative debts to the special-interest groups that helped finance their campaigns.

On January 3, 1991, the first day of the legislative session, I reintroduced legislation to provide voluntary and limited public financing of congressional general election campaigns. Under my proposal, a candidate, upon raising a specified amount of money in small contributions from individuals within his or her own State, would be eligible for a matching Federal contribution. All Federal matching funds would be raised through a voluntary income-tax checkoff.

With the cost of the average House seat soaring to $400,000 in the 1990 election cycle, I feel that the current campaign system must be reformed. H.R. 3750 sets a constitutionally-sound spending limit of $600,000. While I am disappointed that the measure fails to limit the amount of PAC contributions, it does cap the total amount of PAC dollars a Member can raise at $200,000. The legislation also cracks down on so-called independent expenditures, prohibits bundling, and limits soft money abuses.

Overall, I think that it is imperative that we enact campaign finance reform legislation. While I support and will vote for H.R. 3750, I am concerned that it really does not have a shot at becoming law. With the promise of a Presidential veto and insufficient numbers to override that veto we are once again playing charades with the American people who want real campaign finance reform.

In closing, I urge my colleagues to vote for the campaign reform substitute because it will effectively reduce the role of PAC's and special interests as well as enhance the role of individuals in financing campaigns. Moreover, the Republican substitute will be signed by the President and become law for the 1992 election cycle. While H.R. 3750 makes great strides to reform the current system, it unfortunately will not become law.

Mr. KOSTMAYER. Mr. Speaker, over the past decade I have been in some of the closest races in the country, having both won and lost races by less than 2 percent. In every election since 1984 I have raised and spent more than $600,000. I have also raised more than $200,000 during each of those cycles from political action committees. In each of the last several elections I have raised substantially more campaign funds than my opponent.

If any incumbent had reason to balk at the overall spending limits and the PAC limits in the House Campaign Spending Limit and Election Reform Act, it might be me. On the contrary, however, I am an enthusiastic supporter of H.R. 3750. This campaign finance reform is long overdue and vitally needed.

This legislation has earned our support because it contains all the elements necessary for real reform: It limits overall campaign spending, has a significant component of matching funds, and closes a variety of campaign loopholes dealing with independent expenditures, bundling, and soft money. Campaign finance reform must be considered as a package, because each provision is interrelated and dependent on the others. Without each of these essential components, the entire campaign finance effort would collapse.

We need this important reform legislation. We need it to correct the abuses of the current system. We need it to make campaigns more competitive. And we need it to help restore the trust of the American people in this institution.

The House Campaign Spending Limit and Election Reform Act (H.R. 3750) is a responsible, comprehensive, workable way to end the money chase so that elections are battles of ideas, not bank accounts.

This bill would not help my reelection campaign. But it would help the Nation and the Congress, and for that reason I strongly urge my colleagues to vote for H.R. 3750. The time for this needed reform is now.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in Part 1 of House Report 102–365 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "House of Representatives Campaign Spending Limit and Election Reform Act of 1991".

TITLE I—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, MATCHING FUNDS, AND REDUCED THIRD-CLASS MAIL RATE FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

SEC. 101. NEW TITLE OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, AND MATCHING FUNDS FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

"SEC. 501. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000, of which not more than $500,000 may be expended in the general election period.

"(b) RUNOFF ELECTION AND SPECIAL ELECTION AMOUNTS.—

"(1) RUNOFF ELECTION AMOUNT.—In addition to the expenditures under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may make expenditures aggregating not more than $100,000 in the general election period.

"(2) SPECIAL ELECTION AMOUNT.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $500,000 with respect to the special election.

"(c) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, subject to the general election period limitation in subsection (a), the candidate may make additional expenditures of not more than $150,000 in the general election period. The additional expenditures shall be from contributions described in section 503(h) and payments described in section 504(g).

"(d) NONPARTICIPATING OPPONENT PROVISIONS.—

"(1) LIMITATION EXCEPTION.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a).

"(2) CONTINUED ELIGIBILITY AND ADDITIONAL MATCHING FUNDS.—An eligible House of Representatives candidate referred to in paragraph (1)—

"(A) shall continue to be eligible for all benefits under this title; and

"(B) shall receive matching funds without regard to the ceiling under section 504(a).

"(3) REPORTING REQUIREMENT.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a)(1);

shall report that the threshold has been reached to the Commission not later than 48 hours after reaching the threshold. Not later than 48 hours after the Commission receives a report under this paragraph, the Commission shall transmit a copy of the report to each other candidate in the election.

"(e) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(f) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Payments for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under this section.

(g) EXEMPTION FOR FUNDRAISING COSTS.—

(1) Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate shall not be considered in the computation of amounts subject to limitation under this section to the extent that the aggregate of such costs does not exceed 5 percent of the limitation under subsection (a) or subsection (b).

(2) An amount equal to 5 percent of salaries and overhead expenditures of an eligible House of Representatives candidate's campaign headquarters and offices shall not be considered in the computation of amounts subject to limitation under this section. Any amount excluded under this paragraph shall be applied against the fundraising expenditure exemption under paragraph (1) above.

"(h) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 5 percent or less shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to the amount of the excess expenditures.

"(2) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess expenditures.

"(3) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(i) INDEXING.—The dollar amounts specified in subsections (a), (b), (c), and (e) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 502. STATEMENT OF PARTICIPATION; CONTINUING ELIGIBILITY.

"(a) IN GENERAL.—The Commission shall determine whether a candidate is in compliance with this title and, by reason of such compliance, is eligible to receive benefits under this title. Such determination shall—

"(1) in the case of an initial determination, be based on a statement of participation submitted by the candidate; and

"(2) in the case of a determination of continuing eligibility, be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) FILING.—The statement of participation referred to in subsection (a) shall be filed not later than January 31 of the election year or on the date on which the candidate files a statement of candidacy, whichever is later.

"SEC. 503. CONTRIBUTION LIMITATIONS.

"(a) ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE LIMITATION.—An eligible House of Representatives candidate may not, with respect to an election cycle, accept contributions aggregating in excess of $600,000.

"(b) NONPARTICIPATING OPPONENT PROVISIONS.—The limitations imposed by subsection (a) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(1) is not an eligible House of Representatives candidate; and

"(2) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(c) TRANSFER PROVISIONS.—

"(1) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, the limitation with respect to the candidate under subsection (a) for the later cycle shall be an amount equal to the difference between the amount specified in that subsection and the amount transferred.

"(2) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, each limitation with respect to the candidate under section 315(i) for the later cycle shall be one-third of the difference between the applicable amount specified in subsection (a) and the amount transferred.

"(d) RUNOFF AMOUNT.—In addition to the contributions under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 in the general election period. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in section 315(i)(2).

"(e) PERSONAL CONTRIBUTIONS.—

"(1) IN GENERAL.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions to his or her own campaign totaling more than $60,000 from the personal funds of the candidate. The amount that the candidate may accept from persons referred to in section 315(i)(2) shall be reduced by the amount of contributions made under the preceding sentence. Contributions from the personal funds of a candidate may not be matched under section 504.

"(2) LIMITATION EXCEPTION.—The limitation imposed by paragraph (1) does not apply in the case of an eligible House of Representatives candidate if any other candidate—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(3) TRIPLE MATCH.—An eligible House of Representatives candidate, whose opponent makes contributions to his or her own campaign in excess of 50 percent of the general election period limitation specified in section 501(a), shall receive $3 in matching funds for each $1 certified by the Commission as matchable for the eligible candidate.

"(f) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitation under subsection (a) by 5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(2) MEDIUM AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess contributions.

"(3) LARGE AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(g) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Any amount—

"(1) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(2) used for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under subsection (a).

"(h) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(i) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, notwithstanding the limitation in subsection (a), the candidate may, in the general election period, accept additional contributions of not more than $150,000, consisting of—

"(1) not more than $50,000 from political committees; and

"(2) not more than $50,000 from individuals referred to in section 315(i)(2).

"(j) INDEXING.—The dollar amounts specified in subsections (a), (d), (e), (h), and (i) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 504. MATCHING FUNDS.

"(a) IN GENERAL.—An eligible House of Representatives candidate shall be entitled to receive, with respect to the general election, an amount equal to the amount of contributions from individuals received by the candidate, but not more than $200,000, and not to the extent that contributions from any individual during the election cycle exceed $200 in the aggregate.

"(b) INDEPENDENT EXPENDITURE PROVISION.—If, with respect to a general election involving an eligible House of Representatives candidate, independent expenditures totaling $10,000 are made against the eligible House of Representatives candidate or in favor of another candidate, the eligible House of Representatives candidate shall be entitled, in addition to any amount received under subsection (a), to a matching payment of $10,000 and additional matching payments equal to the amount of such independent expenditures above $10,000, and expenditures may be made from such payments without regard to the limitations in section 501.

"(c) SPECIFIC REQUIREMENTS.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may receive matching funds under subsection (a) only if the candidate—

"(1) in an election cycle, has received $60,000 in contributions from individuals, with not more than $200 to be taken into account per individual;

"(2) qualifies for the general election ballot;

"(3) has an opponent on the general election ballot; and

"(4) files a statement of participation in which the candidate agrees to—

"(A) comply with the limitations under sections 501 and 503;

"(B) cooperate in the case of any audit by the Commission by furnishing such campaign records and other information as the Commission may require; and

"(C) comply with any repayment requirement under section 505.

"(d) WRITTEN INSTRUMENT REQUIREMENT.—No contribution in any form other than a gift of money made by a written instrument that identifies the individual making the contribution may be used as a basis for any matching payment under this section.

"(e) MAKE DEMOCRACY WORK FUND.—There is established in the Treasury a fund, to be known as the 'Make Democracy Work Fund', consisting of such amounts as may be deposited under section 501, section 503, or provisions enacted pursuant to section 301 of the House of Representatives Campaign Spending Limit and Election Reform Act of 1991. Amounts in the fund shall be available without fiscal year limitation for payment of matching funds under subsection (f) and initial expenditures incurred by the Commission in the administration of section 304(e) or 311(a)(11) of this Act.

"(f) CERTIFICATION AND PAYMENT.—

"(1) CERTIFICATION.—Except as provided in paragraphs (2) and (3), not later than 5 days after receiving a request for payment, the Commission shall submit to the Secretary of the Treasury a certification for payment of the amount requested under subsection (a) or (b).

"(2) PAYMENTS.—The initial payment under subsection (a) to an eligible candidate shall be $60,000. All payments shall be—

"(A) made not later than 48 hours after certification under paragraph (1); and

"(B) subject to proportional reduction in the case of an insufficient balance in the Fund established by subsection (e).

"(3) INCORRECT REQUEST.—If the Commission determines that any portion of a request is incorrect, the Commission shall withhold the certification for that portion only and inform the candidate as to how the candidate may correct the request.

"(g) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate shall be entitled to matching funds totaling not more than $50,000, in addition to any other amount received under this section.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), and (c) (other than the amount in subsection (c) to be taken into account per individual), and subsections (f) and (g) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. No other factors shall be considered in carrying out such an examination and audit. In selecting the accounts to be examined and audited, the Commission shall select all eligible candidates from a congressional district where any eligible candidate is selected for examination and audit.

"(b) SPECIAL ELECTION.—After each special election, the Commission shall conduct an examination and audit of the campaign accounts of all eligible candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(c) AFFIRMATIVE VOTE.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission, by an affirmative vote of 4 members, determines that there exists reason to believe that such candidate has violated any provision of this title.

"(d) PAYMENTS.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the excess.

"(e) DEPOSITS.—The Secretary shall deposit all payments received under this section in the Make Democracy Work Fund.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the aggregate amount of matching fund payments certified by the Commission under section 504 for each eligible candidate;

"(3) the amount of repayments, if any, required under section 505, and the reasons for each repayment required; and

"(4) the balance in the Make Democracy Work Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a House document.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under section 504) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 or judicial review under section 506.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule, regulation, and form of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 legislative days has elapsed after the report is received. As used in this subsection—

"(1) the term 'legislative day' means any calendar day on which the House of Representatives is in session; and

"(2) the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

"No eligible House of Representatives candidate may receive amounts from the Make Democracy Work Fund unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

(b) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by this section and by section 201 of this Act, shall be treated as invalid.

SEC. 102. DEFINITIONS.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraph (19) and inserting in lieu thereof the following new paragraphs:

"(19) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 502, is eligible to receive matching payments and other benefits under title V by reason of filing a statement of participation and complying with the continuing eligibility requirements under section 502.

"(20) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election; and

"(21) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

SEC. 103. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking out "and the National" and inserting in lieu thereof "the National"; and

(B) by striking out "Committee;" and inserting in lieu thereof "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives candidate;";

(2) in paragraph (2)(B), by striking out "and" after the semicolon;

(3) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible House of Representatives candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible House of Representatives candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to 3 times the number of individuals in the voting age population of the congressional district (as certified under section 315(e) of such Act).".

TITLE II—LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES; MISCELLANEOUS PROVISIONS RELATING TO CONTRIBUTIONS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 201. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $200.

"(3) In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 with respect to the runoff election. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in paragraph (2).

"(4) Any amount—

"(A) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress; and

(B) used for legal and accounting compliance costs, Federal and State taxes, or fundraising costs under section 501 shall not be considered in the computation of amounts subject to limitation under paragraphs (1), (2), and (3), but shall be subject to the other limitations of this Act.

"(5) In addition to any other contributions under this subsection, if, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate may, in the general election period, accept contributions of not more than $150,000, consisting of—

"(A) not more than $50,000 from political committees; and

"(B) not more than $50,000 from persons referred to in paragraph (2).

"(6) The dollar amounts specified in paragraphs (1), (2), (3), and (5) (other than the amounts in paragraphs (2) and (5) relating to contribution totals) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

SEC. 202. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 201, is further amended by adding at the end the following new subsection:

"(j) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 203. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 204. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking out "and" after the semicolon at the end;

(2) in clause (xiv), by striking out the period at the end and inserting in lieu thereof the following: "; and"; and

(3) by adding at the end the following new clause:

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 60 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $1,000 with respect to an election.".

SEC. 205. INCREASE IN THE AMOUNT THAT MULTICANDIDATE POLITICAL COMMITTEES MAY CONTRIBUTE TO NATIONAL POLITICAL PARTY COMMITTEES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

SEC. 206. AMENDMENT TO SECTION 316 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) by inserting "(A)" at the beginning of paragraph (2) and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) at the beginning of the first sentence in subparagraph (A), by inserting the following: "Except as provided in subparagraph (B),"; and

(3) by adding at the end of paragraph (2) the following:

"(B) Expenditures by a corporation or labor organization for candidate appearances, candidate debates and voter guides directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate appearance, the appearance takes place on corporate or labor organization premises or at a meeting or convention of the corporation or labor organization, and all candidates for election to that office are notified that they may make an appearance under the same or similar conditions;

"(ii) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 whose broadcasts or publications are supported by commercial advertising, subscriptions or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, oppose candidates or political parties; and

"(iii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office,

provided that no communication made by a corporation or labor organization in connection with the candidate appearance, candidate debate or voter guide contains express advocacy, or that no candidate is favored through the structure or format of the candidate appearance, candidate debate or voter guide.".

TITLE III—REQUIREMENT OF BUDGET NEUTRALITY

SEC. 301. REQUIREMENT OF BUDGET NEUTRALITY.

(a) CONDITIONAL PAY-AS-YOU-GO ESTIMATE.—To achieve the purpose of subsection (b), an estimate shall be made of the net "pay-as-you-go" costs of this Act assuming its preceding sections become effective. That estimate shall be made under the procedures specified in section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (hereinafter referred to as the Deficit Control Act) but shall not be considered to be an estimate required by that section. Until and unless this subsection is superseded by subsection (c), no net costs otherwise attributable to this Act shall be included in any documents required under the Deficit Control Act.

(b) ALL COSTS MUST BE FULLY OFFSET BY JANUARY 1, 1993.—The provisions of title VII, section 201 of title II, and sections 503 through 509 of title I shall not become effective unless, on January 1, 1993, it is determined that each of the following three conditions has been met—

(1) Provisions—

(A) creating incentives for individuals to make voluntary contributions to the candidate of their choice have been enacted; and

(B) for individuals or organizations to make voluntary contributions to the "Make Democracy Work Fund" have been enacted.

(2) The statute enacting any provision referred to in paragraph (1) states that the provision has been enacted for the purpose of effectuating this Act.

(3) The savings from provisions under paragraphs (1) and (2), estimated under the procedures specified in section 252(d) of the Deficit Control Act at the time of their enactment, are as great or greater in both fiscal years 1994 and 1995 than the net costs of this Act in each such year conditionally estimated under subsection (a).

(c) ADDITION OF ESTIMATED NET COSTS TO THE PAY-AS-YOU-GO SCORECARD.—If, on January 1, 1993, it is determined that the costs of this Act have been fully offset as specified in subsection (b), so that the preceding sections of this Act shall become effective, then the conditional estimate of the costs of this Act (made under subsection (a)) shall be included in the records maintained under section 252 of the Deficit Control Act.

(d) DEFINITION OF "COSTS" AND "SAVINGS".—For purposes of this section, the terms "costs" and "savings" mean outlay increases or decreases from direct spending provisions or revenue increases or decreases from revenue provisions of the type covered under section 252 of the Deficit Control Act.

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraphs (17) and (18) and inserting in lieu thereof the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) Any expenditure made by the following shall not be considered an independent expenditure:

"(i) a political committee of a political party;

"(ii) a political committee established, maintained or controlled by a person or organization required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611); or

"(iii) a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking out "or" after the semicolon at the end;

(2) in clause (ii), by striking out the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 402. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. Not later than 48 hours after the Commission receives a report under paragraph (A) or (B), the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Commission and shall identify each candidate whom the expenditure will support or oppose. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.".

TITLE V—BUNDLING AND SOFT MONEY

SEC. 501. RESTRICTIONS ON BUNDLING.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) No person, either directly or indirectly, may act as a conduit or intermediary for any contribution to a candidate.

"(B)(i) Nothing in this section shall prohibit—

"(I) joint fundraising conducted in accordance with rules prescribed by the Commission by 2 or more candidates; or

"(II) fundraising for the benefit of a candidate that is conducted by another candidate.

"(ii) No person prohibited from acting as a conduit or intermediary under subparagraph (A) may conduct or otherwise participate in joint fundraising activities with or on behalf of any candidate.

"(C) For purposes of this section, the term 'conduit or intermediary' means a person who transmits a contribution to a candidate or candidate's committee or representative from another person, except that—

"(i) a candidate or representative of a candidate is not a conduit or intermediary for the purpose of transmitting contributions to the candidate's principal campaign committee or authorized committee;

"(ii) a professional fundraiser is not a conduit or intermediary, if the fundraiser is compensated for fundraising services at the usual and customary rate;

"(iii) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(b), is not a conduit or intermediary for the purposes of that event; and

"(iv) an individual is not a conduit or intermediary for the purpose of transmitting a contribution from the individual's spouse.

"(D) For purposes of this section, the term 'representative'—

"(i) shall mean a person who is expressly authorized by the candidate to engage in fundraising, and who, in the case of an individual, occupies a significant position within the candidate's campaign organization, provided that the individual is not acting as an officer, employee or agent of any other person;

"(ii) shall not include—

"(I) a political committee with a connected organization;

"(II) a political party;

"(III) a partnership or sole proprietorship; or

"(IV) an organization prohibited from making contributions under section 316.".

SEC. 502. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

"SEC. 323. (a)(1) In each Federal election cycle with respect to each State, a political party the national committee of which received amounts under section 9008(b) of the Internal Revenue Code of 1986 with respect to the preceding presidential election may not make payments for combined political activities in a total amount which exceeds 50 cents multiplied by the voting age population of the State (as certified under section 315(e)) or $500,000, whichever is greater.

"(2) For purposes of the limitation of paragraph (1), aggregate payments by national party committees, State party committees, subordinate State party committees and any other local party committees of the same party in any State shall not exceed the limitation in paragraph (1). A State party committee shall administer compliance with the limitation in one of the following ways—

"(A) the State party committee shall be responsible for ensuring that payments by the entire party organization within that State comply with the limitation and shall file consolidated reports with the Commission showing all payments for combined political activity within the State; or

"(B) any other method, submitted in advance and approved by the Commission which permits control over payments and disclosure.

"(b)(1) Political party committees that make payments for combined political activity must allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

"(2) National party committees shall allocate as follows:

"(A) At least 65 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(3) State and local party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities exempt from the definition of 'contribution' or 'expenditure' under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

"(D) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(c) For purposes of this subsection—

"(1) the term 'combined political activity' means any activity that is both—

"(A) in connection with an election for Federal office; and

"(B) in connection with an election for any non-Federal office.

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of 'contribution' and 'expenditure' under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support Federal or non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific candidate;

"(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State's counties during the next election cycle.

"(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.".

SEC. 503. PROHIBITION OF SOLICITATION OF CONTRIBUTIONS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS BY FEDERAL CANDIDATES AND OFFICE HOLDERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201 and 202, is further amended by adding at the end the following new subsection:

"(k) During any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a substantial part of the activities of such organization include voter registration or get-out-the-vote campaigns.".

SEC. 504. REPORTING REQUIREMENTS FOR CERTAIN RECEIPTS AND DISBURSEMENTS THAT ARE NOT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE OR ARE NOT CONTRIBUTIONS OR EXPENDITURES.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) Political committees established and maintained by a national political party shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 323 applies shall report all receipts and disbursements in connection with a Federal election or combined political activity (as determined under section 323).

"(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or combined political activity (as determined by the Commission).

"(4) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was received or made.

"(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures aggregating in excess of $200 shall be reported.".

SEC. 505. CLARIFICATION OF EXCLUSION OF MAILING COSTS FROM PARTY-BUILDING PROVISIONS.

Section 301(8)(B)(x)(1), section 301(8)(B)(xi), section 301(8)(B)(xii)(1), section 301(9)(B)(viii)(1), and section 301(9)(B)(ix)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(x)(1)), (2 U.S.C. (8)(B)(xi)), (2 U.S.C. 431(8)(B)(xii)(1)), (2 U.S.C. 431(9)(B)(viii)(1)), and (2 U.S.C. 431(9)(B)(ix)(1)) are each amended by striking out "direct mail" and inserting in lieu thereof "mail".

TITLE VI—PROHIBITIONS RELATING TO POLITICAL COMMITTEES AND FOREIGN NATIONALS

SEC. 601. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by inserting the following new paragraph:

"(6)(A) A candidate for Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after January 1, 1993, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified, under section 501(c)(3) of the Internal Revenue Code of 1986, or making a contribution to the treasury of the United States or the Make Democracy Work Fund; or, contributing to the national, State or local committees of a political party, or, making contributions not to exceed $1,000 to any candidate for elective office.".

SEC. 602. PROHIBITION OF CERTAIN USES OF THE NAME OF A CANDIDATE BY POLITICAL COMMITTEES OTHER THAN THE PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE.

Section 302(e)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any fundraising activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate.".

SEC. 603. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) A foreign national shall not directly or indirectly direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.".

TITLE VII—CAMPAIGN SURPLUS

SEC. 701. EXCESS FUNDS OF INCUMBENTS WHO ARE CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

An individual who—

(1) is a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in an election cycle to which title V of the Federal Election Campaign Act of 1971 (as enacted by section 101 of this Act) applies;

(2) is an incumbent of that office; and

(3) as of the date of the first statement of participation submitted by the individual under section 502 of the Federal Election Campaign Act of 1971, has campaign accounts containing in excess of $600,000;

shall deposit such excess in a separate account subject to the provision of section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual, for an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, unless section 501(d)(1) of the Federal Election Campaign Act of 1971 is applicable.

TITLE VIII—CAMPAIGN ADVERTISING

SEC. 801. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking out "an expenditure" and inserting in lieu thereof "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking out "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

(4) by adding at the end the following new subsections:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the candidate, and, if broadcast or cablecast by means of television, shall also—

"(1) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(2) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 802. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 801, is further amended—

(1) in subsection (b)(1)—

(A) by striking out "forty-five" and inserting in lieu thereof "30";

(B) by striking out "sixty" and inserting in lieu thereof "45"; and

(C) by striking out "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period on the same date";

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

TITLE IX—CONTRIBUTION SOLICITATION

SEC. 901. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

TITLE X—REPORTING REQUIREMENTS

SEC. 1001. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended by striking out "$200" and inserting in lieu thereof "$50".

SEC. 1002. REPORTING OF OPERATING EXPENDITURES BY CATEGORY.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 504 of this Act, is further amended by adding at the end the following new subsection:

"(e) The Commission shall require, with respect to reports under this section, that operating expenditures be reported on an election cycle basis, by category, as specified by the Commission.".

SEC. 1003. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of subsection (b) of section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress)".

SEC. 1004. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE XI—BALLOT INITIATIVE COMMITTEES

SEC. 1101. DEFINITIONS RELATING TO BALLOT INITIATIVES.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 102, is further amended by adding at the end the following new paragraphs:

"(22) The term 'ballot initiative political committee' means any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year.

"(23) The term 'ballot initiative contribution' means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.

"(24) The term 'ballot initiative expenditure' means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the state, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.".

SEC. 1102. AMENDMENT TO DEFINITION OF CONTRIBUTION.

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by section 204, is further amended—

(1) in clause (xiv), by striking out "and" after the semicolon;

(2) in clause (xv), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause: "(xvi) a ballot initiative contribution.".

SEC. 1103. AMENDMENT TO DEFINITION OF EXPENDITURE.

Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ix)(3), by striking out "and" after the semicolon;

(2) in clause (x), by striking out the period and inserting in lieu "; and"; and

(3) by adding at the end the following new clause:

"(xi) a ballot initiative expenditure.".

SEC. 1104. ORGANIZATION OF BALLOT INITIATIVE COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 302 (2 U.S.C. 432) the following new section:

"ORGANIZATION OF BALLOT INITIATIVE COMMITTEES

"SEC. 302A. (a) Every ballot initiative political committee shall have a treasurer. No ballot initiative contribution shall be accepted or ballot initiative expenditure shall be made by or on behalf of a ballot initiative political committee during any period in which the office of treasurer is vacant.

"(b)(1) Every person who receives a ballot initiative contribution for a ballot initiative political committee shall—

"(A) if the amount is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the ballot initiative contribution is in excess of $50, forward to the treasurer such contribution, the name, address, and occupation of the person making such contribution, and the date of receiving such contribution, no later than 10 days after receiving such contribution.

"(2) All funds of a ballot initiative political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(3) The treasurer of a ballot initiative political committee shall keep an account for—

"(1) all ballot initiative contributions received by or on behalf of such ballot initiative political committee;

"(2) the name and address of any person who makes a ballot initiative contribution in excess of $50, together with the date and amount of such ballot initiative contribution by any person;

"(3) the name, address, and employer (if an individual) of any person who makes a ballot initiative contribution or ballot initiative contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(4) the identification of any political committee or ballot initiative political committee which makes a ballot initiative contribution, together with the date and amount of any such contribution; and

"(5) the name and address of every person to whom any ballot initiative expenditure is made, the date, amount and purpose of such ballot initiative expenditure, and the name of the ballot initiative(s) to which the ballot initiative expenditure pertained.

"(d) The treasurer shall preserve all records required to be kept by this subchapter for 3 years after the report is filed.".

SEC. 1105. BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 (2 U.S.C. 434) the following new section:

"BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS

"SEC. 304A. (a)(1) Each treasurer of a ballot initiative political committee shall file reports of certain receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) All ballot initiative political committees shall file either—

"(A)(i) quarterly reports in each calendar year when a ballot initiative is slated regarding which the ballot initiative committee plans to make or makes a ballot initiative expenditure or plans to receive or receives a ballot initiative contribution, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year; and

"(ii) preballot initiative reports, which shall be filed 5 days before the occurrence of each ballot initiative in which the ballot initiative committee plans to make or has made a ballot initiative expenditure or plans to receive or has received a ballot initiative contribution; or

"(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month.

"(3) If a designation, report, or statement filed pursuant to this subchapter (other than under paragraph (2)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(4) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during each year, only the amount need be carried forward.

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) ballot initiative contributions from persons other than political committees;

"(B) ballot initiative contributions from political party committees;

"(C) ballot initiative contributions from other political committees and ballot initiative politicial committees;

"(D) transfers from affiliated political committees;

"(E) loans;

"(F) rebates, refunds, and other offsets to operating expenditures; and

"(G) dividends, interest, and other forms of receipts;

"(3) the identification of each—

"(A) person (other than a political committee or ballot initiative political committee) who makes a ballot initiative contribution to the reporting committee during the reporting period, whose ballot initiative contribution or ballot initiative contributions have an aggregate amount or value in excess of $50 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution and the address and occupation (if an individual) of the person;

"(B) political committee or ballot initiative political committee which makes a ballot initiative contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) affiliated political committee or affiliated ballot initiative political committee which makes a transfer to the reporting committee during the reporting period;

"(D) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan and the address and occupation (if an individual) of the person;

"(E) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt and the address and occupation (if an individual) of the person; and

"(F) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt and the address and occupation (if an individual) of the person;

"(4) for the reporting period and the calendar year, the total amount of disbursements, and all disbursements in the following categories:

"(A) ballot initiative expenditures;

"(B) transfers to affiliated political committees or ballot initiative political committees;

"(C) ballot initiative contribution refunds and other offsets to ballot initiative contributions;

"(D) loans made by the reporting committee and the name of the person receiving the loan together with the date of the loan and the address and occupation (if an individual) of the person; and

"(E) independent expenditures;

"(5) the total sum of all ballot initiative contributions to such ballot initiative political committee.".

SEC. 1106. ENFORCEMENT AMENDMENT.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) The civil penalties of this Act shall apply to the organization, recordkeeping, and reporting requirements of a ballot initiative political committee under section 302A or 304A, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1107. CONFORMING AMENDMENT TO STATEMENT PROVISION.

Section 312(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(1)) is amended to read as follows:

"SEC. 312. (a)(1) A copy of each report and statement required to be filed by any person under this Act (except a ballot initiative political committee) shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.".

SEC. 1108. STATEMENT AMENDMENT.

Section 312 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439) is amended by adding at the end the following new subsection:

"(c) A ballot initiative political committee may file each report and statement required to be filed under this Act in the State in which its treasurer resides and with the Commission, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1109. PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER.

Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441f) is amended to read as follows:

"PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER

"SEC. 320. No person shall make a contribution or ballot initiative contribution in the name of another person or knowingly permit his name to be used to effect such a contribution or ballot initiative contribution, and no person shall knowingly accept a contribution or ballot initiative contribution made by one person in the name of another person.".

SEC. 1110. LIMITATION ON CONTRIBUTION OF CURRENCY.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended to read as follows:

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 321. No person shall make contributions or ballot initiative contributions of currency of the United States or currency of any foreign country which in the aggregate, exceed $100, to or for the benefit of: (1) any candidate for nomination for election, or for election, to Federal office; (2) any political committee (other than a ballot initiative political committee) for the purpose of influencing an election for Federal office; or (3) any ballot initiative political committee for the purpose of influencing a ballot initiative.".

TITLE XII—PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

SEC. 1201. PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 502, is further amended by adding at the end the following new section:

"PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE

"SEC. 324. No aircraft that is owned or operated by the Government (including any aircraft that is owned or operated by the Department of Defense) may be used in connection with an election for Federal office.".

TITLE XIII—SENSE OF THE CONGRESS

SEC. 1301. SENSE OF THE CONGRESS.

The Congress should consider legislation which would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections.

TITLE XIV—EFFECTIVE DATE

SEC. 1401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of, and the amendments made by, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to any election occurring before January 1, 1993.

The CHAIRMAN. No amendment to the amendment in the nature of a substitute is in order except the amendment printed in Part 2 of House Report 102–365, which is considered as read and is not subject to amendment.

For what purpose does the gentleman from Illinois [Mr. MICHEL] rise?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MICHEL:

SECTION 1. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than local individual residents totaling in excess of the total of contributions accepted from local individual residents.

"(2) As used in this subsection, the term 'local individual resident' means an individual who resides in a county, any part of which is in the congressional district involved.

"(3)(A) Any candidate who accepts contributions that exceed the limitation under this subsection by 5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(B) Any candidate who accepts contributions that exceed the limitation under this subsection by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Treasury, an amount equal to three times the amount of the excess contributions.

"(C) Any candidate who accepts contributions that exceed the limitation under this subsection by 10 percent or more shall pay to the Commission, for deposit in the Treasury, an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.".

(b) EFFECTIVE PROVISION.—During any period with respect to which subsection (i) of section 315 of the Federal Election Campaign Act of 1971, as added by subsection (a), is not in effect, such subsection shall be effective as so added, together with the following new paragraph:

"(3) For purposes of this subsection, an individual may not be considered a resident of more than one congressional district.".

SEC. 2. REDUCTION IN THE LIMITATION AMOUNT APPLICABLE TO NONPARTY MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS TO CANDIDATES.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 1, is further amended by adding at the end the following new subsection:

"(j) Notwithstanding subsection (a)(2)(A), no nonparty multicandidate political committee may make contributions referred to in that subparagraph which, in the aggregate, exceed $1,000.".

(b) TECHNICAL AMENDMENT.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "(A)" the following: "except as provided in subsection (j),".

SEC. 3. BAN ON SOFT MONEY.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS AND REPORTING REQUIREMENTS FOR AMOUNTS PAID FOR MIXED POLITICAL ACTIVITIES

"SEC. 323. (a) Any payment by the national committee of a political party or a State committee of a political party for a mixed political activity—

"(1) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(2) may be paid only from an account that is subject to the requirements of this Act.

"(b) As used in this section, the term 'mixed political activity' means, with respect to a payment by the national committee of a political party or a State committee of a political party, an activity, such as a voter registration program, a get-out-the-vote drive, or general political advertising, that is both (1) for the purpose of influencing an election for Federal office, and (2) for any purpose unrelated to influencing an election for Federal office.".

(b) REPEAL OF BUILDING FUND EXCEPTION TO THE DEFINITION OF THE TERM "CONTRIBUTION".—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking out clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

SEC. 4. 1992 TRANSITION RULE RELATING TO EXCESS FUNDS OF CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, on January 1, 1992, has campaign accounts containing amounts in excess of the contribution limit under section 315(i) of the Federal Election Campaign Act of 1971 shall deposit such excess in a separate account subject to section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual for an election for the office of Representative, in, or Delegate or Resident Commissioner to, the Congress. For purposes of this section, excess funds are those funds which exceed twice the amount of funds raised from local individual residents after December 31, 1990. From January 1, 1992, until the end of the period covered by the 1992 pre-primary report a candidate may transfer excess funds from the separate account to the campaign account so long as a majority of the total funds contributed or transferred to the campaign account were raised from local individual residents after December 31, 1990. No funds may be transferred from a separate account of a candidate to a campaign account of the candidate after the end of the period covered by the 1992 pre-primary report.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1992.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. MICHEL] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is the gentleman from North Carolina [Mr. ROSE] opposed to the substitute?

Mr. ROSE. I am in opposition, yes, Mr. Chairman.

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. THOMAS] be allowed to manage the time on our side after I have concluded my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Chairman, let me first, at the very outset, pay my compliments to the gentleman from California [Mr. THOMAS] for the manner in which he has addressed this subject and the manner in which he has acquitted himself during the debate thus far and all during the consideration of this matter. I pay my compliments also to the members of the task force who served under the gentleman for so long a time.

And I might say that I express my appreciation to the chairman of our policy committee, the gentleman from Oklahoma [Mr. EDWARDS], who in times past conducted no less than six policy committee meetings on our side of the aisle in dealing with the subject of campaign reform.

This is not new to us. We have been through it. We originally conceived of a measure with 22 specific points. We have narrowed it down today in this substitute to merely four for the sake of clarity and concentrating on the most important issues for the moment that we might have those very well debated here today.

I stand before the Members today, quite frankly, as a reformer. Yes, this old bull, this "man of the House," this battle-hardened 35-year veteran of political wars. At the end of the 100th Congress—I believe it was in December 1988—I challenged the majority to join us in the reform of campaigns. As I indicated, we convened the task force, and we devoted many, many hours to that subject, and we stuck with our plans on this side. We did not have to abandon them in the last few minutes for fear that what we were trying to sell to this House would not wash with the American people.

Three long years passed, and, of course, the majority did not accept our challenge until just now. I think it is rather significant that we have gone right up until the last day or so before we finally get to campaign reform.

Working with my Republican colleagues, we produced a bill that is true and meaningful campaign reform. At its heart are three basic principles, as has been pointed out so well by previous speakers during general debate.

The first is to return elections back to our constituents and away from Washington's special interests. We accomplished this by requiring half of a candidate's money be raised from back home. This is our power, quite frankly, to spending limits, as much as I decry the ever-increasing and escalating costs of campaigns. When I ran the first time in 1956, it cost $15,000 and I got myself elected to Congress as a freshman. Then, of course, by 1982, when we had a tough campaign, it was up to about $600,000. I decry that escalating increased cost of spending. But we were able to accomplish it at that time.

Our answer to spending limits is one of flexibility. If, for example, in a sparsely settled State if they can only raise $50,000 for a candidate out there on either side of the aisle, that is the level of campaign spending they are going to have in that State. If New York City or Orange County want to spend $3 million on a congressional race, that is their prerogative. That is the difference between the two districts. And that is more than what the people in Peoria would like to spend in the central Illinois district for BOB MICHEL.

We say that if half of that money comes from the local district, we have automatic spending limits, and it is going to vary around the country and not be some national norm and put every one of us in the same kind of straitjacket.

Then, second, we reduce the influence of special interests. We accomplish that by reducing the amount PAC's can give from $5,000 per PAC to $1,000. Let us face it, PAC's were born of reform a number of years ago. We said we wanted to spread the contributions around, encourage more people to participate in the process, and a $5,000 limit was set at that time. If that is bad, then on our side, "ask what is the basis for a change?" And we make the rationale that if individuals can give up to $1,000, why not have PAC's capped at $1,000? It seems to me so odd that there are those who would say PAC money over $1,000 coming from maybe 300 or 400 people who give to a PAC at Caterpillar is more onerous than one corporate executive from a neighboring company, maybe a competitor of Caterpillar, giving us $1,000 on his own, and that is OK. What the devil is the difference?

I probably aim that at the members of the Press Gallery more than anything for decrying political action committees. We do not condemn them out of hand, but if they are too big, then let us have them, as a rationale, considered as individuals, with individuals and PAC's the same. That is our way of addressing that particular issue.

Third, the ban on soft money, often called the sewer money of politics, and as my friend, the gentleman from California [Mr. THOMAS], has so well pointed out, what that does to the whole political process. Democrats criticize our reform because they thrive on that kind of contribution in the big cities of this country.

Finally, we make our reform package effective January 1, 1992. Why wait 2 or 3 more years? If it is so good, why do we not get at it for this next election coming up just this coming year? We can do that. We can get it enacted, passed into law, and effective by January 1.

My moderate and conservative friends across the aisle had good reason to worry about the Gejdenson bill, and I might say on our side of the aisle that when we had those advocates of tax credits for contributions, I said that if we are against public financing of campaigns, we have got to be against tax credits for contributions. If you cannot be for one, you cannot be for the other. So this is the position we took in our bill.

It was public financing, it was financing spending limit, it was an incumbent reelection plan that the American voters would have rejected at the polls next November. But the majority managed to drag something out on the floor that they called reform.

But a $600,000 spending limit is not reform. It is a reprieve, quite frankly, for incumbents who would be beaten if challengers had a fair chance.

The Democrats' refusal to act on PAC's and soft money is not reform. It is a reward. They will say that this is a $200,000 limit overall, but that does not do anything about those who can give $5,000 apiece.

You can call the Democratic package a reprieve or a reward, or you can call it a rebuke to the voters who dare to ask for real reform, you can call it a reprisal against challengers, call it a political illusionist's trick, making true reform disappear by the wave of magic by the Democratic majority, call it anything you want, but whatever you do, do not call it reform. Reform is too important a word to be debased by applying it to the ultimate insiders' ploy, a desperate attempt to disguise the power of the perk by the mantle of respectability.

□ 1620

Fifty-five years ago, a great political leader said, "The voice of great events is proclaiming to us: Reform if you would preserve."

That leader was Franklin Delano Roosevelt.

This Republican is quoting from FDR only to show that the need for reform must transcend partisanship. If we are to preserve all that is good in this institution, believe me, we have to reform.

To truly reform means something more than shifting the pieces around to create a more organized version of the status quo. To truly reform is to become radical in the original meaning of that word, to go to the very root of the thing.

The Republican reform gets to the root of the problem; the Democratic package merely trims and snips and makes surface changes.

The Republican reform brings the process back to the people of our districts; the Democratic package turns its back on the people and offers them soft soap financed by soft money.

Mr. Chairman, the voice of great events speaks to us today. It is a voice crying out in the wilderness the majority has made of this institution with unrestricted power. It is a voice crying "Reform now."

Let us heed that voice by voting for the only proposal for reform that will really reform—that is our Republican substitute.

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] has consumed 9 minutes.

Mr. ROSE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I first want to say to my colleague from Illinois [Mr. MICHEL] who just spoke that I found a couple of things in his statement that I agreed with, one of which is that it would be better that we raise more money in our local districts. That is a good idea. Banning of soft money or getting a little tougher on soft money, that is a good idea.

But then I found a lot that I had to disagree with. I found it interesting that my colleague and the Republican plan talks about our limit of $600,000. At least it is a limit. If that is too much, why do we not have a suggestion to lower that limit? I think one would find a lot of support for that on this side of the aisle. Certainly, this Member would be supportive.

Mr. Chairman, I found it interesting as we talk about the difference between 200 people giving $1,000 or 40 people giving $5,000, if the 40 are reflective of literally hundreds of individuals who have organized for purposes of participating in the political process.

I do not think that floats. I do not think it makes that much difference. In fact, I have spent too much time encouraging people to involve themselves in the political process to suddenly say all of that is for naught.

Mr. Chairman, I really have been interested in listening, particularly to the gentleman from California, talking about taxes that are in this bill. There are no taxes in this bill.

Very clearly specified in the rhetoric that has been spoken on this floor from the other side today that says there is, you have not read the bill. It would be helpful before you stand in the well to read the bill. There are no taxes.

Also, I find it interesting, particularly the gentleman from California [Mr. THOMAS] talking about the mail subsidies.

Mr. Chairman, this is one of the areas that I really wished that we could have had a better effort for bipartisan action on this bill than what we are seeing here today. Because when you compare what the Republican committees have spent on mailing subsidies compared to what we Democrats have spent, it is the difference between night and day, $9,600,000 versus $600,000.

Maybe it is the pot calling the kettle black. But if there is one thing the American people want today from us, it is political honesty. To stand up and decry what we are proposing as incentives in our bill and saying that is evil, when on the other hand you are fully participating up to the tune of $9,600,000, strikes me as being a little bit—well, a little bit speaking with forked tongue.

Mr. Chairman, I say that there are good things in both bills. But, Mr. Chairman, I am here today to again encourage support of H.R. 3750.

This bill that we have proposed today on our side of the aisle is a spending limit bill. It contains a provision calling for a constitutional amendment to permit nonvoluntary spending limits, something that is growing in support on both sides of the aisle.

Reasonable spending limits should encourage greater competition in congressional races. This is a competition bill that we propose. With competition and choice comes responsiveness and accountability.

Just as important, we must recognize what our bill is not. It is not partisan, in spite of what you hear from the other side.

I urge my colleagues on the other side of the aisle to consider the fact that H.R. 3750 provides no partisan advantage to Democrats and is worthy of your support. The American people want an end to partisan bickering.

There is one other thing which this bill is not. This bill is not perfect. More can and needs to be done. Spending limits can be tightened. Passage of a constitutional amendment would eliminate the need for incentives to encourage compliance with voluntary limits. I hope we can join next year in seeing that this gets done.

Further restrictions on soft money are absolutely essential. No reform is final and there is always room for improvement. I personally would favor individual votes on all ideas for reform on this or some other day. However, we would be both unwise and imprudent if we were to reject the good for the sake of the unattained.

Mr. Chairman, the American people are watching the bottom line, and the bottom line is this: H.R. 3750 is a good first step. It is real reform. It is a spending limit bill that provides no direct taxes to candidates. It provides no partisan advantage. It encourages public participation in the system and fights apathy and alienation. It encourages competition and responsiveness.

My colleagues, that is the bottom line. If you support reform, support the Democratic package. Vote against the Republican substitute.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the substitute and in opposition to the majority bill.

Mr. Chairman, I would like to state that I support congressional reform—reform in the way this House is run, and as we are discussing today, improvements in the way congressional campaigns are financed. I find it exciting that today we have the opportunity to refine and perfect this great institution of government.

However, I must admit that I am quite disappointed because no matter how optimistic I try to be, I realistically foresee the imminent failure of this body to pass meaningful campaign finance reform.

We are all feeling pressure to enact legislation that will restore public confidence in Congress. However, passing H.R. 3750 would be like trying to put out a grease fire with water. The goals of this legislation, supposedly, are to try to put some control on the quickly rising costs of campaigns, to limit the unfair advantages held by incumbents, and to reduce the influence of special interest groups by capping the amount they can give. I wish to commend my colleagues for their hard work and creativity, in designing legislation that attempts to meet these goals.

However, the majority's bill fails to constitute real reform and will basically protect business as usual.

H.R. 3750 fails to give power back to our constituents, because it doesn't require any funds to come from the candidate's districts. The PAC limit only gives more spending power to the big, well-funded PAC's who are able to give more money early in the campaign. The smaller PAC's will be shut out when the $200,000 PAC limit is reached.

Through public funding, citizens will be forced to support, with their tax dollars, political candidates whose philosophies they oppose. For example, a local women's club would not be able to donate to a local candidate's campaign, if the candidate had already reached the limit for PAC contributions. Meanwhile, their tax dollars would be doled out to any candidate who qualifies for matching funds—which means even candidates as has been suggested like David Duke, whose outrageous views they might oppose, would be funded.

Even though I know reform is desperately needed, I cannot give my vote to enact a bill that creates welfare for politicians. How will we be able to explain to the American people that the imperial Congress has just enacted a new perk where tax dollars will be used to fund our campaigns? Regardless of how it is disguised, public financing as already stated is opposed by 70 percent of the American people.

Fortunately, there is another option. I urge my colleagues to take a good look at the Republican alternative. It meets the goals of reform, by ensuring that contributions are coming from the folks back home. PAC's will be put at the same level as individuals, and soft money contributions will be stopped.

For those who truly wish to clean up the way we finance our campaigns, and for those who don't merely wish to increase the President's veto record, there is an alternative. If you are against public financing and for real, long-overdue reforms, please support the Republican substitute.

[Mr. THOMAS of California addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. LEWIS].

□ 1630

Mr. LEWIS of Georgia. Mr. Chairman, I want to thank the gentleman for yielding time to me.

Mr. Chairman, I rise today to speak on behalf of the campaign finance reform bill that was introduced by my colleague, Congressman GEJDENSON. This bill has been carefully crafted to address the concerns of all of us here in the Congress. It gives us an opportunity to vote for a fair and far-reaching package.

In passing this bill, this Congress will encourage greater citizen participation in the political process. As one who worked several years for the passage of the Voting Rights Act of 1965, I have become concerned with the growing public disenchantment with the political process. It seems as if the American people feel that elected officials are not responding to their needs. Of equal concern to me is the perception that the average American citizen has little or no way to influence the political process. This bill provides the opportunities to change these perceptions.

First, it will make political campaigns a marketplace of ideas, where we debate the concerns of the people, rather than a competition to fill campaign coffers. When we take our campaigns to the streets, the plant gates, the shopping malls, barbershops, beauty shops, and the doorsteps of America, we will engage all of the electorate in the issues that confront our society.

Second, this bill would help shift the focus of campaign fundraising back to the average person we represent. This bill would encourage us to spend more time with the people who actually vote for us.

I urge you to vote for this bill and let's bring the American people back to the political process.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, today we have a historic opportunity, the opportunity embodied in H.R. 3750. And it is no mistake that it starts out and says, "The House of Representatives Campaign Spending Limit and Election Reform Act of 1991."

The reason it says "spending limit" is because that is the root of the evil that this bill addresses. All of the rhetoric coming from the other side about the substitute cannot fail to emphasize that point enough. They do not want to have a spending limit. That is the key, not where the contributions come from, that drives up the second that there is a spending limit.

The President does not hesitate a moment to go to Houston, go to Dallas, $1,000 a pop. We do not have to worry about political action committees there. Not when we have people who can be paid in inflated salaries with the full expectation that they will give this money back to selected candidates at $1,000 a pop and then call for political action committees to be put down in this country so that the average working person who contributes their dollar or two a month can participate in these elections the same way the high-priced executives do.

When we hear political action committees being assaulted by people who are paying $1,000 every time they want to sit down for lunch with the President so he can ask credit card rates to come down and then have John Sununu decide for him that he did not really mean it, that is what we are talking about.

Are we going to limit spending and enable the average person to get back into this political contest or not? That is what this is all about, and that is what this bill does.

After all the rhetoric is over with, after all the arguments about this Republican substitute comes to the forefront, remember that this bill was the first step in making sure that there was a spending limitation and that the average person had a chance to get back into politics in this country.

If Members are for the little person and for elections in this country that are fair and just, vote yes.

Mr. THOMAS of California. Mr. chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, first of all I want to say that I stand in strong support of the Michel substitute. I also want to commend the gentleman from California who I know has virtually worked years on this issue to try to bring consensus and change to the election process of this country.

Like the gentleman from Hawaii [Mr. ABERCROMBIE], my good friend, has just talked about, the Presidential politics and Presidential campaigns, let us talk about congressional campaigns and congressional change, a couple differences between the bill and the substitute that we have before us.

I think they are important. We talk about spending limits, and this bill before us has a $600,000 spending limit that can roll on in just a few short years to a $1 million spending limit. That is not much of a spending limit, Mr. Chairman.

But let me say that when we start to bring the campaign back home, when the people who live in our districts that shell out the $10 and the $15 and the $25 and make the $100 donations because they believe in what we say, they believe in what we do, and they believe in how we represent them or how we will represent them, that is campaign election reform.

Mr. Chairman, I might say to my colleagues on the other side of the aisle, that is campaign spending limitation. When the people back home can say, "We elected this man or woman. We put in our dollars in our campaign contributions, not some big PAC that effected a candidate in the Midwest from the east coast or the west coast but people back home effected change because it was their contributions, it was their support for their candidate that made a change."

Mr. Chairman, I think we need to support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate this opportunity to speak.

Most of my colleagues know at the conclusion of this term I will not be seeking reelection to the House after 12 years. For those who believe that this in some way, shape, or form is a vindication of term limits, they could not be more terribly mistaken. But we also could not be more terribly mistaken if we did not realize that term limits was the cudgel, the bat, the shotgun behind the door that is headed straight toward this institution simply because the people at home feel that elections no longer are fair.

They will not be made more fair by the adoption of the Republican substitute today for it could be most appropriately entitled the campaign finance reform "lite." It does nothing with exorbitant expenditure increases. It does nothing with negative advertising. It does nothing with the accumulation of vast resources in the hands of Tammany Hall-like political parties.

No; it simply picks on one part of the problem, PAC's, and places limits on them. And that is indeed appropriate. But if we truly believe that the money chase will ultimately chase more people like me from seeking elected office, then we need to reject the Republican substitute and focus on the important first steps that the Democrat alternative has before us today.

It makes limits for parties, for individuals, for PAC's. It ends the horrors of those independent grossly misstated campaigns that just rip the hearts and souls out of our campaigns. It will end the practice where a 30-second TV commercial means more than a 30-year career, something that I know the minority leader has come to regret over the lifetime of his campaigns, but most importantly, the Democratic alternative will say that we are more in favor of elections and more opposed to auctions, that we believe that ideas ought to be the test and not the size of one's checkbook.

Reject the Republican substitute. Support the Democratic first stop for reform.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington, [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, we keep hearing from the other side of the aisle that this bill contains public financing. It is because they wrote their speeches before they read the bill. It does not contain any public financing. It does raise the question, what do we do if we are concerned about private money mixing with public policy?

It seems to me that changing the nature of the private money is not going to do any good.

□ 1640

One thousand dollars from a PAC is no dirtier and no cleaner than $1,000 from an individual representing the same interest. One thousand dollars from the widget PAC is just the same as $1,000 from the executive of the widget makers of upper New Hampshire.

If the Members do not like mixing private money with public policy there are two things they can do. They can go to public financing, which is not currently in our program, or they can limit not the nature but the amount of money that goes into the public process from the private sector. This bill does the latter. This bill reduces the amount of money that goes from the private sector to the public sector.

I urge my colleagues to support this bill.

Mr. ROSE. Mr. Chairman, I would yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, I rise in enthusiastic support of the substitute being offered by the minority leader and through the gentleman from California [Mr. THOMAS]. The idea that the bulk of a candidate's contributions should come from local sources simply makes good sense. It is an idea whose time, frankly, came some time ago, but the majority party just does not recognize that.

I would add my voice to those who would pay tribute justly to our colleague, the gentleman from California [Mr. THOMAS], who has led the charge for some years now to enact a local financing requirement. Under his leadership the House did indeed overwhelmingly endorse the concept of local financing in the last Congress. More importantly, local financing has won acceptance by those who live in the real world, which is outside this beltway. As we all know, the changes we are discussing today will not become law any time soon, because what we are involved in here today is really political posturing leading to next year. The House will have to revisit this issue yet again, and when we do I will be asking the Members to consider a variation on this theme of local financing.

I would propose that we sever the direct link between the candidates and the PAC's, which gives rise to the perception of buying access or buying influence, and I would do this by redirecting PAC contributions to the national party committees. The NRCC and the DCCC would then contribute those dollars to candidates, but only up to the amount the candidate has already raised locally. We would join the idea of divorcing the PAC contributions from the direct contributions to the candidate.

I would urge an aye vote on the substitute.

Mr. ROSE. Mr. Chairman, it is my privilege to yield 8 minutes to the gentleman from Connecticut [Mr. GEJDENSON], the chairman of the task force.

Mr. GEJDENSON. Mr. Chairman, if we walk through the center doors of the Chamber, the only statue that looks at this House is the statue of Will Rogers, and some 60 years ago Will Rogers said that "Elections are getting so expensive that today it takes a lot of money to lose one." Had Will Rogers lived today he would surely be shocked by the cost of campaigns.

There is one fundamental difference that we start with between the alternative of the gentleman from California [Mr. THOMAS] and the minority leader in our bill; that they have no limit on spending. Let me tell the Members what that means. Following the Republican proposal, we could go out and get $1 million from political action committees. In fact, if we could get all 4,000 political action committees to contribute to us, we could raise $4 million from political action committees.

There is a caveat here. The caveat must be, and I am not quite sure, because we just recently saw their bill, that we have to raise $4 million from rich people, so here is the limit. The limit is somewhere around $8 million if we follow their bill, if we just want to take the max in legally allowed PAC contributions under what they are trying to sell us as reform.

This is not reform. We know what they are doing. They are trying to rig the system. They are trying to rig the system so only the wealthy can be represented here. They are trying to make sure that the challengers will not be able to raise money in their districts, because who wants to be against the incumbent Congressman. They want to make sure that blacks, minorities, and women who are already underrepresented here are shut off from any opportunity to get their message out.

It is interesting, as we talk to our opponents in this process, they tell us that the present system gives incumbents an advantage because incumbents raise so much more money than challengers. Then they turn around and say, "but if we put a limit on spending then we are giving incumbents protection as well." They cannot have it both ways. It cannot be an advantage to incumbents that we have unlimited spending and that if we limit spending it is an advantage for incumbents as well.

We do not have public financing in this bill. If I had 218 votes I would have put it in, but the Congress is not ready to do that and we are going to have to debate on another day how we fund some of these issues. But I am amazed by the Republican shock at public funds in campaigns, $129 million just for campaigns that President Bush has been involved in; $212 million taken by Republican candidates running for President. The Republican National Committee has taken $24 million of public funds just to pay for their lavish parties called conventions.

Now, if they are that offended by public funds, for God's sake, give it back. The Treasury will take it. Or do not take any more. But I do not think they ought to do that, because when we look at the process, everybody says the Presidential system is better today than it was in the past.

The Republican alternative does one other thing; it guarantees that there is a fight to raise funds, to shackle opponents, those who do not appeal to the wealthiest in society. This is now a race to appeal to rich people and powerful people or else one cannot get in the debate.

A colleague of ours, the gentleman from Louisiana [Mr. HAYES], has a district that is 90-percent poor and 90-percent black. He clearly represents the position of his constitutents, but under the Republican alternative Mr. HAYES could not get to Congress unless he had a voice loud enough to be heard in his district without having a penny of campaign funds, because his people cannot pay their utility bills. They have a hard time paying for groceries and rent, let alone being able to give $25 or $100, and certainly not $1,000 to a Congressman they believe in.

We ought not be calling something reform that chokes off the debate, that precludes one side or the other from getting funds. The first speaker on our side, the gentleman from Florida [Mr. JAMES], looked at the numbers instead of just rejecting this out of the bill. The gentleman from Florida, a Republican, said this bill treats everyone fairly.

We did not start this off trying to rig the money only to the Democratic side; we wanted to level the playing field, and that is what American politics ought to be all about, not trying to rig it so that only the rich can get to play and call the tune. This is the most open political process in the globe. People around the world, with all our faults and failures, still want to emulate what is done here in America. As Eastern Europe and the Soviet Union look toward democracy, they are not rushing to Japan for a model for a democratic institution. They look to this place.

At the end of World War II my parents, who survived the Nazis and Stalin, chose America because it gave an opportunity to all people, no matter what their wealth or their background.

There is a lot of talk about a closed system. This system is not closed, but it ought to be more open. For my friends on the Republican side of the aisle I would like to remind them of a few things. For the first 6 years of the 1980's the Republicans had control of the U.S. Senate and they lost it because they lost the confidence of the American people. If the Republicans had kept the seats they have had in this House over this decade they would have a majority.

We need to make this process fair not just for the wealthy people, and this is the failure of the party on the other side, that whether it is tax breaks or campaign finance reform, they cannot seem to get off the mark without trying to rig it for people with wealth. Maybe they do not understand it. Maybe that is worst of all; they do not understand that people who are trying to feed their kids and send them to school do not have a lot of disposable cash.

☐ 1650

The choice here is a very simple one. It is a choice between a bill that has no limits, that would allow a Member seeking Congress to get $4 million in political action committee money and call it reform.

I am not against political action committees. For God's sake, everybody in this House takes them. If they are so bad, stop taking them on your own. They put some balance into the system, too. What is wrong with political action committees is when they dominate the process, when suddenly we find 50, 60, or 70 percent of our money coming from political action committees.

If you cut down political action committees, we go back to before 1974. It is just rich people again. Instead of, yes, union workers and environmentalists and people who care about children having access to the political system, it becomes just millionaires again.

It seems to me if there is one message we ought to send from here it is that we can restrain spending, that we can have a political system that engages debate rather than a chase for dollars, and an unending chase for dollars, and that the American people ought to be proud of the Congress they have.

Lastly, I would like to close with some of what my colleagues persist on doing in this well—demeaning this Chamber. This is the pride of people who seek democratic government across the globe, and whether you agree with the Democratic proposal that the gentleman from North Carolina [Mr. ROSE] and I have drafted or the bill that the gentleman from Illinois [Mr. MICHEL] and the gentleman from California [Mr. THOMAS] have put before us, do not demean this Chamber. This is the fundamental first Hall of democracy on this planet.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Michel Republican substitute to the campaign finance reform bill, H.R. 3750.

The Republican substitute, offered by Mr. MICHEL, accomplishes three key real reforms: First, it requires that at least half of a candidate's campaign funds be raised from individual contributors living within his or her district; second, it caps political action committee [PAC] contributions at $1,000, down from the current limits of $5,000; and third, it bans so-called soft money, money given to State political parties for use in Federal elections.

Each of these reforms, Mr. Chairman, is key to reforming campaign finance laws. Taken together, they strengthen the role of individuals, and reduce the influence of special interests in campaign finance; they return control of campaign finance to local contributions; and the reduce the influence of outside kingmakers and political machines.

The Democratic plan, by contrast, keeps the PAC ceiling at the same level—$5,000—has no provision requiring a majority of contributions to come from local contributors, and, calls for taxpayers to finance congressional campaigns.

Mr. Chairman, taxpayers are already allowed to contribute to congressional campaigns—voluntarily. And they do so. But under the Democratic plan, all taxpayers would be called upon to contribute to all candidates. This just won't fly.

Mr. Chairman, the taxpayers are calling for reform of campaign finance laws. They are not calling for mandatory taxpayer financing of campaigns. In addition, the spending ceiling on campaigns imposed by the Democratic bill would benefit incumbents and put challengers at a disadvantage, due to the built-in advantages of incumbents in any campaign.

Mr. Chairman, the people want true campaign finance reform, not a sham. I urge members to support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, the cost of congressional campaigns is out of hand. Today, the average cost of winning a House seat is $410,000, more than double the amount spent in 1980. This is a dangerous trend. Elections should not be decided by the amount of money you can raise. They should be decided by your track record, your commitment, and ability to bring about results in response to the issues and concerns of the people who have an opportunity to vote for you. The voluntary spending limit imposed by this bill is the only way to stop the money chase that drives candidates away from small, individual contributors. The make-democracy-work fund allows for matching funds for each $200 contribution a candidate receives from individual contributors, and it encourages candidates to rely on people from their district. This legislation gives the people of this country equal footing with large campaign contributors. And it will not cost taxpayers one dime. We must put the people back into the electoral process, and balance the influence of large contributors and PAC's. We are a representative government, and our electoral system must reflect this fundamental principle of democracy.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the substitute.

I think most everyone in this Chamber is very much interested in doing something with campaign reform. I am interested not only as a candidate, but as a political activist who has been very much involved in the political process for some time. I am one who believes that politics is the process of self-government and that in it we need people to be involved, and I think that really what we are talking about here is how people get involved.

We hear some Members going on and on about the rich people. I do not know where that all comes from. I have been involved in it for a very long time, and I can tell you it is not exclusively for rich people.

I have heard a lot about oxymorons. Someone said this whole thing was an oxymoron.

Let me cite a couple that I have listened to in the last few minutes I have been here.

Increased involvement—you do not get that from public funding.

Reducing the special interests—you do not get that from leaving PAC's as they are.

The primary concern of the American people is to limit spending—you do not get that when you allow a million dollars in spending.

What we need to do is take a look at a bill that has some real substance to it, and the most important is raising the funds locally.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. chairman, I rise in strong support of the Republican substitute.

Mr. Chairman, the Republican substitute requires that a majority of a candidate's funds be raised from local district sources. If you are from Michigan, you should be raising money from Detroit or Lansing, Holland, St. Joe, or Kalamazoo. If you are from Michigan you should not be going to Burbank, Dallas, Phoenix, New York, or Miami to raise a majority of your district funds. That is just not right.

How often have we heard that special interests are controlling this institution. The Republican substitute reduces the allowable maximum PAC contribution to a candidate from $5,000 to $1,000. What is wrong with that?

Last, it bans soft money contributions to political parties for use in Federal elections.

Full disclosure, that is what we want, that is what this bill does. What is wrong with that?

Mr. Chairman, I urge my colleagues to support the Republican Campaign Reform Act.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 3750, the House of Representatives Campaign Spending Limit and Election Reform Act of 1991, and against the Republican substitute.

As a member of the Task Force on Campaign Finance Reform, I feel it is unfortunate that Democrats and Republicans were unable to reach a consensus on an approach for campaign finance reform. I hope, however, that all in this Chamber share the common goal of enacting real reform that will serve to restore the trust of the American people in our electoral process. To restore this trust I believe we must take action to stop the rising costs of campaigns, limit contributions of special interests and the wealthy, and provide voters with a meaningful role in campaign fundraising. H.R. 3750 achieves these goals.

First, H.R. 3750 seeks to control campaign costs by establishing a voluntary spending limit of $600,000 per election cycle. Capping campaign expenditures is perhaps the most important and long-lasting reform which the Congress can enact. The $600,000 limit will help stop the ever-increasing money chase for both incumbents and challengers, and level the playing field for challengers by allowing them to run competitive, even-matched races.

Second, H.R. 3750 reduces the influence of special interests and wealthy donors in House elections by limiting amounts political action committees [PAC's] and large donors may contribute to House candidates. These limits will also serve to encourage individuals' participation in the campaign but bolstering the importance of small individual donors in House campaigns.

Third, the legislation helps level the playing field for challengers and reduce the time candidates spend fundraising by offering matching funds to candidates that abide by the voluntary spending limits. Matching funds will also encourage candidates to seek local, small donor contributions necessary to qualify for matching funds. This will provide candidates with the incentive to raise contributions from local, small donors without raising constitutional concerns by statutorily requiring in-district fundraising.

It is my hope that the bill's combination of the contribution limits and emphasis on small donor donations will serve to rejuvenate voters' participation and trust in our electoral system. As I noted above, it is regrettable that this bill will not be passing with bipartisan support. I believe it is a strong bill that will bring real reform to our electoral system and commend Chairman GEJDENSON for his tremendous work in bringing forth this proposal. The chairman had a very difficult charge to fill and invested a great deal of effort into devising legislation that provides real reform while not unduly complicating the process. The fruit of this effort is the opportunity for this Chamber to enact the strongest campaign reform legislation considered by the House in recent history. The House must act on this opportunity to show the American public that we hear their concerns, that we understand their frustration, and that we are serious about campaign finance reform. I urge my colleagues to support the adoption of H.R. 3750.

Mr. THOMAS of California. Mr. Chairman, I yield 30 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Michel substitute to bring our own constituents back in the election process.

The Democrats' bill does not address the No. 1 problem in our election system—voter turnout. The substitute will increase voter confidence and thereby, turnout.

We can win their confidence by requiring local financing of campaigns and limiting PAC contributions further. We cannot do it by asking for public financing.

How can limiting spending do anything but discourage outsiders from running when they must spend much time and money just getting their name recognized?

The substitute will take the step of involving more of our constituents in the election process. The more that our constituents feel they can contribute to a race they are voting on, the more confidence they will have in the system.

If people are so worried about costs of campaigns around here, maybe we should ask the newspapers, radio and TV stations to donate more cheap time for candidates. I do not see anyone in the media lending anything but criticism to our current system.

Mr. ROSE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I urge my colleagues to vote against this substitute.

□ 1700

It unfairly discriminates against women and minorities. It fails to cut the cost of campaigns. It increases the power of the almighty dollar.

But most important, it fails to limit the cost of campaigns for Federal elections.

The American people have told us loud and clear that they want a cap on spending. H.R. 3750 does that; the substitute does not.

Taxpayers are used to making tax contributions to pay for elections in this country. They pay for the cost of conducting the elections. But they did not want their tax dollars at this time going for candidates for Congress. We have taken that from this bill.

I hope you will vote against the substitute and support H.R. 3750 as it was originally written.

Mr. THOMAS of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would ask the chairman of the Committee on House Administration if he would respond to a question in regard to his bill.

Under title III, requirement of budget neutrality, it says that certain provisions have to be in effect before the bill goes into effect. It says that these provisions must create incentives and that this is a cost as defined under cost and savings under the Deficit Control Act.

Mr. Chairman, is the gentleman saying that this bill will go into effect in 1994, even if there are no tax bills?

Mr. ROSE. I yield to the chairman of the task force——

Mr. THOMAS of California. No, no, I asked the gentleman to respond on my time.

Mr. ROSE. Yes, the bill will go into effect in——

Mr. THOMAS of California. With no new revenue voted?

Mr. ROSE. Yes.

Mr. THOMAS of California. The gentleman does not understand his own bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Republican substitute. And the reason I do it is because the Republican substitute requires candidates to go to their own voters to raise the money for their campaigns.

Today, many Members of this body, and many Members of this Congress, raise the majority of their campaign funds from people and PAC's that are 1,000, 2,000, 3,000 miles away from their districts. We also require full disclosure of indirect campaign contributions.

Under our bill, there would be no more undisclosed, under-the-table donations; donations to benefit a Federal candidate would have to be disclosed and comply with FEC regulations.

The Democratic bill does not encourage the involvement of local voters; it does not require the disclosure of indirect, under-the-table campaign contributions. It is only the Republican bill that responds to the concerns of the American people.

Our bill is easy to understand because it is based on principles that are 200 years old in this country, that power belongs to the local people, both in terms of voting and in terms of financing.

My colleague, the gentleman from Alaska [Mr. YOUNG], made the point about perks. Today, at a time when the American people are fed up with the perks that Congress gives to itself, you are now proposing to go to the people and take their tax money to pay for our own reelections.

I have never seen a bigger perk than that.

Mr. Chairman, it is time to let the American people control the destiny of Congress by letting the voters in each district determine who they are going to support. We should not go to voters who live thousands of miles away with totally different interests and concerns and get our money from them to be sent to Congress.

Mr. ROSE. Mr. Chairman, I yield as much time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Gejdenson bill.

I stand as the only Independent in Congress, a minority of one, in support of H.R. 3750, the strongest campaign finance reform bill in the House of Representatives. Dozens of bills have been circulated in both the House and the Senate. The comprehensive measure drafted by the Task Force on Campaign Finance Reform headed by Representative GEJDENSON of Connecticut is, in my view, the best piece of legislation that this body, as it is presently constituted, can pass. That is not to say that it is the best piece of legislation that can be written. Far from it. However, at this point in time, it is imperative to pass legislation which addresses the impact increasingly costly elections are having on the quality of our democracy. Candidates spend too much time in pursuit of money and too little time debating the issues; incumbents have a markedly high advantage in fundraising which turns into a major advantage in campaigns so that 96 percent of the incumbents get reelected; challengers can't afford to get their message out, and voters are often denied the opportunity to make an informed choice. All and all, the current situation leads to cynicism, disgust, and a voter turnout which is now, far and away, the lowest for any industrialized democracy on Earth.

I, and my staff, have worked with the task force to draft reforms which would lead to a more democratic process and lessen the impact of big-money interests. H.R. 3750 institutes spending limits, provides matching funds for small donor contributions, caps contributions from PAC's and large donors, closes a variety of campaign loopholes dealing with independent expenditures, bundling, and soft money, reduces postal rates, ensures the lowest television advertising rates and bans leadership PAC's. While I applaud the committee's work, it is important to note that this is only the first step toward enacting widereaching, meaningful campaign reform. The goal that we must ultimately achieve is one in which all candidates—rich and poor, challenger and incumbent, Democrat, Republican, Independent or third party, have an equal opportunity to electoral success. That is what democracy is all about.

The heart of any real campaign finance reform must be a limit on spending—an end to the money chase. Only this will stop the escalating costs of campaigns, level the playing field for incumbents and challengers alike, and reduce the amount of time and energy spent in soliciting campaign contributions. H.R. 3750 sets a spending limit of $600,000—in my mind, arbitrary and much too high. Past campaign expenditures, differing media markets, and wage disparities make such a dollar amount inappropriate for legislation which affects 50 States. I would prefer to develop a formula based on voting-age population taking these variables into consideration. The goal must be to spend as little as possible while making sure that all citizens are fully informed as to the positions and views of the candidates.

Any provision for Federal money should leverage the impact of small individual donations. Our preferred approach, to establish a small donor (under $200) matching fund and have that be the method of dispersing public funds, is the method the task force has chosen. This, and the fact that individual contributions are limited to $200,000, will provide a disincentive for candidates to seek large sums from single sources as only the first $200 of any contribution will be matched. This is a start—we could go further and lower the amount individuals can contribute.

H.R. 3750 also limits every candidate, regardless of whether they accept the spending limit, to $200,000 from large contributors, counting the candidate's personal contributions toward that limit. Considering that one-third of the Senate and about three dozen Members of the House are millionaires, this is an important provision of the bill.

A campaign spending limit only works if all the candidates sign on and it is adequately monitored. To address the first issue, I'd like to make the spending limit an offer you can't refuse by requiring, as the Senate bill does, a tagline on all voter communications by noncomplying candidates stating that the candidate has not agreed to abide by the spending limits. The issue of monitoring is a bit more difficult to deal with but that is precisely why it must be written into law and implemented consistently.

PAC's are a favorite target these days and there seems to be an unwillingness to distinguish between corporate or large donor PAC's and those controlled by low- and moderate-income citizens. I believe there is a vast difference and I am disappointed that this is not addressed in this legislation. One option would be to have candidates specifically outline their points of agreement and points of disagreement with each PAC they receive money from or to sign-on to their agenda. Another might be to set different PAC limits for small donor and corporate PAC's as they did in the 1990 Senate bill. We should, and do in H.R. 3750, set a limit on the amount of PAC money a candidate is allowed to accept—$200,000. We would also prefer an outright ban on PAC's of foreign-owned companies.

The amount of soft money from parties and independent expenditures that influence campaigns with little or no public scrutiny is of great importance. H.R. 3750 closes a number of loopholes and mandates stricter reporting requirements in these areas though, in my view, it does not go far enough. I would suggest counting all outside expenditures, including party money, as candidate expenditures, including party money, as candidate expenditures and subjecting them to the same disclosure and spending guidelines.

There is another concern I have that is probably not at the top of any other Congressman's list. As the only Independent in Congress at the present time, I want to ensure that congressional reforms do not make it more difficult for candidates who choose to run outside the two-party system. All candidates, not just Democrats and Republicans, deserve a fair shot in an election. The Senate bill (S. 3) actually had several problems in this area. For instance, Democrats and Republicans would get twice the number of communication vouchers as third-party or Independents under this plan. That is unacceptable. I hope and expect that, if H.R. 3750 passes and goes on to conference committee, the final bill will create a level playing field for all candidates regardless of party affiliation.

Mr. ROSE. Mr. Chairman, it is my privilege to yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman and Members of the House, I first want to congratulate the Members who have worked so hard to bring us to this moment. This is legislation that all of us think we are experts on because we all run for reelection, and I know how hard it is to put this kind of legislation together.

Recently, Peter Hart and Douglas Bailey, two renowned testers of public opinion, did a study of the question of politics and campaigns and political reform. And in their conclusion they said this:

> At the very moment when communism has fallen to democratic aspirations in the Soviet Union, American democracy faces a crisis of confidence among American citizens. People across the United States increasingly have come to doubt whether our political system works, either as a vehicle for expressing their will or as an effective mechanism for confronting the Nation's problems.
>
> Many citizens, even those who still vote, have concluded that they do not exercise real authority over our political system. Americans desperately want to believe that theirs is a government of, by, and for the people. Down deep, "they say," however, very few think we have that today.

In their prescriptions that they asked people about for solving this problem, the No. 1 solution that people gave was to reduce the amount of money that candidates raise and spend on campaigns.

I submit, ladies and gentlemen of the House, that the bill that the gentleman from North Carolina [Mr. ROSE] and the gentleman from Connecticut [Mr. GEJDENSON] have brought is the only proposition before us this afternoon that will do what the great majority of the American people want done, and that is to get the amount of money that is being spent in campaigns, to be reduced. The Republican alternative, probably better than what we have today, simply does not get the job done. There is no cap, there is no limit, there is no end; it is still open-ended.

It changes the way in which it works a bit, but it does not solve the problem. And so I come here today and ask Members to reject the substitute, and to vote for what has been produced, because it is real reform.

If we can leave here in the next few days or weeks, whenever we leave, and feel that we have really done the right thing to restore the faith of the American people, that they do control this system, they do have a say, that the special interests are not in control, but they are actually funding the campaigns of the people that come here, then we will have really helped.

There is no more important issue in front of us than this one. We have to restore the faith of the American people and the bill that the gentleman from North Carolina [Mr. ROSE] and the gentleman from Connecticut [Mr. GEJDENSON] have produced, is the best way to do that.

I urge Members to vote against the substitute and to vote for the Democratic proposition.

Mr. THOMAS of California. Mr. Chairman, I understand the Chair indicated that this gentleman from California has the right to close. Mr. Chairman, we have one final speaker.

The CHAIRMAN. The gentleman is correct. The Chair also informs the gentleman that the gentleman from California has 7 minutes remaining, and the gentleman from North Carolina [Mr. ROSE] has 3 minutes remaining.

Mr. ROSE. Mr. Chairman, I have only one speaker left, and that is the distinguished Speaker of the House, the gentleman from Washington [Mr. FOLEY].

The CHAIRMAN. Under the rule, the proponents of the substitute have the right to close.

Mr. ROSE. Mr. Chairman, it is my pleasure to yield the balance of our time to the Speaker of the House, the gentleman from Washington [Mr. FOLEY].

The CHAIRMAN. The Speaker of the House is recognized for 3 minutes.

Mr. FOLEY. Mr. Chairman, I think this is a historic moment in the House of Representatives. It is certainly one of the most important legislative moments of this year in this Congress.

Mr. Chairman, I want to pay tribute to all those who have worked so hard in bringing this difficult and complex, but enormously significant, legislation to the floor. I also want to salute not only the chairman of the committee, the gentleman from North Carolina [Mr. ROSE], and the chairman of the task force, the gentleman from Connecticut, Mr. GEJDENSON, who have particularly on this side of the aisle worked so assiduously and consistently to make this legislation possible, but the gentleman from the State of Washington [Mr. SWIFT], who in the last Congress was the chairman of the task force that brought forward the legislation that we passed at that time, and is in every way that is important a father of campaign reform in the House of Representatives.

Mr. Chairman, this is an important opportunity for the House to meet its commitment, a commitment given by our leadership on both sides of the aisle, that we would face this issue and resolve it in this session.

Mr. Chairman, this is a good bill; it is a good reform bill. It begins the process of lowering the ever-escalating costs of campaigning in this country. It brings elements of fairness and opportunity to the political system that did not exist before. It puts restraints on what is, in my view, the fundamentally acceptable method of campaign financing through political action committees, but limits their impact on the campaign process. It brings about, in many other ways, vastly important steps to make the system fairer, more equitable, more appropriate, and more credible to the American people.

□ 1710

Mr. Chairman, as the gentleman from Connecticut [Mr. GEJDENSON] has said only a few moments ago at this podium,

> We have an obligation, I think, that goes beyond our first obligation which exists to our own citizens, to our own heritage, to our own traditions. We have an obligation to those around the world who look to the American political system as a model of the direction in which their societies should go.

In Alexanderplatz and in all of the squares and centers from Tiananmen to Alexanderplatz where people have been demonstrating for democracy, they were carrying in there hearts and minds the Constitution of the United States, the Declaration of Independence, the writings of Thomas Jefferson and Thomas Paine, the speeches of Abraham Lincoln. It is this country's traditions that have resonated around the world to spread a message of democracy and freedom.

Mr. Chairman, we have an obligation to renew and improve our own institutions, to see that they are always worthy of that support, not only at home, but abroad.

I commend to the Members of the House this bill. I believe that it will be one of the great achievements of the first session of this Congress that we will this afternoon reject the Republican substitute, with respect, and pass the bill brought to us by the committee and the task force.

Mr. THOMAS of California. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the majority leader, the gentleman from Missouri [Mr. GEPHARDT], said that what we have is government of, by and for the people. I would contend that the campaign finance bill we have in front of us is government for the people, but not necessarily of and by. The expenditure limit has been selected after much difficulty in terms of arguments about campaign carryover funds that really only incumbents deal with, and, after wrestling with whether or not we should have under the limit or outside the limit campaign fundraising costs, legal costs or accounting costs, that are only concerns of incumbents.

Mr. Chairman, I say to my colleagues, "What you have in front of you is a bill written for the people."

I would suggest to my colleagues that the reason the Republican substitute is so difficult for the Democrats to comprehend is because the fundamental concept is government of and by the people. Yes, the public is concerned about how much money is spent in campaigns, but they are also concerned about where the money comes from.

Take a look at this. The overwhelmingly majority of the American public thinks it is a good idea to require the candidate to get the bulk of their funds from back home. Unfortunately the Democrats have not understood this fundamental concept and how it would completely change the election process.

For example, in the Democrat bill, by law we are now allowed a $600,000 carryover. That carryover is endorsed in this legislation, and now the incumbents will say, "Well, I've only got 550,000. I'm not even up to the limit under the acceptable campaign carryover."

I ask my colleagues, "What would you do if you went back home and told the people back home, 'I need more of your money. I need a few dollars from you before I can get a dollar from PAC's or from the outside, and, by the way, I have a $500,000 carryover.'?"

Do my colleagues know what the people would say to them? They would say, "Spend the carryover before you ask for more money."

Then my colleagues come to a Washington lobbyist. They put out a PAC fund raiser, which they are allowed to do under their bill with no real changes, and does that Washington lobbyist care whether my colleagues have a $500,000 carryover or not? No. Do my colleagues want the money? Lobbyist will give them the money. But if my colleagues had to rely on people back home to give them money, people are going to say, "Spend the carryover first."

Mr. Chairman, we have heard a lot about negative campaigning. How in the world does their bill change negative campaigning? It provides $600,000. We have really seen it provides $700, $750,000 in the first cycle. Not one penny is required to come from anybody in the district. Not one dime from someone who can vote for them. And so, they hire the political consultant, they hold their activities, and they go ahead and run negative campaigns.

Mr. Chairman, I ask my colleagues, "If you were required to get the money from people in your district, and you ran a negative campaign, how many people back home would fund that kind of a sleazy campaign?"

The only reason negative campaigns are successful is because my colleagues do not have to use money from people back home. They can use the PAC money and they can use the outside individuals' money.

Mr. Chairman, I say to them, "That's what your bill perpetuates. What you don't understand, what you've missed in terms of a fundamental point, is that money isn't the end in politics. Your bill focused on money, money, money. That is not the end in politics. The votes are the end in politics. Money is the means. And if you want a government of and by the people, as well as for the people, you wouldn't sit here in your arrogance and set up some kind of a micromanaged campaign structure so that incumbents arrogantly say, 'We've now given you a level playing field.'"

Mr. Chairman, if my colleagues really want fundamental reform, they will let the people back home decide how much money they as candidates are going to spend. I know it is radical, and I know my colleagues are opposed, and I know they are going to do everything they can to argue that this is simply a moneyed position. No, they are wrong, because right now the people back home who give $5 and $10 do not count. It is the thousand-dollar PAC, it is the thousand dollars of outside money, that calls the tune today. But if my colleagues had to get a dollar from a person inside their district before they could take a dollar outside their district, that person inside their district would become a whole lot more important.

But more important than that: We would get back to the fundamentals of politics. We would have government of and by the people. What would my colleagues have to do? They would have to go back home and mingle with their people in the district. They would have to ask those people for help. But do my colleagues know what happens when you have to ask people for help? Someone says, "Here, BILL," and I have done it at county fairs, and my colleagues have done it as well. They walk up to us, and they say, "You have my vote." My colleagues have already gotten what is most important in politics. They have gotten their vote.

Mr. Chairman, it did not cost $100,000. My colleagues visit with them one on one, and I say, "What will happen, if you require a majority of money to come from the district, is that you will realize that money is not the end, that you will begin to realize that time is money, that people's contributions actually help and that they will work with you in group organizations to get the votes which are fundamentally the key in a democracy, not money."

My colleagues say, "We don't have an arbitrary limit." Yes, they have a limit. It is the same limit for South Dakota, and the same limit for a 12-block square district in New York. It is arbitrary, and it is capricious, and it does not make sense in some districts.

My colleagues say, "We don't have a limit," and I say, "Yes, we do. The limit is how much someone in a district is willing to give, and what you're afraid of is putting total control in the hands of people because, if you had to come back home and ask them for a contribution, you would have to face them far more frequently. You wouldn't enjoy the dinners in New York, or Houston, or Hollywood. You would have to come back home."

Yes, it is hard work. People say, "Gee, you spend too much time trying to raise money." That is because we have to raise money outside of our districts. That is because we have to have a million dollars to run negative campaigns.

Mr. Chairman, that will not change under this Democrat bill. It is exactly the same thing that is going to continue to occur because we have not tied it to the people. But if my colleagues require a majority of funds to come from individuals who live in their district, we will have a self-policing mechanism. I cannot cite some specific number. There is not going to be one. It depends upon the people, and my colleagues have got the ability to get people to organize and work for them to get the votes which are the fundamental reasons that we stand for election. Not money, but votes. Government of, government by the government for the people starts with the people, not with some arbitrary limit, not with some micromanaged mix of numbers.

Let me tell my colleagues something. The American people want to make sure that the money comes from them, not from political action committees—but from them.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. THOMAS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 265, not voting 4, as follows:

[Roll No. 425]

AYES—165

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
Dickinson

Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—265

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—4

Ford (TN)
Moody
Mrazek
Ray

☐ 1742

Mrs. COLLINS of Illinois, Mr. BERMAN, and Mr. KOLTER changed their vote from "aye" to "no."

Mr. CRANE and Mr. WYLIE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes, pursuant to House Resolution 299, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. THOMAS of California. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. THOMAS of California moves to recommit the bill, H.R. 3750, to the Committee on House Administration.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 155, nays 270, not voting 9, as follows:

[Roll No. 426]

YEAS—155

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon

Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—270

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—9

Ford (TN)
Gingrich
Holloway
Livingston
Michel
Moody
Mrazek
Ray
Shuster

□ 1802

Mr. BRYANT changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOYER). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 156, not voting 5, as follows:

[Roll No. 427]

YEAS—273

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—156

Alexander
Allard
Allen
Anthony
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nagle
Nichols
Nussle
Oxley
Packard
Paxon
Perkins
Pickett
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Sisisky
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—5

Ford (TN)
Moody
Mrazek
Ray
Shuster

□ 1820

Mr. HALL of Texas changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MOODY. Mr. Speaker, I was unable to be present during the vote on the campaign finance reform legislation that the House considered this evening. Had I been present, I would have voted "no" on the substitute and aye on final passage.

Mr. ROSE. Mr. Speaker, pursuant to House Resolution 299, I move to take from the Speaker's table the Senate bill, S. 3 to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 3 is as follows:

S. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Ethics Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Broadcast rates.
Sec. 104. Preferential rates for mail.
Sec. 105. Disclosure by noneligible candidates.
Sec. 106. Reporting requirements.
Sec. 107. Other definitions.

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

Sec. 201. Cooperative expenditures not treated as independent expenditures.
Sec. 202. Equal broadcast time.
Sec. 203. Attribution of communications.

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

Sec. 211. Personal contributions and loans.
Sec. 212. Extensions of credit.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 215. Limitations on contributions to State political party committees.
Sec. 216. Provisions relating to national, State, and local party committees.
Sec. 217. Restrictions on fundraising by candidates and officeholders.
Sec. 218. Reporting requirements.

Subtitle C—Contributions

Sec. 221. Limits on contributions by certain political committees.
Sec. 222. Contributions through intermediaries and conduits.
Sec. 223. Contributions by dependents not of voting age.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.
Sec. 302. Reporting requirements.
Sec. 303. Provisions relating to the general counsel of the commission.
Sec. 304. Retention of fees by the commission.
Sec. 305. Enforcement.
Sec. 306. Penalties.
Sec. 307. Random audits.
Sec. 308. Attribution of communications.
Sec. 309. Fraudulent solicitation of contributions.

TITLE IV—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.
Sec. 402. Polling data contributed to a senatorial candidate.
Sec. 403. Mass mailings.
Sec. 404. Extension of time period when franked mass mailings are prohibited.
Sec. 405. Sense of Senate regarding funding of Act.
Sec. 406. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 407. Uniform honoraria and income limitations for Congress.
Sec. 408. Expedited review of constitutional issues.
Sec. 409. Uniform limitations for earned and unearned income.
Sec. 410. Prohibition of certain election-related activities of foreign nationals.
Sec. 411. Technical corrections to Ethics in Government Act of 1978.
Sec. 412. Sense of the Senate regarding application of provisions relating to PACs equally to candidates for the Senate and candidates for the House of Representatives.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

Sec. 501. Study of systems to permit persons with disabilities to vote by telephone.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 601. Effective date.
Sec. 602. Authorization of appropriations.
Sec. 603. Severability.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"SEC. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the general election expenditure limit under section 503(b), reduced by the amount of voter communication vouchers issued to the candidate; plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a legal and accounting compliance fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304A(b) (relating to independent expenditures in excess of $10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(1) 10 percent of the general election expenditure limit under section 503(b); or

"(2) $250,000.

"(2) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed $25,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of $100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed $100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided after the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(C) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(B), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a legal and accounting compliance fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a legal and accounting compliance fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"SEC. 504. (a) IN GENERAL.—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate), except that no vouchers shall be issued to any eligible candidate unless Congress provides that the amounts in the Fund to pay for such vouchers are derived solely from—

"(A) voluntary contributions or tax checkoff contributions that are not from any tax liability owed by the person to the Treasury; or

"(B) sources which do not affect individual taxpayers, corporate taxpayers, partnerships, and estates and trusts, other than with respect to their campaign activities or other activities with respect to influencing Federal legislation.

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate, except that each such broadcast shall be at least 1 but not more than 5 minutes in length.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133⅓ percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Secretary of the Senate to receive benefits under section 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(3) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall, subject to the availability of appropriations, issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall, subject to the availability of appropriations, pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 502(d); or

"(2) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(e) ASSESSMENT OF CIVIL PENALTIES.—If the Commission determines that a candidate has committed a violation described in subsection (c) or (d)—

"(1) in the case of a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved, and

"(2) in the case of a violation described in subsection (b) where the expenditures exceeded the applicable limit by more than 5 percent, the Commission may assess a civil penalty against such candidate in an amount not greater than 300 percent of such excess.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) Limit on Period for Notification.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) Deposits.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"Sec. 508. (a) Violations.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(b) Use of Benefits.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) False Information.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Secretary of the Senate or to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) Kickbacks and Illegal Payments.—(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"Sec. 509. (a) Judicial Review.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) Application of Title 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) Agency Action.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"Sec. 510. (a) Appearances.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Institution of Actions.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) Injunctive Relief.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) Appeals.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"Sec. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) Rules and Regulations.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) Statement to Senate.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.".

(b) Effective Dates.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1993.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1993, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1993, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1993, to pay for expenditures which were incurred (but unpaid) before such date.

(c) Effect of Invalidity on Other Provisions of Act.—(1) Except as provided in this subsection, if title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(2) Paragraph (1) shall not apply by reason of section 504(a)(3) of the Federal Election Campaign Act of 1971 (providing payments to eligible candidates) having been held invalid.

(3) If section 504(d) (2) or (3) of the Federal Election Campaign Act of 1971 is held to be invalid because the expenditure limits under sections 502(c)(1)(D)(i) and 503 (a) and (b) of such Act, or the contribution limits under section 502(c)(1)(D) of such Act, do not apply—

(A) paragraph (1) shall not apply, and

(B) during any period any such section is not in effect, such limits shall be increased by 100 percent.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) In General.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"Sec. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees, unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000"; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraph:

"(2) The charges made for the use of any broadcasting station by any person who is an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) for the United States Senate in connection with such candidate's campaign for nomination for election, or election, to such office shall not exceed—

"(A) during the forty-five days preceding the date of a primary or primary runoff election in which such person is a candidate, 100 percent, and during the general election period (as defined in section 501(5) of the Federal Election Campaign Act of 1971) in which such person is a candidate, 50 percent, of the lowest unit charge of the station, determined at the rate applicable to broadcasts of 30 seconds for the same time of day and day of week; and

"(B) at any other time, the charges made for comparable use of such station by other users thereof.

In the case of a primary or runoff election, a candidate who has filed the declaration under section 502(b) (and has not exceeded any limitations contained in such declaration) shall be treated as an eligible candidate for purposes of this paragraph.".

(b) PREEMPTION RULES; ACCESS; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) or (2) are in effect, of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b) (1)(A) or (2).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

"(d)(1) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time to such candidate without regard to the rates charged for such time.

"(2) No broadcast time purchased through the use of voter communications vouchers shall be required to be provided without at least 4 days advanced notice.".

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by striking "The charges" and inserting:

"(1) Except as provided in paragraph (2), the charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(d) APPLICABILITY OF LOWEST UNIT CHARGE REQUIREMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "forty-five" and inserting in lieu thereof "thirty";

(2) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(3) by striking "class and".

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971.".

(b) AUTHORIZATION.—(1) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)-(h)" and inserting "3626(a)-(h), and 3629".

(2) Section 3627 of title 39, United States Code, is amended by striking "or 3626" and inserting "3626, or 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by adding at the end thereof the following:

"(iv) If a broadcast or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'."

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133⅓ percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓ percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000 shall report to the Secretary of the Senate as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000, each such person shall report to the Secretary of the Senate as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds $10,000.

"(3) Each report under this subsection shall be filed with the Secretary of the Senate and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than $25,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) ELECTION CYCLE DEFINED.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF COOPERATIVE EXPENDITURES.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure.".

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(b) COOPERATIVE EXPENDITURE DEFINED.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee.".

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2) and subsection (c) or (d), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits."; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located.".

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 212. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings (including mass mail fund solicitations), or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing).".

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraphs (1)(C) and (2)(C).".

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e).".

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) Transfers and Solicitations of Committees.—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.".

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) Generic Activities.—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) State Fundraising Activities.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) Limitations on Fundraising Activities of Federal Candidates and Officeholders.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(4) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

(b) Tax-Exempt Organizations.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) Tax-Exempt Organizations.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

SEC. 218. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) Political Committees.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Report of Exempt Contributions.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported.".

(c) Reporting of Exempt Expenditures.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported.".

(d) Contributions and Expenditures of Political Committees.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) Reports by State Committees.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) Filing of State Reports.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(f) Reports by Large Contributors.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) Reports by Large Contributors.—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating $10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating $5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions. The Commission shall transmit a copy of any report received under this subsection which includes contributions made to a candidate for the United States Senate to the Secretary of the Senate within 2 working days of receipt of such report.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3).".

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contributions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates.".

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee.".

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 223. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(l) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and

election cycle in the case of authorized committees of candidates,".

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(b) PERSONAL AND CONSULTING SERVICES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 302. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under sections 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission.".

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(c) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act.".

SEC. 305. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

(c) TIME PERIODS FOR CONCILIATION.—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.".

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a television, radio and cable communication paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the communication shall—

"(I) include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message'; and

"(II) shall clearly state that the communication has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the communication has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable.".

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor.".

TITLE IV—MISCELLANEOUS

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party.".

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media.".

SEC. 404. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II) by striking "fewer than 60 days immediately before the date" and inserting "during the year"; and

(2) in subparagraph (C) by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 405. SENSE OF SENATE REGARDING FUNDING OF ACT.

(a) FINDINGS.—The Senate finds that—

(1) this Act does not provide for a funding mechanism to pay for the provisions cleaning up Senate election campaigns;

(2) a funding mechanism is necessary to pay for such provisions; and

(3) it is the position of the House of Representatives that under the Constitution all bills affecting revenue must originate in the House of Representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions or for other organizations with respect to their lobbying expenditures;

(2) legislation to clean up Senate election campaigns shall not be paid for by any general revenue increase on the American taxpayer;

(3) legislation to clean up Senate election campaigns shall not be paid for by reducing expenditures for any existing Federal program; and

(4) legislation to clean up Senate election campaigns shall not result in an increase in the Federal budget deficit.

SEC. 406. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 407. UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following new paragraph:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;".

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of FECA (2 U.S.C. 441(i)) is repealed.

(e) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

SEC. 408. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 409. UNIFORM LIMITATIONS FOR EARNED AND UNEARNED INCOME.

(a) SUBSTANTIVE AMENDMENTS.—Section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by inserting "or unearned" after "earned"; and

(2) in section 501(a)(2) by inserting "or unearned" after "earned".

(b) TECHNICAL AMENDMENTS.—(1) The heading for title V of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "**EARNED**".

(2) The heading for section 501 of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "**EARNED**".

(3) The heading for section 501(a) of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

SEC. 410. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the electoral process of the United States should be open to all American citizens;

(2) foreign nationals should have no role in the American electoral process;

(3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;

(4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and

(5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.—Section 319 of FECA (2 U.S.C. 441e) is amended by—

(1) redesignating subsection (b) as subsection (e); and

(2) inserting after subsection (a) the following new subsections:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

"(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

" 'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'

"(d) A nonconnected political committee or a separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund.".

(c) PENALTY.—Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting "section 319 or" before "section 322".

SEC. 411. TECHNICAL CORRECTIONS TO ETHICS IN GOVERNMENT ACT OF 1978

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(i) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year, or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g).".

SEC. 412. SENSE OF THE SENATE REGARDING APPLICATION OF PROVISIONS RELATING TO PACS EQUALLY TO CANDIDATES FOR THE SENATE AND CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that all provisions of this Act and amendments made by this Act that relate to multicandidate political committees and separate segregated funds shall apply in regard to candidates for the House of Representatives in the same manner and to the same extent as they apply to candidates for the Senate.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

SEC. 501. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) CONSULTATION.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) CRITERIA.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possibility of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) REQUESTS FOR PROPOSALS.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(f) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 601. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1993.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out its functions under this Act.

SEC. 603. SEVERABILITY.

Except as provided in section 101(c) of this Act, if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

□ 1820

MOTION OFFERED BY MR. ROSE

Mr. ROSE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROSE moves to strike out all after the enacting clause of S. 3, and to insert in lieu thereof the provisions of H.R. 3750 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days during which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–378) on the resolution (H. Res. 301) waiving all points of order against the conference report on the bill (H.R. 3371) to control and prevent crime, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

Mr. PASTOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I would ask the gentleman from Arizona [Mr. PASTOR] to explain the program.

Mr. PASTOR. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Arizona.

Mr. PASTOR. Mr. Speaker, S. 1176 authorizes the establishment of the Morris K. Udall Scholarship and Excellence in National Environmental Policy at the University of Arizona in Tucson. The national foundation is an independent entity within the executive branch.

The purposes of the foundation are severalfold:

First, to increase the awareness of the importance of our natural resources;

Second, to foster among all Americans a recognition of the special relationship they have with the environment;

Third, to identify important environmental issues;

Fourth, to establish a program for environmental policy research and a program for environmental conflict resolution at the Udall Center at the University of Arizona;

Fifth, to develop resources to train professionals in the field of environmental policy and related areas;

Sixth, to disseminate educational information on environmental issues.

Seventh, to develop resources for proper training native American and Alaska native professionals in area of health care and public policy; and,

Eighth, to provide for scholarships and government internships for training native Americans in the field of public policy.

Mr. Speaker, few have spoken more consistently, and fewer still more eloquently, of our obligations to conserve our natural resources and to protect the rights of our first Americans than Moe Udall.

When Moe first entered Congress in 1961 to succeed his brother Stewart, we looked upon our land and water as resources to be developed and exploited. Long before the environmental movement emerged, Moe Udall reminded the country that man has a special relationship with his land, water and air. He made us understand we are a part of nature, not separated from it.

Moe Udall worked to restore dignity to a proud people. He was among the first to recognize that the native American struggle for self-determination be taken seriously. He fought to give native Americans the assistance they needed to develop their internal institutions of self-government and the resources necessary for tribal economic development.

This legislation is a fitting tribute to Moe, and it builds on his record of 30 years of service in Congress. The legislation establishes a 10-member board of directors comprised of two Members of the House of Representatives, two Members of the Senate, two individuals selected by the President, the Secretaries of Interior and Education and two members of the University of Arizona. The board will award scholarships, fellowships, internships, and grants to deserving individuals to pursue studies related to the environment, native American and Alaska native health care, and tribal public policy.

The foundation will support the establishment of an environmental conflict resolution center at the Udall Center on the campus of the University of Arizona, Moe's alma mater. It will create a repository for the Udall papers and will assemble an annual panel of experts to discuss contemporary environmental issues and conduct research on native American and Alaska native health care issues and tribal public policy.

Mr. Speaker, I wish to thank the chairman and ranking member of the Education and Labor Committee for their cooperation in seeing that this legislation received expedited consideration. I also wish to thank my colleagues, Representatives OBEY and RHODES for sponsoring and supporting the House version of this legislation. Without their assistance and the help of their staffs, we would not be discussing this bill today.

Mr. Speaker, I urge my colleagues to pay tribute to Moe Udall's legacy by joining me in supporting this legislation today. I thank the gentleman for yielding.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I shall not object, but I just want to say that, if we had $5 million to spend, I cannot think of a finer gentleman to honor than Moe Udall.

Mr. Speaker, I rise in support of S. 1176 and its House companion bill H.R. 3268, the Morris K. Udall Scholarship and Excellence in National Environmental Policy. This bill is in the jurisdiction of the Committee on Education and Labor, and is before us today for consideration.

The bill pays tribute to a distinguished statesman, Morris Udall (Moe), with whom I enjoyed working during all the years of my service in the House of Representatives. When I arrived in Congress, I immediately discovered that Moe Udall was a true statesman. He was always well prepared, did his homework, and articulated his beliefs. His physical stature was a metaphor, representative of his ability as a colleague for he was truly equal to his height. I hope that this bill can honor him as he so admirably deserves.

Again, Mr. Speaker I rise in support of S. 1176 and ask my colleagues to join me in its swift passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two Members, appointed by the President, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) One Member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as Chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be 6 years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the member appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a Member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as Members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) Grants.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) Repository.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) Coordination.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) Morris K. Udall Scholars.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) Program Priorities.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3) and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6) and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) Establishment of Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) Investment of Fund Assets.—

(1) In general.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt Securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) In General.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) Audit by General Accounting Office.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) In General.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. SHARP. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from the bill, H.R. 1790.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard budget, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the Senate insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (P.L. 101–646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $466,000,000, of which $29,000,000 shall be used to acquire a command and control aircraft, to remain available until expended.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3)(A) Notwithstanding another provision of law, the Secretary of the department in which the Coast Guard is operating may submit a request for reprogramming of funds to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for Congressional review of appropriations reprogramming requests. Subject to those reprogramming procedures—

(i) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for a multiyear lease but not for the purchase of aircraft; and

(ii) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(B) The Coast Guard may transfer the current command and control aircraft to the vendor of a replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward a purchase, lease, or lease with option to purchase.

(4) Before October 1, 1992, the Secretary of Transportation shall use funds as may be necessary, not more than $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW at least an additional 15 years.

(c) For research, development, test, and evaluation, $29,150,000, to remain available until expended.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(g) Of the amounts authorized for Coast Guard operations and maintenance and acquisition construction and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (P.L. 101–380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

(h) Of the amounts authorized for Coast Guard operations and maintenance, not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a).

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992.

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. RETIREMENT OF REAR ADMIRALS.

(a) Section 290 of title 14, United States Code, is amended——

(1) in subsection (e) by striking "June 30 of" and substituting "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and substituting the following new subsections:

"(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immedi ately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b)(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and substituting "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

SEC. 6. ENLISTED PERSONNEL BOARDS.

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

"(1) because the members's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within 90 days of the notification.

"(h) An enlisted member, who has completed twenty years' service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years' service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.", and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.".

SEC. 7. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual order to perform community service under the order of a Federal, state, or municipal court.".

SEC. 8. HOUSE UNIT LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction of renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in Fiscal Year 1991, the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of the Massachusetts Military Reservation.

SEC. 9. AIR FACILITIES LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in Fiscal Year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.

SEC. 12. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 37, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.".

SEC 13. EMERGENCY RECALL OF RESERVISTS.

Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

SEC 14. RECALL OF RETIRED OFFICERS.

(a) Section 332(b) of title 14, United States Code, is amended by striking "1" and substituting "2".

(b) Section 332(a) of title 14, United States Code, is amended by striking "his" and substituting "that officer's" and by striking "he" and substituting "that officer".

SEC. 15. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 16. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203(a)(1)) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 17. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the GENERAL GREENE, (vessel identification number USG NP5000025661), may transport not more than 16 passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of 18 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of the Committee shall begin on October 1, 1991.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(d) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and substituting "November 1, 1998"; and

(2) in subsection (b)(1):

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and substituting "; and"; and

(C) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustible material requirements that the Coast Guard prescribes for non-public spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.".

SEC. 21. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

SEC. 22. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 23. NEW CONSTRUCTION DECLARATION.

The vessel, SEA FALCON, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 24. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and substituting "September 30, 1996".

SEC. 25. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and substituting "1994".

SEC. 26. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

(a)(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active adis to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(d) For purposes of this section—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of Berwick, Louisiana all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

SEC. 28. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a)(1) Not later than six months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preservation groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Cod Lighthouse and Sankaty Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) In preparing the strategy with respect to Cape Cod Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by any appropriate means, all right, title, and interest of the United States in either or both of Cape Cod Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 29. TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

(a)(1) The Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b)(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considered to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section the term—

(1) "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State or Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 30. CONVEYANCE OF WHITE ISLAND LIGHTHOUSE.

(a) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purposes of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

SEC. 31. CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE.

(a)(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all

right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 32. OIL POLLUTION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (P.L. 101–380, 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

SEC. 33. PASSENGER VESSEL INVESTIGATIONS.

Section 6101 of title 46, United States Code, is amended by adding at the end of the following:

"(e)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vehicle operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

"(A) embarks or disembarks passengers in the United States; or

"(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

"(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

"(A) is thorough and timely; and

"(B) produces findings and recommendations to improve safety on passenger vessels.

"(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

"(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

"(B) conduct an investigation of the casualty under chapter 63 of this title.".

SEC. 34. PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

SEC. 35. SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(a) The Congress finds that—

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600 vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials, munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordinance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordinance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize that role.

SEC. 36. BRIDGE ACROSS WAPPINGER CREEK, NEW YORK.

Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401), section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

SEC. 37. VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA.

The Secretary of Transportation, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

SEC. 38. TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Charleston County Park and Recreation Commission all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b) subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power lines connection with the South Carolina Power Company's power line at Folly Beach.

SEC. 39. REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS.

Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7. (a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality; or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or;

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States.

shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

SEC. 40. AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989.

(a) Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and substituting "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and substituting "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

SEC. 41. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel MAYFLOWER II, owned by Plimoth Plantation, Inc., a corporation under the laws of Massachusetts.

(b)(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

SEC. 42. JOHN F. LIMEHOUSE MEMORIAL BRIDGE.

Notwithstanding another law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Water in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

SEC. 43. OREGON OIL SPILL RESPONSE STUDY.

Not later than one year after the date of enactment of this act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

SEC. 44. TRANSPORTATION SUBSIDY.

The Department of Transportation may include military personnel of the Coast Guard in any program in which the Department participates under section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, Public Law 101-509, notwithstanding section 629(c)(2) of that Act.

SEC. 45. CHATHAM HARBOR, MASSACHUSETTS.

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall provide to the U.S. Army Corps of Engineers New England Division for incorporation into their Feasibility Study on Improvement Dredging in Chatham Harbor, the following information:

(1) a description of the current and projected future navigational hazards in Chatham Harbor caused by shoaling in and around Aunt Lydia's Cove;

(2) the current and projected impacts, of these navigational hazards on the Coast Guard's missions, including:

(A) impacts on search and rescue responses;

(B) impacts on the area of response;

(C) types and costs of any special equipment needed to navigate the channel; and

(D) potential impacts on boater safety; and

(3) the benefits to local boaters and the Coast Guard that would result from improved navigation.

SEC. 46. JONES ACT WAIVERS FOR CERTAIN VESSELS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

SEC. 47. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121-2(e)), is amended by striking "shall not exceed $100,000" and substituting "by the Secretary shall not exceed $500,000".

SEC. 48. ACQUISITION OF SPACE IN VIRGINIA.

The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the consent of the Secretary of Commerce, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 49. ACQUISITION OF SPACE IN ALASKA.

The Secretary of Commerce shall acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annual cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 50. TRANSFER AT JUNEAU, ALASKA.

(a) Notwithstanding another provision of law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 51. STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS.

Not later than one year after the date of enactment of this Act the Secretary of Transportation and the Secretary of Commerce will submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in the efforts.

SEC. 52. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67 Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit 'B' of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced with 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 53. DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: 'The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'."

SEC. 54. SENSE OF THE CONGRESS ON COAST GUARD RESCUE EFFORTS.

(a) The Congress finds that—

(1) during the month of October, Air Station Cape Cod experienced one of the most intense periods of search and rescue activities, including 51 search and rescue cases of which 27 were in the last 10 days of the month;

(2) immediately prior to the Winter storm that ravaged Cape Cod from October 28 to November 1, with average seas of 35–40 feet and winds exceeding 80 knots, coastal small boat station personnel on Cape Cod and the Islands of Nantucket and Martha's Vineyard successfully worked with the local communities and the fishing industry to secure the small coastal ports to minimize damage to vessels and property;

(3) Group Portland, Group Boston, and Group Woods Hole units suffered significant damage to coastal small boat stations, lighthouses, and other aids to navigation but this damage did not affect operational readiness and Coast Guard boats and aircraft were prepared to respond to emergencies;

(4) during the five-day period from October 28 to November 1, the Coast Guard Cutter GENETIN, Coast Guard cutter BEAR and Coast Guard helicopters stationed at Elizabeth City, North Carolina participated in five offshore rescue operations that saved 21 lives;

(5) Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour period when Hurricane Grace buffeted the North Carolina Coast;

(6) the Coast Guard performed these search and rescue operations while fulfilling other important missions including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

(b) The Congress commends the Coast Guard units involved for their remarkable skill, performance and dedication in protecting life and property and urges the people of the United States to recognize this job well done.

SEC. 55. SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) The Congress finds that—

(1) under section 9701 of title 31, United States Code, and section 664 of title 14, United States Code, Coast Guard user fees must be fair, based on the cost to the Coast Guard of providing services or things of value, based on the value of services or things of value provided by the Coast Guard, and based on a valid public policy or interest;

(2) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was established under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1397);

(3) recreational boaters who are required to pay this fee cannot expect to receive any additional service in return for payment of the fee;

(4) recreational boaters already pay a motorboat fuel tax that contributes to the Coast Guard budget; and

(5) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of an offsetting receipts provision to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

SEC. 56. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY

(a) In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), the Institute is established within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina.

(b) There is authorized to be appropriated to the Secretary of Commerce $525,000 for fiscal year 1992 and $546,000 for fiscal year 1993, to remain available until expended, for use for activities of the Institute.

(c) Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) Within one year of the date of the enactment of this section, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 57. NATIONAL DEFENSE RESERVE FLEET.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended by adding at the end the following new subsection;

"(d) READY RESERVE FORCE MANAGEMENT.—

"(1) MINIMUM REQUIREMENTS.—To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

"(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

"(B) activate and conduct sea trials on each vessel at least once every 24 months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

"(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

"(2) VESSEL MANAGERS.—

"(A) ELIGIBILITY FOR CONTRACT.—A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

"(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

"(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

"(B) CONTRACT REQUIREMENT.—The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, Untied States Code, for a seaman performing that service while operating the vessel if the vessel were not a public vessel.".

Mr. TAUZIN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana?

Mr. FIELDS. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Louisiana [Mr. TAUZIN] for an explanation of the bill.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr FIELDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I rise today in support of H.R. 1776, the Coast Guard Authorization Act of 1991. This bill passed the House on July 18, 1991, and the other body on November 21, 1991. The differences between the Houses over this legislation have been worked out resulting in an excellent piece of legislation. I now ask this House to agree to the amendments proposed by the other body. This bill is the result of a bipartisan effort by both Houses of Congress to support one of the most respected and effective agencies in the Federal Government; the U.S. Coast Guard. I would like to thank Chairman WALTER JONES, Representative BOB DAVIS, and Representative JACK FIELDS for their hard work and cooperation in producing a bill which serves the Coast Guard well.

This bill recognizes the Coast Guard for what it is; an armed force of exceptionally dedicated men and women who are always ready to respond to the call of duty. From the war zone waters of the Persian Gulf to the deadly hurricane seas of the North Atlantic, in 1991 Coast Guard men and women served their country in the face of danger.

For the Coast Guard, 1991 was not unusual. They serve in times of national crises and they serve in times of peace. Coasties serve every day, saving lives at sea, ensuring safe navigation, cleaning up oilspills, protecting our fishing industry, and interdicting illegal drugs. When we give the Coast Guard a job to do—it's done, no questions asked.

H.R. 1776 authorizes the Coast Guard to take the practical steps necessary to implement the Oil Pollution Act of 1990. OPA '90 will have a greater impact on the Coast Guard's future than any other single piece of legislation in recent history. The Coast Guard needs our support to implement this legislation.

H.R. 1776 recognizes the Coast Guard's need for capital improvements. It authorizes the design and construction of desperately needed vessels for the fulfillment of the many missions of the Coast Guard.

This legislation also addresses the need to improve the working and living conditions of the people who are the Coast Guard. Coast Guard personnel must be provided with adequate housing, medical care, and compensation. The Commandant has made people issues his top priority recognizing that the Coast Guard personnel cannot carry out their duties if they are not adequately provided for.

The bill represents the best legislative efforts of all involved in both bodies. I urge unanimous consent of the House in concurring in the amendments to H.R. 1776.

Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 1776, I rise in strong support of this bill which authorizes appropriations for the U.S. Coast Guard.

While this is the second time we have considered this legislation, the refined version we have before us today is the product of careful deliberations with the other body.

Since our distinguished subcommittee chairman has done a superb job describing this legislation, I will highlight only a few of the more important provisions.

Mr. Speaker, while the Coast Guard can always use additional funds to carry out its ever growing list of operational responsibilities, the authorization levels contained in H.R. 1776 provide sufficient funds to that vital agency.

For instance, incorporated within this legislation is $14 million to renovate and extend the useful life of the Coast Guard cutter *Mackinaw*. This vessel is the only icebreaker capable of extended and uninterrupted service during the winter months in the Great Lakes. It is essential that we keep this vessel in operation and I compliment the distinguished ranking minority member of our committee, BOB DAVIS, for his tireless leadership on behalf of the *Mackinaw*.

Second, we have authorized $29 million within this legislation so that the Coast Guard can obtain a new command and control aircraft. The acquisition of this aircraft is vital because the Coast Guard's two existing planes, which are used by the Commandant, have surpassed their useful life and the cost of maintaining them has become prohibitive. As a member of the Joint Chiefs of Staff, Admiral Kime must have safe and reliable aircraft at his immediate disposal.

Third, incorporated within H.R. 1776 is language transferring $55 million from the oilspill liability fund for the purchase and prepositioning of oilspill removal equipment.

As someone whose congressional district was devastated by two major oilspills last year, I am pleased that the Coast Guard has announced that it will preposition certain cleanup equipment in the Gulf of Mexico. I am confident that these additional funds will help accelerate that acquisition process and that it will enhance the protection of our Texas coastline.

In addition, this money will be used to finance oil pollution prevention plans and to compensate those who are adversely affected by an oilspill.

Fourth, I am pleased that we have included language to statutorily mandate the Houston-Galveston Navigation Safety Advisory Committee.

This committee, which was created by administrative decree in 1982, provides solutions to the Coast Guard on a range of problems dealing with traffic congestion, vessel groundings, and oilspill control. Our ports are safer today because their suggestions have been implemented and it is appropriate that we have included this important advisory committee, which will serve at virtually no cost to the taxpayer, within H.R. 1776.

Fifth, we have approved language to help ensure the safety of the 4 million Americans who sail on foreign-flag passenger cruise ships each year.

Specifically, we provide that any death, serious injury or major damage to a passenger ship involving Americans booked on a voyage marketed in the United States must be reported immediately to the Coast Guard. In addition, H.R. 1776 will ensure that any investigation into the cause of the accident be conducted consistent with regulations enacted by the International Maritime Organization [IMO].

It is my firm belief that both the reporting requirement and the investigation of marine casualties will provide greater safety for those Americans who travel on passenger cruise ships.

Sixth, this legislation commends those men and women of the U.S. Coast Guard who played an important role in the Persian Gulf conflict.

While the Coast Guard may not have received as many accolades as the other branches of service, their personnel performed superbly in such activities as vessel inspections, port security, oilspill cleanup, and law enforcement.

Furthermore, Coast Guard law enforcement detachments led or participated in nearly 60 percent of the more than 600 vessel boardings that occurred in the Middle East.

Mr. Speaker, I am pleased to have cosponsored the original resolution, House Concurrent Resolution 163, commending the U.S. Coast Guard and feel it is appropriate that it has been included within H.R. 1776.

Finally, this legislation expresses the sense of Congress that the so-called recreational boat fee must be repealed.

Mr. Speaker, the recreational boat fee is a tax that should never have been approved because it fails the fundamental test of what constitutes a user fee, since those who pay receive no benefit and no additional services.

Furthermore, I reject the notion that those who use our waterways pay little, if anything, toward their maintenance. The truth is that recreational boaters pay millions of dollar each year in Federal and State taxes and fees. These include: Customs entry fees, FCC radio license fees, State boat registration fees, State sales tax, Federal luxury taxes, property taxes, trailer and titling fees, and $170 million in Federal fuel taxes in fiscal year 1992 alone. The vast majority of this money is used for a whole range of Coast Guard programs.

In short, those who use our waterways already pay their fair share and they should not be further burdened by this arbitrary, unfair, and indefensible recreational boat tax.

While I would have preferred a total repeal of the recreational boat fee, unfortunately, we will have to complete that effort at a later date.

Nevertheless, you can be assured that I intend to continue to vigorously work to remove this burden from our Nation's 4 million recreational boaters.

Mr. Speaker, in closing, let me say that it is critical that we provide the Coast Guard with the financial resources they need to get the job done. It is my firm belief that this legislation is a step in the right direction.

I urge my colleagues to support this bill so that the Coast Guard can continue to wage its battle against the spread of illegal drugs into this country, adequately protect our coastline from future oilspills, and upgrade their oceangoing fleet to assist our citizens throughout this country.

Mr. Speaker, I would like to compliment my distinguished subcommittee chairman, BILLY TAUZIN, for his superb leadership and tireless efforts in bringing this measure to the floor. This legislation was written in a truly bipartisan manner and I urge my colleagues to vote "aye" on H.R. 1776.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act of 1991.

As the deficit has mushroomed, Congress and the American people have become increasingly concerned with reducing spending and eliminating waste. In guiding the Nation out of this recession, it is critical that we cease unnecessary spending yet provide sufficient funds to support essential services. Historically, the Coast Guard is one agency where funds are frugally spent to meet important national goals. This authorization bill continues this tradition.

The bill before the House is similar to the bill we passed last July, with additions from the other body. We have now worked out all differences, and I expect the bill to move quickly.

The bill authorizes just over $3 billion for Coast Guard programs in fiscal year 1992. Funds authorized for the Coast Guard are spent for important and diverse purposes including the rescue of lives at sea, the prevention of oilspills and other marine pollution, and the enforcement of laws and treaties. Over the past year, the men and women of the Coast

Guard have not only fulfilled these responsibilities but also met unprecedented and monumental challenges.

Each day, the Coast Guard routinely conducts search and rescue operations for boaters, swimmers, and accident victims. During hurricanes and tropical storms, the Coast Guard is always on the scene. Twenty-four hours a day, Coast Guard navigational aids help the mariner avoid the perils of the sea.

Just this past month, the Coast Guard was pushed to the limit to respond to the victims of Hurricane Grace and a series of other storms. During the 5-day period from October 28 to November 1, the Coast Guard Cutter *Genetin*, Coast Guard Cutter *Bear*, and the Coast Guard helicopters stationed at Elizabeth City, NC, participated in five offshore rescue operations that saved 21 lives. Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour period Hurricane Grace buffeted the North Carolina coast. The Coast Guard performed these search and rescue operations while fulfilling its other important missions, including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

In addition to these natural challenges it confronts every day, the Coast Guard has to deal with man-made crises. During Operation Desert Shield/Desert Storm, the Coast Guard provided port security both in America and Saudi Arabia, provided valuable assistance in responding to the oilspill caused by Saddam Hussein's decision to open the spigots of Kuwait's oil wells, and shared responsibilty for enforcing the U.N. blockade. Any one of these tasks could have pushed another agency to the limit, but for the Coast Guard, they became part of the huge mosaic which defines the modern Coast Guard.

This bill contains a number of significant provisions. One of the most important concerns cruise ship safety. This provision, which I authorized, extends the jurisdiction of the Coast Guard to investigate accidents on passenger vessels that operate from U.S. ports or have other significant contacts with the United States. Each year, thousands of American citizens board cruise ships to see the world. They travel to the Caribbean, Alaska, South America, and Antarctica. Virtually, all of these vessels are documented in foreign nations, and virtually all of the passengers are American citizens.

Section 34 of the bill requires certain foreign-flag passenger vessels to report marine casualties to the Coast Guard. It applies this requirement to a foreign passenger vessel in specific geographic locations, that embarks or disembarks passengers at a U.S. port, and to a vessel that transports passengers traveling under any form of combined air and sea ticket package that has been marketed in the United States. When there is a casualty, the Secretary of Transportation is given the discretion whether to investigate. If the choice is to investigate, the Secretary may either seek a multinational investigation under the auspices of the International Maritime Organization [IMO] or allow the Coast Guard to conduct its own investigation; in either case, the Secretary is required to ensure that when an investigation is undertaken, that it is timely, thorough, and produces findings and recommendations to improve safety on passenger vessels. This provision should assist the Coast Guard to counsel changes both at the IMO and in the United States that will save lives.

The bill also contains a provision to implement the Salvage Convention. This international agreement provides additional incentives for salvors to assist foundering or sunken ships that may cause damage to the marine environment. I strongly support this convention.

I should note that this convention will have no effect on the United States implementation of the Abandonment Shipwreck Act—Public Law 100–298. In the act, the United States asserted title to three classes of abandoned, historic shipwrecks within U.S. waters and transferred title to these wrecks to the States in whose submerged lands these wrecks are embeded or lie. These wrecks are now managed in accordance with State historic preservation and resource management laws and are no longer subject to the Federal common law of salvage. Accordingly, these wrecks are not subject to salvage proceedings and do not come within the application of the Salvage Convention pursuant to article 2 of that convention.

This bill also contains a provision of particular interest to my State in that it establishes the Cooperative Institute of Fisheries Oceanography [CIFO] within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina. CIFO will provide enhanced cooperation and research on fisheries and oceanography problems of interest to North Carolina and the entire southeast. Within 1 year, the institute is to develop and submit to NOAA and the Congress a 5-year research and development plan. In fiscal year 1992, $525,000 is authorized for CIFO, with an additional $546,000 authorized in fiscal year 1993.

Finally, H.R. 1776 also contains a number of other provisions addressing a variety of internal Coast Guard matters, such as housing, personnel retention, and recall of officers. The bill also deals with the transfer of unnecessary property, extension of the terms of advisory committees, navigational and boating safety, bridges, unique vessels, lighthouses, and pollution.

H.R. 1776 should help the Coast Guard perform its many missions in an efficient and economical manner. I urge my colleagues to support this important legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

SENATE AMENDMENTS:

Page 1, strike out all after line 2, over to and including line 26 on page 16 and insert:

TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

SECTION 101. SHORT TITLE.

This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

SEC. 102. FINDINGS.

The Congress finds and declares the following:

(1) The late Silvio Conte was a long-time champion of the preservation of natural resources, including the Connecticut River, shepherding through Congress legislation meant to restore the river and its wildlife to health.

(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon and bald eagle.

(3) Federal, State, and local governments have spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

(4) The Connecticut River valley is home to over two million people, and accordingly the river and riparian lands are of great value for environmental education and natural resource based recreation.

(5) The Connecticut River valley is threatened with spoilation, removal from public access, and ecological downgrading and is a significant source of energy and means of commerce for New England.

(6) Despoiling the Connecticut River and its riparian lands will result in the permanent loss of unique social, educational, and environmental assets and will devalue the significant Federal, State and local investments made to clean up the river.

SEC. 103. DEFINITIONS.

For the purposes of this Act—

(1) the term "affected States" means the Commonwealth of Massachusetts, and the States of Vermont, New Hampshire, and Connecticut;

(2) the term "refuge" means the Silvio Conte National Fish and Wildlife Refuge established under section 106 of this Act;

(3) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the term "selection area" means the lands and waters of the Connecticut River basin, including the main stem of the river and its tributaries from its source at Fourth Connecticut Lake to Long Island Sound.

SEC. 104. PURPOSES.

The purposes for which the refuge is established are—

(1) to conserve, protect, and enhance the Connecticut River valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants, fish, and wildlife;

(2) to conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystems upon which these species depend within the refuge;

(3) to protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.);

(4) to restore and maintain the chemical, physical, and biological integrity of wetlands and other waters within the refuge;

(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands; and

(6) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

SEC. 105. SELECTION OF LANDS.

Within three years after the date of the enactment of this Act, the Secretary shall—

(1) consult with appropriate State and local officials, including those representing State government natural heritage inventory agencies, the Long Island Sound Management Conference as established under the National Estuary Program, private conservation organizations, and other interested parties in designating the refuge boundaries;

(2) define and designate the refuge boundaries, including all subunits, within the selection area that would fulfill the purposes set forth in section 104 of this Act; and

(3) prepare a detailed map depicting the refuge boundaries designated under paragraph (2), which the Secretary shall keep on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

SEC. 106. ACQUISITION AND ESTABLISHMENT OF REFUGE.

(a) ACQUISITION.—To the extent authorized under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws, the Secretary may acquire for inclusion in the refuge by purchase or donation such lands and waters or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 105 of this Act. All lands, waters, and interests therein so acquired shall be part of the refuge.

(b) ESTABLISHMENT.—When sufficient property within the boundaries defined and designated under section 105 of this Act have been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge, to be named the "Silvio Conte National Fish and Wildlife Refuge," by publishing a notice to that effect in the Federal Register and publications of local circulation.

(c) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under section 105 of this Act as may be appropriate to carry out the purposes of this Act or to facilitate the acquisition of property within the refuge.

(d) INTERIM REPORT TO CONGRESS.—Within one year of the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works in the United States Senate and the Committee on Merchant Marine and Fisheries in the United States House of Representatives a report describing those lands and waters that the Secretary proposes to acquire under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws for inclusion in the refuge at a subsequent time. The Secretary also shall include in the report an estimate of the total number of acres of lands or waters or interests therein that may be acquired for inclusion within the refuge boundaries under the authority of this Act and other existing laws and the approximate cost of such acquisition.

SEC. 107. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer all lands, waters, and interests therein acquired under section 106 pursuant to—

(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k–4); and

(2) the purposes for which the refuge is established, as set forth in section 104 of this Act.

(b) OUTREACH AND EDUCATION.—The Secretary shall work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purposes for which the refuge is established, as set forth in section 104 of this Act.

(c) USE OF OTHER AUTHORITY.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104 of this Act.

SEC. 108. SILVIO CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND FUNCTIONS.—Within three months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the "Silvio Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall assist the Secretary on community outreach and education programs that further the purposes of the refuge.

(b) MEMBERSHIP; TERMS.—The Advisory Committee shall be composed of fifteen members, each appointed by the Secretary within three months of the date of enactment of this Act for a term not to exceed three years, as follows:

(1) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

(2) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

(3) four members, including one from each of the affected States to be appointed from recommendations made by the Governor of that affected State, who shall represent nonprofit conservation organizations or citizen groups with direct interest in the purposes of the refuge;

(4) one member of the Long Island Sound Management Conference; and

(5) two members to be designated by the Secretary, including one who represents the energy and commerce interests associated with the Connecticut River.

(c) CHAIRMAN.—The Advisory Committee shall elect one member of the Advisory Committee to be its chairman.

(d) VACANCIES.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

(e) COMPENSATION.—A member of the Advisory Committee shall not receive any compensation for service on the committee.

(f) MAJORITY VOTE.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized—

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with State and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses: Provided, That Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SECTION 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devotion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University of Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) TERMS OF AGREEMENT.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall—

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three

years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other contributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with in-kind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) AUTHORIZATION.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) TERMINATION OF AGREEMENT.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100–610 is amended by adding at the end the following new section:

"SEC. 208. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with State and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

Page 17, strike out lines 1 to 13.

Page 17, line 14, strike out **[TITLE V]** and insert: *TITLE III.*

Page 17, line 16, strike out **[501]** and insert: *301.*

Page 17, after line 20, insert:

SEC. 302. COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof: "has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees.".

(b) EFFECTIVE DATE.—This section shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

Page 17, strike out all after line 20, over to and including line 2 on page 18.

□ 1830

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Massachusetts?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I take this time to yield to the gentleman from Massachusetts [Mr. STUDDS] for an explanation of this bill.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 794 is an omnibus fish and wildlife conservation bill that was introduced by the widely respected and sorely missed gentleman from Massachusetts, Silvio Conte, shortly before his death.

The primary purpose of the bill is to establish a national fish and wildlife refuge in Silvio's beloved Connecticut River valley, a refuge that the Merchant Marine and Fisheries Committee voted to designate the Silvio O. Conte National Fish and Wildlife Refuge. As amended, the bill authorizes the Secretary of the Interior to share with the States bordering the Connecticut River the costs and operation of refuge visitor centers.

A second provision honoring Mr. Conte was added by the other body. It would establish the Silvio O. Conte Memorial Scholarship Fund, which is designed to encourage students to enter the fields of fisheries and wildlife conservation.

Other titles have been added to the bill to encourage broader State participation in the National Wetlands Conservation Program, and to permit the construction of a Federal facility at the Culebra National Wildlife Refuge in Puerto Rico.

This is a good bill, it honors one of the most beloved Members who ever served in this body, and I urge Members to support it.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I can only compliment the chairman of the subcommittee, and let me say this: Sil, wherever you are—and I know where you are—I hope you are recognizing the work of this House in your memory as we remember the good times and the fun times we had with the great Congressman from Massachusetts.

Mr. OLVER. Mr. Speaker, I can think of no more appropriate memorial to the work and life of Silvio Conte than the National Fish and Wildlife Refuge we have created in his name today.

Silvio was a true outdoorsman and environmentalist. He loved the beautiful stretches of mountains, hills, valleys, and lakes that make up western Massachusetts. He recognized and cherished the great resources provided to the region by the Connecticut River and its surrounding lands. And like the rest of us who have lived in the area over the last several decades, he deplored the destruction of the river, and the loss of the many gifts it gave us.

Today we have begun to fulfill a dream of Silvio's—to restore the Connecticut River to its former beauty and health. The creation of this refuge will finally protect the river and its valley, and once again make it a home for the fish, birds, and animals that have vanished under years of environmental strain.

The Silvio Conte National Fish and Wildlife Refuge Act will also create education centers to bring the many resources of the river a step closer to the valley residents and visitors. It is fitting that the first of these centers be located along the section of the river that was represented by Silvio Conte.

In building and maintaining the education center in Massachusetts I am hopeful that the Secretary of the Interior will seek cooperative agreements or partnerships, as provided for in this bill. Such agreements offer a great opportunity for saving costs while creating extremely worthwhile centers for udnerstanding the river and its cultural, ecological, and geological history.

I thank my colleagues for their support of this important legislation. Each of you should be proud to have taken a part in supporting this worthwhile environmental protection bill. But perhaps you should be even more proud of your role in fulfilling the dream of a man who cared so deeply for the outdoors and the beauty of his home State. Silvio Conte's dream will now take shape, and his work will be honored for years to come.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of Rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Votes postponed on suspensions considered prior to the consideration of the conference report on the crime bill, H.R. 3371, will be postponed until after the vote on said conference report.

Any other rollcall votes demanded later in the day as the House proceeds to the consideration of further suspensions will be postponed until tomorrow.

DESIGNATION OF A CHIEF MINORITY AFFAIRS OFFICER IN THE DEPARTMENT OF VETERANS AFFAIRS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3327) to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department, as amended.

The Clerk read as follows:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHIEF MINORITY AFFAIRS OFFICER.

(a) CHIEF MINORITY AFFAIRS OFFICER.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 317. Chief Minority Affairs Officer

"(a) The Secretary shall designate one of the Assistant Secretaries of the Department as the Chief Minority Affairs Officer of the Department.

"(b) The Chief Minority Affairs Officer shall have the following duties:

"(1) To investigate and examine the policies, regulations, programs, and other activities of the Department as they affect minority group members who are veterans or receive benefits from the Department.

"(2) To assess the needs of minority group members who are veterans or who receive benefits from the Department as those needs relate to the activities of, and benefits provided by, the Department and to evaluate the manner and extent to which the activities of, and benefits provided, by the Department fulfill those needs.

"(3) To advise the Secretary regarding the effect on minority group members of policies, regulations, programs, and other activities of the Department and of methods to ensure that minority group members are afforded an opportunity to participate fully in the activities and benefits of the Department.

"(4) To carry out any additional functions and activities that the Secretary prescribes with regard to minority group members who are veterans or who receive benefits from the Department.

"(c) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian);

"(5) Pacific-Islander American; or

"(6) female.

"(d) Not less than every two years, the Secretary shall submit to the Congress a report containing a detailed description of any activities and policies of the Department relating to minority group members who are veterans or who receive benefits from the Department and the duties of the Chief Minority Affairs Officer, with respect to the previous two-year period.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"317. Chief Minority Affairs Officer.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3327 would designate one of the Assistant Secretaries of the Department of Veterans Affairs as the chief minority affairs officer of the Department. The bill would strengthen accountability for all of the many efforts of the Department to assist minority veterans. It would allow for better coordination within the Department to assure that programs reach all veterans.

A similar provision was passed by the Senate last week, Mr. Speaker.

Mr. Speaker, I want to commend and thank my colleague, the gentleman from New York [Mr. RANGEL], for working with me and putting together this bill. The gentleman from New York introduced a similar bill in the last Congress and again earlier this year, and we were in agreement on the merits of the proposed legislation. I also want to commend my colleague, the gentleman from Arizona [Mr. STUMP], the ranking minority member, for his support and help.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. RANGEL], the coauthor of this legislation.

Mr. RANGEL. Mr. Speaker, let me first take time to thank the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY] for the leadership he has provided in this legislation, which could have been a sensitive issue if he had not seen the merits of it. In working with his Republican counterparts, this has become a nonpartisan issue.

I think that all of us felt a great deal of pride in seeing all our American men and women who demonstrated the love and affection they had for our great country in the Persian Gulf. But it really reminded us that each time our Nation has been called into combat, we expected that whether we were in the minority or in the majority, we would be there when our Nation needed us, notwithstanding the fact that many of us believe there are inequities. The problems that we have sometimes come about because of economic reasons, because minorities do not always find themselves available for college deferments. Notwithstanding the percentage in the population, when the count is taken as to who is in combat, who is missing, and who is killed in action, unfortunately we find that minorities certainly are listed far higher in proportion than the percentage they represent in the population.

That is not to say that the medals and the tributes that are paid to them are not honor enough to die for this country. But the problems we face are there when they come home after the parades, after the confetti, and after America seems to have forgotten. When we look at the alcoholics, the addicts, the jobless, the homeless, and the hopeless, it pulls at all of our hearts to see that somehow they have to carry a heavier burden.

We have found that veterans of color, female veterans, and veterans who are Hawaiian natives as well as Alaskan Natives and Indians have found a more difficult time in adjusting to society because of lack of training and lack of support. That is why I think it is important that the Committee on Veterans' Affairs has reported out a bill that would set aside an Assistant Secretary of the Department of Veterans Affairs to make certain that we are able to guide these veterans to become better trained, to be able to be assimilated into American society, and to really become contributors rather than be just listed among the homeless.

To the chairman of this committee, Let me say that I feel a special personal commitment because when I joined the service in 1948, and went to Korea, I was a high school dropout. It did not bother me too much then, but after I came home with the Bronze Star and the Purple Heart and really thought that parade meant something and applied for a job, I found out that notwithstanding the fact that it was reported that I was a hero, I was still a high school dropout. I was fortunate because at the Veterans' Administration, even though it was difficult, I was able to go to high school, I was able to finish college, and I was able to go to law school.

Mr. Speaker, what I needed was someone to help guide me to the Veterans' Administration, someone who paid special attention, and someone who was able to take me out of poverty and into school and treat me like a veteran should have been treated.

There is no question that in our homeless shelters 40 to 60 percent of the people there have served their country in an honorable position, and I think that as veterans around this country, especially those in the service, remember the Montgomery bill as being that vehicle that has taken them from being high school dropouts, people without training, or people who wanted to assimilate into society, when they remember what the Montgomery bill has done for them, when one day it will be recorded that the Assistant Secretary of the Department of Veterans Affairs was the agency chief minority affairs officer, someone that can look out for them, someone that can guide them, someone that can help, someday these people will be able to come back to this Congress and say that because of our concern and because we had the courage to say that some people may need additional help, we will be proud of the fact that the gentleman from Mississippi reported this bill out of his committee and that the Congress passed it on the Suspension Calendar.

Mr. Speaker, I thank the chairman of the Committee on Veterans' Affairs.

□ 1840

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3327, a bill to designate a chief minority affairs officer in the Department of Veterans Affairs.

Chairman MONTGOMERY and Mr. RANGEL, a combat veteran of the Korean war, have worked together to bring this measure to the floor, and the committee minority has agreed to it. Our agreement is a reaffirmation of the bipartisan commitment to the impartial delivery of VA benefits and services to every person eligible for them.

As our committee report states:

> In recommending this legislation, the committee does not intend to imply that the Department of Veterans Affairs has ignored any of its statutory responsibilities for insuring that benefits or employment opportunities are provided to minorities in a neutral manner, without regard to sex, race, or ethnic background.

Mr. Speaker, I believe the VA is doing an excellent and highly commendable job in this respect. Furthermore, the Secretary of Veterans Affairs in a November 12, 1991, letter to Chairman MONTGOMERY unequivocally said that:

> * * * Veterans' benefits are to be made available to all honorably discharged veterans regardless of their rank, branch of service, sex, creed or national origin.

The Secretary's entire letter is included in the committee's report.

The Committee on Veterans' Affairs under the leadership of our distinguished chairman, Mr. MONTGOMERY, has a long history as advocates for veterans, all veterans.

The function of this committee is to investigate, study, and consider matters affecting veterans and their dependents as a group. Our goal is to enact legislation to improve the services provided to all veterans through the Department of Veterans Affairs. In order to achieve this goal, the committee has held many hearings on a multitude of subjects which are of utmost concern to veterans. In fact our Subcommittee on Oversight and Investigations has held a hearing every year for the past 3 on the concerns of Vietnam veterans.

During these hearings we have heard from specific minority groups including: The Congressional Black Causcus—Black Veterans Braintrust, The National Association of Women Veterans, Inc., Puerto-Rican-Hispanic Veterans Association of the Delaware Valley, and Gay, Lesbian and Bisexual Veterans of America.

To my knowledge, no legislation has been introduced, even by the proponents of legislation aimed at minority groups, to address any claimed denial of veterans' benefits or medical care on any basis other than statutory eligibility requirements—not race, ethnicity, religious, or any other type of discrimination.

Despite the absence of a clearly identified problem area, we have taken prompt action on H.R. 3327 which will help ensure that the needs and views of minority veterans are heard. H.R. 3327 will require that the Department have a high level individual who can be held accountable for representing the needs of minority veterans.

In addition, Mr. Speaker, the leadership of this committee receives and responds to correspondence from all over the country on many veterans issues. We hear from veterans who complain the system is failing them because of: over crowding, budget cuts, and lack of resources and equipment for medical care, benefits processing, and even grass seed to cover the graves of their departed loved ones.

But, Mr. Speaker, we have not heard from any veterans who believe the system is failing them simply because of their color.

What all this means to me, Mr. Speaker, is that this committee, our staff and the Department are not overlooking the needs of minority veterans. Quite the contrary, it seems we have achieved a high degree of integration of the veterans' system to respond to the needs of all veterans regardless of their color.

In addition, this committee has worked to ensure that minorities maintain visibility within the Department. The VA has issued over a dozen reports specifically identified as concerning women and minorities since 1984. Other major health studies relative to the experiences of minorities have been explored by the VA. These include: Studies related to agent orange and post-traumatic stress disorder—Vietnam veterans readjustment study—AIDS research, medical system users, homeless veterans, sickle cell anemia, and war zone stress among returning Persian Gulf veterans.

Additionally, Mr. Speaker, the Department of Veterans Affairs has a specific program to develop women and minorities for management positions.

The VA opposes enactment of H.R. 3327, because in the VA's view, it would place special emphasis on certain categories of veterans rather than on equality among all veterans, and duplicate existing efforts to address concerns of minority veterans. However, my hope is that, should this legislation be enacted, it will be carried out in such a way as to ensure continuing equality among all veterans, nothing more and nothing less.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York [Mr. RANGEL] for giving this opportunity to introduce this bill and let me cosponsor it. I might say that the gentleman from New York [Mr. RANGEL] was rather modest in not saying that his son is a marine, and he did sign up for the Montgomery GI bill. We are proud to have been able to help move this legislation along. It is needed. I hope the Department of Veterans Affairs will take this legislation seriously, which I know they will, and that we can see the minorities receive the kind of treatment that they should receive, and that all veterans should be treated the same.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3327, a measure to designate a chief minority affairs officer in the Department of Veterans Affairs.

I would like to commend the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY] for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for his unceasing efforts on behalf of our Nation's veterans and the gentleman from New York [Mr. RANGEL], the original sponsor of this measure, for diligently pursuing this issue.

H.R. 3327 amends title 38, of the United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

Mr. Speaker, our support of this measure confirms the support in Congress for our Nation's veterans. This measure allows VA, to designate an established assistant secretary to handle pertinent issues that affect our Nation's veterans.

Accordingly, I strongly support H.R. 3327, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3327, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3327 and on House Resolution 300.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VETERANS' HEALTH CARE AND RESEARCH AMENDMENTS OF 1991

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 300) providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 2280, as amended.

The Clerk read as follows:

H. RES. 300

Resolved, That upon the adoption of this resolution the bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans' health care programs, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendments thereto be, and the same are hereby, agreed to with amendments as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Programs Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Extension of annual report on furnishing health care.
Sec. 103. Submission of reports of Geriatrics and Gerontology Advisory Committee.
Sec. 104. Research corporations.
Sec. 105. Authority to hold joint title to medical equipment.
Sec. 106. Quality assurance activities.
Sec. 107. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 108. Prosthetic services report.
Sec. 109. Services for homeless veterans.
Sec. 110. Prohibition of use of prices of drugs paid by the Department of Veterans Affairs in the calculation of Medicaid rebates.

PART B—MENTAL HEALTH PROVISIONS

Sec. 121. Marriage and family counseling for Persian Gulf War veterans.
Sec. 122. Post-Traumatic Stress Disorder research and reports.
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TITLE II—HEALTH-CARE PERSONNEL

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Sec. 301. Supplemental service disabled veterans' insurance for totally disabled veterans.
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TITLE IV—COMPENSATION AND PENSION

Sec. 401. Clarification of scorekeeping rule for cost-of-living increases in compensation rates.
Sec. 402. Reduction in pension for veterans' survivors who are receiving medicaid-covered nursing home care.
Sec. 403. Access to information necessary for the administration of certain veterans' benefits laws.

TITLE V—MISCELLANEOUS

Sec. 501. Extension of authority of Secretary of Veterans Affairs to maintain the regional office in the Philippines.
Sec. 502. Reestablishment of the Advisory Committee on Native-American Veterans.
Sec. 503. Extension of certain vocational rehabilitation and training programs.
Sec. 504. Authorization requirement for construction of new medical facilities.
Sec. 505. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 506. Redesignation of sections of chapter 43.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

(a) INCREASE.—Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$4,100" and "$1,200", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989.

(c) APPLICABILITY.—A veteran who exhausted such veteran's eligibility for benefits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a).

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".

SEC. 103. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 104. RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF CORPORATIONS.—Section 7368 is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1992".

SEC. 105. AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§8157. Joint title to medical equipment

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

"(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

"(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

"(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange of use of the equipment.

"(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

"§8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint title to medical equipment.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the co-purchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 106. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100-322 shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 107. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section :

"§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(b) The objectives and scope of activities of the Committee shall relate to—

"(1) prosthetics and special-disabilities programs administered by the Secretary;

"(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

"(d) Not later than May 1, 1992, and January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

"(1) spinal-cord-injured veterans;

"(2) blind veterans;

"(3) veterans who have lost or lost the use of extremities;

"(4) hearing-impaired veterans; and

"(5) other veterans with serious incapacities in terms of daily life functions.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 108. PROSTHETIC SERVICES REPORT

Not later than January 15, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 109. SERVICES FOR HOMELESS VETERANS.

(a) PROGRAM DEVELOPMENT.—The Secretary shall assess all programs developed by facilities of the Department of Veterans Affairs which have been designed to assist homeless veterans. To the maximum extent practicable, the Secretary shall seek to replicate at other facilities of the Department those programs that have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of homeless veterans into the community and employment of such veterans.

(b) ASSESSMENT AND COORDINATION.—(1) In carrying out subsection (a), the Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

(A) Health care.

(B) Education and training.

(C) Employment.

(D) Shelter.

(E) Counseling.

(F) Outreach services.

(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) PLANNING.—In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility, to—

(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs; and

(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans.

(d) SERVICES.—In furtherance of subsection (a), the Secretary shall require the director of each medical center or regional benefits office, in carrying out such director's responsibilities under title 38, United States Code, to take appropriate action to—

(1) meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

(2) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (1) of the services available to such veterans within the area served by such center or office.

(e) AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(f) DEFINITIONS.—As used in subsections (a) through (e):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

(4) The term "homeless" has the meaning given such term in section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a)).

(g) EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.—Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended—

(1) in subsection (a), by striking out "to the Veterans' Administration" and all that follows through the period and inserting in lieu thereof the following: "Department of Veterans Affairs for medical care of veterans $50,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for medical care of veterans."; and

(2) in subsections (b) and (c), by striking out "Of the amount appropriated pursuant to subsection (a), 50 percent" and inserting in lieu thereof "The amounts appropriated pursuant to subsection (a)".

(h) EXTENSION OF PROGRAM FOR MENTALLY ILL HOMELESS VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(i) REPORT.—Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a) and (e).

SEC. 110. PROHIBITION OF USE OF PRICES OF DRUGS PAID BY THE DEPARTMENT OF VETERANS AFFAIRS IN THE CALCULATION OF MEDICAID REBATES.

Section 519 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) the following shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers:

"(1) Prices of drugs and biologicals paid by the Department of Veterans Affairs and prices of drugs and biologicals on contracts administered by that Department.

"(2) Prices (after any rebate or discount) of drugs and biologicals paid pursuant to contracts entered into with States which include, as a basis for rebates or discounts, the prices referred to in clause (1);"; and

(2) by inserting "(other than section 110 of the Veterans' Programs Amendments of 1991)" in subsection (d) after "legislation".

PART B—MENTAL HEALTH PROVISIONS

SEC. 121. MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS.

(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in subsection (g), the Secretary shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The authority to conduct the program shall expire on December 31, 1993.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses and children of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses and children of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary), is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) Marriage and family counseling services shall be furnished under the program—

(A) by personnel of the Department of Veterans Affairs who are qualified to provide such counseling services;

(B) by appropriately certified marriage and family counselors employed by the Department; and

(C) by qualified mental health professionals pursuant to contracts with the Department, when Department facilities are not capable of furnishing economical medical services because of geographical inaccessibility or are not capable of furnishing the services required.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ licensed or certified marriage and family counselors to provide counseling under paragraph (1)(B) and may classify the positions in which they are employed at levels determined appropriate by the Secretary, taking into consideration the training, experience, and licensure or certification required of such counselors.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the treatment plan and the assessment made under subsection (c) are approved by an appropriate mental health professional of the Department designated for that purpose by the Under Secretary for Health.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 1992 and 1993 and $3,000,000 for fiscal year 1994 to carry out this section. Funds appropriated pursuant to the authorizations in the preceding sentence shall be considered to be emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)).

(h) REPORT.—Not later than January 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to this section. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in subsection (b);

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(i) DEFINITIONS.—For the purposes of this section, the terms "veteran", "child", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101 (2), (4), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 122. POST-TRAUMATIC STRESS DISORDER RESEARCH AND REPORTS.

(a) RESEARCH PRIORITY.—In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) Post-Traumatic Stress Disorder, (2) Post-Traumatic Stress Disorder in association with substance abuse, and (3) the treatment of those disorders.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98–528.—(1) Not later than February 1, 1992, and February 1, 1993, the Under Secretary for Health's Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall concurrently submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 90 days after receiving each of the reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 123. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) PLAN.—The Secretary shall develop a plan—

(1) to ensure, to the maximum extent practicable, that veterans suffering from Post-Traumatic Stress Disorder related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner;

(2) to expand and improve the services available for veterans suffering from Post-Traumatic Stress Disorder related to active duty;

(3) to eliminate waiting lists for inpatient treatment and other modes of treatment for Post-Traumatic Stress Disorder;

(4) to enhance outreach activities carried out to inform combat-area veterans of the availability of treatment for Post-Traumatic Stress Disorder; and

(5) to ensure, to the extent practicable, that there are Department Post-Traumatic Stress Disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.

(b) CONSIDERATIONS.—In developing the plan referred to in subsection (a), the Secretary shall consider—

(1) the numbers of veterans suffering from Post-Traumatic Stress Disorder related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information;

(2) the numbers of veterans who would likely seek Post-Traumatic Stress Disorder treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with Post-Traumatic Stress Disorder were enhanced;

(3) the current and projected capacity of the Department to provide appropriate treatment and rehabilitative services for Post-Traumatic Stress Disorder;

(4) the level and geographic accessibility of inpatient and outpatient care available through the Department for veterans suffering from Post-Traumatic Stress Disorder across the United States;

(5) the desirability of providing that inpatient and outpatient Post-Traumatic Stress Disorder care be furnished in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department;

(6) the treatment needs of such veterans who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems in addition to Post-Traumatic Stress Disorder; and

(7) the recommendations of the Under Secretary of Health's Special Committee on Post-Traumatic-Stress Disorder with respect to (A) specialized inpatient and outpatient programs of the Department for the treatment of Post-Traumatic Stress Disorder, and (B) with respect to the establishment of educational programs that are designed for each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from Post-Traumatic Stress Disorder.

(c) REPORT.—Not later than April 30, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a). The report shall include specific information relating to the consideration given to the matters described in subsection (b).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "active duty" has the meaning given that term in section 101(21) of title 38, United States Code.

(2) The term "veteran" has the meaning given that term in section 101(2) of such title.

(3) The term "combat-area veteran" means a veteran who served on active duty in an area at a time during which hostilities (as defined in section 1712A(a)(2)(B) of such title) occurred in such area.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by adding at the end the following:

"(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.".

SEC. 204. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) IN GENERAL.—Section 7437(e) is amended by striking out "only for the special pay" and all that follows through the period in paragraphs (1)(C) and (2)(C) and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 187).

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendments made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose.

SEC. 205. TRANSITION RULE FOR PAYMENT OF SPECIAL PAY UNDER CERTAIN SPECIAL PAY AGREEMENTS.

(a) TRANSITION RULE.—Section 104(d) of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 199) is amended by adding at the end the following: "In the case of a physician or dentist who was employed by the Department of Veterans Affairs on July 14, 1991, and who was ready and willing to enter into an agreement under such subchapter on such date, the agreement entered into by the physician or dentist shall take effect on that date without regard to the date of the approval of the agreement under the regulations prescribed to carry out such subchapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if enacted with section 104 of such Act.

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendment made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose.

SEC. 206. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.".

SEC. 207. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—LIFE INSURANCE PROGRAMS

SEC. 301. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $10,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 302. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

TITLE IV—COMPENSATION AND PENSION

SEC. 401. CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES.

For the purpose of calculating the baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907(b)) with respect to the increase in rates of veterans' compensation and disability and indemnity compensation for a fiscal year, the amount by which each rate of compensation or dependency and indemnity compensation is increased shall be assumed to be rounded to the nearest whole dollar.

SEC. 402. REDUCTION IN PENSION FOR VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1992, and shall apply with respect to months after December 1991. Such amendments shall expire in accordance with section 5503(f)(6) of title 38, United States Code.

SEC. 403. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERANS' BENEFITS LAWS.

(a) ACCESS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of Veterans Affairs where the disclosure of such information is necessary to, and such information is used solely for the purposes of, the proper administration of disability compensation, dependency and indemnity compensation, or pension under the provisions of title 38, United States Code, or section 10 of Public Law 85–857 (72 Stat. 1263).

"(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of Veterans Affairs and shall be barred from redisclosure by the financial institution or its agents.".

(b) PRIVACY SAFEGUARDS.—(1) Chapter 53 is amended by adding at the end the following new section:

"§ 5319. Limitations on access to financial records

"(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

"(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

"(2) cannot be secured by a reasonable search of records and information of the Department.

"(b) The Secretary shall include a certification of the determination referred to in subsection (a) in each request presented to a financial institution.

"(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5319. Limitations on access to financial records.".

TITLE V—MISCELLANEOUS

SEC. 501. EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "September 30, 1991" and inserting in lieu thereof "March 31, 1994".

SEC. 502. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) REESTABLISHMENT.—The Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388) is hereby reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than January 1, 1993, and January 1, 1994, the Committee shall submit to the Secretary a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall expire 60 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

SEC. 503. EXTENSION OF CERTAIN VOCATIONAL REHABILITATION AND TRAINING PROGRAMS.

Sections 1163(a)(2)(B), 1524(a)(4), and 1525(b)(2) are amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

SEC. 504. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "new" before "medical facility" the second place it appears; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 8104 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which funds were appropriated before the date of the enactment of this Act.

SEC. 505. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—Title 38, United States Code, is amended by striking out "Chief Medical Director" and "Chief Benefits Director" each place they appear (including in headings and tables) and inserting in lieu thereof "Under Secretary for Health" and "Under Secretary for Benefits", respectively.

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 506. REDESIGNATION OF SECTIONS OF CHAPTER 43.

(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBER.—Each section contained in chapter 43 is redesignated by replacing the first two digits of the section number with the number of that chapter.

(b) TABLES OF SECTIONS AND CHAPTERS.—(1) The table of sections at the beginning of chapter 43 is revised so as to conform the section references in that table to the redesignations made by subsection (a).

(2) The items relating to chapter 43 in the table of chapters before part I and in the table of chapters at the beginning of part III are revised so as to conform the section reference to the redesignations made by subsection (a).

(c) CROSS-REFERENCES.—(1) Any provision of title 38, United States Code, that contains a reference to a section redesignated by subsection (a) is amended so that the reference refers to the section as redesignated.

(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (a) shall be deemed to refer to the section as so redesignated.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution contains proposed amendments to H.R. 2280, a bill that passed the House on June 25 containing our recommendations for changes to health care provisions for veterans and eligible dependents. The other body did not act on the measure until last Wednesday when it passed the bill with several amendments. Time will not permit us to resolve differences on many issues; however, the proposed amendments we offer today have merit and should be enacted before adjournment. Although I cannot assure my colleagues that the recommendations contained in this bill will be accepted in the other body, we have worked very hard to reach agreement on several key issues and we hope the other body will concur and send the bill to the President before we leave town.

I want to thank the gentleman from Arizona [BOB STUMP], distinguished ranking minority member of the full committee, and the very able ranking minority member of the Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, for their help in getting these amendments together in such a short period of time.

I am grateful to the chairman of our Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, for his help on two important insurance provisions.

The proposed amendments address a number of important matters. Among these, it tackles two very serious problems which affect thousands of veterans, particularly veterans of the Vietnam era. These are posttraumatic stress disorder—commonly referred to as PTSD—and problems associated with the homeless. In both cases, we know that VA is doing some fine work to repair the lives of those caught up with these problems. But we know that more needs to be done.

Mr. Speaker, in a relatively few years VA has begun to build a network of specialized programs across the country to provide for treating veterans suffering from PTSD. Our committee has authorized the establishment of additional PTSD units and, earlier this year, Congress appropriated an additional $10 million to further those efforts. What is lacking, however, is a comprehensive assessment by VA of veterans' needs and a strategic plan for treating PTSD which can provide a basis for the Department and the Congress to make sound funding judgments.

This bill would require the Secretary to develop such a plan. It would also make clear that the plan must address the real problems facing veterans, such as the length of time it takes for a veteran to be admitted to a PTSD unit; better access in certain areas of the country, and the veteran's own reluctance to seek out these services.

Mr. Speaker, we view such a plan as a vital step in our ongoing efforts to help rehabilitate veterans suffering from PTSD.

The proposed amendments would address a second very important issue: What more we can do for homeless veterans.

We know that being homeless is not just a VA problem. And we know it is not a simple problem. Often a large number of the homeless suffer from mental illness or drug and alcohol abuse. Many are not aware of sources of help already available to them.

No one government or private entity can itself help the individual overcome all of these problems. For that reason, many of VA's success stories involve links with community organizations and local governments. Through such means, VA can bring a number of resources to bear on the problems of the individual veteran.

H.R. 2280 would build on the successes VA has experienced. But it would do more. It would direct the VA to coordinate its efforts to plan for and serve the homeless with those having that responsibility in the community.

The bill would also extend for 2 years—through September 30, 1993—the VA's highly regarded program of community-based residential care for homeless, mentally ill veterans.

Finally, the proposed amendments would increase the authorization of appropriations for VA under the McKinney Homeless Assistance Act.

Mr. Speaker, in the interest of time I will not detail all the provisions of the bill, but I will highlight a couple other key provisions.

The proposed amendments would authorize establishment of a special marriage and family counseling program to assist Desert Storm veterans and family members. This is a very important provision for those Reserve and National Guard units that were called to active duty.

This measure would also increase the Chief Medical Director's ability to monitor care throughout the system, and thus to assure better quality of care. The additional flexibility which this authority would provide should help accelerate implementation of the quality assurance programs which VA has already set in motion.

Mr. Speaker, the provision of medical care is multifaceted and has many elements which underlie maintenance of quality. The availability of needed medications, for example, is one such element. The Veterans' Affairs Committee this session has devoted considerable attention to VA's ability to procure needed drugs. On September 11, 1991, our Subcommittee on Hospitals and Health Care held a hearing to receive testimony about the reasons for, and implications of, sharp increases in drug prices to the VA in preceding months. The committee has learned that the Department is sustaining increased pharmaceutical costs after accounting for inflation amounting to more than $60 million annually in relation to a drug budget in 1990 of $700 million. In short, many manufacturers increased drug prices in response to provisions of section 4401 of the Omnibus Budget Reconciliation Act of 1990 [OBRA-1990]. The act created a mechanism aimed at providing discounted drug prices to the State Medicaid programs. Those discounts, provided through rebates, are keyed to best prices in the market. With the law's failure to exempt all VA prices from consideration in Medicaid rebate calculations, many manufacturers have dramatically hiked VA prices.

To overcome that situation, section 519 of the VA-HUD and Independent Agencies Appropriations Act for fiscal year 1992, Public Law 102-139, excluded prices paid by VA from the Medicaid rebate calculation. The statute provides, in pertinent part, that:

> Notwithstanding any other provision of law—prices for drugs and biologicals paid by the Department of Veterans Affairs, and prices for drugs and biologicals on contracts administered by the Department of Veterans Affairs, shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers.

Although the aim of section 519 was clear on its face—to preclude VA prices from being used to calculate Medicaid rebates—manufacturers have asserted that a lowering of VA prices would still make them a benchmark for Medicaid rebates. The argument is based on a drug rebate law in effect in New York State—the Elderly Pharmaceutical Insurance Coverage Program [EPIC]. Manufacturers state that any reduced price offered to VA must be provided to EPIC; in a leap of logic, they further assert that that rebate to EPIC would then become the benchmark best price for Medicaid rebate purposes, notwithstanding the exclusionary provisions of section 519 of 102-139.

That assertion apparently relies on a tunnel-visioned reading of the definition of best price in OBRA-1990, which ignores the import and significance of section 519, a later and more specific provision of law. Discounts to the EPIC Program, and other like it, cannot reasonably be deemed to provide a reference price for Medicaid rebates except by ignoring the clear language and intent of Congress. Public Law 102-139 clearly prohibits the use of VA or VA-administered prices as a benchmark for Medicaid rebates notwithstanding any other provision of law.

Mr. Speaker, the intent and the meaning of section 519 is clear, and the proposed amendments would not change it. The proposed amendments would simply clarify, with even more specificity than section 519 itself, what that measure means. It would provide, in essence, that Medicaid pharmaceutical rebate calculations shall not use prices paid by VA for drugs, or prices paid by States under contracts which use VA prices as a benchmark.

Mr. Speaker, in addition to its many provisions relating to the provision of medical care, the House amendments contain two important insurance provisions. The first would allow a totally disabled veteran to purchase, at standard rates, $10,000 additional insurance under the Service Disabled Veterans Insurance Program.

In addition, the amendments would increase the veteran's mortgage life insurance ceiling from $40,000 to $90,000.

There follows a more detailed explanation of the House amendments.

Mr. Speaker, this is a good measure and I urge my colleagues to support the resolution.

EXPLANATORY STATEMENT ON THE HOUSE AMENDMENTS TO THE SENATE AMENDMENTS TO H.R. 2280 THE "VETERANS' PROGRAMS AMENDMENTS OF 1991"

This document explains the provisions of various measures (listed below) passed by the Senate and House which are offered as a proposed House substitute amendment to H.R. 2280. There remain many issues outstanding with respect to health-care, compensation and pension, and other matters covered in the measures listed below that are not described in this document.

The measures referred to above are as follows:

H.R. 1047, the proposed "Veterans' Benefits Programs Improvement Act of 1991," as first passed by the House on April 11, 1991. (H.R. 1047 as amended and enacted in Public Law 102-86, did not contain the provisions now incorporated in this compromise agreement.)

H.R. 2280, the proposed "Veterans' Health Care and Research Amendments of 1991," as passed by the House on June 25, 1991.

S. 775, the proposed "Veterans Benefits Improvement Act of 1991," as reported by the Senate Committee on August 2, 1991, and modified by the Committee and passed by the Senate on November 20, 1991.

S. 869, the proposed "Veterans Health Care Amendments Act of 1991," as reported by the Senate Committee on July 24, 1991, and modified by the Committee on November 20, 1991, the text of which was passed by the Senate on November 20 as a substitute for the text of H.R. 2280.

H.R. 2280 as passed by the House is referred to as the "House bill" and the text of S. 869 as passed in H.R. 2280 is referred to as the "Senate amendment." All other measures are referred to by bill number.

TITLE I—GENERAL HEALTH

PART A—GENERAL HEALTH CARE

Increase in limit on certain grants for home structural alterations for disabled veterans

Current law: Section 1717(a)(2) of title 38 authorizes VA to furnish, as part of medical services furnished to a veteran under section 1712(a) of title 38, improvements and structural alterations as necessary to assure the continuation of treatment for the veteran's disability or to provide the veteran access to the home or to essential lavatory and sanitary facilities. The cost of (or reimbursement for) the improvements and alterations may not exceed (a) $2,500 in the case of medical services furnished under section 1712(a)(1) of title 38, i.e., services furnished (1) to a veteran for a service-connected disability, (2) for any disability of a veteran who has a service-connected disability rated at 50 percent or more, or (3) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of title 38; or (b) $600 in the case of medical services furnished under any other provision of section 1712 of title 38.

House bill: Section 104 would amend section 1717(a)(2) so as to increase, effective October 1, 1991, the maximum amount of reimbursement for such home modifications to (a) $3,300 in the case of medical services furnished under section 1712(a)(1) of title 38; or (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

Senate amendment: Section 202, effective on the date of enactment, would (a) increase the maximum amount of reimbursement for such home modifications to $5,000 in the case of medical services furnished under section 1712(a)(1) of title 38; and (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

House amendment: Section 101 would (a) increase the maximum amount for home modifications to (1) $4100 in the case of medical services furnished under section 1712; (2) $1200 in the case of medical services furnished under any other provision of section 1712; (b) provide that the new rates would be effective in any case of a veteran who first applies for the grant benefit on or after January 1, 1990; and (c) clarify that a veteran who, prior to January 1, 1990, received the maximum amount of reimbursement authorized under the current limits of section 1717 is not entitled to additional monetary benefits by reason of the amendments.

Extension of annual report on furnishing health care

Current law: Section 19011(e)(1) of Public Law 99-272, the Veterans' Health Care Amendments of 1986 (a) requires the Secretary to submit to the House and Senate Committees on Veterans' Affairs, not later than February 1 following the fiscal year covered in a report, annual reports on the furnishing of hospital care in fiscal years 1986, 1987, 1988, and 1989 to veterans who are entitled to such care under section 1710(a) of title 38; and (b) specifies the type and detail of information which must be provided in the reports.

House bill: Section 103 would amend section 19011(e)(1) so as to extend this reporting requirement through FY 1992.

Senate amendment: No provision.

House amendment: Section 102 follows the House provision.

Submission of reports of Geriatrics and Gerontology Advisory Committee

Current law: Section 7315(f)(2) of title 38 (a) requires the Secretary to establish a Geriatrics and Gerontology Advisory Committee (GGAC); (b) sets forth the GGAC's duties; and (c) requires the GGAC, not later than April 1, 1983, to submit to the Secretary, through the Chief Medical Director, a report with respect to its findings and conclusions including certain specific information; (d) requires the GGAC, following the submission of that report, to submit to the Secretary, through the Chief Medical Director, such further reports as the GGAC considers appropriate; and (e) requires the Secretary to transmit the reports, together with the Secretary's comments and recommendations thereon, to the House and Senate Committees on Veterans' Affairs not later than 90 days after receipt from the GGAC.

House bill: Section 302 would amend section 7315(f)(2)(C) so as to add a requirement that any reports issued by the GGAC be submitted simultaneously to the Secretary and the Committees.

Senate amendment: No provision.

House amendment: Section 103 follows the House provision.

Research corporations

Current law: Subchapter IV of chapter 73 of title 38 (a) authorizes VA to establish at any VA medical center a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center; (b) requires the Secretary to dissolve any research corporations established pursuant to this authority that fail to obtain, within three years after establishment, recognition from the Internal Revenue Service as a tax-exempt entity under section 501(c)(3) of the Internal Revenue Code of 1986; (c) requires that any corporation established under this authority operate solely to facilitate research described in section 7303 of title 38; and (d) requires that any research corporation established under this authority be established no later than September 30, 1991.

House bill: Section 306 would (a) amend section 7361(b) so as to extend from three years to four years after a research corporation is established the period during which it must obtain recognition as a tax-exempt entity; and (b) amend section 7368 of title 38 so as to extend VA's authority for establishing research corporations for one year, through FY 1992.

Senate amendment: No provision.

House amendment: Section 104 follows the House provision with an amendment to extend the authority to establish the corporations through calendar year 1992.

Authority to hold joint title to medical equipment

Current law: Section 8153(a) of title 38 authorizes the Secretary of Veterans Affairs to make arrangements, by contract or other form of agreement, for the sharing of specialized medical resources, including medical equipment, between VA health-care facilities and non-VA facilities for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a VA health-care facility to provide a similar resource, or when specialized VA medical resources, while justified on the basis of veterans' care, are not utilized by VA to their maximum effective capacity. This section does not contain a specific authority for the joint procurement of medical equipment.

House bill: Section 308 would amend chapter 81 so as to add a new section 8157 which would (a) permit the Secretary to enter into agreements with non-VA institutions described in section 8153(a) of title 38 for the acquisition of medical equipment provided (1) the Secretary pays not more than one-half of the purchase price of equipment acquired, (2) the Secretary procures the equipment, (3) the Secretary and the chief executive of the non-VA institution arrange by contract, before the equipment is used, for the exchange of use of the equipment, and (4) the Secretary does not contract for the acquisition of such equipment until the non-VA institution provides its share of the purchase price of the equipment to the Secretary; (b) permit the Secretary, notwithstanding any other provision of law, to (1) transfer VA's interest in equipment acquired through a joint agreement to the non-VA institution holding joint title to the equipment if (A) the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of VA, and (B) the institution agrees to pay VA one-half of the depreciated purchase price of the equipment, and (2) acquire the interest of the non-VA institution in the equipment if (A) the Secretary determines that the acquisition would be justified by the considerations specified in (b)(1), above, and (B) VA pays no more than one-half of the depreciated price of the equipment; (c) permit the Secretary to enter into an escrow agreement with the non-VA institution which would (1) require that institution to pay to the Secretary the funds necessary to make a payment under a joint-funding acquisition agreement, (2) require the Secretary, as escrow agent, to administer those funds in an escrow account, and (3) require the Secretary to disburse those funds to pay for the equipment upon its delivery or in accordance with the procurement contract and disburse all accrued interest or other earnings on the escrowed funds to the non-VA institution; (d) permit the Secretary, as escrow agent, to (1) invest the escrowed funds in obligations which are insured or guaranteed by the Federal Government, (2) retain in the escrow account interest or other earnings on the investments, (3) disburse the funds pursuant to the escrow agreement, and (4) return undisbursed funds to the non-VA institution; (e) permit the Secretary, if the Secretary enters into an escrow agreement, to enter into a joint-funding acquisition agreement, if one-half of the purchase price of the equipment is available in an appropriation of funds for the expenditure or obligation; (f) require that funds held in an escrow account not be considered public funds; and (g) require the Secretary, not later than November 1, 1991, to submit to the House and Senate Committees on Veterans' Affairs a report on the Secretary's plans for implementation of this provision, along with identification and discussion of (1) the instructions the Secretary proposes to issue to medical facilities for the development of proposals for joint procurement of medical equipment, including instructions for ensuring equitable arrangements for use of the equipment by VA and the non-VA sharing partner, (2) the criteria the Secretary plans to use to evaluate proposals, (3) the means by which the Secretary will integrate the process of procuring equipment with policies and procedures governing health-care planning for VHA, and (4) the criteria by which determinations regarding the transfer of title to equipment would be made.

Senate amendment: No provision.

House amendment: Section 105 follows the House provision except that it would require the Secretary to submit the implementation-planning report to the House and Senate Veterans' Affairs Committees not later than 45 days after the date of enactment.

Quality assurance activities

Current law: Section 7311 of title 38 (a) requires the Secretary to (1) establish and conduct a comprehensive program to monitor and evaluate the quality of VA health-care services, and (2) delineate the responsibilities of the Chief Medical Director with respect to the quality assurance program; (b) specifies the types of information that the Chief Medical Director must evaluate as part of the quality assurance program; (c) requires the Chief Medical Director to make such recommendations as the Chief Medical Director considers appropriate on the basis of evaluations conducted pursuant to the quality assurance program; (d) requires (1) the Secretary to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Veterans Health Administration to carry out its responsibilities under section 7311 of title 38, and (2) the Inspector General to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality assurance program.

House bill: Section 309 of H.R. 2280 would require that, effective October 1, 1991, all quality assurance programs and activities carried out by the Secretary within the Veterans Health Administration be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities, without regard to the locations of the duty stations of the employees carrying out those programs and activities, and thus would be funded through the medical care account.

Senate amendment: No provision.

House amendment: Section 106 follows the House provision, modified to become effective October 1, 1992.

Advisory Committee on Prosthetics and Special-Disabilities Programs

Current law: On September 4, 1991, the Secretary administratively established a Prosthetic Services Advisory Committee with twelve members.

House bill: No provision.

Senate amendment: Section 205 would require the Secretary to establish an Advisory Committee on Prosthetics and Special-Disabilities Programs with membership including representatives of veterans-prosthetic users, recognized experts in the field of prosthetics engineering, and individuals engaged in prosthetics research, rehabilitative medicine, and relevant clinical treatment. The function of the Committee would be to advise the Secretary on all matters related to prosthetics and special-disabilities programs administered by the Secretary; the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetics devices; the coordination of Department programs and non-Department programs that involve the development and testing of prosthetics devices; and the adequacy of funding for the prosthetics and special-disabilities programs of the Department. The Committee would be required to submit concurrently to the Congressional Committees on Veterans' Affairs and the Secretary annual reports beginning on January 15, 1992. Not later than 30 days after receiving each report, the Secretary would be required to submit a report to the Congressional Committees on Veterans' Affairs commenting on the Advisory Committee's report.

Compromise agreement: Section 107 follows the Senate amendment with amendments such that the compromise agreement (a) requires the existing VA Prosthetics Services Advisory Committee—the charter of which was filed on September 4, 1990—to adhere to the objectives and scope set forth in the Senate provisions; and (b) with respect to the Advisory Committee annual reports (1) requires the reports only on May 15, 1992, and January 15 of 1993, 1994, and 1995, and (2) requires that the Secretary submit commentary on the Advisory Committee's annual reports to the Committees not later than 60 days after the date on which any such report is received by the Secretary.

Prosthetic services report.

House bill: No provision.

Senate amendment: Section 209 would require the Secretary to submit to the Congressional Committees on Veterans' Affairs a report by January 15, 1992, containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in FY 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established in section 1712(i)(1) of title 38, and (b) a description of the actions that the Secretary has taken and is planning to take to prevent such a recurrence of these problems.

Compromise agreement: Section 108 follows the Senate amendment with an amendment which changes the due date for the report to June 15, 1992.

Services for homeless veterans

Assessment of the Needs of Homeless Veterans and Available Services.

House bill: No provision.

Senate amendment: Section 203(a)(1) would require each VA medical center (VAMC) or regional benefit office (RO) (in consultation with all VA facilities serving veterans in the appropriate service area and with existing community-based organizations that have experience in working with homeless persons) to make an assessment of the needs of homeless veterans in that facility's catchment area for health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Section 203(a)(2) would require each VAMC, in conjunction with the appropriate RO and the Director of Veterans Employment and Training in the State, to develop a plan for each of FYs 1992, 1993, and 1994 for the provision of outreach and other comprehensive services to homeless veterans in that VAMC/RO catchment area and, in developing such a plan, to attempt to the maximum feasible extent to meet, within existing authorities and available resources, needs identified in the assessment as unmet and to coordinate with other Federal, State, and local programs that provide services to homeless persons or homeless veterans. Each plan would be required to include a list of all local, private, and governmental programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Section 203(a)(3) would require the director of each VAMC to be responsible for carrying out the plan for that VAMC's catchment area and taking appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within that area.

Section 203(a)(4) would require each VAMC director to disseminate to all other government agencies, local governments, and private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the VAMC or other VA facilities.

Compromise agreement: Section 109 generally follows the Senate amendment with amendments such that the compromise agreement would require the Secretary to (a) assess all programs developed by facilities of the Department which have been designed and established to assist homeless veterans; (b) to the maximum extent practicable, seek to replicate at other facilities of the Department those programs which have as a goal of rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of such veterans in the community and the employment of such veterans; and (c) require directors of VA medical centers and regional benefits offices, in coordination with non-VA organizations with experience working with local homeless persons, to develop lists of all programs assisting homeless persons and encourage the cooperative development of a local plan for coordinating services for homeless veterans.

Extension of Homeless Chronically Mentally Ill (HCMI) Veterans Program

Current law: Under section 115 of Public Law 100-322, the Veterans' Benefits and Services Act of 1988, VA was required, in FYs 1988 and 1989, to conduct a pilot program to provide care, treatment, and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless chronically mentally ill (HCMI) veterans who are eligible for care under section 1710(a)(1) of title 38. Public Law 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (McKinney Act II), authorized appropriations of $30 million for each of FYs 1989 and 1990 and required that 50 percent of the funds so appropriated in each of those years be available for the HCMI program and 50 percent be available for the Domiciliary Care for Homeless Veterans (DCHV) program (discussed below). Public Law 101-237 extended the authority for the HCMI program through FY 1992, and Public Law 101-645 authorized appropriations of $31.5 million for FY 1991 and $33.075 million for FY 1992 to be divided equally between the HCMI and DCHV programs.

House bill: Section 106 would extend and expand the HCMI program, subject to a specified level of funding for VA medical care above the President's budget request, by (a) increasing the number of VA employees in geographic areas with the greatest need; (b) establishing additional programs in at least four cities in which there is a significant unmet need for assistance for homeless chronically mentally ill veterans; and (c) authorizing appropriations of $3.3 million for fiscal year 1992 and such sums as are necessary for subsequent fiscal years for such expansion.

Senate amendment: Section 203(e) would (a) extend through FY 1993 the authorization of HCMI appropriations and increase the authorized levels of appropriations to $35 million for FY 1992 and $40 million for FY 1993; and (b) extend the HCMI program's authority by two years, through FY 1994.

Compromise agreement: Section 109 extends the HCMI programs's authority through FY 1994 and increases the authorized level of appropriations for the HCMI and DCHV programs to $50 million for FY 1993, with funds appropriated in that year to be allocated between those two programs at the Secretary's discretion.

Extension of Domiciliary Care for Homeless Veterans (DCHV) Program

Current law: Public Law 100-71, the Supplemental Appropriations Act of 1987, authorized VA to implement the DCHV program and appropriated $15 million for the conversion to domiciliary-care beds of underutilized space located in facilities in urban areas in which there are significant numbers of homeless veterans. Subsequent authorizations of appropriations of $15 million for FYs 1989 and 1990 were enacted in McKinney Act II, and authorizations of $15.75 million for 1991 and $16.54 million were enacted in Public Law 101-645.

House bill: No provision.

Senate amendment: Section 203(e) would extend through FY 1993 the authorization of DCHV appropriations and increase the authorized level of appropriations to $22.5 million for FY 1992 and $25 million for FY 1993.

Compromise agreement: As noted above, section 109 authorizes the appropriation of $50 million for the HCMI and DCHV programs for FY 1993, with funds appropriated in that year to be allocated between those two program at the Secretary's discretion.

Authority to Accept Donations for Certain Programs

Current law: Section 8301 of title 38 authorizes the Secretary to accept devises, bequests, and gifts with respect to which the donor has indicated a desire that the property be used for the benefit of veterans or a veterans' hospital or home.

House bill: Section 106(b) would authorize a pilot program, subject to the appropriation of a specified level of funding for VA medical care above the President's budget request, involving the provision of services to the homeless, in conjunction with a public or nonprofit entity, through the use of mobile outreach services, medical and rehabilitative services, and provision of transitional housing.

Senate amendment: Section 203(c) would authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams and expanding the health services available to homeless veterans eligible for VA benefits and services.

Compromise agreement: Section 109(e) follows the Senate amendment.

Report

House bill: No provision.

Senate amendment: Section 203(f) would require the Secretary to submit by February 1, 1993, a report of an evaluation of the effectiveness of VA's implementation during FYs 1991 and 1992 of the provisions relating to homeless veterans.

Compromise agreement: Section 109(i) follows the Senate amendment.

Prohibition against use of prices of drugs paid by the Department of Veterans Affairs in the calculation of Medicaid best-price rebates

Current law: Section 1927 of the Social Security Act (42 U.S.C. 1396r-8), as enacted by section 4401 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) requires pharmaceutical manufacturers to issue quarterly rebates to State Medicaid programs for all drugs dispensed to Medicaid beneficiaries on an outpatient basis. The amount of the rebate is equal to the greater of (a) the difference between the average manufacturers price (AMP) for a drug and the best price charged to any other purchaser for that drug, or (b) 12.5 percent of the AMP for the drug. Section 519 of Public Law 102-139, the FY 1992 VA, HUD, and Independent Agencies Appropriations Act (a) prohibits the use of prices for drugs and biologicals paid for by VA or pursuant to contracts administered by VA for calculation of Medicaid best-price rebates until the earlier of (1) the effective date of legislation regarding VA drug prices is enacted, or (2) June 30, 1992; (b) requires the Secretary of Veterans Affairs to attempt to negotiate new contracts, or renegotiate current contracts, for drugs and biologicals paid for by VA or pursuant to VA-administered contracts; and (c) requires the Secretary to submit, not later than June 30, 1992, a report to the House and Senate Veterans' Affairs Committees, the House and Senate Appropriations Committees, the House Energy and Commerce Committee, and the Senate Finance Committee on the percentage increase in prices for drugs and biologicals paid by VA from September 1, 1990, to a date 60 days prior to the date of the report of each drug and biological listed on the Federal Supply Schedule.

House bill: No provision.

Senate amendment: Section 215 would amend section 519 of Public Law 102-139 so as to prohibit the use of prices for drugs and biologicals (after any rebate or discount) paid pursuant to contracts entered into with States, which are referenced to, as a basis for rebates or discounts, prices paid by VA or pursuant to VA-administered contracts, for Medicaid best-price rebate calculations under section 1927 of the Social Security Act.

House amendment: Section 110 follows the Senate amendment with an amendment clarifying that this measure does not constitute legislation triggering the expiration of section 519.

PART B—MENTAL HEALTH PROVISIONS

Marriage and family counseling for Persian Gulf war veterans

Current law: Under sections 1701(6)(B), 1712(b)(2), and 1712A(b)(2) of title 38, VA has limited authority to provide counseling services to family members of eligible veterans. Counseling of family members may be provided only if it is either necessary for the effective treatment or rehabilitation of a service-connected disability of a veteran, part of a necessary follow-up treatment of a veteran who has been hospitalized, or essential to the effective treatment or readjustment of a veteran receiving mental health services under VA's readjustment counseling authority.

House bill: No provision.

Senate amendment: Section 131 through 134 include provisions that would establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and the spouses and families of such veterans, as follows:

Basic Requirement. Section 131(a) would require VA to establish, within 30 days after enactment and subject to the availability of appropriations, a program of marriage and family counseling for certain Persian Gulf War veterans and their families. The authority for this program would expire on September 30, 1994.

Persons Eligible for Counseling. Section 131(b) would authorize VA to provide, either directly or by contract, marriage and family counseling to (a) veterans who were awarded campaign medals for active-duty service during the Persian Gulf war and their spouses, children, and parents, and (b) veterans who are or were members of reserve components—including the Reserve and National Guard forces—who were called to active duty during the war and their spouses, children, and parents.

Counseling Services. Section 131(c) would permit VA to provide only marriage and family counseling that the Secretary determines—based on an assessment by a mental-health professional designated by the Secretary—is necessary for the amelioration of psychological, martial, or familial difficulties that resulted from the veteran's active duty service.

Manner of Furnishing Services. Section 131(d) would (a) require that the marriage and family counseling be furnished either (1) directly by VA personnel, including marriage and family counselors employed by VA, whom the Secretary determines are either appropriately certified or otherwise qualified, or (2) through contract arrangements with mental health professionals who the Secretary determines are appropriately qualified; and (b) authorize VA to employ certified marriage and family counselors to provide counseling under the program and pay them at the rates prevailing for such counseling among non-VA professionals in the same locality.

Contract Counseling Services. Section 131(e) would, in the case of contract counseling (a) require the provider to sumbit to VA within 15 days of the start of the treatment, on a form prescribed by the Secretary, a treatment plan which includes how many visits are expected. In a case in which a treatment plan is disapproved, require VA to reimburse the mental health professional for the reasonable cost (as determined by the Secretary) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval; (b) provide that, when counseling is provided under a contract with VA, no care may be provided more than 90 days after the counseling was initiated (or after the end of a previously approved period of care) unless approved by the Secretary on the condition that counseling is needed as a result of active-duty service and is provided pursuant to an updated treatment plan submitted not more than 30 days before the end of the 90-day period (or before the end of the previously approved period of care); and (c) provide that, in the case of contract counseling, if a non-VA mental health professional determines that counseling is needed to ameliorate psychological difficulties resulting from active-duty service, that same mental health professional generally may not provide the services. The Secretary would be authorized to waive this prohibition for locations in which the Secretary is unable to obtain the assessment by a mental health professional other than the one with whom the Secretary contracts for the furnishing of counseling services.

Cost Recovery. Section 131(f) would provide that the third-party reimbursement provisions in section 1729 of title 38, United States Code, under which VA is authorized, under certain circumstances, to collect from insurers the cost of care provided by VA, would apply to services provided under the pilot program.

Authorization of Appropriations. Section 133 would authorize the appropriation of $1 million for fiscal year 1991 and $10 million for each of fiscal years 1992, 1993, and 1994 and declare that the funds are emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget Act of 1985, but provided that the funds could be used only if the President designates the appropriation as an emergency requirement.

Reports. Section 134 would require the Secretary to submit (a) by January 1, 1993, an interim report describing the number of individuals who have received care under the program and the numbers of visits that the individuals made, with breakdowns showing the numbers who were reservists, other veterans, spouses, children, or parents and the numbers of individuals who received direct VA services as opposed to contract services; and (b) by January 1, 1994, a report that includes updates of those data and a description and evaluation of the program and any recommendations that the Secretary considers appropriate.

House amendment: Section 121 follows the Senate amendment with amendments that (a) eliminate the January 1, 1994, final report requirement; (b) strike the 30-day requirement for implementation of the program; (c) change the program expiration date to December 31, 1993; (d) change the FY 1994 authorization of appropriations for the program to $3 million (e) exclude parents from eligibility for counseling under the program; (f) authorize VA to establish a personnel classification specifically for marriage and family counselors; (g) and clarify that any contract arrangements are subject to the provisions of section 1703 of title 38 which permit VA to contract for medical and rehabilitative services only when VA facilities are not capable of furnishing economical services because of geographic inaccessibility or are not capable of furnishing the required services.

The Committees encourage the Secretary, in carrying out the program, to utilize to the maximum extent practicable the VA/DOD joint sharing authority.

Post-traumatic stress disorder research and reports

House bill: Section 404 would require that the Secretary (a) in carrying out research and awarding grants under chapter 73 of title 38, designate a level of funding support and priority to the conduct of research on mental illness including research on PTSD, and PTSD in association with substance abuse, and research on the treatment of those disorders, and (b) submit a report to the Congressional Committees on Veterans' Affairs on the implementation of this provision not later than December 1, 1992.

Senate amendment: Section 106(a)(6)(B) would, as noted above, require the Secretary, as part of the reporting requirement in section 106, to provide information on the Secretary's efforts to give research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health.

Compromise agreement: Section 122 follows section 404(a) of the House bill with an amendment clarifying that the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding PTSD and deleting the requirement to designate a level of funding support.

Special Committee on Post-Traumatic Stress Disorder

Current law: Under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528), the Secretary is required to submit to the Congressional Committees on Veterans' Affairs annual reports, not later than February 1 of 1986, 1987, 1988, and 1989, regarding the Department's efforts regarding PTSD and to include in such reports the views of the Department's Special Committee on PTSD. Section 210(e) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) required the Special Committee to submit concurrently to the Department and the Congressional Committees by February 1, 1990, a report updating the earlier reports. Section 204 of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366) requires the Special Committee to submit a report concurrently to the Department and the Congressional Committees by February 1, 1991.

House bill: No provision.

Senate amendment: Section 108 would extend for two years the reporting requirements of VA's Special Committee on PTSD and require the reports to be submitted concurrently to VA and the Congressional Committees.

Compromise agreement: Section 122 follows the Senate amendment.

Post-traumatic stress disorder treatment services

House bill: Section 403 would (a) require the Secretary (1) to seek to implement the recommendations of the Chief Medical Director's Special Committee on PTSD regarding the expansion of specialized PTSD treatment programs, and (2) subject to certain funding limitations, to establish and operate in locations the Secretary deems appropriate, not less than five new specialized inpatient PTSD units, not less than ten new PTSD clinical treatment teams, and not less than five outpatient programs for treatment of veterans suffering from both PTSD and substance abuse; and (b) authorize appropriations of $7.4 million for these programs in FY 1992 and such sums as may be necessary in subsequent years.

Section 405 would require the Secretary, in consultation with the Chief Medical Director's Special Committee on PTSD, to assess the need for treatment and rehabilitative services for veterans with PTSD and develop a plan for delivery of PTSD treatment and rehabilitation based on (a) the Secretary's estimate of the numbers of veterans who suffer from PTSD who are likely to seek care from VA and are entitled by law to such care; (b) the current and projected capacity to provide services; and (c) the Secretary's evaluation of existing programs.

Section 405(c) would require that, not later than August 30, 1992, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the needs assessment and plan as described in section 405(a).

Senate amendment: Section 105 would require that, not later than December 1, 1991, the Secretary (a) devise and initiate implementation of a plan to increase, to levels commensurate with the needs of veterans suffering from PTSD related to active-duty service, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach activities to combat veterans and encourage such veterans to participate in treatment.

Section 106 would require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the plan described in section 105. The report would be required to include (a) a description of the plan; (b) a description of the resources necessary to increase treatment availability for PTSD and enhance outreach; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD, and (2) giving PTSD-related research a priority in VA mental-health research funding; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

Compromise agreement: Section 123 requires the Secretary to (a) develop a plan to (1) ensure to the maximum extent practicable that veterans suffering from PTSD related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner, (2) expand and improve the services available for veterans suffering from PTSD related to active duty, (3) eliminate waiting lists for inpatient and other modes of treatment for PTSD, (4) enhance outreach activities to inform combat-area veterans of the availability of treatment for PTSD, and (5) ensure, to the extent practicable, that there are Department PTSD units in locations readily accessible to veterans residing in rural areas of the United States; (b) consider, in developing the plan described above (1) the numbers of veterans suffering from PTSD related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information, (2) the numbers of veterans who would likely seek PTSD treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with PTSD were enhanced, (3) current and projected capacity to provide appropriate treatment and rehabilitative services for PTSD, (4) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States, (5) the desirability of providing inpatient and outpatient PTSD care in Department facilities that are physically independent of general psychiatric wards at the Department's medical facilities, (6) the treatment needs of such veterans who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans) and of such veterans who suffer from substance abuse problems in addition to PTSD, and (7) the recommendations of the Under Secretary of Health's Special Committee on PTSD with respect to specialized inpatient and outpatient programs of the Department for the treatment of PTSD and the establishment of educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and (c) not later than April 30, 1992, submit to the Congressional Committees on Veterans' Affairs a report on the plan as described above.

TITLE II—HEALTH-CARE PERSONNEL

Cap on certain rates of pay

Current law: Section 7455 of title 38 (a) authorizes the Secretary to increase the minimum, intermediate, or maximum rates of basic pay for certain health-care personnel and VHA police officers on a nationwide, local, or other geographic basis; (b) requires that increases in rates of basic pay pursuant to this authority be made only in order to (1) provide salaries competitive with, but not in excess of, salaries paid to the same category of personnel at non-Federal facilities in a VA facility's local labor market, (2) achieve adequate staffing at particular facilities, or (3) recruit personnel with specialized skills; and (c) provides that (1) the amount of any increase under this authority in the maximum rate of basic pay for any grade may not exceed (except in the case of nurse anesthetists and licensed physical therapists) the amount by which the maximum for that grade exceeds the minimum rate of pay for that grade, and (2) the maximum rate as so increased may not exceed the rate paid for individuals serving in the position of Assistant Chief Medical Director.

House bill: No provision.

Senate amendment: Section 222 would amend subsection (c) of section 7455 so as to authorize the Secretary to increase the maximum rate under the special rates authority for any grade to two times the difference between the minimum and maximum rate of pay for that grade.

House amendment: Section 201 follows the Senate provision.

Minimum period of service for scholarship recipients

Current law: Section 7612 of title 38 sets forth criteria for participation in the Health Professional Scholarship Program, established pursuant to section 7611 of title 38 which include a requirement that an agreement between the Secretary and a scholarship recipient include (a) the Secretary's agreement to provide the recipient with a scholarship for a specified number (from one to four) of school years, and (b) the recipient's agreement to serve as a full-time VA employee for one calendar year for each school year or part thereof for which the recipient participated in the scholarship program.

House bill: Section 202 would amend section 7612(c)(1)(B) so as to require participants who enter into scholarship agreements after the date of enactment to serve as full-time employees in VHA for a minimum of two years.

Senate amendment: No provision.

House amendment: Section 202 follows the House provision.

Authority to purchase items of nominal value for recruitment purposes

Current law: Under current law, VA has no specific authority to purchase promotional items of nominal value for use in the recruitment of individuals for employment.

House bill Section 203 would (a) authorize the Secretary to purchase promotional items of nominal value for use in the recruitment of individuals for employment in VA healthcare positions, and (b) require the Secretary to prescribe guidelines for the administration of the procurement and use of such items.

Senate amendment: No provision.

House amendment: Section 203 follows the House provision.

Special pay for certain physicians and dentists based on board certification

Current law: Section 7437(e) of title 38 requires (a) that, in the case of a physician or dentist who was employed in the Veterans Health Administration (VHA) on a full-time basis on July 13, 1991, the day before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991, title I of Public Law 102-40, and on that date was being paid only for the special-pay factors of primary, full-time, and length of service, that physician or dentist shall continue to be paid special pay at a rate not less than the rate of special pay paid to him or her on that date; and (b) that a physician or dentist who was employed VHA on a part-time basis on July 13, 1991, and on that date; and (c) that a physician or dentist who was employed in VHA on a part-time basis on July 13, 1991, and on that date was being paid only for the special-pay factors of primary and length of service shall continue to be paid special pay at a rate not less than the rate paid to the physician or dentist on that date.

House bill: No provision.

Senate amendment: Section 225 would amend section 7437(e) so as to require that a physician or dentist who was employed in VHA on July 13, 1991, and who was being paid special pay for no special pay factors other than primary, full-time, length of service, or specialty or board certification shall continue to be paid special pay at an annual rate no lower than the rate at which the physician or dentist was paid on that date.

House amendment: Section 204 follows the Senate provision.

Transition rule for payment of special pay under certain special pay agreements

Current law: Section 104 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102-40) requires that the amendments to chapter 74 of title 38 made by that Act take effect on the first day of the first pay period beginning after the earlier of (a) July 1, 1991, or (b) the end of the 90-day period beginning on the date of enactment of that Act. However, it contains no specific provision regarding those physicians and dentists who were ready and willing to enter into new special-pay agreements on the effective date of title I of Public Law 102-40, but whose agreements were not approved under VA regulations on or before the effective date.

House bill: No provision.

Senate amendment: Section 226 would amend section 104(d) of Public Law 102-40 so as to (a) require that any special-pay agreement entered into by a physician or dentist under title I of that law who was employed by VA on the effective date of that title, July 14, 1991, and who was ready and willing to enter into a new special-pay agreement on that date, shall take effect as of that date without regard to the date of approval of that agreement; and (b) provide that expenses incurred for periods before October 1, 1991, by reason of the requirement described in (a), above, may be charged to fiscal year 1992 appropriations for the same purpose.

House amendment: Section 205 follows the Senate provision.

Authority to appoint non-physician directors to the Office of the Chief Medical Director

Current law: Section 7306(a) of title 38 authorizes the Secretary to appoint individuals to positions in the Office of the Chief Medical Director and, pursuant to section 7404 of title 38, pay such individuals under the title 38 authority.

House bill: No provision.

Senate amendment: Section 227 would amend section 7306(a) so as to authorize the Secretary to appoint all non-physician directors of clinical support services within VHA under the title 38 personnel appointment authority.

House amendment: Section 2067 follows the Senate provision.

Expansion of director grade of the physician and dentist pay schedule

Current law: Section 7404(b) of title 38 (a) establishes pay schedules for physicians and dentists, registered nurses, and clinical podiatrists and optometrists employed by the Veterans Health Administration; (b) limits the use of the director grade of the physician and dentist schedule to physicians and dentists servings as directors of hospitals, domiciliaries, centers, or independent outpatient clinics; and (c) limits the use of the executive grade of the physician and dentist schedule to physicians and dentists serving as chiefs of staff at a hospital, or independent outpatient clinic, or in a comparable position.

House bill: No provision.

Senate amendment: Section 228 would amend section 7404(b)(2) so as to authorize the use of the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, center, or independent outpatient clinic.

House amendment: Section 207 follows the Senate provision.

TITLE III—LIFE INSURANCE PROGRAMS

Supplemental service disabled veterans' insurance for totally disabled veterans

Current law: Section 1922(a) of title 38 requires VA to provide $10,000 in life insurance at standard rates to any veteran released from active duty after April 24, 1951, who is suffering from a service-connected disability that renders the veteran uninsurable according to standards of good health established by the Secretary and who applies for the policy within one year from the date service-connection is determined by VA.

Section 1912(a) of title 38 provides that, upon application by the insured and under such regulations as the Secretary may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if that disability began (a) after the date of the insured's application for insurance, (b) while the insurance was in force under premium-paying conditions, and (c) before the insured's sixty-fifth birthday.

House bill: No provision.

Senate bill: Section 501 of S. 127 as introduced, which was derived from section 501 of S. 2100 as reported by the Senate Committee on July 19, 1990, would (a) provide supplemental coverage at standard premiums, of up to an additional $10,000 in SDVI, to certain veterans who are eligible for a waiver of premiums due to total disability, and (b) specify that a veteran not currently eligible for waiver of premiums of SDVI would have a year, upon notification of eligibility, to apply for the supplemental coverage.

Compromise agreement: Section 301 follows the Senate bill.

Increase in amount of veterans' mortgage life insurance

Current law: Section 2106(b) of title 38 sets at $40,000 the maximum amount of Veterans' Mortgage Life Insurance (VMLI) available to veterans who have received a specially-adapted housing grant under chapter 21 of title 38.

House bill: Section 9(a) of H.R. 1047 would increase from $40,000 to $90,000 the maximum amount of VMLI available under section 2106 of title 38.

Senate amendment: No provision.

House amendment: Section 302 follows the House bill.

TITLE IV—COMPENSATION AND PENSION CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES

Current law: The "pay-as-you-go" rules in the Budget Enforcement Act of 1990 (BEA) (title XIII of Public Law 101-508) limit changes in current law that would increase payments of entitlements and other direct spending. The rules generally require sequestration of certain direct spending by a total amount equal to net spending in excess of the direct spending in a baseline calculated under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings"), as amended in 1990 by the BEA. Section 252 of Gramm-Rudman-Hollings (2 U.S.C. §902), as amended, gives the Office of Management and Budget (OMB) the responsibility to estimate the direct-spending costs or savings associated with newly enacted legislation.

The statutory definition of the baseline includes a provision, section 257(b)(2)(B) of Gramm-Rudman-Hollings, which states, "The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session."

House bill: No provision.

Senate bill: Section 3 of S. 775 would clarify that, for purposes of the sequestration baseline under section 257(b) of Gramm-Rudman-Hollings (2 U.S.C. §907(b)), as amended by section 13101(e) of the BEA, it is to be assumed that the veterans' compensation COLA for each rate of compensation will be rounded to the nearest whole dollar.

House amendment: Section 401 follows the Senate provision.

Reduction in pension for veterans' survivors who are receiving Medicaid-covered nursing home care

Current law: Section 5503(a) of title 38 limits to $90 a month the maximum amount of VA needs-based pension payable to veterans who are receiving care in VA domiciliaries or nursing homes and who have no dependents.

Section 8003 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 (OBRA), applies the $90-a-month limit on pension payments to Medicaid-eligible veterans who have no dependents and who are in nursing homes participating in Medicaid. Section 304 of Public Law 101-40 exempted from section 8003 of OBRA veterans who are in State veterans homes.

The OBRA provision does not reduce the amount of VA pension that a veteran actually receives, since the pension payments affected by OBRA formerly were passed through to the nursing home in which the veteran was receiving care. Following implementation of section 8003, Medicaid payments fully replace the VA pension payments for the veteran's nursing-home care. From the veteran's standpoint, the OBRA provision protects $90 a month of the VA pension from various State Medicaid rules that required the veteran to use almost all of the pension for his or her care, except for a personal allowance that is less than $90 a month in every State. Thus, the OBRA provision ensures that veterans whose VA pension is reduced under the provision receive slightly more personal spending money than they had been allowed to keep under prior law.

Survivors of veterans of wartime service, who are eligible for needs-based VA pension benefits, are not covered by section 8003, which expires September 30, 1992.

House bill: No provision.

Senate bill: Section 4 of S. 775 would extend section 8003 of OBRA to cover veterans' survivors receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid. The provision would take effect on November 1, 1991, and would expire on September 30, 1992, the same date on which section 8003 of OBRA expires.

House amendment: Section 402 follows the Senate provision, with an amendment providing that it would take effect January 1, 1992.

Access to information necessary for the administration of certain veterans' benefits laws

Current law: The Right to Financial Privacy Act of 1978 (RFPA) (Public Law 98-21) generally prohibits federal agencies from gaining access to or obtaining copies of information contained in the financial records of a customer from a financial institution unless the records are reasonably described and the customer has authorized disclosure or the records are sought pursuant to an administrative subpoena or summons, a search warrant, a judicial subpoena, or a "formal written request." There are 11 types of disclosures to Federal agencies that are excluded from the general prohibition, including disclosure authorized under the Internal Revenue Code and disclosure necessary for the proper Administration of programs of withholding taxes on nonresident aliens; Federal Old-Age, Survivors and Disability Insurance Benefits; and Railroad Retirement Benefits.

House bill: No provision.

Senate bill: Section 4 of S. 775 would amend the RFPA to authorize VA to obtain from financial institutions the current mailing addresses of certain VA beneficiaries whose benefits are deposited into their accounts by direct deposit. The Secretary would be authorized to request and obtain this information only if the Secretary determines and certifies that the information is necessary to administer veterans' benefits programs and that the information cannot be obtained by a reasonable search of the Department's records. Information disclosed by the financial institution under this provision could be used solely for the purpose of administering veterans' benefits programs.

House amendment: Section 403 would amend the RFPA to provide the basic authority for the Secretary to request and obtain the information and would add a new section 5319 of title 38, United States Code, to require the Secretary to make the determination and certification required in the Senate bill and to limit the use of the information as required in the Senate bill.

TITLE V—MISCELLANEOUS

Extension of authority of Secretary of Veterans Affairs to maintain the regional office in the Philippines

Current law: Section 315(b) of title 38 authorizes the Secretary to maintain a regional office in the Republic of the Philippines until September 30, 1991.

House bill: No provision.

Senate amendment: Section 7 would extend the authority to maintain such an office until December 31, 1996.

House amendment: Section 501 extends the authority until March 31, 1994.

Reestablishment of advisory committee on native-American veterans

Current law: Section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272) established the Advisory Committee on Native-American Veterans. Section 413 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) extended the Advisory Committee until February 1, 1989, to allow for an examination of the needs of Native Hawaiian veterans. The activities of the Advisory Committee officially ended 90 days after the Secretary submitted to the Committees on Veterans' Affairs the Advisory Committee's third and final report.

House bill: No provision.

Senate amendment: Section 302 would, effective October 1, 1991, reestablish the Advisory Committee on Native-American veterans for two years and require submission of two more reports on March 31, 1992 and 1993.

Compromise agreement: Section 502 follows the Senate amendment with an amendment to provide that the Advisory Committee will be reestablished on the date of enactment of the compromise agreement.

Extension of certain vocational rehabilitation and training programs

Program for Trial Work Periods and Vocational Rehabilitation

Current law: Section 1163 of title 38 provides that, during the period beginning on February 1, 1985, and ending on January 31, 1992, in the case of a veteran receiving compensation at the total-disability rate based on a determination of individual unemployability who participates in a program of vocational rehabilitation and begins to engage in a substantialy gainful occupation during the rehabilitation-program period, the compensation of the veteran will not be reduced as a result of that work income unless the veteran maintains the occupation for 12 consecutive months.

House bill: No provision.

Senate amendment: Section 214(a) would amend section 1163(a)(2)(B) to extend this program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Program of Vocational Training for New Pension Recipients

Current law: Section 1524 of title 38 provides, during the period beginning on February 1, 1985, and ending on January 31, 1992, for a program of vocational training for certain non-service-disabled wartime veterans awarded a need-based pension.

House bill: No provision.

Senate amendment: Section 214(b) would amend section 1524(a)(4) to extend the program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Protection of Health-Care Eligibility

Current law: Section 1525 of title 38 provides, during the period beginning on February 1, 1985, and ending on January 31, 1992, for a program of three-year protection of VA health-care eligibility for a veteran whose entitlement to pension is terminated during this period by reason of income from work or training.

House bill: No provision.

Senate amendment: Section 214(c) would amend section 1525(b)(2) to extend the program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Authorization requirement for construction of new medical facilities

Current law: Section 8104(a)(2) of title 38 provides that it is not in order in the Senate or in the House to consider a bill, resolution, or amendment that would make an appropriation for any fiscal year for a major medical facility project or a major medical facility lease unless (a) the bill, resolution, or amendment specifies the amount to be appropriated for that project or lease, (b) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and (c) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year. Section 8104(a)(3) defines a "major medical facility project" as a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2 million and a "major medical facility lease" as a lease for space for use as a medical facility at an average annual rental of more than $500,000.

House bill: Section 301 would amend section 8104(a) to provide that (a) no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law; (b) a "major medical facility lease" is a lease of space for use as a new medical facility; and (c) a covered lease is one with an average annual rent of more than $300,000.

Senate amendment: No provision.

House amendment: Section 504 follows the House provision.

Redesignation of positions of Chief Medical Director and Chief Benefits Director as Under Secretaries

Current law: Sections 305 and 306 of title 38 designate the heads of the Veterans Health Administration and the Veterans Benefits Administration of the Department of Veterans Affairs as the Chief Medical Director and Chief Benefits Director, respectively.

House bill: Section 310 would redesignate the positions of Chief Medical Director and Chief Benefits Director as the Under Secretary for Health and the Under Secretary for Benefits Administration, respectively.

Senate amendment: Section 8 would give to the position of Chief Medical Director the additional title Under Secretary for Health and to the position of Chief Benefits Director the additional title Under Secretary for Benefits.

House amendment: Section 305 follows the House provision.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Committee on Veterans' Affairs, I join my colleagues today in strong support of H.R. 2280, which provides for the concurrence of the House, with amendments, to the Senate amendments.

This bill, as explained by our distinguished chairman, Mr. MONTGOMERY, is designed to improve the quality, delivery and administration of health care programs. It also makes improvements to certain veterans' benefits programs, including increases in insurance coverage for severely disabled service-connected veterans. The measure enhances existing programs and extends some expiring reporting requirements.

The measure also contains provisions introduced at the request of the administration and we are pleased to be able to address them in H.R. 2280.

Included at the request of the Department is a provision which will redesignate the titles of Chief Medical Director and Chief Benefits Director as Under Secretaries. The title of Under Secretary more properly reflects the expertise and responsibilities of these individuals. It would enhance their access to the top circles of Government management.

Finally, I want to thank Chairman MONTGOMERY and my colleagues on the Committee on Veterans' Affairs for their combined efforts. The prompt deliberation on these issues paved the way for our consideration of this important legislation today. I urge the support of my colleagues on the measure as amended.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 2280, Veterans Health Care and Research Amendments of 1991.

I would like to commend the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP], for his unceasing efforts on behalf of our Nations veterans.

H.R. 2280 makes program enhancements for veterans' medical care and extends certain expiring authorities.

Mr. Speaker, 30 to 40 percent of our Nation's homeless are veterans. H.R. 2280 takes the necessary steps needed to help our Nation's homeless veterans by extending the authority for the Homeless Chronically Mentally Ill Veterans Program through 1994.

The measure also expands the outreach and community-based residential care for homeless, chronically mentally ill veterans, as well as directing the Secretary of Veterans Affairs to report to Congress on the VA's plan to provide assistance to homeless veterans.

Many of our Nation's veterans suffer daily from recurring nightmares of their days in combat. H.R. 2280 establishes at least 5 new post-traumatic stress disorder [PTSD] units and at least 10 PTSD clinical treatment teams. Additionally, the chief medical director's special committee on PTSD will develop a plan for providing services for those suffering from PTSD.

This important measure also provides that VA quality assurance programs and activities be funded from the medical care account. Quality of care in our veterans' hospitals is an important and essential priority. This provision will give the Secretary of Veterans' Affairs additional flexibility in funding in order to carry out an effective and comprehensive quality assurance program.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans through making important changes in the veterans health care system to meet our Nation's veterans needs.

Accordingly, Mr. Speaker, I support H.R. 2280, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], the chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs.

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Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to side with the remarks of the gentleman from New York [Mr. GILMAN] about what we do for the veterans. I think it should be remembered by the people of this country that we do more for our veterans than any nation in the world or in the history of the world.

We take good care of them, and we will continue to do so because of what they have done for us.

I simply want to note my strong support for this measure, House Resolution 300, because of the two insurance provisions which will benefit seriously disabled service-connected veterans who have not been able to obtain adequate levels of life insurance or mortgage protection coverage due to their disabilities. Neither of these provisions has a great cost to the Government, but each will greatly help this group of veterans and their families. And the veterans' mortgage life insurance program, what this will do would be to increase the amount of insurance on the specially adapted house from $40,000 to $90,000. And that is for the severely handicapped who has to have this kind of a facility.

The other is in service disabled veterans' insurance, which will allow the Government to pick up an additional $10,000 worth of life insurance for each of these veterans.

I would also want to note that the bill contains other provisions which have been stated here very capably by our chairman that affect the administration of veterans' benefits. I also want to commend the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], my friend and colleague, and the ranking member, the gentleman from Arizona [Mr. STUMP], for their efforts in attempting to bring an agreement together over the weekend and with their counterparts in the other body, Senator CRANSTON and Senator SPECTER.

I hope any problems encountered on their side can be quickly resolved so that we can get this piece of legislation enacted as soon as possible. I urge my colleagues to give support to this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Mississippi [Mr. MONTGOMERY] as well as the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension, and Insurance, and commend them for their efforts. Their prompt deliberation on these issues paved the way for our consideration of this important legislation today. I urge support of my colleagues on the measure, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I intend to support this legislation. Let me say, having served with the gentleman from Mississippi [Mr. MONTGOMERY] on the Committee on Veterans' Affairs some years ago, I know well his leadership on these issues and how important that leadership is to veterans.

As I indicated, I will support this legislation.

I did want to raise, however, to discuss one point that has broader implications than just veterans' issues.

The point is this: The pharmaceutical manufacturers in this country have been providing to the Veterans' Administration drugs as discount prices. They say that out of patriotic duty they were providing these pharmaceutical drugs, to the veterans' system.

A provision that Congress passed in OBRA 90, which requires a best-price calculation with respect to what can be charged to Medicaid, is a provision that the pharmaceutical manufacturers say caused them to increase substantially drug prices in the VA system.

All of us understand the problems that increase in drug prices has caused the VA system, and all of us want to solve that. And this does address that particular problem.

I will support the bill for that reason, but I did want to raise the broader question. When we take the VA drug prices out of the best priced calculation, we remove a substantial amount of pressure that ought to continue to exist generally on the pricing practices of pharmaceutical manufacturers.

I have a list of drug prices which shows increases over the last 5 years. Let me just give some examples. Tylenol with codeine, up 129 percent over 5 years; Valium, 10 milligram, up 97 percent over 5 years. I can go down the list, 80 percent, 90 percent, 131 percent over 5 years. There is no excuse for this.

The public is getting ripped off, in my judgment, by pricing policies that are unfair not just to the VA but to everybody, to Medicaid, to the general public that goes to the drugstore to buy drugs.

The only point I wanted to make is that while I support this bill and understand why we must do what we are doing to restore reasonable drug prices for drug costs to the VA system, all of us ought to be determined to bear that same imprint on legislation around here with respect to the people who walk into their corner drug store and buy medicine as well. And we need to find ways to do that, Mr. Speaker. I think what is happening is pharmaceutical manufacturers are pricing drugs that have been on the market for a good long while with price increases that are unreasonable.

We need to find ways to solve that problem.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the point the gentleman has made. We certainly agree with him.

We have passed legislation that we think, as far as veterans are concerned, and that is the only area that we could work in on rolling back these drug prices. This cost the Veterans Department already $60 million, the raising of the prices by the pharmaceutical houses in the last 7 months.

The bill is over in the Committee on Energy and Commerce, and I am sure they are taking a good, hard look at it. Something should be done.

Mr. DORGAN of North Dakota. Mr. Speaker, the point I was making is this is one increment in a range of policies that we need to consider to respond to what is a growing problem in this country of, in my judgment, overpricing pharmaceutical drugs to people from all walks of life.

Once again, I appreciate the leadership of the chairman.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

We have the blue sheets that further explain these bills at the majority leader's desk. I am happy to say I believe this will be the last two veterans' bills for this session of the Congress.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to commend you and the ranking member, Representative STUMP, for your resolve in bringing H.R. 2280, as amended, to the House floor in such a timely manner.

The chairman has already pointed out that this body passed a majority of the provisions contained in H.R. 2280, on June 25, 1991. However, today's bill contains several compromise provisions on health care and benefits agreed to by our colleagues in the other body.

We are dedicated to consistently improving the quality, delivery, and administration of medical care for our Nation's veterans and H.R. 2280 does just that. As the ranking member on the Subcommittee on Hospitals and Health Care, I want to emphasize several of these measures.

In particular, this bill prohibits pharmaceutical manufacturers from using VA drug prices in the calculation of Medicaid rebates. The fiscal year 1990 Omnibus Budget Reconciliation Act [OBRA] contained a provision requiring drug manufacturers to provide State Medicaid Programs with the best price through monetary rebates. However, the law failed to exclude from the calculation of best price, the VA's Federal Supply Schedule, [FSS], through which the VA, as well as other Federal agencies, procures its drugs. Subsequently, pharmaceutical manufacturers have drastically raised prices on drugs sold to the VA in order to cut their losses.

As a result, VA pharmacies are being forced to curtail the supply of specific prescriptions and inform veterans that they cannot have certain medication necessary for their treatment.

While further legislative action is necessary to alleviate the fiscal burden placed upon the VA, excluding VA drugs from Medicaid rebate calculation is a step in the right direction.

Early next session, it is my hope that the House takes favorable action on H.R. 2890, which goes further to correct the unwarranted increases in drug prices.

I would also like to point out additional provisions of H.R. 2280 which are critical to maintaining a topnotch veterans' health care system.

H.R. 2280 authorizes the VA and local medical facilities to jointly acquire major medical equipment. During these times of budgetary constraint, it is imperative that the VA be given this kind of option so as to obtain necessary medical equipment.

Finally, H.R. 2280 requires that VA congressional office quality assurance employees be paid out of the medical care account, as opposed to the medical and miscellaneous administrative operation expense [MAMOE] account. This action is necessary so that we need not rely on funding of the MAMOE account which has been seriously eroded over the last several years.

I urge my colleagues to support H.R. 2280 so that we can follow through on our commitment to providing our Nation's veterans with the quality health care and services they deserve.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and agree to the resolution, House Resolution 300, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AMENDING THE COST SAVINGS AWARDS PROGRAM FOR FEDERAL EMPLOYEES

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2263) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost-saving disclosures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.

(a) AGENCY AWARDS PROGRAM.—Section 4512 of title 5, United States Code, is amended to read as follows:

"§4512. Agency awards for cost savings disclosures

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any employee or former employee of such agency whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b)(1) Subject to paragraph (2), an award under this section may not exceed an amount equal to—

"(A) 5 percent of the agency's cost savings which the Inspector General determines to be the total savings attributable to the employee's or former employee's disclosure; or

"(B) if no cost savings are involved, such amount as the Inspector General considers appropriate.

"(2) No award under this section may exceed $20,000.

"(3) In determining an agency's cost savings for purposes of paragraph (1)(A), the Inspector General may take into account agency cost savings projected for subsequent fiscal years which will be attributable to the disclosure.

"(c) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(d) An agency may pay or grant an award under this section notwithstanding the death or separation from the service of the employee concerned, or the death of the former employee concerned.

"(e) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(b) PRESIDENTIAL AWARDS PROGRAM.—The first sentence of section 4513 of title 5, United States Code, is amended to read as follows: "The President may pay a cash award in the amount of $40,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted or may reasonably be expected to result in substantial cost savings for the Government.".

(c) AUTHORITY TO MAKE AWARDS TO CERTAIN NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 4512 the following:

"§4512a. Awards for certain non-employees

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any individual or entity whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b) An award under this section may only be made where the information disclosed by the individual or entity was gained by such individual or entity in the course of performing any services for, or furnishing any services to, such agency under contract.

"(c) An award under this section for any disclosure may not exceed the amount which would be allowable under section 4512 if such disclosure had been made by an employee of the agency involved.

"(d) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(e) Each program under this section shall include, with respect to individuals covered by this section, provisions comparable to the provisions of subsection (d) of section 4512, as such subsection relates to employees covered by that section.

"(f) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4512 the following:

"4512a. Awards for certain non-employees.".

(d) ELIMINATION OF EXPIRATION PROVISION.—Section 4514 of title 5, United States Code, and the item relating to such section in the analysis for chapter 45 of such title are repealed.

SEC. 2. AWARDS FOR SUPERIOR ACCOMPLISHMENTS.

(a) PROGRAM MODIFICATIONS.—Title 5, United States Code, is amended by striking sections 4502 through 4504 and inserting the following:

"§4502. General provisions

"(a) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee or such employee's heirs or assigns.

"(b) A cash award to, and expenses for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503. The President determines the amount to be paid by each activity for a Presidential award under section 4504.

"(c)(1) Notwithstanding section 4501(2), for the purpose of this subsection, 'employee' includes an employee covered by the performance management and recognition system established under chapter 54.

"(2) The Office of Personnel Management may by regulation permit agencies to grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork.

"§4503. Agency awards

"(a) The head of an agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

"(b)(1) Except as provided in paragraph (2), a cash award under this section may not exceed—

"(A) an amount equal to 10 percent of the agency's cost savings attributable to the employee's accomplishments, or the minimum annual rate of pay payable for a position classified above GS-15 of the General Schedule, whichever is less; or

"(B) if no cost savings are involved, the minimum annual rate of pay payable for a position classified above GS-15 of the General Schedule.

"(2) When the head of an agency certifies to the Office of Personnel Management that the highly exceptional or unusually outstanding nature of the accomplishments of an employee so warrants, a cash award in excess of the maximum amount allowable under paragraph (1), but not in excess of an amount equal to two times such maximum amount, may be granted with the approval of the Office.

"§4504. Presidential awards

"(a) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

A Presidential award may be in addition to an agency award under section 4503.

"(b) The President determines the amount of a cash award under this section.".

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT.—Subchapter I of chapter 45 of title 5, United States Code, is amended—

(i) by redesignating section 4507 as section 4508; and

(ii) by inserting after section 4506 the following:

"§4507. Reports

"(a)(1) Each agency shall prepare and transmit to the Office of Personnel Management on an annual basis a report on such agency's awards program under section 4503.

"(2) An agency report under this subsection shall include, for the period covered by that report—

"(A) the number of cash awards made by the agency under the agency's awards program (as referred to in paragraph (1)), and the amount of each such award;

"(B) if no cash award was made, a statement of the reasons why no such award was made, particularly any difficulties which the agency may have encountered with respect to administering its awards program;

"(C) a statement of any measures taken, or proposed to be taken, by the agency in order to overcome any difficulties identified under subparagraph (B); and

"(D) any other information which the Office may require in preparing a report under subsection (b).

"(b)(1) The Office shall, on an annual basis, transmit to the Committee on Post Office and Civil Service of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the head of each agency, a report under this subsection. The report shall include—

"(A) the name of any agency which either did not make any cash award under section 4503 during the period covered by the Office's report (including any explanation given by the agency) or did not submit a report under subsection (a) with respect to the period involved;

"(B) a description and evaluation of each agency's cash awards program under section 4503 (and any program established by such agency under section 4502(c)); and

"(C) recommendations for any legislation or administrative action which may be necessary in order that sections 4502(c) and 4503 may more effectively be carried out.

"(2) Any information which, pursuant to paragraph (1)(A), is included in a report under this subsection shall be published in the Federal Register.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by striking the item relating to section 4507 and inserting in lieu thereof the following:

"4507. Reports.
"4508. Awarding of ranks in the Senior Executive Service.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 3151(c), 5383(b)(1), and 5384(a)(2) of title 5, United States Code, section 1601(c) of title 10, United States Code, section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)), section 733(a)(5) of title 31, United States Code, and sections 4101(e) and 4107(c) 7425(a)(6) and 7404(c) of title 38, United States Code, are each amended by striking "4507" and inserting in lieu thereof "4508".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective as of October 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2263, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a quest for increased productivity and efficiency, the Federal Government has established incentive awards programs for Federal employees. Cost incentive programs reward Federal employees for a variety of reasons, ranging from suggesting cost-effective and efficient improvements in Government operations to reporting waste, fraud, and mismanagement within the Federal Government. They are based on two principles: that employees are best able to recognize and to propose solutions for problems in their jobs, and that no one has a monopoly on good ideas.

H.R. 2263, introduced by Representative KASICH and myself, makes permanent the Cost Savings Disclosure Awards Program and strengthens the Superior Accomplishments Awards Program. It is not a new bill. This legislation was previously considered in the past two Congresses. In the 100th Congress, the bill passed the House of Representatives under suspension of the rules. In the 101st Congress, this legislation passed both Houses—the House in July of 1990 and the other body with an amendment on October 28, 1990. However, due to time constraints, the two versions were not reconciled—the House was unable to consider the Senate amendment.

The Cost Savings Disclosure Awards Program would authorize inspectors general and the President to pay cash awards to employees who disclose fraud, waste, or mismanagement in the Government. This program had been in existence since 1981. However, the program expired on September 30, 1990, due to lack of action in the Senate. However, H.R. 2263 would make this program permanent. The inspector general of the Department of Defense recently wrote the author of the legislation and stated the value of the program:

> DEAR REPRESENTATIVE KASICH: Since the inception of the cash awards program, the Office of the I.G., Department of Defense, has recognized approximately 60 people with total awards exceeding $78,000. As of March 1990, disclosure of fraud, waste, and mismanagement has resulted in cash savings to the Department of Defense of over $49 million and cost avoidance savings of over $142 million. It is our hope that you will continue your efforts to make this program permanent in the ongoing battle against waste, fraud, and abuse.

The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees of their suggestions, or achievements that contribute to the efficiency, economy, or improvement of Government operations. H.R. 2263 strengthens the Superior Accomplishments Awards Program by increasing the maximum amount of the award to 10 percent of the agency's cost savings attributable to the employee's accomplishments or to an amount not to exceed the basic pay of a GS–15.

In fiscal 1989 alone, under the existing program, over $8 million in awards were paid to almost 29,000 employees, and the Government achieved over $191 million in first year measurable benefits by virtue of these suggestions.

While we all hope Federal employees will blow the whistle, we know that blowing the whistle can be risky. This legislation is intended to provide an incentive for Federal employees to disclose waste and abuse within their Government agencies and positively offer suggestions to increase the efficiency and save money for the operation of the Federal Government. I would like to commend Representative KASICH for his dogged leadership and concern in this area; Representative GILMAN, the ranking member of the Post Office and Civil Service Committee, and Representative MORELLA for all of their hard work and dedication to improving working conditions for Federal employees all across this country, and I urge my colleagues to support this bill.

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Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2263, a bill which would extend and strengthen two incentive awards programs.

Last year, a similar bill was introduced and passed the House and was amended by the Senate on the last day of session; therefore, it did not pass.

I applaud my colleague from Ohio, Mr. KASICH, and my colleague from Minnesota, Mr. SIKORSKI, for reintroducing this bill again and for providing that this important incentive in the Federal sector be made permanent.

Mr. Speaker, H.R. 2263 would make permanent two incentive programs which already exist in title 5, the Superior Accomplishment Award Program and the Awards for Cost Savings Disclosure Program. The Superior Accomplishment Award Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of the Government; and the Awards for Cost Savings Disclosure Program authorizes the President to pay cash awards to employees who disclose fraud, waste, or mismanagement.

Mr. Speaker, Federal employee incentive and suggestion programs have been in existence in the Government since 1912. However, during the last few years agencies have not been taking advantage of these programs. Nevertheless, this is no reason to allow these valuable programs to lapse. These programs are needed to provide further incentives to Federal employees.

The cost incentives program is used extensively in the private sector. There is no reason it cannot work in the public sector. A more meaningful monetary reward will, undoubtedly, be an increasingly beneficial tool to encourage savings and to improve productivity and the quality of service in the Government.

This bill also provides that the inspector general of each agency shall establish a program to award any individual or entity who has saved the

Government money by disclosing fraud, waste, or mismanagement. During the period of time that the person or entity was performing services for or to the agency. I believe this is an important part of the bill because there are likely to be innumerable Government contractors who would be involved in cost savings to the Government if they were part of this awards program.

I would like to again commend the sponsors of this measure and would like to encourage all my colleagues to support H.R 2263.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KASICH] the prime sponsor of the bill.

Mr. KASICH. Mr. Speaker, I thank the gentleman for yielding time to me.

I do not want to take a lot of time because we have a lot of suspensions up. Let me say this bill was modeled after the kind of innovative programs that IBM and Xerox have where they make very liberal use of a program designed to reward employees for developing innovative ideas.

First of all, the gentleman from Minnesota [Mr. SIKORSKI] has been very patient in getting this bill to the floor a couple of times, and so has the gentlewoman from Maryland [Mrs. MORELLA]. A lot of times I think in this place when things do not move quickly people tend to give up, and I want to thank the gentleman from Minnesota particularly, and his staff, because talk about dogged determination, he has moved this thing along. I really hope we are going to get this all the way through the process this time. I think, considering the fact that this is passing this year and we will get it to the Senate and let them have their chance to develop it will ensure that it will become law.

Just to give the Members one or two ideas of what people have done, there was $2,500 awarded to an employee who disclosed some things that a defense contractor was doing. The effort resulted in the recovery of approximately $1 million in parts, and he was given a generous allocation of $2,500 for sticking his neck out to save $1 million. Obviously we can do better than that for this gentleman.

Another person was awarded $5,000, and he developed a reform in the way in which a contractor did his work on acquisition procurements. That resulted in $8 million in savings. The program really worked.

There is a gentleman by the name of Alfred Lee of the Naval Seaport Center in Portsmouth, VA, who on his own time designed and developed a new method of repairing fatigue cracks on the Navy's MIC 45-gun mounts. This saved, servicewide, $70 million.

So we ought to be encouraging employees to develop innovative suggestions, imaginative suggestions, and what we are trying to do is to pattern and fashion the Government's program after those programs in the private sector that have been most effective.

So I want to thank, again, the chairman and the gentlewoman from Maryland [Mrs. MORELLA] and the gentleman from New York [Mr. GILMAN] and also Kathy Krupp of my staff who has worked on this for an awful long time, and hopefully we will make sure this gets all the way through and becomes law.

I will even give some kudos to the gentleman from New York [Mr. FISH], since he is searching for some.

Mrs. MORELLA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 2263, the Federal Employees Cost Incentives Award Act. I would like to commend my good friend, the sponsor of the legislation, the gentleman from Ohio [Mr. KASICH], and the chairman of the Subcommittee on Civil Service, Mr. SIKORSKI, for bringing this measure to the floor. It is a familiar piece of legislation. I supported a similar measure last Congress only to see it die in the last few days of the session. However, this year I look forward to its timely enactment.

H.R. 2263 strengthens and makes permanent the two existing incentive awards programs for Federal employees. The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy or improvement of Government operations. Although in existence since 1954, most agency managers have rarely utilized this program.

The Superior Accomplishment Awards Program is permanent law and the legislation before us reforms and strengthens the Savings Disclosures Program which allows inspectors general and the President to pay cash awards to employees who disclose Government waste, fraud, or mismanagement. This program was established in 1981 and has been extended on a periodic basis since that time. H.R. 2263 makes this worthwhile program permanent.

Mr. Speaker, this legislation is part of our continuing efforts to increase efficiency in Government and deserves this committee's support. I urge all of my colleagues to join me in supporting this important legislation.

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Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, I very much appreciate the gentleman's comments, but what I appreciate even more than his comments is that he remembers how to correctly pronounce my name. It does go with "basic—KASICH."

Mr. Speaker, I appreciate the gentleman yielding to me.

Mrs. MORELLA. Mr. Speaker, I think the bill of the gentleman from Ohio [Mr. KASICH] is a great one. It is a really a win-win situation, Mr. Speaker; so I commend the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SIKORSKI] for this bill, which I hope will become law.

Mr. KASICH. Mr. Speaker, I thank the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I, too, commend the gentleman from Ohio for the Kasich legislation that we have before us.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 2263, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAKING A TECHNICAL CORRECTION IN PUBLIC LAW 101-549

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 187) to make a technical correction in Public Law 101-549.

The Clerk read as follows:

S.J. RES. 187

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in section 112(b)(1) of the Clean Air Act, as amended by section 301 of Public Law 101-549, strike out the term "7783064 Hydrogen sulfide" in the list of pollutants.

The SPEAKER pro tempore (Mr. HALL of Texas). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on Senate Joint Resolution 187, the Senate joint resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

I do want to indicate, like most large and complex legislation, the Clean Air Act Amendments included a number of technical errors.

This amendment corrects one such error: the incorrect inclusion of the chemical hydrogen sulfide on the list of hazardous air pollutants in section 112(b) of the act.

This error resulted from a mistake in enrollment of the bill by the clerk of the Senate. The Senate passed Senate Joint Resolution 187 last August to correct this mistake.

I urge my colleagues to support the amendment to correct this error, as well as subsequent efforts to correct any other technical errors in the Clean Air Act Amendments of 1990.

Mr. LENT. Mr. Speaker, I yield myself such time as I shall consume.

Mr. LENT. Mr. Speaker, I rise in support of Senate Joint Resolution 187.

As the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, the gentleman from California [Mr. WAXMAN] has explained this amendment makes one simple but very important correction to Public Law 101-549, the Clean Air Act Amendments of 1990.

Mr. Speaker, during the conference last fall on the Clean Air Act amendments, the conferees agreed to include the chemical hydrogen sulfide on the list of chemicals subject to the accident prevention, detection, and response provisions. But the conferees specifically agreed not to include hydrogen sulfide on the list of chemicals in section 112-B. The chemicals listed in section 112-B are those for which EPA must issue stringent control regulations over the next 10 years. As evidence of our intent not to include hydrogen sulfide in section 112-B, it is worthwhile to note that the copy of the final bill that was printed by the Government Printing Office does not include hydrogen sulfide in section 112-B.

However, while the final bill was being prepared to be sent to the President for his signature, hydrogen sulfide was inadvertently added back to the list of chemicals in section 112-B. The President signed this version of the law, and from a legal standpoint. It is the only version of the law that matters.

Mr. Speaker, we need to act now to correct this mistake. There may be other technical corrections that need to be made to the 1990 amendments, and I understand that our staffs have begun the process of looking at other technical corrections that may be necessary. But this mistake is different from other possible mistakes, and this mistake needs to be corrected as soon as possible.

This mistake is different from other possible mistakes because it was made after both Houses had completed consideration of the bill and as it was being prepared for the President's signature.

Furthermore, Mr. Speaker, this mistake needs to be corrected as soon as possible because this mistake places a number of businesses and industries at risk of significant regulation that the Congress did not intend.

Mr. Speaker, the oil refining industry in this country is a perfect example of the trouble that could result if this mistake is not corrected quickly. A number of oil refineries are aging and need to be modified and upgraded. Planning for such modifications must begin several years before the actual modification is made. As long as hydrogen sulfide is listed in section 112-B, refineries and other businesses may be forced to plan for—and even make—modifications that Congress never intended.

For these reasons, Mr. Speaker, I urge the adoption of this legislation.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan, [Mr. DINGELL] the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of this resolution. It is a technical correction. The conference report filed by both the House and the Senate reflects an agreement by both bodies that the provision should not be included in the last of pollutants in section 112(c) of the amended Clean Air Act. The House passed the bill in the proper form. However, in the enrolling process in the Senate, the provision was inadvertently retained and it become part of the public law. This resolution corrects this inadvertent mistake. There is an institutional need to adopt this resolution.

The gentleman from Louisiana [Mr. TAUZIN], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Texas [Mr. FIELDS], the gentleman from Ohio [Mr. HALL], as well as others, are very interested and supportive of this resolution. The substance, H_2S, hydrogen sulfide, is important to several industries.

Mr. Speaker, I also want to take this opportunity to first commend the Environmental Protection Agency for its diligent efforts in seeking to implement the Clean Air Act Amendments of 1990. I also want to express my support for the efforts of the EPA in conducting roundtable discussions as part of the prerulemaking process. I believe that those discussions have been helpful to the EPA, States, the industries, the environmentalists, and many more. I urge that they continue, although I am not as supportive of the regulatory negotiation process which EPA has followed in some case. Indeed, I am concerned about the adequacy of that process and urge that it be used sparingly.

I also want to express my views on comments I have seen in the media and elsewhere regarding suggestions about the legislative history of the 1990 amendments. I particularly call your attention to my remarks of last November:

> It is important to stress once again, that the statement of managers as printed in the conference report, represents the views of all the managers or conferees from the House and Senate who signed the conference report.
>
> The conferees made a decision several weeks ago not to engage in writing a detailed description of the House and Senate bills and the resulting conference agreement for each and every section and title of the legislation as is often done in other conference reports. This is a very lengthy piece of legislation. It is also complex and controversial. The conferees did not believe it necessary or wise to try to anticipate future interpretations or problems as to the application of this legislation. In general, we believe that the legislation speaks for itself and, where it was necessary to make comments, the conference report includes specific statement agreed upon by all of the conferees or managers.
>
> I presume that some individual conferees in the House and in the Senate may want to express views relative to the legislation and to offer various interpretations. That is their right, and I applaud that. However, I want to make it clear that only the statement of managers, which is part of the conference report, reflects the views of all the managers or conferees in the House and Senate. To the extent that the managers' statement is silent regarding specific provisions and titles, that is a deliberate decision on the part of all the managers who signed the conference agreement. The regulated community, the Environmental Protection Agency, environmentalists, and others may have preferred that the managers or conferees spell out in greater detail our intent and our interpretations in order to make their tasks simpler administratively and in the courts. However, the House and Senate conferees or managers did not share that view.

The two Houses, their committees, and the conferees discussed many matters before settling on the final version of the bill and the brief manager's statement. Unfortunately, that discussion and its scope are not part of the conference report or the manager's statement. Any attempted recollection or interpretation of that discussion by anyone is probably flawed. Undoubtedly, such views would not have been shared identically by all of the conferees last October and certainly would not be today. Thus, I urge that EPA not be swayed by suggestions that the absence of any matter or alternative is itself evidence of some intention by the conferees to accept or reject an idea or proposal.

EPA should rely primarily on the specific language of the statute and secondarily on the brief manager's statement for the views of all of the conferees, while using common sense and reasonableness in preparing regulations for publication. Individual floor debate comments by the Members should, of course, not be ignored, but their weight certainly must be judged in light of the above comments.

Finally, I am concerned that EPA has not met all the deadlines under the law as our Subcommittee on Oversight and Investigation observed a few days ago. I think it is important that deadlines are met, although it is also important that all regulations are consistent with the law and fair and reasonable. The deadlines should not be used to avoid that responsibility.

Again I rise in support of this resolution.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Of course, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, there are other technical errors that we will have to correct in the Clean Air Act. We want to give assurances to those who are concerned about it that we will look at that issue next year, provided they are genuinely technical. We do not want to reopen all those issues that were resolved in the legislation.

Mr. DINGELL. Mr. Speaker, if the gentleman will permit, the gentleman is absolutely correct.

There is one strong agreement on the part of all the conferees that passed the Clean Air Act of last year, and that is that we will not open the substance of it at any time soon; however, there are a number of technical corrections and we will be looking at them, working with the distinguished gentleman from California, because it is appropriate that we should make corrections of a technical character in this statute in order to see to it that it is fair and workable.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HALL of Texas). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 187.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

PERMISSION TO ADD ADDITIONAL SPONSORS TO HOUSE RESOLUTION 284, THE MARSHALL PLAN

Mr. ROEMER. Mr. Speaker, I ask unanimous consent to add the names of the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from North Carolina [Mr. HEFNER] as cosponsors of the resolution, House Resolution 284 expressing the sense of the House of Representatives that there is a need for a comprehensive, coordinated strategy to help the United States achieve its goal of being the strongest Nation on Earth economically and military, so that it remains the greatest Nation in support of human dignity, freedom, and democratic ideals.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE MARSHALL PLAN

Mr. ROEMER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 284) expressing the sense of the House of Representatives that there is a need for a comprehensive, coordinated strategy to help the United States achieve its goal of being the strongest Nation on Earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

The Clerk read as follows:

H. RES. 284

Whereas recent world events have provided the United States with new opportunities to redirect its resources toward domestic challenges, and the state of its economy requires that the United States take such action;

Whereas the continued economic vitality of the United States is being seriously threatened by its failure to invest in its future needs, especially in the areas of education and training, the infrastructure and manufacturing capability, and financial stability;

Whereas national security; which provides a foundation for the lasting values of human dignity, freedom, and democratic ideals, is based upon economic strength as well as military might; and

Whereas the attainment of these goals requires swift and intelligent action to articulate and carry forward a comprehensive, coordinated strategy to improve our productivity and economic well-being through investment in human and material resources, stimulation of cooperative efforts between the public and private sector at all levels, and leadership and vision to develop a dynamic blueprint that is as appropriate to our present and future needs as the Marshall Plan was for the needs of Europe following World War II: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) there is a need for the development of a comprehensive, coordinated strategy to encourage investment in human and material resources, to harness our inventive genius to the marketplace, to secure the education and training of a competitive citizenry and workforce, and to stimulate cooperative efforts between the private and public sectors at all levels of business, education, and government; and

(2) such a comprehensive, coordinated strategy will help the United States achieve its goal of being the strongest Nation on Earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. ROEMER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

GENERAL LEAVE

Mr. ROEMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 284, the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROEMER. Mr. Speaker, I yield such time as he may consume to my distinguished friend, the gentleman from Arkansas [Mr. THORNTON] to be our first lead-off speaker on the Marshall plan.

Mr. THORNTON. Mr. Speaker, I want to thank my distinguished colleague, the gentleman from Indiana [Mr. ROEMER], and my colleague, the gentlewoman from Illinois [Mrs. COLLINS], and the more than 130 Members of this House on both sides of the aisle who have cosponsored this resolution.

Mr. Speaker, too often, we think of problems in global terms, such as international competition, balance of trade, and national security. These are large concepts, but they are important because they have an impact upon each individual citizen.

You don't have to have a doctorate in economics to know what happens to you when the television factory closes, and your job moves overseas.

You don't need to consult an expert to recognize the potholes that shake the suspension on your imported car.

You don't have to be a mental giant to realize that something is desperately wrong when your children graduate and can't find a job—and can't afford the training or additional education they need to enter a high-technology workplace.

People in Arkansas and throughout the Nation know that we are up against some tough competition if we want to keep the American dream from becoming a nightmare of failed promises to our children, lower real wages for our work force, and an uphill struggle to protect the human dignity which is a foundation for our democratic ideals.

More than 2 years ago I suggested that we needed a comprehensive strategy to address these issues. Then the Berlin Wall crumbled, setting in motion a series of events which have forever changed the world, and which call for new directions and new strategies to attain our Nation's goals. At that time, some people called for a Marshall plan to rebuild Eastern Europe, but I suggested we needed a Marshall plan for America.

More than 40 years ago, Secretary of State George C. Marshall suggested a Marshall plan to rebuild Europe.

At that time we were head over heels in debt—worse even than today's burden. We had a national debt of $260 billion compared with a gross national product of only $212 billion. Yet we allocated 2 percent of our GNP in a bipartisan effort to rebuild Europe, restore their infrastructure, stabilize their finances, educate and train their work force, and make them economically competitive. The Marshall plan for Europe worked—and now we need to address our own problems here at home.

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Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise to congratulate the gentleman from Arkansas. Rarely does any one Member take an issue, focus on that issue, develop its substance, communicate its worth to others in this body and to the country with the diligence and ability that the gentleman from Arkansas has done.

I believe this resolution is one of the most important we will consider in this first session of the Congress. The American public is absolutely convinced that we must direct our attention to rebuilding America, its resources, both its people and its physical infrastructure.

This resolution lays out a clear and important path for our Nation to follow, a path to help bring our Nation to the position of strength and prosperity which it deserves, and which it can obtain.

The resolution expresses the sense of the House that the United States must redirect its resources in a comprehensive and coordinated manner. Our world is rapidly changing. Each day brings news of dramatic world events which we would have once thought impossible.

Our Nation must be ready and willing to take advantage of these challenges. In fact, the current state of our Nation demands that we meet these challenges and respond with a new plan, a new vigor, and a renewed commitment to invest in ourselves, to invest in our Nation. The resolution before us today provides such a plan.

We must move to ensure the economic vitality of our Nation by investing in our future. It is said so many times that it loses its impact, but the popular phrase, our children are our future, is a truth worth repeating. The future strength of our Nation depends on our willingness today to invest in education and in training.

We must also, however, continue to invest in the backbone of our Nation, for without it, we cannot stand firm and tall. We must continue our investment in our Nation's infrastructure and the manufacturing capability of our Nation.

We are a strong Nation. And from that strength comes our confidence as well as our commitment to democracy and democratic ideals. But all facets of our Nation should work together in a coordinated comprehensive fashion to meet our common goal. House Resolution 284 calls for a coordinated strategy to improve our productivity and our economic well being through investment in human and material resources and the stimulation of cooperative efforts between the public and private sector.

After World War II, our Nation provided a plan, a blueprint, to help Europe rebuild. Our Nation developed a coordinated, comprehensive strategy to address the needs of the time and to bring an entire region back to strength and prosperity. Surely, a Nation can do no less for itself. Surely our Nation can join together to meet the challenges of the day.

Mr. Speaker, I stand here with great respect for the work that the gentleman from Arkansas has done. He resigned as president of the University of Arkansas to join us here. The university's loss has been both this House's gain and the country's gain, and I look forward to working with the gentleman from Arkansas as we develop specific substantive, important legislation consistent with the premise and resolve in this resolution.

I rise in strong support of the resolution and with thanks to the gentleman from Arkansas.

Mr. THORNTON. I want to thank the gentleman for his congratulatory remarks and say that I appreciate very much the leadership that the gentleman has brought to this effort in scheduling emphasis sessions and in helping develop the proposal.

Indeed, as the gentleman says, the American people are ahead of us on this. They want us to use the same vision and leadership that we have used to rebuild nations all over the world, to address our own problems of a faltering economy, inadequate support for education, and our crumbling infrastructure all of which will keep us from being as competitive as we should be.

Mr. HOYER. I share with the gentleman the view that there is absolutely nothing we as a people cannot accomplish if we have the will to do so and we have the focus on what our objectives are.

That is what the gentleman has done, and that is a great service for us and for our country.

Mr. THORNTON. I thank the gentleman for his comments and I would add that our national security is based not only on military strength but upon economic might.

It's time we develop a Marshall plan for America to bring home well-paying jobs, to educate and train our citizens and workforce, to rebuild our infrastructure and manufacturing base, and to develop the economic strength which is required if we are to really tackle the problems of affordable healthcare, crime and drug abuse, poverty and hopelessness, which now confront us.

Mr. Speaker, these problems are interrelated, and how we choose to deal with them will affect this Nation's ability to compete in the global economy for decades to come.

Adoption of this resolution will say that we in this House recognize our responsibility to work together to encourage investment in human and material resources, to harness our inventive genius to the marketplace, and to stimulate cooperation between all levels of the private and public sectors. We should develop and implement a comprehensive strategy to make sure our Nation remains both strong and great.

The challenges are enormous but our resources are equal to the occasion. Our task as representatives is to provide leadership equal to the work that must be accomplished.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of House Resolution 284, a resolution which calls for the development of a comprehensive, coordinated strategy for the United States to invest in its future. I congratulate its author, my friend, the gentleman from Arkansas [Mr. THORNTON]. At a time when both consumers and businesses are bracing against economic uncertainties, the formulation of a recovery strategy that is both affordable and makes sense to the American people, is critical. We must arrest the declining rates of growth of productivity and real wages. The Federal budget deficit must come down to increase capital formation, private sector investment, and jobs.

The resolution before us is a sensible outline for public and private investment in our economic recovery. Its elements are: First, investing in education and training of our work force; second, stimulating investments in modern plants and equipment, and third, increasing research and development in new products and processes, which historically has led to increased economic activity. For more than a decade, America has been unwilling to invest in the future, and is consequently performing badly in each of these areas.

House Resolution 284 is offered in the spirit of the post-World War II Marshall plan for the recovery of Europe, the industrial base of which has been destroyed. It is a call for America to act, an America which today has the energies and resources necessary for its own recovery. It would be welcomed by our public and by our global economic partners; disillusionment would be replaced by revitalized world leadership.

I urge my colleagues to support this measure.

Mr. ROEMER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan [Mrs. COLLINS], who has worked so hard on this idea and on this resolution.

Mrs. COLLINS of Michigan. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I congratulate the leader on this project, the gentleman from Arkansas [Mr. THORNTON] and the gentleman from Indiana [Mr. ROEMER].

Mr. Speaker, this Nation needs an economic boost to its economy in order to advance education, modernize its infrastructure, and save businesses. Many of us in this body have spoken about the various legislative measures we could use to break the economy from the paltry levels it has remained at for over a decade. I do not think there is anyone here that would disagree that we need to consider all of these measures.

However, there are two ways to consider development proposals. One way is to examine each legislative vehicle separately, and to work using a piecemeal method to aid the economy. The other method is to examine all of these measures within the context of a comprehensive and coodinated plan to promote the growth of our economy.

The Marshall plan, developed to aid in Europe's recovery following World War II, proved that a comprehensive planning process is the only workable solution when the problems a country confronts appear to be insoluble. Europe was crushed both physically, economically, and psychologically. The devastated infrastructure was simply an outward sign of the underlying economic problems. Schools throughout Western Europe fell far short of providing a decent education to students.

The United States provided several billion dollars to aid in Europe's recovery, following the guidelines of the Marshall plan. The plan required that the money be spent in the areas of education, infrastructure, and business in a comprehensive fashion. Further guidelines were developed to prevent spending waste.

The United States today needs its own economic boost, much like that of the Marshall plan. The same problems faced by Europe following World War II can be seen every day all over this country. Our school systems are declining, our small businesses are failing, we are no longer competitive in new technology markets, and roads, bridges, and other structures are deteriorating at extraordinary rates.

This Congress needs a mandate to move forward on the issue of investing in America. This resolution should be this body's first move toward pulling this Nation out of the economic gutter. The message the resolution sends is that we are tired of losing out to nations around the world we once lead in every social and economic sphere. All of this country's major problems need to be addessed simultaneously. If we ignore one problem, we create another. For example, if our businesses become successful, but we do not develop the human resources necessary to maintain this success, then we have failed at our task. If we develop new technologies, but we are unable to bring the technology onto the market because of a crumbled road system, then again, we have failed at our task.

This Nation needs an economic boost, but because of limited resources, unusual efficiency will be needed to advance our Nation's development. The money needs to be spent in comprehensive manner, so that each of this Nation's problem areas—education, business, and infrastructure—are addressed at the same time.

I urge my colleagues to vote for this important, and urgently needed resolution. Developing a comprehensive recovery plan should be this body's No. 1 priority when it returns after the holidays. I intend to be at the forefront of those efforts. I hope that all of you will join me, as many of you already have, in moving this Nation forward, once more, toward regaining its prominence as a world leader.

□ 1930

Mr. GOODLING. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mr. VALENTINE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I rise in support of House Resolution 284. We, as a nation, are facing increasing competition from foreign high technology companies. Many of these foreign firms operate in an environment where government policies strongly support national and international competitiveness.

If this Nation is to remain competitive in the years to come, the Federal Government must accept the responsibility to invest its resources wisely—with some strategy in mind. Today, we have no coordinated comprehensive strategy that will result in the ability of American industry to produce higher quality goods at lower costs.

House Resolution 284 encourages the development of a strategy that will allow America to maintain its preeminent competitive position in the global economy for years to come. I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I rise today in support of this sense-of-the-Congress resolution, House Resolution 284, urging the development of a comprehensive, coordinated strategy to harness our inventive genius to the marketplace and to stimulate cooperative efforts between the public and private sectors. I am pleased to support the efforts and leadership of the distinguished gentleman from Arkansas [Mr. THORNTON] and the other cosponsor of this so-called Marshall plan for America, the gentlewoman from Michigan [Mrs. COLLINS], and the gentleman from Indiana [Mr. ROEMER].

I am very aware that my distinguished colleague from Arkansas has a deep interest in bolstering our international competitiveness and our Nation's economic growth. I have had the privilege of working closely on these issues with Mr. THORNTON in our Committee on Science, Space, and Technology. I know that we both believe that the collaboration of the public sector with private sector industry will ultimately work to the benefit of all Americans by enhancing our ability to compete in the global marketplace.

House Resolution 281 expresses a need for our Nation to invest in the education and training of our work force, the improvement of our manufacturing base, the commercialization of American technology, and the advancement of our global competitive position. It is very important that we must remain strong and competitive.

Mr. Speaker, I am pleased to join this bipartisan effort to call for advancing our preeminent competitive position in the global economy. I commend the gentleman from Arkansas [Mr. THORNTON], the gentleman from Indiana [Mr. ROEMER], and the gentlewoman from Michigan [Mrs. COLLINS] for introducing this legislation. Let us pass this resolution—recognize our opportunities and meet our challenges.

Mr. ROEMER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, I am proud to be one of the original, initial sponsors of this resolution. I commend the gentleman from Indiana [Mr. ROEMER], the gentleman from Arkansas [Mr. THORNTON], and the gentlewoman from Michigan [Mrs. COLLINS] for their leadership.

Mr. Speaker, we need a Marshall plan for America. In the aftermath of World War II, to our everlasting credit, we rebuilt the economy of Europe, we rebuilt the economy of Japan. Now is the time to rebuild the economy of the United States of America.

One aspect, one important aspect, of our Marshall plan must be the notion of economic conversion. I am very proud to represent some important people from our district, the people at Martin Marietta who helped build the Patriot missile, the people at McDonnell Douglas who helped build the Tomahawk cruise missile, the people at Harris Corp. who helped build the antennas and the communications satellites that provide us with our intelligence around the world. These people helped win for us the war in the Persian Gulf, but, Mr. Speaker, these people today are one cut away from the unemployment lines.

Mr. Speaker, our Marshall plan must include a component, a strategy, for economic change, for economic transition, for economic conversion. If we are going to cut defense intelligence, then why not take that money and put it into investing in languages, and anthropology, and history and sociology so we can understand the world? If we are going to cut defense R&D, then why not take part of that money and give it to the National Science Foundation so we can continue to invest in the future? And if we are going to cut defense weaponry spending, then why not take that money and invest it in ways that will encourage those businesses to convert so that they can build new rockets to take us to Mars, so that they build new magnetic levitation systems that can speed up our transportation, so that they can develop alternative energy sources to help free us from our needless dependency on foreign oil?

This must be a part of our Marshall plan for America, and I am proud to be among those who are standing here working together on a bipartisan basis to help rebuild our democracy from the grassroots up.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of this resolution, and my friend, the gentleman from Arkansas [Mr. THORNTON], normally as a Missouri Tiger we would be at odds on a football field with the Razorback State, but I rise in strong support, but I would ask the Members on the other side of the aisle to think seriously about what this resolution means and the impact of it in the future.

Mr. Speaker, right now we pay 18 cents out of every dollar toward the deficit. We spend more money on the deficit than we do for all the programs in which we want to help, and the No. 1 program to me should be education. Yes, even at the cost of defense.

Mr. Speaker, I repeat that: We spend more money on the interest of the national deficit than we do on all the programs which we want to help, and we are going to turn into a pumpkin if we do not quit spending, and I want the Members on the other side of the aisle to really consider what this resolution means, and that is why I support it so strongly.

Mr. Speaker, we have a mandate to cut spending. It was called a budget agreement, that for every tax dollar taken in, we cut spending by $2, and that is difficult sometimes especially when it comes to our own programs. But I feel strongly that it is something we have to do to get this country back on track.

Mr. Speaker, we have a bill that is going to be reintroduced, as I understand it, on the House floor, and that is to give $1 billion out of the defense community, out of the defense budget, to the Soviet Union. I would ask the Members not to support that because it is contrary to this resolution. We are cutting defense by 25 percent, one of the true areas which we really are cutting the budget, but yet it is putting hundreds and thousands of people out of work in this country. It has weakened the defense of this country, and at the same time we have to put more people on unemployment, which we just went through the bill on the House floor. It has put more people on welfare that are not paying taxes, and again we are going to turn into a pumpkin.

So, again I would say to the gentleman from Arkansas [Mr. THORNTON], my friend, that I rise in extreme support of his resolution, and let us just really think about it in the future in how we vote in the House.

Mr. ROEMER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker and my colleagues in the Congress, this is an important moment for me because I brought up this notion in a discussion to the gentleman from Arkansas [Mr. THORNTON] who serves on the Committee on Government Operations. I wish I could say I talked to the gentleman from Pennsylvania [Mr. GOODLING] on the other side about it, but I do not recall. I certainly talked with the gentlewoman from Michigan [Mrs. COLLINS] whose district is adjacent to mine, and I see a Marshall plan to be an item of national security.

Mr. Speaker, it is important that we pull together all of the considerations of infrastructure, education, fighting crime, creating jobs, into one consideration, and our economy demands it.

As the Members know, IBM just closed out, I think it was 20,000 workers. Our competition in the automobile industry is lagging because of old style practices and lack of Government cooperation that still obtains.

So this is important to me. It is a wonderful thing because somewhere in the National Urban League John Jacob, who was in touch with us and who has been talking about his urban Marshall plan for many, many years, must be smiling because there are Americans all over this great country who are looking for a way for us to bring our economy into line, to make us strong, to regain our initiative, and to create dignity and freedom for those who need jobs.

Mr. Speaker, this is an important resolution. I commend the gentleman from Indiana [Mr. ROEMER], who brings this resolution to the floor.

Mr. GOODLING. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I think it is very interesting that we are proceeding here with a resolution this evening on the Marshall plan, M-a-r-s-h-a-l-l, at the same time that the House is operating under martial law, m-a-r-t-i-a-l. In other words, we have declared military martial law in the House in order to bring resolutions like this before the House.

I have to say that I do not know how anybody could be against this resolution. When I read the language here, I find that it says this:

> There is a need for the development of a comprehensive, coordinated strategy to encourage investment in human and material resources, to harness our inventive genius to the marketplace, to secure the education and training of a competitive citizenry and work force, and to stimulate cooperative efforts between the private and public sectors at all levels of business, education, and government * * *

Who in the world could be against that. It is a wonderful sentiment.

Then we go further, and it says this:

> Such a comprehensive, coordinated strategy will help the United States achieve its goal of being the strongest Nation on earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

My goodness, how can anybody be against that?

It starts off saying that: "it is the sense of the House of Representatives," and a lot of Americans think we do not have much sense around here, but the fact is that these are sentiments that nobody could be against.

The question I think that all of us have here this evening is: What do we plan to do about this? It is fine to express the sense of the House of Representatives. The fact is that as we are here this evening, a number of us are attempting to bring an economic growth package to the floor on the RTC bill that will be delivered to us tomorrow, and we are being told that under martial law that cannot be done, that they have absolutely no intention of carrying out some of these ideals by doing something substantive.

Mr. Speaker, I think that certainly the entire House will vote for these very, very important sentiments, but it would be nice if we would actually do something to give the American people real jobs.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I am pleased to hear that the gentleman from Pennsylvania does not find fault with this measure and supports it. He does not always support every bill that comes along. I think that is significant.

Mr. Speaker, this measure tonight may not be long noted except by Members who are sponsors of it. It envisions a new approach to our economic and industrial growth, much like the Marshall plan. It is difficult to accept that the United States is not the leader in every respect throughout the world. We must accept that. However, we can now do things differently.

I rather imagine that not many of us really know what is in this so-called Marshall plan. The gentleman from Pennsylvania has a point. I think we will further develop what goes into it. Too often in this country we have built projects for a region, supplying a specific number of jobs for a specific type of industry, and yet while that is important, we have to take a different approach. I think this bill tonight is the seed that is planted, one which we can use as a blueprint for development that can become a mosaic of great attempts to redo or redirect our work throughout this country as far as industrial policy is concerned.

Mr. Speaker, I have a feeling that we are going to hear much more about this plan as we learn how to put it together. I commend the gentleman from Arkansas [Mr. THORNTON] for his work in this regard.

Mr. GOODLING. Mr. Speaker, I yield 5½ minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the resolution of the gentleman from Arkansas [Mr. THORNTON]. I think it has marvelous intentions. I think it is the kind of global thinking for our country that we need, and I think we surely need a lot more of it.

I would just like to call attention to a few of the things that the gentleman is talking about, such as a vision for the future of our country. Well, we have a tax code in America that is woefully inadequate and discouraging for long-term investment. Our country is suffering from the disease of short-termitis, and the political battles that we play out here on the floor have yet to do anything for long-term thinking and long-term investment.

When our Republican side of the aisle, talks about America having the highest capital gains tax of any country that we compete with the other side responds that the Republicans want tax breaks for the rich. When some of us talk about investment tax credits for things like productivity-enhancing equipment, machinery and facilities, the other side talks about tax breaks for corporations. I do not know who is right or who is wrong in the grand scheme of things, but this resolution should encourage us to put aside some of these rather petty political differences based on, I might add, the most short-term thinking of all, the next election. We need to get on with the work that the American people expect and do what is right.

The gentleman from Arkansas talks about cooperative efforts by the public and private sectors. I happen to have more than 10 years experience working in the Energy and Commerce Committee on issues of regulating American industry, particularly regulating American manufacturing. The gentleman mentions manufacturing. The prime, the crucial wealth creator in modern society has been treated like an orphan child. We treat it as a great polluter, an exploiter of blue collar workers, and we do not pay attention to its long-term material needs to be competitive in a global economy where countries support their manufacturing industries like crown jewels. We need a lot more cooperation between the private and the public sectors. The gentleman from Arkansas is right on target.

□ 1950

I would hope we end this political hatchet throwing and we get about the work of doing what the American people want us to do.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Speaker, I would like to express my appreciation to the gentleman not only for his support of this resolution, but for his support in the Committee of Science, Space, and Technology for the importance of harnessing our creative genius to the marketplace and of developing high technology jobs here.

I would also like to call to the attention of the gentleman that the original Marshall plan, which is used as an example only for this plan, was a bipartisan effort. At that time President Harry Truman was a Democrat. His Secretary of State, George C. Marshall, articulated the idea of the plan. The Republican Congress, in both the House and the Senate, worked with the administration in developing the plan and in carying it out.

We need the present administration to assist in the development of this plan.

Mr. RITTER. Mr. Speaker, reclaiming my time, the gentleman is a distinguished Representative. He is a former president of the University of Arkansas and had been a member prior to that. He brings some unique experiences to this debate.

The gentleman talked about high technology and research and development and investing in the future. Let us remember that this Congress funds $75 billion a year of research and development. Little of that research and development has anything to do with the marketplace. We have almost created a situation whereby what we do in our research and development expenditures has nothing to do with the marketplace.

Mr. Speaker, maybe we could get away with that when we were the only country in the world that was manufacturing anything and everybody else was rubble after World War II. But today we had better cut out this science and technology pork barreling. Our research and development expenditures, $75 billion a year, are largely driven by the momentum of past agency politics and present pork barrel politics, and have very little to do with priorities. We know all the great big projects out there that the gentleman from Texas [Mr. PICKLE] mentioned are engaged for one or another Member's district, but not for the country as a whole.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my friend from Arkansas, Mr. THORNTON, has brought before us an important statement, and, yes, indeed, it is a symbol. It is a symbol and statement about what America wishes and hopes for itself and for its children. Reordering our priorities, reestablishing the need to reinvest in ourselves, to redirect our resources, is an important statement for this Congress to make.

Mr. Speaker, many of us know and relish the tremendous military accomplishments of the past year. But most of us also have to take into account that you cannot have a first-rate military when you have a second-rate domestic economy.

That is what we seek to propose before us today. As my colleague from Pennsylvania so aptly suggested just a few moments ago, establishing priorities and not continuing to do business as usual as we have in the past is what the symbolism and message is in this resolution. Technological advances, new opportunities for ourselves and for our children, is what my colleague from Arkansas, Mr. THORNTON, wants to commit this Nation to, and the adoption of this resolution is but the first step, much in the same way another President at that very podium almost 30 years ago admonished this Nation to take its first step into the heavens and beyond. We begin a different journey with that same first step.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would hope that this resolution would be the beginning of a bipartisan effort to really accomplish things for the good of this country. I am not a very good partisan politician, and I have become very upset the last several months, and I hate to think of what the next year will bring, because

I have a feeling it will be more politics and not much getting done that is going to amount to anything as far as this country is concerned.

On Saturday I listened to the debate and sometimes I was embarrassed. At other times I thought we were making political statements.

Someone would say well, if we give middle-income America $300, $400, in tax breaks, somehow or other we are going to stimulate the economy.

I am here to say if you gave the Members of the Congress of the United States a $500 tax break, 80 percent, myself included, could do nothing to stimulate the economy. We probably would pay one small debt or something of that nature. We could not buy a big ticket item. We could not expand industry. We could not start a new business. We could not do any of those things. Certainly someone in the $20,000 to $60,000 bracket is not going to be able to do anything with a tax break in order to stimulate the economy.

In this resolution we are talking about cooperation. I would hope that that is what next year will bring. Because in this resolution, let me just point out one line, my being the ranking member on the Committee on Education and Labor, and that line is, "Stimulation of cooperative efforts between the public and private sector at all levels." That is one line. Another line says, "To secure the education and training of a competitive citizenry and work force."

Mr. Speaker, if we would only understand that if we were to have a real Marshall plan against illiteracy in this country we probably would solve 80 percent of all of our problems. Just look at the problem, and 8 times out of 10 illiteracy is involved. If we only understand that it is an intergenerational problem and we attack it as an intergenerational problem, then we will be successful. Then we will have a Marshall plan that really truly will bring about an improvement in the conditions in the United States.

Mr. Speaker, I hope that this is the beginning of not rhetoric, but the beginning of a bipartisan effort to really do the things that have to be done in this country in order to remain competitive and become more competitive.

Mr. ROEMER. Mr. Speaker, I yield a long 30 seconds to the gentleman from Missouri [Mr. SKELTON].

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Missouri.

The SPEAKER pro tempore (Mr. HALL of Texas). The gentleman from Missouri [Mr. SKELTON] is recognized for 1½ minutes.

Mr. SKELTON. Mr. Speaker, I thank the gentlemen for yielding.

Mr. Speaker, being on the Committee on Armed Services as I am, I have the opportunity to work not only in present capabilities, but to look downstream as to our national security. We all know the national security is far more than the tanks and ships and airplanes and men and women in uniform that we have. It is based upon a national will and it is based upon the economic condition of a country.

Mr. Speaker, we have just seen the collapse of an economy in the Soviet Union, the Soviet Union which had and still has the largest number of people in uniform anywhere in this world. Yet we have seen their military capability actually dwindle to next to nothing as a result thereof.

Mr. Speaker, I compliment particularly not just the gentleman from Indiana [Mr. ROEMER] and the gentleman from Pennsylvania [Mr. GOODLING], but I compliment particularly the gentleman from Arkansas [Mr. THORNTON] who has glued together this thought. The major part of it is to put together an economic strategy.

Mr. Speaker, you have strategies for national security, you have a cold war strategy, you have strategies on the battlefield. But this is so terribly important, that we have a coordinated strategy for the economic betterment of our country. Once we do that, we will not only have a better economy, people at work, but we will find ourselves in a much better position when it comes to national security.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, I rise today in support of House Resolution 284, which expresses the sense of the House of Representatives that America needs a Marshall plan to aggressively attack the pressing needs of our country in these trying times. I commend the leadership of my distinguished colleagues, the gentleman from Arkansas [Mr. THORNTON] and the gentleman from Indiana [Mr. ROEMER]. I am honored to be numbered among the many cosponsors of this responsible legislation on both sides of the aisle.

Mr. Speaker, it seems that at the time of the Civil War there was less partisanship than what exists in this House today. This resolution expresses I think what the sense of America should be, that we should be looking toward team-America, that we should be working together to improve the business climate, the working climate, the quality of life that this country has to offer.

Not long ago we had heard in the last decade that we should be searching for ways to reduce the cost of goods to protect the consumer.

□ 2000

It is time that we talk about production. I ask that my colleagues support this resolution in order that we begin the team work that this country needs to bring itself into sole prominence in this world in the year 2000.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise today strongly in support of House Resolution 284, a sense-of-the-House resolution calling for the establishment of a comprehensive and coordinated strategy which will help the United States attain the goal of being the strongest Nation on Earth—both militarily and economically.

This Marshall plan for America is no less important to our Nation today as was the original Marshall plan for Europe in 1948. Back then we demonstrated the compassion which Sir Winston Churchill described as the "most unsordid act in history." Today we must show the same compassion for our own Nation, our own people, and our own well-being.

Today the world is undergoing significant change, and our Nation is having a difficult time assuming a new role in it. For over 45 years, our stature in the world—and resulting security policy—was dictated by a bipolar balance of power between Washington and Moscow. This relationship, based completely on military might and the specter of nuclear war, seemed as permanent as the tide. But that relationship has changed—not only quickly, but perhaps permanently as well.

The United States must change in this new world order. No longer will our superpower status be determined by how many divisions we have in our Army, how many bombers we have in our Air Force, or how many aircraft carriers we have in our Navy. While all these facets of our security policy will remain important, they must be augmented by a strong economic and social strategy here at home.

We must begin this retooling of our superpower status by ensuring that our young people are healthy and educated. We must look at our dilapidated infrastructure and make the commitment to invest in its renewal and repair. We must take on the overwhelming burden of our Federal deficit and develop a strong and durable economic policy to repair it. Overall, while I am certainly not endorsing a complete abrogation of our responsibility to the international community, support of this resolution would signify that we take as serious our problems here at home as we do those abroad.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding time to me.

I, too, want to congratulate my colleagues from Arkansas and Indiana for putting this sense-of-the Congress together.

I would encourage them, and other Members on that side of the aisle, to go one step further and implement some economic development right here on this floor today or tomorrow. A couple of hours ago the President of the United States did what the majority leader asked him to do last week, endorse an ecomonic growth package, the economic growth package that we have been here to the well trying to get the other side of the aisle to take up before we leave here for Thanksgiving for over a month recess.

The President now has said he will sign that economic growth package. He is waiting. The American public is waiting. The people who are on unemployment are waiting. The people who are on welfare are waiting. How long will you make them wait.

Mr. ROEMER. Mr. Speaker, I yield 30 seconds to the gentlewoman from [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I really just wanted to rise in support of this resolution offered by our good friend from Arkansas who really made a special effort to get this resolution passed. It is a public-private partnership that he is asking for to plan for the future with a plan for the industrial base and the ecomony of our people.

I think it is an America first, all American resolution.

I am very proud to support it, and I am proud of the work that he did to get it on the floor.

Mr. ROEMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to close on this side by saying that I appreciate the number of Republicans and Democrats that have joined together to talk about a real issue to the American people. I salute the gentleman from Arkansas [Mr. THORNTON] for his hard work on this effort.

Mr. Speaker, what is life like for the children in this country when one child drops out of school once every 8 seconds of the school day? When we are building so many prisons and prison cells in this country and the director of prisons in Indiana will tell me we either send them money later on prison cells or now on preventative measures like Head Start programs?

Mr. Speaker, President Lincoln once said, "When times are new, we must think anew and act anew."

We do not necessarily have to come up with a brand-new idea today. We can incorporate the principles that worked, bringing private and public sectors together, looking long-term rather than short-term 30-second commercials and bind together in a bipartisan way to pass this Marshall plan next Congress.

Mr. Speaker, a history lesson is on today's agenda. One of the most stirring success stories in living memory fades before us, and yet, it should be the centerpiece of congressional debate today.

Mr. Speaker, let us learn a lesson from the aftermath of World War II. An industrial giant was on its knees. A society was devastated. A wealthy world leader found itself floundering in postwar chaos, unable to compete with other, new world leaders. Citizens were willing and able to work, but jobs did not exist, and their future went from doubt and uncertainty to jeopardy to irreparable loss. A world leader consumed itself in indecision, and its people felt leaderless. Jobs were scarce, education became a privilege, the infrastructure crumbled, and a world power could not care for its citizens.

I am speaking of post World War II Europe, Mr. Speaker, but with little stretch of the imagination I could be speaking of the United States today.

Yet, when Europe verged on collapse, the United States showed unprecedented leadership with the Marshall plan. We created an agenda to reorder Europe's domestic priorities, and helped them invest in their own future. Could we not, must we not do the same at home today?

Congress has an absolute responsibility to form and implement a long-term legislative agenda to address the problems that are eating away at our quality of life: infrastructure, health care, competitiveness, and, perhaps most important of all, education.

Mr. Speaker, education is the cornerstone to America's future. Our children are our future, and our ability to provide opportunity for our children is critical to our survival economically and as a free people.

I have the honor of serving on the Education and Labor Committee in this body. In this capacity, I have the great privilege of working to provide a better educational future for America's young people.

But the truth is that the needs of America's young are impacted by virtually every committee in this House, whether in America's communities, our environment, or the Nation's economy.

Today's bill, House Resolution 284, insists that Congress recognize its responsibility to our youth, and that we recognize that virtually every decision we make impacts on our children, and so on our future.

Mr. Speaker, my colleagues participating in this debate today have and will raise many important, timely, and insightful issues. They all carry messages of deep importance to us in Congress, and to our Nation.

They each provide sound and solid reasoning why America can and must enact a domestic Marshall plan.

But it is for our children, Mr. Speaker, that I have come to the well of the House today. We cannot—must not—fail them, for if we do, we fail ourselves.

The Marshall plan for America is the key to our children's future, and therefore to our own. I urge our colleagues to support this plan, and lead the United States back to its rightful place as the undisputed world leader of the free world.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me just say to my friends who have promoted this particular provision that it looks to me like it is a bumper strip. It is very general. It says we need to do good things. We need to all work together. It is happy talk.

I do not see anything with respect to IRA's. I do not see anything with respect to tax-free savings accounts for the middle class, nothing with respect to capital gains cuts. I remind my friend that blue-collar workers cannot hire themselves. They cannot hire each other.

Most of the jobs in this country are developed by private industry. There is nothing here that will provide economic growth.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of House Resolution 284, and commend my colleague from Arkansas for his leadership on this issue.

The American experience has been referred to as a "glorious experiment." Truly, the course that our Founding Fathers set us upon over 200 years ago has proven to be glorious indeed. As our national Thanksgiving holiday approaches we are all reminded of the many blessings that have been bestowed upon us.

However, the foundation of our Nation is not based upon material prosperity. Rather it is based upon deep principles of freedom and justice and as a result America is looked to as a beacon of hope by people all over the world.

Just this year, our Nation was called upon to once again be a leader in the fight for freedom. The outstanding performance of our Armed Forces in the Persian Gulf demonstrated that America still retains that can do spirit.

Therefore, it is only fitting, Mr. Speaker, that we bring this resolution before the House today. House Resolution 284 calls for a reordering of our national priorities. It expresses the sense of Congress that a new Marshall plan for America needs to be developed. We need to recommit ourselves to the goals of education and training, financial stability for our citizens, and a cooperative effort between the public and private sector at all levels.

By working to ensure that our country continues both its economic and military leadership, the ideals of the American experiment will remain as an example to those around us.

The SPEAKER pro tempore (Mr. HALL of Texas). All time has expired.

The question is on the motion offered by the gentleman from Indiana [Mr. ROEMER] that the House suspend the rules and agree to the resolution, House Resolution 284.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Telecommunications Act of 1991".

SEC. 2 PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION.

Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by striking the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated $42,000,000 for each of the fiscal years 1992, 1993, and 1994, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunication facilities as provided in this subpart.".

SEC. 3. SERVICES FOR UNDERSERVED AUDIENCES.

Section 393(b)(4) of the Communications Act of 1934 (47 U.S.C. 393(b)(4)) is amended by inserting immediately before the period at the end the following: ", including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals".

SEC. 4. CONGRESSIONAL DECLARATIONS OF POLICY.

Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

SEC. 5. BOARD OF DIRECTORS.

(a) Reduction in Number of Members.—(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10' and inserting in lieu thereof "9"; and

(B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) Term of Office.—Section 396(c)(5) of the Communications Act of 1934 (47 U.S.C. 396(c)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 4(c) of the Public Communications Act of 1991. Any member whose term has expired may serve until such member's successor has taken office. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.".

(c) Transition Rules.—(1) With respect to the 3 offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after the date shall expire on March 26, 1998.

(2) With respect to the 2 offices who terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on March 26, 2000.

(3) With respect to the 5 offices whose terms are prescribed by law to expire on March 26, 1996—

(A) 1 such office, as selected by the President, shall be abolished on March 26, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on March 26, 2000; and

(C) the term for each of the remaining 3 such offices immediately after March 26, 1996, shall expire on March 26, 2002.

(4) As used in this subsection, the term "office" means an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

SEC. 6. COMPENSATION OF OFFICERS.

Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended by striking the fourth sentence and inserting in lieu thereof the following: "No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct.".

SEC. 7. CONTENTS OF ANNUAL REPORT.

Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;".

SEC. 8. CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION.

(a) Extension of Authorization.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "$180,000,000 for fiscal year 1981," and all that follows through "$245,000,000 for fiscal year 1991,";

(2) by striking "and" after "fiscal year 1992,"; and

(3) by inserting immediately after "fiscal year 1993" the following: ", $310,000,000 for fiscal year 1994, $375,000,000 for fiscal year 1995, and $425,000,000 for fiscal year 1996".

(b) Annual Report.—Section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) is amended by adding at the end the following new subparagraph:

"(E) In recognition of the importance of educational programs and services, and the expansion of public radio services, to unserved and underserved audiences, the Corporation, after consultation with the system of public telecommunications entities, shall prepare and submit to the Congress an annual report for each of the fiscal years 1994, 1995, and 1996 on the Corporation's activities and expenditures relating to those programs and services.".

SEC. 9. TRAINING AND PROFESSIONAL DEVELOPMENT.

Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by inserting immediately after "other than English" the following: "or for assistance in the provision of affordable training programs for employees at public broadcast stations".

SEC. 10. INDEPENDENT PRODUCTION SERVICE.

Section 396(k)(3)(B)(iii)(V) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)(V)) is amended—

(1) by inserting immediately after "expenditures of the independent production service" the following: ", including carriage and viewing information for programs produced or acquired with funds provided pursuant to subclause (I) "; and

(2) by striking "fiscal year 1992" and inserting in lieu thereof "fiscal years 1992, 1993, 1994, and 1995".

SEC. 11. GRANT DISTRIBUTION CRITERIA.

Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting "(which the Corporation shall review periodically in consultation with public radio and television licensees or permittees, or their designated representatives)" immediately after "eligibility criteria".

SEC. 12. COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS BY FUND RECIPIENTS.

(a) Certification and Employment Reports Required.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

"(11)(A) Funds may not be distributed pursuant to this subsection for any fiscal year to the licensee or permittee of any public broadcast station if such licensee or permittee—

"(i) fails to certify to the Corporation that such licensee or permittee complies with the Commission's regulations concerning equal employment opportunity as published under section 73.2080 of title 47, Code of Federal Regulations, or any successor regulations thereto; or

"(ii) fails to submit to the Corporation the report required by subparagraph (B) for the preceding calendar year.

"(B) A licensee or permittee of any public broadcast station with more than 5 full-time employees to file annually with the Corporation a statistical report, consistent with reports required by Commission regulation, identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

"(i) Officials and managers.

"(ii) Professionals.

"(iii) Technicians.

"(iv) Semiskilled operatives.

"(v) Skilled craft persons.

"(vi) Clerical and office personnel.

"(vii) Unskilled operatives.

"(viii) Service workers.

"(C) In addition, such report shall state the number of job openings occurring during the course of the year. Where the job openings were filled in accordance with the regulations described in subparagraph (A)(i), the report shall so certify, and where the job openings were not filled in accordance with such regulations, the report shall contain a statement providing reason therefor. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.".

(b) Compilation of Reports by Corporation.—Section 396(m)(2) of the Communications Act of 1934 (47 U.S.C. 396(m)((2)) is amended by adding at the end the following new sentence: "Such report shall include a summary of the statistical reports received by the Corporation pursuant to subsection (k)(11), and a comparison of the information contained in those reports with the information submitted by the Corporation in the previous year's annual report.".

SEC. 13. AUDIT REQUIREMENT FOR PUBLIC TELECOMMUNICATIONS ENTITIES.

(a) ALTERNATIVE TO AUDIT FOR CERTAIN ENTITIES.—Section 396(l)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)(ii)) is amended—

(1) by redesignating the existing test as subclause (I);

(2) by striking "and" at the end of subclause (I), as so redesignated, and inserting in lieu thereof "or"; and

(3) by adding at the end the following new subclause:

"(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and".

(b) FREQUENCY OF AUDIT.—Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

(1) in clause (ii) by striking "biannual" and inserting in lieu thereof "biennial"; and

(2) in clause (iii) by striking "biannualy" and inserting in lieu thereof "biennially".

SEC. 14. REPEAL.

Paragraph (4) of section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is repealed.

SEC. 15. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 103(a) of the Children's Television Act of 1990 (47 U.S.C. 303b(a)) is amended by inserting "commercial or noncommercial" immediately before "television broadcast license".

SEC. 16. EFFECTIVE DATE.

Section 5(a) shall take effect on March 26, 1996. All other provisions of this Act are effective on its date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight we bring to the floor the authorization for the Corporation for Public Broadcasting. This legislation is going to ensure for the next 3 years that there is an authorization for the public television and the public radio stations of our country.

As we all know, over the last 30 to 40 years public television and public radio have played a very important role in ensuring that there is at least one quality source of programming on the dial on both the radio and television. But in a modern era, it takes on an even greater importance.

For example, with the advent of cable television, what we are seeing is more and more of a separation of access to information between those who can afford it and those who cannot afford it. Right now upward of 60 percent of all Americans have access to cable television. The other 40 percent do not.

As a result, what we are seeing is a separation in our society between the information rich and the information poor. That is, those who are in the upper income brackets on a continuing basis are seeing an improvement in the overall quality of the information which comes through into their homes.

On the other hand, what we are seeing is a development of a trend where there is a deterioration in the quality of programming going to the remainder of the homes. This trend is something which, as a Congress, we have to be very, very concerned about, because as we all know, since 1934, we have used the principles of diversity, of localism, of universal service as the basis for constructing a telecommunications policy in our country.

More and more, however, what we are seeing is that there is an exclusive group of people within the country, those who can afford it, whose information sources are continuing to improve, and there are others who are seeing a deterioration.

Enter the Corporation for Public Broadcasting. Here what we are ensuring is that there will be one source that will continue to maintain a high quality of programming, who will commit to ensuring that regardless of income, regardless of race, regardless of ethnicity or religion, that this programming will go into the home at the same high quality that it traditionally has.

It plays a critically important role in our society. I would hope that the House this evening could accept this 3-year authorization.

The gentleman from New Jersey [Mr. RINALDO] as usual has played his splendid role in ensuring that the legislation is put together on a bipartisan fashion, often helped in the construction of the legislation by Larry Irving, by Lisa Gursky, and by Chris Salemme, who have helped me throughout the process and here this evening to make this presentation to the floor.

I would hope, as would the gentleman from Michigan [Mr. DINGELL] and all the Members on the Democratic side, that this legislation would be given positive reception this evening.

Mr. Speaker, I reserve the balance of my time.

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Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 2977, the Public Telecommunications Act of 1991.

This bill addresses the authorization levels for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996. Under H.R. 2977, CPB will be authorized at $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

These levels, although greater than the levels authorized previously, are less than requested. I think the levels are justified in light of assurances made to the committee by CPB that a significant portion of the appropriated funds will be directed toward educational programs and services, as well as the expansion of radio services.

I applaud CPB's recommitment to its educational roots and the expansion of public broadcasting's capacity and ability to improve education's services. As we all know, it has become increasingly apparent in recent years that it is those countries which strongly support their educational programs that will take the lead in today's competitive global economy.

By using combinations of television, satellite, computer, videodisc, and telephone technology, the Public Broadcasting System is developing the new American classroom, bringing quality educational opportunities to students regardless of geographic or economic location. Clearly, as President Bush has stated, the days of the little red schoolhouse are over.

Recognizing the importance of CPB's proposed educational and radio expansion initiative, this bill directs CPB, in consultation with the Public Telecommunications System, to report annually to Congress regarding its activities and expenditures relating these areas. In addition, CPB's annual report is expected to list every organization that receives a grant from CPB for any programming and list the producer, title, and description of each program produced under such grants.

H.R. 2977 also reduces the number of CPB board members from 10 to 9 and staggers their terms in office. The bill contains an amendment to the Children's Television Act of 1990 which clarifies that the act's renewal requirements apply to noncommercial as well as commercial stations.

The bill requires that no CPB funds would be distributed to a station unless the station certifies to CPB that it has complied with the FCC's Equal Employment Opportunity [EEO] regulations and submits to CPB a copy of its EEO report for the prior year. Finally, the bill expands CPB's reporting requirements with respect to the activities and expenditures relating to the Independent Production Service [ITVS] to include carriage and viewing information in order to ensure that programming produced with these funds reaches the audience it is intended to reach.

Overall, Mr. Speaker, the Public Television Communications Act of 1991 provides fiscally responsible authorization levels for public broadcasting which will enable the system to fulfill its commitment to providing much-needed educational and radio expansion services.

I would like to personally and particularly commend the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee, for working with the minority and the minority staff; for ensuring that our views were heard; for working to produce this type of bipartisan legislation that people on both sides of the aisle can support.

I would also like to express my appreciation to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from New York [Mr. LENT], the ranking minority member, for advancing through their leadership this bipartisan authorization practice.

I urge my colleagues to vote favorably on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding and compliment him and the distinguished minority leader for their wonderful work on this.

I think public broadcasting is one of the most important assets in the communication network that our people have. When one thinks of how it all began, the private donations, the contributions that people make, individual people own the company, literally, by their contributions, and this authorization complements what individuals do.

In my own city of Cleveland we are very proud of our public radio station and our public TV station, and I think the caliber, the level of communication, the level of programming is on a very lofty level. That is why I think it is so important to our Nation's culture to have it. So I want to compliment the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisville, KY, Mr. MAZZOLI.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding. To show you how long I have been here in the House, I remember years ago when the idea of public broadcasting was very, very controversial. We used to have long and very bitter debates over whether or not there should be any public money devoted to the question of public broadcasting. I think it is to the credit of the gentleman from Massachusetts [Mr. MARKEY] and others before him that we have reached the point where public broadcasting is part of the educational and entertainment firmament, and it is almost unthinkable not to have it available to our people.

I would just point out that the blockbuster entertainment of "The Civil War", which just appeared this year, which broke every viewership record that was ever had, I think young Ken Burns deservedly won every sort of award for that. I would also like to mention my friend, Bob Edwards, who broadcasts for NPR, who happens to be a graduate of my high school and a fellow Louisvillean. So we wish excellent work for the next 3 years on the part of public broadcasting.

Mr. RINALDO. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Speaker, first I would like to commend the gentleman from Massachusetts [Mr. MARKEY], our distinguished chairman, and the gentleman from New Jersey [Mr. RINALDO], the ranking Republican on the subcommittee, for their leadership in bringing this legislation to the floor and for leadership in telecommunications policy issues in general.

Mr. Speaker, over the years the Corporation for Public Broadcasting and PBS have provided the country with a great variety of high quality entertainment and educational programming. Public television has also been at the forefront of technological innovation, merging video presentation and teaching.

For the most part I feel that the money Congress spends on CPB is money well spent. The programs produced by the Children's Television Workshop, such as "Sesame Street", watched by my own children as they grew up, have been helping all American children learn for decades.

Over the years I have also enjoyed watching quality programming, such as "Jewel in the Crown", "Riley, Ace of Spies", "Smiley's People", "The Civil War", and so much else that was not available on commercial TV.

However, there is another side to PBS programming. I am concerned about the way in which PBS distributes programs to PBS member stations.

First, there is very little, if any, input from member stations to PBS central and I think we need more.

PBS's programming decisions have become too centralizing, deciding what programs are suitable for a very diverse America without seeking the opinions of the audience they are trying to reach. On some very controversial political issues, PBS has shown over the years some bias. We saw it on Central America programming over the decade of the 1980's.

The latest issue has been the political hot potato of global warming.

PBS has distributed to its stations programs airing the "Doomsday" side of this controversy. Shows like "After the Warming," "Global Change," and other programs showed public television viewers the alarmist side of global warming; however, PBS refused to distribute "The Greenhouse Conspiracy," a critically acclaimed documentary that uses science to virtually take apart the alarmist global theories that are the basis for the programs distributed by PBS.

On September 17, 1991, PBS once again distributed "After the Warming" to its stations. Some of these stations, knowing that PBS has been one-sided on this issue, went out and individually purchased "The Greenhouse Conspiracy" and aired it prior to "After the Warming."

I applaud these individual station efforts to provide a more balanced approach to this critical environmental issue; however, the fact that PBS would distribute "After the Warming" and not "The Greenhouse Conspiracy" is disturbing. Why should an individual station have to go out and purchase another program to achieve the kind of balance that PBS is itself supposed to provide?

In authorizing the Corporation for Public Broadcasting, Congress said that CPB was to:

> . . . Facilitate the full development of Public Telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature.

It is apparent that some of the stations have taken that statutory mandate for balance seriously in spite of PBS's oft-times disregard for balance.

The members stations have behaved well. It is PBS central which causes my concern.

As the distribution arm of America's Public Television, PBS has a very special responsibility to provide the public with balanced programing on controversial issues. That is a statutory requirement. This balance has been ignored on a key environmental issue, and there is nothing in this legislation to change that.

The same statute that requires CPB and, therefore, PBS to be balanced, has no enforcement mechanism, and that is probably a good thing, because none of us want to stand here and censor public television.

But PBS is using taxpayer money to distribute only one side of a subject with a potentially enormous impact on our jobs and our very way of life.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield an additional 1½ minutes to the gentleman from Pennsylvania.

Mr. RITTER. PBS simply refuses to distribute scientifically responsible programing that does not agree with their bias, and that is wrong.

For a decade the leftist view has dominated on PBS without any balance from the other side. This is wrong.

There needs to be some sort of accountability for PBS, and this is not in any way meant to censor them, only to have them live up to the spirit, if not the letter of the law. They simply have not done so.

During the energy and Commerce Committee markup, I attached an amendment to this authorization that strengthens the reporting requirements for the independent television service [ITVS], a new service that is supposed to provide alternative programs from independent producers. As a result of my amendment, the bill expands CPB's reporting requirement with respect to its activities and expenditures to include carriage and viewing information in order to ensure that programing produced with these funds reach the audiences for which it is intended.

This kind of reporting will be helpful to understand just how our taxpayer dollars are spent. We need to ensure that the dollars we give to ITVS are used to fulfill the congressional intent. We in the Congress will continue to monitor public broadcasting closely and to expect PBS to live up to its congressional mandate, or at least the spirit of the statute that authorizes them.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, come here to support this bill, as an attorney who used to represent the public broadcasting station in Pittsburgh and as a very strong supporter of public broadcasting and in the work in particular of WQED in Pittsburgh that has done a fantastic job not only in "Mr. Roger's Neighborhood" but many other local programs. I heartily support this endeavor.

It is unfortunate, however, that we are here discussing public broadcasting instead of doing something very substantive about the growth and the need for economic growth here in this country.

When I walked back up the aisle after the last time I took the well, a few of my colleagues were surprised at the fact that I said that the President of the United States would actually sign this economic growth package, the growth package that we brought to the floor a few days ago.

I will repeat that for members on both sides of the aisle. The President of the United States said this evening that he will sign this economic growth package.

I know there are many Members on the Democratic side of the aisle, because I have talked to many of them, who are anxious to do something about this economy. They are anxious because they know there are problems out there in the economy. They know that people are desperate. They know that this economy needs a jump start. They realize that.

But Mr. Speaker, we are not going to get a chance under the current rules, we are not going to get a chance to vote on an economic growth package before this Congress adjourns for the end of this year.

Now, I would plead with Members from this side of the aisle and Members from that side of the aisle, to the Speaker of the House, please, for the American public, give this economic growth opportunity a chance. Have it debated. Put up your own economic growth package. Let us talk about both of them. Let us have a debate here. Before we take a month and a half off for our vacation time, let us have a debate on the floor of the House before we leave. Let us have a discussion on economic growth.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of this legislation and would like to commend the chairman of the subcommittee as well as the ranking Republican member for their bipartisan efforts to bring this bill to the floor for final passage.

This legislation is significant in several aspects. First, it represents a renewed commitment on the part of the Federal Government to vigorously fund public broadcasting. Second, and most importantly, this legislation represents a pledge on the part of those in the field of public broadcasting—the Corporation for Public Broadcasting, National Public Radio, and America's Public Television Stations—to move aggressively to expand service and opportunity for rural and minority audiences who continue to be underserved by the Nation's public broadcasting system.

Today, Congress is taking an important step to reinvest in its public broadcasting system. And with that reinvestment comes a responsibility among those in the public broadcasting community to channel significant resources to stations serving rural and minority audiences. And this legislation recognizes that priority by strengthening EEO standards for public broadcasting stations and by placing a stronger emphasis on training and professional development.

I look forward to the completion of CPB's ongoing comprehensive review of its community service grant program. Its recommendations should help guarantee that the rural and minority audiences begin receiving a more equitable share of the Federal pie. I know this subcommittee, under the able leadership of Chairman MARKEY and the ranking member, will remain committed to the goal of expanding opportunity for minority employment and ensuring that underserved and unserved groups will continue to be brought into the public broadcasting system.

I would urge my colleagues to vote in favor of the bill.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I would like to add that Craig Margolis of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce helped us very much in the drafting of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2977, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OMNIBUS INSULAR AREAS ACT OF 1991

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1688) entitled the "Omnibus Insular Areas Act of 1991", as amended.

The Clerk read as follows.

H.R. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1991".

TITLE I—INSULAR AREAS DISASTER SURVIVAL AND RECOVERY ACT OF 1991

SEC. 101. SHORT TITLE.

This title may be cited as the "Insular Areas Disaster Survival and Recovery Act of 1991".

SEC. 102. DEFINITIONS.

As used in this title—

(1) the term "insular area" means any of the following: American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 103. AUTHORIZATION.

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to—

(1) construct essential public facilities necessitated by disasters in the insular areas occurring prior to the date of the enactment of this Act; and

(2) enhance the survivability of essential infrastructure in the event of disasters in the insular areas.

except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 403 and 406 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172) for such disaster. Such sums shall remain available until expended.

SEC. 104. TECHNICAL ASSISTANCE.

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in cooperation with the Director of the Federal Emergency Management Agency, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

SEC. 105. HAZARD MITIGATION.

The total of contributions under the last sentence of section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 403, 406, 407, 408, and 411 of such Act with respect to any major disaster: *Provided*, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.

SEC. 106. TECHNICAL AMENDMENT.

Paragraphs (3) and (4) of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) are each amended by inserting after "American Samoa," the following: "The Northern Mariana Islands,".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. AMERICAN SAMOA WATER, SEWERAGE, AND POWER NEEDS.

(a) The Secretary of the Interior shall conduct a comprehensive study or, as appropriate, review and update existing studies to determine the current and long-term water, power, and wastewater needs of American Samoa. Such study shall be conducted in consultation with the American Samoa Government and those Federal agencies which have recent experience with the water, power, and wastewater needs of American Samoa.

(b) The Secretary of the Interior shall report the results of the study conducted under subsection (a) to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than December 31, 1992. The report shall include—

(1) an assessment of the water, power, and wastewater needs of American Samoa on the date of the enactment of this Act and for the year 2000;

(2) an assessment of, and recommendations regarding, how these needs can be met;

(3) an assessment of, and recommendations regarding, any additional authority or funding which may be necessary to meet these needs; and

(4) an assessment of, and recommendations regarding, the respective roles of the Federal and American Samoa Governments in meeting these needs.

SEC. 202. INSULAR GOVERNMENT PURCHASES.

The Governments of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands are authorized to make purchases through the General Services Administration.

SEC. 203. FREELY ASSOCIATED STATE CARRIER.

(a) In furtherance of the objectives of the Compact of Free Association Act of 1985 (Public Law 99-239) and notwithstanding any other provision of law, a Freely Associated State Air Carrier shall not be precluded from providing transportation, between a place in the United States and a place in a state in free association with the United States or between two places in such a freely associated state, by air of persons (and their personal effects) and property procured, contracted for, or otherwise obtained by an executive department or other agency or instrumentality of the United States for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted, or utilized by or otherwise established for the account of the United States, or shall be furnished to or for the account of any foreign nation, or any international agency, or other organization of whatever nationality, without provisions for reimbursement.

(b) The term "Freely Associated State Air Carrier" shall apply exclusively to a carrier referred to in Article IX(5)(b) of the Federal Programs and Services Agreement concluded pursuant to Article II of Title Two and Section 232 of the Compact of Free Association.

SEC. 204. MARSHALL ISLANDS FOOD ASSISTANCE.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note) is amended by striking out "five" and inserting in lieu thereof "ten".

SEC. 205. NORTHERN MARIANAS COLLEGE.

Section 9(a) of Public Law 99-396 is amended by striking out the period at the end and inserting in lieu thereof the following: "and in subsection (b), by striking out 'and Micronesia' each place it appears and inserting in lieu thereof 'Micronesia, and the Northern Mariana Islands' and by striking out 'and to Micronesia' and inserting in lieu thereof ', Micronesia, and to the Northern Mariana Islands'.".

TITLE III—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS, ACT OF 1991

SEC. 301. SHORT TITLE.

This title may be cited as the "Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1991".

SEC. 302. FINDINGS.

The Congress finds that the Salt River Bay area of the north central coast of St. Croix, United States Virgin Islands—

(1) has been inhabited, possibly as far back as 2000 B.C., and encompasses all major cultural periods in the United States Virgin Islands;

(2) contains the only ceremonial ball court ever discovered in the Lesser Antilles, village middens, and burial grounds which can provide evidence for the interpretation of Caribbean life prior to Columbus;

(3) is the only known site where members of the Columbus expeditions set foot on what is now United States territory;

(4) was a focal point of various European attempts to colonize the area during the post-Columbian period and contains sites of Spanish, French, Dutch, English, and Danish settlements, including Fort Sale, one of the few remaining earthwork fortifications in the Western Hemisphere;

(5) presents an outstanding opportunity to preserve and interpret Caribbean history and culture, including the impact of European exploration and settlement;

(6) has been a national natural landmark since February 1980 and has been nominated for acquisition as a nationally significant wildlife habitat;

(7) contains the largest remaining mangrove forest in the United States Virgin Islands and a variety of tropical marine and terrestrial ecosystems which should be preserved and kept unimpaired for the benefit of present and future generations; and

(8) is worthy of a comprehensive preservation effort that should be carried out in partnership between the Federal Government and the Government of the United States Virgin Islands.

SEC. 303. SALT RIVER BAY NATIONAL HISTORIC PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS.

(a) ESTABLISHMENT.—In order to preserve, protect, and interpret for the benefit of present and future generations certain nationally significant historical, cultural, and natural sites and resources in the Virgin Islands, there is established the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virginia Islands (hereafter in this title referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of approximately 912 acres of land, waters, submerged lands, and interests therein within the area generally depicted on the map entitled "Salt River Study Area—Alternative 'C'" in the "Alternatives Study and Environmental Assessment for the Columbus Landing Site, St. Croix, U.S. Virgin Islands" prepared by the National Park Service and dated June 1990. The map shall be on the file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Offices of the Lieutenant Governor of St. Thomas and St. Croix, Virgin Islands.

SEC. 304. ACQUISITION OF LAND.

(a) GENERAL AUTHORITY.—The Secretary of the Interior (hereafter in this title referred to as the "Secretary") may acquire land and interests in land within the boundaries of the park only by donation, purchase with donated or appropriated funds, or exchange. Nothing in this section shall be construed to prohibit the Government of the Virgin Islands from acquiring land or interest in land within the boundaries of the park.

(b) LIMITATIONS ON AUTHORITY.—Lands, and interests in lands, within the boundaries of the park which are owned by the Virgin Islands, or any political subdivision thereof, may be acquired only by donation or exchange. No lands, or interests therein, containing dwellings lying within the park boundary as of July 1, 1991, may be acquired without the consent of the owner, unless the Secretary determines, after consultation with the Government of the Virgin Islands, that the land is being developed or proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park was established.

SEC. 305. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered in accordance with this title and with the provisions of law generally applicable to units of the national park system, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes". approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). In the case of any conflict between the provisions of this title and such generally applicable provisions of law, the provisions of this title shall govern.

(b) COOPERATIVE AGREEMENTS WITH UNITED STATES VIRGIN ISLANDS.—The Secretary, after consulting with the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission (hereafter in this title referred to as the "Commission") established by section 306, is authorized to enter into cooperative agreements with the United States Virgin Islands, or any political subdivision thereof, for the management of the park and for other purposes.

(c) GENERAL MANAGEMENT PLAN.—(1) Not later than the last day of the third fiscal year beginning after the date of enactment of this title, the Secretary, in consultation with the Commission, and with public involvement, shall develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park. The general management plan shall describe the appropriate protection, management, uses, and development of the park consistent with the purposes of this title.

(2) The general management plan shall include, but not be limited to, the following:

(A) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(B) Proposals for visitor use facilties to be developed for the park.

(C) Plans for management of the natural and cultural resources of the park, with particular emphasis on the preservation of both the cultural and natural resources and long-term scientific study of terrestrial, marine, and archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in consultation with the Virgin Islands Division of Archeology and Historic Preservation.

(D) Proposals for assessing the potential operation and supply of park concessions by qualified Virgin Islands-owned businesses.

(E) Plans for the training of personnel in accordance with subsection (d).

(d) ASSISTANCE TO PROMOTE A VIRGIN ISLANDS TERRITORIAL PARK SYSTEM.—During the 10-year period beginning on the date of enactment of this title, the Secretary shall provide the funds for the employees of the Government of the Virgin Islands directly engaged in the joint management of the park and shall implement, in consultation with the Government of the Virgin Islands, a program under which Virgin Islands citizens may be trained in all phases of park operations and management, except that in no event shall the Secretary provide more than 50 percent of the funding for such purposes. A primary objective of such program shall be to train employees in the skills necessary for operating and managing a Virgin Islands Territorial Park System.

SEC. 306. SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS, COMMISSION.

(A) ESTABLISHMENT.—There is established a commission to be known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission.

(b) DUTIES.—The Commission shall—

(1) make recommendations on how all lands and waters within the boundaries of the park can be jointly managed by the governments of the Virgin Islands and the United States in accordance with this title;

(2) consult with the Secretary on the development of the general management plan required by section 305; and

(3) provide advice and recommendations to the Government of the Virgin Islands, upon request of the Government of the Virgin Islands.

(c) MEMBERSHIP.—The Commission shall be composed of 10 members, as follows:

(1) The Governor of the Virgin Islands, or the designee of the Governor.

(2) The Secretary, or the designee of the Secretary.

(3) Four members appointed by the Secretary.

(4) Four members appointed by the Secretary from a list provided by the Governor of the Virgin Islands, at least one of whom shall be a member of the Legislature of the Virgin Islands.

Initial appointments made under this subsection shall be made within 120 days after the date of enactment of this title, except that the appointments made under paragraph (4) shall be made within 120 days after the date on which the Secretary receives such list.

(d) TERMS.—The members appointed under paragraphs (3) and (4) shall be appointed for terms of 4 years. A member of the Commission appointed for a definite term may serve after the expiration of the member's term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made and shall be filled within 60 days after the expiration of the term.

(e) CHAIR.—The Chair of the Commission shall alternate annually between the Secretary and the Governor of the Virgin Islands. All other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(f) MEETINGS.—The Commission shall meet on a regular basis or at the call of the Chair. Notice of meetings and agenda shall be published in the Federal Register and local newspapers having a distribution that generally covers the United States Virgin Islands. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(g) EXPENSES.—Members of the Commission shall serve without compensation as such, but the Secretary may pay each member of the Commission travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code. Members of the Commission who are full-time officers or employees of the United States or the Virgin Islands Governments may not receive additional pay, allowances, or benefits by reason of their service on the Commission. The Secretary shall provide the Commission with a budget for travel expenses and staff, and guidelines by which expenditures shall be accounted for.

(h) FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to the provisions of section 14(b) of the Federal Advisory Committee Act, and except as otherwise provided in this title, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(i) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Commission in carrying out the purposes of this title.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as you know, the Congress has the responsibility under the Constitution to determine policies for the insular areas in the Caribbean and the Pacific associated with the United States. As Members may be aware, the practice has been to combine many of these decisions on which there is general agreement into omnibus bills.

The substitute for H.R. 1688 before the House is such legislation. It would establish policies to meet several insular situations. It was developed on a bipartisan basis and in consultation with the Senate and the administration.

The Omnibus Insular Areas Act of 1991 that I have proposed has its origins in a bill that passed both the House and the Senate last year. Unfortunately, that bill was not enacted into law because final Senate action came too late for the House to act further before it adjourned.

Today's legislation eliminates the areas of disagreement reconciling the House and Senate versions of last year's bill with the administration. In effect, it is the product of an informal conference.

Thus, the changes made from the bill as passed unanimously by the House last year or as reported by the Interior and Insular Affairs Committee unanimously this year are those we understand are necessary to make it possible for this legislation to finally become law, and become law soon.

The compromises have resulted in a substitute that is acceptable to the administration and that I believe will be accepted by the Senate committee leadership.

These compromises have preserved the most important original purposes of the legislation. So, while issues of controversy have been removed from the substitute, the provisions it retains are, nonetheless, greatly needed.

Some are urgent in nature. For example, one would continue the food program for the Marshall Islands atolls contaminated by U.S. nuclear testing. Another would provide the territory that I represent, the U.S. Virgin Islands, with assistance needed for recovery from the awful Hurricane Hugo. Appropriations for both of these purposes have already been made; but there is need for additional authorization.

INSULAR AREAS DISASTER SURVIVAL AND RECOVERY ACT

Title I of the legislation is the Insular Areas Disaster Survival and Recovery Act. It would authorize measures necessary to enable insular areas to survive and recover from natural disasters.

BACKGROUND OF TITLE I

These provisions were the driving force behind the legislation. They were developed after Hurricane Hugo struck the Virgin Islands with what the Federal Emergency Management Agency [FEMA] described as a "force unsurpassed in this century."

The storm devastated the island of St. Croix in particular. Over 90 percent of the island's buildings were damaged and about 80 percent of the population sought disaster assistance.

A delegation led by the now chairman of the Interior and Insular Affairs Committee, our distinguished colleague GEORGE MILLER, and the Secretary of the Interior, our former colleague Manuel Lujan, agreed that the destruction was so pervasive that assistance beyond that which normal disaster programs could provide was needed.

This was also suggested by FEMA when it reported a year after the disaster that "much still needs to be done before full physical, economic, environmental and psychological recovery is a reality."

The experience of the Virgin Islands is not unique among the insular areas, as a U.N. subcommittee recognized recently in commenting upon the particular vulnerability of small territories to natural disasters. To prove the point I note that just since Hugo, serious disasters have occurred in five of the six Pacific insular areas.

The fact is that the insular areas face extraordinary disaster problems because of the frequency and severity of the tropical storms that strike them. Their rate of disasters far exceeds the rate of the States.

They need special assistance for responding to disastrous storms because of their distance from the rest of the Nation; their relatively small size, populations, resource, and revenue bases; and their relatively high costs and great social and economic needs. In particular, they lack infrastructure strong enough to withstand the ravages of nature.

We have already recognized this by appropriating $7.5 million to the Interior Department for the special disaster problems faced by insular areas. Authorization is needed for spending this appropriation and that is one of the purposes of this legislation.

ANALYSIS OF TITLE I

This legislation, therefore, would:

Authorize Interior Department funded construction of facilities necessitated by disasters which have occurred from the time of Hugo to the present;

Authorize Interior and FEMA funded hazard mitigation, that is, improvements to infrastructure to enable it to withstand the inevitable future natural disasters;

Require the President to assess the ability of an insular area to cope with a disaster and provide any needed technical assistance;

Require the Interior Department to report on recovery a year after disasters occur; and

Clarify the eligibility of the Northern Mariana Islands for normal Federal disaster relief through FEMA.

MISCELLANEOUS PROVISIONS

Title II of the substitute consists of miscellaneous provisions. It would:

Require the Interior Department to report on American Samoa's water and power needs;

Make the current, temporary authorization for insular governments to make purchases through the Federal Government permanent;

Authorize agencies to contract with airlines in the Federated States of Micronesia and the Republic of the Marshall Islands;

Extend the authorization for supplemental food assistance for the peoples of the Marshall Islands atolls contaminated by U.S. nuclear testing; and

Authorize the Northern Marianas College to receive the same endowment authorized for other insular land grant institutions.

Let me briefly explain the background of these provisions.

AMERICAN SAMOA WATER, SEWERAGE, AND POWER NEEDS

The insular areas lack some of the basic infrastructure needed for a decent quality of life and that residents of the States take for granted. The lack of essential facilities poses health hazards, impedes economic growth, and cannot be met with the limited resources of island communities alone. This is especially a problem in the less developed insular areas, such as American Samoa and the Trust Territory Islands of Palau.

The Congress has acted to provide special assistance for many critical insular infrastructure needs; but it has only done so on a piecemeal basis. Further, while some studies of some needs have been done; a comprehensive study of related needs has not.

Last year's bill would have required the Interior Department to make comprehensive recommendations on insular water, power, and sewer needs. An amendment I proposed expanded upon legislation initially sponsored by our colleague ENI F.H. FALEOMAVAEGA.

This bill, as reported by the Interior and Insular Affairs Committee, would have covered all of the U.S. insular areas and the Trust Territory.

There were objections in the administration and the other body, however, to this provision in this bill. Later, though, those objecting on the other side of the Capitol agreed to a very similar provision if it were limited to American Samoa, one of the areas of the most acute need for it.

We, have, therefore accepted the best agreement we could reach with Senate sponsors so that we can at least comprehensively address the very serious problems faced in Samoa. These problems include villages without running water and chronic deficiencies in the electricity delivery system.

The revised provision would require the Interior Department to report regarding Samoa's needs by the end of next year. I have been advised that Chairman BENNETT JOHNSTON of the Senate committee agrees that Interior is to use all funds necessary for the study, which is estimated to cost at least $200,000.

There are also indication from the Senate that they would support use of existing authorities, such as the Interior Departments territories technical assistance program, to examine specific needs in other areas. So, the limitation to Samoa is one with which we can live.

INSULAR GOVERNMENT PURCHASES

Annual appropriations laws enacted since 1950 have authorized insular areas receiving assistance through the Interior Department to make purchases through the General Service Administration. There is, however, no permanent authority for this means of procurement. This authority is needed to enable governments that are greatly dependent upon Federal funds to achieve economies in obtaining equipment and supplies.

The provision to meet this need is identical to one that passed the House last year.

FREELY ASSOCIATED STATE CARRIER

Some of the development assistance granted the Marshall Islands under the Compact of Free Association Act of

1985 has been used to establish an airline. The Defense Department wants to use this airline for transportation to the important Kwajalein Missile Range which is located in the islands. Federal agencies, however, lack authority to contract with freely associated state airlines.

The provision to correct this situation is identical to one that passed both Houses last year. It was cosponsored by the distinguished ranking Republican of the Interior and Insular Affairs Committee, our colleague DON YOUNG.

MARSHALL ISLANDS FOOD ASSISTANCE

The 1985 Compact Act also authorized special supplemental food assistance for the peoples of the four Marshall Islands atolls contaminated by U.S. nuclear testing through fiscal year 1991. Subsequent legislation committed that the assistance would be provided as long as needed.

Some $418,000 has been appropriated for the food program for fiscal year 1992. There is, though, no specific authorization for spending beyond fiscal year 1991.

NORTHERN MARIANAS COLLEGE

The Omnibus Insular Areas Act of 1986 designated the Northern Marianas College a land grant institution. It did not, however, make the college eligible for the $3 million endowment provided other insular land grant institutions.

The provision to authorize the endowment is identical to one that passed the House in 1988.

I appreciate the help that we received on this matter from the Resident Representative of the Northern Mariana Islands, Juan Babauta.

ST. CROIX, VIRGIN ISLANDS PARK AND PRESERVE

Title III of the substitute would establish the Salt River Bay National Historical Park and Ecological Preserve in St. Croix, VI, consisting of approximately 912 acres of land and water. It is virtually identical to the text of H.R. 2927, which passed the House on November 5.

These provisions would:

Authorize the Secretary of the Interior to acquire lands within the boundary of the park and to enter into cooperative agreements with the Government of the Virgin Islands for the management of the park;

Establish a 10-member advisory commission to make recommendations to the Secretary and the Government of the Virgin Islands on how all lands within the boundaries could be jointly managed and to consult in the development of the general management plan; and

Establish a training program for Virgin Islands Government employees directly engaged in park operations.

BACKGROUND OF TITLE II

Salt River Bay, located on the north central coast of St. Croix, has long been recognized as an area worthy of preservation. Legislative efforts to protect it actually date to 1958 when the Legislature of the Virgin Islands voted to purchase 50 acres of the area.

Included were five acres of beach where Christopher Columbus anchored his 17 ships on his second voyage and sent some of his men ashore to investigate the Indian village that was visible on the island's western shore. The 5-acre Columbus Landing Site was designated a "National Historic Landmark in 1960."

In addition to its rich historical and cultural history, the area also has a wealth of natural and environmental treasures. These include: The largest remaining mangrove forest in the U.S. Virgin Islands; a significant tropical reef system, and a submarine canyon; as well as breeding grounds for a number of North American songbirds.

In 1980, a 690-acre area of Salt River Bay was designated a National Landmark.

DIFFERENCES FROM THE REPORTED BILL

There are several major differences between the reported bill and the substitute other than the one relating to the water, power, and sewerage study that I have already explained.

One, requested by the minority, would limit the authorization for Interior Department funded construction of facilities in insular areas necessitated by disasters to disasters which have occurred from the time of Hurricane Hugo to the present. It would also set the authorization for construction in the Virgin Islands related to Hugo.

The language fixing this authority is similar to language contained in the reported bill setting a limit on assistance to the Virgin Islands through FEMA for hazard mitigation that was deleted from the substitute at the request of the administration.

Another change requested by the minority would respond to the roles of the Interior Department and the Federal Emergency Management Agency in responding to insular disasters. It would add clarifying language to the requirement for the President to assess insular disaster situations in cooperation with the Secretary of the Interior. The language would provide that the assessment is to be done through the Director of FEMA. It would also add clarifying language to the requirement for the Secretary of the Interior to report after insular disasters. This language would provide that the report is to be made in cooperation with the Director of FEMA.

As the committee report makes clear, the legislation is intended to have Interior supplement—and not duplicate—FEMA responsibilities for funding and oversight of and reporting on insular disasters. This was also the effect and intent of the original language. But although the clarifying language I have described is not necessary, we have included it to facilitate approval of this bill.

A third change was agreed to in order to meet one of the two conditions set by the administration for the bill's approval. It would add language to clarify that the additional FEMA hazard mitigation assistance that the legislation would authorize would be provided on a matching basis. It is similar to language contained in last year's bill.

Last year's language was deleted from the reported bill at the request of the distinguished chairman of the Public Works and Transportation Committee, ROBERT ROE. The concern was that the language would eliminate the matching requirement for the already authorized FEMA hazard mitigation assistance by applying a match to only the additional assistance authorized by this legislation.

The fourth change would exclude the Federated States of Micronesia, the Marshall Islands, and Puerto Rico from the Insular Areas Disaster Survival and Recovery Act. This is the change insisted upon by the administration that I am most reluctant to make.

The administration's reasons for excluding Micronesia and the Marshall Islands on one hand and Puerto Rico on the other are different. I want to take a moment to explain them.

The administration objected to the inclusion of Micronesia and the Marshall Islands because it contends that they should receive no disaster assistance beyond that provided under Compact of Free Association legislation.

Compact law provides the freely associated states the same disaster assistance provided the other insular areas. Had the provisions for special insular disaster assistance proposed by the insular disaster relief legislation been in effect when the compact was negotiated, it is reasonable to presume that compact legislation would have extended such provisions to the freely associated states.

In the end, though, it was not the inclusion of the freely associated states—which, admittedly, are not U.S. insular areas but are, instead, merely associated with the United States—that the administration objected to most. It was, instead, the inclusion of Puerto Rico.

The administration's only explanation for its unrelenting objection to the inclusion of Puerto Rico has been a claim that Puerto Rico could require the use of most of the Interior Department's territories technical assistance funds because it is relatively large in comparison to the other insular areas.

This explanation is contradicted by the facts.

First, the legislation's proposed requirement to provide technical assistance to insular governments needing it after Presidentially declared disasters would be an assignment to the President. This is clear in the language of the bill and the President could provide the assistance through agencies other than the Interior Department, such as FEMA.

Second, the committee report on the bill made it clear that the assignment was not intended to require the Interior Department to provide Puerto Rico with assistance under Interior's territories technical assistance program or confer any authority—which does not exist at present—for it to do so.

Setting aside that the administration's excuse for opposing the inclusion of Puerto Rico is groundless, the reality is that Puerto Rico has had great disaster recovery and survivability problems and it is relatively poor. It needs and deserves the humanitarian disaster assistance that the administration is willing to provide the four other U.S. insular areas.

The reason that the administration does not want to provide this assistance is political. If the truth is not that it wants to deny the assistance because the President favors statehood for the Commonwealth and providing special assistance designed for insular areas reinforces arguments against statehood, the motivation may be even less supportable.

The administration, undoubtedly, believes that the goal of statehood justifies denying Puerto Rico special assistance for disasters it is willing to provide the four other U.S. insular areas. As much as we might condemn it for this callous approach, though, the reality is that the administration threatens to deny all of the assistance that this legislation could provide to all of the other insular areas, if we do not concede to its denial of the assistance to Puerto Rico.

It position is not right; but has delayed approval of some of the other important purposes of title I and II for several months now. So, the administration confronts us as we near the end of this session with the decision of either trying to finally obtain the provisions that can be approved or obtaining none at all this year.

Because we should not further delay other provisions, we have had to accept the administration's ultimatum regarding Puerto Rico.

Our colleague who represents the Commonwealth, JAIME B. FUSTER, has been a statesman on this matter. The sponsor of the amendment that added Puerto Rico, he has fought valiantly to retain it. Although he does not agree willingly, he has, though, had to recognize the necessity of proceeding with the disaster provisions for the other U.S. insular areas.

Senate differences are the reason for another change in today's substitute.

A provision in the reported bill that also passed the House in last year's bill—and has passed the House this year in other legislation—would have authorized $500,000 per year for projects that would reduce insular dependence upon imported fuels and maximize use of the prodigious indigenous, renewable resources of the insular areas.

The Senate had passed a provision similar to the House provision last year; but Senate sponsors do not want to include a provision in this year's legislation. We have had to accept their decision to enable agreed upon provisions to have a real chance of being enacted this year. And we hope the Senate will consider this provision in the other bill we have sent them.

The final major difference is the addition of the St. Croix, VI, park and preserve provisions as a new title III.

There are two areas of difference between title III and H.R. 2927. They relate to amendments reported by the Senate Energy and Natural Resources Committee. Let me also describe them.

One would reduce the boundaries of the park and preserve to the alternative "C" boundary as contained in the Alternative Study and Environmental Assessment of Salt River which was prepared by the National Park Service.

The other would limit the Secretary to funding no more than 50 percent of the cost of training employees of the Government of the Virgin Islands directly engaged in park operations.

These are relatively minor amendments in the scope of things and do not excessively detract from the primary purposes of the St. Croix park and preserve provisions.

I have, therefore, included them in the substitute in hopes that accepting them can make it possible to have these provisions enacted this year.

While I have taken sometime to explain the differences between the reported bill and the substitute, I want to emphasize again that the compromises have retained the most important original purposes and urgently needed provisions of the legislation. The substitute, therefore, should not only be considered acceptable; it is a more than fair resolution of the differences on this legislation.

In sum, it is a worthwhile bill that I urge my colleagues to approve. Let us send it to the Senate which, I hope and believe, will send it to the President before Thanksgiving.

☐ 2030

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1688, the Omnibus Insular Areas Act of 1991, which contains a number of provisions of import to some of our U.S. territories and free associated states. A number of these measures have no associated cost, but require authorizing legislation. The others have been limited in scope to keep expenditures to an absolute minimum.

I want to commend my good friend from the Virgin Islands, chairman RON DE LUGO of the Subcommittee on Insular and International Affairs, for agreeing to collectively address matters affecting the island areas. There remains many other outstanding matters affecting the U.S. territories, the trust territory of the Pacific Islands, and the free associated states, which hopefully can be addressed in another omnibus bill next year. H.R. 1688 has been modified to address the concerns raised by the administration. Those specific provisions which the administration found objectionable have been removed.

I also want to commend my very good friend, the delegate from Guam, BEN BLAZ for his effective leadership for the people of Guam.

While all of the individual provisions of H.R. 1688 have merit, the authorization for a land grant endowment for the Northern Marianas College warrants additional comment. In the early 1980's, the Northern Mariana Islands petitioned the Congress to designate the Northern Marianas College as a land grant institution. At that time, I was not convinced that the institution warranted the expenditure of Federal funds, particulary due to the apparent lack of governmental support in the Northern Mariana Islands.

The college was not accredited, shared space in a wing of an old hospital building, and the local government provided sparse funding. However, with the leadership of college President Agnes McPhetres, the Government dedicated the entire old hospital site to the college when the hospital was relocated to new facilities, funding was provided for renovations, staffing and academic resources were bolstered, and the college obtained full accreditation. After these dramatic improvements, I actively supported land grant status for the college, which was in fact extended by Congress in 1986.

President McPhetres has continued her efforts to improve the college, increasing enrollment, diversifying academic programs, and improving the appearance of the school. The college also has been reaccredited, firmly establishing the longevity of the quality of postsecondary education in the Northern Mariana Islands.

Given this impressive development record and the ongoing commitment of the local government and public to the college, it is fully appropriate for Congress to authorize, as per section 205, a land grant endowment. This corpus of funds will provide a stream of funding for the college to help future students to participate in the quality learning environment provided by the tenacious and dedicated efforts to so many in the Northern Marianas, and particularly, President Agnes McPhetres.

Title III of this bill would establish the Salt River Bay National Historical Park and ecological preserve at St. Croix, VI. This measure would establish a new unit of the National Park

System in the one location on U.S. soil where Columbus' men are believed to have landed. This is an important bill and one on which I am proud to be an original cosponsor.

When a similar bill passed the House earlier in the year, some Members on this side of the aisle had a number of concerns with the bill. I am pleased that the Senate addressed those concerns when the Energy and Natural Resources Committee reported the bill last week. Title III of this measure is identical in every significant way to what the Senate reported. One area of difference from the Senate version is that the Senate version makes it clear that payment to Virgin Islands Government employees is subject to appropriation. Technically, that language is unnecessary since all activities authorized in the bill are subject to appropriation.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota, [Mr. VENTO] who has been key in this legislation. The gentleman has been a good friend and a tremendous help whenever we need legislation to help the insular areas. The gentleman is the head of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Mr. VENTO. I thank the gentleman. First of all, I thank him for his kind comments, and I will work to earn that high praise in the years ahead that I have the privilege to work with the chairman of the subcommittee, RON DE LUGO.

Mr. Speaker, I congratulate the gentleman on this bill. This has been a difficult task that he has carefully put together.

I specifically want to commend the gentleman for that and also, of course, to rise in support of the provisions in the substitute that deal with the Salt River Bay preserve and historic park in St. Croix, VI, a bill that passed the House without objection earlier this month. It is a significant accomplishment.

This, of course, is also known as the Columbus landing site, the only place under the American flag that we know for certain is a specific area that Columbus visited on his second voyage.

Mr. Speaker, there are minor changes in this. There is a slight reduction of 46 acres which is the view shed area, as it is referred to by those of us that have worked with it, that Secretary Lujan has now signed off on and is willing to accept, or to give up on including such areas. It also provides for cost-sharing provisions with regard to the training of Virgin Island employees. I think that is a fair provision.

I hope it proves to accomplish the success that is necessary.

I hope with these changes that the Senate will accept this omnibus bill and/or that the version that we send to the Senate and hope that this will be a reality in 1992, the 500th year of Columbus's discovery.

I thank the gentleman for his cooperation.

Mr. LAGOMARSINO. Mr. Speaker, I might tell my colleagues my understanding is that the Senate will accept the bill just as it is being presented here tonight.

Mr. Speaker, I want to congratulate the chairman of the subcommittee for the Salt River provision and tell him that we appreciate the efforts of Secretary Lujan in bringing about this important matter.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this bill because I too an concerned about the insular affairs, the insular areas of our country.

I am also concerned about the economic affairs of our country. A few minutes ago I was at the well, and I asked the Democratic leadership if they would release an economic growth package so that it could be voted on here on the floor of the House before we leave. I got my answer. And I got my answer; this was told to me by a ranking member on Rules that in fact they are going to be considering a bill up there, the October surprise.

Now, where are the priorities of the Democratic leadership in this institution when we try to dig up 12-year-old unsubstantiated claims without going through committee process, without going through the hearing process, and yet when it comes to important things such as jobs in America, there is no time for that? The Rules Committee is too busy for that.

The calendar is too jammed for you, America, for the public that is out of work or underemployed. There is not time for you here. We have to wait until the spring or until the summer to take care of you.

But we can do political damage to the President before we leave here. We just cannot help you before we leave here.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

At this point, I want to thank the gentleman from California, who is the ranking Republican of the Subcommittee on Insular and International Affairs, for the cooperation he has given in developing this legislation. I also want to recognize the roles of the full Committee on Interior and Insular Affairs, our colleagues the gentleman from California [Mr. MILLER] and the gentleman from Alaska [Mr. YOUNG] the help of the chairman of the Subcommittee on National Parks and Public Lands, our colleague from Minnesota [Mr. VENTO] and the involvement of the chairman and ranking Republican of the Senate committee of jurisdiction, BENNETT JOHNSTON and MALCOLM WALLOP.

The distinguished chairman of the Public Works and Transportation Committee, our colleague the gentleman from New Jersey [Mr. ROE], and its Subcommittee on Aviation chairman, our colleague, [Mr. OBERSTAR], the gentleman from Minnesota cooperated on section 203.

I also wanted to thank several members of the staff for their work on this legislation.

Insular and International Affairs Subcommittee staff director, Jeffrey L. Farrow, professional staff member Gail A. Mukaihata, and minority consultant T.E. Manase Mansur worked on all aspects.

Subcommittee professional staff member Virginia A. Sablan had special responsibilities for titles I and II. Subcommittee clerk Daisy M. Minter and full Interior and Insular Affairs Committee professional staff member Lori Sonken contributed to them as well.

Insular and International Affairs Subcommittee professional staff member Brian L. Modeste; my administrative assistant Sheila Ross; and National Parks and Public Lands Subcommittee professional staff member Alexander Scott and staff director Richard Healy made title III possible.

Full Interior and Insular Affairs Committee general counsel Richard Meltzer and staff director Daniel P. Beard were also helpful on this bill.

The committee's minority staff director, Daniel Val Kish, and Public Works and Transportation Aviation Subcommittee counsel David A. Heymfeld helped with section 203. Public Works and Transportation Water Resources counsel Errol Tyler and minority counsel Gabe Roza helped with section 105.

We cannot forget the hard work of assistant legislative counsel Jean Ann Quinn of the Legislative Counsel and analyst James Hearn of the Congressional Budget Office.

We also appreciate the work of Senate Energy and Natural Resources Committee professional staff member, Allen Stayman, and minority senior counsel James P. Bierne.

Last, but not least, I want to acknowledge the cooperation of the Office of Management and Budget's Associate Director for Natural Resources, Energy, and Science, Robert E. Grady and other OMB staff including Ron Cogswell, and other OMB staff including Ron Cogswell, Jim Jordon, Kathy Peroff, Susan Tanaka, Barbara Casey, and Jim Jukes.

Finally, I again want to urge my colleagues to approve this bipartisan compromise package of insular measures so that they can become law this year.

Mr. DE LUGO. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the bill, H.R. 1688, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OLD FAITHFUL PROTECTION ACT OF 1991

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3359) to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027) and for other purposes, as amended.

The Clerk read as follows:

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

H.R. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Old Faithful Protection Act of 1991".

SEC. 2. AMENDMENTS TO GEOTHERMAL STEAM ACT.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 and following) is amended by adding the following new sections:

"SEC. 30. The Congress hereby declares that any use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources within the Corwin Springs Known Geothermal Resource Area (as designated in the July 22, 1975, Federal Register (Fed. Reg. Vol. 40, No. 141)) will result in adverse effects on significant thermal features in Yellowstone National Park. Notwithstanding any other provision of law to the contrary, the Secretary shall prohibit any use of, or production from, any existing geothermal well or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources within the Corwin Springs Known Geothermal Resource Area, including lands and waters and interests or rights in such lands and waters not owned by the United States. For the purposes of this section, the term 'geothermal well' means a well for geothermal steam and associated geothermal resources.

"SEC. 31. The Secretary shall not issue any lease under this Act for lands within a 15-mile radius of the boundary of Yellowstone National Park. Nothing in this section shall be construed to affect the ban or prohibition referenced under section 28(f) and section 30.".

SEC. 3. MORATORIUM AND STUDY.

(a) Any use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources is prohibited on lands and waters and interests or rights in such lands and waters not owned by the United States, within a 15-mile radius of the boundary of Yellowstone National Park, except with respect to the Island Park Geothermal Area (as designated by the map in the 'Final Environmental Impact Statement of the Island Park Geothermal Area' (January 15, 1980, p. XI)), to which such prohibition shall apply to lands and waters and interests or rights in such lands and waters not owned by the United States within the full extent of such Area, until 180 days after the receipt by Congress of the study referred to in subsection (b). Nothing in this section shall be construed to affect the ban or prohibitions referenced under section 28(f), section 30 and section 31 of the Geothermal Steam Act of 1970.

(b) The National Park Service, in consultation with the Forest Service and the United States Geological Survey, shall conduct a study on the impact of potential geothermal development on the thermal features of Yellowstone National Park. Such study shall not include the area referred to under section 30 of the Geothermal Steam Act of 1970, and shall not include federal lands within the areas referred to in section 28(f) and section 31 of such Act. The study shall be submitted to Congress no later than four years after the date of enactment of this Act.

□ 2040

Mr. WILLIAMS. Mr. Speaker, I yield myself 5 minutes.

My colleagues, Yellowstone National Park is America's first national park. Many believe it to be the world's premium national park. It is in trouble today. Yellowstone's majesty is in its mountains and meadows; its uniqueness is in its hot springs and geysers, such as Old Faithful. That uniqueness is being jeopardized by continuous efforts during the past several years by companies and organizations who are requesting permits to drill into the geothermal system which underlies Yellowstone and its environs.

Mr. Speaker, the legislation which is before us this evening, H.R. 3359, called the Old Faithful Protection Act, accomplishes several things, and I will take a couple of minutes to explain to my colleagues in the House, but primarily it accomplishes the following:

Mr. Speaker, it provides for Yellowstone Park and its wonderful thermal features ironclad, copper-riveted, rock-ribbed, no-risk protection. It does it, my colleagues, in the following ways:

First, it prohibits any use of or production from any existing geothermal well or any exploration for, or development of, any new geothermal well on lands not owned by the United States within what is known as the Corwin Springs Geothermal Resource Area.

Second, it imposes a permanent moratorium on geothermal leasing on Federal lands within a 15-mile radius of the boundary of Yellowstone National Park.

Third, it prohibits any use of or production from any existing geothermal well or any exploration of or development of any new geothermal well on lands owned by the United States within a 15-mile radius of the boundary of Yellowstone.

Thus, Mr. Speaker, there is a prohibition on lands, both private, State and Federal. The ban on lands not owned by the United States is temporary, and that temporary moratorium is for 4 years, during which this legislation requires a study by the National Park Service in consultation with the Forest Service and the United States Geological Survey, a study conducted to determine the impact of any geothermal development on the thermal features of Yellowstone Park. That study will be submitted to the Congress no later than 4 years after the date of enactment of this act.

With those provisions, Mr. Speaker, we believe that the unique and enormously important thermal features that underlie Yellowstone National Park will not be harmed, will not be harmed because we prohibit the drilling of any new wells or the development of any existing wells on all lands surrounding the park, and on those lands which are not owned by the United States we place a moratorium until this study is completed.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I am consume.

I rise today with serious concerns about the bill before us, but let me begin by reiterating the view of everyone from the minority who spoke on H.R. 3359 at the full Interior Committee markup. We all expressed a sincere desire to insure Yellowstone National Park's thermal features be protected from legitimate threats. No one on our committee, and I daresay in this body, would ever think, say, or vote otherwise, that's abundantly clear. So when we clear away the partisan rhetoric about who is more faithful to Old Faithful what remains?

Mr. Speaker, I am afraid we are left with a bill that likely would effect a taking of private property rights. Now, you have heard much speechmaking regarding the "takings" issue already, and likely will hear more denials of this assessment. But, Mr. Speaker, even if the provisions in this bill were ultimately deemed by the judicial branch to not rise to the threshold of a legislative taking, I still could not support this bill as amended.

Why? Because, enactment of H.R. 3359 would greatly diminish the value of the Royal Teton Ranch without granting any compensation. Mr. Speaker, at the subcommittee hearing not one witness attempted to dispute the valuation of the ranch's water right at between $1 and $11 million. We must, therefore, assume that this value range is accurate. I believe strongly that

Congress ought not to diminish anyone's private property value by this magnitude, unless we go ahead and acknowledge the necessity for the action and pay them for it.

Obviously, Mr. Speaker, many of my colleagues agree with this sentiment. Protection of private property from seizure without compensation fueled the effort in the conference on the highway bill to agree to language regarding executive branch assessments of potential takings. Mr. Speaker, the electorate is fed up with the rapacious appetite of the Congress to pass laws with little regard to their economic impact. I believe, as does the administration, that H.R. 3359 is yet another example.

As I said before, we agree the protection of the thermal features of Yellowstone National Park is important. That is why in 1988 the Congress directed the U.S. Geological Survey to study potential impacts upon the park from pumping a well on the Royal Teton Ranch. Mr. Speaker, the USGS has reported back and the verdict is:

> Fluid production from the existing geothermal well * * * at rates up to about 25 liters per second * * * poses no discernible risk of decreased discharge of the Park's thermal springs.

Mr. Speaker, the majority from the committee wishes to paint this report as unbalanced because the views of the National Park Service were not specifically included. We disagree and believe the scientifically reached conclusions are valid. I do not intend to seek a recorded vote on H.R. 3359, so I won't go into detail why we believe the majority failed to make the case against the science contained in the USGS report.

However, I will say that if the science stands up to scrutiny—and we believe that it does—then the majority's takings assessment is insupportable. The test, as outlined in the committee report, is no taking exists if an action would substantially advance a legitimate State interest. We believe that a proposed pumping rate that would have no discernible impact upon the park's thermal features simply cannot substantially advance protection of Yellowstone Park. Therefore, the pumping ban in H.R. 3359 fails to meet the recognized criteria, and the loss of value of the Royal Teton Ranch is a taking of the owners' property. The administration shares this view.

Furthermore, Mr. Speaker, we are concerned about the committee's refusal to listen to the professional advice of the agency with the clear expertise to perform this assessment. This bill would require the Park Service to perform a similar assessment of impacts from potential private geothermal development within 15 miles of Yellowstone's borders. The majority is shopping for the recommendation they want to hear—disallow private activity within a buffer zone around the park because of potential threats, real or imagined.

Mr. Speaker, I end on an observation made by a witness at our hearing. The true crown jewels of this Nation are not our parks, but rather the protection of individual freedoms embodied in the Bill of Rights. With respect to the pumping ban in this legislation, we believe both Yellowstone National Park and private property rights can be protected by incorporating the scientific conclusions of the U.S. Geological Survey. If Congress insists upon disallowing any pumping, we believe compensation for taking of this right should be factored into this bill.

□ 2050

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentlewoman from Nevada for yielding me the time.

Mr. Speaker, I rise in support of this geothermal bill. This bill addresses several issues that are of great importance to me and to my State of Wyoming and indeed to the entire country. One is the possibility that activities taking place outside the park could impact on some of the wonders of the Yellowstone Park, one of our great natural resources.

Second, it raises the very real question, as the gentlewoman from Nevada mentioned, about the matter of the taking of private property, an issue which is increasingly important and increasingly discussed, particularly in areas where we have a great deal of public land.

Finally, it has to do with the water rights that are allocated by States, and I think it is a very important feature for all of us, whether we are in wilderness bills or whether we are in park bills, that States retain this authority to allocate water rights.

There have been several studies as to whether or not geothermal drilling and geothermal use on the periphery of the park would affect the geothermal activities within the park.

This is not the first time this question has been raised. Some time ago when there was talk about developing an electric generating plant from geothermal resources, it was talked about at that time. Two studies have been made, particularly one by the Park Service and one by the U.S. Geological Survey. The Geological Survey indicated at the end of this study, and I quote: possesses no discernable risk of a decreased discharge of the park's thermal springs.

They were pretty positive about it.

The National Park Service, on the other hand, as we might imagine, was much less positive and in fact took a much more cautious approach. I have to confess that I take a cautious approach, too. Should we find that we have indeed impeded or drained or altered the geothermal activities within the park, I do not think we would have the scientific knowledge as to how to replace it or repair it. So I favor erring on the side of being extra careful.

Mr. Speaker, I do support the bill, but I believe that we ought to take a look, if this goes on through the Senate and goes on through the Congress, at this question of the taking of private land. It is my view that the resource is so important that indeed if there is damage done to private owners, we would be in position to reimburse them for those losses.

Mr. Speaker, I thank the gentlewoman from Nevada for the time, and I urge passage of the bill.

Mrs. VUCANOVICH. Mr. Speaker, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the chairman of the Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Chairman, I take the floor at this time to thank our colleague and senior member of our committee for bringing this matter before the Committee on Interior and Insular Affairs and getting us to move this legislation to the floor of the Congress tonight.

It is very clear that the protection of Old Faithful is something that all Members of Congress are deeply concerned about, and without the intervention of our colleague, the gentleman from Montana [Mr. WILLIAMS] on behalf of this act, we simply would not be here tonight to enable the Congress to go home and tell the American people that we have in fact protected this incredible American asset and value system, if you will.

On behalf of those who have traveled to Old Faithful and seen it and listened to their families as they discussed with their children not only that immediate enjoyment but when they were there before and the need for the Congress to protect it, I just want to commend the gentleman and thank him for his immediate recognition of the threat that has been posed to Old Faithful under the actions of the Secretary of the Interior.

Mr. Speaker, I urge my colleagues to support this legislation.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I would like to thank my colleague for yielding this time to me.

Mr. Speaker, I listened with great interest and great concern to the comments expressed by the gentlewoman from Nevada [Mrs. VUCANOVICH] and the gentleman from Wyoming [Mr. THOMAS]. I was interested in their concerns about this legislation and its impact on jobs and economic growth.

Mr. Speaker, we have a plan this evening that in Wyoming and Nevada and across the West and across the country will create jobs and economic growth and opportunity for Americans. Our Republican economic growth and job creation legislation cuts middle-class taxes and also creates millions of new jobs across this Nation.

I say to my friends that even Democratic candidates for President have endorsed many of the planks contained in our legislation. Many of those same provisions are already being filed and supported in this House and in the other body this evening. We have an opportunity, if the Democratic leadership of this House gives us that chance, to present to the American people and this Congress for a vote legislation to create jobs and economic growth and opportunity for American families, for American workers, and for this Nation in the years to come.

Mr. Speaker, let us have that opportunity to schedule that vote and move on this important legislation this evening.

Mr. WILLIAMS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am pleased that the other side has raised economic development and jobs as an issue on this bill, and while some of my colleagues on this side might wonder how jobs could be created in a bill to protect Yellowstone National Park.

I would say to my colleagues that that debate belongs here indeed because not only is Yellowstone National Park a wonderful, unique environmental feature in the American West, but it is also a cash register for the States of Idaho, Wyoming, and Montana, and for the West itself. Should this Congress go along with the Secretary of the Interior and allow drilling to take place in the environs of Yellowstone Park, and should we find in that great thermal basin a drying up of those thermal features, as we have found everywhere else in the world where drilling has been allowed, we would see the jobs in Yellowstone Park and in the surrounding States begin to wither. We would see the economies of the gateway communities begin to blow away.

So I am hopeful tonight that my colleagues will reject the allowances of the Secretary of the Interior that drilling might go ahead outside of Yellowstone Park in that great geothermal system, and instead pass this legislation and insist on protecting not only this environmental wonder but the jobs and the economic development that goes along with them.

Mr. Speaker, I yield 2 minutes to the chairman of the Subcommittee on Public Lands and National Parks, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding time to me, and I congratulate him and the members of the committee, along with the subcommittee chairman, the gentleman from West Virginia [Mr. RAHALL].

The gentleman from West Virginia and I held hearings on the topic. The gentleman from Montana [Mr. WILLIAMS], ever observant of the problems that are occurring in and around Yellowstone National Park, picked up very quickly on the fact that a late report, some 9 months late, actually was moving to in fact suggest that drilling in and around the geothermal features outside the park would not have an impact inside the park.

□ 2100

It came to light subsequently that in fact that USGS study, when brought before the Park Service group and Park Service scientists, they found fault and took exception with it. Unfortunately, that component of the report did not come to the Congress at the same time but was subsequently learned of, and, of course, fortunately I think served as the basis, along with the USGS report, for the action that we have before us today.

I think we made a judgment, and the judgment was that we were not going to risk the loss of the geothermal features in Yellowstone National Park, if not the oldest park in the Nation, certainly one of the oldest.

This bill before us today is to provide the protection not just for those immediate areas at Corwin Springs, but also the general area around the park.

Part of this I think could have been averted if the National Park Service and the Department of the Interior had asserted its water rights in a proper, timely manner. Unfortunately, those very rights, those water rights, go undefined and unaddressed in terms of what has occurred here.

I think the bottom line in this issue, however, Mr. Speaker, is simply the fact that parks are a one-way street. They are a one-way street losing the qualities that cause them to be designated as national parks.

Mr. Speaker, I would hope we would continue to take actions in the modern world and our country to preserve some of these areas the way they were intended, and in fact meet the mandate of the 1916 park law, which provides for preservation and enjoyment.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume

Mr. Speaker, I would like to just point out to the gentleman from Montana who spoke that the Secretary of the Interior is not recommending drilling. Rather it is the pumping of an existing well at a very low rate compared to the volume of hot water emanating from the Corwin Springs area that the scientists conclude would do no discernible harm.

Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of the legislation to protect the geothermal features of Yellowstone National Park. I have spoken with the Secretary of the Interior a number of times about how that might best be accomplished. This administration, and I can say unequivocally, the Secretary of the Interior, and all of us on the committee, for that matter, are committed to protecting those geothermal features.

Mr. Speaker, we are also committed to protecting private property and avoiding setting any precedents of taking.

This is not a perfect piece of legislation. I am, however, willing to accept this legislation because of its critical nature, and particularly the perception of trying to protect the geothermal features.

Mr. Speaker, as I say, this is not a perfect piece of legislation. Hardly any legislation is. As a matter of fact, it is quite imperfect inasmuch as we could have included some amendments in the committee markup. It was tried in the subcommittee and again in the full committee, and those amendments that provided for the protection of private property rights were not accepted. I think we need not go into that and remake those arguments on the floor of the House.

Mr. Speaker, I would urge my colleagues to support this legislation. I know we all have reservations, but let us get on about our business and stop the political rhetoric. A lot of it has been leveled at this administration for not attempting to protect those geothermal features, but let me assure Members that they have told me time after time that that was their interest.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL], the chairman of the subcommittee which began this legislation, the Subcommittee on Mining and Natural Resources, whose great attention to this matter has brought us to this point where the House hopefully is about to assure protection of Yellowstone Park.

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Montana for yielding me this time. I certainly want to commend his leadership for bringing this issue before the body today and before our Subcommittee on Mining and Natural Resources and the Subcommittee on Natural Parks and Public Lands, as Chairman VENTO has stated.

Mr. Speaker, this is a very important issue for the psyche of the American people. We are talking about one of the most enduring geothermal features in our Nation, the geysers and hot springs of Yellowstone National Park.

In regard to the comments just made by the gentleman from Montana [Mr. MARLENEE], I have no doubt that it is Secretary Lujan's fervent desire to protect the geothermal features of this park, as it is each of our desires that are speaking on this issue today.

I think what we are doing in this legislation, Mr. Speaker, is ensuring that there be no mixups, that there are to be no missed communications within the Department of the Interior, this Department of the Interior or any future Department of the Interior, as to the desire of Congress and the American people to protect this park and prevent any geothermal development or any exploration for development of any well facility related to the use of subsurface geothermal resources on the lands within the area.

Mr. Speaker, I commend the gentleman from Montana [Mr. WILLIAMS] and all those that have dedicated themselves to preserving this park.

Mr. Speaker, the issue at hand is the integrity of the most endearing thermal features in the American psyche; the geysers and hot springs of Yellowstone National Park.

Yellowstone is one of two remaining intact geyser basins in the world that have not been destroyed or damaged by geothermal development.

Congress in placing the area under the jurisdiction of the Interior Secretary, stated that: "he shall make regulations providing for the preservation, from injury or spoilation, of all * * * natural curiosities, or wonders, within the park, and their retention in their natural condition."

Yet, existing law affords these curiosities and wonders—the park's thermal features—with only limited protection from certain Federal geothermal leasing activities.

This is why we are bringing H.R. 3359 to the floor today.

To ensure the permanent protection of significant thermal features, such as Mammoth Hot Springs, within Yellowstone National Park.

This goal would be accomplished by prohibiting the use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources on lands within the Corwin Springs known geothermal area, Montana.

Further, we are seeking to impose a moratorium on Federal geothermal leasing on lands within a 15-mile radius of Yellowstone National Park.

In addition, the bill would place a temporary moratorium, until after the submission of a study to Congress, on geothermal developments on non-Federal lands bordering Yellowstone National Park. The study would examine the impact of potential developments on the park's thermal features.

These provisions are necessary to insure that, at some future date the spigot, would not be turned-off on the park's thermal features. So that the public may continue to enjoy Old Faithful, Mammoth Hot Springs and countless other thermal features within the park for generations to come.

Mr. Speaker, I want to commend the sponsor of this bill, the gentleman from Montana [Mr. WILLIAMS], a member of the Interior Committee, for his diligence and hard work on this measure. It was through his leadership that we are able to bring H.R. 3359 to the House floor today.

Mr. Speaker, I feel compelled, as the chairman of the subcommittee with jurisdiction over this bill, to address the alleged takings issue. The record must be clear on this matter.

As I have noted, the hearing record points out that the only acceptable form of protection for the park's thermal features is to prohibit subsurface geothermal development within the Corwin Springs KGRA.

This remedy would allow the use of non-federal geothermal resources within the KGRA at their natural surface flow rates, such as at the La Duke Hot Spring, as well as the other thermal springs and seeps in the area provided no subsurface development is involved. And, I would stress that the bill does not require the Department to acquire any water rights, as there is no need to do so.

Meanwhile, the legitimate interest of the Federal Government in providing for the protection of a unit of the National Park System would be satisfied.

Accordingly, as the American Law Division, Congressional Research Service, Library of Congress, noted in a September 4, 1987, memorandum on the question of whether a prohibition on private geothermal development near a national park would constitute a constitutional taking:

"If the geothermal development ban is permanent, a court is likely to apply the taking criteria recently reiterated by the Supreme Court: "We have long recognized that land use regulation does not effect a taking if it substantially advances legitimate state interests and does not deny an owner economically viable use of this land."

Nollan v. *California Coastal Comm'n*, 107 S. Ct. 3141 (1987). The first criterion, whether the ban substantially advances legitimate state interests, involves two subquestions: whether avoidance of whatever adverse effect would result from geothermal development is a "legitimate state interest," and whether the ban "substantially advances" that objective. A broad range of governmental purposes has been held to be "legitimate" in this context, hence it appears likely that protection of national parks would be among them. And if there is a clear link between the ban and the threatened adverse effect, the other prong of the first criterion would seem satisfied as well.

The second criterion, whether the land use regulation denies an owner economically viable use of his land, has been universally construed to mean that if any economically viable use remains, the regulation is not a taking (assuming the first criterion is met). Thus, the factual question here is whether the private lands to which the ban would apply are suitable for any economically viable use other than geothermal development. If so, the ban probably would be found to work no taking; if not, then the opposite."

In this regard, I would note that private lands within the Corwin Springs KGRA are not only suitable, but are used, for purposes other than geothermal development, and further, that the legislation being reported would not extinguish any water rights, but rather, it would simply govern the manner in which any such rights may be utilized.

Now, if any party feels aggrieved by this restriction, and believes it constitutes a takings, they are certainly free to pursue just compensation in an inverse condemnation suit against the Government through the U.S. Court under the Tucker Act.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I, too, am concerned about the effect on jobs that this bill will have, as expressed by both sides of the aisle. I share the support of the gentlewoman, but I also share her concerns.

But I think we can do a little more about jobs in this country than passing this bill. There is something that we would like to do here on this side of the aisle, and I know there are Members on the other side of the aisle that would like to do the same thing before we leave here, and that is pass an economic growth package.

But we are not doing that. Right up in that room, right up in the Committee on Rules right now, as we speak, the Committee on Rules is going to be passing and moving to the floor the October surprise, the big political gemstone that has been hung on so closely by the other side of the aisle, waiting to drop it, just as we leave here.

Now, I understand, and maybe the gentleman from Pennsylvania [Mr. WALKER] can help me on this, is it not true that the Committee on Rules could, even though the economic growth package has not been considered in committee, the Committee on Rules could indeed make this package in order on the House floor?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, under the martial law rule we are operating under, the Committee on Rules could in fact bring down for consideration tomorrow a bill making in order the economic growth package, just as they are going to bring down the October surprise package, which has not been through committee either. So it is exactly the same kind of thing.

Mr. Speaker, if we were determined to have an economic growth package on the floor, the Committee on Rules could make that in order, just the same as they are going to make an October surprise package in order.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, is it the estimation of the gentleman from Pennsylvania [Mr. WALKER], the Democratic leadership would prefer to make political hay as opposed to making policy hay for the American people?

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, of course. It appears as though this is a purely political agenda. For people who will say when the martial law rule that was passed it did not mention the idea of an economic growth package, it does not mention October surprise either. That is the reason why they have to get the rule tonight, so it comes up the very next day.

The fact is that what they are attempting to do is impose their political agenda on others.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to rise for just a moment to first of all express my support for the legislation, and also to compliment the gentleman from Montana. [Mr. WILLIAMS] for his leadership in bringing this issue to the Congress. In fact, the legislation is very necessary to see that this valuable resource, the goethermal resources of Yellowstone, are protected.

The gentlewoman from Nevada [Mrs. VUCANOVICH] made reference earlier to a study done by the U.S. Geological Survey. The conclusion that is expressed in this study is no discernible risk to the resource at levels of pumping at the level of the natural flow.

Mr. Speaker, I think in fact that a careful reading of this study indicates that no such conclusion can be reached at all. In fact, one of the world's experts on geothermal resources has testified that the plan that would have been allowed by the Secretary of Interior would indeed have proposed a threat to this resource.

So I think the gentleman from Montana [Mr. WILLIAMS] does a favor to us and to all the people of this country by bringing this legislation to us. It is without a doubt necessary that we be conservative and prudent in making decisions which impact resources as important as Yellowstone. The gentleman from Montana [Mr. WILLIAMS] has recognized that, and, through his leadership, we have avoided the possibility of actions which might have been approved by the Secretary of the Interior which would have injured this resource.

Mr. Speaker, I thank the gentleman, and urge Members to support the legislation.

□ 2110

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

With regard to the issue of taking, the committee and I have been very careful to be sure that this legislation avoids the taking of private property. And I am convinced and intend that we do avoid it.

This legislation clearly allows the consumption of surface runoff, and I am committed to and I believe have seen that the committee report reflects that belief.

I do want to make the following points, though: I am sensitive to the fact that the utilization of the surface flow at a spring known as LaDuc Hot Springs in the Corwin Springs area, the utilization of that flow does have some administration hurdles. I have looked into the matter, and it appears to me that a surface development, not a well, but surface development is compatible with the area. And I am committed to being of assistance in going through the regulatory process with those who wish to use that surface runoff to aid them in establishing that use.

My colleagues, I urge an affirmative vote tonight to this legislation which assures a zero-risk policy toward the thermal features of Yellowstone National Park by placing a ban on the drilling into the thermal system below Yellowstone and its environs.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the bill, H.R. 3359, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, can the Chair give the Members some idea of what the proceedings are going to be from here on out? We are hearing rumors that the crime bill has been pulled.

The SPEAKER pro tempore. As far as the Chair knows, we are going to go through H.R. 848 and H.R. 690, and that is the extent of the information that the Chair has.

Mr. WALKER. Mr. Speaker, further parliamentary inquiry, has the Chair at this point decided whether or not further votes on suspensions for the evening will be rolled until tomorrow?

The SPEAKER pro tempore. The Chair wishes to correct his statement. We have a list of about 12 to 13 more suspensions, and we will take them as they come.

Mr. WALKER. Mr. Speaker, under the martial rule we can, I believe, have other suspensions added to that list on an hour's notice. Are the votes on those suspensions going to be rolled until tomorrow?

The SPEAKER pro tempore. It is the Chair's understanding that the suspension votes will follow the vote on the crime conference report. If not tonight, it will be at a later time.

Mr. WALKER. Mr. Speaker, if the crime bill does not come to the floor, will the votes be rolled?

The SPEAKER pro tempore. That is the Chair's present understanding.

Mr. WALKER. I thank the Chair.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and take the Speaker's table the bill (H.R. 848) entitled "An Act Little Bighorn Battlefield National Monument," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment: Page 6, after line 10, insert:

TITLE III

SEC. 301. EXTENSION OF ALIENABILITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.

Section 37(a) of Public Law 92-203, the Alaska Native Claims Settlement Act (43 U.S.C. 1629c(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: Provided, however, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 848 authorizes the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, as well as changing the name of this national park unit to the Little Bighorn Battlefield National Monument. The bill introduced by my Interior Committee colleague, Representative BEN NIGHTHORSE CAMPBELL, was originally passed by the House on June 24, 1991. Subsequently the Senate considered the measure and has now returned the bill to the House with an amendment.

The Senate amendment to H.R. 848 adds a provision that would amend the Alaska Native Claims Settlement Act so as to extend until July 16, 1993 the period during which the general rule of the inalienability of stock in the native corporations will be in effect. This is a matter of particular interest to the chairman and the ranking Republican member of the Committee on Interior and Insular Affairs. I understand that this change is acceptable to them, and I note that this will provide the Interior Committee and the Congress time to carefully consider various proposals that have been made concerning possible future restrictions on hostile takeover of the native corporations organized under the Alaska Native Claims Settlement Act.

Mr. Speaker, the establishment of a memorial to honor the Indians who fought in the Battle of the Little Bighorn is a fitting and proper thing to do. It is also time to change the name of the battlefield to Little Bighorn Battlefield National Monument. We need to recognize all who fought at this battle, as well as what they fought for. I urge passage of H.R. 848 as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has considered and passed this bill earlier this year. It is sponsored by the gentleman from Colorado [Mr. CAMPBELL]. I strongly support it.

We imagine this memorial will bring recognition to the courageous Indian warriors who won this battle, by the way, and died at the Battle of Little Bighorn. I strongly concur with the Senate amendment, as attached. It is not a difficult amendment. It is basically a technical amendment.

It is on behalf of my Alaska Natives, and I strongly support it.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. CAMPBELL], sponsor of the measure.

Mr. CAMPBELL of Colorado. Mr. Speaker, we are about to adjourn for a holiday during which people throughout this Nation give thanks for the blessings we share in America. It is the holiday most commonly associated with the goodwill native Americans historically showed to the Pilgrims by sharing with them the bounty of a fruitful land.

I cannot imagine better timing for H.R. 848 to be sent to the President's desk than tonight. It is indeed a welcome event for America's 2 million American Indians, but perhaps more importantly it sends a message throughout this land that Americans truly are a people of fairness and tolerance. Some say that building a monument to the fallen Indian warriors and changing the name of the battlefield to a neutral name is only a symbol. Mr. Speaker, it might be said that the Statue of Liberty is also only a symbol. Symbols uplift the spirits of people. Symbols bring goals into focus. Symbols rally the best in us to do good work. Symbols are reminders that, for all our past mistakes, we must strive to do better for all humankind. I know I can speak for the American Indian, and indeed all Americans who support this bill. This is a wonderful Thanksgiving present, and I would like to thank the entire Montana delegation—Senators BAUCUS and BURNS, Congressman WILLIAMS and MARLENEE—as well as Chairmen MILLER and VENTO—as well as ranking minority Member DON YOUNG for their support of this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I just simply want to say that this, too, is a matter of importance to my State of Wyoming. Although it is Montana, it is very close to our northern boundary, very close to Sheridan.

We also have a number of very active citizens, Native Americans in our State, and we are pleased that the gentleman brought this to the House. I rise in support of the bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER], chairman of the committee.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 848. I am pleased that the bill establishing a memorial at Custer Battlefield National Monument to honor the Indians who fought in the battle of Little Bighorn is before the House. I also support a Senate amendment to the bill which extends the restrictions on sale of Alaska Native corporation stock.

The Senate amendment to the bill is designed to give Congress more time to fully address the issue of hostile takeovers of Alaska Native corporations. The Interior Committee recently held a hearing on this important subject.

When Congress enacted the Alaska Native Claims Settlement Act in 1971, it established over 200 Native-owned corporations to manage the huge land resources and other assets conveyed to Alaska Natives in that historic settlement. Congress also restricted the sale of stock in the Native corporations for 20 years, a period which is due to expire on December 18, 1991. While comprehensive "1991" amendments to ANCSA established the strong presumption that the Native corporations will remain Native-owned in the future, shareholders were also given the right to vote to sell their stock freely.

The recent efforts of Klukwan, a small village corporation, to conduct what appears to be a hostile leveraged buy-out of Sealaska, the regional corporation for Southeast Alaska Natives, has refocused Congress's attention on the December 18 expiration of stock restrictions. It is clear that Congress had not anticipated hostile takeover battles between Alaska Native corporations when it was enacting the "1991" amendments.

The Senate amendment to this bill extends the restrictions on stock alienability for another 19 months, through July 16, 1993, in order to give Congress time to thoroughly consider the ramifications of potential hostile takeovers by any party of Alaska Native corporations. This amendment, which is supported by the Alaska Federation of Natives, will also give both Congress and the Alaska Native community more time to consider various legislative proposals.

Although this amendment is not a permanent solution, it should send a strong negative signal to anyone who may have envisioned December 18, 1991 as a starting date for sending teams of investment bankers and attorneys to descend upon Alaska Natives with the goal of taking over their corporations and their land.

I want to compliment the gentleman from Alaska for his efforts on this legislation. As my colleagues on the Interior Committee know well, Mr. YOUNG is a strong supporter of the interests of Alaska Natives. I also wish to express my appreciation of Senator TED STEVENS of Alaska for his cooperation and work to expedite Senate Consideration of this matter.

Mr. Speaker, I insert for the RECORD a letter from the Alaska Federation of Natives, Inc.:

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, AK, November 18, 1991.

Hon. GEORGE MILLER,
Chairman, House Interior and Insular Affairs Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: Thank you for the opportunity to submit written testimony on the important issue of "ANSCA Native Corporation Hostile Takeover Procedure Amendment".

As reflected in the AFN Board of Directors and Convention Delegate Resolution 91-02, the issue is viewed as a serious one among Native people. Protection of Native land and resources through retention of ANCSA land by the original Native owners over time is a position on which the AFN has never wavered.

I recognize that the timeframe for establishing long-term protections against hostile takeovers through legislation this session of Congress is quickly eroding. In light of the limited timeframe and the extreme importance of this issue, I strongly urge that you support a standstill provision that would allow additional time to develop amendment language which focuses on a long-term solution.

A standstill provision would serve to allow the Native community adequate time to work with you and your staff to develop acceptable language.

I believe we share a mutual concern that it is absolutely imperative that Congress speak to the concerns surrounding hostile takeover issue reflected in our Convention Resolution prior to the upcoming holiday recess.

I am available to assist with this matter in any way you deem appropriate. Thank you.

Sincerely,

JULIE E. KITKA,
President.

□ 2120

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs, has stated very clearly the intent of the Senate amendment. I want to compliment him for his acceptance of this amendment. It is crucial to the State of Alaska so we can have a little time to look and see what would be the results.

Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time.

This is an appropriate memorial to our Native Americans, and certainly something worthy of House support. Native Americans are among those groups who would most benefit from an economic growth package, if in fact we could get it considered on the House floor. The fact is that what we are doing is considering this legislation that is something of help to them rather than considering the broader context of their economic concerns.

It is too bad that we do not have that legislation before us. The fact is the Rules Committee is meeting as we speak and could, in fact, make in order that package and allow us to vote on an economic growth package.

It is also true that we have now met the condition that the majority leader laid down here just about 24 hours ago, and that is the majority leader said that the missing ingredient in getting an economic growth package going was the President of the United States; that is, the President would have to support the package. We have within the last couple of hours heard directly from the President of the United States. The President supports the economic growth package and so, therefore, the missing ingredient is now no longer missing. We could, in fact, have a package that we would pass in the Congress, send to the President and it would be signed. Rather than waiting 2 or 3 months to put Native Americans and others back to work, we could in fact have a package that puts people back to work beginning early next year.

The reason why we are not considering that package is because there is a reluctance, well nigh a determination not consider this package. I am concerned about that. I wish we could get a real economic growth package going.

Mr. SANTORUM. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Speaker, the other concern I recall the majority leader having the other day is that we were not going to pass an economic growth package which was going to add to the budget deficit. Does the gentleman know what this growth package has been scored as?

Mr. WALKER. Treasury has scored this package at a plus $400 million, so it in no way impinges upon last year's budget deal. This is a package which is deficit-neutral, and yet at the same time creates 1.5 million jobs.

Mr. SANTORUM. When the gentleman says this has been scored by Treasury, this has been scored by the organization that is responsible for scoring under the budget agreement, is that correct?

Mr. WALKER. That is exactly right. And this package is in fact something that could be passed through here, and can be done in a way which is responsible fiscally, and at the same time it is a package which would put people back to work.

Mr. SANTORUM. I thank the gentleman.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], one of the principal sponsors of this legislation.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, this legislation has two parts. The first is a monument to be built to the native American fighters who fought and died at the Battle of the Little Bighorn. That monument will be placed alongside the monuments to the soldiers who fought and died at the Little Bighorn. That monument is a long time coming, a long time overdue.

The other portion of this bill is one on which I have persisted, and tonight I feel somewhat satisfied in my persistence. That is, the other portion of the bill that we will pass here tonight is to change the name of this place to one which recognizes the geographic location, as we do in almost all, perhaps all other, battlefields. It was on June 25 and 26 in 1876, with America celebrating its centennial, that Custer and his brave men marched onto this little knoll alongside the Little Bighorn and met their fate. This bill, long overdue, now establishes a bridge between the races, a bridge which crosses this century, plus a decade and a half, a bridge long overdue to join the races and properly recognize all of the Americans who fought and died at the Battle of Little Bighorn.

I want to commend my colleague, the gentleman from Colorado [Mr. BEN NIGHTHORSE CAMPBELL], for his efforts in bringing the legislation to this point.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. MARLENEE], an outstanding Congressman.

Mr. MARLENEE. Mr. Speaker, I thank my colleague from Alaska for yielding the time.

Mr. Speaker, I have no pause with erecting a monument. I believe it is long past time for constructing a memorial which will be a long step toward healing the wounds which have lingered over the century since the battle which was the closing act in the 400-year contest between the native American peoples and the European settlers over this country's lands and how they were divided and utilized.

Although the battle was fought 115 years ago at the Little Bighorn, and it was a decisive victory for the Sioux and the Cheyenne and the other warriors who fought the 7th Cavalry, it was truly an instance in which one could apply the old axiom about winning a battle and losing a war. Fighting continued for some years after this date, but there were no more encounters of this magnitude and consequence between the Army and the native American tribes. Because of this, it is particularly fitting that the battlefield should contain a memorial, a memorial to the Indian warriors who fought and died to protect their lands and their families. They were truly invaded by the 7th Cavalry.

In a larger sense, such a memorial will symbolize the sacrifices made by native Americans in defense of their lands and values over the long years since the setting of America. The memorial will bring recognition to the courageous Indian warriors who fought and died at the Battle of the Little Bighorn. And hopefully it will be in some sense a recognition of their commitment, their commitment to the United States of America.

I commend my colleague, the gentleman from Colorado, Mr. BEN NIGHTHORSE CAMPBELL, a Cheyenne. I commend him most heartily and strongly for bringing this bill forward and helping to get it passed in this Congress of the United States, and I am very pleased, although I had this bill up last year under my sponsorship, I am pleased to join him this year because I think it is even more fitting. I think this bill, as I say, recognizes the commitment that the native Americans have to the United States of America in all of the wars that we have had since that Battle of the Little Bighorn.

I was not pleased with the name change that was contained within this legislation. There were some who insisted on it, and it was rather disruptive, and perhaps we could have been somewhat more judicious or taken a little bit longer in deliberations and had a better consensus of what that name should be. But nonetheless, we have arrived at this point to where we must either pass the legislation in this House or go at it again next year, and I prefer that my colleagues support the legislation.

□ 2130

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I would like to thank my colleague for yielding me this time.

Listening this evening to my colleagues across the aisle and on this side talk about their concerns relating to native Americans, I represent a community with many native Americans.

The No. 1 concern on the minds of the native Americans of my area is the same as the concern of all constituents in western New York. It is jobs and creating opportunity.

Mr. Speaker and my friends, we also talked about the last stand. Well, the American worker's last stand will occur this week when they will have the opportunity to watch whether or not Congress is willing to take a stand and create jobs and economic growth for all Americans.

We have put a plan before this Congress to create jobs, to create opportunity, to create hope for American workers, American families, young Americans who want to have that opportunity for the first time in their lives to own a home, to share in that American dream.

Our House Republican economic growth and jobs creation plan would do just that, and much, much more for this country. The only thing that stands in the way, the last stand in the way of that plan is the Rules Committee and the House Democratic leadership. I hope they will take a stand, along with the Members on this side of the aisle, for opportunity for Americans and approve our economic growth plan for this Nation.

You know, that first Thanksgiving, native Americans and the settlers sat down together after they had labored hard in the fields. This Thanksgiving we have the opportunity once again to thank God and thank this country for economic opportunity by passing a plan that will create those jobs and give us a new Thanksgiving, a Thanksgiving of hope and opportunity.

Mr. YOUNG of Alaska. Mr. Speaker, I urge my colleagues to pass this legislation. Again I compliment the subcommittee chairman and the chairman of the full committee for their hard and diligent work on this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge positive action on this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 848.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

MARY McLEOD BETHUNE MEMORIAL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read as follows:

Senate amendment: Page 6, after line 6, insert:

SEC. 6. HIGHER EDUCATION ACT OF 1965.

Section 775 of the Higher Education Act of 1965 (20 U.S.C. 1132h–4) is amended—

(1) in subsection (c) by inserting "and maintenance" after "construction", and

(2) in subsection (d) by striking "$6,200,000" and inserting "$15,700,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 690, introduced by my colleague on the Interior Committee, Representative JOHN LEWIS, recognizes the contributions made by Mary McLeod Bethune and by the National Council on Negro Women. The House passed H.R. 690 to establish the Mary McLeod Bethune Council House National Historic Site here in Washington, DC, on April 24, 1991.

The Senate has passed H.R. 690 with an amendment adding a section that would amend the Higher Education Act to facilitate the construction of an arts center at Bethune-Cookman College in Daytona Beach, FL. This amendment is not within the jurisdiction of the Interior Committee, raising jurisdictional issues. I understand that the House Education and Labor Committee does not favor this approach. Therefore, I ask that the House not concur in the Senate amendment and send H.R. 690 to the Senate without their amendment. I look forward to speedy enactment of this legislation and establishment of Mary McLeod Bethune Council House National Historic Site.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 690, a bill to provide for establishment of the Mary McLeod Bethune Council House National Historic Site. This bill would bring full designation of this nationally significant resource as a unit of the national park system; and provide a logical conclusion to previous congressional recognition of this site some 9 years ago.

The measure before us today has the general support of the administration since most of the issues raised in their testimony have now been addressed. The difficult issues associated with the role of the nonprofit associations in the management of the area have also been largely resolved.

I am especially pleased that the report language recognizes the $1.5 million in Federal funding which has been provided to this site over the last 8 years will be considered in determining the appropriate acquisition cost. The report also recognizes that donation of the Bethune archives to the Federal Government has the broad support of the subcommittee members.

I note for the record that there is some concern on behalf of subcommittee members regarding the relatively high costs for development and operation of this site, especially in consideration of the relatively low visitation projected. I believe this is an important issue which deserves the continuing scrutiny of the subcommittee.

As a cosponsor of the measure, I am pleased to commend this bill to my colleagues and I would like to recognize Mr. LEWIS for his flexibility in working with us on our concerns and the chairman, Mr. VENTO, for his long interest in this issue; starting with his ultimately successful efforts to secure from the National Park Service a thorough study upon which to base this legislation.

This bill contains no major changes from the bill passed by the House on April 24 and I commend this measure to my colleagues and urge them to support it.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I rise today not to oppose Federal acquisition of the Mary McLeod Bethune home and headquarters here in Washington, DC, but to express my support for the amendment that was adopted by the other body. In my view, that amendment would have furthered the objective of honoring Dr. Bethune by authorizing the completion and maintenance of a fine arts center on the campus of the college that bears her name.

Mr. Speaker, Mary McLeod Bethune made a number of major contributions in the fields of education, civil rights, and public service, the record of which will be enhanced by Federal operation of her Washington, DC, home and headquarters. But I can think of no better way to recognize her accomplishments as cofounder of what is now Bethune-Cookman College and as president of that institution for 36 years than to complete what will amount to a living memorial to those accomplishments. When finished, the Mary McLeod Bethune Fine Arts Center will bring to the Bethune-Cookman campus a multipurpose facility capable of providing both specific academic training as well as cultural enrichment to Bethune-Cookman students.

Today, approximately 15 percent of the students of Bethune-Cookman College are enrolled in its Cultural and Performing Arts Program and its Hospitality Management Program. The training they get in these programs, which will be enhanced by completion of this fine arts center will help them obtain jobs in Florida's dynamic tourist and entertainment industries. Also, when the rest of this fine arts center is finished, many other Bethune-Cookman students and visitors will be able to use its facilities and derive benefit and enjoyment from the events that are conducted there.

Much more could be said, Mr. Speaker, in favor of completing this fine arts center, the first phase of which has already been built. But, rather than belabor the matter further at this time, let me simply express the hope that a way can be found to authorize its second and final phase in the near future.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, rise in support of this bill and in support of someone named after an institution of higher learning.

In this economics jobs package that we have been talking about for the last few hours, there was something specific in the area of education and training for people who are unemployed and need to learn a skill. It is called the Employers Apprenticeship Program. It is the LEAP Program.

Businesses are encouraged to contribute funds to a newly created class of nonprofit organizations that will work with business and local educational organizations, school boards, and community colleges to create work-based learning opportunities for students. Businesses would receive a tax credit for donations to the apprenticeship education organizations, in addition to the regular deduction for a charitable organization. Students would work part time in a field related to a course of study and receive the lowest minimum wage or training wage.

Students in high schools, community colleges, or graduate equivalency programs would be eligible to participate.

This is something real for the young men and women of this country who want to get a job. This is something real that unless the Democratic majority changes their minds and allows this package to be voted on the floor of the House, these people who are sitting out there watching this tonight are not going to have the opportunity for these apprenticeships.

Mr. Speaker, I urge the Democratic leadership to bring this package to the floor.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and disagree to the Senate amendment to the bill, H.R. 690.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was disagreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have asked for this time for the purpose of asking the majority leader about the schedule for the rest of the evening, and I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

It is our intention to continue with the suspensions, but to roll the votes.

If the gentleman can give us some assurance that there will not be procedural votes called this evening, it would be our intention not to have further votes this evening.

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Mr. WALKER. Mr. Speaker, I know of no plans to get procedural votes on our side. I know of no reason why that would be necessary. If we can finish out the calendar and come back tomorrow and start fresh, I think that is certainly something which we would agree to do.

Mr. MILLER of California. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding, and I do so for the purpose of asking our majority leader with respect to whether or not the Chair will recognize Members for unanimous-consent requests for the purposes of passing legislation this evening or whether that would not be in order.

Mr. GEPHARDT. If the gentleman will yield to me, it is not expected that there would be unanimous-consent requests for that purpose.

Does the gentleman know of some situation?

Mr. MILLER of California. It is those that you do not know about that worry you. I just wondered whether that would be the expectation of Members that if we left here now there would be no further legislative business allowed.

Mr. GEPHARDT. That is right.

Mr. MILLER of California. But for the suspensions.

Mr. GEPHARDT. That is correct.

Mr. MILLER of California. And we are all protected on the suspensions.

Mr. GEPHARDT. In any event, we told the minority there would be a 2-hour notice in any case. We do not intend to do that this evening.

Mr. WALKER. Mr. Speaker, could the gentleman from Missouri tell us what time we would be coming in tomorrow?

Mr. GEPHARDT. I intend to, in a moment, ask unanimous consent that we be permitted to meet at 10 a.m., in the morning.

We will, of course, be running forward through the day and evening until we can try to finish our business.

Mr. WALKER. Could the gentleman tell us how long tomorrow's session might be?

Mr. GEPHARDT. It will be the mother of all evenings.

Mr. WALKER. I thank the gentleman and yield back.

HOURS OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m., tomorrow.

The SPEAKER pro tempore (Mr. HALL of Texas). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REDESIGNATION OF TIME FOR FURTHER PROCEEDINGS DE NOVO ON H.R. 3638, KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair redesignates the time for further proceedings de novo on the motion to suspend the rules on H.R. 3638 to the legislative day of November 26, 1991.

TORTURE VICTIM PROTECTION ACT OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2092) to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing, as amended.

The Clerk read as follows:

H.R. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torture Victim Protection Act of 1991".

SEC. 2. ESTABLISHMENT OF CIVIL ACTION.

(a) LIABILITY.—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual's legal representative, or to any person who may be a claimant in an action for wrongful death.

(b) EXHAUSTION OF REMEDIES.—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

(c) STATUTE OF LIMITATIONS.—No action shall be maintained under this section unless it is commenced within 10 years after the course of action arose.

SEC. 3. DEFINITIONS.

(a) EXTRAJUDICIAL KILLING.—For the purposes of this Act, the term "extrajudicial killing" means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

(b) TORTURE.—For the purposes of this Act—

(1) the term "torture" means any act, directed against an individual in the offender's custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

(A) the international infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Torture Victim Protection Act, H.R. 2092, puts torturers on notice that they will find no safe haven in the United States. Torturers may be sued under the bill if they seek the protection of our shores or otherwise subject themselves to the personal jurisdiction of a U.S. court.

The bill clarifies existing law to make explicit that victims of torture can bring a Federal civil cause of action against their torturer. The bill also expands existing law by providing U.S. citizens the right to obtain civil redress for torture.

Torture is defined in accordance with the definition contained in the U.N. Convention Against Torture. Provisions implementing the criminal aspects of that convention are included in the crime bill that this committee recently approved. However, a criminal prosecution does not make the victim whole. The Torture Victim Protection Act complements what we did in the crime bill by allowing victims to obtain money damages from torturers in a civil cause of action.

The act has broad bipartisan support and is endorsed by numerous organizations. In the previous two Congresses this committee approved nearly identical legislation and so did the House.

Mr. Speaker, one amendment was adopted to the bill in committee. It was crafted in bipartisan fashion, and I would like to thank my colleague, BILL MCCOLLUM, the ranking minority member of the Subcommittee on International Law, for working with me on this amendment.

First, the amendment added a 10-year statute of limitations to the bill. This will prevent the litigation of stale claims in the Federal courts. As currently written, the bill provides for no statute of limitations.

Second, as the bill was originally written, the alleged offender had to show by "clear and convincing" evidence that the claimant has not exhausted remedies in the country where the claimant was tortured. The amendment kept the exhaustion requirement, but removed the "clear and convincing" standard, and left it to the courts to apply the burden of proof standards that they would normally use.

Third, my amendment clarified the wrongful death portion of the bill. As written, the bill contained language, "beneficiary in a wrongful death action," which was vague and did not make clear whom the offender would be liable to in instances of extrajudicial killing. The amendment made clear that in such instances, the offender will be liable to the victim's legal representative or any person who could be a claimant in an action for wrongful death.

I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Yatron].

Mr. YATRON. Mr. speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Torture Victim Protection Act, as amended, extends to U.S. citizens the right to bring a civil cause of action against their torturers, a right aliens have had in this country since 1789 under the Alien Tort Claims Act. The Torture Victim Protection Act will clarify and expand existing human rights law by imposing civil liability on individuals who, under the authority of any foreign nation, perpetrate acts of torture or extrajudicial killing. Nearly identical legislation has already passed the House twice.

In order for a U.S. court to hear a claim under this legislation, the defendant must have been acting under the authority of his or her government, must be subject to the personal jurisdiction of U.S. courts when the victim brings a civil action, and the victim must have exhausted all legal remedies in the country where the torture took place.

Mr. Speaker, the Torture Victim Protection Act, as amended, also sends a distinct and forceful message that the U.S. will not host torturers within its borders.

Mr. Speaker, I want to thank the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from New York [Mr. GILMAN], the gentleman from Texas [Mr. BROOKS], and the gentleman from Kentucky [Mr. MAZZOLI], and the gentleman from Florida [Mr. MCCOLLUM], for their timely consideration of this legislation.

Mr. Speaker, I urge my colleagues to support the bill.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation. It is similar to, or almost exactly what we brought out in the past before. But we never got it enacted into law.

It provides, as both of the gentlemen have explained, for civil remedies, long overdue for victims in the area of torture. It seems to me that despite some opposition and some questions about it from sources concerned with the fact that there might be a reciprocity question that could get us into conflict somewhere, that this is not that big a deal, but it is indeed a very big deal to the victims involved, and we ought to provide civil remedies.

Mr. Speaker, I have one request for time from the gentleman from Michigan.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan, my good friend on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to commend Congressman YATRON, the chairman of the Human Rights Subcommittee, for his determined efforts on behalf of this legislation. Congressman YATRON has sponsored this bill during each of the last few Congresses, and I am proud to have joined as a cosponsor each time.

I also wish to recognize the contribution of the ranking Republican member of the subcommittee, Mr. BEREUTER. Finally, I would like to thank Chairman FASCELL of the full committee for preparing this measure for the floor.

This bill would clearly open the courts of the United States to victims of torture overseas. It would permit torture victims or their survivors to bring civil actions against the persons responsible, provided they can be found within this country.

I am especially pleased that, at Congressman YATRON'S motion in committee, the bill was amended to resolve certain legal matters. The amendment: First, clarifies who may bring an action; second, places a 10-year limit on claims; and third, requires the party bringing action to show that he had exhausted his remedies in the foreign country.

There are, of course, situations in which application of this statute could create difficulties in our relations with friendly countries. But this is a small price to pay in order to see that justice is done for the victims of torture. Also, it should be noted that actions under this section could not be brought against a foreign official who has diplomatic immunity while in the United States.

Mr. Chairman, this is a significant bill that makes an important statement about our commitment as a nation to take human rights seriously. I hope that this year, at last, it will finally become law.

Mr. McCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 2092, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2092, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

IMMIGRATION TECHNICAL CORRECTIONS ACT OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3670) to make certain technical corrections relating to the immigration laws, as amended.

The Clerk read as follows:

H.R. 3670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This Act may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this Act, the term "INA" means the Immigration and Nationality Act.

SEC. 2. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA, as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(1) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such worldwide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such worldwide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)(2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragraph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1993, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "the ground of exclusion specified in paragraph (6)(C) of such section" and inserting "the grounds of exclusion specified in paragraphs (6)(B) and (6)(C) of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "**REFORM**",

(B) in subsection (a), by striking "Reform",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

"(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)",

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993", and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, there shall be no additional fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), or (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of 1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 3. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", and

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "Rights".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n)(1) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies.".

(8) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(9) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions", and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(10) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(11) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)".

(12) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(13) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration and Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "Subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following:

"or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 4. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 5. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12)(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13)(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(E)(ii) of the Immigration Act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)(B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 6. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking ",." and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(8 U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Section 242(a)(2)(B) of the Immigration and Nationality Act, as added by section 504(a)(5) of the Immigration Act of 1990, is amended by striking "who is lawfully admitted for permanent residence" and insert ", who is lawfully admitted,".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(7) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(8) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(9) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(10) Section 513(b) of the Immigration Act of 1990 is amended by striking "petitions to review" and inserting "petitions for review".

(11) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(12) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following: "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 7. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien under section 112 or 301 of Immigration Act of 1990 if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(g)(1) of the Immigration and Nationality Act, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(e) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of " and all that follows through "permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(f) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(g) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien under section 112 or 301 of Immigration Act of 1990 if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(h) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(i) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(j) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(k) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the Immigration and Nationality Act, as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III),

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the Immigration and Nationality Act is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(l) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the Immigration and Nationality Act is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 8. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the Immigration and Nationality Act, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and", and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 9. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a) Section 204(c) of the Immigration Reform and Control Act of 1986 is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "temporary resident aliens" and inserting "eligible legalized aliens",

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end the following new sentence: "In subparagraph (D), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien, until the date there has been a final determination with respect to such application.";

(2) by amending subparagraph (D) of paragraph (2) to read as follows:

"(D) A State is permitted to expend in each fiscal year an amount not to exceed $100,000 (or, if greater, 1 percent) for the purposes described in each of subparagraphs (D) and (E) of paragraph (1). If a State expends with respect to a fiscal year under either such subparagraph for such purposes less than the maximum permitted under the previous sentence, the maximum amount that may be expended for such purposes with respect to the succeeding year shall be increased by the amount of such shortfall."; and

(3) in paragraph (3)(B), by striking "4105(b)(1)(A)" and inserting "3126(b)(1)(A)".

(b)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101-162, 103 Stat. 1000) is amended to read as follows: ": *Provided further*, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additonal" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(c)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA" and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242A(a) of the Immigration and Nationality Act is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(13) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(14) Section 344(c) of the INA, as redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653).

SEC. 10. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 2 through 8 shall take effect as if included in the enactment of the Immigration Act of 1990,

(2) section 9(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 9(c) shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

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Mr. MAZZOLI. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. HARRIS].

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from the bill, H.R. 2824.

The SPEAKER pro tempore. (Mr. HALL of Texas). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3670 consists of a number of technical amendments to the Immigration and Nationality Act. About 90 percent of the provisions in this measure are corrections to the Immigration Act of 1990.

Whenever a complex and major piece of legislation like the 1990 act is enacted, there are bound to be some oversights and technical errors. This legislation will correct those errors and oversights.

These technical amendments have come to my attention and the attention of my colleagues in a variety of ways. Some have been noticed to us by constituents and affected groups, some by the administration, and many by House and Senate staff, the law revision counsel, and the House legislative counsel.

Almost everything in H.R. 3670 is purely technical, such as corrections of spelling, surplus language, wrong cross-references, and faulty grammar and terminology, but there are a very few substantive provisions in the bill. However, they neither increase or decrease the visa levels set in last year's Immigration Act, and, nothing in the bill is controversial.

Our immigration law is inherently complicated. This bill, which has had the bipartisan support of the committee, will make that law more logical, easier to implement, and fairer for all.

I urge my colleagues to support H.R. 3670.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this particular bill, as was described by the gentleman from Kentucky [Mr. MAZZOLI], is not anything more than a technical bill. There is nothing in it which any of us are considering a major provision, but it does address the numerous problems as described in the bill that we passed in 1990, and those problems, being technical in nature, are such that, if we do not correct them out here tonight, we do not get on with them, why we cannot prevent problems to people out in the field trying to implement the law. So, we need to pass it.

The Speaker, there is no reason I know of to get in any controversy or debate on it, and I am not going to take any more time on it.

Mr. Speaker, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 3670, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3670, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

O AND P NONIMMIGRANT AMENDMENTS OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3048) to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants, as amended.

The Clerk read as follows:

H.R. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 2. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 3. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 4. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consultation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 3(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 3(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the

Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.".

SEC. 5. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) Definition of Extraordinary Ability in the Arts for O Nonimmigrants.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) Eliminating Additional Paperwork Requirement for O-1's.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) Clarification of Significant Photography for O-2's.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "significant principal photography" and inserting "significant production (including pre- and post-production work)".

(d) Clarification of Multiple Events for Visas for O Nonimmigrants.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) Consultation With Respect to Readmitted O-1 Nonimmigrants.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 6. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) Eliminating 3-Month Out-of-Country Rule for P-2 and P-3 Nonimmigrants.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) Treatment of Foreign Organizations for P-2 Nonimmigrants.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) Treatment of P-2 Nonimmigrants.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 3(b) of this Act, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) Performance of Teaching and Coaching Functions by P-3 Nonimmigrants.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 7. OTHER AMENDMENTS.

(a) Return Transportation Requirement for O and P Nonimmigrants.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) Entry of Fashion Models Under H-1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) Annual Report.—

(1) In general.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 4 of this Act, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) Deadline for first report.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 8. EFFECTIVE DATE.

The provisions of, and amendments made by, this Act shall take effect on April 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3048 would amend the Immigration and Nationality Act to remove unnecessary and burdensome requirements that restrict the numbers and types of foreign artists, athletes, and entertainers who may be issued nonimmigrant visas to perform or entertain in the United States.

This legislation has gone through a number of amendments and refinements since its introduction back in July. It has been a difficult process, but the bill we bring to the floor today has received broad bipartisan support in the Judiciary Committee.

I thank my colleagues on the subcommittee for their superb cooperation and genuine consideration. It is a pleasure and honor to work with them.

Mr. Speaker, this is a compromise measure that protects domestic artists from unfair foreign competition and at the same time guarantees that this country will continue to be enriched by the unique talents of artists and entertainers from abroad.

By way of background, the Immigration Act of 1990—Public Law 101-649—created a number of new nonimmigrant visa categories.

Two of these new visa categories, however, were inartfully conceived and poorly drawn—the "O" and "P" visa categories. Each category authorizes the temporary admission of certain highly skilled foreigners.

Generally speaking, the O category is reserved for aliens who have reached the very top of their profession in the sciences, business, education, athletics, or the arts.

The P category differs from the O category not only with respect to the categories of aliens covered but also with respect to the degree of acclaim or skill an individual must have in order to qualify for a visa. Both the O and the P categories have subcategories.

During the past year, the Subcommittee on International Law, Immigration, and Refugees received numerous letters from representatives of arts groups—profit and nonprofit theaters, opera, symphony orchestras, dance groups, performing arts centers, and even circuses—expressing fears, which I share, that the new O and P visa categories would severely and unduly restrict the numbers and types of foreign artists entering the United States. Similarly, the Cultural Council of the European Community formally issued a resolution of objection regarding the new visa categories.

On October 9, the Subcommittee on International Law, Immigration, and Refugees, which I am honored to chair, held a hearing on this bill. The testimony we received from the administration, labor unions, and arts presenters was extremely helpful in helping us craft the bill now before us.

Turning to the substance of the bill, some of its more important features are as follows:

First, current law imposes a 25,000 annual cap on the number of aliens who may receive P–1 and P–3 visas; the bill allows admission of all qualified P-1 and P–3 aliens.

Second, current law requires that all members of a P–1 entertainment group have at least 1 year's experience with that group; the bill establishes a general rule that the 1-year requirement shall apply, but allows for exceptions, automatically waives the 1-year requirement for 25 percent of the members of the group, and provides an additional waiver of the 1-year rule whenever a group member must be replaced because of exigent circumstances.

Third, current law requires that P–1 alien groups be internationally recognized; the bill allows waiver of the international recognition standard in special circumstances.

Fourth, current law requires that P-2 and P–3 aliens must remain outside the United States for at least 3 months before they can be readmitted; the bill allows for immediate readmission of otherwise qualified persons.

Fifth, current law establishes no procedures for the expedited admission of O and P artists, entertainers and athletes who face exigent circumstances; the bill directs the Immigration Service to establish such expedited admission procedures.

Sixth, current law imposes a requirement of extraordinary ability on O–1 artist and entertainers; the bill relaxes the extraordinary ability requirement by requiring instead distinction.

Seventh, current law requires INS to make a finding in each case that an O-1 alien's admission will benefit the United States; the bill deletes that requirement.

Eighth, current law requires INS to consult with an appropriate labor union or peer group every time an O–1 alien seeks admission; the bill waives the consultation requirement for O–1 aliens with respect to whom a consultation has occurred within the previous 2 years and allows INS to waive the consultation requirement if no such labor union or peer group exists.

Mr. Speaker, there can be little doubt that current law must be reformed. I believe that this measure corrects the mistakes of last year's law, and I urge my colleagues to give this bill their support.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Kentucky [Mr. MAZZOLI] has been very gracious in talking about our committee. He has chaired it very ably, and I have served with him a number of years on the Subcommittee on International Law, Immigration, and Refugees. So, it has been a very, very fine year to serve with the gentleman. It is always a pleasure. He reaches for consensus, and that is what happened in the bill that is before us.

I think that is why, when we talk about the O and P visas and the need to make some changes in the law to allow particularly performers in the arts to be able to come to our country and perform in various theater productions, and opera companies and so on, it is why we were able to make these changes in such an amicable way that allows that to occur and still provides the protection that we need to provide, of course, for our own citizens so that there is not an inappropriate number of foreign artists coming to this country, but there is a need for us to have those kinds of artists come here, in particular educators, in some cases scientists and others that are covered by these visas to teach in our schools and so on.

So, Mr. Speaker, the bill is substantive. It is not a simple bill, not a technical corrections bill, but rather one that does provide some substantive relief, and, yes, as the gentleman from Kentucky [Mr. MAZZOLI] said, our staffs have worked very hard on it. Claudia Strom is with me tonight, served as counsel for this subcommittee last year on the minority side and has been much involved this year, and to all our staff on both sides of the aisle, we want to thank them, as the gentleman from Kentucky did, because I assume this is the last bill, pray that it is of this committee, that we will see out this year.

Mr. Speaker, with no controversy and no further requests for time, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 3048, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3531) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Patent and Trademark Office for fiscal year 1992—

(1) $95,000,000 for salaries and necessary expenses, which shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund established under section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508);

(2) such sums as are equal to the amount collected during that year from fees under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following); and

(3) $24,000,000 for administrative, capital, or other expenditures not provided for under paragraphs (1) and (2).

(b) AMENDMENTS TO BUDGET RECONCILIATION ACT.—Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "of 69 percent, rounded by standard arithmetic rules,"; and

(B) by inserting before the period ", in order to ensure that the amounts specified in subsection (c) are collected".

(2) Subsection (b)(1)(B) is amended by inserting "of these surcharges," after "(B)".

(3) Subsection (c) is amended—

(A) by striking "REVISIONS" and inserting "ESTABLISHMENT OF SURCHARGES"; and

(B) by striking "surcharges" and all that follows through "Trademarks" and inserting "the Commissioner of Patents and Trademarks shall establish surcharges under subsection (a)".

(c) WAIVER OF CERTAIN RESTRICTIONS.—Surcharges established for fiscal year 1992 under section 10101(c) of the Omnibus Budget Reconciliation Act of 1990 may take effect on or after 1 day after such surcharges are published in the Federal Register. Section 553 of title 5, United States Code, shall not apply to the establishment of such surcharges for fiscal year 1992.

SEC. 3. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act may remain available until expended.

SEC. 4. OVERSIGHT OF PATENT AND TRADEMARK FEES.

Section 42 of title 35, United States Code, is amended by adding at the end the following:

"(e) The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

"(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

"(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

"(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

"(4) any proposed disposition of surplus fees by the Office; and

"(5) such other information as the committees consider necessary.".

SEC. 5. PATENT AND TRADEMARK FEES.

"(a) FEE SCHEDULES.—(1) Section 41(a) of title 35, United States Code, is amended to read as follows:

"(a) The Commissioner shall charge the following fees:

"(1)(A) On filing each application for an original patent, except in design or plant cases, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of 3, $14 for each claim (whether independent or dependent) which is in excess of 20, and $160 for each application containing a multiple dependent claim.

"(2) For issuing each original or reissue patent, except in design or plant cases, $820.

"(3) In design and plant cases—

"(A) on filing each design application, $200;

"(B) on filing each plant application, $330;

"(C) on issuing each design patent, $290; and

"(D) on issuing each plant patent, $410.

"(4)(A) On filing each application for the reissue of a patent, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $14 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

"(5) On filing each disclaimer, $78.

"(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $190.

"(B) In addition, on filing a brief in support of the appeal, $190, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $160.

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $820, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $78.

"(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

"(A) on filing a first petition, $78;

"(B) on filing a second petition, $172; and

"(C) on filing a third petition or subsequent petition, $340.

"(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, $450.

"(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, $500.

"(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, $670.

"(12) Basic national fee for an international application where the international preliminary examination has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, $166.

"(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, $52.

"(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, $14.

"(15) For each national stage of an international application containing a multiple dependent claim, $160.

For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

(2) Subsection (b) of section 41 of title 35, United States Code, is amended by striking "a patent in force" and all that follows through the end of paragraph 3, and inserting the following: "in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $650.

"(2) 7 years and 6 months after grant, $1,310.

"(3) 11 years and 6 months after grant, $1,980.".

(3) Subsection (d) of section 41 of title 35, United States Code, is amended to read as follows:

"(d) The Commissioner shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Commissioner shall charge the following fees for the following services:

"(1) For recording a document affecting title, $40 per property.

"(2) For each photocopy, $.25 per page.

"(3) For each black and white copy of a patent, $3. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents in that year shall be $50.".

(b) AUTHORITY TO INCREASE FEES.—Section 41(f) of title 35, United States Code, is amended by striking "on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years" and inserting "on October 1, 1992, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months".

(c) NOTICE OF FEES.—(1) Section 41(g) of title 35, United States Code, is amended to read as follows:

"(g) No fee established by the Commissioner under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office.".

(2) Fees established by the Commissioner of Patents and Trademarks under section 41(d) of title 35, United States Code, during fiscal year 1992 may take effect on or after 1 day after such fees are published in the Federal Register. Section 41(g) of title 35, United States Code, and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(d) PATENT AND TRADEMARK COLLECTIONS; PUBLIC ACCESS.—(1) Section 41 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Commissioner shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees directly for the use of such collections, or for the use of the public patent or trademark search rooms or libraries.

"(2) The Commissioner shall provide for the full deployment of the automated search systems of the Patent and Trademark Office so that such systems are available for use by the public, and shall assure full access by the public to, and dissemination of, patent and trademark information, using a variety of automated methods, including electronic bulletin boards and remote access by users to mass storage and retrieval systems.

"(3) The Commissioner may establish reasonable fees for access by the public to the automated search systems of the Patent and Trademark Office. If such fees are established, a limited amount of free access shall be made available to users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such a waiver is in the public interest.

"(4) The Commissioner shall submit to the Congress an annual report on the automated search systems of the Patent and Trademark Office and the access by the public to such systems. The Commissioner shall also publish such report in the Federal Register. The Commissioner shall provide an opportunity for the submission of comments by interested persons on each such report.".

(2)(A) The section heading for section 41 of title 35, United States Code, is amended to read as follows:

"§41. Patent fees; patent and trademark search systems".

(B) The items in the table of sections at the beginning of chapter 4 of title 35, United States Code, are amended to read as follows:

"41. Patent fees; patent and trademark search systems.
"42. Patent and Trademark Office funding.".

(C) The chapter heading for chapter 4 of title 35, United States Code, is amended to read as follows:

CHAPTER 4—PATENT FEES; FUNDING; SEARCH SYSTEMS".

(D) The items relating to chapters 3 and 4 in the table of chapters for part I of title 35, United States Code, are amended to read as follows:

"3. Practice Before Patent and Trademark Office 31
"4. Patent Fees; Funding; Search Systems .... 41".

(e) USE OF FEES.—Subsection 42(c) of title 35, United States Code, is amended to read as follows:

"(c) Revenues from fees shall be available to the commissioner to carry out, to the extent provided in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946 may be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.".

(f) TRADEMARK FEES.—(1) Section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) is amended to read as follows:

"(a) The Commissioner shall establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services performed by and materials furnished by the Patent and Trademark Office related to trademarks and other marks. Fees established under this subsection may be adjusted by the Commissioner once each year to reflect, in the aggregate, any fluctuations during the preceding 12 months in the Consumer Price Index, as determined by the Secretary of Labor. Changes of less than 1 percent may be ignored. No fee established under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office."

(2) Fees established by the Commissioner of Patents and Trademarks under section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) during fiscal year 1992—

(A) may, notwithstanding the second sentence of such section 31(a), reflect fluctuations during the preceding 3 years in the Consumer Price Index; and

(B) may take effect on or after 1 day after such fees are published in the Federal Register.

The last sentence of section 31(a) of the Trademark Act of 1946 and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(g) INTERNATIONAL APPLICATION FEES.—(1) Section 376 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) in the second sentence by inserting after "Office" the following: "shall charge a national fee as provided in section 41(a), and"; and

(ii) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(B) in subsection (b) in the last sentence by striking "the preliminary examination fee" and inserting "the national fee, the preliminary examination fee,".

(2) Section 371(c)(1) of title 35, United States Code, is amended by striking "prescribed under section 376(a)(4) of this part" and inserting "provided in section 41(a) of this title".

SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not, during fiscal year 1992, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data). The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

SEC. 7. INDEMNIFICATION OF EMPLOYEES.

The Commissioner of Patents and Trademarks is authorized to indemnify any officer or employee of the Patent and Trademark Office who participated in the Law School Tuition Assistance Program of the Patent and Trademark Office, against tax liability incurred as a result of payments made to law schools under the program in tax years 1988, 1989, and 1990.

SEC. 8. DUTIES OF COMMISSIONER.

Section 6(a) of title 35, United States code, is amended by striking "and shall have" and inserting ", including programs to recognize, identify, assess and forecast the technology of patented inventions and their utility to industry; and shall have".

SEC. 9. REPEAL OF PRIOR AUTHORIZATION ACTS.

Subsections (b) and (c) of section 104 of Public Law 100–703 are repealed.

SEC. 10. GAO REPORTING REQUIREMENT.

Section 202(b)(3) of title 35, United States Code, is amended by striking "each year" and inserting "every 5 years".

SEC. 11. PATENT INFORMATION DISSEMINATION.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "CD–ROMs" means compact discs formatted with read-only memory, including such discs that make use of advanced optical storage technology;

(2) the term "classified patent information" means patent information organized by the subject matter of the claimed invention according to the United States Patent Classification System or the classification system used by the country or authority that issues a patent;

(3) the term "Commissioner" means the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks; and

(4) the term "patent information" means a complete and exact facsimile of a patent or patent application, including the text and all images contained therein (such as drawings, diagrams, formulas, and tables).

(b) INFORMATION DISSEMINATION PROGRAM.—No later than January 1, 1992, the Commissioner shall establish a demonstration program which shall make patent information available in accordance with the provisions of this section, through October 1, 1992. The Commissioner shall produce master CD–ROMs containing classified patent information and provide copies of them to the public for purchase.

(c) INFORMATION TO BE DISSEMINATED.—The patent information that shall be disseminated pursuant to this section shall be patent information in the possession of the Commissioner in computer readable form, including information on selected subclasses of United States patents, as determined by the Commissioner.

(d) FEES.—The Commissioner shall establish fees for the purchase of CD–ROMs, at a rate sufficient to recover the estimated average marginal cost of producing and processing purchase orders for copies of master CD–ROMs.

(e) REPORT.—On the date that is 1 year after the date of the enactment of this Act the Commissioner shall submit to Congress a report on the implementation of this section.

SEC. 12. DEFINITION.

For purposes of this Act, the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1945 (15 U.S.C. 1051 and following).

SEC. 13. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, except that the fees established by the amendment made by section 5(a) shall take effect on or after 1 day after such fees are published in the Federal Register.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3531 authorizes the Patent and Trademark Office for a period of 1 year. The Patent and Trademark Office was last authorized in 1988, and that authorization expired on September 30, 1991. The Committee on the Judiciary favorably reported H.R. 3531, with minor amendments, and I urge my colleagues to support this legislation today.

The efficient and proper functioning of the Patent and Trademark Office is essential to maintain a strong intellectual property system in the United States. H.R. 3531 will assure that PTO has adequate funding for fiscal year 1992. At the same time, we have tried to keep patent and trademark fees as low as possible.

H.R. 3531 contains the following key features:

First, it retains the small entity fee structure to encourage innovation by America's independent inventors, small businesses, and university researchers.

Second, it sets new patent processing fees to reflect a Patent and Trademark Office operating budget of $426 million in fiscal year 1991.

Third, it limits authorization to 1 year so that the Congress can closely monitor progress in the automation system and other aspects of PTO operations.

Fourth, it retains the fence between trademark fees and other agency funds, but authorizes use of trademark fees to pay a proportion of PTO administrative costs.

Fifth, it increases patent and trademark fees across the board, and follows the mandate of the omnibus budget reconciliation to raise the targeted $95 million in deficit savings from a surcharge on user fees.

Finally, it authorizes $26 million in public funds, in an effort to restore partial public funding for PTO operations.

The bill contains two additional provisions to improve the dissemination of information to the public through the use of CD–ROMS and public education.

I am very grateful to the ranking minority member of my subcommittee the gentleman from California [Mr. MOORHEAD] for working with me to achieve the solution that we have reached today. I also thank the chairman and my colleagues on the Judiciary Committee for supporting this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from New Jersey [Mr. HUGHES] for yielding this time to me. I salute him for the bill, and of course I very strongly support it. I have enjoyed working with the gentleman for many years.

I have one question. I have a friend, Ralph Brick, who has practiced in the area of patent law.

Ralph has been sending me information over the last few months and probably over a few years in which he as a practitioner and a skilled person in that area feels that the Patent Office, both because of sometimes its archaic practices and because of the fee structures and because of the length of time it might take to get patents, really puts American businesses at somewhat of a disadvantage.

In the current Business Week—the gentleman may have seen it—there is a fairly long piece on this question of whether we are at a competitive disadvantage in America with our companies because of the Patent Office. I just want to ask the gentleman, who is the leader and expert in that field, does the gentleman, as part of his reauthorization hearings next year, intend to perhaps get into the question of competitiveness and advantage and disadvantage as the Patent Office is involved?

Mr. HUGHES. Mr. Speaker, the gentleman's constituent, Ralph, I think, probably has some legitimate criticism of the present process. We are trying to automate the system, as my colleague, who works with us very closely on intellectual property issues, knows. The turnaround time, the pendency time, is around 18 months. It is much higher than that on biotechnology applications. It is much too long. Automation will enable us to do a far better job.

We have tried to address a number of other problems that have been brought to our attention, such as the small fee entity, for instance. The universities turn out a great many inventions, as the gentleman knows, and that small fee entity enables them to do that. The gentleman is very closely allied with Notre Dame University, I know. That is important to them. We maintain that in this legislation. We try to keep the fees low. We have seen an escalation of fees in the last few years, and that does hurt a lot of our small inventors.

So we do have a lot of work to do, and we do intend to have oversight hearings in the next Congress on these and other issues.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield further.

Mr. HUGHES. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I will go back to the office and get the copy of the article and perhaps send it to the gentleman.

My recollection, having scanned the article, was that essentially the Japanese function differently on the granting of patents and the whole patent process than we do, and the premise of the story, whether it is correct or not, is that this advantages Japanese companies in securing patents and perhaps protecting their patent process, and it concomitantly gives them an advantage over our companies.

I would ask the gentleman if part of his oversight hearings will deal with the subject of whether there is a competitive aspect to the patent process. We certainly want not to put our companies to any major disadvantage.

Mr. HUGHES. Mr. Speaker, both our colleague, the gentleman from California [Mr. MOORHEAD] and I are working with Carla Hills in connection with her negotiations in GATT, the General Agreement on Tariffs and Trade, to try to basically reach some accords. There is a lot of unfairness in many aspects of our international relationships. There is a tremendous disparity between our patent laws or our regime and the Japanese in many respects, as well as with the European Common Market and, I might say, Mexico, where we are developing the North American Free-Trade Agreement.

Patent harmonization is one of the goals really worldwide that we have so we can, in fact, protect the creators of American property, not just in this country but overseas. One of the great problems we have had as a country, as my colleague well knows, is that we have not always done the best we can do in protecting America's creativity. We have to do a far better job in the years ahead. That has been one of our strong points, and I can tell the gentleman that is one of this subcommittee's main priorities. We look forward to working with the gentleman from Kentucky on this issue.

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield for just another moment, first, if there are two people in the world who could pull off the miracle of understanding the patent laws in a way that the whole issue can be harmonized, the gentleman from New Jersey and the gentleman from California are those two people.

Last but not least, if the gentleman does conduct hearings next year, I wonder if it would be possible for Mr. Brick to testify, or perhaps if not to give his personal testimony, perhaps his written testimony could be made a part of the record. If that could be accomplished, I would feel confident that it would add to our understanding.

Mr. HUGHES. Mr. Speaker, we would be very happy to work with our distinguished colleague, the gentleman from Kentucky [Mr. MAZZOLI] on that score.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our committee chairman for quickly bringing this legislation to the floor. I would also like to commend our subcommittee chairman and his staff for the good job they have done in developing the compromise for this important legislation. The Budget Reconciliation Act of last year delivered a bit of a shock to the Judiciary Committee and to the patent community by making the PTO almost entirely user-fee funded. The Budget Act also required a 69 percent increase in user fees to make up for the loss in taxpayer money. The PTO has made tremendous improvements over the last 6 or 7 years to a point where that office rivals any office in the world. Our task is to keep this office moving forward during this difficult financial period. I believe this legislation does that and urge a favorable vote.

Mr. Speaker, we have had to make a substantial adjustment over the past decade from a primarily taxpayer funded, outdated, declining patent system, to an almost 100 percent user-fee funded, updated, modernized, and effective patent system. Although, in the early eighties, I believe we did the right thing for the betterment of the system, it has not been easy. Users and practicers have resisted this evolution all the way. When, in the early eighties, we directed the PTO to modernize and computerize its 25 million documents and come into the 20th century, no body supported that directive. When we substantially increased the fees in the early eighties very few supported that directive.

But if we hadn't taken those steps a decade ago we would be so far behind the European and the Japanese Patent Offices we would never be able to catch up. But that's not the case today. Although we have our problems and we have plenty of work to do, I believe we are about to surpass all other patent offices, in the quality of patents issued. This turnaround was accomplished through the efforts of many people, including the private patent bar and other users of the system and also the House Judiciary Committee.

If we are to continue our progress and stay ahead of the European Patent Office and the Japanese Patent Office we must continue to move forward with automation. During the hearings on the authorization of the U.S. Patent and Trademark Office, some private sector witnesses stated that the Office's automation activities should be funded from taxpayer revenues, not user fees. When they were asked about what course of action to take if taxpayer funds were not available, a few witnesses responded that work on the automation projects, including deployment of the Automated Patent System and trademark system improvements, should be discontinued, or at least significantly curtailed. In essence, these individuals would elect short-term savings in fees charged by the Office instead of investing in automation systems that may increase efficiency, increase quality, and decrease costs in the long term.

I believe the committee strongly disagrees with this approach and believes that it is necessary to take advantage of the improved automated systems that are ready for deployment and to continue to invest in improvements. To this end the committee added a new subsection 2 to 35 U.S.C. 41. This subsection is intended to mandate the deployment of automated systems developed by the Office to the work force at the Office and to the public, and to require the Office to continue to develop improvements to these systems in this and future fiscal years.

The committee recognizes that taxpayer funds are not available to underwrite the costs of automating the Patent and Trademark Office and that user fees will have to be used. Furthermore, we are aware that the level of funding provided by this act will not enable the Office to accomplish as much as it requested or as much as some members of the public may want. It will, however, enable the Office to take significant steps forward. The committee does not intend to dictate which systems are deployed this fiscal year or in future fiscal years, or to dictate to whom the systems are deployed in any given fiscal year. Decisions such as these depend heavily on costs, technical capabilities, and the amount of fee income available at the time of deployment. As such, these decisions should remain with the Commissioner.

This does not mean that the committee will not carefully scrutinize the Office's automation program. We will review this program carefully during the authorization process next year and in following years. Furthermore, the chairman of our Subcommittee on Intellectual Property and the Administration of Justice and his counterpart in the other body have requested that the Government Accounting Office review the Office's automation efforts. The committee will carefully review their findings.

Mr. Speaker, I believe that we are coming close to achieving the goal we announced back in 1980 of making our patent system a model for the world. However, today we are at an important crossroads, as to whether to continue to move forward or do we stop or do we begin the slide backward? Mr. Speaker, I believe that with H.R. 3531 we are moving forward and I urge its adoption.

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Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back the balance of my time, I want to not only thank my colleague for his work on the Subcommittee on Intellectual Property and Judicial Administration issues in this session of Congress, but a very fine professional staff, both the majority staff and minority staff that worked well together in a bipartisan fashion. The work product that comes out of that subcommittee is outstanding because of the professionalism that inheres in our professional staff.

Mr. MOORHEAD. Mr. Speaker, I certainly second the comments about our staff. I think we have one of the finest staffs on the Hill. They do a remarkable job.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COPYRIGHT AMENDMENTS ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2372) to amend title 17, United States Code, with respect to fair use and copyright renewal, to reauthorize the National Film Registry Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1991".

TITLE I—RENEWAL OF COPYRIGHT

SEC. 101. SHORT TITLE.

This title may be referred to as the "Copyright Renewal Act of 1991".

SEC. 102. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author, shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, if the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

In the case of applications made under clause (i) for works not originally registered, the Register may, in accordance with regulations, require an original term registration as a condition to the registration for the renewed and extended term, except in the case of a Berne Convention work whose country of origin is not the United States.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant or a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.

"(C) If an application to register a claim in the first term of copyright is not made before expiration of the first term, the remedies of actual and statutory damages, attorney's fees, and seizure and forfeiture otherwise provided by sections 504, 505, and 509, respectively, shall not be available to the copyright owner for any act of infringement that commences before registration is made of a claim in the renewed and extended term of copyright, even if the infringing conduct continues after registration is made.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in the first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE: COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

TITLE II—NATIONAL FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereinafter in this title referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 203. DUTIES OF THE LIBRARIAN OF CONGRESS

(a) STUDY OF FILM PRESERVATION.—The Librarian shall, after consultation with the Board established pursuant to section 204, conduct a study on the current state of film preservation and restoration activities, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall, in conducting the study—

(A) take into account the objectives of the national film preservation program set forth in clauses (i) through (iii) of subsection (b)(1)(A); and

(B) consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation.

(2) Not later than 1 year after the date of the enactment of this Act, the Librarian shall submit to the Congress a report containing the results of the study conducted under paragraph (1).

(b) POWERS.—(1) The Librarian shall, after consultation with the Board, do the following:

(A) After completion of the study required by subsection (a), the Librarian shall, taking into account the results of the study, establish a comprehensive national film preservation program for motion pictures, in conjunction with other film archivists and copyright owners. The objectives of such a program shall include—

(i) coordinating activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(ii) generating public awareness of and support for those activities; and

(iii) increasing accessibility of films for educational purposes, and improving nationwide activities in the preservation of works in other media such as videotape.

(B) The Librarian shall establish guidelines and procedures under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication.

(C) The Librarian shall establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry.

(D) The Librarian shall establish procedures for the examination by the Librarian of prints of films named for inclusion in the National Film Registry to determine their eligibility for the use of the seal of the National Film Registry under paragraph (3).

(E) The Librarian shall determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

(2) The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film.

(4) The Librarian shall publish in the Federal Register the criteria used to determine the Registry version of a film.

(5) The Librarian shall submit to the Congress a report, not less than once every two years, listing films included in the National Film Registry and describing the activities of the Board.

(c) SEAL.—The seal provided under subsection (b)(3) may be used on any copy of the Registry version of a film. Such seal may be used only after the Librarian has examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright may place or authorize the placement of the seal on a copy of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any print or copy of the film that is maintained in the National Film Registry Collection of the Library of Congress. The person authorized to place the seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

(d) DEVELOPMENT OF STANDARDS.—The Librarian shall develop standards or guidelines by which to assess the preservation or restoration of films that will qualify films for use of the seal under this section.

SEC. 204. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of up to 18 members, who shall be selected by the Librarian in accordance with the provisions of this section. Subject to subparagraphs (C) and (O), the Librarian shall request each organization listed in subparagraphs (A) through (P) to submit to the Librarian a list of not less than 3 candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under paragraph (2), the Librarian shall appoint 1 member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

(A) The Academy of Motion Pictures Arts and Sciences.

(B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate not less than 3 candidates, and a representative from 1 such organization shall be selected as the member and a representative from the other such organization as the alternate.

(D) The National Society of Film Critics.

(E) The Society for Cinema Studies.

(F) The American Film Institute.

(G) The Department of Theatre, Film and Television of the College of Fine Arts at the University of California, Los Angeles.

(H) The Department of Film and Television of the Tisch School of the Arts at New York University.

(I) The University Film and Video Association.

(J) The Motion Picture Association of America.

(K) The National Association of Broadcasters.

(L) The Alliance of Motion Picture and Television Producers.

(M) The Screen Actors Guild of America.

(N) The National Association of Theater Owners.

(O) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit 1 list of candidates from which a member and alternate will be selected.

(P) The United States members of the International Federation of Film Archives.

(2) In addition to the Members appointed under paragraph (1), the Librarian shall appoint up to 2 members-at-large. The Librarian shall select the at-large members from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with the film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall, in selecting 1 such member-at-large, give preference to individuals who are commercial film archivists. The Librarian shall also select from the names submitted under this paragraph an alternate for each member-at-large, who may attend those meetings to which the member-at-large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member of the Board to serve as Chairperson.

(c) TERM OF OFFICE.—The term of each member of the Board shall be 3 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) The vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—9 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home of regular places of business in the performance of functions of the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and the responsibilities of the Board.

SEC. 205. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and shall consult with the Librarian, as provided in section 203, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) GENERAL POWERS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Librarian and the Board considers appropriate.

SEC. 206. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the Registry version of each film included in the National Film Registry. Whenever possible, the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—The Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film included in the National Film Registry, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials.

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received by the Librarian and other materials received by the Librarian under subsection (b) shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian and all materials received by the Librarian under subsection (b) shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to films such collection for scholarly and research purposes.

SEC. 207. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—(1) No person shall knowingly distribute or exhibit to the public a version of a film which bears the seal described in section 203(b)(3) if such film—

(A) is not included in the National Film Registry; or

(B) is included in the National Film Registry, but such copy was not made from a print that was examined and approved for the use of the seal by the Librarian under section 203(c).

(2) No person shall knowingly use the seal described in section 203(b)(3) to promote any version of a film other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 203(b)(3) shall be effective for each film after the Librarian publishes in the Federal Register the name of that film as selected for inclusion in the National Film Registry.

SEC. 208. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 207(a).

(b) RELIEF.—(1) Except as provided in paragraph (2), relief for a violation of section 207(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) In the case of a pattern or practice of the willful violation of section 207(a), the United States district courts may order a civil fine of not more than $10,000 and appropriate injunctive relief.

SEC. 209. LIMITATIONS OF REMEDIES.

The remedies provided in section 208 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 203(b)(3).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule. In no case may a member of the Board be paid as an expert or consultant under such section.

SEC. 211. DEFINITIONS.

As used in this title—

(1) the term "Librarian" means the Librarian of Congress;

(2) the term "Board" means the National Film Preservation Board;

(3) the term "film" means a "motion picture" as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as work fixed on videotape or laser disks;

(4) the term "publication" means "publication" as defined in section 101 of title 17, United States Code; and

(5) the term "Registry version" means, with respect to a film, the version of the film first published, or as complete a version as the bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian to carry out the purposes to this title—

(1) $300,000 for fiscal year 1992, and

(2) $300,000 for each of the fiscal years 1993 and 1994, plus such additional amount, for

each such fiscal year, as reflects any increase in the Consumer Price Index, as determined by the Secretary of Labor, occurring since the beginning of fiscal year 1992.

SEC. 213. EFFECTIVE DATE.

The provisions of this title shall apply to any copy of any film, including those copies of film selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988, except that any film so selected under such Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 214. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 and following) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2372—the Copyright Amendments Act of 1991—is a two-titled bill that will improve this Nation's copyright system. The bill was reported favorably by the Committee on the Judiciary with amendments on November 19, 1991. It is the work product of my subcommittee—the Subcommittee on Intellectual Property and Judicial Administration—which has jurisdiction over copyright law matters.

Title I is the Copyright Renewal Act of 1991, providing for the automatic renewal of copyrights secured on or after January 1, 1963, and before January 1, 1978, the effective date of the Copyright Revision Act of 1976.

Title I is a compromise which balances the rights of creators with the interests of users, such as those who engage in the pursuit—be it business or academic—of finding and distributing inaccessible copyrighted works.

The purpose of the renewal proposal is to allow the automatic renewal of copyright in works eligible for renewal between the years 1991 and 2005. At the same time, the bill encourages voluntary registration by removing the availability of most copyright remedies from authors or their heirs who fail to register their works.

Currently, renewal is a trap for the unwary. Compliance with the law requires authors to be aware and to remember that 27 years after first publication, a renewal registration must be filed in the Copyright Office in order to sustain the work's protection. In 1976 Congress opted to eliminate renewal for post-1987 works. This bill takes the same path.

At the same time, the bill limits the remedies of authors who fail a timely original term registration—that is, before the end of the first 28-year term of protection. Failure to file an original term registration would deny these authors the remedies of actual and monetary damages, attorneys fees, and seizure and forfeiture—provided in sections 504, 505 and 509 of the Copyright Act—for all infringements that occur in the second term of protection—47 years. These same authors would enjoy the automatic second term of protection of 47 years, whether or not they file an original term registration or a renewal term registration. Authors can cure their failure to register an original term registration by filing a renewal registration at any time during the second term, thereby availing themselves of all of the remedies of copyright for infringements which commence after the filing of the renewal registration. Prior infringements, even those that continue after the filing of a renewal registration, could only be met with a motion for injunctive relief—cease and desist—as provided in section 502 of the Copyright Act.

Permissive registration is already contemplated in the Copyright Act, and comports with our international treaty obligations. As this committee noted in its report of the Berne Convention Implement Act, "Registration * * * is in the public interest." Copyright registration promotes efficient litigation practices, to the benefit of the courts and the public as well as the parties to a lawsuit. Registration as a prerequisite to lawsuit helps to maintain the existence of a central, public depository of copyright claims. And registration fuels the Library of Congress.

Title I continues existing Copyright Office practice, allowing a renewal registration during the first term of copyright only where an original term registration has been filed. Exceptions would be made for Berne Convention works, whose country of origin is not the United States, and for universal copyright convention works—consistent with current practice—and with current obligations under both of those treaties.

Title II is the National film preservation Act of 1991, authorizing funding for film preservation activities through the year 1994. Title II will assure that films of important cultural, historical, and aesthetic significance to our country are properly preserved.

"It's a Wonderful Life," The Wizard of Oz", "Citizen Kane," and "Mr. Smith Goes to Washington" have long been cherished as part of our cultural heritage. Today these films are among the 75 Films of the National Film Registry and will be preserved for future generations. However, more than half of the feature films made in the United States before 1951 have literally vanished, and many more recent films are deteriorating quickly.

Congress first enacted the Film Preservation Act in 1988, under the leadership of Representative BOB MRAZEK, after achieving a compromise between proponents and opponents of moral rights for filmmakers. Title II of H.R. 2372 would advance the goals of the 1988 act: The promotion of film as an art form and the increased public awareness of the need to preserve our Nation's motion pictures. However, controversial film labeling provisions contained in the 1988 act have been deleted, and the current legislation places a new emphasis on the physical preservation of American films.

The film preservation activities of the Librarian of Congress fall within the jurisdictions of both the Judiciary Committee and the House Administration Committee. I would like to acknowledge the constructive efforts of the chairman of the Committee on House Administration, the gentleman from North Carolina, [Mr. ROSE], and the chairman of the Subcommittee on Libraries and Memorials, the gentleman from Missouri [Mr. CLAY] to preserve America's treasured films.

In closing, I would also thank the ranking minority member of the subcommittee, the gentleman from California, [Mr. MOORHEAD] and all of my subcommittee members for their assistance. I would also recognize the contributions of the chairman of the committee, the gentleman from Texas [Mr. BROOKS] and the ranking minority member, the gentleman from New York, [Mr. FISH].

I urge support for H.R. 2372.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 2372, the Copyright Amendments Act of 1991. The legislation contains two titles. Title I deals with the automatic renewal of copyrights secured from 1963 to 1977 and title II would reauthorize the National Film Board.

Perhaps the best statement of the need for title I is found in the House report on the 1976 Copyright Revision Act. In that report the Judiciary Committee noted that:

> One of the worst features of the present (1909) copyright law is the provision for renewal of copyright. A substantial burden and expense, this unclear and highly technical requirement results in incalculable amounts of unproductive work. In a number of cases it is the cause of inadvertent and unjust loss of copyright.

Title I of H.R. 2372 represents an innovative solution to the problems caused by the two-term renewal system by providing for the automatic renewal of copyrights secured from 1963 to 1977.

That said, I wish also to note a closely related issue. I am speaking of the interpretation of the law which may prevent the continued distribution of motion pictures during the renewal term of the underlying works on which they are based and which they incorporate.

This problem has resulted from Steward versus Abend, a 1990 Supreme Court decision which overturned settled law on which the motion picture industry and copyright owners had relied since 1977. The problem comes up in this situation. A producer wishes to make a motion picture based on a preexisting work—say a novel. The producer and the novel's author strike a bargain, and the author grants a license to make and use the movie, for which he is paid. In return, his license allows the producer to use the motion picture in both the initial and renewal terms of the novel's copyright. If the author lives through the initial term, the contract remains binding. But, under Abend, if the author happens to die before the renewal term, his successors may unilaterally break the contract and demand additional payment, or even stop the continued distribution of the movie, even though the producer has fully lived up to the contract and has already paid the author for all continued uses of the movie.

It appears to me that even the Court of Appeals for the Ninth Circuit, whose decision in Abend the Supreme Court affirmed, expressed uneasiness about the result. Rather than allow the author's successor to bar continued distribution of the derivative motion picture, the court refused to enjoin that distribution and limited recovery only to monetary damages. What the outcome of that particular case will be we do not know, for the court has not yet set the amount of the recovery.

In any event, the chairman of the Intellectual Property Subcommittee, Mr. HUGHES, will join me in monitoring the way the law in this area evolves. It's possible that at some point we may need to consider corrective legislation.

Title II of H.R. 2372 would reauthorize the National Film Preservation Act for 3 additional years. The provisions of the act expired at the end of September. The original act that passed in 1988 was controversial and the existing law was the product of many political compromises which were arrived at without the benefit of the Judiciary Committee.

Title II drops the moral rights and labeling issues which are the source of the controversy in existing law and focuses on the physical preservation of films. The bill would also develop a national plan in conjunction with other major film archives to work together in the preservation of films.

Titles I and II are supported by the Copyright Office and the copyright community.

I urge its adoption.

□ 2220

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

I have no additional speakers. It is a good bill, Mr. Speaker. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2372, as amended.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read, "A bill to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes."

A motion to reconsider was laid on the table.

MULTIPARTY, MULTIFORUM JURISDICTION ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2450) to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions, as amended.

The Clerk read as follows:

H.R. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiparty, Multiforum Jurisdiction Act of 1991".

SEC. 2. JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1368. Multiparty, multiforum jurisdiction

"(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories or possessions of the United States.

"(c) In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(b) A CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1368. Multiparty, multiforum jurisdiction.".

SEC. 3. VENUE.

Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1368 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.".

SEC. 4. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1368 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to a determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 5. REMOVAL OF ACTIONS.

Section 1441 of title 28, United States Code, is amended—

(1) is subsection (e) by striking out "(e) The court to which such civil action is removed" and inserting in lieu thereof "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1368 of this title, or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1368 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1368 in a United States district court that arises from the same accident as the action in State court, or at a later time leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1368 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1659, 1697, and 1785 of this title.

"(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 6. CHOICE OF LAW.

(a) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1659. Choice of law in multiparty, multiforum actions

"(a) In an action which is or could have been brought, in whole or in part, under section 1368 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

"(1) the place of the injury;

"(2) the place of the conduct causing the injury;

"(3) the principal places of business or domiciles of the parties;

"(4) the danger of creating unnecessary incentives for forum shopping; and

"(5) whether the choice of law would be reasonably foreseeable to the parties.

The factors set forth in paragraphs (1) through (5) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than one State to be applied with respect to a party, claim, or other element of an action.

"(b) The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1368 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

"(c) In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Choice of law in multiparty, multiforum actions.".

SEC. 7. SERVICE OF PROCESS.

(a) OTHER THAN SUBPOENAS.—(1) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1368 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(b) SERVICE OF SUBPOENAS.—(1) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1368 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2450, the Multiparty, Multiforum Jurisdiction Act of 1991.

H.R. 2450, which I introduced for myself and Mr. MOORHEAD on May 23, 1991, will improve the fairness and efficiency by which the Federal judiciary resolves lawsuits arising out of accidents that involve numerous parties and multiple States.

Unfortunately, we often start our day by learning that, somewhere in the United States, a plane has crashed, a hotel has burned, or two trains have collided. Whenever tragedies such as these occur, tens, hundreds, and sometimes thousands of suits may be filed by the victims or their families in a multitude of State and Federal courts seeking compensation for their losses. Despite the fact that these suits present identical issues of fact and law, there is often no way under our current system to try all these suits in one court.

Bringing them all in a single State court may not be possible, because no one State may have constitutionally sufficient contact with all the parties to exercise personal jurisdiction over them. The result is duplicative litigation in multiple State and Federal courts.

At the same time, complete consolidation may not be possible in a single Federal court, because the statute authorizing Federal jurisdiction over suits between citizens of different States requires complete diversity of citizenship—meaning that no plaintiff can be a citizen of the same State as any defendant. Where, as in the average mass accident case, the number of plaintiffs is high, it will often be the case that one or more of them will be from the same State as a defendant, making separate, duplicative trials unavoidable.

The consequences of duplicative mass accident litigation are several. For victims, duplicative litigation can result in some accident victims recovering fully while others in the same accident recover nothing, for no better reason than that the judges, juries, and lawyers were different. For defendants, duplicative litigation can result in the imposition of multiple punitive damage awards. The courts also suffer because duplicative litigation results in the squandering of scarce judicial resources on multiple trials of the same case.

The bill before us today would provide a vehicle for consolidation of related mass accident litigation in a single Federal forum. It would do so by creating a special Federal court jurisdiction over cases involving the injury or death of 25 or more people alleging damages of over $50,000 each arising out of a single accident.

Under the bill, as long as any one plaintiff and any one defendant were citizens of different States, the requisite diversity would be established. All mass accident cases with significant multistate implications could thus be filed in or removed to Federal court.

Once in the Federal court system, all related litigation would be sent to a single Federal court. This court would next decide what State law should apply. It would then try all liability issues, and assess punitive damages when appropriate. The transferee court would then return the cases to the courts where they were originally filed for separate compensatory damages assessments.

H.R. 2450 is nearly identical to bills introduced in the last two Congresses by Bob Kastenmeier, my predecessor as Chair of the Subcommittee on Intellectual Property and Judicial Administration. Each bill passed the House in the 100th and 101st Congresses under suspension of the rules by voice vote.

The one substantive change in the bill is a simplification of the 10-factor choice of law section—in the original bill—into a more objective 5-factor approach which will follow a recent choice of law proposal from the American Law Institute. This amendment still maintains a presumption for a single jurisdiction choice of law which often would be obvious in a single-event mass tort, for example, a hotel fire, plane crash, and so forth. This new formulation, however, would still maintain alternative choice of laws for unique complex situations.

The Multiparty, Multiforum Jurisdiction Act of 1991 represents a collaborative, bipartisan effort that has included all three branches of Government, and is therefore in keeping with the finest traditions of court reform legislation. I urge your support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2450 is important legislation. It will expand Federal jurisdiction in a very narrow and carefully defined category of cases concerning mass tort litigation.

This legislation has been carefully drafted to exclude toxic substances cases as well as product liability cases. We were told by the U.S. Judicial Conference and the Department of Justice that it would not significantly increase the workload of the Federal courts. H.R. 2450 has the support of the American Law Institute, the Judicial Conference, and the Department of Justice. I am not surprised that some lawyers are not too enthusiastic about this legislation because it would somewhat limit their ability to forum shop their case. However, the bill is intended to cut back on duplicative adjudication, wasted judicial resources, and inconsistent case results. Our chairman of the subcommittee, BILL HUGHES, has done an excellent job of describing the details of this legislation. I urge a favorable vote on H.R. 2450.

Mr. FISH. Mr. Speaker, the Judiciary Committee, last year, was very careful in making clear that this legislation is not intended to cover the ordinary product liability case.

The "single event or accident" language is intended to exclude conventional products liability cases from the scope of mass torts covered by the bill, inasmuch as product cases ordinarily involve multiple goods sold in multiple transactions to consumers who are injured in multiple incidents. The act of fabricating a defective warning or product design is not an accident as that term is defined in the bill. Moreover, the bill provides that the requisite number of deaths or injuries must occur from a single accident. While many people may be killed or injured as a result of a defective product design or warning, they are not injured in the design or warning, as they would be in an explosion or an airplane crash. Rather, they are injured later, after the products are sold, in separate, multiple events. Therefore, the creation of defective product designs or warnings are not single accidents to which the bill is intended to apply. Of course, if at least 25 people are killed or injured in a single event, for example, an explosion or airplane crash, that is caused by a defectively designed, labeled, or manufactured product, the bill would apply. The bill, as introduced, would have applied to a single event or occurrence. Accident was substituted for occurrence, in order to extinguish all doubt that the bill would not apply to cases involving repeated or prolonged exposures over time to toxic substances, asbestos or agent orange.

I urge your support for H.R. 2450.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2450, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE XXVIII, UNITED STATES CODE, REGARDING EASTERN AND WESTERN DISTRICTS OF VIRGINIA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 829) to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia.

The Clerk read as follows:

H.R. 829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN EASTERN AND WESTERN DISTRICTS OF VIRGINIA.

Section 127 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Culpeper,", "Louisa,", and "Orange,"; and

(2) in subsection (b)—

(A) by inserting "Culpeper," after "Craig,";

(B) by inserting "Louisa," after "Lee,"; and

(C) by inserting "Orange," after "Nelson,".

SEC. 2. APPLICABILITY OF AMENDMENTS.

(a) PENDING ACTIONS.—The amendments made by section 1 shall not apply to any action commenced before the date of the enactment of this Act and pending in the United States District Court for the Eastern District of Virginia on such date.

(b) JURIES.—The amendments made by section 1 shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Eastern or Western District of Virginia on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES]

Mr. HUGHES. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I rise in support of H.R. 829, a bill which modifies the composition of the eastern and western districts of Virginia.

H.R. 829, which improves access to the Federal courts for the citizens of three counties in the State of Virginia, was originally introduced by our esteemed former colleague, Congressman D. French Slaughter, Jr.

At this time I would like to thank the ranking minority member of the subcommittee, Mr. MOORHEAD, for his assistance in moving this very special piece of legislation. I would also commend our colleagues, RICK BOUCHER and GEORGE ALLEN for their support of this legislation.

At present, the State of Virginia is divided into two judicial districts, the eastern and western districts. The present composition of these districts has been the cause of much inconvenience and expense to clients, jurors, and attorneys. H.R. 829 enables residents of Louisa, Culpeper, or Orange counties to enter Federal court in Charlottesville, VA, as opposed to Alexandria or Richmond, VA. This change would considerably reduce round-trip driving distances between the cities of Culpeper, Louisa, and Orange, and the present places of holding court in the eastern district of Virginia.

In conclusion, this measure has met with a great deal of support. Out of respect for our distinguished former colleague, Congressman D. French Slaughter, Jr., the original sponsor of this bill, as well as in the spirit of promoting judicial efficiency, I strongly urge your support for H.R. 829.

Mr. Speaker, I reserve the balance of my time.

□ 2230

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 829 which transfers three counties in Virgina—Culpeper, Louisa, Orange—from the eastern judicial district to the western judicial district. This modification is designed to enhance access to the Federal courts for several thousand Virginia residents.

H.R. 829 was introduced by our former colleague on the Judiciary Committee, French Slaughter, who retired earlier this month ending his distinguished congressional career. Mr. Slaughter served with distinction for several terms as a member of the Judiciary Subcommittee on Intellectual Property and Judicial Administration. It was his belief that the proposed change in H.R. 829 would better serve residents of the three affected counties by allowing them to attend Federal court in Charlottesville instead of Richmond or Alexandria.

H.R. 829 has the enthusiastic support of the Bar Association of the three affected counties as well as the chief judge of the western district and the resident judge in Charlottesville. The chief judge of the eastern district has expressed some reservation to the proposal, which resulted in the Fourth Circuit Judicial Council adopting a position of neutrality on it. The Judicial Conference of the United States has indicated that it has no opposition to the proposal.

I would like to thank the chairman of the Subcommittee on Intellectual Property and Judicial Administration, Mr. HUGHES, as well as the chairman of the full committee, Mr. BROOKS, and its ranking minority members, Mr. FISH, Mr. BOUCHER and Mr. ALLEN, for their interest in and work on H.R. 829. The bill is a solid proposal and fitting tribute to our former, distinguished colleague from Virginia, French Slaughter. I wish him all the best and urge the passage of the legislation.

Mr. FISH. Mr. Speaker, I rise in support of H.R. 829 and I too would like to extend my appreciation to our chairman, JACK BROOKS, and the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, and the ranking minority member of the subcommittee, CARLOS MOORHEAD, for their work on H.R. 829. Our friend and former colleague from Virginia, French Slaughter, has served the seventh district and his State with distinction. Prompt action on this legislation is a proper tribute to the gentleman who has dedicated so much of his life to public service. He will be missed on the Judiciary Committee and I wish him well in his retirement.

Mr. Speaker, this legislation has widespread support and I urge its adoption. At this point I would like to read a statement regarding H.R. 829 from Mr. Slaughter.

STATEMENT BY HON. D. FRENCH SLAUGHTER, JR.

Mr. Speaker, I wanted to take this opportunity to thank personally the Chairman of the Judiciary Committee, Mr. Brooks, for his work on H.R. 829. I would also like to again thank Mr. Boucher, a cosponsor of H.R. 829, as well as Messrs. Hughes, Moorhead, and Fish, who have been supportive and helpful with the bill. I also thank my distinguished successor, Mr. Allen, for his support and commitment to carry the bill on to enactment.

H.R. 829, which transfers the counties of Culpeper, Orange and Louisa from the Eastern Judicial District of Virginia to the Western District, will enhance access to the Federal courts for some 70,000 residents of the 7th Congressional District of Virginia. Currently, litigants and lawyers are required to travel some distance to Alexandria or Richmond to access the Federal court. In light of the distance required to attend court, and the traffic and parking problems associated with such travel, there exists a reluctance to use the federal court. Since these counties, once moved, would be assigned to the Charlottesville Division of the Western District, travel to a Federal court will be more convenient, thereby enhancing utilization of the court.

The bill has the enthusiastic support of the bar associations of the three counties, as well as the Chief Judge of the Western District and the resident Judge in Charlottesville. In addition, the Judicial Conference has stated that it does not oppose enactment of the proposal. I urge the passage of H.R. 829.

Mr. Speaker, since my health prevented me from addressing the full Judiciary Committee prior to my November 5th resignation, I would like also to take this opportunity to say how much I enjoyed serving on the Committee. I appreciated the courtesy the Chairman has shown me over the years, and I will miss working with him. I would also like to extend my best wishes and thanks to the Ranking Member, Mr. Fish, as well as the rest of the Members on the Committee. I will miss seeing all of you. I also wish my successor, Mr. Allen, the best of luck as he begins his service on this distinguished Committee.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 829.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE 28, UNITED STATES CODE, REGARDING THE EASTERN DISTRICT OF TEXAS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3666) to amend title XXVIII, United States Code, to provide for an additional place of holding court for the Eastern District of Texas.

The Clerk read as follows:

H.R. 3666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 124(c)(3) of title 28, United States Code, is amended by inserting "and Plano" after "held at Sherman".

The SPEAKER pro tempore. Puruaunt to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to support H.R. 3666, a bill creating a place of holding court in Plano, TX, for the Eastern District of Texas.

H.R. 3666, was introduced by the esteemed chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS]. I would also like to thank the ranking minority member of the subcommittee, Mr. MOORHEAD, for his support in the measure.

Currently, Sherman, TX is the only place of holding court in the Sherman Division of the Eastern District of Texas. As part of the Dallas metropolitan area, which is projected to grow from 3.8 million in population in 1990 to 4.5 million through the year 2000, Plano is in one of the fastest growing cities in the United States. The courthouse in Sherman—a 1908 facility housing one courtroom—where cases from the Plano area are now heard, is inadequate to support expansion of the court.

H.R. 3666 is a rational and necessary approach to meet the reality of a rapidly growing population coupled with a facility that simply is not adequate.

In conclusion, I urge your support for the measure.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 3666 which would designate Plano as an additional place of holding court for the Eastern District of Texas. This measure represents a recommendation of the Judicial Conference of the United States which is based on the recognition that Plano is the largest city in the Eastern District of Texas and one of the fastest growing cities in the United States. In addition, the current capacity of the Federal Courthouse at Sherman, TX is limited. It is also important to note that a long range facility plan authored by the court for the Eastern District of Texas, projected a need for a new court facility in Plano to accommodate the increasing demand for judicial services in that city.

H.R. 3666 was introduced by the chairman of the full committee, Mr. BROOKS, who is to be commended for his work on the legislation, as is the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, who was instrumental in helping expedite consideration of this measure. In addition to the judicial conference, the legislation is supported by the judges of the Eastern District of Texas and the Judicial Council of the Fifth Circuit. Mr. Speaker there is no opposition to the proposal, and I urge its passage.

Mr. BROOKS. Mr. Speaker, I rise in strong support of H.R. 3666, legislation I introduced to add Plano, TX, as a place of holding court for the Federal District Court in the Eastern District of Texas.

As part of the Dallas metropolitan area—which is expected to grow by nearly three-quarters of a million people over the next decade—Plano is one of the fastest growing cities in the United States. At the present time, however, residents of Plano must travel to Sherman, TX—which is about an hour away—in order to have their cases heard. In addition, the courthouse in Sherman is a small facility, dating from the turn of the century, that cannot be expanded to accommodate another judge and courtroom. Thus, designating Plano as a place of holding court is the most logical, efficient means of assuring that Plano residents will have adequate access to the Federal District Court.

This bill is supported by the Judicial Conference of the United States, which earlier this year recommended adding Plano as a place of holding court. I would also like to take this opportunity to thank my good friend, the Hon. Robert M. Parker, the Chief Judge of Eastern District, for bringing the conference's recommendation to my attention.

Mr. Speaker, this is a simple, straightforward bill that will promote greater efficiencies in the administration of justice in the Eastern District, and I urge my colleagues to support it.

Mr. JOHNSON of Texas. Mr. Speaker, I rise in support of H.R. 3666, which will facilitate access to the Federal Court System for the residents of the Dallas Metropolitan area. Currently, the Eastern Federal Court District of Texas is served by only one location—Sherman, TX.

Because of the rapid population growth in the Dallas metropolitan area, it is essential that a second location for holding Federal Court in Eastern Texas be created.

As a long-time resident of Plano, TX, where this court will be located, I have witnessed first-hand the rapid growth of this Dallas suburb. Plano is now one of the fastest growing cities in the country, but its residents must commute nearly 50 miles each way to attend Federal Court in Sherman. In addition, the facilities in Sherman are not adequate to meet the growing Federal caseload in the Eastern District of Texas. Mr. Speaker, a second location for holding court will greatly improve access to the Federal Court System for the people of Metropolitan Dallas and East Texas.

I would like to thank the chairman of the Judiciary Committee, Mr. Brooks of Texas, as well as the Chairman of the Subcommittee on Intellectual Property and Judicial Administration, Mr. HUGHES, and the ranking member of the Subcommittee, Mr. MOORHEAD, for their efforts in bringing this legislation before the House of Representatives.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of the time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3666.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE 28, UNITED STATES CODE, REGARDING THE EASTERN DISTRICT OF NORTH CAROLINA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3686) to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

The Clerk read as follows:

H.R. 3686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 113(a) of title 28, United States Code, is amended—

(1) striking "Clinton," and "Washington,"; and

(2) by inserting "Greenville," after "Fayetteville,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 3686 which creates a new place of holding court in Greenville, NC. A second purpose of the legislation is to eliminate two places of holding court that are no longer being used—Clinton and Washington, NC.

H.R. 3686, was introduced by a respected member of the Subcommittee on Intellectual Property and Judicial Administration—the gentleman from North Carolina [Mr. COBLE]. He did so upon recommendation of the Judicial Conference of the United States. In its recommendation, the conference acted on favorable advice of the judges of the Eastern District of North Carolina, the Judicial Council of the Fourth Circuit Court of Appeals, and the judicial Conference's Committee on Court Administration and Case Management.

To date, Clinton and Washington have been inactive places of holding Federal court for over 10 years. In addition, since Greenville is the geographic center of the eastern district, many of the Federal agencies dealing with the courts are located in Greenville.

Ultimately, this legislation would have a positive impact in terms of a cost savings to taxpayers as a result of decreased travel costs for Federal judges and by creation of a more efficient and more accessible court system for litigants.

In conclusion, I urge your support for the measure.

Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3686 which would make changes in the places of holding court in the Eastern District of North Carolina. This bill was introduced by our colleague, HOWARD COBLE, who is to be commended for his excellent work on this initiative. In addition, the chairman of the Intellectual Property and Judicial Administration Subcommittee, BILL HUGHES, as well as the chairman of the full committee, JACK BROOKS, and the ranking minority member, HAM FISH are to be commended for their efforts on behalf of the legislation.

H.R. 3686 is based on a recommendation of the Judicial Conference of the United States. At the hearing held by the subcommittee on H.R. 3686, Judge Malcolm J. Howard of the Eastern District of North Carolina indicated in his testimony that the two places for holding court that would be deleted under the proposal, Clinton and Washington, have had no Federal court activity for more than a decade. Moreover, Greenville, the site to be added as a place for holding court in the Eastern District of North Carolina, is the absolute geographic center of the district, and will result in better access to the Federal court for people of this region.

In addition to the Judicial Conference, H.R. 3686 is supported by the Judges of the Eastern District of North Carolina, the Judicial Council of the Fourth Circuit Court of Appeals, and the Judicial Conference's Committee on Court Administration and Case Management. There is no opposition to the bill and I urge its passage.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3686.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2240

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the six bills just passed by the House.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ADMINISTRATIVE PROCEDURE TECHNICAL AMENDMENTS ACT OF 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2549) to make technical corrections to chapter 5 of title 5, United States Code, as amended.

The Clerk read as follows:

H.R. 2549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Procedure Technical Amendments Act of 1991".

SEC. 2. REDESIGNATION OF SUBCHAPTER III.

Subchapter III of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter V;

(2) by redesignating sections 571 through 576 as sections 591 through 596, respectively; and

(3) in section 593(b)(4), as redesignated by paragraph (2), by striking "575" and inserting "595".

SEC. 3. REDESIGNATION OF SUBCHAPTER IV.

(a) NEGOTIATED RULEMAKING.—The subchapter IV entitled "NEGOTIATED RULEMAKING PROCEDURE" of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter III and inserting such subchapter immediately after subchapter II of such chapter 5;

(2) by redesignating sections 581 through 590 as sections 561 through 570, respectively;

(3) in section 565(a)(1), as redesignated by paragraph (2) of this section, by striking "584" and inserting "564";

(4) in subsection (d) of section 568, as redesignated by paragraph (2) of this section, by striking "589" and inserting "569"; and

(5) in section 569, as redesignated by paragraph (2) of this section—

(A) in subsection (d)(2) by striking "586" and inserting "566";

(B) in subsection (f)(2) by striking "588" and inserting "568'; and

(C) in subsection (g) by striking "575" and inserting "595".

(b) ALTERNATIVE DISPUTE RESOLUTION.—The subchapter IV entitled "ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS" of chapter 5 of title 5, United States Code, is amended—

(1) by inserting such subchapter immediately after subchapter III of such chapter (as redesignated by subsection (a)(1) of this section);

(2) by redesignating sections 581 through 593 as sections 571 through 583, respectively;

(3) in subsection (b) of section 577, as redesignated by paragraph (2) of this section, by striking "583" and inserting "573"; and

(4) in subsection (b)(2) of section 581, as redesignated by paragraph (2) of this section, by striking "590" and inserting "580".

SEC. 4. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by striking "Subchapter III" and all that follows through the end of the table and inserting the following:

"Subchapter III—Negotiated Rulemaking Procedure

"Sec. 561. Purpose.
"Sec. 562. Definitions.
"Sec. 563. Determination of need for negotiated rulemaking committee.
"Sec. 564. Publication of notice; applications for membership on committees.
"Sec. 565. Establishment of committee.
"Sec. 566. Conduct of committee activity.
"Sec. 567. Termination of committee.
"Sec. 568. Services, facilities, and payment of committee member expenses.
"Sec. 569. Role of the Administrative Conference of the United States and other entities.
"Sec. 570. Judicial review.

"Subchapter IV—Alternative Means of Dispute Resolution in the Administrative Process

"Sec. 571. Definitions.
"Sec. 572. General authority.
"Sec. 573. Neutrals.
"Sec. 574. Confidentiality.
"Sec. 575. Authorization of arbitration.
"Sec. 576. Enforcement of arbitration agreements.
"Sec. 577. Arbitrators.
"Sec. 578. Authority of the arbitrator.
"Sec. 579. Arbitration proceedings.
"Sec. 580. Arbitration awards.
"Sec. 581. Judicial review.
"Sec. 582. Compilation of information.
"Sec. 583. Support services.

"Subchapter V—Administrative Conference of the United States

"Sec. 591. Purpose.
"Sec. 592. Definitions.
"Sec. 593. Administrative Conference of the United States.
"Sec. 594. Powers and duties of the Conference.
"Sec. 595. Organization of the Conference.
"Sec. 596. Authorization of appropriations.".

SEC. 5. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) NEGOTIATED RULEMAKING ACT OF 1990.—(1) Section 4 of the Negotiated Rulemaking Act of 1990 (Public Law 101-648; 104 Stat. 4976) is amended by striking "576" and inserting "596".

(2) Section 5 of that Act is amended—

(A) by striking "Subchapter IV" and inserting "Subchapter III of chapter 5";

(B) by striking ", as added by section 3 of this Act," and inserting "(enacted as subchapter IV of chapter 5 of title 5, United States Code, by section 3 of this Act and redesignated as subchapter III of such chapter 5 by section 3(a) of the Administrative Procedure Technical Amendments Act of 1991)"; and

(C) by striking "subchapter IV" and inserting "subchapter III".

(b) ADMINISTRATIVE DISPUTE RESOLUTION ACT.—(1) Paragraph (3) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by inserting a comma after "including".

(2) Paragraph (8) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended to read as follows:

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

"(A) between an agency and persons who would be substantially affected by the decision; or

"(B) between persons who would be substantially affected by the decision,

except that such term shall not include any matter specified under section 2302 or 7121(c) of this title;".

(3) Subsection (g) of section 580 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by striking "attorney fees and expenses" and inserting "fees and other expenses".

(4) Section 10(b) of title 9, United States Code (as added by section 5 of the Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2745)), is amended—

(A) by striking "590" and inserting "580"; and

(B) by striking "582" and inserting "572".

(5) Section 203(f) of the Labor Management Relations Act, 1947 (as added by section 7 of the Administrative Dispute Resolution Act (104 Stat. 2746)) is amended in the third sentence by striking "583" and inserting "573".

(6) Section 10 of the Administrative Dispute Resolution Act (104 Stat. 2747) is amended—

(A) by striking "581" and inserting "571"; and

(B) by striking ", as added by section 4(b) of this Act" and inserting "(enacted as section 581 of title 5, United States Code, by section 4(b) of this Act, and redesignated as section 571 of such title by section 3(b) of the Administrative Procedure Technical Amendments Act of 1991)".

The SPEAKER pro tempore. Pursuant to the rules, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, this renumbers some parts of the Code and it will allow agencies to use the alternative dispute resolution technique even where it is not itself a party, but where it has jurisdiction.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will take just half the time the gentleman from Massachusetts took to speak about this bill.

This is a purely technical amendment that we want to see pass as quickly as possible. I urge the Members to adopt it unanimously.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2549, as amended.

The question was taken; (and two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING UNITED STATES CODE RELATING TO AUTHORITIES OF THE ADMINISTRATIVE CONFERENCE

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3379) to amend section 574 of title V, United States Code, relating to the authorities of the Administrative Conference.

The Clerk read as follows:

H.R. 3379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 574 of title 5, United States Code, is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) by amended paragraph (4) to read as follows:

"(4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in this section; and"; and

(3) by adding at the end the following:

"(5) provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries, subject to the concurrence of the Secretary of State, the Administrator of the Agency for International Development, or the Director of the United States Information Agency, as appropriate, except that—

"(A) such assistance shall be limited to the analysis of issues relating to administrative procedure, the provision of training of foreign officials in administrative procedure, and the design or improvement of administrative procedure, where the expertise of members of the Conference is indicated; and

"(B) such assistance may only be undertaken on a fully reimbursable basis, including all direct and indirect administrative costs."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

The Administrative Conference of the United States has told us that they get requests from foreign governments to which they would like to respond, and this bill would allow them to do so.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is another bill at this late hour that we need not expound more than already has been done.

We ask for unanimous approval of the legislation.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3379.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FOREIGN CLAIMS SETTLEMENT COMMISSION AMENDMENTS ACT OF 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3237) to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years.

The Clerk read as follows:

H.R. 3237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Claims Settlement Commission Amendments Act of 1991".

SEC. 2. EXTENSION OF TERMS OF OFFICE.

Section 103 of the Act of March 14, 1980 (Public Law 96-209; 94 Stat. 96 (22 U.S.C. 1622c)) is amended—

(1) in the second sentence of subsection (a) by striking "three" and inserting "six";

(2) in the first sentence of subsection (c) by striking "three" and inserting "six"; and

(3) by striking subsection (d) and inserting the following:

"(d) Members of the Foreign Claims Settlement Commission who are serving on the date of the enactment of the Foreign Claims Settlement Commission Amendments Act of 1991 shall serve a term of six years from the beginning of the term for which they were last appointed.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 5 seconds.

Mr. Speaker, the Reading Clerk is absolutely right.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the only comment that I want to make for the RECORD is this was requested by the Department of Justice.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3237.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1991

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3341) to amend the Ethics in Government Act of 1978 with respect to honoraria, and for the purposes, as amended.

The Clerk read as follows:

H.R. 3341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Act Amendments of 1991".

SEC. 2. MODIFICATION OF PROHIBITION OF HONORARIA.

Section 501(b) of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989 and Public Law 101–280, is amended—

(1) by striking "An individual" and inserting "(1) Except as provided in paragraph (2), an individual"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), paragraph (1) shall not apply to an honorarium paid to an officer or employee for an appearance, a speech, or an article published in a bona fide publication if—

"(i) the purpose of the appearance, or the subject of the speech or article, does not relate primarily to the responsibilities, policies, or programs of the agency or office in which the individual is employed, and does not involve the use of Government time, property or other resources of the Government, or nonpublic Government information;

"(ii) the reason for which the honorarium is paid is unrelated to that individual's official duties or status as such officer of employee; and

"(iii) the person offering the honorarium has no interests that may be substantially affected by the performance or nonperformance of that individual's official duties.

"(B) Subparagraph (A) shall not apply to an officer or employee who is—

"(i) a Member, or

"(ii) an noncareer officer or employee employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President) is equal to or greater than the rate of basic pay payable for Level V of the Executive Schedule.

"(C) A statement of the source, date, and amount of any honorarium accepted by an individual under subparagraph (A) shall be included in any report required by such individual by section 101 or section 107 of this Act.

"(D) The amount of any honorarium accepted under subparagraph (A) shall not exceed the usual and customary fee for the services for which the honorarium is paid, up to a maximum of $2,000.".

SEC. 3. REGULATIONS.

Section 503 of the Ethics in Government Act of 1978 is amended—

(i) by inserting "(a) IN GENERAL.—" before "This"; and

(2) by adding at the end the following:

"(b) PRIOR NOTIFICATION OF ACCEPTANCE OF HONORARIA.—(1)(A) Rules and regulations issued under subsection (a) shall include procedures under which individuals described in paragraph (2) shall notify the appropriate entity administering such rules and regulations before accepting honoraria permitted under section 501(b)(2)(A) that, in the aggregate, equal or exceed $200 in value from any one source in a calendar year. Such rules and regulations may include provision for notification after the acceptance of a noncash honorarium for an appearance or speech if the offer of the honorarium is made at the appearance or speech. Such rules and regulations may also provide for the notification of the appropriate entity if an honorarium is not accepted.

"(B) Each entity administering such rules and regulations shall compile all notifications received under subparagraph (A) during each calendar quarter. Such compilations shall be made available to the public in the same manner as reports are made available to the public under section 105 of this Act.

"(2) The individuals to whom paragraph (1) applies are any noncareer officer or employee who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15.

"(3) Any person who fails to notify the appropriate entity, pursuant to procedures established under paragraph (1), before accepting honoraira—

"(A) shall pay, for deposit in the general fund of the Treasury, an amount equal to the value of the honoraria involved; and

"(B) shall be subject to appropriate disciplinary and other remedial action in accordance with applicable laws, Executive orders, and rules or regulations.

The entity administering rules and regulations issued under paragraph (1) may, in accordance with procedures established in such rules and regulations, waive any penalty under this paragraph in extraordinary circumstances.".

SEC. 4. DEFINITION OF HONORARIUM.

Section 505(3) of the Ethics in Government Act of 1978 (as amended by section 314(b) of Public Law 102–90) as in effect on January 1, 1992, is amended by striking "if the subject matter" and all that follows through "Government".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.—Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate, in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission;

"(ii) any communication to, or appearance before, an employee (as defined in section 2105 of title 5) of an Executive agency (as defined in section 105 of title 5) unless the employee is—

"(I) an employee of the Executive Office of the President;

"(II) the head or assistant head of an Executive department or a military department (as such terms are defined in sections 101 and 102 of title 5); or

"(III) an employee appointed by the President, by and with the advice and consent of the Senate;

"(iii) any communication or appearance referred to in subparagraph (A) that is made by a person on any matter in which that person also represents, as agent or attorney or otherwise, anyone other than a person or entity described in subparagraph (C); or

"(iv) a communication or appearance that is made by—

"(I) a person who is subject to the restrictions of subsection (c) or (d) if the communication or appearance is made before an officer or employee of a department or agency, other than the Executive Office of the President, and if that person is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before that department or agency;

"(II) a person who is subject to the restrictions of subsection (e)(1)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before either House of Congress or any legislative office of the Congress;

"(III) a person who is subject to the restrictions of subsection (e)(2)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before any person described in subsection (e)(2)(B);

"(IV) a person who is subject to the restrictions of subsection (e)(3) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before the committee by which the former employee was employed;

"(V) a person who is subject to the restrictions of subsection (e)(5)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before any person described in subsection (e)(5)(B).

"(C) for purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or reelection, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or reelection, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) APPLICABILITY.—A former officer or employee who is subject to the prohibitions contained in section 207(c) of title 18, United States Code, as in effect before January 1, 1991, shall, notwithstanding such prohibitions, be permitted to make communications and appearances solely on behalf of a candidate, a national committee, a national Federal campaign committee, a State committee, or a political party, as though the provisions of section 207 of title 18, United States Code, in effect on or after January 1, 1991, as amended by this section, were applicable to such former officer or employee.

SEC. 6. TECHNICAL AMENDMENTS.

(a) TITLE I OF ETHICS IN GOVERNMENT ACT OF 1978.—Title I of the Ethics in Government Act of 1978 is amended—

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS-16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule or, in the of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109—

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule",

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(b) TITLE V OF THAT ACT.—Title V of the Ethics in Government Act of 1978 is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,";

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grades GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(3) in section 502 by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90) is amended by adding at the end the following: "The amendments made by subsection (a) shall apply only with respect to gifts or reimbursements received on or after such effective date.".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SECTION 2.—The amendments made by section 2 shall be effective as of January 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I will take a little more time on this. I yield myself 2 minutes.

The bill has two parts. First, I should say there is a part that it does not have, a nongermane amendment dealing with the contribution definition of the Federal Elections Campaign Act is not part of this bill. That is what the amendment did.

It amends two things we did, both of which were generally good, but which had some slight errors. First, in the postemployment ethics bill, we exempted from the prohibitions in that bill State governments and other such organizations. That is someone who leaves the Congress or leaves the Cabinet and goes to work for a State government is not covered by the prohibition against coming back and talking to his or her former colleagues.

We in my judgment forgot to include in that set of exemptions the Democratic and Republican National Committee and appropriate political campaigns, so that if someone leaves the President's Cabinet and goes to work in the Presidential election campaign, he or she will not be forbidden to talk to his or her former colleagues.

Second, in restricting honoraria and in trying to prevent conflict of interest, we over-legislated, I believe, and wound up with a legislative enactment which by virtue of several definitions being strung together, meant that virtually no employee of the legislative or executive branch could on his or her own time, not selling any government information and in an entirely legitimate way earn money on the side by writing or speaking. That went way too far.

We had some controversy. I am grateful to the gentleman from Pennsylvania because we were able to work this out. I am pleased to say that in this bill we had the support of Common Cause and the American Civil Liberties Union. The gentleman from Pennsylvania and I under the guidance of our chairman and with participation from the Office of Government Ethics in the White House have a very reasonable set of rules here which allows Federal employees their rights and guards the public against abuse.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill that will require a little bit more explanation than we accorded the previous pieces of legislation, which were largely technical in nature.

The American public will recall the furor that swept across our country when it was learned that many Members of Congress were earning thousands of dollars in so-called honoraria, speaking fees for attending conferences and conventions in which these fees would be paid to Members of Congress and it would be an extra income for them.

I myself recall that I had a policy against receiving such honoraria, feeling that this was a perk that went above and beyond the call of duty, but many Members of Congress felt that they had to vote at some point or another to do away with honoraria, and sure enough, that was accomplished and the Congress abolished this speaking fee arrangement for Members of Congress; but as the gentleman from Massachusetts has said, we swept the baby away with the bath water when we said that this kind of speaking fee arrangement would be banned forever from all Federal employees.

So the gentleman from Massachusetts, seeing the error of our ways, brought about that which would restore this to Federal employees.

Now, here is where the scenario began to thicken a little bit. The gentleman from Pennsylvania then felt that this was allowing to creep back into government that very odious bad practice which the American public felt so strongly about, namely, speaking fees for Federal functionaries. So that is where the compromise began where Members of good will began to close around the issue and determine a workable compromise, not to penalize Federal employees who after all in a certain area of their endeavors would not be able to influence political and governmental decisions, they should be exempted from this ban on honoraria.

A person working as a Federal employee who has an interest in stamps should be able to give a lecture on stamps, or on flowers or on gardening or whatever extracurricular activity there might be available for such employees. That is what brought about this compromise.

When Common Cause found out about it, they first balked at the idea that we should open up the arena for honoraria again. The ACLU also felt badly about it. The White House became involved, and sure enough, we were able to formulate a compromise that protects the Federal employee who will not be able to have undue influence over policy in our government and still be able to engage in the so-called speaking fee honoraria syndrome.

I think it is worthy of our approval. I want the CONGRESSIONAL RECORD to fully reflect that this was one of the exercises of compromise that Members of Congress more often ought to engage in.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to insert in the RECORD a summary which explains these rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, the summary is as follows:

SUMMARY OF H.R. 3341—Ethics in Government Act Amendments of 1991

MODIFICATION OF HONORARIA BAN

H.R. 3341 establishes three categories of Government officers and employees for purposes of applying the honoraria provisions in title V of the Ethics in Government Act:

(1) All career employees at any salary level and noncareer employees in positions paid at the GS-15 rate or below, could accept payment for a speech, appearance, or article that meets the three-part test established in the bill: (1) the subject does not relate primarily to the responsibilities, policies or programs of the employing office, and does not involve the use of Government time or resources; (ii) the reason for the payment is unrelated to the employee's official duties or status; and (iii) the mayor has no interests that may be substantially affected by the employee's performance or nonperformance of official duties.

(2) Noncareer employees classified above GS-15, or paid at or above 120 percent of the GS-15 rate ($74,000), could accept honoraria that meets the three-part test in the bill, subject to the following notification and disclosure requirements:

Frist, they must notify their agency ethics office before accepting any payment over $200. Failure to notify would be subject to a fine equal to the value of the honorarium, which could be waived extraordinary circumstances. Second, all such acceptances of honoraria must be complied on a quarterly basis by each agency, and the compilations must be made available to the public in the same manner as are in financial disclosure reports.

(3) Members and noncareer employees paid at or above Executive Schedule Level V ($101,300) continue to be prohibited from accepting any honoraria.

The bill reinstates the prior $2,000 limit on any single honorarium, and requires honoraria to be reported in any public or confidential disclosure statement filed by the employee.

The honoraria modification is retroactive to January 1, 1991, when the ban took effect, except that the notification and quarterly disclosure requirements take effect upon enactment.

EXCEPTION TO POSTEMPLOYMENT BAN

The bill also amends the postemployment restrictions in 18 U.S.C. 207 to allow former senior Government officials to contact their former colleagues solely on behalf of candidates and party committees during the one-year period after they leave office. The amendment includes provisions to protect against abuse of the exception by those who also represent other clients.

Mr. CLAY. Mr. Speaker, I rise today in support of H.R. 3341, the Ethics in Government Act Amendments of 1991. This bill was jointly referred to the Committee on Post Office and Civil Service and reviewed very carefully. It is critical that this bill be enacted into law this year.

The most important thing to remember about this bill is that it basically restores for all but the highest ranking Federal employees the same rules that applied to receipt of honoraria that existed before the Ethics Reform Act of 1989 banned all honoraria. In 1989, Congress did not intend, as it has now become clear, to enact an across-the-board ban for all employees—one without regard to how small the fee, how junior the employee, or how irrelevant the speech or article to an employee's job.

At the time, Congress' focus was on banning the acceptance of honoraria by high-ranking Government officials and Members of Congress. There was no discussion of the receipt of honoraria by rank and file employees. Nor was there any discussion of ethical problems arising from the receipt of honoraria by rank and file employees. There was a good reason for that. There is no evidence that there has ever been a problem. Perhaps the reason is that prior to the ban every Agency applied tough rules and policies against honoraria that created conflicts of interest or interfered with the performance of an employee's official duties. This body of rules, policies and laws prevented problems before they happened.

This bill returns us to that point in time. The bill does go a step further and codifies much of the ethics standards and restrictions that applied to honoraria. These provisions will ensure that no abuses will arise in the future.

This bill is an important mid-course correction. The executive branch has long encouraged Federal employees to engage in outside writing, teaching or lecturing. This policy made sense then and it makes sense now. Many of the activities now banned are completely innocuous. Moreover, the ban interfered with entirely legitimate professional activities of Federal employees—activities often beneficial to the Government as well as to individual employees. Finally, I support this bill because it lifts an unnecessary and draconian restriction on the freedom of Federal employees to spend their personal time as they see fit.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3341, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 2250

FAILURE TO NOTIFY MEMBER OF LEGISLATION PENDING ON THE FLOOR

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, unfortunately I thought we had arrangements in the House that when H.R. 3341 was going to be called, we would receive 1 hour's notice.

I have to say I am very disappointed with some of the people who have sponsored this because their offices had made the assertion that there would be no question that my office would be notified. Unfortunately they saw fit to go back on that pledge and did not notify my office.

So when we noticed the bill being called up, we rushed to the floor. But because of the speed of the promoters of this legislation, it obviously has been passed by voice vote and those Members of the House of Representatives will not have the opportunity to amend or to oppose this vote or this legislation in its present form.

I would like to extend and revise my remarks on H.R. 3341 and call the House's attention to the fact that by speedily passing this legislation they are bringing to the American people the opportunity for Federal employees to have uncontrolled honoraria, something that more than a year ago, under great pressure from the American people, this Congress felt gave the perception if not the fact that there were questionable activities of elected officials and employees of the Federal Government that should be more scrupulously overseen.

Unfortunately this bill will allow Federal employees of agencies such as the IRS, the FBI, the Justice Department, and, yes, the employees of the individual senatorial congressional offices here on the Hill to engage in the activity once again of accepting up to $2,000 honoraria for speeches or appearances, and that honorarium will be unlimited so that in the course of a year $50,000 or $100,000 could be earned by individuals working for the U.S. Government with not adequate disclosure nor oversight.

I think it is most unfortunate.

I get a notice from someone of timing here.

The timing, wherever, did not go to my office.

Anyway, the unfortunate passing of this bill is that this House of Representatives has just passed a bill that is potentially going to bring disgrace upon this House and disgrace upon the various memberships, as the recent bank's bouncing of checks has occurred.

We have just gone through the pathetic thing where just a few Members or a minority of Members bounced checks in this House and we all paid that price. We just went through the pathetic example of where just a few Members of this House were irresponsible enough to run up accounts at the restaurants and we all suffered and this institution suffered.

We have gone through an attempt to reform this House over the last year or year and a half and this very day passed campaign reform. And here in the 11th hour of the night, in fast speed, a bill is brought on the floor to allow unlimited honoraria payments to Federal employees, congressional employees, Justice Department employees, anyone you wish, all with the idea that there was a great compromise struck.

All I can say, gentlemen, I hope we have struck that compromise in such a way that a year or 2 years from now a Member of this House does not come back and pay the price of total embarrassment or disgrace because somebody in their office did not have to disclose an honorarium that should not have been taken.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, if the gentleman will allow, the characterization that he is putting into the CONGRESSIONAL RECORD seems to indicate from the gentleman's perspective that we who had worked for a full year on this legislation simply chose an 11th hour attempt to sneak a piece of legislation through which is to the disliking of the gentleman. But I want to assure him and the American public that we thought this legislation through from beginning to end.

Mr. Speaker, I will take second place to no one in my opposition to honoraria for the bad intentions that those honoraria first brought to the minds of the public. But this is totally different and I reject with dismay——

Mr. KANJORSKI. Reclaiming my time, if the gentleman will request time, I would like to discuss the issue.

Mr. GEKAS. That is what I am trying to do.

FAILURE TO NOTIFY MEMBER OF PENDING LEGISLATION ON THE FLOOR

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. May I finish my statement and then the gentleman may take back his time.

Mr. KANJORSKI. Well, I am still yielding and would like to go back and forth.

Mr. GEKAS. The gentleman yielded to me.

Mr. KANJORSKI. First of all let me say this: I understand that the gentleman from Pennsylvania [Mr. GEKAS] has worked for a full year to find a compromise. I understand Mr. FRANK worked for a full year and Chairman BROOKS did too and a lot of people in Washington outside the congressional process worked very diligently trying to find a mechanism by which Federal employees could talk to garden clubs and receive honoraria. This Member is not opposed to that.

As a matter of fact, I have discussed that openly, that we want to allow a measured response that Federal employees can do things outside their employment that have no effect, negative effect, upon their own individual ability to earn income or that could bring disfavor to the Government of the United States.

What I indicated to the gentleman, however, I think if the gentleman has read my Dear Colleague letters over the last several weeks and particularly today, and I indicated to Mr. FRANK, was the fact that a $2,000 honorarium was not a speech to the garden club; it was quite a substantial payment. I could even understand that. But at that level I indicated to the gentleman that I had amendments that I wished to have disclosure of amounts above $500 so that those people in the executive branch of this Government, in the congressional branch of this government, and in the judicial branch of this Government, employing these individuals receiving those amounts of money, would have the ability to know that.

I resent the fact that an employee in my office may be able to cloak under honorarium a $2,000 payment and receive unlimited numbers of those payments in a given year and I would have no opportunity as a matter of law to know what is going on.

I think that is a breach of the effort that we made 2 years ago to clean up the idea of what honoraria was.

I appreciate the efforts the gentleman put in and I think he probably reached the satisfactory point to satisfy 90, 95 percent of the Federal employees that have a problem.

My problem was that I saw a need for public disclosure in that, and the gentleman did not give me the opportunity to come here tonight to debate that by merely notifying me that within this hour this bill was going to be called up.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I certainly will yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I offer the gentleman an apology. Apparently, I will say, the gentleman never himself spoke to me and asked for notification. If he had, I guarantee he would have been notified.

Mr. KANJORSKI. Mr. FRANK, my staff and your staff——

Mr. FRANK of Massachusetts. The gentleman yielded to me.

Mr. Speaker, I will not ask the gentleman further to yield. I will respond on my own time.

☐ 2300

Mr. GEKAS. Mr. Speaker, will the gentleman further yield on one point?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, in my judgment the greatest independent public arbiter in matters of ethics on Capitol Hill has been for a long time Common Cause. When Common Cause, working with us, was able to put its imprimatur upon the final product in which the very matters which the gentleman from Pennsylvania——

Mr. KANJORSKI. Mr. Speaker, reclaiming my time, Common Cause supported the finance reform bill today. May I inquire of the gentleman from Pennsylvania, "Did you vote in favor of the campaign finance reform bill today?"

Mr. GEKAS. That is not the issue.

Mr. KANJORSKI. I say to the gentleman, "You're talking that Common Cause is such a great developer of ethics in this House, and they supported that campaign finance reform bill. Why didn't you go along with Common Cause on that?"

Mr. GEKAS. Mr. Speaker, the gentleman from Pennsylvania [Mr. KANJORSKI] apparently misunderstood me. I said that the Common Cause organization was an arbiter of ethics on Capitol Hill. That is a totally different question from campaign financing by any standard.

Mr. KANJORSKI. I understand, I understand.

Mr. GEKAS. So what I am saying to the gentleman from Pennsylvania [Mr. KANJORSKI] is, "When I relied, this individual, at least partially and substantially, on the opinion of Common Cause in trying to arrive at a solution to this, I believe I was doing the American public a service, and I still believe it."

Mr. KANJORSKI. Reclaiming my time, Mr. Speaker, let me ask the gentleman a question. "Mr. GEKAS, do you believe that a Federal employee, but more particularly a congressional employee in any one of our offices, should be able to receive a $2,000 honorarium, and 50 or a hundred of them a year, and never disclose that fact to any of the Members that are employing them, and that we don't know whether they complied with the law? Do you think that that is right for this House to subject itself to more types of embarrassment like this and not to debate this issue fully so that all the Members of the House know what's involved, but do it at the eleventh hour of the day before we go home?"

This is a gift to the American people. Where are the American people crying out for honorium for Federal employees? I do not receive any letters from them. I receive may be one or two comments or letters from Federal employees, but not from the American people.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 258 CREATING A TASK FORCE OF MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS TO INVESTIGATE ALLEGATIONS CONCERNING THE HOLDING OF AMERICANS AS HOSTAGES BY IRAN IN 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-386) on the resolution (H. Res. 303) providing for the consideration of the resolution (H. Res. 258) creating a task force of members of the Foreign Affairs Committee to Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b), RULE XI WITH RESPECT TO H.R. 2212, EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-387) on the resolution (H. Res. 304) waiving the requirement of clause 4(b), rule XI with respect to resolutions regarding the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE REALITY OF THE HONORARIUM BILL

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I am often puzzled when some of my colleagues come to the floor asserting their unhappiness that people will think ill of this institution and then proceed to engage in rhetoric which, if people accepted it at face value, could only result in unfair criticism of the institution.

The gentleman from Pennsylvania [Mr. KANJORSKI] who began this exchange discussed the honorarium bill in terms that only rarely struck a glancing blow at reality. There is, however, one accurate thing that he said.

Mr. Speaker, he was told apparently that he would be notified, and he was not. I regret that deeply. As I said to the gentleman, and as I started to say when he interrupted me, had he personally told me he wanted to be notified, I can guarantee him that he would have been. He never, and we discussed this several times, never told me that he wanted to be notified. A member of his staff did tell a member of the committee staff that he wished to be notified, and there was an error on our part. I regret that deeply. He should have been notified.

I will say again that, had he personally asked me, I would have done it. A member of his staff asked another member of the staff and that notification—assurance was given, and notification was not given. That is regrettable, but it does not justify the inaccurate representations about this bill that have been given.

First of all, I would like to say that, while we who are in elected office are here voluntarily, get a certain amount of credit, get the satisfaction of knowing we are working on important public policy questions, we are, therefore, entitled to be asked to put up with some things that other people do not. I do not think that applies to every single Federal employee.

The gentleman said, well, he did not object to certain of these things. I must say in his conversations with me he did not submit to me any amendments or any suggestions for change. I talked to him about it. He never submitted to me any proposals pertaining to this, and we had these conversations back a couple of months. We had public hearings on this bill.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield.

Mr. KANJORSKI. Mr. Speaker, the gentleman from Massachusetts [Mr. FRANK] may not be aware of the fact, but there is a referral to my subcommittee that I had partial jurisdiction, and I discussed the amendments with the chairman of my committee——

Mr. FRANK of Massachusetts. I understand that.

Mr. KANJORSKI. The chairman of my committee, rather than allowing us to have those amendments, he passed it on, and passed through and waived any jurisdiction.

Mr. FRANK of Massachusetts. I understand that, and it does not contradict one thing of what I said. Had the gentleman, knowing that my subcommittee had the primary jurisdiction, knowing that we had public hearings and meetings on it, had he come to me with some amendments, I would have been glad to discuss them with him.

I simply say to the gentleman, the understanding I had was that he was opposed to the whole idea, and that was based on my conversation with him, and I think opposition to the whole idea is wholly unfair to a very large number of hard-working Federal employees.

I very much regret this tendency to denigrate the integrity of the people who work for the Federal Government. I do not think there is any factual basis for it, and I do not think that because we find ourselves in political trouble we ought to exploit the reputations of the Federal employees.

The legislation was an overreach in the first place, the one that restricted them. Yes, I agree with my friend from Pennsylvania that with good reason to knock us out of the honoraria business. It was abused. No one, no one, no one has ever brought to us, and we have asked for it, any serious evidence of abuse by the Federal employees. There is simply no such evidence.

I will ask the gentleman from Pennsylvania if he wants to produce some now.

Mr. KANJORSKI. Will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. There has just been a recent completed investigation of Members of Congress' offices where a member of the district staff was accepting, quote, payments, and gifts and honoraria for helping people file for certain——

Mr. FRANK of Massachusetts. That would be specifically prohibited by my bill. This is an example of how little——

Mr. KANJORSKI. Will the gentleman yield?

Mr. FRANK of Massachusetts. No, I yielded to the gentleman twice now, and I will not do it again. When I tried to get him to yield so I could apologize, I could not get the time.

I will now say to the gentleman that he is simply giving an example of the misstatements about the bill. The kind of behavior he is talking about is specifically prohibited under this bill. The bill says, "You can have an honorarium."

An honorarium, by the way, is a misnomer. It does not mean one just shows up and makes a speech. The way honorarium was decided, was defined: Anything that someone did in a personal appearance, musical performance, writing a short story. All of those would have been restricted, prohibited.

Our bill says:

> The purpose of the appearance or the subject of the speech or article does not relate primarily to the responsibilities, policies, programs of the agency or office. The reason for which the honorarium is paid is unrelated to that individual's official duties. The person offering the honorarium has no interest that may be substantially affected by the performance or nonperformance of that individual's official duties.

So, the example he cited is wholly inappropriate, wholly irrelevant to this issue.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, I will not yield. I asked the gentleman to yield. The gentleman asked to yield to give him an example. That is wholly irrelevant.

I am sorry that an employee may have behaved improperly, although I have no knowledge of the circumstances, but that improper behavior would be prohibited under this bill.

This bill says, if a Federal employee engages on his or her own time in any form of activity and is paid, by the way, the usual and customary fee, so the suggestion that Federal employees would be going before people with whom they had Federal business and would be taking excessive amounts is specifically contradicted by this bill. This bill does not allow any of those evils.

Now I will yield to the gentleman.

Mr. KANJORSKI. Mr. Speaker, I just want to call attention that I did circulate a "Dear Colleague" letter that was addressed to the gentleman from Massachusetts [Mr. FRANK] today, and obviously, because he was involved on the floor, he did not receive it. But it did contain the structure that I made.

The points that I made is, one, I had no problem with payments being made, but I had a cap of $500.

Mr. FRANK of Massachusetts. Mr. Speaker, I am going to take back my time; I am sorry.

□ 2310

The gentleman had plenty of time. He said he had addressed a letter to me as a "Dear Colleague." That is a very inappropriate way to get information.

EXPANSION OF SPECIAL ORDER TIME

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts be granted another 5 minutes.

Mr. KANJORSKI. If I may add to that, Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. FRANK] and I may both be accorded an additional 5 minutes, so that after Mr. FRANK is finished I will have an opportunity to respond to his comments.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE REALITY OF THE HONORARIUM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the Chair. I am not going to take that time. I think this is pretty clear. I want to just stress again that the points the gentleman is talking about have nothing to do with this bill. This bill says you cannot take an honorarium, a fee that is greater than the usual and the customary amount. You cannot take a fee from someone with whom you have an official relationship. You cannot take a fee if it affects your business. He is making complaints about something we are not doing, and he is doing it at the expense of the Federal employees. I understand political pressures, but to come here and misdescribe legislation and to make scapegoats of the Federal employees seem to me a grave error.

The gentleman says, "What about one of my own employees?" Nothing in this bill prohibits the gentleman from making rules that apply to his own employees.

As far as disclosure, for the people who make more than $74,000 a year there is full disclosure. For people who make less, and again, here is what this bill says. If you are a Federal employee on your own time, not selling any Government property, not selling anything you got from the Government, you can take the usual and customary fee for a short story, for a song, for preaching, for practicing medicine on the weekend, for drawing up a will. You can take the fee, which if we did not pass this bill, you would not be allowed to. It would not be allowed. This is what we are dealing with. You cannot have any relationship with these people. They cannot be people who you have any influence over.

Now, none of the horrors and evils the gentleman is talking about were there. When the gentleman says he hopes that this does not disgrace the House, I think he engages in self-fulfilling rhetoric, because to make a suggestion on such little evidence that this carefully drafted bill, which prohibits everything he complains about, I think that is the kind of rhetoric which causes the problems he claims he does not wish to see.

Mr. Speaker, I yield back the balance of my time.

THE HONORARIUM BILL AND DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I really cannot argue with Mr. FRANK's representation of what the bill does, because in fact that is what it does do. But what it does not do and what I find fault primarily within the bill, it does not provide for a methodology of disclosure. It is the same problem that we always have. People are sworn to abide by the law. They are sworn to keep within the measure of the law. But those of us who have people functioning under us, those of the individuals in the Internal Revenue Service or the Justice Department I think would be no different than myself. They would like to know whether the people working under them have received sums of money, so that they could judge whether or not that individual complied with the law.

The assumptions that Mr. FRANK makes, as I in my experience in government and in the practice of law, you could not assume all people comport with the law and follow the law.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield.

Mr. KANJORSKI. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman then confuses me, because what he is saying is, he does not mind the law, although I must say people who heard his speech before that would be hard pressed to understand that. The terms he describes the law in, it seems to me are very different than what he now says, but it seems to me what he now says is we cannot trust these people to follow the law. That is why I think he is being unfair to Federal employees.

I also want to say if the gentleman thinks they are going to violate the law, what does he think a disclosure is going to do? They would violate that, too.

Mr. KANJORSKI. Mr. FRANK, it is simple. If they fail to make a disclosure and they accept money at all from anyone, then you do not have to go into the merits of why they receive it, whether it was justified, whether it comported with the law. They failed to disclose it, and that in and of itself calls for enforcement.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, the gentleman is saying that the only thing he disagrees with is the failure to have disclosure under $74,000?

Mr. KANJORSKI. No. I wanted to have this disclosure in my bill. I felt that moneys up to $500 in any one period of a year did not need to be disclosed, but this bill provides for honoraria of up to $2,000 an event or circumstance, an unlimited number of events.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman continue to yield?

Mr. KANJORSKI. Certainly.

Mr. FRANK of Massachusetts. And it does so if that is the usual and customary fee for that. We had doctors at the National Institutes of Mental Health and at the Veterans' Administration who work part time, and we were specifically asked to make sure that we did not say that we would lose the services of these part-time doctors. Sometimes the usual and customary fee for a complicated operation could be $2,000.

So when the gentleman conjures up that figure out of context, he ought to know what we are talking about.

Mr. KANJORSKI. That is fine, and they would have to disclose that, and I see nothing wrong with disclosing that. If in fact they performed a procedure in a consulting capacity or a part-time employment capacity outside of government work, the people that they worked for would know that they received that.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman would yield, the gentleman agrees that that is all this bill makes legal, nothing beyond that is authorized.

Mr. KANJORSKI. I understand that the honorarium could be up to $2,000 for any single event.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. KANJORSKI. And that there is an unlimited amount that can be received in a given year.

Mr. FRANK of Massachusetts. If the gentleman will continue to yield, if, if that is the usual and customary fee for that particular act and if there is no connection between the person performing the act and the people who are paying the honorarium in his official duties.

Mr. KANJORSKI. Mr. FRANK, let us address ourselves to speaking arrangements. I know many Members of Congress, before we outlawed honoraria, accepted $1,000 or $2,000 for speaking occasions. I know for a fact that General Schwarzkopf's people mentioned the fact that he receives $40,000 and $50,000 for speaking events. I know for a fact that it was discussed here that former President Reagan, in going to Japan and speaking on two occasions, received an honorarium of $2 million.

Now, I quite frankly do not know what ordinary and customary is.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield further?

Mr. KANJORSKI. When it comes to setting this fee, obviously a lot of people in this world have differing interpretations.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

The gentleman is being very selective in what he is repeating of what I told him. It also says you cannot take it unless "the person offering the honorarium has no interest that may be substantially affected by the performance or nonperformance of that individual's official duties," and also "the purpose of the appearance does not relate primarily to responsibilities, policies or programs of the agency." Those did not apply to Members of Congress.

In other words, this is a much tighter set of rules. Members of Congress were allowed to take honoraria, before we abolished it, from people who would be substantially affected by the performance or nonperformance. What we are saying is if a Federal employee goes out and does something wholly unrelated to his or her work, to a group wholly unrelated, and they pay that employee what they would have paid anybody else, the employee can take it.

That is what the gentleman turns into a disgrace.

Mr. KANJORSKI. Mr. Speaker, I suggest that as legislators we cover just about everything imaginable in the nature of what we can affect. We affect everything from appropriating money to establishing rules and regulations for every industry, for every type of business operation, for establishing standards throughout the world.

I do not know what I would consider right for a congressional employee to accept money for. Quite frankly, I do not want to be caught in the bind of having to know what they did accept money for. All I asked for was disclosure.

The SPEAKER pro tempore. All time has now expired.

FINANCIAL DISCLOSURE LIMITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, I assure the Chair I will not take the remaining 5 minutes. I simply want to say that many times in the operation of Members of Congress, the ethical and financial affairs, we find certain exceptions and certain limitations that are comparable to what we are discussing here.

For instance, in our own election reports that we file regularly and our own financial disclosures, the gentleman from Pennsylvania will agree, if I could have his attention, even in our own financial disclosure for Members of Congress and our campaign disclosure there are certain limits under which no full disclosure has to be made, or other categorizations during which no specific information has to be filed.

For instance, as I recall in our financial disclosures all one has to do is to declare that between $5,000 and $20,000 certain assets are excluded.

□ 2320

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Speaker, that is for assets. When we have requirements for——

Mr. GEKAS. Mr. Speaker, I have the benefit of my time. I am simply saying that we cannot be adversely criticized for molding a bill in which we set off categories where full disclosure has to be made in one category, lesser disclosures in others, and perhaps no disclosures in others. We cannot be adversely criticized for trying to reach levels of earnings of Federal employees over which we feel that no honoraria should be accepted, and those minimums where we say it cannot do any harm if indeed the offeror has nothing to gain from paying that.

In other words, what the kinds of criticism are over this bill, and I am very sensitive to it, because, as I said at the outset, there was no greater critic of the honorarium system nor one who was less willing to allow this bill to go through before I investigated fully and before I had the benefit of consultations throughout our little realm up here, and now I am satisfied that what we have crafted fully serves the Congress of the United States and Federal employees.

Mr. KANJORSKI. Mr. Speaker, if the gentleman will yield further, will the gentleman from Pennsylvania [Mr. GEKAS] feel comfortable if at some time in the next several years it is determined that a congressional employee working in one of our offices receives $2,000 for making speeches, and makes 25 of those speeches to the same type of organization?

Mr. GEKAS. Mr. Speaker, reclaiming my time, I would say to the gentleman, it is just as the Congress was revulsed when egregious examples were given to them of honoraria and numbers of dollars received, and then we reacted. I pledge to the gentleman that I, personally, will react to the first egregious act that occurs on any part of any Federal employee that makes this legislation obsolete or amendable.

Mr. KANJORSKI. Mr. Speaker, the problem is, because we do not have disclosure, we will never know that, until there is a Federal indictment or a disgrace that occurs.

Mr. GEKAS. Mr. Speaker, that is not the case. We will find out. I pledge to the gentleman from Pennsylvania [Mr. KANJORSKI] that I will find it out.

Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. KANJORSKI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. TAYLOR of Mississippi). The gentleman will state it.

Mr. KANJORSKI. Mr. Speaker, I understood when we passed the famous thing known as the martial rule, which I voted for and supported, that there would be a procedure where before a bill would be called on the floor there would be a notice of 1 hour that that bill was going to be called to the floor.

My inquiry now is in what nature did that notice take place in the immediate preceding bill, the passage of H.R. 3341?

The SPEAKER pro tempore. The Chair will advise the gentleman that notice as given through the Cloakroom.

Mr. KANJORSKI. Notice was given through the Cloakroom?

The SPEAKER pro tempore. That is the information of the Chair.

Mr. KANJORSKI. All 435 Members of Congress were in the Cloakroom at any one given time?

The SPEAKER pro tempore. it is the understanding of the Chair that that information was available by calling the Cloakroom.

Mr. KANJORSKI. I see. And there was no other format, a notice which would go out on the call system, that within the next hour a particular bill number would be called up? Is that not our procedure here?

The SPEAKER pro tempore. The Chair will inquire and give a more substantial answer in the morning. At this time the sole information the chair has is that notice was given through the Cloakroom to the Members' offices.

Mr. KANJORSKI. Mr. Speaker, may I render an objection to the calling up of the bill, that it was not in accordance with the rule adopted, and therefore the proceedings were not in conformance with the rules of the House, and respectfully request that the Chair entertain a motion to allow, at the very minimum, since we cannot discuss it anymore, for the calling of a recorded vote?

The SPEAKER pro tempore. The gentleman will have to make that request tomorrow. The Chair cannot entertain that request at this time.

Mr. KANJORSKI. So that I get it straight, is it recorded that as acting Speaker you are receiving my request, or do I have to direct that tomorrow to another Speaker at some time?

The SPEAKER pro tempore. When the Speaker is in the chair tomorrow, the gentleman may make that request.

Mr. KANJORSKI. Mr. Speaker, may I further inquire, are there any recorded votes that were called for on the suspensions that were called today?

The SPEAKER pro tempore. The answer is no. Every one of the motions passed unanimously by voice vote.

Mr. KANJORSKI. Mr. Speaker, can the Chair then direct this member as to precisely what time this Member has to be on the floor to appropriately make the motion or request that I have just made in my parliamentary inquiry to the Chair?

The SPEAKER pro tempore. The Chair will advise the gentleman that the House meets at 10 o'clock tomorrow morning.

Mr. KANJORSKI. Mr. Speaker, at what precise moment should the question be put to the Chair and under what circumstance?

The SPEAKER pro tempore. The gentleman should be here at 10 o'clock and ask the Speaker that question at the first order of business.

UPON INTRODUCTION OF THE TAX EXTENSION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 3909, the Tax Extension Act of 1991, a bill to extend for 6 months the so-called expiring tax provisions. These are 12 provisions of the Internal Revenue Code that were enacted to provide incentives for research and development, low-income housing, education, and other activities beneficial to the economy. Each of these provisions is scheduled to expire generally after December 31 of this year. I am pleased that Senator BENTSEN is introducing an identical bill in the Senate.

I am introducing this legislation today as a stopgap measure to prevent any economic disruptions that might be caused by the expiration of these provisions at the end of this year. I wish to be clear, however, that I intend this to be the last temporary extension of expiring tax provisions. The 6-month extension contained in H.R. 3909 should be adequate to allow for the development of a permanent solution in the event that there is a tax bill next year.

Over the past few years, these temporary extensions have become an annual ritual. It is a ritual that is bad for government and bad for business planning. Faced with such onagain, offagain legislation, taxpayers cannot plan ahead to utilize the incentives. This annual uncertainty does not reflect well on the Congress or the administration, and creates needless instability.

Many of these tax incentives have merit. However, some of them have not survived on their own, but for years have enjoyed a free ride as stowaways on the extenders package. Temporary extensions of all the expiring provisions have become the easy way out—an excuse to avoid making the hard choices about our priorities and how to pay for them.

In the past, I have repeatedly urged that we should judge each of the expiring provisions on their individual merits, fund the permanent extension of those tax incentives that are most worthwhile, and let the others expire. That remains my position. However, current budgetary and political realities in the closing days of this first session of Congress demand a more expedient, temporary solution.

I want to serve notice, however, that I intend to hold hearings early next year on all the expiring tax provisions. The Ways and Means Committee will scrutinize each one, and vote on each one individually, to decide whether each one should be permanently extended or allowed to expire. The burden will be on those who support individual extensions, both in the administration and in the Congress, to present the case for a permanent extension and to recommend ways to pay for them.

Mr. Speaker, in compliance with the budgetary pay-as-you-go requirements, H.R. 3909 contains a revenue offset which would speed up estimated tax payments for certain large corporations. Under current law, these corporations are required to make estimated tax payments equal to 90 percent of their current tax liability. The bill would temporarily raise this required percentage to 95 percent, after a 3-year phasein period.

Commitments have been made in both Houses of Congress to keep this legislation clean of amendments, nongermane or otherwise. To avoid the expiration of these various tax provisions—and the economic disruption that might result—I would urge that these commitments be honored in both tax-writing committees and in both the House and Senate. Any amendment at any point in the legislative process would jeopardize passage of this important emergency legislation.

My explanation of H.R. 3909 follows.

EXPLANATION OF H.R. 3909, THE TAX EXTENSION ACT OF 1991

I. SUMMARY OF TAX PROVISIONS EXPIRING IN 1991

The following tax provisions are generally scheduled to expire after December 31, 1991, except for item (6): [1]

(1) Exclusion for employer-provided educational assistance benefits (Code sec. 127);

(2) Exclusion for group legal services benefits and the tax exemption for an organization providing group legal services as part of a qualified group legal services plan (secs. 120 and 501(c)(20));

(3) Deduction for health insurance costs of self-employed individuals (sec. 162(1));

(4) Tax exemption for qualified mortgage bonds and election to issue mortgage credit certificates (secs. 143 and 25);

(5) Tax exemption for qualified small-issue manufacturing bonds (sec. 144(a));

(6) Rules for application and apportionment of research expenses (sec. 864(f)); [2]

(7) Tax credit for qualified research expenditures (sec. 41);

(8) Tax credit for low-income rental housing (sec. 42);

(9) Targeted jobs tax credit (sec. 51);

(10) Business energy tax credits for solar and geothermal property (sec. 48(a));

(11) Tax credit for orphan drug clinical testing expenses (sec. 28); and

(12) Minimum tax exception for gifts of tangible personal property (sec. 57).

II. DESCRIPTION OF TAX PROVISIONS EXPIRING IN 1991

1. Exclusion for employer-provided educational assistance (sec. 127 of the Code)

Present law

An employee's gross income and wages for income and employment tax purposes do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements (sec. 127). This exclusion, which expires for taxable years beginning after December 31, 1991, is limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of the section 127 exclusion, and employee generally would be required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

Legislative background

The section 127 exclusion was first established on a temporary basis by the Revenue Act of 1978 (through 1983). It subsequently was extended, again on a temporary basis, by Public Law 98-611 (through 1985), by the Tax Reform Act of 1986 (through 1987), by the Technical and Miscellaneous Revenue Act of 1988 (through 1988), by the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and by the Omnibus Reconciliation Act of 1990 (through 1991). Public Law 98-611 adopted a $5,000 annual limit on the exclusion; this limit was subsequently raised to $5,250 in the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 made the exclusion inapplicable to graduate-level courses. The restriction on graduate-level courses was repealed by the Omnibus Reconciliation Act of 1990, effective for taxable years beginning after December 31, 1990.

Description of proposal

The exclusion from income for employer-provided educational assistance would be extended through June 30, 1992. The exclusion would be available with respect to amounts paid on or before June 30, 1992.

2. Exclusion for employer-provided group legal services; tax exemption for qualified group legal services organizations (secs. 120 and 501(c)(20) of the Code).

Present law

Under present law, certain amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion is limited to an annual premium value of $70.

The exclusion for group legal services benefits expires for taxable years beginning after December 31, 1991.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expires for taxable years beginning after December 31, 1991.

Legislative background

The section 120 exclusion and the section 501(c)(20) exemption were enacted initially on a temporary basis by the Tax Reform Act of 1976 (through 1981). They subsequently were extended, again on a temporary basis, by the Economic Recovery Act of 1981 (through 1984), Public Law 98-612 (through 1985), the Tax Reform Act of 1986 (through 1987), the Technical and Miscellaneous Revenue Act of 1988 (through 1988), the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and the Omnibus Reconciliation Act of 1990 (through 1991). The Technical and Miscellaneous Revenue Act of 1988 imposed the $70 annual limit on the amount of premium that may be excluded by the employee.

Description of proposal

The exclusion from income for employer-provided group legal services would be extended through June 30, 1992. The exclusion would be available with respect to amounts paid by an employer before July 1, 1992, for coverage under a qualified group legal services plan for periods before July 1, 1992.

3. Deduction for health insurance costs of self-employed individuals (sec. 162(l) of the Code).

Present law

Under present law, an employer's contribution to a plan providing accident or health coverage is excludable from an employee's income (sec. 106). No equivalent exclusion is provided for self-employed individuals (i.e., sole proprietors or partners in a partnership).

However, present law provides a deduction for 25 percent of the amounts paid for health insurance for a taxable year on behalf of a self-employed individual and the individual's spouse and dependents. This deduction is allowable in calculating adjusted gross income. The 25-percent deduction is also available to a more than 2-percent shareholder of an S corporation.

No deduction is allowable for any taxable year in which the self-employed individual or eligible S corporation shareholder is eligible to participate (on a subsidized basis) in a health plan of an employer of the self-employed individual (or of such individual's spouse).

The 25-percent deduction expires for taxable years beginning after December 31, 1991.

Legislative background

The 25-percent deduction for the health insurance costs of self-employed individuals was enacted on a temporary basis by the Tax Reform Act of 1986 (for taxable years beginning before January 1, 1990). Certain technical corrections to the provision were made by the Technical and Miscellaneous Revenue Act of 1988. The Omnibus Budget Reconciliation Act of 1989 extended the deduction for 9 months (for taxable years beginning before October 1, 1990) and clarified that the deduction is available to certain S corporation shareholders. The Omnibus Reconciliation Act of 1990 extended the deduction through 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend for one year the 25-percent deduction for health insurance costs of self-employed individuals.

Description of proposal

The 25-percent deduction for health insurance costs of self-employed individuals would be extended through June 30, 1992. The deduction would be available with respect to amounts paid before July 1, 1992, for insurance coverage for periods before July 1, 1992.

For purposes of the earned income limitation on the deduction, the amount of earned income taken into account would be the amount that bears the same ratio to the total amount of earned income for the taxable year as the number of months in the taxable year ending before July 1, 1992, bears to the total number of months in the taxable year.

4. Qualified mortgage bonds and mortgage credit certificates (secs. 143 and 25 of the Code)

Present law

Qualified Mortgage Bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used (net of costs of issuance and a reasonably required reserve fund) to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds. The QMBs must meet purchase price, income eligibility limitations, and other restrictions.

Mortgage Credit Certificates

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates (MCCs) (sec. 25). MCCs entitle homebuyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in QMB volume authority to issue MCCs expires after December 31, 1991.

Legislative background

The Mortgage Subsidy Bond Tax Act of 1980 first imposed restrictions on the ability of State and local governments to issue tax-exempt bonds to finance mortgage loans on single-family, owner-occupied residences. These restrictions included many of the rules applicable under present law.

Under the 1980 Act, the authority of State and local governments to issue QMBs expire on December 31, 1983. The Deficit Reduction Act of 1984 extended this authority (with modifications) through December 31, 1987, and enacted the MCC alternative to QMBs.

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for one year (through December 31, 1988) by the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 extended the authority to issue QMBs and the election to trade in bond volume authority to issue MCCs for another year (through December 31, 1989), with substantial modifications. The Omnibus Budget Reconciliation of 1989 extended the expiration date of this authority nine months (through September 30, 1990).

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for 15 months, (through December 31, 1991) by the Omnibus Budget Reconciliation Act of 1990. The 1990 Act also made several modifications to the recapture provisions. These modifications were effective as if enacted in the Technical and Miscellaneous Revenue Act of 1988 (the Act which originally enacted the recapture provisions).

Description of proposal

The authority of State and local governments to issue QMBs and to elect to trade in bond volume authority to issue MCCs would be extended through June 30, 1992.

5. Qualified small-issue manufacturing bonds (sec. 144(a) of the Code)

Present law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the bond proceeds is used to finance manufacturing facilities or certain land or property for first-time farmers ("qualified small-issue bonds"). Qualified small-issue bonds are issues having an aggregate authorized face amount of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. Special limits apply to these bonds for first-time farmers.

Authority to issue qualified small-issue bonds expires after December 31, 1991.

Legislative background

Substantial modifications to the tax treatment of exempt small-issue industrial development bonds were made by the Tax Equity and Fiscal Responsibility Act of 1982. The 1982 Act also provided that the authority to issue exempt small-issue bonds would expire after December 31, 1986. The Deficit Reduction Act of 1984 limited the small-issue bond exception to financing for manufacturing and farming facilities, effective after December 31, 1986, and extended the expiration date for these bonds to December 31, 1988. The Tax Reform Act of 1986 extended that date to December 31, 1989.

The Technical and Miscellaneous Revenue Act of 1988 clarified the definition of manufacturing to provide that up to 25 percent of the proceeds of qualified small issue bonds may be used to finance ancillary activities which are carried out at the manufacturing site. The Omnibus Budget Reconciliation Act of 1989 extended the expiration date to September 30, 1990. The Omnibus Budget Reconciliation Act of 1990 extended that date to December 31, 1991.

Description of proposal

The authority to issue qualified small-issue bonds would be extended through June 30, 1992.

6. Allocation and apportionment of research expenses (sec. 864(f) of the Code)

Present law

Pursuant to Treasury regulations which were promulgated in 1977, research and experimentation expenditures are generally allocated as follows: (1) expenses for research that is undertaken solely to meet legal requirements imposed by a government and that cannot reasonably be expected to generate income (beyond de minimis amounts) outside that government's jurisdiction are allocated solely to income from sources within that jurisdiction; and (2) remaining research expenses are generally apportioned to foreign source income based on either (a) gross sales, except that a taxpayer using this method may first apportion at least 30 percent of such expenses exclusively to the source where over 50 percent of the taxpayer's research is performed; or (b) gross income, except that expenses apportioned to U.S. and foreign source income using a gross income method cannot be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance methods.

A statutory allocation rule applies to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991. In these two taxable years, the statutory allocation rule provides that 64 percent of U.S.-incurred R&D expenses are allocated to U.S. source income, 64 percent of foreign-incurred R&D expenses are allocated to foreign source income, and the remainder of R&D expenses are allocated and apportioned either on the basis of sales or gross income, but subject to the condition that if income-based apportionment is used, the amount apportioned to foreign source income can be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used. In taxable years beginning after August 1, 1991, the R&D allocation regulation applies.

Legislative background

Beginning in 1981, Congress enacted a series of statutory R&D allocation rules to substitute, in part, for the R&D allocation regulation. The first statutory R&D allocation rule was contained in the Economic Recovery Tax Act of 1981 (ERTA), covering any taxpayer's first 2 taxable years beginning within 2 years after August 13, 1981. In the taxable years governed by this aspect of ERTA, all U.S-incurred R&D expenses were allocated to U.S. source income. This provision was exended by the Deficit Reduction Act of 1984 (DEFRA) and the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) through taxable years beginning on or before August 1, 1986.

For taxable years beginning after August 1, 1986, and on or before August 1, 1987, the Tax Reform Act of 1986 (TRA) provided that 50 percent of research expenses (other than amounts incurred to meet certain legal requirements, and thus allocable to one geographical source) were allocated to U.S. source income, with the remainder allocated and apportioned either on the basis of sales or gross income.

The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) effectively extended statutory allocation rules for an additional four months. The rules in effect for these four months, however, were different than those contained in previous statutes.

The Omnibus Budget Reconciliation Act of 1989 (OBRA89) and the Omnibus Budget Reconciliation Act of 1990 (OBRA90) apply a statutory allocation rule to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991. In taxable years governed by OBRA89 and OBRA90, the same statutory allocation rule applies as was applicable to expenses deemed incurred in the first four months of the year governed by TAMRA. That allocation rule is codified as section 864(f) of the Internal Revenue Code.

President's budget proposal

Under the President's fiscal year 1992 budget proposal, the statutory R&D allocation rules of section 864(f) would be extended for one year, so as to apply to all R&D expenses paid or incurred in taxable years beginning after August 1, 1991 and on or before August 1, 1992.[3]

Description of proposal

The expired statutory allocation rule would be extended to apply to research expenses paid or incurred during the taxpayer's third taxable year beginning after August 1, 1989, and on or before August 1, 1992. In the case of the taxpayer's first taxable year beginning after August 1, 1991, however, the statutory allocation rule would apply only to research expenses paid or incurred during the first six months of that year.

7. Tax credit for qualified research expenditures (sec. 41 of the Code).

Present law

General Rule

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after December 31, 1991.

A 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fix-base period, as adjusted for inflation.[4]

Computation of Allowable Credit

Except for certain university basic research payments, the credit applies only to the extent that the taxpayer's qualified research expenditures for the taxable year exceed its base amount. The base amount for the current year is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years.

If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Relation to Deduction

Deductions for qualified research expenditures allowed to a taxpayer under sec. 174 or any other provision are reduced by an amount eqal to 100 percent of the taxpayer's research credit determined for that year.

Legislative background

The research credit initially was enacted in the Economic Recovery Tax Act of 1981 as a credit equal to 25 percent of the excess of qualified research expenses in the current year over the average of qualified research expenses in the prior three taxable years. The research credit was modified in the Tax Reform Act of 1986 which (1) extended the credit through December 31, 1988, (2) reduced the credit rate to 20 percent, (3) tightened the definition of research expenditures eligible for the credit, and (4) modified the university basic research credit.

The Technical and Miscellaneous Revenue Act of 1988 extended the credit for one additional year, through December 31, 1989. The 1988 Act also reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 50 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months (by prorating qualified expenses incurred before January 1, 1991). The 1989 Act also modified the method for calculating a taxpayer's base amount and further reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 100 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991 (and repealed the special rule to prorate qualified expenses incurred before January 1, 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would make permanent the 20-percent research tax credit for qualified research expenditures and university basic research payments.

Description of proposal

The tax credit for qualified research expenditures (including university basic research payments) would be extended for six months (i.e., for qualified expenses incurred through June 30, 1992).

8. Tax credit for low-income rental housing (sec. 42 of the Code)

Present law

A tax credit is allowed in annual installments over ten years for qualifying newly constructed or substantially rehabilitated low-income rental housing. For most qualifying housing, the credit has a present value of 70 percent of the cost of low-income housing units. For housing receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost of existing housing (e.g., costs other than the required rehabilitation expenditures), the credit has a present value of 30 percent.

To qualify for the credit, a building owner generally must receive a low-income housing credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation. The annual credit ceiling for each State is $1.25 per resident per year.

The low-income housing credit is scheduled to expire after December 31, 1991.

Legislative background

The low-income housing credit was enacted by the Tax Reform Act of 1986, with an expiration date of December 31, 1989. The credit was substantially revised and extended through December 31, 1990, by the Omnibus Budget Reconciliation Act of 1989 (the 1989 Act). To implement the equivalent of a partial-year extension of the credit, the 1989 Act reduced the annual low-income housing credit ceiling for 1990. In years prior to 1990, the credit ceiling for each State was $1.25 multiplied by the State's population. For calendar year 1990, that amount was reduced by 25 percent from $1.25 to $0.9375.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Act) restored the State credit ceiling applicable for 1990 to $1.25 per resident of the State, and extended authority to allocate the credit through December 31, 1991. In addition, the 1990 Act made technical and other modifications to the credit.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the current low-income housing credit for one year, through December 31, 1992.

Description of proposal

The low-income housing credit would be extended through June 30, 1992. The credit ceiling for each State would be $1.25 per resident of the State for the period during 1992 for which the credit is extended.

9. Targeted jobs tax credit (sec. 51 of the Code)

Present law

Tax Credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from nine targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expires for individuals who begin work for an employer after December 31, 1991.

Authorization of Appropriations

Present law authorizes appropriations for administrative and publicity expenses relating to the credit through December 31, 1991. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

Legislative background

The targeted jobs tax credit was enacted by Congress in the Revenue Act of 1978 to replace an expiring credit for increased employment. As originally enacted, the targeted jobs tax credit was scheduled to apply to qualified wages paid before 1982.

The availability of the credit was successively extended by the Economic Recovery Tax Act of 1981 (ERTA) for one year (through 1982), by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) for two years (through 1984), and by the Deficit Reduction Act of 1984 (DEFRA) for one year (through 1985). The Tax Reform Act of 1986 (TRA 1986) extended the targeted jobs tax credit for three additional years (through 1988), with modifications. The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) extended the credit for one year (through 1989), with modifications. The Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) extended the credit for nine months (through September 30, 1990). Most recently, the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) extended the credit for fifteen months (through 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the credit for one year. Therefore, the credit would be available for workers who begin work for the employer before January 1, 1993.

Description of proposal

The targeted jobs tax credit would be extended for six months, so that it would be available with respect to wages paid for employees who begin work for an employer before July 1, 1992.

10. Business energy tax credits for solar and geothermal property (sec. 48(a) of the Code)

Present law

Under present law, nonrefundable business energy tax credits are allowed for 10 percent of the cost of certain qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment which produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[5]

The business energy tax credits are currently scheduled to expire with respect to property placed in service after December 31, 1991.

Legislative background

Ten-percent tax credits for qualifying solar and geothermal energy properties were enacted in the Engergy Tax Act of 1978, effective after April 20, 1977, through December 31, 1982. In the Windfall Profit Tax Act of 1980, the solar and geothermal credits were extended through 1985, and the rates of these credits were increased to 15 percent. In the Tax Reform Act of 1986, the solar and geothermal credits were extended for three additional years (through 1988), at rates which phased down to 10 percent. An additional one-year extension (through 1989) of the solar and geothermal credits was provided in the Technical and Miscellaneous Revenue Act of 1988.

The business energy tax credits for solar and geothermal property were extended for the nine-month period through September 30, 1990, in the Omnibus Budget Reconciliation Act of 1989. In the Omnibus Budget Reconciliation Act of 1990, the solar and geothermal credits were extended for fifteen months through December 31, 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the 10-percent business credits for solar and geothermal property for one year, through December 31, 1992.

Description of proposal

The business energy tax credits would be extended for property placed in service through June 30, 1992.

11. Tax credit for orphan clinical drug testing expenses (sec. 28 of the Code)

Present law

A 50-percent nonrefundable tax credit is allowed for a taxpayer's qualified clinical testing expenses paid or incurred in the testing of certain drugs, generally referred to as orpha drugs, for rare diseases or conditions. Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Legislative background

This provision was enacted initially in the Orphan Drug Act of 1983, and was scheduled to expire after 1987. The credit was extended for three years in the Tax Reform Act of 1986, through December 31, 1990. The Omnibus Budget Reconciliation Act of 1990 extended the credit for one year, through December 31, 1991.

Description of proposal

The proposal would extend the orphan drug tax credit for six months (i.e., for qualified clinical testing expenses incurred through June 30, 1992).

12. Minimum tax exception for gifts of appreciated tangible property (sec. 57(a)(6) of the Code)

Present law

In computing taxable income, a taxpayer generally is allowed to deduct the fair market value of property contributed to a charitable organization.[6] In the case of a charitable contribution of tangible personal property, however, a taxpayer's deduction for regular tax purposes is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis. However, in the case of any taxable year beginning in 1991, this rule does not apply to contributions of tangible personal property.

Legislative background

The Tax Reform Act of 1986 treated the amount by which the value of a charitable contribution of capital gain property exceeded the basis of the property as a minimum tax preference.

The Omnibus Budget Reconciliation Act of 1990 provided that, in the case of any taxable year beginning in 1991, this rule does not apply to a contribution of tangible personal property.

Description of proposal

The rule that charitable contributions of tangible personal property are not treated as a minimum tax preference item would be extended for six months (i.e., for contributions made through June 30, 1992).

III. DESCRIPTION OF REVENUE-RAISING PROVISION

1. Modify estimated tax payment rules for large corporations (sec. 6655 of the Code)

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 90 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 90 percent of the tax liability attributable to such annualized income.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Description of proposal

For 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments would be required to base its estimated tax payments on 93 percent (rather than 90 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. The applicable percentage would be 94 (rather than 93) percent in 1993, 94 percent in 1994, 95 percent in 1995, and 95 percent in 1996.

The provision does not change the present-law availability of the 100 percent of last year's liability safe harbor for small corporations. In addition, as under present law, the first quarter's estimated tax payment for a large corporation may be based on 100 percent of the prior year's tax liability.

Effective date

The proposal would be effective for estimated tax payments with respect to taxable years beginning after December 31, 1991, and before January 1, 1997.

INTRODUCTION OF THE RURAL COMMUNITY EQUALITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. AuCoin] is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, today I am introducing legislation which is a direct result of conversations I had with Oregonians in rural communities this summer.

I listened and I understand their message. Rural communities in Oregon and throughout the West are increasingly finding themselves caught in a crossfire generated by the war over our public lands and resources. They have become innocent bystanders as powerful interests attempt to pull public land management policy in opposite directions, often, on one extreme, toward total lockup or, on the other, toward complete resource exploitation. This chaos is made worse by a Federal Government who often doesn't know it has stepped on the local public's toes until their foot is broken.

The result is a chilling uncertainty in the market—and when you have market uncertainty you raise a question whether real market value can be determined in many cases, and that's not fair.

Our Federal Government must be held to a higher standard of accountability to the citizens we serve. The legislation I introduce today can begin to restore that accountability.

In an effort to preserve America's national treasury of parks, forests, wildlife refuges, and recreational areas, the Federal Government often seeks the purchase of private land. For example, as part of his "America the Beautiful" Program, President Bush has asked Congress to spend $47.5 million in fiscal year 1992 for private land purchases by the BLM alone.

I support efforts to enhance our national scenic treasury. But we must understand the impact on local communities and local government and eliminate it or minimize those impacts where possible. And the Federal Government should provide justification for why the acquisition is needed. If it can't be justified, it shouldn't be purchased.

Taking private land out of the local tax base can have a devastating impact on the community, particularly where the local government has reached the maximum allowed under the payment-in-lieu-of-taxes program which compensates lost tax revenue when Federal land is acquired.

I have concluded that current law does not provide adequate compensation in some circumstances or doesn't always provide an adequate check on the Federal Government's appetite to acquire private land.

The Rural Community Equality Act which I am introducing today will address both problems by supplementing the compensation provided to local government and serve as a check on private land acquisition.

My legislation will provide payment to local government, in addition to any payment received under the Pilt Program for lands acquired by the Bureau of Land Management. Current law allows such payments for lands acquired by the Forest Service if the land is acquired for wilderness, or lands acquired by the National Park Service, but not the BLM which manages some 270 million acres and is our largest Federal landowner.

Each yearly payment made under this program will equal 1 percent of the fair market value of the interest in land on the date the Federal Government acquires the interest. However, payments may not be more than the amount of real property taxes levied during the previous fiscal year.

Five years after any acquisition, my bill requires the responsible Federal agency to review the status of the parcel and determine if it should remain in Federal ownership. The Secretary is directed to develop cost-benefit criteria to assist in this determination and to share the results of this review with the affected unit of local government prior to making a final determination.

If the land is no longer needed for Federal purposes the land must be released from Federal control. If the land remains under Federal control, the payments would continue with a status review conducted every 10th year.

This legislation will require the Federal Government to think very carefully about the acquisition of private land and should result in the acquisition of those lands where long-term protection can be justified.

UNFOLDING CRISIS IN THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. NAGLE] is recognized for 60 minutes.

Mr. NAGLE. Mr. Speaker, I wish to address the House tonight, a practice that I do not normally engage in, particularly at this hour. However, I want to discuss, as best I can, the situation between the Soviet Union and the United States with regard to recent developments we have had between our country and theirs, and focus, at least in the commencement of my remarks, on the question of agricultural sales.

The current consternation of the Bush administration over the most recent request of the Soviet Union for agricultural credits to purchase American farm products has much deeper and more profound implications than simply whether or not the United States will be paid sooner, later, or never.

Setting aside the irony of this administration, or to be fair, any recent administration, worrying about the ability of the recipients of their foreign aid to pay back what has been given to them, the decision to make within the coming weeks could very well shape and define the post-cold-war era.

FOOTNOTES

[1] These tax provisions, except for item (12), were last extended in the Revenue Reconciliation Act of 1990 ("1990 Act") (Title XI of the Omnibus Budget Reconciliation Act of 1990, P.L. 101-508). Item (12) was enacted in the 1990 Act as a one-year provision.

[2] Expired on August 1, 1991.

[3] The Treasury Department's *General Explanations of the President's Budget Proposals Affecting Receipts* erroneously describes the effective date of the proposal as "taxable years beginning after August 1, 1991 and *ending* on or before August 1, 1992."

[4] Expenditures paid or incurred for university basic research after December 31, 1991, are not eligible for the credit.

[5] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (Code sec. 613(e)(2)).

[6] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). Special rules also limit the amount of a charitable contribution deduction to less than the contributed property's fair market value in cases of contributions of inventory or other ordinary income property and short-term capital gain property.

On one hand, we have a former adversary in deep distress. It is no overstatement, to say that the center, as the Soviets now refer to their central Government, is in disarray. Aside from mustering a nuclear response to a truly perceived threat to national survival, the national government no longer exists to perform traditional functions in a civilized society.

Nor are the replacement governments, the so-called Republics—currently, collectively, or individually—able to meet the needs of the people they represent, and, more importantly, speak with one voice to the international community for the betterment of the entire Soviet society.

We have not seen the dismemberment of a superpower with nuclear capability before; and while we have dealt successfully previously with vanquished military foes, those dealings have taken place in a context of a destroyed military capability of our adversary.

But to say, on the other hand, as some have advocated, that what happens in this dissolution of a country does not concern us is to believe that what has been dismembered can neither: First, not be put back together again; or second, if restructured and made whole again, will only be in a substance that is pleasing to our eyes. Further, either indifference to the events unfolding before us or a philosophy of simple "cash and carry only" assumes that we will not be impacted by the very process of dissolution. Finally, if the Soviet Union is dissolved in 15 separate countries, or more likely 30, danger can clearly still exist both to ourselves and them to each other.

Clearly, what is needed is a coherent national plan, with the support of the public, to weigh what action this country should commence on its own, what should be done in concert with our allies and what the policy objectives we seek, unilaterally and multilaterally, to achieve.

The prospects for this happening are not at this moment very bright. Six weeks after the Soviet President requested substantial emergency food and humanitarian supplies, after four technical advisory teams of the administration have either visited or are visiting the Soviet Union, the debate has diminished within the administration to whether the recipients of our assistance could realistically be expected to repay on 1½ billion dollars' worth of aid. Those of us concerned about the broad implications of this decision as it impacts U.S. policy are not reassured to learn that a decision will be made in "the next 10 days or so."

Understanding why this inability to decide has overtaken the Bush administration may request an opportunity to commence the public debate on what the coherent U.S. response should be and how it should be presented.

As usual, there is not simply one cause for the indecision of an administration that boldly went to war less than a year ago. There seem to be three: history, politics, and ideology.

Within the administration, within the political appointees of the Departments of State, Commerce, Defense, and the CIA, and even deeper into permanent staff of these institutional structures, we have a host of people, well intentioned and honest, who came to Washington to win or at least not lose the cold war. Since 1947, our goals have been simple: Contain Communism, fight it in every region of the world, maintain a sufficient nuclear deterrent that they dare not attack and prevent Europe from being overrun by a horde of Red troops bent on imposing Marxism upon the world.

In short, if you have lived in Washington during the last 44 years or you came to town most recently with one objective, and that is obtained, natural difficulty will be found in developing to a totally changed international picture. The past, while it may not have been adored, was at least certain; the future presented to us now that we have won is unclear, dangerous, and requires a totally new mind set. This is difficult for any group to do, but particularly difficult for a conservative administration.

This does not mean to imply that there is not a danger of the resurrection of the Soviet Union as a Communist society. The recent coup attempt reminds us of that danger. No, it would be imprudent to throw out history, but also equally imprudent to allow the past to so dominate our present that tomorrow becomes yesterday simply because we allowed ourselves to be controlled by it.

Unfortunately, the lack of a perspective toward tomorrow and a propensity to be controlled by the mind set of the cold war warrior, is not the only limitation to a realistic and a proper evaluation of the dangers and opportunities before our country. There is politics.

The formation of a new, and active, foreign policy by this administration, may have unfortunately been retarded by the rise of the Democratic Presidential prospects. The ability of the party of opposition to find and exploit the public dissatisfaction with a perceived President's interest in foreign affairs over domestic issues has obviously restricted the amount of time, focus, and action the President feels he can devote to issues of international concern. That this has happened should not surprise us. As with Roosevelt during the Depression, hard times bring demands from the voting public that we "fix things here at home." Any new administration initiative will require that this political opposition be dealt with and appeased.

There is almost an irony to this development and almost a longing among some of us that the recent Pennsylvania election had not taken place when it did. At the very time when the administration needs to step forward boldly in the formation of a new foreign policy vis-a-vis the Soviet Union, President Bush has been driven from the field. The nature of that retreat, and the manner in which it was done by the Democrats, precludes them from stepping into the void. While events of the magnitude of which we cannot imagine swirl around us, the field sets barren of contestants and needed action, partisan or bipartisan.

A philosophy of international affairs that says simply, "We won, let's go home," is not what this country needs at this time; and yet, because of politics, this is what we may very well have, as Democrats, bequeathed.

Equally as dangerous as allowing the dead hand of history to control us, or bowing to domestic politics, is the danger of rigid and self-satisfied ideology appearing to provide the answer. Unhappily, this element too is in the mix.

The current conventional wisdom is that we won simply because our system was better. Part of this doctrine rests upon a solid foundation of a free society constantly, collectively, and individually, being able to debate, change, and adapt to a series of international events over the years. The strength of this system is shown in many ways too numerable to mention here. The second half of that wisdom is bottomed upon an economic theory called the free enterprise system.

Action needed now, we are told, is really only twofold: Give the Soviets freedom and the free enterprise system, a market economy, and their problems will be solved. Soon, they will be just like us. Further, there is no one better able to import this economic concept to our former adversary than American business. Dangerously, this writer contends, is this belief that we need do little if anything more than this.

The mixed success the imposition of a market economy has brought to Eastern Europe should give us pause. The transition to a totally new economic order, whether done quickly or gradually, brings very uneven results. further, the experiment in Eastern countries has one marshaling benefit total absent within the Soviet Union: a strong sense of national unity, a willingness to bear pain to establish a truly independent nation now that they are free of the choking foot of the Communist Party.

Unhappily, no such strong national identity exists within the Soviet Union. In fact, the desire for separate nations within the borders of our former adversary is rapidly becoming clear. Thus, two immediate problems confront this theory: First, we are not talking about creating one market economy for one country but at least 15 separate and distinct such economies each with a varying degree of enthusiasm for the project and resources to accomplish the task; and no history or even understanding of tolerance for each other or even ethnic groups within the various new countries exists absent the imposition of central control. But the source of that imposed tolerance, the Kremlin, no longer exists.

To further complicate the complicated, even within those new, independent entities, a strong element of the population is still Communist and in some countries, such as the Ukraine, still in control.

A plan of action by an American administration to simply stand back and allow the American businessman to do the economic transition on his own ignores the fact that the Soviet military remains intact, somewhat independent of any government control; and may very well move collectively or individually to the new regime that appears most promising to them.

A host of other barriers, some to be discussed later, restrict our abilities to export our principles of democracy and economics. It will suffice to say now that simple reliance on the transformation of the Soviet society to a market economy will not be easy nor provide all the answers. Yet, because of our historical mindset and our politics, this theory as a policy seems to be gaining ground almost by default.

If a plane load of American businessmen to Moscow and the pittance of technical assistance that we have given so far or promised to give is not the answer, a issue that must be addressed before saying what should be done is to confront and remove the existing barriers to broad and coherent action.

To seek this answer is to confront both recent events and history. Recently, Representative LES ASPIN and Senator SAM NUNN proposed taking $1 billion from the Defense budget and giving it in humanitarian aid to the Soviet Union. The White House did not oppose or encourage this step, simply saying that they would accept it if done. Part of the assistance was to technically assist the Soviets in the dismantling of some of their defense industry.

Such a program, while hardly enough, was a step in the right direction. The plan met almost immediate opposition from Republican congressional leaders, who were later joined by some Democratic legislators, and died very quickly. Such an undertaking, at least from the defense budget, is now no longer viable.

The lesson here is simply that such efforts to structure, control as best possible, assist in the transformation of the Soviet society will not stand without bipartisan effort and strong backing from the White House.

During and following the Second World War, bipartisanship in the conduct of foreign affairs was thought to be proper and indeed was more the norm than the unusual. Many difficult decisions were made by national leaders freed from the danger of a domestic political backlash.

The difficulty in constructing such bipartisanship now is not out of the question. If the administration is willing to formulate the plans, or adopt Congressional attempts, the public may not be only willing to accept but support such foreign assistance.

The biggest impediment here is that such an effort does require the administration to yield a degree of control over foreign policy. The history of the last two administrations has been one of carefully guarding, and even seeking to expand, the right of the American President to set and execute foreign policy without regard for congressional oversight. Such a step towards bipartisanship would involve a measure of retreat from this Presidential prerogative. But even if the administration has a grand but yet unannounced plan, the implementation of any effort is doomed to failure because of attacks from both the left and the right without such Republican and Democratic support.

By way of specific illustration, broad bipartisan support could be generated from Republican and Democratic farmstate leaders and representatives for the pending decision over sending food with credits to the Soviets this winter.

But whether assistance be little or assistance to the Soviets be great, nothing will happen until the political climate is changed.

Removing political barriers by the formation of a new bipartisan effort toward the Soviet Union can only be accomplished if a real need is established first in the minds of political leaders and then in the minds of the public.

In other words, before we change the policy of indecision and indifference—or at best our current tepid response—to the Soviet Union, the urgency of the situation and the consequences of the failure to act must be understood. This is not a difficult case to make.

The unclassified travel time of a nuclear tipped ICBM launched from the Soviet Union to the central part of the United States is 20 minutes. The time of impact is considerably less if done from a submarine off our coast. There are currently 30,000 such nuclear warheads in the Soviet Union—and as worrisome, some 10,000 of these are smaller, mobile, theater nuclear devices. Recent reports have reached us that some of the sites where these are controlled are left totally unattended by Soviet troops while they search for food for themselves.

In addition, assurances have been given that all the nuclear weapons of the Soviet Union remain under the center's control. The Ukrainians, for one, dispute this and have announced that they will not transfer back these weapons at this time, if ever.

The disintegration of a society with nuclear capability should concern all of us. While action may not be taken against us, similar constraints may not exist with various groups within the Soviet Union using them on each other.

Further, reports have been received of the potential for the elite of the Soviet nuclear society to be recruited to other countries that may not currently have nuclear capability.

In summary, the emergence of 15 distinct countries with nuclear capability or access to and the potential, without the center's inhibition, of selling or trading nuclear expertise to other countries certainly complicates the conduct of U.S. post-cold war foreign policy. Particularly, if the situation within the various republics is one of chaos, strife, and hunger.

Winston Churchill once said of the Soviet Union that it was a "riddle wrapped in a mystery inside an enigma." Today a more apt description would be that it is chaos, surrounded by upheaval and wrapped in incomprehension.

The economy is out of control. The Soviet central bank printed 57 billion rubles in August of this year. In the previous year, the bank printed for the entire year 47 billion rubles. Inflation could reach 400-percent annually and is even now moving upward at an alarming rate.

The Soviets estimate their total course-grain harvest for this year—160 million metric tons—as contrasted, by their estimates, of normal harvests of 220 to 230 million metric tons. To maintain food levels that were sustained in the winter of 1990–91, they have estimated they will need 11 billion dollars' worth of food assistance from the United States, the nations of G–7 and Japan. To date, they have received little and can certainly expect to receive far less than the requested amount. Even if those levels were achieved they face tremendous problems of hoarding by a population worried about both supply and inflation.

Ministries, previously designed to make the system work even in its cumbersome fashion, disappear overnight. Some are simply not funded, some are simply closed, and others are simply taken over by individuals who decide they are the new owners. There is within the leaders a pronounced inability to distinguish between public and private property.

Further, there is within the industrialized nations an emerging myth that at the worst, we will be dealing with 15 republics, some closely identified with the West and others in a loose confederation of economic cooperation. Setting aside the difficulties of this achievement without a functioning central bank and a common exchangeable currency, the reality is that we have no guarantee that the biggest of those republics, Yeltsin's Russian Federation, may well dissolve into a collection of smaller republics, some with little toleration for each other. Some with nuclear weapons.

To cause further consternation for Western planners, some of the southern portions of the current Soviet Union are Moslem in religion. Reports are now being received that fundamentalist, long the bane of the United States in the Persian Gulf, are outreaching to their brothers to the north. The creation of a fundamentalist Islamic State to align with the Iraqs, and the Irans, and similar nations should be avoided.

Economic chaos, nuclear capability, ethnic strife, food riots, Moslem fundamentalism are all in isolation let alone in concert formation provide the seeds for the growth of a new and terribly complex world order. A Western aided, orderly transition to a free and economically integrated country or countries is far preferable.

Finally, the return to a concentration of power within the center would seem to represent for the Western nations a choice not much more preferable than total disintegration. We would again be confronted with a government that could reclaim power only with the utilization of the most brutal of means. Whether this new power be from the left or the right, nuclear power would again be concentrated within a nation whose interest would not always be consistent with our own.

The case for a controlled evolution of the Soviet society is thus understandable. The desperate straits of their country make such an aid package urgent. The consequences of a failure of policy at this juncture lays the foundation for all that may unfortunately follow. Finally, while history can teach, it should not control us; the need for new politics is clear and simple ideology can take us only so far.

Any effort to stabilize the Soviet society for a peaceful transformation to a free and successful series of international functioning units must be drawn up with a recognition of what is needed both in the near term and over a longer period of time. The complexity of the undertaking requires patience and a realistic expectation that not every endeavor may be successful either in its entirety or regionwide. Further, our own barriers to such an effort must be removed.

An issue first addressed, however, has to be to whom is the aid given, under what circumstances and in what form. The granting of assistance, it must be recognized, can help stabilize a society, but such aid can also add to the power and control of those receiving it. Further, aid can be freely given without restraint or with various levels of requirements to be met before delivery. Unrestricted aid or, in the phrase of Zbigniew Brzezinski, the former Carter National Security Council Adviser, a carrot and stick approach.

These threshold inquiries are not mere idle academic discussions. The initial and sustained Western response will determine not only the stability of Soviet society but also influence the very form of post-cold war Russia.

Here a number of value judgments—almost an ability to do the impossible: peer prospectively into history—must be made. For our purposes here, however, several concerns about the shape of a future Russia and its Republics can be discerned.

First, the center must be maintained to perform certain essential functions: The control of the nuclear forces, the control, to the extent possible, of the nonnuclear military forces. The dissolution of Soviet troops into rival bands obviously must be avoided.

Second, the center should be maintained for the purpose of maintaining free economic integration of the various Republics with each other and for provinces within the various Republics to maintain economic ties with their own regional governments.

Again, this is not idle speculation. For example, without a national currency, any economic international integration will be difficult to sustain. Without interregional economic integration, the Communist system of interdependent industries cannot be overcome without great difficulty.

Third, the center should be maintained as the representative of all Republics with various international organizations. As will be advocated later, the granting of Soviet membership into international monetary and trade organizations should only be done with the central government. Attempting to deal with a host of new nations would only strip the government of all vestige of control or even appearances of power.

Fourth, any assistance to individual Republics or even the center must be preconditioned upon the observance of basic human rights. In short summary, the Helsinki accords—and other international covenants of this nature—must be maintained. While we cannot prevent another Yugoslavia, we can certainly attempt to slow such a development.

Fifth, the conversion of the military capabilities of the old Soviet Union into a modern industrial nation is essential, of course, for a successful transformation. However, we should not simply hope this happens, but we should insist upon such a conversion, provide the advice necessary to see that it happens, and condition our assistance upon it taking place. This is true whether done through the center or by region.

Finally, direct aid to the Republics should, in part, be measured by the degree of interregional cooperation they are obtaining with their sister Republics and the degree that they and the center undertake economic reform. Lost in the history of the Marshall plan were two relevant features: The recipient countries were required to: First, develop a realistic economic reform plan for themselves and, second, integrate that plan with neighboring countries. While a solely funded U.S. Marshall plan is not advocated here, these two features of it are recommended.

If these be the goals that we seek to obtain, then equally important will be to whom we ask within the Soviet Union to obtain them.

Given a decision to grant broad and sweeping assistance to the Soviet Union can be structured either to maintain some vestiges of national stability and enhance needed reforms or, if done haphazardly and without coordination, contribute to the very disintegration we seek to avoid. As a rule of thumb only, the broader the undertaking, the more the remnants of the center need to be involved both because it will require a national Soviet effort and because bypassing the center only insures its further demise.

Even without historical proof, this writer cannot help but believe that we have already today contributed to the demise of the central government. We have required them, prudently, to make arms control concession after concession during the last 18 months. Our decision not to grant the center, only very limit them economic assistance, however, did not elevate their stature with the military or the Republics. They had nothing to show for what they had conceded, no lever or flag to convince their Republics to believe that in unity there was strength. The next round of assistance should not make the same mistake.

Properly structured aid is a tool of our longer range foreign policy goals as much as the aid itself. To be utilized, the consequences of delivery and to whom such assistance is delivered should be a carefully defined processes.

There are short term, immediate needs within the Soviet system and longer range assistance. The short term can best be defined in two commodities: necessities and hope.

Hope may well be more important, and surely as important, as necessities. The latter is as accessible as the former, although necessities may be easier to deposit upon Russia's shores.

Every visitor of insight to the Soviet Union today leaves with a profound impression of the depression of the Russian people and their territories. Collectively, they seem to believe that nothing will get better, that only hardship and profound upheaval await them. Into such a atmosphere are the seeds of demagogues and fascism introduced and such aromas these twins of evil leave smell sweet upon such foul air.

Food today and the assurances of food tomorrow provide time to think and reflect. The agriculture community, which may be divided upon many issues, recognizes the marvelous opportunity for profit and expanding markets. Further, farmers are not split on this issue by party and advocacy of this action comes from both sides of the aisle. The mechanism for credits, as opposed to a confrontation of giving away American goods and services is not present. While transportation problems may present themselves, a commitment of the availability of American agricultural products removes a major barrier to Soviet stability.

If food gives substance to the Soviet people, the giving of hope represents little cost and substantial opportunity. Writing in the Spring issue of Foreign Affairs, John Lew Gaddis wrote:

> The Marshall Plan worked by employing small amounts of economic assistance to produce large psychological effects. It restored self-confidence in Europe just at the point * * * at which it was sagging. What was critical was not so much the extent of the aid provided as its timing, its targeting and its publicity: its main purpose was to shift the expectations of its recipients from the belief that things could only get worse to the conviction that they would eventually get better. (at Page 115.)

The argument here is that while food may cost little—(and indeed if such sales raise the price of our domestic raw products actually save the government money in price support maintenance)—the actual cash available to the United States to help stabilize the Soviet society is in reality very little. Therefore, what little we have has to be maximized. Maximization means more than simply getting the best result for the least spent, it means seeing also that the most spent gives a message of hope.

We now know that the Soviets have less experience or even comprehension of a free market system than we at first thought. Generally, they are for it in concept but do not understand it in practice. The old way of authoritarian control may not represent better, but at least a painful transition to the new system is avoided. The current situation within the republics certainly seems to confirm that fear: since the freedoms have been won, the situation has only gotten worse.

It is important that some of Soviet society experience some success. Targeted communities or regions need to be identified, locations where a relatively quick reversal of the adverse fortunes can be obtained. Such success in isolation can provide inspiration to others.

A few communities of intermediate size—defined as between 350,000 and 750,000 population—need be identified. This new, or Model Cities Program, needs to have a concentrated attention of American business. The Overseas Private Investment Corporation [OPIC], which has relatively few dollars to spend, should concentrate such resources on the private U.S. sector willing to invest in the specifically identified communities. OPIC, quite properly, currently grants its guarantees against loss on a first come, first served basis. Such a change in practice represents a temporary departure from an otherwise sound policy. Ex-Em credits, if appropriate, can also be utilized.

Coordination should be done to move a consortium of American businesses into these areas, not just one plant or processing location for an identified area but a number of businesses both for mutual support and to widen the impact area. Obviously, the cooperation of local authorities has to be obtained, the Soviet propensity to take longer than forever to do anything overcome, and there must be a reasonable expectation for the business to earn a reasonable return on their investment.

The reason for choosing intermediate size communities is relatively simple. Current American business experience says going to do business, the more knowledge is present of the character and characters of that community, and that means the more the enterprise avoids having to work from the top of the Soviet system through the maze of ministries and regulation.

Debates can be held over which communities and where. It will be sufficient to say that some raw materials or manufacturing process must be present. Assurances, via law, must be given that American technology will be protected and statutory waivers quickly obtained for the transfer of that technology—a subject that will be revisited—to the selected communities.

Such an undertaking should not stop with a simple economic assistance plan for the targeted towns. The administration has long been big on providing technical assistance, as they should be. However, where, what, and to whom are some of the essential questions that remain unanswered. Target technical assistance to the communities in question, including very important environmental assistance, would do well to go hand in glove with targeted economic development.

Finally, while the issue of democractic institutional training is essential for the entire country, some measure of such assistance has to be directed at these areas. Success should be total, not only in the aspects of American technology and business know-how, but American democratic processes as well. The relationship of the community to its business base, with the supporting infrastructure and environmental cooperation, should be established. Such cities would then be Model Cities and the experiences learned in the process more easily adapted by others. But most importantly, in the entire country, there would be two or three or more locations where the reformers could point to with both pride and a concrete example of success. More than economic gain, the Model Cities Program represents the essential feature of the Marshall Plan: hope.

The longer range goal of Soviet integration to the world economy will not result from simply stabilizing their society for the winter and providing examples of success. Because of the cold war, there exist a series of structural barriers to Soviet participation. Such barriers have to be removed if the transformation is to be successful.

Following the Second World War, the United States and the Western industrial nations deployed not only a military force around the Iron Curtain, they effectively denied the Soviet's economic integration into the modern industrial era. The degree of success of these policies can now only be fully appreciated by those who visit Russia and observe first hand the level of technical retardation experienced by their society.

A modern, stable, economically intergrated country or countries cannot be built if the policy of containment and isolation continues. This writer advocated a year ago in introducing the Collective Security Act of 1990 of permitting full Soviet participation in international monetary bodies. Last year the Soviet Central Government sought admission to the World Bank and the International Monetary Fund. Earlier this month, the IMF granted the central government and their Republics $30 million in technical assistance. Earlier this week the nations of G–7 agreed to forgo Soviet debt repayment and require interest payments only providing the Republics agreed to guarantee the total national foreign debt and commerce economic reform.

The Soviet Central Government now has been granted "observer" status with both the IMF and the World Bank. Whatever reasons existed for this distinction real and partial membership before seems now to have vanished. Granting full status at this time to both organizations to the Center would seem to have the advantage of strengthening the central government, thus maintaining our allies interest from the strategic standpoint and providing some national perspective for the needed Republic economic coordination. This tacit recognition of the center has the important effect of adding to its preservation. The addition of individual Republics to full status must await further developments and their own progress on those conditions listed previously.

The Soviets also requested membership and participation in the European Bank of Recovery and Development. They were granted the right to borrow only to the extent of their deposits.

This restriction, too, should be removed. Finally, even though late, Center membership to GATT should take place, if only to learn as much as to participate.

On these matters and others, an essential feature to retain is that the future course of developments within the Soviet Union—or as the country was known formerly—impacts directly on United States policy. However, the resources available from ourselves alone to shape that evolution are extremely limited both by the amount of money available and the domestic political scene.

That does not mean, however, beyond the reformation of our legislative record on trading opportunities with the Soviets, we are powerless to act. This is true particularly if we act in concert with others who have the same interests strategically and economically. A nation that has the capability to organize the world to go to war surely has the same organizational capacity to organize a coordinated effort to preserve domestic stability in Russia and its Republics.

To date, a coordinated effort by the nations of G–7 or the Group of 24 have not come about. True, the aforementioned credit forbearance from G–7 and the giving of credits for technical assistance from the IMF have taken place. But no agreed upon international scheme for additional aid is being discussed. Worse, each nation, almost in competition with each other, seeks the most lucrative trade agreements with the functioning remnants of Soviet society. Except for the United States, which is rapidly losing this market opportunity, our European and Japanese allies seek business opportunities and joint ventures, providing government guarantees for the private enterprise, but conditioned upon requirements that such credits are used to serve their debt first. A policy that simply picks over the bones of the Soviet carcass is at best a policy that permits uneven development and stability and, at worst, runs a high risk of failure.

A failure to create such a broad international program of assistance may leave in the future a more threatening international situation than the cold war itself. Watching developments unfold in the former Eastern European countries and the Soviet Union is almost seeing a pre-World War I map unfold before the nation's eyes. That map, with treaties and treaties within treaties, nationalism and tension, could very well be repeated. In countries beset with economic woes, military adventurism coupled with national pride often serves to substitute and offset failed domestic policy.

There is no need to create a new international organization to provide such planning, assistance and international co-operation. The Office of European Recovery and Development already exists and could well be transformed to this larger task. With planning and co-operation, the new rules of economic competition vis a vis the Soviet Union and East Europe could be agreed upon. The duplication of needed aid would be avoided and the coordination of aid obtained. International resources could be pooled so that no one nation bears the burden. The important work of creating a national and internationally functioning currency commenced. In this last endeavor and the others, cooperation with other international economic and relief organizations could be sought.

This peaceful opportunity for economic and political evolution for the Eastern European countries and the Soviet Republics, however, requires focus and concentration. The current international policy, if there be one, is simply ad hoc and moment to moment. The giving of aid, the trade opportunities, the Soviet and Warsaw bloc countries achievement of democratic reform is left to the whim of individual industrial nations. A more productive policy and better results can be had through multinational responses that are in concert, well planned, and well thought out.

A great deal of reliance by the administration has been placed on the domestic business community to assist both Eastern Europe and the Soviets in their transformation. This is as it should be but there are two major restrictions on this capacity, first, that it has to be understood and avoided; and the second, removed. The former is an overly dependent reliance on an economic theory and the second is statutory barriers that restrict United States investment and access.

The economic theory of the free enterprise system has worked well. But such a theory operates differently in different countries. More structured and controlled in some modern societies and more free wheeling in others. The free enterprise system may have certain universal principles such as supply and demand, but each nation has tempered the harsher effect of such business principles to meet both domestic needs and cultural principles. Examples of this, such as market restrictions to the Japanese people or large agricultural subsidies to German farmers, are abundant.

In exporting our knowhow, our business investment and our expertise, two factors must go with such an exodus: first, sensitivity to the Soviet cultural needs, whether needed national or regional and; second, the developed safeguards of our system.

Sensitivity to cultural factors is bottomed not only on the fact that each successful country practices the market economy slightly differently, but avoids the assumption that there is nothing within their culture from which we might learn.

The advice given to them with our technical system must be accompanied by our tempering of a free economic system with the dangers such an economic order presents when left unrestrained. For example, do we only teach them about wages without disclosing the concept of a minimum wage? Do we tell them of labor without discussions of our child labor laws? There are a host of illustrations, not the least of which could be institutional agencies such as the SEC, the FDIC, the Food and Drug Administration. Sadly, some will take the extreme of the free enterprise system and advise them that such well thought and learned American and European restraints really are not necessary. Creating a Russia that simply reflects what America was in 1890 will only span a resentment by the populace that could pose many problems for a society that historically is more used to authoritarian control than freedom.

With those two admonitions in mind, American enterprise can clearly help, and can clearly profit. These are not inconsistent. But the host of legislative restrictions must be quickly removed with administration leadership and bipartisan support from the more thoughtful Members of the Congress.

Rightfully, concerned over the condition of minorities within the Soviet Union, past Congresses, with the support of the existing administration, have passed a series of laws retarding United States economic investment within the Communist countries. Generally, this statute is known as Jackson-Vanik, and has been re-enforced both before and after its enactment with a series of initiatives known as Johnson, Byrd, and Jackson amendments.

It is impossible for United States business to commit their resources into the Soviet Union on the basis that normal commercial relationships the will exist only on a year-to-year basis, depending on the conduct of the Soviet's government toward the outward migration of minorities. A policy of free access and exchange of commercial opportunities both for them and for us on a simple year to year basis represents neither a stability of relationship that they need or the commitment of access, long range, that United States commercial enterprises require.

Recently, the United States Congress approved a trade agreement with the Soviets that waived Jackson-Vanik for one year. It did not waive the additional restrictions that the aforementioned amendments contain. Thus, while we grant the Soviets commercial opportunities with us, we do so for only one year; and all are additional prohibitions against additional trade, such as EX-IM credits continue to exist.

Given the Soviet history, the desire for retention of all of these trading limitations is understandable and can serve as an additional lever to insure continued Soviet and the individual Republic's progress on these important human rights issues. But a longer period of time is needed if U.S. investment is to take place. A far better scheme would be to waive Jackson-Vanik—and the applicable amendments—for 3 years, with a two-pronged provision: First, a Soviet or individual Republic's retreat on the individual rights will bring an re-enactment of the bill's provisions; and, second, if satisfactory progress is maintained by the parties, an automatic extension would take place for 5 years.

There are a variety of reasons for these steps. The ability of American business to commit resources must have an assurance of a continuity of policy that a year-to-year review does not provide. The ability of American business to compete requires that trade agreements bring with them an ability for Soviet products to penetrate United States markets for a sustained period of time. The straight retention of current United States trade restrictions on the Soviet Union does not provide an opportunity for our commercial interests to trade with them for profit.

Ultimately, we must face the fact that despite our historical prohibitions on trading with the enemy, such restraints have severely handicapped our commercial interests. Other nations are not only encouraging the businesses of their individual countries to explore Soviet opportunities, they are underwriting them. We may very well have to do the same.

Finally, in terms of opportunities for trade and modernization of the Republics, recognition must be given to the substantial retardation that takes place through the current administration of Co-Com. Soviet society can never be modern if modern technology is not available to them. The ability of the United States to take their best production processes and their best goods to new and formerly communist areas is hampered substantially by our formerly justified fear of transfering a technology that could be used for war. These current, but unrealistic restrictions, on technology transfer cost this nation $10 billion dollars in foreign trade annually. A much more realistic line than now employed (and in co-operation with our allies) must be drawn.

Inherent within this document is an underlying assumption that there is much we can learn from the Russian peoples and much they can learn from us. However, without a much more aggressive use of cultural exchange programs, such a learning process will never take place.

We currently have 10 times the number of Chinese students from the PRC than we do Soviet students. We have not utilized to anywhere near the extent possible our Fulbright scholarships, our Peace Corp, our business exchange programs that would bring to them and us knowledge of each other's ways.

Within the next year, programs such as Samantha Smith undergrduate student exchange, the 1000/1000 President's initiative, the Cooperating Private Institute [CPI], Fulbright Program, expanded to include PhD candidates, and University Affiliation alignments must be increased. Funding for these programs is only 4.3 million dollars annually. Major increases in the funding of these investments, an aggressively expanded United States staff within the Soviet Union to outreach the programs and an educational effort at home as to the benefit for us of these is clearly needed.

In his lifetime, the late Senator Robert Kennedy spoke of the impact that a collective effort of humanity could have on the course of world affairs. He termed this endeavor "bending history". We have the ability to shake off the dogmas of the past and to shape the future course of international relations for the better or for the worse. A vision of tomorrow that permits a new and safer world requires us and permits us to act boldly in assisting the development and modernization of a former adversary. We will be measured by the courage of our action; and we will pay the price of inaction.

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SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GEKAS) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes each day, on December 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, and 21.

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. PARKER, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

(The following Member (at the request of Mr. KANJORSKI) to revise and extend his remarks and include extraneous material:)

Mr. KANJORSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KANJORSKI today during debate on H.R. 3341.

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. LEWIS of California in two instances.
Mr. SANTORUM in two instances.
Mr. DUNCAN.
Mr. GEKAS.
Mr. DORNAN of California.
Mr. GREEN of New York.
Mr. BALLENGER.
Mr. LAGOMARSINO in three instances.
Mr. PACKARD.
Mr. MICHEL.
Mrs. JOHNSON of Connecticut.
Mr. EMERSON in five instances.
Mr. BENTLEY.
Mr. RINALDO.
Mr. GRADISON.

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mr. DE LUGO.
Mr. MILLER of California.
Mr. LANTOS in two instances.
Mr. FASCELL in three instances.
Mr. MAZZOLI in two instances.
Mr. LEHMAN of Florida.
Mr. BEILENSON.
Mrs. BOXER.
Mr. WILLIAMS.
Mr. TALLON.
Mr. VISCLOSKY.
Mr. AUCOIN.
Mr. HOYER.
Mr. DYMALLY.
Mr. TRAFICANT.
Mr. JOHNSON of South Dakota.
Mr. HALL of Texas.
Mr. BROWN of California in 10 instances.
Mr. ASPIN.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. DINGELL.
Mr. DICKS.
Mr. OLVER.
Mr. KOSTMAYER in two instances.
Ms. NORTON.
Mr. LEHMAN of California.
Mr. LAFALCE.
Mr. STUDDS.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 108. An act to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress; to the Committee on Banking, Finance and Urban Affairs.

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; to the Committee on Interior and Insular Affairs.

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1183. An act to reduce the restrictions on the lands conveyed by deed to the city of

Kaysville, Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1184. An act to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources threatened by such salt loss; to the Committee on Interior and Insular Affairs.

S.J. Res. 225. Joint resolution to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 78. Concurrent resolution regarding the unfair imprisonment and trail of Dr. Nguyen Dan Que by the Government of Vietnam; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes;

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and relayed agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week."

ADJOURNMENT

Mr. NAGLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 25 minutes a.m.), under its previous order, the House adjourned until today, Tuesday, November 26, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2409. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Department of Defense Authorization Act, 1985, to relieve the Secretary of Defense from the requirement of relating to the Congress, on an annual basis, a report entitled, "United States Expenditures in Support of NATO"; to the Committee on Armed Services.

2410. A letter from the Director, U.S. Trade and Development Program, transmitting TDP's report required by Public Law 100-504, section 8E(h)(2); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. Supplemental report on H.R. 3435. (Rept. 102-358, Pt. 2). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on Mismanagement in Programs for the Homeless: Washington, DC, as a Case Study (Rept. 102-366). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2092. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing; with an amendment (Rept. 102-367, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 3666. A bill to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas (Rept. 102-368). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3686. A bill to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina (Rept. 102-369). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS. Committee on the Judiciary. H.R. 829. A bill to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia (Rept. 102-370). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3379. A bill to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference (Rept. 102-371). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code; with an amendment (Rept. 102-372). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2450. A bill to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions; with an amendment (Rept. 102-373). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3359. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027) and for other purposes; with an amendment (Rept. 102-374). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3237. A bill To extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years (Rept. 102-375). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Resolution 292. Resolution expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles (Rept. 102-376). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3909. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes. (Rept. 102-377). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 301. Resolution waiving all points of order against the conference report on the bill (H.R. 3371) to control and prevent crime, and against consideration of such conference report. (Rept. 102-378). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 2372. A bill to amend title 17, United States Code, with respect to fair use and copyright renewal, to reauthorize the National Film Registry Board, and for other purposes; with amendments (Rept. 102-379, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 3048. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants; with an amendment (Rept. 102-380). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1555. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; with an amendment (Rept. 102-381 Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary H.R. 3531. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes; with an amendment (Rept. 102-382). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3670. A bill to make certain technical corrections relating to the immigration laws; with an amendment (Rept. 102-383). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2890. A bill to establish limits on the prices of drugs procured by the Department of Veterans Affairs, and for other purposes (Rept. 102-384, Pt. 1). Ordered to be printed.

Mr. BROOKS; Committee on the Judiciary. H.R. 3341. A bill to amend the Ethics in Government Act of 1978 with respect to honoraria; and for other purposes; with an amendment (Rept. 102-385, Pt. 1). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 303. Resolution providing for the consideration of House Resolution 258, a resolution creating a Task Force of Members of the Foreign Affairs Committee To Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980 (Rept. 102-386). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 304. Resolution waiving the requirement of clause 4(b), rule XI with respect to resolutions regarding the conference report H.R. 2212, a bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes (Rept. 102–387). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OBEY (for himself, Mr. Swift, and Mr. Kolter):

H.R. 3907. A bill to require each State to adopt by 1994 a plan for ensuring the provision of health insurance to all residents of the State, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SKAGGS (for himself, Mr. Morrison, Mr. Schiff, Mrs. Schroeder, Mr. Richardson, Mr. Stark, Mr. Hall of Ohio, Mr. Bilbray, Mr. Lancaster, Mr. Bustamante, and Mr. Towns):

H.R. 3908. A bill to provide compensation and health reinsurance benefits to employees at Department of Energy defense nuclear facilities for injuries caused by exposure to ionizing radiation and to ensure fair treatment of employees during modernization and reconfiguration of such facilities, and for other purposes; jointly, to the Committees on Education and Labor, Energy and Commerce, and Armed Services.

By Mr. ROSTENKOWSKI:

H.R. 3909. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. Gekas, Mr. Murphy, and Mr. Staggers):

H.R. 3910: A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 3911. A bill to extend until January 1, 1995, the existing suspension of duty on (6R,7R)-7-((R)-2-Amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia 1-azabicyclo(4.2.0)oct-2-ene-2-carboxylic acid disolvate; to the Committee on Ways and Means.

H.R. 3912. A bill to extend until January 1, 1995, the existing suspension of duty on chemical intermediate; to the Committee on Ways and Means.

By Mr. LIPINSKI:

H.R. 3913. A bill to amend section 132 of the Immigration Act of 1990 to provide for a set aside of 14 percent of visa numbers under the diversity transition program for natives of Poland; to the Committee on the Judiciary.

By Mr. OWENS of Utah:

H.R. 3914. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguished between general funds, trust funds, and enterprise funds, and for other purposes; jointly, to the Committee on Government Operations and Rules.

By Mrs. SCHROEDER:

H.R. 3915. A bill to amend title 10, United States Code, to provide that certain former spouses of members of the uniformed services shall be eligible for commissary and exchange benefits; to the Committee on Armed Services.

By Mr. WILLIAMS:

H.R. 3916. A bill amending the Federal Railroad Safety Act of 1970 to require trains to be equipped with rear-end telemetry systems; to the Committee on Energy and Commerce.

By Mr. AuCOIN:

H.R. 3917. A bill to amend title 31, United States Code, to provide for additional payments in lieu of taxes for lands acquired by the U.S. Government for administration by the Bureau of Land Management, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. BOXER (for herself, Mr. Gilman, Mr. Johnson of South Dakota, Mr. Gallo, Mr. Towns, Mr. Hyde, Mr. Frank of Massachusetts, Mr. Wolpe, Mr. Stokes, Mr. Shays, Mr. Mineta, Mr. Neal of Massachusetts, Mr. Owens of New York, Mr. Rose, Mr. Brown, Mrs. Morella, Mr. Dwyer of New Jersey, Mr. Ackerman, Mr. de Lugo, Mr. Scheuer, Mr. Annunzio, Mr. Dellums, Mr. Downey, Mr. Traficant, Mr. Savage, Mr. Machtley, Mr. Schumer, Mr. Solarz, Mr. Kostmayer, Mr. Flake, Mr. Cardin, Mr. Moody, Mr. Jacobs, Ms. Kaptur, Mr. Torricelli, Mr. Ireland, Mr. Panetta, Mr. Kleczka, Mr. Mrazek, Mr. Hayes of Illinois, Mr. Ravenel, Mrs. Unsoeld, Mr. Torres, Mr. Dixon, Mr. Yates, Mr. Miller of Washington, Mr. Engel, Mr. DeFazio, Ms. Pelosi, Mr. Jontz, Mr. Lantos, and Mr. Swett):

H.R. 3918. A bill to provide for nonanimal acute toxicity testing by the Federal Government; to the Committee on Energy and Commerce.

By Mr. CARPER:

H.R. 3919. A bill to temporarily extend the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DICKS:

H.R. 3920. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. DOWNEY:

H.R. 3921. A bill to provide for the review of certain determinations under the countervailing and antidumping duty laws; to the Committee on Ways and Means.

By Mr. HALL of Texas (for himself, Mr. Brown, Mr. Sensenbrenner, Mr. Bacchus, Mr. Bliley, Mr. Cramer, Mr. Geren of Texas, Mr. Lewis of Florida, Mr. Mineta, Mr. Mollohan, Mr. Nagle, Mr. Perkins, Mr. Rohrabacher, Mr. Stallings, Mr. Traficant, and Mr. Volkmer):

H.R. 3922. A bill to promote the conduct of biomedical research in space; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. IRELAND (for himself, Mr. Broomfield, Mrs. Meyers of Kansas, Mr. Combest, Mr. Baker, Mr. Hancock, Mr. Machtley, Mr. Camp, Mr. Franks of Connecticut, and Mr. Boehner):

H.R. 3923. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. JONTZ:

H.R. 3924. A bill to amend the Solid Waste Disposal Act to authorize States to place certain restrictions on the interstate transportation of solid waste, to encourage community recycling, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LIPINSKI:

H.R. 3925. A bill to amend the Internal Revenue Code of 1986 to exclude interest from the gross income of individuals to the extent that the principal amount on which the interest is earned does not exceed $50,000; to the Committee on Ways and Means.

By Mrs. LOWEY of New York (for herself, Ms. Molinari, Mr. Ford of Michigan, and Mr. Goodling):

H.R. 3926. A bill to establish a program to provide child care through public-private partnerships; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. Rinaldo, Mr. Synar, and Mr. Wyden):

H.R. 3927. A bill to extend and revise rulemaking authority with respect to government securities under the Federal securities laws, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MOORHEAD:

H.R. 3928. A bill to amend title 18, United States Code, to make certain drug offenses under State law predicate offenses under the armed career criminal statute; to the Committee on the Judiciary.

By Mr. PETERSON of Minnesota:

H.R. 3929. A bill to direct the Secretary of the Interior to issue regulations under the Migratory Bird Treaty Act that authorize States to establish hunting seasons for anhingas and double-crested cormorants; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS:

H.R. 3930. A bill to revise the orphan drug exclusivity provisions of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

By Mrs. UNSOELD (for herself, Mr. Swift, Mr. McDermott, Mr. Miller of Washington, Mr. Morrison, Mr. DeFazio, Mr. AuCoin, Mr. Wyden, and Mr. Dicks):

H.R. 3931. A bill to establish a program to rehabilitate and enhance Federal, State, local government, and private forest lands in the Pacific Northwest and to provide employment opportunities in the program for residents of the Pacific Northwest; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. ENGLISH (for himself, Mr. Sarpalius, and Mr. Brewster):

H.J. Res. 382. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years an individual may serve in certain positions in the Government of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SOLARZ:

H. Con. Res. 248. Concurrent resolution expressing the sense of the Congress that the authorities on Taiwan should permit the return to Taiwan of all citizens of Taiwan who are committed to peaceful political change; to the Committee on Foreign Affairs.

By Mr. MONTGOMERY (for himself and Mr. Stump):

H. Res. 300. Resolution providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 2280; Considered and agreed to.

By Mr. SHARP:

H. Res. 302. Resolution urging the President to negotiate with Canada and Mexico an expanded and improved rule of origin for the North American Free-Trade Agreement; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. SANTORUM.

H.R. 606: Mr. ZELIFF.

H.R. 643: Mr. ZELIFF.

H.R. 842: Mr. HUBBARD, Mr. DE LUGO, and Mrs. COLLINS of Michigan.

H.R. 870: Mr. TORRICELLI.

H.R. 872: Mr. GINGRICH.

H.R. 962: Mr. BLACKWELL.

H.R. 1202: Mr. BILBRAY, Mr. WEISS, Mr. DWYER of New Jersey, Mrs. LOWEY of New York, Mr. STALLINGS, Mr. HORTON, Mr. LAFALCE, and Mr. PASTOR.

H.R. 1335: Mr. SCHUMER and Mr. SWETT.

H.R. 1354: Mr. NEAL of Massachusetts, Mr. FOGLIETTA, Mr. ROSE, Mr. KLECZKA, Mrs. MINK, Mr. DE LUGO, and Mr. KOSTMAYER.

H.R. 1503: Mr. MOODY.

H.R. 1527: Mr. DUNCAN.

H.R. 1750: Mrs. LOWEY of New York.

H.R. 1823: Mr. HOYER.

H.R. 2246: Mr. COX of Illinois.

H.R. 2286: Mr. ZELIFF.

H.R. 2368: Mr. GLICKMAN.

H.R. 2407: Mr. LOWERY of California and Mr. LEHMAN of California.

H.R. 2624: Mr. ENGEL.

H.R. 2819: Mr. AUCOIN, Mr. JONES of North Carolina, Mr. OBERSTAR, Ms. NORTON, Mr. MOLLOHAN, and Mr. PANETTA.

H.R. 2832: Mr. LAUGHLIN, Mr. MANTON, and Mr. SAXTON.

H.R. 2890: Mr. LENT and Mr. CAMP.

H.R. 2898: Mr. ANNUNZIO.

H.R. 2966: Mr. ROWLAND, Mr. TORRICELLI, Mr. KILDEE, and Mr. HUBBARD.

H.R. 3017: Mr. DELLUMS.

H.R. 3018: Mr. DELLUMS.

H.R. 3164: Mr. BARNARD, Mr. HERGER, Mr. HUBBARD, Mr. ESPY, and Mr. BURTON of Indiana.

H.R. 3219: Mrs. COLLINS of Illinois, Ms. WATERS, Mr. TORRES, Mr. SAVAGE, Mr. FORD of Tennessee, Mr. ESPY, Mr. MFUME, Mr. RAHALL, Mr. TOWNS, Mr. JACOBS, Mr. CONYERS, Mr. RANGEL, and Mr. LEWIS of Georgia.

H.R. 3304: Mr. SMITH of Iowa, Mr. SKELTON, Mr. MAZZOLI, Mr. MAVROULES, Mr. HATCHER, Mr. WYDEN, Mr. OLIN, Mr. LANCASTER, Mr. BROOMFIELD, Mr. COMBEST, Mr. FRANKS of Connecticut, Mr. CAMP, Mr. RAMSTAD, and Mr. BOEHNER.

H.R. 3334: Mrs. LLOYD.

H.R. 3337: Mr. OXLEY, Mr. ROSTENKOWSKI, Mr. LEACH, Mr. HANCOCK, Mr. DUNCAN, Mr. CAMPBELL of California, Mr. BEREUTER, Mr. MCCOLLUM, Mr. PAXON, Mr. RIGGS, Mr. WYLIE, Mr. JOHNSON of Texas, Mr. ARCHER, Mr. MICHEL, Mr. MCEWEN, Mr. MARTIN, Mr. SKEEN, Mr. BURTON of Indiana, Mrs. ROUKEMA, Mr. WHEAT, Mr. BLILEY, Mr. DREIER of California, Mr. NICHOLS, and Mr. SANTORUM.

H.R. 3349: Mr. BENNETT, Mr. DICKINSON, Mr. HORTON, Mr. ACKERMAN, Mr. RAMSTAD, Mr. DOOLITTLE, and Mr. BUSTAMANTE.

H.R. 3372: Ms. NORTON and Mr. COX of Illinois.

H.R. 3425: Mr. SHAYS.

H.R. 3438: Mrs. MEYERS of Kansas.

H.R. 3439: Mrs. MEYERS of Kansas.

H.R. 3440: Mrs. MEYERS of Kansas.

H.R. 3441: Mrs. MEYERS of Kansas.

H.R. 3442: Mrs. MEYERS of Kansas.

H.R. 3484: Mr. MILLER of California, Mr. JONTZ, and Mr. APPLEGATE.

H.R. 3515: Mr. DUNCAN and Mr. SIKORSKI.

H.R. 3599: Mr. TRAXLER, Mr. HORTON, and Mr. HASTERT.

H.R. 3620: Mr. JACOBS, Mr. JONTZ, Mr. MINETA, Mr. BRUCE, and Mr. MCCLOSKEY.

H.R. 3625: Mr. LEVINE of California, Mr. DE LUGO, Ms. KAPTUR, Mr. EVANS, Mr. JONTZ, Mr. ROWLAND, and Mrs. MORELLA.

H.R. 3626: Mr. TORRES, Mr. KOLTER, Mr. MATSUI, Mr. MAZZOLI, Mr. PEASE, MR. LIPINSKI, Mr. MURTHA, Mr. NAGLE, Ms. KAPTUR, Mr. FORD of Tennessee, Mr. DWYER of New Jersey, and Mr. JOHNSON of South Dakota.

H.R. 3639: Mr. ECKART.

H.R. 3666: Mr. JOHNSON OF TEXAS.

H.R. 3678: Mr. ZELIFF.

H.R. 3748: Mr. HORTON and Mr. ECKART.

H.R. 3750: Mr. WISE and Mr. STAGGERS.

H.R. 3764: Mr. ROWLAND.

H.R. 3770: Mr. YOUNG of Alaska, Mr. MCCRERY, and Mrs. MEYERS of Kansas.

H.R. 3785: Mr. PENNY, Mr. HENRY, Mr. VALENTINE, Mr. LEWIS of Florida, Mr. CAMP, Mr. RIGGS, Mr. UPTON, and Mr. ZELIFF.

H.R. 3824: Mr. LAGOMARSINO and Mr. IRELAND.

H.R. 3904: Mr. WAXMAN, Mr. TOWNS, Mr. TRAFICANT, Mr. STARK, and Mr. BOUCHER.

H.J. Res. 291: Mr. BONIOR, Mr. BORSKI, Mr. DICKS, Mr. DREIER of California, Mr. DELLUMS, Mr. FISH, Mr. FLAKE, Mr. HALL of Texas, Mr. INHOFE, Mr. KENNEDY, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MILLER of California, Mr. SABO, Mr. SMITH of Texas, Mr. SPENCE, Mr. WAXMAN, and Mr. WYDEN.

H.J. Res. 356: Mr. EMERSON, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FOGLIETTA, and Mr. POSHARD.

H.J. Res. 367: Mr. CLEMENT, Mr. COX of California, Mr. MCEWEN, Mr. ROBERTS, Mr. ROGERS, Mr. COMBEST, Mr. ZELIFF, and Mr. BUSTAMANTE.

H. Con. Res. 88: Mr. CAMPBELL of California.

H. Con. Res. 100: Mr. HOUGHTON, Mr. SOLARZ, Mr. VALENTINE, Mr. HENRY, and Mr. PAXON.

H. Con. Res. 156: Mr. FOGLIETTA, Mr. LEVIN of Michigan, and Mr. FAWELL.

H. Con. Res. 168: Ms. PELOSI.

H. Con. Res. 180: Mr. MINETA, Mr. WASHINGTON, and Mr. SKAGGS.

H. Con. Res. 232: Mr. SMITH of Florida, Mr. LANCASTER, and Mr. LEHMAN of Florida.

H. Res. 257: Mr. SLATTERY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. SHARP.

EXTENSIONS OF REMARKS

LET'S PUT "SERVICE" BACK IN POSTAL SERVICE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GEKAS. Mr. Speaker, I rise today to share with my colleagues and the American people an article by our distinguished colleague, Representative WILLIAM BROOMFIELD, which appeared in the November 12, 1991, issue of the Christian Science Monitor. I believe this is worth the attention of the American public and could be the beginning of a much-needed look at the U.S. Postal Service. The text of Representative BROOMFIELD's article follows:

[From the Christian Science Monitor, Nov. 12, 1991]

LET'S PUT "SERVICE" BACK IN POSTAL SERVICE

(By William S. Broomfield)

When I read that the management of the United States Postal Service had just awarded itself $20 million in bonuses for the past three years, I did a double take. Wasn't this the Postal Service that had just lost $1.4 billion during the same period? Wasn't this the Postal Service that had become the topic of more constituent outrage that any issue I can remember in recent years?

In July, I introduced a resolution that would create a bipartisan commission to study the postal system. It's been 20 years since the old post office became a quasi-independent agency. It seemed like a good time to take a fresh look at what Congress had done and do some fine-tuning—or even a major overhaul if necessary.

Within days, 125 members of Congress has signed onto the bill as cosponsors. They told stories of the same constituent outrage that I had been hearing. I soon discovered, however, that to some in Congress the Postal Service has become not just a sacred cow, but an entirely sacrosanct herd. It sits on a reservation with "off limits" signs posted all over it.

The House's Post Office and Civil Service Committee has refused to entertain any thought of a commission and has put postal union lobbyists up to roving the halls of Congress and reining in any members who signed onto the resolution.

The biggest canard these lobbyists have been airing is that the resolution calls for privatizing the Postal Service. That's simply not true. The resolution doen't even suggest privatization

What is the Postal Committee afraid of? It's probably concerned that a truly independent commission will discover what any American citizen could hve told the committee a long time ago: At the Postal Service, service is becoming a thing of the past.

At a time when more and more businesses remain open on weekends, when it is getting harder and harder for two-earner families to get all the family chores done during the work week, the Postal Service is closing some of its offices on Saturdays, reducing window hours at other post offices, and removing collection boxes from convenient locations.

The removal of collection boxes is an especially sore point. They were put on street corners for a reason: the convenience of the elderly man or woman who no longer has the stamina to walk blocks through rain, sleet, or snow to mail a letter.

Too many of those mailboxes are vanishing. It's not the local vandals who are ripping them out of the sidewalks. It's the management of the US Postal Service.

Moreover, at time when the population is growing, and people are forming new neighborhoods, it is getting harder and harder to get the Postal Service to open new offices that can serve these growing areas. And at a time when when the pace of the economy is moving faster and faster, the Postal Service is implementing slower and slower standards for the delivery of first-class mail.

The Postal Service can get away with poor service as no other corporation can. It is a monopoly protected by federal statute. Generally speaking, no one else in America is allowed to carry letter mail. The Postal Service has been spared the rigorous oversight necessary to provide good servcie at reasonable prices. The real loser is the American consumer.

It's time to take a fresh and impartial look at the system and see whether the American people are getting their money's worth. There's no better way to accomplish that than with a bipartisan, blue ribbon commission.

GOVERNMENT AT ITS BEST

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, at a time when people read so many unpleasant things about govenment—some of which are true—it is very refreshing to read something that is as deservedly positive as this article by Robert Campbell about the new public library in Newton. The article speaks for itself, and I will not add to the wholly justified encomiums which it bestows on this magnificent building. I would simply like to add here a list of those who are deserving of credit for this example of government at its best. Mayor Ted Mann of Newton, who has been a tireless and effective advocate for enlightened public policy deserves much of the credit, as does the Newton Board of Alderman which gave its support for the project. Particular leadership on this effort was shown by the Newton Board of Library Trustees. The members of that board are Joseph Biotti, Jr., Michael Lipof, Melvin A. Ross, and Florence R. Rubin, all of whom deserve a great deal of credit. And the most credit of all goes to the person who chaired the library trustees, Dorothy Reichard. The extraordinary nature of her achievement is underlined by the fact that she serves—as do all the trustees—in a wholly voluntary and unpaid capacity. I know that, because Dorothy Reichard is one of the great assets of the Fourth Congressional District, which I happened to have inherited from my predecessor, Congressman Robert Drinan. Dottie Reichard ran the Fourth District Congressional Office for Father Drinan for several years, as she has for me since I was elected. I am enormously pleased to be able to invoke the principle of innocence by association and bask in the reflected glory that belongs to Dottie Reichard for this Newton Library. Her energy, dedication, and creativity are the single biggest reason that it now exists in the form in which it does.

ARCHITECTURE

(By Robert Campbell)

The new main library in Newton is a minor miracle. It's a winner in so many ways: as beautiful architecture, as a working book dispensary, as a lively community center and as a civic presence that speaks for Newton as a town long renowned for the quality of its schools and intellect life.

High above the library, a symbol of all these virtues climbs into the sky. It is a tall white tower that rises above the surrounding houses and trees to become, especially at night when it is illuminated, a lantern of truth in the sky. Like the white cupolas of Harvard, which it resembles, the tower stand for the brain and the imagination, properly located up in the air near heaven, well above the more mundane functions.

Suddenly, today, every town seems to be building a new library. This is happening at a time when, surveys show, young people aren't reading much, and at a time when everyone says the book is about to go the way of dodo, to be replaced by the computer screen.

Great architecture is usually the product of a culture in decline, claim some theories, not a culture still alive and creating itself. Are we building these temples to the book in a desperate effort of denial, a doomed attempt to stave off the book's inevitable demise?

Maybe. But I think there's another motive, at least here in Newton. This library is above all a community center. And Americans are starved for a sense of community.

Thus the Newton library is not only a place of books, but one of art galleries, meeting rooms and quite meditation spaces in which you can lift your eyes from a book to view of trees, water and sky. It's also a place in which you can share with your neighbors the elemental delights of architecture: light and space, order and variety, memory and invention.

Whatever the reason, Newton is boggling pop success. The only people who sometimes seem unhappy with it are the members of the staff, who are overwhelmed by too many users. Books are piling up everywhere because they are being circulated in such numbers that there isn't time to put them away.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Business has quadrupled since the new building opened.

The architects are a joint venture: A. Anthony Tappe and the firm of Kallmann. McKinnell & Wood, with KMW handing most of the actual design. For those who know KMW's work a lot of the Newton library will look familiar, with motifs repeated from the American Academy of Arts and Sciences in Cambridge, Shad Hall gym at Harvard Business School, and Becton Dickinson corporate headquarters in New Jersey.

One doesn't know where to begin in praising this marvelous building. Practical things: The people who come by car and the people who came buy foot are ingeniously brought together, so they all enter the building through the same lobby, sharing a sense of procession. Evocative things: The floor plan is that of a church. At its center is a triple-height atrium like the tall skylit nave of a church, on both sides of which are lower, darker aisles filled with bookstacks. At the far end of the atrium is a churchlike apse, a rounded space that feels like an ambulatory below and a chapel above. From this "chapel," appropriately enough, you overlook an old graveyard.

Or civic things: The library is sited in such a way that it shares a small aromatic park with the Newton City Hall. By facing the park with its front door, the library transforms it from an isolated patch of green into something more like a town common. The city hall and the library, together, energize the park as do the meeting hall and church of a New England green. Something important is happening here, something that's almost disappeared from American life: the sense of a civic place, a public space proudly defined by significant public monuments.

Or, finally, details. The handsome blend of reds in the brick, delicately modulated by inset panels and trim courses. The triangular braces—a trademark of these architects ever since the American Academy—here employed indoors, around the top of the atrium, as sculptural objects that make manifest the light from above.

In a more cosmic sense, what's most exciting about the building is that it integrates three ways of design that normally have nothing to do with one another. At one and the same time, it's modern and historical and vernacular.

In the America of today, except in the work of a few architects like Robert Venturi, those paths seldom meet. Vernacular is the junk along the highway, rarely designed by architects, a chaotic but often engaging clutter of practical marketable buildings and images. Modern is the abstract, often alien stuff people think of as "functional," although it rarely functions especially well. Historical is the architecture of the past, often imitated by the postmodern architects of the '70s and '80s who try to make you like their new buildings by copying older architecture you already do love.

Integrating all three into one, Newton points a possible direction for American architecture.

Historical: With its brick walls and columns, its sloping slate roof, its tall white cupola, Newton looks like the neo-Georgian undergraduate houses of Harvard. Because it's not afraid to trade on our understanding of such old models, it's legible. Using a language we know, it talks to us about civic and intellectual presence.

But look closer. At that atrium for instance. This is a white-on-white abstraction that is pure and austere and lovely in a totally modern way. "We wanted a very sort of modern light," says architect Gerhardt Kallmann. He got it here, a white glow that ennobles every detail and transforms the library entirely. Great libraries of the past were dark, protective vaults of books, like the Boston Public Library. Newton is the opposite, something far more open, a modernist interior in which you always seem to be looking through layer upon layer of bright space out to the green trees beyond. Indeed, there is hardly a place anywhere within this building that doesn't enjoy both natural light and a view of nature.

The Newton library wasn't built by a university or museum with the freedom to choose its own contractor. It was a public job and had to be awarded to the lowest bidders. In Massachusetts, nine times in 10, that's a recipe for shoddy construction. To have pulled off a building this good under such circumstances was a triumph of commitment and willpower that must have involved a large part of the community.

It isn't surprising, therefore, to learn that the people of Newton have so far contributed $1.2 million in private gifts toward their new library. The Newton library, clearly, is the product not only of superb design but of communal love.

A TRIBUTE TO THE COLMA FIRE DISTRICT ALL-VOLUNTEER FIRE COMPANY OF SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LANTOS. Mr. Speaker, today I rise and pay tribute to the Colma Fire District, the only all-volunteer fire company in San Mateo County. As the Oakland Hills fires storm raged in late October, the firefighters of Colma Fire District rose to the occasion and bravely fought the deadly flames.

The massive fire cut a path of destruction and death. The speed with which it spread was shocking; it took the lives of 25 residents and left millions of dollars of damage in its wake.

When they received the call, 20 firefighters from the district were deployed to Grizzly Peak. There they fought the unpredictable flames. The remaining members of the force remained on guard to protect their district.

Even considering the breadth of its destruction, the fire could have been a lot worse. It is safe to assume that greater damage was averted through the brave actions of the Colma Fire District members.

It is important to remember, Mr. Speaker, that the men of the Colma Fire District are all volunteers. They have dedicated themselves to public service; protecting the citizens of the San Francisco Bay area against the threat of fire, they risk life and limb every day.

The men of the Colma Fire Company do more within their community than fight fires. They are also involved in food drives, Toys for Tots, and other activities that benefit the less fortunate among us.

Mr. Speaker, the members of the Colma Fire District are exemplary citizens of San Mateo County. Because of their commitment to our community, San Mateo County is a better, and safer, place to live. No wonder so many youngsters grow up dreaming to be firefighters.

HONORING GILBERT GARCIA, RECIPIENT OF THE 1991 SANTA BARBARA HISPANIC ACHIEVEMENT COUNCIL AWARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Gil Garcia, a lifelong resident of Santa Barbara, and a very charitable person.

Gil has many civic and community accomplishments to be proud of, most notably his work with minority outreach. By trade, Gil is an architect with his own business; he has received the Santa Barbara Chapter of the American Institute of Architects Award for affordable housing designs. As chair of the Hispanic Business Committee of the Santa Barbara Chamber of Commerce, Gil has worked very hard to assist minority groups in achieving their goals. He has also received the Santa Barbara Minority Business Development Center's Award for managing an exemplary minority business and serves as the chair of the city's housing authority.

Gil a true civic leader. He is also a wonderful person who puts all his effort into a project to ensure its success. Gil can be credited for many more accomplishments than listed here, but it should be known that his efforts have made the city of Santa Barbara a better place in which to live. Personally, I have known Gil for years and he has always been a friend and helpful person to work with in the 19th district.

As Representative of this great city I, along with Santa Barbara's citizens, have much to be grateful for to Gilbert Garcia. It is very appropriate for Gil to be honored by the Hispanic Achievement Council.

QUESTIONNAIRE RESULTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. BEILENSON. Mr. Speaker, I take this opportunity to share with my colleagues the results of a questionnaire that I sent my constituents in September.

The results of the poll are, I think, interesting and significant. For example, an overwhelming majority of those who responded—98 percent—think defense spending should either be frozen or cut, while many favor increased spending for at least some domestic programs. Of particular interest, a majority of the respondents—58 percent—indicated they are willing to pay more taxes to finance the additional spending they favor.

By another strong majority—92 percent—my constituents believe that medical professionals in federally funded family planning clinics should be permitted to offer abortion-related information to their clients who request it.

On the question of health care reform, 57 percent of the respondents support providing health insurance to everyone by shifting to a single, Government-sponsored insurance plan modeled on Canada's system.

Regarding campaign finance reform, 53 percent favor public financing of congressional campaigns, while another 41 percent support reducing the amount a PAC can contribute to a House candidate from $5,000 to $1,000. Only 7 percent of the respondents prefer leaving the current system of financing congressional campaigns as it is now.

And, finally, when asked which proposals they would favor to reduce U.S. dependence on imported oil, the majority chose regulatory measures, such as raising requirements for auto fuel efficiency.

I find these annual questionnaires to be a valuable means of learning my constituents' opinions on the major issues before us in Congress, and I thought my colleagues might be interested in seeing the results, too:

THE FEDERAL BUDGET

Despite persistent efforts during the past decade to bring our huge budget deficits under control, the federal government continues to spend far more than it raises in taxes, requiring it to borrow immense sums to make up the difference. In 1980, our national debt stood at $900 billion; since then it has more than quadrupled to $3.7 trillion. Lawmakers have been stymied in attempts to make substantial reductions in these annual deficits because there is little support among voters either for raising taxes or for cutting most federal programs. In fact, public pressure is growing to increase spending in a number of areas.

1. The following is a list of virtually all federal programs and activities, showing the percentage of the budget each currently represents. For each of them, please indicate whether you favor: (1) cutting funding; (2) spending about the same amount; or (3) increasing funding.

[In percent]

	Cut	Same	Increase
Military (Defense) (21 percent of the budget)	79	19	2
Social Security (19 percent)	11	67	22
Food, housing, income, and Medicaid for the poor (9 percent)	17	43	40
Medicare (health insurance for elderly and disabled) (7 percent)	6	48	46
Civil service and military retirement (4 percent)	38	58	4
Veterans' benefits (2 percent)	15	71	14
Other domestic programs (16 percent)			
Each of these programs represents less than 1 percent of the budget:			
1. Health Research (for AIDs, Alzheimer's, cancer, etc.)	8	35	57
2. Family planning programs	19	38	43
3. College financial aid	22	47	31
4. Head Start	20	42	38
5. Child Care	19	39	42
6. Home-buying assistance for middle-income families	30	46	24
7. Highway construction	16	57	27
8. Mass transit	12	31	57
9. Natiional parks, forests, and wildlife refuge	8	52	40
10. Environmental protection and toxic waste clean-up	7	40	53
11. Energy conservation, research and development	9	38	53
12. Space programs (NASA)	47	41	12
13. Assistance to State and local law enforcement agencies	24	57	19
14. War on drugs	28	39	33
15. Border patrol	19	43	48
16. Air and other transportation safety/regulation	5	56	39
17. Food and drug safety/inspection	8	57	35
18. Federal courts and prisons	14	59	27
19. Arts and humanities	37	42	21
20. Farm programs	48	39	13
21. Congress	68	29	3
22. White House	71	27	2
Foreign aid (1 percent):			
1. Foreign Economic Aid	60	31	9
2. Foreign Military Aid	88	11	1

Note.—15 percent of budget consists of interest payments on the national debt which cannot be cut unless borrowing is reduced; and 7 percent consists of payments for depositors who had accounts in failed savings and loans.

2. If you checked "increase" on one or more of the above categories, are you willing to pay more taxes to finance additional spending in those areas? Yes, 58 percent, No, 42 percent.

CAMPAIGN FINANCE REFORM

In the 1990 elections, the average amount spent by an incumbent seeking re-election to the House of Representatives was $364,000, while the average spent by a challenger was $105,000. Special-interest political action committees (PACs) contributed 13 times more money to incumbents than to challengers, widening the financial gap between the two types of candidates and fueling the high level of spending.

Because PACs are playing an ever larger role in the financing of House campaigns, there is growing concern that lawmakers are becoming more responsive to special-interest contributions than to the people they were elected to represent, and that elections are becoming more heavily tilted in favor of incumbents. As a result, public confidence in the integrity of our political system is being badly damaged.

To control the cost of campaigns and reduce the influence of special-interest money, Congress is considering various proposals for changing the way candidates' campaigns are financed. Some people say we should simply lower the limit on the amount of money a candidate can receive from each PAC. Others favor financing congressional campaigns the way presidential campaigns are funded, by providing public funds to candidates who agree to abide by a spending limit and not to accept any PAC or individual contributions.

3. Which approach to reform of campaign finance law do you support? (Choose one.)

A. Provide public funding, just as presidential campaigns are financed now, for candidates who agree to abide by a spending limit and not to accept any individual or special-interest PAC contributions, 53 percent.

B. Do not provide any public funds or set spending limits, but do reduce the amount each PAC can contribute to a House candidate from $5,000 to $1,000, 41 percent.

C. Leave the rules as they are, with no limit on the total amount a candidate may spend and no reduction in the amount a PAC can contribute, 6 percent.

ABORTION COUNSELING

When Congress established the federal family planning program for low-income women in 1970, it stipulated that none of the funds could be used to pay for abortions. However, clinics could offer their pregnant clients information about abortion and, if they requested it, a referral to an abortion clinic in the area.

In 1988 the Reagan Administration re-interpreted the law and issued new regulations barring doctors and other personnel in federally funded family planning clinics from offering any abortion advice or referrals, or from answering any abortion-related questions their clients ask. This new interpretation was upheld by the Supreme Court earlier this year, and Congress is currently debating legislation to overturn the Court's decision and rescind the rule.

Supporters of abortion counseling say that this so-called "gag-rule"—which allows the government to dictate to medical professionals what information they may or may not provide to their clients—forces doctors to violate medical ethics, and infringes on the Constitutional right of free speech and on doctor-patient confidentiality. And, the rule is unfair to low-income women because they will be denied access to information about all legal options, while more affluent women will continue to be given complete information by their private doctors.

Opponents of counseling argue that federally funded family planning services, which were originally intended to reduce abortion, should not be used to provide counseling and referrals for abortion. The rule does not prevent a women from seeking and obtaining an abortion outside the federal program, but merely assures that federal funds are not spent to encourage abortion.

4. Should doctors and other medical professionals in federally funded family planning clinics be permitted to offer abortion-related information and referrals to their pregnant clients who request it? Yes, 92 percent, No, 8 percent.

DEPENDENCE ON IMPORTED OIL

If present trends continue, by the end of the decade the United States will import two-thirds of the oil we use, up from one-quarter in 1985. The Bush Administration and Congress agree that our growing dependence on foreign oil poses a threat to our vital national security interests, but disagree about how to reduce reliance on imports. In general, the leading proposals would either: (1) encourage greater domestic production; (2) rely on regulatory approaches to cut oil consumption; or (3) raise the price of oil to encourage conservation.

Proponents of increasing domestic energy production want to strengthen U.S. energy industries and avoid more government regulation or higher taxes. Opponents argue that any significant additional energy production is likely to cause serious environmental damage.

Supporters of regulatory measures (such as higher auto fuel economy requirements) want to promote energy conservation without incurring additional energy costs for consumers. Opponents worry that such measures could hurt the U.S. auto industry and other domestic businesses.

Supporters of higher energy taxes also want to promote conservation, but say that higher prices are necessary to generate demand for better mass transit systems and for cars that get better mileage; that point out that this approach has the added benefit of reducing the federal deficit. Opponents, however, say that energy taxes would unfairly burden the poor, those who have to drive long distances, and businesses dependent upon tourism.

5. Which of the following proposals do you support for reducing U.S. dependence on imported oil? (Choose as many as you wish.)

Promote greater domestic energy production:

A. Increase offshore oil and gas drilling—27 percent.

B. Permit oil and gas drilling in the Arctic National Wildlife Refuge—23 percent.

C. Provide new tax breaks for exploration and production of oil and gas—35 percent.

D. Expedite licensing of new nuclear power plants—35 percent.

Reduce oil consumption through regulatory measures:

E. Raise requirements for auto fuel efficiency (more miles per gallon)—76 percent.

F. Establish energy efficiency standards for appliances and equipment—69 percent.

G. Require states to rewrite building codes to improve energy efficiency—64 percent.

Encourage the conservation of oil by raising its price:

H. Raise the federal tax on gasoline—28 percent.

I. Impose an oil import fee—41 percent.

J. Establish a tax on all forms of energy—12 percent.

HEALTH CARE REFORM

Faced with skyrocketing health care costs and the fact that tens of millions of Americans lack adequate health insurance, members of Congress are contemplating major changes in our health care delivery system. Two principal approaches have emerged for dealing with these problems: (1) require all employers to pay for insurance for employees and their dependents, and extend government-sponsored coverage—Medicare and Medicaid (MediCal)—to everyone else; or (2) establish government-sponsored insurance that would provide coverage for everyone under a single, unified plan, similar to Canada's system.

Supporters of the first approach say that building on the existing private/public health insurance system would preserve our high quality of health care and cause the least disruption to providers, insurers, and patients. Opponents argue that this plan would fail to deal sufficiently with the relentless rise in costs, the massive amounts of paperwork required by the multitude of private health insurers and government agencies, and the high rate of unnecessary procedures.

Supporters of the second approach say that only by shifting to a single, government-sponsored insurance plan can we reduce health care costs while also providing comprehensive benefits for everyone. This system would eliminate vast amounts of overhead costs, yet still provide reasonable payments for providers and allow patients to choose their own doctors and hospitals. Opponents argue that such a system would lead to long waits for elective surgery and stifle the advances in medical technology which have made the U.S. the world leader in this field.

Opponents of both these approaches say that neither one should be pursued, because they would require higher taxes and more government regulation. Instead, we should concentrate on more modest goals, such as using tax incentives to encourage more small businesses to offer insurance.

6. Which one of the following approaches to reforming our health care system do you support? (Choose one.)

A. Provide health insurance for everyone by building on the existing system of both public and private insurance; require all employers to pay for insurance for employees and their dependents, and extend government-sponsored coverage—Medicare and Medicaid (Medi-Cal)—to everyone else—20 percent.

B. Provide health insurance for everyone by shifting to a single, government-sponsored insurance plan modeled on Canada's system—57 percent.

C. Do not try to provide health insurance for everyone; instead, work on more modest changes, such as using tax incentives to encourage more small businesses to offer health insurance—23 percent.

OPPORTUNITY FOR MUTUALLY ASSURED DISARMAMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FASCELL. Mr. Speaker, earlier this month, the Subcommittee on Arms Control, International Security and Science of the Foreign Affairs Committee held a hearing on President Bush's September 27 nuclear arms control initiative and President Gorbachev's October 5 response. The witnesses were the Director of the U.S. Arms Control and Disarmament Agency, Hon. Ronald Lehman, and three experts from the Congressional Research Service: Mark M. Lowenthal, senior specialist in U.S. Foreign Policy; Amy F. Woolf, specialist in national defense; and Francis T. Miko, specialist in European and Soviet Affairs. What follows are some key observations about the President's disarmament proposals, Gorbachev's response, and the expert testimony on November 5.

We no longer need to rely solely on mutually assured destruction as the basis for our country's national security policy. Rather, our security can be enhanced with greater efforts toward mutually assured disarmament.

The recent disarmament proposals by President Bush and Soviet President Gorbachev signify the end of the cold war era of arms control. We need to let go of the cold war mindset that guided policy decisions toward new arms production and escape the premise that we have to arm ourselves to the teeth in order to eliminate some of the arms poised against us. Over the years, we placed too much of our energies and moneys into the pursuit of massive new arms production, while efforts at controls to increase U.S. security lagged behind. In short, we had an arms race in all forms of weaponry, from nuclear to chemical conventional arms.

The post-World War II bipolarity of the United States versus the Soviet Union and NATO versus the Warsaw Pact has not yet given way to multipolarity. Nonetheless, the cold war geopolitical structure has crumbled with the Berlin Wall. Old adversaries are joining together to work toward global nuclear, chemical, and biological disarmament, nonproliferation controls on weapons of mass destruction capabilities, and multilateral restraint in the sale of conventional arms. President Bush's initiative and Gorbachev's response signal a new approach of unilateral and reciprocal action based on mutual interests and an abandonment of many of the cold war ideological underpinnings.

This new reality was most graphically demonstrated in the failed coup this past August in the Soviet Union. It has resulted in the pursuit of new priorities such as the elimination of thousands of tactical nuclear weapons and chemical stocks and the renewed commitment to tighter controls on remaining weapons. In short, political uncertainties in an unstable Soviet Union with up to 12 independent republics raise important questions about nuclear command and control as well as nuclear proliferation.

Fears that Russian nuclear entrepreneurs are selling reactors, enriched uranium, heavy water, even peaceful nuclear explosives [PNE's] pose a new nuclear proliferation threat. Fears also exist that Soviet nuclear weapons might be used by the republics as bargaining chips with central authorities in Moscow. As Ukrainian leaders, for example, demand a say in weapons use, locations, deployments—in effect, all decisions pertaining to Soviet nuclear forces—we must be confident that they support central control of the nuclear arsenal and agree to abide by international arms control agreements.

With the center rapidly losing ground we must establish relations with the leaders of the republics. As their political roles continue to expand, power inside the former Soviet Union remains fluid, and so we must be flexible. The power structure that emerges out of the new political union and economic pact in the Soviet Union will have serious implications for future arms control and disarmament negotiations.

Speaking from years of experience formulating, directing, and negotiating arms control in the past, Ambassador Lehman identified the administration's top arms control priorities for 1992. These include the conclusion of the Chemical Weapons Convention, agreement on open skies, and follow-on conventional arms talks and European security negotiations in Helsinki. He also emphasized the need to strengthen efforts in nuclear nonproliferation focusing on the Korean peninsula, South Asia, and the Middle East.

One key observation contained in the testimony of the CRS experts is that while the President's proposals and Gorbachev's response will eliminate several types of nuclear weapons, these proposals do not necessarily mean a change in the way the United States or the Soviet Union view their defense and security requirements. Rather, the CRS experts describe them as responses to changes that have already occurred in Europe and the Soviet Union. The CRS experts concluded that it is not the unilateral steps but the proposals for further negotiations, such as the President's call for bilateral elimination of MIRVed ICBMs, that provide the opportunity for more sweeping changes.

The President's decision to eliminate ground- and sea-based tactical nuclear weapons has my full support. In this regard, the INF Treaty, which resulted in the elimination of an entire class of nuclear weapons, is most instructive and worth emulating. We should also be working toward a comprehensive ban on nuclear testing and on plutonium production.

The President's initiative and the Soviet positive response provide an opporunity for unprecedented progress in arms control and disarmament in the 1990's. We now have a greater opportunity to:

Bring an end to the nuclear arms race;

Stop tactical nuclear weapons from being dangerously shuffled around Europe and within the Soviet Union;

Stop the production of a new generation of stealth bombers carrying nuclear weapons;

Stop nuclear testing; and

Stop plutonium production.

The nuclear arms race may become a disarmament race where the Soviets turn to the United States to help it get rid of thousands of nuclear and chemical weapons. We should be ready to respond positively to such a challenge and opportunity.

DAVID GEARY WINS 1991 VICTORY AWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, last week, I had the great pleasure of meeting in my office with Mr. David Geary, who is the Massachusetts winner of the 1991 Victory Award. Mr. Geary is a consumer of mental health services and he was one of those honored last week at the Kennedy Center. He was nominated by the Massachusetts Department of Mental Health and selected by Massachusetts Governor William Weld for this award in recognition of his integrity and courage in the face of adversity. Mr. Geary has suffered from a mental illness for 12 of his 34 years, and he has fought back valiantly. As a very active volunteer staff member of the Alliance for the Mentally Ill in Massachusetts, he has done extremely important work on behalf of himself and others similarly situated. I know from my own conversation with Mr. Geary that he is a man of courage, purpose, and skill, and the mentally ill in Massachusetts and elsewhere are fortunate to have so dedicated an advocate. I congratulate Governor Weld and President Bush for their decision to bestow such a deserved honor on Mr. Geary. And I ask that the statement that Mr. Geary issued on the receipt of his award be printed in the RECORD.

STATEMENT FROM DAVID GEARY, RECIPIENT OF THE 1991 VICTORY AWARD FROM MASSACHUSETTS

I am the State Victory Recipient for 1991. When I look at some of the past honorees, I feel I fall a little short in comparison to the contributions to society they have made. However, I am using all of my God-given strengths to overcome and be at peace in this turbulent world. I have a major mental illness and for all of us who are psychiatrically challenged and for their loved ones that feel the pain, this is a victory for each and everyone of these people, not just myself.

Research is surging ahead, and with medication, these advances are allowing us to be productive citizens with a high quality of life, taking us out of our constant pain, confusion and anguish. As we become more vibrant, we realize that there is another horror: Society's general view on mental illness and at the sting of stigma as formidable as a brick wall and just as hard to get through. But there is a way through: education and facts about major mental illness. I want to let people know that we are less violent than the general population, that our disease is biologically based, and that we can return to a normal productive life as citizens.

This award is for all the mental health consumers of Massachusetts that are fighting for justice and equality despite a life of pain.

A TRIBUTE TO ZUBIN MEHTA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to the great maestro, Zubin Mehta. An inspiring man who leads an inspiring life, Mr. Mehta is most deserving of this distinguished body's praise.

Born in Bombay, India, Zubin Mehta was raised in a musical household headed by his father, Mehli Mehta, a cofounder of the Bombay Symphony Orchestra. At the age of 18, Zubin abandoned his medical studies and began a career in music that would lead him to the pinnacle of his profession.

Zubin's genius was never in doubt. After studies at the Academy of Music in Vienna, Zubin Mehta conducted the Vienna and Berlin Philharmonic Orchestras at the ripe old age of 25. From 1962 to 1967, Zubin Mehta was music director of the Montreal Symphony. In 1962, the Los Angeles Philharmonic appointed him its music director, a post he held for 16 years. In 1979, he was named musical director of the New York Philharmonic, a post he still holds. Since 1969, Zubin has been music director of the Israel Philharmonic Orchestra. In 1981, that appointment was extended for life.

Known as one of the greatest conductors of all time, Zubin Mehta's impression on the world of music is indelible. Over the years, he has conducted thousands of public concerts. His recording legacy is equally impressive. He has made more than 30 recordings with the New York Philharmonic, including Mahler's Symphony No. 5, Holst's "Planets" and Sibelius' Symphony No. 2 and "Finlandia." Recently, he recorded Stravinsky's "Rite of Spring" and "Symphony in Three movements" and a Gershwin collection including "Rhapsody in Blue," "An American in Paris," and excerpts from "Porgy and Bess."

Included among his many awards and honors are the Nikisch Ring, bequeathed to him by Dr. Karl Bohm, and the Vienna Philharmonic Ring of Honor to commemorate the 25th anniversary of his Vienna Philharmonic conducting debut.

In Israel he was awarded Honorary Doctorates by the Hebrew University Jerusalem, the Tel-Aviv University, and the Weitzmann Institute, and the Hebrew University also named a wing of the musicology department after him and his father.

Mr. Speaker, Zubin Mehta is an honorary citizen of Tel Aviv, and a worthy citizen he is. With hostilities in the Persian Gulf imminent, Zubin abandoned his schedule and flew to Israel to be with its citizens and his Israel Philharmonic Orchestra colleagues. Understandably, he was received in Israel as a hero.

In fact, Mr. Speaker, Zubin Mehta is a hero to many, and I include myself among those numbers. It is with great pride and admiration that I rise to honor him today. I ask my colleagues to join me in paying tribute to this legend of music and in wishing him the best in all of his future endeavors.

ON THE OCCASION OF PAUL RIDLEY-TREE'S 75TH BIRTHDAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to a very fine and outstanding individual, Paul Ridley-Tree, on the occasion of his 75th birthday, December 12, 1991.

Paul and his wife Leslie have been major philanthropists in Santa Barbara for many years. They are firm believers in education and the arts. Some of their notable contributions include sponsoring musical benefits on behalf of the Santa Barbara Symphony, working very closely with the Music Academy of the West, and donating $100,000 to restoration efforts at the Lobero Theater. They have also set up the Ridley-Tree Scholarship Fund for academic achievement at Santa Barbara City College, and the Ridley-Tree Education Center at the Santa Barbara Museum of Art to assist children, senior citizens, and the handicapped in attaining artistic achievement.

The most important asset of Paul is that he is a generous, caring, and gracious individual. It is a pleasure to be in Paul's company. He is always positive, an important characteristic for the role model he is.

In closing, it would be difficult to overstate how influential Paul has been in this community. I wish him well on his 76th year.

ONE SMALL STEP FOR WATER REFORM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MILLER of California. Mr. Speaker, I would like to share with my colleagues two editorials that present a clear and convincing case for water contract reform legislation.

As you may recall, this issue was the subject of a vote on Monday the 18th in which 245 Members, a majority of the House—though just short of the two-thirds vote required—supported a drought relief bill with my amendment that would limit long-term Federal water contracts to 3 years, instead of the automatic 40-year renewals as is the current Interior Department policy.

The Washington Post on November 21 described the narrow-minded Western water policies of Interior Secretary Manuel Lujan as failing to address the critical and contemporary question of how much Federal water should be diverted to "nonessential agriculture at the expense of municipalities."

As the 40-year contracts that guarantee huge volumes of water to large California irrigators begin to expire, the question of their renewal is of utmost importance. As California approaches a sixth year of drought, how can we continue to supply low-cost water for agriculture—more than 80 percent of the State's water—for 40 more years under identical terms? Automatic renewals ignore the severity of the drought, the impact of the contracts on the environment, and the demands from new municipal users that did not exist when the contracts were first signed in the 1940's and 1950's.

On November 20, the Los Angeles Times featured an editorial congratulating the majority of the House who voted to block 40-year Federal water contracts. The editorial criticized current policy, claiming that "the Interior Department is renewing contracts for subsidized irrigation water as though the State were in no danger of a sixth year of drought."

Mr. Speaker, I call my colleagues' attention to these two editorials, which I have included with this statement, because I fully intend to bring water contract reform legislation back to the House floor next year. Water contract reform has become the single most important water policy decision facing California and the West.

Taxpayer organizations, environmental groups, major urban water agencies, national newspapers, and 245 Members of the House agree that the time has come for water policy to reflect the demands of the 1990's and the next century.

The two editorials follow:

[From the Washington Post, Nov. 21, 1991]

WATERSHED

The Western water problem used to be almost entirely one of supply; there wasn't enough. Now the government has significantly increased supply by damming up and diverting the region's rivers, and the problem has become one of allocation as well: whether too much low-cost federal water is going to nonessential agriculture at the expense of municipalities, the nonagricultural economy and the environment.

The Bush administration, in the person of Interior Secretary Manuel Lujan, has refused to confront the issue, claiming that under the law it is powerless to shift any water away from agriculture and saying responsibility rests with Congress or the states. This week George Miller, new chairman of the House Interior Committee, tried, if not quite to force the administration to make the situation better, at least to keep it from making it worse. He brought up water contract legislation under a House procedure requiring a two-thirds vote. While he failed to get quite that, he got a 245–164 majority and is serving notice he will try again. The western water rules may be about to change.

California is the prime example of both the benefits and costs of traditional western water policy. Its rivers are mostly in the north; they converge in the San Francisco Delta and Bay, together a major western plant and animal breeding ground. But much of the water from these rivers is now diverted south. The deserts in the state's long Central Valley and Los Angeles area have been reclaimed, but the delta and bay have been degraded by the loss of fresh water in the process; parts of the valley have also been degraded by accumulations of salts and agricultural chemicals.

A first generation of 40-year federal contracts to deliver water to valley irrigation districts is now expiring. Mr. Lujan claims he has no choice but to extend them, guaranteeing the farmers the same supplies for another 40 years, and has begun to do so. Interior Chairman Miller, in the House, and water subcommittee chairman Bill Bradley, in the Senate, have both introduced bills that would force the secretary to reserve enough water to meet environmental needs first. In the meantime, Mr. Miller tried to attach to a drought-relief bill a provision that expiring contracts could be extended only three years at a time.

The drought bill was a fitting vehicle. The 6-year California drought has greatly clarified who wins and loses under current water policy. A few obscure animal species have almost been wiped out, so little water has been left for them; the Endangered Species Act may be invoked next. Mr. Miller will let drought-relief bill go to conference and try to tack his amendment staying Mr. Lujan's hand onto another bill next year. Too bad it has to be this way; the administration should have been moving to modernize water policy on its own.

[From the Los Angeles Times, Nov. 20, 1991]

WASHINGTON SINKS KEY ANTI-DROUGHT BILL—WATER WATCH: BUT TIDE IS RUNNING TOWARD REFORM

Silver linings are rare in the best of clouds these days, let alone the cloud of drought that hangs over California.

But one turned up Monday showing that a healthy majority of the U.S. House of Representatives favors new federal water policies. That could be the best news for Californians in 5—perhaps going on 6—dry years. The House showed its colors with 245 votes for a bill, sponsored by Rep. George Miller (D-Martinez), to block any more 40-year contracts to sell cheap federal water to Central Valley farmers. The bill died on a technicality.

The 3-year ban would have allowed plenty of time for Congress to act on other water policy reforms, headed by a longer-range bill by Sen. Bill Bradley (D-N.J.) to hand over allocation of 7 million acre-feet of federal water to California. Bradley's bill would allow buying and selling of at least some of the water delivered by the federal Central Valley Project on an open market. Bradley would, in essence, transfer from federal to state law decisions on allocating water that flows through federal dams and canals.

Although state law itself needs to be expanded, Gov. Pete Wilson used what he had last January to put the state in the business of buying water in areas of surplus and selling it to parched customers elsewhere to help them through the summer.

Miller says his bill to block contract renewals will be back next January, counting on its majority to come back, too. And the Bradley bill, now stalled in committee by opposition from agriculture and Sen. John Seymour (R-Calif.), will also be back.

Miller, chairman of the House Interior Committee, apparently lost some votes by quietly attaching his ban on contract renewals to a drought bill supported by Seymour that would give federal officials powers to transfer water supplies only during a drought emergency.

Miller's bill is important because the Interior Department is renewing contracts for subsidized irrigation water as though the state were in no danger of a sixth year of drought. Every renewed contract siphons water out of the pool that Bradley would release to the open market.

Existing law limits the use of federal water largely to irrigation, regardless of demand for the crops in question. It also requires that water distributed by federal canals be used only in the San Joaquin valley.

Miller, Bradley and others argue that in the absence of major new dam and reservoir projects, allowing the free sale of water to willing buyers is the best way to prevent waste and ensure adequate supplies for everyone in California.

Studies show that cities would buy only a small fraction of water that now goes to farms. Most of that is water now used to irrigate uneconomical crops or crops grown on land so polluted it should be taken out of production.

Meanwhile, Seymour stayed with his view Monday that federal water law is fine the way it is. He opposes the Bradley bill on the curious grounds that it is federal interference with state water supply. Federal and state water both come from the Sacramento Delta; the distinction south of there is manmade.

With a very dry 7 weeks of a new rainy season already behind us, California needs its politicians pointed as clearly in the right direction on water policy as Bradley is. Its very future depends on keeping elementary facts of nature straight.

A LOT OF FINE PEOPLE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DUNCAN. Mr. Speaker, I have always been extremely proud to be from east Tennessee. Not only is it one of the most beautiful parts of our entire Nation, but I have always thought that it has many of the kindest and most helpful people in the world.

Harry Moskos, the outstanding editor of the Knoxville News-Sentinel, wrote a column on Sunday, November 24, which highlighted how east Tennesseans go out of their way to help others. I would like to call his column to the attention of my colleagues and others by having it reprinted in the RECORD.

Also, I would like to congratulate Chrissie Webb, Niki Maples, Kenneth Jenkins, David Carr, Charles Smith, Gale Mayer, Cheryl Sheridan, Jack Davis, Mike Hansard, Nola Peters, Dawn Selin, Jack Van Gelder, Heather Brzenzinski, Melissa Brzenzinski, and the employees of Proffitt's children's department for being such fine and helpful citizens.

[From the Knoxville News-Sentinel, Nov. 24, 1991]

A LOT OF FINE PEOPLE

(By Harry Moskos)

At the close of last week's column, I talked about East Tennesseans going out of their way to help others.

With Thanksgiving Day just four days away, it made me reflect on some of the people who give the rest of us cause for Thanksgiving every day.

There were many such people who made our list of heroes this year.

Leading the list is Chrissie Webb, who came home from school to pick up her father so he could see her participate in a track meet for William Blount High School. She missed the track meet but saved her father's life.

Larry Webb, a diabetic, had passed out, and Chrissie knew she had to get some sugar into her father. She fixed him some orange juice, put a lot of sugar in it and forced him to drink it.

When seven-year-old Niki Maples saw her 11-month-old cousin fall down a flight of stairs at her apartment, she immediately called 911. Niki got the 911 operator on the phone while her aunt was looking after her daughter.

Four University of Tennessee students rescued two men from a smoke-filled apartment in the Fort Sanders area. The students—Kenneth Jenkins, David Carr, Charles Smith and Gale Mayer—spotted smoke coming from the apartment and led the two occupants to safety.

In May, Cheryl Sheridan, a teacher assistant at Westview Elementary School, saved the life of a choking student by using the Heimlich maneuver. The student choked while in the school cafeteria. Sheridan was trained in both First Aid and Red Cross CPR by David Hunsinger, the Knox County Schools supervisor of health and physical education.

Jack Davis, a seventh-grade science teacher at South-Doyle Middle School, is another hero. Thirty-five students were aboard a school bus when it began rolling downhill. Davis grabbed one student out of the way of the rolling bus, then jumped aboard and stopped the vehicle by pulling on the hand brake.

K-Trans driver Mike Hansard makes the list for just being nice. A reader told us of observing Hansard leaving his bus to help an elderly lady cross the street and safely board his bus.

There are a lot of honest people—many more than we know about. But we do know about Nola Peters, an employee at East Towne Mall; Dawn Selin, a cashier at the Clean Machine Car Wash, and Jack Van Gelder, a shopper at Home Depot. In separate incidents, each found someone's purse or money. And the losers got everything back.

Sisters Heather and Melissa Brzenzinski, both pupils at Alcoa Elementary School, kept calm when they saw a classmate run into the path of a car. They immediately got help and, fortunately, their friend suffered only a bruised foot.

And let us not fail to mention the 16 employees of Proffitt's children's department at West Town Mall who have "adopted" a five-year-old suffering from a rare platelet disease. Every year, the department employees throw a Christmas party for Kristopher Hazard.

A lot of fine people doing different things to bring happiness to others.

Happy Thanksgiving.

INTRODUCTION OF THE CAPITAL BUDGETING ACT OF 1991

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OWENS of Utah. Mr. Speaker, today I introduced the Capital Budgeting Act of 1991. This legislation would require that the unified budget presented by the President contain an operating budget and a capital budget so as to allow the Congress and President to better prioritize spending and gear the priorities of the Federal budget toward long-term investment. Furthermore, it directs the Committee on the Budget to submit proposed legislation which would eventually eliminate deficits in the operating account.

In August 1989, the GAO recommended structuring the budget in such a manner. It noted that "Failure to recognize the critical distinction between capital investments and operating expenses complicates economic policymaking." It is no secret that our budget is geared away from long-term economic growth and productivity. Highways and bridges, airports, wastewater treatment facilities, and certain communications facilities all do more than create short-term jobs. They are a critical determinant of the private sector's ability to supply goods and services to the market. Yet we have found ourselves prevented by the current unified budget structure from making these critical investments.

This legislation is virtually identical to legislation introduced by Senator KOHL. in the 101st Congress, with one major exception. Defense facilities and weapons platforms are excluded from the definition of capital asset and, rather, included in the operating budget. Though such expenditures might constitute capital in an accounting sense, they do little to further the Nation's economic growth in the post-cold war era. Moreover, given the considerable funding and consequent political support these programs receive, including them in the capital account would prove detrimental to the important goal of deficit reduction.

Critics will note, and rightly so, that this particular legislation is geared toward so-called brick and mortar programs. I fully agree that investments in worker productivity—R&D, education, job training, and preventative health care—are critical to the Nation's future economic well-being. In the coming session, I intend to introduce legislation incorporating some of these so-called human investments into the capital account. I have introduced the legislation in its current form because I believe it important to begin this debate immediately.

By including the bulk of the Federal budget in the operating account, and requiring the Government to collect enough revenues to cover those costs we further the goals of deficit reduction by both putting downward pressure on nonproductive Federal expenditures and disciplining the tendency to cut taxes without cutting spending. The Budget Committee retains its responsibility of setting deficit targets, thus preventing the capital account from becoming a giant loophole. And by allowing the Federal Government to borrow only for purposes that promote economic growth, the ability to shoulder the Federal debt is enhanced.

Many of our constituents ask why the Federal Government won't handle its finances like a business or State governments. This approach allows the Federal Government to do so. Granted, the role of the Federal Government is fundamentally different than that of either a business or a State government—this legislation is sensitive to that fact, and will be improved upon in the coming session. But it is no less important that the Federal Government have a budget structure that facilitates prioritization and fiscal discipline. I encourage my colleagues to join me in this effort now and in the coming session.

A SALUTE TO THE WOMEN'S COALITION OF ST. CROIX

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DE LUGO. Mr. Speaker, I rise to recognize the important accomplishments and great contributions of the Women's Coalition to St. Croix, a volunteer organization that in a decade of service to the Virgin Islands community has made an enormous difference in the lives of thousands of women and children who have suffered the pain and suffering of battering and abuse.

Home should be a shelter against the harsh world outside, where tranquility and love nurture and restore the family. Yet, domestic violence and sexual abuse are all too common, not only in the Virgin Islands, but throughout the Caribbean, the United States, and the world. We have been shocked to learn in recent years that violence in the home is as prevalent as it is abhorrent. It is a vicious plague that grows from one generation to the next; those who grew up abused often themselves become abusers. In the homes of the rich and poor, the learned and uneducated, domestic violence affects every strata of our society.

Since the inception of the Women's Coalition in December 1981, its volunteers and supporters have moved in many directions to do battle against domestic violence. Their weapons have been love, caring, sheltering, education, and hope. During the past 10 years the coalition has assisted more than 2,000 clients, providing counseling, support, help through support groups, and emergency food and clothing to women and children who are the victims of abuse. Coalition volunteers have been available 24 hours a day to go to the police station or hospital emergency room in the critical moments immediately following an incident to help victims understand what has happened, how to cope with the physical and emotional consequences, and make decisions about the future.

The Women's Coalition also has implemented an important communitywide education program and has helped bring into the open the once taboo topic of domestic violence. The coalition has made the community realize the depth and breadth of the problem and begin to come to grips with the grim reality of its existence. As a result, many women who believed they were alone in their anguish and pain have realized they are not. Because of the coalition, they have come forward, sought, and found help, and broken the stranglehold of violent and dangerous domestic relationships. The work of the coalition has made many in the community far more alert to the prevalence of child abuse and neglect, and has helped rescue at-risk youngsters who otherwise would have had no hope of escape.

I especially want to commend Women's Coalition Executive Director Mary Mingus for her hard work and leadership which has mobilized the community in the struggle against the terror that exists behind the closed doors of so many homes in our community.

I also want to express appreciation to the individuals and businesses who have given their time, talent, funds, and support to the Women's Coalition of St. Croix.

Much has been done and much remains to be done. But the Women's Coalition of St. Croix has proven that the hard work of a dedicated cadre composed strictly of volunteers can make significant, positive changes in communities such as the Virgin Islands.

PROTEST BY CROATIAN POLITICAL PARTIES TO ARREST OF THE PRESIDENT OF CROATIAN PARTY OF RIGHTS, DOBROSLAV PARAGA, BY THE CROATIAN GOVERNMENT OF FRANJO TUDJMAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. TRAFICANT. Mr. Speaker, I insert the attached declaration regarding the arrest of Dobroslav Paraga, President of the Croatian Party of Rights, by the Croatian Government into the CONGRESSIONAL RECORD:

PROTEST TO ARREST OF PRESIDENT OF CROATIAN PARTY OF RIGHTS, DOBROSLAV PARAGA, BY CROATIAN GOVERNMENT OF FRANJO TUDJMAN

(Translation of the enclosed statement of five Croatian political parties)

We most decidedly protest the arrest of the President of the Croatian Party of Rights, Mr. Dobroslav Paraga, and demand his immediate release. We likewise demand that disagreements and differences between the Croatian authorities and Croatian political parties be resolved exclusively in a political fashion, on a platform of Croatian democratic unity, and thereby prevent all possible conflict within the Croatian people itself, otherwise which results could be catastrophic.

The arrest of a leader of one of Croatia's political parties is a dangerous precedent, which leads to the establishment of an authoritarian system of government, removing us from the democratic organization of the Croatian state, which essentially weakens the capacity of Croatia's defense and decreases the possibility of international recognition of Croatia.

Croatian Democratic Party.
Croatian Christian Democratic Party.
Croatian People's Party.
Croatian Peasant Party.
Croatian Democratic Party of Croatia.

BASS TICKETS FOUNDATION TO HONOR EAST BAY HEROES

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. BOXER. Mr. Speaker, I would like to take this opportunity to tell my colleagues of a unique event in the San Francisco-Oakland Bay area to honor the heroes of the recent Oakland-Berkeley hills fire. East Bay residents exhibited extraordinary courage to help their neighbors during that conflagration. It is this indomitable spirit and the heroes who embody it that the BASS Tickets Foundation will honor at its benefit concert this week, "Ticket Aid."

Almost 100 heroes and their guests have received complimentary tickets and will be honored at the benefit concert this Saturday featuring the supergroup, The Highwaymen (Waylon Jennings, Willie Nelson, and Kris Kristofferson), at Oakland's Paramount Theatre. Inspired by the East Bay's gallant spirit, The Highwaymen are extending their set of music for this occasion.

Ticket Aid is the inaugural benefit gala for the BASS Tickets Foundation, and all proceeds after expenses and all service charges from Ticket Aid ticket sales will be donated to this well-deserving, nonprofit foundation.

The BASS Tickets Foundation is dedicated to making entertainment available to needy, disabled, elderly, or otherwise disadvantaged people living in northern California. Since the Foundation's inception in 1989, more than 33,000 people have enjoyed entertainment through this program. The BASS Tickets Foundation makes it possible for more than 1,500 disadvantaged people each month to see a wide spectrum of shows including theatre, dance, circus, collegiate and professional sports, ice shows, and many other attractions. Contributions from event presenters, sports teams, and venues such as Bill Graham Presents, Walt Disney's World On Ice, Oakland Athletics, San Francisco Ballet, San Francisco Symphony, San Francisco Giants, and Pier 39 to name a few, make it possible for recipients of the foundation to attend more than 25 events each month.

Mr. Speaker, I am proud that we have such innovative nonprofit foundations to serve the disadvantaged in the San Francisco-Oakland Bay area. The BASS Foundation should be commended for taking up the cause of honoring these fearless heroes who demonstrated their selfless sacrifice to help their neighbors during the recent, tragic firestorm.

TRIBUTE TO DALE VAN NATTA OF TRW

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DYMALLY. Mr. Speaker, I rise with a certain degree of sadness after learning that my good friend, Dale Van Natta, will relocate from TRW in Los Angeles to TRW in Las Vegas.

Mr. Speaker, to merely describe Mr. Van Natta as a community pillar would indeed be a gross understatement. After 24 years of involvement in TRW's Civic and Community Relations Department, Dale is leaving an indelible, positive contribution on the Los Angeles community.

Mr. Speaker, Dale Van Natta is a man of numerous accomplishments:

Prior to his tenure at TRW, Dale Van Natta:

Was the youngest foreman at Northrop Aircraft in 1958;

Was director of music and christian education at Calvary Presbyterian Church, Long Beach;

Managed the Roger Wagner Chorale and toured the world, including the Soviet Union;

Was editor in chief of the satellite division, Aerospace Corp., where he also formed the Aerospace Chorale, which is still in existence.

Mr. Speaker, during Dale Van Natta's 24 glorious years at TRW in Los Angeles, he compiled an exemplary record of service.

He was responsible for obtaining the 90th anniversary painting that hangs in the Redondo Beach City Hall;

Helped establish the Inglewood Cities in School Program;

Started the business/education partnership process in 19 southern California school districts with a project called STEP [school teams for educational partnerships]; initiated a partnership called Project SEED [science education for early development], a collaboration between universities, schools, and industry in hands on science experiments with computer simulations;

Received awards for outstanding citizenship, community service, and support to education from California State University Foundation, CAL State Dominguez, El Camino College Foundation, the cities of Carson and Redondo Beach, and the Centinela Valley School District.

Mr. Speaker, Dale Van Natta exemplifies what is great about the State of California and Los Angeles in particular. Although he is physically leaving Los Angeles, his legacy is carved into the very fabric of the Los Angeles community.

THE ADMINISTRATIVE LAW JUDGE CORPS ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GLICKMAN. Mr. Speaker, today I introduced a bill along with my colleague on the Judiciary Committee, Representative GEORGE W. GEKAS, Pennsylvania, and Representative AUSTIN MURPHY, Pennsylvania, titled the Administrative Law Judge Corps Act. A similar bill, S. 826, was introduced in the Senate by Senator HEFLIN, Alabama, along with Senators SPECTER, METZENBAUM, DECONCINI, and SHELBY.

The time has come to enact legislation to create an independent corps of Federal Administrative Law Judges [ALJ's] located outside of the agency for which they render decisions and insulated from undue political influence. The approximately 1,000 ALJ's located in Federal agencies provide independence and neutrality against unrestrained executive action in the enforcement of the statutes governing the agency.

In the past, this bill was driven by the problems of ALJ's at the Social Security Administration, but agency interference with judicial independence has moved beyond this setting. The November, 1991, issue of the American Bar Association Journal, in an article titled, "Judges Under Fire, ALJ Independence At Issue," documents the problems of ALJ's at the Department of the Interior. Under the banner of management standards, ALJ's are often subject to agency production standards and performance evaluation. The ratings process may be used as a method of influencing decisions and ALJ's who rule most often in line with agency management find that they have their transfer requests honored, leave granted, additional support staff, and parking privileges. Those ALJ's who rule against the agency may find subtle measures used against them and ALJ's more junior than them but who support agency management are made chief and regional ALJ's and receive other choice job assignments and benefits. As long as ALJ's remain employees of an agency the agency may use promotional opportunities, office space, and support staff to reward or punish agency decisionmakers.

Support for the creation of an ALJ corps does not depend on finding the behavior of agencies toward ALJ's inappropriate or coercive in some manner. Reasons to support the corps rest in the public perception of inappropriate agency control. Too often we hear of the lack of confidence of an individual who is accused by a Federal agency of serious wrongdoing and is not reassured by the fact that the ALJ hearing the case is an employee of the agency. The realities of the situation indicate that the key to public satisfaction and confidence in the administrative law setting is the independence of the ALJ. The creation of an independent corps not housed in the agency will gain the respect and confidence of the public in the operation of the administrative law system. It is for this reason that we should support this improvement of the adjudications process in administrative agencies.

The American Bar Association supports the creation of an independent corps of ALJ's as a significant improvement to our system of administrative law and as a solution to the public perception and problem of agency control. Under the bill I introduced, judges in the corps would be grouped in eight divisions according to their expertise: Division of Communications, Public Utilities, and Transportation; Division of Safety and Environmental Regulation; Division of Labor; Division of Labor Relations; Division of Health and Benefits; Division of Securities, Commodities, and Trade Regulation; Division of General Programs; and Division of Financial Services Institutions. Under the bill, judges in the corps would be assigned by the corps to hear cases at the request of the agency. The corps may assign judges to cases outside of their division as demand requires. One advantage to the scheme is that agencies with little adjudicatory work or uneven work demands would no longer need to maintain a fulltime staff for occasional use. Also, the corps would have judges throughout the country, thus saving travel costs for hearings. Another cost savings benefit of the corps would be the elimination of duplicative offices of hearings and appeals found in some 31 Federal agencies. The corps would need only one pool of support staff and legal resources.

In the past, ALJ's in Federal service were classified as GS–15 and GS–16 according to function as either benefit or regulatory ALJ's. The function distinction was a barrier to establishing a unified corps of ALJ's, and it was not a distinction of real merit. In its wisdom last year, the Congress abolished these artificial distinctions and classified all Federal ALJ's as Executive Service and phased in the pay raise for the GS–15 ALJ's over time. Now, all cases deserving an Administrative Procedure Act [APA] hearing are given equal dignity. This was an important step in creating the proper environment for the establishment of a unified corps. One hurdle in enacting the bill has been eliminated, since it does not need to consider the salary classification of Federal ALJ's, which is currently uniform. There is no hidden agenda in the bill for an ALJ pay raise. The bill will in fact be a cost benefit to the taxpayer. It is time to streamline government and not add layers of bureaucracy for adjudications in every Federal agency with authority to conduct APA hearings.

The Congressional Budget Office estimates that the start up costs for the ALJ Corps would be less than $500,000, a modest amount. The CBO also states that adopting a centralized system will result in savings because fewer judges could handle the existing caseload. Agencies with small caseloads would not need to retain their own judges and they would be free to decide cases for other agencies.

The bill would improve ALJ accountability by uniform training and standards for conduct. A unified corps of ALJ's would promote professionalism among Federal ALJ's and provide solutions to the few cases of intemperate behavior by ALJ's, without compromising their independence. The corps, not the agency, would be responsible for establishing standards and developing peer review and compliance mechanisms for monitoring performance by ALJ's. I think we would see some positive changes and enhanced professionalism among ALJ's in a unified corps. These are areas that agencies have problems promoting among ALJ's without being viewed as evaluating them in an impermissible manner. Even in situations when the agency is well motivated, there is a perception of agency intimidation and influence. None of these factors would be present in a corps, where judges would tell other judges to shape up and would have the programs to assist them.

I have great expectations for the reforms and benefits that the corps will give to our system of administrative adjudications. The American public demands and expects fairness and due process from government decision makers. The enactment of a corps bill would ensure the integrity and rule of law in our administrative decisions.

CINDY ZIPF: EFFECTIVE ACTION FOR A CLEAN OCEAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. PALLONE. Mr. Speaker, earlier this month, the Junior League of Monmouth County, NJ, presented its first community environmental award to Cindy Zipf, the founder and executive director of Clean Ocean Action. I cannot imagine anyone in the district I represent—or anywhere else, for that matter—deserving of such a high honor.

Mr. Speaker, Cindy Zipf is one of those people who are blessed with intelligence and boundless energy and who, to the benefit of us all, choose to use their talents selflessly to make the world around them a better place. Cindy started Clean Ocean Action back in 1983. At that time, it was clear that a consensus was emerging among residents of the New Jersey shore that something had to be done about the worsening problems of pollution in our coastal waters. It's hard to believe, but a mere 8 years ago sewage sludge was being dumped just a few miles offshore from some of the most heavily used bathing beaches in New Jersey. Through the leadership of Clean Ocean Action, that dumping was first moved to over 100 miles offshore, as an interim step, and will ultimately be phased out entirely by the end of this year.

Sludge dumping is but one issue where Clean Ocean Action, led by Cindy Zipf, has made a real difference on behalf of the ocean environment and the people who depend on it. The entire gamut of unsound and dangerous ocean disposal practices has been exposed and successfully challenged through the efforts of Cindy Zipf. In my efforts to pass antidumping legislation, both here in Congress and in the New Jersey Legislature when I was member of the State senate, I have relied heavily on the background information and proposed legislative and regulatory actions offered by Cindy Zipf and her organization.

As much as Cindy Zipf is held in high esteem for her substantive work on behalf of a healthier ocean environment, perhaps her greatest gift is her abilities to build coalition and galvanize public opinion. Clean Ocean Action actually represents more than 100 different organizations and receives support from virtually every sector of the community. In addition to playing a major role in the legislative process, Clean Ocean Action has played an effective role in educating the public, from school kids on up, and in getting people to take part in a variety of volunteer efforts on behalf of clean water and beaches. In the space of about 8 years, Cindy Zipf has taken Clean Ocean Action from a fledgling operation into the center of the mainstream of Monmouth County and the entire New Jersey shore.

Mr. Speaker, I am proud to join with the Junior League of Monmouth County, an organization of women promoting voluntarism, in paying tribute to Cindy Zipf—constituent, friend, and endless source of first-rate ideas.

UNIVERSAL HEALTH INSURANCE ACT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OBEY. Mr. Speaker, today I am introducing with Mr. SWIFT and Mr. KOLTER the Universal Health Insurance Act of 1991, H.R. 3907. Poll after poll indicates that many Americans are terribly concerned about the runaway costs of health care and that their health insurance may be weakened or taken away at the bargaining table. A recent Washington Post and ABC poll indicates that a majority of Americans worry a great deal about being able to afford adequate medical care and fear their medical benefits will be reduced.

Increases in health care costs have exceeded inflation by 4 or 5 points since Harry Truman was President. During the past decade, per capita health care spending in the United States increased by 139 percent.

This year I held eleven health care forums throughout my district and I heard over and over again about spiraling health care costs. Representatives of local governments and private employers testified that their health care costs increased by as much as 15 percent per year over the past decade. One of the largest employers in my district, Consolidated Papers, testified that over the past 5 years their health care costs rose by 71.8 percent.

In addition to rising health care costs, many working families are faced with another problem: job lock. Almost a third of working persons report that they are unable to change jobs because if they were to leave their current position they would lose health care coverage for themselves and/or family members under a new health plan due to a preexisting health condition.

I believe that the way the Congress responds to this concern will have a major impact on whether working people believe that their Government is in touch with the needs of the average American family. The dilemma we face is how to stake out our determination to deal with the health care problem in a way that does not create impossible problems for us in the budget over the next 3 years.

The House is now reviewing a number of options and seems to be moving toward choosing the single-payer option, an expansion of the Medicare model or the pay-or-play model which would be largely financed through private employers. I hope that we reach agreement and I support the effort, but I am concerned that we will not be able to agree on any one of those three approaches. Even if we could reach agreement on whether to go the employer route or the single-payer route, the devil still will be in the details and we still will have tremendous difficulty agreeing on the specifics of eligibility, benefits, and cost control mechanisms, not to mention financing.

I am, therefore, introducing legislation which would give us a fallback position. Why can't we simply move ahead on the problem by setting deadlines? Why can't we simply pass legislation that says that within 3 years every State in the Union will be required to have a universal health care system which provides basic coverage for every individual in the State?

States would be allowed to do it their own way. The Federal Government would be required to commit itself to providing 50 percent of the overall estimated national cost by establishing a Federal-State cost-sharing arrangement so that the Federal Government meets its responsibility to bear a fair share of the costs. It allows States to choose their own method by which they would provide such coverage. The bill would require that the Federal Government review the operations of all State plans once they are in existence to determine which State models work the best to deliver services and control costs and should, therefore, be adopted as the required model for the rest of the country.

The bill would work as follows:

STEP 1

It would require that every State in the Union have in place by January 1, 1994, an operating program that provides basic health care coverage for every human being living in the State. States which do not comply would face the potential loss of Federal Medicaid payments starting the first quarter of 1996.

States would be allowed considerable latitude in designing their plans, but they would have to meet minimum Federal standards and include hospital care, physician services, diagnostic services, long-term care for the elderly and disabled, prescription drug, immunizations, early periodic screening and diagnostic tests [EPSDT], and up to 45 days a year of mental health care.

States could, if they desire, rely primarily on the private sector. If they did so, a State could rely on an employer-mandated plan and require that employers with more than 50 employees offer health insurance to their families which meet the minimum coverage standards and cover the rest of the population through a State risk pool arrangement. The bill also allows States to experiment with a single-payer plan—in fact, the bill contains financial incentives to do so.

STEP 2

Once State programs are operating in 1994, the Federal Government would take the next 3 years to evaluate the effectiveness of each State's approach. By January 1, 1997, the Secretary of Health and Human Services would be required to do two things:

First. Determine which State models did the best job in providing universal health coverage at a reasonable cost and should be adopted by other States.

Second. Decide whether the experience gained has demonstrated that the administration of universal health coverage should be moved to the Federal Government or remain at the State level.

This country has had a 40-year debate about how we should provide universal health care. This bill is designed to cut through that by using States as laboratories of democracy. We have a long tradition of doing that in this country. That approach will enable us to learn as we go in working ourselves through to a final approach which is the most effective and cost efficient.

It would enable us to move the country into a new approach to health care without making specific decisions about details until we have enough experience to make the right decisions. We could learn by doing.

This bill is structured in such a way that we could support it without encountering significant budget agreement problems. It provides a way for us to stake out our determination to attack this problem without running into impractical obstacles with the budget during the next 3 years. It defers decisions about many specifics, but still allows us to stake out our intention to stand by the side of average Americans in attacking a problem that is real in their lives.

JAMES MANION IS A REAL HERO

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEHMAN of Florida. Mr. Speaker, there aren't many people like James Manion. Last year, he risked his own life to rescue Jessie V. Sutton from armed hoodlums in the parking lot of their private club. During this heroic act, Manion was shot in the torso and spent more than a year recovering from several operations. Despite the risks, James Manion got involved and, as a result, he became modern-day proof that real heroes still exist.

The selfless quality of Mr. Manion's bravery puts him in a class all by himself. His blind devotion to the welfare of another person typifies the ideal relationship among human beings. His convictions are inspiring.

Men like James Manion rejuvenate our faith in humanity and set an example for our children. His courage is a reminder to us all that, by helping one person, we help all humanity. He is truly a classic hero.

ACHIEVING A COMPREHENSIVE TEST BAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GREEN of New York. Mr. Speaker, the experience in Iraq makes it urgent that the United States lead the international community in strengthening the nuclear nonproliferation regime. One clear step we can take is to enact further restrictions on underground nuclear explosions so as to constrain the development and deployment of a new generation of nuclear arms.

Because I believe it is critical that Congress send a strong signal to President Bush that the United States must reverse its adamant opposition to a comprehensive test ban [CTB], today I am cosponsoring H.R. 3636, legislation calling for a 1-year moratorium on nuclear testing. Let me make it absolutely clear, however, that my endorsement of this legislation is qualified. My record in support of a CTB is clear and longstanding, and I believe we are in a position to achieve a CTB by 1995. However, let me put the issue of a testing moratorium into some context.

In a recent report to Congress, Physicist Ray Kidder of Lawrence Livermore National Laboratories argues that concerns about the safety of the nuclear stockpile should not limit United States consideration of a partial or comprehensive test ban. Dr. Kidder argues that with a small, finite number of tests—about 8 to 10 he said to me in a recent telephone conversation—the United States should be able to achieve a CTB by 1995. Thus, while I endorse the call for a testing moratorium contained in H.R. 3636, we must understand that the larger goal of working toward a CTB by 1995 will require a small amount of testing.

But move toward a CTB we must. It has been 32 years since President Dwight Eisenhower initiated negotiations for a CTB. Yet today, the administration is unwilling even to negotiate on the CTB. This position weakens global nonproliferation efforts in several important ways.

Politically, nuclear testing undermines the Nuclear Nonproliferation Treaty [NPT], which, while imperfect, remains the central element of international efforts to prevent the spread of nuclear weapons. Because a substantial number of nonnuclear-weapons states have linked their support for nonproliferation to a compelete test ban, continued testing encourages the nuclear efforts of nonnuclear-weapons states.

The global community is approaching a milestone in nonproliferation efforts. While the NPT comes up for review every 5 years, article X of the treaty states that in 1995, 25 years after the entry into force of the treaty, "a conference shall be convened to decide whether the treaty shall be convened to decide whether the treaty shall continue in force indefinitely," as determined by a majority of the parties to the treaty. At the 1990 NPT review conference, which I attended, the unwillingness of the United States to tie progress toward a CTB with extension of the NPT in 1995 prevented the review conference from reaching consensus on a final document reaffirming the NPT.

This situation puts the NPT in some jeopardy. Progress toward a CTB has long been regarded by the nonnuclear-weapons states to be an absolute minimum condition for superpower compliance with article VI of the NPT, which encourages weapons states to agree to negotiate good faith reductions of nuclear arsenals. If the Soviets and we will not comply with article VI, we cannot expect the nonnuclear powers to comply with the other parts of the NPT which require those nonnuclear states not to become nuclear states. The longer the superpowers stall on a CTB, the greater the prospects are that some nonnuclear weapons states will resist efforts to extend the NPT in 1995.

In addition, the willingness of the nonsuperpower nuclear weapons nations such as France, the United Kingdom, and the People's Republic of China to cooperate with the United States and the Soviet Union in a more restrictive nuclear test ban is essential to the long-term success of global efforts to limit nuclear warhead development. Those three nations, however, have resisted further restrictions on nuclear testing, believing that the Soviets and we must lead the way.

Technically, a CTB encourages nonproliferation because while a technically advanced nation with access to fissionable material can manufacture simple bombs without testing, more advanced fission, and thermonuclear weapons require testing.

In short, I believe that the benefits of a CTB, which include restricting other nations' testing programs, strengthening the global nonproliferation regime, and ceasing radioactive underground contamination, greatly outweigh the concern that clandestine testing may occur below the monitoring threshold.

So today I ask my colleagues, is there any greater security challenge facing the 1990's than nuclear proliferation? Congress has long pushed the administration on the urgent issue of a CTB, and we must continue that course.

TOMCAT HERO

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DORNAN of California. Mr. Speaker, I rise today to pay tribute to a young naval aviator whose courage and skill serve as important reminders to all of us about the dangers that our brave service men and women face on a daily basis, both in times of peace and times of war.

Picture, if you will a supersonic F–14 Tomcat jet fighter over the Persian Gulf at 27,000 feet, at a speed of over 500 miles an hour. All of a sudden—bam—the nose cone and radar dome rip off the aircraft and literally blow apart the glass cockpit canopy, leaving the pilot, Lt. Comdr. Joe "Reb" Edwards, with no way, except hand signals, to communicate with his carrier or the crewman in the back seat.

As a Navy Times article describes:

> Edwards, blood streaming down his face, flying one-handed, blind in one eye, and without radio communications, still managed to land the jet safely on the flight deck of the aircraft carrier *Eisenhower* near Bahrain in the afternoon of November 13.

This is not a scene from "Top Gun," ladies and gentleman, but rather, it represents the real life heroics of real naval officers, pilot Joe Edwards and his radar intercept officer, Scott Grundmeier. This successful emergency landing is a testament first and foremost to the quality of the men and women in our Armed Forces, the quality and quantity of their training, and finally the quality of their equipment, in this case the F–14 Tomcat.

I salute the bravery of Joe Edwards, and ask my colleagues to join me in wishing him a speedy recovery from his injuries. Let us here in Congress also continue to provide Joe and the other brave men and women of our Armed Forces with the best training and best equipment available. They deserve no less.

CONCERN ABOUT BLOODSHED IN YUGOSLAVIA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. VISCLOSKY. Mr. Speaker, as the United States Representative of thousands of Americans of Serbian and Croatian descent in northwest Indiana, I am deeply concerned about the continued bloodshed in Yugoslavia. I believe the United States must send a clear message to both sides, including those in power, that further violence and oppression by anyone will not be tolerated. In addition, ethnic minorities living in any of the Yugoslav Republics should not be discriminated against on the basis of their ethnicity or religion. Further, we must find the means necessary to bring the fighting to an end.

To promote a balanced approach in resolving the conflict, I have introduced a resolution, House Concurrent Resolution 245, which urges all parties in Yugoslavia to cease additional use of force and engage fully and in good faith in negotiations on the future of Yugoslavia. It also encourages religious leaders in Croatia, Serbia, and the other Republics to play a part in the peace negotiations. House Concurrent Resolution 245 expresses the strong support of the U.S. Congress for the efforts of the European Community [EC] and other concerned countries and international organizations to restore and maintain peace. Finally, the resolution urges the President and Secretary of State to support the formation of an international peacekeeping force to assist in the enforcement of cease-fire compliance and to support its deployment in Yugoslavia as a contribution to a comprehensive peace agreement.

As you know, on June 25, Croatia and Slovenia unilaterally declared their independence. Since then, fighting between Serbs, who account for about 11 percent of Croatia's 4.5 million people, and Croatian militiamen has taken scores of lives in eastern Croatia. Serbian and Croatian leaders have agreed to a series of cease-fire agreements in the bloody Yugoslav civil war, but, in spite of these agreements, fighting between Serbs and Croats has continued virtually unabated. Peace negotiations sponsored by the EC have been unsuccessful, in part, because the EC is unable to enforce cease-fire agreements. Both Croatia and Serbia have appealed to the United Nations to send peacekeeping troops to Yugoslavia, but they have not agreed upon where these forces are to be positioned.

Many Serbs fear they would be massacred if Croatia were to secure its independence from Yugoslavia. In addition, Croatia is considered to be Yugoslavia's bread basket, and opponents of Croatian independence are wary of the economic consequences if Croatia were to secede from Yugoslavia. Croatian leaders charge that the Government of Serbia is fomenting rebellion so that it can annex vast tracts of Croatian territory into a powerful, new greater Serbia.

A good example for all ethnic groups in Yugoslavia can be seen in northwest Indiana. Since the turn of the century, Serbs, Croats, and Slovenes have lived harmoniously in the region. They have lived and worked together, and, together, have improved the quality of life for everyone in northwest Indiana. Indeed, I have made a special effort to confer with leaders of the Serbian and Croatian communities in northwest Indiana in order to better understand their concerns.

It is my sincere hope that a concerted effort by all parties in the conflict, as well as the international community, will help to secure an immediate and permanent cease-fire. This would enable Serbs, Croats, and other ethnic groups in the Yugoslav Republics to engage fully and in good faith in negotiations on their future.

THE INSTALLATION OF REAR-END TELEMETRY SYSTEMS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce legislation amending the Federal

Railroad Safety Act of 1970 to require trains to be equipped with rear-end telemetry systems.

Railroad companies are currently allowed to operate cabooseless trains. The Federal Railroad Administration's [FRA] only requirement for cabooseless trains is that they be provided with a flashing red light on the rear car of such trains during hours of darkness. There is no requirement that train crews be provided the knowledge that air brakes are functioning properly after departing the initial terminal. Permitting cabooseless trains to continue to operate without two-way telemetry devices is putting the public and railroad workers in unnecessary danger.

For the past 2 years, the Canadian Transportation Department has required that every cabooseless train operating in Canada be equipped with an operative telemetry device with a rear-of-train emergency breaking feature. Canadians have found that these devices are a necessary safety feature. America should move toward increased safety on our railroads.

THE GOVERNMENT SECURITIES REFORM ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MARKEY. Mr. Speaker, following more than a year of examination into regulation of the government securities market by the Subcommittee on Telecommunications and Finance and after numerous hearings on the subject, I am today introducing, along with the subcommittee's ranking Republican member, Mr. RINALDO, and my subcommittee colleagues, Messrs. SYNAR AND WYDEN, the Government Securities Reform Act of 1991. Since the advent of Federal regulation of securities in this country, the government securities market has been treated by regulators and the law as the outback region of oversight. The adoption of this legislative package would end that regulatory isolation. The time has come to move forward toward effective, comprehensive reform of the most important financial market we have, the market for the Nation's own securities.

The subcommittee's examination of the government securities market began over a year ago with an initial letter of inquiry to the SEC. The steady drumbeat of problems in this market began with the GAO report of last fall, which recommended new sales practice authority, and continued through our hearing of last spring, in which we heard directly about substantial losses of State and local governments in this market. At that time, the Resolution Trust Corporation released a report to this subcommittee identifying at least 37 failed S&L's which lost a combined $620 million in the government securities market.

Concerns continued to swirl a month later, when the subcommittee wrote to the SEC, the Treasury Department, and the Federal Reserve seeking a full investigation of a then-alleged squeeze in the secondary market for May 2-year notes. Finally, in August, this drumbeat turned into a symphonic explosion of market problems with revelations by Salomon Bros. of its own illegal activities. Combined with the stunning disclosures of improper activity within the market for Freddie Mac and Fannie Mae securities, we are now all too aware of the deficiencies in the regulatory structure of this market.

The Salomon revelations have focused unprecedented attention on the auction process for government securities, and rightfully so. The Federal Government has a strong and ongoing interest in seeing that its debt is issued honestly, fairly, and efficiently. But the squeezes which took place in the sale of April and May 2-year notes, and the losses by S&L's and local governments, all took place in the secondary market. It is the means by which millions of investors throughout the world participate in the government securities market. Thus, we ultimately need comprehensive reform in both areas.

The proposed legislative package attacks directly the antiquated, obsolescent enforcement scheme in this market. Today we rely on the SEC to enforce the law in the government securities market as well as all other securities markets. But when it comes to government securities, the SEC is a cop with no nightstick and no map of the streets. This proposed legislation takes the lessons of experience from over 50 years of experience in the development of the securities laws and applies them to a heretofore regulatory black hole. We can no longer afford to simply shut our eyes to violations of law in this market as they develop, then hope that we can send in a Sherlock Holmes of the securities markets after the clues have been scattered to the wind. We need a cop on the beat every day, not just an emergency-only SWAT team.

This legislation contains several key elements. It extends the Treasury Department's current rulemaking authority over capital adequacy and general bookkeeping requirements for 5 years, until October 1, 1996. It provides for comprehensive SEC authority to create an electronic audit trail for the government securities market. It authorizes the SEC to set up a system for large trader reporting in the government securities market. It expands current SEC authority over fraudulent and manipulative practices to this market. It provides governmental authority for the first time in this market to oversee the dissemination of price information to the public. It requires supervisory procedures to be in place at all registered government securities dealer firms and conventional broker-dealer firms. It expands the authority of the National Association of Securities Dealers to institute sales practice rules for the government securities market.

I look forward to working closely next year with my cosponsors, in particular Mr. RINALDO, to assure the passage of a genuine bipartisan bill which will bring greatly needed reform to this most important marketplace.

SECTION-BY-SECTION ANALYSIS OF THE GOVERNMENT SECURITIES REFORM ACT OF 1991

Section 1. Short title.

The Act is entitled the "Government Securities Reform Act of 1991."

Section 2. Extension of Government securities rulemaking authority.

The legislation extends the sunset date from October 1, 1991 to October 1, 1996 of the Government Securities Act of 1986 which allows for the current Treasury Department rulemaking authority over capital adequacy and general book and recordkeeping requirements for government securities dealers.

Section 3. Prevention of manipulative acts and practices—market surveillance.

(a) Recordkeeping and reporting by government securities brokers and dealers—The bill would broaden the current SEC authority over equity and debt securities markets by granting to the SEC the authority to order additional recordkeeping and reporting from government securities brokers or dealers for purposes of market surveillance and monitoring of price and trading activity in the government securities market.

(b) Government securities large trader reporting—Current SEC authority in equity and debt securities markets would be extended by allowing the SEC, in consultation with the Federal Reserve Board and the Treasury Department, to identify and receive trade reporting information for large trading customers in government securities for purposes of market surveillance.

(c) Prevention of fraudulent and manipulative acts and practices—SEC authority over regulated brokers and dealers in the equity and debt securities markets would be extended by enabling the SEC to adopt rules governing government securities brokers and dealers to prevent fraudulent, deceptive, or manipulative acts or practices, or the use of any fictitious quotations in the government securities market.

Section 4. Broker/dealer supervision responsibilities.

All SEC-registered brokers and dealers, municipal securities brokers and dealers, and government securities brokers and dealers would be required to adopt mandatory internal policies and procedures to prevent violations of securities law, including books and records violations.

Section 5. Sales practice rulemaking authority.

(a) Appropriate regulatory agency rulemaking—The legislation would grant to the appropriate regulatory agencies, such as banking regulators, the authority to write sales practice rules governing the secondary government securities market. These rules would apply to non-NSAD members.

(b) Rules by registered securities associations—The Act would lift current legal restrictions which prevent the National Association of Securities Dealers (NASD) from writing rules of fair practice in the government securities market (such as rules governing customer suitability and rule prohibiting excessive markups and account churning). NASD rules now apply in all other securities markets.

Section 6. Market information.

The SEC would be granted authority to oversee, in consultation with the Federal Reserve Board and the Treasury Department, the dissemination of government securities market price and trading information to the public. This authority would be patterned after current SEC authority in the equity market.

Section 7. Study of trading system for government securities.

The legislation establishes two studies of the government securities market. One would be a joint study the SEC, the Treasury and the Federal Reserve Board on the adequacy of any changes made in the regulation of the government securities market after October 1, 1991. This study would be due no later than October 1, 1996. Second, the GAO would be commissioned to study the overall effectiveness of the SEC regulation of the government securities market, with its report due no later than March 31, 1996.

Section 8. Technical amendments.

(a) Information—provides for information sharing among all appropriate regulatory agencies with respect to the activities of government securities brokers and dealers.

(b) Amendments to definitions—This section clarifies several definitions under the securities laws—(1) "appropriate regulatory agency," and (2) "financial institution".

(c) Effective date of broker/dealer registration—This section clarifies that such registration only become effective upon the date the broker/dealer becomes a member of an exchange or the NASD.

Section 9. Rule of construction.

This section makes clear that nothing in this legislation affects any governmental authority to regulate the initial issuance of United States government obligations.

WE SHOULD SEEK A COMPREHENSIVE, BALANCED APPROACH TO CRIME

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues an article published in the October 27, 1991, edition of the Washington Post.

The article argues that tough punishment for the committed, violent criminal, not only is effective in reducing crime, but is an indispensable factor in any successful crimefighting program.

This premise is reasonable and logical. But, tough punishment cannot do the job alone. Neither can intervention, nor social services, nor counseling, nor attacks on any of the root causes such as poverty, joblessness, inadequate education, or poor housing. But, all of them working in coordination and cooperation just might do the trick.

I don't agree fully with the writer's premises, but his article is worth the time to read.

[From the Washington Post, Oct. 27, 1991]

AN ANTI-CRIME SOLUTION: LOCK UP MORE CRIMINALS

(By Eugene H. Methvin)

One of America's best-kept secrets is that our huge investment in building prisons—an estimated $30 billion in the last decade to double capacity—has produced a tremendous payoff: Americans are safer and, as the Justice Department reported last week, crime has fallen steadily.

Moreover, some pioneering research and policy field testing suggest that if we again double the present federal and state prison population—to somewhere between 1 million and 1.5 million—and leave our city and county jail population at the present 400,000, we will break the back of America's 30-year crime wave.

Liberal opponents will howl, of course. They have convinced many Americans that imprisonment is a failed policy and don't want to hear otherwise. The Edna McConnell Clark Foundation bombards influential media, declaring: "Our prison population has gone up by more than 200 percent in the last 15 years with no resulting decrease in crime." The director of the American Civil Liberties Union's National Prison Project, Alvin Bronstein, writes that "no jurisdiction has ever * * * had an impact on crime rates by an expanded incarceration policy." Washington Post columnist Colman McCarthy insists that prisons don't succeed but "work-release or community-service programs, structured therapy, in-prison job training, restitution, house arrests with electric monitoring and halfway houses do."

Other pundits and experts will point out that numerical *correlation*—between increased incarceration and decreased crime rates—does not prove a *causation* and that other demographic variables may be at least partly responsible for the trend. They are usually the same people who nonetheless find correlations between crime and joblessness, poverty and illiteracy and who argue that public money is better spent addressing these "root causes."

Despite our high prison population, punishment for crime is near an all-time low, Texas A&M University economist Morgan O. Reynolds observes. He did a 38-year comparison of serious crime and probable punishment—that is, the expected days in prison as determined by the median prison sentence for all serious crimes and weighted by probabilities of arrest, prosecution, conviction and imprisonment. He charted the two lines from 1950 to 1988. His chart shows a big horizontal "X."

Probable punishment turned sharply down in 1954, and crime soared. Thus, in 1950 we had 1.8 million serious crimes, and the average criminal risked 24 days in prison. By 1964 imprisonment risk dropped in half, to 12.1 days, and crimes had increased to 4.6 million. By 1974, the criminals risked a mere 5.5 days in prison and America had 10.3 million crimes. Finally, in 1975, punishment turned slightly up, and the crime increase slowed. In 1988, the prison risk was 8.5 days and the number of crimes was 13.9 million.

"Why is there so much crime?" asks Reynolds. "The main reason is that crime pays for millions of criminals and potential criminals. Only 17 in 100 murders result in a prison sentence. The imprisonment rate for rape is 5.1 percent, for assault 1.5 percent and for auto theft only 0.3 percent * * *. Even though police make 13 million arrests each year, less than 2 percent of them result in a prison sentence."

A related analysis produces similar conclusions. During the 1960s, total prison population fell from a then-historical peak of about 219,000 in 1961 to about 195,000 in 1968. During the same decade, crimes soared from 3.4 million in 1960 to 8 million in 1970, according to the FBI's Uniform Crime Reports [UCR] based on incidents reported to police.

Only after 1972 did the prison population start upward, surpassing the 1961 peak in 1975, then soaring to 771,243 by last Jan. 1. And, wonder of wonders, crime declined significantly—whether measured by the FBI's long-standing UCR or by the Justice Department's National Crime Survey of households conducted by its Bureau of Justice Statistics (BJS).

The distinction between the two surveys is important. The FBI's UCR, begun in 1929, includes only crimes reported to police; in 1973 Justice began its scientific BJS surveys to estimate actual victimization totals, including crimes not reported to police—which the department estimated at 62 percent in 1990 (and more than half of all violent crimes). The two sets of figures frequently produce seeming contradictions and must be interpreted carefully. For example, the latest BJS report shows that the percentage of assaults reported to police increased from 43 to 47 in 1989-90—which alone would produce an increase of almost 10 percent in the FBI's reported assaults even if there were no actual increase.

Moreover, there are differences in crimes. Half or more murders and aggravated assaults are once-in-a-life-time crimes of passion that involve acquaintances; robbery and burglary are almost always crimes of deliberation by predators who repeat and repeat and repeat. I rely more heavily on the latter two categories than on others when measuring the effectiveness of imprisonment rates. There are other variables as well. The crack cocaine epidemic, which began in 1985, clearly has produced an increase in criminality since then—including murderous battles over turf. Rape and theft remain the most underreported crimes of all, though efforts by police and victims groups to encourage rape reporting are having some success. And much depends on what year is used as a baseline.

Given these caveats, it is not surprising that the FBI could report this weekend that the number of reported crimes in the nation in the first half of 1991 *increased* 2 percent over the first half of 1990, continuing an *upward* trend evident since the mid-1980s—while the BJS could report last weekend that actual criminal victimization (reported and unreported) *decreased* 3.9 percent last year, continuing a "*downward* trend * * * that began a decade ago." Contradictory? Not really. They are describing different groups of crimes over different periods of time.

Both surveys, in fact, show a long-term downward trend. Even without adjusting for increased population, increased reporting to police or the crack phenomenon of the late 1980s, the FBI's reported murder rate for the 1981-90 decade declined 8 percent and the burglary rate 26 percent—though the robbery rate increased 5 percent. The broader BJS survey documents an overall 9.2 percent decline in violent crimes since its first survey in 1973; robbery is down 16 percent, burglary 41 percent and rape 33 percent. In sum, the BJS found, the rate of crimes against people was 25 percent lower in 1990 than in 1973 and the rate of household crimes 26 percent lower. The number of personal or household crimes, it added, fell from 41 million in 1981 to 34 million in 1990—a decline of 7 million in a decade.

Michigan, California and Texas in the 1980s have conducted revealing demonstrations of contrasting "deprisonization" and "lock 'em up" policies.

Case 1. Michigan tried it both ways. In the last 1970s, legislators and voters refused to build new prisons, and the state soon was forced to deal with severe overcrowding. The governor granted emergency releases to 20,000 inmates in four years, some more than two years early. Michigan became the only state to record a prison population decrease in 1981-85, dropping from 15,157 in 1981 to 14,604 in 1984 but then jumping sharply to 17,755 in late 1985 after a Detroit Free Press series on early release of prisoners.

The violent-crime rate for Michigan reported by the FBI soared 25 percent, and public outrage mounted. Starting in 1986, a crash prison-building program doubled inmate population in five years. And, wonder of wonders, Michigan's crime rate dropped. Robbery and burglary rates fell more than 25 percent; in Detroit the decline was even more impressive—burglaries down 32 percent, robberies 37 percent. (Murders decreased at lesser rates—12 percent in the state and 4 percent in the city, an apparent anomaly probably explained by new and deadly warfare among crack cocaine gangs in Detroit, as in Washington.)

Success in Michigan wasn't cheap. The state voted $888 million to build and expand prisons by 1992, and operating them costs additional millions each year. But there were savings too. In 1988, U.S. Sentencing Commission criminologist Mark A. Cohen calculated the cost of 10 crimes to their victims by combining direct costs such as lost property and wages with estimates of pain, suffering and fear based on known jury awards. Cohen calculated the cost of a rape at $51,050, a robbery at $12,594, an assault at $12,028, a burglary at $1,372. By this measure, the decrease in just two prominent "fear" crimes—robberies and burglaries—saved Detroiters $113,546,000 in a single year.

Case 2. Since 1982 Californians have approved $3.7 billion in bonds to build prisons. From 1980 to January 1991, inmate population quadrupled from 22,600 to 98,000. By the 1990s, murder, rape and burglary rates fell a whopping 24 to 37 percent from their 1980–82 peaks—which translates as an annual reduction of nearly a thousand murders, 16,000 robberies and a quarter of a million burglaries.

Case 3. Conversely, Texas learned that skimping on prisons inflates crime disastrously. Prison costs had soared because of a burgeoning inmate population, a doubling of the guard/prisoner ratio and a federal judge's order to make costly changes—some indisputably necessary, such as better medical care, but others of dubious value, such as free college courses. The yearly cost per-prisoner would eventually rise from $2,920 to $14,000 in the '80s, but in any early effort to slow it, the legislature in 1983 adopted a turn-'em-loose-faster approach. Thus, while the imprisoned convict population grew by 2½ times, the average term served dropped from 55 percent of sentence to less than 15 percent and the number of convicts on parole increased by 21 times.

Texas A&M professor Reynolds calculated the consequences. The expected punishment for a serious crime dropped 43 percent (from 13 days to 7.4) from 1980 to 1989, though for the nation as a whole it rose by about 35 percent (from 5.5 days to 8.8) in roughly the same period. Factoring the probability of arrest, conviction and imprisonment, a potential criminal in Texas today risks little. Fewer than one out of every 100 serious crimes results in a prison term, and those who land in prison serve an average of only 10 months. For murder an offender risks 24 months, for rape 5.3 months, for robbery 2 months and for burglary 7 days.

Result: The crime rate soared 29 percent in the 1980–89 decade, though nationally it dropped 4 percent, making Texas the second most crime-prone state. In 1980 no Texas city had ranked in the 20 worst America cities in property crimes; in 1988, 13 of the nation's worst 20 cities were in Texas.

If increased incarceration cuts crime, how many convicts should we keep locked away in this "land of the free"? When can we stop? And how much can we afford? We've spent an estimated $30 billion to double our prison population in the past decade, and yet today our prisons crowd in perhaps 140,000 more than they should.

University of Pennsylvania criminologist Marvin Wolfgang compiled arrest records up to the 30th birthday for every male born and raised in Philadelphia in 1945 and 1958 and published a 1990 study comparing the two cohorts. In both, about 35 percent of the young men collected one arrest and most never tangled with the law again. The real hard-core predators were an astonishingly small group of repeaters who were rarely punished; just 7 percent of each age group committed two-thirds of all violent crime, including three-fourth of the rapes and robberies and virtually all the murders. Moreover, this 7 percent not only had five or more arrests by age 18 but went on committing felonies and, for every arrest made, got away with about a dozen crimes.

Incredibly, only 14 percent of the first five arrests resulted in punishment; in the other 86 percent, no charges were brought. Even the 14 killers among the 1945 cohort averaged an appallingly lenient four years behind bars. Yet when punishment was tried, it worked. The few who were imprisoned committed fewer and less serious crimes afterward.

What can be done? Wolfgang's studies suggest that about 75,000 new young, persistent criminal predators are added to our population every year. They hit their peak rate of offenses at about age 16, Locking up all of them from the time of a third felony conviction until, say, age 30 would almost double our present prison population to about 1,230,000. But such long-term imprisonments may not prove necessary if punishment is applied early and consistently.

Another measure of the size of our hard-core criminal population comes from a Justice Department program begun in 1983 and based on the Philadelphia findings. Justice persuaded 20 cities to have their police, prosecutors, schools and welfare and probation workers pool information and focus on the worst offenders, generally youngsters with three or more arrests by age 18. A "serious habitual offenders" [SHO] gets priority attention from probation authorities, and if he is arrested anew, investigators and prosecutors throw the book at him with escalating penalties (coupled with rehabilitation efforts) in an effort to stop the revolving door.

In all 20 cities, SHOs consistently comprised less than 2 percent of all juveniles arrested, or about 18 to 25 youngsters per 100,000 population. Thus, out of 250 million Americans, we would have a maximum of maybe 62,500 SHOs between their 14th and 18th birthdays at any one time. Putting them all behind bars until 30 after the third offense—or even permanently, as is the law in many states, though rarely enforced—would be a relatively inexpensive way to cut a huge chunk out of our still atrocious crime rates.

California's only participating city, Oxnard, began a concerted effort to get the city's active SHOs behind bars, and in 1987 violent crime dropped 38 percent, more than double the drop in any other California city. By 1989 all 30 of Oxnard's identified active SHOs were behind bars—almost exactly the predictable total for a city of 130,000—and its citizens experienced the lowest crime of a decade. Murders declined 60 percent, robberies 41 percent and burglaries 29 percent.

Based on these social yardsticks, I'd hazard a guess that America's hard-core violent repeaters number upwards of a million. That in turn suggests that if we increase federal and state prison populations to between 1 million and 1.5 million and keep our jails (usually operated by cities and counties for misdemeanor sentences of a year or less) at the present level of about 400,000, we may see a sharp drop in our horrendous crime rates.

And what about those alternatives to imprisonment Colman McCarthy touts?

The American Institutes for Research in the Behavorial Sciences, a non-profit Washington think tank, studied 350 high-repeat Illinois delinquents and found imprisonment was significantly more effective in reducing subsequent arrests from their previous levels. Judges committed the 159 worst prospects to incarceration and sent another 191 to foster or group homes for community "treatment" programs; the latter recorded subsequent arrest reductions of 56 to 68 percent while those imprisoned registered 71 percent fewer. Moreover, those not imprisoned were free to continue committing untold crimes while in "treatment."

In short, lock 'em up and you slow 'em down. Turn 'em loose and you pay an awful price.

STOP ABUSIVE FRANKING PRACTICES

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SANTORUM. Mr. Speaker, Congress has just considered several campaign finance reform measures, most notably the Campaign Spending Limit and Election Reform Act which seemingly introduced the concept of taxpayer subsidized political funds. Public funding of political activity, which I oppose, was hotly debated. However, few taxpayers realize that Members of Congress are already receiving their tax dollars to subsidize Congress Members' political efforts.

Money for pseudopolitical activity is available to Members through the official mail allowance, which is often used to send unsolicited mailings which are very political in nature. It is unfair to taxpayers for incumbents to use official mail funds to promote their political efforts. Franked outreach mail is often political mail.

Therefore, today I have introduced a bill, the Official Mail Accountablility Act, which will implement additional franking restrictions. This measure will keep Members of Congress from abusing the frank, as many currently do when mailing politically oriented material with public funds. The bill addresses unsolicited mass mailings only, which is any single mailing with distribution exceeding 200. The Official Mail Accountability Act will: Prohibit all pictures with the exception of one photo in the masthead; reduce personal references from 32 to 16; restrict content so that only legislation or legislative activity can be referenced; and eliminate all personal references in point size above 14 points other than in the masthead.

I urge my colleagues to support this measure, and pass it first thing when we return so that challengers next year are not further disadvantaged while Members of Congress continue to produce politically oriented mailings in an election year.

IN MEMORY OF JOHN SLOAN, JR.

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, I rise today in appreciation of John Sloan, Jr., president and

CEO of the National Federation of Independent Business, who passed away 2 weeks ago.

There is, really, too much that is good about John to fit on a page. There are too many accomplishments and too many memories to sit on a piece of paper. But what he gave to us, his family, his friends, and to our country deserves our honor and attention, and deserves our best efforts to articulate, somehow, what we remember.

Perhaps John's professional accomplishments are the easiest part of this story to tell. Born in Tennessee and raised on a farm there, John Sloan was graduated from Vanderbilt, served as an officer in the U.S. Navy, and earned an advanced degree from Rutgers University. John was president of First Tennessee Bank in Nashville prior to taking the helm of NFIB, the small business organization he steered since 1983.

And, Mr. Speaker, for those of us who think our lives are dedicated to public service, let me list some of John's activities: Chairman of the National Advisory Council of the Small Business Administration; member of the Small Business Council of the U.S. Chamber of Commerce, the Tennessee Board of Equalization, of the President's Committee on Employment of People with Disabilities, the Boys' Clubs of America, the Freedoms Foundation at Valley Forge, National Junior Achievement, the National Legal Center for the Public Interest, and many, many more organizations that deserved the stature and talents of a man like John Sloan.

Yet, I think if John were here, he would be embarrassed by all this talk: "Words are nice," he'd say, "but actions speak." And he spoke volumes when, as president of First Tennessee Bank in 1980, he established a "small business base rate" to keep small enterprises open when record high interest rates were closing them down. He did something no one else dreamed of doing, and we admired that in him—and the lessons he taught us by what he did for small business.

He wouldn't show any embarrassment, however, over the pride he held for his family. It was my pleasure to employ his daughter, Dillie, as an intern in 1986, and from that experience, I can say John had good reason to be proud of them all. Our hearts go out to John's wife, mother, sons, daughters, and brothers. We share in your loss.

And to them, Mr. Speaker, I admit that my words are an inadequate tribute to such a remarkable American. So let me just say that I am honored to count John Sloan among my friends. And that all of us in Congress count him among the special men and women who have dedicated their lives to those ideas and those realities that make our Nation great: Family, opportunity, freedom and justice. He will be missed.

IN REMEMBRANCE OF BOB CALDARELLI

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MRAZEK. Mr. Speaker, I rise today in remembrance of Bob Caldarelli, who was a courageous, caring, and respected member of the Long Island community.

I have been honored to know the Caldarelli family for a great number of years. His father has been a close personal friend of mine, and while this is a great loss to all who knew Bob Caldarelli, it is heartwarming to know that he was held in the highest esteem by those who lives he touched. Therefore I would appreciate that the following statement, from his friend and colleague Norm Mason, be entered into the RECORD:

Bob Caldarelli had been with Korfund and joined the company about twenty five years ago. His first responsibility was to take over our Certification group and bring it up-to-standard. As with everything he did, he performed expertly. In a relatively few years we moved him on to Sales and then to an on-the-road Sales Manager. I am sure that during this period many of you were not only trained, but serviced by Bob.

As he became more senior and the company larger, his range of skills had to be passed on and shared with the newer people. He became our in-house expert and a source of guidance and information to virtually everyone here. He also provided that strong shoulder to lean on, both in-house and to the representatives. During this period, Bob basically reported to no one as he would always seek out the most important and difficult situations, whether it was closing an order or providing a solution to a problem. He was very simply just a member of the family.

About six years ago we asked him to take over the presidency of Mercer. As always, he welcomed the new challenge even though it meant moving to New Jersey and being away from his family five days a week. Under his direction, Mercer developed a much greater range of capability and he almost doubled the volume. Interestingly enough, while he no longer worked directly with the Mason Industries representation, many of you continued to call him at Mercer because you were simply more comfortable discussing some of your problems with him. You were not alone.

Unfortunately, Bob contracted melanoma about four years ago. His life expectancy was 1 year. Bob absolutely refused to surrender to this notion. Despite a series of difficult operations, radiation, chemotherapy and all the miseries attendant to the disease, he continued to work up until 5 months ago when it became physically impossible even for this giant. His spirit never faltered and he never complained about his lot nor the physical pain. He was more concerned about making it easier for all of us and his wonderfully supportive wife, Edith, and two magnificent children, Alicia and Robert.

He was not yet fifty, when he died on October 18th. All of us who loved him, will miss his integrity, strength, intelligence and friendship.

HUMAN RIGHTS IN MEXICO

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. AuCOIN. Mr. Speaker, I rise to express my concern about human rights in Mexico and to commend one of my constituents for her work on this important issue. Ms. Melissa Gronquist of Beaverton, OR, recently sent me the attached statement about widespread human rights violations in Mexico.

These concerns are especially pertinent now that the United States has put free trade negotiations with Mexico on a fast track. Mexico must guarantee and effectively uphold internationally recognized standards of human rights, including workers' rights. Otherwise, any trade agreement will be unfair to Americans and Mexicans alike.

I encourage my colleagues to consider the points raised by Ms. Gronquist, and I congratulate her for speaking out in support of human right in Mexico and throughout the world.

DEAR REPRESENTATIVE AUCOIN: I am writing as a constituent and as a citizen concerned about human rights. My home is in Beaverton, Oregon, but I am currently a Junior at Georgetown University. Beginning in high school, I became aware of the abuses governments often inflict on their own people, and I learned that there are steps I can take to stop those abuses. Torture and the imprisonment of people for their nonviolent beliefs are unacceptable to me and contrary to the United Nations Declaration of Human Rights. My beliefs led me to join Amnesty International, and I now serve as the student head of the chapter at Georgetown.

Amnesty International is a non-profit organization that works for the release of all prisoners who have been imprisoned for their beliefs, color, sex, ethnic origin, language, or religion, provided they have neither used nor advocated violence. Amnesty International's goals also include fair and prompt trials for all political prisoners and an end to torture and executions in all cases. Letter writing campaigns and international pressure are employed to achieve these goals.

As a member of Amnesty International, it is my hope that when Congress and the administration make policy, they take into consideration the human rights violations that occur in many countries all over the world. The situation in Mexico is an excellent example because most people are not aware of their widespread use of torture. It is estimated that 80 percent of all people arrested in Mexico will be exposed to some form of torture ranging from beatings to electric shock to asphyxiation. These practices are routine among the police force, and any confessions extracted are permissible as evidence in court. Anyone is susceptible to abuse if arrested. This includes women, children, and foreigners; 92 Americans filed complaints of ill-treatment by Mexican authorities last year. Amnesty International believes that the principle reason for the pervasiveness of torture is the virtual impunity with which government officials operate. The Mexican government has stated its commitment to human rights by ratifying United Nations treaties regarding torture and by creating a National Human Rights Commission last year. Unfortunately, the recommendations the commission makes are seldom implemented. Cases are investigated, but until the police officers involved are brought to trial or disciplined in some way, the abuses will continue. The Mexican government must actively change the institutionalized nature of torture in their country, and the United States government should actively encourage them to do so.

As Amnesty International has discovered, public pressure can have a positive impact on the policies of other governments. The United States government can also be a positive influence by encouraging governments that desire agreements and aid from the United States to eliminate their domestic human rights violation. The United Nations has declared that all people are entitled to certain self-sustaining rights and to certain freedoms of expression. Denial of these rights should not be viewed as a country's internal problem; their denial is an intolerable abuse that should cause concern and action among free people everywhere. Thank you for your support and involvement on this issue.

Sincerely,

MELISSA GRONQUIST.

TRIBUTE TO CHRISTINE KETCHIN

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SPRATT. Mr. Speaker, I rise today to congratulate Christine "Tine" Ketchin, of Winnsboro, SC, on receiving the Volunteer of the Year award from the American Red Cross of Fairfield County.

Tina began volunteering in the Fairfield Service Center in January 1990. Every day, she goes to the office to help out with typing, answering the phone, welcoming visitors, and running errands. This year, she has volunteered more than 450 hours.

By giving her time and talents, Tina has helped many citizens in need. I rise to commend her for her work, and add my congratulations to the many she has received.

MAKING HISTORY AT LOMA LINDA PROTON TREATMENT CENTER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today remarks made by Dr. Allan Bromley, assistant to the President for science and technology, at the convocation of the Proton Beam Cancer Treatment Center at Loma Linda University in Loma Linda, CA on November 17. His comments convey the fantastic and historical work being done at Loma Linda to bring state-of-the-art medical technology into a hospital setting:

REMARKS AT CONVOCATION OF THE PROTON TREATMENT CANCER CENTER

(By D. Allan Bromley)

It is extremely gratifying for me to speak at this convocation for the Proton Treatment Cancer Center, and not only because, as the Assistant to President Bush for Science and Technology, I am pleased to see the fruits of scientific research being applied to such practical and humanitarian purposes. As you heard in the introduction, I am a nuclear physicist, and I have spent much of my professional career building and working with accelerators such as the one at the heart of this center.

In fact, it was an accelerator that first got me started in science. After receiving an undergraduate degree in electrical engineering from Queen's University in Canada, where I grew up, I went to the University of Rochester, because I was interested in cosmic rays, and at that time Rochester had one of the best cosmic ray groups anywhere in the world.

However, the very afternoon I arrived, the head of the cosmic ray group died of a heart attack. Then, within a week of my arrival, the second in command was also gone because of a former association with Robert Oppenheimer. So I went to the Chairman of the Physics Department and said, "What should I do now?" He replied, "Well, we have an old particle accelerator in the basement that no one has used for about 10 years. Why don't you see what you can do with that." And I've been working with accelerators ever since.

The construction and use of accelerators is a quintessentially American story. One of the first particle accelerators was designed by Ernest Lawrence while he was at Yale in the late 1920s, but the theorists of the day told him in no uncertain terms that the thing could not possibly work. Fortunately, Lawrence, a good experimentalist, who by this time had moved to Berkely, could not understand the theorists' arguments, so he went ahead and built it anyway. It turned out that real magnetic fields were much different than theoretical magnetic fields—and the accelerator worked perfectly!

That first cyclotron was about as big as the palm of your hand. I sometimes wonder what Lawrence would think about the lineal descendent of the cyclotron—the 54-mile Superconducting Supercollider that will soon be built in the plains of Texas.

Americans have always believed in forging ahead, no matter what the odds. We explored and settled the West; we invented the machines that have revolutionized life in the twentieth century throughout the world; we have extended the frontier of exploration into space. This pioneering spirit, the optimism that accompanies it, have always been a part of the American outlook.

That outlook is also part of the facility we are honoring today. Loma Linda's Proton Treatment Cancer Center is a shining example of the kind of facility—and the kind of vision—that will ensure American leadership in the 21st century. It takes research at the very frontiers of science and technology and applies it to one of the most daunting and feared diseases of humanity. In its determination to push back the boundaries of the medically possible, the Proton Cancer Treatment Center demonstrates the can-do spirit and life-affirming optimism of both the people who have made it possible and the people who use it every day.

A BIOMEDICAL REVOLUTION

As I said, I've worked in the physical sciences most of my life, but I consider myself extremely fortunate to be witnessing—and now to be a part of—a profound transition in science. For the past 50 years, the physical sciences have had a tremendous influence on our lives, on our economies, and on our societies. That influence is going to continue; the fields of computing and communications, materials science and engineering, the earth sciences, and other physical sciences are just beginning to flourish, and they will continue to reshape the world.

But over the next 50 years I fully expect that the influence of the life sciences will come to equal, and then exceed, that of the physical sciences. This influence is going to change our lives in ways that we can only begin to imagine today. But we must begin preparing ourselves for those changes.

The rate of change in the biomedical sciences can take your breath away, and it is only going to accelerate. Here at the Cancer Treatment Center, forefront physics will soon be applied to thousands of patients. Elsewhere, researchers are using the tools of biotechnology to create new treatments and diagnostic techniques. Laboratories throughout the country are now taking the first steps in deciphering the human genome—the sequence of genetic information that makes us uniquely human. And ethicists and philosophers are beginning to ponder the new capabilities and dilemmas that this surge of information will provide.

There is one area in particular that I might emphasize. Last spring I released a report entitled "Maximizing Human Potential: The Decade of the Brain." As the report points out, we have learned more about the brain and the nervous system during the past ten years than we have learned in all of previous history, and progress during the 1990s—which President Bush has designated the Decade of the Brain—promises to be even more spectacular.

A particularly exciting aspect of this work involves the technology that allows you to noninvasively study what is going on in the human brain—for instance, PET scanning and scanning with ultrasensitive magnetometers. With this new capability, we can begin to focus not only on the structure of the brain but on its function, and the result is going to be breakthroughs that we cannot even imagine at this point.

America is leading the way into the new age of biomedical accomplishment, in part because of the strong support that the federal government has given to the life sciences in this country. Just to give you an idea of our achievements: in 1990 the Science and Technology Agency of Japan published the results of a survey in which Japanese researchers were asked to rank the best research facilities throughout the world. At the very top of the list was the National Institutes of Health in Bethesda, Maryland, the flagship of this nation's biomedical enterprise.

The Bush Administration is committed to maintaining and extending this excellence. In his most recent budget, President Bush has proposed that we spend about $75 billion on federal research and development, including nearly $9 billion for the National Institutes of Health. In fact, the increase he requested for NIH is the largest increase that any American President has ever requested for NIH.

A particular focus of NIH's recent work has been something that is embodied by the Proton Cancer Treatment Center—namely, the transfer of technology developed through federal research and development into the private sector. The NIH technology transfer program has been hailed as the most aggressive, most innovative, and most effective such program in the federal government. More than 100 Cooperative Research and Development Agreements were signed last year, and even more are in the works. Each of these CRADA's, as they are called, represents an agreement between federal scientists and researchers in the private sector to work together toward a common goal. The result is new products, new companies, and in the end perhaps whole new industries fostered through partnerships between the public and private sectors.

THE NATURE OF TECHNOLOGY TRANSFER

The end result of these new partnerships is a much greater degree of technology transfer. But I must caution that the term "technology transfer" is one of the most misunderstood in the English language. It seems to imply that technology can be neatly identified, wrapped up, and transported with equal neatness to another organization, where it can be unwrapped and applied without significant change. Nothing could be farther from the truth.

In fact, there is only one way in which technology can be effectively transferred, and that is in the minds of people. I have become convinced that the only effective transfer occurs when the technologies are carried in the minds of trained individuals moving from one organization to another. As a result, I believe that substantially increased mobility among our research personnel—both basic and applied, both short- and long-term—is essential.

Other countries are much more successful at these kinds of close working relationships than we are here in the United States. Our international trading partners have forged very strong links between government and industry. They have put public and private funds into targeted programs that reduce the risk of technology development, lower the cost to each participant, and make it easier to compete.

If the United States is to compete in such a marketplace, we cannot force each individual country to reinvent the technological wheel. Rather, the government must act as catalyst, with federal funding where appropriate, to combine the very real strengths apparent in each component of our R&D enterprise.

CONCLUSION

Much has been said and written in the last few years about how America is losing its edge in technology, and even in some areas of science. Personally, I believe that much of this talk is ill-informed at best. We in the United States continue to have, by a large margin, the strongest science and technology base that the world has ever known. This storehouse of facilities, equipment, knowledge, and trained personnel has come about largely because of the generous support provided by the federal government, and ultimately by the American taxpayer, for research and development since World War II. It is a tribute to the American people, and to the public policy process in this country, that investments of this magnitude have been made.

The facility that we are honoring today is equally a tribute to the foresight and dedication of the people who have been associated with it. I would single out Congressman Jerry Lewis, whose tireless efforts in Congress are largely responsible for the construction of this facility, and Dr. James Slater, director of the center, who is charged with the wise and efficient use of this pioneering device. But there are many more: the scientists, health care workers, grants administrators, laboratory technicians, and support staff associated with this program. All of them deserve to be recognized.

Ralph Waldo Emerson once said that "in the hands of the discoverer, medicine becomes a heroic act." Here at the Proton Cancer Treatment Center, medicine has achieved that heroic transformation. In this facility, we witness not only a medical miracle but a monument to the human spirit. It is an accomplishment of which we can all be proud.

THANKSGIVING 365 DAYS A YEAR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MICHEL. Mr. Speaker, at a time when families are gathering together to celebrate the Thanksgiving holiday, the Peoria area chamber of commerce held its own Thanksgiving celebration; the presentation of the Tom Connor Award for Community Service to Judith L. Oakford.

The Peoria area can be truly thankful for the time and energy Judith Oakford unselfishly gives to 12 not-for-profit organizations and a drug and alcohol rehabilitation agency. Our community is enriched by her dedication and philanthropy.

Judith, we are grateful to you for giving your time and sharing your talents with us throughout the year.

Mr. Speaker, at this point in the RECORD, I wish to insert an article which appeared in the November 23, 1991 issue of the Peoria Journal Star "Volunteer work is her payback:"

VOLUNTEER WORK IS HER PAYBACK

(By Bill Mitchell)

Judith L. Oakford's advice to her eight grandchildren is: "Be true to yourself."

Oakford, a lifelong Peorian, has been sure to follow her own advice.

"I'm happy doing what I do, or I wouldn't be doing it," said the winner of the Tom Connor Award for Community Service, presented Friday by the Peoria Area Chamber of Commerce at its 16th annual Thanksgiving luncheon.

At 57, Oakford is an active member of the boards of directors of 12 not-for-profit organizations, and is executive director of Community Partnership, a drug and alcohol rehabilitation agency.

She does not give all her time to others, though.

"I do things for myself, too. I jog and run, I read and I can relax easily. I am not aware that it's a drive. I'm not what you would call a driven person."

Somewhat uneasy over the notoriety, Oakford said although she appreciates the award, the ceremony and attention "are not my cup of tea."

Oakford calls what she does as a volunteer "tithing," paying one's dues to a community she said is the "greatest city on Earth."

Although she is comfortable at the board table, she said one of the most enjoyable things she and her husband, banker Art Oakford, do is camping.

Her preoccupation with the world around her stems from childhood. She said she was not a good student, but was "nicely preoccupied." Her parents only insisted that one grade on her report card be a good one: effort. "I have a lot of energy. I am very lucky and I love what I'm doing . . . This is my form of learning. This is how I grow."

The award is named after former Peoria newscaster Tom Connor. About 800 people attended the chamber luncheon.

BOTH PARTIES MUST ACCEPT BLAME FOR ECONOMIC DECLINE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. BROWN. Mr. Speaker, as I have observed the debate in the House over the past few days, it is clear that a growing consensus is developing on the need to take vigorous action to strengthen the U.S. economy. The nature of that action has not yet, and I am being charitable, reached a stage of consensus. Members of both parties seem to take great glee in blaming the other party for the obvious problems which exist today. Quite frankly, neither party has distinguished itself by its economic leadership or its understanding of the economic reality of the world today.

Beneath the political bickering, however, there is beginning to emerge a framework for both understanding the problem and putting in place the solutions to maintaining U.S. economic strength. The problems facing us did not develop overnight. Our economic decline has been evident for nearly a generation. Some of it was clearly inevitable as the economics of war-torn Europe and Japan rebounded and became more competitive with the United States economy. The larger part of our decline was probably avoidable if we had been willing to adopt some of the more flexible and pragmatic policies of our successful competitors.

Just as the problems did not develop overnight, neither will the solutions, no matter how wisely developed and implemented, bring about the instant change that politicians might like. A rough rule of thumb would be that for each major problem area, and there are many, it will take about as long for solutions to be effective as it took for the problem to develop. In most cases this will be a minimum of 10 years, frequently more. The role of political leadership will be to shorten that time by correctly diagnosing the problems, agreeing on the major directions for change, and cooperating on overcoming the obstacles to those changes. To the extent that the political leadership resists this role, they are a part of the problem.

This point of view was well articulated in the column by Hobart Rowen in the Sunday Washington Post titled "Democrats, Too, Lack Recovery Plan." While pointing out that President Bush must accept major responsibility for the Nation's economic condition, Rowen assigns almost equal blame to the Democrats in Congress for failure to propose solutions. In his words, "As for the short-term economic emergency the Nation faces, the Democrats seem to be just about as empty of ideas as is the White House." He goes on to suggest that "staking out sensible positions on energy, education, science research, health care, income redistribution, and entitlement programs won't end the recession, which will now run its course. But articulating such a program might reawaken voter confidence that the Democrats can once again be trusted to run the economy from the White House." That advice is equally applicable to Republicans, of course.

Mr. Speaker, my primary purpose in making these remarks was not to lecture my colleagues, which I long ago learned was ineffective, but to direct their attention to a resource which they might find helpful in guiding us toward solutions to our current problems. I refer here to a series of recent reports by the Office of Technology Assessment, one of the agencies serving the Congress. OTA has received numerous requests for help on economic competitiveness problems, and as a part of its response to these requests has issued a series of three reports on technology, innovation, and U.S. trade. The most recent, issued earlier this month is entitled, "Competing Economies—America, Europe, and the Pacific Rim." The two earlier reports were entitled, "Paying the Bill: Manufacturing and America's Trade Deficit" and "Making Things Better: Competing in Manufacturing." All of these reports are free of partisan overtones, present an analytical foundation which has been reviewed by the best minds in the country, and suggest solutions which are compatible with a range of political philosophies. They are being used by an increasingly large number of policy makers and policy analysts in this country and around the world as an essential tool for understanding and action. The Washington Post, in an editorial in today's edition "America as Competitor," makes these comments, which I quote, "The erosion of the American position in key industries is too apparent. A lot of hard thinking is now underway and some of it is reflected in the reports of Congress' Office of Technology Assessment." The editorial goes on to make other comments about the reports, and I will include the full text with my remarks. However, the editorial also makes the point which Hobart Rowen made in his Sunday column, which I discussed earlier in these comments, that "* * * Congress, like the White House, continues to resist several basic truths that OTA and nearly everyone else writing on these subjects find inescapable." I will not belabor the nature of these basic truths, but they cover the usual litany—overconsumption, undersaving, underinvestment, huge deficits, high interest rates, et cetera, all of which require the kind of long-term policy changes which I referred to earlier.

Mr. Speaker, it is far too late in this session of the Congress to address our economic problems in a comprehensive way. First, we must see the light, which may take Divine intervention. My suggestion is that we use this interval between adjournment and the beginning of the next session to review carefully some of the proposals contained in the OTA reports I have mentioned, and other sources as well. After we have done that, we should try to develop reasonable solutions to aid our long-term problems, and we should propose these solutions with a minimum amount of partisan bickering. Over the course of the next few months we should all try to do what we were elected to do, which is to serve our constituents and the Nation by acting wisely on these proposals. We are constrained by the institutions of our democracy to address only pieces of the problems. But if we each do that well the pieces may come together to create a beautiful mosaic. If we fail to come together we will continue to make a bipartisan mess of our country's future.

Mr. Speaker, I am guided in making these remarks by the words of an old hymn which I learned as a child in Sunday school. Those words were "Brighten the corner where you are." If we each do that the whole world will be brighter.

[From the Washington Post, Nov. 25, 1991]

AMERICA AS COMPETITOR

Beyond the short-term performance of the American economy and the rising anxieties about growth in the coming election year lies a much more portentous question. The United States' success as a competitor in world markets has been declining over the past decade. The results are most visible in the average person's earning, which have been flat since the 1970's. A rising standard of living required improved competitiveness. The question is how to achieve it.

This country seems to be coming to the end of its inclination to leave competitiveness mostly to the market. Those Adam Smith neckties are going out of fashion. The erosion of the American position in key industries is too apparent. A lot of hard thinking is now underway, and some of it is reflected in the reports of Congress's Office of Technology Assessment. The most recent, on the triangular competition among the United States, Western Europe and Japan, appeared on Nov. 13.

One attractive idea is to develop more vigorous partnerships between industry and the federal government in research and development. Another is a system of industrial extension agents, modeled on farm agents, to nudge companies toward better methods of manufacturing. American institutions for disseminating new technology, the OTA warns, are weak. How about using government procurement of innovative equipment to build markets for it? That, after all, is how the computer industry was developed. OTA is providing its masters in Congress with the background from which many bills will doubtless be drawn.

But Congress, like the White House, continues to resist several basic truths that OTA and nearly everyone else writing on these subjects find inescapble. Americans spend too much. They save and invest too little. Much of the Japanese advantage can be explained by one fact alone: Japan invests twice as large a proportion of its income in new equipment and machinery as the United States does. One reason is that American companies are penalized by the enormous federal budget deficit, which holds interest rates high and discourages investment. As the budget vise tightens, support for education is cut and college tuitions rise—making it harder than ever for students to complete the long and demanding training that produces the engineers and scientists that high productivity requires.

Those three threats to economic success—huge deficits, low investment and rising barriers to education—need to be corrected first. Until that's done, nothing else is going to make much difference.

[From the Washington Post, Nov. 24, 1991]

DEMOCRATS, TOO, LACK RECOVERY PLAN

(By Hobart Rowen)

"I think they're in a panic: They're stuck and don't know what to do." That's the assessment by Rep. Charles E. Schumer (D-N.Y.) of the Bush administration's present dilemma over the economy, and even discounting Schumer's statement for normal political spin, it comes distressingly close to the truth.

But I don't see any convincing evidence that the Democrats on Capitol Hill know what to do either. Senate Democrats overwhelmingly supported Sen. Alfonse M. D'Amato's (R—N.Y.) nutty proposal to cap credit card interest rates. (On that, the box score should show two assists: one to the banking industry for bringing the problem on itself, and the other to President Bush for inspiring D'Amato.)

Nor did Senate Majority Leader George J. Mitchell (D—Maine) cover himself with glory by proposing to finance extended unemployment benefits by cutting off foreign aid to most countries.

But the blame for this contentious mess rests mostly with Bush, who hasn't given adequate attention to the steady worsening of the nation's economic health in the past year. Action was needed many months ago to extend unemployment insurance benefits. Now, he finds there is almost nothing he can do in the short run to jump-start the economy.

And his advisers, such as they are, are in disarray and disagreement. None has come up with a coherent long-range program that promises an upturn in economic growth over the next few years, or offers even partial solutions to the problems of declining competitiveness with other nations, a decaying infrastructure and weak education and health-care systems.

In a tiresome refrain, all one hears from the White House is static about a capital-gains tax cut. The hired-hand wordmeisters last week gave Bush a stump-speech line to the effect that the capital-gains tax cut he proposed "will create jobs and get America back to work again."

Vice President Dan Quayle's contribution: "There's a silver bullet out there that could help this economy, and it is the jobs creation tax cut known as the capital-gains tax cut. . . . Let me point out that this capital-gains tax rate reduction, it will create jobs. Nobody really argues that."

Nobody? A number of studies made on Capitol Hill and by think tanks show that the great bulk of the benefits of lowered capital-gains tax cuts goes to upper-income brackets, boosting their net profits on sales of real estate and existing stock holdings.

Such capital-gains tax cuts have nothing to do with creating new capital assets—which might be a source of job growth. Wall Street, of course, would love the shot in the arm it gets from churning sales of securities, and maybe a few jobs would be added in brokerage houses. But significant job creation in the real economy comes from financing something new and productive, as lawyer Barton A. Pasternak of Wyncote, Pa., pointed out in a letter to the New York Times on Nov. 17.

That should be encouraged—but that's not what the Bush capital-gains tax cut proposal is all about.

It seems to me that on this and other issues, it's about time the Democrats reject Bush's pretense that the problem will disappear by itself, and formulate a detailed recovery program of their own, starting with new incentives for creating capital assets.

Many individual Democrats, including some of the candidates for president, have articulated such ideas. Rep. Lee H. Hamilton (D-Ind.), vicechairman of the Congressional Joint Economic Committee, told me in an interview that he favors "tax incentives for investment, carefully targeted to make sure that it is net, new investment." He believes this could be done either with an investment tax credit or a narrowly defined and limited capital-gains reduction.

But Democrats as a party haven't given investment a top priority. The various suggestions on targeted tax incentives need to be better spelled out—as does the balance of a Democratic program—in a coherent way that could be laid before voters as a long-term Democratic Party initiative.

As for short-term economic emergency the nation faces, the Democrats seem to be just about as empty of ideas as is the White House. One key Democratic staff adviser in Congress acknowledges that the economy may need a huge fiscal thrust—say, $60 billion—by the turn of the year. It's under discussion in Democratic circles, but they hesitate to come forward with it now, knowing it would involve busting last year's budget agreement and would be unpopular with many conservatives in their own party who don't want to run up the deficit.

To meet what he says is the nation's main problem—a worry about jobs and income—Schumer told me: "The only thing I see is an old remedy, some kind of jobs program to restore confidence." He acknowledges that this would add to the budget deficit, but argues: "The bang for the buck we'd get over the next 9 to 12 months would make up for its [money] cost in terms of the boost it gives to confidence."

That's not much of a program, as some Democrats acknowledge. But they blame the President for the conditions that make other short-term responses, such as lower interest rates, appear useless at this point. They are frustrated, as well, by Bush's successful string of vetoes.

"If there were a president engaged in the process of restoring the economy, there could be a longer list of [short-term] possibilities," said one Democratic politician.

But it seems to me that by not fashioning a believable economic recovery program—whether or not Bush would go along—the Democrats lay themselves open to the charge that they'd rather have a political issue than an economic upturn.

Staking out sensible positions on energy, education, science research, health care, income redistribution and entitlement programs won't end the recession, which will now run its course. But articulating such a program might reawaken voter confidence that the Democrats can once again be trusted to run the economy from the White House.

PUERTO RICO'S REFERENDUM OF DISASSOCIATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, the Government of Puerto Rico has independently scheduled a referendum in Puerto Rico, without congressional authority, which may directly affect the future United States-Puerto Rico relationship. The President of the United States asked the Congress, in his first address to a joint session of the Congress, to take the steps necessary to let the people of Puerto Rico decide regarding their preferred relationship with the United States. The President requested action from the Congress because he understands that the Constitution provides for the Congress to make all the needful rules and regulations respecting territories of the United States. The Governor of Puerto Rico also asked the Congress to enact referendum legislation.

Congress spent much of the 101st Congress considering Puerto Rico status referendum legislation. Once the proponents of outright independence and quasi-independence saw statehood being given fair and equitable consideration by the Congress, action was taken in Puerto Rico to stop the congressional referendum legislation. These two forces joined together to repeal English as an official language of Puerto Rico and institute a Spanish-only law, thereby stopping enactment of a referendum which would have offered statehood as an option to the people of Puerto Rico.

With over 70 percent of the people objecting to the repeal of English, the pro-U.S. forces have promised to reinstate the common official language established in 1902. Additionally, a "yes" or "no" vote regarding a closer relationship with the United States has been proposed for after the November 1992 elections.

Apparently not content with the seeds of disassociation sown in the Congress by the Spanish-only law, and to prevent the proposed "yes" or "no" vote regarding a closer relationship with the United States, proautonomists banded together to further distance Puerto Rico and the United States. A referendum has been abruptly scheduled for December 8. A recent poll reveals over 70 percent of the people do not understand the meaning of the referendum which purportedly guarantees the permanence of U.S. citizenship rights with a full array of independence-like attributes.

The United States District Court for the District of Puerto Rico issued an opinion last week calling the propositions of the referendum "confusing, vague, contradictory, and deceptive. The court also declared: "The ballot is unfair."

The court dismissed the case in deference to the voters and stated:

> Even though the potential for confusion in the referendum is great and that the process appears tilted towards the "yes" vote—a matter that in the future may weigh heavily in the Congress—this Court concludes that the sound constitutional course to follow is to defer to the voters and to the free competition of ideas. At this stage, it is for the voters, not this Court, to decide whether "yes" or "no" on the ballot will prevail.

I also believe the referendum to be unfair. The future of the citizenship rights of my 3.6 million fellow citizens in Puerto Rico weighs heavily now. The magnitude of the impact of their decision should not be underestimated. The people are led to believe that a "yes" vote would guarantee their U.S. citizenship under independence and a commonwealth status which is outside of the plenary powers of the Congress. Both of these statuses represent forms of independence with which the United States has established precedents.

The Commonwealth of the Philippines evolved from a U.S. territory into an independent nation losing U.S. nationality and citizenship. The Micronesian Trust Territories became free-associated states, now sovereign in their own rights and full members of the United Nations, but foregoing United States citizenship.

The question the people of the Commonwealth of Puerto Rico need to ask on December 8th is: "Do you want to be disassociated from the United States?"

If the people of Puerto Rico want to be outside of the plenary powers of the Congress, then the answer is "yes." But, as the Republic of the Philippines and the Micronesian free-associated states found, that also means no U.S. citizenship.

Last month I questioned the Department of Justice regarding the enactment of referendum legislation by the Government of Puerto Rico. I recently received a response in which the Justice Department offered a number of relevant views related to the referendum regarding Puerto Rico's status and citizenship.

Justice clarified that Puerto Rico remains unquestionably under the Territory Clause of the United States Constitution. Justice further stated, "every area under the sovereignty of the United States that is not a state must necessarily be governed under the authority of the Congress, i.e., under the Territorial Clause." With regard to the provision in the referendum which refers to Puerto Rico outside of the plenary powers of the Congress (Territorial Clause), Justice states:

> "Thus, in our view, as long as Puerto Rico remains under the sovereignty of the United States without being a state, the Legislative Assembly of Puerto Rico cannot exempt Puerto Rico from the coverage of the Territory Clause."

While Justice then assumes that a Commonwealth relationship could not be independence, but one under the sovereignty of the United States, the Commonwealth status promoted in the ballot is in fact one to be outside of the plenary powers of the Congress. If Congress were petitioned to grant a status outside of the Territorial Clause, other than statehood, only outright independence or some form of independence would meet the ballot definition.

The Department of Justice further clarified that U.S. citizenship would not be retained were Puerto Rico to become independent. The evolution of Puerto Rico from under the sovereignty and plenary powers of the Congress to some independent entity would affect the retention of United States citizenship and any inherent right of future United States citizenship. Even if Congress could enact legislation to allow residents of the newly evolved independent Puerto Rico to retain their United States citizenship, "that citizenship would be entirely statutory, and not supported by a Constitutional guarantee."

I am including the full response from the Department of Justice to assist the individual voters in Puerto Rico to make an informed choice. Rather than believe expensive advertisements and propaganda, I urge the people to review these official views of the Federal Government and to then make an informed decision.

Only a closer relationship to the United States permits U.S. citizenship and full local self-government outside of the plenary powers of the Congress to the extent provided by the Tenth Amendment of the U.S. Constitution. Two of the three status options to be mandated through the referendum by amending the Puerto Rico Constitution would distance or further disassociate Puerto Rico from the United States. This may be the nearly irreversible course on which Puerto Rico will set, should a majority of the people vote "yes" in the December 8 referendum which masks the question: "Do you want to be disassociated from the United States?"

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 13, 1991.

Hon. ROBERT J. LAGOMARSINO,
Vice Chairman, Subcommittee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN LAGOMARSINO: I am writing in response to your letter of October 10, 1991, to Attorney General Designate William Barr, in which you ask for the opinion of the Department of Justice on four specific questions concerning a recent enactment of the Legislative Assembly of the Commonwealth of Puerto Rico.

Although we wish to assist your Subcommittee, we are obliged to decline to provide a formal opinion with respect to the specific questions you pose. As Attorney General (later Justice) Frank Murphy pointed out in response to a request for a legal opinion from the United States Senate, it is the "time-honored position" of the Attorney General not to provide opinions at the request of persons outside the Executive Branch. See Request of the Senate for an Opinion as to the Powers of the President "In Emergency or State of War", 39 Op. Att'y Gen. 343, 347 (1939). We are particularly reluctant to provide such an opinion in this case, moreover, because the statute on which our views are sought is not a proposed or enacted Act of Congress, but an unofficial translation of a bill adopted by Puerto Rico's Legislative Assembly.

You may, however, wish to consider the views regarding the constitutional status of Puerto Rico that this Department has expressed on other occasions. These views, we believe, are directly relevant to the questions you raise.

The Territory Clause, U.S. Const., Art. IV, sec. 3, cl. 2, vests in Congress the power to "make all needful Rules and Regulations respecting the Territory . . . belonging to the United States." It was established in National Bank v. County of Yankton, 101 U.S. 129, 132–33 (1880), that every area under the sovereignty of the United States that is not a State must necessarily be governed under the authority of Congress, i.e., under the Territory Clause. In Harris v. Rosario, 446 U.S. 651 (1980) (per curiam), the Supreme Court reaffirmed that result.

The enactment of the Puerto Rico-Federal Relations Act, Pub. L. No. 600, 64 Stat. 319 (1950), codified at 48 U.S.C. §§731b et seq., pursuant to which the people of Puerto Rico organized a government under their own Constitution, did not change Puerto Rico's constitutional status as a "territory," nor diminish Congress' power respecting Puerto Rico under the Territory Clause. As Judge Torruella stated in concurrence in U.S. v. Lopez Andino, 831 F.2d 1164, 1173 (1st Cir. 1987) (footnotes omitted; emphasis in original), cert. denied, 486 U.S. 1034 (1988):

Although some events subsequent to the passage of P.L. 600 have tended to overlook and obscure the facts, the legislative history of that Act leaves no doubt that even though its passage signaled the grant of internal self-government to Puerto Rico, no change was intended by Congress or Puerto Rico authorities in the territory's constitutional status or in Congress' continuing plenary power over Puerto Rico pursuant to the Territory Clause of the Constitution.

Thus, in our view, as long as Puerto Rico remains under the sovereignty of the United States without being a State, the Legislative Assembly of Puerto Rico cannot exempt Puerto Rico from the coverage of the Territory Clause.

The referendum legislation evidently provides for Statehood, Commonwealth status, or independent status for Puerto Rico. We assume that Commonwealth status does not amount to independence, but to a status under the sovereignty of the United States. As such, it would differ fundamentally from the status of the Freely Associated States in the Pacific which are sovereign and independent nations. Their relations with the United States are conducted on a diplomatic basis. Thus, while the Spanish name for Commonwealth status (Estado libre asociado) is similar to that of the Freely Associated States in the Pacific Ocean, the legal status of the Freely Associated States is entirely different. The inapplicability of the Territory Clause to independent sovereign entities like the Federated States of Micronesia and the Marshall Islands does not mean that that Clause would be also inapplicable to an area, not a State, that remained under the sovereignty of the United States.

Finally, the United States citizenship of individuals born in Puerto Rico is at present granted by statutory law. See Act of March 2, 1917, Ch. 145, 39 Stat. 951 (1917), codified at 8 U.S.C. §1402. Thus, it may be possible in theory for Congress to revoke or modify such citizenship. Were Puerto Rico to become a State, native-born Puerto Ricans would then be United States citizens as a matter of constitutional right under section 1 of the Fourteenth Amendment, rather than merely as a result of statutory law. However, were Puerto Rico to become an independent nation no longer subject to the sovereignty of the United States, the transfer of sovereignty would have the effect under international law of transferring to the new sovereign entity the citizenship of those who remained there. This rule of international law has been recognized by the United States. See e.g., American Insurance Co. v. Canter, 26 U.S. (1 Pet.) 511, 542 (1828); United States ex rel. Schwarzkopf v. Uhl, 137 F.2d 898, 902 (2d Cir. 1943). Moreover, while Congress in its discretion could enact legislation that would permit the residents of an independent Puerto Rico to retain their United States citizenship if they so desired, that citizenship would be entirely statutory, and not supported by a constitutional guarantee. For a fuller presentation of our views on the subject of citizenship, we may refer you to the Testimony of Edward S.G. Dennis, Acting Deputy Attorney General, before the Committee on Energy and Natural Resources, United States Senate, Concerning S. 712, at 6-8 (July 11, 1989) (copy enclosed).

We will be happy to work with the Subcommittee as it considers legislation in this important area.

Please let us know if we can be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

A SPECIAL THANKS TO HOSPICE OF LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MAZZOLI. Mr. Speaker, as we approach the Thanksgiving holiday, I take this time to honor Hospice of Louisville, and its many counterparts across the Nation for the aid, compassion, comfort, and love they lend to persons of all faiths, backgrounds, and income strata who share but one thing in common: They are dying.

I was proud to have cosponsored H.J. Res. 153, which designates November as National Hospice Month. If this does nothing more than increase public awareness of hospice care and what it is, then our work will have been acquitted.

Hospice of Louisville, under the leadership of Executive Director Randall DuFour, has served Jefferson, Bullitt, Henry, Oldham, Shelby, and Spencer counties of Kentucky since 1978. It is one of the largest hospices in the country, has a professional staff of 110 and a volunteer organization of more than 300. Hospice of Louisville cares for more than 350 patients daily, including more than 50 pediatric patients.

What is most heartwarming is that Hospice of Louisville provides the full range of hospice care—medical, social, spiritual, and psychological—regardless of the patient's or the family's ability to pay.

Mr. Speaker, during this season of Thanksgiving it is appropriate that we recognize and thank Hospice of Louisville, and all hospices around the country for the dedicated, humanitarian services they provide. Their work is a shining example—in these self-centered and indulgent times—of selflessness and generosity.

REDUCE COST OF AUTOMOBILE LEASING

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SANTORUM. Mr. Speaker, once again congressional privileges are in the public spotlight. A headline in one of my local papers last week blared "House Car-Leasing Policy Taking Taxpayers for an Expensive Ride."

In response to this, and to further the concerns that Congress should be more financially responsible and should operate under the same scrutiny and guidelines that it imposes on others, I am introducing the Congressional Automobile Leasing Accountability Act today. This measure will require House Administration and Members of Congress to utilize the General Services Administration [GSA] for all automobile leasing.

Nearly one-third of House Members lease cars at taxpayer expense, some paying up to $1,000 a month for luxury cars. Currently, the House spends $769,000 a year to lease cars for 126 Members' use in their districts. GSA could lease very adequate cars to the same Members for $373,000 a year, saving the taxpayer $396,000. GSA uses competitive bidding to buy and lease cars at huge discounts. There is no reason that the cars used by Members of Congress for official business should not be leased through GSA, the Government agency whose mission it is to provide these official services.

I ask my colleagues to support this bill and act quickly to make the institution of Congress more accountable and fiscally responsible.

NEED FOR INDEPENDENT B-2 BOMBER RADAR TESTS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, there has been a great deal of commotion in the press in recent weeks about the role and effectiveness of the F-117A stealth fighter during the war with Iraq. These questions have obviously touched an exposed nerve, because they go right to the heart of the issue: Can effective stealth technology be achieved at affordable prices? And do stealth programs like the B-2 bomber, advanced tactical fighter, and A-X bomber make sense?

Mr. Speaker, the future of the B-2 bomber is now in doubt in the wake of conference actions by the Armed Services and Appropriations Committees. But the B-2 is by no means dead. While conferees have voted to place a lid on B-2 production at 15 aircraft, Congress is continuing to pour billions of dollars into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—all to keep stealth technology alive.

So while the future of the B-2 may be somewhat murky, unfortunately, future funding for associated stealth technology is continuing unabated. The military services are pressing forward with stealth technology on a broad front—trying to adapt it to a whole new generation of helicopters, bombers, fighters, and missiles, and Congress continues to authorize and appropriate billions of dollars for these very costly stealth projects—with literally no hard evidence that the technology really works. In fact, available evidence suggests that there are radars in use in the United States, the Soviet Union, China, Europe, and the third world that can easily detect and track stealth aircraft.

Mr. Speaker, the B-2 is not being tested against these radars, and that it is totally unacceptable. It is imperative that we learn as much as possible as quickly as possible about this crucial matter before billions more is spent on dubious technology.

Toward that end, I have written to Secretary of Defense Cheney, asking that the B-2 be subjected to a series of independent tests against an array of potential threat radars, including low frequency radars and ultrawide band or time domain pulse radars. The thinking underlying my proposal to Secretary Cheney is based on extensive discussions with several radar experts and confidential sources in government and industry. The sum and substance of those discussions are outlined in a memorandum for the RECORD.

Mr. Speaker, I insert my letter to Secretary Cheney and the underlying memorandum for the RECORD and urge my colleagues to review the material. After studying it, I feel most will agree: the B-2 must be tested against a realistic array of threat radars before we spend another dime producing more stealth technology.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 14, 1991.

Hon. RICHARD B. CHENEY,
Secretary of Defense, Pentagon, Washington, DC.

DEAR DICK: I am writing to request that the B-2 bomber be subjected to a series of independent radar tests designed to determine how difficult it is to detect the aircraft and thus measure its true survivability.

Dick, Congress is continuing to authorize and appropriate billions of dollars for the B-2 stealth bomber and a number of other very costly stealth projects with no proof whatsoever that the desired stealth characteristics are achievable at affordable prices.

Admittedly, the future of the B-2 is now in doubt—in the wake of unfavorable congressional action on the program last year and again this year, but the program is by no means dead. While placing a lid on production, Congress is pouring money into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—all to keep the technology alive.

While the future of the B-2 may be murky, unfortunately the future funding of its stealth technology seems to be quite clear. The military services are pressing forward with stealth technology on a broad front. The Air Force is moving ahead at full-speed with another huge stealth program—the Advanced Tactical Fighter, and the Navy is in the process of launching the A-X—the successor to the A-12 stealth bomber, which you terminated for default. And there is the Tri-Service Standoff Attack missile just to name a few.

It is imperative that we learn as much as possible, as quickly as possible, about this very crucial matter—before billions more dollars are spent in pursuit of dubious technology.

To date the B-2 has not been tested against a realistic array of potential threat radars. The B-2 must be tested against a range of radars—both conventional ones and radars known to have effective counter-stealth capabilities, such as low-frequency radars and ultra-wide band or time domain pulse radars.

PROPOSED TEST

I propose a test that could be conducted with ease and at relatively low cost.

The Customs Service has taken the 425 MHz radar from a Navy E-2C, upgraded it, and installed it on a P-3 aircraft designated AEW. The radar mounted on this aircraft is very similar to Soviet and Chinese radars deployed in a host of third world countries. The AEW aircraft, I am told, has been instrumental in interdicting the flow of cocaine and marijuana.

I propose that the Customs Service's AEW aircraft be used to measure the B-2's detectability. The Customs Service has indicated that it could make the AEW aircraft available for such tests for a maximum "window" of three days, subject to the following conditions:

The only person on the AEW, who would know the test plan and the position of the B-2, would be a "trusted agent." The "trusted agent" would be a neutral observer and preferably a person not associated with either the Air Force or Customs Service. The "trusted agent" would observe but say nothing. This person could be selected from the offices of the Secretary of Defense or Inspector General.

To maintain good relations between Customs and the Air Force, neither Customs nor the "trusted agent" would reveal any information on the test results, whatever they might be.

The tests must not exceed the three-day "window" specified by Customs. Customs and the Air Force need to agree on the dates of the three-day "window."

In order to gather as much information as possible, I suggest that the observations be made over water, desert, and mountainous terrain and that the power setting on the B-2 be varied to determine whether the exhaust plume is indeed a factor.

The B-2 should also be tested against the experimental time domain pulse radar in service at the Naval Weapons Center, China Lake, California. This radar has already demonstrated ultra high resolution at short ranges against fighter aircraft like the F-4. Ongoing development work will soon extend its range.

Upon completion of the proposed tests, the results would have to be compiled by an independent office and transmitted to you, the Air Force, and to the appropriate committees of Congress.

Kind regards.

Sincerely,

ANDY IRELAND.

MEMORANDUM

To: File
From: API
Date: November 13, 1991
Re: Proposed B-2 Radar Tests

The future of the B-2 bomber is now in doubt—in the wake of unfavorable congressional action on the program last year and again this year, but the program is by no means dead. While placing a lid on production at 15 aircraft, Congress is continuing to pour billions of dollars into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—to keep the technology alive.

So while the future of the B-2 bomber itself remains murky, there is no uncertainty surrounding future spending on its stealth technology. The military services are pressing forward with stealth technology on a broad front. The Air Force is moving ahead at full-speed with the Advanced Tactical Fighter, and the Navy is in the process of launching the A-X—the successor to the A-12 stealth bomber, which was terminated for default by Secretary of Defense Cheney. And there is the Tri-Service Standoff Attack missile just to name a few.

Stealth programs absorb billions of dollars each year, but there is literally no evidence that proves the desired stealth characteristics—the ability to evade enemy radar—is achievable at affordable prices. In fact, information in the public domain suggests that there are radars in use in United States, Europe, the Soviet Union, China, and the third world that have a capability to effectively detect stealth aircraft. Is the B-2 being tested against such radars? The answer is No. I find that fact totally unacceptable and have written to Secretary Cheney, (11/14/91) asking that the B-2 be subjected to a series of independent tests against an array of potential threat radars to determine exactly how difficult the airplane would be to detect.

BACKGROUND

Initially, stealth aircraft like the F-117A fighter and B-2 bomber were thought to be nearly invisible to radar. The Air Force, for example, has argued that the B-2—a 360,000 pound aircraft—would have a radar cross-section of a hummingbird, while the Navy claimed that the A-12—a 70,000 pound plus aircraft—would have a radar cross-section the size of a moth. Recent operational experiences during the war with Iraq and elsewhere, however, raise fundamental questions about the credibility of such assertions and about the true value of stealth technology itself.

NEED FOR INDEPENDENT TESTS

It is critical at this juncture to carefully measure the "stealthiness" of the B-2 bomber.

Congress is continuing to authorize and appropriate billions of dollars on stealth technology with no proof whatsoever that the desired stealth characteristics are achievable. We need hard evidence—based on a series of independent tests—that would show us exactly how difficult it is to detect the B-2 and thus how survivable the bomber might really be. B-2 testing to date has been conducted against an unrealistic array of potential threat radars.

The B-2 must be tested against a range of radars—both conventional ones and radars known to have counter-stealth capabilities, such as low-frequency radars and ultra-wideband or time domain pulse radars.

REVELATIONS FROM WAR WITH IRAQ

Three British destroyers—Exeter, Gloucester, and Cardiff, which were equipped with Marconi D-band Type 1022 radars and operating in the head the Persian Gulf—were reportedly able to detect and identify U.S. F-117A fighter bombers as they crossed water at up to 40 miles—a range considered adequate for air defense purposes. If true, this report would establish one very important fact: D-band radars can readily detect stealth aircraft.

D-band type radars are manufactured in a number of countries and have been exported extensively throughout the third world. D-band radars are neither expensive to build nor complex and can be installed on mobile ground equipment as well as on large aircraft.

It is also common "street talk" in the halls of the Pentagon and Congress that U.S. Navy E-2C aircraft tracked the F-117A's at over 100 miles and that the F-117A's had to operate with significant numbers of Air Force EF-111 and Navy EA-6B electronic jamming aircraft over Iraq, because the F-117's were being tracked by low-frequency (500 MHz) Chinese and French radars located in Iraq.

RADAR DETECTION OF B-2

And now in the wake of "anomalies" in "low-observable" testing of the B-2, even the Chief of Staff of the Air Force, General McPeak, is willing to admit: "certain parts of the Soviet air defense setup would be able to detect the B-2 today." The Air Force is considering several "fixes" to enhance the B-2's stealthiness, including the installation of electronic jamming equipment onboard the aircraft to confuse enemy radars. Electronic jammers are the antithesis of stealth. Their use would announce the presence of B-2 aircraft for miles around. Furthermore, the need for such devices clearly suggests that the B-2 is vulnerable to radar detection.

DETECTABILITY OF EXHAUST PLUMES

There is considerable evidence that jet aircraft engine exhaust plumes constitute good radar targets. Since an exhaust plume is composed of ionized gases, this is a plausible assumption.

We need to fully understand the role of jet plumes in radar detection before proceeding any further with stealth technology.

The SR-71 is an excellent case in point. Most news reports have characterized this aircraft as "radar evading." In point of fact, however, the SR-71 was one of the largest radar targets ever detected on the FAA's long-range radars. The FAA was able to track it at ranges of several hundred miles. The explanation offered was that the radars were detecting the exhaust plume. Was this a unique situation because of the additives in the SR-71's fuel? We must also have an answer to this question. If the jet's plume is such a good target, then the aircraft itself becomes extremely vulnerable.

This evidence by itself does not prove that stealth technology has no military value, but it raises a very serious question: Can stealth technology yield a militarily useful reduction in radar cross-section at an affordable price?

I fear the answer to this question is NO.

Knowledge about stealth performance and characteristics emerging from the war with Iraq is just the tip of the iceberg. Counter-stealth capabilities have been a deep, dark secret for a number of years, yet they do not involve technological breakthroughs. Moreover, radar engineers continue to acquire new knowledge about the physical properties of stealth aircraft, which is leading to the development of new and more effective anti-stealth radar systems. These are or soon will be available in the Soviet Union, China, and third world. The emergence of effective counter-stealth radar systems could make stealth technology irrelevant.

I believe that it is imperative that we learn as much as we can, as quickly as possible, about this crucial matter—before billions of dollars more are spent in pursuit of dubious technology.

PROPOSED TEST

I have proposed a test that could be conducted with ease and at relatively low cost.

The Customs Service has taken the 425 MHz radar from a Navy E-2C, upgraded it, and installed it on a P-3 aircraft designated AEW. The radar mounted on this aircraft is very similar to Soviet and Chinese radars deployed in a host of third world countries.

I am told the AEW aircraft has been instrumental in interdicting the flow of cocaine and marijuana—at least over water. It has been so successful, in fact, that the smugglers have been forced to greatly curtail over water flights in favor of small, very low-flying aircraft flights over land, which are much more difficult to detect.

I propose that the Customs Service's AEW aircraft be used to measure the B-2's detectability. The Customs Service has indicated that it could make the AEW aircraft available for such tests for a maximum "window" of three days, subject to the following conditions:

The only person on the AEW, who would know the test plan and the position of the B-2, would be a "trusted agent." The "trusted agent" would be a neutral observer and preferably a person not associated with either the Air Force or Customs Service. The "trusted agent" would observe but say nothing. This person could be selected from the offices of the Secretary of Defense or Inspector General.

To maintain good relations between Customs and the Air Force, neither Customs nor the "trusted agent" would reveal any information on the test results, whatever they might be.

The tests must not exceed the three-day "window" specified by Customs. Customs and the Air Force need to agree on the dates of the three-day "window."

In order to gather as much information as possible, I suggest that the observations be made over water, desert, and mountainous terrain and that the power setting on the B-2 be varied to determine whether the exhaust plume is indeed a factor.

The B-2 should also be tested against the experimental time domain pulse radar in service at the Naval Weapons Center, China Lake, California. Such radars have already demonstrated ultra high resolution at short and medium ranges against fighter aircraft like the F-4. Further development could extend the range of these radars.

Upon completion of the proposed tests, the results would have to be complied by an independent office and transmitted to the Secretaries of Defense and the Air Force and to appropriate committees of Congress.

DEFENSE NUCLEAR WORKERS' BILL OF RIGHTS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SKAGGS. Mr. Speaker, today I am introducing legislation to compensate workers at nuclear weapons plants for injuries caused by excessive exposure to radiation, and, now that the cold war has ended, to help these workers make the transition from weapons production work to decommissioning and cleanup work and to civilian jobs.

For more than 40 years, workers at the Nation's nuclear weapons plants have been among America's frontline soldiers in the cold war. In carrying out their national security mission, many have worked with uranium, plutonium, and other radioactive materials under conditions we would consider appalling by today's standards. With the coming consolidation and likely downsizing of the weapons complex, some of these workers face serious health, insurance, and future employment difficulties that are unique to their industry.

These workers have dedicated their careers to this difficult and sometimes dangerous national defense, mission, and we should treat them now with a decent sense of national responsibility. They did their part—we should keep faith with them. Congress has already recognized America's special obligations to veterans, of course, and to those who were innocently exposed to dangerous levels of radiation during the cold war—uranium miners, people living downwind of nuclear tests, and the atomic veterans. I strongly believe that nuclear weapons workers deserve similar consideration.

My legislation will address their needs in the areas of worker compensation, health insurance, and workplace adjustment and assistance at a very reasonable cost. It shows that the Nation isn't going to abandon people who have devoted their working lives to protecting their country.

Please let me take a minute to describe more fully what the bill does.

WORKER COMPENSATION

Because of their work with radioactive materials, some nuclear weapons plant workers have contracted leukemia or other cancers, usually after long latency periods. These radiation-related work injuries are currently tried under State laws, which typically have such strict standards of proof that very few people ever receive compensation.

I know about this situation first hand because of cases at the Rocky Flats plant in my district, where workers who were exposed to unhealthy levels of ionizing radiation—and who then contracted cancer—have been denied any compensation. This isn't fair, it isn't right, and it isn't the way we should treat our defense workers.

My bill would help these workers receive fair compensation—by transferring workers who suffer from radiation-caused diseases to a more suitable Federal worker-compensation system—under the Longshore Act—and by shifting the burden of proof in these cases. Under my bill, a worker who has been exposed to unhealthy levels of radiation, or who has worked for a sufficient number of years in "hot" facilities where such exposure could be expected, would be covered under this existing Federal system. If he or she than develops a radiation-related disease, it would be presumed that the disease was work related; to rebut this presumption, the Department of Energy [DOE] or its contractors would have to show that other factors caused some or all of the disease.

This approach is a practical and sound one. It will make a real difference to workers who have been exposed to unhealthy levels of radiation, without simply handing out money. Workers would still be required to demonstrate concrete facts about their exposure to radiation, but they would do so through a worker compensation system, rather than by suing in court. The Federal worker compensation system that would resolve these cases, provided under the Longshore Act, covers workers who do not fit well under State worker compensation systems, or whose work is particularly hazardous. It provides excellent benefits and is known for its fair appeals process; and since it is already in operation, no new administrative or appeals systems would be needed.

HEALTH CARE REINSURANCE

With the cold war over, several nuclear weapons plants have closed or reduced operations, and further contraction and consolidation of the nuclear weapons complex will occur over the next decade. Some workers at these facilities have already been laid off, and more probably will be. Unfortunately, when they seek new jobs, they may face resistance because employers fear that the workers' prior exposure to radiation could increase company health care or health insurance costs.

My bill would establish a DOE-funded health reinsurance program for former weapons plant workers who were exposed to unhealthy levels or radiation. Because DOE's worker-exposure records are often inaccurate or nonexistent, the program would also cover those who worked for 5 or more years in "hot" facilities, a period of time in which unhealthy levels of radiation exposure might reasonably be assumed.

This provision would eliminate a significant reemployment hurdle, and make it easier for these former defense nuclear workers to obtain new civilian jobs. It would do this by capping the health-insurance liability of their new employers at $25,000 for specific radiation-related diseases. DOE's reinsurance program would cover costs above this amount. Of course, employers and insurers would still pay all other health care costs.

ASSISTANCE TO WORKERS

The bill would also provide for the fair treatment of these workers during the modernization and consolidation of the complex. It directs DOE to coordinate with the Department of Labor and with union, State, and local community officials to minimize the social and economic impacts of consolidation. It also directs DOE to formulate a work force restructuring plan for each facility that emphasizes worker retraining and relocation help for other DOE jobs; education and job-placement assistance for those seeking new jobs; and early retirement options.

In 1992, DOE will spend approximately $4.3 billion to decontaminate and clean up its nuclear weapons facilities; over the next decade, DOE plans to spend another $20 billion. Certainly, spending a tiny fraction of this amount to assist the workers at these sites would be a wise and responsible investment, and my bill would provide this kind of aid.

I urge my colleagues to support this legislation, and so to treat these defense workers in a fair and responsible manner.

TRIBUTE TO DICK HOWARD

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to recognize the hard work and important efforts of Richard Howard, the secretary of the South Dakota Department of Transportation, during the recent reauthorization of the surface transportation legislation.

Dick Howard spent many hours and considerable effort to help ensure the voice of rural America was heard during deliberations of the surface transportation bill. The efforts of Dick Howard and his staff were extremely helpful to me and his expertise and advice was greatly appreciated during the reauthorization of one of the most important pieces of legislation to be considered during the 102d Congress.

These efforts went beyond the call of duty and included organizing and leading an informal coalition of 12 States to ensure their input into the process which produced the final version of transportation legislation. Not only did Dick testify before both the House and Senate committees during the hearing phase of the process, but he continued to correspond with me and the two Senators from South Dakota, other State transportation officials, and members of the authorizing committees in both the House and Senate as legislation was being developed.

Through all of this hard work and persistence, Dick continued to be good natured and easy going, which was no surprise to those of us who have had the pleasure to work with him in years past. The efforts of Dick Howard during consideration of the surface transportation legislation were very important to South Dakota and many other States, and I am pleased to have an opportunity to recognize him today.

INTRODUCTION OF THE CHILD CARE PUBLIC-PRIVATE PARTNERSHIP ACT

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to introduce essential legislation to expand the availability of urgently needed child care services for American families. Joining me as original cosponsors of the new bill, the Child Care Public-Private Partnership Act of 1991, are Representative SUSAN MOLINARI, Chairman WILLIAM FORD, and ranking member WILLIAM GOODLING.

During the 101st Congress, I worked hard to help enact major child care legislation. After a long and arduous struggle, we finally enacted compromise legislation that will provide much needed assistance to parents all over the Nation.

However, it goes without saying that the legislation that was approved falls short of solving the child care crisis in this Nation. The funding for child care programs is far less than what is needed, and the administration has further complicated matters by issuing regulations which will undermine the ability of these new programs to expand child care services and improve the quality of services provided.

Further, one crucial proposal contained in the House-passed child care bill was unfortunately omitted from the final compromise—my proposal to provide incentive grants to businesses for the purpose of expanding quality child care services.

The private sector has often been criticized for its lack of involvement in providing or subsidizing child care services. It is often pointed out that only a small fraction of the Nation's 6 million employers currently provide some kind of child care assistance to their employees.

However, there is a clear trend toward increased involvement on the part of employers. In 1978, only 110 corporations sponsored or paid for child care services. By 1985, that figure had risen to 2,500, and by 1989, it stood at 4,100.

In a 1988 survey of 1,500 employers conducted by the American Society for Personnel Administration, 50 percent of the firms indicated that they are considering or actively planning for the provision of child care services to their employees. This survey included a large number of small- and mid-sized firms.

Moreover, a recent survey conducted by the Families and Work Institute of 188 major corporations in 30 industries shows that 13 percent of major corporations now offer child care centers, 5 percent offer child care discounts, and 1 percent offer child care vouchers.

The report concludes that there is a dramatic change underway in American business, with nearly all of the Nation's largest corporations offering some types of programs to help employees meet family needs. According to Ellen Galinsky, a coauthor of the report, which is called the Corporate Reference Guide to Work-Family Programs, "although most companies still have a long way to go, innovative family supportive programs are mushrooming, the pace is accelerating and the trend is irreversible."

There are several reasons why there is so much corporate interest in providing child care services. For one thing, employees are increasingly making clear their needs for child care assistance. However, the response of many corporations is not only a manifestation of altruism toward their employees. It is also based on an increasing realization that the provision of child care services and other family-friendly policies are directly linked to enhanced productivity and increased competitiveness.

According to Dana Friedman and Ellen Galinsky of the Families and Work Institute, employer-provided child care is directly related to improvements in recruitment, retention, and improved employee morale. In a period of impending labor shortage, the ability to retain a qualified and already trained workforce is of the utmost importance. The provision of child care services will help American business maintain and improve their productivity.

Despite the fact that child care makes sense from the standpoint of the bottom line, most businesses are still reluctant to become involved in providing or subsidizing child care. However, there is evidence that the provision of Federal incentives can be a highly successful manner of expanding private sector involvement in the child care field.

Business leaders themselves tell us that Federal incentives are likely to spur corporate involvement in child care programs. At a 1989 conference of 250 employers convened by Resources for Child Care Management in Chicago, business leaders were asked if government assistance would spur additional corporate involvement. All of the respondents strongly indicated that government assistance would prompt additional action on the part of business, and the majority clearly preferred a program of incentive grants.

Further, the need for business involvement in providing child care services has long been acknowledged by Members of Congress from both parties. In fact, as long ago as 1984, the Select Committee on Children, Youth and Families issued a report recommending, among other things, that Congress should develop incentives for employers to expand the child care options available to their employees. This recommendation was endorsed by Democratic and Republican members of the committee.

From the standpoint of the Federal Government, public-private partnerships are a cost-effective response to the child care crisis. Because Federal grants will leverage a much larger sum for actual child care services. At a time when Federal resources are extremely limited, the ability to leverage private sector funds must not be overlooked.

Perhaps that is why almost every major child care bill in recent years has acknowledged the need for public-private partnerships in child care. My proposal to provide Federal support for expansion of private sector involvement in child care built upon the proposals contained in many of these bills and was also developed in cooperation with experts in the field.

The proposal received virtually unanimous support from both sides of the aisle during the consideration of child care legislation by the House during the 101st Congress. In fact, several competing child care proposals incorporated the provisions I proposed, and the House approved my proposal as part of the Omnibus Child Care bill. Subsequently, House and Senate conferees agreed to include these provisions in the conference report.

However, during the waning days of the 101st Congress, key Members of the other body met with White House representatives to develop a compromise child care measure. Unfortunately, the public-private partnership provisions were dropped at the insistence of the White House—not for any substantive reason, but simply because the White House insisted on limiting the number of authorizations in the final child care agreement.

At the time, several Members of the other body committed to pursue separate legislation on this issue during the 102d Congress. Therefore, I am today introducing my proposals to spur public-private partnerships in child care as separate legislation. I am joined in doing so by Representative SUSAN MOLINARI, who is also deeply committed to the goal of expanding child care services for American families, and by Chairman BILL FORD and ranking member BILL GOODLING of the Education and Labor Committee, to which this bill will be referred.

The bill we are introducing, the Child Care Public-Private Partnership Act, is identical to the version that was agreed to by Members of the House-Senate Child Care Conference in 1990.

Specifically, it authorizes $25 million for a program of matching grants administered by the Secretary of Health and Human Services. These grants would be provided to businesses, or consortia of small businesses, to help them create or expand child care services for their employees and the surrounding community—either onsite or at a nearby location.

Grants could also be provided to nonprofit organizations to provide technical information and assistance that will enable businesses to provide child care services. However, the Secretary is directed to give priority to grant awards which are designed to increase actual child care services.

Because small businesses have been most reluctant to become involved in providing child care services, preference would be given to grant proposals involving businesses with fewer than 100 employees.

Grant recipients would be required to match every government dollar with two private dollars. In addition, grant applicants must provide assurance that child care services will be provided at affordable rates, and on an equitable basis, to all employees, including low- and moderate-income employees. Finally, applicants must provide assurances that child care services provided with grant funds are in compliance with State and local licensing requirements.

Mr. Speaker, I would urge all of my colleagues to join me, Congresswoman SUSAN MOLINARI, Chairman FORD, and ranking member GOODLING, as cosponsors of this bipartisan initiative.

Public-private partnerships are clearly an important means of providing additional child care options to American families. They minimize Federal outlays, while maximizing child care options.

We know that many businesses are providing child care services, and many more are aware of the importance of child care. Clearly, it is in the interests of our Nation's families for the Federal Government to help facilitate increased employer involvement. If we can bring the private sector and the public sector together in partnership, we can significantly expand the availability of quality child care at a minimal cost to the taxpayers. This will not only brighten the future of countless children across the Nation, but it will also help us increase productivity and enhance our competitiveness.

Mr. Speaker, for the benefit of my colleagues, I would like to insert in the CONGRESSIONAL RECORD the text of the Child Care Public-Private Partnership Act:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Public-Private Partnership Act of 1991".

SEC. 2. ESTABLISHMENT OF BUSINESS INCENTIVE GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to—

(1) businesses and consortia—

(A) to pay start-up costs incurred to provide child care services; or

(B) to provide additional child care services; needed by the employees of such businesses; and

(2) nonprofit business organizations to provide technical information and assistance to enable businesses to provide child care services.

SEC. 3. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 2, a business, nonprofit business organization, or consortium shall submit to the Secretary an application in accordance with section 4.

SEC. 4. APPLICATION.

The application required by section 3 shall be submitted by a business, nonprofit business organization, or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that the applicant shall expend, for the purpose for which such grant is made, an amount not less than 200 percent of the amount of such grant;

(2) an assurance that such applicant will expend such grant for the use specified in paragraph (1) or (2) of section 2, as the case may be;

(3) an assurance that such applicant will employ strategies to ensure that child care services provided by such applicant, or provided with the technical information and assistance made available by such applicant, are provided at affordable rates, and on an equitable basis, to low- and moderate-income employees;

(4) an assurance that such applicant—

(A) in the case of a business or consortium, will comply with all State and local licensing requirements applicable to such business or consortium concerning the provision of child care services; or

(B) in the case of a nonprofit business organization, will employ procedures to ensure that technical information and assistance provided under this Act by such business organization will be provided only to businesses that provide child care services in compliance with all State and local licensing requirements applicable to child care providers in such State; and

(5) in the case of a business or consortium, an assurance that if the employees of such applicant do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such applicant, the excess of such child care services shall be made available to families in the community in which such applicant is located.

SEC. 5. SELECTION OF GRANTEES.

For purposes of selecting applicants to receive grants under this Act, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall—

(1) make grants equitably under this Act to applicants located in all geographical regions of the United States; and

(2) give priority to applicants for grants under section 2(1).

SEC. 6. DEFINITIONS.

As used in the Act:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly. A consortium may also include a nonprofit private organization.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $25,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

A CONGRESSIONAL SALUTE TO LT. ROBERT KALOWES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a man who has served the Long Beach Police Department and his community with great distinction, Lt. Robert Kalowes. On Sunday, December 1, 1991, the Long Beach Police Department will be honoring the service retirement of Lieutenant Kalowes. This occasion affords me the opportunity to express my sincere appreciation for his many years of dedicated work to the Long Beach community.

Joining the force in August 1964, Lieutenant Kalowes began his career as a foot patrolman assigned to the Nu-Pike Amusement Zone. By 1976, he was promoted to the rank of sergeant responsible for 35 police officers in the North Long Beach area. Soon after he was promoted to lieutenant increasing the scope of his responsibility to 45 police officers and numerous civilian personnel. In his 27 years and 4 months of service to the force, Lieutenant Kalowes has participated in every facet of police work from helicopter observer and lifeguard patrol boat operations to undercover operations. His most recent assignment, beginning in July 1987, was as commanding officer of the community relations division.

Lieutenant Kalowes' dedication to his community is further enhanced by the number and type of community activities with which he is involved. He is a current member of the executive board of a National Council on Alcoholism. He is a member of the Carmelitos Senior Citizens Advisory Board, vice chairman of the Support Activities Committee of the Boy Scouts of America, and a member of the Willmore City Heritage Association. In addition, Lieutenant Kalowes is a member of the Willmore City Heritage Association. In addition, Lieutenant Kalowes is a member of the International Police Association and the founder and editor of the Long Beach Police Officers Association Newsletter. He is the chairman of Swimming and Diving Events of the IV Police Olympics and an instructor at the Long Beach Police Academy, Long Beach City College, American Heart Association, American Red Cross, and the National Safety Council of Long Beach. He and his wife, Peggy, have served as host parents for the Japanese Student Exchange Program. Lieutenant Kalowes is also a member of the board of realtors in Long Beach.

It is not often that a man with such a wide range of community service comes to my attention. Therefore, on this most special occasion, my wife, Lee, joins me in extending our heartfelt thanks to Robert Kalowes. We wish Robert, his wife Peggy, his three children, Jeffrey, Cynthia, and Christopher, all the best in the years to come.

TRIBUTE TO LAWRENCE BUCHHEIM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. PACKARD. Mr. Speaker, I rise before you today to pay tribute to a dear friend and an outstanding leader in my district, Mr. Lawrence Buchheim. Larry will retire next month from the San Juan Capistrano Council, where he has served since 1978.

It is a rare occasion when a person positively impacts everyone he comes in contact with; however, Larry is such an individual. On December 7, 1991, we will have the opportunity to formally pay tribute and congratulate our good friend Larry Buchheim at a community reception to be held in his honor in the center courtyard of the historic Mission San Juan Capistrano.

Through his many years of contributions to the community, Larry has unselfishly given of himself and his time. Larry has provided San Juan Capistrano with unwavering leadership since its incorporation in 1961 when he personally carried the incorporation papers to the county clerk in Santa Ana. Since that time he has served as a member of the board of trustees of the San Juan Capistrano Historical Society, a member of the American Legion, Lions International, San Juan Senior Citizens Club, and the Boy Scouts of America Advisory Committee. He was elected a trustee of the Capistrano Union School District, and has been a member of the San Clemente Elks Club, the Capistrano Art Association, and various study committees appointed by the city council of San Juan Capistrano. During his tenure on the city council, he has diligently served one term as the city's mayor and four terms as the mayor pro tem, including this past year.

Larry was born and raised in the San Juan area where his family farmed and had a cattle ranch. Larry fondly reminisces about days when he was able to ride his horse through the open fields to a deserted beach. This childhood memory may have been the cornerstone for one of his most recent accomplishments in which the voters of San Juan Capistrano passed the Save Open Space bond in 1990.

The previously mentioned efforts do not tell the whole story of Larry Buchheim, as many people have said that Larry himself is the embodiment of San Juan Capistrano. Having lived all of his 64 years in San Juan, Larry has been able to provide both the San Juan City Council and myself with a historical perspective of the area in addition to unfaltering advice. As the city manager of San Juan Capistrano so appropriately expressed,

> Larry's presence will be sorely missed; his sense of humor, his down-to-earth perspective of life, and his tales of an earlier time in San Juan Capistrano that provided a much needed and appreciated balance to the goings-on here at city hall. Larry is like one of his paintings—a Capistrano original and a priceless treasure.

Larry is a gentleman of dedication and talent, and is an example of the public servant for all of us to emulate. We will all miss Larry's leadership in the community; however, it is a great pleasure for me to take this opportunity to extend my warmest congratulations on his retirement. My wife, Jean, joins me in wishing Larry continued health and happiness in the years to come.

NEW TURKISH GOVERNMENT OFFERS ENCOURAGING PACKAGE OF HUMAN RIGHTS REFORMS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. HOYER. Mr. Speaker, the new government in Turkey, led by Suleymin Demirel, recently unveiled a package of wide-ranging reforms which addresses many concerns voiced by human rights observers including the Commission on Security and Cooperation in Europe. The sweeping proposals would make amendments to the 1982 Constitution and abrogate or change existing laws. The measures, if adopted by the Turkish Parliament and fully implemented, would secure for Turkey a place alongside the most advanced democracies in the world.

The "democratization package" as it is called, would do the following: Lift the state monopoly on television and radio broadcasts, expand academic independence, reform voting laws, provide added police training, redraft existing laws concerning torture, remove all forms of censorship, reduce maximum periods of pretrial detention, enforce a detainee's right to counsel at all stages of detention, limit martial law and emergency rule powers, expand permissible activities for trade unions, students and associations, televise parliamentary debate and ensure judicial automony. Other specific reforms addressed in the package include one which directly relates to commitments undertaken by the Government of Turkey within the Conference on Security and Cooperation in Europe [CSCE]: and I quote, "The legal and de facto restrictions and obstructions on free expression of ethnic origin, use of language and promotion of culture by all citizens, will be eradicated within the concept of national unity and in conformity with the Paris Charter to which Turkey is a party".

Mr. Speaker, Prime Minister Demirel stated publically today that "torture is a crime against humanity * * * and it is our duty to prevent this." The Helsinki Commission applauds this public condemnation by the newly elected Prime Minister as an important and critical signal to those who engage in torture that such practices will no longer be tolerated.

Mr. Speaker, this promising, if yet enacted, set of proposals by the new coalition government indicates a determination on the part of Mr. Demirel and his partners to address the major sources of problems which have seriously clouded Turkey's past human rights performance. Given the economic difficulties facing Turkey and the violent conflict in the southeastern regions inhabited by Kurds, this proposal is even more remarkable and courageous. It is likely, as was previously the case when even less sweeping reforms were introduced, conservative elements in government will offer objections to the package. In the past, similar types of legislation were often delayed for years, haphazardly implemented or allowed to fall from the agenda. I sincerely hope that the new government will work hard to adopt these proposals, knowing that they have the full support of the United States. The stated intentions of the new government to make the Kurdish issue a priority is a most positive indicator.

Mr. Speaker, I would also like to note what I consider to be a significant incentive for Turkey to pursue these reforms and see that they reach fruition. Turkey's historic ties with Central Asia provide it with a unique opportunity. As the Muslim republics of the former Soviet Union strive to further develop their own political and economic systems, Turkey could serve as a model of democratic development and economic achievement. I sincerely hope that such ties will be developed, as they will certainly benefit not only Turkey and the Central Asia nations, but regional and global stability.

SMALL BUSINESS HEALTH CARE REFORM ACT OF 1991

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, I rise today to introduce what I hope will be the blueprint from which workable health care legislation may be finalized. The Small Business Health Care Reform Act of 1991 is an attempt to address the vital elements of health insurance reform which cannot be delayed while Congress engages in extended debate on a more comprehensive measure.

By now everyone knows that the rising cost of health insurance and the resulting unavailability are serious problems for small business owners and employers as well as the Nation. I wish that I were standing before you today as a proud cosponsor of far reaching legislation dealing with all aspects of the health insurance and delivery system. Unfortunately, neither we in Congress nor the American people have reached sufficient agreement for that kind of progress.

Instead, what we are presenting today represents short-term relief for small companies and is an initiative we believe to be a step in the right direction. I might add that our belief is shared by the National Federation of Independent Business, National Small Business United, the Small Business Legislative Counsel, and the U.S. Chamber of Commerce, all of whom commend my introduction of the Small Business Health Care Reform Act of 1991. I ask unanimous consent that their letters of support be printed in the RECORD behind the text of this speech.

Mr. Speaker, health care and health insurance issues have been debated both in and out of Congress for many years. Meanwhile, the statistics continue to speak for themselves:

National health expenditures as percentage of gross national product have grown from 5.9 percent in 1965 to 11.1 percent in 1988, according to Congressional Budget Office calculations. It is estimated that the percentage will be 17 by the year 2000.

The Small Business Administration reports that about 8.2 million of the nearly 32 million uninsured Americans are private wage-and-salary workers; 1.6 million are business owners.

The SBA again estimates that almost 75 percent of the 8.2 million uninsured workers are employed in small firms with fewer than 500 employees. Further, more than 47 percent of all uninsured workers are in firms with fewer than 25 employees.

Small firms with fewer than 500 employees created almost one-half of approximately 11.1 million jobs added between 1984 and 1988. Clearly, inattention to this issue will mean that small business, the locus of job creation and innovation, will be forced to confront a mounting financial burden in an effort to provide health benefits to employees. I suspect many will simply decide that it is too costly and reduce or cancel their programs. A lot has been said about this problem, but little has been accomplished. Today's introduction of the Small Business Health Insurance Act of 1991 is the first of many steps I along with my cosponsors have planned to correct that.

Mr. Speaker, the bill includes: First, improvements in health insurance affordability for small employers.

In this section, we provide for a permanent increase in the deductible health insurance costs for self-employed individuals from 25 percent to 100 percent. We also authorize $150 million per year for grants to be awarded to a maximum of 15 States to assist their development of small employer health insurance group purchasing arrangements.

Second, improvements in health insurance for small employers.

This section outlines standards and requirements for small employer health insurance. Insurers offering health insurance plans to small employers, or firms employing 2 to 50 workers, must abide by standards established by the Secretary of the Department of Health and Human Services, and enforced by the State.

In general, small business health insurance plans must guarantee eligibility to any employee deemed eligible for the plan by the small business. In addition, States are given various options through which availability of health insurance plans must be guaranteed to all small employers.

Insurers interested in serving the small employer market are expected to guarantee renewability, avoid discrimination based on health status, medical history, or claims experience, and limit preexisting condition exclusions to 6 months. Moreover, there are limits and controls placed on premium rates.

Insurers offering health plans must offer both a standard and basic benefit package. Each plan has specific benefits which are outlined in the act. State mandates are preempted for small employer insurers that are in compliance with the terms described in the act.

Third, improvement in portability of private health insurance.

Many working Americans are reluctant to make job changes due to concerns about the loss of health benefits. This provision responds to that concern. Individuals with preexisting conditions who change jobs without a lapse in insurance coverage of more than 3 months are protected from preexisting condition exclusions under the new company's plan for the benefits covered under the individual's previous health insurance plan.

Fourth, health care cost containment.

The Act establishes a Health Care Cost Commission composed of 11 members appointed by the President. The members will be experts in health-related fields. The commission's charge is to study trends in health care spending and recommend strategies for controlling and reducing costs.

The bill encourages the use of managed-care programs by prohibiting States from restricting managed-care plans that meet Federal certification standards.

A system of uniform claim forms is instituted. Standards will be developed for uniform claim and reporting procedures to be used by individuals and providers who must submit claims for medical treatment.

The bill encourages expansion of health-care services to the poor and working poor by treating Community Migrant Health Center medical personnel as Federal employees for purposes of malpractice litigation.

Fifth, Medicare prevention benefits.

A package of preventive health care benefits are added to the Medicare Program. The additional benefits include colorectal screening, immunizations, well-child care, and mammography screening.

Mr. Speaker, as we prepare to adjourn the first session of the 102d Congress, I want to serve notice to my colleagues that I intend to pursue this issue aggressively when we reconvene in January. To end yet another Congress without enacting meaningful improvements to the Health Care System would do a tremendous disservice to our constituents. I not only urge my colleagues to cosponsor this legislation, but I exhort each member to make it clear to the leadership of both parties that we are committed to action and expect health care to be the priority time on the agenda during the upcoming year.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington DC, November 25, 1991.

Hon. ANDY IRELAND,
U.S. House of Representatives,
Washington, DC.

DEAR ANDY: On behalf of the over 500,000 members of the National Federation of Independent Business (NFIB), I want to commend your efforts to introduce legislation today which will help reduce the burden of health care costs on small and independent business.

Your introduction of this legislation, as the ranking minority member of the House Small Business Committee, increases the awareness in the U.S. Congress of the plight being faced by small business owners who are experiencing skyrocketing health insurance premiums.

The incremental approach taken by this legislation builds upon what is right with the current health delivery system, yet recognizes needed reforms to ensure small business can both obtain and afford basic health coverage for themselves and the millions of Americans they employ.

The NFIB is anxious to assist you in your endeavors, and I look forward to be working with you as we move into the second session of the 102d Congress.

Sincerely,

JOHN J. MOTLEY, III,
Vice President, Federal Governmental Relations.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, November 25, 1991.

Hon. ANDY IRELAND,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN IRELAND: On behalf of National Small Business United (NSBU) and its more than 60,000 members, I want to applaud your introduction of a bill which would substantially improve small businesses' access to health insurance. We support your effort as a starting point.

As Ranking Minority Member of the House Small Business Committee, you are keenly aware of the problems small firms face in obtaining health insurance coverage. Your introduction of the bill demonstrates your desire to not just talk about the problem but more importantly to do something about it.

NSBU is hopeful that Congress will soon embark on a meaningful discussion of not only the access problem but also the affordability problem confronting small firms and individuals when they attempt to buy health insurance. We know you recognize both problems must be solved simultaneously if small businesses are to be able to provide health insurance to their employees. In the context of the discussion about affordability, we hope Congress focuses on ways to help patients become better consumers of health care and on ways to increase the individual's responsibility as a health care consumer.

Again, thank you for your leadership and effort.

Sincerely,

G. THOMAS CATOR,
Washington Representative.
JOHN PAUL GALLES,
Executive Vice President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, November 21, 1991.

Hon. ANDY IRELAND,
Committee on Small Business, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE IRELAND: On behalf of the Small Business Legislative Council (SBLC), I wish to express our support for your efforts to enact health care system reforms for the small business market. As we understand your initiative from briefings by your staff, it appears you have identified some of the significant problems confronted by small businesses as they attempt to provide health care benefits to their employees.

As you know, our members believe we must rein in the costs of an out-of-control health care delivery system. We are convinced small business will assist in providing access to health care to all Americans when we can establish cost stability and renew confidence in the health care system. There is much we can do as we work toward that goal, and it is our understanding your initiative will address many of these concerns.

The SBLC is a permanent, independent coalition of over one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. While our policies are developed through consensus among our membership, we respect the right of individual associations to express their own views. For you information, a list of our members is enclosed.

Again, we appreciate your efforts to undertake health care reforms beneficial to small business. We look forward to working with you on this initiative.

Sincerely,

PHILLIP R. CHISHOLM,
Chairman.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehousemen's Association.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Association of the Wall and Ceiling Industries-International.
Automotive Service Association.
Automotive Warehouse Distributors Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
C-PORT.
Christian Booksellers Association.
Council of Fleet Specialists.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
Independent Sewing Machine Dealers Association.
International Association of Refrigerated Warehouses.
International Bottled Water Association.
International Communications Industries Association.
International Formalwear Association.
International Franchise Association.
Jewelers of America, Inc.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
Menswear Retailers of America.
NMTBA-The Association of Manufacturing Technology.
National Association for the Self-Employed.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Chemical Distributors.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Passenger Vessel Owners.
National Association of Personnel Consultants.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors
National Association of Retail Druggists.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Campground Owners Association.
National Candy Wholesalers Association.
National Chimney Sweep Guild.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Fastener Distributors Association.

National Food Brokers Association.
National Grocers Association.
National Independent Dairy-Foods Association.
National Knitwear & Sportswear Association.
National Limousine Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox & Packaging Association.
National Parking Association.
National Precast Concrete Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Printing Industries of America, Inc.
Professional Plant Growers Association.
Retail Bankers of America.
SMC/Pennsylvania Small Business.
Small Business Council of America, Inc.
Society of America Florists.
Specialty Advertising Association International.
United Bus Owners of America.

U.S. CHAMBER OF COMMERCE,
Washington, DC, November 22, 1991.

Hon. ANDY IRELAND,
Committee on Small Business, U.S. House of Representatives, Washington, DC.

DEAR ANDY: The U.S. Chamber of Commerce understands that you intend to introduce a small-business health care bill, similar to Senator Bentsen's S. 1872, in the House of Representatives. While the Chamber has some questions about the details of the Bentsen bill (e.g., what will federal minimum benefit standards for health insurance actually entail?), we are very supportive of its general approach. You obviously share our conviction that incremental steps to address the problems of health care access and cost can and should be taken now, even while the debate on more comprehensive reform proceeds.

Small business is a natural target for immediate assistance. As you well know, access to health coverage is in large measure a small-business problem. It is in small business that the major gaps in health coverage for workers and their dependents occur. Small businesses currently face higher administrative costs, limited access to managed-care plans, inability to purchase basic coverage in many states because of benefit mandates, higher costs related to medical underwriting practices, and a limited tax deduction for self-employed small-business owners.

It appears that your bill will address this whole slate of problems, and more besides. (Jeanne Morin of your staff has indicated that you also are looking at malpractice liability reforms and the standardizing of claim forms.) As so often, the Chamber thanks you for being such a staunch friend of small business. We look forward to working with you step by step to relieve the country's health care woes.

Sincerely,
DONALD J. KROES.

TRIBUTE TO WESTMINSTER SCHOOL

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to congratulate and recognize the special achievements of a group of dedicated athletes from my congressional district—the boys' soccer team from Westminster school in Simsbury, CT.

The team recently ended a rebuilding year with a stunning 1–0 victory over Belmont Hill to capture the New England prep school championship, the first ever in Westminster's history. To get to the championship game, Westminster had to defeat two teams to whom they had lost earlier in the season.

First, Westminster defeated Choate-Rosemary Hall 1–0 in sudden death overtime. This win was number 200 in the illustrious coaching career of Geoffrey Wilbraham, head coach, French teacher and director of studies at Westminster.

Next, in the semifinal game, Westminster shocked previously undefeated Suffield Academy, the tournament's No. 1 seed, with a three goal shutout.

In the championship game on November 17, Westminster was under constant pressure from the outset from a relentless Belmont Hill attack. But they could not score due to the acrobatics of Westminster goalkeeper Todd Krugman and a swarming defensive backfield that did not allow a goal in the entire New England tournament. Westminster scored the title game's only goal when Doug Knight sped past two defenders and fired a blistering shot past the goalkeeper with under 7 minutes left in the game.

Mr. Speaker, Westminster School is justifiably proud and so am I of the wonderful achievements of their championship team. They worked hard all year and showed what teamwork and commitment can accomplish in capturing their first ever New England prep school soccer title.

Congratulations to the team which includes: Csaba Borsody, Jamie Bray, Jim Davis, Tim Ernst, Randy Fernandez, Brent Francoline, Tim Geraghty, Craig Gwinn, Doug Knight, cocaptain, Todd Krugman, Jason Manasse, Craig Maravich, Jim Miklus, cocaptain, Sam Powers, Stephan Reeves, Matt Schwarz, Justin Scott, Matt Tanis, Dean Themistocles Topodas, Peter Welles, Greg Werner, Tom White and Manager Nate Townsend. I also commend the contributions of Head Coach Geoffrey Wilbraham and Assistant Coach José Ilzarbe.

Congratulations to Westminster School, the team members and to their friends and families who have supported and encouraged them.

DEMOCRATIC ELECTIONS IN TURKEY ARE GOOD NEWS FOR AMERICA

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MOODY. Mr. Speaker, leading up to, during and after the recent gulf war many Americans had the opportunity to take note of the strong relationship that exists between our country and the Republic of Turkey. For those of us involved in government and for many Americans, Turkey's history as a steadfast ally and its commitment to democracy, free market economics and the rule of law are well known.

For most Americans, however, the events surrounding the gulf war were the first opportunity they have had to take note of the positive and crucial role Turkey plays in the region.

Since those events, there has been another occupance which also underscores Turkey's commitment to its own tradition of democratic institutions and democratic political values: The free national election that was held in Turkey last month.

Mr. Speaker, I would like to congratulate the people of Turkey on the success of those elections.

More than 80 percent of the Turkish electorate went to the polls and elected representatives to their parliament, the Turkish Grand National Assembly. As a result, six major parties—covering a wide variety of political views—contested the elections and will be represented in the new parliament. Just last week, the new Prime Minister, Suleyman Demirel—leader of the True Path Party— was installed to lead a new government coalition. The former Prime Minister, Mesut Yilmaz of the Motherland Party, has taken his place as leader of the official opposition.

From all indications, it seems quite clear that while the government may have changed, Turkey's positive orientation to the West and to the United States as friend and ally, will not.

We are no more in a position to judge the internal nuances of domestic Turkish politics than they are to judge the shades of difference between and sometimes within our political parties. We do know that President Ozal and former Prime Minister Yilmaz have been and will remain good friends to the American people. And we have every expectation that Prime Minister Demirel and his coalition allies will also be our trusted friends and partners.

Mr. Speaker, the democratic institutions in Turkey have their origin in the foundation of the modern republic early in this century under the leadership of Kemal Ataturk. Since that time, the Turkish people have worked hard and successfully to make Ataturk's secular democratic ideals a reality.

Naturally, there have been occasions in the past, and there may be some in the future, when our two countries do not absolutely agree on every issue. That is normal, even between friends. We expect our Government to put American interests first—and it does; and the Turkish people expect no less from their Government—and it will. But on the fundamental issues of democracy and human rights, the desire for trade, the necessity for regional stability, and the respect one accords the integrity of a friend, the American and Turkish peoples are very much in harmony.

This is particularly important to keep in mind, Mr. Speaker, because despite the results of the gulf war and despite the collapse of the old Soviet Union, Turkey's pivotal geographic and political role will become even more critical in the years ahead. From Turkey's western borders to the furthest reaches of the Middle East, there are only three genuine democracies: Turkey, Greece and Israel. Unlike most other countries in the region—and sadly unlike too many countries around the world—in Turkey today, power is transferred peacefully in free and fair elections.

While Turkey has enjoyed maturing political freedoms for most of this century, the same cannot be said of most of her neighbors. If Iran, Iraq and Syria were to adopt Turkey as a model for their own political and economic development, the prospects for peace in the Middle East would be greatly improved.

Across the southern regions of the old Soviet Union, millions of Turkic speaking people are emerging from the confines of collapsed Soviet communism. These emerging Muslim nations share language and many cultural influences with Turkey. Will they look westward, toward the secular, democratic model of Turkey? Or will they look southward, toward the fundamentalist theocratic and anti-democratic model of Iran?

It is my belief, Mr. Speaker, that the Azeris, Turkmens, Kazahks, Crimean Tatars, Uzbeks, Kirghiz, Chechens, Baskurts and even the Uigers of northern China, will look to Turkey. And as they do, they will see a thriving democracy, with an unfettered free-wheeling press, where the values we as Americans hold so dear are part of the fabric of everyday life.

The success of those values we share with Turkey—and their attractiveness to emerging democracies from Bulgaria to central Asia—are crucial to our foreign policy. Where democratic values prevail, peace and stability are more likely to follow. It is for this reason that I call the attention of the Congress to the continuing success of democracy in modern Turkey and to the genuine hope that Turkey will be the model for other countries.

INTRODUCTION OF BIOMEDICAL RESEARCH BILL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. HALL of Texas. Mr. Speaker, I am pleased to introduce today the Biomedical Research in Space Act of 1991. This legislation will, I believe, allow the Nation to make effective use of the expertise and resources of the National Institutes of Health and the National Aeronautics and Space Administration to jointly address some of the pressing medical research problems facing us today.

The Nation's space program has delivered many benefits to our citizens since its inception more than 30 years ago. Communications satellites, weather satellites, and remote sensing satellites are just some of the fruits of space research that we now take for granted, but which have immeasurably improved the quality of life here on Earth. I firmly believe that biomedical research in space has the potential, in selected areas, to deliver equally impressive terrestrial benefits.

Increasing our understanding of the human organism's response to spaceflight has long been considered crucial to our long-term objectives for human space exploration. However, it is also true that the space environment provides a unique laboratory for biomedical research that may allow us to significantly increase our knowledge of the nature and treatment of terrestrial diseases and medical conditions. The recent hearing held by the Subcommittee on Space produced impressive testimony by leading biomedical researchers that space-based biomedical research has the potential to improve our understanding of the cardiovascular system, gerontological conditions such as osteoporosis and arthritis, and the immune system. In addition, it was stated at the hearing that research conducted with a NASA-developed device—the Rotating Wall Bioreactor—even offers the promise of dramatic improvements in cancer therapy. In fact, results have been so encouraging that one experimental therapy is entering clinical trials. I want to include for the record a recent article which appeared in the Washington Post describing the future benefits of this type of research.

Yet all of the researchers at the hearing expressed the belief that more needed to be done in space-based biomedical research and that such research could pay important dividends in increased knowledge of some of the Nation's most stubborn medical research problems. They also declared that it is important that NASA and the National Institutes of Health work closely together to maximize the quality of such research. Accordingly, I am today introducing legislation that I believe will promote the effective and efficient conduct of biomedical research in space to provide maximum benefit back here on Earth.

Mr. Speaker, I would like to briefly summarize the main provisions of the bill.

The bill requires NASA and NIH to establish a joint working group to develop joint and complementary research, Mr. Speaker, programs in space-based biomedical research. Such research shall be focused on those areas where space-based research may contribute to significant progress in the understanding and treatment of diseases and other medical conditions.

The bill establishes a joint NIH–NASA program of research grants to promote such biomedical research, and it establishes a peer-review evaluation process to ensure that grants are awarded only for research of the highest quality.

In order to promote the continuing development of trained scientists and engineers who will provide the cornerstone for future research advances, a joint NIH–NASA program of graduate research fellowships is established.

Since it is important to obtain maximum leverage from our research investment, the bill directs NASA to develop a plan for joint United States-Soviet biomedical research in space. The Soviet Union's Mir space station and the United States space shuttle could provide important facilities for joint biomedical research prior to the deployment of Space Station Freedom.

Data obtained from space-based biomedical research needs to be available to the research community. This bill directs NASA to develop and maintain an electronic data archive of such experimental data.

Finally, the bill includes a provision for the creation of an international telemedicine emergency medical consultation capability for disaster-stricken areas. Such a telemedicine "space bridge" proved highly beneficial in the period following the Armenian earthquake.

Mr. Speaker, this is an important piece of legislation that will help to bring benefits of the space program to all of us here on Earth. I urge my colleagues to support this bill and give it speedy passage.

GROWING SPARE PARTS FOR PEOPLE IN SPACE?—NASA DEVICE REVOLUTIONIZES CELL CULTURING

(By Kathy Sawyer)

While NASA has focused on the problems of sending whole humans into space, some medical researchers say a giant leap for mankind could come from the care and feeding in orbit of the tiniest of people parts.

Since early in this century, scientists have used increasingly sophisticated methods to grow animal and human cells in laboratory dishes. Advances in these techniques have contributed to recent leaps in genetics and medicine.

But some types of cell farming have been limited by the press of gravity, researchers say. While many individual cell types will live and divide well under routine conditions, they can rarely be induced to assemble themselves into the complex, three-dimensional tissues of the sort that grow in the watercushioned human womb. And some cells can't grow at all.

But a space biology team at NASA's Johnson Space Center in Houston has created a stir in the biotechnology world with a government-patented invention that researchers say lifts gravity's heavy hand without leaving the Earth.

Several clinical researchers are using prototypes of NASA's Rotating Wall Bioreactor to improve patient treatment. They say it approximates weightlessness so well that, in pilot programs, it has grown unusually large, unusually authentic swatches of human brain tumor, small intestine, fibrous connective tissue, colon (normal and cancerous) and mouse cartilage.

Stocked with cells that, in conventional systems, grew four layers deep before shutting down, the NASA bioreactor grew them in heaps, hundreds of layers deep, scientists said.

How much scientists can improve on these results once the bioreactor is adapted to work in prolonged weightlessness in orbit is a tantalizing question.

"We're sort of excited about its potential for growing large quantities of cells for tissue structures," said surgical oncologist J. Milburn Jessup of Harvard Medical School's New England Deaconess Hospital in Boston, who is using the bioreactor for colon cancer research. On the ground, "it provides a pretty good re-creation of what happens [in both normal and cancerous colon tissue] in vivo."

Glenn Spaulding, manager of the space center's biotechnology program, said the NASA team was surprised that a mere reduction in the mechanical stress of gravity produced such dramatic results. The team has been "overwhelmed with requests for the technology," he said. There are only 10 or 15 of the bioreactors, each hand-built for NASA. The government is negotiating with potential commercial builders, but for now, "we're the only ones you can call." The cells must be sent to Houston for growing.

AN INDUSTRY IN ORBIT?

Privately, some NASA sources express intense excitement about the possibility that this technology could become the catalyst for a new space-based industry—a kind of bio-body shop in orbit, growing tissues and perhaps whole organs for implanting. Some congressional space advocates see such technology as a possible antidote to charges that space activity often is too removed from mainstream human concerns to justify its high costs.

However, NASA officials caution that the technology is in its infancy, and that for now they see weightlessness as just another possible tool for basic research. Conceived in mid-1988, the bioreactor is to make its first orbital test flight aboard the shuttle Atlantic on a mission scheduled for launch Tuesday.

Bob Rhome, director of NASA's microgravity science and applications office, said NASA officials are determined not to raise expectations prematurely out of a zeal to justify space activity. "We want scientific concerns to set the pace," in contrast to the past, when "in some cases we have dragged the science community into space," he said.

The Houston team got the idea for the Rotating Wall Bioreactor while developing equipment for the planned space station Freedom. They saw the system initially as a way to mount the cell cultures in the shuttle and protect them from severe stresses during launches and landings.

In conventional lab dishes, cultures of normal cells grow until they form a layer one cell thick and then stop multiplying. Cancer cells, more prolific, grow into multiple layers that smother those on the bottom. Cells kept in liquid suspension get damaged or dislocated by shearing forces from turbulence as the bottles are agitated or rolled.

"A high-shear environment is like taking a baby's hair and touching it to your skin. That's 100-fold more shear than we want," Spaulding said.

In the bioreactor, cells and their liquid medium are confined between the walls of two tubes set one inside the other. The distance between the walls is so small that when the device turns, the medium moves with the walls, carrying the cells along.

As a result, even on the ground, shear damage to cells is reduced tenfold compared to other ways of keeping cells in suspension, Spaulding said. In orbit, "there should be between 100 and 1,000 or more times less shear" than in conventional systems on the ground.

PRODUCING 'NORMAL' CELLS

Philip C. Johnson, an infectious diseases specialist at Houston's University of Texas Science Health Center, called the NASA bioreactor "pretty ingenious." In his research, he said, it has enabled him for the first time "to grow normal human intestinal cells," where before "we had to rely on cell lines from people with cancer. . . . Much of our research on processes had been done on non-normal cells."

Marylou Ingram, senior research scientist at Huntington Medical Research Institutes in Pasadena, is using the bioreactor to improve treatment for brain tumors. She said it grows cells "beautifully, prolifically and much more like they grow in the body." Tumor-fighting cells grown this way, once implanted in a patient's brain, also had an improved ability to recognize and attack real cancer cells.

But after a few weeks or months, depending on the types of cells, even the new bioreactor runs into the limits of gravity. As the tissue masses get bigger, they tend to "hit the wall," Spaulding said.

In space, ever-larger bioreactors humming in weightlessness for months or years might provide an almost natural stress-free space womb in which the cell cultures might develop without limit.

"The larger the size of the culture, the higher the fidelity [to real human tissue]," Spaulding said. With high enough concentrations of tissue, it might be possible to isolate basic processes: "How do cells become an intestine instead of a toe? . . . Once you know that, you can reproduce the mechanism on the ground."

Spaulding said, however, that many technical hurdles remained.

Still, laced through the caution is the hint of an audacious dream. Harvard Medical School's Jessup voiced it. "The bottom line is: I think it's possible to grow organs [for implant in humans] in space—theoretically. I don't want to sound like a way-out kook, and I know this is far in the future. But that is the ultimate utility of this kind of biotechnology."

MARIE PONZILLO RECEIVES HOME ECONOMICS TEACHER OF THE YEAR AWARD

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, these days students have tough choices to make about their academic future. They look to teachers for advice and counsel in making these important decisions. Students today need positive role models who lead by example.

It is always special to find a teacher who provides all the normal academic requirements, but steps above this and becomes a friend and role model for the students.

Marie Ponzillo is this special kind of teacher. Ms. Ponzillo was recently named teacher of the year by the American Home Economics Association. This award recognizes excellence and creativity in teaching of home economics.

Ms. Ponzillo is a home economics teacher at Crosby High School in Waterbury, CT. She has developed the Crosby Consignment Shop, which is a student-run program involved with recycling used cloths and providing retail business experience for the students. Profits from this program go to the students and the University of Connecticut Medical Center's Children With Cancer Fund.

I want to commend Ms. Ponzillo for her work to assure excellence in education. At this point in the RECORD, I would like to submit an article from the Journal of Home Economics outlining Ms. Ponzillo's accomplishments.

TEACHER OF THE YEAR AWARD

Marie Ann Ponzillo, a Connecticut home economics teacher, has been selected AHEA's 1991 Teacher of the Year. In June, Ponzillo was presented a $1,000 honorarium and a plaque at the Association's 82nd Annual Meeting and Exposition in Minneapolis by Peggy Wild, national marketing director of Glencoe-Macmillan/McGraw-Hill. The awards program, cosponsored by Glencoe and the AHEA Foundation, recognizes and promotes excellence and creativity in the teaching of home economics.

Ponzillo teaches at Crosby High School in Waterbury, Conn., where she developed The Crosby Consignment Shop. The shop, a student-run program sponsored by the home economics department, recycles used clothing from the community, provides retail business experience for participants, and earns profits for its student contributors and the University of Connecticut (UNCONN) Medical Center's Children With Cancer Fund. Shop activities are designed to build students' self-esteem, develop their communication skills, promote the concept of recycling, and encourage school and community volunteers to work together for mutual benefit.

The project currently involves 80 Clothing I and Independent Living students, who volunteer their services before, during, and after school hours. As the Crosby Consignment Shop took shape, it became obvious that additional assistance would be needed from students with skills in other areas, and the volunteer corps rapidly has become an interdisciplinary one. Distributive education students set up displays and fashion shows and plan retailing and marketing procedures; journalism classes assist in the writing of press releases and fashion-show commentary; art majors contribute advertising designs for printed matter and help with the fashion coordination of outfits; and technology education volunteers create graphic designs for advertising and set designs for fashion shows.

Realizing that her pupils also could benefit from the expertise of capable adults, Ponzillo set up an advisory board, composed of parents and community leaders in such fields as law, politics, business and banking, and fashion as well as members of the Medical Center staff. These experienced persons act as mentors for the students and have become an invaluable resource as they help with the activities of the shop.

One of the prime objectives of the consignment shop is to generate profits for both the students and the UCONN Children with Cancer Fund. Only students are allowed to consign garments; of the profits realized, two-thirds are returned to the student owner. The remaining one-third—as well as all monies from donated pieces—is given to the UCONN Children with Cancer Fund.

The Crosby Consignment Shop also touches the lives of many other students at Crosby High School. Students who lack funds to purchase fabric may still enroll in the Clothing I class because they work on donated clothing, e.g., laundering, repairing, and updating the style. In addition, the shop gives free clothing to needy students in the local community.

The program, just a year and one-half old, has drawn its participants closer together in a cooperative enterprise that benefits the volunteers as much as the recipients. It has become an outstanding public relations/promotion campaign for home economics education—locally, statewide, and nationally.

For more information on Marie Ponzillo's program, write to her at Crosby High School, 300 Pierpont Road, Waterbury, CT 06705.

(Marie Ponzillo received a bachelor's degree in home economics from the University of Connecticut and a master's degree in administration, supervision, and public law from Central Connecticut State University. She has been active in many community service activities and other charitable and civic causes. She is owner and President/CEO of Image Building Specialists, Inc., a marketing, management, and promotion firm that provides national networking services for the products and services of various corporations.)

CONGRATULATIONS TO TURKEY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. KOSTMAYER. Mr. Speaker, Turkish general elections were held last month to choose 450 members of Parliament for the next 5 years. The results of this election gave Suleyman Demirel's True Path Party a plurality in the voting, and Mr. Demirel subsequently formed a coalition government with the leader of the Social Democratic Populist Party, Erdal Inonu.

The elections highlight Turkey's history as a developing democracy dating back to 1923 when the Republic of Turkey was founded by Mustafa Kemal Ataturk. Turkey remains the only predominantly Muslim country that is a secular, liberal democracy founded on pro-Western ideals.

All Turkish citizens over the age of 21 may vote for the person and party of their choice. At present, there are 18 political parties in Turkey, including 6 major parties representing diverse ideologies and policies. These 6 parties will be represented in the new Parliament.

Voter participation in Turkey is extremely high, averaging 80 percent. This, incidentally, compares most favorably to our own general election statistics. In the 1988 U.S. Presidential election, for example, only 50 percent of those eligible voted. The smooth transition to a new government, despite the many difficulties inherent in establishing a coalition, is viable proof of the growing strength of Turkey's electoral system.

The transfer of power by the process of election in Turkey serves as a positive model for the Middle Eastern countries and for the people of the emerging Muslim Soviet Republics such as the Azeris, Tajiks, Turkmen, Kazakhs, and Kirghiz. Because of its cultural links to these Republics and its proximity to the Middle East, Turkey's commitment to democracy, symbolized by these most recent free elections, serves as a clear alternative to those policies advocated by other less democratic countries in the region.

Mr. Speaker, I wish to congratulate Turkey on the occasion of its elections and its continuing commitment to democracy.

TRIBUTE TO DRUG FREE DOWNRIVER WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DINGELL. Mr. Speaker, I rise today to call your attention to the efforts of the Downriver Community Conference [DCC] in southeast Michigan as it works to meet the community's goal of "Mission Possible: Drug Free Downriver."

Earlier this month, the Board of directors of the DCC designated the week of December 7, 1991, as "Drug Free Downriver Week" to ensure that each child in our community is made aware of the dangers of drug abuse while making certain that our young students will be provided a drug-free learning environment. One of the most important parts of this program is to let young people know that it is right to say no to drugs.

Mr. Speaker, programs like that of the DCC are crucial to the continued vitality of our community. National tracking studies have shown that with higher public awareness of the dangers of illegal drugs, there has been significant recognition that illegal drug use is a major underlying cause of crime and social decay. Reportedly, there has also occurred a significant reduction in the number of Americans who use cocaine and marijuana.

I believe that presenting this point to young people as they come to an age where they must make adult choices sends them a necessary and positive message that promotes a healthy, drug-free lifestyle.

Mr. Speaker, the DCC is committed to fully developing each young person's human potential through education, encouragement, and interaction with adult role models. The promotion of a healthy lifestyle is important to the future success of our young people. I hope my colleagues will join me today in congratulating the DCC on this marvelous effort.

THE 150TH ANNIVERSARY OF THE WILLISTON NORTHAMPTON SCHOOL

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OLVER. Mr. Speaker, I rise today to celebrate the 150th anniversary of Williston Northampton School as a college preparatory boarding school in Easthampton, MA.

As a strong supporter of education, I take special pride in noting that on December 2, 1841 the first classes were held at the Williston Seminary. Furthermore, Mr. Speaker, over the past 150 years, the Williston Northampton School has been dedicated to providing young people an education founded on a tradition of values that respect each student's talents and aspirations. The school has built a fine record of accomplishments.

Most recently, the Williston Northampton School was selected as an "exemplary school", the top honor in the U.S. Department of Education Secondary School Recognition Program. It is this kind of dedicated institution that enhances educational growth and we should all share pride in their achievements. I congratulate all who have contributed to the great heritage this school is able to proclaim today.

HEALTH CARE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DICKS. Mr. Speaker, the gap is clearly widening. Health care costs are rising in America at a rate well beyond the means of most Americans, and an increasing number of people simply cannot afford health insurance coverage. Obviously this is affecting the state of health care in our Nation. Even in a country as advanced as ours, in which we spend a greater percentage of our GNP on health care than any other industrialized nation, the life expectancy and infant mortality rates are unacceptable. The United States ranks 13th in the world in life expectancy, and 24th in preventing infant mortality. For a nation that spends as much for health care as we do, it is tragic that an estimated 37 million Americans have no health insurance coverage whatsoever.

There are many bills under consideration in Congress in this session that attempt to reform or to reorganize or to expand our health care system, while at the same time controlling costs. As my colleagues know, most of the solutions are as massive and complex as the problems they attempt to solve.

But there exists, right now, an effective and economical solution to addressing the health requirements of the most vulnerable citizens in society. At this time, community, migrant, and homeless health care centers provide inexpensive primary and preventive care for millions of low-income and disadvantaged people. The basic services offered by these clinics save money by reducing the number of emergency room visits, reducing the number of hospital admissions, shortening the length of hospital stays, reducing the number of premature births, lowering the number of communicable diseases, and protecting our Nation's children from disease through immunization. But it is important to note, that for every patient cared for by a health center, another four patients need, but cannot obtain care because of the shortage of health care services.

In the Sixth District of Washington State, the seven community and homeless health care clinics have made the difference for many families who are forced to choose between paying the light bill or to take their child for a medical checkup. This year, an estimated 14,000 low-income individuals will recieve primary and preventative care in the Tacoma-Pierce County area. Across the State of Washington, community health care clinics will provide approximately 400,000 medical and dental treatments. Since the number of unemployed people in the United States continues to rise, increasing the number of people without employee health care insurance, these clinics are essential for serving this at-risk population.

The bill I am introducing today addresses this area of neglect by increasing this country's investment in migrant, community, and homeless health care programs. Beginning in fiscal year 1992, each of these health care programs would receive an annual increase in funding of 20 percent. Similar increases would continue through fiscal years 1993, 1994, 1995, and 1996, until funding for these programs are double their current level. There is legislation in the other body that is similar, but it does not provide any increase for migrant nor health care for the homeless. Since community health, migrant health, and health care for the homeless work in a complementary fashion, it is vital to focus attention on all three of the programs, when considering improvements in delivering primary health care services.

Children from low-income families would obviously be the greatest beneficiaries of this legislation. About one-third of those served by these clinics are chldren under the age of 14, and more than one-fourth are women of childbearing age. Children present a special risk for those who are uninsured, and they are most likely to suffer when deprived of continuous health care. As many of my colleagues know, it is for children that the largest gains can be made in the health care field. For example, childhood immunization: For every dollar spent on immunizations and on preventive care for young people, there is a tenfold savings in future medical costs.

I encourage my colleagues to support this legislation, and to join me in providing the medically underserved an effective and cost-efficient health care program.

IN MEMORY OF MARGARET R. MURRAY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FOLEY. Mr. Speaker, I would like to express my very deep condolences to the family of Margaret R. Murray, who passed away Sunday morning following a brief illness.

Margaret worked on agricultural issues in Washington, DC, for the last 15 years and was both highly respected and well loved by her colleagues. She was always a warm and cheerful person—a pleasure to work with and known for her honesty and integrity.

Following Margaret's graduation from George Washington University in 1975, she was employed in government relations by Daniels, Houlihan & Palmeter, Schnittker Associates, Abel, Daft & Earley, the National Rural Telecom Association, and, for the past 7 years, at McLeod, Watkinson & Miller. She developed a special expertise in budgetary and trade matters as well as those issues affecting rural communications and the Federal crop insurance program.

Margaret had many friends in the Washington area and in the American agricultural community. My wife Heather and I considered it a privilege to be able to count ourselves among these friends. While she will be sorely missed, we will always cherish our memories of Margaret and her warm, generous nature.

Margaret is survived by her husband, Carl Schwensen, her son, Christian, her parents, three sisters, and two brothers. Our prayers go out to each of them.

HONORING SURVIVORS OF THE ATTACK ON PEARL HARBOR

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SCHEUER. Mr. Speaker, as the 50th anniversary of the Japanese attack on Pearl Harbor approaches, it is our duty to remember and honor those American servicemen who lost their lives and who were injured on that fateful day. It is also, however, our joy to celebrate those who survived.

On December 7, I will be honoring three such survivors of that "day that will live in infamy."

PAUL W. HEATON, U.S. MARINE CORPS

Private First Class Heaton was a member of the Marine Corps unit aboard the cruiser U.S.S. *San Francisco* anchored in Pearl Harbor waiting to enter dry dock for repairs. Private First Class Heaton was going ashore to attend church services when the general alarm was sounded aboard the ship, requiring all of the ships crew to report to their battle stations.

Private First Class Heaton was a member of a gun battery aboard ship and would have reported there, but the San Francisco had been required to remove all its fuel and ammunition prior to entering the dry dock. Consequently, the ship was unable to take any defensive action. Instead, the Marines were ordered aboard the heavy cruiser U.S.S. *New Orleans,* and later were readied for going ashore to defend against a feared Japanese landing.

After surviving the attack on Pearl Harbor, Private First Class Heaton served aboard the *San Francisco* until July 1942. Afterward, he joined the 2d Marine Raiders Battalion, which distinguished themselves in combat on Guadalcanal and during other operations in the Pacific Theater during World War II.

SM1C. ROBERT JOE GREEN, U.S. NAVY

Steward's Mate First Class Green was asleep aboard the destroyer U.S.C. *Hull* when a friend woke him up as the Japanese attacked. General quarters sounded aboard the ship. Steward's Mate First Class Green would have reported to a 5-inch gun battery aboard the ship, but the Hull had been required to remove all its fuel and ammunition prior to entering the dry dock. Consequently, the ship was unable to take any defensive action. As a result, the crew of the *Hull,* including Steward's Mate First Class Green, were spectators to a tragic event in our Nation's history.

After completion of repairs, the *Hull* left Pearl Harbor and joined a battle group for combat duty, and participated in several sea battles during the war in the Pacific.

S1C. EDWARD H. HUBER, U.S. NAVY

Seaman Huber was a member of the 16-inch gun crew at turret No. 3, aboard the battleship U.S.S. *West Virginia.* The *West Virginia* was anchored in Pearl Harbor on the morning of December 7 when general alarm sounded aboard ship and all crew members manned their battle stations. When the *West Virginia* was hit by a torpedo and turret No. 3 took a bomb hit, Seaman Huber took part in the rescue and evacuation of the wounded. Fortunately, the crew evacuated to the battleship U.S.S. *Tennessee.* However, the *West Virginia* would not be so lucky, as it took five more hits and settled to the bottom of the harbor.

Seaman Huber assisted gunners on the *Tennessee* during the remainder of the Battle of Pearl Harbor and on the next day was assigned to the cruiser U.S.S. *San Francisco,* on which he served until the war's end.

GUYANESE HOPE FOR DEMOCRACY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. KOSTMAYER. Mr. Speaker, as a member of the Foreign Affairs Subcommittee on Western Hemisphere Affairs, I would like to take a moment to focus the spotlight of democracy which has shown so brightly in Eastern Europe, Africa, and Latin America, on a seldom mentioned country—Guyana.

In many respects, Guyana is an isolated and forgotten country. As democratic pluralism spread throughout the world, Guyana resisted change. But recently, as a result of internal and international pressure, the ruling party, the Peoples National Congress [PNC], agreed to very significant reforms to Guyana's electoral process. The PNC, which has dominated political life since 1964 through fraud, manipulation, and intimidation, agreed to reforms that include election monitoring by international observers, the preliminary counting of ballots at the place of polling, and the development of a new voters roll based on a house to house enumeration.

With all of the new found international attention, Guyana's democratic process still has many obstacles to overcome. It is not yet certain that the PNC will fulfill its promises of reform, and the process is further burdened by an electorate that is uninformed and lacks trust in the electoral machinery.

Mr. Speaker, I visited Guyana in September and saw many people working against the odds to bring democracy to Guyana. I was especially impressed by the work of the Electoral Assistance Bureau [EAB], a nonpartisan, nongovernmental organization, whose members are traversing the country conducting voter and civic education seminars for citizens in urban and rural areas.

More recently, the Electoral Assistance Bureau conducted an exhaustive survey revealing serious flaws in the voter registry. The findings of the EAB received wide acceptance and led in part to recent appeals to President Hoyte to delay the election pending correction of the list. Through its work, the EAB has established itself as an institution that is capable of informing the national and the international community, in a sober and independent manner, about the conduct of elections in Guyana.

The success of the EAB has been due in large part to the assistance of the national Democractic Institute for Internal Affairs, a political development organization that has worked in more than 35 countries strengthening democratic processes and institutions throughout the world.

Mr. Speaker, the work of the EAB is courageous and not without risk. Guyana's history has included incidents of political persecution and worse. I commend the EAB for its work, and I am hopeful that democracy in Guyana soon becomes a reality through the arduous work of the Guyanese people and organizations like the EAB.

SITUATION IN THE SOVIET UNION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. ASPIN. Mr. Speaker, the situation in the former Soviet Union continues to deteriorate. Every day, more newspaper articles appear confirming this assessment.

A November 24 article in the Washington Post describes the corruption, barter and outright theft occurring at every stage of food distribution. Food riots have already taken place in southwest Moscow, and a 30 percent smaller harvest this year is expected to exacerbate the situation.

Mr. Speaker, why is this of concern? The reason is that the former Soviet Union has nearly 30,000 nuclear weapons. Social chaos resulting from widespread hunger, cold and sickness could weaken control of those thousands of weapons. In fact, a November 23 article in the Daily Telegraph describes the potential for control of missiles by "rebel units" left without food or pay.

The administration responded on November 20 to the prospect of severe food shortages with a $1.42 billion aid progam, including $1.25 billion in agricultural credits. Unfortunately, the program will not do much to stave off social disorder this winter. The majority of the credits will buy grain to feed livestock, not people. As Leslie H. Gelb points out in a November 24 column in the New York Times, "[M]uch of the grain won't even reach Soviet seaports in time to make a difference this winter."

Senators NUNN and LUGAR have proposed to give the President the discretion to spend up to $500 million to store and dismantle the Soviet nuclear arsenal. However, this does not address shortages of food and medicine.

Comprehensive Congressional efforts to forestall disorder have been stymied by a lack of understanding of what is at stake. A November 22 op-ed in the Philadelphia Inquirer by Trudy Rubin points out the mischaracterization of proposed aid to our former adversary. "In reality the Soviet aid issue has less to do with altruism than it does with protecting America's most basic security interests," Rubin says. As Gelb declares, "The risks of inaction and delay are clear and grave."

I ask that copies of these articles be printed in the RECORD to remind my colleagues of the alarming situation in the former Soviet Union, and the national security consequences of our failure to act.

[From the Philadelphia Inquirer, Nov. 22, 1991]

AID TO SOVIETS THAT BENEFITS U.S.

(By Trudy Rubin)

The debate in Washington over how much emergency aid to give to the disintegrating Soviet Union has gone dangerously astray over the last few weeks. But, fortunately, some farsighted senators are trying to pull it back on track.

Until now, the whole aid question has been inaccurately framed as one of whether an ailing America can still afford to give charity abroad. But in reality the Soviet aid issue has less to do with altruism than it does with protecting America's most basic security interests.

A collapsing empire full of desperate people makes easy prey for political demogogues who could gain access to parts of the Soviet nuclear arsenal. Soviet authorities are committed to storing and/or destroying thousands of strategic and tactical nuclear weapons, but they are hampered by lack of storage space, collapsing transport facilities and lack of technical expertise.

A delegation headed by the Soviet deputy minister of atomic power and industry, Victor Mikhailov, (his ministry controls both production and dismantlement of nuclear weapons) recently visited Washington. The delegates told American officials and U.S. scientists that they fear they could lose control over parts of their nuclear arsenal, as republics or small autonomous areas split off from Moscow. Some nuclear weapons might fall into the hands of dangerous new hard-line leaders.

And so the Soviets are seeking U.S. aid and advice on storing and destroying nuclear, chemical and biological weapons. "They say they can't get people to work for rubles anymore," as the value of the ruble collapses, said Princeton University Professor Frank von Hippel, who met with the Mikhailov group. "They need hard currency to get extra storage built for warheads and plutonium components." The Soviets are also seeking U.S. money and technical help for destruction facilities.

Partly a response to the Mikhailov visit, Sen. Sam Nunn (D., Ga) and Rep. Les Aspin (D., Wis.) came up with a plan to shift $1 billion from the $291 Pentagon budget into a fund to help the Soviets. The proposal would have given the administration discretionary authority to use the money in joint projects with the Soviets for weapons destruction, as well as for conversion of military industries to civilian factories (in which U.S. firms could invest). The money also would have been targeted to help the Soviets with emergency transport of food.

That proposal was dropped from the defense bill early this week when the administration failed to give it any support. President Bush was afraid to buck the anti-foreign-aid tide. Instead, the administration offered the Soviets little more than new guarantees for loans to purchase American wheat.

Fortunately others in the Republican Party were more farsighted. Sen. Richard G. Lugar (R., Ind.) helped put together a bipartisan group of nine Democratic and seven Republican senators who met yesterday to try to resurrect part of the $1 billion plan.

The new version would give the President discretion to use $500 million of Pentagon money for one main purpose: to help the Soviets or the republic governments collect, store and destroy nuclear weapons. The specific target is the 15,000 tactical nuclear weapons that Soviet President Mikhail S. Gorbachev has already offered to destroy.

"This is a national security package, not foreign aid," said one legislative aide involved in the process. Congressional sources say that Defense Secretary Dick Cheney supports the plan. So, they say, does Deputy Defense Secretary Donald Atwood, who has just been visiting Moscow to examine the possibilities for converting some Soviet defense plants from making aircraft and missiles to civilian production.

Under the new congressional plan, strict U.S. controls would be imposed to make sure the Soviets didn't squander or pocket the money. The U.S. funds would go for building storage facilities, helping with transport and providing technological know-how. U.S. companies would get contracts for building new Soviet missile storage facilities, and Soviet matching funds would be required. U.S. allies would be asked to contribute money.

This is the kind of creative thinking this is desperately needed to cope with the gathering speed of the Soviet collapse. Spending Pentagon money in this way is clearly in America's interest, more sensible than many far larger budget items on the Pentagon agenda. But the administration hasn't yet endorsed, let alone promoted, such a plan.

There is no time left for dithering. The bipartisan group of senators hopes to get the $500 million fund approved before Congress adjourns next week. "This is truly an emergency," Lugar said yesterday. "* * * These small nuclear weapons need to be rounded up and stored, or destroyed.* * * If not, some of these weapons are likely to be sold to other countries, terrorist groups or other desperate people." Explained in this fashion, such spending can surely muster public support.

[From the Daily Telegraph (U.K.), Nov. 23, 1991]

MISSILES COULD BE CONTROLLED BY REBEL UNITS

(By Peter Almond)

Intelligence experts in Britain and America are so worried about the state of the Soviet military that they fear minor mutinies may be under way and that nuclear weapons could easily be controlled by rebel units.

A Pentagon official said yesterday that the complex arming and launch codes for missiles still aimed at Britain and the United States made the weapons virtually impossible to fire in the wrong hands—but the codes could eventually be overcome.

"The internal military situation is becoming critical," added Mr. John Hines, Soviet military expert for the Rand Corporation and the U.S. Congress. "Our intelligence people have direct reports that some units have not received food for weeks.

"There is a potential 1917 [when the Russian army revolted and brought on the Communist revolution]. Since the troops do not know whose authority they are under, units are beginning to look out for themselves."

The crisis worsened last weekend when Mr. Boris Yeltsin, the Russian president, said his republic was taking control of the Soviet Finance Ministry and banks.

There are no specific reports yet that Soviet Strategic Rocket Force troops are not being paid, but Mr. Dick Woff, a London-based Soviet intelligence expert, said that when Northen Fleet officers went to collect their pay at a Murmansk bank two weeks ago, there was no money to give them.

Apparently in order to tighten control over all nuclear forces, Mr. Woff said Moscow had restructured the Strategic Rocket Forces into so-called "Strategic Forces of Retention", bringing all naval Backfire nuclear bombers and missile submarines under its control, as well as all space, air force and long-distance nuclear weaponry.

Whether the new structure will succeed appears doubtful. With Mr. Yeltsin now effectively in control of nuclear weapons on Russian territory, experts expect that the Ukraine, Kazakhstan and Byelorussia will follow suit and use their weapons as a bargaining chip against new Russian power.

The Ukraine is in a particularly powerful position. It has 176 intercontinental ballistic missiles in fixed silos and about 30 strategic bombers.

"Tampering with those missiles would disarm them and they still could not be fired without the launch codes," said Mr. Hines, "but it's not impossible for Ukrainian engineers to re-engineer the weapons. That would involve state participation, and I can't see who benefits from that.

"A more likely scenario is that, to get attention, a unit could rebel and threaten to destroy the missiles and nuclear warheads, creating a nuclear pollution problem."

[From the Washington Post, Nov. 24, 1991]

NICE FOOD—IF YOU CAN GET IT

(By Fred Hiatt and Margaret Shapiro)

MOSCOW.—The White Cottage farm on the outskirts of Moscow still sends pigs to slaughter every day, but there's no pork in the stores. The cows of the huge Gorki dairy still give milk, but cheese is a rarity here. The nets of the Soviet fleet teem with fish, but the Moscow Port Cold Storage refrigerator rooms stand half empty.

This is the mysetry of the Moscow food chain; its solution is a tale of corruption and improvisation and ruthless Darwinian competition that has created a pervasive sense of lawlessness. There is food in the Soviet Union—less than in the past, to be sure, but still available to those who have the money, connections and savvy to navigate the anarchy.

Young enterpreneurs with cash and daring bribe store directors with extra rubles or calculators to get meat at the back door. Factories, no longer fulfilling their state-dictated plans, instead barter their television sets or shoes for food to distribute to their workers. Warehouse directors, instead of shipping food to shops, trade their vodka for meat, meat for sugar, sugar for milk.

Ordinary customers, meanwhile, wait for hours in front of shops, edgy and suspicious but powerless to protect themselves. These are the unfortunate Muscovites who produce nothing concretely tradable—civil servants who prospered under the old system, teachers, writers, nurses, bus drivers. The most vulnerable among them, pensioners and children, already pick through the central city garbage dump as they face the prospect of a hungry winter.

This is the Moscow food chain at a critical moment of transition, as the old economic system based on fear and orders from the top breaks down and the country fragments. Sugar is not delivered, potatoes rot in the fields, and processing plants decay or run out of fuel. Meanwhile, leaders talk about free-market reforms and privatization, but apparatchiks still cling to power, forcing food to pass through layer upon layer of bureaucracy.

And all along the food chain people take their cut, skimming off the choicest—for themselves, for friends, for barter—and sending the rest on until it arrives, a skimpy, pathetic remnant, at the ordinary stores.

"Unless we have a person watching at every link of the chain, from the producer to the purchaser, the goods will be lost," said Victor Semonov, general director of the White Cottage farm, which produces pigs and vegetables. "The people at every part of this chain will pursue their own interests at the expense of ordinary buyers."

The result in a house-of-mirrors world where a bent form of capitalism is taking shape in the shadows, where ordinary people struggle to stay a meal or two ahead, and where money is often worth next to nothing, fulfilling in an unintended way Karl Marx's prophecy that communism would lead to a moneyless society.

"We've reduced our country to a feudal state over 74 years," said Ella Yudrina, deputy head of the city organization responsible for food supplies in Moscow's Kievsky district. "No one is interested in money, only barter. It's a very bad omen for the future economic level of our country."

THE BLACK ENTRANCE

Maxim Valetsky, 26, is not going hungry, yet his very success shows how seriously askew the system in the Soviet Union is today. In his small Moscow flat, dozens of cans of vegetables are stacked under a tarp on the balcony. Cans of milk are crammed into a cupboard beneath the kitchen window. Three refrigerator-freezers are stuffed with cheese, chicken, beef, butter, chocolate, even batteries and antibiotics. His larder, a testament to his anxiety about the future, would inspire envy and wonder among his neighbors. "In company, I wouldn't say that I still eat cheese," Valetsky said.

But even for the Valetskys, feeding themselves and their 5-year-old daughter is a constant challenge. He works 14 or 16 hours a day as an independent businessman and sales representative, earning perhaps 10 times the average monthly wage. His wife works almost as many hours, putting together the convoluted deals necessary to get for her family the foods that no longer appear on store shelves.

The cheese, for example, began with a rumor: A cafeteria in a goverment office had some blocks of cheddar. The Valetskys, trading past favors, were able to purchase some scare medicines from a friend working in a state pharmacy, where drugs are almost never openly for sale. They offered the medicines to the cafeteria manager, who agreed to trade the cheese—but only if the Valetskys also brought a consignment of scarves that the manager had earned in an earlier deal.

"So now I am giving scarves away," Valetsky said, shrugging his shoulders as he sipped coffee—also not available through ordinary channel—at his kitchen table.

When the local meat store gets a shipment, the Valetskys get a telephone call; for a few extra rubles per kilogram above the fixed price, the clerk sells them everything out the back door, or what the Russians call "the black entrance." About 30 or 40 women of their provisions the same way, with the clerk pocketing some of the bribes and passing more up the ladder to his director, to whom Valetsky's wife brings gifts from time to time. Valetsky said he believes little meat is sold these days to legitimate, front-door customers.

Six months ago the Valetskys bought only meat at the back door; now they buy everything but bread that way, because so little is put on the shelves to be sold at the state prices.

"I feel guilty that I cannot live in another way," Valetsky said. "I am not proud of it. But I want to live, and so I do. I wonder how the other people manage."

Lately, as the gap widens between him and "the other people," Valetsky has begun worrying about social disorders, about someone seeing his wife at "the black entrance." "People are becoming more and more anxious every day," he said.

Indeed, one day this month in southwest Moscow, scores of shoppers, alerted by a suspicious "customers' committee" that had watched the local grocery day and night for months overran blockades and stormed the store, looking for meat, vodka and sugar they believed was being hidden in the basement and smuggled out the back. The search was fruitless, and the shoppers returned to their lines and their self-compiled waiting lists of more than 5,000 names in chronological order.

But the newspaper Trud saw the small riot as an ominous sign. "It seems we have come to the moment when everyone fears everyone else," the labor newspaper commented. "In the 165th police station, they told us, 'Everything is under control.' But will police power be sufficient for long?"

DEPLETED DEPOTS

The breakdown in the distribution system is painfully visible in the middle of the Moscow food chain at the filthy, ramshackle, two-story building from which the government long supplied food to the 58 government groceries in the city's Kievsky district.

Cold storage rooms once filled with milk, eggs, meat, fruit and other necessities now store cartons of canned salmon sent by Germany as "humanitarian aid." Upstairs in other sparse rooms were stacked bags of partially processed rice, some sugar and bars of soap from India. The depot's only precious commodity, butter, was reserved for children and people who donate blood.

"Even a year ago, we got more than this. This year, right before our eyes, the quantities have been reduced," said depot employee Vladimir Fyodorov as he trudges through mud two inches deep to watch the unloading of low-quality boiled sausages and of frozen beef kidneys in ripped, dirty cardboard boxes. Until recently, few Muscovities deigned to buy such meat, Fyodorov said; now it sells out swiftly.

This depot, like thousands across the country, is bare in part because the harvest was smaller this year, a result of bad weather, spoilage and disabled, crumbling farm equipment. The nation can afford to buy less fodder overseas, so beef and pork production has fallen off. With grain supplies low, chickens are being slaughtered, and the number of eggs has dropped; Moscow gets 5 million instead of 10 million a day, said Elionora Borodina, a city bureaucrat who still tries to direct where and how food will be distributed in Moscow.

ECONOMY IN CHAOS

The former 15 republics of the Soviet Union, each going its own way, no longer fulfill old state-mandated plans, often refusing to ship food beyond their borders. Ukrainian sugar, for example, no longer reaches Russia, Borodina explained, and the newly independent Baltic republics are looking for new markets for their meat and fish. New "customs posts" between republics take their share of food that does get shipped, as do highway and railroad robbers. To fill their freezers for the winter, Valetsky and two friends plan to drive south and buy 400 pounds of beef—and then drive back, revolvers at the ready, without stoppoing.

Many producers, anticipating the free-market economy that Russian President Boris Yeltsin has promised but set no date for, simply hold goods off the market, waiting for a better price. Many others trade for food but not for rubles, which constantly diminish in value as the government speeds up the printing of money.

The persistence of fixed prices feeds a thriving black market. One former bus driver said he quit to earn a far more handsome living speculating in vodka, which officially is sold not only at a fixed price but also for ration coupons alone.

When a shipment of 80 cases of vodka arrives at a neighborhood store, the director immediately claims 20 cases for himself and his staff to barter for food and other necessities, the speculator explained. The director sells 40 cases more, at twice the low state price, to the former bus driver and other speculators, who double the price yet again before selling the bottles on the street or out of their car trunks. Only 20 cases remain for the customers lined up in front of the store, many of whom wait for hours yet never manage to use their ration coupons. At one liquor store recently, 4,000 customers had signed the informed daily list reserving their places in line for vodka purchases.

Such scarcity breeds theft. At the Moscow Port Cold Storage facility, for instance, director Oleg Ivanov said boxcars sometimes arrive open and empty of the fish that was loaded onto them in Murmansk or Vladivostok.

But losses to theft are not his major problem, Ivanov said. The Soviet fleet is catching about as many fish as ever, he said, but now wants to trade fish directly for sugar, for ball bearings, for whatever it needs to feed its crews and keep its ships afloat. And when Ivanov does receive fish, such as the frozen perch that were falling stiffly out of their burlap sacks onto the track's muddy floor the other day, he too trades much of it to a local store for meat and other provisions for him and his workers.

"It's really a pity that a country like ours, one-sixth of the world and with enormous resources, has come to this," said city administrator Yudrina, itemizing for a visitor how severely food stocks in the Kievsky region have plunged in the last year.

She said she believes the freezing of prices will improve the situation, but added: "There is a time factor. The people who made the [August] coup are still sitting out there and waiting, waiting until things get bad."

RUSSIA FACES WINTER—AND PLEADS FOR U.S. HELP

(By Kevin Klose)

Moscow.—Amid ghostly outriders of oncoming winter—wisps of snow sifting down from darkening morning skies, glimmers of frost in the birch forests—the lands and cities of Russia lie quiet and exhausted after a year of cataclysmic civic tumult.

As the season gathers strength, the ancient nation and its diverse peoples are bracing for an assualt that many fear could shape Russia's future and insure a rebirth of its authoritarian past. They cast it in simple, yet mythic terms: ice, snow and cold matched against a bedraggled population's uncertain march toward democracy.

"If we can just get through the winter * * *"

The haunting phrase—as though Moscow were as mortally endangered as Leningrad during its 900-day encirclement by the Germans in World War II—echoed over and over in the capital a week ago as Russians talked about their hopes for the future. It was often accompanied by a fatalistic shrug of the shoulders or a peek at the sky as if a blizzard were about to begin. Russian winter—the superhuman force that twice saved the Motherland by helping destroy Napoleon's army and Hitler's Wehrmacht—could betray the nation in this turbulent moment and weaken or even end hopes for true political reform.

Moscow offers mostly only signs of unstoppable economic rundown. To be sure, the newspapers are full of accounts of new deals and joint ventures with the capitalists. Western and Asian businessmen throng the city, bargaining for the natural riches of a stupendously wealthy and plundered continent.

But years of political disarray have reduced the capital to a dismal place of heavily polluted air, heaved and potholed streets, crumbling buildings, abandoned and vandalized public works projects. Lines of harried, grim people queue and search everwhere for food. Beggars shelter in subway entrances and robbery-assaults continue to soar.

The physical decline is matched by that of the ruble: in barely a week this month, its value fell by a third, a freefall that is steadily wiping out all but homegrown entrepreneurs and capitalist foreigners, whose comparative wealth rises with every new exchange rate. It is hear amid the economic ruin of everyday life for everyday Russians that the bell may toll for democracy.

Bread lines shrank to 20 minutes from three hours, and then disappeared, but the battered, near-empty state shops and markets are centers of filth and backdoor corruption, even in the best downtown neighborhoods. Sudden impoverishment has scourged Eastern Europe as the protections that guarded the old centrally run "soft-currency" socialist economies shattered in the move to hard-currency capitalism. But nowhere is the collapse more threatening or the drain on self-esteem greater than in the former superpower.

"You cannot even conceive of the humiliation I feel," said a woman, close to tears as she explored the psychic injury of the economic calamity. "We are a great country. What has happened to us?

"When did the world last encounter such a volatile mix of bewilderment, anger and shame? Russia under Kerensky? Weimar Germany? The parallels are not a cliche; they are inevitable. For indeed, having been defeated in the Cold War, Russia now faces the spectre of post-war failure as well.

Winter's onset has sharpened the Russians's sense that substantial aid from the United States is needed to insure democracy. The pleas for U.S. assistance—food, medicine, technology, hospital equipment, computers, etc.—erupted spontaneously wherever I went during a week in Moscow and a provincial city. I heard it from dozens of people, private citizens to senior officials struggling to form new governments within the collapsed empire.

I came here with a group of past and present American officeholders, led by former secretary of state Edmund Muskie and former senators Birch Bayh of Indiana, Henry Bellmon of Oklahoma and John Culver of Iowa, to consult on federalism issues with the various executive and legislative governments—union, Russian federation, Moscow city and region—and judicial and economic reform commissions at all levels.

The talks, sponsored by the American Committee on U.S.-Soviet Relations headed by William Green Miller and the International Association of Parliamentarians, ranged from practical politics to the philosophy of separation of powers. But at every turn, the Russians expressed the view that with the Cold War over, the United States now has the power to insure a peaceful prosperous future for a huge nation of nearly 150 million people, many of whom harbor ethnic hatreds or covert their neighbors' territory.

The billions of aid dollars flowing in from private organizations and the Western alliance drew little comment. It is the Americans whom Russians admire and with whom they identify, an embrace reinforced by the thought that unlike other major aid-givers, the United States and Russia have never formally warred against each other.

Some of this is just plain hucksterism, pandering to foreigners who may have important connections back home. But the longing for everyday help from America—whose wartime Lend-Lease trucks and Spam still stir fond memories in millions of Soviet war survivors—has very deep roots of its own. Anatoli Tizhalov, a senior Moscow regional official, was proudly describing how his reform government nurtures private farming. "A year ago, there were three independent private farmers in Moscow *oblast* [region]. Now there are 740, with 600 on the waiting list. Professional training for these people is of great importance.

"But I have another priority," he said in a wishful tone. "The 740 farmers are eager to work, but there is no normal infrastructure for them. We don't have the tools and machinery for such farmers. All our equipment is for supergiant collective farms. We know that the United States helped South Koreans learn advanced farming. You can make a good business and earn hard currency here."

"We need to learn how to work as true partners and friends," a Muscovite said in a typical outburst of intense hope. "Without your aid, without your strength, we will fail."

"Life stinks * * *. You've got to help us," said a hat seller. "This is such a poor life we live! Americans: Help!"

"I request that America come to our side with help," said a city councilman in Saransk, grimy provincial capital of the Mordovian Autonomous Republic 400 miles southeast of Moscow. "There is a critical situation with medicine and drugs in the Soviet Union. In 1992, thousands will die because of a lack of medicine. This is genocide. We hope the U.S. government can send help—especially to Mordovia." He proposed a joint U.S.-Russian drug store for his city.

Underscoring the uncertainty of the season, Soviet President Mikhail Gorbachev and Russian President Boris Yeltsin last week separately offered grim economic assessment. Yeltsin called for steadfastness during a "period of worsening conditions" which he said could last six months. Newly reinstalled Foreign Minister Eduard Shevardnadze warned that dictatorship may return.

It seems implausible that something as mundane as a single season could have much effect on the nation-building, statecraft and politicking that have riveted world attention on Russia and Moscow. After all, winter and Russia merge effortlessly in the mind. Yet this year, the cold and dark are arriving at a dangerous time: on the heels of a bad harvest (30 percent smaller than 1990) and a crisis in energy production (down 10 percent from 1990) and amid protracted political struggle between Russia and the other republics.

My family and I lived here for four years in the Brezhnev era, when men and women who advocated reform and democratization were routinely imprisoned, exiled or sent to psychiatric prisons for the criminally insane. So I expected to find jubilation and release among reformers working to found a new nation—or nations—based on egalitarian principles and the rule of law.

There indeed was much serious talk of institution-building. But we also encountered deep self-doubt and uncertainty about whether decades of Soviet rule have irreversibly damaged the moral compasses of citizens. With piercing self-knowledge, the Russians talked about the ravages of the past on their effort to forge humanitarian ethical and moral norms.

"You can start with the economy," said a judicial reform commissioner in a characteristic comment, "but the main problem is ourselves. After 74 years of dictatorship, we are accustomed to totalitarian ways and [no longer] have knowledge of what is morally good and what is bad. We were always told that the Soviet way is the best way and that is the biggest trouble * * *. The main problem is our problem * * *."

So much has been destroyed and so much else is brand new, unformed, untested that everything is precarious. We saw this vividly in Mordovia, an infamous region where political labor camps once abounded.

Bellmon, U.S. District Court Judge Louis Pollak, Utah Supreme Court Justice Michael Zimmerman and I made the trip there, accompanied by my son, Brennan, an exchange fellow at a space science institute in Moscow. Our hostess was Tatiana Tyurina, a Union deputy from Saransk.

A Moscow overnight train brought us to her city (pop. 350,000) in the Volga basin. The site of a lightbulb factory and a large electronics complex that did military work, it previously was closed to foreigners. But greeting us were local dignitaries and a professor earnestly speaking excellent English. Mordovians, a Finnish sub-group, account for about a third of the region's 1 million population. We retired to a hotel for a lavish breakfast of smoked fish, fresh tomatoes and broiled "cutlet"—items missing from a state market on the city's main street. It looked like a carbon copy of the mendacious "official" visits arranged for foreign press during the time of party power.

But then the officials began talking. The hotel, once party-owned, is in insurgent hands now. Ditto the gloomy highrise party stronghold that looms over government square. Tyurina related how democratic forces had coalesced when it was discovered the party was building itself a new hospital instead of renovating the outdated local children's hospital. She circulated petitions, the new hospital was stopped, the old refurbished, and the party defeated in elections that made her Union deputy.

It was a moment of heady triumph, as though partisan commandos had pushed the occupiers out in hand-to-hand combat. But now, problems of governing a moribund creation grind without relief. Tyurina spends each week in Moscow lobbying for help, goes home for the weekend, returns to Moscow. The shortages stretch to the horizon: inadequate public transport, poor housing, terrible telecommunications, woeful medical supplies, food shortages, decrepit stores, budgetary collapse. Her heart-shaped face was a mask of fatigue, deep pockets etched beneath dark eyes. "I don't think I can run again [for office]," she said. "It's just too much."

Saransk's air and water are foul from mercury, lead and other unabated pollution from the lightbulb factory. A doctor in a chance sidewalk encounter with me ("You're an *American?*" she goggled, "*Here?*") said respiratory illnesses among children in certain parts of the city are "terrible because of industrial wastes."

"We don't even have the equipment to find out what the levels of poison are," said activist politician Vasili Taratov. "In this city—in Russia—there are many production illnesses." He added hopefully, "We're setting up a citywide environmental committee and we'd be very happy to accept help. I think the United States could send us small amounts of equipment—this is justified by people's health problems."

The shattering of the party also broke its coercive power in the invisible realms of belief, connectedness and belonging that bound millions to a paranoid ideology of global class conflict. The Soviets used to speak of a "correlation of forces," as if human endeavor were but applied science—the Marxist vision that treated individual fates as nothing more than chemical process. What will replace the "correlation of forces?"

Millions of Russians know that the communist past was a monstrous one; even simple acknowledgment of that reality can act as a force to shape a positive future. But accurate knowledge of the past, no matter how important and transforming, cannot by itself safely guarantee that a civil society can come alive here. The dangers are so numerous they are almost uncountable.

"The United States has begun to treat us differently and we feel it," said Vasili Taratov. "Until recently, we were such an aggressive armed country that nobody would trust us, and we don't blame you for this. But we've become convinced that the United States won't conquer us—because it would cost so much to rule us!"

The joke drew rueful laughs around the table. But then came a pause and talk turned to whether the now-invisible party was stirring long-dormant ethnic antagonisms among Russians and Mordoviana. No one knew for sure, but there was palpable apprehension. They seemed certain of this much: Out beyond the partisans' torchlit ramparts, the former occupiers were moving in the darkness.

[From the New York Times, Nov. 24, 1991]

THE U.S.: A PATHETIC NATION

(By Leslie H. Gelb)

With the trillions spent to win the cold war, it will be pathetic if the U.S. fails to find $1 billion to combat famine and the danger of nuclear chaos in the Soviet Union.

Famine in Soviet cities this winter could kill the Soviet democratic experiment, and there is only one way to prevent starvation. That is by loading up U.S. military aircraft with food, flying to cities and overseeing the distribution. But aside from a few Democratic Representatives such as Les Aspin and Lee Hamilton, Washington sits on its hands.

The spread of Soviet nuclear weapons could present the greatest threat to world peace, and there is only one way to guard against their misuse, theft or sale. That is a crash joint effort by U.S. and Soviet specialists to secure them. But apart from an encouraging bipartisan group of senators joined by Mr. Aspin and Mr. Hamilton, Washington shows no urgency.

The risks of inaction and delay are clear and grave. Yet legislators, fearful of being accused of helping Soviets at the expense of Americans, shrink from doing what they know is right. And President Bush, who above all understands what must be done, is also frozen by such accusations and remains inexcusably silent.

The one thing Mr. Bush has done—his now $4 billion "food aid" program—raises serious questions about his competence and motives. Senator Patrick Leahy is not alone in charging that the President "is playing a deceptive game with American taxpayers."

The Bush $4 billion plan sounds good. It provides U.S. credit guarantees for the Soviets to borrow money from banks to purchase American grain. Marlin Fitzwater, the White House spokesman, said the program "is aimed at alleviating food shortages and other dire humanitarian consequences * * * this winter."

But much of the grain won't even reach Soviet seaports in time to make a difference this winter. Much of what does arrive is bound to rot on the docks or find its way into the black market, if past experience with Soviet distribution is any guide. Most of the cargo is feed grain, destined for farms and animals, not people. This grain will help sustain livestock. But it will do very little to alleviate hunger in Soviet cities now.

This is no secret. Which is why Mr. Leahy and many others see the $4 billion as aimed more at raising American farm incomes than at helping needy Soviets.

Mr. Leahy is also rankled by what he sees as Mr. Bush's budgetary sleight of hand. The President is not asking Congress to appropriate $4 billion, and says the Soviet Union is creditworthy and will pay its bills. Mr. Leahy argues that there is little chance the Soviets will find the cash, and that the American taxpayer will eventually have to pick up the tab. The Senator is by all odds correct.

Here another fundamental issue is joined. If the $4 billion is essentially a gift to the Soviet Union and mainly a boon to American farmers, and if it won't do much to relieve famine this winter, why spend it at all? Or why not use the money to provide emergency relief for needy Americans?

Put this way, the Leahy stance is not frivolous or isolationist. Politicians could say in honesty that they would rather use the funds for America's emergencies than make a grand, but largely ineffectual gesture abroad.

But the choice should not be between a questionable food aid effort and American domestic priorities. It ought to be between those priorities and a food relief program that can work.

Mr. Aspin has put together a list of already-bought and ready-to-go food-stuffs, including $165 million in free food already allocated by Mr. Bush, and tons of food leftover from the Persian Gulf war. Europe is also loaded with excess stocks.

What is needed is transportation and reliable distribution inside the Soviet Union. U.S. forces fed the Kurds after the gulf war and could do it again on a much larger scale. They are also ready to help their counterparts gather and destroy Soviet nuclear weapons. The $1 billion needed for these vital tasks would come from existing Pentagon funds, not new money.

A nation loses its soul and spirit if it cannot act to protect its most basic interests and values. Soulless and spiritless we will enter our future if we fail to do what we can to forestall new dangers and dictatorship in the Soviet Union.

PAY-AS-YOU-GO CONSEQUENCES

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GRADISON. Mr. Speaker, during the closing days of this session of Congress, bills are being hurriedly considered on the floor under expedited procedures. Ostensibly, these bills are noncontroversial. Generally, they do not raise Budget Act points of order.

I would like to call the attention of my colleagues to the fact that several of the bills on the suspension calendar and a couple of bills on the regular calendar include direct spending which is not subject to further action by the Appropriations Committee. Under the 1990 budget agreement, legislation affecting direct spending and receipts is subject to the pay-as-you-go budget enforcement mechanism.

Under the PAYGO system, the deficit impact for each bill for each year through fiscal year 1995 is recorded on what we informally call the PAYGO scorecard. Each week, CBO issues a memorandum showing how much has been added to the PAYGO scorecard to date. Here is where we stood as of November 15:

DIRECT SPENDING AND RECEIPT LEGISLATION, 102D CONGRESS, 1ST SESSION—CBO/OMB ESTIMATES COMPARED, CHANGES IN THE DEFICIT

[In millions of dollars, by fiscal year]

	1991	1992	1993	1994	1995
Enacted legislation:					
CBO	6	−39	13	151	184
OMB	(1)	−26	5	4	6

[1] Less than $500,000

PAYGO enforcement occurs within 15 days after Congress adjourns at the end of a session. At that time, there is a sequestration of mandatory programs—including Medicare, unemployment compensation, title XX, child nutrition, family support, and others—to offset the amount of any net deficit increase estimated by OMB in that fiscal year and the prior fiscal year.

OMB figures indicate that, based on legislation enacted before November 15, there would be no sequester when the current session concludes. However, the scorecard figures for fiscal year 1993, 1994, and 1995 all show a net deficit increase. Unless legislation is enacted before the end of the 2d session of the 102d Congress which offsets the fiscal year 1993 deficit increase, a sequester will occur when Congress adjourns next year.

Some of the bills under consideration during these closing days of the 1st session are deficit neutral over a 4- or 5-year period. The way the PAYGO system works, however, this does not necessarily provide protection against a sequester. Because the net deficit for each year is scored separately for PAYGO purposes, a bill could reduce the deficit in the long run but still contribute to a sequester for a particular year. For example, a bill that reduced the deficit by $10 million in each of fiscal years 1992, 1993, and 1995 but increased the deficit by $5 million in fiscal year 1994 would reduce the deficit by $25 million over the entire period. However, the $5 million in 1994 could cause sequester unless offsetting legislation were subsequently enacted.

I am belaboring this description of PAYGO enforcement only because at this time of the year, so many bills containing direct spending are being hurried through the legislative process. I want to be sure that my colleagues understand how the system operates so that they are not misled about the political impact of their measures and votes this year and in the 3 years ahead. Bills which appear to be uncontroversial today, may result in controversy in the future.

RADIO COMMUNICATIONS SAFETY ACT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. RINALDO. Mr. Speaker, I rise to announce my intention to introduce legislation when Congress reconvenes in January to address the increasing complexity of shipboard communications equipment. My proposal would direct the Federal Communications Commission to adopt rules expanding the licensing requirements for maritime radio officers to ensure that they are adequately trained in the operation and repair of advanced navigational communications equipment on ships. The legislation I intend to introduce would also amend section 352 of the Communications Act of 1934 to ensure that large cargo ships sailing close to our shores are not routinely exempted from the act's requirements to have certified radio officers on board.

Prompt, reliable communications in ship emergencies is absolutely critical to ensure safety of life at sea and to protect the environment from the devastating consequences of an uncontrolled oil spill. Indeed, a delay in responding to a distress call can transform a minor mishap into a tragedy.

In recent years, we have witnessed the development of advanced maritime communications systems, such as the Global Maritime Distress and Safety System or GMDSS. Undeniably, these systems represent important technological advancements in maritime communications and their deployment will dramatically decrease risks to mariners, ships and the environment caused by sea disasters. However, the deployment of advanced communications systems, such as GMDSS, do not obviate the need for on-board licensed radio officers, trained to respond instantly to provide communications support for all emergency situations at sea. In addition to providing prompt communications is a disaster, such personnel are needed to maintain and, if necessary, repair advanced communications equipment.

The attendance of trained radio electronic personnel on an oil tanker could mean the difference between preventative maintenance, crisis trouble shooting, and the devastation that is all too evident more than 2½ years after the *Exxon Valdez* disaster.

The legislation I intend to introduce attempts to ensure that licensed radio electronics personnel are on board all ships and are trained to operate and maintain all communications equipment, including advanced communications systems, such as GMDSS, and would require the FCC to promulgate rules which:

Update the licensing requirements of radio officers to ensure that such personnel be certified as qualified to operate modern shipboard communications equipment and to maintain such communications and related navigational equipment;

Require that the primary responsibility of maritime radio officers is to operate the shipboard communications equipment and to repair and maintain communications, and other related equipment on board the ship;

Require that all radio officers be trained and licensed in the operation and maintenance of the ship's radio, navigational, and other related communications equipment and advanced communications techniques;

Permit the FCC to contract with outside institutions for the training and testing of radio officers.

In addition, my proposal would also direct the FCC to conduct a study after the deployment of the GMDSS to examine the telecommunications needs on board ships and to report its findings to the Congress.

Finally, in order to provide additional safeguards to protect the environment from disasters at sea, my proposed bill would tighten current statutory exemptions to radio station and operator requirements and would require that an environmental impact statement be performed prior to the FCC exempting vessels carrying cargo which may be hazardous to the environment.

Mr. Speaker, only by ensuring that adequately trained radio officers are on board ships to operate communications systems and to detect and repair electronic failures can we hope to effectively prevent future environmental disasters and loss of life at sea.

ST. PATRICK'S CHURCH IN FELLS POINT, MD, CELEBRATES ITS BICENTENNIAL

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize St. Patrick's Church in Fells Point, Maryland, on the celebration of its bicentennial.

For 200 years, St. Patrick's Church has attended to the needs of its congregation with the warmth and caring that only the church can provide. Founded in 1792 by Bishop John Carroll, the church has had several locations within Fells Point. The church currently stands at its fifth location, where it has been for 180 years. Rich in history, St. Patrick's Church was one of the first area churches to have a parochial school. Founded in 1815, the school was opened to educate the children of immigrants. During the later part of the 1800's, the church had two orphanages which later were closed during the World War II era. It is not hard for one to picture the scene of Fells Point on Baltimore's waterfront full of merchant trade from around the world and the arrival of immigrants to a young and vigorous nation.

St. Patrick's Church has indeed weathered the test of time. In 1983, the present church suffered a severe fire. The five-alarm fire took 135 firefighters and 45 pieces of equipment to extinguish the blaze. Three years later, after rebuilding, the church was rededicated on October 4, 1986.

The bicentennial of St. Patrick's Church is a proud and joyous occasion for the congregation and surrounding community. An important and established part of the community, St. Patrick's is a place of worship and a source of faith and guidance to many in the community. The health and vitality of the church is a great concern of mine as the church has a profound impact on the well-being of our country. Without the church, we would indeed be a lesser nation.

As the proud author of House Joint Resolution 325, Religious Freedom Week, I take a special pride in the religious freedoms we enjoy in this country. Through their faith, charity, and reverence for God, St. Patrick's Church not only has made Fells Point a better community in which to live, but have made this a better nation as well.

Mr. Speaker, fellow colleagues, it is with great respect and admiration that I congratulate Rev. Blair Raum, the 15th pastor of St. Patrick's Church, and the parishioners, upon this momentous occasion. May God bless them in the years to come.

THE ARMED CAREER CRIMINAL CLARIFICATION ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MOORHEAD. Mr. Speaker, I am today introducing legislation to strengthen efforts to implement Federal firearms laws when dealing with violent armed criminals. The Armed Career Criminal Clarification Act treats drug offenses as qualifying for the armed career criminal statute for Federal prosecution if the State offense would have been punishable by 10 years or more if it had been federally prosecuted.

The Armed Career Criminal Act [ACCA] was part of the Omnibus Crime Control Act enacted in 1984. The coverage of the act was expanded in the 99th Congress by broadening the class of predicate crimes that make an armed person a career criminal. The measure has given local and Federal prosecutors increased leverage against some of the worst habitual offenders of our criminal justice system. It mandates a 15-year sentence for an individual with three previous convictions for a violent felony or serious drug offense. A serious drug offense is one which, under either State or Federal law, carries a maximum sentence of 10 years.

Unfortunately, a similar sentence in California carries a maximum of only 5 years for a serious drug offense even though the same crime under Federal law carries a maximum sentence of 10 years. This lower penalty threshold enables a career criminal in California to easily avoid conviction under the Armed Career Criminal statute. The U.S. attorney's office for the central district of California reports there are hundreds of career criminal cases that involve not a first time offender, but a violent criminal or drug trafficker with a laundry list of firearms-related offenses, who continues to operate freely on our streets. Without corrective legislation, this loophole will continue to thwart any attempts by Federal law enforcement officials in California to fully enforce the true intent of the ACCA.

My legislation is intended to take the most dangerous and violent street criminals out of circulation and close the loophole in the current law which allows these individuals back in the public domain after serving only a few months of their sentence. At a time of increased drug-related gang violence across America, this legislation is urgently needed to allow Federal law enforcement to dismantle these criminal operations. In the first 9 months of 1991, there were 561 gang-related homicides in the Los Angeles area alone, most of which were committed with guns. In addition, there have been nearly 1,000 drive-by shootings. Authorities indicate that a majority of those who pulled the trigger in these cited instances of homicide have multiple convictions on their records already and most likely would not have been back on the streets shooting at innocent people, if the ACCA had been applied during their prior convictions.

We are not creating any new Federal offense or penalty with my legislation. We are just making sure that the existing Federal firearms penalties are applied evenly and across the board for those felons with long criminal histories. It is within the national interest to ensure that we have balance and uniformity in our sentencing procedures and deal in an equal manner with those habitual violent criminals who commit the same crime with the same culpability, regardless of whether they are operating on the streets of LA or the streets of Detroit.

Although my bill is narrowly drawn and only applies to a certain type of offender, who violates Federal firearms laws after they have already received three prior convictions, it is intended to apply to the most violent and habitual criminals, who are turning our streets into a war zone. The majority of the hard core criminals on the streets in Los Angeles are out there because we are not able to apply this provision across the board. My legislation would assist law enforcement officials at the Federal and local level and ensure the same minimum standard for the violent armed career criminal.

Mr. Speaker, violent crime continues to dominate our streets and our neighborhoods. Let's work together to close one of the loopholes that exists in title 18 of our Federal criminal statute. I urge my colleagues to support the Armed Career Criminal Clarification Act.

CENTRAL VALLEY FISH AND WILDLIFE ACT OF 1991

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEHMAN of California. Mr. Speaker, in California, water is a very valuable and scarce commodity. The State's rich diversity and tremendous growth have placed enormous burdens on its natural resources, especially water. Entering a potential 6th year of drought, California is grappling with ways to reconcile the needs of urban area, fish and wildlife, agriculture, and other concerns. Any legislation to address these competing interests must be balanced; unfortunately, though, a balance is difficult to strike.

Today, Congressman DOOLEY and I are introducing legislation that provides a realistic solution to address fish and wildlife problems in the San Joaquin Valley of California.

Senator BRADLEY has introduced sweeping legislation that allocates water in California for the enhancement of wetlands and the restoration of fish and wildlife populations. However, his bill would have a devastating impact on central valley farming communities. While Senator BRADLEY'S bill correctly focuses on a serious problem and appropriately draws attention to the magnitude of habitat degradation in the San Joaquin Valley, it requires that beneficiaries of the central valley project [CVP] bear all the burdens. I will oppose any proposals designed to protect fish and wildlife that have negative impacts that are much too costly.

In particular, I have fought attempts to severely limit water contract terms because the limitations would create substantial hardship for family farmers. I have also opposed the water to the highest bidder schemes proffered under the guise of reform which, in fact, move water from farm to city with no environmental benefits.

Everyone knows by now what we are against. This bill states that we are for.

We are for reforming CVP policies consistent with the goals of enhancing the environment and sustaining California's agricultural production at existing levels.

We are for placing a greater emphasis on water conservation while permitting water transfers both within and outside the central valley, if sufficient safeguards for water districts are established.

We are for including measures to alleviate the staggering overdraft on the east side of the valley by developing facilities to store or transfer water south of the San Joaquin/Sacramento Delta.

Yes, we are for additional environmental protection and mitigation but we believe that such policies must be established through negotiation and consensus, not through a process whereby one side dictates their version of solutions to the other side. We are for a balanced solution and the bill we introduce today provides specific, concrete measures by which to alleviate known strains on California's environment.

California agriculture must not be the scapegoat for damage caused by a myriad of activities and should not be used as the shill in a scheme to transfer water to cities. The needs of all parts of the State must be considered to develop a rational solution to the water problems facing the State of California. The Central Valley Fish and Wildlife Act of 1991 will accomplish these objectives.

TRIBUTE TO THE AFRO-AMERICAN NEWSPAPER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Ms. NORTON. Mr. Speaker, I am pleased today to commemorate a century of outstanding journalistic service by the Afro-American newspaper as it celebrates its 100th year, and to pay special tribute to the paper's founder, John Henry Murphy, a native of Baltimore, MD, who was indeed an exceptional and far-sighted man.

History documents that on March 19, 1864, as the Civil War raged in this country, young John Henry Murphy answered the call of President Abraham Lincoln and enlisted in Company G of the 30th Regiment Infantry, U.S. Colored Troops, Maryland Volunteers. He served with honor, and had risen to the rank of first sergeant by the time of his "mustering out" at Roanoke Island, NC on December 10, 1865. Some years following his return to Baltimore, Mr. Murphy bought a one-page news flyer which, over the years, he developed into the Afro-American.

By the time of his death in 1922, John Murphy was able to bequeath to his 10 children what by then was the largest black newspaper plant in the country, with a circulation of 14,000, operated and manned by 138 employees. Today, in addition to the Washington Afro-American, the Baltimore Afro-American, and the Richmond Afro-American, this far-reaching firm also publishes DAWN Magazine and Every Wednesday, a weekly newspaper in Prince Georges County.

Descendants of John Henry Murphy continue their ancestor's dedication to excellence as they fill active roles today in the publishing, editing, writing, and distribution phases of the paper. John Murphy's granddaughter, Frances L. Murphy II, a former professor at both State University College of New York and Howard University here in the District, is now publisher of the Washington Afro-American; her daughter, Frances Murphy Draper, is president and chief operating officer of the AFRO Group; Mrs. Murphy's grandson, Kevin Peck, is advertising manager of the Washington AFRO; and another of John Henry Murphy's greatgrandsons, John Oliver, Jr., is Chairman of the Board/Publisher.

I am sure, Mr. Chairman, that my colleagues will want to join me in saluting this extraordinary family newspaper and the exceptional family that founded it and continues to make it such a vital part of American journalism.

THE TIMBER RESOURCE EMPLOYMENT ENHANCEMENT (TREE) BILL

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. UNSOELD. Mr. Speaker, in the Northwest it's increasingly clear that harvest levels on Federal and State timberlands will not be as high as they once were. But it's equally clear that the Federal Government should be fighting to provide jobs—real CCC-type jobs at real wages—for workers in communities that depend on those forests.

That's why I'm introducing a bill today I call TREE—Timber Resource Employment Enhancement. We have timber workers who won't be allowed to cut as much wood as they once cut, but that's no reason why they should have to pack up and go to the big cities to be retrained. They could construct forest buildings, they could rehabilitate watersheds and fisheries, they could build trails—and they could do it with wages that will support their families.

Sure, there's a cost to this, but welfare and bankruptcy and hunger and loss of self-respect cost more. The displaced workers from our Northwest woods don't want welfare checks; they want to work hard and take home a paycheck. We've got to set a national example in the Northwest and show how to put hard-working Americans back to work.

Attached, Mr. Speaker, are a summary of the bill and the text.

TREE SUMMARY

I. Short Title: Timber Resource Employment Enhancement Act (TREE).

II. Purpose: To restore and enhance federal, state, local government and private forests; and to maintain employment opportunities for people economically dependent upon these forests.

III. TREE.

(a) Definitions.

(1) Rural Community: (A) communities with fewer than 10,000 people, located in counties with at least 15 percent of the economy forest-based; or (B) counties with fewer than 22,550 people with at least 15 percent of the economy forest-based; or (C) communities with fewer than 20,000 people with at least 25 percent of the town's economy forest-based.

(2) Federal Forests: The twenty BLM districts and National Forests in which northern spotted owls are protected.

(b) Rehabilitation of Federal Forest Lands.

(1) Program: The Secretaries shall establish a program to rehabilitate federal forests which should include projects to: rehabilitate watersheds and fisheries; implement New Forestry; construct and rehabilitate facilities; enhance wildlife habitat; improve, reconstruct, or remove forest roads or trails; and improve timber stands in areas likely to be available for timber production in order to increase productivity and ensure healthy forests. (2) Authorizes $100 million per year each fiscal year 1993–97, only 5 percent of which may be spent on administration.

(c) State and Private Timberland Enhancement Program.

(1) Program: The Forest Service's State and Private Forestry will establish and carry out a program to increase timber production on state, county and private lands. Projects will improve timber stands; restock and reforest lands; assist in implementation of federal and state legal requirements for fish and wildlife protection; improve wood utilization in forests and mills. (2) Authorizes $30 million per year for each fiscal year 1993–97, only 5 percent of which may be spent on administration.

(d) Local Contracting Preference.

(1–3) The Secretaries shall give contracting preference for jobs associated with this legislation to people who have resided in "rural communities" (defined above) since January 1, 1988, or contractors who hire such people.

(e) Olympic National Forest Model Program: The Secretary, through the Olympic National Forest Supervisor, shall establish the following programs (for fiscal years 1993–97):

(1) Specialized Forest Products ($250,000/year).

(2) Facilities Repair and Maintenance ($4 million/year).

(3) Watershed Initiative ($2–6 million/year).

(4) New Forestry Initiative ($500,000/year).

(5) Silvicultural Projects ($600,000/year).

(6) Olympic Recreation Initiative ($150–$800,000/year).

BRING DRUG PRICES DOWN: END ABUSES OF THE ORPHAN DRUG ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. STUDDS. Mr. Speaker, I am introducing legislation today to reform a critical and well-intended Federal law originally enacted to spur the development of drug therapies for rare or orphan diseases. Contrary to both the needs of desperately ill people and the intent of Congress, the law is being abused to shield extremely profitable drugs from competition.

The 1983 Orphan Drug Act provided incentives to stimulate development and market availability of drug therapies used to treat rare diseases. The most important of these incentives is the provision of a 7-year period during which a company is granted the exclusive right to develop and market a particular drug for a specific illness. These drugs are considered unprofitable because the small market assumed to exist for them makes it unlikely firms would generate sales revenues to recoup their often considerable costs in research and development.

By most accounts, the law has been a success. Prior to its enactment, few companies invested in development of orphan products. Now, according to a recent pharmaceutical industry survey, roughly 200 orphan drugs are in development, 450 products have been designated as orphans, and 65 orphan products have been approved for marketing.

One such product is phosphocysteamine, an orphan drug for cystinosis, a terrible illness afflicting a youth in my district, Shea Hammond of Falmouth, MA. Were it not for the orphan drug law, drugs like this one helping Shea might never be developed.

There are more than 5,000 other orphan diseases, ranging from lupus and multiple sclerosis to obscure maladies like neurofibromatosis and scleroderma. Individually each orphan disease strikes relatively few patients, but together they afflict 20 million Americans.

However, the law's salutary effects in correcting the failure of the free market to spur development of bona fide orphan drugs are being undermined by the market monopolies being granted for very profitable drugs. At least drugs considered to be commercial blockbusters within the drug industry were granted designation by the Food and Drug Administration [FDA] as orphans.

Due to unforeseen loopholes in the law, the manufacturers of these drugs are enjoying lucrative market exclusivity despite their proven commercial value. In fact, these products—human growth hormone, erythropoietin and aerosolized pentamidine—were well under development before they were swept under the purview of the act.

I have nothing against profits, Mr. Speaker, but a prime reason these products are so lucrative is because drug companies have priced them with impunity, to the detriment of desperate patients, and all under the protection of the 7-year orphan drug monopoly. One drug, ceredase, a breakthrough treatment for Gaucher's disease, costs $350,000 per year. These companies are profiting because potential competitors are frozen out of the market.

One such competitor is Serono Laboratories, Inc., of Norwell, MA. The firm manufactures human growth hormone—one of the products in question—a designated orphan drug for the treatment of pituitary dwarfism, which affects some 10,000 youngsters. Because another company enjoys exclusive rights under current law to sell this drug in the United States, the company was compelled to lay off 34 employees last spring.

The case of human growth hormone is perhaps the most egregious abuse of the Orphan Drug Act thus far. Incredibly, there were five companies—not just one—rushing to develop this drug before the orphan drug law was even enacted. Obviously, in contrast to companies developing true orphan drugs, the act's incentives had nothing to do with the development of human growth hormone.

The legislation I am introducing today is intended to address precisely these abuses, and to increase competition where an orphan drug's commercial value is demonstrable. By stimulating competition, this legislation should, lead to lower prices for several costly and important drugs—costs which are increasingly being borne by the public through Medicare and Medicaid.

Under my bill, orphan drugs with cumulative sales above $150 million would lose their market exclusivity. The measure includes a provision to permit an additional $50 million in monopoly revenues when the orphan drug's manufacturer can certify that a drug's development costs exceeded $100 million.

In effect, this would create a $200 million sales trigger, which, once reached, would authorize the FDA to approve other manufacturers' versions of an orphan drug.

A bill approved in the 101st Congress would have addressed some of these questions. Although the administration was deeply involved in striking the eventual compromise on orphan drug reform last year, President Bush unexpectedly vetoed it at the behest of the Vice President's Council on Competitiveness. In my view, that veto—and the FDA's continued reluctance to consider reforms of the orphan drug law—show that the concerns of patients about unjustified orphan drug monopolies and exorbitant drug prices are falling on deaf ears in this administration.

The National Organization for Rare Disorders [NORD], led by its able spokeswoman, Abbey Meyers, has long sought reforms of the act. NORD, which represents 20 million Americans with rare, often crippling diseases, believes my bill would preserve the law's critical incentives for research and development of orphan drugs, but ensure that commercially lucrative drugs do not receive the law's special protections.

Mr. Speaker, Congress must act to restore the Orphan Drug Act to its true purpose: To ensure that therapies for rare ailments are developed and that patients whose lives may depend on them have access to these therapies. I will be working in the months ahead to move this legislation forward.

Mr. MINETA. Mr. Speaker, this month marks the passage of 2 years since Salvadoran military officers murdered six Jesuit priests attached to the University of Central America, their cook and their cook's daughter.

Since that time, peace negotiations have continued intermittently while the civil war in El Salvador has dragged on, killing thousands of people.

I would like at this time, Mr. Speaker, to remember these eight men and women out of the thousands that have lost their lives.

I would like to memorialize Fathers Ignacio Ellacuria, Ignacio Martin Baro, Joaquin Lopez y Lopez, Juan Ramon Moreno Pardo, Segundo Montes Mozo, and Amando Lopez Quintanilla. I would like to remember their cook, Mrs. Elba Julia Ramos, and Celina Marisela Ramos, her daughter.

The deaths of these people have been especially immediate for me, Mr. Speaker. Three of these men were graduated from the University of Santa Clara, which I am privileged to represent. The university has been a leader in bringing justice to Central America for years and indeed, has supplied many faculty members to the Jose Simeon Canas Central American University, where the Jesuit priests and their companions were slain in November 1989.

Mr. Speaker, we must remember these eight people because their killers have not yet been brought to justice. The conviction of Col. Alfredo Benavides of their murders represents not a grand triumph of the Salvadoran judicial system as some have claimed, even though a senior member of the military was found accountable for their crimes for the first time.

Rather, it shows the shortcomings of a judicial system that bows to pressure from influential citizens and government officials. Soon after Judge Ricardo Zamora sentenced Colonel Benavides, he left El Salvador for Europe. Anonymous enemies had threatened his life.

It is a tribute to men like Judge Ricardo Zamora that even a portion of the wrongdoings of the Government of El Salvador have been brought to light. They, like the Jesuit priests who died at the hands of the Salvadoran military, are dedicated to bringing the truth into the open.

Governments that lie to their citizens and to the world should not rule, yet they can muzzle free debate with violence and intimidation. It is incumbent on people who can speak freely to stand up for the truth in El Salvador.

A respect for the ideals of the Jesuits demands that we continue to press for social justice in El Salvador. If the Salvadoran Government lies to its people, we should try to tell the truth. If the Government covers up its crimes, then we should help those who want to reveal them.

The six Jesuits who died with their two companions 2 years ago knew that the future of El Salvador lies in including all people in the political processes of that nation, not excluding them. It lies in equity, not inequality. And it lies in truth, not dissimilation.

The loss of the six Jesuit priests still saddens the faculty and students of Santa Clara University and occupies the thoughts of the people of the surrounding Santa Clara Valley. These people are watching El Salvador to witness progress or inertia there. They stand vigil in memory of brave men who died for their principles.

And as we remember the sacrifices of the six Jesuit priests, let us also remember the tens of thousands of victims on whose behalf they worked. Thank you very much.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 26, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 5

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to review the Department of Defense hospital and medical supply system.

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